



Legislation Details (With Board Report)

File #: 20-743 **Name:** Urgency ord. board report suspend well apps
Type: General Agenda Item **Status:** Passed - County Counsel Office
File created: 9/11/2020 **In control:** Board of Supervisors
On agenda: 9/15/2020 **Final action:** 9/15/2020
Title: Introduce, waive reading, and adopt an urgency ordinance suspending for ninety (90) days the processing of all applications for construction of water wells, with a specified emergency exemption, in order to study the impact of the California Supreme Court case *Protecting our Water and Environmental Resources et al., v. County of Stanislaus, et al.*, California Supreme Court case no. S251709, on Chapter 15.08 of the Monterey County Code (4/5th vote). (ADDED VIA ADDENDA)

Sponsors:

Indexes:

Code sections:

Attachments: 1. Board Report, 2. Urgency ord suspend well apps final, 3. Board Report (Signed Version), 4. Item No. 18.1 Completed Board Order and Ordinance No. 5339

Date	Ver.	Action By	Action	Result
9/15/2020	2	Board of Supervisors		

Introduce, waive reading, and adopt an urgency ordinance suspending for ninety (90) days the processing of all applications for construction of water wells, with a specified emergency exemption, in order to study the impact of the California Supreme Court case *Protecting our Water and Environmental Resources et al., v. County of Stanislaus, et al.*, California Supreme Court case no. S251709, on Chapter 15.08 of the Monterey County Code (4/5th vote). (ADDED VIA ADDENDA)

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt an urgency ordinance suspending for ninety (90) days the processing of all applications for construction of water wells, with a specified emergency exemption, in order to study the impact of the California Supreme Court case *Protecting our Water and Environmental Resources et al., v. County of Stanislaus, et al.*, California Supreme Court case no. S251709, on Chapter 15.08 of the Monterey County Code (4/5th vote).

SUMMARY/DISCUSSION:

On August 27, 2020, the California Supreme Court issued its decision in the case *Protecting our Water and Environmental Resources et al., v. County of Stanislaus, et al.*, California Supreme Court case no. S251709. That decision may require environmental review, pursuant to the California Environmental Quality Act, when the County considers applications to drill and construct water wells if the decision to issue the permit involves the exercise of discretion by the decision-making authority.

Chapter 15.08 of the Monterey County Code sets forth the application and decision-making process for the County in considering applications for the drilling and construction of water wells. The Chapter sets forth some regulations that would appear to be purely ministerial in their application; however, the Chapter also allows the Health Officer (the approving authority for water well permits) to impose other, unspecified conditions, grant variances, and deny an application if in his/her judgment it would defeat the purposes of the Chapter, which could be considered discretionary authority making the approval of such permits subject to environmental review.

There are currently a number of water well permit applications pending, and others will undoubtedly be filed in the future. The consideration of those applications may implicate the Supreme Court case, and it is appropriate to immediately suspend, for a period not to exceed ninety (90) days, the processing of all water well construction permit applications so that County Counsel and staff of the Health Department may assess the impact of the case on Chapter 15.08, and make any necessary or appropriate recommendations to the Board of Supervisors.

A limited emergency exception to the permit application suspension is appropriate, where a catastrophic event, such as a casing collapse, or other emergency condition that makes an existing water well physically unable to operate exists, or is imminent. In such a circumstance, as determined by the County, a new well may be drilled complying with specific, ministerial requirements.

OTHER AGENCY INVOLVEMENT:

The Health Department concurs in the recommendation. County Counsel has approved the ordinance 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

Prepared by: Leslie J. Girard, County Counsel, x5365

Approved by: _____
Leslie J. Girard, County Counsel, x5365

Attachments: Draft urgency ordinance