

September 8, 2022

AGENDA

2222 M Street, Board Room

Merced, CA

REGULAR MEETING

2:00 PM

Join Zoom Meeting

<https://us02web.zoom.us/j/86220762776?pwd=TEdHbnY5Z25yVUdodHV4cFp3RXhhdz09>

Meeting ID: 862 2076 2776

Dial in: +1 669 444 9171

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IMPORTANT NOTICE: Due to the ongoing COVID-19 Crisis, and as authorized by Assembly Bill 361, this meeting will be broadcast via conference call in addition to the meeting's physical location. Members of the public who wish to provide comment or observe the meeting may join in person or on the conference call.

Lloyd Pareira, Jr., County of Merced

Chair

Nic Marchini, Western White Area Representative

Vice Chair

Michael Gallo, Eastern White Area Representative

Kole Upton, Le Grand-Athlone Water District

Gino Pedretti, Sandy Mush Mutual Water Company

Eric Swenson, Merquin County Water District

1. CALL TO ORDER/ROLL CALL

2. STATE OF EMERGENCY TELECONFERENCE FINDINGS

Action Item: The Merced Subbasin GSA Governing Board will consider the circumstances of the State of Emergency and determine whether to make the following findings that any of the circumstances exist per AB 361:

1. The State of Emergency continues to directly impact the ability of the members to meet safely in person and/or
2. State or Local Officials continue to impose or recommend measures to promote social distancing.

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 the Governing Board meeting on August 11, 2022 and July 19, 2022 Proposition 218 Hearing.

6. PAYMENT OF BILLS

Action to approve the payment of the bills received since the Governing Board meeting held on August 11, 2022.

7. EKI ENVIRONMENT & WATER, INC. CONTRACT AMENDMENT

Discussion and possible direction regarding the revised scope of work proposal for the EKI Environment and Water, Inc. contract amendment for continued support of the implementation of MSGSA's Demand Reduction Management Action and technical support services approved by the Governing Board on August 11, 2022.

8. PHASE 1 LAND REPURPOSING PROGRAM UPDATE

Informational update on the Phase 1 Land Repurposing Program development and implementation since establishment of the program.

9. STRATEGIC PLANNING AD HOC COMMITTEE REPORT

Report from the September 6, 2022 Strategic Planning Ad Hoc Committee meeting.

10. STAFF REPORT

11. BOARD REPORTS

12. NEXT REGULAR MEETING

13. ADJOURNMENT

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.

GOVERNING BOARD

MINUTES FOR MEETING OF AUGUST 11, 2022

The agenda, original minutes, and all supporting documentation (for reference purposes only) of the Merced Subbasin Groundwater Sustainability Agency Governing Board meeting of August 11, 2022 are available online at [www.countyofmerced.com/ MercedSubbasinGSA](http://www.countyofmerced.com/MercedSubbasinGSA).

I. CALL MEETING TO ORDER

The special public meeting of the Merced Subbasin Groundwater Sustainability Agency Joint Powers Authority Governing Board was called to order at 2:03 p.m., on August 11, 2022, in person and via conference call due to the ongoing COVID-19 crisis and as authorized by Assembly Bill 361.

II. ROLL CALL OF BOARD MEMBERS

Board Members Present:

Supervisor Lloyd Pareira	Chair (Merced County)
Nic Marchini	Vice Chair (Western White Area Representative)
Gino Pedretti	(Sandy Mush Mutual Water Company)
Eric Swenson	(Merquin County Water District)
Kole Upton	(Le Grand-Athlone Water District)
Michael Gallo	(Eastern White Area Representative)

Board Members absent: None

Staff Present:

Wayne Fox	Acting Secretary
Adriel Ramirez	Environmental Health Specialist II
Ana Muñoz-Laguna	Recording Secretary

III. STATE OF EMERGENCY TELECONFERENCE FINDINGS

Action Item: The Merced Subbasin GSA Governing Board will consider the circumstances of the State of Emergency and determine whether to make the following findings that any of the circumstances exist per AB 361:

1). The State of Emergency continues to directly impact the ability of the members to meet safely in person and/or 2). State or Local Officials continue to impose or recommend measures to promote social distancing.

Public comment period opened/closed

MOTION: M/S UPTON– GALLO, AND CARRIED BY A VOTE OF 6 – 0, THE BOARD APPROVES THE FINDING THAT THE STATE OF EMERGENCY CONTINUES TO DIRECTLY IMPACT THE ABILITY TO MEET IN PERSON.

IV. PUBLIC COMMENT PERIOD

Public comment period opened/closed.

V. APPROVAL OF MINUTES

Action to approve the meeting minutes from the July 19, 2022 Governing Board meetings.

Boardmember Swenson suggested that the meeting minutes further reflect the statements made by Mr. Rich Dietzman, and Mr. Bob Kelley, specifically that the Stevinson landowners requested to be exempt from the Land Repurposing Fees but agreed on the other fees and that the Stevinson landowners might pursue legal action if their properties were not removed from the 218-fee assessment. They also stated they may form their own GSA.

Mr. Kelley commented that the minutes properly reflected his statements from the previous meeting.

MOTION: M/S MARCHINI – SWENSON, AND CARRIED BY A VOTE OF 5 – 0, THE BOARD APPROVES THE MINUTES FROM THE JULY 19, 2022 MEETING. WITH BOARD-MEMBER SWENSON’S AMENDED EDITS. BOARD-MEMBER GALLO ABSTAINED FROM VOTING AS HE DID NOT ATTEND THE JULY 19TH MEETING.

