

IMPLEMENTING RULES AND REGULATIONS
FOR THE
MCMULLIN AREA GROUNDWATER SUSTAINABILITY AGENCY
DOMESTIC WELL MITIGATION POLICY
Adopted: _____, 2024

1. Purpose

The purpose of this document is to provide specific guidance for the process pursuant to which the McMullin Area Groundwater Sustainability Agency (“**MAGSA**”) may consider mitigation measures to assist owners of domestic wells located on lands within its boundaries that go dry or fall within ten (10) feet of going dry due to lowering groundwater levels within the Kings Subbasin (Basin No. 5-22.08). Although many of the wells located within MAGSA’s boundaries are used primarily for irrigation, there are a limited number of domestic groundwater wells that serve residents who are not able to otherwise access water from a municipal water service. Although MAGSA and the other groundwater sustainability agencies in the Kings Subbasin are working collaboratively pursuant to the Sustainable Groundwater Management Act (“**SGMA**”) to stabilize groundwater levels in accordance with the Sustainable Management Criteria defined in MAGSA’s Groundwater Sustainability Plan, there remains a possibility that certain wells may be threatened to go dry or may actually go dry before the end of the SGMA implementation period in 2040. This risk is primarily limited to shallow domestic wells which may need assistance with mitigation such as the lowering of pumps, deepening of well casings or actual well replacement, depending upon the individual circumstances.. Pursuant to and consistent with this program, MAGSA may assist eligible well owners in lowering well pumps and/or replacing or deepening wells that have become dry, as defined hereafter.

2. Scope

- 2.1 These Implementing Rules and Regulations apply to actions MAGSA may take in relation to domestic groundwater wells, designed to produce (2) acre feet of water or less annually, currently existing within the MAGSA service area, that go dry or fall within ten (10) feet of going dry entirely due to lowering groundwater levels within the Kings Subbasin following the implementation of these Rules and Regulations.
- 2.2 MAGSA may only act under these Implementing Rules and Regulations to assist with wells that are otherwise in compliance with all other MAGSA policies, rules and regulations, including, but not limited to, MAGSA’s Groundwater Metering, Measurement, Monitoring, and Construction Policy and related implementing rules and regulations, as amended.
- 2.3 These Implementing Rules and Regulations are not retroactive, and apply only to wells that go dry following the later of the implementation and adoption of these Rules and Regulations or the effective date of October 1, 2024.

3. Recitals

WHEREAS, MAGSA is a joint powers authority formed pursuant to the Joint Exercise of Powers Act (Gov't Code section 6500 et seq.) and acts pursuant to that authority; and

WHEREAS, MAGSA's mission is to sustainably manage, protect and maintain the groundwater resources within the McMullin Area of the Kings Subbasin consistent with SGMA for the benefit of water users within the McMullin Area of the Kings Subbasin and to coordinate with other GSAs and management activities throughout the region; and

WHEREAS, pursuant to Water Code section 10725.2, the MAGSA Board of Directors is authorized to adopt rules, regulations, ordinances, and resolutions for the purpose of achieving compliance with SGMA; and

WHEREAS, the Kings Subbasin has been in overdraft for many years resulting in a significant lowering of the regional and local groundwater elevations and a significant reduction in the amount of useable groundwater in storage. The Kings Subbasin GSAs are implementing plans to correct the overdraft by 2040 as required by SGMA, however there may be a continued decline in groundwater elevations within certain wells through 2040 until water levels have stabilized; and

WHEREAS, because of the continued decline of water levels as they are stabilized, some wells may go dry during the SGMA implementation period. This is generally limited to shallow domestic wells and some small water system wells. Irrigation wells and agency-owned wells are typically deeper and have often been designed to account for declining water levels; and

WHEREAS, as groundwater levels decline, pumps may need to be lowered, wells deepened, or wells replaced, and while a pump can be lowered in some situations, under the MAGSA Well Mitigation Policy, a well shall be considered "dry" when there is less than ten (10) feet of water above the bottom of the well perforations or the bottom of the well when perforation levels are not known; and

WHEREAS, based on analysis of information maintained on DWR's Online System of Well Completion Reports database for submitted well records, the estimated number of domestic wells that could go dry within MAGSA's boundaries because of groundwater levels reaching the maximum anticipated lowered water levels across the Kings Subbasin is nominal, but potentially not able to otherwise be mitigated by those so affected; and

WHEREAS, MAGSA has adopted the following policy, which remains as a standing policy of MAGSA, the provisions of which are incorporated by this reference as if set forth herein:

Policy No. 2024-10, dated April 3, 2024, entitled the McMullin Area Groundwater Sustainability Agency Domestic Well Mitigation Policy.

