

ORDINANCE NO. 5303

AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, ADOPTED PURSUANT TO GOVERNMENT CODE SECTION 65858, TO EXTEND INTERIM ORDINANCE NO. 5302 TEMPORARILY PROHIBITING NEW WELLS IN SEAWATER INTRUDED AQUIFERS, WITH SPECIFIED EXEMPTIONS, PENDING THE COUNTY'S STUDY AND CONSIDERATION OF REGULATIONS.

County Counsel Summary

This ordinance extends Interim Ordinance No. 5302 through May 21, 2020. Ordinance No. 5302 is an urgency measure adopted by the Board of Supervisors on May 22, 2018 to prohibit, on a temporary basis and pending the development of new regulations, approval of new wells in a defined "Area of Impact" and in the Deep Aquifers of the Salinas Valley Groundwater Basin in the unincorporated area of Monterey County, due to the immediate threat to the public health, safety and welfare posed by new wells in these areas. The Area of Impact is that area where the Pressure 180-Foot and Pressure 400-Foot Aquifers have already been impacted by seawater intrusion or where seawater intrusion is actively advancing in the Salinas Valley Groundwater Basin, according to Monterey County Water Resources Agency data. The prohibition on drilling new wells in the Deep Aquifers applies in the portions of the 180/400-Foot Aquifer Subbasin and the Monterey Subbasin within the Area of Impact; additionally, testing is required of new wells in those subbasins outside of the Area of Impact to prevent extraction of water from the Deep Aquifers. The following types of new wells are exempt from the ordinance: wells operating under the auspices of the Castroville Seawater Intrusion Project (CSIP); domestic wells; monitoring wells owned and maintained by the Monterey County Water Resources Agency or other water management agencies; municipal water supply wells; and replacement wells that meet specified criteria. Ordinance No. 5302, an interim urgency ordinance adopted pursuant to Government Code section 65858, will expire on July 5, 2018 unless extended. With adoption of this extension ordinance, Ordinance No. 5302 will remain in full force and effect for an additional 22 months and 15 days unless sooner terminated by the Board of Supervisors. Adoption of this ordinance requires a four-fifths vote of the Board of Supervisors.

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

SECTION 1. FINDINGS AND DECLARATIONS

A. Pursuant to Article XI, section 7 of the California Constitution, the County of Monterey ("County") may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens.

B. Pursuant to Government Code section 65858, to protect the public safety, health, and welfare, the County may, as an urgency measure, adopt an interim ordinance temporarily prohibiting land uses that may be in conflict with contemplated land use regulations that the County is studying or considering or intends to study within a reasonable time. An interim ordinance adopted pursuant to Government Code section 65858 expires after 45 days, unless the Board extends the ordinance following notice and public hearing. Where, as here, the initial ordinance was adopted following notice and public hearing, the Board may extend the ordinance for up to an additional 22 months and 15 days, if the extension is warranted based on findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of the additional land use entitlements which are the subject of the ordinance would result in that threat to the public health, safety, or welfare.

C. On May 22, 2018, following a noticed public hearing, the Board of Supervisors adopted Ordinance No. 5302, an interim urgency ordinance of 45 day duration, to prohibit, on a temporary basis and pending the development of new regulations, approval of new wells in a defined "Area of Impact" and in the Deep Aquifers of the Salinas Valley Groundwater Basin in the unincorporated area of Monterey County, due to the immediate threat to the public health, safety, and welfare posed by new wells in these areas. The ordinance has specified exemptions. Ordinance No. 5302 will expire on July 5, 2018 unless extended. Ordinance No. 5302 is attached hereto as Attachment 1 and incorporated herein by reference.

D. The Board of Supervisors hereby incorporates and reaffirms all of the findings of Ordinance No. 5302.

E. In addition to the findings in Ordinance No. 5302, the Board finds that there is a continuing current and immediate threat to the public health, safety, or welfare from drilling of new wells in the defined Area of Impact and Deep Aquifers and that the approval of new wells would result in that threat to the public health, safety, or welfare, pending the development of a plan for the sustainable management of the 180/400 Foot Aquifer Subbasin and the study and implementation of other steps to address seawater intrusion in the Pressure 180-Foot and Pressure 400-Foot Aquifers. An extension of Ordinance No. 5302 for an additional 22 months and 15 days beyond the July 5, 2018 original expiration date is warranted to enable the study and development of regulations. As set forth in the Ordinance No. 5302's findings, pursuant to the Monterey County General Plan and/or the Sustainable Groundwater Management Act, additional regulations to address seawater intrusion in the Salinas Valley Groundwater Basin and to address groundwater sustainability are expected to be developed by 2020.

F. On June 19, 2018, the Board of Supervisors issued a report on the measures taken to alleviate the conditions which led to the adoption of the interim ordinance, which measures include posting a copy of Ordinance No. 5302 and its Exhibits A and B on the County's Health Department website and notification to well drillers of Ordinance 5302. The Environmental Health Bureau has implemented Ordinance No. 5302 since May 22, 2018.

G. The Board of Supervisors conducted a noticed public hearing on June 26, 2018 to consider extending Ordinance No. 5302 until May 21, 2020, which is 22 months and 15 days from the date the ordinance would otherwise expire. Notice of the public hearing was published

in the *Monterey County Weekly* on June 14, 2018 in accordance with Government Code section 65090.

H. The adoption of this ordinance extending Interim Ordinance No. 5302 is statutorily exempt from the California Environmental Quality Act because it is an urgency measure necessary to protect the County from a current and immediate threat to the public health, safety and welfare. The extension of the ordinance also protects natural resources and the environment and therefore would also be categorically exempt pursuant to CEQA Guidelines sections 15307 and 15308.

SECTION 2. EXTENSION OF ORDINANCE NO. 5302

Ordinance No. 5302 is hereby extended in its entirety through May 21, 2020, unless sooner terminated by the Board of Supervisors. Except for the change in expiration date, all other terms of Ordinance No. 5302 are and shall remain in full force and effect.

SECTION 3. EFFECTIVE DATE

This ordinance is an urgency measure adopted pursuant to Government Code section 65858 and shall take effect immediately upon adoption.

PASSED AND ADOPTED this 26th day of June 2018, by the following vote:

AYES: Supervisors, Alejo, Phillips, Salinas and Adams

NOES: Supervisor Parker

ABSTAIN: None

ABSENT: None

/s/ Luis Alejo
Luis A. Alejo
Chair, Monterey County Board of Supervisors

A T T E S T:

Valerie Ralph
Clerk of the Board of Supervisors

By: /s/ Valerie Ralph
Deputy

APPROVED AS TO FORM
/s/ Wendy S. Strimling
WENDY S. STRIMLING Senior Deputy County Counsel