

## **RESOLUTION NO. 2017-5**

### **A RESOLUTION OF THE OJAI BASIN GROUNDWATER MANAGEMENT AGENCY SETTING FORTH THE PROCEDURES FOR ASSESSMENT AND REPORTING OF FEES, CHARGES AND PENALTIES PERTAINING TO GROUNDWATER EXTRACTION, AND REPEAL OF RESOLUTION 2015-1**

#### **Section 1. Policy and Purpose**

The Ojai Basin Groundwater Management Agency (OBGMA) is charged with the responsibility of managing the groundwater resource within the boundaries of the Agency. OBGMA'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. This Resolution sets forth the procedures for assessment and reporting of fees, charges and penalties pertaining to groundwater extraction, and repeals of Resolution 2015-1

#### **Section 2: Reporting**

- a. Every well owner or operator who extracts groundwater from the Ojai Basin shall file a completed "Groundwater Extraction Statement," in conjunction with the payment of the required wellhead fee and extraction charge, by the due dates in Section 6 of this Resolution. Each completed and filed Groundwater Extraction Statement shall be signed under penalty of perjury by the well owner or operator of the respective extraction facility.
- b. OBGMA shall make Groundwater Extraction Statement forms available by direct mail, or email if requested, to known well owners or operators. Such statements and payment of fees and charges shall be mailed to Ojai Basin Groundwater Management Agency, P.O. Box 1779, Ojai CA 93024. Failure of any well owner or operator to receive a direct mailing of or emailed Groundwater Extraction Statement shall not relieve the well owner or operator of the obligation to file a completed Groundwater Extraction Statement and timely pay to the Agency the applicable fees and charges as required by this Resolution.
- c. All Groundwater Extraction Statements are subject to review, revision if necessary and approval by OBGMA.

#### **Section 3. Frequency of Payment**

- a. All well owners or operators shall pay the Wellhead Fee and Groundwater Extraction Charge quarterly. The Wellhead Fee shall be included by the Agency on the Extraction Statement prior to mailing. The Extraction Charge shall be calculated paid by the well owner or operator on the basis of its measured extractions.
- b. If the extraction facility is equipped with a non-operational water measuring device, the well owner or operator shall calculate and pay the extraction charge based on the pump capacity and electrical records.

Any records used to estimate extractions shall be included with the extraction statement when filed. All estimated extractions shall be subject to review and approval by OBGMA.

- c. Quarterly payments are due as set forth in Section 6 of this Resolution and shall accompany the Groundwater Extraction Statement, and any supporting documents, used to calculate extractions.

#### **Section 4. Computation of Groundwater Extraction Charges**

- a. The amount of payment due shall be determined by multiplying the total metered or estimated groundwater extraction, converted to acre-feet for the applicable payment period, by the effective per-acre-foot charge as set forth in Section 7 of this Resolution. The extraction charge will be combined with the Wellhead Fee to determine the total charges for the period of extraction.
- b. If estimated extraction is used, the payment shall be determined calculating the acre-feet by actual pump capacity and electrical use, and multiplied by the extraction charge.

#### **Section 5. Payment and Reporting Due Dates**

- a. Payment of the quarterly extraction charge is due to OBGMA as set forth in this section. Payment is to accompany the filing of a Groundwater Extraction Statement required pursuant to Section 6 of this Resolution.
- b. The quarterly periods, assessment period and payment due dates shall be as follows:

| <u>Quarterly Period</u> | <u>Assessment Period</u> | <u>Payment Due Date</u> |
|-------------------------|--------------------------|-------------------------|
| 1                       | October 1- December 31   | February 1              |
| 2                       | January 1- March 30      | May 1                   |
| 3                       | April 1 – June 30        | August 1                |
| 4                       | July 1 – September 30    | November 1              |

- c. Payment not received by OBGMA within the time for the applicable payment cycle shall be deemed delinquent and subjects the well owner or operator to penalties as set forth in Section 7 of this Resolution.
- d. The well owners' or operator's Groundwater Extraction Statement and payment of calculated fees shall be presumed accurate upon timely receipt of OBGMA. However, for good cause, the OBGMA may cause an investigation of the actual amount extracted by any well owner or operator for any payment period. In the event of a discrepancy between the Groundwater Extraction Statement and payment submitted by the well owner or operator and the findings of OBGMA, the findings of OBGMA shall prevail.
- e. A groundwater extraction facility owner or operator may appeal OBGMA's investigative findings. Such appeal may challenge the presumed demand for a specific period of time. Such appeal shall state fully the grounds of the appeal and all the 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 6. Wellhead Fee and Extraction Charge**

- a. The Wellhead Fee and Groundwater Extraction Charge for each Quarterly Period shall be the current fee established by separate resolution of the Board. The groundwater extraction charge may be revised annually by Board Resolution.
- b. Detailed recording and management of all fees and charges shall be required. Deposits, investments and expenditures shall be handled in accordance with generally accepted accounting principles.

#### **Section 7. Penalties**

- a. Any groundwater production facility well owner or 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, 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 well owner or operator who violates any provision of this Resolution shall be liable for a civil penalty not to exceed one thousand dollars (\$1,000) plus one hundred dollars (\$100) for each additional day on which the violation continues if the owner or operator fails to comply within 30 days after being notified by OBGMA. OBGMA may administratively impose a civil penalty described in this section after providing notice and an opportunity for a hearing.
- c. OBGMA may also bring action against any well owner or operator in the Superior Court to determine whether a violation occurred. OBGMA may petition the Superior Court for a temporary restraining order, preliminary or permanent injunction, recovery of civil penalties imposed by this Resolution or such other equitable relief as may be appropriate.
- d. A groundwater extraction facility well owner or operator, subject to penalties under this Resolution, 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 written finding of fact either granting or denying the appeal.
- e. The penalty provisions set forth in this Resolution shall be reviewed annually by the Agency Board and, if deemed necessary, adjusted by Board Resolution.

#### **Section 8. Termination Date**

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

**Section 9. Application**

The provisions of this Resolution 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 10. Severability**

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

**Section 11. Effective Date**

**PASSED, APPROVED AND ADOPTED BY THE OJAI BASIN GROUNDWATER MANAGEMENT AGENCY BOARD OF DIRECTORS ON THIS 24<sup>TH</sup> DAY OF AUGUST, 2017.**

|   |  |         |
|---|--|---------|
|  |  | .ATTEST |
| <del>Dan Breen, President</del>   | Cece VanDerMeer, Secretary   |         |
| ✓ Russ Baggerly, VICE PRESIDENT   |  |         |

Roll Call Vote: Yes or No

|                 |                                  |
|-----------------|----------------------------------|
| Peter Thielke   | Mutual Water Companies           |
| Russ Baggerly   | Casitas Municipal District       |
| Johnny Johnston | City of Ojai                     |
| Emily Ayala     | Ojai Water Conservation District |
| (Seat Vacant)   | Golden State Water Company       |

|     |
|-----|
| Yes |
| Yes |
| Yes |
| Yes |
| —   |

*Jim Funch*