

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Chief Executive Office

BOARD AGENDA # B-10

Urgent Routine

AGENDA DATE October 29, 2013

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval to Introduce and Waive the First Reading of an Ordinance Regulating the Mining and Export of Groundwater; Approval to Add a Manager IV Position to Oversee the Planning and Implementation of the Ordinance; and Direct Staff to Initiate the Formation of a Water Advisory Committee

STAFF RECOMMENDATIONS:

1. Find that adoption of the proposed ordinance regulating groundwater resources is categorically exempt under the California Environmental Quality Act (CEQA) pursuant to Section 15307 of Title 4, Chapter 3 of the California Code of Regulations, and direct staff to file a Notice of Exemption with the Stanislaus County Clerk-Recorder.
2. Introduce and waive the first reading of an ordinance regulating the mining and export of groundwater within the county of Stanislaus.

(Continued Page 2)

FISCAL IMPACT:

The cost of a Water Resource Manager position is estimated to be up to \$155,400 annually (assuming compensation at the top of the Manager IV band and full benefits), or \$77,700 for the remainder of this fiscal year. Funding for this position will come from a transfer from Appropriations for Contingencies, which has an available budget of \$4,420,864. Approval of this transfer will bring the new available budget to \$4,343,164. Staff will continue to explore other potential revenue sources as it relates to the ordinance and the functions of the position in order to further offset future general fund obligation.

BOARD ACTION AS FOLLOWS:

No. 2013-552

On motion of Supervisor De Martini, Seconded by Supervisor Withrow
and approved by the following vote,

Ayes: Supervisors: O'Brien, Withrow, Monteith, De Martini and Chairman Chiesa

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION: INTRODUCED AND WAIVED THE FIRST READING OF ORDINANCE C.S.1138

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No. ORD-55-R-7

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STAFF RECOMMENDATIONS (Continued):

3. Amend the Salary and Position Allocation Resolution effective the first pay period following Board approval to add one Manager IV position to the Department of Environmental Resources in the capacity as Water Resources Manager.
4. Direct the Auditor-Controller to increase revenue and appropriations in the Environmental Resources budget in the amount of \$77,700 for six month's cost of the new position, funded by a transfer from Appropriations for Contingencies by a 4/5th vote by the Board of Supervisors.
5. Direct staff to initiate the formation of a Water Advisory Committee for Stanislaus County to be brought back for approval by the Board of Supervisors.

DISCUSSION:

Background/History

In early 2009, growing concerns related to potential over drafting and exportation of groundwater without a systematic regulatory control and oversight mechanism inspired County leadership to begin a process to assess and construct a base case regulatory vehicle to control groundwater mining and exportation to protect Stanislaus County's valuable groundwater resource.

In April of 2009, County staff was directed to work with the Agricultural Advisory Board to draft a groundwater ordinance that would address these issues.

A draft ordinance was developed, considered by the Agricultural Advisory Board, and circulated for comment among local stakeholders. Following considerable discussion and valuable input, a final draft of the first effort was generally accepted by the stakeholders, including the Agricultural Advisory Board, and was recommended forward to the Chief Executive Officer for consideration in November of 2010.

During leadership review, the development of the draft ordinance was suspended, in part, to retain outside counsel and a water expert to assist in final edits and completion. It was during this time frame that the controversial Modesto Irrigation District sale of surface water to San Francisco became a very high profile community issue. Subsequently, staff was given additional direction to amend the draft ordinance to include two additional components:

- a) Limitations on surface water exports when groundwater is used to backfill exported water, and;
- b) Discussion on groundwater banking.

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The revised draft was presented to the Agricultural Advisory Board and re-circulated for comment in June 2012. The June 2012 version was a significant departure from the 2010 version and was met with a great deal of concern on the part of all local stakeholders.

At that point, in an attempt to recalibrate the process and to take a fresh look at reaching a starting consensus, the County sought the services of the California Water Institute (CWI) at Fresno State University to help facilitate a series of targeted meetings with a small group of stakeholders with the re-focused goal of developing a base groundwater ordinance that could be supported by the greater water community.

Sargent Green of the CWI facilitated meetings from February through September 2013 which included representation from the County, Oakdale Irrigation District, Modesto Irrigation District, Turlock Irrigation District, Central California Irrigation District, City of Turlock, City of Modesto, Stanislaus County Farm Bureau and the East Stanislaus Resource Conservation District.

After multiple meetings and process revisions, a groundwater ordinance was developed that was acceptable to the stakeholders' working group. The draft ordinance addressed the mining and exporting of groundwater as well as surface water exports when groundwater is used to backfill exported water. The regulation of groundwater banking was removed to avoid confusion with exempted subsurface recharge activities conducted or planned by water districts and cities. Additionally, there is no groundwater banking authority currently operating in Stanislaus County because such authorities are usually developed to include water storage on behalf of entities outside of the County they are located.

The revised draft groundwater ordinance was approved by the Agricultural Advisory Board on June 10, 2013 and was presented to our partner City Managers on July 11, 2013, and shared with the greater water community of Stanislaus County in an open water summit format on July 24, 2013. As a document that has, in large part, been crafted by the water community, the ordinance has been well received as an important first step.

The Ordinance

The ordinance (Attachment 2) finds that the protection of the health, welfare, and safety of the residents of the County requires that the groundwater resources of Stanislaus County be protected from adverse impacts resulting from the specific acts of mining groundwater resources within the County and the export of water outside of the County.

It defines "Mining" as the extraction of groundwater in a manner that constitutes a waste, unreasonable use, or unreasonable method of use within the County, as interpreted under California law; and "Export of Water" as the act of conveying groundwater, or surface water substituted with groundwater, out of the County.

The mining of groundwater resources within the unincorporated areas of the County of Stanislaus and the export of water outside of the County are separately prohibited unless exempted by the ordinance.

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Exempted practices identified in the ordinance include:

- water resources management practices of public water agencies that have jurisdictional authority within the County that are in compliance with and included in groundwater management plans;
- water wells delivering 100 gallons per minute or less;
- groundwater mining and the export of water done in compliance with a permit issued by Stanislaus County;
- dewatering of shallow water tables;
- reasonable use of groundwater resources to supplement or replace surface water released for other reasonable and beneficial purposes;
- water conservation;
- water used to recharge groundwater; surface water, treated municipal drinking water, recycled water and stormwater;
- remediation of contaminated groundwater;
- export of water that reasonably supports agricultural operations on property outside the County that is contiguous with property within the County; and
- export of water from a private water source that is bottled in compliance with applicable State laws.

The exemptions have been carefully crafted to acknowledge the circumstances where the ordinance need not apply.

In particular, State law allows water agencies to adopt groundwater management plans that are designed to sustain that resource. Agencies that have adopted fully protective plans are exempt from the ordinance. Implicit in the implementation of the ordinance is discussion with such agencies on how their plans protect the citizens of Stanislaus County.

Guidance Package and Process

The Stanislaus County Department of Environmental Resources will have the primary responsibility for implementation, oversight, and enforcement of this ordinance and any associated regulations adopted by the Board of Supervisors. This includes the review of applications for permits to export groundwater. Permits will only be required for activity that is not exempt.

A key component of the implementation of this ordinance includes an application to ensure compliance with the ordinance, associated guidance documents, a revised well installation permit application, and a frequently asked questions (FAQ) document designed to assist applicants with questions that may arise while maneuvering the process.

To develop each of these components, draft documents were prepared and shared with the stakeholder group over a several month period. During a series of working meetings, significant input was received and incorporated and the culmination of this work is included as Attachment 3. The Board is not being asked to approve the supporting documents as they are fluid documents and may need to be modified over time; in particular, the FAQ document, but

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rather they are included in this presentation so the Board may consider them as part of an overall ordinance implementation strategy.

The ordinance includes an appeal process to allow an opportunity to appeal a decision made by the Department of Environmental Resources. Administrative appeals will be sent in writing to the Chief Executive Officer and heard by a hearing board comprised of the Chief Executive Officer, or designee, the Chairman and Vice Chairman of the Board of Supervisors. An appeal fee will be required and will be established as part of the fee hearing process in Spring 2014.

Any person violating any of the provisions of the ordinance as stated shall be guilty of a misdemeanor and upon conviction thereof shall be punished as set forth in Stanislaus County Code Section 1.36.010. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision is committed, continued or allowed and shall be punishable accordingly.

Water Resource Manager Position

A Water Resource Manager position is a critical component for program success both at initial implementation and for future program development. The position will be expected to oversee the planning and implementation of the ordinance, provide water management expertise and support to the Department of Environmental Resources, other County staff and the Board of Supervisors, and to facilitate on-going water policy development.

The position will be responsible for enforcing the ordinance; coordinating and managing the County's water interests; representing the County's interest in federal, state, regional, and local governing boards, committees and task forces; developing and conducting water summit meetings; providing technical guidance on hydrologic issues; reviewing and synthesizing groundwater levels and groundwater quality data at basin and County scales; maintaining mandated records and prepare reports and/or correspondence pertaining to water resources; reviewing and analyzing the effect of new Federal or State legislation on County water plans, facilities and programs; and other related duties.

Formation of a Water Advisory Committee

Staff acknowledges that this ordinance is a first step and that there is much work to be done. The formation of a Water Advisory Committee is intended to capture the efficiency born out of the ad hoc water stakeholder working group model and to continue moving the effort forward using an inclusive and transparent model.

Staff envisions that the Stanislaus County Water Advisory Committee would be comprised of 19 voting members to include representatives from the irrigation districts, Stanislaus County Farm Bureau, each of the nine cities, the business community, and a member of the County Board of Supervisors; essentially the ad-hoc stakeholders group that has worked on this ordinance. The Water Resource Manager shall attend all meetings and be appointed Secretary, as a non-voting member.

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Once a structure, process, and rules of order and by-laws have been developed, staff will bring formation recommendations back to the Board of Supervisors for final consideration and approval. The committee would be required to hold regular meetings (at least quarterly) at a time and place to be determined by the committee, with additional meetings determined by the committee members as necessary. All meetings of the Committee would be conducted in accordance with the Ralph M. Brown Act and the public encouraged to attend and to participate.

Potential Next Steps

With a water resource professional on staff representing the County in regional water discussions along with the development of a representative Water Advisory Committee in place to act as sounding board and collective voice for water issues and policy development in the region, this process will continue to improve upon the base recommendations as proposed in this initial phase.

Key next steps after adoption include:

- Recruitment of a Water Resource Manager – program facilitation position;
- Formation of an advisory board representing all cities and key water districts.
- Development of a needs assessment process with the objective to identify all major and minor water related issues that face our region. These issues will be discussed and debated in an open and constructive manner just as the base groundwater ordinance has been crafted and those issues will be prioritized.

The requests being made in this item have consistently been presented as a beginning, a starting point for a collective water and ground water management best practice program in Stanislaus County. While there are many individual, water district-based best practices, the issues continue to be complex and interconnected and there is a strong need to align a regional sensibility with a vehicle to achieve common goals.

There is much work to do as we look ahead.

The requests being recommended in this action item will allow this work to develop providing the citizens, businesses, all sectors – to thrive and prosper based upon sound science, cooperative partnerships, local policy and policing, and a willingness to work together toward a safe and dependable water program for all of Stanislaus County.

POLICY ISSUE:

The recommended actions support the Boards' priorities of A Safe Community, A Healthy Community, the Efficient Delivery of Public Services, A Well Planned Infrastructure System, A Strong Agricultural Economy and Heritage, and A Strong Local Economy by providing adequate protection of one of the County's most valuable natural resources; groundwater.

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Additionally, the formation of a Water Advisory Committee supports the Board's priority of Effective Partnerships.

STAFFING IMPACTS:

It is recommended to add one Water Resource Manager (Manager IV) position to the Department of Environmental Resources. This position will oversee the planning and implementation of the ordinance and provide water management expertise and support to the Department of Environmental Resources, County staff and the Board of Supervisors.

CONTACT PERSONS:

Milton O'Haire, Agricultural Commissioner
Jami Aggers, Director of Environmental Resources
Keith D. Boggs, Assistant Executive Officer

Telephone: 209-525-4730
Telephone: 209-525-6770
Telephone: 209-652-1514

Attachments:

1. Notice of Exemption
2. Ordinance Regulating the Mining and Export of Groundwater
3. Process to implement the ordinance with supporting forms
4. Frequently Asked Questions
5. Correspondence

Database
Balance Type
Data Access Set

FMSDBPRD.CO.STANISLAUS.CA.US.PROD
Budget
County of Stanislaus

DO NOT CHANGE
DO NOT CHANGE
DO NOT CHANGE

Ledger
Budget
Category
Source
Currency
Period
Batch Name
Journal Name
Journal Description
Journal Reference
Organization
Chart Of Accounts

* List - Text County of Stanislaus
List - Text LEGAL BUDGET
* List - Text Budget - Upload
* List - Text CEO TJC
* List - Text USD
List - Text OCT-13
Text
Text
Text Ground Water Ordinance position
Text
List - Text Stanislaus Budget Org
Accounting Flexfield

DO NOT CHANGE
DO NOT CHANGE
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DO NOT CHANGE
ENTER AS MMM-YY (ALL CAPS FOR MMM) EX: NOV-11
DO NOT CHANGE
DO NOT CHANGE

Upl	Fund (4 char)	Org (7 char)	Account (5 char)	GL Project (7 char)	Location (6 char)	Misc. (6 char)	Other (5 char)	Debit Incr appropriations decr est revenue * Number	Credit decr appropriations Incr est revenue * Number	Line Description Text
	0100	0016071	89000	0000000	000000	000000	00000		77700	Decr Contingency
	1001	0034110	50000	0000000	000000	000000	00000	77700		Inc Salaries
	0100	0016401	85980	0000000	000000	000000	00000		77700	Inc County Match
	1001	0034110	46620	0000000	000000	000000	00000		77700	Inc Revenue Match
								155400	155400	Totals:

Tip: This is not the end of the Template. Unprotect the sheet and insert as many rows as needed.

Explanation: Transfer from Appropriations for Contingencies for 6 months cost of the Water Resource Manager (Mgr IV) position.

Requesting Department Tera Chumley		CEO <i>[Signature]</i>	Date Entry	Auditors Office Only
Prepared by 10/29/2013	Approval 10/23/13	Keyed by	Prepared By 10/22/2013	Approved By 10/22/2013
Date	Date	Date	Date	Date

STANISLAUS COUNTY
CHIEF EXECUTIVE OFFICE
1010 10th Street, Suite 6800
Modesto, California 95354

NOTICE OF EXEMPTION

Project Title: Adoption of Ordinance Regulating the Mining and Export of Groundwater

Applicant Information: Stanislaus County Chief Executive Office, 1010 10th Street, Suite 6800, Modesto, CA 95354; (209) 525-6333

Project Location: Proposed ordinance will affect all unincorporated areas of Stanislaus County

Description of Project: The proposed ordinance would prohibit the mining of groundwater within the unincorporated areas of the County and the export of water outside of the County except certain water management activities that are specifically exempted in the ordinance.

Name of Agency Approving Project: Stanislaus County Board of Supervisors

Lead Agency Contact Person: Keith Boggs, Assistant Executive Officer **Telephone:** (209) 525-6333

Exempt Status: (check one)

- Ministerial (Section 21080(b)(1); 15268);
- Declared Emergency (Section 21080(b)(3); 15269(a));
- Emergency Project (Section 21080(b)(4); 15269(b)(c));
- Categorical Exemption.** State type and section number: Sections 15307 (Class 7) and 15308 (Class 8)
- Statutory Exemptions. State code number: _____
- General Exemption.

Reasons why project is exempt: State the reason the project is exempt - required to support findings

Class 7 and Class 8 categorical exemptions consist of actions taken by regulatory agencies to assure the maintenance, restoration, enhancement or protection of a natural resource or the environment. The proposed ordinance is intended to maintain groundwater resources in Stanislaus County and to protect those resources to ensure continued supply for use in the County. Water management activities that are exempted from the prohibitions in the ordinance ensure that the activity has undergone separate environmental review or otherwise are exempt from the provisions of the California Environmental Quality Act.

ORDINANCE NO. C.S. _____

**AN ORDINANCE REGULATING GROUNDWATER RESOURCES
WITHIN THE COUNTY OF STANISLAUS**

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS, STATE
OF CALIFORNIA ORDAINS AS FOLLOWS:

Section 1. Chapter 9.37 of the Stanislaus County Code is added to
read as follows:

9.37.010 Title

The ordinance codified in this Chapter may be cited as the "Groundwater
Mining and Export Prevention Ordinance of Stanislaus County."

9.37.020 Findings

The Stanislaus County Board of Supervisors hereby finds:

1. The protection of the health, welfare, and safety of the residents of the County require that the groundwater resources of Stanislaus County be protected from adverse impacts resulting from the specific acts of mining groundwater resources within the County and the export of water outside of the County; and
2. Groundwater is an essential resource for continued agricultural production within the County which production includes, but is not limited to, field crops, nut and fruit crops, vegetable crops, seed crops, poultry and livestock and products which significantly contribute to the gross value of the total agricultural production of the County; and
3. Groundwater is an essential resource for municipal, industrial and domestic uses within the County; and
4. The mining of groundwater resources from within the County and the export of water outside of the County could each have adverse environmental impacts on the County, including but not limited to; increased groundwater overdraft, land subsidence, uncontrolled movement of inferior quality groundwater, the lowering of groundwater levels, increased groundwater degradation; and
5. The mining of groundwater resources from within the County and the export of water outside of the County could each have adverse economic impacts on the County, including but not limited to, loss of arable land, a decline in property values, increased pumping costs due to the lowering of

groundwater levels, increased groundwater quality treatment costs, replacement of wells due to declining groundwater levels, replacement of damaged wells, conveyance infrastructure, roads, bridges and other appurtenances, structures or facilities due to land subsidence; and

6. California Constitution, Article X, Section 2, as well as Water Code section 100 prohibit the waste, unreasonable use, unreasonable method of use, and unreasonable method of diversion of water. The County finds that the mining of groundwater and the export of water outside of the County are presumptively unsustainable uses of groundwater and not reasonable or beneficial uses to the citizens of Stanislaus County and, therefore, the mining of groundwater and the export of water from the County are presumptively inconsistent with the California Constitution and the California Water Code.

9.37.030 Definitions

The following words and phrases shall have the following meanings when used in this Chapter:

1. "County" means the County of Stanislaus.
2. "Board" means the Board of Supervisors of Stanislaus County.
3. "Person" means and includes natural persons, corporations, firms, partnerships, joint stock companies, associations and other organizations of persons, and public entities.
4. "Groundwater" means water that occurs beneath the land surface and fills the pore spaces of the alluvium, soil or rock formation in which it is situated.
5. "Public water agency" means any local public agency, mutual water company, or non-profit tax-exempt unincorporated association within, or partially within, Stanislaus County that has authority to undertake water-related activities.
6. "Mining" means the extraction of groundwater in a manner that constitutes a waste, unreasonable use, or unreasonable method of use within the County, as interpreted under California law.
7. "Export of water" means the act of conveying groundwater, or surface water substituted with groundwater, out of the County.

9.37.040 Prohibition

Except as otherwise provided in this Chapter, the following actions are prohibited:

- A. The mining of groundwater within the unincorporated areas of the County.
- B. The export of water.

9.37.050 Exemptions

- A. The following water management practices are exempt from the prohibitions in this Chapter:
 - 1. Water resources management practices of public water agencies that have jurisdictional authority within the County that are in compliance with and included in groundwater management plans adopted by that agency in accordance with applicable State law and regulations, including but not limited to the California Groundwater Management Act (Water Code sections 10750 et seq.).
 - 2. Water wells delivering 100 gallons per minute or less to uses and property under the same ownership where the well is located.
 - 3. Groundwater mining and the export of water done in compliance with a permit issued by the Stanislaus County Department of Environmental Resources pursuant to this Chapter.
- B. The following water management practices are exempt from the prohibition against export of water in this Chapter:
 - 1. De-watering of shallow water tables where the net benefits of the removal of subsurface water substantially outweighs the loss of water because of damage the high water table reasonably may cause to agriculture, industry, commerce and other property uses. The groundwater in some areas of the County is very near the surface and if not removed by interceptor ditches or subsurface tile drains, the water can seriously impact crop root zones for agricultural production or destroy foundations, equipment, materials, buildings and infrastructure used for residences, industry, utilities or commerce. This groundwater may or may not be reused for other purposes and at times may leave the County and its groundwater system.

2. Reasonable use of groundwater resources to supplement or replace surface water released for other reasonable and beneficial purposes, including but not limited to fisheries, ecosystem habitat or downstream water quality or quantity needs, when required pursuant to federal and state law, regulations, licenses or permit conditions.
3. Conservation of water in compliance with applicable State law that authorizes public water agencies to transfer water outside its usual place of use. Conservation investments may include, but are not limited to, irrigation practices in agricultural areas where the crops grown use less water, or communities that produce recycled water, fix leaks or promote other water saving devices and methods to conserve water on a temporary or permanent basis.
4. Recharge of groundwater in locations in the County that are capable of improving groundwater conditions in order to meet total water demands of beneficial uses in the hydrologic and groundwater basin area including but not limited to the following sources: surface water, treated municipal drinking water, recycled water and stormwater. The amount of recaptured groundwater transferred out of the area should not exceed the amount of water used to recharge the aquifer. The transfer can be accomplished by either direct or indirect transfer, that is, a public water agency can leave the water in the ground and transfer other supplies in lieu of pumping out the recharge water.
5. Remediation of contaminated groundwater that is pumped and treated to remove contaminants that are in violation of standards for beneficial uses. The extracted and treated water may be released out of the County, resulting in a net loss to the groundwater basin, if the release complies with discharge permits issued by the federal, state or state resource agencies.
6. Export of water that reasonably supports agricultural operations on property outside the County that is contiguous with property within the County and is under common ownership.
7. Export of water from a private water source that is bottled in compliance with a Private Water Source Operator License issued by the State pursuant to Health and Safety Code section 111120.

9.37.060 Implementation

- A. The Stanislaus County Department of Environmental Resources shall have the primary responsibility for implementation of this Chapter and regulations adopted by the Board of Supervisors.

- B. The Department of Environmental Resources shall establish a system of permits to authorize water management practices otherwise prohibited by this Chapter. The Department may issue a permit for a water management practice to the extent that such practice is consistent with the statements of County policy set forth in section 9.37.020 of this Chapter.
- C. The Department of Environmental Resources shall have authority to investigate any activity subject to this ordinance. Compliance with this Chapter will be determined based on the submission of a technical report submitted to the Department of Environmental Resources on a form provided by the County. The Department is authorized to enforce the prohibition of any activity that is determined to be in violation of this Chapter or regulations adopted by the Board of Supervisors.
- D. The applicant, permit holder or other interested person or entity may appeal an administrative determination made by the Department under this Chapter which (1) finds that an application is complete or incomplete; (2) establishes or modifies operating conditions; (3) grants or denies a permit; or (4) suspends or revokes a permit. Administrative appeals under this section must be made in writing, must clearly set forth the reasons why the appeal ought to be granted, and must be received by the Chief Executive Officer within fifteen days of the postmark date on the envelope that transmits the administrative determination. Any appeal that is not timely filed, or that is not accompanied by the required fee, will be deemed ineffective and the administrative determination that is being appealed will become final. The Chief Executive Officer shall fix a reasonable time for the hearing of an appeal of an administrative determination, and shall provide written notice of the appeal hearing to the appellant and all interested parties, and to all landowners within 0.25 mile of the parcel where operations will occur. An appeal review committee comprised of the Chief Executive Officer or designee, the Chairman and Vice Chairman of the Board of Supervisors shall hear the appeal and issue a decision within 30-days after the hearing. The appeal review committee may take any appropriate action upon the original administrative action that was appealed, including granting or denying the appeal in whole or in part, or imposing, deleting or modifying operating conditions of the permit. The decision of the appeal review committee shall be final.

9.37.070 Penalty for Violation

- A. Any person violating any of the provisions of this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished as set forth in Stanislaus County Code Section 1.36.010. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Chapter is committed, continued or allowed and shall be punishable accordingly.

- B. In addition to or in lieu of the penalty provisions or remedies set forth in this Chapter, any violation may be abated in any manner set forth in Chapter 2.92 of the Stanislaus County Code, including, but not limited to, abatement or issuance of administrative citations.
- C. In addition to or in lieu of the penalty provisions or remedies set forth in this Chapter, any violation of any of the provisions of this Chapter, and any condition caused or allowed to exist in violation of any of the provisions of this Chapter, shall be deemed a public nuisance and shall, at the discretion of County, create a cause of action for injunctive relief, including but not limited to any remedy under Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code.

9.37.080 Severability and Effect

- A. The provisions of this Chapter are hereby declared to be severable. If any provision, clause, word, sentence or paragraph of this Chapter or the application thereof to any person, establishment or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Chapter.
- B. The prohibitions of this Chapter shall not be applicable to the extent that their application would result in a violation of the Constitution or other laws of the United States or the State of California. The Department of Environmental Resources shall issue a permit to authorize conduct otherwise prohibited under this Chapter if the applicant demonstrates that such permit is necessary to avoid such a violation of state or federal law.

Section 2. This ordinance shall take effect thirty (30) days from and after the date of its passage and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the members voting for and against the same, in the Modesto Bee, a newspaper published in the County of Stanislaus, State of California.

Upon motion of Supervisor _____ seconded by Supervisor _____, the foregoing Ordinance was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, this ____ day of _____, 2013, by the following-called vote:

AYES: Supervisors:

NOES: Supervisors:

ABSENT: Supervisors:


Vito Chiesa, Chair of the Board of
Supervisors of the County of Stanislaus,
State of California

ATTEST:

CHRISTINE FERRARO TALLMAN, Clerk of the
Board of Supervisors of the County of Stanislaus,
State of California

By _____
Liz King, Deputy Clerk

APPROVED AS TO FORM:

By 
John P. Doering
County Counsel

Lat: _____
Long: _____
T. _____ R. _____ Sec _____
¼ Sec. _____
Quad. _____
A.P.N. _____

STANISLAUS COUNTY
DEPARTMENT OF ENVIRONMENTAL RESOURCES
3800 CORNUCOPIA WAY, SUITE C, MODESTO, CA 95358-9492
(209) 525-6700

Permit No. _____
Date Issued _____

APPLICATION FOR WELL CONSTRUCTION OR DESTRUCTION

THIS PERMIT EXPIRES 1 YEAR FROM DATE ISSUED

Application is hereby made to the Stanislaus County Department of Environmental Resources (DER) for a permit to construct and/or destroy the work herein described. PLEASE NOTIFY THIS DEPARTMENT (USING PERMIT # AND D.W.R. WELL DRILLERS REPORT) WHEN WELL WORK IS COMPLETED.

