

**RESOLUTION NO. 2021-13**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF  
THE SAN BENITO COUNTY WATER DISTRICT  
ACTING AS THE GROUNDWATER SUSTAINABILITY AGENCY  
FOR THE NORTH SAN BENITO GROUNDWATER BASIN  
LEVYING A GROUNDWATER MANAGEMENT FEE**

**WHEREAS**, on February 8, 2017, after a duly-noticed public hearing, the Board of Directors of the San Benito County Water District (the “Board of Directors”), by Resolution No. 2017-03, elected to have the San Benito County Water District be the exclusive groundwater sustainability agency for the San Benito County portion of the Hollister, Bolsa, and San Juan Valley Subbasins of the Gilroy-Hollister Groundwater Basin; and

**WHEREAS**, on May 24, 2017, the San Benito County Water District became the exclusive groundwater sustainability agency for the Bolsa Area (3-003.02), Hollister Area (3-003.03), and San Juan Bautista Area (3-003.04) Subbasins of the Gilroy-Hollister Basin; and

**WHEREAS**, on April 25, 2018, after a duly-noticed public hearing, the Board of Directors of the San Benito County Water District, by Resolution No. 2018-06, elected to have the San Benito County Water District be the exclusive groundwater sustainability agency for the Tres Pinos Valley Groundwater Basin (3-025); and

**WHEREAS**, on April 25, 2018, after a duly-noticed public hearing, the Board of Directors of the San Benito County Water District, by Resolution No. 2018-05, elected to consolidate the Bolsa Area (3-003.02), Hollister Area (3-003.03), and San Juan Bautista Area (3-003.04) Subbasins of the Gilroy-Hollister Basin and the Tres Pinos Valley Basin (3-025) into a single new basin named the North San Benito Groundwater Basin (3-003.05); and

**WHEREAS**, on July 3, 2019, the San Benito County Water District, acting as the groundwater sustainability agency for the foregoing subbasins and basin, submitted a Groundwater Sustainability Plan Initial Notification to the California Department of Water Resources for the development of a plan for the North San Benito Groundwater Basin (3-003.05); and

**WHEREAS**, on July 9, 2019, the San Benito County Water District became the exclusive groundwater sustainability agency for the North San Benito Groundwater Basin (3-003.05) (the “San Benito County Water District GSA” or the “GSA”); and

**WHEREAS**, the San Benito County Water District GSA has incurred costs to develop the Groundwater Sustainability Plan (the “GSP”) for the North San Benito Groundwater Basin (the “Basin”) and will incur costs to manage the Basin and administer the GSP; and

**WHEREAS**, Water Code section 10730(a) authorizes the GSA to impose fees to fund the costs of a groundwater sustainability program, including, but not limited to, preparation, adoption, and amendment of a groundwater sustainability plan, and investigations, inspections, compliance assistance, enforcement, and program administration, including a prudent reserve; and

**WHEREAS**, pursuant to the requirements of Water Code section 10730(b), the GSA provided notice of the time and place of the public meeting at which the groundwater management fee (the “Groundwater Management Fee”) adopted hereby has been considered; the notice was published in compliance with Government Code section 6066, was posted on the GSA’s website, and was mailed to interested parties; the data on which the fee is based was made available to the public at least 20 days before the meeting; and the GSA held the public meeting and permitted written and oral presentations from the public; and

**WHEREAS**, the GSA has identified the total costs of GSP preparation and the expected annual management and administration costs over the next five years; and

**WHEREAS**, the GSA’s hydrogeological and groundwater management consultant, Todd Groundwater, has classified the parcels of land within the Basin into categories that reflect their location relative to productive portions of the Basin and their location relative to the service areas of existing major municipal and industrial water purveyors; and

**WHEREAS**, Todd Groundwater has provided to the GSA a tabular dataset including Assessor’s Parcel Number (APN), location relative to the Basin, and the category assignments of each parcel of land within the Basin; and

