

# KINGS COUNTY

## Water Commission Meeting

Michael Newton – District 1  
Laura Brown – District 4  
Harold Reed – Special District

Jim Razor – District 2  
Roger Reynolds – District 5  
Preciado Alvaro – City Rep.

Jim Verboon – District 3  
Eric Osterling – Member at Large  
Sid Palmerin – City Rep.

Secretary: Chuck Kinney

Staff: Alex Hernandez (559) 852-2679

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact Kings County Community Development Agency at (559) 852-2680 by 3:00 p.m. on the Friday prior to this meeting

### AGENDA

#### REGULAR MEETING

**Monday, November 28, 2022, at 5:00 P.M. or soon thereafter**

This regular meeting of the Kings County Water Commission will be held at the Kings County Government Center in the Multi-Purpose Room of the Administration Building (Bldg. No. 1), 1400 W. Lacey Blvd., Hanford CA.

*The Kings County Water Commission requests that all cell phones and other electronic communication devices be muted or turned off while the meeting is in progress.*

**I. CALL TO ORDER - Chairperson**

- A. Roll Call of Water Commission Members: *(Chuck Kinney- Secretary)*
- B. Unscheduled Comments:  
*Any person may address the Commission on any subject matter within the jurisdiction or responsibility of the Commission at the beginning of the meeting; or may elect to address the Commission on any agenda item at the time the item is called by the Chair, but before the matter is acted upon by the Commission. Unscheduled comments will be limited to five minutes.*
- C. Approval of Minutes of the May 23, 2022, Regular meeting - *Chairperson: call for motion, second and voice vote.*

**II. OLD BUSINESS -NONE**

**III. NEW BUSINESS**

**A. Groundwater Export Ordinance**

- 1. Discussion
- 2. Recommendation (if desired)

**B. Water Resources Oversight Commission Formation Ordinance**

- 1. Discussion
- 2. Recommendation (if desired)

**IV. MISCELLANEOUS**

- A. Future Agenda Items:
- B. Member comments:
- C. Staff comments:
- D. Correspondence:

**V. ADJOURNMENT – Next Regular meeting is scheduled for February 27, 2023.**

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# KINGS COUNTY WATER COMMISSION MINUTES

**DISTRICT 1**  
Michael Newton

**DISTRICT 2**  
Jim Razor

**DISTRICT 3**  
Jim Verboon

**DISTRICT 4**  
Laura Brown

**DISTRICT 5**  
Roger Reynolds

**MEMBER AT LARGE**  
Eric Osterling

**SPECIAL DISTRICT  
REPRESENTATIVE**  
Harold Reed

**CITY REPRESENTATIVE**  
Sid Palmerin

**CITY REPRESENTATIVE**  
Sid Palmerin

**KINGS COUNTY COMMUNITY DEVELOPMENT AGENCY STAFF:**  
Chuck Kinney – Secretary (559) 852-2674

Alex Hernandez – (559) 852-2679

**CALL TO ORDER:** A meeting of the Kings County Water Commission (KCWC) was called to order by Chairman Reynolds at 5:07 p.m., on May 23, 2022. The KCWC meeting was held in Kings County Government Center in the Multi-Purpose Room of the Administration Building (Bldg. No. 1), 1400 W. Lacey Blvd., Hanford CA.

Roll call of members was conducted by Secretary Kinney, and a quorum of appointed Committee members were in attendance.

**COMMITTEE MEMBERS PRESENT:** Michael Newton, Jim Razor, Laura Brown, Roger Reynolds, Harold Reed

**COMMITTEE MEMBERS ABSENT:** Jim Verboon, Eric Osterling, Alvaro Preciado, Sid Palmerin

**STAFF PRESENT:** Chuck Kinney – Director, Terri Yarbrough – Executive Secretary, Chanda Jackson – Executive Secretary

**VISITORS PRESENT:** Scott Sills, Dennis Mills, Chantal Ouellet, JJ Westra, Joe McGahan, Matthew Boyett, Steve Jackson

## **ELECTION OF OFFICERS:**

A motion was made and seconded (Brown/Razor) to nominate Commissioner Reynolds for chairman and to close the nominations. Motion carried unanimously with Verboon, Osterling, Preciado, and Palmerin absent.

A motion was made and seconded (Razor/Reynolds) to nominate Commissioner Brown for vice, chairman and to close the nominations. Motion carried unanimously with Verboon, Osterling, Preciado, and Palmerin absent.

Brown noted districts changed, and she will be in District 2. Secretary Kinney noted two members in District 2 and a vacancy in District 4 after meeting. Conflict to be presented to the Board of Supervisors and shall be resolved once presented.

**UNSCHEDULED COMMENTS:** None

## **APPROVAL OF MINUTES:**

A motion was made and seconded (Brown/Newton) to approve the February 24, 2020, minutes as presented. Motion carried unanimously with Verboon, Osterling, Preciado, and Palmerin absent.

