

ORDINANCE NO. 2

AN ORDINANCE OF THE BOARD OF DIRECTORS OF MONTECITO GROUNDWATER BASIN GROUNDWATER SUSTAINABILITY AGENCY ADOPTING AN ADMINISTRATIVE REMEDIES PROCEDURE FOR CHALLENGES TO FEES, CHARGES, AND ASSESSMENTS

BE IT ORDAINED by the Board of Directors of the Montecito Groundwater Basin Groundwater Sustainability Agency (“Agency”) as follows:

SECTION 1. AUTHORITY.

This Ordinance is authorized by the Agency’s statutory authority to adopt fees and charges, to impose assessments on real property, and to establish rules and regulations governing such fees, charges, and assessments [Government Code Sections 53759.1 and 53759.2. Water Code Sections 30523, 31007, 31025, 10725-10726.9 and 10730-10731].

SECTION 2. EXHAUSTION OF ADMINISTRATIVE REMEDIES FOR CHALLENGES TO RATES, FEES, CHARGES AND ASSESSMENTS ON REAL PROPERTY

A. Scope.

The duty to exhaust administrative remedies imposed by this section extends to:

1. Any fee or charge subject to articles XIII C or XIII D of the California Constitution;
2. Any assessment on real property levied by the Agency; and
3. The methodology used to develop and levy such a fee, charge, or assessment.

B. Hearing.

“Hearing” as used in this section means the hearing referenced in Section 2, Subsection D of this Ordinance.

C. Duty to Exhaust Issues.

No person may bring a judicial action or proceeding alleging noncompliance with the California Constitution or other applicable law for any new, increased, or extended fee, charge, or assessment levied by the Agency, unless that person submitted to the Board Secretary a timely, written objection to that fee, charge, or assessment specifying the grounds for alleging noncompliance. The issues raised in any such action or proceeding shall be limited to those raised in such an objection unless a court finds the issue could not have been raised in such an objection by those exercising reasonable diligence.

D. Procedures.

The Agency shall:

1. Make available to the public any proposed fee, charge, or assessment to which this section is to apply no less than 45 days before the deadline for a ratepayer or property owner to submit an objection pursuant to paragraph 4 of this subsection D.
2. Post on its internet website a written basis for the fee, charge, or assessment, such as a cost of service analysis or an engineer's report, and include a link to the internet website in the written notice of the Hearing, including, but not limited to, a notice pursuant to subdivision (c) of Section 4 or paragraph (1) of subdivision (a) of Section 6 of Article XIII D of the California Constitution.
3. Mail the written basis described in paragraph 2 of this subsection D to a ratepayer or property owner on request.
4. Provide at least 45 days for a ratepayer or assessed property owner to review the proposed fee, charge or assessment and to timely submit to the Board Secretary a written objection to that fee, charge, or assessment that specifies the grounds for alleging noncompliance. Any objection shall be submitted before the end of the public comment portion of a Hearing on the rate, fee, charge or assessment.
5. Include in a written notice of the Hearing, a statement in bold-faced type of 12 points or larger that:
 - a. All written objections must be submitted to the Secretary of the Board by the end of public comment period at the Hearing and that a failure to timely object in writing bars any right to challenge that fee, charge, or assessment in court and that any such action will be limited to issues identified in such objections.
 - b. All substantive and procedural requirements for submitting an objection to the proposed fee, charge, or assessment such as those specified for a property-related fee under California Constitution, article XIII D, section 6(a) or for an assessment on real property under California Constitution, article XIII D, section 4(c).

E. Board Consideration; Agency Responses.

Before and/or during the Hearing, the Board of Directors shall consider and the Agency shall respond in writing to any timely written objections. The Board may adjourn the Hearing to another date if necessary to respond to comments received after the agenda

is posted for the meeting at which the Hearing occurs. The Agency's responses shall explain the substantive basis for retaining or altering the proposed fee, charge, or assessment in response to written objections, including any reasons to reject requested amendments.

F. Board Determinations.

The Board of Directors, in exercising its legislative discretion, shall determine whether:

1. The written objections and the Agency's response warrant
2. Clarifications to the proposed fee, charge, or assessment.
3. To reduce the proposed rate, fee, charge or assessment.
4. To further review the proposed rate, fee, charge, or assessment before determining whether clarification or reduction is needed.
5. To proceed with the Hearing, to continue it, or to abandon the proposed rate, fee, charge or assessment.

SECTION 3. CEQA FINDINGS.

The Board of Directors finds that adoption of this Ordinance is exempt from CEQA because: (i) it is not a project within the meaning of Public Resources Code, section 21065 because it has no potential to alter the physical environment; (ii) and pursuant to CEQA Guidelines section 15061(b)(3), the so-called "common sense" exemption, for this same reason.

SECTION 4. SEVERABILITY.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person or circumstance is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to other persons and circumstances. The Board of Directors declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof despite the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

SECTION 5. EFFECTIVE DATE. This Ordinance shall be in full force and effect upon its adoption. [Water Code Section 31027].

SECTION 6. PUBLICATION. The Secretary of the Board of Directors shall give published notice of this Ordinance. [Water Code Section 31027].

PASSED, APPROVED AND ADOPTED by the Board of Directors of the Montecito Groundwater Basin Groundwater Sustainability Agency this 6th day of May 2025.

AYES: Coates, Goebel, Hayman, Plough, Wicks

NAYS:

ABSENT:

ABSTAIN:

APPROVED



Tobe Plough, President

ATTEST:



Nick Turner, Secretary