

# Merced Subbasin Groundwater Sustainability Agency Governing Board

County of Merced Board Chambers, Third Floor

2222 M Street, Merced, California

April 26, 2018

Closed Session

1:00PM

Regular Meeting

2:00PM

## AGENDA

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Bob Kelley, Stevinson Water District

Chair

Nic Marchini, Plainsburg Irrigation District

Vice Chair

George Park, Lone Tree Mutual Water Company

Rodrigo Espinoza, County of Merced

VACANT, Eastern White Area Representative

David Farmer, Western White Area Representative

Alternate formats of this agenda will be made available upon request by qualified individuals with disabilities. Appropriate interpretive services for this meeting will be provided if feasible upon advance request by qualified individuals with disabilities. Please contact the Secretary at (209) 385-7654 for assistance and allow sufficient time to process and respond to your request. Copies of agendas and minutes will be available at the Merced County Community and Economic Development Department and at [www.countyofmerced.com/MercedSubbasinGSA](http://www.countyofmerced.com/MercedSubbasinGSA).

### 1. CALL TO ORDER/ROLL CALL

### 2. CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL – POTENTIAL LITIGATION (Subdivision (b) of Government Code Section 54956.9) 1 potential case

### 3. PLEDGE OF ALLEGIANCE

### 4. PUBLIC COMMENT PERIOD

Public opportunity to speak on any matter of public interest within the Board's jurisdiction including items on the Board's agenda. Testimony limited to three minutes per person.

### 5. APPROVAL OF MINUTES

Action to approve the meeting minutes from March 29, 2018.

### 6. CONFLICT OF INTEREST CODE

Approve resolution adopting the Conflict of Interest Code for the Merced Subbasin GSA.

**7. REVENUE DISCUSSION**

Discussion and comparison of options to raise revenue for the GSA. Possible board direction and possible action to pursue an assessment option.

**8. COORDINATION COMMITTEE UPDATE**

**9. STAFF UPDATE**

**10. COMMENTS FROM THE BOARD**

**11. NEXT REGULAR MEETING: JULY 12, 2018**

**12. ADJOURNMENT**

**MERCED SUBBASIN GROUNDWATER SUSTAINABILITY AGENCY JOINT POWERS  
AUTHORITY (JPA)  
GOVERNING BOARD**

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**MINUTES FOR SPECIAL MEETING OF MARCH 29, 2018**

The agenda, original minutes, and all supporting documentation (for reference purposes only) of the Merced Subbasin Groundwater Sustainability Agency Governing Board meeting of March 29, 2018, are available online at [www.countyofmerced.com/MercedSubbasinGSA](http://www.countyofmerced.com/MercedSubbasinGSA).

**I. CALL MEETING TO ORDER**

The meeting of the Merced Subbasin Groundwater Sustainability Agency Joint Powers Authority Governing Board was called to order at 2:00 p.m., on March 29, 2018, in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California.

**II. ROLL CALL OF BOARD MEMBERS**

Board Members Present: Bob Kelley- Chairman (Stevinson Water District)  
Nic Marchini- Vice Chair (Plainsburg Irrigation District)  
David Farmer- (Western White Area)  
George Park- (Lone Tree Mutual Water Company)  
Supervisor Rodrigo Espinoza (Merced County)

Board Members Absent: None

Staff Present: Mark Hendrickson, Secretary  
Ana Muniz-Laguna, Recording Secretary  
Lacey Kiriakou, Merced County Water Resource Coordinator

**III. PLEDGE OF ALLEGIANCE**

**IV. PUBLIC COMMENT PERIOD**

None

**V. APPROVAL OF MINUTES**

**MOTION: M/S ESPINOZA– MARCHINI, AND CARRIED BY A VOTE OF 5 – 0, THE BOARD APPROVES THE MINUTES FROM THE JANUARY 11, 2017 MEETING.**

**VI. REVENUE WORK GROUP UPDATE AND DATA COLLECTION**

Update and discussion of potential assessment, in order to provide direction from the Board on assessment options and possible action to approve a consultant contract for a well analysis.

