SANTA CRUZ MID-COUNTY GROUNDWATER AGENCY

Groundwater is a vital resource, together let's protect it.

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Policy No.: 4 (Version 3)	**Policy Title**: Electronic Mail (Email)
Adopted Date: 5/16/2019	**Approval Resolution No**.: None
Policy Description: Provides guidance on the use of emails for Agency business.	

PURPOSE AND APPLICABILITY

Santa Cruz Mid-County Groundwater Agency establishes the Electronic Mail (Email) Policy. This policy is to encourage the use of Agency email accounts for all Agency business and to provide guidance on the use of Agency email accounts.

POLICY

See attached.

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Electronic Mail (Email) Policy

PURPOSE AND APPLICABILITY

The intent of this policy is to encourage the use of MGA member-agency or Santa Cruz Mid-County Groundwater Agency (MGA) email accounts for all MGA business. The policy establishes the MGA Email System to make available MGA email accounts for MGA Board of Directors or Committee members not affiliated with an MGA member agency.[1]

The policy provides brief guidance related to the use of email and the Ralph M. Brown Act. It also provides a brief summary of the California Public Records Act (CPRA) and notifies Board or Committee members of their possible obligation, in the event of CPRA request, to search for and provide MGA pubic records located in private email accounts, on cell phones or other devices, or in hard copy files.

THE MGA EMAIL SYSTEM

The MGA Email System establishes individual MGA email accounts with the domain @midcountygroundwater.org aviable to MGA Board or Committee members that do not utilize an email address provided by their MGA member agency. Email accounts will also be established for MGA agency purposes (e.g., contact@; admin@). Any Board or Committee member may request MGA administrative support related to the use and management of the MGA Email System and public inquiries submitted to MGA email accounts.

All messages, attachments, and images sent or received within the MGA Email System are the property of the MGA. There is no expectation of privacy for any communication within the MGA Email System.

The MGA has an obligation to ensure that the MGA Email System operates efficiently in a secure environment free from unauthorized use and virus/malware attacks. If necessary, with advance notice, the MGA may limit the type of email attachments and apply unsolicited commercial email (UCE) blocking.

The MGA Email System is intended for the transmission and short-term storage of information. Best email management practices encourage reading, responding to, and deleting emails that do not need to be preserved. An email intended to be saved

[1] Only Committees subject to the Brown Act under California Government Code Section 54952(b).

should be moved into an email folder or printed and saved in hard copy. All email messages within the MGA Email System not stored in email folders will be deleted on a rolling basis after 60 days. If necessary, with advance notice, the MGA may limit the storage capacity of MGA email accounts.

Email messages within the MGA Email System may constitute a public record subject to disclosure. In the event of a CPRA request, the MGA will search for responsive records in individual email accounts within the MGA Email System. The MGA will not be liable for the disclosure of any information located within the MGA Email System.

In the event of a CPRA request, any Board or Committee who has used or continues to use a private email account for MGA business will be required to follow the procedures below regarding the search of a private email account for MGA records.

The following guidelines apply to individual MGA email accounts:

- Email communications within MGA Email System shall be appropriate, courteous and professional in nature. Messages of a personal, confidential or sensitive nature should not be exchanged through the MGA Email System.

- Email communications within the MGA Email System shall not to be used for intentionally misleading, inaccurate, intimidating, embarrassing, sexually explicit, profane, obscene, or defamatory remarks. Email communications shall not be used to discriminate against or harass any person on the basis of race, religion, color, creed, age, marital status, national origin, ancestry, gender, sexual orientation, medical condition or disability.

- While the use of an MGA email account may result in incidental personal use, account holders are responsible for exercising good judgment regarding the reasonableness of any personal use.

If the MGA Member Agency Executive Team has reason to believe that the guidelines governing the MGA Email System have been violated, the MGA may randomly examine the contents of emails to ensure compliance with this policy. Any apparent violations of the policy will be reviewed by the MGA Executive Team. Any established violation may result in the suspension of an individual MGA email account.

EMAIL AND THE BROWN ACT

The information in this section is based upon guidance in *Open and Public V: A Guide to the Brown Act* by the League of California Cities (April 2016).

The purpose of the Brown Act is to assure that local government agencies conduct the public's business openly and publicly. The Brown Act applies to meetings among a majority of the members of a government body regarding the subject matter of the government body's business. While the Brown Act does not generally apply to the conduct of individual decision-makers, Board and Committee members are advised to exercise caution in the use of email to ensure it is used in a manner consistent with the Brown Act. The Brown Act prohibits a majority of the members of a legislative body using a series of communications of any kind to privately discuss, deliberate, or take action on any item of business within the subject matter of the jurisdiction of the legislative body. Common practices such as forwarding and replying to email messages regarding deliberations or decision-making on agency-business could constitute a "serial meeting" prohibited by the Brown Act. The MGA advises Board and Committee members to generally avoid the use of the "reply to all" option in responding to emails on matters of agency business as it may inadvertently result in a Brown Act violation. Board and Committee members are encouraged to review the League of California Cities *A Guide to the Brown Act* and consult with MGA administrative support staff if they have any related questions.

PUBLIC RECORDS LOCATED IN PERSONAL EMAIL ACCOUNTS, CELL PHONES OR OTHER PERSONAL DEVICES, OR IN HARD COPY FILES

The California Public Records Act

The CPRA defines a public record as any writing that contains information relating to the conduct of the public's business that is prepared, owned, used, or retained by a state or local agency. In 2017, the California Supreme Court held that public records located on the private email account of a public employee or public official may be deemed to be retained by the public agency and are subject to disclosure.

The MGA Response to CPRA Request

If the MGA reasonably believes that MGA records identified in a CPRA request may be located within a Board or Committee member's personal email accounts, cell phone or other personal device, or hard-copy files, the Board or Committee member will be notified by MGA.

A Board or Committee member will be required to conduct a search for any records identified in the CPRA request and provide electronic and hard copies of responsive records to the MGA for review and possible production.

Verification

A Board or Committee member will be required to sign a Verification stating that he or she has searched all private email accounts, cell phones or other personal devices and hard copy files for MGA public records. The Verification requires the disclosure of each responsive MGA public record, along with its location, or a statement that no public records were found, along with a factual basis for that determination.

A sample MGA Verification form is attached to this policy.

In the event litigation arises over the records produced pursuant to a CPRA request, Verifications may be presented to a court as part of those proceedings.