

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

SPECIAL MEETING

Monday, January 9, 2023, 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 November 28, 2022, Regular meeting - *Chairperson: call for motion, second and voice vote.*

II. OLD BUSINESS –

- A. Groundwater Export Ordinance**
 - 1. Discussion
 - 2. Recommendation (if desired)
- B. Water Resources Oversight Commission Formation Ordinance**
 - 1. Discussion
 - 2. Recommendation (if desired)

III. NEW BUSINESS

- C. Role of the Water Commission**
 - 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
Alvaro Preciado

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 5:02 p.m., on November 28, 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, Jim Verboon, Laura Brown, Roger Reynolds, Harold Reed, Sid Palmerin

COMMITTEE MEMBERS ABSENT: Eric Osterling, Alvaro Preciado

STAFF PRESENT: Chuck Kinney – Director, Sean Cash – County Counsel, Chanda Jackson – Executive Secretary, Alex Hernandez – Planner

VISITORS PRESENT: Scott Sills, Shawn Corley, Riley Jones, Chantal Ouellet, Dennis Mills, JJ Westra, Steve Jackson

UNSCHEDULED COMMENTS: None

APPROVAL OF MINUTES:

A motion was made and seconded (Brown/Newton) to approve the May 23, 2022 minutes as presented. Motion carried unanimously with Osterling and Preciado absent, and Verboon abstaining.

OLD BUSINESS: - None

NEW BUSINESS:

A. Groundwater Export Ordinance – Chairman Reynolds initiated discussion of the Groundwater Export Ordinance. He advised that the discussion would commence with the Committee members and then visitors present will have an opportunity to provide comments or feedback in regard to the ordinance. Each commissioner was provided an opportunity to speak concerning the ordinance along with providing professional opinion and any recommendations. Consensus amongst attendees was to “pause” and allow time for

stakeholders and Groundwater Sustainability Agencies (GSAs) to be more aware and involved.

Comments from members of the audience coincided with the views expressed by the commissioners and provided additional supportive factors for the topic of allowing the opportunity for input by stakeholders in the ordinance.

B. Water Resources Oversight Commission Formation Ordinance – Vice Chairman Brown read statements of the ordinance regarding the formation of the Water Resource Oversight Commission. Commissioner Palmerin inquired how balanced would the new commission be. Commissioner Razor inquired about permitting of new wells being mentioned in the ordinance. Mr. Cash discussed the Drought Taskforce as it relates to the ordinance and SB552. Mr. Mills provided feedback comparing the current Commission and the proposed Commission as well as the overlapping of duties between GSAs and the proposed Commission. Mr. Cash and Vice Chairman Brown continued discussion of SB552 and how other counties were implementing the policy. Discussion took place between commissioners and the audience about misinformation pertaining to the Commission not meeting for more than a few years.

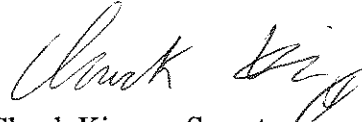
A motion was made and seconded (Razor/Brown) to make a recommendation to the Board of Supervisors to delay adoption of the Groundwater Export Ordinance and the Water Resources Oversight Commission Formation Ordinance to provide additional time for stakeholder involvement in the ordinances. Motion carried unanimously with Osterling and Preciado absent.

MISCELLANEOUS

- A. **Future Agenda Items** – Commissioner Brown mentioned the standing item regarding SGMA updates.
- B. **Member Comments** – Commissioner Verboon suggested conducting a study for ideas to preserve groundwater.
- C. **Staff Comments** – None
- D. **Correspondence** – None

Next regular meeting of the Water Commission is scheduled for Monday, February 27, 2023. The meeting was adjourned at 6:09 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:ⁱ

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.

ⁱ 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, extraction of groundwater also includes, but is not limited to:

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

**MID-KINGS RIVER
GROUNDWATER
SUSTAINABILITY
AGENCY**



**RE: GROUNDWATER EXPORT & WATER RESOURCE
OVERSIGHT COMMISSION ORDINANCE COMMENTS**

County of Kings
City of Hanford
Kings County
Water District

Dear Board of Supervisors:

Barry McCutcheon
Chair
Michael Murray
Vice-Chair
Diane Sharp
Steven P. Dias
Dennis Mills
Secretary

200 North Campus Dr.
Hanford, CA 93230
Phone: (559) 584-6412
Fax: (559) 584-6882

I hope this letter finds you well. Please consider this correspondence on behalf of Mid-Kings River (MKR) Groundwater Sustainability Agency (GSA) in response to the proposed Kings County Ordinance to dissolve the Water Commission and enact a Groundwater Exportation Ordinance. We understand from the November 8th Board of Supervisor meeting that the first readings of the “Groundwater Export Ordinance” (Ordinance) and the “Water Resources Oversight Commission Formation Ordinance” (WROC) were waived and the process continued to the second reading schedule for November 29, 2022. The following is a list of topics from both the Ordinance and the WROC that are very concerning to the MKR GSA. This is provided as written comment for your consideration at the public hearing.

1. Local GSAs – The Ordinance has very little description of how the County’s groundwater management efforts would be coordinated with local GSAs or whether those efforts are compliant with existing Groundwater Sustainability Plans (GSPs).
2. “Health, welfare and safety” – The Ordinance references the County’s purpose as being “to protect the health, welfare, and safety of the residents of the County”. In other arenas the County oversees compliance with flood zones, traffic requirements, building permits, grading plans or requirements to use qualified contractors for well development. However, the GSA is not aware of the County exerting their authority “to protect health, welfare, and safety” in the realm of groundwater. Given the stated goal, the MKR GSA would recommend connecting observable impacts from export pumping on nearby landowners to justify the restriction. Also, if a complaint was received about impacts from pumping, then it would also make sense to get the local GSA involved at that point.
3. Comingled Supplies – It is unclear how the County/staff/WROC would investigate a situation where groundwater was pumped into a conveyance or storage system where the groundwater was comingled with other supplies like surface water, banked water or recycled/treated groundwater. Once the supplies are comingled, it is not possible to track the molecules of water to determine where the groundwater went versus the surface water.
4. Investigation Authority – The Ordinance appears to suggest the County has the authority to search local landowner’s properties and businesses during a staff or WROC investigation. The MKR GSA understands that County staff could only investigate from public lands unless a

GW Export Ordinance and WROC Ordinance – Concerns & Comments

warrant was obtained or a landowner agreed to provide access and records. And if the public lands investigation was inconclusive, it would seem the WROC would not have justification to issue any related penalties.

5. Defense Information – It is unclear how any landowner would defend themselves against an accusation of exporting groundwater. The Ordinance appears to suggest that it will be possible to investigate potential groundwater export complaints even though volumetric groundwater pumping amounts may not be available and the County does not have access to crop ET evaluations from local fields or groundwater level monitoring information either.
6. What is/isn't restricted – The Ordinance uses inclusive lists of restricted actions and also states a caveat that anything beyond the County's jurisdiction won't be regulated. Given that this is the County's first regulation/ordinance of this kind, the MKR GSA suggests the use of exclusive lists and specific examples of what is to be regulated in order to improve landowner understanding.
7. Unlawful Presumption
 - a. *"All" Groundwater Exports* – The Ordinance appears to state that all groundwater exports from the County are "unlawful", and that all exports are required to obtain County permits. This tends to beg the question, why is there no minimum amount that is acceptable when there are significant groundwater supplies that are imported into Kings County?
 - b. *Exceptions* – The MKR GSA understands from reading the Ordinance that all exports, even exceptions, are required to obtain County permits and be considered by the WROC. The MKR GSA would suggest that exceptions to this process be made clearer and more substantive so that parties like landowners along the border of the County could rely on them without going through an unneeded evaluation, defense before the WROC and development of a permit.
 - c. *GSA Management* – The Ordinance does not seem to envision that GSAs are developing groundwater management programs that address declining groundwater levels by 2040, as required in SGMA. It is unclear how any of these programs/projects/policies would relate to the Ordinance. One clear example would seem to be that the Tri-County Water Authority and Greater Kaweah GSA are existing GSAs that have service areas in multiple counties. Another clear example would be that the Greater Kaweah GSA is implementing a pumping cap this water year for the first time. From my understanding of the policies approved by the Greater Kaweah GSA in September, some of these policies would be in conflict with the proposed Ordinance.
8. Impact Identification – Given that correlative groundwater rights, involved in local groundwater aquifers, extend far beyond the County boundary, the County needs to be conscious that its Ordinance could restrict an owner's use of existing groundwater rights.
9. Other Counties – Parties within Kings County have a long history of importing a significant amount of groundwater from adjacent Counties. Based on the Tulare Lake Subbasin Annual Reports, imports from other counties in some years exceed 50,000 acre-feet. Even given the exceptions included in the Ordinance, it appears that if adjacent Counties adopted identical

GW Export Ordinance and WROC Ordinance – Concerns & Comments

ordinances, those imports would be restricted to such an extent as to negatively impact some landowners in Kings County.


