

Groundwater Extraction Allocations Policy and Procedures

FOR DISCUSSION PURPOSES ONLY

1. Findings

- 1.1 As the South Fork Kings Groundwater Sustainable Agency (SFK GSA or GSA) is located with the Tulare Lake Subbasin (Subbasin) which has been designated by the California Department of Water Resources as high priority groundwater basin that is subject to critical conditions of overdraft.
- 1.2 SFK adopted groundwater sustainability plan (GSPs) for the Subbasin consistent with the Sustainable Management Groundwater Act (SGMA) to address undesirable results including chronic lowering of groundwater levels and land subsidence.
- 1.3 A management action in the GSP includes establishing groundwater extraction allocations based on the Subbasin's sustainable yield in order to mitigate the undesirable results while water projects are being developed and implemented.
- 1.4 The adaptive management approach set forth in the GSP allows SFK GSA to make adjustments as more information is obtained. Adaptive management provides flexibility where decisions can be adjusted with the ultimate goal of providing for sustainable management of the Subbasin.
- 1.5 The provisions in this Policy and Procedures for Groundwater Extraction Allocation (Policy and Procedures) are transitional measures while projects are implemented to provide supplement water supply to achieve sustainability of the Subbasins and does not determine or alter water rights under common law or any provision of law (Water Code §10720.5(a)).
- 1.6 The Policy and Procedures is exempt from the California Environmental Quality Act (CEQA) pursuant to Water Code Section 10728.6 and CEQA Guidelines Sections 10561(b)(3), 15307 and 15308.

2. Policy

Undesirable results, including overdraft conditions and land subsidence within the SFK GSA's jurisdiction area, must be mitigated in phases while projects to provide additional water supplies to the area are being developed and implemented.

3. Purpose and Approach

To assist landowners transition extractions to the basin-wide sustainable yield, allocations will be phased based on periodic updates to the GSP. SFK established six (6) categories of water available to landowner's account for registered parcels in the water accounting program (currently WaterMark). All qualified registered parcels will be eligible to receive a sustainable yield allocation. In addition to the sustainable yield allocation, qualified irrigated land, initially based on the **2015 -2020 Land IQ crop data**, will be eligible to receive Overdraft Tier 1 Allocation. If a landowner determines that an error has occurred

in the determination of eligibility for Overdraft Tier 1 Allocation, they may dispute the determination of the Land IQ crop data with crop records for 2015 through 2020 from the Irrigated Lands Regulatory Program or Dairy Program.

The default priority of use will be as listed below. A landowner may choose to use their Overdraft Tier 1 Allocation in position 3 and move their Landowner Developed Credit to position 5. To change the priority of use the GSA must be notified no later than the first week after each quarter ends.

1. Precipitation Credit
2. Surface Water Credits
3. Sustainable Yield Allocation / Sustainable Yield Carryover
4. Recharge Credit
5. Overdraft Tier 1 Allocation
6. Overdraft Groundwater Tier 2

As the sustainable yield per aquifer is still under development, maximum pumping caps per aquifer have been established to limit impacts. These pumping caps are based on current understanding and are likely to be revised in the future. The pumping caps per aquifer are not additive and landowners will select one cap per each acre.

4. Definitions

- 4.1 “2015 - 2020 Land IQ Crop Data” means crop and vegetation data generated in 2015 through 2020 from satellite and aerial imagery, land cover classification and analysis, and crop and vegetation mapping.
- 4.2 “Penalty” means a penalty payment per acre-feet for groundwater extraction above the sustainable yield.
- 4.3 “De minimis extractor” means a person who extracts two acre-feet or less per year. For the purpose of herein Policy and Procedures, an owner or operator with less than 5 acres of land is considered a de minimis extractor unless it is demonstrated that the owner or operator extracts more than two acre-feet per year. (See, Water Code §10721(e).)
- 4.4 “Extractions” means removing groundwater through groundwater extraction facilities for reasonable and beneficial use(s).
- 4.5 “Good standing” means landowners who have complied with any and all policies and procedures and ordinances of SFK GSA, while not subject to any form of violation, late fee, penalty or lien.
- 4.6 “Groundwater” means water beneath the surface of the earth within the zone below the water table in which the soil is completely saturated with water. (Water Code §10721(g).)

