



County of Santa Cruz

HEALTH SERVICES AGENCY

701 OCEAN STREET, ROOM 312, SANTA CRUZ, CA 95060-4073

(831) 464-2023 FAX: (831) 464-3128 TDD: (831) 464-4123

ENVIRONMENTAL HEALTH

June 29, 2007

Agenda: July 25, 2007

Planning Commission
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

Item #: 7
Time: After 9 AM

Subject: Amendments to Chapter 7.70, Water Wells

Dear Commissioners:

Environmental Health staff have prepared proposed amendments to the Well Ordinance (Chapter 7.70 of the County Code) to increase protection of groundwater quality. These amendments are being submitted to the Planning Commission for review and conceptual approval for inclusion in Round 2 of the 2007 General Plan/Local Coastal Plan amendments. The Board of Supervisors gave conceptual approval to these amendments on October 24, 2006. The proposed amendments to the Well Ordinance are attached (Exhibit 2) and are summarized below.

Background

Following a request from the California Groundwater Association and pursuant to Board direction: Environmental Health staff formed a task force with representation from the Water Advisory Commission, California Groundwater Association (well drillers), water supply agencies: private well owners, Groundwater Resources Association (hydrogeologists), the Farm Bureau, the California Department of Water Resources, and environmental organizations. The task force met four times to review and discuss the present well ordinance and the proposed amendments. Proposed amendments were also discussed with the County Water Advisory Commission and the water agencies.

The Board of Supervisors adopted the ordinance amendments in concept and directed staff to process the ordinance as a Local Coastal Program amendment. Subsequent to Board consideration, additional comments were received from the Water Advisory Commission and the Soquel Creek Water District. These comments and suggestions helped to clarify and strengthen the proposed changes and most have been incorporated in the version currently under consideration.

Proposed Amendments

Jurisdictional Overlap – A provision is added which would give the Board of Supervisors the authority to waive the requirement for a County permit if another agency with adequate authority implements a permit requirement and oversight that provides protection comparable to the County's oversight (Section 7.70.30.A). Although some water districts presently require a limited scope permit, there are no plans to waive County requirements at the present time.

Location of Wells on Legal Lots of Record – Wording is added to clarify that well permits will only be issued on legal lots of record (Section 7.70.30.E). It is intended that legality be confirmed by Planning Department staff prior to issuance of a permit for any undeveloped parcel. There have been several instances in the past where a lot was deemed legal only because a well permit had been issued for that lot.

Location of New Wells in Proximity to Sources of Contamination – Wording has been added to require evaluation by an appropriately qualified professional when a new well is proposed to be located in proximity to a hazardous materials facility or site of known soil or groundwater contamination (Section 7.70.090.G). The review is intended to determine that the potential for contamination will not increase as a result of the well construction. Based on that review, a well permit could be denied or additional safeguards could be required to ensure groundwater protection. (Similar provisions are proposed to be added to the Hazardous Materials Ordinance to restrict or condition the location of facilities close to wells.) Wording is also proposed to require a deeper seal when a well cannot meet the normal setback from a septic system (7.70.90.A).

Monitoring Well Requirements – Wording has been added to provide for development of additional procedures specific to construction and destruction of monitoring wells, which often present special circumstances; particularly where they are utilized to monitor subsurface contamination (7.70.090.1).

Requirements for Well Destruction – Wording has been added to provide clearer authority to require perforation of the well casing when a well is destroyed and to give the Health Officer clear authority to require destruction of a well if it presents a likely potential to convey contaminants from the ground surface or from one aquifer layer to another (7.70.100).

Requirement for Single Aquifer Zone Completion in the Pajaro Groundwater Basin – Wording has been added to explicitly expand the requirement that wells must utilize deeper seals and can only draw from one aquifer zone throughout the Pajaro groundwater basin or any other areas where poor groundwater quality may exist in order to reduce the potential for seawater, fertilizers, pesticides, or other contamination to move through a well into other aquifer layers (7.70.110.A). This is already required in Monterey County and a localized part of Santa Cruz County.

Water Quality Testing for all New Wells – Wording has been added which would require basic water quality testing whenever a new or replacement well is constructed (7.70.110.B). Testing is currently only required for new residential development. The expanded requirement would provide more information for groundwater protection and ensure the safety of individual drinking water sources.

Provisions and Procedures for Environmental Review and Groundwater Management – Provisions have been added to Section 7.70.110.D which would require water use efficiency where a new well or replacement well will serve more than 4 residential connections or serve nonresidential uses that consume more than 2 acre-feet per year. These measures would establish standard requirements to mitigate the impacts of the wells that would be required in lieu of environmental review for individual well permits. Environmental review for individual wells has been a potentially cumbersome process and poses potential conflicts with California water law. Related to this, wording in other parts of the ordinance has been modified to make it more clear that well permits are ministerial permits to ensure that wells are constructed in a safe fashion. This approach is similar to building permits. Environmental review, which would address water use, would still be required for any discretionary land use approvals required.

Criteria for Declaring a Groundwater Emergency – Section 7.70.130 currently requires the Board of Supervisors to declare a groundwater emergency if a basin is in overdraft, regardless of whether the overdraft condition is already being addressed. Wording is proposed which provides the Board of Supervisors with discretion in the declaration of an emergency and allows the Board to not declare an emergency if adequate actions are already being taken to address the overdraft condition.

Miscellaneous Wording Changes – There are numerous areas throughout the ordinance where minor wording changes are made for clarification of purpose or procedures.

Environmental Review and Comments Received

The proposed ordinance and policy amendments have been reviewed by the Well Ordinance Technical Advisory Group, the Water Advisory Commission, the Soquel Creek Water District, City of Santa Cruz Water Department, and other water agency representatives. Most of the comments have been addressed. However, a number of comments were received urging that further restrictions on allowed water use be imposed as a condition of new well permits. While the ordinance includes provisions requiring efficiency of water use, staff believes that the permitting of wells is primarily intended to ensure the protection of water quality with regard to the potential impact of individual wells. Management of water resources needs to be done at the basin wide level: utilizing measures that involve all affected users. These are well beyond the scope of the well ordinance, which only addresses a limited number of wells at the time of construction. Another commenter, Mr. Doug Deitch, has commented that the declaration of a groundwater emergency should continue to be mandatory in the event of demonstrated overdraft.

However, it is not clear what the benefit of that would be, if the responsible agencies recognize the problem and are taking constructive steps necessary to address the overdraft.

The City of Santa Cruz in their comments of May 15, 2007, initially recommended denial of the negative declaration and requested further environmental review and/or refinement of the ordinance. Staff met with City staff to explore their concerns and provide further explanation. The City is now generally supportive of the recommendations, with some concerns about their implementation. Environmental Health staff intend to address those concerns to the greatest extent possible during implementation.

The proposed amendments were reviewed by the Environmental Coordinator on April 9, 2007. A negative declaration without mitigations was issued on April 11, 2007. The review period ended on May 16, 2007.

Recommendation

It is therefore RECOMMENDED that your Commission review the proposed amendments to Chapter 7.70. Wells, and adopt a resolution recommending Board of Supervisors approval as part of the next Round of the General Plan/Local Coastal Plan amendments.

Sincerely,



John A. Ricker
Water Resources Program Coordinator

- Exhibits:
1. Planning Commission Resolution
 2. Proposed amendments to Chapter 7.70. Water Wells
 3. Initial Study and Negative Declaration
 4. Correspondence, Comments and Responses

Exhibit A

BEFORE THE PLANNING COMMISSION
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

RESOLUTION NO. _____

On the motion of Commissioner
duly seconded by Commissioner
The following resolution is adopted:

**PLANNING COMMISSION RESOLUTION
RECOMMENDING BOARD OF SUPERVISORS APPROVAL OF AN ORDINANCE
TO AMEND SECTIONS OF CHAPTER 7.70 OF THE COUNTY CODE
REGARDING WATER WELLS**

WHEREAS, the Planning Commission has held a duly noticed public hearing and has considered the proposed amendments, the **staff** report, and all testimony and evidence received at the public hearing; and

WHEREAS, these amendments have been determined to have no significant impact on the environment in compliance with CEQA and State and County environmental guidelines; and

WHEREAS, County Code Chapter 7.70 is an implementing ordinance for the Local Coastal Program (LCP); and

WHEREAS, the proposed amendments are consistent with the California Coastal Act, the LCP, and the County General Plan.

NOW, THEREFORE BE IT RESOLVED, that the Planning Commission recommends the proposed amendments to County Code Chapter 7.70, as set forth in Exhibit B, incorporated by reference to be included for final action by the Board of Supervisors and submitted to the Coastal Commission as part of the Local Coastal Program Update.

PASSED AND ADOPTED by the Planning Commission of the County of Santa Cruz, State of California, this ____ day of _____, 2007, by the following vote:

AYES: COMMISSIONERS
NOES: COMMISSIONERS
ABSENT: COMMISSIONERS
ABSTAIN: COMMISSIONERS

Attest: _____
Secretary

Chairperson

Approved as to form:

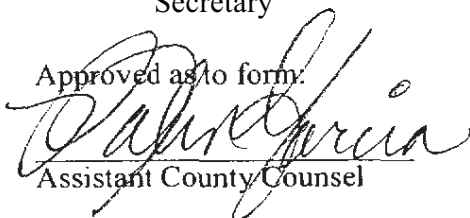

Assistant County Counsel

EXHIBIT 1

Additions are shown as underlined
Deletions are shown as ~~strikeout~~

ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY
OF SANTA CRUZ AMENDING AND ENACTING CHAPTER 7.70 OF THE
SANTA CRUZ COUNTY CODE RELATING TO WATER WELLS

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

Chapter 7.70 of the Santa Cruz County Code is hereby amended to read as follows:

CHAPTER 7.70
WATER WELLS

Sections:

- 7.70.010 Purpose of provisions.
- 7.70.020 Defiitions.
- 7.70.030 Permit--Required--Issuance.
- 7.70.040 Permit— Expiration.
- 7.70.050 Permit--Suspension or revocation.
- 7.70.060 Licensed contractor required.
- 7.70.070 State reporting.
- 7.70.080 Inspections.
- 7.70.090 Technical Standards.
- 7.70.100 Well Abandonment and Destruction; Inactive Well.
- 7.70.110 Groundwater Protection ~~zone~~.
- 7.70.120 Soquel Creek service area restrictions.
- 7.70.130 Groundwater emergencies.
- 7.70.140 Abatement—Investigation.
- 7.70.150 Abatement generally.
- 7.70.160 Nuisance--Abatement of safety hazard.
- 7.70.170 Amendments.

7.70.010 Purpose of provisions.

It is the purpose of this chapter to provide for the location, construction, repair, and reconstruction of all wells, including geothermal heat exchange wells, cathodic protection wells, test wells and monitoring wells, to the end that the groundwater of this county will not be polluted or contaminated and that water obtained from such wells will be suitable for the purpose for which used and will not jeopardize the health, safety or welfare of the people of this county. It is also the purpose of this chapter to provide for the destruction of any abandoned wells, monitoring wells, test

EXHIBIT Z

wells, geothermal heat exchange wells, or cathodic protection wells which may serve as a conduit for movement of contaminants, or which is found to be a public nuisance, ~~or when otherwise~~ ~~to the end that all such?~~ wells will not cause pollution or contamination of groundwater or otherwise jeopardize the health, safety or welfare of the people of this county. It is also the purpose of this chapter to implement policies of the County General Plan and the Local Coastal Program Land Use Plan.

7.70.020 Definitions.

As used in this chapter, the following words shall have the meaning provided in this section:

A. "Abandoned Well" means any well whose original purpose and use has been permanently discontinued or which is in such a state of disrepair that it cannot be used for its original purpose. A well is considered abandoned when it has not been used for a period of one year, unless the owner demonstrates his intent to use the well again for supplying water or other associated purposes and the well is ~~considered~~ maintained as an inactive well.

B. "Abatement" means the construction, reconstruction, repair or destruction of a well so as to eliminate the possibility that such well could pollute or contaminate groundwater.