Ms. Lacey Kiriakou stated that initial budget for the Merced Subbasin GSA was funded by member agency contributions equally split between the six board positions. She informed that Board members Bob Kelley and George Park, along with counsel and member agency staff, have been discussing options to increase revenue for future financial obligations of the GSA. Options discussed, included “well head” and “groundwater extraction” fees and Ms. Kiriakou related that further investigation is necessary to determine the number of wells and establish accurate cost estimates. The Board discussed the different methods proposed and their impacts as well as how they might be carried out. Chairman Kelley stated that after considering all the different options the group wanted to consider an option that was the most time efficient and least costly solution.

Time available for public comment started at 2:10 p.m.

Mr. Brad Robson, member of the Le Grand Athlone Water District, stated that the Le Grand Athlone participated in a Proposition 218 process voted in by eligible voters and which took about 7 months to complete. He further reiterated that costs for this process were approximately \$28,000 which included an engineer’s report, election fees, and attorney fees, and the costs were offset by a \$10.00 per acre fee assessment.

Ms. Jeannie Zolezzi, counsel, explained that there were two options that the Board can make, which one is a per-acre fee that requires compliance with Proposition 218 which includes a protest hearing and a vote, and the other is a groundwater extraction fee that SGMA authorizes which does not requires compliance with Proposition 218. Ms. Zolezzi stated that the second option does, however, require a public notice and a public hearing.

If a Proposition 218 vote fails to pass, then the Board would have to come back to a decision regarding a groundwater extraction fee, or to receive no revenue.

Mr. Tom Roduner, director with Sandy Mush Mutual Water Company, addressed the Board and expressed concern with the well-head fee and the groundwater extraction fee and the effects these might have for their members.

Mr. Eric Swensen from Shannon Pump Company spoke to the Board and suggested that the Board define what constitutes a well-head.

Mr. Brad Sammuelson asked if there is a way to split up the budget based on each member agency and a pro-rata share.

Board member Marchini suggested that the Revenue workgroup explore the Proposition 218 option further and come back to the Board with a summary or analysis of the pros and cons in order for the Board to fully consider all available options.

Mr. Dave Nervino, Merquin County Water District, suggested that more data collection is needed to establish the actual cost of the well-head option and determine how often the fee will be and if an increase is likely. He related that if the public knew a bit more on the fee structure, they may be a little more apt to be in support of this option.

Mr. Mark Hendrickson asked members of the Board if they would like staff to prepare a presentation related to Proposition 218 and relay this at a future meeting in order for them to make an informed decision.

The public comment ended at 2:57 p.m.

**MOTION: M/S FARMER – MARCHINI AND CARRIED BY A VOTE OF 5 – 0, THE BOARD APPROVES TO EXPLORE FURTHER OPTIONS AND THE COSTS OF THESE PRESENTED TO THE BOARD AT A FUTURE MEETING IN ORDER FOR THE BOARD TO GIVE DIRECTION ON ASSESSMENT OPTIONS.**

## **VII. BUDGET AMENDMENT AND FUNDING**

Action to approve an amended FY 2017-2018 budget, which includes funds for GSP development. Action to approve additional member contributions to fund the budget amendment.

Ms. Lacey Kiriakou gave information about the Merced Subbasin GSP's anticipated costs as determined by consultants, Woodard and Curran, and estimated to be at \$1.733 million with Merced Subbasin GSA's portion to be at 58% of that cost. She stated that in February 2018 the State Department of Water Resources (DWR) made an award recommendation to the Merced Subbasin of \$1.5 million for GSP Development and \$901,261 for the Category 1 Severely Disadvantaged Communities projects. She informed that the request to the Board is to increase the budget by \$100,000 in GSP Development expenses and \$65,000 in administrative support, and would be equally split between the governing board positions.