JOB ADDRESS/LOCATION _____ City _____

Distance & Direction from Nearest Cross Streets _____

Owner's Name _____ Phone _____

Address _____ City/State _____

Contractor's Name _____ License # _____ Phone _____

Are you a Water Agency? Yes No If yes, which Agency? _____

TYPE OF WORK: NEW WELL DEEPEN RECONDITION DESTRUCTION
 (Check one) OTHER _____

If a new well, number of new wells to be installed on the property or in close proximity now or within the next 6 months? _____

DISTANCE TO NEAREST: SEPTIC TANK _____ SEWER LINES _____ PIT PRIVY _____
 OTHER WELL _____ SEWAGE DISPOSAL FIELD _____ SEEPAGE PIT _____
 DRY WELL _____ OTHER _____
 ANIMAL ENCLOSURE _____

INTENDED USE	TYPE OF WELL	CONSTRUCTION / DESTRUCTION SPECIFICATIONS
<input type="checkbox"/> Agricultural	<input type="checkbox"/> Cable Tool	Dia. of Well Excavation _____
<input type="checkbox"/> Industrial	<input type="checkbox"/> Drilled	Dia. of Well Casing _____
<input type="checkbox"/> Domestic / Private	<input type="checkbox"/> Gravel Pack	Gauge of Casing _____
<input type="checkbox"/> Domestic / Public	<input type="checkbox"/> Rotary	Depth Conductor Casing _____
<input type="checkbox"/> Irrigation	<input type="checkbox"/> Other _____	Depth of Grout Seal _____
<input type="checkbox"/> Cathodic protection		Type of Grout _____ # Bags _____
<input type="checkbox"/> Other _____		Grout Manufacturer _____
<input type="checkbox"/> Conveyance out-of-County. If checked, will you need permission from a Water Agency to convey? <input type="checkbox"/> Yes <input type="checkbox"/> No		Grout Name _____
		Estimated GPM to be pumped _____

Well Destruction: Describe method if different than minimum state standards: _____

Existing well present? YES NO Status: Active To Be Destroyed Inactive

DER USE ONLY

Permit Issued by: _____ Date: _____

Permit Denied by: _____ Date: _____ (See Attached)

Grout Seal Inspected by: _____ Date: _____

Final Inspection by: _____ Date: _____



DEPARTMENT OF ENVIRONMENTAL RESOURCES

3800 Cornucopia Way, Suite C, Modesto, CA 95358-9492
Phone: 209.525.6770 Fax: 209.525.6773

COUNTY ORDINANCE PREVENTING THE MINING AND EXPORT OF GROUNDWATER

EXEMPTIONS INCLUDED IN THE ORDINANCE

The Department of Environmental Resources (DER) is charged with implementing the County's Groundwater Mining and Export Prevention Ordinance. The Ordinance provides a framework using California Water Law to review proposed projects. The Ordinance includes several exemptions from the mining and export prohibition. Please review this list of exemptions below, and refer to the Ordinance directly for more information. The Ordinance is available on the County's website at www.stancounty.com/er/. For proposed projects that are not exempt, and therefore, are subject to review, the Department has developed an in-house assessment checklist which can be used by applicants to assist them in completing their application.

Refer to the Ordinance Exemptions for more information:

- 9.37.050 (A1). Water resources management practices of public water agencies
- 9.37.050 (A2). Water wells delivering 100 gallons per minute or less to uses and property under the same ownership where the well is located
- 9.37.050 (A3). Groundwater mining and the export of water done in compliance with a permit issued by the Stanislaus County DER
- 9.37.050 (B1). De-watering of shallow water tables
- 9.37.050 (B2). Reasonable use to supplement or replace water
- 9.37.050 (B3). Water conservation
- 9.37.050 (B4). Groundwater recharge
- 9.37.050 (B5). Contamination remediation
- 9.37.050 (B6). Ag operations on contiguous property with common ownership
- 9.37.050 (B7). Licensed bottled water operator

Conclusion: For projects that fall under Exemptions A1-2 and B 1-7, an Application is not required. The County recommends that you seek professional assistance in completing an Application for the Mining and Export of Groundwater. Contact the Department of Environmental Resources for more information at: (209) 525-6700. A Frequently Asked Questions (FAQ) document is available at www.stancounty.com/er/. Select Departments/Environmental Resources from the County's home page.

WHO: Who does this Ordinance apply to? All persons in Stanislaus County not covered by one of the specified Ordinance Exemptions who wish to mine and/or export groundwater

WHAT: What is being regulated? The mining and export of groundwater and the mining and export of surface water that is backfilled by groundwater. As such, if you are proposing to mine groundwater and/or if you are proposing to export groundwater in Stanislaus County and you are not covered by one of the specified Ordinance Exemptions, you are required to submit an application for a permit. In your application, you will be asked to explain the intended use of the mined/exported groundwater and to demonstrate the need to do so. Mining and export of groundwater is prohibited unless specifically exempted or a permit from DER has been obtained.

WHY:

To protect the health, welfare, and safety of the residents of the County by ensuring that the groundwater resources of Stanislaus County are protected from adverse impacts;

Groundwater is an essential resource for continued agricultural production within the County;

Groundwater is an essential resource for municipal, industrial and domestic uses within the County;

The mining of groundwater resources from within the County and the export of water outside of the County could each have adverse environmental and economic impacts on the County; and

The California Constitution as well as the Water Code prohibit the waste, unreasonable use, unreasonable method of use, and unreasonable method of diversion of water.

WHEN: The Stanislaus County Board of Supervisors is anticipated to adopt the County Ordinance Prohibiting the Mining and Export of Groundwater in Fall of 2013

WHERE: This Ordinance is regulated by staff of the Department of Environmental Resources, 3800 Cornucopia Way, Suite C, Modesto, CA 95358



DEPARTMENT OF ENVIRONMENTAL RESOURCES

3800 Cornucopia Way, Suite C, Modesto, CA 95358-9492
 Phone: 209.525.6770 Fax: 209.525.6773

**PROJECTS SUBJECT TO REVIEW UNDER
 COUNTY ORDINANCE PREVENTING THE MINING AND EXPORT OF GROUNDWATER**

Below is a preliminary review application you must complete to facilitate the review of your project. Detailed and specific information will help staff better understand your project information needs and expedite the review. Please complete sections specific to your request and indicate N/A for those items not applicable. Other Federal and State applications or permit requirements may be necessary. In addition, projects may be subject to the California Environmental Quality Act.

For assistance in completing your application, please refer to the County Ordinance which is available at www.stancounty.com/er/ and the Department's Assessment tool (checklist) which is also available online.

TO BE COMPLETED BY APPLICANT OR BY A LICENSED PROFESSIONAL WHERE APPLICABLE			
1. APPLICANT INFORMATION			
PRINT NAME OF APPLICANT:		NAME OF FIRM, IF APPLICABLE	
ADDRESS	CITY	STATE	ZIP CODE
DAYTIME TELEPHONE # ()	FAX TELEPHONE # ()	E-MAIL ADDRESS	
IS APPLICANT DIFFERENT FROM OWNER? <input type="checkbox"/> Yes <input type="checkbox"/> No		RELATIONSHIP TO OWNER:	
If Yes, PRINT NAME OF OWNER*:		NAME OF FIRM, IF APPLICABLE	
*County may request documentation			
ADDRESS	CITY	STATE	ZIP CODE
DAYTIME TELEPHONE # ()	FAX TELEPHONE # ()	E-MAIL ADDRESS	
2. IF APPLICABLE, LICENSED PROFESSIONAL (Professional Engineer or Geologist, with applicable hydrological experience) INFORMATION			
A. PRINT NAME OF LICENSED PROFESSIONAL:		LICENSE #	
ADDRESS	CITY	STATE	ZIP CODE
DAYTIME TELEPHONE # ()	FAX TELEPHONE # ()	E-MAIL ADDRESS	
SECTION(S) COMPLETED BY LICENSED PROFESSIONAL			
SECTION #	SECTION #	SECTION #	
B. PRINT NAME OF LICENSED PROFESSIONAL:		LICENSE #	
ADDRESS	CITY	STATE	ZIP CODE
DAYTIME TELEPHONE # ()	FAX TELEPHONE # ()	E-MAIL ADDRESS	
SECTION(S) COMPLETED BY LICENSED PROFESSIONAL			
SECTION #	SECTION #	SECTION #	

Please note: To initiate a review of your proposed project, staff will need to conduct a California Environmental Quality Act (CEQA) evaluation to determine whether possible impacts may result. To complete this process, more detailed information may need to be requested from the project applicant. County staff will conduct this analysis at the expense of the Applicant. Please refer to "Notice to All Applicants"

3. GENERAL PROJECT INFORMATION

A. Project Location, Parcel Size and Address: (Example: 1234 Alpine Way, Modesto, CA, 1.0 acre)

B. Existing Use of the Property:

C. Proposed Use of the Property. Explain the need for this project and the intended use of the groundwater. Attach separate sheets if needed:

D. Provide details about the number of wells, production rates, and production schedule. Please attach (1) at least one e-log so we can determine the local stratigraphy, (2) a map showing the location of the project wells (existing or planned), Assessor's Parcel information, and (3) screened intervals of project wells. (A Licensed Professional should be consulted – refer to item #2.)

E. Is the pumped groundwater going to be conveyed out of the County? Yes No
If Yes, provide specific timeframes and location groundwater will be conveyed to.

F. State how you believe this project will not have an adverse environmental or economic impact:

G.	<p>Explain whether this project involves exporting during periods of emergency</p> <p>a. An emergency includes (1) states of emergency as described in the California Government Code, section 8558; (2) states of water shortage emergency as determined by the California Department of Water Resources; or (3) determination by the Stanislaus County Board of Supervisors that groundwater within the County can assist areas outside the County.</p> <p>b. Groundwater extraction for the purpose of emergency relief shall be metered, so precise volumes of water exported can be determined.</p> <p>c. The duration of groundwater extraction for the purpose of emergency relief shall not exceed the time frame of the emergency. Groundwater extraction for the purpose of emergency relief does not set precedents or entitles the exporter to future exports.</p>
H.	<p>Quantify, based on the information provided in 3-D above, the anticipated groundwater usage to enable County staff to determine whether mining is occurring. Also, explain whether this project is part of an existing local water agency or purveyor. If Yes, state name: _____</p>

INDEMNIFICATION:

In consideration of the County’s processing and consideration of this application for approval of the groundwater project being applied for (the “Project”), and the related CEQA consideration by the County, the Owner and Applicant, jointly and severally, agree to indemnify the County of Stanislaus (“County”) from liability or loss connected with the Project approvals as follows:

1. The Owner and Applicant shall defend, indemnify and hold harmless the County and its agents, officers and employees from any claim, action, or proceeding against the County or its agents, officers or employees to attack, set aside, void, or annul the Project or any prior or subsequent development approvals regarding the Project or Project condition imposed by the County or any of its agencies, departments, commissions, agents, officers or employees concerning the said Project, or to impose personal liability against such agents, officers or employees resulting from their involvement in the Project, including any claim for private attorney general fees claimed by or awarded to any party from County.

The obligations of the Owner and Applicant under this Indemnification shall apply regardless of whether any permits or entitlements are issued.

2. The County will promptly notify Owner and Applicant of any such claim, action, or proceeding that is or may be subject to this Indemnification and, will cooperate fully in the defense.
3. The County may, within its unlimited discretion, participate in the defense of any such claim, action, or proceeding if the County defends the claim, actions, or proceeding in good faith.

To the extent that County uses any of its resources responding to such claim, action, or proceeding, Owner and Applicant will reimburse County upon demand. Such resources include, but are not limited to, staff time, court costs, County Counsel's time at their regular rate for external or non-County agencies, and any other direct or indirect cost associated with responding to the claim, action, or proceedings.

4. The Owner and Applicant shall not be required to pay or perform any settlement by the County of such claim, action or proceeding unless the settlement is approved in writing by Owner and Applicant, which approval shall not be unreasonably withheld.
5. The Owner and Applicant shall pay all court ordered costs and attorney fees.
6. This Indemnification represents the complete understanding between the Owner and Applicant and the County with respect to matters set forth herein.

The Stanislaus County Department of Environmental Resources (DER) will notify the applicant of the date in which the completed information has been received. This date will trigger the 30-day review period to determine whether the application is complete. If additional information is needed or requested, this will trigger another 30-day review period.

IN WITNESS WHEREOF, by their signature below, the Owner and Applicant hereby acknowledge that they have read, understand and agree to perform their obligations under this Indemnification.

Signature of Applicant/Date

Signature of Owner(s)/Power of
Attorney/Legal Representative/Date

- *Applications are not valid without the property owner's signature.*

APPEALS: An appeals process is included in the ordinance



NOTICE TO ALL APPLICANTS

REQUIRED ADDITIONAL FEE: CALIFORNIA FISH & GAME CODE:

Pursuant to California Fish & Game Code §711.4, the County of Stanislaus is required to collect filing fees for the California Department of Fish and Wildlife for all projects subject to the California Environmental Quality Act (CEQA) unless a fee exemption is provided in writing from the California Department of Fish and Wildlife. Pursuant to California Fish & Game Code §711.4(d), all applicable fees are required to be paid **within 5 DAYS of approval** of any project subject to CEQA. These fees are subject to change without County approval required and are expected to increase yearly. Please contact the Department of Environmental Resources or refer to the current fee schedule for information on current fee amounts.

If a required filing fee is not paid for a project, the project will not be operative, vested or final and any local permits issued for the project will be invalid. (Section 711.4(c)(3) of the Fish and Game Code.)

Under the revised statute, a lead agency may no longer exempt a project from the filing fee requirement by determining that the project will have a *de minimis* effect on fish and wildlife. Instead, a filing fee will have to be paid unless the project will have *no effect* on fish and wildlife. (Section 711.4 (c)(2) of the Fish and Game Code). If the project will have any effect on fish and wildlife resources, even a minimal or *de minimis* effect, the fee is required.

A project proponent who believes the project will have *no effect* on fish and wildlife should contact the California Department of Fish and Wildlife. If the California Department of Fish and Wildlife concurs the project will have no such effect, the Department will provide the project proponent with a form that will exempt the project from the filing fee requirement. Project proponents may contact the Department by phone at (916) 651-0603 or through the Department's website at www.dfg.ca.gov.

Pursuant to California Fish & Game Code §711.4(e)(3), the department (CDFW) shall assess a penalty of 10 percent of the amount of fees due for any failure to remit the amount payable when due. The department may pursue collection of delinquent fees through the Controller's office pursuant to Section 12419.5 of the Government Code.

Additionally California Fish & Game Code §711.4(f) states the following: Notwithstanding Section 12000, failure to pay the fee under subdivision (d) is not a misdemeanor. All unpaid fees are a statutory assessment subject to collection under procedures as provided in the Revenue and Taxation Code.

Failure to pay the necessary fee will also extend the statute of limitations for challenging the environmental determination made by the County, thus increasing exposure to legal challenge. The type of environmental determination to be made by the County may be discussed with the project reviewer following the environmental review stage of the project and will be outlined in a Board of Supervisor's staff report.

REQUIRED ADDITIONAL FEE: STANISLAUS COUNTY RECORDER:

Upon approval of the proposed project, Stanislaus County will record either a "Notice of Exemption" or a "Notice of Determination" pursuant to CEQA Guidelines. The Clerk Recorder charges an additional fee of **\$57.00** for recording these documents. A separate check made payable to "**Stanislaus County**" is due and payable **within 5 DAYS of approval** of the project.

TECHNICAL STUDIES:

If the project site is on or near a historical site, archaeological site, landfill site, river, floodplain, state highway, freeway, railroad, or airport, or if the project is identified by a resource agency or the County as potentially impacting sensitive agricultural, biological, hydrological, geological, mineral or other resources, or if specific environmental impacts are identified throughout the course of the project review, then specific technical studies may be required. Applicants are encouraged to contact the Department of Environmental Resources at the earliest possible opportunity to determine the possible need and scope of such studies.

**DEPARTMENT OF ENVIRONMENTAL RESOURCES**

3800 Cornucopia Way, Suite C, Modesto, CA 95358-9492
Phone: 209.525.6770 Fax: 209.525.6773

DRAFT 9/30/13

Stanislaus County
Groundwater Mining and Export Ordinance
Frequently Asked Questions (FAQ)

Introduction

Stanislaus County has developed a "groundwater mining and export" ordinance. In order to help the proposed regulated community and the citizens of Stanislaus County understand the need, purpose and scope of the ordinance, the County offers the following "frequently asked questions" format to provide some guidance. This document will be updated periodically, not only to provide contemporary understanding and assistance, but to establish a record of the origins and changes for future reviewers and users of the ordinance. Some of the questions are of a general nature and some have been specifically asked by those who participated in the process. No attempt is made to distinguish the two as hopefully they will seem self-evident.

The Questions:

1. Why is the County getting into the business of regulating groundwater mining and export?

Answer: Counties have the overall responsibility to protect the safety, health and welfare of all the citizens within its boundaries and access to water is a health and safety issue. Groundwater is a significant source of water for many County residents and there is substantial evidence that declining groundwater levels are impacting the availability of this water to some users. Proposals to export groundwater out of the County, or to transfer surface water out of the County and replace it with groundwater are of particular concern in this regard. While many areas of the County have water agencies that manage both surface and groundwater, there are significant areas of the County that do not have overlying water management agencies and where the County is the only agency that can assume responsibility for the groundwater resource. For these reasons, the County has decided to exercise its latent police powers to help protect and preserve the availability of the groundwater resource for its citizens to the extent feasible by developing a groundwater ordinance.

2. Does the ordinance create another layer of potential control over groundwater use?

Answer: Only in those areas where there is no other agency that has the authority and has assumed responsibility over the resource as authorized by State law. The areas that have legal plans and procedures and are being managed in accordance with State law are exempt from this ordinance.

3. Does the County have the capability to implement and enforce this ordinance?

Answer: In areas of clear County responsibility, the staff will use existing processes, including review and consideration of new well construction permits and "projects" subject to California Environment Quality Act review, to provide implementation of the ordinance. However, the County will develop additional groundwater management strategies and may need some additional resources. A key strategy will be for the County to look to partner with the existing water management agencies to economically address groundwater management issues together. Enforcement will primarily focus on those activities and/or proposals that are not exempt or permitted by the ordinance.

4. Can a City install a new well within a City's limits without the County's approval?

Answer: YES. The only exceptions to this locally would be the cities of Ceres and Hughson where the County does their building-type inspection and permitting processes for them. So, in these two cases, if they needed a new well installed within their City limits, they would seek the Permit from the County. The other 7 cities can install wells without the County's permission, however, if the well is to be used to serve the public, it would be regulated (inspected, monitored) by the State. Locally we only oversee small public water systems. Large public water systems are regulated by the State.

5. Can an Irrigation/Water District install a new well within a City's limits without the County's approval?

Answer: Same answer as to No. 4, but the individual City would need to give them approval to install it in their jurisdiction.

6. Can a City or an Irrigation/Water District install a new well in the unincorporated area without the County's approval?

Answer: NO. All well installations within the County (even if within a city's Sphere of Influence), would need to go through the County's permitting process. When within a sphere, however, the County will work directly with the City to make sure this well also meets with their approval.

7. Would an Irrigation/Water district that transfers groundwater to a part of their district that is outside the County be required to obtain a permit to do so?

Answer: NO.

8. Does the ordinance address the overdraft situation that is occurring on the east side of the County?

Answer: NO, not in its current version. However, the County does intend to address this issue in the future.

9. Are cities covered by the ordinance?

Answer: Most cities are independent of the County and exempt from the ordinance. Some cities are dependent and the County will address the water issues for those cities as needed.

10. A) Are forced water sales exempt? e.g., unimpaired flow requirements through State action? B) Does the ordinance apply to State and/or Federal flow requirements?

Answer: A) YES, they are exempt. B) NO, they are exempt.

11. Would the ordinance regulate a new well installed by a landowner on the Westside with the intention of pumping groundwater into the Delta-Mendota Canal for storage and subsequent use? It would be an export, clearly, but if covered by one of the Districts, would that be exempt? And if not covered, they would need a permit, correct?

Answer: This activity would be exempt if the well is located within an area that is being managed in accordance with State Law.

If the landowner is not in a federally-contracted district, they would need to obtain a Warren Act contract from the Bureau of Reclamation that provides for the use of excess capacity (if available) for the conveyance and storage of this groundwater in federal facilities (i.e., the Delta-Mendota Canal). All Warren Act contracts are subject to National Environmental Policy Act review and comment. To avoid the "export" of this water, the County could request the contract to provide that the quantity of water pumped into the Canal be returned to lands within the County, and is only temporarily stored off-site. This will require that County staff receive and respond to Bureau of Reclamation notices of any non-district Warren Act contracting processes. Because this activity is not directly exempted by the ordinance, the County could decide whether this type of activity could qualify for an "automatic" permit (with a term matching that of the Warren Act contract up to the County's 5 year limit) without having to go through the more rigorous review of the impacts by the County.

The ordinance's more rigorous review and permitting process would come into effect if the water user decided he did not need all the "stored" water and proposed to transfer it to someone else. If the transfer were to someone outside the County it would be considered an "export", and potentially "mining" even if the water were transferred to another landowner within the County. Transfer of the water to someone else could not be decided later; it would have to be provided for in the Warren Act contract itself.

12. What is the ordinance trying to accomplish since it addresses mining and exporting?

Answer: See #1 above.

13. How does the ordinance affect growers that transfer groundwater from one property to another using an Irrigation/Water district's conveyance system?

Answer: If the district is managing its groundwater in accordance with State law, the activity is exempt. If the water does not leave the County it is not an export and is, therefore, exempt. If surface water is not being substituted for groundwater it is not mining and, therefore, exempt. If this pumping is occurring in an area that has declining water levels and local third parties are being impacted, the responsible management agency(ies) will attempt to develop a strategy to mitigate these impacts in accordance with their plans and planning authority.

14. How does the ordinance effect an Irrigation/Water district's rights?

Answer: The ordinance does not impact surface water rights at all. Groundwater rights are shared by all overlying users, whether a District pumps groundwater on behalf of its landowners or individuals pump their own wells. The ordinance only impacts those who wish to transport groundwater out of the County either directly or by transferring surface water and replacing it with groundwater which, in either case, reduces the quantity of groundwater available to others within the County.

15. How will the additional monitoring by the County be paid for, will a tax increase be needed as a result of this ordinance?

Answer: No tax increase is being proposed as a result of this ordinance. The County is currently assessing how this new program will be funded.

16. What role do you see the County playing in groundwater management plans?

Answer: The County will be a partner in groundwater management planning in areas where there are no other agencies or where the agencies do not have plans.

17. What is an example of someone being able to obtain a County permit to export water under 9.37.050 Exemptions, No. A3?

Answer: A grower could use a Warren Act contract to bank water at San Luis Reservoir then bring water back into the County during peak water demand.

18. What are my options if I submit an application to mine or export groundwater and my application is denied or the County determines that I am not entitled to an exemption that I believe I am covered by?

Answer: An appeals process is included in the ordinance.

CORRESPONDENCE

1335 West "I" Street
PO Box 1231
Los Banos, CA 93635



(209) 826-1421
Fax (209) 826-3184
Email: ccid@ccidwater.org

BOARD OF DIRECTORS

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Mr. Gary Caseri
Stanislaus County Agricultural Commissioner
3800 Cornucopia Way, Suite B
Modesto, California 95358

www.ccidwater.org

April 23, 2010

CHRIS WHITE
General Manager

GREGG RICE
Secretary/Controller

MINASIAN, SPRUANCE, MEITH,
SOARES & SEXTON, LLP
Legal Counsel

2010 APR 29 A 11:17
BOARD OF SUPERVISORS

Re: Proposed Stanislaus County Draft Groundwater Ordinance

Dear Commissioner Caseri:

We have had the opportunity to review the proposed draft Groundwater Ordinance.

We strongly urge that the County not adopt this ordinance because it will have the unintended consequence of interfering with water management practices that are vital for the long-term sustainability of agricultural water supplies. We support an alternative approach where the County works directly with the water agencies (Districts) to understand the local groundwater aquifer systems and their stressors, and to develop solutions through local management and decision frameworks to deal with specific issues.

For background in support of our approach, attached is a base map showing the Districts which take delivery from the Federal Central Valley Project (CVP) on the Westside of the San Joaquin Valley. The Districts contain most of the irrigated land and overlie most of the usable groundwater within western Stanislaus County. The only exceptions are the small areas (about 3000 acres total) situated between the Districts that are farmed using groundwater.

The CVP provides imported surface water to the lands shown on the attachment, approximately 3,300 square miles—about the size of Rhode Island and Delaware put together. The project has the capacity to import over 3 million acre-feet of water per year. However, the yield of the CVP Delta-Mendota Canal (DMC) system has been continuously degraded by regulatory actions beginning around 1990. Now with the most recent export curtailments in the Delta Smelt and Salmon Biological Opinions a severe regulatory drought exists for many Districts within the CVP. In response to the new water supply reality, each District has been examining and improving their groundwater pumping and management policies.

Lands within Central California Irrigation District (CCID) have been diverting San Joaquin River water for irrigation purposes starting in the late 1800's and then switched to water from the DMC when it was completed in 1952. CCID has demonstrated that it effectively manages its surface and groundwater resources. Of the Districts in western Stanislaus County, CCID has been impacted the least by the Delta restrictions due to our senior riparian and pre-1914 appropriative water rights. We provide surface water to approximately 18,500 acres within Stanislaus County. The Districts application of surface water continues to be the most significant recharge component to local groundwater sub-basins.