10. Carryover – There is no surface water developed in Kings County, yet the Ordinance is not clear as to whether a party that carried surface water over, into a coming Water Year, in a reservoir outside of the County (i.e. Pine Flat – Fresno Co, Terminus – Tulare Co, Success – Tulare Co, San Luis - Merced Co), would be “exporting” surface water. The MKR GSA views that this should be clearly listed in the exceptions.
11. Water Deals – The Ordinance appears to envision a fairly lengthy timeframe from submittal to the WROC, investigation, consideration and an eventual vote by the Board of Supervisors. In terms of surface water deals by local agencies and ditch companies, this timeframe is far too long. The process would also be public, which would work against a party’s ability to successfully negotiate terms.
12. Surface Water Obligation – The Ordinance appears to restrict landowners with access to surface water and makes their use of surface water a new obligation. The MKR GSA is concerned that the County does not have the authority to connect the continued use of surface water use with groundwater pumping restrictions. Just for reference, SGMA does not provide any jurisdiction over surface water to GSAs, so all SGMA compliance through GSAs is only related to groundwater usage.
13. Agency Water – The Ordinance appears to try to restrict the groundwater use of individuals that export surface water. However, it is unclear how the Ordinance would be applied when surface water is controlled, or the rights are held by, an agency and what impacts a perceived export would have on landowners in the agency’s service area. Also, the Ordinance appears to be silent on any period of consideration. Many water deals involve delivery of water in the current year, and a repayment of water in a coming year.
14. Budget Impact – The Ordinance claims to authorize the development of a new County “agency” or department, and to authorize staff to investigate matters of interest. However, there is no statement of anticipated impact to the County’s fiscal budget. Given what is described, there would appear to be new staff necessary and other related expenses that should be considered with the Ordinance language.
15. WROC Qualifications – The Ordinance requires the WROC to consider a list of technical matters in Section 14C-23, B. These technical matters appear to require a professional registration in the State of California as well as a local understanding of groundwater conditions throughout the County. Generally this list would seem to require WROC members to be Civil Engineers, Geotechnical Engineers, Certified Hydrogeologist or other similarly qualified professionals. The budget impact associated with contracting for professional services for the WROC should be considered with the WROC language.

The MKR GSA has developed this list of concerns for the Groundwater Export Ordinance and the Water Resource Oversight Committee Ordinance in the hopes that the Board of Supervisors will consider having both ordinances revised before they are considered again. It is

GW Export Ordinance and WROC Ordinance – Concerns & Comments

clear the Supervisors believe that there is a significant need to address this matter, but the MKR GSA hopes that the Supervisors would attempt to make both ordinances more easily understood and more implementable. Thank you for your attention to these concerns. Should you have any questions or concerns regarding the above, please do not hesitate to contact me directly.

Sincerely,



Dennis Mills, General Manager
Mid-Kings River Groundwater Sustainability Agency

Cc: Ray Carlson, Attorney
Jeof Wyrick, El Rico GSA
Amer Hussain, TLS Point of Contact
Deanna Jackson, Tri-County Water Authority
Charlotte Gallock, South Fork Kings GSA
Don Mills, Greater Kaweah GSA

From: [David Merritt](#)
To: [BOS Questions](#)
Cc: [Boyett, Matthew](#)
Subject: FW: June Check-In Before August Meeting
Date: Tuesday, November 22, 2022 4:19:18 PM
Attachments: [image001.png](#)

Please include the below as comments on the upcoming hearing concerning the proposed Groundwater Ordinance –

Thank you –

David M. Merritt

General Manager

Kings River Conservation District

4886 East Jensen Avenue

Fresno, CA 93725

559.237.5567 ext. 111

559.476.0538 - cell

dmerritt@krcd.org

From: David Merritt

Sent: Tuesday, November 22, 2022 8:11 AM

To: Boyett, Matthew <Matthew.Boyett@co.kings.ca.us>; Hill, Edward <Edward.Hill@co.kings.ca.us>; Freeman, Diane <Diane.Freeman@co.kings.ca.us>; Cash, Sean <Sean.Cash@co.kings.ca.us>; Neves, Joe <Joe.Neves@co.kings.ca.us>; Verboon, Doug <Doug.Verboon@co.kings.ca.us>

Cc: Antonio Solorio <asolorio@wwd.ca.gov>; Eric Osterling <eosterling@greaterkaweahgsa.org>; Dennis Mills <dennis.kingscwg@outlook.com>; Charlotte Gallock <cgallock@krcd.org>; djackson@tcwater.org; munruh@jgboswell.com; jwyrick@jgboswell.com; kcampbell@wwd.ca.gov

Subject: RE: June Check-In Before August Meeting

Good morning, Matthew –

I would like to suggest Kings County delay the Groundwater Ordinance that is currently being heard by the Board of Supervisors and allow the below process to continue. Several agencies were caught off by this current reading and have not had the time to review. In addition, the next hearing date falls during the ACWA Conference in Southern California and several of the water agencies will not be able to participate in the next hearing as a result.

Again, I thought the goal was for the county to collaborate with all GSA's overlying Kings County to develop a framework for this. I realize there will be challenges and disagreement; however, feel strongly we ALL need to commit to the process we discussed at our last meeting and develop a structure that provides solutions and not more confusion / layers of government.

Greatly appreciated –

-David

David M. Merritt

General Manager

Kings River Conservation District

4886 East Jensen Avenue

Fresno, CA 93725

559.237.5567 ext. 111

559.476.0538 - cell

dmerritt@krcd.org

From: Boyett, Matthew <Matthew.Boyett@co.kings.ca.us>

Sent: Tuesday, June 7, 2022 1:27 PM

To: 'kcampbell@wwd.ca.gov' <kcampbell@wwd.ca.gov>; djackson@tcwater.org; Phil Desatoff <pdesatoff@cidwater.com>; Eric Osterling <eosterling@greaterkaweahgsa.org>; Dennis Mills <dennis.kingscwg@outlook.com>; Antonio Solorio <asolorio@wwd.ca.gov>; 'jwyrick@jgboswell.com' <jwyrick@jgboswell.com>; 'munruh@jgboswell.com' <munruh@jgboswell.com>; David Merritt <dmerritt@krcd.org>; Charlotte Gallock <cgallock@krcd.org>

Cc: Hill, Edward <Edward.Hill@co.kings.ca.us>; Freeman, Diane <Diane.Freeman@co.kings.ca.us>; Cash, Sean <Sean.Cash@co.kings.ca.us>; Neves, Joe <Joe.Neves@co.kings.ca.us>; Verboon, Doug <Doug.Verboon@co.kings.ca.us>

Subject: June Check-In Before August Meeting

Good afternoon everyone,

I know you are all hard at work amending your GSPs in collaboration with DWR and that we are planning to reconvene in August. I just wanted to quickly touch bases with you all regarding our meeting in August and ensure that we are on your radar as you're in the swings of amending your GSPs and having conversations with DWR about groundwater.

As you are working with DWR on your amendments, it would be greatly appreciated if you would please keep us in the back of your minds as to what you'd like to see the County do in the effort to support sustainable groundwater resources here in the county. I know the initial draft ordinance was met with much opposition, so I'm wanting the County's efforts to stay somewhat at the forefront of your mind as you're working with DWR so we can hopefully get valuable feedback from you all in August to ensure the County supports the efforts of all of the GSAs. We want to make sure the County's efforts are not hindering the goals and activities of the GSAs and instead supporting the goals and actions of the GSAs and your soon-to-be-approved GSPs.

So I just wanted to quickly check in and make sure that you keep us in mind and hopefully come up with constructive feedback that the County can use to make sure we are all supporting each other in

ensuring our groundwater levels are sustainable and available for many generations here in the county.

Thanks again and I look forward to hearing from you all on your ideas for how we can best support your groundwater efforts in your respective areas. As always, if you have any questions or comments beforehand, please reach out to me at any time. Thanks again.



Matthew Boyett

Administrative Analyst

Kings County Administration

1400 W. Lacey Blvd. | Hanford, CA 93230

Office: (559) 852-2380 | Fax: (559) 585-8047

matthew.boyett@co.kings.ca.us

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the contents are safe.

