Committee Members
Garrett Gilcrease
Mark Tos
Andy Zonneveld
Chip Mello
Karl te Velde
Brian Medeiros
Matt Brown
David Stanfield
Kevin Ruble

Stakeholder Advisory Committee

for the

MID-KINGS RIVER
GROUNDWATER SUSTAINABILITY AGENCY

Committee Alternates
Keith Caetano
Julie Martella
Helen Sullivan
Mary Lou Silveira
Sebastian Silveira

Special Meeting Agenda

Date: **Wednesday, September 10, 2025**
Time: **9:00 a.m.**
Place: **Multi-Purpose Room of the Kings County Ag Commissioner Agriculture Building (Bldg. No. 21), 680 N. Campus Drive, Hanford, California**

☎ **(559) 852-2362** ✉ **bosquestions@co.kings.ca.us** 💻 **website: https://www.midkingsrivergsa.org**

Members of the public may submit written comments on any matter within the Committee's subject matter jurisdiction, regardless of whether it is on the agenda for the Committee's consideration or action, and those comments may become part of the administrative record of the meeting. Comments will not be read into the record, only the names of those who have submitted comments will be read. Written comments should be directed to bosquestions@co.kings.ca.us email by 8:00 a.m. on the morning of the noticed meeting to be included in the record, those comments received after 8:00 a.m. may become part of the record of the next meeting. E-mail is not monitored during the meeting. To submit written by U.S. Mail to: Board of Director's of the Mid-Kings River GSA, Attn: Clerk of the Board, County of Kings, 1400 W. Lacey Blvd., Hanford, CA 93230.

I **9:00 AM** **CALL TO ORDER**
ROLL CALL –

II **UNSCHEDULED APPEARANCES**
Any person may directly address the Board at this time on any item on the agenda, or on any other items of interest to the public, that is within the subject matter jurisdiction of the Board. Two (2) minutes are allowed for each item.

III **APPROVAL OF MINUTES**
A. Meeting of August 22, 2025

IV **CONSENT CALENDAR**
All items listed under the consent calendar are considered to be routine and will be enacted by one motion. For any discussion of an item on the consent calendar, it will be removed at the request of any Board Member and made a part of the regular agenda.
A. None

V **REGULAR AGENDA ITEMS**

A. Discussion concerning potential funding paths
1. Staff Report – Jennifer Thompson
2. Discussion

B. Discussion concerning allocations

1. Staff Report – Amer Hussain
2. Discussion
3. Decision

C. Discussion concerning a subsidence plan

1. Staff Report – Amer Hussain
2. Discussion
3. Decision

VI A. Committee Member Announcements or Reports

On their own initiative Committee Members may make a brief announcement or a brief report on their own activities. They may ask questions for clarification, make a referral to staff or take action to have staff place a matter of business on a future agenda (Gov. Code Section 54954.2a).

- Committee Correspondence
- Information on Future Agenda Items

VII A. CLOSED SESSION

None

VIII A. ADJOURNMENT

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Mid-Kings River GSA office at (559) 852-2362 by 9:00 a.m. on the Monday prior to this meeting.

Agenda backup information and any public records provided to the Committee after the posting of the agenda for this meeting will be available for public review within 24 hours of receipt of said documents, at the Mid-Kings River GSA office, located at 1400 W. Lacey Blvd., Hanford, CA 93230 or at
https://www.midkingsrivergsa.org/board.html

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Special Meeting Action Summary

Date: **Friday, August 22, 2025**
Time: **9:00 a.m.**
Place: **Multi-Purpose Room of the Kings County Ag Commissioner Agriculture Building (Bldg. No. 21), 680 N. Campus Drive, Hanford, California**

☎ **(559) 852-2362** ✉ **bosquestions@co.kings.ca.us** 💻 **website: https://www.midkingsrivergsa.org**

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I **9:00 AM** **CALL TO ORDER**
ROLL CALL –
MEMBERS PRESENT: GARRETT GILCREASE, MARK TOS, ANDY ZONNEVELD, KARL TE VELDE, BRIAN MEDEIROS, MATT BROWN, DAVID STANFIELD, JULIE MARTELLA (Alt), HELEN SULLIVAN (Alt), MARY LOU SILVEIRA (Alt), SEBASTIAN SILVEIRA (Alt)
MEMBERS ABSENT: KEVIN RUBLE, CHIP MELLO

II **UNSCHEDULED APPEARANCES**
Any person may directly address the Board at this time on any item on the agenda, or on any other items of interest to the public, that is within the subject matter jurisdiction of the Board. Two (2) minutes are allowed for each item.

