

EKGSA RULES AND REGULATIONS

Article 1 General Provisions

1.1 Purpose

These Rules and Regulations are established by the Board of Directors of the East Kaweah Groundwater Sustainability Agency in order to provide for the sustainable management of groundwater within the boundaries of the Agency.

1.2 Authority

A groundwater sustainability agency may adopt rules, regulations, ordinances, and resolutions for the purpose of this part, in compliance with any procedural requirements applicable to the adoption of a rule, regulation, ordinance, or resolution by the groundwater sustainability agency. (Division 6 Conservation, Development and Utilization of State Water Resources Part 2.74, Chapter 5, Section 10725.2.)

1.3 Groundwater Sustainability Plan

These Rules and Regulations are designed to implement the provisions of the EKGSA Groundwater Sustainability Plan, and may be amended at any time if necessary to achieve consistency with the groundwater sustainability plan and steps needed to achieve sustainability.

1.4 Definitions

Acre-Foot (AF)	An Acre-Foot of water is equivalent to one acre of ground covered one foot deep in water or 325,851 gallons.
Board	Board of Directors of EKGSA.
Consumptive Use	Water that leaves the land due to evaporation or transpiration.
EKGSA or Agency	East Kaweah Groundwater Sustainability Agency.
Evapotranspiration	The process by which water is transferred from the land to the atmosphere by evaporation from the soil and other surfaces and by transpiration of plants. Evapotranspiration will be measured by utilizing satellite imagery and ground based truthing stations.
Landowner	A fee title owner of land within the EKGSA boundaries.

SGMA	The Sustainable Groundwater Management Act, pursuant to Division 6 Conservation, Development and Utilization of State Water Resources Part 2.74, Chapter 5, Section 10720, et seq.
Water Year	“Water Year” means for any given year the 12-month period beginning October 1 and ending September 30, of the immediately following calendar year. The water year is designated by the calendar year in which it ends. For example, the year ending September 30, 2022 is the "2022" Water Year.

1.5 Effective Date and Changes

These Rules and Regulations shall become effective upon adoption and may be added to, amended and/or repealed at any time by resolution of the Board of Directors of the EKGSA and such additions, amendments, and/or repeals shall become effective upon their adoptions or as otherwise specified by the Board of Directors. However, adoption of these Rules and Regulations will not affect the effective date of any policies of the EKGSA existing as of the adoption date.

1.6 Actions Against EKGSA

Nothing contained in these Rules and Regulations shall constitute a waiver by the EKGSA or estop the EKGSA from asserting any defenses or immunities from liability as provided in law, including, but not limited to, those provided in Division 3.6 of Title 1 of the Government Code

1.7 Rights of Access

EKGSA staff and/or others authorized by the General Manager shall notify the owner of any land prior to entry thereon. Any such entry must be for the sole and exclusive purpose of conducting EKGSA business.

1.8 Severability

If any provision of these Rules and Regulations, or the application thereof to any person or circumstance, is held invalid, the remainder of these Rules and Regulations, and the application of its provisions to other persons or circumstances, shall not be affected thereby.

Article 2 Groundwater Monitoring

2.1 Well Registration

a. All wells within the EKGSA must be registered with EKGSA no later than October 1, 2022. The owner or operator of a well shall register the well and provide, in full, the information required to complete a form to be provided by the Agency that will include the

following:

1. Name and contact information of the entity that installed the well.
2. Date well was drilled.
3. Documentation establishing that the well was permitted and installed correctly and according to permit.
4. Manufacturer and model of flow meter.
5. Installer and date of installation of flow meter.
6. Diameter of pipe and size of flow meter
7. Documentation establishing that flow meter was calibrated to manufacture specification including identity of calibrator.
8. Inspection records establishing compliance with manufacturer standards and requirements.
9. Picture of the flowmeter that shows it is installed correctly.
10. Identification of (i) type of crop(s), (ii) age of crop(s) (if perennial), (iii) single/double/triple crop(s) (if annual), and (iv) irrigation methodology (e.g., flood, drip, sprinkler) for the irrigated acres serviced by the water from the flow meter.
11. If there are multiple flowmeters on a parcel, Landowner must submit a map identifying the locations of the flowmeters and lands serviced through each flowmeter.