## **OLD BUSINESS: - None**

## **NEW BUSINESS:**

### **A. Current Groundwater Levels Update – Dennis Mills, Kings County Water District**

**1. Presentation** – Mr. Mills discussed how we're currently in the 3<sup>rd</sup> drought year in a row. He explained the area does not have average years, either flood years or drought years. He stated that most of what is seen with groundwater is determined by how much pumping is happening, and that levels that are monitored in the spring are influenced by how many people are pumping. He stated the levels are depressed from where they will return to. He stated Mid-Kings River Groundwater Sustainability Agency (GSA) investigated groundwater conditions to see whether the public systems in the area viewed it as an emergency as described in the governor's executive order (Executive Order N-7-22). He stated he contacted the City of Hanford, discussed the conditions in Hanford, and they did not view it as an emergency at this point. He then provided the perspective that most communities in Kings County, starting with the cities of Lemoore, Corcoran, and Hanford, pump from one thousand feet below ground, and the primary reason for that is quality. He stated this is done to avoid arsenic/geological pockets in the shallow area. He stated Armona's wells are deep due to drilling beyond the arsenic pockets, so they didn't view it as an emergency, but are monitoring. He stated he spoke with Home Garden and there was concern due to a pump having to be dropped lower. He stated he spoke with Kings River Hardwick (KRH) and other rural schools to inquire their view, and they're not concerned at this point. He stated the public systems described prior have relatively reliable infrastructure and have been planned out to withstand the ups and downs of the seasons. He stated a number of private facilities are going dry. He explained the amount of wells going dry yearly doesn't seem to be changing very much. He went on to explain that the executive order creates an issue with evaluating well permits. He stated the county with through an infrastructure project where lots of wells needed to be redrilled. He stated as numbers decline, they're seeing more wells needing help. He stated there is concern and it will have to be gauged over time. He stated as far as the Kings River, it is scheduled to start a coordinated run in June and there is to be a run that goes to Lemoore Weir, which will be the end of the river this year. He stated as surface water is provided, a lot of residential homes along certain alignments will benefit from the seepage from the canals, helping the wells along the way, as well as the recharge in the river. He explained surface water delivery reduces the total amount of groundwater pumping happening during the peak of the season.

**2. Discussion** - Commissioner Reynolds asked if Mr. Mills had any information on fallowing of agricultural land in Kings County. Mr. Mills explained Kings County Water District is trying to fallow some grounds but it's very small in comparison to total area. He stated from the county perspective there is fallowing happening, the vast majority happening in the southern part of the county. He stated it seems the Department of Water Resources is very interested in understanding what the future drought programs are going to look like in areas that are over drafted.

Commissioner Razor asked if Mr. Mills saw bounce back in water ducts/wells in a year with average rainfall, river running sixty to seventy-five days. Mr. Mills explained there absolutely is bounce back. He explained generally you see a cycle where in a flood year you

see a rebound and in the drought years you end up with a valley. He stated in the next set of flood years you end up with another rebound but you never get back to the levels you had before, therefore it's a step down but there is a rebound that happens. He stated this contributes to the long-term average decline that is happening.

Commissioner Brown asked since the State is flushed with cash, are there any programs that could help some of the smaller water systems if they reach a point of needing more expensive infrastructure. Mr. Mills explained there are some grant programs available through the State that are emergency funding opportunities primarily for communities and disadvantaged areas. He stated that he's not sure how far the State is willing to go in terms of using those funds but should see more clarity this year as he anticipates more demand on it. He stated the drought declaration that will be discussed later in the meeting looks similar to last year. He stated that for other areas of the state, it does look different, however. He stated Kings County is different due to the supply of Kings River that continues to be stable.

An audience member stated the State, through SAFER Funds, has contracted with Self Help for individuals to redrill private wells.

Another audience member stated Kettleman City built a new water treatment plant out of state project water, which went to different numbers but is now at five percent which is not near enough for the community. He also stated DWR has been generous in funding for rehabilitating wells and funding for new wells.

Commissioner Reynolds explained that the Farm Water Coalition is predicting the most fallowing of any previous year and are estimating it could reach up to 690,000 acres statewide. He stated this would be 150,000 acres more than the previous high of year 2015.

## **B. Senate Bill No. 552 Update – Matthew Boyett, Kings County – Administration**

**1. Presentation** – Mr. Boyett explained he was made aware of Senate Bill No. 552 (SB552) about a month ago, wanting to make sure the County stays compliant with everything that he is a part of. He stated SB552 deals directly with the County needing to have a drought task force. He stated that after further discussion between Community Development Director Chuck Kinney and Kings County CAO Ed Hill, it was discovered that the current water commission suffices that requirement. He stated there are lots of requirements for what needs to be done, and there are lots of things that must be done on the County side. He stated within those requirements, the County needs to create a drought plan. He stated also within the measurements, the County will need to consider interim and long-term proposals. He stated there are five items which are: provide for consolidation of existing water systems and domestic wells, have domestic well drinking water litigation programs, provisions of emergency and interim drinking water solutions, full analysis of steps necessary to implement the actual plan that is developed, as well as an analysis of the local, state, and federal funding sources available to implement the plan. He explained that he assumes any plan is going to have some sort of financial impact. He stated this is a broad overview, but he wanted to make sure it was on the Commission's radar. He will be checking in periodically and making sure that things are in compliance, and in case things are needed from him or vice versa.

**2. Discussion** – Commissioner Rogers asked if Mr. Boyett will be available to provide some of the service to get those items completed. Mr. Boyett explained that all of the mentioned items are to be completed by the committee, but he will be available to assist where he can. Commissioner Rogers explained he doesn't recall the Commission ever being delegated with a task like this. Mr. Kinney explained SB552 allows the County to either establish a taskforce or go with a plan. He stated if the County goes with a plan, it would be brought before the Commission for review and consideration before being adopted by the Board and the Commission would be able to give direction to the Board. He stated the plan would outline the specifics of what is available to the community, most importantly the

domestic wells. He stated it would outline the emergency services that can be done, how they can reduce their water consumption, and what financial resources are available. He stated he anticipates this item coming back to the Commission with a plan and likely included in the emergency operation plan. He stated as far as coordination of services, LAFCo (Local Agency Formation Commission) has been entertaining and completing extensions of services to individuals that need additional capacity. He provided the example of a septic system that failed and now the city is providing sewer services to them. He stated there have been wells go dry where it's more reasonable for the individual to connect to the city services rather than redrill a new well. He stated he believed that this is encouraged by the City as well as the County to try and limit the number of "straws" going into the ground and utilizing the community services which are more adapt at providing those services. Supervisor Joe Neves, as an audience member, stated there have been a few projects, such as a trailer park in Lemoore, that have been able to go through the LAFCo process and receive extensions. He stated there is a format for this process but there are limitations to what the extensions can be, and the Municipal Service Review outlines the areas that can be helped. He stated there have been some completed in Corcoran and Stratford. Mr. Kinney stated there have also been some completed in Lemoore and Hanford.

