

Appendix C

Second Amended Kern County Subbasin Coordination Agreement

Current Form Second Amended Kern County Subbasin Coordination Agreement

This Second Amended Kern County Subbasin Coordination Agreement (“Agreement” or “Coordination Agreement”) is made effective as of _____ by and among the Groundwater Sustainability Agencies (“GSA”) within the Kern County Subbasin that are developing multiple Groundwater Sustainability Plans (“GSPs”) (each a “Party” and collectively the “Parties”), each of which is identified in Attachment 1 and is made with reference to the following facts:

WHEREAS, on September 16, 2014, Governor Jerry Brown signed into law Senate Bills 1168 and 1319 and Assembly Bill 1739, known collectively as the Sustainable Groundwater Management Act (“SGMA”); and

WHEREAS, SGMA requires all groundwater basins designated as high or medium priority by the Department of Water Resources (“DWR”) to manage groundwater in a sustainable manner; and

WHEREAS, the Kern County Subbasin (Basin Number 5-22. 14, DWR Bulletin 118) (“Subbasin”) which lies within the San Joaquin Valley Groundwater Basin, has been designated as a high-priority basin by DWR; and

WHEREAS, the Subbasin includes twenty (20) GSAs that are managing the Subbasin through multiple GSPs; and

WHEREAS, SGMA allows local agencies to engage in the sustainable management of groundwater, but requires GSAs intending to develop and implement multiple GSPs within a subbasin to enter into a coordination agreement; and

WHEREAS, the Agreement does not prevent any Party from providing comments on a GSP, or otherwise coordinating among parties with regard to specific items in a GSP outside this Agreement, on issues including but not limited to specific border conditions between GSPs and/or the timing and/or effect of projects and management actions contained within another GSP; and

WHEREAS, nothing in this Agreement represents or should be construed as the determination of any claim or assertion of a groundwater right; specifically, the coordinated water budget information or data does not amount to an allocation, or otherwise represent a determination, validation, or denial of any claimed or asserted groundwater right;

WHEREAS, this Agreement shall supersede and replace all prior agreements, promises, and understandings, oral or written, related to the coordination of GSPs in the

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Subbasin, including the Coordination Agreement effective January 20, 2020, and First Amended Coordination Agreement effective July 22, 2022.

THEREFORE, in consideration of the facts recited above and of the covenants, terms and conditions set forth herein, the Parties agree as follows:

Section 1. Purpose

The purpose of this Agreement is to comply with SGMA coordination agreement requirements and ensure that the multiple GSPs within the Subbasin are developed and implemented utilizing the same data and methodologies as required under SGMA and Title 23 of the California Code of Regulations (“CCR”), and that the elements of the GSPs are appropriately coordinated to support sustainable management.

The Parties intend for this Agreement to describe how the Parties will work together to ensure coordinated implementation of the multiple GSPs covering the Subbasin to satisfy the requirements of SGMA. In particular, it documents the Parties’ agreement to rely upon or otherwise include identical language, content, and form for the GSP Chapters described in Attachment 2 of the Agreement, and to require any future amendment to those GSP Chapters be approved by unanimous consent of the Parties, unless a change is specific to an individual GSA’s data or information and required to comply with SGMA regulations and would not otherwise impact the language, content, and form of the collective GSPs approved through the governance process described in Section 3 herein. This Agreement shall be incorporated into each of the GSPs that is adopted to cover a portion of the Subbasin.

Section 2. General Guidelines

Responsibilities of the Parties

The Parties shall work collaboratively to comply with SGMA and this Agreement. Each Party to this Agreement is a GSA and acknowledges it is bound by the terms of the Agreement. This Agreement does not otherwise affect each Party's responsibility to implement the terms of the GSP it has adopted pursuant to SGMA. Rather, this Agreement is the mechanism through which the Parties will coordinate portions of the multiple GSPs to ensure such GSP coordination complies with SGMA.

No Adjudication or Alternative Plans in the Subbasin

As of the date of this Agreement, there are no portions of the Subbasin that have been adjudicated or have submitted for DWR approval an alternative to a GSP pursuant to Water Code section 10733.6.

Section 3. Governance

Subbasin Coordination Committee

The Subbasin Coordination Committee will facilitate discussion of Coordination Activities (defined below). The Subbasin Coordination Committee will consist of one representative appointed from each GSA.