VI. EKI ENVIRONMENT & WATER, INC. CONTRACT AMENDMENT

Action to approve and authorize the chair to sign a contract amendment with EKI Environment & Water, Inc. for continued support of the implementation of MSGSA’s Demand Reduction Management Action and technical support services for a total cost of \$175,000.

Mr. Adriel Ramirez provided presentation and overview of the tasks under the proposed Contract Amendment.

Chairman Pareira requested clarification on task four of the proposed contract amendment of \$60,000. Mr. Ramirez clarified that it is a time and materials contract paying only for meetings attended, and the expenses will possibly be reduced as EKI will probably not attend as many meetings during implementation of the LRP.

Boardmember Swenson confirmed with Mr. Ramirez that the budget for the current fiscal year for the hiring of an additional staff person in 2022 is \$70,000. Boardmember Swenson suggested the work could be done at a technician level and efforts be shifted towards the local work to be performed by local staff instead of an outside agency.

Boardmember Gallo suggested that staff review the budget with the expectation of reducing expenses.

Chairman Pareira pointed out that if local staff isn’t available, funding would be readily available to hire additional staff, eliminating the urgency to meet again in a few months to revisit. Chairman Pareira requested an explanation of “Task 5”. Mr. Ramirez clarified that Task 5 is for any communication between EKI and County Staff on any item and/or related tasks.

Boardmember Upton asked about incentive payment monies for those that participate. Chairman Pareira stated incentive monies would come from the Proposition 218 funds.

Boardmember Swenson suggested a motion to approve allocating \$100,000 dollars towards the contract amendment and proposed reassessing in a few months if the amount needs to be increased.

Public comment period opened/closed.

MOTION: M/S SWENSON – MARCHINI, AND CARRIED BY A VOTE OF 6-0, THE BOARD APPROVES THE MOTION TO SIGN CONTRACT AMENDMENT WITH EKI ENVIRONMENT WATER, INC. FOR CONTINUED SUPPORT OF THE IMPLEMENTATION OF MSGSA'S DEMAND REDUCTION MANAGEMENT ACTION AND TECHNICAL SUPPORT SERVICES FOR AN ALLOCATION OF \$100,000 TOWARDS THE CONTRACT AND THE REMAINDER TO BE LEFT OPEN TO REVIEW IN THE COMING MONTHS.

VII. PHASE 1 LAND REPURPOSING PROGRAM ESTABLISHMENT

Action to establish the Phase 1 Land Repurposing Program via resolution and approve the Land Repurposing Program Application. Contract Agreement, FAQ, and Flier, and authorize staff to solicit proposals for the 2023 water year.

Mr. Chris Heppner, consultant for EKI Environment and Water Inc., provided presentation and summarized the Phase 1 land repurposing (LRP) Establishment. He also provided a brief overview of the program and the LRP materials that are included.

Boardmember Swenson requested clarification on the years that the greater than 50 ft. groundwater levels declined mentioned in the Application Scoring Framework and the years be identified for growers to see if they fall in that criteria. Mr. Heppner clarified that this was based on the map of water level decline in the Annual Report for Water Year 2021. Mr. Heppner also presented Overview of the Water Year 2023 Land Repurposing (LRP) Program Application.

Boardmember Swenson suggested applicants should be given the option to attach a map and a PDF with the application.

Boardmember Swenson recommended the contract section which details base line water usage should account for less effective precipitation in the water calculations, and not just pumped water. He also suggested that a requirement with the new well policy that staff or GSA consultants are allowed property access and believes that staff should be granted property access with the contract. Boardmember Swenson stated that section 6.1 of the contract which discusses the prohibition of expansion of irrigated agriculture of lands in the basin could be interpreted as lands outside of the jurisdiction of the MSGSA and it should therefore be made clear that this only applies to lands within the MSGSA.

Ms. Jeanne Zollezi, Legal Counsel, clarified that the landowners doing those actions outside the basin will prohibit them from receiving any incentive payments in the GSA's jurisdiction.

**MERCED SUBBASINGROUNDWATER
SUSTAINABILITY AGENCY
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Mr. Heppner pointed out that incentive money would be paid November 1st as described in item 5.2 of the contract.

Chairman Pereira suggested that the dust and weed control should be left to the County.

Boardmember Swenson suggested substances that can be applied to reduce dust, or require participants to utilize a dust mitigation technique to reduce ground water use.

Chairman Pereira referenced item 3.5, in which a property owner is required to obtain written approval from the GSA, in the event of a property sale, and asked if that is applicable for when the lease changes hands. Ms. Zollezi stated that it's the same for any transfer of sale or lease.

Boardmember Gino Pedretti confirmed with Ms. Zollezi if she has reviewed and gives approval of the document, and Ms. Zollezi confirmed that she does.

Public comment period opened/closed.

Mr. Bob Kelley requested clarification in regards to the assumed period of time of the EKI contract and Chairman Pereira confirmed June of 2023.

Mr. Kelley requested clarification on the FAQ's, which states that, "the lands served predominantly by the imported surface water are ineligible, so he stated that it recognizes that even if those applicants wanted to reduce their ground water consumption significantly, they wouldn't be able to participate." Mr. Kelley commented that he doesn't "have an issue with the other fees, however, he does have a problem with the land repurposing fee, due to the fact that they couldn't participate to begin with.

