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1994 - Monterey County Water Resources Agency Ordinance 03790

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Monterey County
Water Resources Agency

Ordinance No. 03790

AN ORDINANCE OF
THE MONTEREY COUNTY WATER RESOURCES AGENCY
ESTABLISHING REGULATIONS FOR THE CLASSIFICATION,
OPERATION, MAINTENANCE AND DESTRUCTION OF
GROUNDWATER WELLS IN MCWRA ZONE 2B,
TO PROTECT THE SALINAS VALLEY GROUNDWATER BASIN
AGAINST FURTHER SEAWATER INTRUSION

COUNTY COUNSEL SUMMARY

This ordinance provides for the management of all groundwater wells within the Castroville Seawater Intrusion Project area, known as Zone 2B, following completion and start-up of the Castroville Seawater Intrusion Project. It prohibits and otherwise restricts pumping from groundwater wells in Zone 2B, and it provides for the classification of the various wells, for the maintenance and limited operation of standby wells, and for the destruction of abandoned wells, contaminated wells, wells that allow cross-contamination of aquifers in intruded areas, and other wells. The ordinance establishes a procedure for the destruction of wells, a variance procedure, an appeals procedure, and penalties for violations of the ordinance.

The Board of Supervisors of the Monterey County Water Resources Agency makes the following findings:

A. Appropriate studies have been conducted by the Monterey County Water Resources Agency (MCWRA), and based upon those studies, the Board of Supervisors determines that the portion of the Salinas Valley Groundwater Basin that underlies MCWRA Zone 2B is threatened with the loss of a usable water supply as a result of seawater intrusion into that portion of the groundwater basin, in each of the aquifers at all depths underlying Zone 2B.

B. Pursuant to the MCWRA Act, West's Water Code Appendix, Chapter 52, section 52-22, the Board determines that it is necessary to take steps prohibiting and otherwise restricting the withdrawal of water from the portion of the Salinas Valley Groundwater Basin underlying Zone 2B, in order to deter the further intrusion of underground seawater in Zone 2B, by establishing and defining the area and depth from which the further extraction of groundwater is prohibited.

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C. The Board has conducted a public hearing upon the proposed determination, with notice of the hearing given in the manner prescribed in Government Code Sec. 6065. At the hearing, the Board accepted evidence showing the nature and extent of the threat of seawater intrusion and the facilities proposed in order to provide to the area threatened a substitute supply of surface water.

D. Said hearing having been concluded, the Board determines that a threat of seawater intrusion exists which will be aggravated by continued groundwater extraction in the 180-foot aquifer, the 400-foot aquifer, and the deep aquifer, at all depths therein underlying Zone 2B, and that the prohibitions and restrictions on the pumping of groundwater in these aquifers are necessary in order to alleviate the seawater intrusion problem. The Board further determines that the Castroville Seawater Intrusion Project (CSIP) will provide a substitute water supply that will be adequate to replace the water supply previously available from the wells that will be affected by the prohibition against pumping.

E. The CSIP is designed to supply all of the agricultural water needs in Zone 2B. This water will be obtained from the Salinas Valley Reclamation Project (SVRP) and from the supplemental wells that will be maintained and operated by the MCWRA as part of the CSIP. Water from the SVRP will provide the basic water supply for the CSIP, and water from the supplemental wells will be used to meet peak demands during the heavy irrigation season and to provide a backup water supply when the SVRP does not produce its full quota of water.

F. Property owners and growers in Zone 2B have requested that additional wells be maintained as standby wells, as an additional assurance that an adequate water supply will be available at all times. The ultimate success of the CSIP depends upon the reduction of groundwater pumping from Zone 2B. However, the maintenance of standby wells at the expense of owners is an appropriate action and will not compromise the success of the CSIP if such standby wells are maintained and operated under the limitations set forth in this ordinance.

