

BOARD OF DIRECTORS

SAN ANTONIO BASIN GROUNDWATER SUSTAINABILITY AGENCY

RESOLUTION NO. 22-001

**A RESOLUTION OF THE SAN ANTONIO BASIN GROUNDWATER
SUSTAINABILITY AGENCY APPROVING A WELL VERIFICATION POLICY IN
COMPLIANCE WITH EXECUTIVE ORDER N-7-22**

WHEREAS, on March 19, 2019, the Santa Barbara County (“County”) Board of Supervisors (“Board”) passed Resolution 19-93 Concern Regarding Prolonged Water Supply Shortage within Santa Barbara County, which recognized the long-term impact of the drought and the need for County water agencies, the County and residents to continue to work together to conserve and to improve water security in anticipation of future droughts;

WHEREAS, on July 8, 2021, the Governor of the State of California (“Governor”) proclaimed a State of Emergency to exist due to drought conditions in the County;

WHEREAS, on July 13, 2021, the County Board found that conditions of extreme peril warranted and necessitated a Proclamation of Local Emergency Cause by Drought Conditions;

WHEREAS, the County Board has reviewed the need for the Proclamation of Local Emergency at least every 60 days and has continued to find that the current “[d]rought conditions of extreme peril to the safety of persons and property in Santa Barbara County persist and warrant the Proclamation of Local Emergency Cause by Drought Conditions”;

WHEREAS, on March 28, 2022, the Governor signed Executive Order N-7-22 (“Executive Order”) to address emergency drought conditions;

WHEREAS, the Executive Order provides, in part, that “[t]o protect health, safety, and the environment during this drought emergency, a county, city, or other public agency shall not [a]pprove a permit for a new groundwater well or for alteration of an existing well in a basin subject to the Sustainable Groundwater Management Act and classified as medium- or high-priority without first obtaining written verification from a Groundwater Sustainability Agency managing the basin or area of the basin where the well is proposed to be located that groundwater extraction by the proposed well would not be inconsistent with any sustainable groundwater management program established in any applicable Groundwater Sustainability Plan adopted by that Groundwater Sustainability Agency and would not decrease the likelihood of achieving a sustainability goal for the basin covered by such a plan”;

WHEREAS, the County Environmental Health and Services (“EHS”) is responsible for the issuance of permits for new wells and well modifications within the County;

WHEREAS, on May 24, 2022, the County Board adopted Ordinance No. 5158, a Temporary Water Well Permitting Urgency Ordinance (“County Urgency Ordinance”), amending Chapter 34A of the County Code to implement the Executive Order;

WHEREAS, pursuant to the Executive Order and the County Urgency Ordinance, as a prerequisite to the issuance of a permit from the County for any well within the jurisdiction of a Groundwater Sustainability Agency (“GSA”), County EHS must first obtain a written verification from the applicable GSA (“Well Verification”);

WHEREAS, the San Antonio Basin Groundwater Sustainability Agency (“Agency”) decided to become the GSA for the San Antonio Creek Valley Basin (“Basin”) on June 14, 2022;

WHEREAS, on December 7, 2021, the Agency adopted the San Antonio Basin Groundwater Sustainability Plan (“Plan”) that establishes the Agency’s groundwater management program and sustainability goal for the Basin;

WHEREAS, the Plan documents that the Basin is experiencing chronic lowering of groundwater levels and a reduction in groundwater in storage. The Basin’s water budget, documented in the Plan, indicates that the annual volume of groundwater extracted from the Basin (by pumping) has historically been greater than the Basin’s sustainable yield¹ as defined in the GSP. As set forth in the Plan, the average annual change in groundwater in storage during the Basin’s historical water budget period [1981-2018] was a decrease of 10,600 acre-feet.