Commissioner Brown asked Mr. Boyett how many of these non-transient, non-community water systems is he looking at in the County. Mr. Boyett stated he would have to look into the actual definition of that and is unsure of the exact number. An audience member explained there have been quite a few cleaned up.

Commissioner Rogers asked who the contact person is when someone needs help. Mr. Kinney explained those usually come to his office. Commissioner Rogers requested Mr. Boyett's contact information. Mr. Kinney stated he would send that information to the Commission.

### **C. Executive Order N-7-22 Update – Sean Cash, Kings County – Office of County Counsel**

**1. Presentation** – Mr. Cash stated that Part 9 of the executive order, which involved permitting wells, was the focus. He explained this part states when the County can permit new wells. He explained the requirements and that the Governor put well permitting on hold throughout most of the State. He discussed the landowner attestation form, which must be completed with well permit applications and then goes to the County Recorder's office to be recorded against the property. He stated this process allows verification of compliance. He stated alteration, as he understood the definition, is digging a new well or making a well deeper, and that repairs and maintenance are not an alteration. Mr. Kinney explained the change was not without some challenge. He stated each Groundwater Sustainability agency (GSA) is different, and he has been working with the GSAs to understand what's preferred. He stated some GSAs prefer the individual comes to them while others prefer the individual to provide all the information to the County and then the County send the information to the GSA. He discussed working with each GSA to adapt, try to meet their needs, and to make this process as smooth as possible.

**2. Discussion** – Mr. Reynolds asked if someone needs to replace a pump that went out, would there be an issue with that process. Mr. Cash explained there would be no issue. Mr. Kinney stated the adjustment is in addition to completing the application for the well permit, completing the attestation form stating that the individual will be in compliance with the GSP (groundwater sustainability plan), have it recorded at the Recorder's Office, and get a verification from the GSP that it's not going to be a negative impact to their plan.

Commissioner Reynolds inquired what would be required of the Commission if they are the taskforce. Mr. Kinney explained that the County was just making the Commission aware since it deals with water.

**D. Groundwater Export Policy Update** – Matthew Boyett, Kings County – Administration

**1. Presentation** – Mr. Boyett stated how the groundwater ordinance came to be. He explained a meeting was held and there were varying factors that arose, and therefore the decision was made to wait in order to not be a hinderance to the GSAs. He stated they were scheduled to reconvene in August due to GSPs being due July. He stated he’s reviewed other draft GSPs, but they all predate SGMA (Sustainable Groundwater Management Act). He stated time is being allowed for GSPs to be completed and to hopefully get more substantial feedback.

**2. Discussion** – Mr. Cash stated one thing that came up in the meeting was how much is the county going to be involved. He stated one option was for the County to work with GSAs to figure out what the GSAs’ needs are. He stated he’s hoping for feedback as to how the County can best support the GSAs.

**MISCELLANEOUS**

- A. Future Agenda Items** – Mr. Cash stated he may have an update on groundwater ordinance next meeting.
- B. Member Comments** – Commissioner Brown asked if the GSAs could speak about how the GSP went at the next meeting. Dennis Mills was recommended to speak.
- C. Staff Comments** – Mr. Kinney announced Terri Yarbrough’s retirement and introduced Chanda Jackson as the new Executive Secretary.
- C. Correspondence** – None

**ADJOURNMENT**

A special meeting of the Water Commission is scheduled for Monday, August 22, 2022. The meeting was adjourned at 6:03 pm.

Respectfully submitted  
KINGS COUNTY WATER COMMISSION



Chuck Kinney, Secretary

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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE ADDING CHAPTER 14C, GOVERNING THE  
EXTRACTION OF GROUNDWATER FOR USE OUTSIDE OF KINGS  
COUNTY, TO THE KINGS COUNTY CODE OF ORDINANCES,

The Board of Supervisors of the County of Kings, State of California,  
hereby ordains as follows:

SECTION 1: Findings and Declarations.

The Board of Supervisors makes the following findings and declarations in  
support of the enactment of this Ordinance:

A. Groundwater underlying Kings County has historically provided the  
people and lands of Kings County with water for agricultural, domestic, municipal  
and other purposes that are likely to increase in importance in the future.

B. Most municipal water users in Kings County depend on groundwater  
for their domestic water supply.

C. Much of the County's farm production depends upon the use of  
groundwater to produce crops and support food animals, which significantly  
contribute to the gross value of agricultural production in the County. The estimated  
annual gross value of agricultural production in Kings County in 2021 was \$2.34  
billion.

D. The federally-recognized Tachi-Yokut Tribe, located at the Santa  
Rosa Rancheria within Kings County, depends on groundwater for its domestic and  
other uses.

E. The groundwater of Kings County is a primary source of the water  
supplying the U.S. Naval Air Station—Lemoore, an installation crucial to  
supporting the United States Navy's Pacific Fleet, and therefore critical to national  
defense.

F. The principle of correlative rights, developed in California case law,  
provides that water may be appropriated from a groundwater basin only if the  
groundwater supply is surplus and exceeds the reasonable and beneficial needs of  
overlying users.

G. The Board is aware of adverse consequences suffered both in Kings  
County and in neighboring counties that have engaged in excessive extraction of

groundwater. These consequences include, but not limited to, land subsidence, damage to the local environment, critical overdraft of local groundwater basins, and increased cost of groundwater production for local use.

H. The groundwater basins underlying Kings County are significant water resources that must be managed for the benefit of the public trust, and must be conserved for the reasonable and beneficial use of all potential users, avoiding their waste and unreasonable use. It is essential for these purposes, and for the public benefit of the County and State, that the groundwater resources of Kings County be protected from harm resulting from the excessive extraction of groundwater for use outside the basins from which it was extracted.

I. Section 7 of Article XI of the California State Constitution states that Kings County may make and enforce within its limits local ordinances and regulations not in conflict with general laws of the state.