From: [Charlotte Gallock](#)
To: [BOS Questions](#)
Subject: FW: June Check-In Before August Meeting
Date: Tuesday, November 22, 2022 4:35:29 PM
Attachments: [image001.png](#)

Good Afternoon,

Please see the below comments regarding the Kings County Groundwater Export Ordinance. I am formally requesting that the second reading be delayed at a minimum of two weeks.

Thanks,

[Charlotte Gallock](#)

From: Charlotte Gallock
Sent: Tuesday, November 22, 2022 4:00 PM
To: David Merritt <dmerritt@krcd.org>; Boyett, Matthew <Matthew.Boyett@co.kings.ca.us>; Hill, Edward <Edward.Hill@co.kings.ca.us>; Freeman, Diane <Diane.Freeman@co.kings.ca.us>; Cash, Sean <Sean.Cash@co.kings.ca.us>; Neves, Joe <Joe.Neves@co.kings.ca.us>; Verboon, Doug <Doug.Verboon@co.kings.ca.us>
Cc: Antonio Solorio <asolorio@wwd.ca.gov>; Eric Osterling <eosterling@greaterkaweahgsa.org>; Dennis Mills <dennis.kingscwg@outlook.com>; djackson@tcwater.org; munruh@jgboswell.com; jwyrick@jgboswell.com; kcampbell@wwd.ca.gov
Subject: RE: June Check-In Before August Meeting

Matthew,

As the administrator for the South Fork Kings GSA, I agree with David regarding the collaboration efforts associated with the County and the GSA's.

With the upcoming holiday it will be difficult to fully review and discuss the proposed ordinance with all of our respective boards prior to your meeting for the second reading on November 29. I would like to request that the second reading be delayed at a minimum of two weeks. Please let me know if this request could be granted.

Thank you and Happy Thanksgiving,

[Charlotte Gallock](#)

From: David Merritt <dmerritt@krcd.org>
Sent: Tuesday, November 22, 2022 8:11 AM
To: Boyett, Matthew <Matthew.Boyett@co.kings.ca.us>; Hill, Edward <Edward.Hill@co.kings.ca.us>; Freeman, Diane <Diane.Freeman@co.kings.ca.us>; Cash, Sean <Sean.Cash@co.kings.ca.us>; Neves, Joe <Joe.Neves@co.kings.ca.us>; Verboon, Doug <Doug.Verboon@co.kings.ca.us>
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-David

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General Manager

Kings River Conservation District

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559.237.5567 ext. 111

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dmerritt@krcd.org

From: Boyett, Matthew <Matthew.Boyett@co.kings.ca.us>

Sent: Tuesday, June 7, 2022 1:27 PM

To: 'kcampbell@wwd.ca.gov' <kcampbell@wwd.ca.gov>; djackson@tcwater.org; Phil Desatoff <pdesatoff@cidwater.com>; Eric Osterling <eosterling@greaterkaweahgsa.org>; Dennis Mills <dennis.kingscwg@outlook.com>; Antonio Solorio <asolorio@wwd.ca.gov>; 'jwyrick@jgboswell.com' <jwyrick@jgboswell.com>; 'munruh@jgboswell.com' <munruh@jgboswell.com>; David Merritt <dmerritt@krcd.org>; Charlotte Gallock <cgallock@krcd.org>

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**KINGS
COUNTY
WATER
DISTRICT**



RE: ***GROUNDWATER EXPORT & WATER
RESOURCE OVERSIGHT COMMISSION
ORDINANCE COMMENTS***

Barry McCutcheon
President

Steven P. Dias
Vice-President

Joseph Freitas

Ernest A. Taylor

Michael Murray

Dennis Mills
Manager-Secretary

200 North Campus Dr.
Hanford, CA 93230
Phone: (559) 584-6412
Fax: (559) 584-6882

Dear Board of Supervisors:

It is hoped that this letter finds you well. Please consider this correspondence on behalf of the Kings County Water District (KCWD) in response to the proposed Kings County Ordinance to dissolve the Water Commission and enact a Groundwater Exportation Ordinance. The District understands from the November 8th Board of Supervisor meeting that the first readings of the “Groundwater Export Ordinance” (Ordinance) and the “Water Resources Oversight Commission Formation Ordinance” (WROC) were waived and the process continued to the second reading schedule for November 29, 2022. The following is a list of topics from both the Ordinance and the WROC that are very concerning to the KCWD. This is provided as written comment for your consideration at the public hearing.

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GW Export Ordinance and WROC Ordinance – Concerns & Comments

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8. Impact Identification – Given that correlative groundwater rights, involved in local groundwater aquifers, extend far beyond the County boundary, the County needs to be conscious that its Ordinance could restrict an owner's use of existing groundwater rights.
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GW Export Ordinance and WROC Ordinance – Concerns & Comments

that the Supervisors would attempt to make both ordinances more easily understood and more implementable. Thank you for your attention to these concerns. Should you have any questions or concerns regarding the above, please do not hesitate to contact me directly.

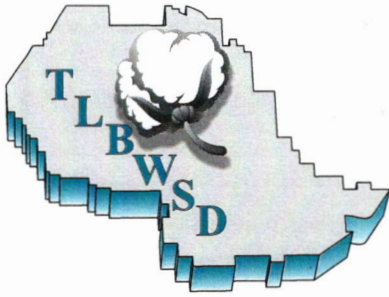
Sincerely,



Dennis Mills
Dennis Mills, General Manager
Kings County Water District

Cc: Ray Carlson, Attorney
Andy Hemans, Peoples Ditch Co.

Neil Bellamy, Last Chance Water Ditch Co.
Shawn Corley, Lakeside Ditch Co.



TULARE LAKE BASIN WATER STORAGE DISTRICT

ESTABLISHED SEPTEMBER 1926

1001 CHASE AVENUE, CORCORAN, CALIFORNIA 93212

PHONE (559) 992-4127 • FAX (559) 992-3891

November 23, 2022

Delivered via email: Catherine.Venturella@co.kings.ca.us

Kings County Board of Supervisors
Kings County Government Center
1400 W Lacey Boulevard
Hanford CA 93230

Re: Dissolution of Water Commission and Groundwater Exportation Ordinance

Dear Board of Supervisors:

Please consider this correspondence on behalf of Tulare Lake Basin Water Storage District (District) in response to the District's correspondence on November 8, 2022, regarding a proposed Kings County Ordinance to dissolve the Water Commission and enact the Groundwater Exportation Ordinance. We understand from the November 8, 2022, Board of Supervisors meeting that the first reading was waived and the process continued to the public comment period to be held on November 29, 2022. We provided these written comments for your consideration at the public hearing.

First, we thank the Board for continuing its interest in sound and reasonable water management within Kings County (County). We share this ultimate goal. However, we have grave concerns about the policy direction of the ordinance and even stronger concerns about various provisions therein. These comments address each.

Water is the limiting factor for almost all agricultural production in the County and as such is a significant component of the entire economy of the County. For this reason, we request that the County not move forward with the proposed Ordinance and instead agree to meet with the District, County staff and Supervisors as soon as possible for the specific purpose of reaching agreement on the issues set forth below for the benefit of the residents and landowners within the County.

Process for Implementation

The draft Ordinance was discovered by District staff the Sunday evening before the Board meeting on November 8, 2022. Despite having monthly meetings between District and County staff regarding water issues, District staff received zero communication that these items would be

presented for consideration, much less already in the form to have a “first reading”. Although the Supervisors did contact a limited number of individuals, it has been stated on the record by at least one Supervisor that there were intentional efforts not to work with stakeholders in advance of releasing the document. This is unfortunate and contrary to the purpose of open meeting laws which guide the conduct of Supervisors.

We encourage the County to use well-established open lines of communication to produce more productive results for all parties.

Water Commission

We understand the Board is considering replacing the Water Commission with an entirely different Agency. This is disheartening since the Water Commission has historically provided sound advice to the Board.

The proposed Ordinance sets forth a new “County Water Agency” (CWA) typically formed pursuant to specific statutory authority. Is there such statutory authority or is the purpose to form an advisory committee to make recommendations to the Board? If the latter, it is again unclear why the Water Commission, a committee formed to fulfill such purpose, should be dissolved.

We also have concerns regarding composition of the CWA which will have a large majority of voting members that use very little water but will be empowered to make decisions about virtually any use of groundwater in the County (i.e., incorporated cities and unincorporated communities). In contrast, only one representative from a water agency will be represented even though multiple water agencies are the heaviest users of water, each with differing issues. Also, there is no representation for property owners not in water districts but who are very important users of water with well-established rights.