C. "Agricultural wells" means a water wells used to supply water for ~~irrigation or other commercial~~ agricultural purposes, including so-called "livestock wells."

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

E. "Community water supply well" means a water well used to supply water for domestic purposes in systems subject to Chapter 7 of Part 1 of Division 5 of the California Health and Safety Code (commencing with Section 4010).

F. "Contamination" or "contaminated" means an impairment of the quality of water to a degree that water contains contaminants in excess of the applicable standards currently promulgated by the California Department of Health Services which create a hazard to the public, and shall include any effect which results from disposal of wastes, whether or not waters of the state are affected.

G. "Contamination Hazard" is the hazard to a well when the water entering a well contains or that within a reasonable period of time it will likely contain contaminants in excess of the applicable standards currently promulgated by the California Department of Health Services.

~~G~~H. "Geothermal heat exchange well" means any uncased artificial excavation, by any method, that uses the heat exchange capacity of the earth for heating and cooling, and in which excavation the ambient ground temperature is 30 degrees Celsius (86 degrees Fahrenheit) or less, and which excavation uses a closed loop fluid system ~~to~~ prevent the discharge or escape of its fluid into surrounding aquifers or other geologic formations. Geothermal heat exchange wells include ground

source heat pump wells. Such wells or boreholes are not intended to produce water or steam

HI. "Health Officer" means the County Health Officer or his/her authorized representative.

IJ. "Individual domestic well" means a water well used to supply water for domestic needs of an individual residence or commercial establishment.

JK. "Industrial well" means a water well used to supply industry on an individual basis.

KL. "Inactive well" means a well not routinely operated but capable of being made an operating well with a minimum of effort.

LM. "Observation or Monitoring Well" means a well constructed or modified for the purpose of observing or monitoring groundwater conditions.

MN. "Order of abatement" means both mandatory and prohibitory orders requiring or prohibiting one or more acts; the term also includes those orders effective for a limited as well as an indefinite period of time, and includes modifications or restatements of any order.

NO. "Pajaro groundwater protection zone" means ~~that the~~ area in the Pajaro Groundwater Basin within the boundaries of the Pajaro Valley Water Management Agency. in the vicinity of San Andreas Road and Beach Road, as shown on the map of the Pajaro groundwater protection zone on file with the Director of Environmental Health.

OP. "Person" means any person, firm, corporation or governmental agency.

PQ. "Pollution" means an alteration of the quality of water to a degree which unreasonably affects:

1. Such waters for beneficial uses; or
2. Facilities which serve such beneficial uses.

Pollution may include contamination or the presence of contaminants in amounts less than the applicable standards currently promulgated by the California Department of Health Services.

QR. "Safe yield" means the annual draft of water that can be withdrawn from an aquifer without producing some undesirable result such as reducing the total amount of water available or allowing the ingress of low-quality water.

RS. "Test well" means a well constructed for the purpose of obtaining information needed to design a well prior to its construction. Test wells are cased and can be converted to observation or monitoring wells and under certain circumstances to production wells

ST. "Well" or "water well" means any artificial excavation constructed by any method for the purpose of extracting water from or injecting water into the underground. "Well" or "water well" does not include:

1. Oil and gas wells, or geothermal wells constructed under the jurisdiction of the

EXHIBIT 2

Department of Conservation, except those wells converted to use as water wells; or

2. Wells or bores used for the purpose of dewatering excavation during construction, or stabilizing hillsides or earth embankments.

~~FU.~~ "Well reconstruction" means certain work done to an existing well in order to restore its production, replace defective casing, seal off certain strata or surface water, or similar work, not to include the cleaning out of sediments or surging, or maintenance to the pump or appurtenances where the integrity of the annular seal or water bearing strata are not violated.

7.70.030 Permit--Required—Issuance.

A. No person shall, within the unincorporated area of the county, construct, repair, reconstruct or destroy any well, abandoned well, cathodic protection well, geothermal heat exchange well, monitoring well, or test well unless a written permit has first been obtained from the Health Officer ~~of the county~~ as provided in this chapter, and the work conforms to the conditions of such permit and this chapter. Applications for such permits shall be made on the forms provided for that purpose and in accordance with procedures established by the ~~County~~ Health Officer. Upon recommendation by the Health Officer, the Board of Supervisors may waive the requirement for a permit if a permit is issued by another agency having jurisdiction which will require measures necessary to protect moundwater and public health, as are contained in this Chapter.

B. ~~In the coastal zone, where a well is to be drilled on an undeveloped parcel for any purpose other than to serve one proposed single family dwelling, meeting the requirements of Section 13.20.078 of Chapter 13.20, a coastal zone permit shall be required pursuant to the provisions of A~~ Coastal zone permit shall be required for any well proposed to be drilled in the coastal zone unless exempt or excluded as provided in Chapter 13.20.

C. ~~Well permit applications shall be consistent with Chapter 16 of Santa Cruz County~~ Well permits are ministerial unless issuance of the well permit requires one or more discretionary approvals pursuant to Chapter 13.20, 16.20, 16.30, 16.32, or 16.42 of the Santa Cruz County Code.

D. Each such application shall be accompanied by a filing fee set by resolution of the Board of Supervisors. No part of the fee shall be refundable.

E. Within ten business days after receipt of a complete application including **all** studies or additional information requested by the Health Officer, the County Health Officer shall either grant, ~~conditionally grant~~ or deny the permit. ~~Health Officer, the well may jeopardize the health, safety or welfare of the people of the county.~~ Well permits shall be issued only if the proposed well is in compliance with all applicable county codes and will be located on a legal lot of record. Well permits may be approved with specific requirements to comply with this Chapter.

F. At the discretion of the Health Officer and prior to the commencement of any work, an emergency approval may be granted for any work for which a permit is required by this Chapter if the Health Officer determines that a sudden, unexpected occurrence demands immediate action to prevent loss of or damage to life, health, property or essential public services, and it is not practical

to obtain a permit before the commencement of the work. The Health Officer may request, at the applicant's expense, verification by a qualified professional of the nature of and solutions to the emergency situation.

~~Any person who shall commence any work for which a permit is required by this Chapter without having obtained a permit therefore, shall, if subsequently granted a permit, pay double the permit fee for such work; provided, however, that this provision shall not apply to emergency work when it shall be proved to the satisfaction of the Health Officer that such work was urgently necessary and that it was not practical to obtain a permit before commencement of the work.~~ In all cases in which emergency work is necessary, a permit shall be applied for within three working days after commencement of the work. If emergency approval by the Health Officer is not requested or an application is not submitted within the specified time, the work shall be considered a violation of this Chapter. The applicant for a permit for any such emergency work shall demonstrate that all work performed is in compliance with the technical standards of Section 7.70.090 of this Chapter.

7.70.040 Permit--Expiration.

A. Each permit issued pursuant to this chapter shall expire and become null and void if the work authorized thereby has not been completed within one year following the issuance of the permit.

B. Upon expiration of any permit issued pursuant thereto, no further work may be done in connection with construction, repair, reconstruction or destruction of a well, monitoring well, test well, geothermal heat exchange well, or cathodic protection well unless and until a new permit for such purpose is secured in accordance with the provisions of this chapter.

C. The Health Officer may authorize renewal of a permit for an additional year upon payment of 20% of the application fee within 180 days after the date of permit expiration.

7.70.050 Permit--Suspension or revocation.

A. A permit issued under this Chapter may be revoked or suspended by the Health Officer as provided in this section if he/she determines that a violation of this Chapter exists, that written notice has been directed to the permittee specifying the violation and that the permittee has failed or neglected to make necessary adjustments within thirty days after receiving such notice.

B. A permit may be revoked or suspended by the Health Officer if he/she determines at a hearing held by the Health Officer for such purpose that the person to whom any permit was issued pursuant to this chapter has obtained the same by fraud or misrepresentation; provided that notice of the time, place and purpose of such hearing is given to the permittee at least five days prior thereto.

C. The suspension or revocation of any permit shall not be effective until notice thereof in writing is mailed to the permittee.

7.70.060 Licensed contractor required.

Construction, reconstruction, repair and destruction of all wells, including cathodic protection

wells, geothermal heat exchange wells, test wells and monitoring wells, shall be performed by a contractor with a C-57 contracting license, or an equivalent license issued by the Department of Professional and Vocational Standards.

7.70.070 State and Federal Reporting Regulations.

Nothing contained in this Chapter shall be deemed to release any person from compliance with the provisions of Article 3, Chapter 10, Division 7 of the Water Code of the state or any other State or Federal reporting regulations.

7.70.080 Inspections.

A. Upon receipt of an application, an inspection of the location of the well, test well, geothermal heat exchange well, or cathodic protection well shall be made by the Health Officer prior to issuance of a well permit. Inspection of monitoring well locations prior to permit issuance may be made by the Health Officer.

B. The person responsible for construction, reconstruction or destruction of any well shall notify the Health Officer ~~when at least 48 hours prior to commencement of work commences.~~ All work shall be subject to inspection by the Health Officer to insure compliance with all the requirements of this Chapter.

C. After work has been completed, the person performing the work shall file with the Health Officer a notice of completed work or a copy of the California Department of Water Resources well ~~driller's completion~~ report. The Health Officer shall make final inspection of the completed work to determine compliance with the well standards.

7.70.090 Technical Standards.

Standards for the construction, repair, reconstruction of or destruction of wells, abandoned wells, monitoring wells, test wells, geothermal heat exchange wells, and cathodic protection wells shall be as set forth in Chapter II of the Department of Water Resources Bulletin No. 74-81, "Water Well Standards" (December, 1981), the Department of Water Resources Bulletin No. 74-90. "Water Well Standards" (June, 1991) and Chapter II of the Department of Water Resources Bulletin No. 74-1, "Cathodic Protection Well Standards" (March, 1973), or as subsequently revised or supplemented, which are incorporated by reference in this Chapter, with the following modifications:

A. The minimum distance between all wells and subsurface sewage leaching fields, or septic tanks, or animal enclosures shall be one hundred feet. If the property is already developed and served by a well that is less than 100 feet from the septic system, and if no other alternative water source is available, a replacement well may be drilled less than 100 feet from the septic system if a sanitary seal at least 100 feet deep is installed and the existing well is destroyed.

B. No well shall be constructed within fifty feet from the property line of the property owner authorizing construction of the well. This setback may be reduced to not less than 5 feet if the owner of the adjacent property authorizes a reduction in setback, or if the Health Officer determines that area on the adjacent property within 100 feet of the proposed well is unsuitable for installation of an onsite sewage disposal system.

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C. All wells shall be constructed so that the well seal shall be a minimum of fifty feet below the surface of the ground. If usable water is only available less than 50 feet from the surface, the Health Officer may allow the seal depth to be reduced to not less than twenty feet if the well construction, site conditions, and the characteristics of the underlying geology will preclude the downward movement of contaminants into the aquifer.

D. Drilling fluids and other drilling materials used in connection with well construction shall not be allowed to discharge onto streets or into waterways; and shall not be allowed to discharge off the parcel on which the well is constructed onto adjacent properties; provided, that adjacent property may be used temporarily for the discharge of such fluids and materials pursuant to a written agreement with the owner(s) of the adjacent property and provided that such fluids and materials are removed and cleaned up within thirty days of completion of the well drilling.

E. Water generated during test pumping of wells shall be dispersed or disposed of in a manner which will not cause excessive erosion or turbidity, in violation of County Code Chapters 16.22 or 16.24.