Board member Farmer asked if this meant that they were being asked to approve a budget amendment for the difference of \$165,000 and Ms. Kiriakou clarified that it is.

Time available for public comment started at 3:00 p.m.

Mr. Brad Samuelson asked if the \$65,000 under 'professional & special services-engineering' on the Proposed Budget Amendment 2017-2018 spreadsheet was in relation to the cost of the well-head assessment. Ms. Kiriakou explained that this cost is intended to go towards any engineering for the GSA outside of the GSP development.

She clarified that a well-analysis could be used for that purpose or for any other projects the GSA decides on but this is not a shared cost with other GSA's.

Board member Park asked if the \$65,000 for engineering expense can be used to fund the Proposition 218 option and Ms. Kiriakou confirmed that it can.

Mr. Brad Robson asked about fund expenditures and how these would be spent within the next three months. Ms. Kiriakou stated that Woodard and Curran have provided an estimated worksheet of expenditures and future operation costs.

The public comment ended at 3:05 p.m.

**MOTION: M/S MARCHINI – FARMER AND CARRIED BY A VOTE OF 5 – 0, THE BOARD APPROVES ACTION TO APPROVE AN AMMENDED FY 2017-2018 BUDGET, WHICH INCLUDES FUNDS FOR GSP DEVELOPMENT.**

**MOTION: M/S PARK – ESPINOZA AND CARRIED BY A VOTE OF 5 – 0, THE BOARD APPROVES THE MERCED SUBBASIN GSA TO INVOICE THE MEMBER AGENCIES REPRESETED ON THE BOARD ACCORDING TO AN EQUAL SPLIT OF THE BUDGET AMENDMENT AMOUNT.**

#### **VIII. REQUEST FOR A FIVE YEAR AUDIT**

Action to approve a letter and resolution requesting the Merced County Board of Supervisors adopt five- year audits for the Merced Subbasin GSA, instead of annual audits, due to the GSA's small size and limited financial activities.

Ms. Kiriakou discussed the government's requirement of audits and explained that annual audits would be financially burdensome during the initial set-up of the GSA due to its limited financial transactions and relatively short time in existence. The Board is being asked to consider replacing its required annual audit with a five-year audit.

Time available for public comment started at 3:10 p.m.

Mr. Brad Robson stated that based on their experience with Prop 218 processes there is some flexibility to raise money.

The public comment ended at 3:15 p.m.

**MOTION: RESOLUTION BY ROLL CALL M/S KELLEY – PARK – ESPINOZA – FARMER– MARCHINI AND CARRIED BY A UNANIMOUS VOTE OF 5 – 0, THE BOARD APPROVES ACTION TO APPROVE A LETTER AND RESOLUTION REQUESTING THE MERCED COUNTY BOARD OF SUPERVISORS ADOPT FIVE-YEAR AUDITS FOR THE MERCED SUBBASIN GSA, INSTEAD OF ANNUAL AUDITS, DUE TO THE GSA’S SMALL SIZE AND LIMITED FINANCIAL ACTIVITIES.**

**IX. STAKEHOLDER COMMITTEE**

Action to approve the Stakeholder Committee as recommended by the Coordination Committee.

Ms. Kiriakou updated the Board that in October 2017 three GSAs in the Merced Subbasin entered a Memorandum of Understanding that formed a Coordination Committee to guide activities under the Agreement and GSP Development. The GSA Board is asked to approve the proposed stakeholder committee as recommended by the coordination committee

Time available for public comment started at 3:20 p.m.

Mr. Swensen indicated that the list of selected individuals for the Stakeholder Committee did not reflect any pump companies or well drilling personnel. He suggested that since this industry might be affected by the GSP, there should be some consideration for people that are in that industry to participate in the Stakeholder Committee. Mr. Swensen further requested to be added to the Stakeholder Committee.