WHEREAS, the aforementioned policy contains language specifying adoption of clarifying implementing regulations to carry out their stated intent.

NOW, THEREFORE, BE IT RESOLVED that the following Implementing Rules and Regulations shall provide the clarifying implementing regulation as specified in said policies, shall be effective upon adoption or October 1, 2024, whichever occurs later, and shall remain in effect until further modified or rescinded:

Implementing Rules and Regulations

A. Eligibility: MAGSA may only act pursuant to these Implementing Rules and Regulations if all the following apply:

1. **Well Types:** Eligibility is limited to wells, designed to produce (2) acre feet of water or less annually currently existing within the MAGSA service area, and that are used solely for domestic purposes, i.e., constructed to produce water for private use at households and generally located outside urban areas. The State Water Resources Control Board defines domestic wells as “water wells used to supply water for the domestic needs of an individual residence or systems of four or less service connections.”

The following well types are not eligible for mitigation:

- a. Agricultural
 - b. Combination agricultural-domestic
 - c. Commercial
 - d. Industrial
 - e. Livestock
 - f. Municipal
 - g. Monitoring
 - h. Any well using a vertical turbine pump.
2. **Cause of Well Failure:** To be considered for mitigation under these Rules and Regulations, the well failure must be a direct result of groundwater level declines caused by groundwater pumping in the MAGSA service area. For example, wells will be considered dry if there is less than 10 feet of water above the bottom of the perforations or less than 10 feet of water from the bottom of the well if the perforations depths are not known or it is an open-bottomed well.

Examples of well failures that shall not be eligible for the Program include but are not limited to:

- a. Plugged wells screens
- b. Collapsed well casings
- c. Pump or electrical failures

- d. Tree roots or other foreign objects in wells
- e. Biofouling / biofilm
- f. Sedimentation in the well
- g. Water quality problems
- h. Well construction defects
- i. Any other reason not related to groundwater level declines.

3. **Not Retroactive**: MAGSA will not provide retroactive funding assistance pursuant to these Rules and Regulations and the related Well Mitigation Policy for already-failed wells. Wells that went dry and were replaced prior to the implementation of these Implementing Rules and Regulations will not be eligible for reimbursement. Wells that are already in the queue for replacement under other programs and/or are receiving interim water supplies through other programs will not be considered for the MAGSA Program.

4. **Well Age**: Dry domestic wells up to fifty (50) years old at the time of the application submission may be eligible for well mitigation assistance. Well age will be established by well completion reports, well permits, or other well construction records. Any mitigation assistance that MAGSA may provide will decrease proportionately with the age of the well as deemed appropriate to account for depreciation of the well asset.

Wells with undetermined age will be handled on a case-by-case basis using the best available information including aerial photographs and building construction information.

5. **Income Requirements**: To be eligible for MAGSA to provide any mitigation assistance, the applicant must have an income that is equal to or less than 80% of the statewide median household income in the State of California. This falls within the definition of an income for a Disadvantaged Community according to the California Department of Water Resources.

6. **Additional Eligibility Requirements**: To be eligible for MAGSA to provide any mitigation assistance, the applicant must also meet the following:

- a. **Land Ownership**. The applicant must be the owner of the well and surrounding land. Lands placed in a living trust are also eligible. Renters and lessees will not be eligible to apply but may contact their landowner and coordinate to receive assistance. Bank-owned properties will not be eligible.
- b. **Good Standing with MAGSA**. The landowner/well owner must be in good standing with MAGSA (i.e., no late taxes, fees, assessments, or other charges due, and in compliance with all other MAGSA Policies including, but not limited to, the MAGSA Groundwater Metering Measurement, Monitoring and Construction Policy and Implementing Rules and Regulations).

- c. Future Eligibility. New wells constructed on or after July 7, 2022 will not be eligible for future mitigation assistance from MAGSA if not in compliance with all MAGSA Policies (e.g. minimum depth requirements.)
- d. Impacts from other Onsite Wells. MAGSA shall not provide mitigation assistance if it is determined that the well was dewatered primarily due to the direct impacts from pumping from other well(s) located on the property. For example, if the landowner has a large nearby irrigation well, and MAGSA determines that the irrigation well is causing the domestic well to go dry, then the landowner will not be eligible for the Program.
- e. Illegal Wells. Wells must be legally constructed (i.e., permitted by the County or other applicable government agency) to be eligible for consideration for any mitigation assistance. Exceptions may be granted for wells aged approximately ten (10) years or more from the time of implementation of these Implementing Rules and Regulations to account for historic lapses in agency records and may be considered on a case-by-case basis.
- f. Denial of Funding for Causing Overdraft. MAGSA reserves the right to deny any assistance for wells that are causing overdraft. This will be evaluated and enforced on a case-by-case basis. For example, if the landowner has large areas of turf, landscaping, or pasture on their residential property, and their groundwater use is deemed excessive, then MAGSA, in its discretion, may deem the well is not be eligible for mitigation assistance.

