



COUNTY OF COLUSA
DEPARTMENT OF AGRICULTURE
GROUNDWATER COMMISSION
100 Sunrise Boulevard Suite F
Colusa, CA 95932

JOSEPH J. DAMIANO
Agricultural Commissioner
Sealer of Weights & Measures

Lorraine Marsh, Chair | Jeff Moresco | Mark Morris | Bruce Rolen, Vice Chair | Darrin Williams

SPECIAL MEETING NOTICE OF THE COLUSA COUNTY GROUNDWATER COMMISSION

Location: Colusa Industrial Park Conference Room

100 Sunrise Boulevard, Colusa, CA 95932

Date: February 4, 2015

Time: 10:00 a.m. – Noon – *(Please note time!)*

Meeting Agenda

1. CALL TO ORDER *(*action item)*

- a. Pledge of Allegiance
- b. Introductions
- c. Roll Call
- d. *Acceptance of Agenda
- e. *Approval of Minutes from January 15, 2015
- f. Comments by Commissioners
- g. Period of Public Comment

Any person wishing to address the Commission on any item not on today's Agenda may do so at this time. The Commission will not be making a decision or determination on items brought up during Public Comment.

2. DISCUSSION/ACTION ITEMS *(*action item)*

- a. Continued discussion regarding Groundwater Ordinance revisions
- b. *Possible action for moving forward
- c. Items for next agenda

3. ADJOURNMENT

Next meeting date: March 12, 2015 at 1:30, location TBD

TO THOSE WHO PARTICIPATE IN COMMISSION PROCEEDINGS: California Government Code Section 84308 requires you to disclose campaign contributions to Groundwater Management Commissioners if they amount to \$250 or more and were made within the last twelve months. Please announce your applicable campaign contributions when you speak. Any disabled person needing special accommodation to participate in the Commission proceeding is requested to contact the Colusa County Agriculture Department prior to meeting and arrangements will be made to accommodate you.

WUG - Ordinance Recommendations January 13, 2015

In County Transfers

- No Permit Process
- Admin Review good for one year
- Administrative Review:
 - Signed County Agreement
 - Copy of full Transfer Submittal prior to pumping, which includes:
 - Env. Review
 - Monitoring Program
 - Mitigation Program
 - Commission is copied on Monthly Monitoring Docs
 - Commission is copied on Final Transfer Report (May)

Out of County Transfers

- Permit required
- Case-by case basis
- Permits good for one year
- Copied on Monthly monitoring docs
- Transfers prohibited during any of the following circumstances:
 - Critically Dry Year – DWR Sac Valley Water Index (Bulletin 120, comes out in May, transfers start in April. Suggested to look at preliminary readings from Bureau to see where it is trending)
 - Emergency Drought Declaration – County
 - Emergency Statewide Drought Proclamation – State

Other to Consider

- Fee structure to support admin and data gathering/studies
- Beneficial Use language (use language from Constitution)
- Water Quality
- Stronger mitigation plan (Can be part of “Conditions”)
- Process to notify neighbors

Chapter 43

GROUNDWATER MANAGEMENT.

Sections:

- 43-1 Findings and purpose.
- 43-2 Definitions.
- 43-3 Permit required for export for use outside county.
- 43-4 Exclusions from permit requirements.
- 43-5 Administrative structure.
- 43-6 Application for a permit.
- 43-7 Procedures for processing.
- 43-8 Public review concerning issuance of permit.
- 43-9 Findings required for permit approval or denial by the commission.
- 43-10 Conditions of permit approval.
- 43-11 Reapplication after commission denial.
- 43-12 Appeal of commission action on application.
- 43-13 Challenge to approved permit.
- 43-14 Permit term.
- 43-15 Limitation of permit.
- 43-16 Severability.
- 43-17 Violations.

Section 43-1 Findings and purpose.

(a) It is the long-standing policy of the county of Colusa to conserve and encourage agricultural operations within the county. The Colusa County general plan, adopted in ~~January 1989-July, 2012~~, establishes the preservation and promotion of agriculture in its various forms as being the highest priority goal in the planning process of the county of Colusa. Other legislative acts of the Colusa County board of supervisors, including but not limited to the adoption of the "right to farm" ordinance, Ordinance Number 510, on February 6, 1990, are further evidence of the existing policy.

(b) It is essential for the protection of the health, welfare, and safety of the residents of the county, and the public benefit of the state, that ~~the~~ groundwater resource of Colusa County be protected from harm resulting from the extraction of groundwater for use on lands outside the county, until such time as needed additional surface water supplies are obtained for use on lands of the county, or over-drafting is alleviated, to the satisfaction of the board.