The public comment ended at 3:25 p.m.

Chairman Kelley explained that the Coordination Committee conducted a review of all the candidates received and upon review, produced a list of recommended candidates.

**MOTION: M/S MARCHINI –FARMER AND CARRIED BY A VOTE OF 5 – 0, THE BOARD APPROVES THE STAKEHOLDER COMMITTEE AS RECOMMENDED BY THE COORDINATION COMMITTEE.  
THE GSA BOARD DIRECTED STAFF TO MAKE A REQUEST TO OTHER GSAS ON THE COORDINATION COMMITTEE TO CONSIDER INCLUDING MR. ERIC SWENSEN AS PART OF THE STAKEHOLDER COMMITTEE.**

**X. COORDINATION COMMITTEE UPDATE**

Chairman Kelley gave information that the Coordination Committee met and discussed the Proposition 1 grant application that Merced Subbasin had been recommended to receive \$1.5 Million for GSP Development and \$901,261 for projects to disadvantaged communities by the State Department of Water Resources and gave Woodard and Curran staff approval to begin working on a phase II work plan for GSP Development. He also indicated that the Coordination Committee gave approval to Woodard and Curran to draft a Notice of Intent letter to develop the GSP as required by the Department of Water Resources, as well as begin working on a road map and schedule for GSP Development. Chairman Kelly informed that the Stakeholder Committee will begin their meetings around May 2018.

**XI. STAFF UPDATE**

Ms. Kiriakou gave an update that the California Fair Political Practices Commission approved the GSA's Conflict of Interest Code in the month January 2018 and the public comment period on that approval will end April 11<sup>th</sup>, 2018, after which the PPC Commission will issue their approval. Ms. Kiriakou also informed the Board that all Form 700s are due from the GSA Board members and alternates by April 2<sup>nd</sup> 2018.

**XII. COMMENTS FROM THE BOARD**

Board member Farmer commended Merced Irrigation District for the timely letter received regarding the purchasing of outside water.

**XIII. NEXT REGULAR MEETING**

Next regular meeting will be April, 26<sup>th</sup> 2018 at 2:00 p.m.

**XIV. ADJOURNMENT**

There being no further business, the meeting adjourned at 3:25 p.m.

## **BOARD ACTION ITEM**

**TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD**  
**FROM: MARK HENDRICKSON, SECRETARY**  
**DATE: APRIL 26, 2018**

**SUBJECT: CONFLICT OF INTEREST CODE**

**SUMMARY:**

The California Fair Political Practices Commission requires public agencies to adopt a Conflict of Interest Code.

The Merced Subbasin GSA Conflict of Interest Code has been reviewed and approved by FPPC staff and released for a required public comment period that closed on April 11, 2018. Following the end of the public comment period, it was submitted to the FPPC for review and adoption.

The proposed conflict of interest code includes employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code. The positions in the proposed code include: Members and Alternates of the Governing Board, Legal Counsel, and Consultants.

For the Board's consideration is a resolution adopting the Conflict of Interest Code as submitted to the FPPC.

**REQUEST/RECOMMENDATION/ACTION NEEDED:**

1. Approve the resolution adopting the Conflict of Interest Code.

**MERCED SUBBASIN GROUNDWATER SUSTAINABILITY AGENCY  
RESOLUTION NO. 2018-03**

**RESOLUTION OF THE MERCED SUBBASIN GROUNDWATER SUSTAINABILITY  
AGENCY ADOPTING A CONFLICT OF INTEREST CODE**

**WHEREAS**, the Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes; and

**WHEREAS**, the Fair Political Practices Commission has adopted a regulation (Title 2, Cal. Code Regs. Sec. 18730), which contains the terms of a standard conflict of interest code, which can be incorporated by reference in any agency's code.

