

Telephonic Regular Meeting of the Central Delta-Mendota GSA

Monday, October 26th, 2020, 10:00 AM

Meeting Minutes

[Click here to join Zoom meeting](#)

Call-in number: +1-669-900-6833

Meeting ID: 832 3824 2359

Passcode: 220192

Central Delta-Mendota GSA Members and Alternates Present

Randy Miles, Member – Eagle Field Water District
Augie Ramirez, Alternate – Fresno County
Scott Silveira, Member – Merced County
Juan Cadena, Member/Alternate – Mercy Springs and Pacheco Water Districts
Aaron Barcellos, Member – Pacheco Water District
Michael Linneman, Alternate – Panoche Water District
Mike Wood, Member – San Luis Water District
Ben Fenters, Alternate – San Luis Water District
Amy Montgomery, Member – Santa Nella County Water District
Danny Wade, Alternate – Tranquillity Irrigation District

San Luis & Delta-Mendota Water Authority Representatives Present

Claire Howard – Provost & Pritchard

Others Present

Lauren Layne – Baker Manock & Jensen
Chase Hurley – Pacheco Water District
Joe Hopkins – Provost & Pritchard

1. Call to Order/Roll Call

Aaron Barcellos/Pacheco called the meeting to order at 10:04 AM.

2. Committee to Consider Corrections or Additions to the Agenda of Items, as authorized by Government Code Section 54950 et seq.

No corrections or additions were made to the agenda of items.

3. Opportunity for Public Comment

No public comment was shared.

4. GSA to Review and Take Action on Consent Calendar

a. July 27, 2020 Meeting Minutes

The GSA considered approval of the July 27th meeting minutes. Amy Montgomery/SNCWD provided the motion and Randy Miles/EFWD seconded. The GSA voted by roll call; Augie Ramirez/Fresno and Scott Silveira/Merced were not in attendance for this item. The motion was passed unanimously by those present.

b. Quarterly Financial Report, Montgomery

Amy Montgomery/SNCWD reviewed the quarterly financial report. Mike Wood/SLWD provided the motion and Randy Miles/EFWD seconded. The GSA voted by roll call; Augie Ramirez/Fresno was not in attendance for this item. The motion was passed unanimously by those present.

5. GSA to Consider Approval of Resolution Authorizing Central GSA Administrative Policy Number One: Well Census and Registration, Layne

Lauren Layne/BMJ introduced the Administrative Policy Number One: Well Census and Registration and associated resolution. Lauren explained that she anticipates reviewing these documents during this meeting and seeking approval during a future meeting of the GSA. Lauren shared that the recent surveys distributed to landowners within the Central GSA area, which aimed to collect well registration information, did not have a high response rate. Lauren explained that under the Proposition 26 process, the Central GSA can adopt a fee schedule in a public meeting to allow the Central GSA to establish well registration requirement for existing and new wells, and to establish a fee for non-compliance. Lauren noted that if a landowner is found to be non-compliant, the Central GSA will be authorized to issue a penalty fee, rather than the local member agency.

Approval of this item was tabled until the next GSA meeting. Lauren explained that an ad-hoc group of Central GSA members will consider next steps for establishing the fee structure, including developing a narrative that describes the reasoning of the fees.

6. GSA to Consider Ratification of Letter of Support for Delta-Mendota Subbasin Watershed Coordinator Program Grant Application, Howard

Claire Howard/P&P and Lauren Layne/BMJ explained that one portion of the Delta-Mendota Subbasin's application for the Department of Conservation Watershed Coordinator Program Grant is collecting letters of support from Subbasin GSAs. In order to meet the application deadline, an authorized letter of support was requested prior to the Central GSA's meeting, so the letter was shared in this meeting for the GSA to ratify. Amy Montgomery/SNCWD provided the motion and Mike Wood/SLWD seconded. The motion was passed unanimously by those present.

7. GSA to Discuss Role as Delta-Mendota Subbasin Applicant in Upcoming Proposition 68 Implementation Grant Application and Future Subbasin-wide Grants, Fenters

Ben Fenters/SLWD explained that the Delta-Mendota Subbasin Coordination Committee has discussed applying for funding for various implementation projects through the Department of Water Resources' (DWR) upcoming Proposition 68 Implementation grant. The Central GSA is an eligible applicant for this opportunity. In addition to this grant opportunity, the Coordination Committee has discussed the benefit of identifying a consistent applicant for this and other future Subbasin grant applications. Maintaining consistency will allow for ease with establishing agreements with SLDMWA and building institutional knowledge and efficiencies. Ben explained that the Central GSA can consider offering to act as the applicant on behalf of the Subbasin for future grants on a case-by-case basis, noting that staff time can be tracked as needed.

8. GSA to Discuss Next Steps for Central GSA Policy Development, Layne

Lauren Layne/BMJ explained that the ad-hoc group will continue to discuss other policy development for the Central GSA, such as metering policies and well permitting policies with counties.

9. **GSA to Discuss Central Delta-Mendota GSA Monitoring, Fenters**

Ben Fenters/SLWD reminded the GSA representatives that seasonal low water level monitoring must be completed for representative monitoring sites by October 31st. Ben noted representative monitoring locations may be revisited for sites that have a high cost to start or that have access issues. The EKI and Woodard & Curran consultant team is holding meetings with agency representatives to discuss monitoring challenges and proposed network revisions. Changes to or issues with data collection for the representative monitoring network will be described in the Annual Report and revisions will be incorporated into the first Five-Year Update. Ben also noted that DWR confirmed that they will conduct yearly subsidence monitoring.

10. **GSA to Discuss Purchasing a Well Sounder and Sampling Pump Rig for Shared Use by the Central GSA Members, Fenters**

Ben Fenters/SLWD shared that the GSA can consider purchasing a well sounder and sampling pump rig for use by the GSA for future monitoring responsibilities. Amy Montgomery/SNCWD noted that SNCWD staff can support asset storage. Amy requested a proposal that describes the context for these equipment purchases.