Mr. Gary Caseri
April 23, 2010
Page 2

To address additional demands on groundwater both within our boundaries and in the adjacent areas, CCID has striven to adopt groundwater management policies that are informed by system wide and specific groundwater studies.

As an example, in response to the drought and regulatory shortages of 1989 through 1994, and the groundwater concerns of the cities adjacent to our service area, CCID participated in joint groundwater studies with the Cities of Mendota, Firebaugh, Los Banos, Gustine and Newman. Those studies have been updated about every ten years and have been instrumental in placing new City and District wells and the implementation of our respective pumping policies. In addition, we have accomplished a site-specific groundwater characteristics study jointly with local landowners in the Orestimba Creek area.

CCID is an active implementer of AB 3030 groundwater management, has intensively studied the aquifer characteristics within our service area, continuously monitors groundwater extraction quantities, level, flow direction and quality, and participates in the maintenance of subsidence monitoring devices in our South Division. The knowledge and expertise gained through these studies have allowed CCID to provide constructive input and direction into various local groundwater pumping proposals. Our input is centered on protection of our groundwater basins, while attempting to build solutions to problems.

The most recent groundwater management challenge faced by CCID involves the groundwater in the vicinity of the City of Los Banos. With the backdrop of increased pumping demands by the City and increased pumping demands in the adjacent Districts due to the regulatory drought, CCID entered into a joint groundwater study with the City and the Bureau of Reclamation. The chief goals of the study were to provide analysis to the City for their 2020 General Plan, and to develop a decision framework to CCID and USBR to manage requests for export of groundwater in order to insure the long term sustainability of the local groundwater.

We have no doubt that the other Districts have a similar proactive history in dealing with these issues. We are also vividly aware of some of the issues that the County similarly faces. We strongly urge that the County clearly articulate the precise issues that the proposed ordinance is designed to address, and work with the District(s) to develop informed solutions. The one size fits all approach of an ordinance will not be effective, and will hinder our ability to manage our water supplies into the future.

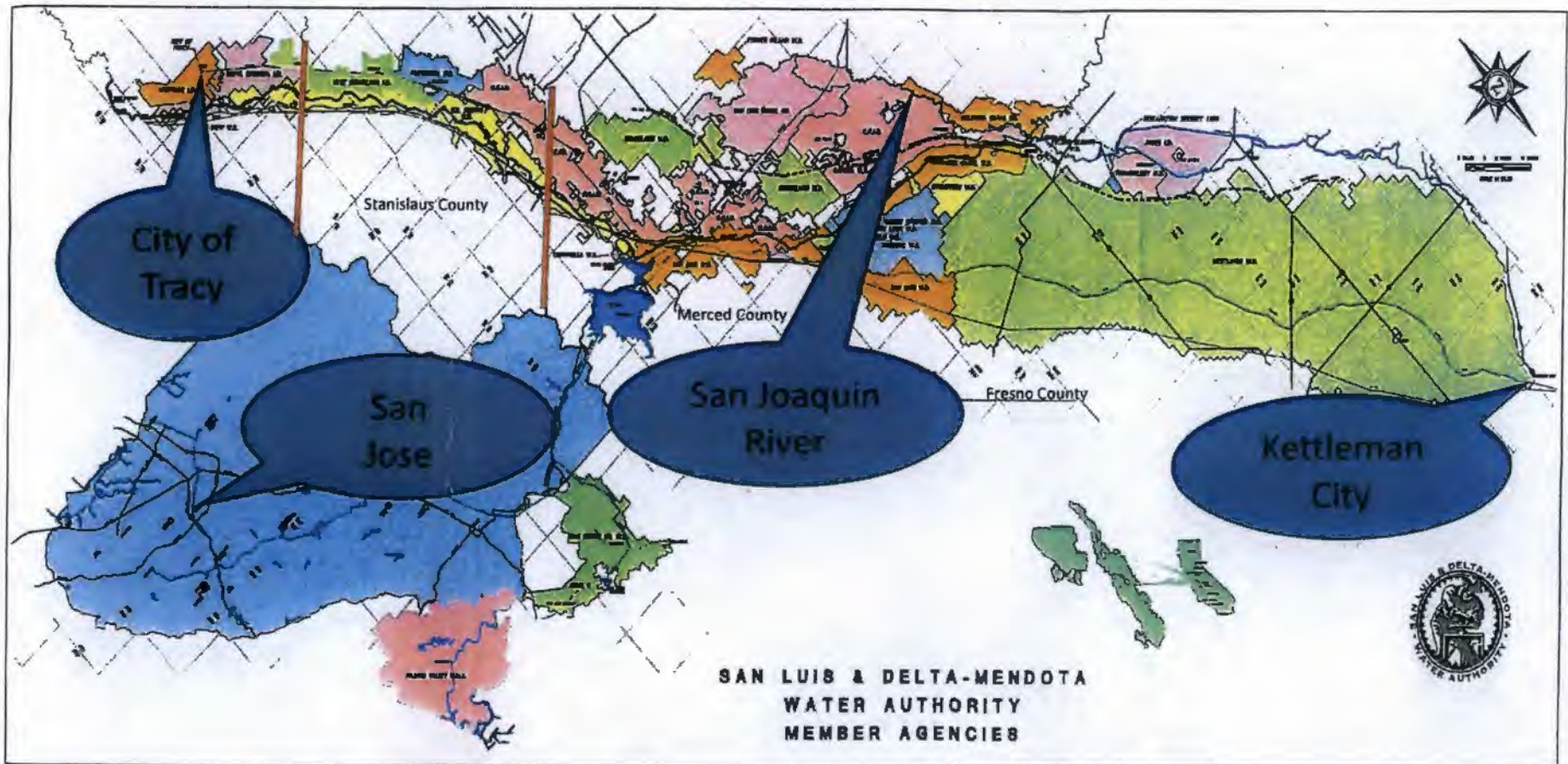
Very truly yours,



Chris White
General Manager

CW:mm

Enclosure



Banta-Carbona Irrigation District, Broadview Water District, Byron Bethany Irrigation District (CVP), Central California Irrigation District, Centinella Water District, City of Tracy, Columbia Canal Company, Del Puerto Water District, Eagle Field Water District, Firebaugh Canal Water District, Fresno Slough Water District, Grasslands Water District, James Irrigation District, Laguna Water District, Mercey Springs Water District, Oro Loma Water District, Pacheco Water District, Pajaro Valley Water Management Agency, Panoche Irrigation District, Patterson Irrigation District, Pleasant Valley Water District, Reclamation District 1606, San Benito County Water District, San Luis Canal Company, San Luis Water District, Santa Clara County Water District, Tranquillity Irrigation District, Turner Island Water District, West Side Irrigation District, West Stanislaus Irrigation District, Westlands Water District, Widren Water District.

Modesto, California
April 28, 2010

BOARD OF SUPERVISORS ✓

2010 APR 30 1 P 12: 29

Mr. Gary Caseri
Stanislaus County Agricultural Commissioner
3800 Cornucopia Way, Suite B
Modesto, California 95358

This letter is in response to the proposed "Stanislaus County Groundwater Ordinance." I am **strongly opposed** to any ordinance or regulation that allows transfer of groundwater from one jurisdiction to another by way of pipe or canal.

I am an engineer registered with the State of California. I have been a resident of Stanislaus County for the past seventy years.

My professional work has been involved in underground water pollution and water movement studies. I have a working engineers knowledge of the geology and hydro-dynamics of underground water storage and movement.

Stanislaus County requires a permit be obtained before a water well can be sited and completed. I worked on that permitting procedure many years ago and represented the local drilling contractors during that formative time.

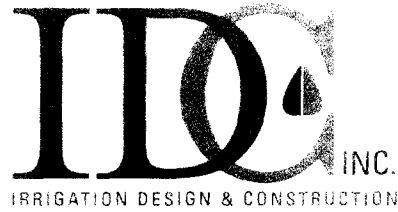
I have an excellent water well at my current home of 52 years. This well is completed in the 160 foot strata. I can see no value in an ordinance which would codify any groundwater movement from our area to any other area, be it near or far.

Sincerely,



Stanley D. Adkins
2029 Torrid Avenue
Modesto, CA 95358
209/523-5726

Copies to: Walter Ward, Modesto Irrigation District
Jeff Grover, District 3 Supervisor
Bill Lyons, Candidate for District 3 Supervisor



May 28, 2010

Mr. Gary Caseri
Stanislaus County Agricultural Commissioner
3800 Cornucopia Way, Ste B
Modesto, CA 95358

Re: Arroyo Farms

Mr. Caseri,

We are writing this letter in support for Mr. Grant Craven of Arroyo Farms. Irrigation Design & Construction, Inc. is headquartered in Stanislaus County and Mr. Craven has supported our business since its inception in 2004. In the past five years, we have completed irrigation projects with a cumulative value of \$907,541.54 for Mr. Craven.

Please contact me if you would like additional information.

Sincerely,

Mike Conrad
Owner

Jon Topham
General Manager



Ph: 209.894.6405
Fax: 209.894.6402

Agricultural Commissioner
Attn: Gary Caseri
3800 Cornucopia Way, Suite B
Modesto, CA 95358

May 27, 2010

Re: Arroyo Farms 2009 Sales

Dear Gary Caseri,

Del Don Fertilizer and Del Don Chemical are two well established businesses located within Stanislaus County. They have been in existence for over 40 years.

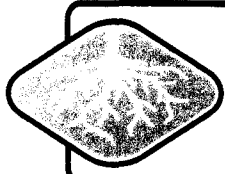
Arroyo Farms has been a customer of Del Don Fertilizer and Del Don Chemical over 10 years. In 2009 alone, Arroyo Farms purchased \$159,764.76 of Ag chemicals from Del Don Chemical. In addition, they purchased \$214,817.16 of Ag fertilizers from Del Don Fertilizers. Therefore, in total for the calendar year 2009, Arroyo Farms purchased \$374,581.92 worth of material.

Please feel free to contact us if you have any questions or need additional support.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lee Del Don' with a flourish at the end.

Lee Del Don, owner
(209) 531-4207



ORESTIMBA LLC
Nursery LLC

Norman Crow
209.837.4230
209.988.4570

16325 Crows Landing Road • Crows Landing, CA 95313 • Lic# 7966.001

Gary Caseri
Agricultural Commissioner
3800 Cornucopia Way, Ste B,
Modesto, California 95358

May 27, 2010

Dear Gary,

I would like the opportunity to share some information about my business Orestimba Nursery, LLC. We produce several varieties of walnut trees on paradox root stock and sell between 80,000 to 120,000 walnut trees every year. We take great pride in the trees we grow as well as the growers that purchase our product.

One of our premier local growers is Arroyo Farms of Crows Landing. Over the last 8 years Arroyo farms has purchased 40,000 trees at a value of over a half a million dollars. Orestimba Nursery's success as a business in Stanislaus County is heavily tied to the success of agricultural businesses like Arroyo Farms.

Thank you for your time,

Norman W. Crow
Orestimba Nursery, LLC

16325 Crows Landing Road • Crows Landing, CA 95313 • Lic# 7966.001

**MID VALLEY
AGRICULTURAL
SERVICES, INC.**

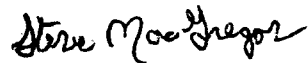
P.O. Box 188
2106 Santa Fe Ave.
Hughson, CA 95326
(209) 883-4900 • Fax (209) 883-4600

MAY 27, 2010

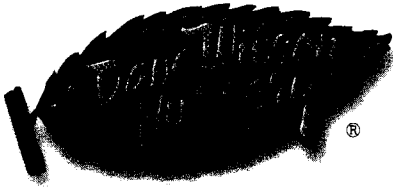
TO AGRICULTURAL COMMISSIONER:

THE TOTAL SALES FOR ARROYO SHIELDS AND ARROYO DUTCHMAN
RANCHES FOR THE 2009 YEAR IS \$135065.74.

REGARDS,



STEVE MACGREGOR
MID VALLEY AGRICULTURAL



Growers of Deciduous Fruit, Nut and Shade Trees Since 1938

Grant Craven
Arroyo Farms
PO Box 336
Crows Landing, CA 95313

May 28, 2010

Dear Grant:

As a grower of commercial orchard nursery stock Dave Wilson Nursery is very appreciative of the long relationship we have enjoyed with you and Arroyo Farms. In the past decade & and half (i.e. since 1996) you have purchased cherry, almond and apricot trees at a cost of \$283,000! Your continuing confidence and patronage is integral to our survival as an agricultural enterprise.

As you know, Dave Wilson Nursery's headquarters and growing grounds is located in Stanislaus County (although we also maintain a sales yard and fruit variety test orchard in Fresno County). A large percentage of our nursery stock is planted in Fresno County, by growers with headquarters within Fresno County as well as various other California counties.

Dave Wilson Nursery is a major employer in Stanislaus County, with a year-round crew of approximately 120 people and a seasonal work force that peaks at about 300 workers. As vendor to California farmers, we are highly dependent on the economic health of our customers in order to continue providing jobs and other financial benefits to our community.

With my sincere thanks,

Robert Woolley
President



June 2, 2010

Mr. Gary Caseri
Stanislaus County Ag Commissioner
3800 Cornucopia Way Suite B
Modesto CA 95358

Dear Mr. Caseri:

We operate a walnut processing facility in Patterson, California, on the west side of Stanislaus County. We have historically bought walnuts from Jon Maring and Grant Craven. We understand they have 110 acres of young Chandler walnuts at their Arroyo Farms project. We fully expect to buy and process the walnut production from these orchards.

Quite obviously, processing and marketing those walnuts will produce economic activity in Stanislaus County. The vast majority of the expenses we pay for inputs, such as labor, equipment, materials, taxes, utilities and the like go to local vendors. Likewise, the revenue and profits, both to us and to Arroyo Farms, come back to us here in the County as well.

We offer this letter solely to confirm that the production of walnuts at Arroyo Farms will produce substantial economic activity here in Stanislaus County. We are not taking a position on either the proposed Stanislaus County ordinance or Arroyo Farms' position with respect to groundwater pumping.

Very truly yours,

PATTERSON NUT COMPANY, INC.

A handwritten signature in black ink that reads "Mark R. Jensen".

Mark R. Jensen, CFO

MRJ:ct

STEWART & JASPER

O R C H A R D S



June 2, 2010

To Whom It May Concern:

Stewart & Jasper is a family farming operation which is located on the west side of Stanislaus County in the Newman area. We have been in business for over 60 years and specifically in the hulling, shelling, processing and marketing of almonds for more than 30 years.

On an annual basis, we employ approximately 175 people. Many of the people working for Stewart & Jasper are involved in our Hulling/Shelling operation, which runs from August through December. Processing almonds is almost year round and this is the area where a major portion of employment occurs.

Arroyo Farms is an orchard farming operation, located approximately 40 miles south of our almond facilities, along I-5. We have provided all of our almond services to Arroyo Farms since its inception, more than 15 years ago. Today, through both their harvesting and farming business, they are providing Stewart & Jasper over 6 million pounds of almonds annually. Obviously, Arroyo Farms is a very integral part of Stewart & Jasper's almond operation. Anything which would be a detriment to Arroyo Farm's ability to produce almonds would have a very negative effect on both Stewart & Jasper and the people we employ.

The economy of our country continues to struggle. The unemployment rate of the central valley is at an all time high. It makes no sense at all to institute regulations that would devastate a very productive business like Arroyo Farms and at the same time adversely affect one of the many businesses they do business with, namely Stewart & Jasper.

Sincerely,

Jim Jasper
President

June 1, 2010

Mr. Gary Caseri
Stanislaus County Ag Commissioner
3800 Cornucopia Way, Suite B
Modesto, CA 95358

Re: Proposed Groundwater Export Ordinance

Dear Gary:

I am the managing partner for Arroyo Farms, LLC, which is an orchard farming operation in western Fresno County that Jon Maring and I own. Jon and I are primarily farmers in Stanislaus County. Attached to this letter is an addendum which includes excerpts from an advertisement that appeared in the Modesto Bee on May 19th, 2010 and was paid for by me. It provides information that is critical to understanding our position on the proposed groundwater ordinance.

The process of planning, permitting and completing this project was arduous to say the least. But when it began operating in March 2009 it was fully permitted, licensed, contracted and legal. I have read publicly and been told privately that this project is the reason that Stanislaus County is considering regulation of groundwater. That seems possible as I have watched the proposed ordinance transform from a Groundwater Protection Ordinance to a Groundwater Export Prohibition Ordinance. I am unaware of exporters other than Arroyo Farms. From this I would conclude that our project is "unique".

We believe that this system, comprised of two wells and a pipeline to the Delta Mendota Canal, should be exempted from the proposed ordinance because it was legally constructed in good faith prior to the ordinance even being proposed. Despite our belief that we are legally entitled to continue operating our system, we are willing to accept two reasonable conditions to the exemption. First, we agree that the water generated will only be used by the partners of Arroyo Farms for agricultural irrigation purposes on land that we own or lease. Second, the amount exported through the system will be limited to the amount reasonably needed to make up for water shortages created by reduced Bureau of Reclamation allocations in CVP Districts where we farm. Finally, when a

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permanent solution is in place that would allow the Bureau to fulfill their contractual obligations to CVP Districts, we will no longer use our groundwater system for exports although we still may use it for water management between our properties and neighbors in Stanislaus County.


Attached are letters to you from some of the vendors and processors that Arroyo Farms engages in Stanislaus County. It should be obvious that Arroyo's business activities are firmly rooted in Stanislaus County, not Fresno County where the orchards are located. Fresno County receives property taxes and little else from Arroyo Farms. Stanislaus County receives virtually all of the economic benefit of Arroyo farming activity.

Also attached is a groundwater static level graph for the general area where the wells in question are located. It clearly demonstrates the aquifer recovery properties following dry periods such as those in 1976 and 1991. The decision to develop this system was rooted in the knowledge that we would do no permanent harm to our precious groundwater supplies.

Coincidentally, the San Luis Water District and the San Luis Delta Mendota Water Authority were notified by us recently that our groundwater pumping system will be shut down on May 31st and will be off for 5-6 months. This is possible due to the recent increases in Bureau water allocations.

We request that you forward this letter and all attachments to John Herlihy and the Stanislaus County Board of Supervisors.

Best Regards,



Grant Craven
Managing Partner, Arroyo Farms



Jon Maring
Partner, Arroyo Farms



GRANT CRAVEN
arroyofarms.com

Attachments:

Excerpts from Modesto Bee advertisement – May 19th, 2010.

Letters from vendors and processors.

Groundwater static level graph.

INFORMATIONAL ADDENDUM TO CASERI LETTER

JUNE 1ST, 2010

EXCERPTS FROM MODESTO BEE ADVERTISEMENT ON

MAY 19TH, 2010

BACKGROUND – Arroyo Farms is a 1050 acre orchard farming operation in the San Luis Water District in western Fresno County along Interstate 5. Arroyo is a partnership between Grant Craven and Jon Maring. They make major decisions together but Craven is charged with operations. Craven and Maring, individually, have farmed all of their working lives in Stanislaus County. They were born here, went to school here, raised their families here and continue to farm here. Craven was also farming in the Firebaugh area when, in 1994, he asked Maring if he would like to join him in developing orchards there. The land costs are much less there and the soils are better than the Westside of Stanislaus County.

WATER – The San Luis Water District obtains its water supplies from the Central Valley Project which is administered by the U.S. Bureau of Reclamation (Bureau). Recent court decisions driven by the Endangered Species Act, along with a couple of low precipitation years, have dramatically reduced our water supplies. Last year we received only 10% of our contract amount and this year were allocated just 40% putting our permanent orchards in grave jeopardy. As is the case throughout the San Luis Water District, there is no usable groundwater underlying.

OUR PROJECT – Craven and Maring, individually, also own a combined 800 acres on both sides of Orestimba Creek in western Stanislaus County. This acreage is not in any irrigation district and surface water is not available. It depends solely on groundwater and has been farmed that way for probably 100 years. The groundwater is plentiful, of good quality and the Creek replenishes the aquifer completely in decent rainfall years. There is evidence that groundwater levels returned to historical averages within two years after the 1976 and 1991 droughts. In early 2008 Craven initiated meetings with neighbors in Crows Landing, Del Puerto Water District and the Central California Irrigation District to discuss the idea of developing groundwater to transfer to Arroyo Farms during years when the Bureau shorts our San Luis Water District supplies. There appeared to be no opposition so Craven began the process. Stanislaus County issued permits for two new wells, construction of a 2 ½ mile pipeline to the Delta Mendota Canal and borings under three County roads. The Bureau also provided an encroachment permit to the canal and a Warren Act contract for the water to be transferred to San Luis Water District. A Biological assessment was also done. Landowner neighbors along the path of the pipeline recorded easements and outlet valves were installed along the way so that they could receive water in the event of a well failure or short supplies on their land. Arroyo only transfers the amount of water needed to make up the difference between what we are allocated from the Bureau and what the needs of the trees are. By the way, the wet year we have just had is already improving static groundwater levels. In good times it is at 70'. Last summer it got down to 90' but is now at 80'. As a part of our permit we are required to monitor groundwater elevations in the vicinity of the two new wells. Cost of this project was something in excess of \$600,000.

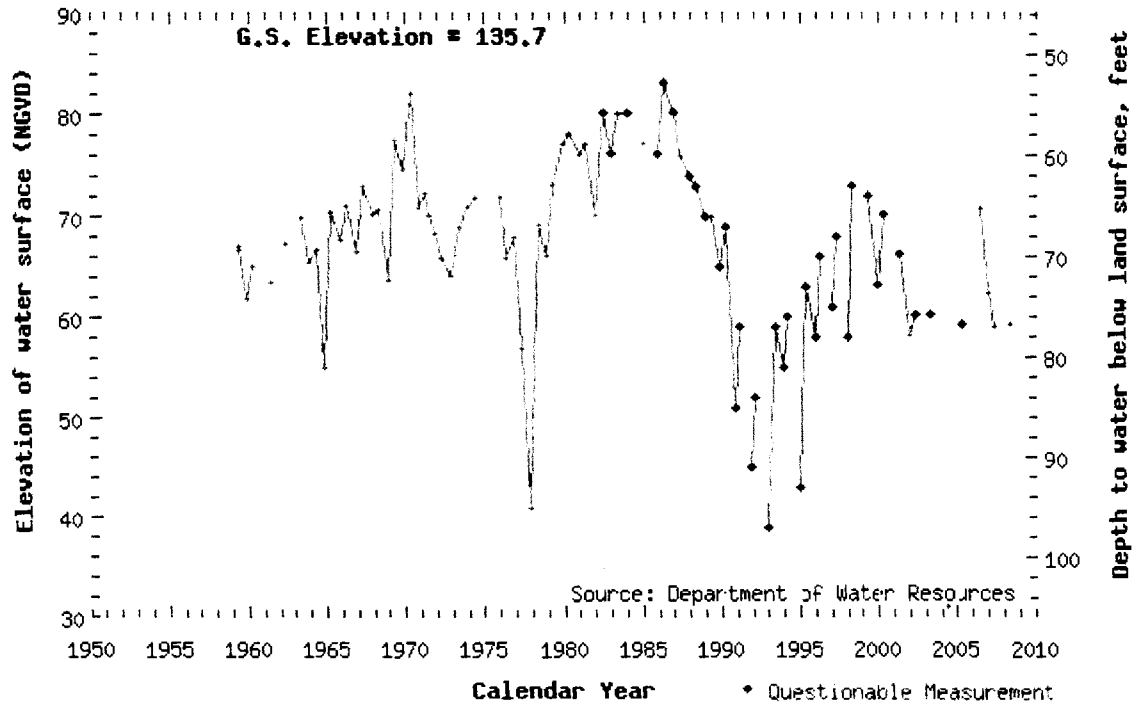
FACTS – Here are the facts about Arroyo Farms and Stanislaus County: 60% of the labor paid by Arroyo are to Stanislaus County residents, some are homeowners. All of the equipment and vehicles needed by Arroyo are purchased in Stanislaus County. All of the crops grown by Arroyo are trucked back to Stanislaus County for processing and marketing. All of the nursery trees and all of the irrigation systems came from Stanislaus County. Arroyo buys all of their chemicals and fertilizer in Stanislaus County. Arroyo's lender and bank are in Stanislaus County. Arroyo's bookkeeper and ranch manager live in Stanislaus County. And since Bureau water supplies have become undependable for Arroyo Farms, we have stopped expanding there and all profits from that entity have been returned to Stanislaus County and reinvested over the past four years. More trees, more irrigation, more employees, increased local vendor business. Last year, Craven and his son Todd built a new walnut huller in Crows Landing with Arroyo Farms profits. Permit fees to Stanislaus County: \$26,000.

GROUNDWATER IMPACT – There are thousands of water wells in Stanislaus County used for residential, municipal, industrial and agricultural needs. The two wells being used to meet Arroyo Farms water shortages don't account for 1/1000 of the water pumped from the ground in Stanislaus County every year. That is obviously just an estimate as no one knows how much water is pumped in this County. The point is that is miniscule when compared to the economic benefit received by Stanislaus County. Fifteen or twenty years ago the property in Crows Landing where the Arroyo wells are was intensely farmed in vegetables, two and sometimes three crops a year and irrigated with wasteful flood and furrow irrigation. At great cost we have converted 90% of that land to orchards with micro sprinkler and drip irrigation systems. There is about 1500 acre feet less water being applied each year than before.

Groundwater Levels, 06508E34M001M

San Joaquin Valley (Delta-Mendota Basin)

G.S. Elevation = 135.7





August 13, 2012

BOARD OF SUPERVISORS

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COPY

Gary Caseri
Stanislaus County Agricultural Commissioner/Sealer
3800 Cornucopia Way, Suite B
Modesto, CA 95358

Re: DRAFT Groundwater Export Ordinance

Dear Mr. Caseri:

Oakdale Irrigation District (OID) appreciates the opportunity to provide comments on the June 27, 2012 Draft Groundwater Export Ordinance (Draft Ordinance). Please accept this comment letter as supplemental to the comments made by multiple Stanislaus County water purveyors of which Oakdale Irrigation District (OID) is a signatory. Regrettably, the revised Draft Ordinance seems to have deviated substantially from what was last seen in 2010 and frankly, not for the better.

