



ORDINANCE 2000-01

AN ORDINANCE OF THE PAJARO VALLEY WATER MANAGEMENT AGENCY AUTHORIZING RECOVERY OF ATTORNEY'S FEES IN ACTIONS TO COLLECT DELINQUENT GROUNDWATER AUGMENTATION FEES OR GROUNDWATER MANAGEMENT FEES, AND IN ACTIONS AGAINST THE AGENCY CHALLENGING SUCH FEES

FINDINGS

1. The Pajaro Valley Water Management Agency (Agency) was formed, among other reasons, to provide integrated management of the ground and surface water resources within the Pajaro Basin. As the sole local agency responsible for the integrated management of water resources for the Pajaro Basin, the Agency bears responsibility for the management and augmentation of water supplies for domestic, agricultural, municipal and industrial purposes.
2. Section 124- 902 of the Act authorizes the Agency to levy a groundwater management fee, as set by ordinance of the board of directors, upon land within the Agency for the purpose of paying the costs of initiating, carrying on, and completing any of the powers, projects, and purposes for which the Agency is organized. On July 11, 1985, the Agency adopted Ordinance No. 85-1 establishing this management fee.
3. Section 124-1001 of the Act authorizes the Agency to levy groundwater augmentation charges on the production of water from all groundwater extraction facilities within the boundaries of the Agency for purposes of paying the costs of purchasing, capturing, storing, and distributing supplemental water for use within the Agency. On June 30, 1993, the Agency adopted Ordinance No. 93-1 establishing a groundwater augmentation charge to be assessed equitably among all groundwater users within the Agency.
4. In order for the Agency to collect delinquent management and augmentation fees, it occasionally becomes necessary to initiate actions in a court of law, thereby incurring significant legal expenses for the Agency.
5. Persons assessed with the Agency's management and augmentation fees occasionally commence actions in a court of law to challenge the Agency's authority to levy such fees, as well as the validity and amount of such fees, thereby forcing the Agency to incur significant legal expenses in its defense.

NOW THEREFORE be it ordained as follows:

SECTION ONE:

A. The Agency is authorized to recover any and all legal expenses incurred, including costs of suit and attorney's fees, as the prevailing party in the following types of actions:

- (1) Actions filed in a court of law by the Agency to collect delinquent groundwater management or groundwater augmentation fees.
- (2) Actions filed in a court of law by persons challenging the Agency's authority to impose or collect groundwater management or groundwater augmentation fees, or the validity or amount of such fees.

SECTION TWO: PUBLICATION AND APPLICATION

The provisions of this Ordinance shall be read in conjunction with and complement all other Agency ordinances and resolutions, including Ordinance 85-1 and 93-1 and shall apply to all parcels within the boundaries of the Agency.

SECTION THREE: EFFECTIVE DATE

This Ordinance shall be effective 30 days after its adoption.

SECTION FOUR: SEVERABILITY

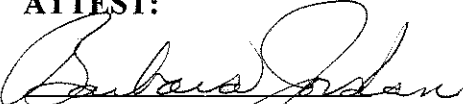
If any subdivision, paragraph, sentence, clause or phrase of this Ordinance is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforcement of the remaining portions of this Ordinance, or of any other provisions of the Pajaro Valley Water Management Agency ordinances and resolutions. It is the Agency's express intent that each remaining provision of this Ordinance would have been adopted irrespective of the fact that one or more subdivisions, paragraphs, sentences, clauses, or phrases be declared invalid or unenforceable.

The foregoing Ordinance was passed and adopted by the Board of Directors of the Pajaro Valley Water Management Agency at its regular meeting on January 19, 2000 by the following vote:

AYES: Directors: Bennett, Capurro, Carroll, Imazio, Koenig, Mauthe, Roediger
NOES: None
ABSTAIN: None
ABSENT: None


Brad Bennett, Chair

ATTEST:


Barbara Jordan, Secretary