III **APPROVAL OF MINUTES**
A. Approval of the minutes from the meeting of July 21, 2025
ACTION: APPROVED (GG, MT, AZ, KV, BM, MB, DS, JM, MS, KC – Aye; KR, CM - Absent)

IV **CONSENT CALENDAR**
All items listed under the consent calendar are considered to be routine and will be enacted by one motion. For any discussion of an item on the consent calendar, it will be removed at the request of any Board Member and made a part of the regular agenda.
A. None

V **REGULAR AGENDA ITEMS**

A. Discussion concerning allocations
ACTION: None

B. Discussion concerning a subsidence plan
ACTION: None

VI **A. Committee Member Announcements or Reports**

On their own initiative Committee Members may make a brief announcement or a brief report on their own activities. They may ask questions for clarification, make a referral to staff or take action to have staff place a matter of business on a future agenda (Gov. Code Section 54954.2a).

- Committee Correspondence **None**
- Information on Future Agenda Items **Discussion on Allocations and Subsidence Plan**

VII **A. CLOSED SESSION**
None

VIII **A. ADJOURNMENT**
The next Special meeting is scheduled for September 10, 2025 at 9:00 AM

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Mid-Kings River GSA office at (559) 852-2362 by 9:00 a.m. on the Monday prior to this meeting.

Agenda backup information and any public records provided to the Committee after the posting of the agenda for this meeting will be available for public review within 24 hours of receipt of said documents, at the Mid-Kings River GSA office, located at 1400 W. Lacey Blvd., Hanford, CA 93230 or at
https://www.midkingsrivergsa.org/board.html

MID-KINGS RIVER
GROUNDWATER SUSTAINABILITY AGENCY

Date: September 4, 2025

To: Board of Directors
From: District Counsel

Subject: Legal Background and Process to Adopt Groundwater Sustainability Agency Rates, Fees, and Penalties

Background

The Mid-Kings River Groundwater Sustainability Agency ("MKRGSA") requested information on the process to adopt fees under both Proposition 218 and Proposition 26. Currently, the MKRGSA anticipates adopting a per acre of land fee for operational costs under Proposition 218 and a per acre foot of water fee ("groundwater extraction fee") to mitigate the costs associated with over pumping of groundwater. Additionally, the MKRGSA requested information on the process to adopt regulatory fees under the California Water Code and to adopt penalties per acre-feet under the California Government Code, currently used by Greater Kaweah groundwater sustainability agency ("GSA").

This staff report outlines the processes and legal restraints to adopting fees under Proposition 218, Proposition 26, and the Water Code. In short, the fee for operational costs could be adopted under Proposition 218's majority protest proceeding and the groundwater extraction fee could be adopted through a combination of a Proposition 26 exception and the Water Code regulatory fee framework for GSAs.

While our office was unable to confirm the process used by Greater Kaweah GSA to impose per acre-feet penalties, the Sustainable Groundwater Management Act ("SGMA") authorizes GSAs to impose penalties for extracting more than the amount allocated to a person and for violating GSA rules, regulations, ordinances, and resolutions. This staff report discusses the penalties the MKRGSA may impose pursuant to its authority under SGMA.

