



SOUTH FORK KINGS
GROUNDWATER SUSTAINABILITY AGENCY

Members

November 17, 2020

Director John Plourde
City of Lemoore

Director Joe Neves
County of Kings

Director Ceil Howe, Jr.
Empire West Side Irrigation District

Director Charles Meyer
Stratford Irrigation District

Director Scott Mercer
Stratford Public Utility District

Joe Neves, Chair
Ceil Howe, Jr. Vice Chair
John Plourde, Secretary

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Fresno, CA 93725
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NOTICE OF POLICY COMMITTEE MEETING

This is to inform you the South Fork Kings Groundwater Sustainability Agency (SFKGSA) Policy Committee Meeting will be held on Friday, November 20, 2020 **via ZOOM Web/Teleconference**. The web link and call-in information are on the Agenda The meeting will convene at 8:30 a.m. The Committee Members are: Directors Joe Neves and John Plourde.

As a result of the COVID-19 emergency and the Governor's Executive Orders N-29-20 and N-33-20, this meeting will occur solely via remote presence by video and teleconference. There will not be a physical public access location. The Committee is conducting the meeting in this manner to protect public health by avoiding public gatherings and requiring social distancing. At the same time, the Committee remains committed to transparency. Members of the public will be able to listen to and watch the meeting, and comment if desired.

The patience and cooperation of all participants is appreciated. While every effort has been made to streamline the experience and conduct meetings in the manner to which our stakeholders have grown accustomed, there may be technical issues and human error. We will attempt to promptly correct any issues that arise.

Individuals who require special accommodations are requested to contact Corey McLaughlin by phone at: (559) 237-5567 or by email at: cmclaughlin@krcd.org.

Policy Committee
South Fork Kings Groundwater Sustainability Agency (SFKGSA)

November 20, 2020
Meeting Convenes at 8:30 a.m.
Remote Only Via Zoom

Link: <https://us02web.zoom.us/j/85864617591?pwd=MG5sL2VYQTZpVkpvN09CeHMwQ0JGQT09>

Call-In: +1 669 900 6833 ; Meeting ID: 858 6461 7591 ; Password: 093229

One-tap Mobile: +16699006833,,85864617591#,,,,,0#,,093229#

All items on this agenda, whether or not expressly listed for action, may be deliberated upon and may be subject to action by the Board of Directors. The Committee may consider agenda items in any order. Materials related to an item on this agenda submitted to the Committee after distribution of the agenda packet are available for public inspection at the Kings River Conservation District, 4886 E. Jensen Ave., Fresno 93725 during normal business hours.

MEETING AGENDA

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. ADDITIONS TO OR DELETIONS FROM THE AGENDA**
- 4. PUBLIC COMMENT**

The public may address the Committee on any item relevant to the GSA Authority. *This is the only portion of the meeting where the public can comment.* If you know in advance that you will want to comment, it will be helpful to email the Technical Moderator at cmclaughlin@krcd.org, in advance of the meeting, to make this known. Comments by individuals and entities will be limited to three minutes or as may be reasonable as determined by the conducting officer.

5. CONSIDER APPROVAL OF MINUTES

The Committee will consider adoption of the Minutes of the October 7, 2020 Committee Meeting. *Action Item; Simple Majority Vote Required*

6. POLICY, RULES, AND REGULATIONS REVIEW

The Committee will consider, and may revise or request revisions to, draft policies, rules, and regulations presented by staff and legal counsel. *Action may be taken; Simple Majority Vote Required.*

7. RECOMMEND APPROVAL OF GROUNDWATER DATA PROTECTION POLICY

The Committee will consider recommending the Groundwater Data Protection Policy to the full Board for approval. *Action Item; Simple Majority Vote Required*

8. NEXT MEETING DATE AND AGENDA ITEMS

9. ADJOURNMENT

A person with a qualifying disability under the Americans with Disabilities Act of 1990 may request the SFKGSA to provide a disability-related modification or accommodation in order to participate in any public meeting of the SFKGSA. Such assistance includes appropriate alternative formats for the agendas and agenda packets used for any public meetings of the GSA. Requests for such assistance and for agendas and agenda packets shall be made in person, by telephone, facsimile, or written correspondence to the Kings River Conservation District, 4886 E. Jensen Ave, Fresno, CA 93725, telephone 559.237.5567, fax 559.237.5560 at least 48 hours before a public GSA meeting.