- 4.7 “Groundwater extraction facility” means a device or method for extracting groundwater from within a basin. (Water Code §10721(h).)
- 4.8 “Imported Water” means any water, surface or groundwater, that enters into SFK GSA boundaries for direct irrigation.
- 4.9 “Irrigated lands” means lands irrigated by groundwater using a groundwater extraction facility(ies) for the active production of plant crops or livestock for market and uses incidental hereto. The 2025 to 2020 Land IQ Crop Data will be initially used to determine whether a parcel is an irrigated land for the purpose of herein Policy and Procedures.
- 4.10 “Recharge credit” means an amount of water credited to landowner account for a water project or projects that has (have) been developed by a landowner and has (have) been determined by SFK GSA to help mitigate one or more undesirable results. Projects may include, but are not limited to, water banking and recharge projects, or other approved projects that benefit groundwater sustainability. The amount of credit to be added to any such landowner account shall be consistent with the SFK Recharge Policy
- 4.11 “Landowner water banking or recharge project” means any project developed and implemented by a landowner to reduce groundwater extraction or increase groundwater recharge to benefit in the Subbasin.
- 4.12 “Leave behind” means the amount of remaining allocation not subject to sustainable yield carryover.
- 4.13 “Overdraft Tier 1 Allocation” means an allocation of groundwater extraction in 5-year blocks to qualified irrigated lands above the sustainable yield allocation and subject to Tier 1 penalty to allow landowners a transitional period to alter their respective operations or to develop a landowner water banking or recharge project to help mitigate one or more undesirable results.
- 4.14 “Overdraft Tier 2 Allocation” means groundwater extraction above the Overdraft Transitional Tier 1 Groundwater Allocation subject to Tier 2 penalty.
- 4.15 “Precipitation Credit” means precipitation that exceeded ET during the billing cycle in which the precipitation occurred and will be carried over to the next billing cycle as a credit.
- 4.16 “Qualified registered parcel” means land qualified to receive sustainable yield allocation because the land meets the following criteria: (a) is a registered parcel; and (b) is in good standing with SFK.
- 4.17 “Qualified irrigated land” means land qualified to receive Overdraft Tier 1 Allocation because the land meets the following criteria: (a) is qualified to receive sustainable yield allocation; and (b) is an irrigated land based initially on the 2015 to 2020 Land IQ Crop Data.
- 4.18 “Registered parcel” means a parcel registered in the SFK GSA’s water accounting program.
- 4.19 “Sustainable yield” means the maximum quantity of water, calculated over a base period representative of long-term conditions in the basin and including any

temporary surplus, that can be withdrawn annually from a groundwater supply without causing an undesirable result. (Water Code §10721(w).)

- 4.20 “Sustainable yield allocation” means the quantity of groundwater extraction allotted to landowners of qualified registered parcel based on the sustainable yield of the Subbasins, **calculated in five (5) year periods** that can be used on that parcel before penalty is imposed.
- 4.21 “Tier 1 penalty” means penalty amount due by a landowner or operator of qualified irrigated land at a **rate of \$125/acre-feet** for use of Overdraft Tier 1 Allocation, which is above the sustainable yield allocation.
- 4.22 “Tier 2 penalty” means penalty amount due by a landowner of qualified irrigated land at a **rate of \$500/acre-feet** of extracted groundwater for any exceedance of groundwater extraction above the Overdraft Tier 1 Allocation’s **yearly cap or 5-year water block allocation cap.**
- 4.23 “Transfer” means groundwater allocation sold or otherwise acquired from one landowner to another landowner of qualified registered parcel which will be added to that recipient’s landowner account.
- 4.24 “Undesirable result” means one or more of the following effects caused by groundwater conditions occurring throughout the basins: (a) chronic lowering of groundwater levels; (b) significant and unreasonable reduction of groundwater storage; (c) significant and unreasonable seawater intrusion; (d) significant and unreasonable degraded water quality; (e) significant and unreasonable land subsidence; and/or (f) depletions of interconnected surface water.

5. Procedures

5.1 Allocation Timeframe

5.1.1 Allocations will be developed on an annual basis on or before **April 1** each year for the following water year. Allocations based on groundwater pumping and water level developed each year. Plus progress towards sustainability goals,

5.1.2 The allocation amount will apply to the period of October 1 to September 30 of the next year.

5.2 Measurement

5.2.1 Until as such time as determined by the SFK GSA Board, groundwater extractions will be estimated using LandIQ ET information with several conservative assumptions.