(c) Much of the farm production of the county depends upon the use of groundwater to produce field crops, nut and fruit crops, vegetable crops, seed crops and livestock and products which significantly contribute to the gross value of all agricultural crops produced in the county, estimated at over ~~nearly three hundred eight million for 1998~~ nine hundred million for 2013.

(d) The groundwater of Colusa County also provides water to several communities in the county, particularly to the cities of Colusa and Williams.

~~(e) Although the county intends to jointly undertake with affected local agencies to develop an integrated water resources management plan for each of the various regions of Colusa County to further plan and implement prudent water management practices, interim measures addressing the extraction of groundwater for export are needed to protect the existing groundwater basins.~~

(f) It is essential for information gathering and monitoring purposes, and for the protection of the county's groundwater resources, that the county adopt a permit process addressing the extraction of groundwater ~~for~~ to replace surface water use outside of the county.

Also essential for information gathering and monitoring purposes is a process for Administrative Review of the extraction of groundwater to replace surface water use within the county.

(g) In adopting and codifying this groundwater management ordinance, the county does not intend to limit other authorized means of managing Colusa County groundwater, and intends to work cooperatively with interested local agencies to further develop and implement joint groundwater management practices.

(h) Loss of groundwater would result in additional surface water needs.

(i) Many agricultural operations in the county rely on existing wells to sustain the economic production of agricultural commodities.

(j) The factors mentioned above, have caused an accelerated rate of construction and development of wells within the county of Colusa for the use of water upon lands within the county. This circumstance alone, causes concern and alarm in the board of supervisors because it has been demonstrated in many areas of the state that the unfettered over-drafting and/or mining of groundwater from an aquifer has negative impacts. These negative impacts include, but are not limited to: (1) lowering of water tables leading to (a) increased energy consumption, and (b) the prospect of increased cost for deepening existing wells; and (c) the prospect that new wells will need to be deeper (with attendant additional costs) than would otherwise be required; (2) damage to the aquifer through (a) reduction of transmissivity; and (b) subsidence of the surface of the ground thereby (i) permanently reducing the storage capacity of the aquifer, and (ii) causing damage to public roads, bridges, canals and other structures at substantial cost to the public treasury.

(k) The mining of water, episodes of overdraft and the increasing number of wells result in the drying up of surface and subsurface flowing streams, the drying of wetland areas and the loss of percolating waters. These conditions cause the loss of critical riparian and wetland habitat.

(l) The board has been informed, and upon such information, believes that projects are proposed for the extraction and exportation of groundwater from within the county to locations outside the county. The board is informed and believes that these proposals may involve the acquisition of rights to small parcels of land, the development of wells upon such land of a size and capacity far exceeding that reasonably necessary for any beneficial use on the parcel upon which the land is located. The board is alarmed and concerned that this practice will result in over-drafting and/or adverse impacts of environmental and economic character in the county of Colusa.

(m) Water Code section 1810(d) provides that use of a water conveyance facility to transfer water may be denied if the use of the water conveyance facility will injure any legal user of water, will unreasonably affect fish, wildlife or other in-stream beneficial uses, or will unreasonably affect the overall economy or the environment of the county from which the water is being transferred.

(n) Transfers of water from Colusa County undertaken by any method could affect the overall economy or the environment of Colusa County.

(o) It is the purpose and intent of this chapter to establish an effective county policy concerning water transfers that will assure that the overall economy and environment of Colusa County is protected.

(p) The county seeks to foster prudent water management practices to avoid significant adverse overdraft-related environmental, social, and economic impacts. It is therefore essential for the protection of the county's important groundwater resources that the county require a permit to extract groundwater **to replace surface water** for use outside the county. This chapter requires a permit for the export of groundwater **to replace surface water use** outside the county and is not intended to regulate groundwater in any other way.

(q) The public health, safety and general welfare of the people of the state of California and the county depend upon the continued availability of groundwater through insuring that extraction of groundwater does not exceed safe yield of affected groundwater basin, considering both the short and long-term impacts of groundwater extraction, including the recovery of groundwater basins through natural as well as artificial recharge.

(r) Surface water supplies obtained in the future may be used conjunctively with groundwater. That is, surface water could be diverted in times of relatively high flows and groundwater could be used during dry periods when surface water is not readily available. In this regard, the greatest readily and economically available asset the county has in dealing with its water needs is its groundwater. Loss of the use of the groundwater would result in additional surface water needs. It is vital that the groundwater resources be protected so that its capacity will be available for future conjunctive use.

(s) The board of supervisors did appoint a Colusa groundwater committee on March 19, 1996 to study, and coordinate the available protections for groundwater supplies in conjunction with historic surface flows in Colusa County. The committee held public meetings on a regular basis to gather data, disburse information and to review data related to water resources in Colusa County. The committee did review groundwater policy, demands on groundwater supplies, and research of existing groundwater management plans over a period of one year. Input was sought from state, local and federal officials.

