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**TULARE IRRIGATION
COMPANY**
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May 9, 2022

Eric Osterling, General Manager
Greater Kaweah Groundwater Sustainability Agency
2975 N. Farmersville Boulevard
Farmersville, California 93223

Subject: Comments on Draft Rules and Regulations of the Greater Kaweah Groundwater Sustainability Agency from the Evans Ditch Company and the Tulare Irrigation Company

Dear Mr. Osterling,

On behalf of the Evans Ditch Company (EDC) and the Tulare Irrigation Company (TIC), collectively referred to as Ditch Companies, we appreciate the opportunity to review and comment on the Draft Rules and Regulations of the Greater Kaweah Groundwater Sustainability Agency. The Ditch Companies are Pre-1914 water rights holders on the Kaweah River and have historically utilized surface water to meet our agricultural demand. The Ditch Companies also conduct recharge activities through existing stormwater basins, recharge basins, and canal losses. The Ditch Companies provide the following comments on the Rules and Regulations from the perspective of surface water users that rely upon groundwater to meet irrigation demands in years when surface water is not plentiful.

Definitions

- Sustainable Yield – this term seems to be referencing the Native Yield category of the Kaweah Subbasin Water Accounting Framework, is this correct?

Article II. Groundwater Monitoring

- Section 2.01 Well Registration – the Rules and Regulations seem to require only new wells to be registered. The Ditch Companies would like to confirm that this is the case and how the GKGSA will use the data, given that many wells will not be registered. The Ditch Companies also request that the GKGSA consider that the information already collected from Tulare County via their well-permitting process be considered as the well registration. The Ditch Companies also ask that the GKGSA consider removing the Registration Fee as landowners in the GKGSA are being levied a general land assessment to cover administrative costs. We believe this is an

administrative charge and consider it covered under part of the ongoing assessments already being charged. Suppose the GKGSA continues with a Registration Fee. In that case, the Ditch Companies request that the GKGSA make estimates of these costs before authorizing Rules and Regulations that do not put boundaries on the collected expenses.

- Section 2.02 Groundwater Use Measurement – Landowners are being restricted to only transferring water if a meter is present. The Ditch Companies are aware that the groundwater sustainability agencies are mainly working with Land IQ and the evapotranspiration (ET) approach. We believe that it is realistic and fair to allow landowners to transfer ET credits to parcels within their ownership without requiring a meter as a starting point. The Ditch Companies request that the GKGSA remove the requirement that transferring water is only allowed with the presence of a meter until it is determined that the use of ET values is not reasonable or accurate.

Article III. Groundwater Accounting/Online Dashboard

- Section 3.05 Net Groundwater Consumptive Use Reporting and Debiting – The formula used does not reflect the New Consumed Groundwater. The procedure does not take into account evaporation. While the number is small, it is a factor in the overall irrigation process. To be comparable with the ET methodology, evaporation should be considered.
- Section 3.06 Surface Water Reporting – The Rules and Regulations require the diversion of surface water to direct irrigation; however, there are also canal losses in the case of the Ditch Companies. How are the GKGSA Rules and Regulations treating and tracking canal losses? The Ditch Companies have historic surface water deliveries that are tracked and managed by the Tulare Irrigation District. The Tulare Irrigation District is the administrator for the Ditch Companies, and we encourage the GKGSA to coordinate with the Tulare Irrigation District to acquire surface water delivery information.
- Missing Categories of Water – The Ditch Companies do not see categories for rainfall and dairy wastewater in the description of water categories. The Ditch Companies request that the GKGSA incorporate how these categories of water will be managed and accounted for in any calculations.

Article IV. Allocation of Water

- 4.02 Determination of Allocations – The Ditch Companies request that the GKGSA provide more details and descriptions of how the allocations will be prepared and determined. The most critical part of achieving sustainability for groundwater and agriculture in the Kaweah Subbasin will be understanding how much water will be allocated. The provisions in the Rules and Regulations allude to a Technical Group determining this allocation, however the Technical group should be bound by the GSP and criteria outlined in the Rules and Regulations. The Ditch Companies also believe that groundwater allocation should be guided by the Water Accounting Framework (WAF) developed by the groundwater sustainability agencies in the Kaweah Subbasin. The Ditch Companies believe that the WAF incorporates the current water rights and case law that affords our growers access to the groundwater currently within the aquifer.