11. **Next Steps**

- An ad-hoc group of the Central GSA will consider next steps for the fee schedule and associated narrative for review and consideration at a future GSA meeting.
- The Central GSA will act as applicant for the upcoming Subbasin application for the DWR Proposition 68 Implementation grant.
- Seasonal low groundwater level readings for the GSA's representative monitoring network must be collected by October 31st. Any issues or proposed changes to the representative network must be communicated to the EKI and Woodard & Curran consultant team.
- A proposal for the purchase of a well sounder and sampling pump rig will be shared at a future meeting for the GSA's consideration.

12. **Reports Pursuant to Government Code Section 54954.2(a)(3)**

No topics were discussed under this item.

13. **Conference with Legal Counsel – Existing Litigation**

The Board will meet in closed session to confer with legal counsel pursuant to Paragraph (1), Subdivision (d) of Government Code section 54956.9: (1 case).

California Sportfishing Protection Alliance v. All Persons Interests in the Matter of the Validity of the Northern and Central Delta-Mendota Regions Groundwater Sustainability Plan, et al., Stanislaus County Superior Court, Case No. CV-20-001748 [Delta-Mendota Subbasin SGMA Challenge].

14. **Report out of closed session (if any)**

No reportable action was taken in closed session.

15. **ADJOURNMENT**

Aaron Barcellos/Pacheco adjourned the meeting at 11:07 AM.

Special Telephonic Meeting of the Central Delta-Mendota GSA

Friday, December 4th, 2020, 1:00 PM

Meeting Minutes

[Click here to join Zoom meeting](#)

Call-in number: +1-669-900-6833

Meeting ID: 841 4175 1001

Passcode: 618091

Central Delta-Mendota GSA Members and Alternates Present

Randy Miles, Member – Eagle Field Water District
Augie Ramirez, Alternate – Fresno County
Scott Silveira, Member – Merced County
Lacey McBride, Alternate – Merced County
Juan Cadena, Member/Alternate – Mercy Springs and Pacheco Water Districts
Aaron Barcellos, Member – Pacheco Water District
Ben Fenters, Alternate – San Luis Water District
Amy Montgomery, Member – Santa Nella County Water District
Danny Wade, Alternate – Tranquillity Irrigation District

San Luis & Delta-Mendota Water Authority Representatives Present

John Brodie
Claire Howard – Provost & Pritchard

Others Present

Lauren Layne – Baker Manock & Jensen
Joe Hopkins – Provost & Pritchard
Hughie Bennett – Eagle Field Water District

1. Call to Order/Roll Call

Aaron Barcellos/Pacheco called the meeting to order at 1:03 PM.

2. Committee to Consider Corrections or Additions to the Agenda of Items, as authorized by Government Code Section 54950 et seq.

No corrections were made to the agenda of items.

3. Opportunity for Public Comment

No public comment was shared.

4. GSA to Consider Approval of Central Delta-Mendota GSA Administrative Policy Number 1, Fenters/Layne

Ben Fenters/SLWD reviewed the Central Delta-Mendota GSA Administrative Policy Number 1. The intent of this policy is to collect information on well registration and well types within the Central GSA's boundaries. Ben also introduced the fee schedule associated with the well

registration. Scott Silveira/Merced expressed concern regarding cost burden with the presented fee rates. Ben noted that the ad-hoc policy group had also discussed their concerns of the cost burden, and introduced the option for the Central GSA to waive costs presented with the policy based on review of individual circumstances.

The GSA decided to table approval of the policy until January. Lauren noted that approval in January still aligns with the timing of the Proposition 26 process.

5. GSA to Consider Approval of Central Delta-Mendota GSA Rate Study, Fenters

Ben Fenters/SLWD reviewed the proposed Central Delta-Mendota GSA rate study. Augie Ramirez/Fresno suggested adding “up to” under item 3)c. in the rate study so that it reads “Fee = up to \$900...” Ben provided an overview of section 3 within the rate study, which focuses on operational production wells.

The GSA considered approval of the rate study in substantial form with the added changes proposed by Augie. Scott Silveira/Merced provided the motion and Randy Miles/EFWD seconded. The GSA voted by roll call; the motion was passed unanimously by those present.

6. GSA to Consider Approval of Central Delta-Mendota GSA Fee Structure Notice, Fenters/Montgomery

The GSA discussed noticing the proposed fee structure one month in advance of the public hearing. GSA member agencies will share the prepared notice and rate study via mail to their respective landowners. The notice will be a one-page document, and will include information to attend the meeting and a link to the Central Delta-Mendota GSA webpage. Lauren Layne/BMJ, Amy Montgomery/SNCWD, Ben Fenters/SLWD, Augie Ramirez/Fresno, and Claire Howard/P&P will collaborate to develop the notice, noting that they will aim to complete the notice within the next week to share in advance of the January 25th meeting. The GSA considered approval of this item. Randy Miles/EFWD provided the motion and Amy Montgomery/SNCWD seconded. The GSA voted by roll call; the motion was approved unanimously by those present.

7. GSA to Consider Approval of Central Delta-Mendota GSA Well Registration Form, Fenters

Ben Fenters/SLWD provided an overview of the well registration form, which requests landowners/residents within the Central Delta-Mendota GSA area to register any operational or non-operational domestic well, monitoring well, or production well they own. Amy Montgomery/SNCWD requested a city, state, and zip code section be added to the form. Aaron Barcellos/Pacheco requested that a non-operational well type category be added to the table on Side B of the form. Ben also reviewed the list of wells that will be automatically registered. Augie Ramirez/Fresno noted a necessary revision for the Fresno County APN format.

The GSA considered approval of the well registration form with the proposed revisions. Scott Silveira/Merced provided the motion and Randy Miles/EFWD seconded. The GSA voted by roll call; the motion was passed unanimously by those present.

8. GSA to Consider Adoption of Resolution Authorizing Central Delta-Mendota GSA to Submit Proposition 68 Implementation Grant Application, Layne/Howard

Lauren Layne/BMJ and Claire Howard/P&P explained that the Central Delta-Mendota GSA, acting as applicant for the Subbasin’s Proposition 68 Implementation grant application, has to adopt a resolution that authorizes the GSA to submit the application and designate a Central

Delta-Mendota GSA role to act as the authorized contact. The GSA confirmed the Secretary will be the designated role for the Proposition 68 Implementation grant application. The GSA considered approval of the resolution and designation of the GSA Secretary within the resolution. Randy Miles/EFWD provided the motion and Scott Silveira/Merced seconded. The GSA voted by roll call; the motion was passed unanimously by those present.