J. The Sustainable Groundwater Management Act, passed by the California Legislature in 2014, does not deprive the County from authority to regulate groundwater and expressly provides that its provisions are in addition to, and not a limitation on, the authority granted to a local agency under any other law.

K. Kings County has a right and duty to govern the management and extraction of groundwater resources within its jurisdiction in order to protect the health, welfare, and safety of the residents of the County.

L. It is in the best interest of all residents and water users within Kings County that the County's groundwater resources be governed at the local level to the greatest extent practicable and allowable under the law.

SECTION 2: The Kings County Code of Ordinances is hereby amended by adding Chapter 14C, which is attached to and fully incorporated into this Ordinance.

SECTION 3: Until such time as the Board of Supervisors by resolution delegates the role to another County department or agency, the Kings County Community Development Agency shall assume the role of County Water Agency, as defined in the attached Chapter 14C.

SECTION 4: Until such time as the Water Resources Oversight Commission established by Ordinance No. \_\_\_\_\_ is fully implemented, the Kings County Planning Commission shall act in the role of Water Resources Oversight Commission for purposes of this Ordinance.

SECTION 5: This Ordinance becomes effective thirty days after its adoption.

The foregoing ordinance was introduced at a meeting of this Board of Supervisors of the County of Kings held on \_\_\_\_\_, 2022, and adopted at a meeting held on \_\_\_\_\_, 2022, by the following vote:

AYES: Supervisors  
NOES: Supervisors  
ABSENT: Supervisors  
ABSTAIN: Supervisors

\_\_\_\_\_  
Chairperson of the Board of Supervisors  
County of Kings, State of California

WITNESS my hand and seal of said Board of Supervisors this \_\_\_\_ day of November, 2022.

\_\_\_\_\_  
Clerk of said Board of Supervisors

CHAPTER 14C—Extraction of Groundwater for Export Outside of Kings County

ARTICLE I. GENERAL PROVISIONS

SECTION 14C-1. Title

This chapter shall be known as, and may be referred to as, the Kings County Groundwater Export Ordinance.

SECTION 14C-2. Application of the Sustainable Groundwater Management Act to this chapter

A. This chapter is enacted in addition to, and not a limitation on, the authority granted to any GSA or other special districts established for or otherwise engaged in the acquisition, storage, conveyance, or provision of water to the people of Kings County. No permit issued under this chapter shall prevent a GSA from requiring more restrictive limitations on groundwater extractions in their management area through its GSP.

B. The County may rely on findings by a GSA located all or partially within Kings County concerning the extraction of groundwater from within their jurisdiction as evidence that this chapter has been violated.

SECTION 14C-3. Terms defined

A. The following terms shall have the same meaning as in Section 10721 of the California Water Code:

1. Basin
2. Groundwater Sustainability Agency (GSA)
3. Groundwater Sustainability Plan (GSP)
4. Undesirable Result
5. Water Year

B. The following terms shall have the same meaning as those found in Section 10752 of the California Water Code:

1. Groundwater management plan (GMP)

C. The following terms shall have the same meaning as those found in Section 37900 of the California Water Code:<sup>i</sup>

1. Aquifer
2. Conjunctive use
3. Extraction
4. Overdraft

D. The following terms shall have the same meaning as in the United States Geological Survey (USGS) Dictionary of Water Terms:

1. Percolation
2. Permeability
3. Piezometric/potentiometric surface
4. Porosity
5. Subsidence
6. Transmissibility
7. Water Table
8. Yield

E. The following definitions shall apply to this chapter:

1. “Applicant” means a person or entity applying for a permit under the provisions of this chapter.
2. “Board” means the Kings County Board of Supervisors.
3. “CEQA” means the California Environmental Quality Act, Division 13 (§§21000-21189.70.10) of the California Public Resources Code, and includes any State rules or regulations promulgated under it and any case law interpreting it.
4. “Clerk” means the Clerk of the Board of Supervisors
5. “Commission” means the Kings County Water Resources Oversight Commission.
6. “County” means the County of Kings.

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<sup>i</sup> By incorporating these definitions, the Board does not intend to incorporate into this Chapter any portion of Part 8.2 of Division 13 of the California Water Code beyond the definitions specifically identified in this section.

7. “County Water Agency” means the agency or department designated by the Board to have primary enforcement authority of the provisions of this chapter.
8. “Director” means the Director of the County Water Agency, or their designee.
9. “Export” means the transportation of groundwater from within Kings County to any location outside of the county by pipe, canal, stream, river, or other conveyance method.
10. “Groundwater Management Act” means Part 2.75 of Division 6 (§§10750-10755.4) of the California Water Code, and includes any State rules or regulations promulgated under it and any case law interpreting it.
11. “Historical practices” means the consistent or predominant practice of an Applicant or local agency within seven years preceding the operative date of this chapter.
12. “Hydraulic gradient” means the difference in hydraulic head at two points, divided by the distance between the points measured along the path of flow.
13. “Hydrology” means the origin, distribution, and circulation of water through precipitation, stream flow, infiltration, groundwater storage, and evaporation.
14. “Local agency” means any public agency, including an incorporated city, wholly or in part located within the boundaries of Kings County, which is a purveyor of waters for agricultural, domestic, or municipal use.
15. “Recharge” and “groundwater recharge” both mean flow to groundwater storage from precipitation, irrigation, infiltration from streams, spreading basins and other sources of water including recycled water.
16. “Safe yield” and “sustainable yield” both mean the maximum quantity of water, which can be withdrawn annually from a groundwater supply under a given set of conditions without causing overdraft or adverse water quality conditions.

