



**SAN ANTONIO BASIN GROUNDWATER SUSTAINABILITY AGENCY**

**DRAFT APPEAL FORM**

Pursuant to Section 11 of the San Antonio Basin Groundwater Sustainability Agency (“SABGSA”) Rules and Regulations (“Regulations”), the undersigned Appellant<sup>1</sup> appeals a decision made under the Regulations to the SABGSA Board of Directors (“Board”) for review.<sup>2</sup> A complete copy of this Form and the Appeal Fee and Deposit Agreement (Attachment A)<sup>3</sup> are required for any appeal under the Regulations.<sup>4</sup>

**Appellant Information:**

Landowner Name: \_\_\_\_\_

Landowner Address/APN: \_\_\_\_\_

Landowner Phone/Email: \_\_\_\_\_

Operator Name: \_\_\_\_\_

Operator Address: \_\_\_\_\_

Operator Phone/Email: \_\_\_\_\_

Groundwater Extraction Facility Address/APN/State Well No.:  
\_\_\_\_\_

Lands served by Groundwater Extraction Facility (Addresses/APNs):  
\_\_\_\_\_  
\_\_\_\_\_

**Brief Description of Project (if applicable):**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Decision Subject of the Appeal:**

\_\_\_\_\_  
\_\_\_\_\_

Date of Decision:<sup>5</sup> \_\_\_\_\_

<sup>1</sup> For the purposes of this Appeal, Appellant refers to a Property Owner and/or Operator, as those terms are defined in Section 1 of the Regulations, challenging a decision of the SABGSA.

<sup>2</sup> The Board’s decision shall constitute final action of the appeal, subject to judicial review pursuant to California Civil Code section 1094.5.

<sup>3</sup> A complete and signed Appeal Fee and Deposit Agreement along with the deposit payment must be submitted with this Appeal Form.

<sup>4</sup> Please include attachments if more space is required to respond to a particular answer.

<sup>5</sup> The Appeal must be filed within 30 days of the SABGSA decision.

**Basis for Appeal:**

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**Information/Evidence Supporting Appeal:**

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Note: Please include attachments and copies of any evidence as an attachment.

**Requested Action(s):**

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**APPELLANT**

Appellant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Appellant Name/Position: \_\_\_\_\_

**Property Owner** (if different from Appellant)

Property Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Property Owner Name/Position: \_\_\_\_\_

**Agent** (if applicable)

Agent Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Agent Name/Position: \_\_\_\_\_

Agent Contact Information (phone/email): \_\_\_\_\_

**Enclosed:** Attachment A - Appeal Fee and Deposit Agreement



**SAN ANTONIO BASIN GROUNDWATER SUSTAINABILITY AGENCY**

**DRAFT APPEAL FEE AND DEPOSIT AGREEMENT**

**THIS APPEAL FEE AND DEPOSIT AGREEMENT** (“Agreement”) is made and effective on \_\_\_\_\_ (“Effective Date”) by and between the San Antonio Basin Groundwater Sustainability Agency (“SABGSA”), and \_\_\_\_\_ (“Appellant”). SABGSA and Appellant are each referred to as a “Party” and collectively referred to as the “Parties” in this Agreement.

**RECITALS:**

A. Appellant seeks to appeal issuance of a Notice of Violation, fine or other decision issued by the SABGSA (“Appeal”) pursuant to the SABGSA Rules and Regulations (“Regulations”).

B. Section 11 of the Regulations requires the Appellant to bear all fees and costs, including staff time, associated with processing an Appeal and permits the SABGSA to create a deposit agreement required to file an Appeal.

C. Pursuant to SABGSA Resolution No. 24-00, the SABGSA Board of Directors (“Board”) approved the appropriate fees to reimburse SABGSA staff and consultants for the reasonable costs of an Appeal as provided herein, and establish a deposit amount required to file an Appeal.

D. The Parties agree that it is impossible to ascertain the full extent of the costs associated with the Appeal due to the size, nature or scope of the Appeal and therefore the Parties desire to enter into this Agreement to specify the terms of the Appellant’s deposit and reimbursement of costs to process and review the Appeal.

**AGREEMENT**

**NOW, THEREFORE**, in consideration of the foregoing and the mutual covenants set forth herein, and for other consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

**1. Construction.**

This Agreement shall be liberally constructed to accomplish its intent. In the event of any irresolvable conflict or inconsistency in the terms of the Agreement, the SABGSA, in its sole discretion, shall resolve the conflict or inconsistency and implement the final decision.

**2. The Deposit; Additional Advances.**

- a) Establishing and Supplementing Deposit. Upon execution of this Agreement, Appellant shall provide to the SABGSA an initial deposit of \_\_\_\_\_ dollars (\$X,XXXX.XX) (“Initial Deposit”) to reimburse the SABGSA for Eligible Expenses, as defined in Section 2(b). The SABGSA shall monitor its expenses and the balance in the deposit account and whenever it believes, in good faith, that there will be insufficient funds to pay the SABGSA’s expenses to process the Appeal, the SABGSA may make one or more written requests for additional funds (each an “Additional Advance”), which shall state the

## Attachment A

existing balance and the additional amount requested. The SABGSA shall base its request for an Additional Advance on consultant(s) and staff(s) hourly rate described in the rate schedule, attached hereto as Exhibit A (“Rate Schedule”). The SABGSA may request the funds it reasonably believes necessary to cover the additional costs to process the Appeal. The Initial Deposit and Additional Advance funds are hereinafter collectively referred to as the “Deposit.” Appellant shall make the Additional Advance within five (5) business days of the SABGSA’s written request therefor. If Appellant fails to timely make the Additional Advance, Appellant agrees that the SABGSA may cease any or all additional work on the Appeal until the SABGSA receives the Additional Advance from Appellant.