**South Fork Kings Groundwater Sustainability Agency
Policy Committee Minutes**

October 7, 2020 at 8:30 AM
Remote Meeting via Zoom

Members Present:

Joe Neves, County of Kings (via Zoom)
John Plourde, City of Lemoore (via Zoom)

Members Absent:

Corey McLaughlin, Kings River Conservation District (via Zoom)
Kenneth Richardson (Legal Counsel – via Zoom)
Antonio Solorio (via Zoom)

Others Present:

Charlotte Gallock, Kings River Conservation District (8:35 a.m. via Zoom)
Amer Hussain, Geosyntec (Technical Consultant – via Zoom)

Regular Meeting

Item 1: CALL TO ORDER **Presenter:** Chair Neves
The meeting was called to order at 8:31 AM

Item 2: PLEDGE OF ALLEGIANCE **Presenter:** Chair Neves
The pledge was dispensed with due to meeting remotely.

Item 3: ADDITIONS TO OR DELETIONS FROM THE AGENDA **Presenter:** Chair Neves
Discussion:
None.
Actions:
None.

Item 4: PUBLIC COMMENT **Presenter:** Chair Neves
Discussion:
None
Actions:
None

Item 5: CONSIDER APPROVAL OF MINUTES **Presenter:** Chair Neves
Discussion:
None.
Actions:
It was moved by Director Plourde, seconded by Director Neves, and unanimously carried by Roll Call vote to approve the minutes of the August 27, 2020 Policy Committee Meeting.
Roll Call Vote:
Director Neves: Aye
Director Plourde: Aye

Item 6: POLICY, RULES, AND REGULATIONS REVIEW **Presenter:** Chair Neves
Discussion:

AGENDA ITEM 5

The Committee received a presentation on the Draft Groundwater Data Protection Policy from the GSA’s legal counsel, Kenneth Richardson and GSA Consultant Amer Hussain. The Committee discussed the process to be followed for adoption of this policy, as well as others going forward.

Actions:

It was moved by Director Plourde, seconded by Director Neves, and unanimously carried to approve the Draft Groundwater Data Protection Policy for submittal to the SFKGSA Technical Committee, as well as to the Board for initiation of a Public Comment period.

Item 7: NEXT MEETING DATE AND AGENDA ITEMS **Presenter:** Chair Neves

Discussion:

The next meeting was tentatively set for November 18, 2020 at 8:30 a.m.

Actions:

None

Item 8: ADJOURNMENT **Adjourned:** 9:41 AM

Respectfully submitted,

Board Secretary

approved on _____, 2020

Joe Neves, Committee Chair

South Fork Kings Groundwater Sustainability Agency

Groundwater Data Protection Policy

Policy No. 2020-01

Purpose of Policy

The purpose of this Groundwater Data Protection Policy (“Policy”) is to provide property owners within the jurisdiction of the South Fork Kings Groundwater Sustainability Agency (“SFK GSA”) with assurance that all groundwater information and data that they agree to provide to the SFK GSA will be held and remain confidential to the maximum extent allowable by law.

Scope of Policy

This Policy applies to all groundwater data currently in the possession of the SFK GSA or that the SFK GSA will acquire in the future.

Background Information Supporting Policy

The SFK GSA is a joint powers authority formed pursuant to the Joint Exercise of Powers Act (Gov’t Code section 6500 et seq.) and acts pursuant to that authority. Its primary mission is to sustainably manage, protect and maintain the groundwater resources within its jurisdiction consistent with the Sustainable Groundwater Management Act of 2014 (“SGMA”) for the benefit of water users within its jurisdiction. The SFK GSA is located in the Tulare Lake Subbasin, Basin No. 5-22.12 as identified in the Department of Water Resources’ (“DWR”) Bulletin 118, and is designated therein as being presently in “critical overdraft.” The activities of the SFK GSA includes coordination with the other Groundwater Sustainability Agencies (“GSAs”) within and adjacent to the boundaries of the Tulare Lake Subbasin, as well as ~~with~~ groundwater management activities throughout the region.

Water Code section 10725.2 and the SFK GSA Joint Powers Agreement authorizes the SFK GSA Board of Directors ~~is authorized~~ to adopt policies, rules, regulations, ordinances and resolutions for the purpose of complying with SGMA. The SFK GSA, in carrying out its mission, has need to acquire confidential, technical and proprietary groundwater information and data (“Confidential Information”), including, but not limited to:

- Well location.
- Ground surface elevation at well location, including elevation datum
- ~~Depth to groundwater readings from 1960s to present as available per well~~ Level of standing water in well at development and up to last monitoring action.