Specifically safe yield is the amount of water which can be withdrawn without:

- a. Exceeding in any water year the long-term mean annual water supply of the basin (considering all sources of recharge and withdrawal);
  - b. Lowering water levels so as to make further drilling of water wells uneconomical;
  - c. Violating water rights or restrictions in pumpage in the groundwater basin as established by court adjudication or applications of state or federal law, including any GSP;
  - d. Producing other environmental damage.
17. “Specific capacity” means the volume of water pumped from a well in gallons per minute per foot of drawdown.
  18. “Spreading water” means discharging water to a permeable area for the purpose of allowing it to percolate to the zone of saturation. Spreading, artificial recharge and replenishment all refer to operations used to place water in a groundwater table.
  19. “Sustainable Groundwater Management Act” and “SGMA” mean the Sustainable Groundwater Management Act of 2014, as codified in Part 2.74 of Division 6 (§§10720-10737.8) of the California Water Code, and includes any State rules or regulations promulgated under it and any case law interpreting it.
  20. “Tailwater” means water running off the lower end of a field as part of normal irrigation practices.
  21. “Usable storage capacity” means the quantity of groundwater of acceptable quality that can be economically withdrawn from storage.
  22. “Water Well Drillers’ Report” means the report required by Section 13751 of the California Water Code.

23. “Zone of saturation” means the area below the water table in which the soil is completely saturated with groundwater.

SECTIONS 14C-4 – 14C-9 Reserved

ARTICLE II. PERMIT REQUIRED FOR EXPORT OF GROUNDWATER OUTSIDE OF COUNTY

SECTION 14C-10. Prohibition against export of groundwater without a permit

A. It is unlawful to extract groundwater underlying lands in Kings County for export of that groundwater outside of Kings County, either directly or indirectly, without first obtaining a permit as provided in this chapter.

B. For purposes of this section, the following are considered an extraction of groundwater subject to this chapter:

1. The extraction of groundwater to replace a surface water supply which has been, is being, or will be exported.
2. Overwatering agricultural or other lands, through flood irrigation or other means, that causes an excessive conversion of groundwater into tailwater.

ARTICLE III. EXCEPTIONS TO PERMIT REQUIREMENTS

SECTION 14C-11. Party’s burden to support claim of exception

The party claiming that a permit is not required based on one or more of the exceptions provided for in this Article shall have the burden of supporting its claim by a preponderance of the evidence.

SECTION 14C-12. Exclusions from permit requirements.

This chapter shall not apply to the extraction of groundwater in the following circumstances:

- A. When necessary to prevent the flood of lands.
- B. When necessary to prevent saturation of the root zone of planted agricultural land.



C. For use within the boundaries of a local agency located in part within the County and in part in another county where the extraction quantities and uses are consistent with the historical practices of the local agency.

D. To boost heads for portions of local agency facilities, consistent with the historical practices of the local agency.

E. For use on land outside the County which is contiguous to the land within the County from which the groundwater is extracted and under the same ownership, including leaseholds and other present possessory interests. Such export shall be limited to quantities and uses that are consistent with historical practices and shall not be used to benefit land more than ten miles beyond the point of extraction.

F. During the period of an emergency declared pursuant to Government Code Section 8558, when the extraction is:

1. Directly related to the reason or basis for the declaration of the emergency, and
2. Undertaken to prevent or mitigate injury to people, or the flooding or damaging of property.

G. Extractions from within land owned by the United States government for its own benefit.

H. Extraction from within land, title to which is held by the United States in trust for a federally recognized tribe, and made for the benefit of that tribe on such land.

I. Exports of water that the County lacks the legal authority or jurisdiction to regulate. Overlapping or concurrent jurisdiction with another public agency, including a GSA, shall not on its own preempt County's legal authority to regulate absent additional considerations.

#### SECTION 14C-13. Activities not defined as export of groundwater

The following shall not constitute "export", as that term is defined in Article I of this chapter:

A. The transport by vehicle of potable bottled water for human consumption.

B. The transport of water in the form of manufactured or processed goods or products, including agricultural products.

C. Water in any fire engine, tender, or other firefighting vehicle or apparatus, stored in that vehicle or apparatus for the purpose of use in firefighting activities.

SECTIONS 14C-14 – 14C-20 Reserved

ARTICLE IV. PROCEDURE FOR ACQUIRING USE PERMIT

SECTION 14C-21. Application for a export permit.

A. An application for a use permit is to be filed with the County Water Agency. No application shall be considered complete that does not include all information specifically requested therein and any other information that may be requested by the County Water Agency to address specific aspects of the proposed groundwater export, including but not limited to:

1. Location, maximum extraction rate, depth, and all other information required in the Water Well Drillers' Report of each well owned by the extractor, including observation and monitoring wells.
2. Location, planned monthly extraction rate, and depth of each well proposed for operations.
3. Delineation of the time periods within the applicable groundwater basin in which each well is proposed for operation.
4. Description of the adverse environmental effects of the extraction, by individual well, groups of wells (if applicable), and by the extractor's entire operation.
5. Description of any proposed or feasible uses designed to mitigate any adverse environmental effects of the extraction.
6. Intended beneficial uses of the extracted groundwater and related surface supplies, by individual well, groups of wells (if applicable), and by the extractor's entire operation.

7. Description by quantification and location of each end use of the needs of the extractor which the extraction is designed to meet.
8. Description of alternatives available to the extractor to meet the needs for which the extraction is proposed, including any available types and amounts of water conservation.
9. Description of proposed measures to ensure compliance with any applicable GSP.

B. Concurrently, the Applicant shall consent to the commencement and financing of environmental review as may be required by CEQA and applicable guidelines. The application for a permit and required environmental review shall be accompanied by the deposit of fees for these purposes, as shall be established by the Board.

#### SECTION 14C-22. Procedures for processing export permits

A. Within thirty (30) calendar days of filing of a complete permit application, which shall include all information and the deposit of fees required by Section 14C-21, the Director shall send notice to all local agencies within the County that have jurisdiction over lands overlying or adjacent to the location of the proposed extraction, and to any interested party who has made a written request to the Director for such notice within the last twelve calendar months, seeking written comments.