Boardmember Gallo asked if there is a timeframe for GSP approval by the State. Mr. Greg Young, Consultant with Zanjero responded that the revised GSP submitted to Department of Water Resources (DWR) identified several actions which can be viewed as steps the GSA is making towards reduction goals.

Ms. Jeanne Zolezzi confirmed that State law allows for this fee program.

MOTION: M/S PEDRETTI – MARCHINI, AND CARRIED BY A VOTE OF 5 – 1, THE BOARD APPROVES TO ADOPT THE RESOLUTION AND APPROVE THE PHASE 1 LAND REPURPOSING PROGRAM APPLICATION AGREEMENT, CONTRACT AGREEMENT, FAQ, AND FLIER, AND AUTHORIZE STAFF TO SOLICIT PROPOSALS FOR THE 2023 WATER YEAR.

VIII. COUNTY SUPPORT SERVICES CONTRACT AMENDMENT

Action to approve an amendment to the Agreement between the County of Merced and the Merced Subbasin Groundwater Sustainability Agency for Support Services to extend the term for one year and increase the compensation for a total amount of \$75,000 for FY2022-2023 support services.

Mr. Ramirez provided update and information on the item. Mr. Ramirez stated the board approved adding \$5,000 to the contract for a total of \$75,000 for fiscal year 2022/2023.

Public comment period opened/closed.

Mr. Young verified that the total amount of compensation would be \$75,000.

MOTION: M/S MARCHINI – GALLO, AND CARRIED BY A VOTE OF 6 – 0, THE BOARD APPROVES AN AMENDMENT TO THE AGREEMENT BETWEEN THE COUNTY OF MERCED AND THE MERCED SUBBASIN GROUNDWATER SUSTAINABILITY AGENCY FOR SUPPORT SERVICES TO EXTEND THE TERM FOR ONE YEAR AND INCREASE THE COMPENSATION BY \$5,000 FOR A TOTAL OF \$75,000 FOR FY2022-2023 SUPPORT SERVICES.

IX. STAFF REPORT

Mr. Ramirez provided update that staff is looking to meet with the Strategic Planning Committee and in discussions will be the appeals process for the 218-land owner fee passed by the GSA Board in July. After, Mr. Ramirez also stated that Staff will engage with the Assessor's office and Fiscal team for the best way of accommodating that process. Date for that meeting is to be determined.

Vice Chairman Marchini requested an update on well permits. Mr. Ramirez updated that two wells have been permitted and one application is in review.

Chairman Pareira informed that two approvals have been signed on behalf of the Merced Subbassin.

X. BOARD REPORTS

Boardmember Swenson reported on well data water levels received from the El Nido Fire Station. He stated that from August 1, 2021 and August 1, 2022, the Subcorcoran water level has dropped 6 ft and above corcoran has dropped 8 ft. and Fall of 2021 to August 1, 2022 Subcorcoran level has dropped 86ft from maximum elevation.

Boardmember Pedretti reported that the State is working on a \$50 million program to pay participants for Land Repurposing per acre foot saved. Chairman Pareira introduced and thanked Mr. Wayne Fox, Interim Environmental Health Director, for sitting in as Acting Secretary at today's meeting.

XI. NEXT REGULAR MEETING

Next regular meeting will be held on Thursday, September 8, 2022 at 2 p.m. in the Merced County Board Chambers at 2222 M Street, Merced CA 95340.

XII. ADJOURNMENT

There being no further action taken, the meeting adjourned at 3:15 p.m.

DRAFT

GOVERNING BOARD

**MINUTES FOR SPECIAL PHASE I FUNDING
MECHANISM PROPOSITION 218 PUBLIC
HEARING MEETING OF JULY 19, 2022**

The agenda, original minutes, and all supporting documentation (for reference purposes only) of the Merced Subbasin Groundwater Sustainability Agency Governing Board meeting of July 19, 2022 are available online at [www.countyofmerced.com/ MercedSubbasinGSA](http://www.countyofmerced.com/MercedSubbasinGSA).

I. CALL MEETING TO ORDER

The special public meeting of the Merced Subbasin Groundwater Sustainability Agency Joint Powers Authority Governing Board was called to order at 6:00 p.m., on July 19, 2022, in person and via conference call due to the ongoing COVID-19 crisis and as authorized by Assembly Bill 361.

II. ROLL CALL OF BOARD MEMBERS

Board Members Present:

Supervisor Lloyd Pareira	Chair (Merced County)
Nic Marchini	Vice Chair (Western White Area Representative)
Gino Pedretti	(Sandy Mush Mutual Water Company)
Eric Swenson	(Merquin County Water District)
Kole Upton	(Le Grand-Athlone Water District)
Rick Drayer	(Eastern White Area Alternate Representative)

Board Members absent: Michael Gallo (Eastern White Area Representative)

Staff Present:

Mark J. Hendrickson	Secretary
Adriel Ramirez	Environmental Health Specialist II

Mr. Mark Hendrickson reminded the members of the public that are joining the meeting online to use the 'raised hand' feature on Zoom to make a public comment.

III. PHASE 1 FUNDING MECHANISM PROPOSITION 218 PUBLIC HEARING

Completed Steps

Mr. Greg Young, consultant with Zanjero, went over the agenda items of the Proposition 218 Public Hearing and discussed the GSA's completed steps.

Review of Proposed Fee

Mr. Young provided background on the proposed charges and informed of two resolutions that prompted the charges. He stated that the proposed fee would sunset in 2025.