Each Subbasin Coordination Committee member's compensation for service on the Subbasin Coordination Committee, if any, is the responsibility of the appointing Party.

Each Subbasin Coordination Committee member shall serve at the pleasure of the appointing GSA and may be removed or substituted from the Subbasin Coordination Committee by the appointing GSA at any time.

3.1 The Subbasin Coordination Committee will meet periodically as it deems necessary to carry out the activities described in this Agreement.

3.2 The Subbasin Coordination Committee may suggest subcommittees, workgroups, or otherwise request staff and/or consultants of the Parties develop technical data, supporting information and/or recommendations.

The purposes of the Subbasin Coordination Committee are to (1) provide a forum to discuss each Parties recommendation regarding the appointment of a Plan Manager who will act in accordance with this Agreement, and (2) provide a forum wherein the Parties may discuss Subbasin coordination activities, which may include the Parties development, planning, financing, environmental review, permitting, implementation, and long-term monitoring of the multiple GSPs in the Subbasin, pursuant to SGMA requirements ("Coordination Activities").

Plan Manager

Appointment (or renewal) of the Plan Manager shall require the vote of more than 75% of the Parties, and any vote to remove the Plan Manager shall require a vote of more than 25% of the Parties. A removed Plan Manager is not eligible for reappointment. Any Party may call for a review of the Plan Manager's engagement at any time. The Plan Manager shall serve as the point of contact for DWR, as specified in 23 CCR § 357.4, subd. (b)(1), and State Water Resources Control Board (SWRCB), as appropriate. The Plan Manager shall submit or assist with the submittal of all GSPs, plan amendments, supporting information, monitoring data and other pertinent information, Annual Reports, and periodic evaluations to DWR or SWRCB when required. The Plan Manager has no authority to take any action or represent the

Subbasin Coordination Committee or a particular Party without the specific direction and authority of the Subbasin Coordination Committee. The Plan Manager is obligated to immediately disclose all communications he/she receives in his/her capacity as Plan Manager to the Subbasin Coordination Committee and the GSA(s) particularly affected, as appropriate under the circumstances.

Section 4. Exchange of Data and Information

Procedure for Exchange of Information

4.1 The Parties may exchange information through collaboration and/or informal requests made at the Subbasin Coordination Committee level or through subcommittees suggested by the Subbasin Coordination Committee. However, to the extent it is necessary to make a written request for information to another Party, each Party shall designate a representative to respond to information requests and provide the name and contact information of the designee to the Subbasin Coordination Committee. Requests may be communicated in writing and transmitted in person or by mail, facsimile machine or other electronic means to the appropriate representative as named in this Agreement.

4.2 Nothing in this Agreement shall be construed to prohibit any Party from voluntarily exchanging information with any other Party by any other mechanism separate from the Subbasin Coordination Committee.

Non-Disclosure of Confidential Information

Pursuant to Section 4.1 of this Agreement, a Party may provide one or more of the other Parties with confidential information. To ensure the protection of such confidential information and in consideration of the agreement to exchange said information, appropriate arrangements may be made to restrict or prevent further disclosure.

Section 5. GSP Methodologies

Pursuant to Water Code section 10727.6 and 23 CCR § 357.4, the Parties have agreed to the same data and methodologies used in their respective GSPs for the following: 1) groundwater elevation data; 2) groundwater extraction data; 3) stored water recovery data; 4) surface water supply; 5) total water use; 6) change in groundwater storage; 7) water budget; and 8) sustainable yield, and that such methodologies will continue to be used in the future development and implementation of such GSPs, except to the extent modified by the Parties in the future in compliance with SGMA regulations and the GSP Chapters described in Attachment 2.

Coordinated Monitoring Networks

The Parties agree to rely upon the Subbasin Monitoring Networks and Subbasin Monitoring Networks Objectives, developed in compliance with 23 CCR §§ 354.32 - 354.40, for all of the areas within the boundaries of the defined Subbasin. The Parties further agree that such methodologies will continue to be used in the development and implementation of the GSPs that cover the Subbasin in the future, except to the extent the Parties mutually agree to modifications in compliance with SGMA regulations and GSP Chapter 16 described in Attachment 2. The infrastructure (wells, extensometers, etc.) that comprises the Monitoring Network has been strategically selected to represent baseline groundwater conditions and potential impacts of SGMA implementation.