(t) Following lengthy research, the Colusa County groundwater committee concluded that there was a need to identify and protect the underlying groundwater resources of Colusa County. The committee noted that factors contributing to this conclusion were the overall population growth of the state and the lack of new water storage facilities built to supply that increase in population. This, the committee concluded, has resulted on the current pressure on northern California's groundwater supply. This pressure, the committee found, required protection from the social and economic impacts which could be caused by a depleted local groundwater supply. That protection was identified by the committee as being of paramount concern.

(u) In adopting this chapter, the county does not intend to limit either the county or other public entities in managing groundwater under the Groundwater Management Act and any other applicable laws in a manner consistent with the Colusa County water plan. (Ord. No. 615, (part).)

Section 43-2 Definitions.

(a) "Groundwater Management Act" means Water Code section 10750 et seq.

(b) "Aquifer" means a geologic formation that stores, transmits and yields significant quantities of water to wells and springs.

(c) "Aquifer health" means maintaining the geologic integrity of the affected aquifer so that its capacity is not reduced as well as the maintenance of the quality of water within the aquifer, including, where relevant, the prevention of degradation of drinking water.

(d) "Board" means the board of supervisors of Colusa County.

(e) "Commission" means the Colusa County groundwater commission.

(f) "Committee" means the Colusa County groundwater committee.

(g) "Conjunctive use" means the planned joint use of surface and groundwater. It relies upon the principle that by using surface water when it is plentiful, recharging the aquifer and conserving groundwater supplies in wet years, water will then be available for future pumping in dry years when surface supplies are short.

(h) "County" means the county of Colusa.

(i) "Existing wells" are those wells which are in existence at the time of the effective date of the ordinance codified in this chapter and which are in compliance with Chapter 35 of the Colusa County Ordinance Code. (This would be the existing Colusa County well ordinance).

(j) "Groundwater" means all water beneath the surface of the earth within the zone below the water table in which the soil is completely saturated with water, but does not include water which flows in known and definite channels.

(k) "Groundwater safe yield" means the maximum quantity of water that can be annually withdrawn from a groundwater basin over an extended period of time (during which natural hydrologic water supply conditions approximate average conditions) without developing an overdraft condition. The safe yield of a basin can be increased by supplementing natural recharge with artificial recharge.

(l) "Hydraulic gradient" means the slope of the water table.

(m) "Hydrology," means the origin, distribution, and circulation of water through precipitation, stream flow, infiltration, groundwater storage and evaporation.

(n) "Local agency" means any local public agency.

(o) "Mining" is the extraction of groundwater by any means.

Groundwater Mining” means the process, deliberate or inadvertent, of extracting groundwater from a source at a rate so in excess of the replenishment that the groundwater level declines persistently, threatening exhaustion of the supply or at least a decline of pumping levels to uneconomic depths. (~~Glenn County~~)

(p) "Overdraft" means the condition of a groundwater supply in which the amount of water withdrawn by pumping exceeds the amount of water replenishing the supply over a period of time and also the point at which extractions from the supply exceed its safe yield plus any temporary surplus.

(q) "Percolation" means the movement of water through the soil to the groundwater table.

(r) "Permeability" means the capability of the soil or another geologic formation to transmit water.

(s) "Piezometric surface" means the surface to which the water in a confined aquifer will rise.

(t) "Porosity" means voids or open spaces in alluvium and rocks that can be filled with water.

(u) "Recharge" means flows to groundwater storage from precipitation, irrigation, infiltration from streams, spreading basin and other sources of water.

(v) "Salt water intrusion" means the movement of salt water into a fresh water aquifer.

(w) "Specific capacity" means the volume of water pumped from a well in gallons per minute per foot of draw down.

(x) "Spreading water" means discharging native or imported water to a permeable area for the purpose of allowing it to percolate to the zone of saturation. Spreading, artificial recharge and replenishment all refer to operations used to place water in a groundwater table.

(y) "Transmissivity" means the rate of flow of water through an aquifer.

(z) "Usable storage capacity" means the quantity of groundwater of acceptable quality that can be economically withdrawn from storage.

(aa) "Water table" means the surface or level where groundwater is encountered in an unconfined aquifer.

(bb) "Water year" means the year beginning with January 1st and ending the last day of the following December 31st.

(cc) "Zone of saturation" means the area below the water table in which the soil is completely saturated with groundwater. (Ord. No. 615, (part).)