WHEREAS, the Agency’s Board of Directors and the Agency’s consultant, GSI Water Solutions, Inc., reviewed the Plan and current drought conditions to determine, based on substantial evidence, that any additional extraction of groundwater from the Basin—in excess of the amount of groundwater extraction from existing wells as originally constructed—during drought conditions, as identified by the County Board and Governor, would be inconsistent with sustainable groundwater management programs established in the Plan and/or would decrease the likelihood of the Basin achieving its sustainability goal for the Basin;

WHEREAS, Water Code Section 10726.4, subdivision (a)(1) authorizes the Agency pursuant to the Plan to control groundwater extractions by regulating, limiting or suspending extractions from individual wells or extraction of groundwater wells, construction of groundwater wells, enlargement of existing groundwater wells or reactivation of abandoned groundwater wells, or otherwise establishing groundwater extraction allocations;

WHEREAS, to implement the Executive Order and County Urgency Ordinance and to ensure that County EHS well permits are consistent with the Plan, the Agency desires to establish a temporary “Well Verification Policy” that creates a process for the Agency to consider requests for Well Verification from applicants seeking a well permit from County EHS for a well within the Basin;

¹ Sustainable yield is defined in the Sustainable Groundwater Management Act (“SGMA”) as “the maximum quantity of water, calculated over a period representative of long-term conditions in the basin and including any temporary surplus that can be withdrawn annually from a groundwater supply without causing an undesirable result”. (Wat. Code, § 10721(w).)

WHEREAS, the “Well Verification Policy” contained in resolution establishes a temporary process for an applicant to County EHS for a well permit to request a written well verification (“Well Verification Request”) from the Agency and review criteria to evaluate said Well Verification Request in order to set forth clear parameters for an applicant to obtain Well Verification and to clarify for beneficial users and well permit applicants how the Agency will evaluate a Well Verification Request and issue a Well Verification;

WHEREAS, adoption of this resolution is exempt from the California Environmental Quality Act (“CEQA”) Guidelines Sections 15269(c), 15061(b)(3), 15378(b)(5), and 15307 as it is a specific action to mitigate an emergency taken by a regulatory agency for the protection of natural resources to enhance procedures and findings for protection of water resources and does not have the potential for causing a significant effect on the environment and the County remains responsible for CEQA review of each permits as the permitting agency.

THEREFORE, BE IT RESOLVED by the Board of Directors of the Agency, as follows:

1. **Incorporation of Recitals.** All the recitals in this resolution are true and correct and incorporated herein by this reference.
2. **Well Verification Request.** The Agency Board of Directors adopts the “Well Verification Request”, attached hereto as Attachment 1, and incorporated herein by this reference. A request for a Well Verification required by this resolution shall be made in writing by using the Well Verification Request, as may be modified by the Agency Executive Director. The Agency shall not issue a Well Verification unless it receives a complete and fully executed Well Verification Request.
3. **Definitions.** The capitalized terms in this resolution have the same meaning as the terms in Section 34A-23 of the County Urgency Ordinance and unless otherwise defined herein.
4. **Well Verification Policy.**
 - a. New Wells and Alteration of Existing Wells. Agency staff and/or consultants shall conduct a preliminary review of a Well Verification Request to determine whether it seeks a Well Verification for a New Well (as defined in Section 34A-23(a)(4) of the County Urgency Ordinance) or Alteration of an Existing Well (as defined in Section 34A-23(a)(1) of the County Urgency Ordinance), and if so, timely notify the applicant that the Agency finds that it cannot issue a Well Verification for a New Well or Alteration of an Existing Well until the Executive Order and County Urgency Ordinance have been rescinded (1) due to the drought conditions experienced throughout the region and (2) because both a New Well and an Alteration of an Existing Well would result in additional groundwater extraction from the Basin above the baseline extraction amounts

considered in the Plan and contribute to chronic lowering of groundwater levels and a reduction in groundwater storage in the Basin.

- b. Replacement Wells. Agency staff and/or consultants shall conduct a preliminary review of a Well Verification Request to determine whether it seeks a Well Verification for a Replacement Well (as defined in Section 34A-23(a)(8) of the County Urgency Ordinance). A Well Verification Request for a Replacement Well may be approved by the Agency's Executive Director if the Replacement Well satisfies the criteria in Section 4.d of this resolution.