The Parties agree to rely upon the methodology applied to identify specific infrastructure for the Subbasin Monitoring Networks and the objectives that have been developed in compliance with 23 CCR, §§ 354.32 - 354.40 for all management areas within the boundaries of the defined Subbasin. As such, future changes to the Monitoring Networks must employ the same methodologies applied to selecting infrastructure and establishing Sustainable Management Criteria, except to the extent the Parties mutually agree to modifications in compliance with SGMA regulations and the protocols in GSP Chapter 16 described in Attachment 2.

Monitoring Networks Protocols

The Parties agree to rely upon the Monitoring Networks Protocols, developed in compliance with 23 CCR §§ 354.32 - 354.40, for all of the areas within the boundaries of the defined Subbasin. The Parties further agree that such methodologies will continue to be used in the development and implementation of GSPs that cover the Subbasin in the future, except to the extent the Parties mutually agree to modifications in compliance with SGMA regulations and the protocols in GSP Chapter 16 described in Attachment 2.

Party Changes to Subbasin Monitoring Networks **Bold**

Should changes to the Subbasin Monitoring Networks be necessary, the Parties agree to comply with the protocols established in GSP Chapter 16 and as follows.

To initiate a change to the Subbasin Monitoring Networks, a Party shall submit a request to the Plan Manager and notify the Subbasin Coordination Committee. The request shall contain the necessary details and data as described in Chapter 16 and as required by DWR. At a minimum, a request should provide following information:

1. Reason for change (e.g., collapsed well, dedicated monitoring station constructed, additional monitoring to represent recently constructed project, etc.).
2. Type of monitoring point, construction information (e.g., well depth, use type, etc.), description of conditions being represented and documentation of how the monitoring point is representative of those conditions, and latitude/longitude coordinates.
3. Applicable sustainability indicators (i.e., groundwater levels, water quality, subsidence, groundwater in storage), SMCs and documentation of data and methodology used to establish each SMC.

The Plan Manager shall prepare a coordinated request memorandum for Subbasin Monitoring Networks Changes semiannually on June 1st and January 1st for submittal to the Subbasin Coordination Committee and DWR. The Plan Manager shall report receipt of DWR confirmation and/or collect additional information as requested by DWR following submittal of the request. Following DWR processes, the Plan Manager shall confirm the changes with the individual Party(ies) and Subbasin Coordination Committee, in compliance with SGMA and SGMA regulations.

Coordinated Water Budgets

The Parties agree to rely on the coordinated Water Budgets, developed in compliance with 23 CCR § 357.4 subd. (b), for all of the areas within the boundaries of the defined Subbasin. The Parties further agree that such methodologies will continue to be used in the development and implementation of GSPs that cover the Subbasin in the future, except to the extent the Parties mutually agree to modifications in compliance with SGMA regulations and GSP Chapter 8 described in Attachment 2.

Coordinated Data Management System **bold**

The Parties have developed and will maintain a data management system that is capable of storing and reporting information relevant to the development and/or implementation of the GSPs and Monitoring Network of the Subbasin as required by SGMA and SGMA regulations.

Adoption and Use of the Coordination Agreement

Cooperative Implementation of GSPs

The Parties intend that the multiple GSPs will be implemented together in order to satisfy the requirements of SGMA. To facilitate cooperative and coordinated plan implementation, the Parties have agreed to utilize the same groundwater models, descriptions of the physical setting and characteristics of the separate aquifer systems within the Subbasin, methodologies as specified in Water Code section 10727.6, definitions of undesirable results, minimum thresholds, measurable objectives, and monitoring protocols that together provide a description of the sustainable yield of the entire Subbasin and how it will be sustainably managed.

GSP and Coordination Agreement Submission

The Parties shall submit their respective GSPs to DWR or SWRCB through the Plan Manager in accordance with SGMA and SGMA Regulations. The Parties intend for this Agreement to demonstrate compliance with the requirements of providing an explanation of how the GSPs implemented together satisfy Water Code sections 10727.2, 10727.4 and 10727.6 for the entire Subbasin.