9. GSA to Discuss Mailings for Proposition 26 Hearing for Fee Notice and Well Registration Form, Layne

As noted, Amy Montgomery/SNCWD will draft a public hearing notice and work with Ben Fenters/SLWD, Augie Ramirez/Fresno, Lauren Layne/BMJ, and Claire Howard/P&P to finalize. Once complete, the notice will be shared with the GSA member agencies to distribute via mail.

10. Next Steps

- The GSA tabled approval of the Administrative Policy Number One, which will be considered for approval in January
- The GSA considered approval of the rate study in substantial form with suggested revisions
- The GSA considered approval of the development of a fee structure notice. Once complete, this will be shared with member agency representatives to mail to landowners.
- The GSA adopted a resolution authorizing the Central Delta-Mendota GSA to submit the Proposition 68 Implementation grant application and authorizes the Secretary as the designated role.

11. Reports Pursuant to Government Code Section 54954.2(a)(3)

No topics were discussed under this item.

12. ADJOURNMENT

Aaron Barcellos/Pacheco adjourned the meeting at 2:07 PM.

Central Delta-Mendota GSA
Investment Report

Adopted Budget Fiscal Year 2020-21 <i>Budget to Actual</i>	3rd September, October, November			Remaining Budget
	Budget	2020-21	FYTD	
Operating Revenues				
4000 Member Contributions	\$ 35,000.00	\$ -	\$ 35,000.00	-
4100 Interest Income	-	0.84	2.48	(2.48)
4300 Other Income	-	-	-	-
Total Operating Revenues	35,000.00	0.84	35,002.48	
Operating Expenses				
<i>Administration:</i>				
5275 Bank Fees	150.00	-	35.00	115.00
5300 Office Supplies	1,000.00	-	82.61	917.39
5325 Regulatory Fees	500.00	-	-	500.00
5500 Insurance Expense (GL)	2,500.00	-	-	2,500.00
Total Administration Expenses	4,150.00	-	117.61	
<i>Professional Services:</i>				
5425 Auditor Fees	5,000.00	-	-	5,000.00
5450 Legal Fees/District	12,500.00	-	-	12,500.00
5475 Consultant Fee (SLDMWA)	10,000.00	-	-	10,000.00
Total Professional Services	27,500.00	-	-	
Total Operating Expenses	31,650.00	-	117.61	
Net Operating Revenue	\$ 3,350.00	\$ 0.84	\$ 34,884.87	

Central Delta-Mendota GSA
Investment Report

2nd Quarter FY 2020-21

September, October, November

Current Assets		3rd Quarter	2nd Quarter	% Change
<u>Unrestricted Funds</u>				
1000-00	Wells Fargo Checking Account	33,848.14	33,847.30	0.00%
Total Current Assets		<u>33,848.14</u>	<u>33,847.30</u>	0.00%

The Central Delta-Mendota GSA will meet operational expenditure requirements for the next six months.

**Government Code Section 66006(a): If a local agency requires the payment of a fee specified in subdivision (c) in connection with the approval of a development project, the local agency receiving the fee shall deposit it with the other fees for the improvement in a separate capital facilities account or fund in a manner to avoid any comingling of the fees with other revenues and funds of the local agency, except for temporary investments, and expend those fees solely for the purpose for which the fee was collected. Any interest income earned by the moneys in the capital facilities account or fund shall also be deposited in that account or fund and shall be expended only for the purpose for which the fee was originally collected.*

CENTRAL DELTA-MENDOTA GROUNDWATER SUSTAINABILITY AGENCY



Eagle Field WD • Fresno County • Fresno Slough WD • Merced County • Mercy Springs WD • Pacheco WD • Panoche WD • San Luis WD • Santa Nella County WD • Tranquillity ID

Notice of Public Hearing January 25, 2021 at 10:00 am Zoom Meeting

<https://us02web.zoom.us/j/86901671277?pwd=dVplYVNlcnk0ZGZvWHNCV0tNeVQxQT09>

+1 669 900 6833 US (San Jose)

Meeting ID: 869 0167 1277

Passcode: 649574

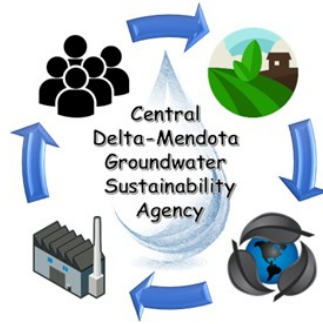
The Board of Directors of the Central Delta-Mendota Groundwater Sustainability Agency (CDMGSA) will hold a public hearing and consider the following fee schedule for adoption at its next Regular Board Meeting scheduled for January 25, 2021 at 10:00 a.m.

The Proposed Administrative Fee Schedule pertains only to fees and charges associated with CDMGSA's groundwater well Registration Policy. The fees are exclusively intended as a compliance enforcement mechanism. A Registration Policy Rate Study has been prepared and can be found on the CDMGSA website at: <http://deltamendota.org/central-delta-mendota-gsa>.

The Sustainable Groundwater Management Act (SGMA) comprised of California Assembly Bill 1739, California Senate Bill 1319 and California Senate Bill 1168, was signed into law in September 2014. SGMA mandated the formation of local Groundwater Sustainability Agencies (GSAs) to develop and implement area specific Groundwater Sustainability Plans (GSPs) to achieve sustainable groundwater management. SGMA provides statutory authority to GSAs to impose fines and/or taxes as necessary for their efforts to achieve sustainability.

The CDMGSA was formed by several local agencies in 2017. CDMGSA's Administrative Policy Number 1 – Well Registration Policy will be the first policy developed by the CDMGSA intended to provide the authority for the collection of data necessary to accurately determine groundwater use within the CDMGSA area. Furthermore, to equitably implement management actions and distribute costs related to GSP implementation and sustainability efforts, an accurate and comprehensive accounting of all wells within the CDMGSA's boundaries is critical. To ensure that the outcome of the Registration Policy results in a comprehensive and accurate accounting of all wells, the CDMGSA has developed the following administrative fee and penalty schedule to assist in the administrative effort to collect the data.