B. Well Registration: Full compliance with MAGSA's Groundwater Metering, Measurement, Monitoring and Construction Policy and Implementing Rules and Regulations, including, well registration, is required before or coincident with applying for any mitigation assistance.

C. Well Mitigation Application Process: Any land/well owner seeking assistance shall submit a written request for mitigation assistance detailing the basis for the request and identifying the basis for compliance with all elements outlined above, along with a well contractor's assessment. MAGSA will review and determine whether additional information is needed to confirm compliance with the forgoing and determine eligibility. In its discretion, MAGSA may develop a more formal application process.

D. Interim Measures: MAGSA may, at its discretion, provide assistance toward one or more of the following interim measures, as it may deem appropriate, while considering and/or working toward more long-term assistance:

1. Bottled water delivery and/or pickup for drinking water
2. Bulk water storage tanks, water deliveries, and periodic maintenance for interim sanitation and other household purposes

E. **Well Mitigation Measures:** MAGSA may, at its discretion, contribute toward one or more of the following mitigation measures, which shall generally be applied in the order of priority as set for below. Each application will be considered on a case-by-case basis.

1. **Lower Pump:** If the well is sufficiently deep, MAGSA may provide financial assistance to lower the pump to a level such that the intake of the pump is 20 feet below the Sustainable Management Criteria Minimum Threshold in the well area or to the maximum possible depth.
2. **Deepen Well:** Although many dry wells cannot be made deeper due to the various risks involved and width requirements, when deemed feasible and appropriate, MAGSA may provide financial assistance to deepen a domestic well. The depth of any modified well, like any new well, shall be subject to all MAGSA policies and guidance.
3. **New Well:** Should MAGSA deem mitigation assistance appropriate, and lowering the pump and deepening the well are deemed not feasible, MAGSA may provide financial assistance to install a new well. New wells shall be subject to all MAGSA policies and guidance.
4. **Other Options:** Other options could include referral to other existing programs if the land/well owner does not meet eligibility criteria, or where feasible, connection to an existing water system.

F. **Payment Options:** The well/landowner shall be responsible for contacting a well services contractor and initially paying for their investigation of the well. If the landowner demonstrates that the well failed due to declining groundwater levels and otherwise meets all criteria set forth above, and subject to MAGSA's approval of the appropriate contractors to provide any mitigation measures, MAGSA shall determine, on a case-by-case basis the mitigation assistance available and enter into an appropriate cost-sharing agreement with the land/well owner.

G. **Well-Owner Responsibilities:**

1. The land/well owner shall be responsible for submitting all application materials, including the well service contractor's assessment report, and to timely provide any additional information requested by MAGSA. The land/well owner shall provide MAGSA staff and contractors access to the well if needed to confirm eligibility and appropriate mitigation measures. The land/well owner must arrange for and enter into contractual agreements, as appropriate, to implement any interim and long-term mitigation measures, pursuant to and consistent with any cost-sharing agreement entered with MAGSA.
2. Any wells installed or deepened pursuant to a mitigation/cost-sharing agreement with MAGSA shall be owned by the landowner, who shall be responsible for all operation, maintenance, and repairs including, but not limited to well appurtenances, electrical services, plumbing both above ground and below ground and within buildings.

3. The quality and safety of water from private wells are not regulated by the Safe Drinking Water Act or any State or County laws. Individual well owners are responsible for maintaining and monitoring the water quality of their private systems. As such, any mitigation assistance provided by MAGSA is not intended to assess the cause of or mitigate water quality issues. At their own discretion, the land/well owner can purchase or install water treatment equipment to a new well installed pursuant to any mitigation assistance agreement with MAGSA.
4. Any wells deepened or installed pursuant to a mitigation assistance agreement with MAGSA shall be used to supply water for domestic purposes only.
5. Should MAGSA opt to keep the old well as a monitoring point instead of destroying it, the property owner shall take all reasonable measures not to damage or contaminate the abandoned well.
6. MAGSA will not offer any warranty or guarantee on a well installed or deepened pursuant to any mitigation assistance agreement with MAGSA. However, MAGSA may require that drillers offer a minimum warranty to the homeowners. It is recommended for the well owner to speak with their home insurance provider or a home warranty company to explore coverage options for private wells.
7. Well mitigation measures not completely funded by MAGSA will require the applicant to pay the remaining portion of the mitigation measure cost. In these circumstances MAGSA may assist claimants in securing low-cost loans.