- ~~Water surface elevation.~~
- Well driller's logs.
- Well specifications/information (perforated intervals, seal depth, pumping capacity, water quality, etc.).
- Agricultural practices (crop type, irrigation method (flood or drip), surface or groundwater application, etc.).
- Irrigation facility information (location, dimension, ~~capacity~~~~flow direction~~, etc.).
- Subsidence data.

The SFK GSA intends to compile, manage and maintain the Confidential Information in a manner to ensure confidentiality. However, the SFK GSA cannot be required to maintain confidentiality for any data or information that is in the public domain at the time of the disclosure.

The SFK GSA's Groundwater Sustainability Plan ("GSP") necessitates that it has and plans to continue pursuing investigations of groundwater conditions within its jurisdiction, and in that process will necessarily develop and/or acquire Confidential Information. The SFK GSA desires to ensure that the Confidential Information that may be disclosed to it is treated in the strictest confidence consistent with the requirements of the law. Where such Confidential Information is not general public knowledge and is being disclosed on a limited basis under the terms and conditions of this Policy, the SFK GSA will take every action within its legal authority to maintain confidentiality, including but not limited to entering into a data privacy confidentiality agreement made directly with ~~a~~ property owners or their agents.

In the event that a property owner submits Confidential Information to and enters into a confidentiality agreement with the SFK GSA, and subsequently transfers title to the property associated with the Confidential Information, the SFK GSA will coordinate with the new record owner to continue to protect the Confidential Information as confidential, either pursuant to an assignment of the rights in the confidentiality agreement, if any, from the former property owner to the current property owner, or some other legal mechanism, if so desired by the new property owner.

The SFK GSA may, from time to time, need to utilize Confidential Information in conjunction with SGMA requirements that it coordinate with the other GSAs within or adjacent to the boundaries of the Tulare Lake Subbasin, or in consultation with government agencies with SGMA regulatory oversight responsibilities for the purpose of complying with the requirements of SGMA. Similarly, the SFK GSA may need to utilize Confidential Information for purposes of obtaining grant funding or complying with the requirements for grants.

awarded to the SFK GSA. Whenever the SFK GSA utilizes the Confidential Information for the above described purposes, the SFK GSA will only do so in a general manner and format that maintains the confidentiality of the property owner's Confidential Information. The SFK GSA may, from time to time, seek the property owner's consent to disclose certain Confidential Information for the above purposes where it could be mutually beneficial to both parties.

The SFK GSA is a California public agency, and therefore is subject to the requirements of the California Public Records Act (Gov't Code §§ 6250 et seq.) ("CPRA"). The fundamental intent of the CPRA is ~~the concept~~ that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in the state. The SFK GSA Board of Directors acknowledge and understand that the CPRA includes a certain level of tension with the intent and the goals of this Policy. Nevertheless, in ~~maximum~~ furtherance of the goals of this Policy and compliance with the CPRA, the following noteworthy exemptions to the CPRA do coincide with the goals and intent of this Policy, including:

- Geological and geophysical data. Gov't Code § 6254(e).
- Disclosure of a public record to a public agency pursuant to an agreement to treat the material as confidential. Gov't Code § 6254.5(e).
- Utility Usage Data. Gov't Code § 6254.16.
- Any information where, based on the particular facts of the case, the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record. Gov't Code section 6255.

When the SFK GSA receives a CPRA request for records which implicates any Confidential Information provided to the SFK GSA pursuant to this policy, it will seek to maintain that confidentiality to the maximum extent allowable under the law, and will provide the submitting property owner with notice of the scope and nature of the request.

Policy Implementation

The SFK GSA, by and through its employees and agents, shall take the following actions consistent with the intent of this Policy.

1. Seek out the cooperation of property owners within the SFK GSA to open a dialogue about sharing Confidential Information about groundwater usage, including by regularly requesting from Kings County Community Development a list of well permits issued to obtain property owner name, location and contact information.

~~1.2.~~ Any groundwater data containing Confidential Information provided to the SFK GSA under a claim of confidentiality shall be marked by the SFK GSA as confidential and maintained at a to be designated secure location

by the employees or authorized agents of the SFK GSA. Preferable formats for the submission of Confidential Information include paper copies or common unencrypted digital file formats such as pdf's or jpeg's.

