

Attachment M
Memo from John Ramirez,
Director of Environmental Health Bureau,
dated June 6, 2012

PLN110366/PLN110367
Mozingo (Powell)





COUNTY OF MONTEREY HEALTH DEPARTMENT

MEMORANDUM

ENVIRONMENTAL HEALTH BUREAU

DATE: June 6, 2012

TO: Drinking Water Protection Services

FROM: John Ramirez, Director

SUBJECT: Administrative Guidance For Well Permits and Processing Well Permits

PURPOSE:

To clarify for staff how the policies of the General Plan and Local Coastal Program respectively are to be applied to new wells in the inland area and the coastal zone of Monterey County and the processing of applications for well.

BACKGROUND:

Interim Urgency Ordinance No. 5160 was adopted on May 25, 2010 to prohibit most well construction on parcels less than 2.5 acres in the unincorporated area of the California American Water Company-Monterey District Main System service area that is underlain by fractured rock until new regulations could be considered that would address concerns that new wells have on the public health, safety, and welfare of Monterey County Residents. The Interim Urgency Ordinance was extended twice and expired on May 25, 2012.

In October 2010, General Plan Update 2010 (GPU 2010) was adopted by the Monterey County Board of Supervisors. GPU 2010 contains several policies requiring developing regulations specific to wells for the non-coastal (inland) areas. These policies are in effect even though the specific regulations have not yet been adopted by the Board of Supervisors. General Plan polices and the Interim Urgency Ordinance direct staff to develop regulations to specifically address fractured rock wells and bring them forward for the Board's consideration.

Monterey County Health Department Environmental Health Bureau has recently released a proposed draft ordinance revising Chapter 15.08 of the Monterey County Code (MCC) to implement the policies of GPU 2010 and to address the concerns in Ordinance 5160, which has expired. The following guidelines best reflect the most current interpretation of General Plan Policies regarding new wells in addition to existing requirements of MCC Chapter 15.08. The Guidelines also indicate how well applications will be processed and reviewed for new domestic wells and new high capacity wells. Staff should follow these Guidelines until the Board of Supervisors adopts the ordinance revising Chapter 15.08 until further notice from the Director.

Protocol

Until the proposed revised MCC Chapter 15.08 has been adopted the following protocol shall be used to implement the attached guidelines:

1) Well applications in the Inland Area of Monterey County

Parcels located in the inland area are subject to the GPU 2010 (Policies PS-2.4, PS-2.5, PS-2.8, PS-3.3, PS-3.4, PS-3.5, PS-3.6, CV-3.20, NC-3.8, and NC-5.4).

- Discretionary Permit. An Administrative Permit is required (Planning Department) for a new well in North County Planning Area, Carmel Valley Alluvial Aquifer and potentially other areas of Carmel Valley. Also, certain environmental conditions (i.e. impact to in-stream flows and neighboring wells) may require an Administrative Permit.
 - Technical Regulations. The attached guidelines most closely reflect the staff's interpretation of the policies in GPU 2010 regarding wells. Therefore, these guidelines are in response to the policies of GPU 2010 and should be used by staff in the review of well applications until the Board of Supervisors adopts the ordinance amending Chapter 15.08 and it goes into effect on the 31st day after adoption.
- 2) Well applications in the Coastal Zone of Monterey County
Parcels located in the Coastal Zone are subject to the Local Coastal Plan.
- Discretionary Permit. An Administrative Permit is required (Planning Department) for a new well.
 - Technical Regulations. The attached guidelines are consistent with the Local Coastal Plan and therefore the proposed revisions should be used in the review of well applications until the Board of Supervisors adopts the ordinance amending Chapter 15.08 and the Coastal Commission certifies the adopted version of MCC 15.08.

If there are questions regarding or concerns regarding the application of interpretation of General Plan policies please contact Cheryl Sandoval (755-4552) or Richard LeWarne (755-4554).

