

Resolution No. 029

RESOLUTION OF THE BOARD OF DIRECTORS OF THE CARPINTERIA GROUNDWATER SUSTAINABILITY AGENCY (CGSA) ADOPTING A REVIEW AND APPEAL PROCESS FOR THE FEE FOR OPERATION AND ADMINISTRATIVE COSTS OF THE CGSA

WHEREAS, the Sustainability Groundwater Management Act of 2014, Water Code sections 10720-10737.8, (“SGMA”) was signed into law on September 16, 2014; and

WHEREAS, in 2020, the Carpinteria Groundwater Sustainability Agency (the “CGSA”) was formed through a Joint Powers Authority Agreement between the Carpinteria Valley Water District, County of Santa Barbara Water Agency, City of Carpinteria, and County of Ventura to manage the sustainability of the groundwater basin identified as the Carpinteria Groundwater Basin (sometimes referenced herein as “CGB”); and

WHEREAS, the CGSA is the exclusive GSA for the Carpinteria Groundwater Basin approved by the California Department of Water Resources; and

WHEREAS, at a regularly scheduled meeting on June 28, 2023, after a duly noticed public hearing on June 28, 2023, the Board of Directors of the CGSA (the “Board”) adopted Resolution No 027 for the purpose of charging a fee pursuant to section 10730 of the Water Code to fund the costs of a groundwater sustainability program (the “GSA Fee”); and

WHEREAS, the GSA Fee is based upon the Board’s consideration of the report entitled “GSA Fee Study, Final Report Dated May 10, 2023” prepared by Raftelis Consulting, along with testimony and evidence received from CGSA’s staff and the public in both oral and written form; and

WHEREAS, when it adopted its 2022-2023 GSA Fee, the Board also adopted an administrative review and appeal process allowing property owners on whom the GSA Fee was imposed (the “Property Owners”) to request further review and a determination as to whether an exemption, partial or total, to the GSA Fee was appropriate. This administrative review and appeal process expired by its own terms; and

WHEREAS, the Board finds that adoption of a similar administrative review and appeal process for the FY 2023-24 GSA Fee is appropriate to ensure the CGSA has a reasonable opportunity to address factual and legal concerns associated with the imposition of the GSA Fee; and

WHEREAS, the Board desires, through the passage of this Resolution, to adopt such a review and appeal process.

NOW, THEREFORE, the Board of Directors for the Carpinteria Groundwater Sustainability Agency hereby resolves as follows:

1. The Board hereby finds the facts set forth in the Recitals to this Resolution are true and correct and establish the factual basis for the CGSA's adoption of this Resolution, and incorporates those Recitals by reference.

2. The review and appeal process for disputes raised by Property Owners subject to the GSA Fee is as follows:

2.1 Should a Property Owner wish to contest the legal or factual basis for the GSA Fee, number of acres subject to the GSA Fee, or otherwise challenge the calculation of the GSA Fee, the Property Owner shall first be required to timely pay the assessed GSA Fee as charged by the CGSA under protest.

2.2 Within thirty (30) days following timely payment of the GSA Fee, the Property Owner can file a request for administrative review (the "Request for Review") with the CGSA, on a form approved by the Executive Director (template form attached as Exhibit 1), setting forth the legal and factual basis upon which review is requested. Timely filing of a Request for Review in the manner described herein shall be a prerequisite to required exhaustion of administrative remedies by the Property Owner. A Request for Review by a Property Owner will be considered timely filed if, on or before the 30th day following payment of the GSA Fee by the Property Owner, 1) the Request for Review form is mailed via first class mail to the CGSA Executive Director¹, and postmarked on or before the 30th day after payment; 2) delivered to the CGSA Executive Director by electronic mail at *sgma@cvwd.net*, or 3) personally delivered to the CGSA Executive Director at the following address: 1301 Santa Ynez Ave., Carpinteria, CA 93013.

