

**ORDINANCE NO. 4**

**AN ORDINANCE OF THE OJAI BASIN GROUNDWATER MANAGEMENT AGENCY LEVYING GROUNDWATER EXTRACTION CHARGES.**

**WHEREAS**, Article 1, section 101 of the Ojai Groundwater Basin Management Agency Act declares that the preservation of the groundwater within the territory of the Ojai Basin Groundwater Management Agency for the protection of agricultural, municipal, and industrial uses, is in the public interest and for the common benefit of the water users within the Agency; and

**WHEREAS**, Article 10, sections 1001-1007 of the Ojai Groundwater Basin Management Agency Act authorizes the Agency to fix a management charge for the purpose of paying for the costs of initiating, carrying on and completing any of the powers, projects and purposes for which the Agency is organized. However, the Agency may not impose the management charge after January 1, 1995; and

**WHEREAS**, the Agency must raise sufficient funds to pay for the cost of initiating, carrying on, and completing the powers, purposes, and groundwater management activities described in its authorizing Act; and

**WHEREAS**, Article 11, section 1101 of the Ojai Groundwater Basin Management Agency Act authorizes the Agency to levy groundwater extraction charges on the extraction of groundwater by the users of groundwater extraction facilities within the boundaries of the agency; and

**WHEREAS**, the Agency has adopted Ordinance No. 1, which requires the registration of groundwater extraction facilities and reporting of groundwater extractions within the boundaries of the Agency; and

**WHEREAS**, Ordinances 1 and 4, taken together, enable the Agency to determine water extractions accurately and to assess and collect charges and fees equitably, so that the Agency may meet its mission of preserving the quantity and quality of the groundwater in the Ojai Basin.

**BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE OJAI BASIN  
GROUNDWATER MANAGEMENT AGENCY AS FOLLOWS:**

**Section 1. Short Title.**

This Ordinance No. 4 shall be known and cited as "the Groundwater Extraction Charge Ordinance."

**Section 2. Policy and Purpose.**

The Agency is charged with the legal responsibility of managing the groundwater resource within the boundaries of the Agency. The Agency's mission is to preserve the quality and quantity of groundwater in the Ojai Basin in order to protect and maintain the long-term water supply for the common benefit of the water users in the basin. The Agency enacts this Groundwater Extraction Charge Ordinance as legal authority to require that every groundwater extraction facility contribute an equitable portion of the costs of running the Agency.

**Section 3. Definitions.**

All terms, phrases and words shall have the meaning assigned to such terms, phrases and words as commonly understood or as expressly defined in the Agency's Authorizing Act or as defined herein.

- a. "Agency" shall mean the Ojai Basin Groundwater Management Agency.
- b. "Basin" shall mean the Ojai Groundwater Basin as shown in the Department of Water Resources Bulletin No. 12, "Ventura County Investigation," dated October 1953, to the extent included within the boundaries of the Agency, as defined in § 201 of the Agency's Authorizing Act.
- c. "Board" shall mean the Board of Directors of the Agency.
- d. "County" shall mean the County of Ventura.
- e. "Dwelling unit" shall mean a structure suitable for residential household occupancy.
- f. "Extraction" shall mean the act of obtaining groundwater from the Basin by pumping or other controlled means.
- g. "Extraction facility" shall mean any device or method for the extraction of groundwater from the Basin, including a well.

h. **"Groundwater"** shall mean the water beneath the surface of the earth within the zone below the water table in which the soil is completely saturated with water, whether or not flowing through known and definite channels.

i. **"Operator"** shall mean a person who operates a groundwater extraction facility. If the Agency is unable to determine who operates a particular extraction facility, then "operator" shall mean the person to whom the extraction facility is assessed by the county assessor or, if not separately assessed, the person who owns the land upon which the extraction facility is located.

j. **"Public water system"** shall mean a water system which, as defined in Section 4010.1 of the California Health and Safety Code, (i) serves 15 or more connections and provides water for residential use or (ii) regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

k. **"Person"** shall mean any person, state or local governmental agency, private corporation, firm, partnership, individual, group of individuals or, to the extent authorized by law, any federal agency.

l. **"Waterflow measuring device"** shall mean a meter or other measuring device which is attached to an extraction facility for the purpose of measuring the quantity of water extracted by the facility.

**Section 4. Estimated Semi-Annual Water Demand.**

a. The following estimates of semi-annual water demand shall be presumed accurate for those extraction facilities not equipped with a waterflow measuring device.