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Board of the Merced Subbasin Groundwater Sustainability Agency as follows:

1. The terms of Title 2, California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference.
2. This regulation and the attached exhibits and appendices designating positions and establishing disclosure categories, shall constitute the conflict of interest code for the MERCED SUBBASIN GROUNDWATER SUSTAINABILITY AGENCY.
3. All officials and designated employees shall file their statements with Merced Subbasin Groundwater Sustainability Agency no later than April 1 of each year, which will make the Statements available for public inspection and reproduction. (Gov. Code Section 81008.) All statements will be retained by the County of Merced which will maintain the statement on the Agency's behalf.

**PASSED AND ADOPTED** at a regular meeting of the Governing Board at Merced, California on this 26<sup>th</sup> day of April, 2018 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINING:

MERCED SUBBASIN GROUNDWATER  
SUSTAINABILITY AGENCY

By: \_\_\_\_\_

**MERCED SUBBASIN GROUNDWATER SUSTAINABILITY AGENCY  
RESOLUTION NO. 2018-03**

Chair

ATTEST:

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Secretary

**MERCED SUBBASIN GROUNDWATER SUSTAINABILITY AGENCY  
RESOLUTION NO. 2018-03**

**EXHIBIT A**

**CONFLICT OF INTEREST CODE FOR THE  
MERCED SUBBASIN GROUNDWATER SUSTAINABILITY AGENCY**

The Political Reform Act (Government Code Section 81000, et. seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 California Code of Regulations Section 18730) that contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency's code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendices, designating positions and establishing disclosure requirements, shall constitute the conflict of interest code of **Merced Subbasin Groundwater Sustainability Agency (Agency)**.

Individuals holding designated positions shall file their statements of economic interests with the **Agency**, which will make the statements available for public inspection and reproduction. (Gov. Code Sec. 81008.) All statements will be retained by the County of Merced which will maintain the statements on the Agency's behalf.

**MERCED SUBBASIN GROUNDWATER SUSTAINABILITY AGENCY  
RESOLUTION NO. 2018-03**

**CONFLICT OF INTEREST CODE FOR THE  
MERCED SUBBASIN GROUNDWATER SUSTAINABILITY AGENCY**

**APPENDIX A-Designated Positions**

<u>Position</u>	<u>Disclosure Category</u>
Members and Alternates of the Governing Board	1, 2
Legal Counsel	1, 2
Consultants/New Positions	*

Note: The position Legal Counsel is filled by an outside consultant who acts in a staff capacity for the Agency.

\*Consultants/new positions shall be included in the list of designated positions and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitations:

The Agency may determine in writing that a particular consultant or new position, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to comply fully with the disclosure requirements described in this section. Such determination shall include a description of the consultant's or new position's duties and, based upon that description, a statement of the extent of disclosure requirements. The Agency’s determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code. (Gov. Code Section 81008)

**Public Officials Who Manage Public Investments**

The following positions are not covered by the code because they must file a statement of economic interests under Government Code Section 87200 and therefore, are listed for informational purposes only:

- Secretary

An individual holding one of the above listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by Government Code Section 87200.

**MERCED SUBBASIN GROUNDWATER SUSTAINABILITY AGENCY  
RESOLUTION NO. 2018-03**

**CONFLICT OF INTEREST CODE FOR THE  
MERCED SUBBASIN GROUNDWATER SUSTAINABILITY AGENCY**

**APPENDIX B-Disclosure Categories**

1. Investments and business positions in business entities, and income, including receipt of loans, gifts, and travel payments, from sources of the type that provide services, supplies, materials, machinery, or equipment of the type utilized by the Agency.
2. Interests in real property located within the jurisdiction of the District, or within two miles of the jurisdictional boundaries of the Agency, or within two miles of any land owned or used by the Agency.

## **BOARD ACTION ITEM**

**TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD**  
**FROM: MARK HENDRICKSON, SECRETARY**  
**DATE: APRIL 26, 2018**

**SUBJECT: REVENUE DISCUSSION**

### **SUMMARY:**

This item continues the discussion from the March 29, 2018 meeting on potential assessment options for the GSA to raise revenue to cover the costs of GSP development and GSA administration.

