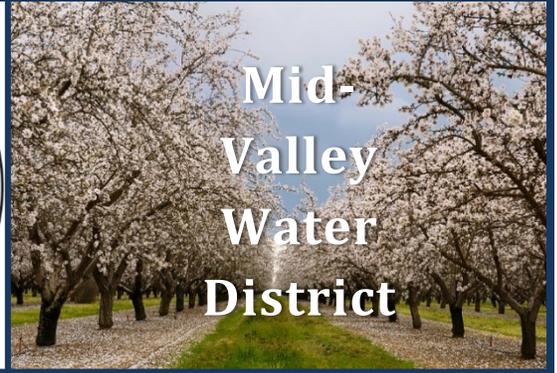


Raisin
City
Water
District



Mid-
Valley
Water
District

McMULLIN AREA GROUNDWATER SUSTAINABILITY AGENCY



Fee Study

Final Report
April 12, 2018



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SECTION 1: INTRODUCTION AND EXECUTIVE SUMMARY

1.1 MAGSA Background

The McMullin Area Groundwater Sustainability Agency (MAGSA) is a joint powers authority formed to comply with the requirements of the Sustainable Groundwater Management Act (SGMA). SGMA requires that all groundwater basins in the state of California form at least one Groundwater Sustainability Agency (GSA) by June 30, 2017, develop a plan for groundwater sustainability by January 31, 2020 (for high- or medium-priority basins) and achieve sustainability on or before 2040. SGMA gives authority to local government agencies to form GSAs to adopt groundwater sustainability plans (GSPs) to manage and regulate groundwater and groundwater extractions from within the agencies' service areas or jurisdictional boundaries. On January 31, 2017, Fresno County, the Raisin City Water District, and the Mid-Valley Water District executed a Joint Powers Agreement forming MAGSA. MAGSA's boundary map is provided as Appendix A.

1.2 Cost of Service Basis

MAGSA has developed a planning level budget of approximately \$2.175 million in annual expenses for the five-year period spanning fiscal years 2019-2023. The budget covers the cost of agency management, development and implementation of a Groundwater Sustainability Plan, and groundwater monitoring. A fee or fees are needed to fund these costs.

SGMA provides authority for the MAGSA to charge fees and assessments to support these functions.¹ Failure to form a GSA or adequately manage the groundwater basin may subject the GSA to intervention by the State Water Resources Control Board (SWRCB). If it intervenes, the SWRCB may impose fees within the GSA ranging from \$41/acre to \$195/acre with no guarantee of new or supplemental water supplies.² By forming the GSA, collecting fees, and funding GSP activities, MAGSA will provide landowners with a more affordable option for managing the basin.

1.3 Proposed Fee

This report provides two options for MAGSA's fee calculation. Option 1 is an annual fee of \$18.95/acre and Option 2 is an annual fee of \$19.00/acre for each year over the next five years. Option 2 excludes parcels of two acres or less from the fee calculation. Option 2 assumes that any potential costs incurred by MAGSA for the benefit or service of small parcels are not justified because of the de minimis contribution to MAGSA's total cost of service. Option 2 was selected as the preferred option by the Board of Directors during the Board meeting on April 11, 2018.

The proposed fees are considered property-related, water service charges governed by Proposition 218. The fee options were calculated using the GSA's budget as the cost of service to proportionally recover costs on a \$/acre basis. MAGSA reviewed other rate design methodologies such as an extraction fee

¹ See Water Code § 10730 *et seq.*

² Fees vary based on parcel size and number of wells. The SWRCB's intervention fee schedule is available [online](#).

(\$/acre foot pumped, for example) and found the \$/acre charge to be appropriate. The fees cover MAGSA's cost of service for administration and GSP development, which are not directly correlated to the pumping of individual parcels. In the future, if pumping data is available and costs are highly dependent on observed pumping, MAGSA may review other rate options, including regulatory or pumping fees, to the extent authorized by SGMA.