F. Paragraphs A, B, and C, do not apply to monitoring wells

G. New wells that supply water to a public water system must use the methodology, as required by the State of California Department of Health Services Drinking Water Source Assessment and Protection Program, to determine the ten-year time-of-travel Ground Water Protection Zone. For other wells, e.g., individual domestic wells, the default Ground Water Protection Zone minimum radius of 1,000 feet for a five-year time-of-travel shall be used to protect the drinking water source from chemical contamination. If sites with existing soil and/or groundwater contamination are present within the ten-year zone for public water systems, or five-year zones for other wells such as domestic wells, and the Health Officer determines that there is a potential for a Contamination Hazard to be created, the Health Officer may require that a report evaluating the potential for contamination or pollution of the well from existing nearby activities be prepared prior to issuance of a well permit. The report shall be prepared by a Professional Geologist, Engineering Geologist or Professional Engineer and shall at a minimum include conclusions and data supporting the conclusions, including a description of site and regional geology, subsurface conditions, strata, direction and rate of groundwater flow, locations of vicinity water wells, and construction details for those wells as can be determined based on existing data. The report shall describe proposed well construction methods and other measures to be taken to prevent contamination or pollution of the well and surrounding aquifers. The Health Officer shall deny a well permit or require specific construction requirements in order to prevent contamination or pollution of the well or surrounding aquifers.

G.H. The Health Officer shall have the power to allow minor variances from the standards set forth in this section so as to prevent unnecessary hardship or injustice and at the same time accomplish the general purpose and intent of the standards and the resource protection policies of the County's General Plan and Local Coastal Program Land Use Plan. In no case may a variance be granted that constitutes a special privilege.

I. The Health Officer may establish standards and procedures for the construction and

destruction of wells to be used for monitoring or remediation of sites with known or threatened contamination.

7.70.100 Well Abandonment and Destruction; Inactive Well

A. ~~A well is considered abandoned when it has not been used for a period of one year and it is not being maintained as a monitoring well or an Inactive Well. If the well owner demonstrates to the satisfaction of the Health Officer an intent to use the well again for supplying water or other associated purposes, the well is considered an Inactive Well.~~

B. The owner of an Inactive Well shall properly maintain the well in such a way that:

1. The well is covered such that the cover is watertight and cannot be removed, except with the aid of equipment or the use of a tool.

2. The well is marked so it can clearly be seen

3. The area surrounding the well is kept clear of brush or debris

4. The pump shall be maintained in the well, with an approved power supply, except for temporary removal for repair or replacement.

C. On abandonment of a well, or on the order of the Health Officer, a well shall be destroyed under permit by methods described in Bulletin 74-81 and Bulletin 74-90, which are incorporated by reference in this chapter with the following modifications.

1. All open wells shall be immediately capped with a fixed cover until the well is properly destroyed.

2. The well shall be completely sealed with acceptable sealing material from the true bottom of the well up to 5 feet of the surface. The casing should be cut off 5 feet below the surface, with the excavation backfilled by compacted native material.

3. Acceptable sealing materials are ~~23~~7sack neat cement, 10sack cement grout, hydrated high solids 20 percent bentonite slurry, or any other compound approved by the Health Officer.

4. A tremie pipe or other method approved by the Health Officer shall be used to pump the sealing material into the well under pressure if the well is over 30 feet deep or more than 3 feet of standing water is present in the well. ~~In some cases the well casing may be required to be perforated by the Health Officer, prior to sealing~~

5. Where there is potential for movement of contaminants between the outside of the well casing and the borehole, the Health Officer shall require perforation of the casing at certain depths, overdrilling, and/or other techniques which will seal the annular space outside the well casing as needed to prevent the migration of contaminants.

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6. For destruction of wells where groundwater quality problems are known to exist, the Health Officer may require that destruction be designed and supervised by a professional Geologist, Professional Engineer or other qualified person. The proposed method of destruction shall be subject to approval by the Health Officer prior to performance of the work.

D. A well which has any defects which will allow the impairment of quality of water in the well or in the water-bearing formations penetrated shall be destroyed and may not be designated Inactive. In areas where groundwater problems are known to exist, abandoned wells that penetrate and/or are perforated in two or more aquifers shall be destroyed and may not be designated Inactive.

E. To prevent the contamination of underground water supplies through open wells, no person shall knowingly permit the existence on premises in his or her ownership or possession or control of any well opening or entrance which is not sealed or secured in such a way as to prevent the introduction of contaminants.

F. No person shall knowingly permit on premises in his or her ownership or possession or control the existence of any abandoned well that constitutes a known or probable pathway for the vertical movement of contaminants.

7.70.110 Groundwater protection.

~~A. Within the Pajaro groundwater protection zone, and in other areas where groundwater quality problems are known to exist by the Health Officer~~ water contains constituents in excess of the applicable standards currently promulgated by the California Department of Health or where a monitoring agency has determined that seawater intrusion is threatened, all new wells shall be constructed in such a manner that the well does not provide a conduit for contamination or pollution between aquifers ~~screen or perforations are located solely in one aquifer. All other aquifers shall be sealed by installing a cement or cement grout seal in the annular space between the well casing and the borehole to prevent present and future inter-aquifer movement of water.~~

1. In such areas ~~where groundwater quality problems are known to exist by the Health Officer,~~ the Health Officer shall impose a requirement for new wells which penetrate more than one aquifer that an electric log device measuring spontaneous potential and resistivity be run in the uncased well bore hole by a ~~registered~~ certified hydrologist, geohydrologist or other qualified person. Based on the data obtained from the electric log and the geologic log of the well, the hydrologist, geohydrologist or other qualified person approved by the Health Officer shall identify strata containing poor water quality and recommend to the well driller the location and specifications of the seal or seals needed to prevent the entrance of poor-quality water or its migration into other aquifers.

2. The well shall be completed with the seal or seals specified by the hydrologist, geohydrologist or other such qualified person. The person performing and evaluating the electric log shall submit a written report to the Health Officer.

B. Prior to completion of a well, a water sample shall be collected and tested for total dissolved solids, chloride, nitrate, and any other constituent which the Health Officer has reason to believe could be present in the well. The sample results shall be submitted to the Health Officer. If any constituent exceeds drinking water standards, the Health Officer shall require testing and sealing

of the well pursuant to Section A., above. If drinking water standards cannot be met or the aquifer cannot be adequately protected from contamination or pollution, the Health Officer shall require that the well be destroyed. The Health Officer may require additional water quality testing upon completion of the well.

C. Each application for a new or replacement well shall accurately specify the parcels proposed to be served, the type of land uses to be served, the estimated annual water use, and the presence of any existing wells which also serve those uses. The Health Officer may require documentation to support the water use estimates provided.

D. For wells which will serve more than four residential connections or which will serve nonresidential uses which can be expected to utilize more than 2 acre-feet of water per year, the following measures will be taken to ensure that moundwater is put to beneficial use and is not wasted:

1. A water use efficiency audit shall be completed, with recommendations for increased efficiency of use identified. The Health Officer shall require that all reasonable measures be implemented.

2. In lieu of performing an efficiency audit as required by subsection D.1, the property owner may provide verification that conservation measures to achieve efficient interior and exterior water use have been taken.

3. For new uses that will be developed after the well is completed, the property owner shall provide certification that conservation measures will be implemented as a part of the new use.

4. Requirements for water efficiency audits and acceptable conservation measures shall be defined by the Health Officer and periodically revised to reflect advanced technology that is readily available locally.

7.70.120 Soquel Creek service area restrictions.

A. Findings. The Board of Supervisors finds and determines that:

1. Several reports have been prepared which indicate the potential for seawater intrusion into the Purisima Formations of the Soquel-Aptos groundwater basin; and

2. There is need for careful monitoring and management of the groundwater basin; and

3. Careful management is greatly facilitated by restricting the number of new wells and requiring that new development be supplied by Soquel Creek County Water District, a public agency empowered to carry out monitoring and management efforts; and

4. Construction of new wells within the water district service area increases the potential public health hazard of cross-connection between public and private water systems;

5. Current County General Plan policies require that new development within the urban

services line be served by a public water system

B. Well Construction Within the Soquel Creek ~~County~~ Water District Service Area. The construction of new wells shall be prohibited on parcels that are both within the area designated as the "Soquel-Aptos groundwater basin" (as adopted by separate Board Resolution 233-81) and within two hundred feet of a water distribution line of the Soquel Creek ~~County~~ Water District:

C. New Well Construction--Exceptions. The following new well construction shall not be subject to the prohibition of this section:

1. Replacement of existing wells;
2. Construction of a well for agricultural use, monitoring and observation purposes, geothermal heat exchange or cathodic protection; and
3. Well construction on parcels which cannot be served by the Soquel Creek ~~County~~ Water District, as determined by the Environmental Health Director based on a written statement from the District clearly demonstrating their inability to provide service.
4. Construction of a well by any public water purveyor.

7.70.130 Groundwater emergencies.

A groundwater emergency shall be declared in areas demonstrated to be experiencing a groundwater overdraft exceeding the safe yield in order to prevent further depletion and degradation of water resources where such degradation threatens the public health, safety and welfare of the community and where the Board of Supervisors finds that adequate measures are not already being taken to alleviate the overdraft situation. The emergency shall have no effect on drilling of monitoring geothermal heat exchange or cathodic protection wells.

A. Declaration. A declaration of a groundwater emergency shall be made by the Board of Supervisors only after a public hearing. Such ~~an~~ emergency shall be declared by resolution of the Board after the public hearing to consider all relevant information such as, but not limited to, the most current groundwater study, recommendations of water purveyors and the Water Advisory Commission and only after the following findings can be made:

1. The designated area is experiencing a groundwater overdraft exceeding the long-term average annual recharge of groundwater resource;
2. The creation of new wells or the expansion of existing wells will significantly increase the demand on the affected aquifer and thereby increase the overdraft; and
3. The continuation of the overdraft will result in further depletion and degradation of the water resource that can lead to, but is not limited to, impairment of the aquifer or allowing the ingress of low-quality or saline waters.
4. Adequate measures are not being taken by water users and other responsible agencies to alleviate the overdraft situation

EXHIBIT 2

B. Immediate Measure to Alleviate. In areas where a groundwater emergency is declared, the Board of Supervisors shall take action to establish water conservation measures, to limit construction of new wells, to regulate pumping from or expansion of existing wells, and in order to prevent further depletion and degradation of the affected aquifer. In taking these actions, the Board shall give consideration to the seasonal needs of agriculture including, but not limited to, the following factors.

1. Agriculture's need to repair, maintain and replace existing wells serving existing agricultural use acreage;

2. Well construction for agricultural use to serve existing agricultural acreage when new parcels are created due to change in legal ownership, split parcels or parcels created by change in zoning laws or other governmental regulations; and

3. The different water requirements of agricultural crops.

C. Long-term Measures to Alleviate. The Board shall initiate actions such as, but not limited to, joint power agreements with other agencies with the goal of finding permanent solutions to the groundwater problem.

D. Duration. A groundwater emergency and the measures enacted to alleviate the emergency shall remain in effect until rescinded as established in Subsection F of this Section.

E. Annual Review. The establishment of a groundwater emergency and all actions to alleviate the emergency shall be reviewed by the Board of Supervisors within one year of the date of enactment of the measures at a public hearing to decide whether the declaration of emergency shall remain in effect.

F. Rescinding. A groundwater emergency shall be rescinded by resolution of the Board of Supervisors after a public hearing when one of the following findings are made:

1. Alternative water sources which compensate for the existing overdraft and supply the affected area are developed;

2. A groundwater management program is implemented which will allow for additional development without contribution to groundwater overdraft; or

3. The Board of Supervisors determines that new information is available which indicates that the technical data upon which the original findings were based is no longer valid.

7.70.140 Abatement—Investigation.

The Health Officer may, upon reasonable cause to believe that an abandoned well, a cathodic protection well, or any other well, may potentially either contaminate or pollute groundwater, investigate the situation to determine whether such potential threat to groundwater quality or present nuisance, does, in fact exist. The Health Officer shall have the power upon presenting identification

to any person apparently in control of the premises to enter upon any such premises between the hours of 8:00 a.m. and 6:00 p.m., to discover or inspect any thing or condition which may indicate such a nuisance or threat to groundwater quality. The Health Officer may examine such premises, things or conditions, take such samples and make such tests as needed and take other steps reasonably necessary for the proper investigation and determination of whether a nuisance or threat to groundwater quality exists.