Process Overview

Mr. Young provided details on the Engineer's Report for the Phase 1 Funding Mechanism and discussed budget and projects to be funded with the collected revenue. He also informed on the process for the meeting.

Public Hearing

Public comment period opened

Mr. Tony Azevedo commented that he previously served in local water boards and stated that the additional fee would make it more difficult for him financially in the area where he is at because it is very marginal ground.

Mr. Rich Diechmann, attorney for Somach, Simmons & Dunn, spoke in representation of landowners in the Stevinson area, and stated that the 6600 acres of land, which primarily uses surface water, has not been considered in the proposed Land Repurposing program. He specified that a comment in the Engineer's report about the proposed project and management action benefiting all irrigated lands in the GSA did not meet constitutional muster or the benefit the proportionality requirements. Mr. Diechmann detailed that Stevenson landowners feel they are already contributing to the developed supply of groundwater levels and that the proposed fee is unlawful. Mr. Diechmann proposed segregation of fees as a possible solution.

A member of the public, no name provided, suggested that the GSA check with the Agricultural Department or water coalitions for updated records on irrigated lands as the Assessor's office might not have the most recent or accurate information.

Mr. Dave Nervino, Stevinson farmer, proposed that all the GSAs come together to put pressure on the State to come up with new solutions on water savings and storage. He stated concerns on the Land Repurposing Funding Program having received only 30 responses out of 1800 owners. He also stated concerns that the 218 fees would begin before the Groundwater Sustainability Plan (GSP) has been accepted by the Department of Water Resources (DWR). Mr. Nervino suggested that the 218 fee be proposed to County-wide as there is a benefit to the entire county.

A member of the public, no name provided, stated that has very little water and would like to obtain more water to justify the fees proposed. She specified dam creation or surface water creation would be a solution.

Mr. Terrence Kleingardner specified his opposition to the fee proposal stating he does not have any water on his property as he has torn down his domestic well. He provided land pictures to the GSA Board.

Public comment period closed.

Ms. Jeanne Zolezzi, MSGSA counsel with Herum Crabtree Suntag, directed to the GSA Board to the Staff Report, Action Items Required for Prop 218 and informed about California Case Law. She updated on an Appeals Process being worked on for those individual landowners that do not irrigate their land or irrigate only part of their acreage.

Mr. Young clarified that the process will look to quantify and clarify Assessors records and stated that the Allocation Approach process is one of the factors that will need to be determined and detailed by the GSA in the future.

Board-member Pedretti suggested that the GSA needs to decide if they are going to allow native ground to be in this program before an appeal process is rolled out, so that farmers can make the best decision.

Board-member Upton recommended that Staff make note to correctly reflect the landowner's current situation to be able to charge appropriately so that if a farmer does not presently irrigate but in a future sale, new owners decide to build a well and/or irrigate, the information and charges are correctly reflected.

Mr. Ramirez informed the GSA that 262 protest votes were received and 914 votes were needed for a successful protest.

Chairman Pereira stated that the protest has failed. He informed members of the public that protest vote notification letters were mailed to landowners from the address list provided by the Merced County Assessor's office.

Board discussion and decision

Chairman Pereira went over rate fees proposed on Resolution 2022-05.

MOTION: M/S MARCHINI- PEDRETTI, AND CARRIED BY A VOTE OF 5 – 1, THE BOARD APPROVES RESOLUTION 2022-05 AS AMMENDED AND ADOPTS THE PHASE 1 FUNDING MECHANISM, AS DESCRIBED IN THE ENGINEER'S REPORT; AND THE PHASE 1 FUNDING MECHANISM RATE FOR FISCAL YEAR 2023 AS \$24.94 PER ACRE FOR ALL IRRIGATED LANDS NOT SUBJECT TO THE ADDITIONAL CHARGE FOR THE WATER RIGHTS APPLICATION PAYMENT, AND \$26.61 FOR LANDS ALSO SUBJECT TO THE ADDITIONAL CHARGE FOR THE WATER RIGHTS APPLICATION PAYMENT, AS DESCRIBED IN THE ENGINEER'S REPORT

IV. BOARD REPORTS

None

V. ADJOURNMENT

There being no further action taken, the meeting adjourned at 6:42 p.m.

BOARD ACTION ITEM

TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD
FROM: MARK HENDRICKSON, SECRETARY
DATE: SEPTEMBER 8, 2022

SUBJECT: STATE OF EMERGENCY TELECONFERENCE FINDINGS

SUMMARY:

In March 2020 Governor Newsom issued an Executive Order N-29-20 proclaiming a State of Emergency in California as a result of the threat of COVID-19. Under this executive order, local legislative bodies were authorized to hold public meetings via teleconferencing and to make public meetings accessible telephonically or electronically to all members of the public seeking to address the local legislative body. Requirements of the Brown Act to meet physically in person and certain requirements for teleconferencing were waived.

In September 2021, the California legislature passed AB 361. Under this legislation, a local agency is authorized to use teleconferencing without complying with teleconferencing requirements under the Brown Act, when a local agency holds a meeting during a declared state of emergency. Under this legislation, every 30 days, the legislative body is required to consider the circumstances of the state of emergency and make findings that a state of emergency continues to directly impact the ability of the members to meet safely in person and/or state or local officials continue to impose or recommend measures to promote social distancing. This provision is in effect until January 1, 2024.

The Board is required to make these findings every 30 days. The last findings were made in August.

