



Monterey County

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Board Report

Legistar File Number: ORD 20-006

May 19, 2020

Introduced: 5/14/2020

Current Status: Agenda Ready

Version: 1

Matter Type: Ordinance

Consider adoption of an urgency ordinance prohibiting new wells in seawater intruded aquifers, with specified exemptions.

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt an urgency ordinance prohibiting new wells in seawater intruded aquifers, with specified exemptions.

SUMMARY/DISCUSSION:

On May 22, 2018, the Board of Supervisors ("Board"), pursuant to Government Code section 65858, adopted urgency interim Ordinance No. 5302, temporarily prohibiting new wells in seawater intruded areas in the 180/400 foot aquifer subbasin, including the deep aquifers, of the Salinas Valley Groundwater Basin, with specified exemptions, pending the county's study and consideration of regulations, but expiring on July 5, 2018, unless extended.

On June 26, 2018, also pursuant to Government Code section 65858, the Board adopted Ordinance No. 5303 which extended Ordinance No. 5302 until May 21, 2020. With the anticipated expiration of Ordinance No. 5302, it is necessary for the County to consider whether continued regulations are necessary or appropriate to address the conditions addressed by that Ordinance.

On May 19, 2020, the Board is scheduled to receive a report from the Monterey County Water Resources Agency describing the current conditions in the 180/400 foot aquifer subbasin and deep aquifers indicating that the conditions described in the Findings and Declarations of Ordinance Nos. 5302 and 5303, and which supported their adoption, continue to exist and worsen, and thus continue pose an immediate threat to the public peace, health and safety. In light of these continuing and worsening conditions, and because Ordinance No. 5302 is set to expire, it is therefore necessary to consider continuing regulations to address those conditions until a long-term plan can be developed and implemented to address those conditions.

Ordinance No. 5302 generally imposed a prohibition on the construction of new wells in the 180/400 foot and deep aquifers with limited exceptions. The exemptions included domestic wells, municipal water supply wells, and monitoring wells. The Ordinance also contained an exemption for replacement wells that met specific criteria. The report from the Water Resources Agency recommends continuing the Ordinance's restrictions and also prohibiting replacement wells because such wells are contributing to seawater intrusion in the aquifers (180/400 and deep). The report recommends that the prohibitions continue until such time as the deep aquifers can be studied. The report also makes a number of other recommendations, most of which are within the purview of the Water Resources Agency.

Because Ordinance 5302 expires on May 21, 2020 (only two days following the May 19, 2020 Board meeting), and because that Ordinance cannot be further extended pursuant to Government Code section 65858, it is necessary to consider immediate adoption of an urgency ordinance pursuant to Government Code section 25123 in order to immediately protect the public health, safety and welfare and maintain such protection until such time as a long-term plan for dealing with seawater intrusion can be prepared and implemented, and the deep aquifers studied.

Enclosed for the Board's consideration are two alternative urgency ordinances. Exhibit A implements most of the restrictions recommended in the Agency report, but includes exemption for replacement wells that meet the specified criteria. Exhibit B includes the Agency report's recommendation to prohibit replacement wells. (Both ordinances include Ordinance Nos. 5302 and 5303 as an attachment.) The ordinances clarify some of the regulatory language based on experience implementing Ordinance Nos. 5302 and 5303. It is proposed in each ordinance that the ordinance expire in three (3) years unless extended. That time frame should give enough time to at least start on the study of the deep aquifers, and will allow the Board to consider other options at that time. As an urgency ordinance pursuant to Government Code section 25123, it requires four-fifths vote of the Board of Supervisors and would take effect immediately.

CEQA:

The adoption of the urgency ordinance is statutorily exempt from the California Environmental Quality Act pursuant to CEQA Guidelines section 15269(c) because it is an urgency measure necessary to protect the County from a current and immediate threat to the public health, safety and welfare. Adoption of the ordinance also qualifies for a categorical exemption under CEQA Guidelines section 15307 and 15308 because the ordinance involves procedures to protect the environment.

While this work is not directly in support of a Health Department Strategic Initiative, it is in support of one of the ten essential public health services, specifically, (6), enforce laws and regulations that protect health and ensure safety.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel and Monterey County Water Resources Agency have been consulted on this matter, and County Counsel has approved the draft ordinances as to form.

FINANCING:

There is no direct financial impact to the County from this ordinance.


BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

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Approved by:

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Elsa Jimenez, Director of Health, 755-4526

Attachments:

Exhibit 1 Draft urgency ordinance (with exemption for replacement wells)

Exhibit 2 Draft urgency ordinance (without exemption for replacement wells)