The Landowner shall allow EKGSA to physically inspect any flowmeter.

b. The name of the owner of each well, the parcel number on which the facility is located, along with the names of all operators for each extraction facility shall be reported to EKGSA Agency within 30 days upon any change of ownership.

c. A fee, in an amount to be determined by the Board, shall be paid to EKGSA for each well registered with EKGSA.

d. Failure to register within the timeframe provided herein shall result in an administrative penalty in an amount to be determined by the Board.

2.2 Groundwater Use Measurement

Groundwater extraction shall be measured using the evapotranspiration method. Crop evapotranspiration (ET) is estimated using remote sensing data from LandSAT satellites. The satellite data is entered into a model, which is used to estimate the ET rate and ET spatial distribution of an area in any given time period. When calibrated to land-based ET and/or climate stations and validated with crop surveys, the satellite-based model provides an estimate of crop ET (i.e., consumptive use).

Article 3

Groundwater Accounting

3.1 Authority

Division 6 Conservation, Development and Utilization of State Water Resources Part 2.74, Chapter 5, Section 10726.4, expressly authorizes a groundwater sustainability agency to establish accounting rules to allow unused groundwater extraction allocations to be carried over and transferred.

3.2 Online Water Accounting Dashboard

The EKGSA shall establish an online dashboard for owners to account for total water use within the EKGSA. Owners may allow operators access and control of their account(s).

3.3 Categories of Water

The online dashboard shall account for water through the following seven categories:

a. Surface Water Credits and Debits for Direct Delivery

As described in Section 3.6, an owner's account may be credited or debited with surface water.

b. Native Allocation

As described in Section 4.3, Native Allocation may be credited to an owner's account. Carryover and transfers as described in Section 4.03(c), may be credited and debited from an owner's account.

c. Tier 1 Penalty Allocation

As described in Section 4.3, the account of owners engaged in irrigation of lands actively used in agricultural production may be allocated an amount for groundwater used above Native Allocation, but below Tier 2. Carryover and transfers may be credited and debited from owner accounts in accordance with Section 4.3.

d. Tier 2 Penalty Allocation

As described in Section 4.3, the account of owners engaged in irrigation of lands actively used in agricultural production may be allocated an amount for groundwater used above Tier 1. Carryover and transfers may be credited and debited from owner accounts in accordance with Sections 4.3.

e. Groundwater Credits

As described in Section 4.3 and 6.2, an owner's account may be credited or debited with groundwater credits.

f. Recharge and Banking Credits and Debits

As described in Section 3.7, an owner's account may be credited or debited with groundwater recharge or banking activities. Transfers will be recognized by the GSA when authorized by the applicable surface water entity.

3.4 Priority of Use

Each owner with multiple categories of credits under these Rules and Regulations shall have the power to elect which of such credits are to be debited or transferred in connection with such consumption which will only be accounted for after all other available sources of water are exhausted. If the owner does not elect the priority of allocations to be debited, the default priority will follow in order of Section 3.3(a)-(f) above.

3.5 Net Groundwater Consumptive Use Reporting and Debiting

Within 30 days of the end of the prior month, the net groundwater consumptive use will be calculated and debited from the applicable account. In the event that a watercourse, including but not limited to canals, ditches, or riparian areas, is located within the boundaries of a parcel, the area of such watercourse shall not be evaluated for any consumed use of groundwater.

3.6 Surface Water Reporting

Any owner within the EKGSA utilizing surface water shall cause to be reported, from the applicable surface water entity, the diversion of surface water to direct irrigation.

3.7 Recharge and Banking Reporting

An owner within the EKGSA performing recharge or banking activities shall report, or cause to be reported, the diversion of surface water to underground storage to the EKGSA. Prior to crediting or debiting the owner's account, the EKGSA shall ensure the request is consistent with any applicable groundwater banking or recharge policy. The EKGSA acknowledges that several special districts, organized and existing under the laws of the State of California for the purpose of facilitating the beneficial use of the waters of the State, operate within EKGSA's boundaries. Several such districts have adopted and implemented groundwater banking and recharge policies in order to facilitate the underground storage and beneficial use of surface water. EKGSA shall honor the groundwater banking and recharge policies of all such entities within its jurisdictional boundaries. Recharge credits are subject to the following provisions:

- a. Groundwater credits at a 1:1 ratio can be accumulated from in lieu recharge by utilizing surface storage or foreign supplies or by moving surface storage to groundwater recharge.
- b. Groundwater recharge credits are provided at a 1:1 ratio (1 credit per net AF recharged after any leave behind and evaporation losses determined by EKGSA).
- c. To obtain groundwater credit resulting from recharge or a transfer, the receiver of the supply eligible for credit must supply sufficient documentation to EKGSA before the recipient receives credit from EKGSA and in no event later than 30 days following the end of the Water Year during which the recharge or transfer occurred. EKGSA shall determine what constitutes sufficient documentation.