OID is an active member in the Stanislaus and Tuolumne Rivers Groundwater Basin Association (Association). The Association was formed in 1994 and is comprised of Modesto Irrigation District (MID), OID, Stanislaus County and the Cities of Oakdale, Riverbank and Modesto. Since 1994, the Association has provided its members a vehicle for coordinated planning to make the best use of groundwater and to satisfy the mutual interests of its member agencies. Specific purposes of the Association are to:

- Determine and evaluate the subbasin's groundwater supply;
- Promote the coordination of groundwater management planning;
- Develop a hydrologic groundwater model of the groundwater basin;
- Determine the subbasin's need for additional or improved water extraction, storage, delivery, conservation and recharge facilities; and
- Provide information and guidance for the management, preservation, protection and enhancement of groundwater quality and quantity in the subbasin.

The Association is further recognized by the Department of Water Resources (DWR) as the reporting entity for its member agencies as part of the California Statewide Groundwater Elevation Monitoring Program (CASGEM). To date, the Association meets monthly and over its thirteen (13) years of existence has funded a multitude of studies, models and reports on the Modesto Subbasin.

On a factual note, OID has efficiently exported water outside Stanislaus County with no net impacts to its constituents since 1999 generating approximately \$41.2 million dollars in water transfer revenues. These monies are being use to effectuate a needed \$168 million dollar rebuild and modernization effort of its outdated water conveyance system. Other noteworthy benefits of these efforts include:

1. OID's modernization efforts are improving customer service to OID's ag constituents. Improved canal service capabilities actually get growers who went to groundwater because of a lack of service back to surface water. That shift from groundwater to surface water constitutes in-lieu recharge of local groundwater aquifers which feed the Modesto sub-basin.
2. OID's modernization and rebuilding efforts generates new water through more efficient utilization. That new water is being used for two beneficial purposes; to backfill drought water supplies for OID's ag constituents and to promote agricultural expansion to the east. OID is currently in the process of annexing approximately 7,300 gross acres of additional ag lands.
3. OID has pumped \$50 million into our local economy over the last 10 years on rebuilding and modernizing its outdated water conveyance system. That translates to jobs and stimulus that has served our local economy well.

Each OID water transfer/export out of the County has undergone the scrutiny of a thorough California Environmental Quality Act (CEQA) process. This is the State supported public process to address impacts of all proposed projects or actions. To interject another bureaucratic layer, which would be the result of this Draft Ordinance, is burdensome government.

By virtue of its pre-1914 adjudicated water rights, OID has been entrusted to manage its water resources to the benefit of its constituents in compliance with the State's reasonable and beneficial use standards. OID has successfully been doing this for over one-hundred (100) years. To unduly burden local water purveyors who have the highest level of accountability and their own electorate, by a County who NOW believes it has the expertise to make those decisions, is just wrong. Moreover, in light of the economic constraints impacting Stanislaus County it would appear the County is ill prepared and underequipped to take on such a program. Given the information set-forth herein, OID would strongly encourage the County to reconsider pursuing this Draft Ordinance.

OID and other water purveyors within Stanislaus County have spent millions studying the resources they have been entrusted to manage. They know how to manage the inter-connectivity of both their surface and groundwater supplies to maximize that benefit. In addition, they fully understand the economic importance of both a viable and sustainable regional groundwater supply. The Draft Ordinance will do nothing to improve or elevate that understanding and will only serve to add additional bureaucracy at the cost to Stanislaus County residents.

Should you have any additional questions, please feel free to contact me at (209) 840-5508.

Sincerely,

OAKDALE IRRIGATION DISTRICT



Steve Knell, P.E.
General Manager

cc: Administration Files
✓ Supervisor Bill O'Brien
Board of Directors (5)



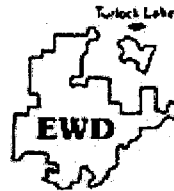
BOARD OF SUPERVISORS

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SOUTH SAN JOAQUIN IRRIGATION DISTRICT

SAN JOAQUIN TRIBUTARIES AUTHORITY



EASTSIDE WATER DISTRICT
P.O. Box 280
Denair, CA 95316



Turlock Groundwater Basin Association

August 20, 2012

Via email at agcom50@stancounty.com

Mr. Gary Caseri
Stanislaus County Agricultural Commissioner
3800 Cornucopia Way, Suite B
Modesto, CA 95358
Attn: AAB Comments

RE: Groundwater Export Ordinance

Dear Mr. Caseri:

The undersigned water purveyors appreciate the opportunity to provide comments on Stanislaus County's proposed Groundwater Export Ordinance (the "Ordinance"). We have individually and collectively provided comments on earlier drafts of the Ordinance, and those previous comments, where applicable, are hereby incorporated.

Mr. Gary Caseri
August 20, 2012
Page 2

We write this letter because we have significant concerns regarding the proposed groundwater ordinance. Not only do the entities below provide both surface and groundwater to most of the land within Stanislaus County, our agencies have been conjunctively managing these important water resources for well over 100 years. Our considerable expertise and knowledge gained from the combined management of the surface and groundwater resources during this time should not be overlooked.

For example, several of the entities listed below have formed the Turlock Groundwater Basin Association. The Association has prepared and adopted a Groundwater Management Plan which it has continually updated. The Basin Management Objectives of the plan are consistent with the stated objectives of the Ordinance and include maintaining an adequate water level in the groundwater basin, protecting groundwater quality, monitoring groundwater extraction to reduce the potential for land subsidence, and promoting conjunctive use of groundwater and surface waters. Other entities listed below within the County are also actively managing groundwater basins pursuant to adopted groundwater management plans such as (1) the Northern Delta-Mendota Canal Groundwater Management Plan which is focused on groundwater in the westerly part of Stanislaus County, (2) the Integrated Groundwater Management Plan for the Modesto Subbasin which covers the groundwater basin between the Stanislaus and Tuolumne Rivers and east of the San Joaquin River, and (3) the San Joaquin River Exchange Contractors Water Authority Update AB 3030 Groundwater Management Plan which includes a portion of Stanislaus County south of Crows Landing and west of the San Joaquin River.

As an initial matter we believe that the County should better define the goals and objectives of the Ordinance. The Ordinance appears to be a solution in search of a problem. While it is labeled as a "Groundwater Export Ordinance", the proposed ordinance, if adopted, would regulate groundwater use and extraction, the use and application of surface water, groundwater banking, and the use of recycled waste water, in addition to groundwater export. The County should take a step back and identify what problems exist with respect to groundwater, what tools are available currently to address any identified problems, and then propose an ordinance to address those problems that lack current solutions.

It appears that the Ordinance was pasted together from previous drafts and from ordinances borrowed from other counties, and, as a result, we find that the Ordinance is both poorly drafted and difficult to follow. The Ordinance attempts to address too many issues at once. Is it a groundwater export ordinance? Is it a surface water export ordinance? Is it a groundwater banking ordinance?

Finally, we do not believe that more fees and additional government bureaucracy are the answer. The ground and surface water resources are already adequately protected by a myriad of local plans, county regulation, and state laws and regulations. Additional oversight is not needed and only further burdens the residents in the County.

The undersigned are committed to cooperating with the County to protect the groundwater resource for the beneficial use of all of its residents. At the same time, we are committed to protecting our resources, including the conjunctive use of surface and groundwater within our

Mr. Gary Caseri
August 20, 2012
Page 3

respective boundaries and providing our growers and municipal, commercial, and industrial customers with a reliable, safe, efficient, and cost-effective water supply. Our staffs are available for assistance in revising the Ordinance.

Sincerely,

Steve Knell, P.E.
General Manager
Oakdale Irrigation District

Jeff Shields
General Manager
South San Joaquin Irrigation District

Robert M. Nees
Assistant General Manager, Water Resources
Turlock Irrigation District

Walter P. Ward
Assistant General Manager, Water Operations
Modesto Irrigation District

Allen Short
Chief Executive Officer
San Joaquin Tributaries Authority

Robert M. Nees
Chairperson
Turlock Groundwater Basin Association

Christopher L. White, LS PE
General Manager
Central California Irrigation District

Peter M. Rietkerk, P.E.
General Manager
Patterson Irrigation District

Bill Harrison
General Manager
Del Puerto Water District

Bobby Pierce
General Manager
West Stanislaus Irrigation District

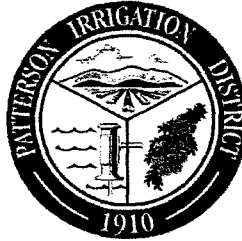
John Sweigard
General Manager
Merced Irrigation District

James G. Crecelius
Chairman, Board of Directors
Eastside Water District

cc: William O'Brien, District 1 Supervisor
Vito Chiesa, District 2 Supervisor
Terry Withrow, District 3 Supervisor
Dick Monteith, District 4 Supervisor
Jim DeMartini, District 5 Supervisor
Monica Nino, Chief Executive Officer

Board of Directors

John Azevedo
President
David Reichmuth
Vice President
Alfred Scheuber
David Fantozzi
Dan Robinson



Peter Rietkerk
General Manager
BOARD OF SUPERVISORS
Toni Russell
Secretary/Treasurer
2012 AUG 24 A 11:22

948 Orange Avenue - P.O. Box 685 - Patterson, Ca. 95363
Office (209) 892-6233 - Fax (209) 892-4013

August 21, 2012

Mr. Gary Caseri
Stanislaus County Agricultural Commissioner
Attn: AAB Comments
3800 Cornucopia Way, Suite B
Modesto, CA 95358

Via email at agcom50@stancounty.com

Re: Stanislaus County Draft Groundwater Export Ordinance

Mr. Caseri,

Patterson Irrigation District ("PID") appreciates the opportunity to comment on Stanislaus County's proposed Groundwater Export Ordinance ("Ordinance"). PID has participated in joint comments submitted for prior versions of the ordinance in 2010, as well a recent letter for the County's current version of the Ordinance. In addition to these comments, PID respectfully submits the enclosed comments in an effort to more specifically describe concerns regarding this Ordinance.

PID has provided agricultural water delivery service to approximately 14,500 acres in the Patterson area for over 100 years. PID's water supplies include Pre-1914 rights on the San Joaquin River, Central Valley Project federal water contract supplies, and groundwater. For years, PID has utilized groundwater conjunctively, delivering surface water which provides for natural recharge of the local aquifer, and utilizing groundwater conjunctively in-District to meet peak irrigation demands, and as an emergency supply in the event of facility failures or issues.

The Ordinance, while titled a "Groundwater Export Ordinance," does not clearly distinguish between agency conjunctive groundwater and surface water use. Many districts, including PID, use groundwater conjunctively with surface water to manage irrigation deliveries within their respective service areas. The amount of groundwater used on an annual basis varies greatly depending on hydrology, cropping patterns, and facilities operations. The ordinance does not clearly define how it will incorporate or account for historical agency surface water activities and groundwater conjunctive use operations. Section X.xx.050, Section A. does exempt "extraction of groundwater by a listed and locally recognized water, irrigation, or drainage District(s)" serving Residents of the County, but the Ordinance carries strong language otherwise for managing and regulating surface water operations with conjunctive groundwater use.

Mr. Caseri
August 21, 2012
Page 2 of 2

Additionally, the Ordinance which seeks to protect County groundwater resources in the local basin is compounding fees and bureaucracy for a vital resource that is already heavily regulated and monitored. PID currently shares responsibility for groundwater management activities through an adopted AB 3030 Groundwater Management Plan known as the "Groundwater Management Plan for the Northern Agencies in the Delta-Mendota Canal Service Area" (GMP). PID participates in implementing this GMP with other local agricultural irrigation, municipal, and water districts, including West Stanislaus Irrigation District, the City of Patterson, and Del Puerto Water District in western Stanislaus County. In addition to this GMP, Eastern Stanislaus County areas are committed to similar objectives through participation in the Turlock Groundwater Basin Association. On top of these regulations, the Central Valley Regional Water Quality Control Board will be issuing separate discharge orders for the Irrigated Lands Regulatory Program which will also require additional monitoring for groundwater in eastern and western Stanislaus County. The objectives of these groundwater management groups and state regulation include preventing groundwater depletion and maintaining groundwater quality within their respective basins. Passage of this Ordinance will obligate additional and redundant County resources that are already being expended by agencies to meet the same objectives.

PID would again like to thank the Stanislaus County for the opportunity to comment on the proposed Ordinance. Please contact the District if your office has any additional questions or any additional information on this subject.

Sincerely,



Peter M. Rietkerk
General Manager

Cc: Patterson Irrigation District Board of Directors
William O'Brien, District 1 Supervisor
Vito Chiesa, District 2 Supervisor
Terry Withrow, District 3 Supervisor
Dick Monteith, District 4 Supervisor
Jim DeMartini, District 5 Supervisor
Monica Nino, Chief Executive Officer



Board of Directors:
Joe Alamo
Charles Fernandes
Michael Frantz
Ron Macedo
Rob Santos

BOARD OF SUPERVISORS

2012 AUG 24 A 11:23

August 22, 2012

Gary Caseri
Stanislaus Co Ag Commissioner
Attn: AAB Comments
3800 Cornucopia Way, Suite B
Modesto, CA 95358-9494

Dear Mr. Caseri:

The Turlock Irrigation District (TID) appreciates the opportunity to provide comments on Stanislaus County's proposed Groundwater Export Ordinance (the "Ordinance"). The District has provided comments on earlier drafts of the Ordinance, and those previous comments, where applicable, are hereby incorporated.

TID has significant concerns regarding the proposed Ordinance. TID provides both surface and groundwater to its customers in Stanislaus and Merced counties, and has been conjunctively managing these important water resources for 125 years. Our considerable expertise and knowledge gained from the combined management of the surface and groundwater resources during this time should not be overlooked. Despite this expertise and the expertise of other water districts, the County has apparently decided to go its own way. At the July 31 meeting at the office of the Stanislaus County Farm Bureau, the stakeholders offered their assistance to work with the County and develop an ordinance that truly protects the water resources of the County. That offer of assistance was unfortunately refused by staff and counsel.

First, we believe that the County should better define the goals and objectives of the Ordinance. The Ordinance appears to be a solution in search of a problem and attempts to address too many issues at once. While it is labeled as a "Groundwater Export Ordinance," the proposed ordinance, if adopted, would regulate groundwater use and extraction, the use and application of surface water, surface water transfers, groundwater banking, and the use of recycled waste water, in addition to groundwater export. The County should take a step back and identify what problems exist with respect to groundwater, what tools are available currently to address any identified problems, and then propose an ordinance to address those problems that lack current solutions.

Although the Ordinance states the intent is not to "...regulate normal, intra-county management and use of water by individuals, water agencies, water districts, irrigation districts, drainage districts, or cities/municipalities" the current language of the Ordinance doesn't appear to meet the intent. Much of that is due to its broadly sweeping approach which could cause conflicts and require agencies to apply for permits to implement existing programs and practices.

The exemptions in the current draft are confusing and in some instances contradict other sections of the Ordinance. Requiring specific exemptions precludes future activities not currently envisioned that

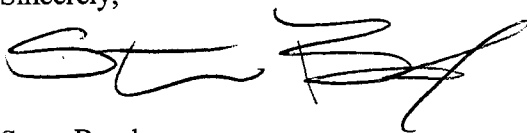
might benefit the County and the local resources. Rather than excluding activities from regulation, a better approach would be to clearly define the problem and then develop an ordinance that is specific to solving the issue at hand.

Second, portions of the County groundwater basin are already being severely overdrafted, yet this Ordinance, supposedly meant to protect those same groundwater resources, would do nothing to halt those declines. As an important first step, the County could instead adopt the Turlock Groundwater Basin Plan which has as some of its objectives maintaining an adequate water level in the groundwater basin, protecting groundwater quality, monitoring groundwater extraction to reduce the potential for land subsidence, and promoting the conjunctive use of groundwater and surface waters. This plan was prepared by the Turlock Groundwater Basin Association, which includes the County, TID, the cities of Modesto, Hughson, Ceres and Turlock, and several other communities and water districts. This readily available tool for managing, protecting and monitoring the groundwater basin has not been adopted by the County.

TID does not believe that more fees and additional government bureaucracy are the answer. The ground and surface water resources of this county are already adequately protected by a myriad of local and state laws and regulations. Additional oversight is not needed and only further burdens the residents in the County. Existing state laws, such as the California Environmental Quality Act (CEQA), provide ample opportunity for the County to provide input into any potential transfer affecting groundwater and surface water. Furthermore, the laws and regulations governing water transfers as administered by the State Water Resources Control Board also provide additional opportunity for comment by the County. Rather than increasing staffs and budgets to accommodate this additional and unnecessary review process, there already exists within the County the ability to provide input when required.

TID is committed to cooperating with the County to protect the groundwater resources for the beneficial use of all of County residents. At the same time, TID has an obligation to protect our resources and conjunctive use the surface and groundwater to provide our growers and others within TID a reliable, safe, efficient, and cost-effective water supply. Our staff is available for assistance in revising the Ordinance.

Sincerely,



Steve Boyd
Director of WR&RA

cc: William O'Brien, District 1 Supervisor
Vito Chiesa, District 2 Supervisor
Terry Withrow, District 3 Supervisor
Dick Monteith, District 4 Supervisor
Jim DeMartini, District 5 Supervisor
Monica Nino, Chief Executive Officer

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August 22, 2012

Board of Supervisors
County of Stanislaus
1010 – 10th Street, Suite 6700
Modesto, CA 95354

Gary Caseri
Stanislaus County Agricultural Commissioner
3800 Cornucopia Way, Suite B
Modesto, CA 95358

Re: Proposed Stanislaus Government Ordinance

Ladies and Gentlemen:

The Board of Directors of Central California Irrigation District has joined with almost all of the water serving entities within Stanislaus County in a letter which requests that consideration of any Groundwater Export Ordinance be deliberate and careful in light of the potential damage that might be done to beneficial practices currently undertaken by those purveyors.

We wished to supplement our comments because of the peculiar problems posed by such ordinances to Central California Irrigation District.

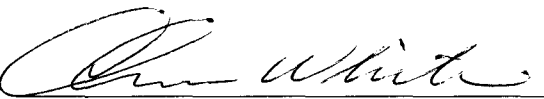
1. As you know, Central California Irrigation District serves lands in three counties, Stanislaus, Merced and Fresno. We share our water rights and delivery system with Columbia Canal Company which serves portions of Madera County. In more than 100 years we have been able to develop an efficient means of meeting irrigation requirements which integrates groundwater use, reserves that groundwater use for multiple years and uses the groundwater capacity annually to meet the crops delivery capacity requirements. County boundaries have never been taken into consideration in the past.
2. Water service and supplies are becoming increasingly complex. If all 52 counties adopted ordinances requiring permits, inevitably the views and requirements of individual counties will conflict resulting in the argument for abolishing or limiting locally governed service entities, water rights and making more "efficient" California water use by removing most water rights principles and centralizing all decisions in Sacramento. These arguments become much more appealing. We think the example of practices of the Central California Irrigation District and the other local water serving entities in Stanislaus County show that local judgments and adaptation should not be so endangered.

3. If the Stanislaus County Board of Supervisors, after considering all of these factors, determines that it wishes to move forward with adoption of an ordinance, although we know that exemptions raise a new level of complexity, placing all water serving entities under blankets of complexity should be avoided if at all possible. Some years ago Fresno County approached this issue by providing in its ordinance that if a water serving entity had an ongoing practice involving use of well water that might be argued to be a “cross County boundary transfer” and if in the judgment of the administrator for the County that program met the general objectives of good water resource administration and coordination, the administrator for the County could exempt the water serving entity from applying for a permit under the County ordinance. The water serving entity did not have to apply to the County if it made charges in its program, but was to inform the County officer of the changes. We accomplished such an Agreement with Fresno County and it has functioned for years. We would hope that if such an alternative was provided in Stanislaus County’s ordinance, Central California Irrigation District and other water or irrigation districts could avoid the permit procedure and come to agreement with the County Officials.

We hope that this supplementary letter will be helpful to your. All of us experience, daily, the temptation to apply more government to real problems. The question is always whether the problems we create by more government are worth the potential cure of the evil we are most immediately aware of and concerned about. We know that we can trust you to weigh these factions in the areas of water supplied and operations which are under assault from many directions.

Very truly yours,

Board of Directors
Central California Irrigation District

By 
Chris White, General Manager

THOMAS H. TERPSTRA
ATTORNEY AT LAW
A PROFESSIONAL CORPORATION

✓
BOARD OF SUPERVISORS
Stacy L. Henderson
shenderson@thtlaw.com
2013 JUL 25 A 10:47

July 23, 2013

VIA ELECTRONIC MAIL & U.S. MAIL

Stanislaus County Agricultural Commissioner
3800 Cornucopia Way, Ste. B
Modesto, CA 95358
Email: agcom50@stancounty.com

Re: Draft Ordinance Regulating Groundwater Resources within the County of Stanislaus

Dear Stanislaus County Agricultural Commissioner:

I represent a group of small farmers in Stanislaus County. My Clients appreciate the opportunity to provide comments regarding the draft Ordinance Regulating Groundwater Resources within Stanislaus County and the ability to participate in the Water Summit. We have found your staff to be extremely helpful and pleasant to work with throughout this process. We provide the following comments for the record and for the County's consideration in reviewing the latest draft of the proposed Ordinance.

First, we believe that the Exemption stated in Section 9.37.050(9) be expanded to exempt not only domestic water wells who deliver 100 gallons per minute or less to also include agricultural and/or livestock wells with the same capacity.

Second, we want to confirm the effect that the draft Ordinance will have on Irrigation Districts. The continued protection of groundwater within the County is of utmost importance to my Clients both in terms of their businesses and their concern for the greater good of the community in general. To that end, they have great appreciation for the work conducted by the Irrigation Districts in the County. My Clients would like to express their support for the continued independence of the various Irrigation Districts. The Exemption stated in Section 9.37.050(1) appears to permit the Irrigation Districts to continue to conduct business as usual. Provided that our interpretation of that Exemption is correct, my Clients would like to express their support for the current version of the proposed Ordinance.

Finally, my Clients are concerned about the limited effect the ordinance will have on a very real issue – the effect of groundwater well development on neighboring properties. As stated in Section 9.37.030(6), the term “mining” is limited to extraction of groundwater beyond the quantity warranted, necessary or as may be customary for reasonable and beneficial uses within the County.” Thus, it appears that as long as a person is using a quantity of water than is “necessary” for irrigation on their property, the use will not be deemed to be “mining” and will not be regulated. Unfortunately, neither this draft Ordinance, nor the existing County procedures

Page 2
Stanislaus County Agricultural Commissioner
July 23, 2013

for well development require examination of the potential negative effects new well development, or modifications to existing wells, will have on neighbors. To develop or modify an agricultural well, a landowner is required to complete a two-page application, which includes an area for the landowner to draw a plot plan that identifies the location of other wells within 300 feet. There is no environmental review (i.e. compliance with CEQA) that is required unless the well is proposed to be placed in the vicinity of hazardous waste or mitigation site. Neighbors are not notified of the proposed well and a public hearing is not required. The potential for new well development or modification of existing wells to negatively impact neighbors is a very real concern for my Clients, as well as the farming community in general. The July 14, 2013 Modesto Bee Article "Denair neighbors say farmer's drilling sapped their wells" highlights this issue. I have attached a copy of the article for your reference.

In part, we submit this letter to respectfully request that the County take an active role in investigating the and developing new regulations governing well development to ensure that new or modified use of groundwater wells will not negatively impact neighboring properties.

Should you have any questions or concerns, please feel free to contact me. Thank you for your time and consideration.

Very truly yours,



Stacy L. Henderson
Attorney-at-Law

Cc: Stanislaus County Board of Supervisors
Turlock Irrigation District Board of Directors
Modesto Irrigation District Board of Directors
Oakdale Irrigation District Board of Directors
South San Joaquin Irrigation District Board of Directors
Tom Orvis – Stanislaus County Farm Bureau
Wayne Zipser – Stanislaus County Farm Bureau

Enclosure

Modesto Bee

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Farm Beat: Stanislaus County Fair farmers market taps our ag roots

Denair neighbors say farmer's drilling sapped their wells

Published: July 14, 2013

By Garth Stapley — gstapley@modbee.com

DENAIR — Faced with saving crops or friendships, Roger Smith chose crops.

Home water wells owned by several neighbors went dry after the farmer drilled a huge agricultural well to keep alive the corn and alfalfa that feed his dairy cows.

At least six families say they were forced to spend up to \$13,000 each sinking new wells or lose the luxury of drinking, flushing and showering. They assume their older, shallow wells fell victim to competition for groundwater from Smith's industrial-size well, aided by a Turlock Irrigation District policy that does not consider effects on neighbors.

An older couple with a fixed income, unable to afford the expense, suffered through a dry month with no water before an anonymous donor offered a loan with easy terms for a new well after reading about their plight in The Bee. Workers drilled it Tuesday.

When the first article appeared three weeks ago, nobody pointed fingers and the story talked in general terms about scads of new agricultural wells threatening underground aquifers on the valley's east side, where millions of trees have been planted in recent years.

This time, people pointed to Smith's new, large well as it pumped hundreds — sometimes thousands — of gallons a minute into a TID canal.

"It makes sense why all the neighbors' water is gone," said Jim Fisher, crossing his fingers that his well will survive after his three closest neighbors were forced to drill down 280 feet to 300 feet for new water. "And all the residents have to foot the bill."

"When you're pumping like (Smith), the water table's going to go down," said Tom Kirkpatrick, "and there's nothing we can do."

Smith did not dispute neighbors' conclusion that his well is to blame. He said he operates the well as little as possible — because it costs him money to run; electricity powers the pump.

"When you stick enough straws in the glass, it draws down the water level," Smith agreed. "But if I quit pumping, I'm done," he said; his crops would die.

TID has less to go around

TID customers are getting less water than usual in this second consecutive dry year. The Modesto Irrigation District has agreed to sell some water to help its sister utility, and the Oakdale Irrigation District a few days ago offered more to the MID and the TID.

Smith, 69, said most domestic wells on the outskirts of Denair were installed in the 1950s. People should feel fortunate the wells have lasted this long, he said.