To comply with Proposition 218, the Board will conduct a public hearing for the proposed fee June 6, 2018. Hearing notices will be mailed to all affected property owners at least 45 days in advance of the hearing date.³ Property owners may submit written protests to the proposed fee by dates certain. If a majority of property owners submit written protests, MAGSA may not adopt the fee. Absent a majority protest, MAGSA is authorized to adopt the proposed fee at its public adoption hearing in June 2018.

³ Under Option 2, parcels of 2 acres or less would not be charged the fee and would not participate in the Proposition 218 protest vote.

SECTION 2: Legislative Requirements – SGMA & Proposition 218

2.1 SGMA Background

On August 29, 2014, the California Legislature passed Senate Bill (SB) 1168 (Pavley), Assembly Bill (AB) 1739 (Dickinson), and SB 1319 (Pavley). On September 16, 2014, Governor Brown signed them into law, making the legislation effective January 1, 2015. Together, these bills create the “Sustainable Groundwater Management Act” and related statutes that, for the first time in California, allow for the true regulation of groundwater at the local level.

SGMA is intended to provide for local management of groundwater basins and sub-basins. Currently, there are 127 High- and Medium-priority groundwater basins and sub-basins identified in California and defined by the Department of Water Resources (DWR) Bulletin 118 (and over 515 basins in total). SGMA states that it is the intent of the Legislature “to provide for sustainable management of groundwater basins and to manage groundwater basins through the actions of local governmental agencies...while minimizing state intervention to only when necessary to ensure that local agencies manage groundwater in a sustainable manner.”⁴ SGMA requires that all groundwater basins in the state form at least one "Groundwater Sustainability Agency" per basin or sub-basin by June 30, 2017, develop a groundwater sustainability plan⁵ by January 31, 2020 (for High- and Medium-priority basins) and achieve sustainability on or before 2040.

SGMA defines “sustainable groundwater management” as management and use of groundwater in a manner that can be maintained during the planning and implementation horizon without causing undesirable results. “Undesirable results” mean any of the following effects caused by groundwater conditions occurring through the basin:

- (1) chronic lowering of the groundwater levels, excluding overdraft during a drought if it is otherwise managed;
- (2) significant and unreasonable reduction of groundwater storage;
- (3) significant and unreasonable seawater intrusion;
- (4) significant and unreasonable degradation of water quality;
- (5) significant and unreasonable land subsidence; and
- (6) surface water depletions that have significant and unreasonable adverse impacts on beneficial uses of surface water.⁶

4 Water Code § 10720.1(h).

5 Or develop multiple GSPs, coordinated pursuant to a single agreement covering the entire basin or sub-basin.

6 Water Code § 10721(x).

2.2 MAGSA Compliance Activities and GSP Development

The McMullin Area Groundwater Sustainability Agency is one of seven Groundwater Sustainability Agencies within the Kings Groundwater Sub-basin. There is no overlap among the GSAs and there are no adjudicated areas in the groundwater Sub-basin. The GSA is located entirely within Fresno County and covers around 120,635 acres, of which there are approximately 114,749 assessed acres (Fresno County Assessor secured tax assessment roll) for about 1,710 parcels.

MAGSA was formed to comply with the requirements of the Sustainable Groundwater Management Act within the McMullin Area. The existing water agencies, Mid-Valley Water District and Raisin City Water District, as well as the County of Fresno, came together to form a GSA for the McMullin Area. After many agency meetings and outreach events to stakeholders, the group chose to formalize as a Joint Powers Authority that includes five board seats with representatives from each of the member agencies. Two seats are filled by Board members from the Raisin City Water District. One seat is filled by a Fresno County Supervisor and one seat by a Board Member from Mid-Valley Water District. The fifth seat is filled by a landowner within the white area (the area not within one of the water districts) who is appointed by Fresno County. Each Director representing a Member on the Board of Directors of the Authority may identify up to two alternates to serve on the Member's behalf. Unlike Directors, Alternates need not be elected officials. California Department of Fish & Wildlife (CDFW) and James Irrigation District (JID) are positioned as interested parties within the plan area but have no jurisdictional presence.