Section 43-3 Administrative Review for export for use within the county

All parties participating in an in-county groundwater substitution water transfer are required to notify the Colusa County Groundwater Commission and sign the Colusa County In-County Groundwater Substitution Transfer Agreement. As per the Agreement, the transferring entity will:

1. Provide the Commission, via Staff, with a signed copy of the In County Groundwater Substitution Transfer Agreement, prior to the transfer commencing
2. Provide the Commission, via Staff, with a copy of the Final Transfer Proposal, prior to the transfer commencing
3. Provide the Commission, via Staff, with copies of all monitoring data at the time they are reported to the California Department of Water Resources and the Bureau of Reclamation
4. Provide the Commission, via Staff, with a copy of the Final Transfer Report, upon completion

Section ~~43-3~~ 43-4 Permit required for export for use outside county.

It shall be unlawful to extract groundwater underlying lands in Colusa County, directly or indirectly, to replace surface water for use ~~of that groundwater~~ outside county boundaries without first obtaining a permit as provided herein. For purposes of this section, the extraction of groundwater to replace a surface water supply which has been, is being, or will be transferred for use outside of the county boundaries shall be considered an extraction or mining of groundwater subject to this chapter. (Ord. No. 615, (part).)

Section ~~43-4~~ 43-5 Exclusions from permit requirements.

This chapter shall not apply to the extraction of groundwater in the following circumstances:

- (a) To prevent the flood of lands; or
- (b) To prevent the saturation of the root zone of agricultural land; or
- (c) For use within the boundaries of a local agency which is in part located within Colusa County and in part in another county(s) where such extraction quantities and use are consistent with the historical practice of the local agency; and provided further, the local agency has adopted a groundwater management plan which is consistent with the Colusa County groundwater management plan that is then in effect.
- (d) For use on lands outside Colusa County which are contiguous and in the same ownership to lands within Colusa County from which the groundwater is extracted, where such extraction rates, quantities and use are consistent with the historical practices of the landowner, and

to enable water export that is expressly permitted by the terms of the Colusa County groundwater management plan.

(e) Where the person or entity demonstrates to the satisfaction of the commission that its water management practices will result in an average annual groundwater ~~basis~~ basin recharge which is equal to or in excess of its extraction of groundwater for export uses. The person or entity asserting that one of the exclusions of this section applies shall have the burden of supporting its assertion that no permit is required.

(f) Upon application properly filed with the commission, the commission may grant a revocable exemption to water districts which comply with all of the following:

(1) Adopted a groundwater management plan pursuant to Water Code section 10750 et seq. that has been approved by the commission.

(2) Instituted a groundwater monitoring and mitigation program associated with its extraction of water which has been approved by the commission.

(3) Executed an agreement with the county of Colusa which requires the parties to share groundwater monitoring information and data, coordinate their efforts to monitor groundwater resources in the county, and participate in the development and preparation of a groundwater management plan by the county.

The exemptions of this category shall be reviewed annually by the commission and may be extended, amended or revoked at the discretion of the commission. (Ord. No. 615, (part).)

Section ~~43-5~~ 43-6 Administrative structure.

A Water Resources Coordinator has been hired by the County to coordinate water related activities, including groundwater. A "groundwater commission" ~~shall be~~ has been appointed by the board, through selection from applications submitted to the board from interested parties, for the purpose of serving on the water commission. A Water Users Group has been appointed by the Board of Supervisors through selection from applications to the County from interested parties, and a groundwater Technical Support Team has been formed to support the Groundwater Commission. (Ord. No. 615, (part).)

Section ~~43-6~~ 43-7 Application for a permit.

An application for a permit ~~for out-of-county groundwater substitution transfers~~ shall be filed with the commission and shall contain all information required by the commission. Concurrently, the applicant shall consent to the commencement and financing of appropriate environmental review as may be required by the California Environmental Quality Act ("CEQA"; Public Resources Code section 21000 et seq.). The application for a permit and request for environmental review shall be accompanied by the fees which shall be established from time to time by the board. (Ord. No. 615, (part).)

(a) Issuance of a permit shall be prohibited under ANY of the following circumstances, unless the transferring entity can demonstrate to the Groundwater Commission's satisfaction and with scientific evidence that there will be no harm to the aquifer, including but not limited to the findings in Section 43-10:

a. Critically Dry Year as per the DWR Sacramento Valley Water Index

- b. Emergency Drought Declaration by the County of Colusa
- c. Emergency Statewide Drought Proclamation by the State of California

Section 43-7 43-8 Procedures for processing.

