

# **EAST STANISLAUS GROUNDWATER MANAGEMENT AUTHORITY GROUNDWATER DATA COLLECTION POLICY**

The Stanislaus County Water Advisory Committee considered and developed a proposed groundwater data collection policy for implementation by the East Stanislaus Groundwater Management Authority. The agreed upon policy is as follows:

## **1.0 Purpose**

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The purpose of this Groundwater Data Collection Policy ("Policy") is to establish a methodology for the East Stanislaus County Groundwater Management Authority (East Stanislaus GMA) to receive data from local public *and* private groundwater entities and to maintain the confidentiality of such data and to see that such data are protected from public disclosure.

## **2.0 Scope**

This Policy applies to all groundwater data that are currently in the possession of the East Stanislaus GMA and/or that the East Stanislaus GMA will acquire in the future.

## **3.0 Recitals**

- 3.1. WHEREAS, the East Stanislaus GMA is a Joint Powers Authority (JPA) agency formed pursuant to the Joint Exercise of Powers Act (Cal. Gov't Code section 6500, et seq.) and acts pursuant to the authority of its Members; and
- 3.2. WHEREAS, the mission of the East Stanislaus GMA is to manage, protect and sustain the groundwater resources within Stanislaus County, and to coordinate with other management entities and activities throughout the region; and
- 3.3. WHEREAS, the East Stanislaus GMA, in carrying out its mission, has need to acquire groundwater data (e.g. well location, geological information, water quality and water level data) from its Members and compile the data in a Data Management System; and
- 3.4. WHEREAS, the Members have developed or acquired confidential, technical and proprietary information relating to well construction, groundwater data and water quality information ("Confidential Information") and that all parties wish to ensure that the Confidential Information which may be disclosed pursuant to this Policy is treated in strictest confidence, consistent with the requirements of law; and
- 3.5. WHEREAS, such Confidential Information is not general public knowledge, is proprietary and/or confidential and is being disclosed on a limited basis, voluntarily, under the terms and conditions of this Policy; and
- 3.6. WHEREAS, the East Stanislaus GMA has received requests from both the public and its Members for the groundwater data it has acquired; and

- 3.7. WHEREAS, Members have requested the East Stanislaus GMA to respond to a data request on its behalf; and
- 3.8. WHEREAS, the California Public Records Act (Gov't Code section 6250, et seq.) declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in the state; and
- 3.9. WHEREAS, notwithstanding the intent of the California Public Records Act, the Act also exempts numerous types of information from public disclosure, including:
  1. Geological and geophysical data (Gov't Code section 6254(e));
  2. Well completion reports (Cal. Water Code section 13752);
  3. Disclosure of a public record to a public agency pursuant to an agreement to treat the material as confidential (Gov't Code section 6254.5(e)); and
  4. Any information where, based on the particular facts of the case, the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record (Gov't Code section 6255); and
- 3.10. WHEREAS, the East Stanislaus GMA and its Members agree that subject to the discretion of the individual Members, such Confidential Information is exempt from public disclosure but may be disclosed on a limited basis pursuant to the statutory provisions cited above, and they further agree not to dispute or in any manner contest or object to a Members determination or policy or policies in this regard; and
- 3.11. WHEREAS, the East Stanislaus GMA, as a public agency subject to the California Public Records Act, is in need of a written Policy for acquisition of data from its Members and to respond to internal and external data requests that ensures the confidentiality of the data are maintained.

NOW THEREFORE, BE IT RESOLVED THAT:

1. Members shall provide groundwater data to the East Stanislaus GMA under a claim of confidentiality and shall have all documents marked as confidential.
2. All data submitted to the East Stanislaus GMA by its Members shall be pursuant to an agreement to treat the material as confidential.
3. The East Stanislaus GMA shall maintain all groundwater data as confidential, pursuant to the claims at the time of submission. Only persons authorized in writing by the Executive Director of the East Stanislaus GMA shall obtain the confidential information on behalf of the East Stanislaus GMA and only for the purposes that are consistent with existing law.
4. The East Stanislaus GMA shall immediately notify a submitting member agency of any request for information from a member of the public in order to allow sufficient time to assert any exclusions or privileges that may be available by law.
5. The East Stanislaus GMA may not disclose any data to the public without the express authorization of the submitting Member.
6. The East Stanislaus GMA may assert any applicable exclusion or privilege, either on its own behalf or on behalf of a Member.

7. If any information is required to be disclosed pursuant to law or court order, the Member shall work with the East Stanislaus GMA to comply with the disclosure request while limiting the disclosure in a manner to preserve the confidential and proprietary nature of the Confidential Information.
8. To the extent that a Public Record Act request is made of the East Stanislaus GMA and the East Stanislaus GMA has been unable to convince the requestor to seek the data directly from the Member, the member/members whose data are being sought shall fully and completely defend, indemnify and hold the East Stanislaus GMA harmless for its costs with respect to asserted exclusions or privileges.
9. The East Stanislaus GMA shall disclose groundwater data to a Member on the condition that the Member agrees in writing to protect the confidentiality of the records and to limit their disclosure to persons who are employed or retained by the Member and who have signed an agreement to maintain the confidentiality of the records.
10. The East Stanislaus GMA shall disclose groundwater data to a public agency only if the public agency requires the information to perform its legally mandated duties and the public agency agrees in writing to protect the confidentiality of the records and to limit their disclosure to persons who are employed or retained by the public agency and who have signed an agreement to maintain the confidentiality of the records.