G. The CSIP and the regulations set forth in this ordinance are designed as measures to protect the groundwater supply in the northern part of the Salinas Valley Groundwater Basin. They are not intended to effect any diminution in the basic groundwater rights held by overlying owners in the area subject to regulation but are put into effect in furtherance of the MCWRA's duty to manage the Salinas Valley Groundwater Basin and to protect the water supplies therein. By complying with these regulations and by participating in the CSIP, the overlying owners do not waive or prejudice any water rights held by them, now or in the future. If at some time in

the future, these regulations or any successor regulations are no longer necessary to protect the groundwater basin and are then modified or removed, then the groundwater rights of the overlying owners in Zone 2B will be exercisable in conformity with such laws as may then be in effect, and the overlying owners will suffer no prejudice in that regard because of the CSIP, these regulations, or any successor regulations.

H. On April 7, 1992, in Resolution No. 92-126, the Board of Supervisors described and approved the Castroville Irrigation System (now known as the Castroville Seawater Intrusion Project or CSIP), as a separate project within the Salinas Valley Seawater Intrusion Program, and certified that the Final EIR for the project (CSIP EIR) was complete and was prepared in compliance with the California Environmental Quality Act. As so described and approved, the project included the proposed enactment of an ordinance to prohibit or restrict the further pumping of groundwater from within Zone 2B. The present ordinance is consistent with the ordinance described and approved in Resolution No. 92-126 and in the CSIP EIR certified therein; it is proposed as part of the CSIP and is within the scope of the project described in the CSIP EIR; it will cause no new environmental effects beyond those considered in the CSIP EIR and no new mitigation measures need be considered for this ordinance; and it does not require further environmental review.

NOW, THEREFORE, the Board of Supervisors of the Monterey County Water Resources Agency ordains as follows:

SECTION 1. The following provisions are adopted:

PART I -- DEFINITIONS

1.01.01. GENERAL APPLICATION

As used in this ordinance, the following words shall have the meaning provided in this part.

1.01.02 ABANDONED WELL

"Abandoned Well" means any well whose original purpose and use have been permanently discontinued or which is in such a state of disrepair that it cannot be used for its original purpose. A well is deemed to be an abandoned well when it has not been used for a period of one year, unless the owner demonstrates his or her intent to use the well again for supplying water or other associated purposes. A well classified under this ordinance as a standby well shall not be deemed to be an abandoned well for as long as such classification remains in effect, despite any period of non-use of such well.

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1.01.03 AQUIFER STORAGE AND RECOVERY (ASR) WELL

An "aquifer storage and recovery (ASR) well" is a well proposed, maintained, or operated by the MCWRA or by the Monterey Regional Water Pollution Control Agency as part of an aquifer storage and recovery project.

1.01.04 CATHODIC PROTECTION WELL

"Cathodic Protection Well" means any artificial excavation in excess of fifty feet in depth constructed by any method for the purpose of installing equipment or facilities for the protection electronically of metallic equipment in contact with the ground, commonly referred to as cathodic protection.

1.01.05 COMMERCIAL OR INDUSTRIAL WELL

"Commercial or industrial well" means any well used to supply water for commercial or industrial purposes, excluding any well that is used in whole or in part to supply water for agricultural irrigation. A commercial or industrial well may also be classified as a domestic well, provided that it shall not also be classified as a standby well.

1.01.06 DOMESTIC WELL

"Domestic well" means a well used for the supply of groundwater for potable uses. A domestic well may also be classified as a standby well for agricultural use.

1.01.07 GENERAL MANAGER

"General Manager" means the MCWRA General Manager or his or her designee.

1.01.08 GENDER, NUMBER, AND TENSE

Words used in any gender include any other gender. The singular number includes the plural, and the plural the singular. Words used in the present tense include the future as well as the present.

1.01.09 MONITORING WELL

"Monitoring Well" means any artificial excavation constructed by any method for the purpose of monitoring fluctuations in groundwater levels, quality of underground waters, or the concentration of contaminants in underground waters.

1.01.10 PERSON

"Person" means any individual, organization, partnership, business, association, corporation or governmental agency.

