

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE MONTEREY COUNTY WATER RESOURCES AGENCY  
AMENDING ORDINANCE NO. 03790 CONCERNING THE DESTRUCTION OF  
GROUNDWATER WELLS IN MCWRA'S ZONE 2B**

**County Counsel Summary**

*MCWRA's Ordinance No. 03790 was adopted by the MCWRA Board of Supervisors on November 8, 1994. Ordinance No. 03790 provides for the management of all groundwater wells within the Castroville Seawater Intrusion Project ("CSIP") area, known as Zone 2B, following completion and start-up of CSIP. This ordinance amends Ordinance No. 03790 to divest the Monterey County Water Resources Agency of the responsibility for implementing and bearing the cost of destruction of wells in Zone 2B following completion of the Protection of Domestic Drinking Water Supplies for the Lower Salinas Valley Project and instead require that destruction of wells be the responsibility of the property owner or well owner.*

The Board of Supervisors of the Monterey County Water Resources Agency hereby ordains as follows:

**SECTION 1. FINDINGS AND DECLARATIONS.**

A. The Legislature created the Monterey County Water Resources Agency ("MCWRA") through the Monterey County Water Resources Agency Act ("Agency Act") to address the problem of seawater intrusion, provide flood protection, protect and augment ground and surface water supplies and water quality within the Salinas Valley.

B. MCWRA's Ordinance No. 03790 was adopted by the MCWRA Board of Supervisors on November 8, 1994. Ordinance No. 03790 provides for the management of all groundwater wells within the Castroville Seawater Intrusion Project ("CSIP") area, known as Zone 2B, following completion and start-up of CSIP. The Ordinance prohibits and otherwise restricts pumping from groundwater wells in Zone 2B, and it provides for the classification of the various wells, for the maintenance and limited operation of standby wells, and for the destruction of abandoned wells, contaminated wells, wells that allow cross-contamination of aquifers in intruded areas, and other wells.

C. Ordinance No. 03790 establishes a procedure for the destruction of wells, a variance procedure, an appeals procedure, and penalties for violations of the Ordinance. With regard to destruction of wells, Sections 1.03.04 and 1.03.05 state that MCWRA shall bear the costs of destroying certain wells within Zone 2B.

D. In October 2017, MCWRA issued a report with recommendations to slow or halt further seawater intrusion in the Salinas Valley Groundwater Basin (MCWRA, *Recommendations to Address the Expansion of Seawater Intrusion in the Salinas Valley*)

*Groundwater Basin*, Special Reports Series 17-01, October 2017; hereafter “Recommendations Report”). The Recommendations Report suggested initiating and diligently proceeding with destruction of wells in Zone 2B.

E. On May 19, 2020, the MCWRA Board of Supervisors approved entering into a funding agreement with the State Water Resources Control Board (“SWRCB”) to receive and implement a Proposition 1 grant for the destruction of wells in the Salinas Valley Groundwater Basin.

F. In June 2020, MCWRA entered into grant agreement D1912532 with the SWRCB to partially fund the Protection of Domestic Drinking Water Supplies for the Lower Salinas Valley project (“Project”), the purpose of which was to destroy abandoned wells to prevent conduits that allow vertical migration of seawater and nitrate contaminated groundwater into the aquifers of the Salinas Valley Groundwater Basin.

G. Grant agreement D1912532 with the SWRCB provides 54% of the funding for well destructions completed in the Project area, which includes the entirety of MCWRA Zone 2B, thereby offsetting direct costs to MCWRA for the destruction of wells required pursuant to Sections 1.03.04 and 1.03.05 of Ordinance No. 03790.

H. MCWRA has conducted fifteen months of outreach during the Project, including verbal presentations to stakeholder groups and written notifications, pursuant to Section 1.03.06 of Ordinance No. 03790, to well owners and well operators for specific wells that were identified for destruction.