On January 31, 2017, Fresno County, Raisin City Water District, and Mid-Valley Water District executed the McMullin Area Groundwater Sustainability Agency Joint Powers Agreement. This agreement formed a groundwater sustainability agency under the Sustainable Groundwater Management Act for the McMullin Area. The MAGSA conducted its first board meeting in March 2017 and elected to serve as the GSA for the area on April 5, 2017. MAGSA notified the California Department of Water Resources on April 21, 2017 of their intention to be the GSA for the area.

Compliance activities by MAGSA to date include the following:

- March 2017 – Secured Provost & Pritchard Consulting Group to assist in the administration of the GSA and develop a Groundwater Sustainability Plan for MAGSA to achieve groundwater sustainability within the GSA in order to be sustainable by 2040,
- March 2017 – Hired Kings River Conservation District to conduct the required public education outreach required as part of SGMA,
- March 2017 to present – Engaged in the Kings Basin coordinated efforts with the six other GSAs,
- July 2017 – Submitted Notice of Intent to prepare GSP to DWR,
- February 2018 - Started the process to secure funding from the landowners within MAGSA to cover SGMA implementation costs,
- March 2018 - Began to identify projects conceptually that would assist the area to become sustainable,

- Conducting monthly Board meetings and technical advisory committee meetings,
- GSP plan chapters are in development, with input from the technical advisory committee

2.3 Proposition 218 Rate and Fee Setting Requirements

Proposition 218, the “Right to Vote on Taxes Act”, was approved by California voters in November 1996 and is codified as Articles XIIC and XIID of the California Constitution. Proposition 218 establishes requirements for imposing any new fee or increasing any existing property-related fees and charges. In July 2007, the California Supreme Court essentially confirmed that Proposition 218 applies to water service fees.⁷ Fees used to fund groundwater management and conservation activities are considered water service fees and are therefore subject to Prop 218.⁸

2.3.1 Procedural Requirements

To adopt water service fees under Proposition 218, MAGSA must meet the following requirements:

1. **Noticing Requirement** – The GSA must mail a notice of the proposed fee to all affected property owners or ratepayers. The notice must specify the amount of the fee, the basis upon which it was calculated, the reason for the fee, and the date/time/location of a public rate hearing at which the proposed fees will be considered/adopted.
2. **Public Hearing** – MAGSA must hold a public hearing prior to adopting the proposed fee. The public hearing must be held not less than 45 days after the required notices are mailed.
3. **Rate Increases Subject to Majority Protest** - At the public hearing, the proposed rate increases are subject to majority protest. If more than 50% of affected property owners or ratepayers submit written protests against the proposed rate increases, the fees cannot be adopted.

Water Code Section 10730 *et seq.* also lays out the authority and noticing requirements that a GSA must follow to impose a fee to help fund the preparation of a GSP.

2.3.2 Substantive Requirements

Proposition 218 also established a number of substantive requirements that apply to property-related water service fees and charges, including:

1. **Cost of Service** - Revenues derived from the fee or charge cannot exceed the funds required to provide the service. In essence, fees cannot exceed the “cost of service”.
2. **Intended Purpose** - Revenues derived from the fee or charge can only be used for the purpose for which the fee was imposed.

⁷ Bighorn-Desert View Water Agency v. Verjil (2006) 39 Cal. 4th 205.

⁸ City of San Buenaventura v. United Water Conservation Dist. (2017) 3 Cal. 5th 1191 (referring to groundwater management and conservation activities as “services.”)

3. **Proportional Cost Recovery** - The amount of the fee or charge levied on a landowner shall not exceed the proportional cost of service attributable to that landowner.
4. **Availability of Service** - No fee or charge may be imposed for a service unless that service is used by, or immediately available to, the owner of the property.
5. **General Government Services** - No fee or charge may be imposed for general governmental services where the service is available to the public at large.