7.70.150 Abatement generally.

Whenever the Health Officer determines that an abandoned well, a cathodic protection well, or any other well or is presently polluting or contaminating groundwater, or poses a substantial threat to groundwater quality, or is otherwise not in compliance with the provisions of this Chapter, the Health Officer may abate the well as a nuisance in accordance with the provisions of Chapter 1.14 of this Code.

7.70.160 Nuisance--Abatement of safety hazard.

This chapter shall not affect the right of the county to abate as a public nuisance pursuant to Article 9, Chapter 1, Division 1, Title 5, of the Government Code (commencing with Section 50230) any abandoned well, or cathodic protection well, or other well which presents a safety hazard.

7.70.170 Amendments

Any revision to this chapter which applies to the coastal zone shall be reviewed by the Executive Director of the California Coastal Commission to determine whether it constitutes an amendment to the Local Coastal Program. When an ordinance revision constitutes an amendment to the Local Coastal Program, such revision shall be processed pursuant to the hearing and notification provisions of Chapter 13.03 of the Santa Cruz County Code, and shall be subject to approval by the California Coastal Commission.

SECTION II

This ordinance shall take effect on the 31st day after the date of final passage or upon certification by the State Coastal Commission, whichever is latest.

SECTION III

In order to prevent or control groundwater overdraft, and to preclude the declaration of a groundwater emergency pursuant to Section 7.70.130, the County Board of Supervisors, after holding a public hearing, may take action to enact additional measures applicable to production wells, water conservation, monitoring and other activities within its jurisdiction that are deemed necessary to prevent degradation of the aquifer and which are in support of and consistent with programs and requirements adopted by established groundwater management authorities.

EXHIBIT 2

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz this _____ day of _____, 2007, by the following vote:

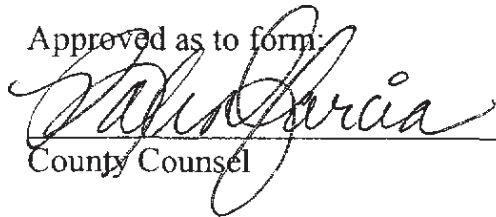
AYES: SUPERVISORS
NOES: SUPERVISORS
ABSENT: SUPERVISORS
ABSTAIN: SUPERVISORS

Chair, Board of Supervisors

Attest:

Clerk of the Board

Approved as to form:



County Counsel

EXHIBIT 2



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060
(831) 454-2580 FAX (831) 454-2131 TDD (831) 454-2123

TOM BURNS, PLANNING DIRECTOR

NOTICE OF ENVIRONMENTAL REVIEW PERIOD

SANTA CRUZ COUNTY

RECEIVED

APR 16 2007

ENVIRONMENTAL
HEALTH SERVICES

APPLICANT: John Ricker. for Santa Cruz County, Environmental Health Services

APPLICATION NO.: Countwide (Amendments to County Well Ordinance)

APN: Countwide

The Environmental Coordinator has reviewed the Initial Study for your application and made the following preliminary determination:

XX Negative Declaration
(Your project will not have a significant impact on the environment.)

_____ Mitigations will be attached to the Negative Declaration.

XX No mitigations will be attached.

_____ Environmental Impact Report
(Your project may have a significant effect on the environment. An EIR must be prepared to address the potential impacts.)

As part of the environmental review process required by the California Environmental Quality Act (CEQA), this is your opportunity to respond to the preliminary determination before it is finalized. Please contact Matt Johnston, Environmental Coordinator at (831) 454-3201, if you wish to comment on the preliminary determination. Written comments will be received until 5:00 p.m. on the **last** day of the review period.

Review Period Ends: May **16, 2007**

John Ricker
Staff Planner

Phone: 454-2750

Date: April 11, 2007

EXHIBIT 3



Environmental Review Initial Study

Application Number: **Countywide**

Date: April 9, 2007

Staff Planner: John Ricker, Environmental Health Services

I. OVERVIEW AND ENVIRONMENTAL DETERMINATION

APPLICANT: County of Santa Cruz

APN: Countywide

OWNER: N/A

SUPERVISORAL DISTRICT: Countywide

LOCATION: Countywide

SUMMARY PROJECT DESCRIPTION:

Amend County Code Chapter 7.70, Water Wells, to: 1) allow the Board of Supervisors to waive the requirement for a County well permit if another agency provides comparable oversight; 2) require that wells may only be constructed on an existing legal lot of record; 3) allow construction of a replacement well less than 100 feet from a septic system if there is no other alternative and the well is constructed in a manner to prevent contamination; 4) require evaluation by an appropriately qualified professional when a new well is proposed to be located in proximity to a hazardous materials facility or site of known soil or groundwater Contamination; 5) provide for development of additional procedures specific to construction and destruction of monitoring wells); 6) provide more explicit requirements for the destruction of abandoned wells; 7) expand the requirement that wells must utilize deeper seals and can only draw from one aquifer zone throughout the Pajaro groundwater basin or any other areas where poor groundwater quality may exist; 8) require basic water quality testing whenever a new or replacement well is constructed; 9) require water use efficiency measures for wells serving more than 4 residential connections or serve nonresidential uses that consume more than 2 acre-feet per year, in lieu of requiring environmental review for individual well permits; 10) modify wording to provide the Board of Supervisors with discretion in the declaration of a groundwater emergency, depending on whether adequate actions are being taken to address the overdraft condition; and, 11) other minor editorial corrections and clarifications.

ALL OF THE FOLLOWING POTENTIAL ENVIRONMENTAL IMPACTS ARE EVALUATED IN THIS INITIAL STUDY. CATEGORIES THAT ARE MARKED HAVE BEEN ANALYZED IN GREATER DETAIL BASED ON PROJECT SPECIFIC INFORMATION.

Geology/Soils

Noise

Hydrology/Water Supply/Water Quality

Air Quality

County of Santa Cruz Planning Department
701 Ocean Street, 4th Floor, Santa Cruz CA 95060

EXHIBIT 3

- | | |
|--|---|
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Public Services & Utilities |
| <input type="checkbox"/> Energy & Natural Resources | <input type="checkbox"/> Land Use, Population & Housing |
| <input type="checkbox"/> Visual Resources & Aesthetics | <input type="checkbox"/> Cumulative Impacts |
| <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Growth Inducement |
| <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Mandatory Findings of Significance |
| <input type="checkbox"/> Transportation/Traffic | |

DISCRETIONARY APPROVAL(S) BEING CONSIDERED

- | | |
|---|--|
| <input type="checkbox"/> General Plan Amendment | <input type="checkbox"/> Grading Permit |
| <input type="checkbox"/> Land Division | <input type="checkbox"/> Riparian Exception |
| <input type="checkbox"/> Rezoning | <input checked="" type="checkbox"/> Other: Ordinance Amendment |
| <input type="checkbox"/> Development Permit | <input type="checkbox"/> |
| <input type="checkbox"/> Coastal Development Permit | <input type="checkbox"/> |

NON-LOCAL APPROVALS

Other agencies that must issue permits or authorizations:
California Coastal Commission

ENVIRONMENTAL REVIEW ACTION

On the basis of this Initial Study and supporting documents:

I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the attached mitigation measures have been added to the project. A MITIGATED NEGATIVE DECLARATION will be prepared.

I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.


Matt Johnston

4/11/07
Date

For: Claudia Slater
Environmental Coordinator

EXHIBIT 3

II. BACKGROUND INFORMATION

EXISTING SITE CONDITIONS

Parcel Size: N/A - Countywide

Existing Land Use:

Vegetation:

Slope in area affected by project: ___ 0 - 30% ___ 31 - 100%

Nearby Watercourse:

Distance To:

ENVIRONMENTAL RESOURCES AND CONSTRAINTS

Groundwater Supply:

Liquefaction:

Water Supply Watershed:

Fault Zone:

Groundwater Recharge:

Scenic Corridor:

Timber or Mineral:

Historic:

Agricultural Resource:

Archaeology:

Biologically Sensitive Habitat:

Noise Constraint:

Fire Hazard:

Electric Power Lines:

Floodplain:

Solar Access:

Erosion:

Solar Orientation:

Landslide:

Hazardous Materials:

SERVICES

Fire Protection:

Drainage District:

School District:

Project Access:

Sewage Disposal:

Water Supply:

PLANNING POLICIES

Zone District:

Special Designation:

General Plan:

Urban Services Line: ___ Inside

___ Outside

Coastal Zone: ___ Inside

___ Outside

PROJECT SETTING AND BACKGROUND:

Chapter 7.70 of the County Code (the Code) includes various provisions to ensure that wells are constructed and destroyed in a manner that protects the quality of water in the well and in the underlying aquifer. Santa Cruz County is the only jurisdiction in the State that has treated well permits as discretionary permits, subject to CEQA review. That has resulted in evaluation of the impacts of the use of the well, including imposition of mitigation measures to limit water use. Such restrictions may be contrary to recent case law which affirm a property owner's right to utilize underlying groundwater. The Code is proposed to be amended to make well permits ministerial, with neither the well construction nor the use of the water subject to CEQA review unless the well is part of a larger project that would be subject to CEQA review. In order to mitigate the potential

EXHIBIT 3

impacts of this change and ensure that water is not wasted, the ordinance would require standard water efficiency measures for larger uses.

Other measures are included to require additional protective measures where a well is located near an existing or potentially contaminated, basin subject to seawater intrusion or other location with degraded groundwater quality.

The Code currently requires the Board of Supervisors to declare a groundwater emergency and implement temporary protective measures if a basin is found to be in overdraft. In actual practice there are other water management agencies with more clear authority and resources that are taking action to manage overdrafted groundwater basins in the county and the Board has not declared an emergency. These other agencies, which have power provided by AB 3030 or special legislation, include Pajaro Valley Water Management Agency, Soquel Creek Water District, Central Water District and Scotts Valley Water District. The Code would be amended to provide the Board the discretion to not declare an emergency if adequate protective actions are being taken.

In various parts of the county, pockets of groundwater may be of a quality that does not meet drinking water standards. If this is known at the time a well is being constructed, the well may be able to be completed in a manner that seals out the poor quality water, or it may be properly destroyed to minimize the potential for movement of contaminants into cleaner parts of the aquifer. The Code will be amended to require testing at the time of the well is drilled, with the provision that the well either be destroyed or completed in a manner that prevents the movement of contaminants.

The well Code presently contains provisions primarily related to water wells and there are limited explicit requirements for monitoring wells. The Code will be amended to allow the Health Officer to promulgate standards specific to monitoring wells.

Some water districts or groundwater management entities in unincorporated areas also have the authority to regulate water wells. This could overlap with County responsibility and result in a duplication of effort and confusion for the property owner. The Code is proposed to be amended to give the Board of Supervisors the authority to waive the requirement for a County well permit in the future if another jurisdiction will provide an adequate level of protection and oversight.

EXHIBIT 3

DETAILED PROJECT DESCRIPTION: (See attached underline/strikeout version)

Amend County Code Chapter 7.70, Water Wells, to: 1) allow the Board of Supervisors to waive the requirement for a County well permit if another agency provides comparable oversight (7.70.030.A); 2) require that wells may only be constructed on an existing legal lot of record (7.70.030.E); 3) allow construction of a replacement well less than 100 feet from a septic system if there is no other alternative and the well is constructed in a manner to prevent contamination (7.70.090.A); 4) require evaluation by an appropriately qualified professional when a new well is proposed to be located in proximity to a hazardous materials facility or site of known soil or groundwater contamination (7.70.090.G); 5) provide for development of additional procedures specific to construction and destruction of monitoring wells (7.70.090.1); 6) provide more explicit requirements for the destruction of abandoned wells (7.70.100); 7) expand the requirement that wells must utilize deeper seals and can only draw from one aquifer zone throughout the Pajaro groundwater basin or any other areas where poor groundwater quality may exist (7.70.110.A); 8) require basic water quality testing whenever a new or replacement well is constructed (7.70.110.B); 9) require water use efficiency measures for wells serving more than 4 residential connections or serve nonresidential uses that consume more than 2 acre-feet per year, in lieu of requiring environmental review for individual well permits (7.70.110.C&D).; 10) modify wording to provide the Board of Supervisors with discretion in the declaration of a groundwater emergency, depending on whether adequate actions are being taken to address the overdraft condition (7.70.130.A); and, 11) other minor editorial corrections and clarifications.

