

**Interim Operating Agreement for the Tulare Lake Subbasin
to Develop and Implement a Groundwater Sustainability Plan**

THIS INTERIM OPERATING AGREEMENT FOR THE TULARE LAKE SUBBASIN TO DEVELOP AND IMPLEMENT A GROUNDWATER SUSTAINABILITY PLAN (this "Agreement") is effective September 1, 2017, among the MID-KINGS RIVER GROUNDWATER SUSTAINABILITY AGENCY, SOUTH FORK KINGS GROUNDWATER SUSTAINABILITY AGENCY, EL RICO GROUNDWATER SUSTAINABILITY AGENCY, SOUTHWEST KINGS GROUNDWATER SUSTAINABILITY AGENCY, TRI-COUNTY WATER AUTHORITY, and ALPAUGH IRRIGATION DISTRICT. The signatories to this Agreement are hereinafter referred to collectively as the "Parties" or individually as "Party".

RECITALS

WHEREAS, the Parties are all located within the Tulare Lake Hydrologic Region, San Joaquin Valley Groundwater Basin, Tulare Lake Subbasin, a groundwater subbasin recognized by the California Department of Water Resources ("DWR") Bulletin 118 (2016) as Groundwater Basin No. 5-22.12 (hereinafter "Subbasin") and a depiction of the Subbasin is attached hereto as Exhibit "A" and incorporated herein by this reference; and

WHEREAS, the State of California has classified the entire Subbasin as an Economically Distressed Area and each community within the Subbasin as a Disadvantaged Community; and

WHEREAS, all lands within the Subbasin are included within one of the six groundwater sustainability agencies ("GSAs") that are the Parties to this Agreement, and each Party has been or are in the process of being determined an "exclusive" GSA by DWR; and

WHEREAS, the Sustainable Groundwater Management Act ("SGMA") requires the development and establishment of groundwater sustainability plans ("GSPs"), which are designed to ensure the sustainability of groundwater basins and subbasins; and

WHEREAS, DWR has identified the Subbasin as a critically overdrafted subbasin; and

WHEREAS, SGMA allows local agencies or a combination of local agencies overlying a groundwater basin to serve as a GSA to develop and implement a GSP over an entire basin, subbasin, or a portion of a basin; and

WHEREAS, pursuant to Water Code §10727, SGMA allows for the preparation of a GSP by three methods: (a) a single GSP covering the entire basin/subbasin developed and implemented by one GSA, (b) a single GSP covering the entire basin/subbasin developed and implemented by multiple GSAs, or (c) multiple GSPs implemented by two or more GSAs that are subject to a single Coordination Agreement that covers the entire basin/subbasin; and

WHEREAS, Water Code §10727.6 requires that if multiple GSPs will be implemented within a subbasin, then a Coordination Agreement must be prepared to ensure that the GSPs utilize the same data and methodologies within that subbasin for the following items: (a) groundwater elevation data, (b) groundwater extraction data, (c) surface water supply, (d) total water use, (e) change in groundwater storage, (f) water budget, and (g) sustainable yield; and

WHEREAS, the Parties acknowledge that multiple GSAs have been formed within the Subbasin and those GSAs currently seek to explore the possibility of developing and implementing a single GSP. The Parties also acknowledge the desire to have a single GSP may not be achievable, but regardless of whether one or more GSPs are developed for the Subbasin, an interim agreement is beneficial to the Parties in proceeding to initially develop and coordinate the data and methodologies required by SGMA for the Subbasin; and

WHEREAS, the Parties acknowledge that the GSAs need to do further data collection prior to making decisions with regard to GSP preparation and implementation, but the Parties agree that in the future a Coordination Agreement or an amendment to or replacement of this Agreement will be necessary based on the additional information obtained and decisions made by the Parties under this Agreement; and

WHEREAS, the purpose of this Agreement is to provide a framework among the Parties for a cooperative means of gathering the initial data and information for a single GSP, applying for grant funding, selecting consultants, and coordinating on other SGMA-related issues for the Subbasin.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions hereinafter set forth and the above Recitals, which are hereby incorporated herein by this reference, it is agreed by and among the Parties hereto as follows.