Charges for water services, such as the proposed property-related fee, are exempt from additional voting requirements of Proposition 218, provided the charges do not exceed the cost of providing service and are adopted pursuant to procedural requirements of Proposition 218.

2.4 Legal Review

The MAGSA's legal counsel has reviewed the provisions of SGMA and Proposition 218. Legal counsel has determined that the GSA's fees are property-related fees to recover the cost of compliance with SGMA, a service provided to lands within MAGSA. As described in this report, the fees are calculated from MAGSA's proposed 5-year budget, which documents the cost of service on which the fees are based. The cost of service is divided by the lands within the GSA to calculate a \$/acre fee. At this time, MAGSA does not have detailed pumping information from the landowners to calculate an extraction rate. A \$/acre fee reflects MAGSA's fixed cost structure over the next five years.

SECTION 3: COST OF SERVICE AND RATE DESIGN

3.1 Cost of Service

The cost of service for the fees recommended in this report is based on MAGSA's budget for fiscal year (FY) 2019 through FY2023. Annual expenses are estimated at about \$2.175 million (see table below; a more detailed budget is provided in Appendix B). Costs for the ratepayers could potentially be reduced through grant funding and/or direct financial contributions from entities within the basin. MAGSA has been approved for a \$214,000 grant from the California Department of Water Resources, but the funding agreement has not yet been signed. Proposition 218 gives authority to the MAGSA Board to lower adopted fees at a later date should outside funding become available.

The budget was based on estimated costs to administer and develop the GSP, as provided by the GSA's engineer. As the GSA is a new public agency, no prior year cost data is available. The budget was developed to account for GSA administration, staffing a General Manager position, developing and implementing the Groundwater Sustainability Plan, and monitoring groundwater levels. GSP preparation activities are planned for the next two years to meet the January 31, 2020 deadline required by SGMA. A 15% contingency factor was added to all cost categories.

3.2 Rate Design

3.2.1 Methodology

Proposition 218 requires that fees charged to each customer be proportional to the cost of service attributable to that customer. There are many legally sound methods to achieve proportionality and fairly design rates such as: acreage fees, rates charged as \$/AF to actual groundwater pumped (i.e. extraction fees), annual charges based on well capacity, etc.

In developing proposed fees, the GSA must consider how it incurs cost and the availability of customer data. At this point, the GSA's costs are largely administrative and centered around creation of the GSP. These costs are fixed and do not vary based on current pumping in the basin. Beyond the next five years, the GSA's focus will shift from GSP preparation to project development and construction. The GSA's cost structure is expected to become more variable (as opposed to fixed) and reflect the severity of groundwater conditions in the sub-basin. At that point, it may be appropriate to consider extraction fees based on the groundwater pumping of each landowner. The GSA does not currently have pumping data available for individual parcels. MAGSA proposes to recover its cost of service by charging a \$/acre fee to landowners within the basin. This methodology reflects the lack of customer data and MAGSA's fixed cost structure.

