

## **RESOLUTION NO. 24-05**

### **RESOLUTION NO. 24-05 OF THE UKIAH VALLEY BASIN GROUNDWATER SUSTAINABILITY AGENCY ADOPTING A GROUNDWATER SUSTAINABILITY FEE IN THE UKIAH VALLEY BASIN**

#### **RECITALS**

**WHEREAS**, the State of California enacted the Sustainable Groundwater Management Act (SGMA) in 2014 to provide for the sustainable management of groundwater basins, to enhance local management of groundwater consistent with rights to use or store groundwater, to provide local groundwater agencies with the authority and the technical and financial assistance necessary to sustainably manage groundwater, and to manage groundwater basins through the actions of local governmental agencies to the greatest extent feasible (Wat. Code § 10720.1 et seq.); and

**WHEREAS**, the stated purpose of SGMA is to provide for the sustainable management of groundwater basins by providing groundwater sustainability agencies (GSAs) with the authority, and technical and financial assistance necessary to sustainably manage groundwater resources; and

**WHEREAS**, said powers and authorities include, but are not limited to the imposition and collection of fees on all applicable properties to fund regulatory activities within the GSAs' jurisdictional boundaries; and

**WHEREAS**, the California Department of Water Resource (DWR) has designated the Ukiah Valley Basin (DWR Bulletin 118 Basin Number 1-052) as a medium priority basin under SGMA; and

**WHEREAS**, the Ukiah Valley Basin GSA is the exclusive GSA over the Ukiah Valley Basin and developed a Groundwater Sustainability Plan (GSP) covering the entire basin, which DWR approved on July 27, 2023; and

**WHEREAS**, the implementation of the Ukiah Valley Basin GSP requires exercising regulatory powers and authorities provided in SGMA for all applicable parcels within the Ukiah Valley Basin GSA's boundaries, including de minimis extractors (i.e., a person who extracts, for domestic purposes, two acre-feet or less per year); and

**WHEREAS**, the Board of Directors of the Ukiah Valley Basin GSA seeks to impose a groundwater sustainability fee as authorized by Water Code section 10730 to fund the costs of a groundwater sustainability program, including implementation of the Ukiah Valley Basin GSP; and

**WHEREAS**, the Ukiah Valley Basin Groundwater Sustainability Agency 2024 Regulatory Fee Study ("Fee Study"), prepared by Hansford Economic Consulting LLC, a recognized public finance and urban economic consulting firm for public, nonprofit, and private sector corporations, has been provided to the Board of Directors and in which is set forth the proposed methodology for charging a regulatory fee to be known as the Ukiah Valley Basin GSA Groundwater Sustainability Fee ("Fee") for the purpose of managing the sustainability of Basin Number 1-052 that constitutes (1) a charge imposed for a specific benefit conferred directly to the payor that is

not provided to those not charged, and (2) a charge imposed for a specific government service provided directly to the payor that is not provided to those not charged; and

**WHEREAS**, the Fee Study shows that the fee adopted herein is not a tax, the amount is no more than necessary to cover the reasonable costs of the governmental activity, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity; and

**WHEREAS**, the Fee Study is hereby incorporated by reference into this Resolution; and

**WHEREAS**, the Ukiah Valley Basin GSA has determined that it will regulate de minimis extractors pursuant to Resolution No. 24-04; and

**WHEREAS**, pursuant to Water Code section 10730(d), prior to imposing the Fee, the Ukiah Valley Basin GSA has held a public meeting, at which written or oral presentations have been made; and

**WHEREAS**, pursuant to Water Code section 10730(d), the Ukiah Valley Basin GSA posted notice of the time and place of the public meeting at which the Fee will be considered, the notice was published in the newspaper in compliance with Government Code section 6066, the notice was posted on the Ukiah Valley Basin GSA's website and was mailed to interested parties, and the data to support the Fee was available to the public at least 20 days before the Ukiah Valley Basin GSA's public meeting to impose the Fee; and

**WHEREAS**, the Ukiah Valley Basin GSA General Manager and Counsel are hereby authorized and directed to take such other and further steps as may be necessary or appropriate to implement the intent and purpose of this resolution.

**NOW THEREFORE BE IT RESOLVED** by the Board of Directors of the Ukiah Valley Basin Groundwater Sustainability Agency as follows:

1. The Ukiah Valley Basin GSA hereby finds that the facts set forth in the Recitals to this Resolution are correct and establish the factual basis for the Ukiah Valley Basin GSA's adoption of this Resolution; and
2. The Ukiah Valley Basin GSA finds that all prerequisites required before adopting the Fee have been met, including the proper public noticing of the hearing and the conduct of the public hearing; and
3. The Ukiah Valley Basin GSA approves the Regulatory Fee Study and finds that it is the proper basis on which to establish the Fee, and that the Fee adopted herein is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity; and