REQUEST/RECOMMENDATION/ACTION NEEDED:

Action to consider the circumstances of the State of Emergency and make the finding that the State of Emergency continues to directly impact the ability of the members to meet safely in person.

BOARD ACTION ITEM

TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD
FROM: MARK HENDRICKSON, SECRETARY
DATE: SEPTEMBER 8, 2022

SUBJECT: PAYMENT OF BILLS

SUMMARY:

Vendor	Scope of Work Performed	Account Number	Contract Amount	Expense	Amount Remaining	% of Amt Remaining	Expenses Through
EKI	Water Resources Consulting	21800	\$100,000	\$1,820.00	\$4,666.06	5%	July 22,2022

REQUEST/RECOMMENDATION/ACTION NEEDED:

Action to approve the payment of the bills received since the Governing Board meeting held on August 11, 2022.

BOARD ACTION ITEM

TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD
FROM: MARK HENDRICKSON, SECRETARY
DATE: SEPTEMBER 8, 2022

SUBJECT: EKI ENVIRONMENT & WATER INC. CONTRACT AMENDMENT

SUMMARY:

The Merced Subbasin GSA has been working with EKI Environment & Water, Inc. for technical and consulting services. The original contract with EKI Environment & Water, Inc. was executed in July 2021 for the term of two years and for the contract not to exceed the amount of \$100,000. Since July 2021, EKI Environment & Water, Inc. has provided services related to the development and implementation of MSGSA's Phase 1 Land Repurposing Program whose primary purpose is to achieve the Phase 1 target of reducing the consumptive use of groundwater by 15,000 acre feet annually within MSGSA's jurisdictional area. Additionally, EKI Environment & Water, Inc. was instrumental in the submission of MSGSA's 2022 Multi-Benefit Land Repurposing Program Grant Application to the California Department of Conservation.

EKI has revised the scope of work proposal, that was brought before the Board on August 11, 2022, to reflect the action taken at that Governing Board meeting, which approved the chair to sign a contract amendment with EKI Environmental & Water, Inc. for continued support for the implementation of MSGSA's Demand Reduction Management Action and as needed technical support services for \$100,000 with the ability to consider addition funds if deemed necessary by the Board.

The topic of discussion on the EKI Environmental & Water Inc. Contract Amendment for this Board meeting is: a review of the revised scope of work. Direction given by this Board does not need to be formal at this time since action was taken on August 11, 2022.

REQUEST/RECOMMENDATION/ACTION NEEDED:

Discussion and possible direction regarding the revised scope of work proposal for the EKI Environment and Water, Inc. contract amendment for continued support of the implementation of MSGSA's Demand Reduction Management Action and technical support services approved by the Governing Board on August 11, 2022.

15 August 2022

Adriel Ramirez
Merced County Department of Community and Economic Development
2222 M Street
Merced, California 95340

Subject: **Revised Proposal for Continued Support for Implementation of Merced County Groundwater Sustainability Agency's (MSGSA) Demand Reduction Management Action (EKI C2-165)**

Dear Mr. Ramirez:

EKI Environment & Water, Inc. (EKI) is pleased to submit to the Merced Subbasin Groundwater Sustainability Agency (MSGSA or Client) this proposal for technical and strategic consulting services in support of the MSGSA's Demand Reduction Management Action for fiscal year (FY) 2022-2023. The MSGSA's Groundwater Demand Reduction Management Action is described in the Merced Groundwater Subbasin Groundwater Sustainability Plan (GSP). Services under this proposal are anticipated to be centered on the MSGSA's Land Repurposing Program (LRP), which has been in development by EKI and the MSGSA over the past year to address the MSGSA's commitment to reduce consumptive use of groundwater within its jurisdictional area by 15,000 acre-feet per year (AFY) by the end of water year 2025. The LRP incentivizes landowners to voluntarily reduce groundwater demand by repurposing land that is primarily irrigated with groundwater. The MSGSA's Proposition 218 fee passed in July 2022, which serves as the primary LRP funding mechanism, and the MSGSA will begin solicitation of applications from interested landowners in fall 2022 for implementation starting in the 2023 growing season. This proposal covers efforts to support LRP implementation through June 2023, and was prepared in response to Client's request on 8 June 2022.

PROPOSED SCOPE OF WORK

Task 1: Support for Land Repurposing Program (LRP) Development

EKI proposes to continue supporting the development and implementation of the LRP as follows:

Task 1.1: Finalize LRP Application, Scoring Framework, FAQ Document, and Template Agreement

EKI has developed the LRP application, scoring framework tool (i.e., Excel macro-enabled workbook), Frequently Asked Questions (FAQ) document, and Template Agreement, collectively the "LRP Materials", in close coordination with the MSGSA Board, the Demand Reduction Ad-hoc Committee, and the MSGSA's legal counsel. These LRP documents were approved by the MSGSA Board at their Board meeting on 11 August 2022, pending finalization.