1.01.11 PROJECT START-UP

"Start-up of the Castroville Seawater Intrusion Project" or "project start-up" means the date on which the General Manager declares that the project known as the Castroville Seawater Intrusion Project is operational after reclaimed water is first delivered or deliverable through the project pipeline to all customers in MCWRA Zone 2B for agricultural irrigation.

1.01.12 PROJECT WATER

"Project water" means water supplied to property in Zone 2B by the Castroville Seawater Intrusion Project for use in the irrigation of crops.

1.01.13 SEAWATER INTRUDED

An aquifer is "seawater intruded" at any particular location of measurement when, at the location of measurement, the chloride ion concentration in the aquifer exceeds 500 mg/liter, and the General Manager determines that the contamination is not a localized contamination.

1.01.14 SECTION HEADINGS

Section headings used in this ordinance shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any section.

1.01.15 STANDBY WELL

"Standby Well" means a well not routinely operated but maintained by the well-owner for purposes of providing a water supply to the well-owner's property under emergency conditions.

1.01.16 SUPPLEMENTAL WELL

"Supplemental Well" means any well maintained or operated by the MCWRA as a part of the Castroville Seawater Intrusion Project.

1.01.17 TEST WELL

"Test Well" means any artificial excavation used for water quality testing, electric logging, water quantity testing and/or

other tests to determine aquifer quality and quantity characteristics.

1.01.18 WELL

"Well" or "water well" means any artificial excavation constructed by any method for the purpose of extracting water from, or injecting water into, the underground. "Well" or "water well" does not include wells used for the purpose of dewatering excavation during construction or for the purpose of stabilizing hillsides or earth embankments.

1.01.19 ZONE 2B

"MCWRA Zone 2B" or "Zone 2B" means the zone of benefit identified as Zone 2B and established by the MCWRA Board of Supervisors for the Castroville Irrigation System, now known as the Castroville Seawater Intrusion Project, in MCWRA Ordinance No. 3635, Section 4. The initial boundaries of Zone 2B are described in MCWRA Board of Supervisors Resolution No. 92-363 and may be amended from time to time.

PART II -- BASIC RULES.

1.02.01 COMPLIANCE WITH ORDINANCE

No person shall construct, own, operate, or maintain any water well located within the boundaries of MCWRA Zone 2B, as those boundaries may exist from time to time, except in compliance with this ordinance.

1.02.02 OPERATION OF WELLS IN ZONE 2B

After the expiration of 30 days following the date on which project water becomes available to any particular property within Zone 2B, no person shall operate any well within Zone 2B to provide water to such property for agricultural irrigation except when:

A. the well is a supplemental well operated by the MCWRA, or

B. the well is a standby well operated in conformity with this ordinance.

1.02.03 IMPORTING GROUNDWATER INTO ZONE 2B

After the start-up of the Castroville Seawater Intrusion Project, no well located anywhere in the Salinas Valley Groundwater Basin shall be used to supply water for use in the irrigation of

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agricultural lands located within Zone 2B, and no person shall cause, suffer, or permit such use of such water, unless:

A. the well from which such water is obtained is a supplemental well operated by the MCWRA as part of the Castroville Seawater Intrusion Project or the well is operated by the MCWRA as part of another water supply project, or

B. the well from which such water is obtained is a standby well operated in conformity with this ordinance.

1.02.04 EXPORTING GROUNDWATER FROM ZONE 2B

After the start-up of the Castroville Seawater Intrusion Project, no well located anywhere within the external boundaries of Zone 2B (including wells that are located within Zone 2B and wells that are located within island exclusions from Zone 2B that are surrounded by Zone 2B) shall be used to supply water for use outside of the external boundaries of Zone 2B, and no person shall cause, suffer, or permit such use of such water, except that water from wells within the external boundaries of Zone 2B may be used outside the external boundaries of Zone 2B under the following circumstances:

A. The water is used for domestic purposes on parcels that are immediately adjacent to the external boundaries of Zone 2B; or

B. The water is used for domestic purposes on other parcels where the use has been established and water delivery pipelines are in place for such delivery on or before the effective date of this ordinance.