**Table 1: Projected Budget
McMullin Area Groundwater Sustainability Agency
Fee Study**

Budget Item	FY2019	FY2020	FY2021	FY2022	FY2023	5-Year Total
GSA Administration	55,000	56,800	58,600	60,400	62,200	293,000
General Manager	240,000	247,200	254,600	262,200	270,100	1,274,100
General Legal	45,000	46,400	47,800	49,200	50,700	239,100
Prop 218 Elections & Fee Implementation	43,000	44,400	45,800	47,200	48,600	229,000
Sub-Basin Coordination	65,000	67,000	69,000	71,100	73,200	345,300
GSP Preparation						
Project Coordination, Mgmt, Outreach	155,200	45,200	0	0	0	200,400
Basin Setting	101,000	49,700	0	0	0	150,700
Monitoring Network	82,900	40,900	0	0	0	123,800
Sustainability Criteria	52,800	26,000	0	0	0	78,800
Projects and Management Actions	98,400	48,500	0	0	0	146,900
Implementation & Final GSP Preparation	79,600	160,000	0	0	0	239,600
GSP Legal and Litigation Reserve	278,400	249,600	392,000	347,000	300,600	1,567,600
Grant Writing	100,000	103,000	106,100	109,300	112,600	531,000
Project Development						
Feasibility Analysis	100,000	150,000	154,500	159,100	163,900	727,500
Environmental Review	50,000	51,500	53,000	54,600	56,200	265,300
Hydrogeologic Analysis	50,000	51,500	53,000	54,600	56,200	265,300
Legal Review	30,000	30,900	31,800	32,800	33,800	159,300
Govt Relations/Legislative Advocate	50,000	51,500	53,000	54,600	56,200	265,300
Monitoring and Implementation						
Monitoring Wells	100,000	103,000	106,100	109,300	112,600	531,000
Well Design	15,000	15,500	16,000	16,500	17,000	80,000
Data Management System Development	100,000	203,000	200,000	206,000	212,200	921,200
Water Budget Model & Analysis	<u>0</u>	<u>50,000</u>	<u>250,000</u>	<u>257,500</u>	<u>265,300</u>	<u>822,800</u>
Budget Subtotal	1,891,300	1,891,600	1,891,300	1,891,400	1,891,400	9,457,000
15% Contingency/Reserve	283,700	283,700	283,700	283,700	283,700	1,418,500
TOTAL ESTIMATED BUDGET	2,175,000	2,175,300	2,175,000	2,175,100	2,175,100	10,875,500

3.2.2 Fee Calculation

The proposed fees are calculated as the annual cost of service divided by number of acres. MAGSA reviewed parcel size and parcel counts provided by the Fresno County tax assessor. The County tax roll serves as the master list of parcels included in the GSA. Two fee options are provided below. Option 1 calculates the proposed fee based on all assessable parcels⁹ within the GSA. Option 2 excludes parcels of 2 acres or less (small parcels) from the acreage count.

MAGSA is made up of 114,749 assessable acres of which 274 acres are small parcels. Option 2 assumes that small parcels do not contribute significantly to MAGSA’s cost of service, and/or potential revenue that could be collected from small parcels is immaterial. Additionally, Option 2 assumes that parcels of 2 acres or less are de minimis extractors of groundwater under SGMA.¹⁰ As shown in the table below, the difference between the two options is a mere \$0.05/acre per year. This difference is essentially lost in the rounding between the Option 1 and 2 fees. Under Option 1, the small parcels would contribute about \$5,200 in fee revenue annually representing a meager 0.2% of total fee revenue.

**Table 2: Fee Calculation
McMullin Area Groundwater Sustainability Agency
Fee Study**

	Option 1	Option 2
Total Estimated Budget	\$2,175,000	\$2,175,000
Acres	114,749	114,475
Fee Calculation (\$/acre)	\$18.95	\$19.00

Total difference in fee calculation: \$0.05/acre

The fee is proposed to remain the same for the next five years. The fee may be reduced by the Board if grant funding or outside contributions are secured as described above. However, the Board may not raise the fees beyond the amount shown in the Proposition 218 notice.

⁹ Non-assessable parcels include parcels made up of roads, the wildlife refuge, and other government parcels

¹⁰ Water Code § 10730(a).

SECTION 4: CONCLUSIONS AND RECOMMENDATIONS

4.1 Fee Comparison – State Intervention

MAGSA's proposed fees of \$18.95/acre under Option 1 or \$19.00/acre under Option 2 are supported by a detailed budget and reasonable engineering calculations, consistent with the requirements of Prop 218 for property-related water service fees. The per-acre fee is significantly less than fees that would otherwise be charged by the State Water Resources Control Board. SGMA authorizes SWRCB intervention for areas that fail to form a GSA or fail to adopt and implement an adequate GSP (as determined by the Department of Water Resources). If MAGSA is unable to raise funds to develop and implement an adequate GSP, the SWRCB could designate the basin as probationary and intervene to directly manage groundwater extractions and impose fees to recoup its costs of intervention.¹¹ The SWRCB's potential fees are provided in the following two tables.¹²