- ~~2.3.~~ All Confidential Information submitted to the SFK GSA shall be pursuant to a confidentiality agreement for SFK GSA to treat the information and data submitted pursuant to same as confidential.
- ~~3.4.~~ The SFK GSA shall maintain all groundwater data as confidential, pursuant to the claims at the time of submission. Only persons authorized in writing by an authorized representative of the SFK GSA shall obtain the Confidential Information on behalf of the SFK GSA and only for the purposes that are consistent with this Policy and existing law.
- ~~4.5.~~ The SFK GSA may assert any applicable exclusion or privilege to prevent disclosure of the Confidential Information subject to this Policy, either on its own behalf or on behalf of a landowner.
- ~~5.6.~~ The SFK GSA may not disclose any data to the public without first providing notice to and obtaining the express authorization of the submitting landowner, unless otherwise authorized pursuant to a consent authorization and/or other agreement between the SFK GSA and the consenting landowner.
- ~~6.7.~~ The SFK GSA shall immediately notify a submitting landowner of any request for information from a member of the public in order to allow sufficient time to assert any exclusions or privileges that may be available by law.
- ~~7.8.~~ If any information is required to be disclosed pursuant to law or court order, the SFK GSA shall work to comply with the disclosure request while limiting the disclosure in a manner to preserve the confidential and proprietary nature of the Confidential Information, as allowed by existing law.
- ~~8.9.~~ The SFK GSA may disclose Confidential Information to a public agency only if: (1) the public agency requires the information to perform its legally mandated duties; and (2) the public agency agrees in writing to protect the confidentiality of the Confidential Information and to limit disclosure to only those persons who are employed or retained by the agency and who have signed an agreement to maintain the confidentiality of the records.

South Fork Kings Groundwater Sustainability Agency

Groundwater Data Protection Policy

Policy No. 2020-01

Purpose of Policy

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- Well location.
- Ground surface elevation at well location, including elevation datum
- Level of standing water in well at development and up to last monitoring action.

- Well driller's logs.
- Well specifications/information (perforated intervals, seal depth, pumping capacity, water quality, etc.).
- Agricultural practices (crop type, irrigation method (flood or drip), surface or groundwater application, etc.).
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In the event that a property owner submits Confidential Information to and enters into a confidentiality agreement with the SFK GSA, and subsequently transfers title to the property associated with the Confidential Information, the SFK GSA will coordinate with the new record owner to continue to protect the Confidential Information as confidential, either pursuant to an assignment of the rights in the confidentiality agreement, if any, from the former property owner to the current property owner, or some other legal mechanism, if so desired by the new property owner.

The SFK GSA may, from time to time, need to utilize Confidential Information in conjunction with SGMA requirements that it coordinate with the other GSAs within or adjacent to the boundaries of the Tulare Lake Subbasin, or in consultation with government agencies with SGMA regulatory oversight responsibilities for the purpose of complying with the requirements of SGMA. Similarly, the SFK GSA may need to utilize Confidential Information for purposes of obtaining grant funding or complying with the requirements for grants awarded to the SFK GSA. Whenever the SFK GSA utilizes the Confidential Information for the above described purposes, the SFK GSA will only do so in a general manner and format that maintains the confidentiality of the property

owner's Confidential Information. The SFK GSA may, from time to time, seek the property owner's consent to disclose certain Confidential Information for the above purposes where it could be mutually beneficial to both parties.

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- Any information where, based on the particular facts of the case, the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record. Gov't Code section 6255.

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3. All Confidential Information submitted to the SFK GSA shall be pursuant to a confidentiality agreement for SFK GSA to treat the information and data submitted pursuant to same as confidential.
4. The SFK GSA shall maintain all groundwater data as confidential, pursuant to the claims at the time of submission. Only persons authorized in writing by an authorized representative of the SFK GSA shall obtain the Confidential Information on behalf of the SFK GSA and only for the purposes that are consistent with this Policy and existing law.
5. The SFK GSA may assert any applicable exclusion or privilege to prevent disclosure of the Confidential Information subject to this Policy, either on its own behalf or on behalf of a landowner.
6. The SFK GSA may not disclose any data to the public without first providing notice to and obtaining the express authorization of the submitting landowner, unless otherwise authorized pursuant to a consent authorization and/or other agreement between the SFK GSA and the consenting landowner.
7. The SFK GSA shall immediately notify a submitting landowner of any request for information from a member of the public in order to allow sufficient time to assert any exclusions or privileges that may be available by law.
8. If any information is required to be disclosed pursuant to law or court order, the SFK GSA shall work to comply with the disclosure request while limiting the disclosure in a manner to preserve the confidential and proprietary nature of the Confidential Information, as allowed by existing law.
9. The SFK GSA may disclose Confidential Information to a public agency only if: (1) the public agency requires the information to perform its legally mandated duties; and (2) the public agency agrees in writing to protect the confidentiality of the Confidential Information and to limit disclosure to only those persons who are employed or retained by the agency and who have signed an agreement to maintain the confidentiality of the records.