ELEVENTH AMENDED RULES AND REGULATIONS OF THE EASTERN TULE GROUNDWATER SUSTAINABILITY AGENCY

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Article I. General

Section 1.01 Purpose

These rules and regulations are established by the Board of Directors of the Eastern Tule Groundwater Sustainability Agency (ETGSA) in order to provide for the sustainable management of groundwater within the ETGSA.

Section 1.02 Authority

Division 6 Conservation, Development and Utilization of State Water Resources Part 2.74, Chapter 5, Section 10725.2 expressly states as follows:

"A groundwater sustainability agency may adopt rules, regulations, ordinances, and resolutions for the purpose of this part, in compliance with any procedural requirements applicable to the adoption of a rule, regulation, ordinance, or resolution by the groundwater sustainability agency."

Section 1.03 Groundwater Sustainability Plan

Pursuant to Division 6 Conservation, Development and Utilization of State Water Resources Part 2.74, Chapter 5, Section 10725, a groundwater sustainability agency may exercise the powers described in Chapter 5 provided the groundwater sustainability agency adopts and submits a groundwater sustainability plan to the Department of Water Resources. These rules and regulations are designed to implement the provisions of the ETGSA Groundwater Sustainability Plan (GSP), and may be amended at any time if necessary to achieve consistency with the groundwater sustainability plan and steps needed to achieve sustainability.

Section 1.04 Definitions

"Coordination Agreement" means the Tule Subbasin Coordination Agreement developed and agreed to pursuant to Division 6 Conservation, Development and Utilization of State Water Resources Part 2.74, Chapter 5, Section 10727.6, and any amendments or additions thereto.

"De minimis" means a person who extracts, for domestic purposes, two acre-feet or less per year, as defined in SGMA.

"Determination Date" means the date upon which various recommendations are presented to the Board from the Land Subsidence Management and Monitoring Committee regarding land subsidence levels.

"ETGSA" means Eastern Tule Groundwater Sustainability Agency.

"ETGSA GSP" means the ETGSA Groundwater Sustainability Plan developed and submitted to the Department of Water Resources pursuant to Division 6 Conservation, Development and Utilization of State Water Resources Part 2.74, Chapter 5, Section 10727, *et al.*

"ETGSA Technical Group" means the ETGSA's Consulting Engineer, the Tule Subbasin's designated Hydrogeologist, and the ETGSA's designated Agronomist.

"Groundwater Credits" means the carryover of Sustainable Yield as described in Section 4.03(c)(i)(1).

"LSMC" means Land Subsidence Monitoring and Management Committee.

"Operator" means an authorized representative of an owner.

"Overdraft" means the prior five year (2015-2019) average amount of water consumed prior to SGMA implementation beyond the Sustainable Yield within the Greater Tule Management Area.

"Owner" means fee title owner of land within the ETGSA boundaries.

"SGMA" means the Sustainable Groundwater Management Act, pursuant to Division 6 Conservation, Development and Utilization of State Water Resources Part 2.74, Chapter 5, Section 10720, *et seq*.

"Tier 1 Land Subsidence" shall mean land subsidence which has occurred between 0.00 feet and 1.49 feet since January 31, 2020.

"Tier 2 Land Subsidence" shall mean land subsidence which has occurred between 1.50 feet and 1.99 feet since January 31, 2020.

"Tier 3 Land Subsidence" shall mean land subsidence which has occurred between 2.00 feet and 2.49 feet since January 31, 2020.

"Tier 4 Land Subsidence" shall mean land subsidence which has occurred between 2.50 feet and 2.99 feet since January 31, 2020.

"Tier 1 Penalty Allocation" means groundwater consumed in excess of Sustainable Yield and less than Tier 2.

"Tier 2" means groundwater consumed in excess of the Tier 1 Penalty Allocation.

“Water year” means the 12-month period October 1, for any given year through September 30, of the following year. The water year is designated by the calendar year in which it ends and which includes 9 of the 12 months. Thus, the year ending September 30, 1999 is called the "1999" water year.

Section 1.05 Effective Date and Changes

These rules and regulations shall become effective upon adoption and may be added to, amended and/or repealed at any time by resolution of the Board of Directors of the ETGSA and such additions, amendments, and/or repeals shall become effective upon their adoptions or as otherwise specified by the Board of Directors.

Section 1.06 Actions Against the ETGSA

Nothing contained in these rules and regulations shall constitute a waiver by the ETGSA or estop the ETGSA from asserting any defenses or immunities from liability as provided in law, including, but not limited to, those provided in Division 3.6 of Title 1 of the Government Code.

Section 1.07 Rights of Access

The ETGSA staff and/or others authorized by the ETGSA’s General Manager shall notify and request consent from the owner of any land prior to their entry. Any such entry must be for the sole and exclusive purpose of conducting ETGSA business.

Section 1.08 Severability of Provisions

If any provision of these rules and regulations, or the application thereof to any person or circumstance, is held invalid, the remainder of these rules and regulations, and the application of its provisions to other persons or circumstances, shall not be affected thereby.

Article II. Groundwater Monitoring

Section 2.01 Well Registration

(a) Registration Requirement

Any new groundwater extraction facilities permitted after January 31, 2020, excluding de minimis extractions, shall be registered with the ETGSA within 30 days of the completion of drilling activities. In addition, any owner selecting to use meters to report groundwater use, shall register

with the ETGSA. The owner of an extraction facility shall register the extraction facility and provide, in full, the information required to complete the form provided by the ETGSA that includes the following:

i. Name and address of the operator(s).
ii. Name and address of the owner(s) of the land upon which the extraction facility is located.
iii. Well Driller Log and Completion Report. If not available, a description of the equipment associated with the extraction facility, including pump size (horsepower), estimated depth of the well casing and size of the well casing.
iv. Location, parcel number and state well number of the water extraction facility.