B. The Director shall review the application to determine whether it is complete and, if required, shall thereafter commence CEQA environmental review. Applicant shall be responsible for all costs associated with environmental review.

C. The Director may review the matter of the application with affected County departments, staff of the State Department of Water Resources, staff of the Regional Water Quality Board - Central Valley Region, and any GSA or other interested local water agency within whose boundary the proposed activity is proposed to occur. Any interested person or agency may provide written comments relevant to the matter of the proposed extraction of groundwater, which shall be submitted within thirty days of the date of the notice of filing the permit application.

D. Upon completion of the required environmental review the Director shall forward the application, together with any written comments received, environmental documentation, and the Director's recommendations, to the Commission. Upon receipt of the Director's recommendations, the Commission

shall hold a public hearing on each application. Notice of the public hearing shall be given as set forth in Section 1903 of the Kings County Development Code. Such hearing may not be held until at least fifteen days after the time that the Commission receives the recommendation from the Director.

SECTION 14C-23. Public review concerning issuance of permit.

A. Formal rules of evidence shall not apply in the Commission's public hearing proceeding for the application, but the Commission may establish such rules as will enable the expeditious presentation of the matter and receipt of relevant information thereto.

At the Commission's public hearing, which may be continued from time to time as determined appropriate by the Commission, the Commission shall review the application and other evidence submitted therewith and the Director's report, and shall receive pertinent evidence from the Applicant, members of the public, and interested parties, concerning the proposed extraction.

B. The Commission, in considering each permit application, shall consider all potential impacts the proposed export would have on the affected aquifer, including but not limited to:

1. Potential hydraulic gradient
2. Hydrology
3. Percolation
4. Permeability
5. Piezometric surface
6. Porosity
7. Recharge
8. Annual yield
9. Specific capacity
10. Spreading waters
11. Transmissivity
12. Usable storage capacity
13. Water table
14. Zone of saturation impacts.

C. The Commission may request any additional information it deems necessary for its decision. The cost of such additional information shall be borne by the Applicant.

D. If the groundwater to be extracted is under the concurrent jurisdiction of a GSA, the Commission may, but is not required to, rely on any findings, opinions, or decisions of the GSA.

SECTION 14C-24. Findings required for granting of permit approval or denial.

A. The permit may only be granted if there is a majority of the total membership of the Commission present at the required public hearing, and at the conclusion of that hearing a majority of the total membership of the Commission finds that the proposed groundwater extraction will not have significant detrimental impacts on the affected groundwater basin by determining that:

1. The proposed extraction will not cause or increase an overdraft of the groundwater underlying the County without adequate mitigation;
2. The proposed extraction will not adversely affect the long-term ability for storage or transmission of groundwater within the aquifer;
3. The proposed extraction will not exceed the annual yield of the groundwater underlying the County and will not otherwise operate to the injury of the reasonable and beneficial uses of overlying groundwater users;
4. The proposed extraction will not result in an injury to a water replenishment, storage or restoration project operating in accordance with statutory authorization;
5. The proposed extraction is in compliance with Water Code Sections 1810 and 1220, as well as any applicable GSP;
6. The proposed extraction will not result in any undesirable results under SGMA; and
7. The proposed extraction will not be otherwise detrimental to the health, safety and welfare of property owners overlying or in the vicinity of the proposed extraction site(s).

B. If the Commission determines that one or more of the findings required by this section cannot be made, upon considering the proposed export together with potential conditions of permit issuance, it shall deny the permit application. The basis for any such denial shall be reflected in the Commission's official record of proceedings.

C. The Applicant shall be notified in writing of the Commission's decision on the application, including the basis for denial where applicable, within fifteen days of the Commission's final action on the application.

#### SECTION 14C-25. Appeal of granting of a permit.

A. Any interested party or public entity may appeal the decision of the Commission by filing a written request with the Clerk within fifteen days of issuance of the Commission's decision. Any such appeal shall specifically set forth the procedural and substantive reasons for the appeal or be deemed incomplete and ineffectual. The Board shall hear all appeals as to those disputed matters which were heard by the Commission.

B. Within fifteen days after receiving an appeal, the Clerk shall set a hearing not more than thirty days from receipt of the appeal. The Clerk shall give written notice of the hearing to:

1. The Commission,
2. The Applicant,
3. Any appellant other than the Applicant,
4. The County Water Agency
5. The districts and cities, within the County, which have lands overlying or immediately adjacent to the location of the proposed extraction of groundwater, and
6. Interested parties who have requested notice of such appeals within the last twelve months.

C. In any appeal taken under this section, the Applicant shall have the burden of proving to the satisfaction of the Board, that such extraction is either exempt from permit requirements pursuant to Article III or will not have significant detrimental impacts based on the criteria set forth in Section 14C-24.A.

D. The appeal before the Board shall not be conducted with formal rules of evidence but under such rules as set by the Board for the expeditious presentation of the matter and relevant information pertaining thereto by the appellant and by those opposed to the reversal of the Commission's decision. The decision of a majority of the Board shall be the final decision in the matter.

SECTION 14C-26. Review by the Board of Supervisors

A. Within fifteen days following the date of a decision by the Commission on an extraction permit, the Board, on its own motion, may initiate proceedings to review the decision of the Commission. The Board shall specify the reason(s) for its review. The review need not be limited to the issues and evidence raised before the Commission.

B. The Clerk shall give notice of the time and place when the decision of the Commission will be reviewed by the Board of Supervisors. Notice will be given in the same manner as provided in Section 1903 of the Kings County Development Code for notice of hearing on appeal.

SECTION 14C-27. Reapplication for permit after Board denial

Reapplication for a permit which has been denied by the Commission or Board may not be filed with the County Water Agency until the water year following the denial. For any such reapplication to be accepted as complete, and for it to be further reviewed in accordance with the procedures set forth in Article IV, it must be accompanied by information that demonstrates a significant change in those circumstances which represented the factual basis for the previous permit application denial.