- c. Modified Wells. Agency staff or consultants shall conduct a preliminary review of a Well Verification Request to determine whether it seeks a Well Verification for a Modified Well. "Modified Well" means a Modification (as defined in Section 34A-2(b)(3) of the County Code) of an existing well that increases the production capacity of an existing well to a capacity less than or equal to the capacity of the existing well as originally permitted or constructed. A Well Verification Request for Modified Well may be approved by the Agency's Executive Director if the Modified Well Modification satisfies the criteria in Section 4.d of this resolution.

- d. Technical Evaluation. The Agency's Executive Director shall only issue a Well Verification after Agency staff or consultants with a California Certified Hydrogeologist or California Professional Geologist certification determines that the applicant's Well Verification Request and supporting materials satisfy the following criteria:
 - i. The Replacement Well meets the definition of a Replacement Well in Section 34A-23(a)(8) of the County Urgency Ordinance or the Modified Well meets the definition Modified Well (as defined in Section 4.c of this resolution);
 - ii. Groundwater extraction from the Replacement Well or Modified Well would not be inconsistent with any sustainable groundwater management program established in the Plan; and
 - iii. Groundwater extraction from the Replacement Well or Modified Well would not decrease the likelihood of achieving the sustainability goal for the Basin as established in the Plan.

The Agency shall use best efforts to make a determination on the Well Verification within thirty (30) days from receipt of a complete Well Verification Request with all supporting documentation.

- e. Individual Domestic Wells and Public Water Supply Wells. As stated in Section 34A-26 of the County Urgency Ordinance and Paragraph 9 of the Executive Order, Individual Domestic Wells (as defined Section 34A-

23(a)(2) of the County Urgency Ordinance) and Public Water Supply (as defined Section 34A-23(a)(3) of the County Urgency Ordinance) Wells are exempt from this Well Verification Policy.

5. **Hardship Exemption.** The Agency Board of Directors, on a case-by-case basis, shall have the authority, upon a showing of good cause by an applicant or other individual with standing, to waive portions of this Well Verification Policy. “Good cause” shall mean a factual and evidentiary showing by the applicant that this Well Verification Policy, if not waived, will (1) deprive the applicant of substantially all reasonable economic use of its property under the Fifth Amendment of the U.S. Constitution or Article I, Section 19 of the California Constitution; or (2) result in a violation of an applicable California or federal law. All such request for a waiver shall be filed with the Agency Executive Director, including all supporting materials showing the “good cause.”
6. **Fees.** The Well Verification Request shall be accompanied by the appropriate fee established by resolution of the Agency Board of Directors. No part of said fee shall be refundable except as provided in such fee resolution.
7. **Administrative Policies.** The Agency Executive Director shall have the authority to take other such actions as may be necessary and appropriate to implement the intent of this resolution, including but not limited to coordinating with County EHS to implement the Well Verification Policy and developing administrative policies to implement the Well Verification Policy consistent with the intent of this resolution. From time to time the Agency Board of Directors may, but is not required to, consider modifications to the administrative policies developed and implemented by the Agency Executive Director.
8. **Severability.** If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held to be invalid by a court of competent jurisdiction, such decisions shall not affect the validity of the remaining portions of this resolution. The Agency Board of Directors hereby declares that it would have passed and adopted this resolution, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.
9. **Effective Date.** This resolution shall take effect immediately upon passage and adoption and terminate upon the rescission of the Executive Order.
10. **CEQA Exemption.** The Agency’s Board of Directors finds that this resolution is exempt from the California Environmental Quality Act (“CEQA”) Guidelines Sections 15269(c), 15061(b)(3), 15378(b)(5), and 15307 as it is a specific action to mitigate an emergency taken by a regulatory agency for the protection of natural resources to enhance procedures and findings for protection of water resources and does not have the potential for causing a significant effect on the environment and the County remains responsible for CEQA review of each permits as the permitting agency.

WE, THE UNDERSIGNED, do hereby certify that the above and foregoing Resolution No. 22-001 was duly adopted and passed by the Board of Directors of the San Antonio Basin Groundwater Sustainability Agency at a meeting held on the 19th day of July, 2022, by the following vote:

AYES: 8
NOES: 0
ABSENT: 0



Randy Sharer, Board Chair
San Antonio Basin Groundwater Sustainability Agency