"I get blamed for the water deal because I'm a close target," he said.

Three weeks ago, TID board Chairman Michael Frantz offered sympathy for Peter and Nancy Bakker, who could not afford a new well, but noted that the TID has no jurisdiction over groundwater. Indeed, most states regulate pumping, but California has no such policy.

Much drilling

That means Smith can pump all he wants. So can all well owners throughout Stanislaus County, which has welcomed 2,461 new wells in the past decade.

The TID's "limited water exchange" rule allows Smith to put groundwater directly in a district canal and pull it out for crops downstream. A meter measures the amount pumped so he knows how much to remove.

"He's trying to keep his crops alive," Frantz said.

The MID makes no such accommodation, said Walter Ward, assistant general manager for water operations.

Frantz acknowledged that the policy could be viewed as favoring farmers over homeowners.

"It gets sticky," he said. "As long as there is enough supply to go around, it matters little who gets what. As soon as it becomes a zero-sum game, all of a sudden things don't seem fair."

Agriculture has provided the San Joaquin Valley with rare success in a withering recession. Farming in the county grossed a record \$3 billion in 2011; 2012 numbers should be out in a few weeks.

Although California has no statewide groundwater policy, counties such as Kern and Monterey have adopted local rules. Some experts say that needs to happen here — before it's too late.

A recent study by the University of California at Irvine used satellites to show that the valley's aquifers are shrinking at an alarming rate and could be depleted "perhaps within decades, putting the nation's food supply at considerable risk."

In a letter to the editor of The Bee, retired hydrologist Vance Kennedy predicted an "environmental disaster" if farmers suck aquifers dry and orchards die, leaving a wasteland.

Counties with groundwater policies seem to react to local crises, said Nick Pinhey, the city of Modesto's former water expert.

Can't act after a crisis

"Letting local people set up a system works quite effectively, but you've got to do it before complete disaster, before land subsidence occurs and you can't store water underground anymore," he said. "You can't let it go to total collapse. You've got to recognize it's coming and do something before it's too late. But it requires a lot of compromise."

Four of Stanislaus County's five supervisors own farmland and have been strong supporters of agriculture. Board chairman Vito Chiesa said the groundwater overdraft issue is not as simple as farmer versus neighbor.

"Do you know how many wells are out there? Thousands and thousands," Chiesa said. He noted that the aquifer relied on by Smith's neighbors may have been affected by thousands of acres of newly planted orchards in foothills to the east.

"Regardless of politics, it's a very complicated issue. I think we need to have that discussion," Chiesa said. He suggested that the board's agriculture advisory committee take a look at it.

Meanwhile, the Bakkers said that before the anonymous donor emerged, a nice couple delivered bottled water and a neighbor brought recycled gray water for flushing toilets.

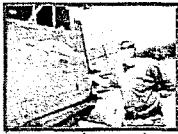
"It's wonderful that people came forward to help," Nancy Bakker said. "We are so grateful. It blows you away when people are that kind."

Said Peter Bakker: "Everyone uses water; it's the most basic thing that people need."

Bee staff writer Garth Stapley can be reached at gstapley@modbee.com or (209) 578-2390.

For a map of where the Denair well problems occurred, [click here](#).

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July 24, 2013

VIA E-MAIL: agcom50@stancounty.com

Stanislaus County Agricultural
Commissioner
3800 Cornucopia Way, Suite B
Modesto, CA 95385

Re: **Draft Ordinance Regulating Groundwater Resources Within the County of Stanislaus**

Dear Commissioner:

I am writing to you on behalf of west side farmers and ranchers within Stanislaus County. These farmers and ranchers and their families have been living in Stanislaus County for several generations. As long-term citizens of the county, they are deeply invested in the county's well-being, including protection of the precious water resources and their private property rights.

The county Agricultural Commission and the Board of Supervisors are considering amending the County Code to add Chapter 9.37 which would regulate groundwater resources within the county. Without a doubt, water is essential to the public health and well-being of Stanislaus County. The county is blessed to have a water supply that is ample to its needs. Within the county are two of the state's oldest irrigation districts which support agricultural and municipal uses. They have done an excellent job of husbanding our water and power resources. The county is also blessed with the mighty Tuolumne River, the San Joaquin River, the Stanislaus River, various tributaries and a plentiful groundwater supply. In the western part of the county, the groundwater is very near the surface, while in certain eastern parts of the county, groundwater is either nonexistent or at much greater depth. The City of Modesto has long relied on groundwater as its primary water supply.

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Stanislaus County Agricultural Commissioner
July 24, 2013
Page 2

Despite the substantial growth in population within Stanislaus County and the strong business climate, local water supplies have withstood this growth even during periods of extreme drought. In fact, despite there being a significant drought cycle over the last few years and an unusually dry year in 2013, the county and its many resources have fared far better than others.

Despite the current collective good fortune, over the past several years the county has issued permits for extremely deep wells that are accessing the deep confined aquifers. The continued drilling of these deep wells threatens long term water supply security. While issuing permits for well drilling has traditionally been seen as a ministerial act, with respect to these deep wells, the county should reconsider its approach. These deep wells are withdrawing groundwater that currently supports the shallower aquifers. If this practice is allowed to continue, subsidence and interference with the historic well fields that have supported urban and agricultural uses for over 100 years will occur. The ordinance should be amended to address this problem. A straightforward solution would be to require environmental review for any new deep wells.

Further, 9.37.050 (9) exempts domestic water wells that deliver 100 gpm or less. This exemption should be expanded to include livestock wells. There are many farmers and ranchers that have small wells, e.g. 1.5 hp, that are used to meet small livestock needs. These wells have no discernible impacts from the domestic wells.

As the Agricultural Commission and Board of Supervisors consider the precious nature of our groundwater resources, they should be mindful that one size does not fit all. Wisely, the draft ordinance, while imposing certain regulations regarding the "mining" of groundwater resources and the export of water outside the county, has recognized that exceptions to the prohibition against mining groundwater and the export of it outside the county are warranted. However, the exemptions are not as clear as they should be, nor as comprehensive. To that end, the following amendments to the draft ordinance are appropriate and are strongly supported by farmers and ranchers within the central and western portions of Stanislaus County. Farmers and ranchers in the eastern part of the county likely will support these well-considered amendments, but there has not had time to reach out to them within the short period of time between the issuance of the latest draft and the meeting on July 24th.

The definition of "mining" should be amended. As set forth in the draft ordinance, mining is defined as "the extraction of groundwater beyond the quantity warranted, necessary or as may be customary for reasonable and beneficial uses within the county." This definition is vague and will vary from place to place throughout the county. For example, in the western part of the county, it is often necessary to extract groundwater to avoid damage to the root zone. Such groundwater pumping would appear to fit within the current definition. Yet, under the ordinance it appears that this "mining" of groundwater, if exported from the county as an exercise of private property rights or public benefit would violate the ordinance. A broad prohibition against exports fails to address the real problem of excessive groundwater pumping.

Duane Morris

Stanislaus County Agricultural Commissioner
July 24, 2013
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Since at least the 1970s, the California Department of Water Resources has been seeking to debunk misconceptions and myths concerning groundwater management. In DWR Bulletin 118, published in September 1975, DWR stated that “three common misconceptions attributed to groundwater are (1) groundwater levels must be maintained or raised, (2) groundwater that is mined or overdrafted will destroy the usefulness of the groundwater reservoir, and (3) groundwater is different from any other resource and therefore must be managed differently.” (See DWR Bulletin 118 at p. 119).

DWR has endorsed the conjunctive use of groundwater and surface water supplies. As stated by DWR, “conjunctive use involves the planned use of underground storage in coordination with surface water supplies to increase the yield of the total water resource.” (Bulletin 118 at p. 121).

The State of California recognizes that water should be put to the highest and best uses and that efforts should be made to maximize the use of our water supplies. (Cal. Const. Art X, Sec. 2) Therefore, rather than defining groundwater mining so broadly, we recommend that you narrow the definition as follows:

“Mining” means the excessive extraction of groundwater beyond the quantity warranted for reasonable and beneficial uses that causes permanent overdraft or significant land subsidence.

Further, the definition of “export” should be amended to allow for the export of groundwater or surface water substituted with groundwater under conditions where groundwater is pumped in amounts less than that which would constitute “mining.” For example, included would be groundwater that is pumped to avoid damage to root zones, groundwater that is pumped pursuant to a conjunctive use program, and groundwater that is pumped within the identified safe yield of the portion of the aquifer from which the groundwater is being pumped.

If you are not so inclined to amend the definitions as set forth above, another alternative is to clarify Exemption 3 as follows:

Reasonable use of groundwater resources to supplement or replace surface water released or foregone from diversion for reasonable and beneficial purposes, including but not limited to fisheries, ecosystem habitat, downstream water quality or quantity needs, transfer for other reasonable and beneficial uses, provided they are consistent with federal and state law, regulations, licenses or permit conditions, or have been subjected to environmental review pursuant to either the California Environmental Quality Act or the National Environmental Policy Act.

The west side farmers and ranchers look forward to discussing these proposed amendments with you and trust that you will give them a fair hearing. No one is opposed to protecting the water supplies within Stanislaus County, however, efforts to protect local water

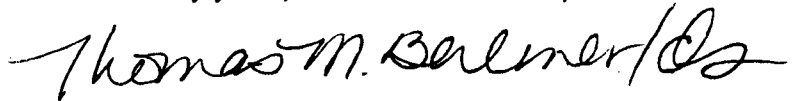
Stanislaus County Agricultural Commissioner
July 24, 2013
Page 4

Duane Morris

resources must also be protective of private property rights. The proposed additions and amendments to the ordinance will accomplish both goals

Thank you for your consideration.

Sincerely yours,



Thomas M. Berliner

TMB:dls

cc: Stanislaus County Board of Supervisors ✓

2013 AUG -2 P 3:28

August 22, 2012

Christopher L. Campbell
Attorney at Law
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VIA ELECTRONIC MAIL

Attn: AAB Comments
Stanislaus County Agricultural
Commissioner
3800 Cornucopia Way, Ste. B.
Modesto, California 95358
E-Mail: agcom50@stancounty.com

Re: Proposed Stanislaus County Draft Groundwater
Ordinance

Dear Commissioner:

My firm represents Grant Craven, Jon Maring and Arroyo Farms, LLC (collectively, "Arroyo Farms"). We submit these comments in response to amendments made to the most recent draft of the proposed Stanislaus County Groundwater Export Ordinance dated June 27, 2012 (the "Groundwater Ordinance"). If adopted, the Groundwater Ordinance will require landowners within Stanislaus County (the "County") to obtain a County permit to move groundwater, either for use or sale, from the parcel where the well is located. These comments incorporate comments made by this office on behalf of Arroyo Farms dated February 12, 2010, submitted to your office in response to the circulation of a prior draft of the groundwater ordinance. A copy of that comment letter is attached for your convenience.

As explained in the February 12, 2010 letter, the owners of Arroyo Farms own approximately two thousand one hundred fifty (2,150) acres of farmland within the County, and approximately one thousand (1,000) acres of orchards within the San Luis Water District ("SLWD"). Due to the lack of groundwater in SLWD, Arroyo Farms sought and obtained the easements, approvals, contracts and permits from numerous agencies as necessary to build the facilities and transfer groundwater from Arroyo Farms' property located within the County to Arroyo Farms' property located within SLWD. Obtaining all the approvals was an expensive, time consuming and entirely public process. In reliance upon the easements, approvals, contracts and permits, Arroyo Farms spent more than Six Hundred Thousand Dollars (\$600,000.00) constructing conveyance facilities to transport the groundwater to the Arroyo Farms property in San Luis Water District. The conveyance system began operating in 2009.

As drafted, the Groundwater Ordinance will prevent Arroyo Farms from continuing to operate its conveyance system without an additional permit from the County. The

Attn: AAB Comments
August 22, 2012
Page 2

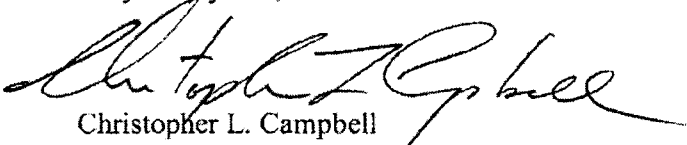
ordinance implies that a permit may not be available for this type of use. Arroyo Farms is legally operating its groundwater transfer system, therefore, the adoption of this new Groundwater Ordinance cannot deprive Arroyo Farms of that established right. Any new groundwater ordinance should make clear that existing lawful groundwater transfers outside the County are not subject to the new permit requirements.

In the letter of February 22, 2010, Arroyo Farms addressed the failure of the Groundwater Ordinance to exempt the ongoing operation at Arroyo Farms from the permit requirements. Specifically, Arroyo Farms wrote:

[The Groundwater] Ordinance should include language either identical or similar to section 13.20.050 of the Tuolumne County Groundwater Management Ordinance. The Tuolumne County ordinance similarly requires a permit for export and use outside of the County but it recognizes the vested rights of those who were already engaged in legal groundwater transfers on the effective date of the ordinance. We propose the revised version of the Tuolumne County language [] for inclusion in the proposed Stanislaus County ordinance.

Despite Arroyo Farms' input, the current expanded the list of groundwater exports exempt from the permitting requirements, still does not exempt existing lawful practices. Again, the County has the right to adopt an ordinance that regulates the transfer of groundwater outside the County. That ordinance cannot, however, deprive Arroyo Farms and other similarly situated landowners from continuing to export groundwater pursuant to existing lawful practices. Unless the County is willing to pursue a condemnation action and pay reasonable compensation to the adversely affected landowners, the County must adopt language in the Groundwater Ordinance that makes clear that those who merely continue their existing lawful practices are not subject to the new permitting requirements the Groundwater Ordinance would impose.

Very truly yours,



Christopher L. Campbell
BAKER MANOCK & JENSEN, PC

CLC:AMN
Enclosure

2013 AUG -2 P 3: 28

Christopher L. Campbell
Attorney at Law
ccampbell@bakermanock.com

February 12, 2010

VIA OVERNIGHT MAIL

Mr. Gary Caseri
STANISLAUS COUNTY AGRICULTURAL COMMISSIONER
3800 Cornucopia Way, Ste. B
Modesto California 95358

Fig Garden Financial Center
5260 North Palm Avenue
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Re: Proposed Stanislaus County Draft Groundwater
Ordinance

Dear Commissioner Caseri:

This comment letter is submitted on behalf of Grant Craven, Jon Maring and Arroyo Farms, LLC (collectively, "Arroyo Farms") in response to the proposed Stanislaus County Draft Groundwater Ordinance (the "Ordinance"). If adopted, the Ordinance will require landowners within Stanislaus County (the "County") to obtain a County permit to move groundwater, either for use or sale, from the parcel where the well is located. While Arroyo Farms does not object to the County's desire to implement a groundwater protection ordinance, Arroyo Farms asserts that the proposed Ordinance must grandfather in existing valid groundwater exports.

The owners of Arroyo Farms own approximately two thousand one hundred and fifty (2150) acres of farmland within the County, and approximately one thousand (1,000) acres of orchards within the San Luis Water District ("SLWD"). Due to the lack of groundwater in SLWD, in 2007 Arroyo Farms began planning and seeking appropriate permits and approvals for a system to transfer groundwater from Arroyo Farms' property located within the County to Arroyo Farms' property located within SLWD. During that process Arroyo Farms met with a number of neighboring farmers and irrigation districts in the County and with representatives of the County.

The system consists of two wells that are located on property owned and actively farmed by the principals of Arroyo Farms. Neither well is on a parcel within the boundary of any water agency. Approximately three miles of pipeline take water from the wells to the Delta Mendota Canal. That water is then exchanged for water that can be delivered by SLWD to the Arroyo Farms orchards.

To construct and operate the system Arroyo Farms obtained pipeline easements from several private landowners, obtained County permits to run the pipeline under four County roads, received approval from the Bureau of Reclamation and the San Luis and Delta Mendota Water Authority to introduce well water into the Delta Mendota Canal, and made arrangements with the

Mr. Gary Caseri
STANISLAUS COUNTY AGRICULTURAL COMMISSIONER
February 12, 2010
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SLWD for the water to be delivered to the orchards. Acquiring all the necessary easements, permits, approvals and contracts was an extremely time consuming and expensive process. The process was conducted openly by Arroyo Farms so that the County, the neighbors in Stanislaus County, neighboring districts including the Del Puerto Water District and the Central California Irrigation District the Bureau of Reclamation, the San Luis and Delta Mendota Water Authority and its member agencies that might be affected were all aware of the intent, scope and details of the project.

In reliance upon the permits, approvals and contracts, Arroyo Farms spent more than Six Hundred Thousand Dollars (\$600,000) constructing conveyance facilities to transport the groundwater. In April 2009 Arroyo Farms began operating the conveyance system. In the 2009-2010 water year (ending February 28, 2010) Arroyo Farms will transfer approximately 3850 acre/ft of groundwater. Beginning in 2010, Arroyo Farms expects to average approximately 4000 acre feet of groundwater transferred to SLWD every twelve (12) months until Westside water deliveries are resumed at higher levels. When that occurs, Arroyo Farms will only transfer the amount that is needed each year to supplement the supply available from SLWD for the Arroyo Farms orchards. Although the Arroyo Farms conveyance facilities and the transfer of water to SLWD are currently fully permitted and legal, the proposed Ordinance purports to make the transfer unlawful and subject to criminal penalties.

As described above, Arroyo Farms invested significant time, effort and money into obtaining all required approvals from the County and others. In reasonable reliance upon those approvals Arroyo Farms invested significant additional time and funds constructing the conveyance facilities. Since Arroyo Farms is legally operating its groundwater transfer system, the adoption of this new Ordinance cannot deprive Arroyo Farms of that established right. Any new groundwater ordinance should make clear that existing lawful groundwater transfers outside the County are not subject to the new permit requirements.

Specifically, the Ordinance should include language either identical or similar to section 13.20.050 of the Tuolumne County Groundwater Management Ordinance. The Tuolumne County ordinance similarly requires a permit for export and use outside of the County but it recognizes the vested rights of those who were already engaged in legal groundwater transfers on the effective date of the ordinance. We propose the revised version of the Tuolumne County language attached as Exhibit A for inclusion in the proposed Stanislaus County ordinance. The relevant section of the Tuolumne County ordinance is attached as Exhibit B for your reference.

The County has the right to adopt an ordinance that regulates the transfer of groundwater outside the boundaries of the county. That ordinance cannot, however, deprive Arroyo Farms and other similarly situated landowners from continuing to export groundwater pursuant to existing practices. Unless the County is willing to pursue a condemnation action and pay reasonable

Mr. Gary Caseri
STANISLAUS COUNTY AGRICULTURAL COMMISSIONER
February 12, 2010
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compensation to the adversely affected landowners, the County must adopt language in the Ordinance that makes clear that those who merely continue their existing practices are not subject to the permitting requirements of the Ordinance.

Very truly yours,

Amanda Neal for

Christopher L. Campbell
BAKER MANOCK & JENSEN, PC

cc: Richard W. Robinson
John Herlihy

Exhibit A

Extraction of groundwater for use outside of County boundaries which has occurred prior to the effective date of this ordinance may continue without a use permit as provided in section X.xx.030 provided such extraction meets and continues to meet all of the following criteria:

A. Such extraction is substantially similar to the extraction that occurred during the three water years immediately prior to the effective date of this ordinance.

B. Such extraction is accomplished by means of substantially the same conveyance facility as was used during the three water years immediately prior to the effective date of this ordinance.

C. Such extraction is from substantially the same geographical area of the groundwater basin utilized during the three water years immediately prior to the effective date of this ordinance.

D. Such extraction does not exceed the highest instantaneous rate, or the highest twelve (12) month total quantity of water that was extracted for exportation within the three water years immediately prior to the effective date of this ordinance.

E. Such extraction will result in the use of the water in substantially the same manner and in substantially the same area as it was used during the three water years immediately prior to the effective date of this ordinance.

F. Such extraction and transfer is not in material violation of any permit, license, approval or other entitlement (in addition to this ordinance) applicable to the extraction and transfer.

An extraction that materially fails to meet all the criteria described above on the effective date of this ordinance, or meets the criteria on the effective date of this ordinance and then ceases to meet the criteria shall be subject to the provision of this chapter.

WEST STANISLAUS IRRIGATION DISTRICT

116 E Street
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Westley, CA 95387



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AUG - 9 P 1:31
BOARD OF SUPERVISORS

August 7, 2013

Milton O'Haire
Ag Commissioner/Sealer
Stanislaus County Department of Agriculture
3800 Cornucopia Way Suite B
Modesto CA 95358

Re: Stanislaus County Draft Groundwater Ordinance

Mr. O'Haire,

West Stanislaus Irrigation District ("WSID") appreciates the opportunity to comment on Stanislaus County's proposed Groundwater Export Ordinance ("Ordinance"). WSID respectfully submits the enclosed comments on the July 22, 2013 version of the Groundwater Mining and Export Prevention Ordinance of Stanislaus County. While WSID is generally pleased with the direction the ordinance has taken, and Stanislaus County's attempt to address the concerns of local agricultural districts; however, the current draft Ordinance still raises concerns.

WSID has provided agricultural water delivery service for over 100 years. WSID's water supplies include appropriative rights on the San Joaquin River, Tuolumne River, Central Valley Project federal water contract supplies, and groundwater. WSID uses groundwater conjunctively, delivering surface water which provides for natural recharge of the local aquifer, and utilizing groundwater conjunctively in-District to meet peak irrigation demands, and as an emergency supply in the event of facility failures or issues.

Specifically, there are four areas of the Ordinance that appear ambiguous, and could lead to problems in implementation.

1. **Section 9.37.030.6** of the Ordinance defines "Mining" as "the extraction of groundwater beyond the quantity warranted, necessary, or as may be customary for reasonable and beneficial uses within the County".

Given the penalties for non-compliance, the definition of "mining" should be more tightly defined. In the absence of a specific definition of "the quantity warranted, necessary" or "customary for reasonable and beneficial uses within the County", perhaps the Ordinance should utilize the Constitutional requirement of reasonable and beneficial use. As mentioned in the Ordinance, California Constitution, Article X, Section 2, as well as Water Code section 100 prohibit the waste, unreasonable use, unreasonable method of use, and unreasonable method of diversion of water. In order to ensure consistency with state law,

the Ordinance should define mining as: *“the extraction of groundwater in a manner that constitutes a waste, unreasonable use, or unreasonable method of use within the County, as defined under California law”*.

1. **Section 9.37.030.7** of the Ordinance defines “Export of water” as the “act of conveying groundwater, or surface water substituted with groundwater, out of the County”.

Again, the definition of export of water should be better defined in order to make compliance with the Ordinance possible. The concern is the phrase “surface water substituted with groundwater” is not defined, raising the question of when groundwater will be determined to be substituted for surface water. At the very least, a determination of substitution should require a new groundwater use, over and above historical use.

2. **Section 9.37.050.1** Exempts from regulation by the Ordinance “Water resources management practices of public water agencies that have jurisdictional authority within the County that are in compliance with and included in groundwater management plans adopted by that agency in accordance with applicable State law and regulations, including but not limited to the California Groundwater Management Act (Water Code sections 10750 et seq.)”.

The intent of this language has been to exempt from the ordinance the practices of public water agencies that have Groundwater Management Plans in place in accordance with State law. The language as written, however, allows for ambiguity and puts local agencies at risk. Of specific concern:

- a. “Water resources management practices” are not defined.
- b. Who determines whether or not the undefined water resources management practices are “in compliance with” and “included in” the groundwater management plans?

WSID has adopted an AB 3030 Groundwater Management Plan known as the “Groundwater Management Plan for the Northern Agencies in the Delta-Mendota Canal Service Area” (GMP). WSID participates in implementing this GMP with other local agricultural irrigation, municipal, and water districts, including Del Puerto Water District, and Patterson Irrigation District in Stanislaus County. In addition to this GMP, Eastern Stanislaus County areas are committed to similar objectives through participation in the Turlock Groundwater Basin Association. On top of these regulations, the Central Valley Regional Water Quality Control Board will be issuing separate discharge orders for the Irrigated Lands Regulatory Program which will also require additional monitoring for groundwater in eastern and western Stanislaus County. The objectives of these groundwater management groups, and state regulation include preventing groundwater depletion and maintaining groundwater quality within their respective basins. We do not believe that the intention of the Ordinance is to place a new layer of management bureaucracy upon public water districts in the County. Therefore, this section should be re-written as follows:

“Actions of public water agencies that have jurisdictional authority within the County that have adopted groundwater management plans in accordance with applicable

State law and regulations, including but not limited to the California Groundwater Management Act (Water Code sections 10750 et seq.)”.

3. **Section 9.37.060 .C** states that the Department of Environmental Resources shall “investigate any activity subject to this ordinance and shall enforce the prohibition of any activity that is a violation of this Chapter and regulations adopted by the Board of Supervisors unless and until the activity is found in compliance with the exemptions. Compliance will be determined based on the submission of a technical report submitted to the Department of Environmental Resources on a form provided by the County”.

This Section would allow the County to prohibit the actions of a public water agency *before* the County has established that its actions violate the ordinance. Local agencies have longstanding water transfers in place and have approved bonds and construction contracts in reliance on these transfers. Allowing the county to prohibit long-standing actions “unless and until the activity is found in compliance” jeopardizes the historical practices of local agencies and the importance of maintaining those practices to maximize the beneficial use of all available water supplies available to the area to sustain high agricultural production within Stanislaus County. Most importantly, the provisions do not appear to comply with due process of law. Once the County has prohibited an action, it has very little incentive to move forward quickly to determine compliance. The Ordinance should allow the County to prohibit an action **only after** it has been determined that the activity violates the prohibitions in the Ordinance.

WSID would again like to thank the Stanislaus County for the opportunity to comment on the proposed Ordinance. Please contact the District if your office has any additional questions or any additional information on this subject.