SECTION 1. DEFINITIONS

1.1 "Tulare Lake Subbasin" or "Subbasin" refers to that subbasin identified and described in California Department of Water Resources Groundwater Bulletin 118 as part of the Tulare Lake Hydrologic Region, San Joaquin Valley Groundwater Basin, Tulare Lake Subbasin, also identified as Groundwater Basin No.5-22.12, and is depicted in Exhibit "A" of this Agreement.

1.2 "Groundwater Sustainability Agency" or "GSA" means one or more local agencies that implement the provisions of SGMA as defined by Water Code §10721(j).

1.3. "Groundwater Sustainability Plan" or "GSP" means a plan of one or more GSAs proposed or adopted under SGMA as defined in Water Code §10721(k).

1.4 "Coordination Agreement" shall be the agreement (whether one or more GSPs are developed within the Subbasin) to ensure coordination of the data and methodologies used by each GSA in developing the GSP(s) within the Subbasin for the following assumptions: (a) groundwater elevation data, (b) groundwater extraction data, (c) surface water supply, (d) total water use, (e) change in groundwater storage, (f) water budget, and (g) sustainable yield (Water Code §10721(d); 10727.6).

SECTION 2. PURPOSES AND GOALS

2.1 The Parties are entering into this Agreement to perform the following:

(a) Set forth their mutual intent to work towards the development of a single GSP for the Subbasin.

(b) Authorize research and collection of the data required for the GSP according to a mutually agreeable timeline.

(c) The Parties agree to utilize their best efforts in selecting and fully cooperating with the consultants gathering the information, preparing grant applications, and preparing the GSP.

(d) The Parties agree that after they gather data and determine an appropriate governance structure, they will either (1) amend or replace this Agreement to reflect specifics required to finalize a GSP or (2) if a single GSP is not to occur, prepare and enter into a Coordination Agreement setting forth appropriate assumptions based on information gathered and developed as a result of this Agreement.

SECTION 3. COST SHARING AND GOVERNANCE

3.1 The Parties agree that if grant funds are available for grant applications, efforts necessary to develop a GSP(s), facilitation and/or consultant costs, and similar efforts to develop a GSP(s) for the Subbasin, then the Parties have the authority to and shall act jointly in applying for and seeking to obtain such grant funds. Any grant funds received on behalf of the Subbasin and/or all of the Parties, shall first be applied to eligible costs incurred after July 1, 2017; should any funds then remain, the Parties may develop a method for reimbursing relevant costs incurred by the Parties prior to the effective date of this Agreement.

3.2 The Parties agree to the following formula, identified in the table below, for sharing costs to develop and implement the actions taken within the confines of this Agreement. As shown below, after combining the El Rico GSA and Alpaugh Irrigation District, one-half the costs shall be allocated one-fifth to each of the participants and one-half of the costs shall be allocated in proportion to the relative acreage of each Party. The overall proportionate cost of each Party is shown as the Total Cost Allocation in the table below.

GSA	Acres	Acreage Portion	Participant Portion	Total Cost Allocation
Mid-Kings River GSA	97,384.6	0.09084	0.1	0.19084
South Fork Kings GSA	71,310.9	0.06652	0.1	0.16652
El Rico GSA/Alpaugh ID	228,653.4	0.21328	0.1	0.31328
Southwest Kings GSA	90,037.1	0.08398	0.1	0.18398
Tri-County WA	48,656.5	0.04538	0.1	0.14538
Totals	536,042.5	0.50000	0.5	1.00000

3.3 All decisions related to implementing or amending this Agreement shall require a unanimous vote of the authorized representatives of each of the five (5) entities¹ identified in the table shown in Section 3.2 of this Agreement; a quorum is represented by any four (4) authorized representatives of these five (5) entities. Decisions may include, but are not limited to hiring experts or consultants to prepare and draft documents associated with this Agreement that would exceed \$100,000, developing the Coordination Agreement (if necessary), applying for grant funding, and/or developing all or portions of a GSP(s).