- (a) Within ten calendar days of filing of the permit application and the deposit of required fees, the commission shall deliver notice to the Colusa County planning department that an application has been filed. The commission shall send a copy of the notice, and the application, to all local agencies located within Colusa County which have lands overlying or adjacent to the location of the proposed extraction, and to any interested party who has made written request to the commission for such notice within the last twelve calendar months, seeking written comments. The commission shall review the application to determine whether it is complete for purposes of proceeding under the Colusa County guidelines adopted pursuant to the CEQA requirements and shall thereafter commence environmental review as may be appropriate.
- (b) The commission shall review the matter of the application with potentially affected county departments, with the staff of applicable state and federal agencies and with all local agencies located in whole or in part within Colusa County or with any potentially affected party, as per the judgment of the commission. If the applicant is applying to extract groundwater from a local agency, or in an unincorporated area, in which a groundwater management plan has been adopted pursuant to the Groundwater Management Act, but which plan does not expressly permit the export of water, the commission shall consider such Groundwater Management Plan, or any other relevant information provided by the local agency. Any interested person or agency may provide comments relevant to the matter of the extraction of groundwater. Comments shall be submitted to the commission within thirty days of the date of mailing the notice of filing of the permit application.
- (c) The environmental review shall be undertaken in accordance with the California Environmental Quality Act (CEQA) and Colusa County guidelines for implementation. All costs of the environmental review shall be the responsibility of the applicant.
- (d) Upon completion of the environmental review, the commission shall immediately set a public review on the permit application, which shall be noticed pursuant to Government Code section 6061. (Ord. No. 615, (part).)

Section 43-8 43-9 Public review concerning issuance of permit.

- (a) Formal rules of evidence shall not apply in the commission's public review proceeding for the application, but the commission may establish such rules as will enable the expeditious presentation of the matter and receipt of relevant information thereto.
- (b) The commission shall hear the application in accordance with the provisions for public review in Colusa County.
- (c) During the commission's public review, the applicant shall have the burden of proof of establishing the facts necessary for the commission to make the required findings. The

commission shall also hear relevant evidence presented by other interested persons and entities.

(d) The commission shall approve, deny or conditionally approve the application within one year. The scope of the conditions extends to any relevant matter that may be considered by the commission including, but not limited to, the effect that granting the permit application would have on the affected aquifer including, but not limited to, potential hydraulic gradient, hydrology, percolation, permeability, piezometric surface, porosity, recharge, annual yield, specific capacity, spreading waters, transmissivity, usable storage capacity, water table, water quality, and zones of saturation impacts, each of the findings of the commission, any appropriate conditions proposed to be imposed, and any mitigation measures to reduce adverse effects.

(e) The commission may request any additional information it deems is reasonably necessary for its consideration. The cost of such additional information shall be borne by the applicant. (Ord. No. 615, (part).)

Section ~~43-9~~43-10 Findings required for permit approval or denial by the commission.

(b) The permit may only be recommended for approval if there is a majority of the total membership of the commission present at the required public meeting and a majority of the total membership of the commission finds that the proposed groundwater extraction will not have significant detrimental impacts on the affected groundwater basin by determining that:

(1) The proposed extraction will not cause or increase an overdraft of the groundwater underlying the county;

(2) The proposed extraction will not adversely affect the long term ability for storage or transmission of ground water within the aquifer;

(3) The proposed extraction will not exceed the annual yield of the groundwater underlying the county and will not otherwise operate to the injury of the reasonable and beneficial uses of overlying groundwater users;

(4) The proposed extraction will not result in an injury to a water replenishment, storage, or restoration project operating in accordance with statutory authorization;

(5) The proposed extraction is in compliance with Water Code section 1220; and

(6) The proposed extraction will not be otherwise detrimental to the health, safety and welfare of property owners overlying or in the vicinity of the proposed extraction site(s).

(c) If the commission determines that one or more of the findings required by this section cannot be made, upon considering the proposed export together with potential conditions of permit issuance recommendation, it shall deny the permit application. The basis for any such denial recommendation shall be reflected in the commission's official record of proceedings.

~~(d)~~ (d) The applicant shall be notified in writing of the commission's recommendation on the application, including the basis for recommending denial where applicable, within fifteen days of the final commission action on the application. (Ord. No. 615, (part).)

Section ~~43-10~~ 43-11 Conditions of permit approval.

If the permit is approved, the commission shall impose appropriate conditions of permit issuance so as to prohibit overdraft or other adverse conditions, and may impose other conditions that it deems necessary to promote or maintain the health, safety and welfare of Colusa County residents. Such other conditions of permit issuance may include, but shall not be limited to, requirements for observation and/or monitoring wells. Notwithstanding the foregoing, the commission may issue the permit if the commission finds that the applicant will provide adequate mitigation to offset all adverse effects that would otherwise result from the proposed extraction. (Ord. No. 615, (part).)