2.3 Potential grounds for administrative review may include: (a) the Property Owner's self certification—see attached Exhibit 1 for template Request for Review form—that the parcels in question do not receive water service from the Carpinteria Valley Water District (CVWD), and are not pumping or diverting any water on or from lands overlying the CGB (or lands adjacent thereto)²; (b) that the number of acres subject to the fee was not properly calculated by CGSA; (c) other legal arguments why the GSA Fee is not lawful or improperly applied to the Property Owner. The Request for Review shall include any evidence the Property Owner wishes the CGSA to consider and shall provide CGSA with an email address for future correspondence related to the Request for Review.

¹ Appeals mailed to the Executive Director shall be sent to the following address: Carpinteria Groundwater Sustainability Agency, Attn: Executive Director, 1301 Santa Ynez Ave., Carpinteria, CA 93013.

² Self certification of non-use of CGB groundwater by a Property Owner, on a parcel subject to the GSA Fee but not currently receiving water service from CVWD, shall ordinarily be a sufficient basis for granting an exemption, unless the Executive Director determines the Property Owner's activities on the property have reasonable potential to cause or contribute to undesirable results within the CGB.

2.4 Within thirty (30) days of the Property Owner filing the Request for Review, the Executive Director shall meet with the Property Owner, in person or by electronic or telephonic means, to discuss the basis and possible resolution of the Request. The Executive Director shall receive any additional evidence regarding the merits of the Request for Review if the Property Owner desires to provide additional evidence. After meeting with the Property Owner, the Executive Director is authorized by the Board herein to grant the Request for Review, in whole or in part, or deny the Request for Review. The determination by the Executive Director shall be made no later than fifteen (15) days following the meeting with the Property Owner, and shall be in writing and delivered to the Property Owner via electronic mail. If the Executive Director does not respond to the Request for Review within 15 days, or the Property Owner fails to meet with the Executive Director after being afforded an opportunity to do so within 15 days, then the Request for Review shall be deemed to have been denied by the Executive Director. A Property Owner shall have the right to seek further appellate review, as described in Section 2.3, upon denial by the Executive Director.

2.5 If the Property Owner who timely filed the Request for Review with the Executive Director is dissatisfied with the determination of the Executive Director, the Property Owner may file an appeal with the CGSA Board within fifteen (15) days of delivery of the Executive Director's determination (or from the date upon which the appeal is deemed denied), Appeals of the Executive Director's decision shall be delivered via email to the Clerk of the Board, CGSA, at the following email address: **Bob@cvwd.net**.

2.6 Timely appeals from the Executive Director's determination will be placed on the agenda for a Board meeting occurring no more than forty-five (45) days from CGSA's receipt of the appeal to the Board. The Board shall receive evidence as may be presented by the appellant and/or CGSA staff, and hear from the appellant and staff regarding the merits of the appeal. The Board is authorized to grant the appeal, in whole or in part, or deny the appeal, in its sole discretion. The determination of the Board shall be memorialized in the minutes of the Board meeting and shall be final, with no further appeal to the Board or the CGSA, unless and until a different GSA Fee is adopted.

2.7 CGSA reserves the right to rescind any relief provided per this appeal process where it determines that the information provided by the Property Owner during the appeal process was not accurate.

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PASSED AND ADOPTED by the Board of Directors of the GSA on the 13th day of September, 2023, by the following roll call vote:

AYES: Holcombe, Johnson, Balch, Roberts and Van Wingerden

NAYES:

ABSENT:

ABSTAIN:

APPROVED:

DocuSigned by:
Case Van Wingerden
FFD09590DA5143B...
Case Van Wingerden, Board President

ATTEST:

DocuSigned by:
Robert McDonald
83E935653F65424
Robert McDonald, Secretary

I self certify, and in good faith swear and assert under oath, that the information contained herein is true to the best of my knowledge, after making reasonable inquiry. I further understand that waiver or reduction of the GSA Fee as a result of this appeal is entirely contingent upon the accuracy of information provided with this appeal.

Signature of Appellant: _____

Date of Request for Review Submission to CGSA: _____