In addition to the CWA, the draft Ordinance creates the Water Resources Oversight Commission (Oversight Commission) in part to comply with Senate Bill 552, California Water Code Section 10609.70, titled Drought Planning for Small Water Suppliers and Rural Communities. The purpose of the CWA, and presumably the Oversight Commission, goes far beyond the scope of small water suppliers and rural communities. Forming a new Agency and Oversight Commission to comply with the State’s mandate regarding drought planning for small and rural communities does not foster the stakeholder engagement necessary from the agricultural community. If the County concludes that a new task force or Oversight Commission is needed to comply with Senate Bill 552, it can do so without eliminating existing processes and Water Commissions historically created to deal with agriculture water issues.

Consistency with Sustainable Groundwater Management Act (SGMA)

The implications of SGMA and forthcoming restrictions and regulations on groundwater pumping is of the utmost concern to District landowners. The economic effects from such regulations is also of concern and should be of utmost importance to the County.

However, there are several alarming statements in the draft Ordinance. First, the “Background” section states that much of the groundwater under Kings County is currently not managed by an established Groundwater Sustainability Agency (GSA). This is patently false. Although County staff corrected this error at the Board meetings, it shows the County’s lack of attention to detail and pushing forward with misleading facts. If not pointed out by others, this false statement would have gone uncorrected. Locals spent a tremendous amount of time in forming the GSAs, knowing the counties were the “backstop” to provide jurisdictional coverage for any areas not within water districts, or other public agencies. Every acre of ground was required to be “covered” by a GSA by the SGMA deadline of June 30, 2017.

County Counsel recognized at the time that the County did not have the resources, staff, or actual water use to justify the time and expense of forming a single GSA for the County. Rather, the County proposed that the GSAs would all cover some of the undistricted areas over which the County has jurisdiction. All GSAs agreed to this plan and included the County as one of the members of the (JPAs) formed for SGMA GSAs.

Since formation, the GSAs have submitted Groundwater Sustainability Plans (GSPs) by the initial deadline of January 2020, and recently went through the exercise of amending the initial submittal because of deficiencies articulated by the State. The process has been costly and time consuming and the GSAs are awaiting DWR’s complete technical review to determine next steps in the process.

We highlight this because it is extremely concerning that the County would make this error with the background materials. We are also concerned that there may be fundamental misunderstandings as to the role of the GSP, SGMA authority in general, and more. Again, communication may have resolved matters before reaching this point.

Recital A of draft Section 14C-2 provides that the authority granted in this Chapter is in addition to any authority granted to any GSA. However, the basis upon which the County is imposing authority is unclear. Is the County attempting to rely on SGMA itself? Since the County has not elected to become a GSA itself, it would be improper to do so. In addition, it is concerning that the authority the County outlines therein is inconsistent with the current GSPs, and importantly, the technical basis for each GSP.

An example of another extremely alarming concern with the draft is in the definitions section of Section 16 regarding “safe yield” and “sustainable yield”. SGMA provides a specific definition of Sustainable Yield. Safe Yield is a common law term used historically in adjudications. The two terms are not the same and to use them interchangeably is incorrect and ripe for legal challenge. Again, this highlights our concerns about inconsistencies between the proposed Ordinance and SGMA. The GSAs have spent, and have funding for additional spending, of over Two Million Dollars (\$2,000,000) to model the “safe yield” of the area. This is an extremely complex modeling that is still underway. In contrast, there is no scientific representation on the CWA, and there is growing concern that decisions will be made on a hunch, a feeling, or a political slant that is not necessarily aligned with SGMA. This could jeopardize the entire SGMA effort underway in the County.

In the granting or denial of a permit, one determination the Oversight Commission must make is that the proposed extraction will not cause or increase overdraft. This is clearly a finding to be determined by the relevant GSA, which is required in the GSP and its implementation. Adding an additional layer and oversight by a separate public agency will undoubtedly lead to inconsistent conclusions and determinations. Further, it is unclear what basis the County can rely on in making such a determination given that it is not a GSA and therefore cannot utilize the powers and authorities found in SGMA. The denial of a permit for lack of the listed determinations is ripe for legal challenge and rightfully so. Further, the determinations are costly, and for some, even impossible to make given data limitations.

Misstatements of Law

There are several alarming misstatements of law in the draft. For example, Recital F provides: The principle of correlative rights, developed in California case law, provides that water may be appropriated from a groundwater basin only if groundwater supply is surplus and exceeds the reasonable and beneficial needs of overlying users.

This is incorrect! An overlying right, analogous to that of the riparian owner in a surface stream, is the owner's right to take water from the ground underneath for use on his land within the basin or watershed; it is based on the ownership of the land and is appurtenant thereto. (*California Water Service Co. v. Edward Sidebotham & Son, Inc.*, (1964) 224 Cal.App.2d 715, 725.) As between overlying owners, the rights, like those of riparians, are *correlative*; each may use only his reasonable share when water is insufficient to meet the needs of all (Katz v. Walkinshaw, supra). (*California Water Service Co. v. Edward Sidebotham & Son, Inc.* (1964) 224 Cal.App.2d 715, 725.) Any water not needed for the reasonable beneficial uses of those having prior rights is excess or surplus water and may be appropriated on privately owned land for non-overlying uses, such as devotion to a public use or exportation beyond the basin or watershed. (*Pasadena v. Alhambra* (1949) 33 Cal. 2d 908.) Appropriative rights are not derived from land ownership but depend upon the actual taking of water. (*City of Santa Maria v. Adam*, (2012) Cal.App.4th 266, 278.)

In addition, the County proposes to authorize certain inspections of land without justification, which is an imposition on landowners, likely in violation of the Constitution's Fourth Amendment protections.

Lack of Technical Evidence

There are significant statements throughout the Ordinance that do not appear to be technically justified.

For example, Recital G provides that: The Board is aware of adverse consequences suffered in Kings County and in neighboring counties that have engaged in excessive extraction of groundwater. These consequences include, but are 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.

The District is unaware of any finding in any GSP or by the County of the foregoing and thus is unable to articulate the County's technical support for such finding. It is also worth noting that Kings County imports groundwater from other counties, a fact that is inconsistent with the foregoing statement.

Tailwater

The ordinance, although proposed to be a limitation on groundwater exportation, focuses on "tailwater" as well, thereby unjustifiably targeting a specific commodity or industry farming practices. Calling any tailwater use "overwatering" and "excessive conversion" of groundwater is not a well-informed standard, lacking objective analysis by policy makers. The standard does not consider closed recirculation systems and appears to potentially threaten all row crops which are key to the economy of the County.

In addition, the County appears to be attempting to regulate a perceived concern with tailwater, while other regulatory programs such as the Irrigated Lands Regulatory Program were mandated to address concerns like discharges from irrigated ag runoff. This again creates inconsistencies between the draft Ordinance and existing law and regulations.

Permit Requirements

Section 14C-10 provides it is unlawful to extract groundwater without first obtaining a permit. Subsection(b) provides two examples of when specific circumstances are to be considered an extraction of groundwater for which a permit is required. Those are the extraction of groundwater to replace a surface water supply, which has been, is being, or will be exported; or overwater agricultural or other lands, through flood irrigation or other means, that causes an excessive conversion of groundwater into tailwater.

Numerous landowners are entirely dependent on groundwater alone. Why is the use of groundwater to replace surface water, for whatever reasons, a factor to consider when issuing a permit? Why is the creation of tailwater from applied groundwater irrigation a circumstance to cause the issuance of a groundwater export permit?

The rationale for the foregoing is unclear, and even more troubling is the complete inability to track or enforce these provisions. Further, these provisions appear to violate private property rights under the California Constitution.

District versus Non-District Lands

The draft Ordinance distinguishes and exempts a permit if historical practices are "consistent with the historical practices of the local agency", drawing a distinction between lands within and outside a District boundary. There is no justification for treating District versus non-District lands differently. To do so places an unfair disadvantage on non-District lands which should have no bearing in the context of groundwater supplies.

10-Mile Exemption

The draft Ordinance exempts exports that are consistent with historical practices and are not used for the benefit of lands more than ten miles beyond the point of extraction. What technical justification exists for the 10-mile limitation? Does this somehow factor into whether the GSAs reach Minimum Thresholds as outlined in the GSPs, for example? The limitation without justification seems completely arbitrary.