I. After the Project’s Work Completion Date on February 28, 2023, some wells will remain in Zone 2B for reasons including, but not limited to: ineligibility for destruction as part of the Project; well owner appeal of MCWRA’s decision to destroy the well; owner was non-responsive to MCWRA’s outreach efforts; well owner has declined to sign the well permit application form that is necessary for MCWRA to initiate destruction of a well; or well is exempt from destruction pursuant to Section 1.03.02 of Ordinance No. 03790.

J. MCWRA does not have a funding source for destruction of wells once the Project concludes. Therefore, property owners and growers in Zone 2B who are electing to maintain and operate wells in conformance with Ordinance No. 03790, or who have chosen not to have their wells destroyed as part of the Project through a direct statement or non-responsiveness, will assume full responsibility for destruction of their wells, including bearing the cost of destruction.

SECTION 2. Section 1.03.04 of Ordinance No. 03790 is hereby amended to read as follows:

Each well meeting any of the criteria set forth below, other than wells which are required to be destroyed pursuant to Section 1.03.03, shall be destroyed by ~~MCWRA~~the property owner or well owner within two years after ~~start-up of the Castroville Seawater Intrusion Project~~the Work Completion Date of the Protection of Domestic Drinking Water Supplies for the Lower Salinas Valley Project on February 28, 2023 or as otherwise amended. ~~All costs for destruction~~

~~of such wells shall be borne by the MCWRA. The General Manager may extend the time for destruction of such wells when funds are not available or budgeted for such purpose. The criteria for such wells are as follows:~~

A. Any well that is found by the General Manager to be perforated in both the 180-foot aquifer and any underlying aquifer; ~~or -~~

B. Any well that is found by the General Manager to have perforations in two aquifers, improper seals, or other improper construction or condition of the well, such that the well provides an actual or potential conduit for water in a seawater intruded area of an aquifer to enter a non-intruded area of a separate aquifer.

SECTION 3. Section 1.03.05 of Ordinance No. 03790 is hereby amended to read as follows:

Each well that is not exempt from destruction, and that is not required to be destroyed pursuant to section 1.03.03 or 1.03.04, shall be destroyed ~~pursuant to this section in conformity with a schedule adopted by the MCWRA Board of Directors. Said schedule shall provide that the destruction of such wells shall not begin (a) until the Castroville Seawater Intrusion Project has established a satisfactory record of water deliveries, as determined by the Board of Directors, or (b) until at least one year after the start-up of the Castroville Seawater Intrusion Project, whichever occurs later within two years following after the Work Completion Date completion of the Protection of Domestic Drinking Water Supplies for the Lower Salinas Valley project on February 28, 2023 or as otherwise amended.~~

~~Said schedule may provide for destruction to be completed within three years after project start-up. The Board of Directors may delegate authority to the General Manager to amend the schedule from time to time. Said wells shall be destroyed by the MCWRA property owner or well owner in accordance with the methods prescribed or referenced in Monterey County Code Chapter 15.08. The MCWRA shall bear the cost of such destruction.~~

SECTION 4. Section 1.03.06 of Ordinance No. 03790 is hereby repealed in its entirety. ~~Procedure for Destruction of Wells~~

~~At least 90 days before the MCWRA destroys any particular well, the General Manager shall give written notice to the owner of the well that the well will be destroyed. Notice shall be deemed sufficient if sent by registered or certified U.S. mail, return receipt requested, to the name and address shown as that of the owner of the real property on which the well is located, in the latest available official records of the Monterey County Assessor. The notice shall identify the well in question and the property on which it is located and shall advise the owner of the proposed action to be taken, the proposed timing of the action, and his or her right of appeal as provided herein. The notice shall further state that if the property on which the well is located is leased, the owner must provide a copy of the notice to the tenant, and tenant on the property will also have a right of appeal.~~

SECTION 5. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 5. EFFECTIVE DATE.

This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2022, by the following vote:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
Chair Supervisor Mary L. Adams  
Monterey County Board of Supervisors

A T T E S T:  
Valerie Ralph  
Clerk of the Board of Supervisors

By: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:

\_\_\_\_\_  
Kelly L. Donlon  
Assistant County Counsel