CENTRAL DELTA-MENDOTA GROUNDWATER SUSTAINABILITY AGENCY



Eagle Field WD • Fresno County • Fresno Slough WD • Merced County • Mercy Springs WD • Pacheco WD • Panoche WD • San Luis WD • Santa Nella County WD • Tranquillity ID

Proposed Administrative Fee Schedule

<u>Domestic/Monitoring Wells</u>		
Failure to register by 4/1/21	\$ 100	per unregistered well
Continual failure to register	\$ 100	per well; first day of each quarter
<u>Non-Operational Production Wells</u>		
Failure to register by 4/1/21	\$ 100	per unregistered well
Continual failure to register	\$ 500	per well; first day of each quarter
<u>Non-Operational Wells</u>		
Failure to register by 4/1/21	\$ 100	per well
Continual failure to register	\$ 500	per well; first day of each quarter
<u>Operational Wells *</u>		
Failure to register 4/1/21	\$ 1,000	per well
Continual failure to register	\$ 90	per day; beginning 2nd quarter
A well owner may petition the Board of Directors to reduce the fee		
<i>* Maximum per day: \$1,800; daily fee increases 100% each quarter</i>		

Under Proposition 26, all levies, charges, and exactions “imposed” by state or local governments are taxes, unless they fit into one of the seven stated exceptions for local government. The CDMGSA's Proposed Administrative Fee Schedule is exempt as a “tax” as the intent of the fees imposed result from non-compliance of the CDMGSA Registration Policy. CDMGSA must comply with SGMA. The fees are not a budgeted dependent revenue source. The fees are "A charge imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof. A fine, penalty, or other monetary charge imposed by the judicial branch of government or a local government, as a result of a violation of law.”

For more information please contact the CDMGSA at: dmsgma@sldmwa.org

CENTRAL DELTA-MENDOTA GROUNDWATER SUSTAINABILITY AGENCY

RESOLUTION NO. _____

**RESOLUTION ADOPTING THE ADMINISTRATIVE POLICY NUMBER ONE
WELL REGISTRATION POLICY FEES**

A. **WHEREAS**, the Central Delta-Mendota Groundwater Sustainability Agency (the “Central Delta-Mendota GSA”) is a joint powers authority, formed pursuant to the Joint Exercise of Powers Act (Govt. Code §§ 6500, *et seq.*); and

B. **WHEREAS**, pursuant to the Sustainability Groundwater Management Act (“SGMA”), the Central Delta-Mendota GSA has the powers provided to it by virtue of being a groundwater sustainability agency (“GSA”); and

C. **WHEREAS**, California Water Code section 10730 provides that a GSA may impose fees to cover costs of a groundwater sustainability program, including fees to fund the costs for investigations, inspections, and enforcement for compliance with SGMA; and

D. **WHEREAS**, pursuant to California Water Code section 10730(b)(2), the Central Delta-Mendota GSA member agencies received notice of the time and place of the meeting held to adopt the fees, by posting notice on the Internet Web site of the Central Delta-Mendota GSA and mailing notice to any interested party who filed a written request; and

E. **WHEREAS**, pursuant to California Water Code section 10730(b)(3), the Central Delta-Mendota GSA made available to the public data upon which the proposed fee is based more than twenty (20) days prior to the meeting held to adopt the fees; and

F. **WHEREAS**, the Central Delta-Mendota GSA intends to adopt its Administrative Policy Number One Well Census and Registration Policy (the “Well Census and Registration Policy”) to establish and achieve an accurate and comprehensive well census of all wells within its boundaries, requiring the registration such wells, and allowing for the imposition of fees and penalties for non-compliance; and

G. **WHEREAS**, under Proposition 26, all levies, charges and exactions imposed by state or local governments are taxes, unless they fit into one of seven stated exceptions. One such exception includes “[a] fine, penalty, or other monetary charge imposed by ... a local government” for violations of the law; and

H. **WHEREAS**, the Board of Directors of the Central Delta-Mendota GSA is authorized and now intends to adopt the administrative fee and penalty schedule as proposed in its Administrative Policy Number One Well Registration Policy Fee Rate Study (the “Well Registration Fee Rate Study”) to establish an enforcement mechanism for non-compliance with the Well Census and Registration Policy.

NOW THEREFORE, BE IT RESOLVED that the Board of Directors of the Central Delta-Mendota GSA finds as follows:

1. The facts stated in the Recitals above are true and correct and the Board of Directors so finds, orders, and determines.
- 2.. The Central Delta-Mendota GSA hereby adopts the fees as set forth in the Well Registration Policy Fee Rate Study, attached hereto and incorporated herein as Exhibit A.
3. Fees and penalties may be imposed by the Central Delta-Mendota GSA upon landowners and water users in accordance with the Well Census and Registration Policy, and such fees and penalties are exempt under Proposition 26 as non-taxes.
4. The Board of Directors authorizes its member agencies and the Central Delta-Mendota GSA's consultants to take such other actions as necessary to implement the purpose of this Resolution.

PASSED, APPROVED, AND ADOPTED this 25th day of January, 2021 by the following vote:

AYES:
NAYS:
ABSTAIN:
ABSENT:

AARON BARCELLOS, Chairman

Attest:

BEN FENTERS, Secretary

Date: _____

CERTIFICATION

I do hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the CENTRAL DELTA-MENDOTA GROUNDWATER SUSTAINABILITY AGENCY, held on the 25^h day of January, 2021.