SECTIONS 14C-28 – 14C-30 Reserved

ARTICLE V. CONTENTS OF APPROVED USE PERMITS

SECTION 14C-31. Permit term.

All approved permits shall be valid for a term not to exceed three water years from the date of issuance, as determined by the Commission, and except as may be modified pursuant to this chapter. For the purpose of calculation, the water year in which the permit is granted shall not be counted in determining the three-year time period if less than four months remain in the current water year at the time of final permit approval. This section shall not restrict the Commission from approving a permit for a period shorter than is permitted in Subsections A and B.

SECTION 14C-32. Conditions of permit approval.

The Commission shall impose appropriate conditions of approval on any permit issued as it deems necessary to promote or maintain the health, safety, and welfare of Kings County residents. Conditions may include, but shall not be limited to, requirements for observation and/or monitoring wells. The Commission may

issue a permit only if the Commission finds that the Applicant will provide adequate mitigation to offset all adverse effects that would otherwise result from the proposed extraction.

#### SECTION 14C-33. Limitation of permit.

A. Nothing contained in this chapter, nor in the conditions of an issued permit, shall be construed as giving the permittee an exclusive right to groundwater extraction, nor as establishing a compensable right in the event the permit is subsequently terminated or modified following a challenge to the permit.

B. This Ordinance and permits issued hereunder are to be construed and applied in harmony with existing law. No permit issued shall exempt, supersede, or replace any provisions of federal, state, or local laws and regulations, including but not limited to California Water Code Section 1220, SGMA, and any other statutes regulating California groundwater, well drilling and maintenance, or building permit requirements.

#### SECTIONS 14C-34 – 14C-38 Reserved

### ARTICLE VI. CHALLENGES TO APPROVED PERMITS

#### SECTION 14C-39. Challenge to approved permit.

A. Any interested party may challenge the ongoing extraction of groundwater pursuant to an approved permit during the term of the permit based on allegations that one or more of the following circumstances exists:

1. There has been or is an ongoing violation of one or more conditions of an approved permit; or
2. The extraction of groundwater pursuant to this chapter has caused or increased an overdraft in the basin; has adversely affected the long-term ability for storage or transmission of groundwater in the affected aquifer; exceeds the annual yield of the affected groundwater basin; operates to the injury of the reasonable and beneficial uses of overlying groundwater users; is in violation of Water Code Section 1220; or results in an injury to a water replenishment, storage, or restoration project operating in accordance with statutory authorization; or



3. The continued extraction of groundwater pursuant to a previously approved permit will be detrimental to the health, safety, and welfare of one or more affected local agencies or other interested parties.

B. A challenge pursuant to this section shall be commenced by filing a written request with the County Water Agency on a form prescribed by the Director. Such a challenge shall allege one or more of the circumstances specified by this section and shall generally describe facts in support of those alleged circumstances.

C. The County Water Agency shall investigate the challenge to determine its validity.

1. If after the investigation the Director determines that the challenge is without merit, the Director shall give written notice to the permittee and the challenger of the Director's determination.
2. If the Director determines that the challenge is valid, the Director shall, within fifteen days of such determination give notice of the challenge to the Clerk, the permittee, the appellant, all affected local agencies, and to any other interested party which has requested such notice. A Board review shall be held on the matter following the procedures set out in Section 14C-23. The Board's decision may be to deny the challenge and leave the previously issued permit unchanged, to grant the challenge and terminate the permit, or to impose modified conditions to the permit, which the permittee shall be obligated to adhere to if continued extraction for export purposes is to occur, based on findings addressing the criteria specified in Section 14C-24.

E. The standard for review in any such challenge proceeding shall be substantial evidence. The burden of proof shall be upon the person or entity extracting the groundwater that is the subject of the challenge.

## ARTICLE VII. ENFORCEMENT

### SECTION 14C-40. Remedies are cumulative

All remedies provided in this chapter and elsewhere in this Code, including Section 1-8, are intended to be cumulative, rather than exclusive, with any other

remedy provided in law or equity available to the County, whether or not such remedy is expressed within this chapter.

#### SECTION 14C-41. Enforcement authority

The County Water Agency shall have primary enforcement authority over the provisions of this chapter.

#### SECTION 14C-42. Inspection.

The Director, with good cause, may at any and all reasonable times enter any and all places, property, enclosures and structures, for the purpose of making examinations and investigations to determine whether any provision of this chapter has been violated. The Director may if necessary obtain an inspection warrant pursuant to Section 14-39 of this Code to conduct such examinations.

#### SECTION 14C-43. Civil penalty

Upon determining that a violation of this chapter has occurred or is ongoing, the County may elect to proceed with a civil action against a violator, including, but not limited to, injunctive relief. Any person or entity who violates this chapter shall also be subject to fines of up to five thousand dollars per separate violation. A person shall be deemed to have committed separate violations for each and every day or portion thereof during which any such violation is committed, continued, or permitted, as well as for each and every separate groundwater well within which any such violation is committed, continued, or permitted.

#### SECTION 14C-44. Civil enforcement as a public nuisance.

All wells operated in violation of the terms of this chapter are hereby declared to be public nuisances which may be abated in accordance with Article IV of Chapter 14 of this Code of Ordinances. The property owner or his or her agent may abate any such public nuisance described hereinabove at any time prior to commencement of actual abatement by or at the direction of the compliance agency or the building official.

#### SECTIONS 14C-45 – 14C-50 Reserved

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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO DISSOLVE THE KINGS COUNTY  
WATER COMMISSION AND CREATE THE KINGS COUNTY  
WATER RESOURCES OVERSIGHT COMMISSION

The Board of Supervisors of the County of Kings ordains as follows:

SECTION 1: Findings and Declarations.

The Board of Supervisors makes the following findings and declarations in support of the enactment of this Ordinance:

A. The County of Kings is an agricultural community reliant on scarce water resources to support the health, safety, and welfare of its residents and the vitality of its economy.