At the March 29, 2018 Merced Subbasin GSA Governing Board meeting, the Governing Board directed staff and counsel to return with more information on the option to conduct a per-acre fee under Proposition 218, as compared with the previous proposal of a “well head” or “groundwater extraction” fee leveled upon non de-minimus wells. Both options are authorized by SGMA.

The following comparison and report from GSA Attorney Jeanne Zolezzi outlines the requirements, process, and estimated costs for both the per-acre fee and the groundwater extraction fee.

This item seeks to inform the board on the two options. The Board may choose to take action to direct the staff to pursue either option for further refinement.

### **OPTIONS FOR POSSIBLE ACTION:**

1. Provide direction to staff and the work group on the suggested assessment option.
2. Approve pursuing a Proposition 218 per-acre fee and direct staff to begin the necessary parcel report and rate structure development.

OR

3. Approve pursuing a groundwater extraction or “well head” fee and approve contracting with Woodard and Curran to begin the necessary well investigation in an amount not to exceed \$60,000, subject to review and consent by the Chair and Vice Chair.

**COMPARISON OF GSA FUNDING MECHANISMS**

<b>TYPE OF FEE</b>	<b>GROUNDWATER EXTRACTION FEE</b>	<b>PER ACRE FEE</b>																						
<b>LEGAL AUTHORITY</b>	Water Code Section 10730	Water Code Section 10730																						
<b>APPROVAL REQUIREMENTS</b>	Water Code Section 10730	Water Code Section 10730 Proposition 218																						
<b>FUNDING PURPOSE</b>	GSP Development GSP Administration	GSP Development GSP Administration																						
<b>PROCEDURAL COMPONENTS</b>	<ol style="list-style-type: none"> <li>1. Obtain information on wells.</li> <li>2. Develop proposed rate structure and support for fee</li> <li>3. Prepare report supporting fee</li>   <li>4. Provide notice of the meeting by publication, posting and mailing</li>   <li>5. Make data upon which fee is based available to public 20 days prior to public meeting</li> <li>6. Consider fee at public meeting</li> </ol>	<ol style="list-style-type: none"> <li>1. Obtain information on parcels.</li> <li>2. Develop proposed rate structure and support for fee</li> <li>3. Prepare report documenting compliance with substantive requirements of Prop 218</li> <li>4. Provide notice of the meeting by publication, posting and mailing</li> <li>5. Mail required notice to landowners at least 45 days prior to public hearing</li> <li>6. Make data upon which fee is based available to public 20 days prior to public meeting</li> <li>7. Consider fee at public meeting</li> <li>8. Conduct public hearing during which protests are considered</li> </ol>																						
<b>PROPOSED COST</b>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">Well Report</td> <td style="text-align: right;">\$60,000.00</td> </tr> <tr> <td>Rate Structure/Report</td> <td style="text-align: right;">\$30,000.00</td> </tr> <tr> <td>Attorneys Fees</td> <td style="text-align: right;">\$20,000.00</td> </tr> <tr> <td>Mailings/publication</td> <td style="text-align: right;">\$10,000.00</td> </tr> <tr> <td><b>TOTAL ESTIMATE:</b></td> <td style="text-align: right;"><b>\$120,000.00</b></td> </tr> </table>	Well Report	\$60,000.00	Rate Structure/Report	\$30,000.00	Attorneys Fees	\$20,000.00	Mailings/publication	\$10,000.00	<b>TOTAL ESTIMATE:</b>	<b>\$120,000.00</b>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">Parcel Report</td> <td style="text-align: right;">\$30,000.00</td> </tr> <tr> <td>Rate Structure/Report</td> <td style="text-align: right;">\$30,000.00</td> </tr> <tr> <td>Attorneys Fees</td> <td style="text-align: right;">\$20,000.00</td> </tr> <tr> <td>Mailings/publication</td> <td style="text-align: right;">\$10,000.00</td> </tr> <tr> <td>Elections company*</td> <td style="text-align: right;">\$ 8,000.00</td> </tr> <tr> <td><b>TOTAL ESTIMATE:</b></td> <td style="text-align: right;"><b>\$100,000.00</b></td> </tr> </table>	Parcel Report	\$30,000.00	Rate Structure/Report	\$30,000.00	Attorneys Fees	\$20,000.00	Mailings/publication	\$10,000.00	Elections company*	\$ 8,000.00	<b>TOTAL ESTIMATE:</b>	<b>\$100,000.00</b>
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**Date:** April 18, 2018  
**To:** LACEY KIRIAKOU  
**From:** Jeanne M. Zolezzi  
**Subject:** Merced Subbasin GSA/GSA Financing  
**File:** 3738-002