As part of Task 1, EKI proposes to finalize the LRP Materials in consultation with the MSGSA Ad-hoc Committee and its legal counsel. The LRP application will be brief (i.e., two-pages) and straightforward for applicants to fill out, and will be finalized by including links to all referenced map figures that are used in

the scoring framework, and to include an option for applicants to attach a separate map sheet. The LRP scoring framework tool, which will be used to objectively score applications based on various criteria aligned with MSGSA's LRP objectives (e.g., cost per volume of groundwater reduction and location of the lands relative to critical areas, such as the subsidence zone, among others), will be finalized with all the final criteria. The LRP Template Agreement will be finalized to conform with the application materials and scoring framework and final comments made by the Board in its August meeting, and will coordinate with the MSGSA and its legal counsel as they conduct final legal review. The LRP Template Agreement defines the terms of the agreement between the MSGSA and each participating LRP entity, including key provisions such as the basis for incentive payments, verification and monitoring of land and water use, and enforcement actions. Lastly, the FAQ document will be finalized to include links to all referenced map figures using in scoring framework, and with final details on the LRP program and application/contracting process.

Deliverables:

- *Final LRP Application*
- *Final LRP application scoring framework tool*
- *Final LRP FAQ document*
- *Final LRP Template Agreement*

Assumptions:

- *One round of review by MSGSA and its counsel will be required.*

Task 1.2: Development of Step-wise Approach to LRP Implementation

EKI will develop and document a step-wise approach for LRP implementation for MSGSA's internal use. The step-wise approach (already under development by EKI) will be presented to the MSGSA Ad-hoc Committee for review and input, and will describe in detail how applications will be processed (e.g., data compilation and evaluation), scored (i.e., ranked) and selected, how Agreements will be developed, and which entities are responsible for certain processes.

Deliverables:

- *Draft and Final Step-wise Approach to LRP Implementation*

Assumptions:

- *Up to two rounds of review by MSGSA and its counsel will be required.*

Task 2: Support for LRP Stakeholder Outreach

During or immediately following the Task 1 activities, EKI will provide support for LRP stakeholder outreach activities.

Task 2.1: Prepare for and Attend LRP Stakeholder Workshop(s) – September 2022

EKI will finalize a simple (i.e., one-page) flyer to advertise the opportunity for growers to apply to the LRP, and if selected, get paid to repurpose their land and help the GSA achieve sustainability (a draft of this flyer has been prepared already). The flyer will provide notice, either directly or through a web link, of when and where the public stakeholder workshop(s) will be conducted. EKI will prepare and present meeting materials at up to two (2) stakeholder workshops and will support the MSGSA in answering

questions from the public regarding the LRP application process, the basis for scoring and selecting applications, and the terms and conditions of contracts for selected applicants.

Deliverables:

- *Final LRP flyer*
- *Draft and final presentation slides*

Assumptions:

- *MSGSA administrative staff will be responsible for printing and mailing the physical flyers to landowners, and will host the digital flyer on its webpage.*
- *MSGSA will be responsible for scheduling and making arrangements (i.e., securing a meeting location) for the stakeholder workshops.*
- *EKI assumes that up to two (2) member(s) of EKI staff will attend the workshops in person.*

Task 3: Support for LRP Implementation

With successful passage of the Proposition 218 fee in July 2022, the LRP is expected to begin implementation in fall 2022. Implementation will be in accordance with the step-wise approach developed by EKI under Task 1. Under Task 3, EKI will conduct the technical services described below to support the MSGSA with LRP implementation during the remainder of FY 2022-23 (i.e., from August 2022 through June 2023).

Task 3.1: Technical Support During LRP Application Solicitation and Scoring

Per the step-wise approach for LRP implementation described under Task 1, EKI will provide technical support to the MSGSA for soliciting and processing of LRP applications in fall 2022. Pending finalization of the step-wise approach, EKI anticipates that these technical support services will include, but will not necessarily be limited to the following:

- compiling information from applications received into a single database;
- locating and mapping applicants' parcels using geographic information systems (GIS) software for assessment of spatial scoring criteria;
- comparing applicant-provided information with County land use/parcel information;
- assigning standardized land use categories based on applicant-provided information;
- determining baseline and repurposed water use values; and,
- calculating minimum water use reduction for contracting purposes.

EKI will then apply the finalized scoring framework to objectively score the applications based on the thresholds, points and weighting factors. Applications are expected to be scored and selected to meet MSGSA-specified demand reduction and total incentive payment targets. EKI will rank applications for consideration of approval by the MSGSA Board.

Deliverables:

- *Populated scoring framework spreadsheet and table of scored applicants*

Assumptions:

- *Applications are assumed to be complete and responsive to all application questions, with minimal need for follow-up with applicants.*

Task 3.2: Technical Support for LRP Contract Preparation and Execution

Per the step-wise approach for LRP implementation described under Task 1, EKI will provide technical support to the MSGSA for preparing and executing LRP contracts. EKI proposes to provide services, including, but not necessarily limited to populating applicant-specific information in each Agreement and coordinating with the MSGSA Ad-hoc Committee and legal counsel to execute the Agreements.

Deliverables:

- *LRP Agreements for accepted applications, populated with specifics for those applications*

Assumptions:

- *MSGSA's legal counsel will conduct final review of all LRP Agreements prior to execution.*

Task 3.3: As-needed Technical Support During Year 1 LRP Implementation (through June 2023)

Under Task 3.3, EKI will provide as-needed technical support for miscellaneous issues that may arise during the first year of LRP implementation through June 2023. While the exact scope of these as-needed services is not yet known, services under this Task 3.3 may include but are not necessarily limited to:

- Technical support for LRP water use monitoring / verification
- Technical support for other aspects of LRP Agreement compliance
- Responding to questions from LRP participants

Assumptions:

- *We have assumed a level of effort and associated budget amounting to \$15,000 for the as-needed technical support services under Task 3.3.*

EKI has included a placeholder budget of \$15,000 for this Task 3.3, within the overall Task 3 proposed budget (see below); however, the actual level of effort and budget necessary to complete any given requested services under this Task 3.3 will be determined through mutual agreement of EKI and MSGSA prior to commencement of those tasks.