(1) Groundwater extraction facilities not equipped with waterflow measuring devices. The Table of Average Semi-Annual Water Demand set forth below shall be used to estimate the amount of water extracted by groundwater extraction facilities not equipped with a waterflow measuring device.

**TABLE OF AVERAGE SEMI-ANNUAL WATER DEMAND**

<u>Water Use</u>	<u>Average Semi-Annual Water Demand</u>
Residential	0.3 acre-foot/per dwelling unit
Subtropical orchard (Citrus/avocado/kiwi)	1.7 acre-foot/cultivated acre
Greenhouse operation	2.0 acre-foot/cultivated acre
Golf course and other turf	2.0 acre-foot/cultivated acre
All other agriculture	1.7 acre-foot/cultivated acre

b. If an extraction facility that is not equipped with a waterflow measuring device provides water to more than one type of use, total semi-annual groundwater extraction by the facility shall be estimated as the sum of all such uses on the basis of the indices established in the Table of Average Semi-Annual Water Demand. Water demand shall be presumed to be evenly divided between the payment periods prescribed in this Ordinance.

c. A groundwater extraction facility operator may appeal the Agency presumption of semi-annual water demand, as determined under paragraph a. of this Section, to the Board. Such appeal may challenge the presumed demand for a specific period of time or it may request authorization of a perennial method of estimating demand which would eliminate the need for reference to the Table of Average Semi-Annual Water Demand. Such appeal shall state fully the grounds of the appeal and all facts relied upon in the appeal, including, but not limited to, flow meter records; electrical power consumption records; logs of hours of operation, operating pressure, and depth of water; the result of any pump or efficiency test made; measurements of pump output; and any other data pertinent to quantifying groundwater production. The Board shall make a written finding of fact either granting or denying the appeal.

**Section 5. Frequency of Payment and Computing Groundwater Extraction Charges.**

a. Beginning with Semi-Annual Period 2 of 1995, each operator shall complete and file a Groundwater Extraction Statement and make payment of the appropriate groundwater extraction charge to the Agency. The frequency of reporting and making payment, and the method of computing the charge shall be as follows.

b. All operators shall pay the groundwater extraction charge semi-annually. If the extraction facility is equipped with a waterflow measuring device, the operator shall calculate and pay its extraction charge on the basis of its measured extractions. If the extraction facility is not equipped with a waterflow measuring device, the operator shall calculate and pay its extraction charge on the basis of the estimated semi-annual water demand set forth in Section 4 of this Ordinance. Semi-annual payments are due as set forth in Section 6 of this Ordinance and shall accompany the "Groundwater Extraction Statement" required pursuant to Section 7 of this Ordinance.

c. The amount of payment due shall be determined by multiplying the total water extraction for the applicable payment period by the effective per-acre-foot charge as set forth in Section 8 of this Ordinance.

**Section 6. Payment and Reporting Due Dates.**

a. Payment of the semi-annual extraction charge is due to the Agency as set forth in this Section. Payment is to accompany the filing of a Groundwater Extraction Statement required pursuant to Section 7 of this Ordinance.

- b. The semi-annual assessment periods and payment due dates are as follows:

SEMI-ANNUAL PAYMENT DATES

<u>Semi-Annual Period</u>	<u>Assessment Dates</u>	<u>Payment Due Date</u>
1	January 1 - June 30	July 31
2	July 1- December 31	January 31

c. Payment not received by the Agency within the time specified for the applicable payment cycle shall be deemed delinquent and subject the operator to penalties as set forth in Section 8 of this Ordinance.

d. The operator's Groundwater Extraction Statement and payment of calculated fees shall be presumed accurate upon timely receipt by the Agency. For good cause, the Agency may disregard the Groundwater Extraction Statement and payment of fees and cause an investigation of the actual amount extracted by any operator for any payment period. In the event of a discrepancy between the Groundwater Extraction Statement and payment provided the Agency and the findings of the Agency, the findings of the Agency shall control.