- b) Eligible Expenses. In accordance with the Rate Schedule, the Deposit shall be used to exclusively reimburse the SABGSA for costs incurred by the SABGSA in connection with the following (all of which shall be deemed “Eligible Expenses”): (i) the fees and expenses incurred by both the consultant(s) employed by the SABGSA in connection with administering the Appeal and the SABGSA’s Executive Director; and (ii) all other actions or activities, if any, reasonably taken by the SABGSA in connection with administering the Appeal.
- c) Administration of Deposit. The Deposit may be placed in the SABGSA’s account with other funds for purposes of investment and safekeeping. The Deposit shall not accrue interest. The SABGSA shall administer the Deposit and use the Deposit to reimburse the SABGSA for Eligible Expenses. The SABGSA shall maintain satisfactory accounting records as to the expenditure of the Deposit at all times.
- d) Unexpended Funds. Upon the approval or denial of an Appeal by the SABGSA, the SABGSA shall return any then-unexpended portion of the Deposit to Appellant, without interest, less an amount equal to any unpaid Eligible Expenses previously incurred by the SABGSA (“Unexpended Funds”).
- e) Statements of Account. The SABGSA shall provide Appellant a summary of expenditures made from the Deposit, and the unexpended balance thereof, whenever requesting any Additional Advance and within ten (10) business days of receipt by the SABGSA of a request therefore submitted by Appellant.

### **3. Independent Judgment of the SABGSA; SABGSA Not Liable**

The Board shall use its independent judgment in determining the Board’s action on the Appeal under the Regulations and applicable law. Execution of this Agreement and payment of the Deposit by the Appellant in no way limits the SABGSA’s discretion over the Appeal.

Appellant expressly understands and agrees that any consultant retained on behalf of the SABGSA is under contract solely on behalf of the SABGSA, and the SABGSA is free to exercise its independent judgment in making payments to the consultants or revising or accepting the consultant’s work product, without any liability whatsoever by the SABGSA to Appellant therefor.

### **4. Notices.**

Any notices, requests, demands, documents, approvals, or disapprovals given or sent under this Agreement from one Party to another (collectively, the “Notices”) shall be given to the Party

## Attachment A

entitled thereto as follows. For the SABGSA, notices shall be delivered to P.O. Box 196, Solvang California 93464, [admin@sanantoniobasinga.org](mailto:admin@sanantoniobasinga.org). For the Appellant, notices shall be delivered to the Appellant's contact information provided on the Appeal. The Parties may establish alternate contact information for the delivery of Notices consistent with this section.

Each such Notice shall be deemed delivered to the Party to whom it is addressed: (i) if personally served or delivered, upon delivery; (ii) if given by facsimile or email, upon the sender's receipt of an appropriate answerback or other written acknowledgement; (iii) if given by registered or certified mail, return receipt requested, deposited with the United States mail postage prepaid, seventy-two (72) hours after such notice is deposited with the United States mail; (iv) if given by overnight courier, with courier charges prepaid, twenty-four (24) hours after delivery to said overnight courier; or (v) if given by any other means, upon delivery at the address specified in this Section.

### **5. Choice of Law; Venue.**

This Agreement, and any dispute arising from the relationship between the Parties, shall be governed by, construed in accordance with, and interpreted under the laws of the State of California. Any dispute that arises under or relates to this Agreement (whether contract, tort, or both) shall be resolved in a California State Court in the County of Santa Barbara, or if jurisdiction over the action cannot be obtained in a State Court, in a Federal Court in the Central District of California.

### **6. Entire Agreement.**

This Agreement represents the full, final, and complete Agreement between the Parties hereto regarding the subject matter of this Agreement. No change or amendment to this Agreement shall be valid unless in writing and signed by both Parties.

### **7. Severability.**

If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid for any reason, the validity and enforceability of the remaining provisions of this Agreement shall not be affected.

### **8. Attorneys' Fees.**

In any litigation or other proceeding by which one Party seeks to enforce its rights under this Agreement (whether in contract, tort, or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing Party shall be entitled to an award of reasonable attorneys' fees, together with any costs and expenses, to resolve the dispute and to enforce the final judgment.

### **9. Ambiguities.**

Any rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not be applied in interpreting this Agreement.

### **10. Counterparts.**

**Attachment A**

This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together will constitute one instrument.

**11. Authority.**

The persons executing this Agreement on behalf of the Parties warrant that: (i) such Party is duly organized and existing; (ii) they are duly authorized to execute and deliver this Agreement on behalf of said Party; (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement; and (iv) the entering into of this Agreement does not violate any provision of any other agreement to which said Party is bound.

IN WITNESS THEREOF, the Parties have caused this Agreement to be executed on the date first written above.

**SAN ANTONIO BASIN GROUNDWATER  
SUSTAINABILITY AGENCY**

**APPELLANT**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Print Name**

\_\_\_\_\_  
**Print Name**

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Title**

**EXHIBIT A**

**Rate Schedule**

| <b>Responsible Party</b>         | <b>Rate</b>       |
|----------------------------------|-------------------|
| <b>SABGSA Executive Director</b> | \$ [redacted] /hr |
| <b>Consultant</b>                | \$ [redacted] /hr |
| <b>Legal Counsel</b>             | \$ [redacted] /hr |

DRAFT