Sincerely,



Robert Pierce, P.E.
General Manager

cc: West Stanislaus Irrigation District Board of Directors
Jeanne M. Zolezzi, Esq.
Supervisor Jim DeMartini

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BOARD OF SUPERVISORS

**MEMO RE: PROPOSED STANISLAUS COUNTY GROUND
WATER ORDINANCE**

2013 SEP 20 A 10:29

On September 8, 2013 the Modesto Bee reported that the Board of Supervisors is expected to vote October 1 on an ordinance concerning ground water. A copy of that article is attached. The article seems to imply that the ordinance is basically the same as the one considered by the County four years ago and is meant only to govern export of water outside of the boundaries of Stanislaus County.

However, a review of the actual ordinance proves otherwise. Also attached is a copy of the proposed ordinance which was recently received from the Board of Supervisors. The proposed ordinance includes the following provisions:

Section 9.37.030-6 "mining" means the extraction of ground water in a manner that constitutes a waste, unreasonable use or unreasonable method of use within the County, as interpreted under California law. (Emphasis added.)

Section 9.37.040A prohibits "the mining of ground water resources within the unincorporated areas of the County of Stanislaus". (Emphasis added.)

There are no exceptions for pre-existing uses in the ordinance. The above two provisions taken together, read literally, means that any existing or future well within the unincorporated areas of Stanislaus County, regardless of whether the water is used within the County or without the County, is subject to a finding of "waste, unreasonable use, or unreasonable method of use". None of those terms are defined except "as interpreted under California law".

A permit is required unless otherwise exempted by this ordinance. Section 9.37.060B. Section 9.37.050 provides for several exceptions which include

"7. Ground water extraction and export of water that reasonably supports agricultural operations on property outside the County that is contiguous with property within the County and is under common ownership." (Emphasis added.)

However, that exception does not apply to ground water extraction which is used within the County.

Section 9.37.070 provides that a violation of the ordinance is a separate misdemeanor for each and every day in which a violation is committed, provides that the County may abate any violation and provides that the violation may be deemed to be a public nuisance.

The net effect of this very poorly written ordinance is that any operator of a well which is extracting ground water in the unincorporated areas of Stanislaus County must now determine whether he will apply for a permit to avoid the punitive aspects of the ordinance or ignore the ordinance and risk onerous enforcement activities. The decision is made untenable by the failure

of the ordinance to specifically describe what activities will or will not be subject to the permitting procedure or will be considered to be waste, unreasonable use or unreasonable method of use.

The proposed ordinance, as written is probably unconstitutional under the "Void For Vagueness Doctrine" a description of which is attached. The Board of Supervisors should give this matter much more study and thought before adopting an ordinance which will cause mass confusion and inevitably lead to expensive litigation.

Stanislaus County supervisors to vote on water export rules next month

Published: September 8, 2013

By Ken Carlson — kcarlson@modbee.com

STANISLAUS COUNTY — By next month, Stanislaus County is expected to have a long-awaited ordinance to restrict groundwater exports and prohibit the sale of groundwater outside the county.

The Board of Supervisors is expected to vote **Oct. 1** on an ordinance billed as a starting point for preventing the adverse effects of groundwater overdrafting.

The ordinance has exemptions for local irrigation districts, but proponents said it will protect a vital resource by outlawing out-of-county groundwater sales and transfers that threaten to deplete aquifers.

County leaders asked their Agricultural Advisory Board to start working on an ordinance four years ago, after farmers in western Stanislaus County were exporting groundwater so they could irrigate their orchards near Firebaugh.

That type of transfer, which was not a water sale, would be possible under the ordinance if applicants for a permit showed the transfer would not hurt neighbors' wells or drain the aquifer, officials said.

Two supervisors praised the proposed ordinance because it would prevent an irrigation district from pumping groundwater to replace surface water sold to a buyer outside the county. That scenario was raised by the Modesto Irrigation District's proposal to sell water to San Francisco, which was dropped last year after months of fierce debate.

"Water is a precious resource in Stanislaus County," said county board Chairman Vito Chiesa. "We need to save every drop."

The county's initial attempt to formulate an ordinance was rebuffed by water districts and farming interests. The county made progress, however, when it brought in a facilitator to run meetings with "stakeholder" groups such as the Modesto, Turlock and Oakdale irrigation districts and the cities of Modesto and Turlock.

Praise and criticism

The resulting ordinance is praised for bringing the different agencies together but criticized for being watered down.

"We ended up with a lot of exemptions," acknowledged Supervisor Terry Withrow, who worked on the effort with Supervisor Jim DeMartini.

Withrow said the exceptions were needed to allow water agencies to continue certain practices that are consistent with sound use of groundwater. It would allow farmers near the county border to irrigate crops on contiguous land across the county line and allow pumping for conservation projects and recharge of groundwater.

Other language in the agreement grants an exemption for areas with a shallow water table, small wells that produce 100 gallons per minute or less, and the sale of bottled water.

People who violate the ordinance could be prosecuted on misdemeanor charges and ordered to pay a fine of as much as \$1,000 or spend six months in jail.

The county Department of Environmental Resources will be responsible for enforcing the ordinance and will review any applications for permits to export groundwater.

Sarge Green, a staff scientist for the California Water Institute at Fresno State University, served as facilitator for the meetings with local groups. He said the ordinance is less restrictive than the rules in other counties, which require a permit for any proposal to convey groundwater.

By contrast, the Stanislaus County ordinance gives credence to the groundwater management plans of local water districts, Green said. Permits will be required only for activity that is not exempt.

Green said some transfers have value by helping to save crops during dry years or draining shallow groundwater that damages the roots of crops.

Jam Aggers, county environmental services director, said the permit process likely will include an environmental review, engineering data and a groundwater study. Staff is developing the review process for board approval Oct. 1 and could

recommend that each groundwater export permit require approval from supervisors.

The ordinance does not address agricultural pumping in the eastern part of the county, which has affected residential wells and threatened to cause soil subsidence. Chiesa said the board will consider hiring a water expert — either a staff member or consultant — to work on a comprehensive plan to address those issues.

With millions of dollars invested in nut trees and vines, it's a hard problem to tackle. "You can't just stop people from pumping water," Chiesa said. But inaction by local government could lead to the state imposing rules on the county, he said.

Restrictions suggested

DeMartini said the county should consider limits on pumping in the eastern foothills or possible restrictions on tree planting outside irrigation districts. "Once the groundwater (in the eastern foothills) is gone, it's not a rechargeable system," he said. "That is going to be real controversial."

Stanislaus would follow 28 other counties in California in adopting a groundwater ordinance.

Officials hope to avoid the kind of groundwater crisis that's gripped another county. Last month, San Luis Obispo County approved an emergency ordinance that prohibits new irrigated crops within the groundwater basin near Paso Robles unless there's a water offset. The growth of wineries and vineyards there has reportedly dropped aquifer levels by 70 feet since the late 1990s.

Withrow said he wants to get other water districts and cities involved in the next round of policy-making.

"It's not going to happen overnight; I have no idea how long it will take," Withrow said. "We can build on this first ordinance and then address the issue with the relationships we built in the stakeholders group."

Read more here: <http://www.modbee.com/2013/09/08/2910360/stanislaus-county-board-of-supervisors.html#storylink=cpy>

**AN ORDINANCE REGULATING GROUNDWATER RESOURCES
WITHIN THE COUNTY OF STANISLAUS**

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS, STATE
OF CALIFORNIA ORDAINS AS FOLLOWS:

Section 1. Chapter 9.37 of the Stanislaus County Code is added to
read as follows:

9.37.010 Title

The ordinance codified in this Chapter may be cited as the "Groundwater
Mining and Export Prevention Ordinance of Stanislaus County."

9.37.020 Findings

The Stanislaus County Board of Supervisors hereby finds:

1. The protection of the health, welfare, and safety of the residents of the County require that the groundwater resources of Stanislaus County be protected from adverse impacts resulting from the specific acts of mining groundwater resources within the County and the export of water outside of the County; and
2. Groundwater is an essential resource for continued agricultural production within the County which production includes, but is not limited to, field crops, nut and fruit crops, vegetable crops, seed crops, poultry and livestock and products which significantly contribute to the gross value of the total agricultural production of the County; and
3. Groundwater is an essential resource for municipal, industrial and domestic uses within the County; and
4. The mining of groundwater resources from within the County and the export of water outside of the County could each have adverse environmental impacts on the County, including but not limited to; increased groundwater overdraft, land subsidence, uncontrolled movement of inferior quality groundwater, the lowering of groundwater levels, increased groundwater degradation; and
5. The mining of groundwater resources from within the County and the export of water outside of the County could each have adverse economic impacts on the County, including but not limited to, loss of arable land, a decline in property values, increased pumping costs due to the lowering of

groundwater levels, increased groundwater quality treatment costs, replacement of wells due to declining groundwater levels, replacement of damaged wells, conveyance infrastructure, roads, bridges and other appurtenances, structures or facilities due to land subsidence; and

6. California Constitution, Article X, Section 2, as well as Water Code section 100 prohibit the waste, unreasonable use, unreasonable method of use, and unreasonable method of diversion of water. The County finds that the mining of groundwater and the export of water outside of the County are unsustainable uses of groundwater and are not reasonable or beneficial uses to the citizens of Stanislaus County and, therefore, the mining of groundwater and the export of water from the County are inconsistent with the California Constitution and the California Water Code.

9.37.030 Definitions

The following words and phrases shall have the following meanings when used in this Chapter:

1. "County" means the County of Stanislaus.
2. "Board" means the Board of Supervisors of Stanislaus County.
3. "Person" means and includes natural persons, corporations, firms, partnerships, joint stock companies, associations and other organizations of persons, and public entities.
4. "Groundwater" water that occurs beneath the land surface and fills the pore spaces of the alluvium, soil or rock formation in which it is situated.
5. "Public water agency" means any local public agency, mutual water company, or non-profit tax-exempt unincorporated association within, or partially within, Stanislaus County that has authority to undertake water-related activities.
6. "Mining" means the extraction of groundwater in a manner that constitutes a waste, unreasonable use, or unreasonable method of use within the County, as interpreted under California law.
7. "Export of water" means the act of conveying groundwater, or surface water substituted with groundwater, out of the County.

9.37.040 Prohibition

Except as otherwise provided in this Chapter, the following actions are prohibited:

- A. The mining of groundwater resources within the unincorporated areas of the County of Stanislaus.
- B. The export of water outside of the County.

9.37.050 Exemptions

Groundwater extractions associated with the following water management practices are exempt from the prohibition against mining of groundwater resources, and the prohibition against export of water under this Chapter.

1. Water resources management practices of public water agencies that have jurisdictional authority within the County that are in compliance with and included in groundwater management plans adopted by that agency in accordance with applicable State law and regulations, including but not limited to the California Groundwater Management Act (Water Code sections 10750 et seq.).
2. De-watering of shallow water tables where the net benefits of the removal of subsurface water substantially outweighs the loss of water because of damage the high water table reasonably may cause to agriculture, industry, commerce and other property uses. The groundwater in some areas of the County is very near the surface and if not removed by interceptor ditches or subsurface tile drains, the water can seriously impact crop root zones for agricultural production or destroy foundations, equipment, materials, buildings and infrastructure used for residences, industry, utilities or commerce. This groundwater may or may not be reused for other purposes and at times may leave the County and its groundwater system.
3. Reasonable use of groundwater resources to supplement or replace surface water released for other reasonable and beneficial purposes, including but not limited to fisheries, ecosystem habitat or downstream water quality or quantity needs, when required pursuant to federal and state law, regulations, licenses or permit conditions.
4. Conservation of water in compliance with applicable State law that authorizes public water agencies to transfer water outside its usual place of use. Conservation investments may include, but are not limited to, irrigation practices in agricultural areas where the crops grown use less water, or communities that produce recycled water, fix leaks or promote other water

saving devices and methods to conserve water on a temporary or permanent basis.

5. Recharge of groundwater in locations in the County that are capable of improving groundwater conditions in order to meet total water demands of beneficial uses in the hydrologic and groundwater basin area including but not limited to the following sources: surface water, treated municipal drinking water, recycled water and stormwater. The amount of recaptured groundwater transferred out of the area should not exceed the amount of water used to recharge the aquifer. The transfer can be accomplished by either direct or indirect transfer, that is, a public water agency can leave the water in the ground and transfer other supplies in lieu of pumping out the recharge water.
6. Remediation of contaminated groundwater that is pumped and treated to remove contaminants that are in violation of standards for beneficial uses. The extracted and treated water may be released out of the County, resulting in a net loss to the groundwater basin, if the release complies with discharge permits issued by the federal, state or state resource agencies.
7. Groundwater extraction and export of water that reasonably supports agricultural operations on property outside the County that is contiguous with property within the County and is under common ownership.
8. Export of water from a private water source that is bottled in compliance with a Private Water Source Operator License issued by the State pursuant to Health and Safety Code section 111120.
9. Water wells delivering 100 gallons per minute or less to uses and property under the same ownership where the well is located.
10. Groundwater mining and the export of water done in compliance with a permit issued by the Stanislaus County Department of Environmental Resources.

9.37.060 Implementation

- A. The Stanislaus County Department of Environmental Resources shall have the primary responsibility for implementation of this Chapter and regulations adopted by the Board of Supervisors.
- B. A permit is required unless otherwise exempted by this ordinance.
- C. The Department of Environmental Resources shall have authority to investigate any activity subject to this ordinance. Compliance with this Chapter will be determined based on the submission of a technical report submitted to the Department of Environmental Resources on a form

provided by the County. The Department is authorized to enforce the prohibition of any activity that is determined to be in violation of this Chapter or regulations adopted by the Board of Supervisors.

9.37.070 Penalty for Violation

- A. Any person violating any of the provisions of this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished as set forth in Stanislaus County Code Section 1.36.010. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Chapter is committed, continued or allowed and shall be punishable accordingly.
- B. In addition to or in lieu of the penalty provisions or remedies set forth in this Chapter, any violation may be abated in any manner set forth in Chapter 2.92 of the Stanislaus County Code, including, but not limited to, abatement or issuance of administrative citations.
- C. In addition to or in lieu of the penalty provisions or remedies set forth in this Chapter, any violation of any of the provisions of this Chapter, and any condition caused or allowed to exist in violation of any of the provisions of this Chapter, shall be deemed a public nuisance and shall, at the discretion of County, create a cause of action for injunctive relief, including but not limited to any remedy under Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code.

9.37.080 Severability

The provisions of this Chapter are hereby declared to be severable. If any provision, clause, word, sentence or paragraph of this Chapter or the application thereof to any person, establishment or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Chapter.

Section 2. This ordinance shall take effect thirty (30) days from and after the date of its passage and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the members voting for and against the same, in the Modesto Bee, a newspaper published in the County of Stanislaus, State of California.

Upon motion of Supervisor _____ seconded by Supervisor _____, the foregoing Ordinance was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, this ____ day of _____, 2013, by the following-called vote:

AYES: Supervisors:

NOES: Supervisors:

ABSENT: Supervisors:

Vito Chiesa, Chair of the Board of
Supervisors of the County of Stanislaus,
State of California

ATTEST:

CHRISTINE FERRARO TALLMAN, Clerk of the
Board of Supervisors of the County of Stanislaus,
State of California

By _____
Liz King, Deputy Clerk

APPROVED AS TO FORM:

By _____
John P. Doering
County Counsel

Void for Vagueness Doctrine

A doctrine derived from the DUE PROCESS CLAUSES of the FIFTH and FOURTEENTH AMENDMENTS to the U.S. Constitution that requires criminal laws to be drafted in language that is clear enough for the average person to comprehend.

If a person of ordinary intelligence cannot determine what persons are regulated, what conduct is prohibited, or what punishment may be imposed under a particular law, then the law will be deemed unconstitutionally vague. The U.S. Supreme Court has said that no one may be required at peril of life, liberty, or property to speculate as to the meaning of a penal law. Everyone is entitled to know what the government commands or forbids.

The void for vagueness doctrine advances four underlying policies. First, the doctrine encourages the government to clearly distinguish conduct that is lawful from that which is unlawful. Under the Due Process Clauses, individuals must be given adequate notice of their legal obligations so they can govern their behavior accordingly. When individuals are left uncertain by the wording of an imprecise statute, the law becomes a standardless trap for the unwary.

For example, Vagrancy is a crime that is frequently regulated by lawmakers despite difficulties that have been encountered in defining it. Vagrancy laws are often drafted in such a way as to encompass ordinarily innocent activity. In one case the Supreme Court struck down an ordinance that prohibited "loafing," "strolling," or "wandering around from place to place" because such activity comprises an innocuous part of nearly everyone's life (*Papachristou v. City of Jacksonville*, 405 U.S. 156, 92 S. Ct. 839, 31 L. Ed. 2d 110 [1972]). The Court concluded that the ordinance did not provide society with adequate warning as to what type of conduct might be subject to prosecution.

Second, the void for vagueness doctrine curbs the Arbitrary and discriminatory enforcement of criminal statutes. Penal laws must be understood not only by those persons who are required to obey them but by those persons who are charged with the duty of enforcing them. Statutes that do not carefully outline detailed procedures by which police officers may perform an investigation, conduct a search, or make an

arrest confer wide discretion upon each officer to act as he or she sees fit. Precisely worded statutes are intended to confine an officer's activities to the letter of the law.

Third, the void for vagueness doctrine discourages judges from attempting to apply sloppily worded laws. Like the rest of society, judges often labor without success when interpreting poorly worded legislation. In particular cases, courts may attempt to narrowly construe a vague statute so that it applies only to a finite set of circumstances. For example, some courts will permit prosecution under a vague law if the government can demonstrate that the defendant acted with a Specific Intent to commit an offense, which means that the defendant must have acted wilfully, knowingly, or deliberately. By reading a specific intent requirement into a vaguely worded law, courts attempt to insulate innocent behavior from criminal sanction.

However, such judicial constructions are not always possible. Ultimately, a confusing law that cannot be cured by a narrow judicial interpretation will not be submitted to a jury for consideration but will be struck down as an unconstitutional violation of the Due Process Clauses.

A fourth reason for the void for vagueness doctrine is to avoid encroachment on First Amendment freedoms, such as Freedom of Speech and religion. Because vague laws cause uncertainty in the minds of average citizens, some citizens will inevitably decline to take risky behavior that might land them in jail. When the vague provisions of a state or federal statute deter citizens from engaging in certain political or religious discourse, courts will apply heightened scrutiny to ensure that protected expression is not suppressed. For example, a law that prohibits "sacrilegious" speech would simultaneously chill the freedoms of expression and religion in violation of the void for vagueness doctrine (*Joseph Burstyn, Inc. v. Wilson*, 343 U.S. 495, 72 S. Ct. 777, 96 L. Ed. 1098 [1952]).

Jim Mortensen
6050 Carver Road
Modesto, CA 95356
Ph 209.495.1066

✓
BOARD OF SUPERVISORS

2013 SEP 25 P 4:05

September 25, 2013

Hon. Vito Chiesa
Chairman
Stanislaus County Board of Supervisors
1010 10th Street, 6th Floor
Modesto, CA 95354

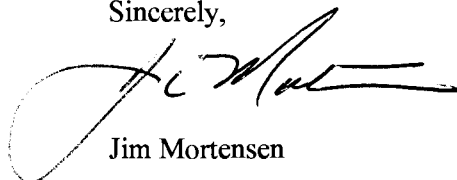
Dear Chairman Chiesa and Members of the Board of Supervisors,

I would like to be placed on the next Board of Supervisors meeting agenda to discuss a moratorium on issuing permits for new wells over 10 horsepower in eastern Stanislaus County - outside the boundaries of MID, TID and OID until such time as the USGS water modeling program is complete. This moratorium is critical for the following reasons:

- Although the County has worked hard on ground water issues over the last year, the proposed ordinance does not address the over pumping on the east side. Such water mining wells are increasing dramatically.
- Existing wells in Denair, Turlock, and surrounding areas have begun going dry from excessive pumping of the groundwater basin by newer, industrial sized pumps (see attached Modesto Bee article).
- Examples of groundwater depletion in Madera and Merced Counties from excessive pumping should serve as a canary in the coalmine for what can be expected if this issue is mishandled – or worse, ignored (see attached Madera County Farm Bureau article and CCID Subsidence article).
- Water regulation of this nature is best handled by local governance – not by Statewide agencies who may have more than local interests at heart.

Enacting a moratorium will allow time for your Board to engage in sufficient discussion by all stakeholders – and ultimately craft sensible guidelines that result in sustainable use of the aquifer. It will be an incentive for all to come to the table. Without such a moratorium, little progress will be made.

Sincerely,



Jim Mortensen

Modesto Bee

Next Story >

Turlock dedicates public safety SITE

Turlock Irrigation District pumping billions of gallons from wells

Published: August 3, 2013



Sue Janke-Morse, who has been living in her Denair home for 34 years, is concerned that she might not be able to get water to her home after her well dried up in May of 2012. She's been "borrowing" water from her neighbor via a 1,000 foot garden hose.

ELIAS FUNEZ — The Modesto Bee Buy Photo

By Garth Stapley and J.N. Sbranti — gstapley@modbee.com jsbranti@modbee.com

TURLOCK — Farmers and almond growers aren't the only ones pumping water wells like crazy to make up for two dry winters, sucking dry some of their neighbors' shallower wells.

The government is doing it, too.

Turlock Irrigation District leaders know their practice of supplementing mountain-fed canal water with billions of gallons of groundwater could hurt nearby domestic wells.

Several private landowners have been forced to pay more than \$10,000 each to deepen their wells or drill

encountered in recent weeks.

Frantz said the TID does not rent wells around Denair, specifically to avoid harming domestic wells there. He said the district knows from experience that Denair's water supply is vulnerable in times of drought.

The TID agreements with owners of the 151 rented wells elsewhere help ditch tenders create a "head" in canals, or enough volume to push deliveries to farmers, district spokeswoman Michelle Reimers said.

Farming advocates say groundwater is essential to crops, especially in dry years when irrigation districts deliver less surface water. When irrigation districts cut back on water deliveries — as the TID did this year — many farmers turn to well water to make up the difference.

Agriculture is Stanislaus County's biggest industry. Farm receipts reached a record \$3.28 billion in 2012, helped by a surge of almond production on the valley's east side.

Board members at the TID's sister district on its north side, the Modesto Irrigation District, fear the almond surge will drain aquifers.

Experts warn that dry soil could compact, leaving earth unable to absorb water again even if the region gets lots of snow and rain someday. Such soil subsidence could transform the valley's east side into an environmental wasteland.

After the 1992 drought ended, the MID halted its scaled-down practice of renting a handful of wells. The MID continues to draw about 4.9 billion gallons from its 42 wells each year, but that's less than one-seventh what the TID is pumping this year.

With 4,904 water customers farming 145,559 acres, the TID is the largest irrigation district in the Northern San Joaquin Valley.

TID's logic

To help TID farmers get through this year's dry summer, the MID board in June agreed to sell the TID extra reservoir water. But the TID backed out of the deal in July, saying the partners' Don Pedro Reservoir seems to be capturing more snowmelt than previously predicted.

The TID could have reduced its groundwater pumping and used MID water instead, but it did not. The TID would have paid the MID \$100 per acre-foot of water for the 7,000 it originally planned to buy. Instead, the TID is paying just \$8 per acre-foot to rent wells.

Then the TID resells that groundwater to other farmers for significantly more money. TID farmers pay the district a fixed charge of \$26 per acre-foot in dry years, plus more based on actual use.

Frantz contends it is logical for the TID to tap groundwater supplies during dry years because for decades the TID has made it possible for farmers to flood irrigate with water brought down from the mountains. Because flood irrigating recharges the aquifer, he said there wouldn't be so much water in the ground if it weren't for the TID.

Supplies strained in 1988

The district's right-to-pump logic was employed during a previous drought when it defended against a class-action lawsuit brought by 67 landowners whose wells were going dry, similar to what's happening this year in Denair. In 1988, TID officials initially acknowledged that aggressive pumping was leaving neighbors dry.

"There is no question district-owned pumps are contributing to the damage," then-risk management manager Donald Swanson said in an August 1988 Bee story.

The TID paid \$268,249 to some well owners, averaging about half the cost for well improvements. Then in 1989, a local judge refused to order the TID to stop pumping. The TID also prevailed in appellate court and

new ones, and many more could face similar trouble if dry weather lingers.

But the TID makes no apology and continues to pump, reasoning that it merely is reclaiming water that seeped down from decades of flood irrigating.

In other words, the TID believes it has a right to groundwater because it put that water there in the first place.

The district looks at flood irrigating as "banking during periods of wet, so when times turn and things get dry, we can draw back out water that was applied to farms in prior years," said Michael Frantz, TID board chairman.

The TID expects to pump more than 36.5 billion gallons of groundwater this year from about 256 wells. That's 70 percent more water sucked out of the Turlock Groundwater Basin than it tapped two years ago.

This year, about one-third of the TID's irrigation water is coming from the ground rather than from Sierra runoff.

That much groundwater is about what it takes to meet the needs of 112,000 average-size families for a year — but all of it is going toward agriculture, not people.

To tap that groundwater, the TID now rents 151 privately owned wells scattered throughout the region. That is nearly twice as many wells as it rented in 2011. The district also pumps 105 of its own large wells and owns about 49 additional wells it's not currently using.

All told, the TID controls an estimated 20 percent of the wells within its boundaries. And it decides when and how much to pump.

After wet winters when Sierra snowfall is plentiful, the TID doesn't pump much from the aquifer. But during dry years, such as in 2012 and 2013, the TID fires up those pumps to supplement irrigation water by transferring groundwater into its canal system.

That's great for thirsty farms, but it might be drawing down the groundwater basin so low that some family wells are going dry.

Several long-operating wells around Denair have lost all their water, and many more may be in jeopardy.

Pumping from the basin

Denair is part of the Turlock Groundwater Basin. That basin is bounded by the Tuolumne River on the north, the Merced River on the south, the San Joaquin River on the west, and the outcrop of crystalline basement rock in the foothills on the east.

More than 1,000 new wells have been dug in the basin over the past decade, including about 100 drilled by private landowners in the past 10 months. Some of those most recent wells are gigantic, capable of sucking up far more water than old-time wells.

Municipal and community water districts also pump from that basin, including Turlock, Ceres, Hughson, Hilmar, Delhi, Denair, Keyes and Ballico.