Application Requirements and Procedure

The application requirements set forth in the draft are extremely problematic. How were the technical requirements for the permit determined? What technical consultants assisted the County in drafting these requirements? In Section 14C-23, members of the CWA must consider how exports impact the aquifer regarding 14 items that only a technical expert could provide the necessary guidance.

California Environmental Quality Act (CEQA) Review

As the County is well-aware, CEQA review is necessary with any proposed ordinance such as discussed on November 8, 2022. When does the County plan to release its initial findings related to CEQA compliance?

Grandfather Provision

Section 14-C-12(C) of the proposed ordinance provides an exemption for grandfathering use of water “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.” This exemption is prejudicial against landowner use not within a local agency. There are landowners within mutual water companies, not inside a local agency, who will have their rights rescinded based on whether their land is within a local agency. What is the rationale for such a determination of exemption?

Conclusion

The District is extremely concerned with numerous policy directions and legal issues with the proposed drafts and request that you not proceed with adoption until the numerous flaws specified above are fully corrected. To this end, we are prepared to work through these issues with you.

Very truly yours,



Jacob Westra
General Manager

944 Whitley Avenue, Suite E
Corcoran, CA 93212
559-762-7240
www.tcwater.org

Deanna Jackson, Executive Director
djackson@tcwater.org



DIRECTORS
Cory VanderHam, Chair
Michael Nordstrom
Carlo Wilcox
Wade Magden
Myron Schotanus

November 23, 2022

Chairman Joe Neves
Kings County Board of Supervisors
1400 W. Lacey Blvd.
Hanford, CA 93230

Dear Chairman Neves:

The Tri-County Water Authority (TCWA) is providing these comments regarding the proposed Kings County Groundwater Export Ordinance and the dissolution of the Kings County Water Commission. At the November 8 Board of Supervisors meeting, the first reading of the ordinance was waived and the process continued to the public comment period to be held on November 29, 2022. TCWA is providing these comments for your consideration at the public hearing.

TCWA's concerns mirror those provided by the other Groundwater Sustainability Agencies (GSAs) and water agencies in Kings County. We strongly support the comments included in the letters from the Mid-Kings GSA and the Tulare Lake Water Storage District. In particular, we are concerned how TCWA landowners would be expected to implement separate set of rules in Tulare versus Kings County. Further, there is a significant amount of water that is imported from outside of Kings County. If the neighboring counties were to implement similar ordinances, that would have a detrimental impact in Kings County and would likely result in additional groundwater extraction.

Kings County is covered by three different subbasins with the majority within the Tulare Lake Subbasin. The five GSAs within the Tulare Lake Subbasin (Mid-Kings, South Fork Kings, Southwest Kings, El Rico, and TCWA) have worked closely to implement SGMA. At this important junction, it is critical that the GSAs, water providers, and the County coordinate efforts. The County's decision to unilaterally move forward with this ordinance will create confusion among landowners who are already facing numerous complex regulatory requirements.

The County's stated goal is to protect the groundwater resources of Kings County "from harm resulting from the excessive extraction of groundwater for use outside the basins from which it was extracted." While we support the County's efforts toward reasonable groundwater management, we believe strongly that it is important to engage with the GSAs and water agencies before moving forward with this ordinance. We request that County staff meet with the GSAs to discuss our concerns and identify ways to achieve the County's goals through the SGMA process.

TCWA has serious concerns about the proposed ordinance and would strongly urge the County to allow time for coordination. We concur with David Merritt and Charlotte Gallock's request for additional time for the GSAs, water agencies, and other interested stakeholders to collaborate with the County on the creation of an ordinance that may have impacts on management of water. The SGMA process was based on the principal of local control to address these types of complicated issues.

TCWA disagrees with the proposal to dissolve the Water Commission that is composed of persons with expertise in the water industry for a newly formed Water Resources Oversight Commission. We request additional information on the necessity and purpose of this new agency.

Thank you for your consideration. We look forward to discussing these matters further.

Sincerely,



Deanna Jackson
Executive Director

EMPIRE WEST SIDE IRRIGATION DISTRICT

21990 Laurel Avenue
P.O. Box 66
Stratford, CA 93266

November 23, 2022

Kings County Board of Supervisors
1400 W. Lacey Blvd
Hanford, CA 93230

Re: Groundwater Ordinance

Honorable Board of Supervisors,

This letter is a response to the proposed Groundwater Export Ordinance, and our position on the matter. We have several comments to its current version.

First of all, we do not see the need for this Ordinance. We are not aware of groundwater leaving the County. Our own review has determined that is not the case. Is this Ordinance in response to rumors or fact? If groundwater exportation is occurring, we believe local agencies would be interested to know where it is happening.

Secondly, we believe the ordinance, if adopted, would undermine the authority of the Groundwater Sustainability Agencies, GSAs, within the County. The GSAs have spent much time, effort, and money to analyze the groundwater conditions within their boundaries. They have collected data which their Engineers and Boards have evaluated to make wise decisions for their stakeholders. The County has not been deeply involved in the process and should allow the GSA's to handle any loss of groundwater on their own. At a minimum, the County should allow the GSA's time to respond to the Department of Water Resources, DWR, review of their Groundwater Sustainability Plans, GSPs, and begin implementation or corrections as prescribed before taking this action.

Another item to consider would be the possible loss of imported groundwater into the County should this Ordinance prompt neighboring counties to take a similar stance. Upwards of 100,000-acre feet of groundwater is brought into Kings County from Tulare County in the drier years. The reduction, or loss, of this historic supply would be devastating to agricultural and municipalities in Kings County, not to mention the additional strain to our GSAs.

Lastly, we object to the formation of a Water Resource Oversight Commission to replace the Water Commission. It is understood that the Water Commission has not met regularly of late, but that is an issue that can be remedied. We suggest that the Water Commission remain in place, but report directly to the Board of Supervisors, rather than through the Ag Advisory Council. The Water Commission represents all stakeholders within the County, so why reinvent the wheel.

Thank you for your consideration in this matter.

Sincerely,



Scott Sills
General Manager
Laguna Irrigation District
(559) 923-6800 ext. 2 Office
(559) 352-7947 Cell
scott@lagunaid.com



LAGUNA IRRIGATION DISTRICT

Frank Zonneveld, President
John Oliveira, Vice President
Tony Thomas, Secretary/Treasurer

Jake Miller, Director
Monty Hoggard, Director
Scott Sills, General Manager

November 23, 2022

Kings County Board of Supervisors
1400 W. Lacey Blvd
Hanford, CA 93230

Re: Groundwater Ordinance

Honorable Board of Supervisors,

This letter is a response to the proposed Groundwater Export Ordinance, and our position on the matter. We have several comments to its current version.

First of all, we understand and appreciate the County's interest in the matter. However, we do not see the need for the action at this time. We believe the ordinance, if adopted, would undermine the authority of the Groundwater Sustainability Agencies, GSAs, within the County. The GSAs have spent much time, effort, and money to analyze the groundwater conditions within their boundaries. They have collected data which their engineers and Boards have evaluated to make wise decisions for their stakeholders. The County has not been deeply involved in the process and should allow the GSA's to handle any loss of groundwater on their own.

The County at the least should allow the GSA's time to respond to the Department of Water Resources, DWR, review of their Groundwater Sustainability Plans, GSPs, and begin implementation or corrections as prescribed before taking this action.

Another item to consider would be the possible loss of imported groundwater into the County should this Ordinance prompt neighboring counties to take a similar stance. Upwards of 100,000-acre feet of groundwater is brought into Kings County from Tulare County in the drier years. The reduction, or loss, of this historic supply would be devastating to agricultural and municipalities in Kings County, not to mention the additional strain to our GSAs.

Lastly, we object to the formation of a Water Resource Oversight Commission to replace the Water Commission. It is understood that the Water Commission has not met regularly of late, but that is an issue that can be remedied. We suggest that the Water Commission remain in place, but report directly to the Board of Supervisors, rather than through the Ag Advisory Council. The Water Commission represents all stakeholders within the County, so why reinvent the wheel.

Thank you for your consideration in this matter.