(b) Registration Fee

An administrative fee shall be paid to the ETGSA, in an amount determined by the ETGSA board of directors, for each groundwater extraction facility registered with the ETGSA to cover the nominal administrative costs of the registration process.

(c) Change in Owner or Operator

The name of the owner of each extraction facility, the Tulare County Assessor's Parcel Number (APN) on which the facility is located, along with the names of all operators for each registered extraction facility shall be reported to the ETGSA within 60 days upon any change of ownership or operators, together with such other information required by the General Manager.

Section 2.02 Consumed Groundwater Use Measurement

This Section outlines two methodologies for measuring or estimating groundwater extraction by each owner: (1) information provided from flowmeters which have been connected to the relevant well or extraction facility continuously for the preceding period or (2) evapotranspiration information obtained via satellite technology. Subject to Section 3.05 below, and except as otherwise provided in this Section, each owner shall have the option to select the methodology used for measuring or estimating the owner's groundwater extraction unless the owner is diverting groundwater and surface water which in such event, owner may only utilize the methodology outlined for evapotranspiration.

If the owner does not (1) communicate an election to use flowmeters to the ETGSA by October 1 of each water year; and (2) provide all relevant information needed for the ETGSA to verify measurements from each flowmeter 30 days from the end of the prior month, then the ETGSA will default to utilize the evapotranspiration data to determine groundwater consumption for that period. If the owner desires to change his or her election after October 1, he or she may do so by

presenting such request to the General Manager who then shall present for approval to the Board of Directors. And owner may only opt to change his or her election once annually.

(a) Criteria for Using Meters

If the owner selects using a meter on a well to report groundwater use, the following criteria and information shall be provided to the ETGSA:

i. Manufacturer and Model of flowmeter;
ii. Date Flow Meter Installed;
iii. Diameter of Pipe and Size of Flow Meter;
iv. Identification of who installed flowmeter and calibrated flowmeter per manufacturer specifications;
v. Inspection records will be required to submit to ETGSA per schedule outlined in the manufacturer specifications.
vi. Pictures to identify flowmeter installed correctly (e.g. adequate straight pipe sections before and after the flowmeter);
vii. Type of crop, age of crop (if perennial), single/double/triple crop (if annual), irrigation methodology (e.g. flood, drip, sprinkler) for the irrigated acres serviced by the water from the flow meter; and
viii. If multiple flowmeters on a farm, a map identifying the locations of the various flowmeters and lands serviced collectively by these flowmeters.

Additionally, the owner of the flowmeter will allow access to staff from the ETGSA to physically inspect the flowmeter, if needed.

For each month following an election under this subsection, the owner shall report to the ETGSA, no later than 30 days following the last day of the month, the quantity of groundwater extracted at each parcel for which the election is made, as measured by the flowmeter(s). Failure to timely report the quantity of groundwater extraction to the ETGSA, in accordance with this section, for any parcel to which the election applies for any month shall be deemed a withdrawal of the election as to those parcels for those months, in which case groundwater extraction shall be measured for those parcels for those months in accordance with the evapotranspiration method described in subsection (b) below.

(b) Criteria for Using Evapotranspiration Method

Groundwater extraction shall be measured according to the evapotranspiration method described in this subsection for any parcels to which a valid election under subsection (a) above has not been made, or for which that election is deemed withdrawn in accordance with subsection (a).

Crop evapotranspiration (ET) is estimated using remote sensing data from LandSAT satellites. The satellite data is entered into a model, which is used to estimate the ET rate and ET spatial distribution of an area in any given time period. When appropriately calibrated to land-based ET and/or climate stations and validated with crop surveys, the satellite-based model provides an estimate of crop ET (i.e. consumptive use).

Article III. Groundwater Accounting/Data Management System

Section 3.01 Authority

Division 6 Conservation, Development and Utilization of State Water Resources Part 2.74, Chapter 5, Section 10726.4, expressly authorizes a groundwater sustainability agency to establish accounting rules to allow unused groundwater extraction allocations to be carried over and transferred.

Section 3.02 Online Water Accounting Database

The ETGSA shall establish an online database for owners to account for total water use within the ETGSA. Owners may allow operators access and control of their account(s).

Section 3.03 Categories of Water

The online database described in Section 3.02 shall account for water through the following six categories:

a) Direct Diversions of Surface Water. As described in Section 3.06, an owner's account may be credited or debited with surface water.

b) Sustainable Yield Allocations. As described in Section 4.03(a) below, Sustainable Yield shall consist of (1) Native Sustainable Yield, and (2) Total Precipitation, and may be credited to an owner's account. Transfers of Sustainable Yield, as described in Section 4.03(c)(i)(2) below may be debited from an owner's account.

   i. Non-Irrigated Parcels. Parcels which have not received a Tier 1 Penalty Allocation, but have received a Sustainable Yield Allocation pursuant to Section 4.03(a) of these Rules and Regulations, shall be allowed to separately account for the Native Sustainable Yield and Precipitation components of the Sustainable Yield Allocation. Accordingly, for such landowners, for example, a deficit amount in the Precipitation category shall not affect the owner's Native Sustainable Yield allocation with respect to the parcel in question.

c) Groundwater Credits. As described in Section 4.03(c)(i)(1) below, an owner's account may be credited or debited with groundwater credits.

d) Surface Water Recharge Credits and Debits. As described in 3.07, an owner's account may be credited or debited with groundwater recharge or banking activities. Transfers will be recognized by the GSA when authorized by the applicable surface water entity.

e) Recycled Water. An Owner's account may be credited or debited with recycled water. Prior to a debit or credit proper documentation must be provided and approved by ETGSA staff.

f) Transitional Tier 1 Penalty. As described in Section 4.03(c)(ii), the account of owners engaged in irrigation of lands actively used for agricultural production may be allocated an amount for groundwater used above sustainable limits. Carryovers of Tier 1 Penalty Allocations shall be credited to owner accounts in accordance with Section 4.03(c)(ii)(1), and transfers of Tier 1 Penalty Allocations shall be debited from owner accounts in accordance with Section 4.03(c)(ii)(2).