BEN FENTERS, Secretary

EXHIBIT A

Well Registration Policy Fee Schedule

Domestic/Monitoring Wells	
Failure to register by 4/1/21	\$100 per unregistered well
Continual failure to register	\$100 per well; first day of each quarter
Non-Operational Production Wells	
Failure to register by 4/1/21	\$100 per unregistered well
Continual failure to register	\$500 per well; first day of each quarter
Non-Operational Wells	
Failure to register by 4/1/21	\$100 per unregistered well
Continual failure to register	\$500 per well; first day of each quarter
Operational Wells	
Failure to register by 4/1/21	\$1,000 per unregistered well
Continual failure to register	\$90 per day; beginning 2nd quarter
Maximum per day	\$1,800 daily fee 100% each quarter
<p>A well owner may petition the Central Delta-Mendota GSA Board of Directors to reduce the fee if a pump test performed by a third party, demonstrates maximum flow rate using the following formula: $\\$900 \times \text{max (cfs)} \times \text{days late} \times \text{quarters}/10$</p>	

CENTRAL DELTA-MENDOTA GROUNDWATER SUSTAINABILITY AGENCY

RESOLUTION NO. _____

**RESOLUTION ADOPTING THE CENTRAL DELTA-MENDOTA GROUNDWATER
SUSTAINABILITY AGENCY ADMINISTRATIVE POLICY NUMBER ONE
WELL CENSUS AND REGISTRATION POLICY**

A. **WHEREAS**, in August 2014, the California Legislature passed, and in September 2014 the Governor signed, legislation creating the Sustainable Groundwater Management Act (“SGMA”) “to provide local groundwater agencies with the authority and technical and financial assistance necessary to sustainably manage groundwater” (Wat. Code, § 10720, subd. (d)); and

B. **WHEREAS**, effective August 28, 2019, certain entities whose boundaries overlie a portion of the Delta-Mendota Subbasin number 5-22.07 of the San Joaquin Valley Groundwater Basin identified in the California Department of Water Resources (“DWR”) Bulletin 118, formed a joint powers authority known as the Central Delta-Mendota Groundwater Sustainability Agency (the “Central Delta-Mendota GSA”), which replaced a prior multi-agency groundwater sustainability agency. The members of the Central Delta-Mendota GSA are: Eagle Field Water District, Fresno Slough Water District, Mercy Springs Water District, Pacheco Water District, Panoche Water District, San Luis Water District, Santa Nella County Water District, Tranquillity Irrigation District, the County of Fresno, and the County of Merced (the “GSA Members”); and

C. **WHEREAS**, the Central Delta-Mendota GSA has the powers provided to it by virtue of being a GSA, as defined by SGMA, and by virtue of the Joint Powers Agreement that formed the Central Delta-Mendota GSA, pursuant to the Joint Exercise of Powers Act; and

D. **WHEREAS**, groundwater sustainability under SGMA is to be achieved through groundwater sustainability plans (“GSPs”), which can be a single plan developed by one or more GSAs or multiple coordinated plans within a basin or subbasin (Wat. Code § 10727); and

E. **WHEREAS**, on January 6, 2020, the Central Delta-Mendota GSA, in coordination with West Stanislaus Irrigation District GSA, the City of Patterson GSA, the Northwestern Delta-Mendota GSA, the Patterson Irrigation District GSA, the DM-II GSA, the Widren Water District GSA, and the Oro Loma Water District GSA, adopted the Northern & Central Delta-Mendota GSP and submitted it to DWR on January 23, 2020; and

F. **WHEREAS**, as part of implementation of the Northern & Central Delta-Mendota GSP, it is necessary for the Central Delta-Mendota GSA to obtain accurate and consistent well data information from groundwater wells within its boundaries to better understand groundwater usage so that area-specific determinations can be made by the Central Delta-Mendota GSA to avoid potential undesirable results and to achieve groundwater sustainability; and

G. **WHEREAS**, California Water Code section 10725.6 provides that a GSA may require registration of groundwater extraction facilities within the management area of the GSA; and

H. **WHEREAS**, the Board of Directors of the Central Delta-Mendota GSA now intends to adopt the Central Delta-Mendota Groundwater Sustainability Agency Administrative Policy Number One Well Census and Registration Policy (the “Well Census and Registration Policy”) to establish and achieve an accurate and comprehensive well census of all wells within its boundaries, requiring the registration such wells, and allowing for the imposition of fees and penalties for non-compliance; and

I. **WHEREAS**, the Central Delta-Mendota GSA, at a public hearing held in compliance with California Water Code section 10730, adopted the fees identified in its “Administrative Policy Number One Well Registration Policy Fee Rate Study”, which delineates the fees and penalties to be imposed upon landowners for non-compliance with the Well Census and Registration Policy.

NOW THEREFORE, BE IT RESOLVED that the Board of Directors of the Central Delta-Mendota GSA finds as follows:

1. The facts stated in the Recitals above are true and correct and the Board of Directors so finds, orders, and determines.
- 2.. The Central Delta-Mendota GSA adopts the Well Census and Registration Policy, attached hereto and incorporated herein as Exhibit A.
3. The Board of Directors authorizes the GSA Members and the Central Delta-Mendota GSA’s consultants to take such other actions as necessary to implement the purpose of this Resolution.

PASSED, APPROVED, AND ADOPTED this 25th day of January, 2021 by the following vote:

AYES:
NAYS:
ABSTAIN:
ABSENT:

AARON BARCELLOS, Chairman

Attest:

BEN FENTERS, Secretary

Date: _____

CERTIFICATION

I do hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the CENTRAL DELTA-MENDOTA GROUNDWATER SUSTAINABILITY AGENCY, held on the 25^h day of January, 2021.

BEN FENTERS, Secretary

EXHIBIT A

The Well Census and Registration Policy

CENTRAL DELTA-MENDOTA GROUNDWATER SUSTAINABILITY AGENCY



Eagle Field WD ♦ Fresno County ♦ Fresno Slough WD ♦ Merced County ♦ Mercy Springs WD ♦ Pacheco WD ♦ Panoche WD ♦ San Luis WD ♦ Santa Nella County WD ♦ Tranquillity I.D

ADMINISTRATIVE POLICY NUMBER ONE

WELL CENSUS AND REGISTRATION

Adopted: _____

POLICY STATEMENT

In order for the Central Delta-Mendota Groundwater Sustainability Agency (“CDMGSA”) to effectively administer and implement the Northern and Central Delta-Mendota Regions Groundwater Sustainability Plan (“NCDM GSP”) within its area, it is necessary for the CDMGSA to understand the groundwater usage within its boundaries. To gain a better understanding, the CDMGSA will need to obtain specific information from all users of groundwater wells.