Sincerely,

Scott Sills
General Manager
Laguna Irrigation District
(559) 923-6800 ext. 2 Office
(559) 352-7947 Cell
scott@lagunaid.com



November 28, 2022

Delivered via email: bosquestions@co.kings.ca.us

Kings County Board of Supervisors
Kings County Government Center
1400 W. Lacey Blvd.
Hanford, CA 93230

RE: AN ORDINANCE ADDING CHAPTER 14C, GOVERNING THE EXTRACTION OF GROUNDWATER FOR USE OUTSIDE OF KINGS COUNTY, TO THE KINGS COUNTY CODE OF ORDINANCES AND THE WATER RESOURCES OVERSIGHT COMMISSION FORMATION ORDINANCE

To the Kings County Board of Supervisors:

Kings County Farm Bureau (KCFB) is opposed to the above ordinance as written. While KCFB supports the spirit of the rule and the intended results, the regulation will do more harm than good to the growers of Kings County. KCFB suggests that the Board of Supervisors engage with water stakeholders, including water users, to create an ordinance that works best for the county. This would be preferable to a "working document" written with inconsistencies that leaves more questions than answers.

The following comments cover KCFB's concerns:

The background section reviewed during the Nov. 8, 2022, meeting states on page three of three, "much of the groundwater under Kings County is currently not managed by an established groundwater sustainability agency." That statement is false and shows that either rushed or inexperienced county staff drafted the proposed language. Quick, inaccurate work is an unacceptable first step in governing a natural resource as precious as water.

The ordinance's title implies only groundwater leaving Kings County will be regulated. However, as written, water movement within Kings County and certain farming practices may also be prohibited. ARTICLE II. SECTION 14C-10 SUBSECTION B 2. states, "Overwatering agricultural or other lands, through flood irrigation or other means, that causes an excessive conversion of groundwater into tailwater." This statement lacks clear definitions and quantifiable amounts of "tailwater" and "excessive conversion." Row crop irrigation practices create "tailwater," and eliminating that practice will single out a substantial portion of the industry and negatively impact the county's economy.

This ordinance creates a complaint-based system that allows non-farmers to complain about farming practices. Without a definition of terms like "overwatering" and "excessive conversion," how will the Community Development Agency know how to penalize a landowner or justify to a complainant their practices are warranted?



In addition to creating an export ordinance, the county introduced and waived the first reading of an ordinance forming the Water Resources Oversight Commission. KCFB is concerned with the commission's composition, expressly the qualifications to serve as written.

The commission's membership would consist of voting members with little to no need for or experience using or managing groundwater. They instead represent governmental agencies from the county and cities and community

services districts within Kings County. At best, one water user may serve the commission as a water agency representative. A lack of practical experience among the members of a commission formed to regulate groundwater is troubling. However, when you consider the authority provided to the commission as part of the export ordinance, the commissioner's qualifications are unimaginable. What technical expertise would any of the commissioners possess that uniquely qualifies them to perform the duties of an oversight committee?

With these points in mind, KCFB respectfully encourages that the Board of Supervisors not pass either ordinance as written. Instead, we ask the county to confer with water users, irrigation districts, and groundwater sustainability agencies as soon as possible to address concerns with the ordinance and create a regulation with their comments in mind.

Respectfully,

Dusty Ference
Executive Director

Cc: Catherine.venturella@co.kings.ca.us
Diane.freeman@co.kings.ca.us



ANGIOLA WATER DISTRICT

944 WHITLEY AVENUE, SUITE A, CORCORAN, CALIFORNIA 93212
Telephone 559-992-8980 Facsimile 559-992-1236

November 28, 2022

VIA EMAIL

Joe Neves, Chairman
Kings County Board of Supervisors
1400 W. Lacey Boulevard
Hanford, CA 93230

Re: Proposed Kings County Groundwater Export Ordinance and Dissolution of the
Kings County Water Commission

Dear Joe,

The purpose of this letter is to provide comments on the proposed Kings County Groundwater Export Ordinance and the dissolution of the Kings County Water Commission. At the Board of Supervisors meeting held November 8 the first reading was waived and public comments are to be heard tomorrow, November 29, 2022. These comments are provided on behalf of Angiola Water District (AWD).

AWD's concerns are aligned with those articulated by the County's Groundwater Sustainability Agencies (GSAs) and water agencies in the county. We strongly support the comments provided by the Mid-Kings GSA and the Tulare Lake Basin Water Storage District.

The State of California implemented the Sustainable Groundwater Management Act (SIGMA) to, among other things, implement local management of our groundwater basins and supplies. To that end, five GSAs have been formed in Kings County to manage the groundwater and the groundwater basins in the county. One of the stated goals of the proposed ordinance is to eliminate exportation of groundwater from the county. Rather than enact more regulations and create an additional regulatory agency, the County would be well served to communicate and work closely with the local GSAs with respect to issues perceived by the county supervisors requiring the proposed ordinance. Surely the County is aware that substantial quantities of groundwater are delivered into Kings County from neighboring counties? If our neighboring counties follow Kings County's tracks, our county could potentially face even greater water shortages and the resulting adverse impacts on its economy.

Joe Neves, Chairman
Kings County Board of Supervisors
Page 2.


I served on the Kings County Water Commission in the past. The Water Commission is a solid organization whose members both had and have an excellent understanding of the county's water operations, issues and needs. The commission has provided sound advice to the County over the years. The new body doesn't appear to be able to accomplish anything more than the past commission. The new commission will consist of a majority of board members that use little water and have little at stake. The County currently has an effective commission in place. It's unclear what the necessity or purpose of the new agency is. No need exists to change it. The purpose is difficult to understand.

Article II-B-2 refers to "overwatering agricultural or other lands, through flood irrigation or other means, that causes an excessive conversion of groundwater into tailwater." This section indicates a lack of understanding of irrigation science. The ordinance, purportedly proposed to be a limitation on groundwater exportation, jumps to tail water out of the clear blue sky. Why is tail water a concern when discussing groundwater exportation? Suggesting "overwatering" is intentionally done by growers for any reason is folly. It's **unclear** what the County's goal is here.

Lastly, it appears the proposed ordinance is being hurried through "due process" procedures. The first reading of the ordinance was waived. Tomorrow you will receive public comment that should be thoughtfully considered prior to crafting an ordinance that appears to be short-sighted, solves no real problems and very likely creates a number of new ones. If the proposed Kings County Groundwater Export Ordinance and Dissolution of the Kings County Water Commission is to be good law, please do not rush the process. Take sufficient time to thoughtfully review all the comments and input received.

Thank you for the opportunity to comment on this matter.

Sincerely,



Carlo J. Wilcox
Acting General Manager

From: [Jeremi Garcia](#)
To: [BOS Questions](#)
Subject: KEEP OOR WATER IN OUR COUNTY!
Date: Tuesday, November 29, 2022 7:29:03 AM

Good Morning my name is Jeremi Garcia, first let me start off by saying thank you to the Board for representing our community in a positive manner!

In regards to the ordinance governing the extradition of water from Kings County. We need to keep our water here for our farmers, their employees and the community as a whole. If we had the water to sell off without causing ill effects on the county this would not be an issue. We are all aware that our water table is depleted, currently water wells are being drilled to the deepest depths ever. Water should not be a commodity that is bought and sold by some "politically financed farmer". Please voter to keep our water here where it belongs! Thank you for the opportunity to voice my opinion.

Keep up the great work!!!!

Jeremi Garcia

[Sent from AT&T Yahoo Mail for iPhone](#)

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the contents are safe.

KINGS RIVER WATER ASSOCIATION

OFFICERS

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CHAIRMAN

RYAN JACOBSEN
VICE-CHAIRMAN

JERRY HALFORD
SECRETARY/TREASURER

STEVEN HAUGEN
ASSISTANT SECRETARY/TREASURER

STEVEN HAUGEN
WATERMASTER

JOSEPH D. HUGHES
ATTORNEY

KEVIN JOHANSEN
CONSULTANT ENGINEER

4888 E. JENSEN AVENUE
FRESNO, CA 93725
TELEPHONE: (559) 266-0767
FAX: (559) 266-3918

November 29, 2022

EXECUTIVE COMMITTEE

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JEOF WYRICK
TULARE LAKE AREA

Clerk of the Board of Supervisors, County of Kings
1400 W. Lacey Blvd.
Hanford, CA 93230

Re: Proposed Kings County Groundwater Ordinance

County of Kings Board of Supervisors,

I am writing to request a brief postponement in the adoption of the proposed Groundwater Ordinance. As drafted, the Ordinance will significantly impact the traditional management and operation of the Kings River surface waters within the Kings River service area that includes portions of Fresno, Kings and Tulare Counties. My comments today do not address any impacts to groundwater management but instead solely address how the proposed Ordinance could impact surface water management in the County and Kings River service area.

The Kings River Water Association (KRWA) is unincorporated association formed in 1927 to administer, manage, and allocate the surface waters of the Kings River to approximately 1,000,000 acres in Fresno, Kings and Tulare Counties. The KRWA is made up of 28 member units composed of 13 public agencies, and 15 private water and ditch companies.