   i. Fallowed Irrigated Agricultural Land. Parcels which have received a Tier 1 Penalty Allocation pursuant to Section 4.03(b) shall be allocated, and the owner permitted to transfer, the entire Sustainable Yield Allocation (including both Native Sustainable Yield and Precipitation) associated with the parcel(s) in question with no deduction for ET, provided that each such parcel has been completely fallowed and is no longer characterized as irrigated acreage. All fallowed parcels shall be maintained to prevent the growth of any vegetation. Parcels which have been fallowed during a portion of any water year shall receive a pro rata allocation of the annual allocation (for example, a parcel which begins fallowing at the beginning of June would receive 4/12, or 1/3, of the annual allocation.) An owner shall only be entitled transfer the entire Sustainable Yield allocation with no deduction for ET pursuant to this Section if the parcel in question remains completely fallowed for at least six months.

g) Transitional Tier 2 Penalty. As provided in Section 4.03(c)(iii), no carryovers or transfers of Tier 2 extractions shall be allowed. As further set forth in Article V below, an owner who consumes water in excess of all remaining credits shall be liable for Tier 2 penalty rates, reduction in future Tier 1 Penalty Allocations, and shall be subject to other remedies as may be available to the ETGSA in law or equity.

Section 3.04 Net Groundwater Consumptive Use Reporting and Debiting

(a) Amount of New Groundwater Consumptive Use

The amount of net groundwater consumptive use will be calculated monthly, within 30 days of the end of the prior month, using one of the measurement methods described in Section 2.02.

If the owner is using flowmeters, calculations will be prepared by the ETGSA's Consulting Engineer to determine the net groundwater consumed using the following formulas:

1. Net Consumed Groundwater Used = Gross Groundwater Pumped (Flowmeter) – Estimated Return Flow (varies based on irrigation method) + Total Precipitation, or
2. Net Consumed Groundwater Used = Calculated ET using the crop coefficients and actual weather data,

Whichever calculated value is greater from the formulas above is the consumed value applied to the owner.

If the owner is using crop ET, the net consumed groundwater used will be provided by the ETGSA's consultant.

After the calculation is completed each month as described in this section, the net groundwater consumed will be debited from the owner groundwater account.

In the event that a watercourse, including but not limited to canals, ditches, or riparian areas, is located within the boundaries of a parcel, the area of such watercourse shall not be evaluated for any consumed use of groundwater.

(b) Appeal Process

Within thirty (30) days of notification of the net consumed groundwater use, any owner may protest the amount or the method. The written protest must be submitted to the General Manager at the ETGSA's Main Office.

The General Manager shall investigate matters related to the protest, may consult with the ETGSA Technical Group, and may present any relevant information, along with any recommendation, to the Board within sixty (60) days of receipt of the protest. The Board shall act on the written protest and supporting documentation within sixty (60) days of receipt of all relevant information, including the possibility of authorizing a separate methodology not identified in these Rules and Regulations.

Section 3.05 Surface Water Reporting

Any owner within the ETGSA which utilizes surface water shall cause to be reported from the applicable surface water entity, the diversion of surface water to direct irrigation.

Section 3.06 Groundwater Recharge and Banking Reporting

An owner within the ETGSA which is performing recharge or groundwater banking activities shall report, or cause to be reported, the diversion of surface water to underground storage to the ETGSA. Prior to crediting or debiting the owner's account, the ETGSA shall ensure the request is consistent with any applicable groundwater banking or recharge policy, including but not limited to, Article VI. The ETGSA acknowledges that several special districts, organized and existing under the laws of the State of California for the purpose of facilitating the beneficial use of the waters of the State, operate within ETGSA's boundaries. Several such districts have adopted and implemented groundwater banking and recharge policies in order to facilitate the underground storage and beneficial use of surface water. ETGSA shall honor the groundwater banking and recharge policies of all such entities within its jurisdictional boundaries.

Article IV. Allocation of Water

Section 4.01 Purpose

Consistent with Division 6 Conservation, Development and Utilization of State Water Resources Part 2.74, Chapter 5, Section 10726, the purpose of this Article is to provide for the sustainable management of groundwater within the ETGSA jurisdictional area and Tule Subbasin, and to fulfill the legislative goals and policies of SGMA. Nothing in this Article shall be used to determine or alter water rights. Division 6 Conservation, Development and Utilization of State Water Resources Part 2.74, Chapter 5, Section 10726.4 provides in part a Groundwater Sustainability Agency has authority to control groundwater extractions by regulating, limiting or suspending extractions.

Section 4.02 Determination of Allocations

Each year by October 1, or as soon as reasonably practical, the General Manager shall determine the allocations available for use within the ETGSA's various Management Areas based on data and calculations provided by the ETGSA Technical Group. In providing such data and calculations to the General Manager, the ETGSA Technical Group shall use the methodologies and calculations defined in this Article 4.

Section 4.03 Greater Tule Management Area

(a) Sustainable Yield Allocation

Each year, the General Manager shall establish a use allocation for each agricultural assessor's parcel within the Greater Tule Management Area boundary, as defined in the ETGSA GSP. The allocation for each owner shall be calculated as follows:

1. Sustainable Yield for the Tule Subbasin shall first be calculated using methodologies as agreed upon in the Tule Subbasin Coordination Agreement, incorporated herein by reference. As described therein, the Tule Subbasin Sustainable Yield estimate will be developed using a calibrated groundwater flow model of the Tule Subbasin.*

   Sustainable Yield allocated to the ETGSA shall be comprised of the following two components:

   (A) Native Sustainable Yield is calculated as the long-term average natural channel loss water within the Tule River, Porter Slough, Deer Creek, and White River channels and the calculated underflow from the Sierra Nevada Mountains. The volume is determined by utilizing the data provided in the Tule Subbasin Water Budget within the Tule Subbasin Setting attached to the Coordination Agreement. As described in the Coordination Agreement, the ETGSA will determine its portion of the Tule Subbasin Native Sustainable Yield by multiplying the GSA's proportionate acreage of the Tule Subbasin multiplied by the total Native Sustainable Yield of the Tule Subbasin.

