

North Kern Water Storage District
Landowner Groundwater Banking Principles
October 19, 2021

Principles

1. The District and landowners recognize the importance of maximizing the importation of surface water into the district area for the beneficial use by agricultural, groundwater sustainability, water storage and maintaining local productive agriculture.
2. The District's recharge capacity was developed for in-District purposes, primarily to regulate the District's highly variable Kern River water supplies and these purposes will continue to have the highest priority going forward.
3. The District has existing groundwater recharge assets and existing groundwater banking programs with other agency partners and landowners and desires to increase its recharge capacities by constructing additional facilities or gaining access to non-district owned recharge facilities.
4. Landowners desire to establish a groundwater banking project that provides a reliable source of water and the flexibility to use that supply to support their agricultural activities in the District area.
5. The District desires to establish a joint landowner groundwater banking program to incentivize landowners to share their privately owned recharge facilities to increase in-district recharge capacity. District desires to utilize an additional total landowner groundwater recharge capacity of 200 cfs. Landowner facilities, with reasonable recharge performance, will be accepted as project participants on a first come, first served basis. In the event total landowner interest exceeds the additional 200 cfs capacity, the District shall determine participation based on a recharge suitability ranking study.
 - a. Landowner banking agreements to be established on a 10-year term, with landowner option to extend agreement for an additional 5-year term with substantially equivalent provisions and conditions. Landowner can extend agreement for continuous multiple 5-year terms.
 - b. District to contribute equitably to construction costs of recharge facilities based on recharge capacity.
 - i. Surface recharge basins: District will contribute approximately \$4,000/acre or \$14,000 per cfs of recharge capacity to landowner's costs to construct surface basin facilities. Facility design and construction are to be done in collaboration with District.
 - ii. Sub-surface recharge systems: District will contribute approximately \$1,000/acre or \$14,000 per cfs of recharge capacity. Contribution is based on the cost to construct surface basins and their associated recharge capacities. Fluctuations in surface construction costs will impact sub-surface contributions and the District's cost contributions shall be appropriately adjusted. Landowner is responsible for the design, construction, installation, maintenance and costs of system.
 - iii. No additional contributions will be provided for term renewals of existing facilities.
 - iv. Existing recharge facilities can be considered for project and District will

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contribute same amount as described in section “i” and “ii” above, provided recharge facilities provide reasonable performance.

- c. For surface recharge basins, the District will pay an annual lease of \$257/acre for fallowed land, with an annual CPI adjustment for the benefit of eliminated agricultural demand. Land must remain fallow for agreement term with no irrigation activities.
- d. For surface recharge basins, the District will provide Fallowed Land Credit. The credit will be annually added to the landowner’s groundwater account in the amount of 1.5 acre-feet/acre/year for the benefit of eliminated agricultural demand.
- e. For surface recharge basins, the District will waive the annual Base Service Charge assessment.
- f. To avoid the process of determining priority use of landowner recharge facilities or the appearance of bias selection, groundwater recharge credits will be provided to the project participants based on total recharge activities that accrue to the District’s credit. Credits will be allocated to all participants regardless of District’s use of landowner’s facilities. A preliminary evaluation of potential recharge capacity and increased benefits to the District has determined that project participants will be provided a groundwater credit share based on the following:
 - i. Surface recharge basins – For each 1 cfs of recharge capacity, landowner will receive 0.011% credit of the District’s annual groundwater recharge and banking activities credited to the District. This is equivalent to an estimated 0.0027% credit for each 1 acre of recharge area. The average annual volume estimate to be credited to landowner is 1.5 acre-feet/acre.
 - ii. Sub-surface recharge systems – For each 1 cfs of recharge capacity, landowner will receive 0.011% credit of the District’s annual groundwater recharge and banking activities credited to the District. This is equivalent to an estimated 0.000675% credit for each 1 acre of recharge area. The average annual volume estimate to be credited to landowner is 0.38 acre-feet/acre.
 - iii. In determining landowner’s groundwater credit, District groundwater and banking activities under this Policy are those activities that establish groundwater storage or credit in North Kern’s name. Landowner groundwater credit calculation does not include water that is banked within the District and credited to other third-parties.
 - iv. Landowner credits from District recharge and banking activities begin accrual once District has deemed landowner recharge facility is complete.
- g. Any groundwater credits transferred to or applied to landowner’s groundwater bank account will not be water from the District’s 1952 Agreement or any other water that is limited to use within the District boundary.
- h. Any landowner owned surface water (non-District water) that is imported into the district and recharged in landowner’s facilities, the landowner will retain 75% credit and the remaining 25% will be credited to the District.
 - i. Landowner will be responsible for all costs and water losses associated with delivering surface water to District boundaries.