EXHIBIT 3

Significant Or Potentially Significant Impact	Less than Significant with Mitigation Incorporation	Less than Significant Or No Impact	Not Applicable
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111. ENVIRONMENTAL REVIEW CHECKLIST

A. Geology and Soils

Does the project have the potential to:

1. Expose people or structures to potential adverse effects, including the risk of material loss, injury, or death involving:
 - A. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or as identified by other substantial evidence?
 - B. Seismic ground shaking?
 - C. Seismic-related ground failure, including liquefaction?
 - D. Landslides?
2. Subject people or improvements to damage from soil instability as a result of on- or off-site landslide, lateral spreading, to subsidence, liquefaction, or structural collapse?
3. Develop land with a slope exceeding 30%?
4. Result in soil erosion or the substantial loss of topsoil?

				X
				X
				X
				X
				X
				X
				X
				X

Some potential for erosion exists from discharge of water from pump testing. Section 7.70.090.E is being tightened to prohibit that.

EXHIBIT 3

Significant Or Potentially Significant Impact	Less than Significant with Mitigation Incorporation	Less than Significant Or No Impact	Not Applicable
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for all large uses served by a new or replacement well (7.70.110.D), which is more protective than current provisions, which exempt replacement wells from any CEQA consideration. Wells serving 4 homes or less would be exempt from that requirement. Although wells serving 2 homes or less are currently exempt from CEQA review, the exemption was raised to 4 homes because all systems serving 5 or more units are subject to ongoing County oversight as small water systems and as such can be supervised for ongoing implementation of water efficiency measures.

The proposed change allowing the Board of Supervisors some discretion in declaring a groundwater emergency still remains protective in that the Board must declare and emergency if adequate measures to manage a basin and prevent a long term overdraft are not being taken by other agencies which have more authority to manage the basin (7.70.130.A.4). There are a number of basins in Santa Cruz County which are being actively managed now by responsible agencies. In the Pajaro basin, the PVWMA has developed a basin management plan and is promoting water conservation, redistribution of pumping, utilization of reclaimed water, development of additional supplies and import of water. In Soquel-Aptos, Soquel Creek Water District and Central Water District have recently updated their groundwater management plan and are requiring substantial water conservation, redistribution of pumping, and development of a supplemental supply. The Scotts Valley Water District and partner agencies have completed a groundwater model, wastewater reclamation, and are embarking on water conservation and recharge enhancement. A declaration of groundwater emergency by the County would not materially affect or increase the efforts already underway in these basins.

- 5. Degrade a public or private water supply? (Including the contribution of urban contaminants, nutrient enrichments, or other agricultural chemicals or seawater intrusion).

_____ X _____

The proposed additions to the Code will provide for greater protection of water quality in both the individual well and the surrounding aquifer.

- 6. Degrade septic system functioning?

_____ X _____

There is a provision to explicitly allow a reduced setback between a septic system and a replacement well in only very limited circumstances where and existing well is closer and it can be demonstrated there will not be an impact (7.70.090.A).

- 7. Alter the existing drainage pattern of the site or area, including the alteration of the course of a stream or river, in a manner which could result in flooding,

_____ X _____

EXHIBIT 3

Significant Or Potentially Significant Impact	Less than Significant with Mitigation Incorporation	Less than Significant Or No Impact	Not Applicable
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erosion, or siltation on or off-site? _____

8. Create or contribute runoff which would exceed the capacity of existing or planned storm water drainage systems, or create additional source(s) of polluted runoff?

_____ _____ X _____

9. Contribute to flood levels or erosion in natural water courses by discharges of newly collected runoff?

_____ _____ X _____

No new impervious surfaces are proposed as part of the project, thus there will be no additional storm water runoff that could contribute to flooding or erosion.

10. Otherwise substantially degrade water supply or quality?

_____ X _____

Provisions are included to prevent adverse water quality impacts from drilling fluids or discharge of pump water (7.70.090.D&E).

C. Biological Resources

Does the project have the potential to:

1. Have an adverse effect on any species identified as a candidate, sensitive, or special status species, in local or regional plans, policies, or regulations, or by the California Department of Fish and Game, or U.S. Fish and Wildlife Service?

_____ X _____

2. Have an adverse effect on a sensitive biotic community (riparian corridor, wetland, native grassland, special forests, intertidal zone, etc.)?

_____ X _____

Issuance of a well permit will continue to be discretionary if the well permit requires one or more discretionary approvals pursuant to Chapters 13.20, 16.20, 16.30, 16.32, or 16.42 of the Santa Cruz County Code, which provide for protection of riparian corridors and biotic resources (7.70.030.C). When an application is received, staff checks the biotic resource maps to determine if the well or its access road may be located where

EXHIBIT 3

Significant Or Potentially Significant Impact	Less than Significant with Mitigation Incorporation	Less than Significant Or No Impact	Not Applicable
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there is a mapped resource. The permit is modified if necessary to prevent any impact or the Planning Department is staff are consulted to determine if other measures are necessary. If well permitting authority is delegated to another agency a procedure will be put in place to ensure biotic review of well permits in County jurisdiction.

- | | | | | | |
|----|--|-------|-------|-------|-------|
| 3. | Interfere with the movement of any native resident or migratory fish or wildlife species, or with established native resident or migratory wildlife corridors, or impede the use of native or migratory wildlife nursery sites? | _____ | _____ | _____ | X |
| 4. | Produce nighttime lighting that will illuminate animal habitats? | _____ | _____ | _____ | X |
| 5. | Make a significant contribution to the reduction of the number of species of plants or animals? | _____ | _____ | _____ | X |
| 6. | Conflict with any local policies or ordinances protecting biological resources (such as the Significant Tree Protection Ordinance, Sensitive Habitat Ordinance, provisions of the Design Review ordinance protecting trees with trunk sizes of 6 inch diameters or greater)? | _____ | _____ | X | _____ |

Issuance of a well permit will continue to be discretionary if the well permit requires one or more discretionary approvals pursuant to Chapters 13.20, 16.20, 16.30, 16.32, or 16.42 of the Santa Cruz County Code, which provide for protection of riparian corridors and biotic resources (7.70.030.C). (See C.2, above)

- | | | | | | |
|----|--|-------|-------|-------|---|
| 7. | Conflict with the provisions of an adopted Habitat Conservation Plan, Biotic Conservation Easement, or other approved local, regional, or state habitat conservation plan? | _____ | _____ | _____ | X |
|----|--|-------|-------|-------|---|

EXHIBIT 3

D. Energy and Natural Resources

Significant Or Potentially Significant Impact	Less than Significant with Mitigation Incorporation	Less than Significant Or No Impact	Not Applicable
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Does the project have the potential to:

- | | | | | |
|----|--|-------|---------------|---------------|
| 1. | Affect or be affected by land designated as "Timber Resources" by the General Plan? | _____ | _____ | _____ X _____ |
| 2. | Affect or be affected by lands currently utilized for agriculture, or designated in the General Plan for agricultural use? | _____ | _____ X _____ | _____ |

The definition of agricultural well is being clarified to maintain special consideration for wells utilized for commercial agriculture (7.70.020.C).

- | | | | | |
|----|---|-------|---------------|-------|
| 3. | Encourage activities that result in the use of large amounts of fuel, water, or energy, or use of these in a wasteful manner? | _____ | _____ X _____ | _____ |
|----|---|-------|---------------|-------|

Provisions are added to require water use efficiency measures for large water users whenever a new or replacement well is drilled (7.70.110.D).

- | | | | | |
|----|--|-------|-------|---------------|
| 4. | Have a substantial effect on the potential use, extraction, or depletion of a natural resource (i.e., minerals or energy resources)? | _____ | _____ | _____ X _____ |
|----|--|-------|-------|---------------|

E. Visual Resources and Aesthetics

Does the project have the potential to:

- | | | | | |
|----|--|-------|-------|---------------|
| 1. | Have an adverse effect on a scenic resource, including visual obstruction of that resource? | _____ | _____ | _____ X _____ |
| 2. | Substantially damage scenic resources, within a designated scenic corridor or public view shed area including, but not limited to, trees, rock outcroppings, and historic buildings? | _____ | _____ | _____ X _____ |
| 3. | Degrade the existing visual character or quality of the site and its | _____ | _____ | _____ X _____ |

EXHIBIT 3

Significant Or Potentially Significant Impact	Less than Significant with Mitigation Incorporation	Less than Significant Or No Impact	Not Applicable
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surroundings, including substantial change in topography or ground surface relief features, and/or development on a ridge line?

4. Create a new source of light or glare which would adversely affect day or nighttime views in the area?

X

5. Destroy, cover, or modify any unique geologic or physical feature?

X

F. Cultural Resources

Does the project have the potential to:

1. Cause an adverse change in the significance of a historical resource as defined in CEQA Guidelines 15064.5?

X

2. Cause an adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines 15064.5?

X

3. Disturb any human remains, including those interred outside of formal cemeteries?

X

4. Directly or indirectly destroy a unique paleontological resource or site?

X

G. Hazards and Hazardous Materials

Does the project have the potential to:

1. Create a significant hazard to the public or the environment as a result of the routine transport, storage, use, or disposal of hazardous materials, not

X

EXHIBIT 3

Significant Or Potentially Significant Impact	Less than Significant with Mitigation Incorporation	Less than Significant Or No Impact	Not Applicable
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including gasoline or other motor fuels?

2. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

X

Wording has been added to require evaluation by an appropriately qualified professional when a new well is proposed to be located in proximity to a hazardous materials facility or site of known soil or groundwater contamination (Section 7.70.090.G). The review is intended to determine that a potential for contamination will not result. Based on that review, a well permit could be denied or additional safeguards could be required to ensure groundwater protection. Wording is also proposed to require a deeper seal when a well cannot meet the normal setback from a septic system (7.70.90.A).

3. Create a safety hazard for people residing or working in the project area as a result of dangers from aircraft using a public or private airport located within two miles of the project site?

X

4. Expose people to electro-magnetic fields associated with electrical transmission lines?

X

5. Create a potential fire hazard?

X

6. Release bio-engineered organisms or chemicals into the air outside of project buildings?

X

H. Transportation/Traffic

Does the project have the potential to:

EXHIBIT 3

	Significant Or Potentially Significant Impact	Less than Significant with Mitigation Incorporation	Less than Significant Or No Impact	Not Applicable
1. Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	_____	_____	_____	X
2. Cause an increase in parking demand which cannot be accommodated by existing parking facilities?	_____	_____	_____	X
3. Increase hazards to motorists, bicyclists, or pedestrians?	_____	_____	_____	X
4. Exceed, either individually (the project alone) or cumulatively (the project combined with other development), a level of service standard established by the county congestion management agency for designated intersections, roads or highways?	_____	_____	_____	X

I. Noise

Does the project have the potential to:

1. Generate a permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	_____	_____	_____	X
2. Expose people to noise levels in excess of standards established in the General Plan, or applicable standards of other agencies?	_____	_____	_____	X
3. Generate a temporary or periodic increase in ambient noise levels in the project vicinity above levels existing	_____	_____	_____	X

EXHIBIT 3

Significant Or Potentially Significant Impact	Less than Significant with Mitigation Incorporation	Less than Significant Or No Impact	No, Applicable
---	---	---	-------------------

without the project?

_____	_____	_____	_____
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J. Air Quality

Does the project have the potential to:
(Where available, the significance criteria established by the MBUAPCD may be relied upon to make the following determinations).

1. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	_____	_____	_____ X _____
2. Conflict with or obstruct implementation of an adopted air quality plan?	_____	_____	_____ X _____
3. Expose sensitive receptors to substantial pollutant concentrations?	_____	_____	_____ X _____
4. Create objectionable odors affecting a substantial number of people?	_____	_____	_____ X _____

K. Public Services and Utilities

Does the project have the potential to:

1. Result in the need for new or physically altered public facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:			
a. Fire protection?	_____	_____	_____ X _____
b. Police protection?	_____	_____	_____ X _____

EXHIBIT 3

	Significant Or Potentially Significant Impact	Less than Significant with Mitigation Incorporation	Less than Significant Or No Impact	Not Applicable
c. Schools?				X
d. Parks or other recreational activities?				X
e. Other public facilities; including the maintenance of roads?				X
2. Result in the need for construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
3. Result in the need for construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
4. Cause a violation of wastewater treatment standards of the Regional Water Quality Control Board?				X
5. Create a situation in which water supplies are inadequate to serve the project or provide fire protection?				X
6. Result in inadequate access for fire protection?				X
7. Make a significant contribution to a cumulative reduction of landfill capacity or ability to properly dispose of refuse?				X

EXHIBIT 3

Significant Or Potentially Significant Impact	Less than Significant with Mitigation Incorporation	Less than Significant Or No Impact	Not Applicable
---	---	---	-------------------

a. Result in a breach of federal, state, and local statutes and regulations related to solid waste management? _____ X

L. Land Use, Population, and Housing

Does the project have the potential to:

1. Conflict with any policy of the County adopted for the purpose of avoiding or mitigating an environmental effect? _____ X

2. Conflict with any County Code regulation adopted for the purpose of avoiding or mitigating an environmental effect? _____ X

3. Physically divide an established community? _____ X

4. Have a potentially significant growth inducing effect, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? _____ X

5. Displace substantial numbers of people, or amount of existing housing, necessitating the construction of replacement housing elsewhere? _____ X

EXHIBIT 3

M. Non-Local Approvals

Does the project require approval of federal, state, or regional agencies? Yes No

Coastal Commission approval for amendment of LCP implementing ordinance.

N. Mandatory Findings of Significance

1. Does the project have the potential to degrade **the** quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant, animal, or natural community, or eliminate important examples of the major periods of California history or prehistory? Yes No

2. Does the project have the potential to achieve short term, to the disadvantage of long term environmental goals? (**A** short term impact on the environment is one which occurs in a relatively brief, definitive period of time while long term impacts endure well into the future) Yes No

3. Does the project have impacts that are individually limited, but cumulatively considerable ("cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, and the effects of reasonably foreseeable future projects which have entered the Environmental Review stage)? Yes No

4. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? Yes No

EXHIBIT 3

TECHNICAL REVIEW CHECKLIST

	<u>REQUIRED</u>	<u>COMPLETED*</u>	<u>N/A</u>
Agricultural Policy Advisory Commission (APAC) Review	_____	_____	<u>X</u>
Archaeological Review	_____	_____	<u>X</u>
Biotic Report/Assessment	_____	_____	<u>X</u>
Geologic Hazards Assessment (GHA)	_____	_____	<u>X</u>
Geologic Report	_____	_____	<u>X</u>
Geotechnical (Soils) Report	_____	_____	<u>X</u>
Riparian Pre-Site	_____	_____	<u>X</u>
Septic Lot Check	_____	_____	<u>X</u>
Other:	_____	_____	_____
	_____	_____	_____
	_____	_____	_____

Attachments:

For all construction projects:

1. Proposed revisions **Of** County Code Chapter 7.70

To be included when applicable:

Other technical reports or information sources used in preparation of this Initial Study

*Cite any additional documents that were consulted **but** do not need to be attached.*

EXHIBIT 3



Board of Directors
Bruce Daniels *President*
Dr. Thomas R. LaHue *Vice President*
Dr. Don Hoernschemeyer
Dr. Bruce Jaffe
Daniel F. Kriege
Laura D. Brown *General Manager*

February 21, 2007

Mr. John Ricker, Water Resources Program Coordinator
Environmental Health Services Department
Santa Cruz County Government Center
701 Ocean St., Room 312
Santa Cruz, CA 95060

FEB 23 2007

Subject: Comments on Draft Amended County Well Ordinance

Dear Mr. Ricker:

The Board of Directors of Soquel Creek Water District (SqCWD) commends the County for the proposed revisions to the Well Ordinance, particularly those provisions intended to protect against groundwater and well contamination and increase water conservation practices by private well users. We have discussed the proposed amendments and wish to recommend additional revisions that we believe will clarify and strengthen the legal provisions of the Well Ordinance.

As you know, SqCWD expends a great deal of time and money protecting the Soquel-Aptos Area Groundwater Basin, particularly against the threat of seawater intrusion which exists as the result of cumulative over pumping by all wells within the basin. We would like to *see* the Well Ordinance establish the foundation for the County to support the efforts of groundwater management authorities, such as SqCWD, by placing requirements and restrictions on groundwater use within its jurisdiction that are consistent with measures being taken by public water agencies. In particular, we would like to see stronger conservation requirements for private well users.

Revisions to Draft Ordinance

The proposed language for select sections is provided below using bold italics for additions and strikethrough for deletions. Underlining indicates amendments previously recommended to the Board of Supervisors by County staff

7.70.110 Groundwater protection.

A. Within the Pajaro groundwater protection zone, and in other areas where water contains constituents in excess of the applicable standards currently promulgated by the California Department of Health or in areas where a monitoring agency has determined that seawater intrusion is a threat, all new wells

EXHIBIT 4

Mr. John Ricker, Water Resources Program Coordinator
Santa Cruz County Government Center
February 21, 2007
Page 2 of 4

shall be constructed in such a manner that the well ~~is located solely in one aquifer~~ *does not provide conduits for contamination between aquifers.*

D. For wells which will serve more than four residential connections or which will serve nonresidential uses which can be expected to utilize more than 2 acre-feet of water per year the following measures will be taken to ensure that groundwater is put to beneficial use and is not wasted:

1. A water use efficiency audit shall be completed, with recommendations for increased efficiency of use identified.

2. The Health Officer shall require that all reasonable measures be implemented.

3. Where the water use is predominantly for residential use, *the property owner may provide verification that "best practice" conservation measures to achieve efficient interior and exterior water use have been taken* in lieu of performing an efficiency audit. *Acceptable conservation measures shall be defined by the County and periodically revised to reflect advanced technology that is readily available locally.*

E, In order to prevent or control groundwater overdraft, and to preclude the declaration of a groundwater emergency pursuant to Section 7.70.130, the County may implement measures applicable to production wells, water conservation, monitoring and other activities within its jurisdiction that are deemed necessary to prevent degradation of the aquifer and which are in support of and consistent with programs and requirements adopted by established groundwater management authorities.

We also request that the minor revisions be made to Section 7.70.120 as previously provided to you. This section establishes restrictions on new, private wells within SqCWDs service area. The suggested revisions are to delete the reference to the Purisima Formation so the restriction, clearly applies to both the Purisima and Aromas Red Sands portions of the Soquel-Aptos groundwater basin (both of which are currently in a state of overdraft) and deleting "County" from the District's name so it is properly referred to as "Soquel Creek Water District."

Request for County Policies Consistent with Well Ordinance Provisions

Subsequent to adopting the Well Ordinance with the proposed addition of Section 7.70.110 E, SqCWD would like the County to adopt policies that support SqCWD's

EXHIBIT 4

Mr. John Ricker, Water Resources Program Coordinator
Santa Cruz County Government Center
February 21, 2007
Page 3 of 4

efforts to avoid exacerbating existing overdraft conditions during the interim before a supplemental water supply is available. In that vein, SqCWD requests that the County place conditions on well permits within the Soquel-Aptos area groundwater basin that are consistent with requirements for those seeking service from SqCWD. Specifically, we request that the County require all new private wells within the Soquel-Aptos area groundwater basin, regardless of size, to offset 120% of the anticipated production from the new well by retrofitting existing plumbing fixtures or landscape within the basin. This County requirement would be equitable with SqCWD's current policy for new water service applicants. Similarly, we request a County policy requiring permits for replacement wells to be conditioned on a water use survey and completion of appropriate water efficient retrofits to minimize demand on the replacement well. This policy would be consistent with the conditions SqCWD currently places on private well owners seeking to receive service from SqCWD. SqCWD would be willing to administer the programs associated with these proposed policies and conduct the water use surveys at actual or subsidized cost.

Groundwater Emergency Actions

We also wish to take this opportunity to bring SqCWD's Groundwater Emergency Plan to the Board's attention (enclosed.) With the cooperation of the County, Central Water District, the City of Santa Cruz, and the Pajaro Valley Water Management Agency, SqCWD is actively working to avoid a groundwater emergency in the mid-county area. Should it become necessary to declare such an emergency, SqCWD's Groundwater Emergency Plan anticipates a cooperative response by all public agencies having groundwater resource authority within this region. Section 7.70.130 B. of the existing Well Ordinance authorizes the Board of Supervisors to take actions consistent with SqCWD's Groundwater Emergency Plan. It reads as follows:

Section 7.70.130 Groundwater Emergencies

- B. Immediate Measure to Alleviate. In areas where a groundwater emergency is declared, the Board of Supervisors shall take action to establish water conservation measures, to limit construction of new wells, to regulate pumping from or expansion of existing wells, and in order to prevent further depletion and degradation of the affected aquifer. ...

SqCWD encourages the County's active involvement in groundwater resource management and requests that the Board of Supervisors be prepared to take appropriate measures to alleviate a groundwater emergency.

EXHIBIT 4

Mr. John Ricker, Water Resources Program Coordinator
Santa Cruz County Government Center
February 21, 2007
Page 4 of 4

Thank you for your consideration and support

Sincerely,

SOQUEL CREEK WATER DISTRICT

A handwritten signature in cursive script that reads "Laura D. Brown".

Laura D. Brown
General Manager

Enclosure: Soquel Creek Water District Groundwater Emergency Plan

Cc: Santa Cruz County Board of Supervisors

EXHIBIT 4

Soquel Creek Water District
Urban Water Management Plan Update 2005
Chapter 3, Section VIII
Groundwater Emergencies

The SqCWD shall employ the services of one or more qualified groundwater hydrologists to review groundwater-monitoring data and periodically report on aquifer conditions. Where it is demonstrated by a professional hydrologist that the groundwater basin is experiencing groundwater overdraft exceeding the sustainable yield and where such overdraft threatens the public health, safety and welfare of the community, a groundwater emergency may be declared to prevent further depletion and degradation of groundwater resources.

A. Declaration. Prior to declaring a groundwater emergency, the SqCWD shall consult with neighboring water agencies, such as the Pajaro Valley Water Management Agency, Central Water District, City of Santa Cruz, and the County of Santa Cruz to explore joint options and/or programs that could be undertaken or adopted to possibly defray the need for such a declaration. If a cooperative effort cannot successfully address the concerns, then consideration will be given to declaring a groundwater emergency. Such an emergency shall be declared by resolution of the Board after a public hearing to consider all relevant information such as, but not limited to, the most current groundwater study and recommendations of other water purveyors with an interest in the basin and other governments having water, land use or other relevant jurisdiction within the basin, and only after the following findings can be made:

1. The groundwater basin is experiencing overdraft conditions;
2. The addition of new wells or the expanded use of existing wells in order to meet supply needs will significantly increase the demand on the affected aquifer and thereby increase the overall overdraft; and
3. The continuation of the overdraft will result in further depletion and degradation of the water resource that can lead to, but is not limited to, impairment of the aquifer or allowing the ingress of poor quality or saline waters.