Task 4: Meetings

Task 4.1: Prepare for and attend MSGSA Board meetings, Ad-hoc committee meetings, TAC meetings

Under Task 4, EKI will attend the following regular meetings to share information and receive feedback on the work efforts described above:

- MSGSA's monthly Board meetings (10 meetings; September 2022 – June 2023)
- Demand Reduction Ad-hoc committee meetings (10 meetings; September 2022 – June 2023)
- Technical Advisory Committee (TAC) meetings (6 bi-monthly meetings)

As appropriate for each meeting, EKI will prepare draft presentation materials and solicit input/review from MSGSA staff prior to the meetings. Based on feedback received at the August MSGSA Board meeting, EKI anticipates that meetings in calendar year 2023 will not require preparation and presentation of informational materials (or the meeting frequency may be reduced).

Deliverables:

- *Draft and final presentation materials for each meeting, as appropriate*

- *Notes taken during meetings will be available upon request*

Assumptions:

- *Numbers of meetings as shown above*

Task 5: Project Management

Task 5 covers routine communications with Client, as well as regular project management efforts including staffing and invoicing.

Task 6: As-needed Technical and Strategic Water Management Planning Support

EKI can provide as-needed technical and strategic water management planning support for the development of the long-term groundwater demand reduction program and potential grant application opportunities. Services under Task 6 would be provided only upon explicit direction from MSGSA based upon mutual understanding of the scope, budget, schedule, and deliverables. While the exact scope of these as-needed services is not yet known, possible efforts under this Task 6 include:

Support for Discussions on Allocation Program/Policy

As needed and requested by MSGSA, EKI will provide technical and strategic support to facilitate discussions regarding the development of a groundwater pumping allocation program/policy. The allocation program is planned to begin implementation following the end of water year 2025 and is often referred to as Phase 2 of the Groundwater Demand Reduction Management Action. The goal of Phase 2 is to substantially reduce consumptive groundwater demand throughout the Sustainable Groundwater Management Act (SGMA) implementation horizon (i.e., by 2040). EKI anticipates that these support services could include, but will not necessarily be limited to the conceptual development of tiered groundwater allocation thresholds.

Support for Grant Application(s)

As needed and requested by MSGSA, EKI will provide technical support for applying for grant opportunities, such as the California Department of Conservation's Multibenefit Land Repurposing Program (MLRP)¹, to support the implementation of the LRP. EKI has already provided support to the MSGSA on during the first round of applications during 2022.

EKI has not included a budget for as-need services under Task 6 in the proposed budget for this proposal. In the event that the MSGSA wishes to pursue the above activities or other as-needed tasks, EKI will develop estimates of the level of effort and budget necessary to complete the requested services, and those services will be performed pursuant to a separate authorization.

PROJECT SCHEDULE

The Scope of Work described above is intended to cover the period from July 2022 through June 2023. EKI is prepared to start work on the above Scope of Work immediately upon authorization from MSGSA

¹ <https://www.conservation.ca.gov/dlrp/grant-programs/Pages/Multibenefit-Land-Repurposing-Program.aspx>

to proceed. We will inform MSGSA of any issues that arise that may affect the schedule for completion or impact the anticipated level of effort.

TERMS AND CONDITIONS

All work performed by EKI will be performed pursuant to the Terms and Conditions of the Professional Services Agreement with MSGSA, dated 8 July 2021 (Agreement).

COMPENSATION FOR CONSULTING SERVICES

Inasmuch as the exact level of effort required to complete the above proposed Scope of Work cannot be known precisely, EKI proposes to perform the work on a time and materials expense reimbursement basis in accordance with our Agreement and current (2022) Schedule of Charges (Attachment A). Based on the proposed Scope of Work described above, we propose a budget of \$100,000. Table 1 below provides a breakdown of the proposed budget by Task. We will inform MSGSA of any issues that arise that may impact the anticipated level of effort and budget.

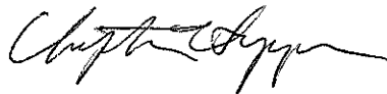
Table 1. Proposed Budget

Task	Proposed Budget
Task 1: Support for Land Repurposing Program (LRP) Development	\$10,000
Task 2: Support for LRP Stakeholder Outreach	\$15,000
Task 3: Support for LRP Implementation	\$35,000
Task 4: Meetings	\$35,000
Task 5: Project Management	\$5,000
Task 6: As-needed Technical and Strategic Water Management Planning Support	\$0*
TOTAL:	\$100,000

We look forward to continuing to support MSGSA with this important project. Please contact us with any questions.

Very truly yours,

EKI ENVIRONMENT & WATER, INC.



Christopher Heppner, Ph.D., P.G.
 Supervising Hydrogeologist



Anona L. Dutton, P.G., C.Hg.
 Vice President

AUTHORIZATION
 (Merced Subbasin Groundwater Sustainability Agency)

By _____

Title _____

Date _____

Adriel Ramirez
Merced County Dept. of Community and Economic Development
Revised 15 August 2022
Page 8 of 8



Cc: Lacey McBride (Water Resources Manager, Merced County)

Attachments

- A. EKI Schedule of Charges, dated 1 January 2022

Client/Address: Merced Subbasin Groundwater Sustainability Agency
c/o Merced County Community & Economic Development Department
2222 M. Street
Merced, CA 95340



Proposal/Agreement Date: Revised 15 August 2022

EKI Proposal/Project # C2-165

SCHEDULE OF CHARGES FOR EKI ENVIRONMENT & WATER, INC.