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- ii. District will endeavor to assist landowner with potential transfers and transportation but such deliveries are secondary in priority to all District water management activities and District is not obligated to perform such transfer.
 - i. Because of the District's contributions to landowner facilities, the District and landowner will have equal priority in landowner's recharge facility capacity with each having 50% recharge capacity.
6. District will maintain all groundwater bank account records. All groundwater banking and transfer activities shall be coordinated with the District.
7. In consideration of groundwater migration losses, in the 8th year of the 10-year term, landowner groundwater balances will be reduced by 5%. At the end of any renewed 5-year term, account balances will be reduced by 3%.
8. Operation and Maintenance
 - a. Surface recharge basins – The district is responsible for all operations and maintenance of surface recharge facilities, including all O&M costs, and delivering water to and into the basins. Landowner is responsible for any repairs or damage not related to the normal O&M.
 - b. Sub-surface recharge systems – The District is responsible for delivering recharge water to the landowner's turnout. District will operate and maintain turnouts and is responsible for its pro rata share of O&M costs beyond District's turnout. Landowner is responsible for all operations and maintenance, and the landowner's share of O&M costs beyond District's turnout.
9. The District has no obligation to extract landowner's banked groundwater on landowner's behalf.
10. Landowner may extract their banked water or use their groundwater credit anywhere within the District boundary. Any potential conveyance of landowner water through District facilities must be approved by District and are subordinate to District's operations.
11. Landowner can transfer in-ground groundwater credits to any neighboring district whose boundary abuts the District's boundary, provided such transfers are subject to that district's approval, SGMA, GSPs, or any other legal or regulatory compliance requirement.
12. Landowners can request their extracted groundwater credit be conveyed out of district but actual surface transfer is subject to secondary capacity to District's operations and water management, facility capacities, CEQA or NEPA compliance, SGMA, GSPs, or any legal or regulatory requirements. Landowners are responsible for all costs associated with such surface transfer that includes, but not limited to, conveyance charges, power costs, and any losses.
13. Landowner banking project does not entitle landowner to any rights to ownership or priority use of District facilities or water resources, otherwise described as part of the project.
14. District's contribution to the costs of landowner's recharge facilities does not establish ownership in such facilities or land. This landowner banking project shall not establish District claim to full or partial ownership in such facilities on landowner's property. Landowner will grant District access to recharge facilities.

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15. Subject to existing landowner banking agreements, the District will utilize its groundwater recharge facilities as follows:
 - a. First to regulate Kern River, Poso Creek, and other water supplies available directly to the District (such as CVP Friant Division Section 215 supplies) to support groundwater levels in the District for the benefit of District landowners.
 - b. Second to fulfill obligations under existing “high priority” water banking and exchange agreements (Kern-Tulare; Paramount-Root Creek).
 - c. Third to fulfill obligations under future additional high priority water banking and exchange programs with third parties (including District landowners) that provide water supply and/or financial benefits to the District. The District will only “allocate” recharge capacity to third parties with “proven” water supplies/contracts who commit to bank minimum quantities of these supplies with the District subject to hydrological constraints.
 - d. Fourth to fulfill obligations under existing “low priority” water banking and exchange agreements (Delano-Earlimart).
 - e. Fifth to fulfill obligations under future “low priority” water banking and exchange agreements.
16. On an annual basis, District will evaluate groundwater banking performance and determine if there is a need to revise to formulas set forth in the policy for cost contributions by District and groundwater credit shares. Additionally, if total participation by landowners is significantly below the total 200 cfs goal then District may revise its contributions and/or groundwater credit shares or provide other incentives to increase participation.
17. Liability protections and indemnification will be established to protect District and landowners from the other’s respective activities related to groundwater recharge and banking. Liability and indemnification statements shall appropriately include, but are not limited to, losses or claims related to the use of water, alleged patent infringements, property damage, personal injury, and legal or regulatory requirements. (Actual language to be included in agreements)