5.2.2 With the approval of the Board, groundwater pumping will be measured using a totalizing groundwater flowmeter consistent with the SFK GSA Groundwater Flowmeter Policy.

5.3 Determination of Sustainable Yield Allocation.

5.3.1 All owners of land **5 acres or larger** must register their respective parcels in SFK GSA’s water accounting program in order to qualify

for sustainable yield allocation.

- 5.3.2 Sustainable yield allocation will be available to every qualified registered parcel, 5 acres or larger, for reasonable and beneficial use within the SFK GSA's jurisdictional boundaries. Sustainable yield allocation is based on available documentation, data and analysis in GSP; and will be coordinated with other applicable GSAs with jurisdiction in the Subbasin. Sustainable yield allocation will be continually evaluated and is subject to adjustment at each five-year GSP update.
- 5.3.3 Sustainable yield allocation is allotted in 5-year blocks. A landowner's sustainable yield allocation may qualify for carryover to add to the landowner account for the subsequent five-year block.
- 5.3.4 A landowner may transfer his/her sustainable yield allocation, or a portion thereof, to another landowner with qualified registered parcel within the SFK GSA jurisdictional boundaries; subject to approval by the SFK Board of Directors.
- 5.3.5 Transfers and carryovers within the SFK GSA jurisdictional boundaries will be added to the appropriate landowner accounts in the SFK GSA's accounting program subject to approval by the Board of Directors.
- 5.3.6 All transfers must be approved by the SFK GSA Board of Directors; and all transfers outside SFK GSA jurisdictional boundaries must be approved by SFK GSA and the GSA with jurisdiction and comply with all relevant subbasin regulations. SFK GSA will keep an account of all transfers in the water accounting program.
- 5.3.7 Only qualified registered parcels are afforded sustainable yield allocation and all non-qualified lands, other than de minimis extractors, must cease extraction of groundwater until such time the lands become qualified.
- 5.3.8 Sustainable Yield for WY 26-30 will be 0.45 Af/ac annually for eligible parcels

5.4 Landowner Developed Credits

- 5.4.1 Landowner developed credits may be developed through landowner water banking or recharge projects or other approved projects that help mitigate one or more undesirable results. Recharge and banking projects must comply with the "Groundwater Recharge Policy". The Board of Directors shall be the final arbiter of determining landowner developed credit to be added to a landowner account.
- 5.4.2 In order to protect the Subbasins from undesirable results, a percentage

of any landowner water banking or recharge projects will remain with SFK. The amount of leave behind is defined in the “Groundwater Recharge Policy”.

- 5.4.3 Landowner developed credit transfers between landowners of qualified registered parcels must be documented and approved by the Board of Directors. The Board of Directors shall be the final arbiter of determining the transfer credit to be deducted from transferor’s landowner account and added to transferee’s landowner account.
- 5.4.4 All transfers purchased from outside of SFK GSA boundaries must be approved by both GSAs with jurisdiction and comply with all relevant subbasin regulations of both GSAs. SFK will develop a separate policy and procedures for transfers from outside of the SFK GSA jurisdictional boundaries.
- 5.4.5 All landowner developed credit will be maintained in SFK GSA water accounting program.

5.5 Overdraft Tier 1 Allocation

5.5.1 Overdraft Tier 1 Allocation will be available to qualified irrigated lands within the SFK GSA jurisdictional boundaries based on the 2015 to 2020 Land IQ crop data. Qualified irrigated lands will be eligible to receive Overdraft Transitional Groundwater Tier 1 Allocation for the duration of the program subject to a penalty. Overdraft Transitional Groundwater Tier 1 Allocation, including a yearly cap and a 5-year block cap, will be allotted at the beginning of each 5-year block.

5.5.2 The yearly cap will be the maximum pumping cap specified in section 5.8.3 less the sustainable yield.

5.5.3 The Overdraft Tier 1 Allocation is not transferrable and remains with the parcel.

5.5.4 Extractions above the sustainable yield allocation up to the Overdraft Transitional Groundwater Tier 1 Allocation will be imposed the Tier 1 penalty of \$125/AF for the first 5-year block, and the penalty will be issued to applicable landowners on a quarterly basis. Groundwater extractions exceeding the Overdraft Transitional Groundwater Tier 1 Allocation yearly cap will be imposed as Tier 2 penalty. Block penalty will be approved by the Board of Directors before each 5-year block allocation.

