

**Consider Amending Monterey County Code Chapter 10.72 to
Remove the Prohibition on Private Ownership or Operation of a
Desalinization Facility**

**Monterey County Health Department
Environmental Health Bureau**

June 7, 2022

Recommendation

It is recommended that the Board of Supervisors:

- a. Set June 21, 2022 at 10:30 a.m. as the date and time to consider finding that an ordinance amending Chapter 10.72 of the Monterey County Code to remove the prohibition on private ownership or operation of a desalinization facility would not have a significant effect on the environment and consider adoption of a Negative Declaration;
- b. Introduce, waive first reading, and set June 21, 2022 at 10:30 a.m. as the date and time to consider adoption of an ordinance amending Chapter 10.72 of the Monterey County Code to remove the prohibition on private ownership or operation of a desalinization facility;
- c. Provide direction to staff as appropriate

BACKGROUND

- Chapter 10.72 of the Monterey County Code addresses the construction, ownership and operation of a desalinization treatment facility.
- The applicable provisions of Chapter 10.72 relating to ownership and operation of desalinization treatment facilities by a “public entity” are ambiguous and subject to interpretation.
- The language in Chapter 10.72 introduced an unintended ambiguity as to whether a private entity could own or operate a desalinization facility.
- Section 10.72.010 does not restrict potential **permittees** to public entities. However, Section 10.72.030(B) requires applicants to “provide assurances that each facility will be **owned and operated** by a public entity.”

BACKGROUND

- March 20, 2018 – The Board referred this matter to staff requesting Chapter 10.72 be modified to allow development of a regional facility through a public-private partnership.
- May 15, 2018
 - Staff presented findings and recommendations and requested direction from the Board to amend Chapter 10.72 to clarify ambiguous language relating to ownership and operation of desalination treatment facilities by a public entity.
 - Board direction was to amend the language to remove this ambiguity and include private ownership and operation as an option.
- June 7, 2022 – Staff is returning to the Board with a proposed ordinance to amend Chapter 10.72 to include private ownership and operation.

POTENTIAL EFFECTS

- It will make it possible for domestic and farm groundwater well owners to desalinate water produced from their wells for their own purposes.
- It will make it possible for private capital, rather than public debt, to fund the construction of desalinization facilities of all sizes and capacities.
- Removing the private ownership or operation prohibition in Chapter 10.72 will not eliminate the need for public or private interests to obtain all required permits.
- All projects will still be subject to CEQA review as well as all other applicable state agencies.

CEQA

- The County of Monterey as Lead Agency, through Housing & Community Development (“HCD”) – Planning, prepared an Initial Study (“IS”)
- The IS/ND considered whether amending Chapter 10.72 to allow private ownership or operation of desalinization facilities would have a significant impact on the environment.
- Staff identified no significant impacts from this ordinance and found the Ordinance:
 - will not have the potential to significantly degrade the quality of the environment;
 - will have no significant impact on long-term environmental goals;
 - will have no significant cumulative effect on the environment; and
 - will not cause substantial adverse effects on human beings, either directly or indirectlytherefore, found that no mitigation is required.
- The Draft Negative Declaration (“ND”) was prepared in accordance with CEQA and circulated for public review from March 7, 2022 through April 6, 2022 (SCH #2022030201).

CEQA (Continued)

- Two comments were received during the public review period.
- In response to comments, staff has prepared a response to comments.
- These responses do not result in revisions to the environmental documentation that would warrant/require recirculation of the IS/ND pursuant to Section 15073.5 of the CEQA Guidelines.
- Specific projects for desalinization facilities will separately be subject to environmental review pursuant to CEQA.
- Would not have a significant effect on the environment and consider adoption of a Negative Declaration.

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Questions?