**Monterey County Health Department
Environmental Health Bureau
Drinking Water Protection Services**

**Guidelines for the Interpretation of General Plan Policies
And Addressing Concerns of Interim Ordinance 5160 and its extensions
Ordinances 5163 and 5176**

Wells must comply with existing Monterey County Code 15.08, all required Well Setbacks, as well as federal, state and local regulations. In addition the following guidelines interpret those policies set forth in Monterey County General Plan to protect the health and safety of the public:

Fractured Rock Geology – PS-2.4 requires regulations for new wells in fractured rock to be enacted and PS-3.8 requires a discretionary permit in the North County Area Plan for new wells constructed in fractured rock. The following guidelines are an interpretation of this policy in order to protect public health and safety and bolstering the sustainability of the water supply for the lot.

Technical Standards:

1. Minimum well seal shall be 100 feet below ground surface (bgs) unless a clay layer is encountered and must seal 10 feet into the clay layer. The well seal shall not be less than 50 feet bgs.
2. Required minimum 72 hour pump test by a registered professional geologist or hydrogeologist for lots less than 20 acres.

Minimum Lot Size and Well Setbacks

Lots where the geology is fractured rock:

Those existing lots that were created to have sewage disposal by sewer system and water supplied by a water system shall meet the following:

1. The lot shall have enough room for two well sites and shall be a minimum of 20 feet apart.
2. The well sites shall be a minimum of 25 ft. from property line.
3. The well must maintain all Well setbacks.
4. The well setback shall not cross property lines unless the well setback stays within a portion of the adjacent lot that has developmental restraints such as steep slopes, easements front, back, and side yard setbacks. If the setback cannot stay within these areas an easement or other written recorded approval of the owner of the adjacent lot must be obtained.
5. 50% of the lot must stay permeable after build out and a deed restriction recorded.
6. A Rainwater Harvesting System shall be required for those wells that have an approved flow rate less than 5 gallons per minute and shall be a minimum of 20 feet from the well. Plans must be submitted for review and approval. A deed restriction shall be recorded on the property regarding required maintenance by the owner.

Those existing lots of record where sewage disposal is by OWTS shall meet the following:

1. No new well permit shall be issued for an existing lot less than 1 acre unless it is a replacement well.
2. All existing lots within a water system that have an existing connection or can connect to the water system shall be a minimum of 2.5 acres.
3. The lot shall have enough room for two well sites and shall be a minimum of 20 feet apart.

4. If an existing legal lot has less than 20 feet soil depth over fractured rock, then an alternative OWTS is required if the site location is between 100 feet and 250 feet. If the site location is greater than 250 feet a conventional OWTS may be used.
5. The well setback may not cross property lines unless the setback stays within a portion of the adjacent lot that has developmental constraints such as steep slopes, easements front, back, and side yard setbacks, or lots in which the primary use is agricultural production.
6. If the well setback of the proposed well cannot stay within those areas of the adjacent lot as listed in requirement 4, then an easement or other written recorded approval of the owner of the adjacent lot must be obtained.

Lot where geology is other than fractured rock:

- A. Existing lots within a water system that have an existing connection or can be provided with an existing system and sewage disposal is by OWTS must comply with requirements 1, 2, 3, 4, and 6 below.
- B. Existing lots within a water system that does not have an existing connection and the water system cannot provide a connection, and sewage disposal is by OWTS must comply with requirements 2, 3, 4 or 5, and 6 below.
- C. Existing lots not within a water system that does not have an existing connection and the water system cannot provide a connection and sewage disposal is by OWTS must comply with requirements 2, 4 or 5, and 6 below.
- D. Well for a new domestic water system must comply with requirements 6, 7, and 9 below.
- E. Well for an existing domestic water system must comply with requirements 8, 9, below.
- F. Agricultural Wells must comply with 10, 11 below.