1.02.05 DESTRUCTION OF WELLS

After the start-up of the Castroville Seawater Intrusion Project, no person shall own, operate, or maintain a well in Zone 2B if such well is required to be destroyed, in violation of such destruction requirement, and no person shall interfere with actions taken by the MCWRA to accomplish the destruction of such a well in conformity with this ordinance.

1.02.06 COMPLIANCE WITH CHAPTER 15.08 STANDARDS

Except as otherwise expressly provided herein, all wells located in Zone 2B shall conform with all of the provisions of Chapter 15.08 of the Monterey County Code.

1.02.07 CONSTRUCTION OF WELLS

No person may construct a well in Zone 2B without first obtaining a permit from the General Manager. The General Manager shall not issue a permit for construction of a well unless he or she finds that the construction will be consistent with the purposes of this ordinance and that the proposed well will be of a type specified in section 1.02.08.C, subsections 1-8.

1.02.08 CLASSIFICATION OF WELLS

A. Prior to the start-up of the Castroville Seawater Intrusion Project, the General Manager shall classify all wells located in Zone 2B and notify all well owners of the classification of their well.

B. At any time, the owner of a well may apply to the General Manager for a change in classification, pursuant to this ordinance. Upon receipt of new information or upon evidence of changed conditions, the General Manager may, on his or her own initiative, change the classification of a well, upon giving 30 days' advance notice in writing to the owner thereof. Before making any reclassification, the General Manager must find that the well no longer qualifies for its existing classification, or that the existing classification was made in error. The General Manager may, and at the request of the well owner, shall hold a public hearing to determine the appropriate classification or reclassification of any well.

C. The well classifications are as follows:

1. Supplemental well.
2. Aquifer storage and recovery (ASR) well.
3. Domestic well.
4. Commercial or industrial well.
5. Monitoring well.
6. Test well.
7. Cathodic protection well.
8. Standby well.
9. Abandoned well.
10. Other well.

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D. When a well is classified or reclassified as a domestic well or as a commercial or industrial well, the General Manager shall identify by parcel number and/or street address the place where water from such well may be used, and may restrict the use of such water to a portion of the identified parcel.

PART III -- WELL DESTRUCTION

1.03.01 GENERAL RULE GOVERNING DESTRUCTION OF WELLS

Except as otherwise provided herein, all wells which are located in Zone 2B shall be destroyed in conformity with the provisions of this ordinance. The destruction of any well located in MCWRA Zone 2B shall be governed by this ordinance, and Chapter 15.08 of the Monterey County Code shall not be construed to require the destruction of any well located in Zone 2B. Chapter 15.08 of the Monterey County Code shall apply to the destruction of wells in Zone 2B only to the extent that reference is made herein to such Chapter 15.08.

1.03.02 WELLS EXEMPT FROM DESTRUCTION

The following wells which have not been abandoned and which do not fit within the description in Section 1.03.04.B are exempt from destruction, for as long as they are so classified:

- A. Supplemental wells.
- B. ASR wells.
- C. Domestic wells.
- D. Commercial or industrial wells.
- E. Monitoring wells.
- F. Test wells.
- G. Cathodic protection wells.
- H. Standby wells.
- I. A well for which an application is pending for a classification that would exempt the well from destruction, provided that the applicant makes every reasonable effort to have the application determined promptly.

1.03.03 PREVIOUSLY ABANDONED WELLS

A. Each well abandoned prior to the start-up of the Castroville Seawater Intrusion Project shall be destroyed by the owner thereof in accordance with the methods prescribed or referenced in Monterey County Code Chapter 15.08. All costs associated with destruction of such wells shall be borne by the well owner.

B. If any well required to be destroyed by its owner pursuant to this section is not destroyed before the expiration of two years after project start-up, then the General Manager may cause the well to be destroyed, pursuant to the procedures specified below, in section 1.03.06, except that the cost of such destruction shall be charged to the property owner. The MCWRA may file a civil action against the owner to collect such cost, or the amount may be collected in any criminal proceeding against the owner for failure to destroy the well.