4. The Ukiah Valley Basin GSA hereby adopts the Fee, including a Fee on de minimis extractors, residential, commercial, irrigated agriculture, and public water systems using groundwater as set forth in Attachment A hereto; and
5. The General Manager of the Ukiah Valley Basin GSA is hereby authorized and directed to file a certified copy of this resolution with the Auditor-Controller of the County of Mendocino. Upon such filing, the County Auditor-Controller shall enter on the County assessment roll opposite each lot or parcel of land the amount of fee thereupon as shown in the levy roll. The fees shall continue to be collected at the same time and in the same manner as County taxes are collected and all the laws providing for collection and enforcement shall apply to the collection and enforcement of the assessments. After collection by the County, the net amount of the assessments, after deduction of any compensation due the County for collection, shall be paid to the to the Ukiah Valley Basin GSA. Reference is hereby made to the direct charge levy roll on file with the General Manager of the Ukiah Valley Basin GSA, as it is too voluminous to be bound with this resolution. This roll file contains a list of parcels and the amount to be collected for each parcel; and
6. The General Manager of the Ukiah Valley Basin GSA is hereby authorized and directed to cause the direct billing of the fee for entities that do not receive a tax bill; and
7. The General Manager and Legal Counsel of the Ukiah Valley Basin GSA are hereby authorized and directed to take such other and further steps as may be necessary or appropriate to implement the intent and purpose of this resolution.

PASSED AND ADOPTED on this 18<sup>th</sup> day of June 2024 by the following vote:

Chair McGourty: Aye

Vice-Chair Crane: Aye

Director Bailey: Aye  
Secretary White: Aye

Director McNerlin: Absent

Director Nevarez: Absent

Director Gaska: Aye

AYES: 4 NOES: 0 ABSENT: 2 ABSTAIN: 0

By:   
Chair Glenn McGourty

CERTIFICATION



I certify that the foregoing Resolution was duly and regularly passed and adopted at a regular meeting of the Ukiah Valley Basin Groundwater Sustainability Agency held on the 18<sup>th</sup> day of June 2024, of which meeting all Directors were notified and at which meeting a quorum was present at all times and acting.

DocuSigned by:  
**Theresa Mcnerlin**  
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Date: 6/23/2024

Theresa Mcnerlin, Secretary/Clerk of the Board of Directors of the Ukiah Valley Basin Groundwater Sustainability Agency, County of Mendocino, State of California.

## UKIAH VALLEY BASIN GROUNDWATER SUSTAINABILITY AGENCY

### GROUNDWATER SUSTAINABILITY FEE

#### ATTACHMENT A

#### SECTION 1. DEFINITIONS

- 1.1 “Base Fee” means the Part 1 Fee allocated to acreage located within the Ukiah Valley Basin boundary excluding Exempt Parcels.
- 1.2 “Basin” means the Ukiah Valley Basin as set forth in Bulletin 118 of the California Department of Water Resources, as may be amended from time to time.
- 1.3 “Core Administrative Costs” means those costs typically incurred every year by the Ukiah Valley Basin GSA to operate; examples include, but are not limited to, County administration costs, insurance, legal costs, fee program administration, and Board and committee costs.
- 1.4 “Exempt Parcels” means parcels owned by the Federal Government, and tribal lands held in trust by the Federal Government.
- 1.5 “Fee” means the Groundwater Sustainability Fee charges as set forth herein.
- 1.6 “General Manager” means the General Manager of the Ukiah Valley Basin GSA.
- 1.7 “Group Fee” means the Part 2 Fee allocated to three groups of groundwater users defined as Group 1, Group 2, or Group 3 Parcels.
- 1.8 “Group 1 Parcel” means a parcel that is located within the service boundary of a Public Water System that is not defined as a Group 2 Parcel.
- 1.9 “Group 2 Parcel” means a parcel that is identified as growing crops for at least some portion of the year using DWR’s most recently released publicly available crop mapping dataset, or a property with at least one medium, large, or nursery stock cannabis license issued by Mendocino County as of June 1 of each year.
- 1.10 “Group 3 Parcel” means a parcel that has an improvements value determined by the County Assessor for structure(s) located on the property, and the property is not located within the service boundary of a Public Water System but may be served by a State Small Water System and is not identified as a Group 2 Parcel.
- 1.11 “Group 4 Parcel” means a parcel that is not an Exempt Parcel and is not in Groups 1, 2, or 3. The land is located outside Public Water System service provider boundaries and is unimproved (not assessed by the County Assessor for any structure(s) located on the property).