The purpose of this Policy is to establish and achieve an accurate and comprehensive well census of all wells located within the CDMGSA boundary. Therefore, all existing wells shall be registered, on a form provided by the CDMGSA, no later than April 1, 2021. Any new wells constructed after said date shall be registered with the CDMGSA within 30 days of the completion of drilling activities.

To provide constructive notice to the public and to ensure adoption and enforcement of this Policy is within the authorities provided by the Sustainable Groundwater Management Act of 2014 (“SGMA”), and any amendment thereto, the CDMGSA shall adopt a resolution or ordinance prior to this Policy becoming effective.

This Policy applies to all groundwater wells, including those that are active and non-active and those that are used solely for monitoring. This Policy outlines definitions of well types, the well registration process, timing for compliance and registration, and fees for non-compliance.

AUTHORITY:

This Policy is adopted pursuant to the authority granted to the CDMGSA by Water Code Sections 10725.2, 10725.6, and 10725.8, and through the Joint Powers Agreement that formed the CDMGSA, pursuant to the Joint Exercise of Powers Act.

BACKGROUND:

In 2014, the California Legislature passed and the Governor signed into law a three-bill legislative package (AB 1739, SB 1168, and SB 1319), collectively known as SGMA. SGMA required those subbasins designated by the California Department of Water Resources ("DWR") publication Bulletin 118 as being medium to high priority to form Groundwater Sustainability Agency ("GSAs") by June 1, 2017, and then adopt and submit Groundwater Sustainability Plans ("GSPs") to DWR by January 31, 2020. The CDMGSA is located within the Delta-Mendota Subbasin (Basin number 5-022.07), a high priority subbasin (the "Subbasin"). The CDMGSA is one of 23 separate GSAs in the Subbasin that developed and coordinated six independent GSPs to cover the entire Subbasin. The CDMGSA is one of eight GSAs that collaborated to develop the NCDM GSP. The NCDM GSP was adopted on January 6, 2020 and submitted to DWR on January 23, 2020.

As part of implementation of the NCDM GSP, the CDMGSA is committed to developing accurate information regarding groundwater extraction, water levels above and below the Corcoran clay, and evaluating the relationship between the Subbasin and the San Joaquin River. To provide specific solutions that are not overly burdensome, the CDMGSA needs to accurately assess the condition of the aquifers and identify those areas that may be considered Undesirable Results. In order to avoid a one-size-fits-all GSA-wide solution and to reduce dependence on assumptions in calculating groundwater balance, the CDMGSA needs to obtain accurate information. This information will be used to make area-specific determinations to resolve concerns about potential Undesirable Results, such as overdraft and subsidence, in order to achieve sustainability. Use of real-time groundwater use data will reduce or eliminate the reliance on potentially conservative estimations of groundwater use and lead to more accurate groundwater modeling.

PURPOSE & PROCEDURES:

The purpose of this Policy is to obtain accurate and consistent well data information by requiring all wells be registered with the CDMGSA. If deemed necessary by the CDMGSA, an inspection of a registered well may be required to verify data. Those wells owners who completed a well census form through the CDMGSA's voluntary well registration effort in early 2020, will automatically be registered. However, additional information may be required for those wells as the CDMGSA develops its database. Owners of remaining unregistered or new wells will need to comply with the following procedures.

The CDMGSA will follow these procedures to ensure adequate information is collected for all groundwater extractions as a commitment to evaluate and develop accurate data to implement the NCDM GSP.

1) **Well Types** (Definitions) - With regard to groundwater well types, registration is to include all existing wells and new wells, as defined by the following:

- Domestic Well – A well primarily used to supply water for the domestic needs of a single-family homeowner for private utilization and consumption. Domestic wells will be considered a De-Minimis extractor under SGMA if the following conditions are met:
 - a. Not more than one domestic well per parcel equal to or less than 5 acres in size, or the ratio of number of domestic wells per parcel size does not exceed 1 well per 5 acres for parcels larger than 5 acres in size.
 - b. The pump discharge orifice at the well head does not exceed 2 inches in diameter.
 - c. Domestic well is not capable of producing a flow rate exceeding 10 gallons per minute.
 - d. Domestic well's casing size does not exceed 6 inches in diameter, as identified in the well's completion report.
 - e. The owner submits the well's Well Completion Report, which indicates the well type as a domestic well.

If a domestic well does not meet the above criteria, the well owner may petition the Board of Directors of the CDMGSA to designate the well as De-Minimis, based on information provided by the well owner, using reliable and verifiable metered records, that the well does not exceed two acre-feet per year of total extraction.

- Production Well – A well that is not considered a De-Minimis Well, nor a Monitoring Well, nor a Cathodic Protection Well, shall be considered a Production Well, including non-De-Minimis Domestic Wells.
- Monitoring Well – A well that is used to (a) monitor the fluctuations in groundwater levels, (b) monitor the quality of underground waters, (c) monitor the presence or concentration of contaminants in subsurface soil and water, or (d) monitor vapors. Monitoring wells include remediation wells. Any well with a casing diameter greater than four inches will be considered a domestic or production well, unless designated as a monitoring well under the discretion of the CDMGSA.
- Inactive or Standby Well – A well that is not routinely operated, but capable of being made operable with the placement of a pump or other appurtenances.
- Abandoned Well – A well that has not been in use for a period of one year, unless the owner demonstrates in writing his/her/its intention to use the well again for a water supply.
- Cathodic Protection Wells – Groundwater wells specified as cathodic protection wells on their well completion report and exclusively utilized for

the purpose of providing cathodic protection will not be required to register and will not be considered by the CDMGSA for the purposes of SGMA.