**Table 3: SWRCB Fee Schedule for Water Year 2018 [1]
McMullin Area Groundwater Sustainability Agency
Fee Study**

Parameter	Value	Basis
Base Reporting Fee	\$300	per well
Unmanaged Area Rate (Metered)	\$10	per acre-foot
Unmanaged Area Rate (Unmetered)	\$25	per acre-foot
Probationary Basin Rate [2]	\$40	per acre-foot
Interim Plan Rate [2]	\$55	per acre-foot
<i>De Minimis</i> [3]	\$100	per well
Late Fee	25%	of total fee amount per month

[1] Water Year 2018 starts October 1, 2017 and ends September 30, 2018.

[2] If a sub-basin is declared probationary, the SWRCB may impose "Probationary Basin" or "Interim Plan" fees depending on the level of intervention. In addition, the SWRCB may also require extractors to pay all costs associated with installing and maintaining meters. Fees are subject to change.

[3] *De minimis* fee, \$100, may be charged to domestic users if SWRCB decides extractions will be significant.

11 It should be noted that the SWRCB's fees are based on groundwater extraction, not a per-acre charge.

12 This information is also available [online](#).

**Table 4: Potential SWRCB Fees for Varying Groundwater Extraction Rates in a Probationary Basin
McMullin Area Groundwater Sustainability Agency
Fee Study**

Area [1]	Fee Breakdown			Total Unit Fees					
	Base Reporting	Probationary Basin	Interim Plan	Total Fee [2]		Per AF		Per Acre	
<u>10 acres</u>									
1 AF/acre	\$300	\$400	\$550	\$700 -	\$850	\$70 -	\$85	\$70 -	\$85
2 AF/acre	\$300	\$800	\$1,100	\$1,100 -	\$1,400	\$55 -	\$70	\$110 -	\$140
3 AF/acre	\$300	\$1,200	\$1,650	\$1,500 -	\$1,950	\$50 -	\$65	\$150 -	\$195
<u>100 acres</u>									
1 AF/acre	\$600	\$4,000	\$5,500	\$4,600 -	\$6,100	\$46 -	\$61	\$46 -	\$61
2 AF/acre	\$600	\$8,000	\$11,000	\$8,600 -	\$11,600	\$43 -	\$58	\$86 -	\$116
3 AF/acre	\$600	\$12,000	\$16,500	\$12,600 -	\$17,100	\$42 -	\$57	\$126 -	\$171
<u>1000 acres</u>									
1 AF/acre	\$1,500	\$40,000	\$55,000	\$41,500 -	\$56,500	\$42 -	\$57	\$42 -	\$57
2 AF/acre	\$1,500	\$80,000	\$110,000	\$81,500 -	\$111,500	\$41 -	\$56	\$82 -	\$112
3 AF/acre	\$1,500	\$120,000	\$165,000	\$121,500 -	\$166,500	\$41 -	\$56	\$122 -	\$167