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Proposition 218

Water Code section 10730.2 permits a groundwater sustainability agency to charge fees to fund costs of groundwater management. This section expressly states fees must comply with Article XIII, section 6, subdivisions (a) and (b) of the California Constitution (i.e., the Proposition 218 majority protest sections) ("Section 6"). Examples of groundwater management activities include "administration, operation, and maintenance, including a prudent reserve; acquisition of lands or other property, facilities, and services; supply, production, treatment, or distribution of water; and other activities necessary or convenient to implement [a groundwater sustainability] plan."[1]

Before the MKRGSA may impose groundwater extraction fees, it must hold a majority protest proceeding.[2] Proposition 218 provides minimal guidance on the procedures for a majority protest proceeding. Under Proposition 218, the parcels upon which the groundwater extraction fee is imposed will be identified and the amount of the fee for each parcel will be calculated.[3] The MKRGSA must provide written notice via mail to the record owner ("property owner") of each identified parcel and include the amount of the proposed fee, the basis upon which the amount of the proposed fee was calculated, the reason for the proposed fee, and the date, time, and location of the public hearing on the proposed fee.[4]

A public hearing shall be held not less than forty-five (45) days after the mailing of the notice of the proposed fee to each property owner.[5]

At or before the public hearing, a property owner or tenant obligated to pay the proposed fee may submit a written protest in opposition of the proposed fee.[6] Each parcel is allowed one protest, filed by an owner or tenant of the parcel, and each protest is weighted equally regardless of the proportional financial obligations of each property owner or tenant.[7] The proposed fee will pass unless the MKRGSA receives written protests against the proposed fee from the majority of the identified parcels.[8]

Neither statute nor case law outline a procedure for calculating majority protests. The MKRGSA in its discretion may tabulate protests by owners and tenants separately and allow a majority protest by either group.[9] If multiple rates are adopted, the MKRGSA is not obligated to hold

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[1] Wat. Code, § 10730.2.
[2] Wat. Code, § 10730.2, subd. (c); Cal. Const. art. XIII D § 6.
[3] Cal. Const. art. XIII D § 6, subd. (a)(1).
[4] *Id*.
[5] Cal. Const. art. XIII D § 6, subd. (a)(2).
[6] Cal. Const. art. XIII D § 6, subd. (a)(2).); Gov. Code, § 53755, subd. (b).
[7] Gov. Code, § 53755, subd. (b).
[8] Cal. Const. art. XIII D § 6, subd. (a)(2).
[9] *Crawley v. Alameda County Waste Management Authority* (2015) 243 Cal.App.4th 396, 401–402.

separate protest hearings for each rate.[10] As the Proposition 218 majority protest proceeding procedures are not well established, the MKRGSA may wish to adopt a resolution outlining the procedures it will use including the procedure for tabulating majority protests. If the proposed fee is challenged, a resolution would provide a public record of the procedures used by the MKRGSA to adopt the fee and may assist with refuting any allegations the fee imposed is arbitrary and capricious.

Proposition 26

Proposition 26 states that all levies, charges, or exactions imposed by a local agency are taxes, and must be approved by the voters, unless they meet one of seven (7) exceptions.[11] Groundwater extraction fees likely fall within the exceptions for fees for "a specific benefit conferred or privilege granted" or "a specific government service or product" if they meet specific requirements.[12]

In order for a groundwater extraction fee to fall under either exception (i.e., not be a tax), the fee must not exceed the reasonable costs of the governmental activity and bear a fair and reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity.[13] In other words, the groundwater extraction fee must not exceed the reasonable costs of mitigation and bear a reasonable relationship to the burden the payor's extraction puts on the mitigation program.

The burden to prove the reasonableness and proportionality of the fees is on the MKRGSA. To meet this burden, the MKRGSA must conduct a fee study to establish a reasonable and proportional fee for mitigation activities. After completion of the fee study, the MKRGSA should adopt a resolution adopting the fee study and making findings supporting the application of one or both of the exceptions described above. Adoption of the groundwater extraction fees follows the process described below in the Regulatory Fees section.