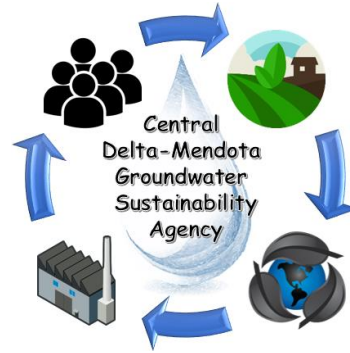
- 2) **Registration** – The owner of any groundwater well within the CDMGSA must register the well with the CDMGSA.
 - a. Registration of existing wells shall be completed by April 1, 2021.
 - b. Registration of new wells shall be completed within 30 days of the completion of the drilling of such a well.
 - c. Registration of any well shall be done so on a form provided by the CDMGSA.
- 3) **Notification** – The CDMGSA will provide notice of its adoption of this Policy as required by law.
- 4) **Meter Requirement** – At this time, the CDMGSA will not be requiring a meter to be installed on existing or new wells, but may consider a metering and reporting requirement at a future date.
- 5) **Fees and Penalties for Non-Compliance** – The CDMGSA will establish a fee schedule and penalty process for non-compliance. Non-compliance includes two separate penalties: (a) failing to register a well using the CDMGSA form, and (b) operating a well that has not been registered. Fees for failure to register a well in the prescribed time will result in a quarterly fee until such time as the well is registered. Penalties for activities such as operating an unregistered well could include legal action taken to cease and desist the use. A fee schedule is attached hereto and will be implemented in accordance with the final fee and penalty schedule adopted by resolution or ordinance by the CDMGSA Board of Directors pursuant to the CDMGSA's rate study and following a public hearing.
- 6) **GSA Issuance of Notice of Non-Compliance to Local Agency** – The CDMGSA will issue a notice of Non-Compliance to the local member agency for any non-compliant well that has been out of compliance for more than one quarter. The Non-Compliance notification will serve as an official request of the local member agency to enact its powers of enforcement for non-compliance.
- 7) **Request for Additional Time; Penalty Waiver** – The owner of a groundwater well may submit a written request to CDMGSA for a single extension of time to comply with Section 2 above and/or a request for a one-time penalty fee waiver (if after April 1, 2021). A request for an extension of time must be submitted prior to April 1, 2021 to avoid penalties as described in Section 5 above and a grant of an extension of time, in total, shall not exceed a period of three (3) months. The chairman of the CDMGSA Board of Directors may grant the extension if a finding of good cause can be made. For purposes of this Policy, good causes include, but are not limited to, (a) a demonstrated undue financial hardship, (b) factors outside the control of the owner, or (c) proof that the owner was not properly notified of the requirement.

- 8) **Amendment** – This Policy is subject to changes in the regular operation of the CDMGSA, as it may be revised from time to time by the Board of Directors.
- 9) **Policy Review** – This Policy shall be reviewed by the CDMGSA regularly, but in no event less than once every five (5) years.

Attachment 1

**Central Delta-Mendota Groundwater Sustainability
Agency Administrative Policy Number 1 Well
Registration Policy Fee Rate Study
November 16, 2020**

CENTRAL DELTA-MENDOTA GROUNDWATER SUSTAINABILITY AGENCY



Eagle Field WD • Fresno County • Fresno Slough WD • Merced County • Mercy Springs WD • Pacheco WD • Panoche WD • San Luis WD • Santa Nella County WD • Tanquility ID

Central Delta-Mendota Groundwater Sustainability Agency Administrative Policy Number 1 Well Registration Policy Fee Rate Study November 16, 2020

1.0 Introduction

The Sustainable Groundwater Management Act (SGMA) comprised of California Assembly Bill 1739, California Senate Bill 1319 and California Senate Bill 1168, was signed into law in September 2014. SGMA mandated the formation of local Groundwater Sustainability Agencies (GSAs) to develop and implement area specific Groundwater Sustainability Plans to achieve sustainable groundwater management. SGMA provides statutory authority to GSAs to impose fines and/or taxes as necessary for their efforts to achieve sustainability. The Central Delta-Mendota Groundwater Sustainability Agency (CDMGSA) was formed by several local agencies in 2017. The Northern and Central Regions Groundwater Sustainability Plan (N-C GSP) was developed by the CDMGSA in coordination with the other GSAs within the Northern and Central Delta-Mendota Groundwater Sustainability Plan Group, and was finalized in September 2019 and adopted by the CDMGSA and submitted to the California Department of Water Resources in January 2020 where it is currently under review. The CDMGSA is currently implementing the N-C GSP. Using the best available data and science, the N-C GSP concluded that the CDMGSA area is in a state of groundwater overdraft. The N-C GSP identifies data gaps in section 5.3.8 within the CDMGSA and N-C GSP area resulting in limited data and uncertainty in the calculation of groundwater extraction and overdraft in the CDMGSA and sustainable yield estimates.

Upon adoption, the CDMGSA's Administrative Policy Number 1 – Well Registration Policy (Registration Policy) will be the first policy developed by the CDMGSA intended to provide the authority for the collection of data necessary to accurately determine groundwater use within the CDMGSA area. Furthermore, to equitably implement management actions and distribute costs related to N-C GSP implementation and sustainability efforts, an accurate and comprehensive accounting of all wells within the CDMGSA's boundaries is critical. To

ensure that the outcome of the Registration Policy results in a comprehensive and accurate accounting of all wells, the CDMGSA has developed the following administrative fee and penalty (Fee) schedule to assist in the administrative effort to collect the data.

1.1 Purpose

This study is pertinent only to the Fees that the CDMGSA charges associated with its Registration Policy. These Fees are exclusively intended as a compliance enforcement mechanism. The CDMGSA's finances are not dependent upon revenue collected from these Fees and it is not anticipated that these Fees will be a consistent source of revenue.

1.2 Proposition 26 Process

Under Proposition 26, all levies, charges, and exactions "imposed" by state or local governments are taxes, unless they fit into one of the seven stated exceptions for local government:

1. "A charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.
2. A charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.
3. A charge imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.
4. A charge imposed for entrance to or use of local government property, or the purchase, rental, or lease of local government property.
5. A fine, penalty, or other monetary charge imposed by the judicial branch of government or a local government, as a result of a violation of law.
6. A charge imposed as a condition of property development.
7. Assessments and property-related fees imposed in accordance with the provisions of Article XIID."

(Cal. Const., art. XIII C, § 1, subd. (e).) A detailed analysis of these exceptions appears infra.