1.03.04 CONTAMINATED AND CROSS-CONTAMINATING WELLS

Each well meeting any of the criteria set forth below, other than wells which are required to be destroyed pursuant to Section 1.03.03, shall be destroyed by the MCWRA within two years after start-up of the Castroville Seawater Intrusion Project. All costs for destruction of such wells shall be borne by the MCWRA. The General Manager may extend the time for destruction of such wells when funds are not available or budgeted for such purpose. The criteria for such wells are as follows:

A. Any well that is found by the General Manager to be perforated in both the 180-foot aquifer and any underlying aquifer.

B. Any well that is found by the General Manager to have perforations in two aquifers, improper seals, or other improper construction or condition of the well, such that the well provides an actual or potential conduit for water in a seawater intruded area of an aquifer to enter a non-intruded area of a separate aquifer.

1.03.05 DESTRUCTION OF NON-EXEMPT WELLS

Each well that is not exempt from destruction, and that is not required to be destroyed pursuant to section 1.03.03 or 1.03.04, shall be destroyed pursuant to this section in conformity with a schedule adopted by the MCWRA Board of Directors. Said schedule shall provide that the destruction of such wells shall not begin (a) until the Castroville Seawater Intrusion Project has established a satisfactory record of water deliveries, as determined by the Board of Directors, or (b) until at least one year after the start-up of the Castroville Seawater Intrusion Project, whichever occurs later.

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Said schedule may provide for destruction to be completed within three years after project start-up. The Board of Directors may delegate authority to the General Manager to amend the schedule from time to time. Said wells shall be destroyed by the MCWRA in accordance with the methods prescribed or referenced in Monterey County Code Chapter 15.08. The MCWRA shall bear the cost of such destruction.

1.03.06 PROCEDURE FOR DESTRUCTION OF WELLS

At least 90 days before the MCWRA destroys any particular well, the General Manager shall give written notice to the owner of the well that the well will be destroyed. Notice shall be deemed sufficient if sent by registered or certified U.S. mail, return receipt requested, to the name and address shown as that of the owner of the real property on which the well is located, in the latest available official records of the Monterey County Assessor. The notice shall identify the well in question and the property on which it is located and shall advise the owner of the proposed action to be taken, the proposed timing of the action, and his or her right of appeal as provided herein. The notice shall further state that if the property on which the well is located is leased, the owner must provide a copy of the notice to the tenant, and tenant on the property will also have a right of appeal.

PART IV -- STANDBY WELL CLASSIFICATION.

1.04.01 CRITERIA FOR CLASSIFICATION AS STANDBY WELL

The General Manager shall classify a well as a standby well, whether on the initial classification or on a change in classification, if he or she makes both of the following findings:

A. The well does not meet any of the criteria for destruction described in Section 1.03.04 of this ordinance.

B. The owner of the well will comply with all of the requirements of this ordinance applicable to standby wells.

1.04.03 INSPECTIONS

The MCWRA may at any time inspect any standby well and any well for which the owner submits an application for classification as a standby well, to ensure that the well and its appurtenant facilities do or will comply with this ordinance. Access to the well site shall be maintained by the well owner, and the MCWRA shall have the right of access to inspect the well at all times.

PART V -- STANDBY WELL REGULATIONS.

1.05.01 GENERAL RULE

A well that has been classified as a standby well shall immediately thereupon be subject to the regulations set forth below.

1.05.02 FLOWMETER

A flowmeter shall be installed on all of the standby wells at the expense of the well owner and shall be fully maintained by the owner in accordance with MCWRA requirements.

1.05.03 ACCESS

Access to the standby well site shall be maintained by the well owner, and the MCWRA shall have the right of access to inspect the well at all times.

1.05.04 USE OF STANDBY WELLS DURING FIRST TWO YEARS AFTER PROJECT START-UP

During the first 24 months after project start-up, standby wells may be used intermittently to supply irrigation water to lands within Zone 2B, without regard to whether an emergency exists. The purpose of this section is to enable growers and the Agency to make the transition from reliance on well water to reliance on project water with a minimum of interruption in the grower's water supply.