Regulatory Fees

Under Water Code section 10730, a MKRGSA "may impose fees, including, but not limited to, permit fees and fees on groundwater extraction or other regulated activity, to fund the costs of a

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[10] *Morgan v. Imperial Irrigation District* (2014) 223 Cal.App.4th 892.
[11] Cal. Const. art. XIII C § 1, subd. (e).
[12] Cal. Const. art. XIII C § 1, subd. (e)(1)-(2); *See City of San Buenaventura v. United Water Conservation Dist.* (2017) 3 Cal.5th 1191 [226 Cal.Rptr.3d 51, 406 P.3d 733], as modified on denial of reh'g (Feb. 21, 2018) stating Proposition 26 is the proper framework for evaluating groundwater extraction fees.
[13] Cal. Const. art. XIII C § 1, subd. (e).

groundwater sustainability program, including but not limited to, …investigations, inspections, compliance assistance, enforcement, and program administration, including a prudent reserve."[14]

Procedurally, to impose or increase a Regulatory Fee, the MKRGSA must follow the procedures outlined in Water Code section 10730. First, prior to imposing fees for these regulatory activities, the MKRGSA must: (1) hold at least one public meeting at which oral or written presentations may be made; (2) publish, post, and mail notice of the meeting; and (3) at least twenty (20) days prior to the meeting, make the data upon which the fee is based available to the public.[15] Notice of the public meeting must be published in a newspaper at least once a week for two (2) weeks with at least five (5) days between the publications, posted on the MKRGSA's website, and mailed to any interested party who has filed a request with the agency within the last year.[16] After the public meeting, the MKRGSA must impose or increase the fee by ordinance or resolution.[17] Additionally, the MKRGSA may adopt a resolution requesting collection of these fees in the same manner as ordinary municipal ad valorem taxes by the County.[18]

SGMA Penalties

Under SGMA, a person who extracts groundwater in excess of the amount that person is allocated under a rule, ordinance, or resolution adopted pursuant to Water Code section 10725.2 is subject to a civil penalty not to exceed Five Hundred Dollars ($500) per acre-foot extracted in excess of the amount allocated to that person.[19] Liability under this section is in addition to any liability imposed under Water Code section 10725.2, subdivision (a)(2) and any fee imposed for extraction.[20]

Additionally, under SGMA, a person who violates any rule, regulation, ordinance, or resolution adopted pursuant to Water Code section 10725.2 is liable for a civil penalty not to exceed One Thousand Dollars ($1,000) plus One Hundred Dollars ($100) for each additional day on which the violation continues if the person fails to comply within thirty (30) days of the GSA's notice of violation.[21]

A GSA may administratively impose these penalties after providing the person with notice of the violation and providing an opportunity for a hearing.[22] Additionally, the GSA may bring an action in the superior court to determine whether a violation occurred and to impose a civil

[14] Wat. Code, § 10730, subd. (a).
[15] Wat. Code, § 10730, subd. (b)(2).
[16] Gov. Code, § 6066; Wat. Code § 10730, subd. (c).
[17] Wat. Code, § 10730, subd. (c).
[18] Wat. Code, § 10730, subd. (d)(1)-(2).
[19] Wat. Code § 10732, subd. (a)(1).
[20] *Id*.
[21] Wat. Code § 10732, subd. (a)(2).
[22] Wat. Code § 10732, subd. (b)(2).

penalty.[23] In determining the amount of the penalty, the GSA is required to "take into consideration all relevant circumstances, including, but not limited to, the nature and persistence of the violation, the extent of the harm caused by the violation, the length of time over which the violation occurs, and any corrective action taken by the violator."[24]

The GSA must expend any penalties collected for SGMA purposes.[25]

Conclusion

In conclusion, the MKRGSA may adopt a per acre fee to fund MKRGSA operational costs through a Proposition 218 majority protest proceeding. The MKRGSA may adopt a groundwater extraction fee by utilizing the Proposition 26 exceptions and the regulatory process authorized by the Water Code for MKRGSAs. Moreover, the MKRGSA may administratively impose penalties both for extracting more than the amount allocated by the GSA and other violations of GSA rules, regulations, ordinances, and resolutions pursuant its authority under SGMA.

Request

To receive written and verbal report from District Counsel regarding the process to adopt Groundwater Sustainability Agency rates and fees; ask questions; and discuss.

[23] Wat. Code § 10732, subd. (b)(1).
[24] Wat. Code § 10732, subd. (b)(3).
[25] Wat. Code § 10732, subd. (c).