1. The lot must be a minimum of 2.5 acres if the lot is being served by an existing water connection or the water system has the capacity to provide a connection to serve the lot.
2. The lot shall have sufficient area for 2 well sites and the well sites shall be a minimum of 20 feet apart.
3. The well is for individual use and not part of the water system.
4. The well setback may not cross property lines unless the setback stays within a portion of the adjacent lot that has developmental constraints such as steep slopes, easements front, back, and side yard setbacks, or lots in which the primary use is agricultural production.
5. If the well setback of the proposed well cannot stay within those areas of the adjacent lot as listed in requirement 4, then an easement or other written recorded approval of the owner of the adjacent lot must be obtained.
6. Well sites, well setbacks, OWTS and repair increment shall be shown on a map and submitted to EHB for approval.
7. Wells for new domestic water systems shall be in a well lot.
8. Wells for existing domestic water systems shall be in a well lot or easement and described in the water system's agreement and submitted for approval by EHB.
9. Well setbacks of proposed wells for domestic water systems may cross property lines if there is minimal impact to potential development of the adjacent lot(s) for those lots that lie within the water system's service area. Well setbacks shall not cross property lines of lots not served by the domestic water system unless it complies with requirements 4 or 5.
10. Well setbacks may encroach upon lots in which the main use is agricultural production, but not lots whose primary use is domestic or commercial unless requirements 4 or 5 is met.
11. The well shall be a minimum of 20 feet from property line.

Replacement Well – Several General Plan policies exempted certain requirements for replacement wells and this term was not defined in the General Plan glossary. Therefore, a definition for a

replacement well is needed to define which wells will be exempted from certain specified requirements the General Plan policies.

A proposed well is considered a replacement if it meets the following criteria

1. The type of use will be similar in use to the well being replaced; and
2. The well being replaced will be destroyed within 90 days following completion of the replacement well.
3. The replacement well shall be designed so that intensification of use beyond that of the original well's intended use cannot occur; and
4. The Replacement well meets one of the following descriptions:
 - a. The Replacement well is to replace the water production of an existing well on an existing legal lot of record for that lot's use, the primary use of the lot is residential and/or commercial, the replacement well will be on the same lot of record as the existing well, and the existing well will be destroyed in accordance of the requirements of this MCC 15.08; or
 - b.. The replacement well is to replace the water production of an existing well of an existing domestic water system that cannot supply sufficient water to the domestic water system either because of water quality or quantity problems, and the existing well will be destroyed in accordance with the requirements of MCC 15.08; or
 - c. The replacement well is an agricultural well that is replacing the water production of an existing agricultural well; the replacement well is located on an existing legal lot of record in a location such that the replacement well's water supply will serve a similar geographic area to that of the existing agricultural well.

Impact assessment of new domestic and high capacity wells (>1,000 gpm) – PS-3.4 and PS-3.5 require an assessment of impact to in-stream flows and neighboring wells. If there is a potential impact a discretionary permit may be required.

The following shall apply to new domestic well or a high capacity wells, replacement wells are exempt:

1. Determine whether there are streams or wells nearby. If there are then refer the application to WRA for an initial assessment for potential impacts the in-stream flows or interference with nearby domestic wells.
2. If WRA determines a potential impact, then a hydrogeological report will be required to be prepared by a qualified professional. The report shall include any mitigations that may minimize the impact (i.e. move well, well design, etc.)
3. If the hydrogeological report indicates potential impact, then EHB must consult with Planning Dept. for the requirement of a biological report to analyze the impact to the biota of the stream.

Water quality test for new individual domestic wells – PS-2.5 requires regulations for one time water quality testing for new individual wells on existing single lots of record at the time of well construction and these regulations shall not prevent development of the lot.

Upon completion of a new well, the following tests shall be required:

1. Total Coliform including *E. coli*.
2. Primary and Secondary constituents per Title 22 of CCR.
3. If the well is not vulnerable then tests for asbestos, methyl-tert-butyl ether (MTBE) may be waived.
4. If the well is vulnerable then Organic Chemicals per Title 22 as determined by EHB.

Saltwater intruded areas – PS- 3.5 prohibits wells in saltwater intruded areas with certain exceptions. ***New wells are prohibited in saltwater intruded areas as identified by Monterey County Water Resources Agency or other water management agency until such time as the saltwater intrusion has been halted, except for:***

1. Wells approved by the applicable water resource agency such as wells constructed in Zone 6 per Zone 6 standards.
2. Replacement wells.
3. Deepening of wells.