

**EASTERN TULE
GROUNDWATER
SUSTAINABILITY AGENCY,
JPA**

Dennis Townsend
Chairman
County of Tulare

Steve Kisling
Vice-Chairman
Saucelito Irrigation District

Eric Borba
Porterville Irrigation District

Don Weyhrauch
City of Porterville

Matthew Leider
Teapot Dome Water District



ETGSA

Special Meeting of the Authority Board of Directors

Thursday, June 17, 2024
Convenes at 2:00 p.m.

info@easterntulegsa.com
www.easterntulegsa.com

Geoffrey C. Galloway
Terra Bella Irrigation District

Dyson Schneider
Vandalia Water District

John Corkins
White Area

Aubrey Mauritsen
Legal Counsel

Rogelio Caudillo
General Manager

Meeting Location:

ETGSA Offices
881 W. Morton Avenue, Suite D
Porterville CA, 93257

Web Meeting Attendance Available for Interested Parties:

Join Zoom Meeting
<https://us02web.zoom.us/j/85031875844>
Meeting ID: 850 3187 5844
• +1 669 900 9128 US (San Jose)

-----AGENDA-----

Action items are listed in **bold**.

All items on this agenda, whether or not expressly listed for action, may be deliberated upon and may be subject to action by the Board of Directors. The Board of Directors may consider agenda items in any order. Materials related to an item on this agenda submitted to the Board of Directors after distribution of the agenda packet are available for public inspection at the ETGSA Office, 881 W. Morton Avenue, Suite D, Porterville, California, during normal business hours.

1. PUBLIC COMMENT

At this time, members of the public may comment on any item not appearing on the agenda. Under state law, matters presented under this item cannot be discussed or acted upon by the Board at this time. For items appearing on the agenda, the public is invited to make comments at the time the item comes up for Board consideration. Any person addressing the Board will be limited to a maximum of **three (3)** minutes or the Chairman's discretion. At all times, please use the microphone and state your name for the record.

2. MITIGATION PROJECTS

a. ACTION – Consider Approval of Pilot Well Mitigation Agreement

3. NEXT MEETING DATE

a. Next Proposed Meeting – Thursday, July 18, 2024, at 2 p.m.

4. ADJOURNMENT

A person with a qualifying disability under the Americans with Disabilities Act of 1990 may request the ETGSA to provide a

disability-related modification or accommodation in order to participate in any public meeting. Such assistance includes appropriate alternative formats for the agendas and agenda packets used for any public meetings of the GSA. Requests for such assistance and for agendas and agenda packets shall be made in person, by telephone, facsimile, or written correspondence to the General Manager of the ETGSA at (559) 781-7660, at least 48 hours before a public meeting.



ETGSA

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Agenda Item 2.a

Consider Approval of Pilot Well Mitigation Agreement

Staff Report to the ETGSA Board of Directors

Subject: Domestic Well Mitigation

Submitted By: General Manager

Recommended Action: *Move to Approve of Pilot Program Agreement w/ SHE and Reimbursement Amount*

Executive Summary:

ETGSA is working with Self-Help Enterprises (SHE) to formalize an agreement where SHE will identify beneficial well users within the ETGSA for whom well mitigation is necessary and assist well owners in contracting with well contractors to perform the necessary well mitigation. ETGSA's part of the agreement is to fund these operations and ensure compliance with the Mitigation Plan.

Background:

ETGSA adopted a Domestic Well Mitigation Program in 2022 pursuant to the 2022 Amended Tule Subbasin Coordination Agreement. GSAs agreed to implement a well mitigation program to mitigate impacts caused by lowering groundwater levels, land subsidence or water quality.

For Water Year 2024, the ETGSA Board of Directors authorized an increased penalty rate of \$310.00 per acre-foot for any water pumped within the Tier 1 Penalty Allocation and \$500.00 per acre-foot for any water pumped beyond the Tier 1 Penalty Allocation (or Tier 2). The Board increased the rate from that which is required to be set under the ETGSA and FWA Settlement Agreement (\$286.00 per acre-foot) solely for purposes of generating sufficient funds to address the drinking water well mitigation. Specifically, it was estimated that based on the total transitional volume of water, if pumped, would cost the ETGSA approximately \$10,400,000.00 to mitigate for those wells. Assuming the transitional pumping program ends in ten years, the ETGSA approximated annual costs for the mitigation program to be \$1,040,000.00. Again, the Board increased the rate to \$310.00 per acre-foot for the Tier 1 Penalty Rate in excess of what was required under the Friant Settlement Agreement to assure sufficient funds are collected.