   (B) Total Precipitation is calculated as the long-term average total precipitation for the entire ETGSA jurisdictional area. The long-term average is based on precipitation data collected from calibrated weather stations within and adjacent to the ETGSA, interpolated to lands within ETGSA. Each year the Total Precipitation long term average is updated with prior year actual total precipitation measured.

2. The ETGSA's total available Sustainable Yield shall be the sum of the ETGSA's portion of the Tule Subbasin Native Sustainable Yield and total precipitation within the ETGSA.

3. The ETGSA's total available Sustainable Yield will deduct the sustainable yield allocation provided by ETGSA to the municipal and the Kern Tulare Management Area as described in Sections 4.04 and 4.06. The remaining balance will be divided by the total acreage within the GSA to establish a per acre allocation for each parcel, comprised of (A) a Native Sustainable Yield Component, and (B) a Total Precipitation Component.

4. Each parcel within the Greater Tule Management Area will receive allocations in the amount equal to the gross assessor parcel acreage multiplied by the per acre allocation established in Section 4.03(a)(3).

**As additional data becomes available and as projects, monitoring, and management actions are implemented, the groundwater flow model used to estimate the Sustainable Yield of the Tule Subbasin will be updated and the Native Sustainable Yield may be adjusted to reflect the new data. Additionally, the allocation of the total available Sustainable Yield according to gross assessor parcel acreage may be revised as the ETGSA develops additional historical use data and allocation methodologies beyond gross acreage.*

(b) Transitional Tier 1 Penalty Allocation

In addition to the Sustainable Yield Allocation, irrigated parcels as of January 31, 2020, which are identified as enrolled in the Irrigated Lands Regulatory Program, other regulatory programs that document historical irrigation use (i.e. Dairy General Order), or as identified by other certified crop map datasets shall be allocated a Transitional Tier 1 Penalty Allocation ("Tier 1 Penalty Allocation"). Once a parcel has been identified as an irrigated parcel, the parcel will remain in the transitional pumping program until the program expires. If a parcel is not identified as an irrigated parcel as of January 31, 2020, an owner may file a request to the ETGSA General Manager to be included in the transitional program. For agricultural development of parcels after January 31, 2020, the owner may also file a request to the ETGSA General Manager to allow such lands to receive a Tier 1 Penalty Allocation, which such allocation shall be prorated based on the date of development. ETGSA shall develop forms as needed to assist owners with the request.

Changes in the total irrigated acres will affect the Tier 1 Penalty Allocation. To achieve consistency with the ETGSA GSP, the amount of Tier 1 Penalty Allocations may vary year to year.

The allocations shall be consistent with the objectives of the ETGSA GSP, as follows:

1. <u>Tier 1 Penalty Allocations for 2020-2024.</u> For the years 2020 through 2024, the total Tier 1 Penalty Allocation will equal 90% of overdraft. To determine allocations to individual water users, the total Tier 1 Penalty Allocation will be divided by the current total number of acres qualified for transitional pumping within the Greater Tule Management Area.

    a. The initial Tier 1 Penalty Allocation in water year 2021 will be allocations for water years 2021, 2022, and 2023.

    b. Beginning in water year 2022, the remaining Tier 1 Penalty Allocations shall be made on an annual basis.

2. Tier 1 Penalty Allocation for 2025-2029. For the years 2025 through 2029, the total Tier 1 Penalty Allocation shall equal 80% of overdraft. All Tier 1 Penalty Allocations to individual water users during this time period shall be made on an annual basis. To determine allocations to individual water users, the total Tier 1 Penalty Allocation will be divided by the current total number of acres qualified for transitional pumping within the Greater Tule Management Area.

3. Tier 1 Penalty Allocations for 2030-2034. For the years 2030 through 2034, the total Tier 1 Penalty Allocation will equal 30% of overdraft. All Tier 1 Penalty Allocations to individual water users during this time period shall be made on an annual basis. To determine allocations to individual water users, the total Tier 1 Penalty Allocation will be divided by the current total number of acres qualified for transitional pumping within the Greater Tule Management Area.

(c) Carryover and Transfers

(i) Sustainable Yield Allocation

1) Carryover of Sustainable Yield

If an owner uses less than his or her total Sustainable Yield allocation in a given year, the difference between the allocation amount for that year and the amount of groundwater used and/or transferred for that year shall be carried over to the next year. Portions of Sustainable Yield allocation successfully carried over from the previous year shall be credited to the owner's account as groundwater credits.

If the carryover amount for the year in question continues to remain unused as a groundwater credit, it may be carried over on a five-year rolling basis. The impact of the total quantity of water used in any five-year period shall be consistent with the provisions of the ETGSA GSP.

Example:
Sustainable Yield (SY) Allocation

Water Year 2021
Unused portion of 2021 SY allocation → groundwater credit → may be carried over until the end of Water Year 2026.

Water Year 2022
Unused portion of 2022 SY allocation → groundwater credit → may be carried over until the end of Water Year 2027.

2) Transfer of Sustainable Yield

An owner may transfer all or a portion of the Native Sustainable Yield component of his or her Sustainable Yield allocation at any time, provided that the transfer satisfies conditions 1 through 4. Transferred Native Sustainable Yield shall be credited to the transferee's account as groundwater credits.