Reporting Coordination

Annual Reports

The Parties intend to submit a joint annual report to DWR through the Plan Manager on April 1 annually. The annual report shall contain information about the Subbasin managed in the GSPs to satisfy the requirements under Water Code section 10728 and SGMA regulations, including: (a) groundwater elevation data, (b) annual aggregated data identifying groundwater and stored surface water extraction for the preceding water year, (c) surface water supply used for or available for use for groundwater recharge, storage in aquifers, or in-lieu use, (d) total water use, and (e) changes in groundwater storage and the volumes of stored surface water.

Annual Data Collection and Reporting

The Parties intend to submit their collective data for Representative Monitoring Wells, as described in the Monitoring Network detailed in GSP Chapter 16, to DWR through the Plan Manager to satisfy SGMA regulations, as described in Section 5 Monitoring Networks and Protocols. Each Party shall provide groundwater level data for their Representative Monitoring Wells in the Subbasin Monitoring Network as follows:

- Collection of data between the approved timeframes only

Spring Measurement January 15 to March 30

Fall Measurement August 15 to November 15

The Plan Manager shall submit the collective data to DWR after obtaining data from each Party within the Subbasin as follows:

Spring Measurement July 1

Fall Measurement January 1

In Event Entire Subbasin Not Covered by GSP

In the event it appears that the entire Subbasin may not be covered by one or more GSPs as of January 31, 2020, each Party may take such action as deemed necessary or appropriate by such Party with respect to filing its GSP and/or other documents with DWR.

Duration of Coordination Agreement

This Coordination Agreement shall commence upon its full execution and continue until the next periodic evaluation of the GSP(s) covering the Subbasin pursuant to 23 CCR § 356.4. The Parties shall review the Coordination Agreement for renewal at each of those periodic evaluations. This Agreement may also be amended at any time by unanimous agreement of the Parties.

Modification and Termination of the Agreement

Modification

This Agreement shall be reviewed as part of each five-year GSP assessment as specified in 23 CCR § 356.4 and may be supplemented, amended, or modified only by the written agreement of all the Parties. No supplement, amendment, or modification of this Agreement shall be binding unless it is in writing and signed by all Parties.

Withdrawal, Termination, Adding Parties

A Party may unilaterally withdraw from this Agreement without causing or requiring termination of this Agreement, effective upon 30 days' notice to the other Parties.

A new GSA or group of GSAs may be added as a Party to this Agreement if such entity or entities is submitting a GSP that will cover a portion of the Subbasin.

This Agreement may be terminated by unanimous written consent of all the Parties. Nothing in this Agreement shall prevent the Parties from entering into another coordination agreement.

Dispute Resolution

Procedures for Resolving Conflicts

In the event that any dispute arises among the Parties relating to the rights and obligations arising from this Agreement, the aggrieved Party or Parties shall provide written notice to the other Parties of the dispute. Within thirty (30) days after such written notice, the Parties shall attempt in good faith to resolve the dispute through informal means. If the Parties cannot agree upon a resolution of the dispute within thirty (30) days from the providing of written notice specified above, the dispute will be elevated to the Subbasin Coordination Committee for consideration, along with the notice of dispute and any other relevant supporting documentation produced and shared by the disputing parties pursuant to their informal meet and confer process. The Subbasin Coordination Committee may issue a recommendation concerning resolution of the dispute. If the Parties cannot agree upon a resolution of the dispute following the input of the Subbasin Coordination Committee, the disputing Parties will meet and confer to determine if other alternative dispute resolution methods are agreeable, including voluntary non-binding mediation, which may include the DWR or SWRCB dispute resolution process, arbitration, or appointment of a panel of technical experts prior to commencement of any legal action. The cost of alternative dispute resolution shall be paid in equal proportion among the Parties to the dispute, otherwise the Parties shall bear their own costs. Upon completion of alternative dispute resolution, if any, and if the controversy has not been resolved, any Party may exercise any and all rights to bring a legal action relating to the dispute.

Litigation

In the event a dispute or claim is not resolved by a mutually agreeable settlement through informal negotiation or voluntary mediation, the aggrieved Party may file suit in a County Superior Court with jurisdiction to provide a binding decision on the matter. Nothing in this Agreement shall be used to limit one party's ability to file litigation against another party for the purpose of enforcing SGMA compliance or other matters related to groundwater.

Company Name/Agency
Name, Title

Date

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Appendix 1.

[Insert All GSAs]

Appendix 2

[Insert GSP common chapters]