

DRAFT SABGSA ADMINISTRATIVE ENFORCEMENT POLICY

Well Registration, Metering, and Reporting Requirements

I. INTRODUCTION & PURPOSE

San Antonio Basin Groundwater Sustainability Agency's (SABGSA) Rules and Regulations implement the San Antonio Basin Groundwater Sustainability Plan (Plan) by imposing requirements on Property Owners and/or Operators that include, but are not limited to, well registration (Section 2), well metering (Section 3.B-D), and reporting of meter readings (Section 3.G).¹ The SABGSA endeavors to work collaboratively with Property Owners and/or Operators, however, the Board recognizes that enforcement of the SABGSA Rules and Regulations is necessary to implement the Sustainable Groundwater Management Act (Wat. Code, § 10720 et seq., SGMA) and SABGSA Plan. The following Administrative Enforcement Policy (Policy) outlines the SABGSA enforcement process in a manner that efficiently and effectively implements sustainable groundwater management within the San Antonio Valley Creek Basin.

II. GENERAL ENFORCEMENT AUTHORITY

SGMA empowers the SABGSA with the authority to adopt and enforce rules and regulations necessary and appropriate to implement the SABGSA Plan. (See Water Code, § 10725 et seq.) The authority granted by SGMA is in addition the authority granted to San Antonio Basin Water District and Los Alamos Community Services District under their enabling statutes. (Water Code, § 10725(a).)

Pursuant to SGMA, the SABGSA may impose penalties in accordance with California Water Code section 10732(a)(2), which allows for a civil penalty of at most one thousand dollars (\$1,000) per violation and an additional penalty of one hundred dollars (\$100) for each additional day the violation continues. (Water Code § 10732(a)(2).) In addition, the SABGSA may impose a penalty of five hundred dollars (\$500) per acre-foot extracted in excess of the amount that person is authorized to extract. (Water Code, § 10732(a)(1).) The SABGSA has full latitude to impose the maximum penalties allowed under California Water Code section 10732. The SABGSA also may initiate legal action against a Property Owner and/or Operators that violate the SABGSA Rules and Regulations or the Plan to seek remedies under applicable law, including but not limited to public and private nuisance and Article X, Section 2 of the California Constitution.

¹ Capitalized terms not defined herein have the same meaning as provided in the SABGSA Rules and Regulations.

III. SABGSA ENFORCEMENT PROCESS

1. **Investigation:** If SABGSA has cause to believe that a Property Owner and/or Operator is in violation of the Rules and Regulations, SABGSA may request additional information from the Property Owner and/or Operator, and/or conduct an investigation pursuant to Water Code section 10725.4.
 - a. **Inspection Warrant.** If the Property Owner and/or Operator refuses to voluntarily comply with the SABGSA's request for additional information or request to investigate, the SABGSA may seek an inspection warrant in accordance with Water Code section 10725.4(c) and its authority under Water Code section 35404.
2. **Warning Letter:** In the event the situation does not resolve itself to SABGSA's satisfaction, or the potential violation is a failure to register a well under Section 2 of the Rules and Regulations, SABGSA may issue a written "Warning Letter."
 - a. A Warning Letter may include, among other things: (1) the nature and extent of the violation; (2) the steps that the entity must take in order to come into compliance; (3) a specific compliance deadline ; (4) a summary of the potential penalties; (5) SABGSA staff contact information for assistance with resolving the violation; and (6) a warning that SABGSA reserves the right to utilize additional legal and practical methods to ensure compliance. Deadlines will be set based on a reasonable estimate of the time necessary to resolve the violation.
 - b. Warning Letters for Well Registration. The SABGSA need not conduct an investigation prior to enforcement of potential violations for failure to register a well under Section 2 of the Rules and Regulation and may immediately issue a Warning Letter. Once a Warning Letter is sent for failure to register a well, a Property Owner and/or Operator has 30 days, or another period specified in the Warning Letter, to comply before further action may be taken.
3. **Notice of Violation:** If a violation persists following issuance of a Warning Letter, a written Notice of Violation will be issued for any violation of the Rules and Regulations. The Notice of Violation will include, among other things: (1) the nature and extent of the violation; (2) the penalties imposed; (3) the deadline to pay applicable penalties; and (4) a warning that the SABGSA reserves the right to utilize additional legal and practical methods to receive payment of applicable penalties and ensure compliance with the Rules and Regulation. Such methods may include, but are not limited to, withholding or reducing the award of future groundwater allocations, exercising lien authority, or utilizing any other remedy available to SABGSA under SGMA.
4. **Opportunity to Appeal:** Property Owners and/or Operators may appeal a Notice of Violation and/or fine by filing an appeal with SABGSA's Board within 30 calendar days of receipt of the Notice of Violation in accordance with Section 11 of the Rules and Regulations.

- 5. Penalties Issued.** Pursuant to California Water Code section 10732, SABGSA may impose a civil penalty for violation of the Rules and Regulations in the following amounts:
- a.** Civil penalty of up to \$1,000, plus an additional \$100 for each additional day a violation continues if Property Owner and/or Operator fails to comply within 30 days of Notice of Violation.
 - b.** Civil penalty of up to \$500 per acre-foot extracted in excess of the amount that person is authorized to extract in violation of the Rules and Regulations. (Water Code, § 10732(a)(1).)
- 6. File a lawsuit.** If SABGSA cannot obtain compliance through the process above, SABGSA Board reserves the right to seek civil penalties and remedies available at law for violations of the Rules and Regulations.

IV. SABGSA DISCRETION

The remedies identified in this enforcement policy are not intended to be exclusive. Any other remedy available to SABGSA in law or equity may be employed at the discretion of SABGSA to enforce the SABGSA Rules and Regulations and ensure compliance with SGMA and the Agency Plan. The SABGSA retains full discretion to deviate from the enforcement process outlined in the Policy to obtain compliance with the SABGSA Rules and Regulations in accordance with applicable law.