**WHEREAS**, Todd Groundwater has advised the GSA that groundwater management provides benefits for all landowners within the Basin, but parcels overlying the thick, unconsolidated alluvial materials in valley areas have greater access to groundwater and benefit from development and implementation of a GSP; and

**WHEREAS**, Todd Groundwater has advised that, groundwater occurrence and beneficial uses are limited in the upland areas surrounding these valleys; and

**WHEREAS**, based on the findings of Todd Groundwater, District staff has determined that the most equitable method to recover costs for GSP plan development and administration is an acreage-based fee to be applied equally to all parcels deemed to significantly benefit from groundwater management within the Basin excluding parcels in the upland areas with insignificant GSP benefit; and

**WHEREAS**, the Board of Directors hereby determines that the amount of the proposed Groundwater Management Fee is no more than necessary to cover the reasonable costs of the governmental activity financed thereby and that the manner in which those costs are allocated to the owners of land that are charged the Groundwater Management Fee bears a fair and reasonable relationship to the owners’ benefits received from management of the Basin;

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** by the Board of Directors of the San Benito County Water District, acting as the San Benito County Water District GSA, that the GSA hereby adopts and levies and provides for the collection of the Groundwater Management Fee as forth in Attachment A hereto and incorporated herein by reference.

**BE IT FURTHER RESOLVED** that, if a water company regulated by the California Public Utilities Commission (CPUC) will be subject to the Groundwater Management Fee, the

District Manager of the San Benito County Water District is authorized and directed to notify the CPUC by way of letter to the Director of the Water Division, as required by Water Code section 10730.1.

**BE IT FURTHER RESOLVED** that the President of the Board is authorized to sign this Resolution on behalf of the Board and the GSA.

**PASSED AND ADOPTED** by the Board of Directors of the San Benito County Water District, acting as the San Benito County Water District GSA, this 14th day of July 2021 by the following vote:

AYES: DIRECTORS Williams, Tonascia, Flores, Shelton and Tobias

NOES: DIRECTORS None

ABSENT: DIRECTORS None

ABSTAIN: DIRECTORS None

/s/Doug Williams  
Doug Williams  
President

ATTEST: /s/Sara Singleton  
Sara Singleton  
Assistant Manager

**ATTACHMENT A**

**SAN BENITO COUNTY WATER DISTRICT  
GROUNDWATER SUSTAINABILITY AGENCY**

**GROUNDWATER MANAGEMENT FEE**

**SECTION 1. DEFINITIONS**

1.1 “Administrator” means the District Manager of the San Benito County Water District.

1.2 “Basin” means the North San Benito Groundwater Basin (3-003.05) as set forth in Bulletin 118 of the California Department of Water Resources, as may be amended from time-to-time.

1.3 “Board of Directors” means the Board of Directors of the San Benito County Water District.

1.4 “Fee” means the Groundwater Management Fee charged as set forth herein.

1.5 “GSA” means the San Benito County Water District Groundwater Sustainability Agency.

1.6 “Person” means the owner of property, water utility agency, or other entity from whom the Fee is to be collected.

**SECTION 2. CLASSIFICATION OF LAND**

All land within the Basin is classified into the following categories:

<u>Land Category</u>	<u>Abbreviation</u>
Areas Significantly Benefiting from GSP	AB
Upland Areas with Insignificant GSP Benefit	UA
Major Municipal and Industrial Areas	MI

**SECTION 3. AMOUNT OF THE FEE**

The Fee shall be charged in the amounts per acre of land for fiscal years 2021-22 through fiscal year 2025-26 as shown in the following table:

Fiscal Year					
	2021-2022	2022-2023	2023-2024	2024-2025	2025-2026
Annual Per Acre Fee	\$5.77	\$5.92	\$6.07	\$6.23	\$6.39

All property within the Basin, except that which is classified as UA, shall be charged the Fee. Any Fee that is collected by the County of San Benito on the property tax rolls will also include a per parcel enrollment fee as determined by the San Benito County Assessor’s Office.