Stanislaus County has no limits on how much groundwater landowners can pump, even if it means their new, deeper wells render useless their neighbors' older, shallower wells.

Sue Janke-Morse said her well on Grayson Road, plus two or three other wells down the block in rural Denair, dried up this summer. A friendly rancher let her string a 1,000-foot hose, assisted by a booster pump, to keep her tap running and her goats watered. That's a stopgap measure while she sits on a well driller's waiting list.

"I'm just trying to keep things alive," Janke-Morse said. She is just the latest dry-well victim The Bee has

stopped negotiating payments to well owners.

The TID has learned to walk a "delicate balance," Frantz said, of pumping enough to save crops while not harming people.

The TID board went behind closed doors Tuesday to discuss "10 potential cases" of unidentified litigation. But Frantz and Reimers said the district has received no claims this year from well owners.

Frantz paused when asked if the TID can be sure its pumping strategy is not harming domestic well owners.

"No. I'm not sure of that," he said. "Nor could I say with certainty that were it not for farmers around them irrigating for decades that (domestic wells) would have run out sooner. It's equally unknowable."

But the district's strategy clearly enriches some at the peril of others, right?

"There is no good answer," Frantz said. "You've got your finger on the pulse of the matter. Clearly, in periods of shortage, there are winners and losers."

- TID's governing board plans to hold a workshop to discuss groundwater issues sometime during September, but the time and date have not been announced.

- Three of the TID's five board members are up for re-election this year. As of Friday, no one had filed to run against incumbents Charles Fernandes, Joe Alamo and Ron Macedo. Friday is the filing deadline.

Bee staff writer Garth Stapley can be reached at gstapley@modbee.com (209) 578-2390.

Bee staff writer J.N. Sbranti can be reached at jnsbranti@modbee.com (209) 578-2196.

Canal arrangement separate

Although both could strain underground water supplies, the Turlock Irrigation District's strategy of pumping more in dry years is different from a policy making it easier for some farmers to draw groundwater.

A Bee story on July 8 about Denair ranchette wells going dry and farmer Roger Smith's huge new well focused on the TID's policy allowing growers to pump large quantities into district canals for use on nearby fields. Two other TID farmers also use that arrangement, for a total of five wells, to convey quantities that aren't tracked because they remove amounts equal to what's pumped, the TID says.

Smith's Taylor Road well is not among 151 rented this year by the TID to augment the district's total supply, the district says. Those farmers are paid \$8 per acre-foot of water pumped, and the TID covers electricity costs for pumping.

The Modesto Irrigation District rents no wells, and no farmers use its canals to transport water.

— Garth Stapley

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[Governor appoints Turlock man to state air board](#)

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[Turlock dedicates public safety SITE](#)

Join The Conversation

Subsidence Issues

■ DISTRICT INVOLVED IN FINDING SOLUTIONS TO SUBSIDENCE IN WESTERN MADERA AND MERCED COUNTIES.

A recently completed study of subsidence in the western part of Merced and Madera Counties near the San Joaquin and Fresno rivers reveals that soil in some of those areas sank nearly 2 feet between 2008 and 2010. The District only recently became aware of that level of subsidence near its conveyance system following results of the most recent survey released by the San Joaquin River Restoration System. Subsidence is likely to continue as deep well groundwater is pumped from the area to irrigate farmland. CCID and San Luis Canal Company are taking steps to be involved in a solution to the problem.

"We realized that if this subsidence continues there are going to be severe impacts to the District west of the San Joaquin River which could impact the District's ability to convey water in the middle of that system," said CCID General Manager Chris White. "If a canal system develops holes in the middle, we are not going to get gravity flow through, and the only solution to that would be to pump water, which is very expensive."

White said the District is also concerned that subsidence might reduce the River's ability to safely convey flood flows near Sack Dam. Every year, the capacity of the River in Sack Dam is reduced from a level of about 4,000 cfs three to four years ago as the area has subsided since that time.

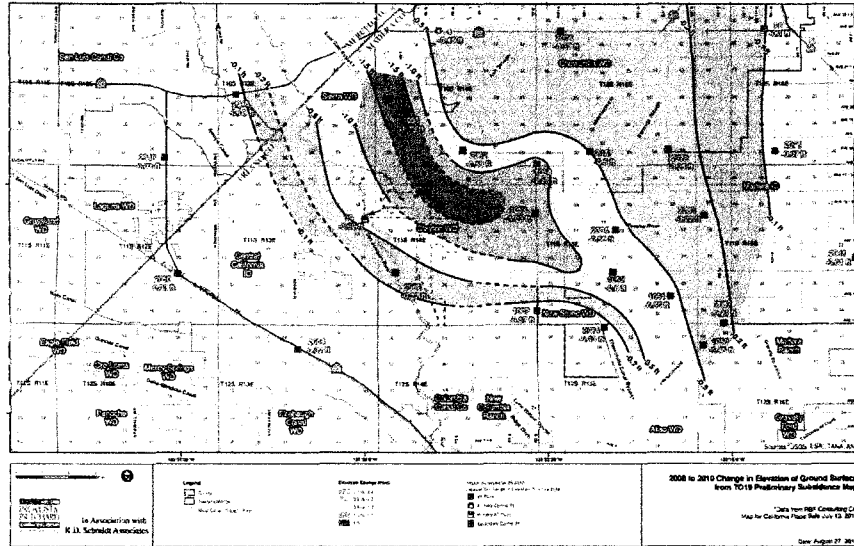
"There is a real chance that if subsidence continues, during the next significant flood release we could see significant regional flooding," he said.

Subsidence has been a problem in some

areas of the San Joaquin Valley caused by an extraction of deep groundwater beneath a layer of Corcoran Clay. While the issue has been minimized in other areas of the Valley, it has been detected as the area of Madera County known as Red Top has been developed for irrigated agriculture over the last decade.

County Water Advisory Commission, the Merced County Public Works Department, and other involved parties to develop potential solutions to the issue.

White said the solution will likely involve getting area landowners off



THIS MAP SHOWS THE AREA WHERE SUBSIDENCE HAS OCCURRED OVER THE LAST SEVERAL YEARS IN WESTERN MADERA COUNTY NEAR THE CENTER OF THE CCID DISTRIBUTION SYSTEM.

The problem area lies outside of the District boundaries near its South Division, east of the River and north of the extension of Valeria Ave.

CCID is currently meeting with landowners and working with the Madera

deeper well water by redrilling wells in shallower zones and recharging them with floodwater releases.

"We have data that shows there are better areas of water quality in the shallower zones so we are trying to determine if we can redrill shallow wells and recharge them directly by developing recharging ponds near the bypass," White said.

"The Districts are a little more nimble organizations than USBR or DWR and are taking the lead to come with solutions in cooperation with other involved agencies," he added. "There are a number of promising solutions that look possible and we are on a very aggressive schedule to do a study and put together an implementation plan."

"There are a number of promising solutions and we are on a very aggressive schedule to do a study and put together an implementation plan."

— Chris White, CCID



MADERA COUNTY FARM BUREAU

AGRICULTURE TODAY

August 2012

Vol. 2, No. 10

Business Member Profile: Valley groundwater threatened
Appellation California
Page 7

CALENDAR

August

- 7 Executive Committee Meeting, 3:00 p.m., MCFB Conference Room, 1102 South Pine Street, Madera (559) 674-8871, info @ www.maderafb.com

September

- 4 Executive Committee Meeting, 3:00 p.m., MCFB Conference Room, 1102 South Pine Street, Madera (559) 674-8871, info @ www.maderafb.com

October

- 9 Annual Meeting of Members, 12:00 p.m., MCFB Ben Hayes Hall, 1102 South Pine Street, Madera (559) 674-8871, info @ www.maderafb.com

Overdrafting California's Groundwater Resources—A Chronic Condition

By Richard Frank

A recently issued study by a University of Texas-led group of research scientists confirm a disconcerting fact: groundwater resources in California's Central Valley are being depleted at an alarming rate. As reported in the Sacramento Bee, the study warns that current groundwater extraction rates from the Central Valley aquifer—which is primarily mined to serve agricultural water users in the San Joaquin and Sacramento Valleys—are increasingly unsustainable.

California's groundwater resources are particularly taxed in times of drought. That's because California water regulators and water project operators routinely impose drought-related restrictions on surface water diversions under both contractual provisions and user priorities established under longstanding California water rights law. Groundwater, by contrast, remains unregulated under California law, and water users routinely increase their groundwater pumping in dry years to compensate for reductions in their surface water deliveries. (Notably, California is the only Western state that doesn't regulate private groundwater pumping. Nor are groundwater users even required to monitor and report the amount

of water they pump from underground aquifers.) The problem is that recent and current pumping levels are depleting Central Valley aquifers at a faster rate than they can be replenished—even in wet water years.

The new University of Texas study helps quantify the extent of California's overdraft problem. During the drought years of 2006-09, for example, farmers used enough Central Valley groundwater to fill Lake Mead. And it looks like we're now in another drought period: 21 California counties have already been given a primary designation as disaster areas due to drought conditions, with more counties likely to be added should current hot weather and low precipitation patterns continue.

As if that weren't enough, climate scientists are suggesting that these drought conditions may well be the "new normal" of California climate conditions. At the same time, demand for Central Valley water supplies is actually increasing. Whereas agriculture has traditionally been the region's dominant water user, urban water demand is growing: since 1980, the Central Valley's population has doubled to 3.8 million people, and demographic experts predict that number to increase to 6 million by the year 2020. Of course, these steadily growing water

demands work to the detriment of Central Valley ecosystems such as the Delta, valley rivers and the plant and animal species—such as migrating salmon populations—that depend on those ecosystems for survival.

The answer, according to both the University of Texas scientists and a multitude of other experts, is for California to more actively and sustainably manage its groundwater resources. This means, for example, establishing effective groundwater monitoring systems, regulating groundwater the same way California allocates surface water resources, and proactively using currently-depleted groundwater aquifers as underground water banks that can be replenished in wet water years.

One can hope that California legislators and regulators will rely on this new scientific evidence to enact such welcome groundwater reforms. But I wouldn't bet the farm on it.

From the Legal Planet: Environmental Law and Policy. Richard Frank is a Professor of Environmental Practice and the Director of the California Environmental Law and Policy Center (CELPC). Formerly the executive director of the Center for Law, Energy, & the Environment (CLEE) at UC Berkeley School of Law, Frank returned to UC Davis School of Law in January 2010.

Urban Growth Isn't the Only Kind of Growth



Anja Raudabaugh
Executive
Director

The farmers and ranchers in Madera County and in California are a fortunate bunch most of their days these last several years.

Agricultural land values are the highest they've ever been, with barely enough of it to go around. Crop values are sky high in most sectors, and beef—it's definitely what's for dinner. And for the first time in nearly

100 years, the pace of growing farmland has surpassed growing urbanization. It's a good time to be in agriculture—especially in the Central Valley.

But here's the thing about doing well when times are good—you want them to stay that way. In fact, you're more often willing to fight for what's become the new normal versus settle for anything less. So although times may be good for the agriculturalist, the stakes are also at their highest in preserving what the industry has felt is long overdue remuneration.

As we band together in this County to pay tribute to the agricultural industry, it's

important to recognize that through unity we grow and become a powerful force. The Madera County Farm Bureau has done this through a practical application commonly referred to as a lawsuit, where we've joined forces with groups from all walks of life, including Madera County and the Chowchilla Water District, to fight what we feel is an imminent threat to our agricultural economy—the High Speed Rail project. This project places in peril major agribusinesses in the County, along with their ability to employ

See Urban Growth; Page 2

Keith, *To: Keith Boggs (8) pages total FAX 544-6226*
From: Bill Crabtree 9/23/13 ✓

Thank you for the opportunity to review the proposed Ordinance. In my opinion, you are biting off more than you can chew. If the Board of Supervisors approve the Ordinance as written, it will come back to bite you.

Pertaining to "Mining" of groundwater

Not defined: Unreasonable use

Not defined: Unreasonable method of use

Not defined: Unreasonable method of diversion of water

As written the:

Stanislaus County Dept. of Environmental Resources could require a permit & could find guilty of a misdemeanor the owner of every existing well within the County (past, present and future)

My suggestion is to re-name the Ordinance:

Groundwater Export Prevention Ordinance of Stanislaus County

A. Get the basic infrastructure in place and delete any reference to "Mining" of groundwater. The Board of Supervisors will then vote on an Ordinance that everyone agrees with. The Ordinance will take effect 30 days after its passage.

B. After the passage of the Export Prevention Ordinance, the next item is to tackle the above items in bold.

Appoint a committee (including a farmer) to come up with definitions:

Unreasonable use of water:

unreasonable method of use of water:

Unreasonable method of diversion of water:

2013 OCT -4 P 2:49

BOARD OF SUPERVISORS

There's a lot of politics at play here and a lot of strong opinions regarding water. Make the first shot out of the gun an Export of Water Ordinance that is easy to pass. It will set the tone for the future Ordinances of the "Mining" of Groundwater.

Thank you for the opportunity to give you my thoughts on this very important issue.



Bill Crabtree

PS: I would appreciate if you would give a copy of my letter including all 8 pages to the Board of Supervisors.

ORDINANCE NO. C.S. _____

**AN ORDINANCE REGULATING GROUNDWATER RESOURCES
WITHIN THE COUNTY OF STANISLAUS**

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS, STATE
OF CALIFORNIA ORDAINS AS FOLLOWS:

Section 1. Chapter 9.37 of the Stanislaus County Code is added to
read as follows:

9.37.010 Title

The ordinance codified in this Chapter may be cited as the "Groundwater
[REDACTED] Export Prevention Ordinance of Stanislaus County."

9.37.020 Findings

The Stanislaus County Board of Supervisors hereby finds:

1. The protection of the health, welfare, and safety of the residents of the County require that the groundwater resources of Stanislaus County be protected from adverse impacts resulting from the specific acts of mining groundwater resources within the County and the export of water outside of the County; and
2. Groundwater is an essential resource for continued agricultural production within the County which production includes, but is not limited to, field crops, nut and fruit crops, vegetable crops, seed crops, poultry and livestock and products which significantly contribute to the gross value of the total agricultural production of the County; and
3. Groundwater is an essential resource for municipal, industrial and domestic uses within the County; and
4. The [REDACTED] export of water outside of the County could each have adverse environmental impacts on the County, including but not limited to; increased groundwater overdraft, land subsidence, uncontrolled movement of inferior quality groundwater, the lowering of groundwater levels, increased groundwater degradation; and
5. The [REDACTED] export of water outside of the County could [REDACTED] have adverse economic impacts on the County, including but not limited to, loss of arable land, a decline in property values, increased pumping costs due to the lowering of

groundwater levels, increased groundwater quality treatment costs, replacement of wells due to declining groundwater levels, replacement of damaged wells, conveyance infrastructure, roads, bridges and other appurtenances, structures or facilities due to land subsidence; and

- 6. California Constitution, Article X, Section 2, as well as Water Code section 100 prohibit the waste, unreasonable use, unreasonable method of use, and unreasonable method of diversion of water. The County finds that the [REDACTED] export of water outside of the County are unsustainable uses of groundwater and are not reasonable or beneficial uses to the citizens of Stanislaus County and, therefore, the [REDACTED] export of water from the County are inconsistent with the California Constitution and the California Water Code.

9.37.030 Definitions

The following words and phrases shall have the following meanings when used in this Chapter:

- 1. "County" means the County of Stanislaus.
- 2. "Board" means the Board of Supervisors of Stanislaus County.
- 3. "Person" means and includes natural persons, corporations, firms, partnerships, joint stock companies, associations and other organizations of persons, and public entities.
- 4. "Groundwater" water that occurs beneath the land surface and fills the pore spaces of the alluvium, soil or rock formation in which it is situated.
- 5. "Public water agency" means any local public agency, mutual water company, or non-profit tax-exempt unincorporated association within, or partially within, Stanislaus County that has authority to undertake water-related activities.

[REDACTED]

- 6. [REDACTED] "Export of water" means the act of conveying groundwater, or surface water substituted with groundwater, out of the County.

9.37.040 Prohibition

Except as otherwise provided in this Chapter, the following actions are prohibited:

[REDACTED]

A [REDACTED] The export of water outside of the County.

9.37.050 Exemptions

Groundwater extractions associated with the following water management practices are exempt from the prohibition [REDACTED] against export of water under this Chapter.

1. Water resources management practices of public water agencies that have jurisdictional authority within the County that are in compliance with and included in groundwater management plans adopted by that agency in accordance with applicable State law and regulations, including but not limited to the California Groundwater Management Act (Water Code sections 10750 et seq.).
2. De-watering of shallow water tables where the net benefits of the removal of subsurface water substantially outweighs the loss of water because of damage the high water table reasonably may cause to agriculture, industry, commerce and other property uses. The groundwater in some areas of the County is very near the surface and if not removed by interceptor ditches or subsurface tile drains, the water can seriously impact crop root zones for agricultural production or destroy foundations, equipment, materials, buildings and infrastructure used for residences, industry, utilities or commerce. This groundwater may or may not be reused for other purposes and at times may leave the County and its groundwater system.
3. Reasonable use of groundwater resources to supplement or replace surface water released for other reasonable and beneficial purposes, including but not limited to fisheries, ecosystem habitat or downstream water quality or quantity needs, when required pursuant to federal and state law, regulations, licenses or permit conditions.
4. Conservation of water in compliance with applicable State law that authorizes public water agencies to transfer water outside its usual place of use. Conservation investments may include, but are not limited to, irrigation practices in agricultural areas where the crops grown use less water, or communities that produce recycled water, fix leaks or promote other water

saving devices and methods to conserve water on a temporary or permanent basis.

5. Recharge of groundwater in locations in the County that are capable of improving groundwater conditions in order to meet total water demands of beneficial uses in the hydrologic and groundwater basin area including but not limited to the following sources: surface water, treated municipal drinking water, recycled water and stormwater. The amount of recaptured groundwater transferred out of the area should not exceed the amount of water used to recharge the aquifer. The transfer can be accomplished by either direct or indirect transfer, that is, a public water agency can leave the water in the ground and transfer other supplies in lieu of pumping out the recharge water.
6. Remediation of contaminated groundwater that is pumped and treated to remove contaminants that are in violation of standards for beneficial uses. The extracted and treated water may be released out of the County, resulting in a net loss to the groundwater basin, if the release complies with discharge permits issued by the federal, state or state resource agencies.
7. Groundwater extraction and export of water that reasonably supports agricultural operations on property outside the County that is contiguous with property within the County and is under common ownership.
8. Export of water from a private water source that is bottled in compliance with a Private Water Source Operator License issued by the State pursuant to Health and Safety Code section 111120.
9. Water wells delivering 100 gallons per minute or less to uses and property under the same ownership where the well is located.
10. [REDACTED] the export of water done in compliance with a permit issued by the Stanislaus County Department of Environmental Resources.

9.37.060 Implementation

- A. The Stanislaus County Department of Environmental Resources shall have the primary responsibility for implementation of this Chapter and regulations adopted by the Board of Supervisors.
- B. A permit is required unless otherwise exempted by this ordinance.
- C. The Department of Environmental Resources shall have authority to investigate any activity subject to this ordinance. Compliance with this Chapter will be determined based on the submission of a technical report submitted to the Department of Environmental Resources on a form

provided by the County. The Department is authorized to enforce the prohibition of any activity that is determined to be in violation of this Chapter or regulations adopted by the Board of Supervisors.

9.37.070 Penalty for Violation

- A. Any person violating any of the provisions of this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished as set forth in Stanislaus County Code Section 1.36.010. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Chapter is committed, continued or allowed and shall be punishable accordingly.
- B. In addition to or in lieu of the penalty provisions or remedies set forth in this Chapter, any violation may be abated in any manner set forth in Chapter 2.92 of the Stanislaus County Code, including, but not limited to, abatement or issuance of administrative citations.
- C. In addition to or in lieu of the penalty provisions or remedies set forth in this Chapter, any violation of any of the provisions of this Chapter, and any condition caused or allowed to exist in violation of any of the provisions of this Chapter, shall be deemed a public nuisance and shall, at the discretion of County, create a cause of action for injunctive relief, including but not limited to any remedy under Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code.

9.37.080 Severability

The provisions of this Chapter are hereby declared to be severable. If any provision, clause, word, sentence or paragraph of this Chapter or the application thereof to any person, establishment or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Chapter.

Section 2. This ordinance shall take effect thirty (30) days from and after the date of its passage and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the members voting for and against the same, in the Modesto Bee, a newspaper published in the County of Stanislaus, State of California.

Upon motion of Supervisor _____ seconded by Supervisor _____, the foregoing Ordinance was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, this ____ day of _____, 2013, by the following-called vote:

AYES: Supervisors:

NOES: Supervisors:

ABSENT: Supervisors:

Vito Chiesa, Chair of the Board of
Supervisors of the County of Stanislaus,
State of California

ATTEST:

CHRISTINE FERRARO TALLMAN, Clerk of the
Board of Supervisors of the County of Stanislaus,
State of California

By _____
Liz King, Deputy Clerk

APPROVED AS TO FORM:

By _____
John P. Doering
County Counsel

Christine Ferraro - Water Advisory Committee

From: Cooper Rossiter <cooper@donpedropump.com>
To: <vito.chiesa@stancounty.com>,
<William.Obrien@stancounty.com>, <withrowt...>
Date: 10/15/13 11:13 AM
Subject: Water Advisory Committee

Good Morning Supervisors,

I'm sure that your inbox is flooded with emails in regards to the Groundwater and any proposed actions the county may take. I'm going to add to the pile. I attended the meeting last night in Oakdale and heard a roughly outline of the proposed Groundwater Ordinance that County will vote on at the Oct 29th Meeting. I have since read the Ordinance that is currently available. If this Ordinance passes, I would like to be considered for a spot on the 19 person Water Advisory Committee that will be formed. I feel that I would bring a unique perspective to the panel as a member of the business community that would be affected by changes made by this committee. I am young businessman in this County that is working hard to grow our strong family business, Don Pedro Pump. In dealing with groundwater wells and pumps throughout the Central Valley, I feel that I would be able to provide real information and data about many of the issues that are affecting Stanislaus County's water. If the opportunity arises I would like to be a member of this committee. Please contact me with any questions or information about the position moving forward. Thank you for your time.

Cooper Rossiter
Don Pedro Pump
Cooper@donpedropump.com
209.632.3161 Office
209.602.9126 Cell

2013 OCT 15 P 3:21
BOARD OF SUPERVISORS

SPALETTA LAW PC

Post Office Box 2660
Lodi, California 95241
T: 209-224-5568
F: 209-224-5589

BOARD OF SUPERVISORS

2013 OCT 25 A 10:24

JENNIFER L. SPALETTA
Attorney-at-Law
jennifer@spalettalaw.com

October 22, 2013

Stan Risen
Interim Chief Executive Officer
Stanislaus County
1010 10th Street, Suite 6800
Modesto, CA 95354

Milton O'Haire
Ag Commissioner/Sealer
Stanislaus County Dept. of
Ag. & Wts. & Meas.
3800 Cornucopia Way Suite B
Modesto CA 95358

Via Regular Mail Only

Via Email: miltono@stancounty.com

Jami Aggers, Director
Stanislaus County Environmental
Resources
3800 Cornucopia Way Suite C
Modesto, Ca 95358

Via Email: jaggers@envres.org

Re: Comments on Stanislaus County Draft Groundwater Ordinance

Dear Mr. Risen, Mr. O'Haire, Ms. Aggers:

The following comments are submitted on behalf of West Coast Grape Farms Partnership, F & M Vineyard Partnership, FJ Venture Partnership, Redwood Lake Vineyards, LLC, and Laguna Creek Vineyard Partnership (collectively, "West Coast"). West Coast farms several hundred acres of wine grapes in Stanislaus County and exercises overlying groundwater rights to pump groundwater for use on some of its vineyards. The ordinance has the potential to impact West Coast's future operations. We appreciate the opportunity to provide these comments.

The Ordinance Should Address Exports or Mining, but Not Both

The draft ordinance attempts to address two distinct issues: (1) exports of groundwater outside of Stanislaus County, and (2) "mining" of groundwater. West Coast appreciates the County's efforts to address important issues related to "exports" such as the use of water on adjacent lands in adjacent counties. However, the expanded effort to define and regulate "mining" makes the ordinance problematic. As we explain below, there are so many flaws with the manner in which the ordinance attempts to deal with "mining" that we strongly recommend that the "mining" provisions be removed from the ordinance and dealt with in a separate effort.

The Definition of “Mining” is Problematic

The draft ordinance defines “mining” of groundwater as “the extraction of groundwater in a manner that constitutes a waste, unreasonable use, or unreasonable method of use within the County, as interpreted under California law.” 9.37.030(6). This definition does not make sense. First, waste and unreasonable use of groundwater (or any water) is already prohibited by law and addresses the use to which the water is put – such as excessive irrigation or field flooding. The County and any interested party already have sufficient recourse to challenge and stop any such unreasonable use. There is no need for a County ordinance aimed at unreasonable use. Further, waste and unreasonable use are issues of fact determined based on current conditions and issues of state-wide importance. In short, they are issues for Courts of law, not County permitting agencies.

Second, the ordinance states that the County will be able to issue permits for groundwater “mining.” (See 9.37.050 A (3) and 9.37.060 B). Obviously, this cannot be. The County cannot permit an activity that is per se unlawful. Thus, it is entirely unclear what activities the County will seek to permit other than certain types of groundwater exports.

If the County Seeks to Control Over-Appropriation Because of Conditions of Overdraft, the Ordinance Requires Major Revision

County ordinances aimed at controlling excessive appropriation of groundwater from over-drafted basins are not uncommon in California. However, they are significantly more detailed than the ordinance that is currently proposed for Stanislaus County. If the County’s goal is to address overdraft and excessive appropriation, the draft ordinance requires major revision. As currently defined in the draft ordinance, the term “mining” is not linked to the health of the groundwater basin or the quality or quantity impacts on the basin from well operations.

Fundamentally, if the goal of the ordinance is to address overdraft, the ordinance needs to define overdraft and safe-yield. Without these definitions, any effort by the County to regulate excessive extractions as an “unreasonable” manner of use of groundwater would be futile and ripe with legal challenge.