Article 4

Groundwater Allocation

4.1 Purpose

Consistent with Division 6 Conservation, Development and Utilization of State Water Resources Part 2.74, Chapter 5, Section 10726, the purpose of this Article is to provide for the sustainable management of groundwater within the EKGSA jurisdictional area and Kaweah Subbasin, and to fulfill the legislative goals and policies of SGMA. Nothing in this Article shall be used to determine or alter water rights.

4.2 Determination of Allocation

Prior to October 1 of each year, or as soon thereafter as is possible, EKGSA will determine the allocations available for use within EKGSA's jurisdiction. The Executive Director shall thereafter cause each affected Landowner to be provided written notice of their allocation.

4.3 East Kaweah Management Area

a. Native Allocation

Each year, EKGSA shall establish a use allocation for each agricultural assessor's parcel within the EKGSA boundary. The allocation for each owner shall be calculated as follows:

1. EKGSA will determine the total inflow to all parcels over 2 acres within its boundaries. Total inflow will include components such as rainfall, natural infiltration from lakes and streams, and other natural inflows. EKGSA will then determine the amount of such total inflows available for allocation to Landowners and divide that amount by the total acreage of parcels greater than 2 acres within the GSA to establish a per acre allocation for each such parcel.

2. Each assessed parcel within EKGSA will receive a Native Allocation in the amount equal to the gross assessed parcel acreage multiplied by the per acre allocation established in Section 4.3(a)(1).

All allocations shall be made on an annual basis. For the 2022 Water Year, the per acre Native Allocation is .85 acre-feet/acre of measured Consumptive Use.

b. Tier 1 and Tier 2 Penalty Allocations

In addition to the Native Allocation, irrigated parcels as of January 31, 2020, which are identified as enrolled in the Irrigated Lands Regulatory Program, other regulatory programs that document historical irrigation use (i.e., Dairy General Order), or as identified by other certified crop map datasets will be allowed transitional pumping. This pumping shall be allocated as Tier 1 Penalty and Tier 2 Penalty Allocation. This transitional pumping will be permitted under the Rules and Regulations until eliminated. Once a parcel has been identified as an irrigated parcel, the parcel will remain in the transitional pumping program until the program expires. If a parcel is not identified as an irrigated parcel as of January 31, 2020, an owner may file a request to the EKGSA Executive Director to be included in the transitional program. For agricultural development of parcels after January 31, 2020, the owner may also file a request to the EKGSA General Manager to allow such lands to receive a Tier 1 and Tier 2 Penalty Allocation, which such allocation shall be prorated based on the date of development. EKGSA shall develop forms as needed to assist owners with the request.

Changes in the total irrigated acres will affect the Tier 1 and/or Tier 2 Penalty Allocation. To achieve consistency with the EKGSA GSP, the amount of Tier 1 and or Tier 2 Penalty Allocations may vary year to year.

For the 2022 Water Year, the Tier 1 Penalty Allocation is .3 acre-foot/acre of measured Consumptive Use, and the Tier 2 Penalty Allocation is .5 acre-feet/year of measured Consumptive Use.

c. Rainfall Credit

EKGSA will track monthly rainfall. Landowner accounts will be credited for 80% of actual rainfall in a given month. The credit will be applied during the following month and will be carried over until used. Any rainfall credit will be the first amount debited from a Landowner account.

Rainfall credits are not transferable.

d. Carryover and Transfer

1. Carryover.

If a Landowner uses less than his or her total allocation in a given Water Year, the difference between the allocation amount for that year and the amount of groundwater used

and/or transferred for that year shall be carried over to the next year. Unused allocation carried over from the previous Water Year shall be credited to the owner's account as a groundwater credit. Groundwater credits remain in an owner's account for a rotation of 5 years. Any credits unused after 5 years will be removed from a Landowner's ledger as of the first day of the sixth year after the credit is made. For purposes of the five-year rotation, carryover credits are treated on a "first in, last out" basis. The impact of the total quantity of water used in any five-year period shall be consistent with the provisions of the EKGSA GSP.