SECTION 4. GENERAL PROVISIONS

4.1. Term. This Agreement shall become effective on the date first above written and shall remain in effect until superseded by amendment to this Agreement or another agreement among the Parties which shall address more specifics that are not available at this time for the final development and implementation of the GSP(s).

4.2 Withdrawal. Any Party shall have the right to withdraw from this Agreement by giving each of the other Parties written notice at least 30 days prior to its date of withdrawal ("Withdrawal Date"). The withdrawing Party shall be responsible for its share of any costs incurred under this Agreement up to its Withdrawal Date. Except as set forth in the preceding sentence, and except for the withdrawing Party's obligations under Section 5 hereof relating to confidential information, effective as of the Withdrawal Date, the withdrawing Party shall be

¹ For purposes of cost sharing and voting, the El Rico GSA and Alpaugh ID are to be considered as one entity; it shall be up to those two GSAs to determine their internal cost-sharing and voting process.

relieved and released of all obligations under this Agreement.

4.3 Construction of Terms. This Agreement is for the sole benefit of the Parties and shall not be construed as granting rights to or imposing obligations on any person other than the Parties.

4.4 Good Faith. Each Party shall use its best efforts and work in good faith for the completion of the purposes and goals of this Agreement and the satisfactory performance of its terms.

4.5 Rights of the Parties and Constituencies. This Agreement does not contemplate the Parties taking any action that would (a) adversely affect the rights of any of the Parties or (b) adversely affect the constituencies of any of the Parties.

4.6 Counterparts. This Agreement may be executed in counterparts and the signed counterparts shall constitute a single instrument. The signatories to this Agreement represent that they have the authority to sign this Agreement and to bind the Party for whom they are signing.

4.7 Governing Law. This Agreement and all documents provided for herein and the rights and obligations of the Parties hereto shall be governed in all respects, including validity, interpretation and effect, by the laws of the State of California (without giving effect to any choice of law principles).

4.8 Waiver. The failure of any Party to insist on strict compliance with any provision of this Agreement shall not be considered a waiver of any right to do so, whether for that breach or any subsequent breach. The acceptance by any Party of either performance or payment shall not be considered to be a waiver of any preceding breach of the Agreement by any other Party.

4.9 Recitals and Exhibits. The Recitals and Exhibits are incorporated into the Agreement.

SECTION 5. CONFIDENTIALITY PROVISIONS

5.1 Confidential Information. The confidential information to be disclosed under this Agreement ("Confidential Information") includes data, information, modeling, projections, estimates, plans, that are not public information and in which each Party has a reasonable expectation of confidentiality, regardless of whether such information is designated as Confidential Information at the time of its disclosure.

5.2 Duty to Protect. In addition to the above, Confidential Information shall also include, and the Parties shall have a duty to protect, other confidential and/or sensitive information which is (a) disclosed in writing and marked as confidential (or with other similar designation) at the time of disclosure; and/or (b) disclosed in any other manner

and identified as confidential at the time of disclosure or is summarized and designated as confidential in a written memorandum delivered within thirty (30) days of the disclosure.

5.3 Limited Use. The Parties shall use the Confidential Information only for the purposes set forth in this Agreement.

5.4 Limited Disclosure. The Parties shall limit disclosure of Confidential Information within its own organization to its directors, officers, partners, members and/or employees having a need to know and shall not disclose Confidential Information to any third party (whether an individual, corporation, or other entity) without prior written consent of all the Parties. The Parties shall satisfy their obligations under this paragraph if they take affirmative measures to ensure compliance with these confidentiality obligations through their employees, agents, consultants and others who are permitted access to or use of the Confidential Information.

