

RESOLUTION NO. 2022-17

**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
RESTATING AND REVISING THE PROTEST AND APPEAL PROCESS
FOR THE GROUNDWATER MANAGEMENT FEE**

WHEREAS, on July 14, 2021, after a duly-noticed public hearing, the Board of Directors of the San Benito County Water District (the “Board of Directors”), acting as the San Benito County Water District GSA, by Resolution No. 2021-13 adopted and levied a groundwater management fee; and

WHEREAS, the Board of Directors amended and restated Sections 5.2 and 5.4 of Attachment A to Resolution No. 2021-13 in Resolution No. 2021-18, in order to provide the District with sufficient time to fully research and review any protest or appeal;

WHEREAS, the Board of Directors desires to amend and restate Section 5.1 of Attachment A to Resolution No. 2021-13 and as amended by Resolution No. 2021-18, to clarify the appeal deadlines;

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 Section 5.1 of Attachment A to Resolution 2021-13 and as amended by Resolution No. 2021-18, is hereby amended and fully restated to read as follows:

5.1 Any Person contesting a classification of land or the amount of the Fee charged must first pay the Fee as charged. No later than May 10th of the current property tax year, 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.

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, at a regular Board meeting, this 25th day of May 2022 by the following vote:

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

NOES: DIRECTORS: None

ABSTAIN: DIRECTORS: None

ABSENT: DIRECTORS: None

*(Signature of presiding Board member
Attested by Board Secretary
Resolution #2022-17)*

/s/ Joseph Tonascia
Joseph Tonascia
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. No later than May 10th of the current property tax year, 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 forty-five (45) 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 Board of Directors meeting occurring no less than fifteen (15) and no more than sixty (60) 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.