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**REQUIREMENTS AND PROCEDURE FOR IMPOSING A PER ACRE FEE  
PURSUANT TO WATER CODE SECTION 10730 AND PROPOSITION 218**

**I. WATER CODE SECTION 10730**

A. Authority. Even before a GSP is adopted, SGMA gives a GSA the authority to impose fees to fund the cost of preparing its GSP, including the preparation and amendment of a sustainability plan, investigation of groundwater conditions, compliance assistance, enforcement and program administration.

B. Procedural Requirements. Any action on the fee must be taken by ordinance or resolution. Before imposing fees, a GSA must hold at least one public meeting. Notice of the Public Meeting must be provided:

1. By publication pursuant to Cal. Gov. Code Section 6066;
2. By posting on the Internet Website of the GSA; *and*
3. By mail to any interested party who files a written request with the GSA or mailed notice of the public fee meeting.

The Notice must include:

1. The time and place of the meeting,
2. A general explanation of the fee under consideration; and
3. A statement that the data required under SGMA is publically available.

At least *20 days prior* to the public meeting, the GSA must make any data upon which the fee is based available to the public.

## II. **PROPOSITION 218 REQUIREMENTS FOR IMPOSING NEW FEES**

A. **Substantive Requirements**. No fee may be imposed or increased unless it meets the following requirements:

- ✓ Revenues derived from the fee must not exceed the funds required to provide the property related service.
- ✓ Revenues derived from the fee must not be used for any purpose other than that for which the fee or charge was imposed.
- ✓ The amount of fee imposed upon any parcel or person as an incident of property ownership must not exceed the proportional cost of the service attributable to that parcel.
- ✓ No fee may be imposed for a service unless that service is actually used by, or immediately available to, the owner of the property in question.
- ✓ No fee or charge may be imposed for general governmental service (such as police, fire, ambulance, or library services) where the service is available to the public at large in substantially the same manner as to its property owners.

B. **Procedural Requirements**. Proposition 218 requires that the following procedural steps be followed to impose the fee:

1. Identify the parcels upon which the fee shall be imposed.
2. Calculate the amount of the fee to be imposed upon each parcel.
3. Mail Notice of the Public Hearing to each record owner. The notice must identify:
  - the parcel upon which the fee is to be imposed.
  - the amount of the fee to be imposed on each parcel.
  - the basis upon which the amount of the fee was calculated.
  - the reason for the fee or charge.
  - the date, time and location of a public hearing on the proposed fee.

4. Public Hearing/Written Protest. Not less than 45 days after mailing the notice, the GSA must conduct a public hearing during which it considers any protests against the proposed fee. If a written protest against the fee is presented by a majority of the owners of the identified parcels, the agency shall not impose the fee or charge.<sup>1</sup>

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<sup>1</sup> The majority is based on the number of parcels identified not on the acreage or amount of the fee, or the number of parcels represented at the hearing. One written protest per parcel, filed by an owner or tenant of the parcel, shall be counted in calculating a majority protest.