<u>Water Blocks</u>	<u>Tier 1</u>
a) 2026 – 2030	7.5 AF/Acre
b) 2031 – 2035	5 AF/Acre
c) 2036 – 2040	2.5 AF/Acre

5.6 Overdraft Tier 2 Allocation

- 5.6.1 Overdraft Groundwater Tier 2, which is groundwater extraction above the Overdraft Transitional Groundwater Tier 1 Allocation, will be available to the qualified irrigated lands that qualified for Overdraft Transitional Groundwater Tier 1 Allocation, subject to Tier 2 penalty. Groundwater extraction that exceeds the yearly cap or the 5-year water block allocation will pay an initial penalty amount of \$500.00/AF.
- 5.6.2 An owner who consumes water in excess of all remaining credits shall be liable for Tier 2 penalties , reduction in future Tier 1 Allocations, and shall be subject to any and all remedies as may be available to the GSA.

5.7 Precipitation Credit

- 5.7.1 Precipitation credit is precipitation that exceeded ET during the billing quarter in which the precipitation occurred and will be carried over to the next billing cycle as a credit.
- 5.7.2 Precipitation credits will be allocated to parcels and are not eligible for transfer between landowner accounts.

5.8 Pumping Caps Per Aquifer Zone

- 5.8.1 As information per aquifer is still being collected, maximum pumping caps will be in place per aquifer, regardless of the amount of allocation or credits an owner may have.
- 5.8.2 The pumping caps are the maximum amount that pumped groundwater can be applied to an acre and are not additive.
- 5.8.3 An Owner who exceeds the pumping caps for any one year shall be liable for Tier 3 Penalty rate, reduction in pumping caps for future years, and shall be subject to any and all other remedies that may be available to the GSA.

5.8.4 Pumping caps for WY 2026:

Aquifer Zone	WY 2026 Pumping Caps
A-Zone	4.0 af/ac
B-Zone	3.0 af/ac
C-Zone	2.0 af/ac

6. Imported Water

- 6.1 Any landowner within the SFK GSA which utilizes imported water shall cause to be reported from the applicable water entity, the diversion of imported water to direct irrigation.

7. Landowner Water Banking or Recharge Project

- 7.1 Landowners may voluntarily develop and implement landowner water banking or recharge project to benefit the Subbasin. In developing and implementing any such project, the landowner shall be solely responsible for complying with all applicable Federal, State and local laws, rules, regulations, ordinances and policies, including but not limited to the California Environmental Quality Act. At the request of SFK GSA, landowner responsible for any such project shall provide SFK GSA with a copy of any permit, order, agreement, environmental review document or any other records indicating compliance with applicable laws.
- 7.2 A landowner developing and implementing water banking or recharge project shall be solely responsible for determining the nature, location and extent of the facilities necessary for the banking or recharge project, and all associated costs and expenses, including design, permitting, construction, operation, maintenance, repair and replacement shall be the sole responsibility of the landowner.
- 7.3 A landowner developing and implementing landowner water banking or recharge project shall indemnify, defend and hold harmless SFK GSA, its Board of Directors, officers, employees, and agents for any damage or claim or claim of damage of any nature whatsoever associated with or related to landowner water banking and recharge project, including but not limited to property damage or personal injury or death.

8. SGMA Penalties and Civil Remedies. Any landowner or operator who violates the provisions of the herein Policy and Procedures is subject to the criminal and civil sanctions set forth in SGMA. TWCA may commence or sustain any civil action or proceeding, either at law or in equity, to enforce any of the provisions of the GSPs, or any policy and procedures promulgated therefrom, or to enjoin or restrain any violation thereof, or to collect any sums of money, including penalties, fees, charges and/or assessments, on behalf of the SFK GSA. The provisions of this Section 7 are to be supplementary and complementary to all of the provisions of SGMA, other state law, and any law cognizable at common law or in equity; and nothing herein shall be read, interpreted or construed in any manner so as to bar or limit TWCA from seeking any remedy to which it may otherwise be entitled.

9. Enforcement Policy and Procedures. Any penalties or fines imposed shall be subject to the procedures set forth in the “Policy and Procedures for Collecting Delinquent Fees, Assessments, or Charges”.

10. Action Against SFK GSA. Nothing contained in the herein Policy and Procedures shall constitute a waiver by SFK GSA or estop SFK GSA from asserting any defenses or immunities from liability as provided in law, including but not limited to those provided in Division 3.6, Title 1 of the Government Code.