An owner may transfer all or a portion of the Total Precipitation component of his or her Sustainable Yield allocation only insofar as any portion of the Total Precipitation component has been carried over from a previous year and thereby converted to groundwater credits pursuant to Section 4.03(c)(i)(1) above. Any such transfer of groundwater credits must satisfy the conditions below. Total Precipitation shall be credited to the transferee's account as groundwater credits.

1. The proposed transferee will put the allocation to use within the Tule Subbasin;
2. If outside the ETGSA boundaries, the proposed transferee will put the allocation to use within the boundaries of a groundwater sustainability agency which permits the transfer of its own groundwater allocations to water users within the ETGSA;
3. The transfer agreement is memorialized in writing, using a form provided by the ETGSA; and
4. Both the ETGSA and the groundwater sustainability agency of the transferee are informed of the parties to the transfer and the quantity transferred.

The ETGSA Technical Advisory Group shall establish an annual limitation on the total amount of allowable allocations outside the ETGSA boundaries based on water year. Requests for transfers shall be received beginning on October 1. Transfers shall be accepted on a first come, first serve basis.

Groundwater credits derived from the transfer of Sustainable Yield may be carried over for five years.

Example:
Sustainable Yield (SY) Transfer

Water Year 2021
Unused portion of 2021 SY allocation transferred to a separate Owner on October 1, 2023 → groundwater credit → may be carried over until the end over Water Year 2028.

No action shall occur on any proposed transfer unless all past due assessments, interest and penalties owed to the ETGSA by either transferee or transferor have been paid prior to the date that the proposed transfer is submitted to the General Manager.

(ii) Tier 1 Penalty Allocation

1) Carryover of Tier 1 Penalty Allocation

If an owner uses less than his or her total Tier 1 Penalty Allocation, the difference between the allocation amount for the relevant period and the amount of the Tier 1 Penalty Allocation used and/or transferred during that period year shall be carried over to the next year. Carryover of Tier 1 Penalty Allocations shall accumulate on a rolling five-year basis. No Tier 1 Penalty Allocation may carry over for longer than five years from the date of the allocation.

Example:
Tier 1 Penalty Allocation

Water Year 2021
Unused portion of 2021 Tier 1 Penalty Allocation → carried over until the end of Water Year 2026.

Water Year 2022
Unused portion of 2022 Tier 1 Penalty Allocation → carried over until the end of Water Year 2027.

Water Year 2023
Unused portion of 2023 Tier 1 Penalty Allocation → carried over until the end of Water Year 2028.

Water Year 2024
Unused portion of 2024 Tier 1 Penalty Allocation → carried over until the end of Water Year 2029.
**Note the ETGSA front-loaded initial allocations for Water Years 2021 through 2023. The date by which an Owner may carry over is dependent on the date of the Water Year allocation as described above. As stated above, for example, the allocation previously made for Water Year 2022 is allowed to be carried over five years from the Water Year allocation date of 2022.*

2) Transfer of Tier 1 Penalty Allocation

An owner may transfer all or a portion of his or her Tier 1 Penalty Allocation to another owner if all of the following conditions apply:

1. The proposed transferee will put the allocation to use within the ETGSA;
2. The transfer agreement is memorialized in writing, using a form provided by the ETGSA identifying the quantity and signed by both parties.

No action shall occur on any proposed transfer unless all past due assessments, interest and penalties owed to the ETGSA by either transferee or transferor have been paid prior to the date that the proposed transfer is submitted to the General Manager.

No Tier 1 Penalty Allocation may be carried over for longer than five years from the date of allocation despite a transfer to a separate Owner.

Example:

Water Year 2021

Unused portion of 2021 Tier 1 Penalty Allocation transferred to a separate Owner on October 1, 2023 → may be carried over five years from date of initial allocation to end of Water Year 2026.

Unused portion of 2022 Tier 1 Penalty Allocation transferred to a separate Owner on October 1, 2024 → may be carried over five years from date of initial allocation to end of Water Year 2027.

(iii) Tier 2

1) No Carryover and Transfers

No carryover or transfer of Tier 2 extractions is allowed. In addition to penalties associated with Tier 2 extractions as defined in Article V, the quantity of Tier 2 water consumed shall be deducted from the owner's Tier 1 Penalty Allocation account the following year(s). If the owner's Tier 1 Penalty Allocation account is depleted, further enforcement actions may be taken by the ETGSA.

(d) Community Lands

Lands designated as Community served lands by the City of Porterville, Ducor CSD, or Terra Bella Irrigation District, and the ETGSA within the Greater Tule Management Area shall be managed pursuant to the Community Management Areas pursuant to Section 4.06.

(e) Opt-Out

An owner who has not received a Transitional Tier 1 Penalty Allocation, but who has received a Sustainable Yield Allocation pursuant to Section 4.03(a) of these Rules and Regulations may elect to opt out of the ETGSA Rules and Regulations for the subsequent water year by submitting a request to the ETGSA no later than September 1. Should the owner wish to participate in the future, at that time, all current assessments, fees, interest, and penalties will be paid prior to participation. An owner is not allocated any water during the period in which he or she has chosen to opt out and will not be allocated any prior year's allocation upon choosing to opt in.

(f) Watercourse(s)

In the event that a watercourse, including but not limited to canals, ditches, or riparian areas, is located within the boundaries of a parcel, the area of such watercourse shall not receive any allocation of groundwater.

(g) Priority of Use

Each owner with multiple categories of credits under these rules and regulations shall have the power to elect which of such credits are to be prioritized to be debited or transferred in connection with such consumption, except for Transitional Tier 2 Penalty which can only be used if all other available sources of water are exhausted. Owners may elect to modify the default priorities, which shall be completed no later than thirty (30) days prior to the end of each quarter. If the owner or operator does not elect the priority of allocations to be debited, the default priority will follow in order of Section 3.03 (a)-(e).

