

# TRI-COUNTY WATER AUTHORITY POLICY AND PROCEDURES FOR COLLECTING DELINQUENT FEES, ASSESSMENTS, OR CHARGES

## 1. Policy

It is the policy of the Tri-County Water Authority (“Authority”) to collect all fees, assessments, and charges levied by the Authority.

## 2. Scope

If an owner or operator fails to pay any fee, assessment or charge levied by the Authority within 30 days of any fee, assessment or charge becoming due, the Authority declares such failure to pay a violation and may seek to remedy the violation pursuant to Section 3 below.

## 3. Remedies

Any fee, assessment and/or charge levied by the Authority shall be due and payable to the Authority by each owner or operator on a day established by the Authority. If an owner or operator knowingly fails to pay fee, assessment and/or charge levied by the Authority, the Authority may seek any of the remedies set forth below and such failure to pay shall be considered a violation:

- 3.1 If an owner or operator knowingly fails to pay any fee, assessment and/or charge levied by the TCWA within 30 days of it(them) becoming due, the owner or operator shall automatically be liable to the Authority for (a) interest at the rate of one percent (1%) per month on the delinquent amount of the fee, assessment and/or charge and (b) a ten-percent (10%) penalty.
- 3.2 The Authority may after a public hearing bring a suit in the court having jurisdiction against any owner or operator of a groundwater extraction facility within the area covered by the Authority’s Groundwater Sustainability Plan (“GSP”) for the collection of any delinquent fee, assessment and/or charge, including interests or penalties imposed in these policy and procedures.
- 3.3 The Authority after a public hearing may record a notice of violation against the property on which the groundwater extraction facility is located for the failure to pay any fee, assessment and/or charge levied by the Authority, including delinquent fees, interests, or penalties imposed in these policy and procedures.
- 3.4 The Authority, after a public hearing may order an owner or operator to cease extraction of groundwater until all delinquent fee, assessment and/or charge levied by the Authority, including any interest, or penalty, are fully paid. The order may be recorded against the property on which the groundwater extraction facility is located for the failure to pay any fee, assessment and/or charge levied by the Authority.
- 3.5 The rights and remedies of the Authority are cumulative and in addition to, not

exclusive of or in substitution for, any rights or remedies otherwise available to the Authority.

- 3.6** The provisions of these policy and procedures are to be supplementary and complementary to all of the provisions of SGMA, other state law, and any law cognizable at common law or in equity; and nothing herein shall be read, interpreted or construed in any manner so as to bar or limit the Authority from seeking any remedy to which it may otherwise be entitled.

### **3.7 Enforcement Officials**

All Authority staff shall have the authority and powers necessary to gain compliance with the policy and procedures promulgated therefrom. These powers include the power to issue notices of violation, inspect public and private property with a search warrant or with the permission of the owner/occupant and use of whatever administrative and judicial remedies that are available under the Authority's policies and procedures, SGMA and other applicable state codes.

### **3.8 Public Hearing**

Prior to (a) recordation of a notice of violation; (b) issuance of an order to cease extraction of groundwater; or (c) bringing a suit in the court having jurisdiction, the Authority shall cause to be mailed to the owner, as reported on the latest equalized assessment roll, and the responsible person if different from the owner (including mortgagee), a notice of violation for failure to timely pay fees, assessments and/or charges. The notice of violation shall contain all of the following information:

- a. A description of the delinquent fee(s), assessment(s), and/or charge(s) as well as any delinquent interest or penalty imposed;
- b. The location at which payment can be made to satisfy the violation;
- c. At the discretion of the Authority staff, the notice of violation may include a notice of intention to record a notice of violation or to issue an order to cease extraction of groundwater should the violation not be remedied within 30 days of the notice;
- d. A date of a hearing before the Authority Board of Directors should the violation not be remedied within the 30 day; and
- e. A copy of these policy & procedures.

Notices of violation may be served either by personal delivery thereof to any persons subject to a notice of violation or by deposit in the United States Mail. Service by mail shall be deemed to have been completed at the time of deposit in the United States Post Office. Proof of service of the notice of violation shall be documented at or near the time of service.

The failure of any person to receive any notice required under this section shall not affect the validity of any proceedings taken under these policy and procedures.

### **3.9 Hearing**

Prior to recording a notice of violation, issuing an order to cease extraction of groundwater, or bringing an action in the superior court, a hearing shall be held before the Authority Board of Directors, not less than 30 days nor more than 90 days from the date of the notice of violation if the alleged violation has not been remedied, unless either party obtains a continuance of the hearing date from the Authority Board of Directors. The alleged violator shall be notified of the time, date and location of the hearing in the notice of violation. Any interest, penalty and/or other civil liability shall continue to accumulate notwithstanding the timing of the hearing on the alleged violation.

At the hearing, the Authority Board of Director shall only consider evidence that is consistent with the applicable rules and procedures for administrative enforcement hearings and that is relevant to the issue.

The hearing shall provide a full opportunity for the person or persons subject to the notice of violation to appear and object to the determination that a violation has occurred and/or that the violation continues to exist.

After receiving all of the evidence present, the Authority Board of Director shall issue a decision to uphold, dismiss, or modify the notice of violation and/or associated interest(s) penalty(ies) and civil liability imposed in the notice of violation. The Authority Board of Director may also direct its staff to pursue any of the remedies set forth in Section 3.0. The decision of the Authority Board of Director will be final.

### **3.10 Recordation Notice of violation or an Order to Cease Groundwater Extraction.**

The Authority may record a notice of violation or an order to cease groundwater extraction with the applicable County Recorder on the property which is the subject of the delinquent fee, assessment and/or charge, if after a hearing the Authority Board of Directors upholds the violation and authorizes its staff to record the same.

The Authority shall submit "Removal of Notice of Violation" or "Removal of Order to Cease Groundwater Extraction", as appropriate, to the applicable County Recorder for recordation when any and all applicable delinquent fee, assessment and/or charge as well as any interest or penalty imposed have been paid to the Authority.