As part of routine traditional operations, these 28 member units move water back and forth between their respective service areas and within the broader KRWA service area to optimize water management and their respective water supplies. This movement is generally characterized as transfers and exchanges. These transfers are not conducted exclusively in one county, but are maintained within the KRWA service area. My observation is that, over time, these transfers tend to balance out in the movement of water in and out of an area. As drafted, the Ordinance would not allow these types of necessary water management activities without going through a permit process.

Administratively, these transfers are typically made with very little advance notice at the end of the season to best utilize relatively small volumes of water that would otherwise not be deliverable in that season. To be effective, completion of the paperwork and approval would need to be completed in less than a week. These transfers are typically made between member

units and not water users. Making the findings in the current draft of the ordinance in this situation difficult, if not impossible, to make.

Suggested edits and actions:

- 1) In the definition of “Local Agency” add: unincorporated association and mutual water company
- 2) In the definition of “Historical Practices” remove the seven-year limit. The timeframe of seven years is insufficient for the transfers described above. Hydrologic conditions within the Kings River system are much more variable and occur over a much broader timeframe.
- 3) Postpone the adoption of this proposed ordinance to allow the above edits to be made and a broader circulation of the ordinance to the various surface water management entities in Kings County. I only became aware of this ordinance last week when it was forwarded to me. Its title of Groundwater Ordinance did not indicate the significance that it could have on surface water management. I suspect that there are several other multi-county surface water entities that could have similar concerns.

About 25 years ago, Fresno County worked through a groundwater ordinance that took many, many drafts and numerous meetings, but the effort made for a workable and manageable solution for the County and the surface water management entities. It addressed the traditional surface water practices through exemptions.

My request is for a brief postponement of the Kings County Groundwater Ordinance to allow an opportunity for a thorough vetting of the surface water implications of the proposed Ordinance.

Respectfully submitted,

A handwritten signature in blue ink that reads "Steven Haugen". The signature is fluid and cursive, with a long horizontal stroke at the end.

Steven Haugen, PE
Watermaster



Email: info@kingscountymocrats.org

Tuesday, December 13, 2022

FOR IMMEDIATE RELEASE

Statement by Kings County Democrat Central Committee on Kings County Groundwater Export Ordinance

Hanford, CA – Today, Cathy Jorgensen, Chair of Kings County Democrats, released a statement on the Groundwater export ordinance that our County Supervisors approved this month.

Cathy said, “I applaud Supervisors Doug Verboon, Richard Valle, and Craig Pedersen for protecting our county's water. Our community relies on this valuable resource and must do everything to keep our water here.”

Jacky Lowe, a third-generation farmer, and member of the Kings County Democrat Central Committee added to Cathy’s statement, **“As a farmer, I’m proud that our supervisors made the right choice to defend our water. I’m optimistic that this ordinance will make it harder for corporations and/or individuals to steal the water and sell it to the highest bidder outside our county.”**

Cathy continued, “Our Committee will continue to monitor any water ordinances that the Board of Supervisors will review and make every effort to support our farming community and residents.”

Assets:

Website: kingscountymocrats.org/

Facebook: facebook.com/KingsCDCC

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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 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

1. The Commission shall consist of five voting members appointed by the Board of Supervisors to the following designated positions:
 - a. Two Commissioners shall be selected from the community at-large.
 - b. 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 a staff member or consultant of such department.

- c. One Commissioner shall be a staff member, consultant, 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.
- d. One Commissioner shall be a staff member, consultant, or 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.

- 2. The Board of Supervisors shall additionally appoint an alternate for each Commissioner, who shall meet the same requirements and be selected in the same manner as the Commissioner for which they serve as alternate. Alternates shall have no vote, except in the absence of the Commissioner for which they serve as alternate but may participate in any deliberations of the Commission.

D. Nomination and appointment

Each member of the Board of Supervisors shall have authority to nominate one candidate for each of the designated positions. Upon receipt of all nominations, the Board of Supervisors shall fill each designated position by majority vote from the pool of nominees for that position.

If there are no nominees for a designated position or majority vote cannot be achieved for a designated position, the Board of Supervisors may, by four-fifths vote fill the designated position with an additional member at large.

E. Term of office

The term of office for Commissioners shall commence on January 1 of odd-numbered years, and shall be four years, except that the initial term of the Water Agency Member and one At-large Member as determined by the Board of Supervisors shall be 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 4/5th vote of the Board as necessary to accomplish the County's policies and objectives.

F. 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.

G. 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.

H. 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.

I. 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.

J. 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

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

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**BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF KINGS, STATE OF CALIFORNIA**

**IN THE MATTER OF RE-ESTABLISHING RESOLUTION NO. 08-003
THE KINGS COUNTY WATER
COMMISSION TO ADVISE THE BOARD
OF SUPERVISORS ON MATTERS RELATED
TO WATER SUPPLY, DEVELOPMENT, USE,
REPLENISHMENT AND CONSERVATION /**

WHEREAS, for over forty years the Kings County Water Commission has well and faithfully served the County of Kings on advice concerning water issues; and

WHEREAS, this Board of Supervisors remains keenly interested, on behalf of all persons in the County of Kings, in the development, use and conservation of water resources, both as to quantity and quality, for agricultural, commercial, industrial, domestic and recreational uses in the County of Kings; and

WHEREAS, Resolution No. 64-73, which created the Water Commission, as amended by Resolution No. 94-057, should be amended to reflect modern conditions and concerns and changes in the law.

NOW, THEREFORE, IT BE RESOLVED, as follows:

1. Resolution 64-73 as amended by Resolution No. 94-057 is hereby superseded by this Resolution.
2. Establishment of Kings County Water Commission. There is hereby re-created and re-established an advisory commission for water matters, which commission shall be known as the Kings County Water Commission (the "Commission").
3. Purposes and Functions. The purposes and functions of the Commission shall be to advise the Board of Supervisors on all water matters, as follows:

a. Upon request of the Board of Supervisors, to investigate and study designated water matters affecting Kings County and report and advise thereon to the Board of Supervisors.

b. Upon request of the Board of Supervisors, to advise and report to the Board concerning water matters which are proposed or enacted under State or Federal legislation or regulations affecting Kings County.

c. Upon its own motion, to call the attention of the Board of Supervisors to pending water matters, legislation or regulations affecting Kings County.

4. Membership Eligibility. The Commission shall consist of nine voting members to be appointed as follows:

a. Board of Supervisors' Representatives. Each member of the Board of Supervisors shall appoint one Commission member who shall be a resident of the appointing Supervisor's district.

b. City Selection Committee Representatives. The City Selection Committee shall appoint two Commission members, each of whom shall be a current city councilperson. The two City-selected Commission members shall not be from the same city.

c. Community Services Districts/Public Utility Districts Representative. The Boards of Directors of the Armona Community Services District, the Home Garden Community Services District, the Kettleman City Community Services District and the Stratford Public Utilities District shall appoint one Commission member, who shall be a current member of one of the Districts' Boards. In making this appointment, the four Districts shall utilize the procedure used for the appointment of their representative to the Kings County Local Agency Formation Commission.

d. At-Large Member. The Board of Supervisors shall appoint one at large member who shall be a resident of the County of Kings.

e. Ex-Officio Members. The Board of Supervisors may from time to time appoint ex-officio members to serve on a temporary basis to assist with particular matters or on a permanent basis as it deems appropriate. Ex-officio members may participate in meetings as regular members, except that ex-officio members may not vote on matters coming before the Commission, and they shall not be counted for the purposes of determining whether a quorum is present at the Commission meetings. The Board of Supervisors shall consider for appointment as ex-officio members representatives from the Lemoore Naval Air Station, the Tachi-Yokuts Tribe, school districts located in the County and other appropriate members.

f. Maddy Act Requirements. The appointment of Commission members under subsections 4.a and 4.d above shall be subject to the provisions of the Maddy Act (Government Code section 54970, et seq.).

5. Membership Term. Subject to the additional limitations set forth below, the term of office of each Water Commission regular member shall be four years from the date of appointment. Ex-officio members shall serve at the will of the Board of Supervisors.

a. Elected Officials. Each of those Commission members appointed under Sections 4.b and 4.c above shall serve only as long as his or her term of office as a city councilperson or a district board member continues.

b. Resident Members. Each of those Commission members appointed under Sections 4.a and 4.d above whose appointment requires residency in a particular geographical area shall serve only as long as his or her residency continues in the particular area.

c. At-Will Termination. Notwithstanding the provisions of Section 5 above, each of those Commission members appointed under Sections 4.a and 4.d above serve at the will of the appointing authority.

