



County of Monterey

Item No.20.1

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

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- a. Receive a presentation on Assembly Bill 2728 (Soria) Groundwater: De Minimis Extractors Fees: Exemption; and
- b. Approve sponsoring Assembly Bill 2728 and provide other direction to staff as necessary.
(ADDED VIA ADDENDA)

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Receive a presentation on AB 2728 (Soria) Groundwater: De Minimis Extractors Fees: Exemption; and,
- b. Approve sponsoring AB2728 and provide other direction to staff as necessary.

SUMMARY

AB 2728 would allow a local government to exempt “de minimis extractors,” as that term is defined in Section 10721 of the California Water Code, from payment of any fee for groundwater monitoring or management activities that directly benefit parties other than de minimis extractors, and if the benefits received by de minimis extractors occur incidentally and without additional cost to the other fee paying parties.

While de minimis extractors may hold a proportionally large number of wells in any given groundwater basin, their extraction of groundwater is generally, proportionately small. In groundwater basins where the monitoring program is funded by a regulatory fee structured on a per-well basis, the practical effect is regressive: a household drawing two acre-feet per year for domestic use pays essentially the same as an extractor pumping a thousand acre-feet. The financial disparity can be significant, especially for lower-income rural households for whom a flat per-well charge is a material cost.

AB 2728 closes the disparity gap by allowing local governments to exempt de minimis extractors and recover costs from larger extractors who drive the need for Sustainable Groundwater Management Act (SGMA) implementation. Monitoring program costs do not change. AB 2728 is a proportionality correction, not a new burden, that protects the long-term durability of monitoring upon which all Groundwater Sustainability Plans (GSPs) rely.

BACKGROUND/DISCUSSION

In 2014, the California legislature enacted the Sustainable Groundwater Management Act (SGMA) for the purpose of achieving and maintaining sustainability in the State’s groundwater basins. The California Department of Water Resources (DWR) was delegated authority to identify groundwater

basins and prioritize management actions. Today's SGMA efforts are focused on high and medium priority basins, as designated by DWR, to achieve sustainability by 2040 or 2042, respectively. In the Monterey County portion of the Salinas Valley Basin (Basin), DWR designated seven groundwater subbasins. Generally, from south to north, beginning at the San Luis Obispo County line, they are:

- Upper Valley Aquifer
- Forebay Aquifer
- 180/400 Foot Aquifer
- Eastside Aquifer
- Seaside Aquifer
- Monterey Aquifer
- Langley Area Aquifer

Key tenets of SGMA are the preservation of *local control*, the *use of best available data and science*, and *active engagement with and consideration of all beneficial uses and users* of groundwater. SGMA allows localities to form Groundwater Sustainability Agencies (GSAs) to develop, achieve, and manage groundwater basins sustainably. Locally, the Salinas Valley Basin Groundwater Sustainability Agency (SVB) was formed in 2017 to manage the preponderance of the Basin, in cooperation with other local entities, including the Monterey County Water Resources Agency (Agency). The SVB has prepared six Groundwater Sustainability Plans (GSPs) to address the specific, and differing, characteristics of each subbasin. The important elements of each GSP include:

- Sustainability goals;
- Description of the subbasin geographic boundaries, i.e. "Plan Area";
- Description of the subbasin, including groundwater conditions and a water "budget";
- Locally defined "Sustainable Management Criteria";
- Monitoring protocols for each sustainability indicator;
- Description of project and/or management actions to achieve sustainability.

In order to reliably implement its monitoring networks, the SVB partnered with the Agency to develop a new groundwater monitoring ordinance, adopted in October 2024. The decision for the SVB to partner with the Agency was driven by stakeholder support for leveraging the Agency's groundwater monitoring expertise and historical, long-term trend data to avoid creating a duplicative program, with additional costs. The partnership establishes one cohesive Groundwater Monitoring Program (GMP) to comply with the SGMA driven monitoring requirements, while ensuring efficiency and transparency. The key goal is to improve the availability of accurate, timely, and reliable groundwater information, which aids in effectively managing all water resources. To consistently meet the SGMA monitoring requirements, the Agency had to establish a reliable funding mechanism to recover the reasonable costs necessary to implement the GMP, which was done through development of regulatory fees under Proposition 26.

The Agency and SVB recognize that, notwithstanding SGMA was enacted over 10 years ago, to many, especially de minimis extractors, SGMA requirements, the GMP, and the associated regulatory fee is unfamiliar. To help facilitate GMP implementation, the SVB made available DWR grant funds to cover the full cost of the GMP for the 2025-2026 fiscal-year. For future fiscal-years, the Agency was

directed to explore alternative funding mechanisms for de minimis well extractors. The Agency explored four alternatives: exercising its independent taxing authority, which would require a two-thirds vote for approval; secure funding through the SVB's cost allocation and recovery mechanisms; secure funding from the County of Monterey's revenue sources; and/or develop a legislative solution. The SVB option was analyzed and dismissed because it resulted in higher fees for de minimis extractors in some SVB subbasins. The County option is in process with an Agency request for one-time Measure AA funding to cover the de minimis extractors GMP costs for the 2026-2027 fiscal-year. The long-term solution is being pursued through development of a legislative solution.

OTHER AGENCY INVOLVEMENT/COMMITTEE ACTIONS:

Monterey County Water Resources Agency

FINANCING:

Support for AB 2728 has no fiscal impact.

BOARD OF SUPERVISORS STRATEGIC PLAN GOALS:

By sponsoring this bill, the County of Monterey is supporting constituents facing high water fees due to legislation and a ballot proposition that had unintended consequences for de minimis well water users. The County of Monterey continues to struggle with water usage as a whole and this legislation would positively impact constituents of District 2 and District 3 who have been grappling with this issue for years.

Mark a check to the related Board of Supervisors Strategic Plan Goals:

- Well-Being and Quality of Life
- Sustainable Infrastructure for the Present and Future
- Safe and Resilient Communities
- Diverse and Thriving Economy

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Attachments: AB 2728 Language