1 January 2022

<u>Personnel Classification</u>	<u>Hourly Rate</u>
Officer and Chief Engineer-Scientist	307
Principal Engineer-Scientist	296
Supervising I, Engineer-Scientist	286
Supervising II, Engineer-Scientist	276
Senior I, Engineer-Scientist	265
Senior II, Engineer-Scientist	255
Associate I, Engineer-Scientist	244
Associate II, Engineer-Scientist	230
Engineer-Scientist, Grade 1	214
Engineer-Scientist, Grade 2	202
Engineer-Scientist, Grade 3	185
Engineer-Scientist, Grade 4	165
Engineer-Scientist, Grade 5	145
Engineer-Scientist, Grade 6	128
Project Assistant	130
Technician	116
Senior GIS / Database Analyst	150
CADD Operator / GIS Analyst	133
Senior Administrative Assistant	147
Administrative Assistant	115
Secretary	96

Direct Expenses

Reimbursement for direct expenses, as listed below, incurred in connection with the work will be at cost plus fifteen percent (15%) for items such as:

- a. Maps, photographs, reproductions, printing, equipment rental, and special supplies related to the work.
- b. Consultants, soils engineers, surveyors, drillers, laboratories, and contractors.
- c. Rented vehicles, local public transportation and taxis, travel, and subsistence.
- d. Special fees, insurance, permits, and licenses applicable to the work.
- e. Outside computer processing, computation, and proprietary programs purchased for the work.

A Communication charge for e-mail access, web conferencing, cellphone calls, messaging and data access, file sharing, local and long distance telephone calls and conferences, facsimile transmittals, standard delivery U.S. postage, and incidental in-house copying will be charged at a rate of 4% of labor charges. Large volume copying of project documents, e.g., bound reports for distribution or project-specific reference files, will be charged as a project expense as described above.

Reimbursement for company-owned automobiles, except trucks and four-wheel drive vehicles, used in connection with the work will be at the rate of sixty cents (\$0.60) per mile. The rate for company-owned trucks and four-wheel drive vehicles will be seventy-five cents (\$0.75) per mile. There will be an additional charge of thirty dollars (\$30.00) per day for vehicles used for field work. Reimbursement for use of personal vehicles will be at the federally allowed rate plus fifteen percent (15%).

CADD Computer time will be charged at twenty dollars (\$20.00) per hour. In-house material and equipment charges will be in accordance with the current rate schedule or special quotation. Excise taxes, if any, will be added as a direct expense.

Rate for professional staff for legal proceedings or as expert witnesses will be at a rate of one and one-half times the Hourly Rates specified above.

The foregoing Schedule of Charges is incorporated into the Agreement for the Services of EKI Environment & Water, Inc. and may be updated annually.

BOARD ACTION ITEM

TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD
FROM: MARK HENDRICKSON, SECRETARY
DATE: SEPTEMBER 8, 2022

SUBJECT: PHASE 1 LAND REPURPOSING PROGRAM UPDATE

SUMMARY:

In November 2021, the Governing Board adopted the Two Phased GSP Implementation Approach resolution, identifying land repurposing as the primary activity to achieve the Phase 1 target of reducing the consumptive use of groundwater by 15,000 acre feet annually. MSGSA consultants, EKI Water and Environment, Inc., worked with the Demand Reduction Ad Hoc Committee and the Technical Advisory Committee on development of the Phase 1 Land Repurposing Program, according to the roadmap shared with this Board in January 2022. On July 19, 2022 the Governing Board adopted a per-acre fee based on land use, by resolution, which provides funding to support the Phase 1 target.

On August 11, 2022 the Governing Board established the Phase 1 Land Repurposing Program via resolution and approved the Land Repurposing Program Application, Contract Agreement, FAQ, and Flier, and authorized staff to solicit proposals for the 2023 water year. Since establishment of the program staff have made refinements to the aforementioned materials and focused efforts towards outreach and implementation.

REQUEST/RECOMMENDATION/ACTION NEEDED:

Informational update on the Phase 1 Land Repurposing Program development and implementation since establishment of the program.

BOARD ACTION ITEM

TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD
FROM: MARK HENDRICKSON, SECRETARY
DATE: SEPTEMBER 8, 2022

SUBJECT: STRATEGIC PLANNING AD HOC COMMITTEE REPORT

SUMMARY:

On July 19, 2022, the Governing Board formed a Strategic Planning Ad Hoc Committee whose primary function is to evaluate the complex factors pertaining to the development, adoption, and implementation of a functioning pumping allocation and make recommendations to the MSGSA Board for further consideration on the following topics among others:

- (1) preparing governing principles for an allocation,
- (2) considering the effect of variable groundwater use and groundwater conditions throughout the MSGSA on the design of an allocation,
- (3) incorporating varying economic conditions and funding approaches that are mindful of the governing principles,
- (4) developing funding, monitoring, penalty, and appeal processes, and
- (5) obtaining input from a wide array of affected stakeholders

REQUEST/RECOMMENDATION/ACTION NEEDED:

Report from the September 6, 2022 Strategic Planning Ad Hoc Committee meeting.