B. Immediate Measures to Alleviate. In areas where a groundwater emergency is declared, the Board of Directors shall take those actions identified in the Water Supply Emergency Response Stages (Section VII) of this Plan as deemed appropriate to achieve the level of reduced demand recommended by the professional hydrologist based on the extent and severity of the groundwater emergency. Prior to declaring a Stage 2 or greater response, a peer review panel of two or more qualified groundwater hydrologists shall be formed to review and confirm the findings and recommendations of the District's hydrologist. In addition to those actions identified in the Water Supply Emergency Response Stages, the District's Board of Directors shall also consider the following potential actions:

1. Request the County to place a moratorium on new wells within the over-drafted aquifer, and request other water purveyors pumping from the aquifer to place a moratorium on service commitments and connections similar to any imposed by the District;
2. Request all other water purveyors utilizing the affected aquifer for water supply to implement water conservation measures and use restrictions consistent with those actions taken by the District to the extent feasible;
3. Request the County to require meters and monitoring of all wells within the impacted area, and require water conservation measures and use restrictions by private well owners consistent with those actions taken by the District to the extent feasible;
4. Request the County to enact restrictions on agricultural water use within the affected area in accordance with its Groundwater Emergency policy;

5. Take such other actions as authorized and appropriate within the joint powers shared with Central Water District as established by AB 3030 (Water Code Section 10750 *et seq.*)

C. Long-term Measures to Alleviate. The Board shall initiate actions such as, but not limited to, joint power agreements with other agencies and development of supplemental supply projects; with the goal of finding permanent solutions to the groundwater problem.

D. Duration. A groundwater emergency and the measures enacted to alleviate the emergency shall remain in effect until rescinded as established in Subsection F of this Section.

E. Annual Review. The establishment of a groundwater emergency and all actions to alleviate the emergency shall be reviewed by the Board of Directors, and other governing boards who have implemented restrictions as the result of the emergency, within one year of the date of enactment of the measures at a public hearing to decide whether the declaration of emergency shall remain in effect.

F. Rescinding. A groundwater emergency shall be rescinded by resolution of the Board of Directors after a public hearing when one of the following findings are made:

1. Alternative water sources which compensate for the existing overdraft and supply the affected area are developed;
2. A groundwater management program is implemented which will allow for additional demand without contribution to groundwater overdraft as determined by the District's hydrologist and confirmed by a panel of two or more qualified groundwater hydrologists; or
3. The Board of Directors determines that new information is available which indicates that groundwater basin conditions are sufficiently improved and that the original findings of overdraft are no longer applicable after review by a panel of two or more qualified groundwater hydrologists.

EXHIBIT 4/1

Comment on CEOA Review for Proposed Changes to County Well Ordinance. Email from Douglas Deitch. May 16, 2007

"The groundwater- salt water intrusion resource loss of 15k/a/f/yr., documented and extant in the Aromas Red Sands since 1998, is in and of itself, a significant impact on the environment. This condition has required County Supervisors to declare a countywide ground water emergency under the current well ordinance/law, which they refuse to do.

The proposed language additions in the ordinance which gives the Board discretion on whether to declare an emergency and which abdicates well permitting authority to the districts will allow water quality deterioration and resource loss to continue by allowing and now legitimizing the Board to continue doing nothing...as the Board has been doing illegitimately in violation of the present well ordinance's mandate, since 1998."

Response from John Ricker, County Environmental Health:

The proposed change will have no effect on how the groundwater basin is managed. The Pajaro Valley Water-Management Agency is implementing a Basin Management Plan that will address the overdraft in the Pajaro Basin. If those efforts proved to be inadequate, that County continues to have the obligation to take actions to ensure the situation is addressed, including declaring a groundwater emergency, if necessary.



W A T E R D E P A R T M E N T

809 Center Street, Room 102, Santa Cruz, CA 95060 • (831) 420-5200 • Fax (831) 420-5201

May 15, 2007

Planning Commission
County of Santa Cruz
701 Ocean Street 4th Floor
Santa Cruz, CA 95060

RE: County Well Ordinance Changes and CEQA Documentation

Dear Planning Commissioners:

Thank you for the opportunity to review the proposed County Well Ordinance Changes and CEQA documentation. While there is much to support in the proposed ordinance changes, after careful review these documents, there are still several outstanding issues which we feel are critically important to maintaining protection of beneficial **uses** of water resources. Among these *are*:

-Our biggest concern is with having a well permit be ministerial and not be subject to the CEQA process. The City of Santa Cruz is unclear about the stated conflict of CEQA review on Well Permits. Please provide a reference of appropriate Water Code or CEQA sections. Generally speaking, if you only view it in the context of cumulative impacts, how can a well permit for any use that is in an aquifer which is currently in overdraft be ministerial and not require CEQA review? From the City's perspective, there are several circumstances that may potentially arise from the proposed ordinance changes which may be cause for CEQA review. For example, we are concerned about well applications for wells in the vicinity of the San Lorenzo River (among other places) which may have a minimum 20' seal (Section 7.70.090 C) or serve several residential connections. New wells with reduced minimum seal depths of 20', or wells serving 2-3 residential connections in this area have the potential to change the base flows in the river - which in turn can have an effect on the City's senior water rights and negatively impact special status species habitat (i.e. steelhead, etc.). These type of wells, may not be subject to other County codes which would result in them becoming discretionary permits, and as such would not receive the level of analysis that would be necessary to ensure protection of beneficial uses of water resources. Additionally, if a replacement well is intended for a new crop, there may be changes in water use and efficiency. **A permit for an agricultural well** (including replacement wells) that is intended to provide irrigation for a new crop (which is effectively a new "project" for all intensive purposes in some cases) ought to continue to require CEQA review, **or** at the very least ongoing irrigation water audits, irrigation scheduling and other appropriate "built in" mitigations.

Re: County Well Ordinance Changes and CEQA Documentation

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Date: May 15, 2007

-7.70.020: We have a concern, in aligning these definitions with Department of Health standards like MCLs, that there is increased potential for contamination. If an improperly installed well is causing less than the MCL of TCE or PCE to migrate to an aquifer zone used for drinking that previously had zero concentrations of these contaminants, we would still consider this a contamination hazard.

-7.70.030: The City of Santa Cruz Water Department would still prefer to comment on well permits within our Service Area, adjacent to our diversion facilities, or in areas where we have obligations for fisheries-related instream flow releases.

-7.70.090A: We support the requirement for deeper sanitary seals on wells. However, beyond this, wells with reduced setbacks from onsite wastewater disposal systems should also be installed up-gradient from these systems as an extra measure of protection for the well and aquifer.

- 7.70.090 C: As shallow groundwater often is under surface influence, increased standards for protection of water quality and mitigation of impacts of pumping shallow groundwater under hydrologic connection to surface flows ought to be developed. Furthermore, the Department of Water Resources well standards recommend: a) that these types of wells not be developed; and b) that if they are developed, a setback of 250 feet from septic and livestock facilities be required. We propose adding "...and if this doesn't draw baseflow of any adjacent surface water source/wells under surface influence – as determined by qualified hydrogeologist" at the end of the existing proposed language.

- 7.70.090 G: In the second sentence which talks about "other wells, e.g. individual domestic wells" we suggest changing to read "other extraction wells, e.g. ..." so that irrigation and industrial wells, which could move plumes of groundwater contaminants around, are included.

- 7.70.090 I: There is very little detail on this section in the proposed changes. How will the standards and procedures be established? How do they compare to existing standards and similar state regulations?

-7.70.100A: How will abandonment standards be ensured? The details of and mechanism for assurance of abandonment standards implementation should be identified in the ordinance.

-7.70.110 D: What is the rationale for raising limit for the CEQA exemption for residential wells (from 2 homes to 4 homes)? While we recognize the attempt to build in mitigations that would reduce the impact of a ministerial permit for a well with 4 residential connections and streamline the permitting process for relatively small projects, a new well serving 4 residential connections most likely will have more of an environmental impact than a well serving 2 homes. These proposed ordinance changes do not identify the mechanism by which implementation of water use efficiency audits or conservation measures will be ensured. It is our understanding that currently, the County's water conservation program is largely voluntary and inspections occur

Re: County Well Ordinance Changes and CEQA Documentation

Page: 3

Date: May 15, 2007

rarely, if ever. Furthermore, we are unclear what constitutes “reasonable” conservation measures. Who will make sure that reasonable conservation measures are implemented and sustained, beyond just the property owner providing certification that the conservation measures will be implemented? Without any identified mechanism for implementing, the general de-facto mitigations that are built in to the proposed ordinance changes, there is no assurance that there will not be “less than significant” impacts to beneficial uses of water including domestic drinking water and special-status-species habitat.

- Section 7.100.140E: With the amendments to the well ordinance providing increased protection to ground water and the existing requirements for hazardous materials management, section of the Hazardous Material ordinance should be clearly defined for special circumstances, such as in lieu of best management practices for hazardous materials, otherwise it is just redundant. Though appropriately directed at preventing groundwater contamination, this section is potentially onerous due to the subjective nature of the discretion of the health officer and lack of detail in the ordinance change. It can be invoked at any time a permit is requested or renewed so many City facilities could find themselves doing expensive site-specific hydrogeological assessments. This would be in addition to very stringent (appropriately) Use, Handling and Storage Responsibilities (HMMP) per Article IV of Chapter 7.100 - for which we are annually inspected and incur significant permit fees. For larger hazardous material storage needs, for example the diesel storage at Felton Booster, we are required to prepare another assessment for the Spill Prevention Control and Counter Measure Regulations (SPCC) in addition to our HMMP. Language to clarify “cause to believe” should (at least) be developed to provide some guidance for implementation of this section in the future.

In closing, we recognize the hard work that County staff and the various stakeholder groups have put into this process, but must withhold our support for the proposed changes and CEQA analysis at this time. Given the above referenced remaining outstanding issues, there can be no assurance that there will not be further impacts to beneficial uses of water presented by the proposed well ordinance changes. We ask that you deny the approval of the negative declaration; and a) either perform a more thorough environmental review on the ordinance changes; or b) amend the ordinance as discussed above, such that potential impacts are reduced to a more rigorously defensible level of insignificance.

Sincerely,



Bill Kocher, Director
City of Santa Cruz Water Department

cc: Water Advisory Commission
John Ricker, Water Quality and Resource Program Manager
Matt Johnston, Environmental Coordinator

June 4, 2007

John Ricker
Water Resources Program Coordinator
Santa Cruz County; Environmental Health Services

Re: County Well Ordinance Changes

Dear John,

Thank you for e-mailing me the responses from Douglas Deitch and Bill Kocher, Director of the City of Santa Cruz Water Department along with your comments to them regarding the revisions to the well ordinance.

My response to their concerns is as follows

Re: The letter from Douglas Deitch, I think you covered this concern adequately with your response to Mr. Deitch's comment.

Re: The letter from Bill Kocher dated May 15, 2007. In addition to your comments to Bill's letter I as a member of Citizens for Responsible Land Use and POWR (Protect Our Water Rights) have the following comments to his concerns.

1- He mentions in the middle of his 2nd paragraph that he has concerns regarding residential wells being drilled that could "change the base flows in the river— which in turn can have an effect on the City's senior water rights". The City of Santa Cruz does **not** have Senior Water Rights that belongs to the owners of the property that the river flows through (further explained in the next paragraph).

2- Re: 7.70.030: When it comes to Private Property Owners drilling a well on their own property, the City of Santa Cruz has no rights to that water and therefore should not have any input for comment when such an application for a well is made. Quite the opposite exists and that is whenever the City of Santa Cruz wants to take water from the river the affected property owners should be notified about this. That way they can voice their concerns about the City of Santa Cruz removing water from a source (the river) that supplies some of the water that replenishes the aquifer that supplies their well water.

3- Re: 7.70.090A: With regards to Bill's comments that the "wastewater disposal systems should also be installed up-gradient from these systems as an extra measure of protection for the well and the aquifer." This type of requirement would make most of the remaining vacant parcels unbuildable. Then there is the fact that the underground aquifers do not necessarily follow the contour of the overlying surface of the land and therefore it would be almost impossible to know if you are up-gradient from the well or not. This is why we have well seal requirements that can be custom designed to fit the actual on site conditions.

4- Re: 7.70.110D: Bill Kocher mentions here that "a new well serving 4 residential connections most likely will have more of an environmental impact than a well serving 2 homes." We all know that exactly the opposite is true; it is much more efficient, cost effective, and environmentally more sound to take care of one well for 4 **houses** than to take care of one well for each **house**. If you have 4 straws pulling water from the aquifer you have 4 times the chances for something going wrong i.e.: potential ground water contamination is a prime example. In this same paragraph Bill mentions "Who will make sure that reasonable conservation measures are implemented and sustained, beyond just the property owner providing certification that the conservation measures will be implemented."