- Section 4.03 Greater Kaweah Agricultural Management Area – The Ditch Companies request that all appendices and attachments be included in the Rules and Regulations before approval. Further, the Ditch Companies ask that this information be available for public review and comment before approval. Per previous comments, the Ditch Companies request that the GKGSA confirm that Sustainable Yield is equivalent to the Native Yield discussed in the GSP and the Water Accounting Framework.
 - The Rules and Regulations mention a Transitional Pumping Program which is not detailed or defined in the Rules and Regulations. Therefore, the Ditch Companies request that the Transitional Pumping Program be described in detail. It is not clear on how the Transitional Pumping Program will be implemented in coordination with the Groundwater Allocation and sustainability goals.
 - The Rules and Regulations require using a meter to determine consumptive use in the action of transfers. However, with the current Kaweah Subbasin activities and the inclusion of Land IQ, the Ditch Companies believe there is more confidence in using Land IQ than meters that calculate consumptive use. Therefore, the Ditch Companies request that no meters be required to transfer ET between parcels under common ownership.

Article V. Fees and Penalties

- The Rules and Regulations do not clearly identify where fees and penalties will be housed and the intended use of those funds. The Ditch Companies request that the Rules and Regulations identify who shall collect the funds, where they shall be housed, and how they can be used upon receipt. Furthermore, the Ditch Companies request that a portion and majority of the funds be used to seek future water supplies imported into the Kaweah Subbasin to improve groundwater conditions. The Ditch Companies request the GKGSA provide more details on the Fees and Penalties to ensure accountability in the use of public funds to achieve sustainability.

General Comments

- During recent workshops, it was represented that all landowners within the GKGSA would pay an extraction fee, which is currently estimated to be \$75 to \$125 per acre-foot. The Ditch Companies are concerned that this approach does not recognize the historical contributions to groundwater that have propped up groundwater levels for other users who have not been importing or using surface water. The Ditch Companies request that the GKGSA recognize the historic water rights that allow our growers to utilize existing groundwater assigned to them under the WAF. It is the understanding of the Ditch Companies that SGMA does not allow for the altering of groundwater and surface water rights. We also understand that the groundwater users' existing water rights in the Kaweah Subbasin were identified and incorporated into the GKGSA GSP via the Coordination Agreement. Furthermore, we believe that what is currently described in the Rules and Regulations is that the Sustainable Yield (Native Yield) is being allocated to landowners based upon the Water Accounting Framework. Therefore, the Ditch Companies believe that charging landowners that have been actively using surface water and contributing to the groundwater aquifer the same as those that have not violates the Water

Accounting Framework and the underlying water rights afforded to our Ditch Companies. The Ditch Companies are willing to pay for water that is not afforded to our landowners, however they should not be required to pay for all of their groundwater pumping. The current description in the Rules and Regulations is akin to double-charging our landowners. They are paying to put it in the aquifer and paying to extract that water through pumping.

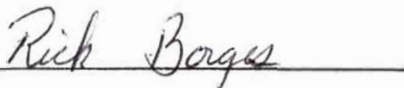
- The Ditch Companies request that the GKGSA begin the development of Management Areas such that the Evans Ditch Company and the Tulare Irrigation Company can establish themselves as a surface water area and account for those groundwater credits that come from canal losses, direct recharge, and return flows from irrigation practices. The Ditch Company request that you coordinate the management areas with the Tulare Irrigation District as they perform the management services for the two ditch companies.

The Evans Ditch Company and the Tulare Irrigation Company appreciate the opportunity to review and comment on the Rules and Regulations. The Ditch Companies recognize the significant shift in agricultural practices being proposed and wish to create a set of rules that achieve groundwater sustainability. The Ditch Companies request that you contact Tulare Irrigation District to address these concerns ahead of consideration or approval of the Rules and Regulations. Please feel free to contact Aaron Fukuda, General Manager of Tulare Irrigation District, which provides management services for the Ditch Companies. Mr. Fukuda can be reached at (559) 686-3425 or via email at akf@tulareid.org.

Sincerely,



David Bixler, President Evans Ditch Company



Rick Borges, President Tulare Irrigation Company