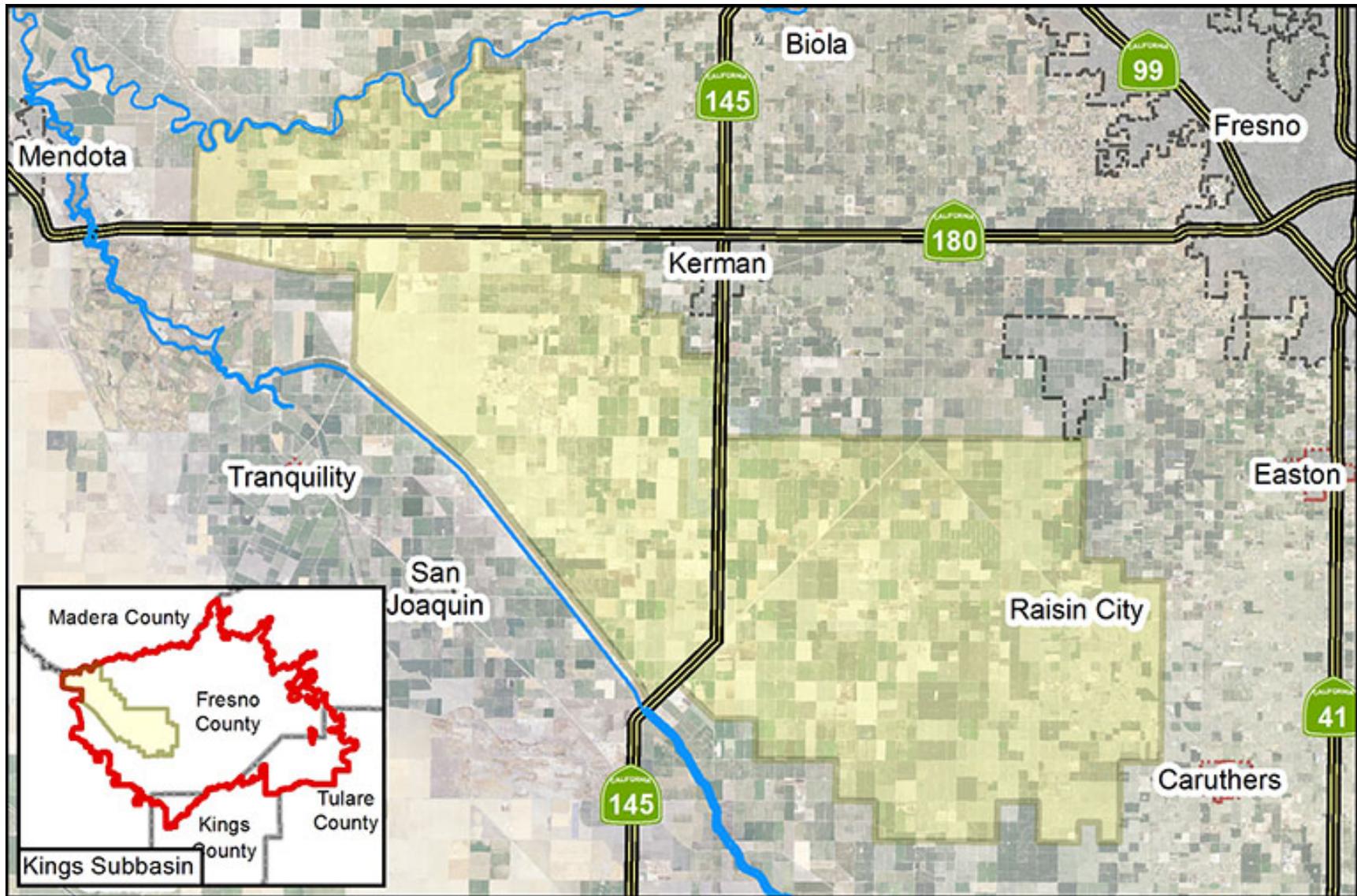
[1] Number of wells serving farmed areas is as follows: 10 acres, 1 well; 100 acres, 2 wells; and 1000 acres, 5 wells. Acre-feet is abbreviated "AF."

[2] A range of fees is provided in the "Total Fee" column to reflect varying levels of SWRCB involvement in a probationary basin. Upper and lower fee limits equal the "Base Reporting" plus "Probationary Basin" and "Base Reporting" plus "Interim Plan," respectively.

4.2 Fee Implementation and Adjustments

The fees calculated in this report were based on an assumed annual budget of approximately \$2.175 million. If the actual expenditure is less or if outside funds are secured, MAGSA should use excess funds for the benefit of the ratepayers in later years. In addition, the MAGSA Board may lower the fee at any time without conducting additional Proposition 218 noticing or hearings.

APPENDIX A: GSA BOUNDARY MAP



APPENDIX B: DETAILED 5-YEAR BUDGET