1. The following Conditions will apply to all Permits:
 - a. The Seller will sign the Colusa County Out-Of-County Groundwater Substitution Transfer Agreement
 - b. Transfer water will be used exclusively for agricultural purposes
 - c. The Commission will be copied (via Staff) on the full Final Transfer Proposal
 - d. The Commission will be copied (via staff) on all monitoring data associated with the transfer (before, during and after transfer)
 - e. The Commission will be copied (via staff) on the Final Transfer Report
 - f. The Transferring party will abide by the attached Colusa County Mitigation Plan
 - g. Other?

Section ~~43-11~~ 43-12 Reapplication after commission denial.

Reapplication for a permit which has been denied by the commission may not be filed until the water year following the denial. For any such reapplication to be accepted as complete, and for it to be further reviewed in accordance with the procedures set forth above, it must be accompanied by information that demonstrates a significant change in those circumstances which represented the factual basis for the previous permit application denial. (Ord. No. 615, (part).)

Section ~~43-12~~ 43-13 Appeal of commission action on application.

(a) The applicant or any interested party may appeal a decision of the commission by filing a written request with the clerk of the board within fifteen days of issuance of the decision of the commission. Any such appeal shall specifically set forth the procedural and substantive reasons for the appeal or be deemed incomplete and ineffectual. The clerk shall set a board hearing time within ten days of receipt of a complete request for appeal which shall be heard within twenty days of notice thereof. Written notice of the appeal shall be given to the commission, the permit applicant, the appellant, and all other interested parties, and the appeal hearing shall be published pursuant to Government Code section 6061.

(b) The board shall hear the appeal as to those disputed matters which were heard by the commission and are specifically set out in the appeal request, but may continue such hearing from time to time as determined appropriate by the board. The appeal before the board shall not be conducted with formal rules of evidence, but rather shall be conducted under such rules as set by the board for the expeditious presentation of the matter and relevant information pertaining thereto by the appellant and by other parties interested in the commission decision appealed from. The decision of the board shall be final.

(c) In any appeal taken under this section, the permit applicant who is proposing to extract groundwater for exportation outside of the county shall have the burden of proving to the satisfaction of the board that such extraction is either exempt from permit requirements of this chapter, or will not have significant detrimental impacts based upon the criteria set forth herein. (Ord. No. 615, (part).)

Section ~~43-13~~ 43-14 Challenge to approved permit.

(a) Any interested party may challenge the ongoing extraction of groundwater pursuant to an approved permit during the term of the permit based on allegations that one or more of the following circumstances exists:

(1) There has been or is an ongoing violation of one or more conditions of an approved permit; or

(2) The extraction of groundwater pursuant to this chapter has caused or increased an overdraft in the basin; has adversely affected the long term ability for storage or transmission of groundwater in the affected aquifer; exceeds the annual field of the affected groundwater basin; operates to the injury of the reasonable and beneficial uses of overlying groundwater users; is in violation of Water Code section 1220; or results in an injury to a water replenishment, storage, or restoration project operating in accordance with statutory authorization; or

(3) The continued extraction of groundwater pursuant to a previously approved permit will be detrimental to the health, safety, and welfare of one or more affected local agencies or other interested parties.

(b) A challenge pursuant to this section shall be commenced by filing a written request with the commission on a form prescribed by the commission. Such a challenge shall allege one or more of the circumstances specified by this section and shall generally describe facts in support of those alleged circumstances. In such event, the commission shall, within ten days of receipt of such challenge in a completed form, give notice of the challenge to the permittee, the appellant, all affected local agencies and to any other interested party which has requested such notice. A commission review shall be held on the matter following the procedures set out above. The commission's decision may be to deny the challenge and leave the previously issued permit unchanged, to grant the challenge and terminate the permit, or to impose modified conditions to the permit, which the permittee shall be obligated to adhere to if continued extraction for export purposes is to occur, based on findings addressing the criteria specified in this chapter.

(c) The standard for review in any such challenge proceeding shall be substantial evidence. The burden of proof shall be upon the person or entity extracting the groundwater that is the subject of the challenge.

(d) Appeals from commission decisions on challenges may be made to the board in accordance with the procedures of this chapter. (Ord. No. 615, (part).)

Section ~~43-14~~ 43-15 Permit term.

Except as may be modified pursuant to this chapter, all approved permits shall be valid for a term not to exceed ~~three~~ one water years from the date of the issuance of the permit, as determined by the approving body; however, if the permit is for extraction as part of a conjunctive use program that has been approved by the county, the permit shall not exceed the length of the term of that program. For the purpose of calculation, the water year in which the permit is granted shall not be counted in determining the ~~three~~ one year time period if less than four months remain in the water year at the time of final permit approval. (Ord.No. 615, (part).)