B. The Board of Supervisors has maintained for more than 50 years a Kings County Water Commission as an advisory body to investigate and report on issues affecting water, including new legislation.

C. The Kings County Water Commission was established by Resolution 64-73 as amended by Resolution 94-057 and reestablished by Resolution 08-003 as amended by Resolution 08-003.1.

D. Over time, the County's water issues have become increasingly complex and numerous. The County finds it necessary to protect the health, safety and welfare of its residents and community by becoming actively involved in regulating the development, use, and conservation of water resources to the extent permitted by law.

E. To accomplish its purposes, the Board of Supervisors finds it necessary to dissolve the Kings County Water Commission as an advisory body and to establish a new body to which it may delegate regulatory authority, including the authority to issue certain permits; to participate in the establishment and implementation of the County's Standing Drought and Water Shortage Task Force pursuant to California Water Code section 10609.70; and to perform additional functions as the Board may delegate, including but not limited to drought and flood planning, development of water policy, and review of State and Federal legislation.

SECTION 2: Dissolution of Water Commission

The Kings County Water Commission is hereby dissolved. All records of the Kings County Water Commission shall be deposited for safekeeping and maintained by the Clerk of the Board of Supervisors.

SECTION 3: Creation of the Kings County Water Resources Oversight Commission.

A. Establishment

There is hereby created and established a Kings County Water Resources Oversight Commission.

B. Purpose and Function

The purposes and functions of the Commission shall be:

1. To exercise certain permitting and other regulatory authority as delegated by the Board;
2. To assist in the implementation of the County's Standing Drought and Water Shortage Task Force pursuant to Water Code section 10609.70;
3. To exercise additional authority as the Board may delegate from time to time, including without limitation, drought planning, flood planning and the development of County water policy;
4. To advise the County as requested concerning water issues impacting the County; and
5. To advise the County as requested concerning new and existing legislation.

C. Composition

The Commission shall consist of five voting members, to be appointed by the Board of Supervisors as follows:

1. Two Commissioners shall be either an employee of Kings County or selected from the community at large. Any

individual appointed from the community at large must be a resident of Kings County.

2. One Commissioner shall be the current city manager, director of public works, or director of community development for one of the County's incorporated cities, or other staff member of such department.
3. One Commissioner shall be a staff member or a current member of the board of directors of the Armona Community Services District, the Home Garden Community Services District, the Kettleman City Community Services District, or the Stratford Public Utilities District.
4. One Commissioner shall be a staff member or a current member of the board of directors of a water agency having jurisdictional boundaries within the County of Kings. For purposes of this provision, "water agency" means any local agency, other than a city, county, community services district, or public utility district, a primary function of which is the irrigation, reclamation, or drainage of land or the diversion, storage, management, or distribution of water primarily for domestic, municipal, agricultural, industrial, recreation, fish and wildlife enhancement, flood control, or power production purposes.

D. Term of office

The term of office for Commissioners shall commence on January 1 of odd-numbered years, and shall be for four years, except that the initial term of the Water Agency Member and the first appointed At-large Member shall be for two years.

Any Commissioner whose appointment requires employment, residency, or other official status shall serve only as long as the Commissioner continues to satisfy such requirements. Vacancies created under this provision shall be filled by the Board of Supervisors for the unexpired portion of the term.

Notwithstanding the above, all Commissioners serve at the will of the Board of Supervisors, and may be removed by a 4/5<sup>th</sup> vote of the Board as necessary to achieve the County's policies and objectives.

E. Officers

At the first meeting of each calendar year, the Commission shall elect a Chairperson, a Vice-Chairperson, and such other officers as in its discretion are necessary or prudent.

The Kings County Administrative Officer shall designate a Secretary for the Commission. The Secretary shall maintain all records and conduct correspondence of the Commission, prepare agendas, official documents, and resolutions, and give notice of meetings.

F. Staff

The Kings County Community Development Agency shall provide staff for the Commission. The County Administrative Officer, Department of Public Works, Assessor, and other County Departments shall provide information and services to the Commission from time to time when called upon by the Commission to do so.

The Commission may, upon receiving prior authorization from the Board, retain the services of consultants, advisers, or other professionals to assist in the performance of their duties. The Board of Supervisors shall provide legal counsel for the Commission through the County Counsel or through retained counsel.

G. Bylaws

The Commission shall adopt bylaws for its basic governance, which shall be presented to and approved by the Board of Supervisors, and shall adopt rules and regulations for the transaction of its business.

H. Meetings

The Commission shall hold regular meetings not less than once per quarter. Regular meetings shall be at the Kings County Government Center in Hanford, California, unless unusual or special circumstances warrant meeting elsewhere in the County. Special meetings may be called by the Board, the Chairperson, or by any two Commissioners. The Commission shall designate in its bylaws its rules of parliamentary procedure.

All Commission action shall be by a majority vote at a meeting of a quorum of its members, except when a greater majority is required by law or other authority. All meetings shall be governed by the Ralph M. Brown Act (Government Code §§54950 et seq.). The minutes, resolutions, transactions,



findings, reports, recommendations, and determinations of the Commission shall be a public record.

I. Compensation and Expenses of Commission Members

Any compensation and reimbursement for Commissioners shall be determined by future resolution of the Board of Supervisors.

SECTION 4: This Ordinance shall take effect and be in force thirty days after its adoption by the Board of Supervisors.

The foregoing ordinance was introduced at a meeting of this Board of Supervisors of the County of Kings held on \_\_\_\_\_, 2022, and adopted at a meeting held on \_\_\_\_\_, 2022, by the following vote:

AYES: Supervisors  
NOES: Supervisors  
ABSENT: Supervisors  
ABSTAIN: Supervisors

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Chairperson of the Board of Supervisors  
County of Kings, State of California

WITNESS my hand and seal of said Board of Supervisors this \_\_\_\_ day of November, 2022.

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Clerk of said Board of Supervisors