2. Transfer

There are no restrictions on groundwater transfers for the 2022 Water Year unless, in the determination of the Executive Director, the transfer produces an undesirable result. All transfers must be memorialized in writing, using a form to be provided by EKGSA and must be approved by EKGSA prior to the transfer becoming effective. All transferred water will be credited to the transferee's account as a groundwater credit. Transferred Tier 1 Penalty and Tier 2 Penalty water must be used within current Water Year and within EKGSA boundaries.

4.4 Community Management Areas

[to be determined]

4.5 Protest of Allocation and Extraction Limits

a. Within thirty (30) days of the date identified in the written notice to be provided under Section 4.2, an owner may protest the extraction allocations and extraction limits identified in the notification. The written protest must be submitted to the Executive Director at the EKGSA's office. The Executive Director shall investigate matters related to the protest, may consult with the EKGSA Technical group, and may present any relevant information, along with any recommendation, to the Board within sixty (60) days of receipt of the protest. The Board shall act on the written appeal and supporting documentation within one hundred and twenty (120) days of receipt of all relevant information.

b. Except for protests arising in the 2022 Water Year, no protest is allowed unless, for the Water Year in which a protest is made, the protestor was in full compliance with the provisions of Section 2.1 as of the first day of said Water Year.

4.6 Emergency Ordinances

Nothing in this Article shall prevent the EKGSA from, in the event of an emergency, from enacting emergency regulations or ordinances to prevent harm to Landowners within the EKGSA.

Article 5 Fees & Penalties

5.1 Penalty for Excess Use

For irrigated lands, every AF or portion thereof used beyond 1.65 of groundwater use (excluding all other sources of water), will be assessed a \$500 groundwater replacement fee. Such fee must be paid within 30 days of the issuance of invoice for such penalties is issued by the EKGSA

5.2 SGMA Penalties

Any Landowner, operator or other person who violates the provisions of these Rules and Regulations is subject to the criminal and civil sanctions set forth in SGMA.

5.3 Civil Remedies

Upon the failure of any person to comply with any provision of this Rules and Regulations, the EKGSA may petition the Superior Court for a temporary restraining order, preliminary or permanent injunction, or such other equitable relief as may be appropriate. The right to petition for injunctive relief is an additional right to those, which may be provided elsewhere in these Rules and Regulations or otherwise allowed by law. The EKGSA may petition the Superior Court to recover any sums due to the EKGSA.

5.4 Protest of Usage Measurement and Penalty Assessment

Except for protests arising in the 2022 Water Year, no protest is allowed unless, for the Water Year in which a protest is made, the protestor was in full compliance with the provisions of Section 2.1 as of the first day of said Water Year. The procedures for resolving a protest are as follows:

- a. All protests must be submitted in writing to the EKGSA General Manager no later than 30 days of receipt of billing.
- b. If the protest cannot be resolved within 60 days of receipt by the General Manager, the General Manager shall submit the protest to the Board of Directors, which shall issue a ruling on the protest.
- c. Landowners/Managing party of assessed acres can contest the Consumptive Use as defined by evapotranspiration.
- d. Any protest must include data of applied usage from instrumentation registered with EKGSA. Otherwise, the protest will be disallowed.
- e. Any protest must include the maintenance records of equipment upon which the protest is based. Otherwise, the protest will be disallowed.

f. If the protest is not resolved in favor of the protestor, the protestor must reimburse EKGSA for EKGSA's reasonable costs incurred in the protest.

Article 6

Surface Water Recharge in the Underground

6.1 Groundwater Recharge

Owners may use existing facilities to store surface water underground within the EKGSA boundaries. An owner who stores surface water pursuant to this Section may subsequently put such water to his or her own beneficial use within the EKGSA boundaries, or may transfer the water to another owner for use within the EKGSA boundaries. The use of stored water pursuant to this Section must be achieved utilizing on-farm activities. All water stored pursuant to this Section must be used within the EKGSA boundaries. Each owner who stores surface water pursuant to this Section shall provide accurate, verifiable records of the quantity and source of surface water stored for recharge, confirmed by the district or entity that supplied the surface water. The owner shall adhere to any rules promulgated by any district or entity supplying the surface water. Surface water stored and documented in compliance with the requirements of this Section shall be credited to the relevant owner's account as a surface water credit pursuant to section 3.7. Each owner shall be solely responsible for locating, purchasing, accessing, or otherwise acquiring surface water for the purposes of recharge pursuant to this Section. This policy applies to all non-districted lands and districted lands which choose to adhere to this Article VI.