

**INTERIM ORDINANCE NO. 5176**

**AN INTERIM ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, EXTENDING INTERIM URGENCY ORDINANCE NO. 5160 AS AMENDED AND EXTENDED BY INTERIM ORDINANCE NO. 5163, UNTIL AND THROUGH MAY 24, 2012, TEMPORARILY PROHIBITING THE ACCEPTANCE AND PROCESSING OF WATER WELL APPLICATIONS AND ISSUANCE OF WATER WELL PERMITS, WITH LIMITED EXCEPTIONS, ON PARCELS OF LESS THAN 2.5 ACRES WITHIN A PORTION OF THE CALIFORNIA AMERICAN WATER COMPANY-MONTEREY DISTRICT MAIN SYSTEM SERVICE AREA WITHIN THE UNINCORPORATED COUNTY, PENDING THE COUNTY'S CONSIDERATION OF ADDITIONAL WELL REGULATIONS**

**County Counsel Summary**

*This ordinance extends Interim Urgency Ordinance No. 5160, as previously modified and extended by Interim Ordinance No. 5163, until and through May 24, 2012. Interim Ordinance No. 5160, adopted on May 25, 2011 pursuant to Government Code Section 65858, prohibited for a 45-day period the acceptance and processing of water well applications and issuance of water well permits, with limited exemptions, on parcels that are less than 2.5 acres and underlain by fractured rock within a defined Study Area. The Study Area is the California American Water Company-Monterey District Main System service area in the unincorporated area of the County of Monterey, excluding the Carmel River Alluvial Aquifer and the Carmel Highlands Onsite Wastewater Management Plan area. Interim Ordinance No. 5163, adopted on June 29, 2010, extended the ordinance until May 24, 2011 with slightly expanded exemptions. This ordinance would extend through May 24, 2012 the temporary prohibitions on accepting and processing water well applications and issuance of water well permits which were enacted by Interim Ordinance Nos. 5160 and 5163. Based upon the threat to public health and safety, this is an urgency ordinance requiring a four-fifths vote of the Board of Supervisors for adoption.*

The Board of Supervisors of the County of Monterey ordains as follows:

**SECTION 1. FINDINGS AND DECLARATIONS**

A. On May 25, 2010, the Board of Supervisors adopted a 45-day interim urgency ordinance, Interim Urgency Ordinance No. 5160 ("Ordinance"), pursuant to Government Code section 65858. The Ordinance temporarily prohibits the acceptance and processing of water well applications and issuance of water well permits, with limited exemptions, on parcels that are

less than 2.5 acres and underlain by fractured rock within a defined Study Area. The Study Area is the California American Water Company-Monterey District Main System service area in the unincorporated area of the County of Monterey, excluding the Carmel River Alluvial Aquifer and the Carmel Highlands Onsite Wastewater Management Plan area. The Ordinance is attached hereto as Exhibit 1 and incorporated herein by reference.

B. Pursuant to Government Code section 65858(a), on June 29, 2010, prior to the expiration date of the Ordinance (July 9, 2010) and following a noticed public hearing, the Board of Supervisors adopted Interim Ordinance No. 5163, which extended and modified the Ordinance for 10 months and 15 days. Interim Ordinance No. 5163 is attached hereto as Exhibit 2 and incorporated herein by reference. Absent a further extension of the Ordinance, it will expire on May 24, 2011, which is 10 months and 15 days from July 9, 2010.

C. On May 3, 2011, at least ten days before the expiration of Interim Urgency Ordinance No. 5160 as modified and extended by Interim Ordinance No. 5163, the Board of Supervisors issued a written report pursuant to Government Code 65858(d) describing the measures the County of Monterey has taken and continues to take in order to alleviate the conditions which led to the adoption of said Ordinance.

D. Pursuant to Government Code section 65858, after notice and public hearing, the Board may by four-fifths vote extend the Ordinance for one additional year, until and through May 24, 2012, if the Board finds that there is a current and immediate threat to the public health, safety, or welfare and that the approval of entitlements for use would result in that threat to public health, safety, or welfare.

E. In enacting Interim Urgency Ordinance Nos. 5160 and 5163, the Board made several findings and declarations constituting the grounds upon which the Ordinance and its extension are based. Among other findings, the Board found that, in the absence of additional study and revision of the County's current regulations, construction of an unlimited number of water supply wells on small lots underlain by fractured rock in the densely populated unincorporated area within the California American Water Company – Monterey District Main System service area would pose a current and immediate threat to the public health, safety, and welfare.

F. The Board of Supervisors' findings and declarations contained in Interim Urgency Ordinance Nos. 5160 and 5163 remain and continue to be true under the present circumstances and are incorporated herein in their entirety by this reference. The extension of the Ordinance for one additional year is necessary for continued study of wells in the Study Area and development of potential regulatory revisions for presentation to the Board of Supervisors. In light of the findings and declarations in Interim Urgency Ordinance Nos. 5160 and 5163 and the findings and declarations contained herein, the Board finds that a current and immediate threat to the public health, safety, and welfare continues to exist, necessitating the extension of Interim Urgency Ordinance No. 5160, as modified and extended by Interim Ordinance No. 5163, until and through May 24, 2012.

G. On May 17, 2011, prior to adoption of this extension of the Ordinance, the Board of Supervisors held a duly noticed public hearing on the proposed extension.

## SECTION 2. EXTENSION

Based on all of the foregoing findings and declarations, the Board of Supervisors hereby extends Interim Urgency Ordinance No. 5160, as modified and extended by Interim Ordinance No. 5163, until and through May 24, 2012.

## SECTION 3. EFFECTIVE DATE.

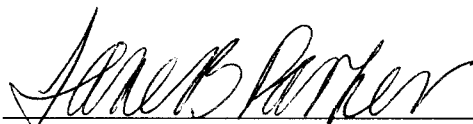
Pursuant to the findings and declarations set forth in this ordinance and set forth in Interim Urgency Ordinance Nos. 5160 and 5163 and incorporated herein by reference, the Board declares that this ordinance extending Interim Urgency Ordinance No. 5160, as modified and extended by Interim Ordinance No. 5163, is necessary for the protection of public health, safety, and welfare, and shall take effect immediately. Interim Urgency Ordinance No. 5160, as modified and extended by Interim Ordinance No. 5163 and as extended by this ordinance, shall be of no further force and effect upon its expiration pursuant to Section 2.

**PASSED AND ADOPTED** this 17 day of May, 2011, by the following vote:

AYES: Supervisors Armenta, Calcagno, Parker, Salinas, Potter

NOES: None

ABSENT: None



Jane Parker

Chair, Monterey County Board of Supervisors

ATTEST:

GAIL T. BORKOWSKI  
Clerk of the Board of Supervisors

By 

Deputy

APPROVED AS TO FORM:



LEROY W. BLANKENSHIP  
Assistant County Counsel