Section 4.04 Intentionally Omitted

[*Intentionally omitted*]

Section 4.05 Land Subsidence Management Area

(a) Purpose

The Board has previously approved a Land Subsidence Management Plan, which is attached hereto and incorporated by reference as Exhibit A. The purpose of this Section 4.05 is to implement the Land Subsidence Management Policy, as may be amended by the Board from time to time. The purpose of the Land Subsidence Management Plan is to set forth management actions to reduce subsidence and subsequent impacts to the Friant Kern Canal as a result of such subsidence, by limiting or restricting physical groundwater extractions along and near the Friant Kern Canal. The Land Subsidence Management Area is wholly located within the boundaries of the Greater Tule Management Area. All rules and regulations of the Greater Tule Management Area as defined in Section 4.03 shall apply to the Land Subsidence Management Area unless expressly and explicitly stated differently in this Section 4.05.

(b) Land Subsidence Monitoring and Management Committee

The Board has previously approved a Land Subsidence Monitoring Plan which authorized the formation of a Land Subsidence Monitoring and Management Committee ("LSMC"), including the appointment of certain technical representatives from different agencies and entities. The LSMC will provide an annual report to the ETGSA in January, or as soon as reasonably practicable. The report shall include, among other items, a report on land subsidence based on the Management Zones described herein and related thresholds. The date upon which various recommendations are presented to the Board from the LSMC regarding land subsidence levels shall be defined as the "Determination Date".

(c) Boundaries

The Land Subsidence Management Area shall include lands identified on the attached Exhibit A-1.

(d) Management Zones

The Land Subsidence Management Area shall be divided into both east-west and north-south Management Zones centered on the Friant Kern Canal between the Tule River and ETGSA boundary with Delano-Earlimart Irrigation District. There are four, ½ - mile east-west zones and each side of the Friant Kern Canal. There are six north-south zones. A total of 48 Management Zones exist within the Land Subsidence Management Area.

(e) Meters

Any wells within the boundary of the Land Subsidence Management Area will require a meter and reporting of the data monthly to the ETGSA staff. All Owners with wells in Land Subsidence Tier 1 must install meters and begin reporting no later than January 1, 2025. All Owners with wells in Tier 2 Land Subsidence, Tier 3 Land Subsidence or Tier 4 Land Subsidence, must install meters and begin reporting immediately upon the Determination Date.

Meters must comply with requirements stated in Section 2.02(a). Owners may request waivers from the metering requirement. Such waiver(s) may be approved if any of the following conditions apply:

a. The applicable well is used solely for domestic needs; or
b. Owner's household income is less than twice the federal poverty level (for a family of four in 2023, household income is less than $60,000 per year); or
c. Owner is enrolled in a qualified public assistance program; or
d. Owner represents a public water system serving water for domestic use; or
e. Owner provides sufficient documentation that the applicable well is pumping at a depth less than 600 feet below ground.

Owners may appeal to the Board of Directors any denied waiver as provided in Section 4.07.

(f) Management Actions

The following actions shall apply should Land Subsidence Measurements meet the following thresholds within any individual Management Zone based on the ETGSA GSP, Monitoring Plan, and LSMC's recommendations**:

1. *Tier 2 Land Subsidence (Land Subsidence Between 1.50 feet and 1.99 feet)*

Tier 1 Penalty Allocations shall be reduced to 60% of the allocation provided in Section 4.03(b) for the Water Year in which the determination is made that land subsidence has occurred between 1.50 feet and 1.99 feet within an individual Management Zone.

Example:

Water Year 2023
Tier 1 Penalty Allocation for Water Year 2023 = 1.04 acre-feet per acre*

Determination Date February 1, 2023 → WY 2021 and 2022 Tier 1 Penalty Allocation *not reduced* if any remaining available → WY 2023 Tier 1 Penalty reduced to 60% (0.62 acre-feet per acre)

**Note the ETGSA front-loaded initial allocations for Water Years 2021 through 2023. Thus, the date upon which the Water Year 2023 allocation was made was on October 1, 2020.*

The remaining 40% of the Tier 1 Penalty Allocation is available to be extracted by Owner or transferred outside of the Management Area, provided such use and transfer is otherwise consistent with the ETGSA Rules and Regulations.

An Owner may not transfer into the Land Subsidence Management Area for purposes of physical groundwater extractions any additional allocations of groundwater credits or Tier 1 Penalty Allocation(s) previously allocated to parcels located outside the Land Subsidence Management Area after the Determination Date. However, pre-purchases of Tier 1 Penalty allocations or purchased Groundwater Credits shall be allowed to be extracted within the LSMA and/or applicable Management Zone if purchased before the Determination Date.

Example:
Water Year 2023

Pre-Purchase Tier 1 Penalty Allocation on November 30, 2022 → Determination Date on February 1, 2023 → Pre-Purchase Tier 1 Penalty Allocation on November 30, 2022 **available** for extraction within the LSMA.

Determination Date on February 1, 2023 → Pre-Purchase Tier 1 Penalty Allocation on March 1, 2023 → Pre-Purchase Tier 1 Penalty Allocation on March 1, 2023 **not available** for extraction within the LSMA.

An Owner is not precluded from applying water from other sources in the Land Subsidence Management Area, provided physical groundwater extractions are restricted as stated herein, and the extraction is consistent with others rules, regulations and law, including but not limited to applicable Surface Water entity restrictions, rules and regulations.

Priority of Use: Each owner with multiple categories of credits under these rules and regulations must exhaust all other categories (delineated in Section 3.03 (a) – (e)) before any Transitional Tier 1 or Tier 2 Penalty may be consumed. Owners may elect to modify prioritization of credits for Categories delineated in Section 3.03(a)-(e), which shall be completed no later than thirty (30) days prior to the end of each quarter. If the owner or operator does not elect the priority of allocations to be debited, the default priority will follow in order of Section 3.03 (a)-(e).

An Owner may appeal this limitation as provided in Section 4.07.