1.05.05 AUTHORIZED PURPOSES FOR OPERATION OF STANDBY WELLS

Standby wells may be operated only for the following purposes:

- A. To perform routine maintenance on the standby well;
- B. To provide an irrigation water supply for property in Zone 2B in an emergency as described in section 1.05.06;
- C. To provide potable water when the standby well is used as a domestic well.
- D. To provide a water supply for the irrigation of any crop or crops for which irrigation with water supplied by the project is prohibited by any law, rule or regulation established by any entity or agency with authority over the irrigation of such crops.

1.05.06 EMERGENCY JUSTIFYING OPERATION OF STANDBY WELL

An emergency exists and justifies use of standby wells when all of the following circumstances occur:

A. The grower has given advance notice of his or her need for project water and a schedule for delivery of water to the grower's property has been set, in conformity with procedures established by the MCWRA; and

B. The MCWRA fails to deliver project water on schedule; and

C. The grower then makes contact with the MCWRA by telephone and the MCWRA confirms that the water will not be delivered on the day scheduled for delivery.

1.05.07 COMPLIANCE WITH HEALTH DEPARTMENT REGULATIONS

No standby well shall be used as a domestic well unless such use is in compliance with applicable health regulations, and unless the well is maintained in compliance with such health regulations.

1.05.08 OWNERSHIP

Standby wells shall remain under private ownership, and are not the property of the MCWRA.

1.05.09 COSTS OF MAINTENANCE AND OPERATION

All costs associated with maintenance and operation of standby wells shall be borne by the owner or operator of said well, or by such other person as may agree to assume such costs.

PART VI -- VARIANCES.

1.06.01 APPLICATION

Any person may, at any time, apply in writing for a variance from the strict application of this ordinance. The application for the variance shall be filed with the MCWRA. The General Manager may dispense with the requirement of a written application upon finding that an emergency condition requires immediate action on the variance request.

1.06.02 PLAN FOR COMPLIANCE

The applicant shall, as part of the variance application, submit a plan describing how and when the applicant will comply with this ordinance without the need for a variance. Compliance with

(WELLORD8.ORD - 11/1/94)

this plan, as presented by the applicant or as modified by the General Manager, shall be a condition of granting the variance. The General Manager may waive the requirement for such a plan if he or she finds that compliance would not be feasible.

1.06.03 FINDINGS FOR GRANT OF VARIANCE

The General Manager may grant a variance from the terms of this ordinance upon making the finding that the strict application of the ordinance would create an undue hardship, or that an emergency condition requires that the variance be granted.

1.06.04 CONDITIONS ON GRANT OF VARIANCE

In granting a variance, the General Manager may impose any conditions in order to ensure that the variance is consistent with the overall goals of this ordinance. Variances may be granted for a limited period of time. The variance and all time limits and other conditions attached to the variance shall be set forth in writing, and a copy of the written variance shall be provided to the applicant.

1.06.06 COMPLIANCE WITH TERMS OF VARIANCE

No person shall operate or maintain a groundwater well for which a variance has been granted hereunder, or use water therefrom, in violation of any of the terms or conditions of the variance.

PART VII -- APPEALS

1.07.01 PUBLIC HEARING RIGHTS OF APPLICANTS AND INTERESTED PARTIES

Applicants may attend all public meetings and public hearings held by the General Manager on their applications and may submit such written and documentary evidence as may be relevant to the consideration of an application, whether or not a public meeting or hearing is held. Any interested person, other than an applicant, may also attend the public meetings or public hearings at which the General Manager considers an appealable decision and may submit such written and documentary evidence as may be relevant to the consideration of an application, whether or not a public meeting or hearing is held, provided that such party shall simultaneously submit copies of all such information to the applicant and shall show proof of such submittal to the General Manager along with the written information provided to the General Manager. Any such interested person may then, in writing, request a copy of the General Manager's written decision.