**SECTION 4. COLLECTION**

4.1 The GSA will collect the Fee directly from each retail water utility agency based on the acreage of the parcels of land within its service area. The acreage upon which those amounts are based, are as follows:

<u>Agency</u>	<u>Acreage</u>
City of Hollister	3,115
Sunnyslope County Water District	3,633
City of San Juan Bautista	250

The GSA shall update the Fee amounts each year based on any changes in the area served by each agency. The Fee shall be due on December 10 each year.

4.2 The GSA will collect the Fee directly from the Santa Clara Valley Water District based on the acreage of land within the Basin that is situated outside San Benito County excluding any land classified as UA. The amount to be collected each year as outlined in Section 3 is based on 2,724 acres and the Fee will be adjusted to reflect the prepayment of \$35,000 toward the GSP completion. The Fee shall be due on December 10 each year.

4.3 The GSA shall request the County of San Benito to collect the Fee from each owner of land classified as AB within San Benito County based on the acreage of land owned in the same manner as ordinary municipal *ad valorem* taxes. The Administrator shall furnish to the County Auditor-Controller and Board of Supervisors, on or before August 1 of each year for which collection of the Fee is requested, a copy of the resolution requesting collection together with the list of parcels and the amount to be collected for each parcel.

4.4 If any Person fails to pay the Fee, the Person shall pay interest to the GSA at the rate of one percent (1%) per month on the delinquent amount of the Fee and a ten percent (10%) penalty, pursuant to Water Code section 10730.6.

4.5 In addition to the interest and penalty set forth in Section 4.4, the GSA may elect to utilize any of the remedies available to it for failure to pay the Fee as set forth in Water Code section 10730.6.

## **SECTION 5. PROTEST AND APPEAL**

5.1 Any Person contesting a classification of land or the amount of the Fee charged must first pay the Fee as charged. Within thirty (30) days following payment of the Fee, the Person may file a protest with the GSA, on a form approved by the Administrator, setting forth the basis upon which the protest is made. The protest will be considered timely filed if, within the time allowed, the form is 1) mailed by first class mail (as evidenced by postmark), 2) delivered to the Administrator or Clerk of the Board of Directors by electronic mail, or 3) personally delivered to the Administrator.

5.2 Within thirty (30) days of the filing of a protest, the Administrator shall provide the Person with the opportunity to meet or otherwise confer to discuss the basis of the appeal. The Administrator is authorized to make the changes requested in the protest, in whole or in part, or deny the requested changes. The determination shall be made no later than fifteen (15) days following the meeting/conference with the protestor. The determination shall be made in writing and delivered to the Person by first class mail or electronic mail.

5.3 If the Person who filed the protest disagrees with the determination of the Administrator, the Person may file an appeal to the Board of Directors within fifteen (15) days of delivery of the determination, following the procedures for filing of a protest as set forth in Section 5.1, above.

5.4 The appeal will be placed on the agenda for the next available Board of Directors meeting occurring no less than fifteen (15) days of the filing of the appeal. The Board of Directors shall receive evidence and hear from the appellant and staff regarding the merits of the appeal. The Board of Directors is authorized to grant the appeal, in whole or in part, or deny the appeal. The determination of the Board of Directors shall be memorialized in a minute order of the Board of Directors and shall be final.

## **SECTION 6. PERIODIC REVIEW**

6.1 Annually during the budget process, the Board of Directors shall review the Fee to determine if the Fee is sufficient to cover expenses, consistent with the California Constitution. The Board of Directors may increase or decrease the Fee as necessary or appropriate in compliance with the California Constitution.

6.2 At least every five (5) years, the Board of Directors shall perform a comprehensive review of the Fee and its methodology to determine if the methodology for calculating and charging the Fee continues to be appropriate or should be changed. The Board of Directors may authorize the retention of a consultant to assist with the review and shall hold at least one public meeting to receive testimony from the public regarding the Fee. Any change in the methodology for calculating and charging the Fee shall be subject to the requirements of the California Water Code and the California Constitution.