2. *Tier 3 Land Subsidence (Land Subsidence Between 2.00 feet and 2.49 feet)*

Tier 1 Penalty Allocations for lands receiving such allocation in the Land Subsidence Management Area shall be reduced to 30% of the allocation provided in Section 4.03(b) for the Water Year in which the determination was made that land subsidence has occurred between 2.00 feet and 2.49 feet within an individual Management Zone.

Example:

Water Year 2023

Tier 1 Penalty Allocation for Water Year 2023 = 1.04 acre-feet per acre*
Determination Date February 1, 2023 → WY 2021 and 2022 Tier 1 Penalty Allocation *not reduced* if any remaining available → WY 2023 Tier 1 Penalty reduced to 30% (0.31 acre-feet per acre)

**Note the ETGSA front-loaded initial allocations for Water Years 2021 through 2023. Thus, the date upon which the Water Year 2023 allocation was made was on October 1, 2020.*

The remaining 70% of the Tier 1 Penalty Allocation is available to be extracted by Owner or transferred outside of the Management Area, provided such use and transfer is otherwise consistent with the ETGSA Rules and Regulations.

An Owner may not transfer into the Land Subsidence Management Area for purposes of physical groundwater extractions any additional allocations of groundwater credits or Tier 1 Penalty Allocation(s) previously allocated to parcels located outside the Land Subsidence Management Area after the Determination Date. However, pre-purchases Tier 1 Penalty Allocations or purchased Groundwater Credits shall be allowed to be extracted within the LSMA and/or applicable Management Zone if purchased before the Determination Date.

Example:
Water Year 2023

Pre-Purchase Tier 1 Penalty Allocation on November 30, 2022 → Determination Date on February 1, 2023 → Pre-Purchase Tier 1 Penalty Allocation on November 30, 2022 **available** for extraction within the LSMA.

Determination Date on February 1, 2023 → Pre-Purchase Tier 1 Penalty Allocation on March 1, 2023 → Pre-Purchase Tier 1 Penalty Allocation on March 1, 2023 **not available** for extraction within the LSMA.

An Owner is not precluded from applying water from other sources in the Land Subsidence Management Area, provided physical groundwater extractions are restricted as stated herein, and the extraction is consistent with others rules, regulations and law, including but not limited to applicable Surface Water entity restrictions, rules and regulations.

Priority of Use: Each owner with multiple categories of credits under these rules and regulations must exhaust all other categories (delineated in Section 3.03 (a) – (e)) before any Transitional Tier 1 or Tier 2 Penalty may be consumed. Owners may elect to modify prioritization of credits for Categories delineated in Section 3.03(a)-(e), which shall be completed no later than thirty (30) days prior to the end of each quarter. If the owner or operator does not elect the priority of allocations to be debited, the default priority will follow in order of Section 3.03 (a)-(e).

An Owner may appeal this limitation as provided in Section 4.07.

3. Tier 4 Land Subsidence (Land Subsidence Between 2.50 feet and 2.99 feet)

No extraction of Tier 1 Penalty Allocation shall be allowed within the Land Subsidence Management Zone for the Water Year in which the determination is made that land subsidence between 2.50 feet and 2.99 feet has occurred. An Owner may not transfer into the Land Subsidence Management Area for purposes of physical groundwater extractions any additional allocations of groundwater credits or Tier 1 Penalty Allocation(s) previously allocated to parcels located outside the Land Subsidence Management Area. Pre-purchased Tier 1 Penalty Allocations or purchased Groundwater Credits shall be allowed to be extracted within the Land Subsidence Management Area and/or applicable Management Zone if purchased before the Determination Date.

An Owner is not precluded from applying water from other sources in the Land Subsidence Management Area, provided physical groundwater extractions are restricted as stated herein, and the extraction is consistent with others rules, regulations and law, including but not limited to applicable Surface Water entity restrictions, rules and regulations.

Priority of Use: Each owner with multiple categories of credits under these rules and regulations must exhaust all other categories (delineated in Section 3.03 (a) – (e)) before any Transitional Tier 1 or Tier 2 Penalty may be consumed. Owners may elect to modify prioritization of credits for Categories delineated in Section 3.03(a)-(e), which shall be completed no later than thirty (30) days prior to the end of each quarter. If the owner or operator does not elect the priority of allocations to be debited, the default priority will follow in order of Section 3.03 (a)-(e).

An Owner may appeal this limitation as provided in Section 4.07.

(g) Enforcement

The following actions shall occur if an Owner is in violation of this Section.

For each acre-foot extracted in violation of the restrictions set forth herein, the Owner shall be liable for the maximum penalty rate allowed pursuant to SGMA.

The quantity of water consumed in violation of the restrictions set forth herein shall be deducted from the Owner's Tier 1 Penalty Allocation account the following year(s), which may include lands outside of the Land Subsidence Management Area. If the Owner's Penalty Allocation account is depleted, further enforcement actions may be taken by the ETGSA.

An Owner shall not be entitled to utilize any existing allocations while the Owner is out of compliance with this Section. All water consumed while the Owner is out of compliance will result in the imposition of Transitional Tier 2 Penalties for such consumption.

***As additional data becomes available and as projects, monitoring, and management actions are implemented, the groundwater flow model used to estimate the percentage reduction of Tier 1 extractions within the Management Area may be adjusted to reflect new data.*

Section 4.06 Community Management Areas

(a) City of Porterville Management Area

(i) Irrigated parcels

Irrigated parcels, as defined in Section 4.03(b), which are designated by the City of Porterville and ETGSA shall be managed pursuant to the Greater Tule Management Area under Section 4.03.

(ii) To be determined

Rules and regulations for the remaining parcels within the City of Porterville Management Area shall be further developed at a later date.

(b) Ducor Community Service District Management Area

(i) Irrigated parcels

Irrigated parcels, as defined in Section 4.03(b), which are designated by the Ducor Community Service District and ETGSA shall be managed pursuant to the Greater Tule Management Area under Section 4.03.