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1.07.02 RIGHT OF APPEAL

Any applicant or interested party may appeal any decision by which the General Manager (a) orders the destruction of any privately owned well under this ordinance, (b) grants or denies a variance, permit, classification, or reclassification under this ordinance; (c) gives or withholds any consent when such consent is established by this ordinance as a prerequisite to further action; or (d) imposes conditions on any such variance, permit, classification, reclassification, or consent. No person may file an appeal of a decision made after a public meeting or hearing on the issue unless that person attended the meeting or hearing upon which the appealable decision was based and expressed his or her concerns orally or in writing at that meeting or hearing, or unless such person filed papers with the general manager setting forth such person's concerns prior to such meeting or hearing.

1.07.03 PROCEDURE ON APPEAL

A. Any appeal authorized by this ordinance shall be filed and processed as provided in the section of Ordinance No. 3539, as now in effect or as subsequently amended or superseded, pertaining to appeals, and as further supplemented in this ordinance. Any appeal must be in writing and must state the grounds upon which the appeal is made.

B. Any appeal must be filed with the general manager no later than ten days after the date the general manager issues an appealable decision, except that an appeal from a decision ordering the destruction of a privately owned well must be made no later than 60 days after the date the general manager issues the decision. A decision is issued when the decision is set forth in writing and personally delivered to the applicant, or on the fifth day after mailing said decision to the applicant, to the address provided by the applicant for such mailing. As to an interested person (other than an applicant) who has requested a copy of the written decision, the General Manager's written decision is issued when it is personally delivered to such person or on the fifth day after mailing said decision to such person, to the address provided by such person for such mailing.

C. The appeal of any decision made by the General Manager following a public meeting or public hearing shall be limited to the issues raised at the public meeting or hearing and thereafter specified in the written appeal. The appeal of any decision made by the General Manager without a public meeting or public hearing may consider any issue that might have been raised at a public hearing or meeting, provided that such issue must be specified in the written appeal.

D. At the hearing on appeal, the hearing board will consider de novo the issues that are before the board on the appeal.

PART VIII -- PENALTIES.

1.08.01 INFRACTION

Any person who violates any provision of this ordinance is guilty of an infraction.

1.08.02 PUBLIC NUISANCE

Any violation of this ordinance is hereby declared to be a public nuisance.

1.08.03 CONTINUING VIOLATIONS

Any violation which occurs or continues to occur from one day to the next shall be deemed a separate violation for each day during which such violation occurs or continues to occur.

1.08.04 FINE

A. Any person who violates any provision of this ordinance which prohibits or restricts the pumping of groundwater shall be assessed a fine of \$100 for each acre-foot (or portion thereof) of water pumped in violation of this ordinance.

B. Any person who violates any other provision of this ordinance shall be assessed a fine of \$100 for each violation.

1.08.05 LIABILITY FOR COSTS OF ENFORCEMENT

Any person who violates this ordinance shall be liable for the cost of enforcement, which may include but need not be limited to the following:

- A. Cost of investigation
- B. Court costs
- C. Attorney fees
- D. Cost of monitoring compliance

PART IX -- CONCLUDING PROVISIONS

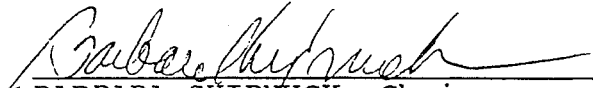
1.09.01 SEVERABILITY

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, it shall not affect the validity of the remaining portions of this ordinance, including any other section, subsection, sentence, clause, or phrase therein.

SECTION 2. EFFECTIVE DATE. This ordinance shall take effect 30 days after its final adoption by the Board of Supervisors.

PASSED AND ADOPTED this 8th day of November, 1994, by the following vote:


AYES: Supervisors Salinas, Shipnuck, Perkins, Johnsen & Karas.
NOES: None.
ABSENT: None.



BARBARA SHIPNUCK, Chairwoman
Board of Supervisors

ATTEST:

ERNEST K. MORISHITA
Clerk of the Board

By _____
Deputy Clerk