**Section 7. Groundwater Extraction Statement: Reporting Extractions**

a. The Groundwater Extraction Form filing requirements of Ordinance 1, Section 5, are hereby superseded by this Ordinance. The Groundwater Extraction Statement forms and filing requirements are as set forth in this Ordinance.

b. Every operator that extracts groundwater from the basin shall file a completed "Groundwater Extraction Statement," in conjunction with the payment of the required extraction charge, with the same periodicity as required for payment of the extraction charge as set forth in Section 5 of this Ordinance. The completed and filed Groundwater Extraction Statement shall be on a form substantially similar to Exhibit A attached hereto and incorporated herein by this reference. Each completed and filed Groundwater Extraction Statement shall be signed under penalty of perjury by the operator of the respective extraction facility.

c. The Agency shall make Groundwater Extraction Statement forms available to operators and the public generally by direct mail to known operators and by keeping copies available for the public at the Agency office located at City Hall, 401 South Ventura Street, Ojai, California 93024.

d. Failure of any operator to receive a direct mailing of a Groundwater Extraction Statement form shall not relieve the operator of the obligation to file a completed Groundwater Extraction Statement and timely pay to the Agency the applicable groundwater extraction charge as required by this Ordinance.

**Section 8. Extraction Charge**

a. The groundwater extraction charge for Semi-Annual Period 2 of 1995 and Period 1 of 1996 shall be six dollars (\$6.00) per acre-foot. The groundwater extraction charge shall thereafter be set annually by Board Resolution.

b. Detailed recording and management of all groundwater extraction charge funds shall be required. Deposits, investments and expenditures shall be handled in accordance with generally accepted accounting principles.

**Section 9. Penalties.**

a. Any groundwater production facility operator delinquent in payment of the groundwater extraction charge shall be subject to an assessment of extraction charges based on metered use or estimated use set forth in Section 4 of this Ordinance, whichever is greater; plus a ten (10) percent penalty; plus interest. Interest on all delinquent payments shall be charged at a rate of one and one-half percent (1.5%) per month.

b. Any operator or person who intentionally violates any provision of this Ordinance shall be guilty of an infraction and may be required to pay a fine to the Agency not to exceed five hundred dollars (\$500).

c. Any operator or person who negligently or intentionally violates any provision of this Ordinance may also be civilly liable to the Agency for a sum not to exceed one thousand dollars (\$1,000) per day for each day of such violation, in addition to any other penalties that may be prescribed by law.

d. Upon the failure of any operator or person to comply with any provision of this Ordinance, the Agency may petition the Superior Court for a temporary restraining order, preliminary or permanent injunction, or such other equitable relief as may be appropriate. The right to petition for injunctive relief is an additional right to those rights which may be provided elsewhere in this Ordinance or otherwise allowed by law.

e. The Agency may petition the Superior Court of the county to recover any sums due it under the provisions of this Ordinance.

f. A groundwater extraction facility operator subject to a penalty under Section 9 of this Ordinance may promptly appeal the penalty to the Board. Such appeal shall state fully the grounds of the appeal and all facts relied upon in the appeal, including, but not limited to, the facts causing the imposition of the penalty, any extenuating circumstances, the monetary amount owed to the Agency including penalties, and any other facts pertinent to the delinquency or violation. The Board shall make a written finding of fact either granting or denying the appeal.

g. The penalty provisions set forth in Section 9 of this Ordinance shall be reviewed annually by the Agency Board and, if deemed necessary, adjusted by Board Resolution.

**Section 10. Termination Date.**

This Ordinance will remain in full force and effect until repealed by action of the Board of Directors for the Agency.

**Section 11. Application.**

The provisions of this Ordinance shall be read in conjunction with and complement all other Agency Ordinances and Resolutions and shall apply to all persons residing within the boundaries of the Agency.

**Section 12. Severability.**

If any section, subsection, sentence, clause or phrase of this Ordinance and its implementing rules and regulations is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Directors hereby declares and determines that it would have passed this Ordinance and its implementing rules and regulations irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases may be determined to be unconstitutional or invalid.

**Section 13. Effective Date.**

This Ordinance was adopted on APRIL 27, 1995, to be effective thirty-one (31) calendar days after its passage. Before the expiration of fifteen (15) calendar days after its passage, this Ordinance shall be published once, with the names of the members of the Board of Directors for the Agency voting for it and against it, in a newspaper of general circulation published in the County of Ventura, State of California.

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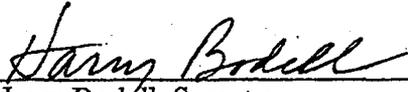
**PASSED AND ADOPTED** by the Board of Directors of the Agency, State of California, by the following vote:

AYES: Jerry Conrow, Conner Everts, Charles Noren, Scott S. Slater  
NOES: None  
ABSTAIN: None  
ABSENT: Robert N. McKinney

ATTEST:



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Conner Everts, President



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Harry Bodell, Secretary