5.5 Allowable Disclosure. This Agreement imposes no obligation upon the Parties with respect to any Confidential Information (a) that was possessed before receipt; (b) is or becomes a matter of public knowledge through no fault of receiving Party; (c) is rightfully received from a third party not owing a duty of confidentiality; (d) is disclosed without a duty of confidentiality to a third party by, or with the authorization of the disclosing Party; or (e) is independently developed.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement to be effective as of the date first above written.

(the remainder of this page has been intentionally left blank)

**Mid-Kings River Groundwater
Sustainability Agency**

By: Barry McUTCHEON

Title: Chairman

Name: Barry McUTCHEON

**South Fork Kings Groundwater
Sustainability Agency**

By: _____

Title: _____

Name: _____

**El Rico Groundwater Sustainability
Agency**

By: _____

Title: _____

Name: _____

**Southwest Kings Groundwater
Sustainability Agency**

By: _____

Title: _____

Name: _____

Tri-County Water Authority

By: _____

Title: _____

Name: _____

Alpaugh Irrigation District

By: _____

Title: _____

Name: _____

**Mid-Kings River Groundwater
Sustainability Agency**

By: _____

Title: _____

Name: _____

**South Fork Kings Groundwater
Sustainability Agency**

By: Joe Neves

Title: chairman

Name: Joe Neves

**El Rico Groundwater Sustainability
Agency**

By: _____

Title: _____

Name: _____

**Southwest Kings Groundwater
Sustainability Agency**

By: _____

Title: _____

Name: _____

Tri-County Water Authority

By: _____

Title: _____

Name: _____

Alpaugh Irrigation District

By: _____

Title: _____

Name: _____

**Mid-Kings River Groundwater
Sustainability Agency**

By: _____

Title: _____

Name: _____

**South Fork Kings Groundwater
Sustainability Agency**

By: _____

Title: _____

Name: _____

**El Rico Groundwater Sustainability
Agency**

By: _____

Title: CHAIRMAN

Name: LEOF WYRICK

**Southwest Kings Groundwater
Sustainability Agency**

By: _____

Title: _____

Name: _____

Tri-County Water Authority

By: _____

Title: _____

Name: _____

Alpaugh Irrigation District

By: _____

Title: _____

Name: _____

Mid Kings Groundwater Sustainability Agency

By: _____

Title: _____

Name: _____

South Fork Kings Groundwater Sustainability Agency

By: _____

Title: _____

Name: _____

El Rico Groundwater Sustainability Agency

By: _____

Title: _____

Name: _____

Southwest Kings Groundwater Sustainability Agency

By: 

Title: President

Name: William D. Philimonos

Tri-County Water Authority

By: _____

Title: _____

Name: _____

Alpaugh Irrigation District

By: _____

Title: _____

Name: _____

Mid Kings Groundwater Sustainability Agency

By: _____

Title: _____

Name: _____

South Fork Kings Groundwater Sustainability Agency

By: _____

Title: _____

Name: _____

El Rico Groundwater Sustainability Agency

By: _____

Title: _____

Name: _____

Southwest Kings Groundwater Sustainability Agency

By: _____

Title: _____

Name: _____

Tri-County Water Authority

By: Matthew H. Hurley

Title: Chairman

Name: MATTHEW H. HURLEY

Alpaugh Irrigation District

By: _____

Title: _____

Name: _____

**Mid-Kings River Groundwater
Sustainability Agency**

By: _____

Title: _____

Name: _____

**South Fork Kings Groundwater
Sustainability Agency**

By: _____

Title: _____

Name: _____

**El Rico Groundwater Sustainability
Agency**

By: _____

Title: _____

Name: _____

**Southwest Kings Groundwater
Sustainability Agency**

By: _____

Title: _____

Name: _____

Tri-County Water Authority

By: _____

Title: _____

Name: _____

Alpaugh Irrigation District

By: Bruce Howard

Title: G.M.

Name: BRUCE HOWARD

Exhibit "A" **Map of Tulare Lake Subbasin as Described in** **DWR Bulletin 118**