Section ~~43-15~~ 43-16 Limitation of permit.

Nothing contained in this chapter nor in the conditions of an issued permit shall be construed as giving the permittee an exclusive right to groundwater extraction, nor as establishing a compensable

right in the event the permit is subsequently terminated or modified following a challenge to the permit. (Ord. No. 615, (part).)

Section ~~43-16~~ 43-17 Severability.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held illegal, invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof.

(Ord. No. 615, (part).)

Section ~~43-17~~ 43-18 Violations.

The county may elect to proceed with any or all of the following remedies for violation of this chapter:

(a) A civil action against the violator, including injunctive relief.

(b) Any person or entity who violates this chapter or any term and/or condition of any permit issued under this chapter shall be subject to a civil fine up to five thousand dollars for each separate violation. A person or entity shall be deemed to have committed a separate violation for each and every day or portion thereof during which any such violation is committed, continued, or permitted as well as for each and every separate groundwater well within which any such violations committed, continued or permitted.

(c) Any person who violates any provision of this chapter or any term and/or condition of any permit issued under this chapter, shall be guilty of a misdemeanor punishable by a fine not exceeding one thousand dollars per each violation, or by imprisonment not exceeding six months for each violation, or both. Each and every day shall be a separate violation. (Ord. No. 615, (part).)

Out-of-County Groundwater Substitution Transfer Agreement

The Colusa County Groundwater Commission requires all parties engaging in Groundwater Substitution transfers of water for agricultural purposes for use outside of the boundaries of Colusa County to read and sign this agreement and to follow through with all required reporting as described herein. Parties are also required to obtain a permit to engage in groundwater substitution transfers outside of the boundaries of Colusa County, as described in County Code (.....).

This agreement is made this _____ day of _____, between _____ (Transferor/Seller), and the Colusa County Groundwater Commission (Commission).

The above named Seller intends to transfer or use surface water outside of the boundaries of Colusa County while utilizing groundwater pumped from a location within Colusa County to replace the transferred surface water. As part of this process, the Seller has completed a Final Transfer Proposal for DWR and the Bureau of Reclamation, which includes an Environmental Review, a Monitoring and Reporting plan and a Mitigation Plan. The Seller has also agreed to provide DWR and the Bureau of Reclamation with a final Transfer Report as required.

The following Conditions apply to all approved permits for transfers of surface water outside of the boundaries of Colusa County when groundwater is pumped from a location within Colusa County to replace the transferred surface water:

- a. Transfer water will be used exclusively for agricultural purposes

- b. The Colusa County Groundwater Commission (Commission) will be copied (via Staff) on the full Final Transfer Proposal prior to transfer commencing
- c. The Commission will be copied (via staff) on all monitoring data associated with the transfer (before, during and after transfer), at the same time as they are reported to the Department of Water Resources and the Bureau of Reclamation
- d. The Commission will be copied (via staff) on the Final Transfer Report, upon completion
- e. The Seller will abide by the attached Colusa County Groundwater Substitution Transfer Mitigation Plan and supply the Groundwater Commission with a signed copy of the Plan
- f. Other?

Signatures

Seller Representative

Title

Date

Commission Representative

Title

Date

In-County Groundwater Substitution Transfer Agreement

The Colusa County Groundwater Commission requires all parties engaging in Groundwater Substitution transfers of water for agricultural purposes within the boundaries of Colusa County to read and sign this agreement and to follow through with all required reporting as described herein.

This agreement is made this _____ day of _____, between _____ (Transferor/Seller), and _____ (Transferor/Buyer), and the Colusa County Groundwater Commission (Commission).

The above named Seller and Buyer intend to transfer or use surface water within the boundaries of Colusa County while utilizing groundwater pumped from another location within Colusa County to replace the transferred surface water. As part of this process, the Transferring Entities have completed a Final Transfer Proposal for DWR and the Bureau of Reclamation, which includes an Environmental Review, a Monitoring and Reporting Plan and a Mitigation Plan. The Seller and Buyer have also agreed to provide DWR and the Bureau of Reclamation with a final Transfer Report as required.