6. Compensation and Expenses of Commission Members. Commission Members shall serve without compensation. With the prior approval of the County

Administrative Officer, ordinary and necessary expenses of members incurred in performing approved special projects on behalf of the Commission may be advanced or reimbursed.

7. Staff - County Departments. The County Administrator's Office, the County Counsel, the Planning Department, the Public Works Department, the 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 County Planning Department shall have the primary responsibility for providing staff for the Commission.

8. Officers. The following officers shall be elected from the voting members of the Commission at the first meeting of the Commission in each calendar year:

a. Chairperson. The Chairperson shall be responsible for the conduct of all meetings and the calling of special meetings, and shall be the official representative of the Commission except when a representative is otherwise designated.

b. Vice-Chairperson. The Vice-Chairperson shall serve in the absence of the Chairperson, and shall succeed to the office of Chairperson if that office becomes vacant for any reason.

c. Temporary Chairperson. In the absence of the Chairperson and Vice-Chairperson, the Regular Members may elect a temporary Chairperson to conduct a properly scheduled meeting.

9. Secretary. 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.

10. Voting; Participation. All Commission actions shall be by a majority vote at meetings of a quorum of Voting Members. A quorum of Voting Members shall

consist of a majority of the Voting Members (5 members). Ex-Officio Members have no vote but may otherwise actively participate at meetings of the Commission.

11. Meetings.

a. Place. Meetings of the Commission shall be held at the Kings County Government Center in Hanford unless unusual or special circumstances warrants a meeting elsewhere in the County.

b. Calling Meetings. The Board of Supervisors may call for special meetings of the Commission to address specified issues. The Commission may establish the date and time for regular meetings. The Chairperson or any three Voting Members may call a special meeting.

c. Brown Act; Rules of Order. The Commission is subject to the provisions of the Ralph M. Brown Act related to the meeting of local agencies (Chapter 9, Section 54950, Part I, Division 2 of Title 5 of the Government Code). Meetings shall be conducted according to Roberts Rules of Order.

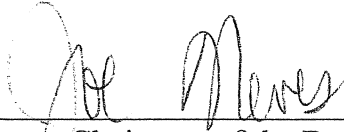
12. Bylaws. The Commission, with the prior approval of the Board of Supervisors, may adopt bylaws for the conduct of their business not inconsistent with the express terms of this Resolution.

13. Sub-Committees. The Commission may appoint special ad hoc sub-committees to research, study and make recommendations on special issues as determined by the Commission. Sub-committees shall be terminated when their functions are no longer necessary.

14. Reimbursement of Expenses. No engineering, legal or other professional service to the Commission shall be compensated by the County of Kings without prior approval of the Board of Supervisors entered upon the minutes of said Board, except that the County Counsel shall be the legal advisor to the Commission. The members of the Commission shall serve without salary or mileage reimbursement, except for mileage at the then current County rate when traveling outside of Kings County with prior approval of the Board of Supervisors.

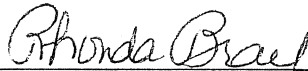
The foregoing resolution was adopted upon motion by Supervisor Taylor, seconded by Supervisor Rachford, at a regular meeting held on the 15th day of January, 2008, by the following vote:

AYES: Supervisors Taylor, Rachford, Barba, Oliveira, Neves
NOES: None
ABSENT: None



Joe Neves, Chairman of the Board of Supervisors
County of Kings, State of California

WITNESS my hand and seal of said Board of Supervisors this 15th day of January, 2008.



Rhonda Bray, Deputy Clerk of said Board of Supervisors

Exhibit A

BYLAWS KINGS COUNTY WATER COMMISSION

Article I. Name

The Kings County Water Commission is the official name of the Water Commission created by the Board of Supervisors' Resolution No. 08-003. As used in these bylaws, the word "Commission" means and refers to the Kings County Water Commission.

Article II. Legal Authority

Resolution No. 08-003 establishes the legal authority for the Commission and is attached as Exhibit A to these bylaws. Resolution No. 08-003 defines the Commission's purpose, membership requirements, certain meeting requirements and states that the function of the Commission is advisory to the Board of Supervisors.

Article III. Commission Composition

The Commission is composed of 9 Voting Members and as many Ex-Officio Members as appointed by the Board of Supervisors. Upon appointment, Commission Members will have forty-five days to sign their oaths of office.

Article IV. Commission Members

- A. Voting Members of the Commission serve a term of four years and Ex-Officio Members serve at the will of the Board of Supervisors subject to the additional term limitations provided in Resolution No. 08-003.
- B. No member of the Commission shall take any action on behalf of, or in the name of, the Commission unless specifically authorized to do so by the Commission.

Article V. Officers and Duties

The offices of the Chairperson and the Vice-Chairperson shall be elected by a majority of a quorum of the Voting Members of the Commission. Only Voting Members of the Commission are eligible to be elected to said offices. If the Chairperson or Vice-Chairperson is not able on a permanent basis to carry forth his or her duties as an officer, a special election may be called to fill the vacancy at the next scheduled Commission meeting. The terms of office for the Chairperson and the Vice-Chairperson shall be two years. No Commission Member shall serve more than two consecutive terms as Chairperson.

- A. The Chairperson shall perform the following duties:
 - 1. Preside at all meetings of the Commission.
 - 2. Decide all points of order. Unless two-thirds of Voting Members present vote to the contrary, the Chairperson's decisions shall stand.
 - 3. Appoint the Chairperson of all committees.

4. Represent the Commission at public functions or appoint a representative to do so in his/her stead.
 5. Recommend to the Commission any amendments to the bylaws deemed appropriate.
 6. Perform other duties as deemed appropriate for a Chairperson.
- B. The Vice-Chairperson shall perform the following duties:
1. Perform the duties of the Chairperson during the absence of said Chairperson.
 2. Perform such other duties as may be assigned by the Chairperson or by the Commission.
 3. Act as an advisor to the Chairperson.
- C. A Temporary Chairperson may be elected by a majority of a quorum of the Voting Members of the Commission in the absence of both the Chairperson and Vice-Chairperson, or pending election of said officers, and may perform the duties of the Chairperson as listed above.
- D. The Secretary shall be designated by the Kings County Administrative Officer and shall perform the following duties:
1. Shall prepare minutes of the Water Commission meetings and shall prepare written reports of Water Commission advice to the Board of Supervisors.
 2. Maintain all records and conduct correspondence of the Commission, prepare agendas, official documents and resolutions, and give notice of meetings.
 3. Perform other duties as deemed appropriate for a secretary.

Article VI. Meetings

- A. Regular meetings shall be held on a quarterly basis on the fourth Monday of February, May, August, and November at 5:00 p.m. in the Agricultural Commissioner's Multi-Purpose Room in the Kings County Government Center, 680 N. Campus Drive, unless a different place or time is designated and noticed as required by the Brown Act.
- B. A quorum of the Commission shall be five Voting Members present. Action may be taken by an affirmative vote of a majority of those Voting Members participating in the vote.
- C. The regular meeting in February shall be considered the Annual Commission Meeting for the purposes of carrying on business and conducting elections as needed.
- D. The Chairperson, such person authorized herein due to the Chairperson's absence, or the majority of the voting members may call a special meeting of the Commission. Ex-Officio Members may suggest special meetings to address issues of importance as they arise.

- E. Meetings may be canceled by the Chairperson or by action of the majority of the Voting Members.
- F. Unless otherwise indicated by these bylaws, all Commission and committee meetings shall be governed by Robert's Rules of Order.
- G. All meetings shall be noticed, held, and conducted in compliance with the Ralph M. Brown Act (Government Code Section 54950 et. seq.).


Article VII. Conflict of Interest

In any case in which a matter is being considered or voted upon by the Commission that involves any member of the Commission in a conflict of interest, any such Commission Member shall abstain from discussion and voting upon the matter.

Article VIII. Adoption and Amendments

These bylaws may be amended by a majority vote of the Voting Members but must be approved by the Board of Supervisors. Proposed amendments to these bylaws are to be made in writing and submitted to the members at least 72 hours prior to any meeting to vote on the amendments. The bylaws, and any amendments thereto, shall be subject to approval of the Board of Supervisors before becoming effective.

Dated: MAR 15 2011



Chairperson
Tony Barba

**REVIEWED AND APPROVED BY:
The Kings County Board of Supervisors**

Dated: MAR 15 2011



Catherine Centurille
Clerk to the Board of Supervisors