Fiscal Impact:



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- Tier 1 Penalty Fees kept by ETGSA may be used for projects including domestic well mitigation. Prior to the 2024 Tier 1 Penalty increase, the ETGSA had allocated an estimated \$135,866.66 towards domestic well mitigation. The amount of funds allocated are based on fees collected and the number of well mitigation claims received in the previous Fiscal Year.

Attachments:

- **Exhibit A:** Draft Pilot Well Mitigation Agreement

EASTERN TULE GROUNDWATER SUSTAINABILITY AGENCY
PILOT WELL MITIGATION AGREEMENT

This Pilot Well Mitigation Agreement (“Agreement”) is made this ____ day of _____, 2024, by and between Self-Help Enterprises, a not-for-profit organization (“SHE”) and the Eastern Tule Groundwater Sustainability Agency, a public agency (“ETGSA”).

RECITALS

- A. ETGSA is a Groundwater Sustainability Agency formed under and pursuant to the provisions of the Sustainable Groundwater Management Act (“SGMA”) (California Water Code Section 10720 et seq.) and is required to prepare and implement a Groundwater Sustainability Plan (“GSP”) in order to provide for the sustainable management of groundwater basins;
- B. ETGSA has approved such GSP, and entered into a Coordination Agreement with the remaining Tule Subbasin GSAs by which the GSAs have agreed to coordinate the development and implementation of their GSPs and mitigation actions;
- C. The Coordination Agreement describes a Tule Subbasin Mitigation Program Framework designed to “evaluate and protect beneficial users from lowering groundwater levels” (Coordination Agreement, section [x]) and states that each GSA will adopt a Mitigation Program consistent with the framework;
- D. ETGSA has drafted a Mitigation Plan that implements the Framework within ETGSA’s jurisdiction;
- E. One area of focus of the Mitigation Plan is mitigating detrimental impacts to domestic wells within the ETGSA;
- F. SHE is a community development organization that operates in the Tule Subbasin jurisdiction;
- G. One of SHE’s programs is to provide assistance to rural communities to provide clean drinking water;
- H. ETGSA is in negotiations with SHE to formalize an agreement whereby SHE will identify beneficial well users within the ETGSA for whom well mitigation is necessary, and assist well owners in contracting with well contractors to perform the necessary well mitigation. ETGSA intends to fund said operations and ensure compliance with the Mitigation Plan;
- I. SHE has identified a family, with a domestic well located on Tulare County APN [REDACTED] which is within the ETGSA boundaries. The aforementioned family is in need of well replacement as the family’s domestic well went dry in [REDACTED] and the family has been without a source of drinking water for that time (herein after referred to as “Dry Well”); and
- J. ETGSA desires to enter into this Agreement to mitigate the Dry Well as a pilot well mitigation program, to determine the ability of the GSAs and SHE to perform well mitigation, and to identify any issues with a future formal arrangement between the Parties.

NOW THEREFORE, in and for consideration of the mutual covenants, conditions, and promises hereinafter set forth, the Parties hereby agree as follows:

AGREEMENT

1. Recitals. The above recitals are hereby incorporated by reference and made a part of this Agreement as though fully set forth herein.
2. Scope. The Parties agree the scope of this Agreement is limited to mitigation regarding the single domestic Dry Well as identified herein with the limitations and restrictions as provided herein. The Agreement should not be construed as a commitment, obligation, promise, guarantee or any other representation regarding any future commitments, obligations, or otherwise, on behalf of the ETGSA for mitigation services or activities.
3. Well Mitigation Actions. SHE hereby agrees to undertake the following mitigation actions:
 - a. Perform any necessary remaining investigations, assessments, or testing of conditions of the Dry Well;
 - b. Make final determination of required actions to mitigate the Dry Well (i.e., drill a new well, deepen existing well, relocate well, etc.);
 - c. Collect or update bid(s) from well contractors for work;
 - d. Coordinate and communicate with the family regarding the mitigation actions;
 - e. Promote collaboration between well contractor and the family regarding (1) the contract between the family and the well contractor, (2) scheduling access to the Dry Well, and (3) performing the necessary work;
 - f. Perform water quality testing for constituents of concern on the newly constructed well after work has been completed, and report findings to ETGSA.
4. ETGSA Consultation and Cooperation. SHE hereby agrees to consult with and coordinate with ETGSA staff, including but not limited to ETGSA Board of Directors, ETGSA Committees, and any consultants hired by ETGSA, regarding the mitigation actions. SHE further agrees that it will not commence, cause to be commenced, or allow commencement of, any well drilling or other construction work without first consulting with ETGSA and obtaining its written consent to the proposed actions.
5. ETGSA Reimbursement. ETGSA hereby agrees to reimburse SHE the following costs:
 - a. The cost to drill a new well to a depth of _____ feet, or other construction actions necessary to mitigate the Dry Well, in an amount not to exceed \$_____. A cost estimate for the well construction is attached hereto and incorporated by reference as Exhibit A.
 - b. The administration costs for SHE to provide emergency water supply, mitigate for the Dry Well, and perform appropriate water quality testing for constituents of

concern, in an amount not to exceed \$ [REDACTED]. A cost estimate for SHE's administration activities is attached hereto and incorporated by reference as Exhibit B.

- c. ETGSA shall not be obligated to reimburse SHE for any costs in excess of the limitation stated above in subsections (a) and (b), unless the Parties agree to alternative costs in writing.

ETGSA shall make the appropriate payment to reimburse, directly to SHE, upon SHE completing their Close Out Process with the well owner and well contractor, and after the ETGSA receives the following from SHE: a notice of project completion; a certified copy of the water quality testing results; and a detailed invoice for the total costs of items.

6. Access to Lands. SHE hereby agrees to coordinate with the well owner to allow ETGSA staff and consultants access to the construction site as necessary for administrating the mitigation process.

7. Successor and Assigns. All of the terms, covenants, and provisions hereof shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties hereto.

8. Indemnification. To the fullest extent permitted by law, SHE shall indemnify, hold harmless, and defend ETGSA, its directors, officers, employees, consultants, agents, or authorized volunteers, and each of them, from any and all claims, demands, causes of action, damages, costs, expenses, losses, or liabilities, in law or in equity, of every kind or nature whatsoever, arising out of or in any manner directly or indirectly connected to this Agreement, including but not limited to any action related to water quality, water quantity, water supply, water source, well performance, well location, or well construction.

9. Default. Failure to perform any of the terms of this Agreement shall be deemed a material default of either party.

10. Remedies. If either party defaults, or otherwise materially breaches this Agreement, each party may demand rescission of this Agreement, or any other action it deems appropriate for the implementation of the Mitigation Plan or the performance of this Agreement.

11. Compliance with all Laws. The Parties are required to comply with all laws, regulations, permitting, including but not limited to ETGSA Rules and Regulations.

12. Attorney's Fees. In the event of a dispute between the Parties related to or arising from this Agreement or any of the actions or events described herein, the prevailing party in any litigation or arbitration shall be entitled to recover all costs and fees associated with the action or arbitration, including, without limitation, all attorney's fees and expert witness fees.

13. Governing Law. The laws of the State of California shall govern under the interpretation and enforcement of this Agreement.

14. Interpretation. The Parties agree that the terms and provisions of this Agreement embody their mutual intent and that such terms and conditions are not to be construed more liberally in favor, or more strictly against, any party.

15. Partial Invalidity. If any term or provision of this Agreement, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, a provision shall be added to this Agreement as similar in terms to such invalid or unenforceable provision as may be possible, and be legal, valid and enforceable, and the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

16. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, this Agreement is executed and made effective on the date first written above.

SELF-HELP ENTERPRISES

By: _____
Thomas J. Collishaw, President/CEO

ETGSA

By: _____
Rogelio Caudillo, General Manager