By signing this Agreement, the Seller and Buyer agree to work in conjunction to:

1. Provide the Commission, via Staff, with a signed copy of this Agreement, prior to the transfer commencing

2. Provide the Commission, via Staff, with a copy of the Final Transfer Proposal, prior to the transfer commencing
3. Provide the Commission, via Staff, with copies of all monitoring data at the time they are reported to the California Department of Water Resources and the Bureau of Reclamation
4. Provide the Commission, via Staff, with a copy of the Final Transfer Report, upon completion

Signatures

Transferring Entity Representative (Seller)

Title

Date

Transferring Entity Representative (Buyer)

Title

Date

Commission Representative

Title

Date

draft

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**COLUSA COUNTY MITIGATION PLAN
FOR OUT-OF-COUNTY GROUNDWATER SUBSTITUTION TRANSFERS**

The purpose of this Groundwater **Substitution Transfer** Mitigation Plan (Third-Party Impacts Action Plan) is to describe actions that will be undertaken by Seller **and/or Buyer** to respond to any significant adverse impacts **or injury** to Third Parties that occur due to groundwater pumping for Seller's proposed ~~2014~~ Water Transfer **at from** participating groundwater wells. Third Parties may include local groundwater users that could be affected by changes in groundwater levels or quality because of groundwater pumping performed for the ~~2014~~ **proposed** Water Transfer. Seller/**Buyer** agrees that prompt responses to and mitigation of any significant adverse impacts **or injury** to Third Parties are an important requirement for ~~the 2014~~ every Water Transfer **and any similar transfers that may occur in the future**.

This action plan includes a series of steps that will be taken to address any adverse impacts **or injury** that groundwater pumping **performed associated with for the 2014** any groundwater **substitution** Water Transfer may cause (unmitigated impacts **or injury** to Third Parties). Under this action plan, groundwater pumping must not produce significant unmitigated impacts **or injury** on Third Parties, impacts **or injury** must be identified and mitigated within a timely manner **by the Seller/Buyer**, and there must be ongoing, open communications with the potentially affected Third Parties. Because not all potential impacts **or injury** can be known in advance, this plan provides a process for responding to concerns expressed by local groundwater users who reasonably determine that their water production facilities are being or will be impacted **and possibly injured** by increased groundwater pumping as a result of ~~this a groundwater substitution~~ water transfer.

Seller will identify a contact person or persons who will be responsible for initially responding to a notification of a potential Third Party impact **or injury**, and take the other action specified in this section. Upon Seller receiving notification of a potential Third Party impact **or injury**, Seller will contact the Third Party within ~~5~~ **2** business days and obtain all available information regarding the nature and extent of the **potential** impact **or potential injury**, and provide that information to the Department of Water Resources (DWR), ~~and~~ the U.S. Bureau of Reclamation (Reclamation), **and the Colusa County Groundwater Commission** within ~~10~~ **5** business days. Seller will **regularly** update DWR, ~~and~~ Reclamation and the **Colusa County Groundwater Commission** **daily** on the status of Third Party impact **or injury** concerns.

After the Third Party has been contacted and the relevant information regarding the potential impact **or injury** has been received, Seller will ~~develop~~ **initiate** an approach to: (a) determine whether the Third Party has actually been impacted **or injured** by groundwater pumping **associated with performed for the 2014** Water Transfer, and, if so; (b) mitigate for the impact. Seller will coordinate with DWR and Reclamation to strive in developing the foregoing approach ~~within 20-business days of contacting the Third Party~~. **prior to commencement of the groundwater substitution Water Transfer.**

~~Seller will promptly mitigate any Third Party impacts that are reasonably likely to have been caused by groundwater pumping under the 2014 Water Transfer. Seller will be responsible for the implementation of mitigation actions. Due to the limitation of Seller's groundwater monitoring well network, if~~ If a Third Party claim is **reasonably likely or proven** to have been

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**COLUSA COUNTY MITIGATION PLAN
FOR OUT-OF-COUNTY GROUNDWATER SUBSTITUTION TRANSFERS**

caused by groundwater pumping for the 2014 Water Transfer, Seller ~~may have to~~ will immediately implement actions including the discontinuation of groundwater pumping for an indefinite period of time (during the transfer period) at one or more of Seller's participating transfer wells, until the claim can be validated or mitigated by Seller. Actions that may be taken to mitigate an impact ~~or injury~~ include, but are not limited to: reduction in hours of groundwater pumping per day at one or more of Seller's participating transfer wells, cessation of groundwater pumping at one or more participating groundwater wells, or other reasonable measures determined to be appropriate by ~~Seller~~ the Colusa County Groundwater Commission. In the case that an impact ~~or injury~~ is determined to have occurred, Seller is committed to avoiding or mitigating such impacts ~~or injuries~~ during a future water transfer.

If there are any Third Party impacts ~~or injuries~~ that are not reasonably likely to have been caused by increased groundwater pumping from Seller's participating wells, then Seller will provide the Third Party, DWR, ~~and~~ Reclamation and the Colusa County Groundwater Commission and Technical Support Team with information to reasonably demonstrate the reasons that there were no impacts ~~or injuries~~.

SIGNATURES

Seller

Date

Buyer

Date