Further, the ordinance should explain whether it applies to existing diverters or new diverters, or both. As written, it is entirely unclear how the ordinance will be enforced by County staff.

Finally, the ordinance should be carefully drafted to ensure consistency with overlying groundwater rights of landowners and the priority system among groundwater appropriators. For example, overlying landowners, even if they are drilling new wells, have the prior right to extract safe yield before any appropriators, including cities. The ordinance must not prohibit lawful exercise of an overlying right (for example, the County could not refuse to permit a new overlying use due to lack of supply if there are lower priority appropriators already pumping).

If the Ordinance Seeks to Establish a Permitting System, the Ordinance Should Include Permitting Criteria

The draft ordinance provides that permitted practices are exempted from its prohibitions. 9.37.050(A). It then charges the Stanislaus County Department of Environmental Resources with establishing the permitting system. 9.37.060(B). The criteria for issuance of a permit by the County are not detailed in the ordinance, but are left to later development by staff of the Department of Environmental Resources. This is improper and makes the ordinance void for vagueness. The Board should not adopt an ordinance that omits the relevant substantive criteria for the permit system.

Thank you for the opportunity to comment on the draft ordinance. Any comments or questions regarding this letter can be directed to the undersigned.

Sincerely,



JENNIFER L. SPALETTA
Attorney-at-law

Copy via e-mail to:

Jim DeMartini
Stanislaus County Board of Supervisors
1010 10th St, Suite 6500
Modesto, CA 95354
DemartiniJ@StanCounty.com

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Vito Chiesa
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Modesto, CA 95354
Vito.chiesa@stancounty.com

William O'Brien
Stanislaus County Board of Supervisors
1010 10th St, Suite 6500
Modesto, CA 95354
William.Obrien@stancounty.com

>>> David Green <David@spalettalaw.com> 10/22/2013 5:09 PM >>>

Dear Mr. O'Haire and Ms. Aggers,

Please find attached comments on Stanislaus County's proposed groundwater ordinance from West Coast Grape Farms Partnership, F & M Vineyard Partnership, FJ Venture Partnership, Redwood Lake Vineyards, LLC, and Laguna Creek Vineyard Partnership. Thank you for the opportunity to comment.

Sincerely,

David Green
Associate Attorney
SPALETТА LAW PC
T: 209-224-5568
F: 209-224-5589

BOARD OF SUPERVISORS
2013 OCT 25 A 10:24

>>> "Mr. David Avila" <davidavila@dairydesigners.com> 10/25/2013 10:26 AM >>>

Hi Bill;

This is some evidence input for your decision making process. Restricting production is not lawful or ethical. We have seen decades of Government restricting production in the name of "progress, conservation and saving the environment". As I have pointed out to you before, the problem with water supply has been Government restricting the production of water. That means they have prevented the installation of water storage systems. Having done this, the farmer has no choice but to install deep pumping wells. Now the obvious is happening' Government is taking the predicted action- hamper production by restricting ground water usage. This, VERY sadly, is the usual Governmental reaction to a problem- shot the messenger and ignore the problem. The solution is to DEMAND, NOT ASK Sacramento to approve and fund new water storage projects. Naturally, this is the HARD option but the CORRECT action. You have the fiduciary responsibility to provide for the people. Please contact your neighboring Counties and get a coalition to force the State to represent the "producers". Without the producers, the consumers have NOTHING. And for certain, the Government will have NO source of revenue. Think about that!?

You have stated the County is broke. The lack of action to promote and protect the "producers" of the County by the Board of Supervisors is the foundational cause of this situation. Now, with restricting ground water usage and NOT demanding surface water usage is another capitulation to "conservation" which inevitably will produce more Detroits! It is sad to see we have no representatives that will take the tough road.

One only has to look at historical constitutional law to understand the POWER of the County over the State and certainly the Federal Government.

Water was allocated and GRANTED for use for "mining, agricultural, manufacturing or other purposes" with Land Patents contracts between the United States of America going back to the Revolutionary War. Affirmed with the Mining Act of 1866 (HR 365, Sect 9). As well, the Organic Act of 1897 which established the national forests states "No public forest reservation shall be established, except to improve and protect the forest within the reservation, or for the purpose of securing favorable condition for water flows, and to furnish a continuous supply of timber for the use and necessities of citizens of the United States; but is is not the purpose of intent of these provisions, or of the Act providing for such reservations, to authorize the inclusion therein of lands more valuable for mineral therein, or for agricultural purposes, than for forest purposes." Within the Organic Act of 1897 it is stated "ALL water on such reservations may be used for domestic, mining, milling, or irrigation purposes, under the laws of the State wherein such forest reservations are situated, OR under the laws of the United States and the rules and regulations established thereunder.

Subject: FW: STATEMENT AT THE END SAYS IT ALL!

BOARD OF SUPERVISORS
2013 OCT 25 A 11:12

STATEMENT AT THE END SAYS IT ALL!

68 years later!

**What happened to the radiation that Lasts
thousands of years?**

HIROSHIMA 1945





We all know that Hiroshima and Nagasaki were destroyed in August 1945 after the explosion of atomic bombs. However, we know little about the progress made by the people of that land During the past 68 years.

HIROSHIMA: 68 YEARS LATER









DETROIT: 68 YEARS AFTER HIROSHIMA













Abandoned house on Detroit's east side

What has caused more long term destruction-
The A-bomb,
Or
Government welfare programs created to buy the
Votes of those who want someone to take care of them?

Japan does not have a welfare system.

Work for it or do without.

These are possibly the 5 best sentences you'll ever read
and all applicable to this experiment:

1. You cannot legislate the poor into prosperity by legislating the wealthy out of prosperity.
2. What one person receives without working for, another person must work for without receiving.
3. The government cannot give to anybody anything that the government does not first take from somebody else.
4. You cannot multiply wealth by dividing it!
5. When half of the people get the idea that they do not have to work because the other half is going to take care of them, and when the other half gets the idea that it does no good to work because somebody else is going to get what they work for, that is the beginning of the end of any nation.

Can you think of a reason for not sharing this?

Neither could I.

3-10
Rec'd 8:30 AM
10/29/13

WATER EXPORT RULES

10/29/13 - V. KENNEDY

I WOULD LIKE TO PUT IN A PLEA THAT YOU FOLKS APPROVE THE PROPOSED RULES ON EXPORT OF GROUNDWATER TODAY. I UNDERSTAND FROM HIGHLY RELIABLE SOURCES THAT THIS SORT OF PROBLEM WAS RECOGNIZED AT LEAST 10 YEARS AGO AND IGNORED. IF IT HAD BEEN ADDRESSED THEN WE WOULD PROBABLY NOT HAVE THE PRESENT PROBLEMS. THERE IS A PHRASE TO "KICK THE CAN DOWN THE ROAD" THAT HAS BEEN APPLICABLE IN THE PAST. PLEASE DO NOT DO IT IN THIS CASE. THIS HAS BEEN STUDIED FOR ABOUT 4 YEARS. THAT IS ABOUT 3.5 YEARS TOO LONG. THAT SHOULD BE FAR MORE THAN ENOUGH TIME TO COME UP WITH SOME REASONABLE RULES. IF THERE ARE MAJOR UNEXPECTED PROBLEMS WITH THE RULES, THERE IS NO REASON WHY THEY CANNOT BE CHANGED IN THE FUTURE.

THE COUNTY DOES NEED A WATER EXPERT ON ITS STAFF, WHO HAS LEGAL ADVICE AVAILABLE. NEITHER THE CITY OR COUNTY HAS A LAWYER KNOWLEDGEABLE IN WATER PRECEDENTS.. I HAVE ASKED. GIVEN THE TREMENDOUS IMPORTANCE OF WATER AT PRESENT, AND EVEN MORE SO IN THE FUTURE, IT IS IMPERATIVE THAT THE COUNTY HAVE SUCH ADVICE READILY AVAILABLE, THE SOONER THE BETTER.

RUMOR HAS IT THAT 40 PERCENT OF NATURAL RIVER FLOW WILL BE KEPT FOR THE FISH IN THE FUTURE. MEANWHILE, THE STATE REQUIRES MAJOR INCREASES IN HOUSING BY THE CITY. IT SEEMS OBVIOUS THAT TRULY GREAT WATER CHALLENGES LIE AHEAD, AND THAT DOES NOT EVEN CONSIDER POTENTIAL GLOBAL WARMING.

WHILE I AM UP HERE, I WOULD LIKE TO PUT IN A PLUG ONCE AGAIN FOR AN INFLUENTIAL COUNTY/CITY COMMITTEE TO LOOK AT THE TRULY LONG TERM NEEDS BY OUR LOCAL SOCIETY FOR FOOD AND WATER. SOME MEMBERS OF THIS AREA SEEM DETERMINED TO MAKE THE CENTRAL VALLEY ANOTHER SILICON VALLEY. THAT WOULD BE A TRULY LOCAL AND NATIONAL DISASTER. I BELIEVE THE AVERAGE LOCAL CITIZEN IS CONCERNED BUT DOES NOT KNOWHOW TO REGISTER THAT CONCERN WITH THE DECISION MAKERS. A PROMINENT COMMITTEE COULD HELP.

B-10
Need 8:30 AM
10/29/13

SUPERVISOR MEETING 10/29/13 IDENTITY – V. KENNEDY

THERE HAS BEEN WIDESPREAD DISCUSSION OF GROUNDWATER PROBLEMS IN THE FOOTHILLS. THE QUESTION SEEMS TO BE “ WHAT TO DO ABOUT IT?”. MAJOR DAMAGE TO SOME SMALLER PROPERTY OWNERS IS OCCURRING RIGHT NOW AND THAT CAN BE A COMPLETE LOSS OF VALUE OF HOME AND PROPERTY, SIMPLY BECAUSE ADJACENT LARGE PLANTINGS OF ALMONDS ARE TAKING THEIR GROUNDWATER . AN ESTIMATE OF THAT PROPERTY LOSS WOULD BE HIGHLY APPROPRIATE IN YOUR INVESTIGATION. LEGAL COSTS TO DEFEND THESE SMALL PROPERTIES ARE SIMPLY TOO EXPENSIVE TO INDIVIDUALS AND ARE PROLONGED.

YOU HAVE THE POLICE POWER TO STOP ABUSES. PLEASE USE THAT POWER AS SOON AS POSSIBLE. AN IMMEDIATE MORATORIUM, LIKE THAT IN SAN LOUIS OBISPO COUNTY WOULD BE VERY APPROPRIATE.. BUT THEN WHAT?

A RAPID ESTIMATE OF THE PROBLEM COULD BE MADE WITH EXISTING KNOWLEDGE BY COUNTY EMPLOYEES, HYDROLOGISTS AND FARMERS, USING PRESENT ORCHARD RECORDS AND DETAILED DATA ON APPROVED WELLS, PLUS PLANNED ALMOND PLANTING AND WELLS. THAT WOULD BE A GUIDE.

RAINFALL IN THE LOW FOOTHILLS IS ON THE ORDER OF 12 INCHES PER YEAR. HALF MAY REACH THE WATER TABLE. MINIMUM IRRIGATION NEEDS OF ALMOND TREES IS ESTIMATED AT 30 INCHES PER YEAR. THUS, AT LEAST 2 FEET OF WATER IS NEEDED, IN ADDITION TO RAIN. THAT MUST COME FROM GROUNDWATER, SINCE THERE IS NO OTHER SOURCE. BECAUSE THE PORE SPACE IN ROCKS HOLDING AVAILABLE WATER IS ROUGHLY 15 PERCENT (PLUS OR MINUS 5 PERCENT), EVERY FOOT OF PUMPED GROUNDWATER SHOULD DROP THE WATER TABLE PERHAPS 8 FEET. THAT EQUALS 16 FEET PER YEAR. IF THE WATER TABLE DROPS SIGNIFICANTLY LESS THAN THAT, IT MEANS THAT GROUNDWATER IS FLOWING Laterally UNDERGROUND TO THE WELL FROM ONES NEIGHBORS AND DEPLETING THE OVERALL GROUNDWATER SUPPLY. THAT WOULD NOT BE SURPRISING, SINCE LATERAL MOVEMENT OF GROUNDWATER IS WELL KNOWN TO BE MUCH EASIER THAN VERTICAL MOVEMENT .

THERE IS A LEGAL TERM KNOWN AS PRESCRIPTIVE RIGHTS, WHEREBY, IF WATER IS TAKEN WRONGLY, AND NO OBJECTIONS OCCUR, THEN AT SOME POINT IN TIME THE RIGHT TO OBJECT IS LOST. SINCE THERE IS NO GROUNDWATER LAW IN CALIFORNIA, THE TIME FOR A PRESCRIPTIVE RIGHT IS UNKNOWN, BUT COULD CONCEIVABLY BE QUITE SHORT. YOU CAN CONTROL THAT. .

A ROUGH ESTIMATE OF THE MAGNITUDE OF THE WATER PROBLEM IN THE FOOTHILLS CAN BE MADE IN A WEEK. NOT A YEAR OR TWO, IF PEOPLE USE REASONABLE ESTIMATES, AS DESCRIBED. THERE IS CERTAINLY ENOUGH UNDERSTANDING OF THE PROBLEM BY EMPLOYEES OF THE LOCAL IRRIGATION DISTRICTS TO MAKE VALID ESTIMATES OF THE PROBLEM. I CANNOT OVERSTATE THE NEED TO ACT NOW ON REQUIRING ENVIRONMENTAL IMPACTS ON PROPERTIES ADJACENT TO WELLS. ALSO, GRAND-FATHERING IN OF CONTINUING HARMFUL PRACTICES ABSOLUTELY MUST BE AVOIDED.

STANISLAUS COUNTY
ORDINANCE C.S. 1138

NOTICE IS HEREBY GIVEN that on November 12, 2013, at 9:00 a.m., or as soon thereafter as the matter may be heard, the Stanislaus County Board of Supervisors will meet in the Basement Chambers, 1010 10th St., Modesto, CA, to consider the adoption and the waiving of the second reading of Ordinance C.S. 1138 to add Chapter 9.37 to the Stanislaus County Code regarding the regulation of groundwater resources within the County of Stanislaus.

Chapter 9.37 would prohibit the mining of groundwater within the unincorporated areas of the County, and the export of water outside of the County, except the following water management activities, which are specifically exempted in the ordinance:

- Water resources management practices of public water agencies that are in compliance with and included in groundwater management plans adopted by that agency;
- Water wells delivering 100 gallons per minute or less to uses and property under the same ownership where the well is located;
- Groundwater mining and the export of water done in compliance with a permit issued by the Stanislaus County Department of Environmental Resources;
- De-watering of shallow water tables where the net benefits of the removal of subsurface water substantially outweighs the loss of water because of damage the high water table reasonably may cause to agriculture, industry, commerce and other property uses;
- Reasonable use of groundwater resources to supplement or replace surface water released for other reasonable and beneficial purposes when required pursuant to federal and state law, regulations, licenses or permit conditions;
- Conservation of water in compliance with applicable State law that authorizes public water agencies to transfer water outside its usual place of use;
- Recharge of groundwater in locations in the County that are capable of improving groundwater conditions in order to meet total water demands of beneficial uses in the hydrologic and groundwater basin area;
- Remediation of contaminated groundwater that is pumped and treated to remove contaminants that are in violation of standards for beneficial uses;
- Export of water that reasonably supports agricultural operations on property outside the County that is contiguous with property within the County and is under common ownership;
- Export of water from a private water source that is bottled in compliance with a Private Water Source Operator License issued by the State.

Any person violating any of the provisions of Chapter 9.37 would be guilty of a misdemeanor.

NOTICE IS FURTHER GIVEN that a full copy of the proposed ordinance is available for review in the Clerk of the Board Office, 1010 10th Street, Suite 6700, Modesto, CA. For further information, contact Keith Boggs, Assistant Executive Officer at (209) 525-6333 or at 1010 10th Street, Suite 6800, Modesto, CA 95354.

BY ORDER OF THE BOARD OF SUPERVISORS

DATED: October 29, 2013

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk
of the Board of Supervisors
of the County of Stanislaus,
State of California

BY: 
Elizabeth A. King, Assistant Clerk of the Board

**DECLARATION OF PUBLICATION
(C.C.P. S2015.5)**

**COUNTY OF STANISLAUS
STATE OF CALIFORNIA**

I am a citizen of the United States and a resident Of the County aforesaid; I am over the age of Eighteen years, and not a party to or interested In the above entitle matter. I am a printer and Principal clerk of the publisher of **THE MODESTO BEE**, printed in the City of **MODESTO** , County of **STANISLAUS** , State of California, daily, for which said newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of **STANISLAUS** , State of California, Under the date of **February 25, 1951, Action No. 46453**; that the notice of which the annexed is a printed copy, has been published in each issue there of on the following dates, to wit:

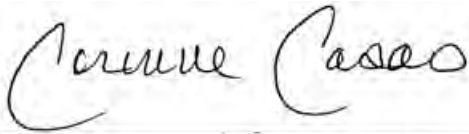
Nov 05, 2013

I certify (or declare) under penalty of perjury That the foregoing is true and correct and that This declaration was executed at

MODESTO, California on

November 5th, 2013

(By Electronic Facsimile Signature)



Carmine Casco

STANISLAUS COUNTY
ORDINANCE C.S. 1138

NOTICE IS HEREBY GIVEN that on November 12, 2013, at 9:00 a.m., or as soon thereafter as the matter may be heard, the Stanislaus County Board of Supervisors will meet in the Basement Chambers, 1010 10th St., Modesto, CA, to consider the adoption and the waiving of the second reading of Ordinance C.S. 1138 to add Chapter 9.37 to the Stanislaus County Code regarding the regulation of groundwater resources within the County of Stanislaus.

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- De-watering of shallow water tables where the net benefits of the removal of subsurface water substantially outweighs the loss of water because of damage the high water table reasonably may cause to agriculture, industry, commerce and other property uses;
- Reasonable use of groundwater resources to supplement or replace surface water released for other reasonable and beneficial purposes when required pursuant to federal and state law, regulations, licenses or permit conditions;
- Conservation of water in compliance with applicable State law that authorizes public water agencies to transfer water outside its usual place of use;
- Recharge of groundwater in locations in the County that are capable of improving groundwater conditions in order to meet total water demands of beneficial uses in the hydrologic and groundwater basin area;
- Remediation of contaminated groundwater that is pumped and treated to remove contaminants that are in violation of standards for beneficial uses;
- Export of water that reasonably supports agricultural operations on property outside the County that is contiguous with property within the County and is under common ownership;
- Export of water from a private water source that is bottled in compliance with a Private Water Source Operator License issued by the State.

Any person violating any of the provisions of Chapter 9.37 would be guilty of a misdemeanor. NOTICE IS FURTHER GIVEN that a full copy of the proposed ordinance is available for review in the Clerk of the Board Office, 1010 10th Street, Suite 6700, Modesto, CA. For further information, contact Keith Boggs, Assistant Executive Officer at (209) 525-6333 or at 1010 10th Street, Suite 6800, Modesto, CA 95354. BY ORDER OF THE BOARD OF SUPERVISORS. DATED: October 29, 2013. ATTEST: Christine Ferraro Tallman, Clerk of the Board of Supervisors of the County of Stanislaus, State of California. BY: Elizabeth A. King, Asst. Clerk of the Board
Pub Dates Nov 5, 2013



CONSIDERATION OF A GROUNDWATER ORDINANCE FOR THE CITIZENS OF STANISLAUS COUNTY

October 29, 2013

RECOMMENDATIONS

1. Find that adoption of the proposed ordinance regulating groundwater resources is categorically exempt under the California Environmental Quality Act (CEQA) pursuant to Section 15307 of Title 4, Chapter 3 of the California Code of Regulations, and direct staff to file a Notice of Exemption with the Stanislaus County Clerk-Recorder.
2. Approve to introduce and waive the first reading of an ordinance regulating the mining and export of groundwater within the County of Stanislaus.



RECOMMENDATIONS CONT.

3. Amend the Salary and Position Allocation effective the first pay period following Board approval to add one Manager IV position to the Department of Environmental Resources in the capacity as a Water Resource Manager.
4. Direct the Auditor-Controller to increase revenue and appropriations in the amount of \$77,700 for six month's costs of the new position, funded by a transfer from Appropriations for Contingencies by a 4/5th vote by the Board of Supervisors.
5. Direct staff to initiate the formation of a Water Advisory Committee for Stanislaus County to be brought back for approval by the Board of Supervisors.



HISTORY

- April 2009 County staff began work with the Agricultural Advisory Board to draft a groundwater ordinance.
- An ordinance was drafted and circulated among local stakeholders for review and input. A final draft was reviewed and suspended, in part, to retain outside counsel and a water expert to assist in completing.
- Two additional components to include were recommended:
 - a) Limitations on surface water exports when groundwater is used to backfill exported water, and;
 - b) Discussion on groundwater banking.



HISTORY

Services of the California Water Institute (CWI) at Fresno State University were sought to facilitate meetings with water stakeholders. Participants included:

- Central California Irrigation District
- City of Modesto
- City of Turlock
- East Stanislaus Resource Conservation District
- Modesto Irrigation District
- Oakdale Irrigation District
- Stanislaus County – Agricultural Commissioner, Environmental Resources and the Chief Executive Office
- Turlock Irrigation District
- Stanislaus County Farm Bureau



HISTORY

After multiple meetings a groundwater ordinance was developed that met the approval of the stakeholders' working group.

- Approved by the Agricultural Advisory Board on June 10th
- Presented to City Managers on July 11th
- Shared at the Water Summit on July 24th
- Shared at the Oakdale Town Hall Meeting on October 14th

The ordinance was crafted in partnership with the water community, and has been well received by that community.



GROUNDWATER ORDINANCE

The ordinance finds that the protection of the health, welfare, and safety of the residents of the County require that the groundwater resources of Stanislaus County be protected from adverse impacts resulting from the specific acts of mining groundwater resources within the County and the export of water outside of the County.



GROUNDWATER ORDINANCE

Mining – the extraction of groundwater in a manner that constitutes a waste, unreasonable use, or unreasonable method of use within the County, as interpreted under California law.

Export of Water – the act of conveying groundwater, or surface water substituted with groundwater, out of the County.

The following actions are prohibited:

- The mining of groundwater within the unincorporated areas of the County.
- The export of water outside of the County.



GROUNDWATER ORDINANCE EXEMPTIONS

A. Water management practices that are exempt:

1. Water resources management practices of public water agencies that have jurisdictional authority within the County that are in compliance with and included in groundwater management plans.
2. Water wells delivering 100 gallons per minute or less to uses and property under the same ownership where the well is located.
3. Groundwater mining and the export of water done in compliance with a permit issued by Stanislaus County.



GROUNDWATER ORDINANCE EXEMPTIONS

B. Water management practices that are exempt from the export of water:

1. De-watering of shallow water tables.
2. Reasonable use of groundwater resources to supplement or replace surface water released for other reasonable and beneficial purposes.
3. Water conservation.
4. Water used to recharge groundwater; surface water, treated municipal drinking water, recycled water, and stormwater.



GROUNDWATER ORDINANCE EXEMPTIONS

- B. Water management practices that are exempt from the export of water (Continued):
5. Remediation of contaminated groundwater.
 6. Export of water that reasonable supports agricultural operations on property outside the County that is contiguous with property within the County.
 7. Export of water from a private water source that is bottled in compliance with applicable State laws.



PROCESS/GUIDANCE PACKAGE

- The Department of Environmental Resources will have the primary responsibility for implementation, oversight, and enforcement of the ordinance.
- Staff will review permit applications for activity that is not exempt.
- Guidance Package includes:
 - Revised well installation permit application;
 - Overview of exemptions;
 - Application for mining or exportation of water; and
 - Frequently asked questions (FAQ).



PROCESS/GUIDANCE PACKAGE

Appeal Process

- Administrative appeal to be sent in writing to the Chief Executive Officer
- Hearing Board consists of Chief Executive Officer, or designee, the Chairman and Vice Chairman of the Board of Supervisors
- Staff will return during the fee hearing process to recommend an appeal fee.

Violations

- Any violation of the provisions of the ordinance shall be guilty of a misdemeanor, and shall be punished accordingly.



WATER RESOURCE MANAGER

The Water Resource Manager is a critical component for program success both at initial implementation and for future program development.

The position will be responsible for:

- Oversee the planning and implementation of the ordinance
- Provide water management expertise
- Coordinate and manage the County's water interests
- Review and analyze the effect of new Federal or State legislation on County water plans, facilities and programs;
- Develop and conduct water summit meetings
- Facilitate on-going water policy development
- Build relationships with the water community



WATER ADVISORY COMMITTEE

Capture the efficiency created from the stakeholder working group model

Comprised of 19 voting members to include representatives from:

- Irrigation Districts;
- Stanislaus County Farm Bureau;
- Nine Cities;
- Business Community; and
- County Board of Supervisor.

Structure, process, rules of order, and by-laws will be developed and a recommendation brought back to the Board of Supervisors for final consideration.



NEXT STEPS GOING FORWARD

- Recruitment of a Water Resource Manager
- Formation of a Water Advisory Committee
- Needs assessment process to identify all water related issues that face our region.
- Continue the effort moving forward...



RECOMMENDATIONS

1. Find that adoption of the proposed ordinance regulating groundwater resources is categorically exempt under the California Environmental Quality Act (CEQA) pursuant to Section 15307 of Title 4, Chapter 3 of the California Code of Regulations, and direct staff to file a Notice of Exemption with the Stanislaus County Clerk-Recorder.
2. Approve to introduce and waive the first reading of an ordinance regulating the mining and export of groundwater within the County of Stanislaus.



RECOMMENDATIONS CONT.

3. Amend the Salary and Position Allocation effective the first pay period following Board approval to add one Manager IV position to the Department of Environmental Resources in the capacity as a Water Resource Manager.
4. Direct the Auditor-Controller to increase revenue and appropriations in the amount of \$77,700 for six month's costs of the new position, funded by a transfer from Appropriations for Contingencies by a 4/5th vote by the Board of Supervisors.
5. Direct staff to initiate the formation of a Water Advisory Committee for Stanislaus County to be brought back for approval by the Board of Supervisors.



QUESTIONS?