1.3 Proposed Administrative Fee and Penalty Schedule and Justification

- 1) Domestic Wells or Monitoring Wells as defined in the Registration Policy.
 - a. Failure to Register by April 1st, 2021 shall result in an administrative fee of \$100 for each unregistered Domestic Well or Monitor Well.
 - b. Continual failure to register a Domestic Well or Monitor Well shall incur an additional \$100 penalty fee on the first day of each new quarter after the initial deadline. For the purpose of this policy a quarter is defined as a period of three consecutive months starting April 1st 2021.

Justification: The registration of domestic and monitoring wells in the CDMGSA under SGMA is vital for understanding groundwater use and aquifer characteristics within the CDMGSA and will provide important data for implementation of the N-C GSP. Registration Policy. The Fees are intended to cover a portion of the administrative effort required to notice and collect these fees.

- 2) Non-Operational Production Wells – production wells as defined in the Registration Policy that are incapable of extracting groundwater.
 - a. Failure to Register by April 1st, 2021 shall result in an administrative fee of \$100 for each unregistered Non-Operational Production Well.
 - b. Continual failure to register a Non-Operational Production Well shall incur an additional fee of up to \$500 on the first day of each new quarter after the initial deadline.

Justification: The registration of Non-Operational Production Wells in the CDMGSA under SGMA is vital for understanding groundwater use and aquifer characteristics within the CDMGSA and will provide important data for implementation of the N-C GSP. Registration Policy. The Fees were intended to cover a portion of the administrative effort required to notice and collect these fees. The penalty fee is also intended to cover the cost of additional outreach to the well owner in order to bring the well into compliance. It is recognized that the registration of Non-Operational Production Wells would be beneficial to the CDMGSA, and a failure to register these wells could threaten sustainability efforts should the well be restored to operational condition or exist in a condition that could cause a negative impact to water quality.

- 3) Operational Production Wells as defined in the Registration Policy.
 - a. Failure to Register by April 1st, 2021 shall result in an administrative fee of up to \$1,000 for each unregistered Operational Production Well.
 - b. Continual failure to register an Operational Production Well shall incur an additional penalty fee of up to \$90 per day beginning on the first day of the second quarter after initial deadline. The daily late fee will increase 100% each quarter thereafter until a maximum amount of \$1,800 per day.
 - c. A well owner may petition the board to reduce their fee if they provide a third-party pump test demonstrating the maximum flowrate of the unregistered well. The fee will be equal to the following formula:

$$\text{Fee} = \text{Up to } \$900 \times (\text{maximum well flow rate in cubic feet per second}) \times (\text{number of days late}) \times (\text{Number of Quarters late} - 1) / 10$$

Justification: The registration of Operational Production Wells in the CDMGSA under SGMA is vital for understanding groundwater use and aquifer characteristics within the CDMGSA and will provide important data for implementation of the N-C GSP. This information is critical for groundwater utilization management and equitable distribution of SGMA related expenses. The Fees were intended to cover the administrative effort required to notice and collect these fees, and serve as significant the derived assuming the resulting cost of the CDMGSA to purchase open market water and recharge into the aquifer to offset the extractions of an unregistered well. It is assumed that an average well produces at a flow rate of 1.0¹ cubic feet per second (two acre-feet per day) and the average cost of market water from 2013 – 2019 was \$450² dollars per acre foot. At two acre-feet per day and \$450 dollars per acre foot, the replacement cost of this water is

\$1,800 per day. Furthermore, it is recognized that the registration of Operational Production Wells is necessary for equitable groundwater management and cost distribution, and a failure to register these wells will undermine groundwater usage accounting and threaten sustainability.

¹ 1/3 rounded to the nearest 0.5 cfs of the *average flow rate of the Warren Act Delta-Mendota Canal Wells within the CDMGSA per independent meter test records from the San Luis Delta Mendota Water Authority.*

² *Average supplemental water cost of San Luis Water District from 2013 to 2019.*

1.4 Conclusion of Fees as Exempted from designation as a “Tax”

As the exclusive intent of any fees imposed resulting from the Registration Policy is for compliance with the Registration Policy, in order to comply with SGMA, and not as a revenue source which the CDMGSA’s budget is dependent upon, these fees conclusively fall under the fifth exemption stated in Proposition 26: "A charge imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof. A fine, penalty, or other monetary charge imposed by the judicial branch of government or a local government, as a result of a violation of law."

Therefore, the Board of Directors of the CDMGSA may adopt these fees at their board of directors meeting without further consideration provided it provides public notice of the meeting and agenda as is consistent with regular or special board meetings and holds a agenzed public hearing and vote.

Central Delta-Mendota GSA JPA
 Operating Budget

PROPOSED DRAFT Budget for Fiscal Year 2021-22

Operating Revenues	
Member Contributions (\$3,700*10)	\$ 37,000.00
	<hr/>
Total Revenue	37,000.00
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Operating Expenses	
<i>Administration:</i>	
Bank Fees (Wells Fargo)	150.00
General Liability Insurance	2,500.00
Office Supplies	1,000.00
Regulatory Fees	500.00
	<hr/>
Total Admin Expenses	4,150.00
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<i>Professional Services:</i>	
Auditor	5,000.00
Legal	18,000.00
Consultant - SLDMWA	7,668.00
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Total Prof Svcs Expenses	30,668.00
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Total Operating Expenses	34,818.00
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Net Operating Revenue	\$ 2,182.00
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Central Delta-Mendota GSA JPA
 Operating Budget

Prior Year Budget to Actual Comparison

Operating Revenues	Adopted FY 2020-21	Actual FY 2020-21
Member Contributions (\$1,700*10)	\$ 35,000.00	\$ 35,000.00
Total Revenue	35,000.00	35,000.00
Operating Expenses		
<i>Administration:</i>		
Bank Fees (Wells Fargo)	150.00	35.00
General Liability Insurance	2,500.00	-
Office Supplies	1,000.00	-
Regulatory Fees	500.00	-
Total Admin Expenses	4,150.00	35.00
<i>Professional Services:</i>		
Auditor	5,000.00	-
Legal	12,500.00	17,567.44
Consultant - SLDMWA	10,000.00	-
Total Prof Svcs Expenses	27,500.00	17,567.44
Total Operating Expenses	31,650.00	17,602.44
Net Operating Revenue	\$ 3,350.00	\$ 17,397.56