- 1.12 “Jurisdictional Area” means those parcels of real property within the Basin and straddling the Basin that use groundwater or surface water derived, extracted, or otherwise obtained from within the Basin excluding therefrom any area for which the Ukiah Valley Basin GSA has entered into an agreement that provides that the Fee shall not be charged within such area, or any portion thereof.
- 1.13 “Part 1 Fee” means the imposition of that portion of the Fee that pays for the Core Administrative Costs of the Ukiah Valley Basin GSA.
- 1.14 “Part 2 Fee” means the imposition of that portion of the Fee that pays for all other regulatory costs incurred by the Ukiah Valley Basin GSA.
- 1.15 "Public Water System" means an entity owning or operating a system for the provision of water for human consumption through pipes or other constructed conveyances that has 5 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year.
- 1.16 “Person” means the owner(s) of real property, or a Public Water System charged the Fee.
- 1.17 “State Small Water System” means a water system with 2 to 14 connections that is regulated by the Mendocino County Health Department.
- 1.18 "Ukiah Valley Basin GSA" means the Ukiah Valley Basin Groundwater Sustainability Agency.

## SECTION 2. ESTABLISHMENT OF FEE

2.1 There is hereby charged within the Jurisdictional Area a Fee pursuant to Section 10730 of the California Water Code, and as more fully set forth herein.

2.2 The Fee may consist of one or more of the following charges as follows:

2.2.1 Base Fee – With the exception of Exempt Parcels, all acreage of parcels within the Ukiah Valley Basin boundary shall pay the Base Fee. The Base Fee is \$4.07 per acre of property within the Ukiah Valley Basin boundary for Fiscal Year 2025. The Base Fee is subject to an annual adjustment as set forth in the Annual Fee Adjustment Section below.

2.2.2 Group Fees – All Public Water Systems serving at least some customers located in the Jurisdictional Area and all Group 2 and Group 3 parcels in the Jurisdictional Area shall pay the Group Fees. The Group 1 Fee is \$0.1352 per thousand gallons of extraction; the Group 2 Fee is \$32.75 per cropped acre, and the Group 3 Fee is \$34.67 per acre for Fiscal Year 2025. Group 4 parcels are not allocated Part 2 Fee costs; therefore, the Group 4 Fee is \$0.00 for Fiscal Year 2025. The Group Fees are subject to an annual adjustment as set forth in the Annual Fee Adjustment Section below.

2.2.3 Annual Fee Adjustment - In order to keep pace with inflationary costs of service in carrying out the Ukiah Valley Basin GSA’s purposes for which the Fees are collected,

the Board may adopt an annual fee increase based on annual data updates and the adopted budget. In the event the required annual data updates are not performed and/or the budget is adopted later than May, there shall be an automatic annual fee increase of 4% or the 12-month change (March to March) in the West Region Consumer Price Index for All Urban Consumers (CPI-U) published by the U.S. Department of Labor, Bureau of Labor Statistics, whichever is lower, and not less than zero.

2.3 The Fee shall be payable to the Ukiah Valley Basin GSA as follows:

2.3.1 The Ukiah Valley Basin GSA shall determine those real properties that are subject to the Fee and shall submit their Fee to the Auditor-Controller of the County of Mendocino, who then shall enter on the County assessment roll opposite each lot or parcel of land the amount of Fee thereupon as shown in the levy roll. The fees shall continue to be collected at the same time and in the same manner as County taxes are collected and all the laws providing for collection and enforcement shall apply to the collection and enforcement of the assessments.

2.3.2 For Persons who do not typically receive a property tax bill, the Ukiah Valley Basin GSA shall mail a bill directly to the property owner at the address shown on the most recent equalized tax roll or other address on file with the General Manager.

2.3.3 If any Person fails to pay the Fee as charged, that Person shall pay interest to the Ukiah Valley Basin 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.

2.3.4 In addition to the interest and penalty set forth in Section 2.3.3, the Board of Directors 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 or otherwise provided by law.

## SECTION 3. APPEAL

3.1 Should a Person ("Appellant") wish to contest the Fee billed to their Public Water System or property, the Appellant shall first be required to pay the Fee as charged. Within thirty (30) days following payment of the Fee, the Appellant may file an appeal with the Ukiah Valley Basin GSA, on a form approved by the General Manager, setting forth the basis upon which the appeal is made. The appeal will be considered timely filed if, within the time allowed, the form is 1) postmarked, United States first class mail, 2) delivered to the General Manager or Clerk of the Board of Directors by electronic mail, or 3) personally delivered to the General Manager.

3.2 Within thirty (30) days of filing the appeal, the General Manager shall meet with the Appellant to discuss the basis of the appeal. The General Manager is authorized to grant the appeal, in whole or in part, or deny the appeal. The determination shall be made no later than fifteen (15) days following the meeting and shall be in writing and delivered to the Appellant in the same manner as the filing of the appeal.

3.3 If the Appellant who filed the appeal is dissatisfied with the determination of the General Manager, the Appellant may file an appeal to the Board of Directors within fifteen (15) days of delivery of the determination, following the procedures for filing of an appeal as set forth in Section 3.1, above.



#### SECTION 4. PERIODIC REVIEW

4.1 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.

4.2 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 methodology for calculating and charging the Fee shall be subject to the requirements of the California Water Code and the California Constitution.