Page 1 of 2

Re: County Well Ordinance Changes
Date: June 4, 2007

The county has implemented mandatory conservation measures in the way of requiring at the close of every escrow that low flow toilets and low flow shower heads be installed. This requirement is also in effect in the Cities of Capitola, Santa Cruz, and Watsonville. Scotts Valley found that the conservation compliance was so good that they made the conservation policy of low flow toilets and shower heads voluntary. Scotts Valley is also the only entity in the county that reclaims the sewer water and has in place the infrastructure for distribution of this reclaimed water for irrigation and other purposes. It is too bad that the City of Santa Cruz did not have the foresight to install such a system when it rebuilt their sewage treatment plant and the foresight to start installing the underground infrastructure needed when they re-built Mission Street.

In closing, I was part of the group that spent well over a year meeting and discussing all of these issues and I feel John Ricker did a good job of taking into consideration all of the concerns that this re-writing of the well ordinance had brought to the forefront. I am sure that Bill Kocher was well aware of the group meetings that we have had and he should have had a representative there to address his concerns and not try to circumvent all of our hard work by trying to change this ordinance to his liking without having heard all the other viewpoints and reasons why it is written the way it is.

My main reason for being part of the group was to protect the rights of property owners county wide. We all worked very hard on this and a lot of different viewpoints were addressed not the least of which is the consideration of Private Property Ownership Rights of the water that lies beneath the land. Bill Kocher makes the attempt to claim that The City of Santa Cruz has the senior rights to water within their service area and their district. This just is not so.

Please notify me if any changes from what the group came up with are being contemplated. This way I can have input to such potential changes.

Please make this letter a part of the public record and make sure that a copy reaches the Planning Commissioners and Board of Supervisors.

Sincerely,

Nick Violyk
Citizens for responsible land use
POWR (Protect Our Water Rights)

Page 2 of 2

Response to City of Santa Cruz May 15, 2007 Comments on Well Ordinance Revisions

Following are Environmental Health staff responses to concerns raised in the May 15, 2007, letter from Bill Kocher, Director of the Santa Cruz City Water Department. Many of these concerns were considered during the development of the revisions of the well ordinance and discussions by the well ordinance review group. The recommended revisions are intended to strike a balance between competing stakeholder concerns.

CEQA Review - The potential conflicts between water law and CEQA requirements are not related to provisions of the Water Code or CEQA guidelines, but relate primarily to case law and common law, which is not necessarily consistent. Relevant cases include City of Barstow, et. al vs. Mojave Water Agency et al. (2000 WL 1175120); Tulare Lake Basin Water Storage Dist v. U.S. (2001 49 Fed. Cl. 313); and Allegretti & Co. v. County of Imperial (138 Cal.App4th 1261). Under case law, it would appear the County has limited ability to restrict or prevent a reasonable use of groundwater by an overlying user (as distinguished from a municipal user, appropriative user, or exporter), even if there might be deemed to be a potentially significant environmental impact. The County does appear to have more authority to limit use by a municipal user, appropriative user, or exporter of groundwater. Furthermore, a strict application of current CEQA guidelines might preclude a de minimis finding and require a full EIR and adoption of findings of overriding need for any well in a basin currently subject to overdraft. County staff believes it is more effective and appropriate to utilize basin management approaches rather than resource-consuming and legally questionable regulation of the limited number of new individual wells. The proposed changes to the well ordinance do include provisions to ensure efficient and reasonable use of water for any wells serving uses expected to use more than 2 acre-feet per year.

7.70.020 - Contamination Hazard – The definition of pollution was modified and provisions to address pollution were added to 7.70.090.G to address the City's concern about potential contamination at levels lower than State MCL's.

7.70.030 – The City will continue to have the ability to comment on wells proposed in areas where they have concerns. No change is recommended that would change that ability.

7.70.090.A - A well would preferably be located upgradient of the septic system, if possible. However, where a reduced horizontal setback is required, site conditions may preclude locating the well upgradient. With a 100 ft seal, it is not as relevant whether the well is upgradient or not.

7.70.090.C. – The source of the City's comment regarding allowing sanitary seal of 20 ft is unclear, as that is the minimum recommended in the DWR well standards. The County standard is 50 feet and a reduced seal (to not less than 20 feet) is only allowed in very rare circumstances, where water is not available at depths greater than 50 ft. If there is an impact on surface water, it would be very difficult to evaluate and a use of surface water

would mostly likely be covered by a riparian right that the property had to use of surface water. Given all these limitations on use of shallow water, staff believes proposed provisions are adequately protective.

7.70.090.G. This provision would apply to any well used for domestic, industrial or agricultural use. The suggested term "extraction well" is too broad as that might include wells used to extract water for site remediation.

7.70.090.1 – These standards and procedures are developed by the site reinediation specialists in the Hazardous Materials section, in consultation with the Regional Water Quality Control Board, and would change with improved technology.

7.70.100.A – The County is in the process of developing procedures and funding for identification of abandoned wells. Old wells are typically required to be destroyed when a permit is issued for a replacement well.

7.70.110.D: The current CEQA exeinption standard is not relevant here, as the proposal is to make well permits ministerial. The requirement for water use efficiency is applied to wells serving more than 4 connections because the county already maintains ongoing oversight of water systems with more than 4 connections. This would provide ongoing oversight of implementation of efficiency measures, which does not presently exist.

7.100.140.E. is a proposed change to the Hazardous Materials Ordinance: which is not part of the current proposal.

In conclusion, we believe the proposed changes strike a balance between stakeholder concerns and provide workable mechanisms for ensuring efficiency of water use for new wells. Staff also recognizes that larger basin-wide approaches will be needed to provide for overall protection and management of county water resources.



WATER DEPARTMENT

RECEIVED
JUN 27 2007

6/26/07

Mr. John Ricker
Environmental Health Department – County of Santa Cruz
701 Ocean St. 3rd Floor
Santa Cruz, CA 95060

RE County Well Ordinance Changes and CEQA Review

Dear Mr. Ricker,

Thank you for your willingness to hold up your review process and meet with us to discuss our concerns with the proposed changes to the County's well ordinance and related CEQA review. Though we have remaining reservations (which are described below), we are now generally supportive of the proposed ordinance changes and related CEQA review.

We understand the rationale that the County has chosen for a trigger for CEQA review of new well permits, and are in general agreement that it is logical and defensible. From a water law standpoint, overlying landowners have a right to pump the "safe yield" of a basin; but not to overdraft a basin. The fact that many of the basins in the County are in overdraft – to the extent that we are now seeing the effects on surface flow – is the underlying cause of our concern about our previous perception of weakening of the County's authority to regulate groundwater through its Well Ordinance. Along those lines, we were further concerned to read in your 5/30/07 memo to the City:

"Under case law, it would appear the County has limited ability to restrict or prevent a reasonable use of underlying groundwater, even if there might be deemed to be a potentially significant environmental impact."

While we appreciate the difficulty that the County faces in regulating groundwater, on the face of it, this statement is overly generalized, in conflict with the existing groundwater regulatory authority that the County currently exercises routinely, and (obviously) in conflict with the need to address ongoing overdraft many areas of the County. As such, the City consulted with its own counsel and has been informed that your statement (above) is not entirely correct"].

"...the cases cited by the County do not support the proposition that a right to extract groundwater trumps a county's ability to regulate such extractions. California law supports the concept that counties have jurisdiction to regulate groundwater (Baldwin v. County of Tehama (1994) 31 Cal.App.4th 166), separate and independent from CEQA."

That said, we understand that you are not proposing to deregulate **wells**, but rather, proposing to streamline the permitting process where practicable (while building in appropriate mitigations as permit conditions), and strengthen basin management and water resource protection where possible. With regard

¹ Though counsel qualified this analysis as being "a limited review and description of these cases, in light of both the time frame and issue raised"

to permit CEQA review, you are proposing to bring your CEQA review process into correlation with the County's existing regulation of small community water systems; a seemingly rationale and reasonably protective action. We agree with the County that basin management provides a more efficient and potentially comprehensive mechanism with which to address cumulative impacts (which were generally addressed in CEQA project - by- project) and fully support the County's continued proactive efforts in this vein.

Finally, with regard to CEQA, we understand the value of building in mitigations as permit conditions, in lieu of performing CEQA on each and every permit – both in regard to efficiency of permit processing as well as in the standardization of implementation of said conditions. However, we remain concerned that those mitigations – in this case the water use efficiency and conservation measures – may never be implemented, and furthermore, that the CEQA a permit will never be denied on CEQA grounds. Obviously, this happens with CEQA reviewed projects as well, so the issue of whether new permit applications go through CEQA review or not is not the issue, so much as assurance that new permits are appropriately mitigated is. We understand that the County can add a permit fee to support inspections for implementation of these mitigations and support it doing so. Furthermore, we support the County developing a permit-based funding program that allows this to occur on an ongoing basis if possible.

Other proposed ordinance changes will generally provide equal or greater protection to water resources than the current ordinance, as we currently understand them. To reiterate our understanding of these changes and remaining concerns:

7.70.020 - Contamination Hazard – The definition of pollution was modified and provisions to address pollution were added to 7.70.090.G to address the City's concern about potential contamination at levels lower than State MCL's.

7.70.030 – The City will continue to have the ability to comment on wells proposed in areas where the): have concerns, including areas adjacent to and downstream of its intakes, and within the City water service area.

7.70.090. A. - We strongly support wells located closer than 100 ft from an onsite wastewater disposal system, if possible, being located hydrologically upgradient of a system, and always having a 100 ft. seal. However, we have remaining questions about how many new wells this ordinance change might lead to being developed. The *Citizens for Responsible Land Use and POWR (Protect Our ~~Water~~ Rights)* representative (in his response to you regarding our CEQA comments), expressed concern that the City's (and apparently the County's, as you agreed with our position in your 5/30/07 memo) position would prevent building on most of the vacant lots in the County. While this seems like an exaggeration, it would likely provide additional rigor to your review process if you were able to identify the actual impact that this change has on the environment, if it **is** in fact so severe. Finally, if reduction of the setback standard does result in development of "all the vacant lots" in the County, there is no way that the City could support such a change without additional analysis providing assurance that water resources will be adequately protected.

7.70.090. C. – The City understands that it would be a very rare case where a reduced seal depth would be allowed in riparian zones, and furthermore that the County has limited regulatory jurisdiction of riparian water rights. We strongly support no allowance of reduced seal depths within reduced setback areas, as described by proposed language in this section.

7.70.090.G. - This provision would apply to any well used for domestic, industrial or agricultural use

7.70.090. I. – These standards and procedures are developed by the site remediation specialists in the Hazardous Materials section, in consultation with the Regional Water Quality Control Board, and would change with improved technology.

7.70.100. A. – The County is in the process of developing procedures and funding for Identification of abandoned wells. Old wells are typically required to be destroyed when a permit is issued for a replacement well.

7.70.110. D. – **As** discussed above, the current CEQA exemption standard is not relevant here, as the proposal **is** to make well permits ministerial. The requirement for water use efficiency is applied to wells serving more than 4 connections because the county already maintains ongoing oversight of water systems with more than 4 connections. This would provide ongoing oversight of implementation of efficiency measures, which does not presently exist – thereby making this change a positive move toward more comprehensive basin management.

7.100.140. E. - This is a proposed change to the Hazardous Materials Ordinance, which is not part of the current proposal.

We appreciate your attempts to meet the needs of multiple, often conflicting, stakeholders' resource management needs in this process, and your ongoing commitment to protection of water resources in Santa Cruz County. If you have further questions or need clarification on these comments, please do not hesitate to contact us.

Sincerely,



Bill Kocher
Water Director

cc: WAC, read file, Chris Berry, Man Johnston, Linette Almond, Isidro Rivera