(ii) To be determined

Rules and regulations for the remaining parcels within the Ducor Community Service District Management Area shall be further developed at a later date.

(c) Terra Bella Community Management Area

(i) Irrigated parcels

Irrigated parcels, as defined in Section 4.03(b), which are designated by the Terra Bella Community Management Area and ETGSA shall be managed pursuant to the Greater Tule

Management Area under Section 4.03.

(ii) To be determined

Rules and regulations for the remaining parcels within the Terra Bella Community Management Area shall be further developed at a later date.

Section 4.07 Appeal Process

(a) Notification of Allocations and Extraction Limits

The General Manager shall provide written notice to each owner and if requested, the operator, of the groundwater allocations described in this Article 4.

(b) Protest of Allocations and Extraction Limits

Within thirty (30) days of the date identified in the written notification described in Section 4.07(a), an owner may protest the extraction allocations and extraction limits identified in the notification. The written protest must be submitted to the General Manager at the ETGSA's Main Office.

The General Manager shall investigate matters related to the protest, may consult with the ETGSA Technical group, and may present any relevant information, along with any recommendation, to the Board within sixty (60) days of receipt of the protest. The Board shall act on the written appeal and supporting documentation within 120 days of receipt of all relevant information.

Section 4.08 Emergency Ordinances

Nothing in this Article shall prevent the ETGSA, in the event of an emergency, from enacting emergency regulations or ordinances to prevent harm to landowners within the ETGSA.

Article V. Fees & Penalties

Section 5.01 Penalties

(a) Penalty for Excess Use

If any owner within the Greater Tule Management Area exceeds his or her Sustainable Yield allocation, he or she shall be liable for penalties as follows: (1) liability rate in an amount to be determined annually by the Board, for each Tier 1 Penalty Allocation acre-foot consumed; and (2) additional liability rate, in an amount to be determined annually by the Board, for each Tier 2 acre-foot consumed.

(b) SGMA Penalties

Any owner, operator or other person who violates the provisions of these rules and regulations is subject to the criminal and civil sanctions set forth in SGMA.

(c) Civil Remedies

Upon the failure of any person to comply with any provision of these rules and regulations, the ETGSA may petition the Superior Court for a temporary restraining order, preliminary or permanent injunction, or such other equitable relief as may be appropriate. The right to petition for injunctive relief is an additional right to those, which may be provided elsewhere in these rules and regulations or otherwise allowed by law. The ETGSA may petition the Superior Court to recover any sums due to the ETGSA.

Section 5.02 Groundwater Extraction Fees

The Board may propose fees, including groundwater extraction fees, consistent with Division 6 Conservation, Development and Utilization of State Water Resources Part 2.74, Chapter 5, Section Sections 10730 through 10730.6, and the California Constitution. The owner shall pay to the ETGSA all Groundwater Extraction Fees within 30 days of the date of any invoice submitted by the ETGSA.

De Minimis Extractors. No extraction fees shall be charged to any de minimis extractor.

Section 5.03 Real Property Assessments

The Board may propose land-based assessments consistent with Division 6 Conservation, Development and Utilization of State Water Resources Part 2.74, Chapter 5, Section 10730, and the California Constitution. The owner shall pay to the ETGSA all assessments within 30 days of the date of any invoice submitted by the ETGSA.

Section 5.04 Notification and Appeal of Penalties

(a) Notification of Tier 1 and Tier 2 Penalties

Each year, the General Manager shall provide written notification to each owner if requested by owner of: (1) the Tier 1 penalty rate, and (2) the Tier 2 penalty rate. The notification shall include the water accounting used to determine both Tier 1 penalties and Tier 2 penalties for excess consumption.

(b) Payment of Penalties

The owner shall pay to the ETGSA all Tier 1 and Tier 2 penalties within 30 days of the date of any invoice submitted by the ETGSA.

(c) Protest of Penalty Determination

Within 30 days of the date identified in any invoice submitted by the ETGSA an owner may appeal a penalty determination in writing. Owner must still submit payment within thirty (30) days of the invoice. The written appeal must be submitted to the General Manager, at the ETGSA's Main Office.

The General Manager shall investigate matters related to the appeal, and may present any relevant information, along with any recommendation, to the Board within sixty (60) days of receipt of the appeal. The Board shall act upon the written appeal and supporting documentation within 120 days of receipt of all relevant information.

Article VI. Surface Water Recharge in the Underground

Section 6.01 Groundwater Recharge

Owners may use existing facilities to store surface water underground within the ETGSA boundaries. An owner who stores surface water pursuant to this Section may subsequently put such water to his or her own beneficial use within the ETGSA boundaries, or may transfer the water to another owner for use within the ETGSA boundaries. The use of stored water pursuant to this Section must be achieved utilizing on-farm activities. All water stored pursuant to this Section must be used within the ETGSA boundaries. Each owner who stores surface water pursuant to this Section shall provide accurate, verifiable records of the quantity and source of surface water stored for recharge, confirmed by the district or entity that supplied the surface water.

The owner shall adhere to any rules promulgated by any district or entity supplying the surface water. Surface water stored and documented in compliance with the requirements of this Section shall be credited to the relevant owner's account as a surface water credit. Each owner shall be solely responsible for locating, purchasing, accessing, or otherwise acquiring surface water for the purposes of recharge pursuant to this Section. This policy applies only to all non-districted lands and districted lands which choose to adhere to this Article VI. This policy does not apply to districted lands or areas within the ETGSA boundaries which have adopted a separate, independent recharge policy. The ETGSA shall honor the groundwater banking and recharge policies of all such entities as described in Section 3.07.

Consistent with the ETGSA Land Subsidence Management Policy, a 10% leave behind shall be required for all recharge activities. Recharge accounts shall be credited with 90% of total water recharged.

[end of document]