



NOTICE OF CATEGORICAL EXEMPTION

Sonoma County Permit and Resource Management Department

2550 Ventura Avenue, Santa Rosa, CA 95403
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Sonoma County proposes to carry out the following project. Pursuant to Section 23A of the Sonoma County Code, it has been determined that this project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA):

Project Title: Amendment to the Sonoma
County Well Ordinance

Public Agency: Sonoma County

Project Applicant: County

Applicant Address: 2550 Ventura Ave.,
Santa Rosa CA 95403

Project Location: County wide

Date of Approval: August 09, 2022

To:

County Clerk- Recorder Office Office of Planning and
County of Sonoma Research

585 Fiscal Drive, Room 103
Santa Rosa, CA 95403

P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

DESCRIPTION OF NATURE, PURPOSE AND BENEFICIARIES OF THE PROJECT:

Amendment to Sonoma County Code Chapter 25B (Well Ordinance) to Add Provisions for Evaluation of Impacts to Public Trust Resources and Well Metering, and to Make Related and Technical Changes; and Set a Fee for Discretionary Well Permit Applications.

The proposed ordinance provides a framework to guide the County's consideration of impacts to public trust resources when permitting new water supply wells that could harm a navigable waterway. It also provides for a metering requirement for certain new wells, and makes other related and technical changes.

"Public trust resources" are waterways the government is obligated to hold in trust pursuant to the public trust doctrine for the benefit of the public for purposes of commerce, navigation, recreation, fishing, and preservation of wildlife habitat and natural resources. The "public trust doctrine" is a common law legal doctrine, reflected in Article X, section 4 of the California Constitution, that continues to develop and evolve through published judicial decisions. The 2018 decision by the California Court of Appeals for the Third Circuit in *Environmental Law Foundation vs. State Water Resources Control Board (ELF)* found that public trust responsibility of the state and counties extends to consideration of impacts to public trust resources when making groundwater decisions that could harm a navigable waterway.

In response to such case law, staff has developed proposed ordinance amendments to guide the County's exercise of its public trust responsibility to consider impacts to public trust resources when issuing groundwater well permits that could cause harm to public trust resources in interconnected navigable surface waters.

Sonoma County's current well ordinance adopted on July 28, 2015 (Ordinance No. 6121), and codified at Chapter 25B of the County Code, regulates well construction, destruction, water treatment, and setbacks, but does not explicitly address consideration of impacts to public trust resources. The

proposed amendments to the well ordinance include a new section 25B-4(d) titled “Public Trust Resource Limitation” to guide the County’s consideration of impacts to public trust resources prior to issuance of a permit for a new water supply well.

As proposed, well permit applications will be required to include additional supporting information and studies (e.g. water use estimates, construction details, hydrogeologic reports, etc.) considered necessary to complete the evaluation of impacts to public trust resources. Where a permit application requires a public trust determination, that determination is discretionary. Permit applications not requiring a public trust determination will remain subject to ministerial standards.

The proposed ordinance ensures that the issuance of a new water well permit will not substantially impair a public trust resources after the imposition of feasible mitigation measures. Any interested person may appeal to the Board of Supervisors the determination of the Permit and Resource Management Department, which is the “enforcing agency,” under the ordinance for new water supply wells, concerning whether the proposed well would or would not substantially impair a public trust resource. Additionally, regardless of an interested party appeal, or concurrently with an appeal, the Department may elevate a permit application to the Board of Supervisors where the health, safety and welfare needs of the community, including the need for drinking water, may warrant approval of the permit in accordance with overriding considerations on balance with public trust considerations.

The proposed well includes a limited ministerial path for replacement water supply wells that are metered, with annual meter reporting, capped at 2.0 acre feet annually, and that serve only existing legally established domestic uses on the parcel on which the well is located. The proposed ordinance amendments also provide for requests for expedited review of well permit applications that are necessary due to emergency circumstances, while eliminating the provision for emergency well drilling without review and approval by the County before drilling occurs.

EXEMPT STATUS:

Categorical Exemptions Sections 15307 for actions by regulatory agencies for protection of natural resources, 15308 Actions by Regulatory Agencies for Protection of the Environment, and Section 15061(b)(3) common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Fee changes which are for the purpose of meeting operating expenses are similarly exempt. (Public Resources Code §21080 and 14 CCR §15273.)

REASON WHY THIS PROJECT IS EXEMPT:

Adoption of the proposed ordinance amendments to Chapter 25B and at-cost fee are exempt pursuant to the categorical exemptions provided at State CEQA Guideline §15307 for Actions by Regulatory Agencies for Protection of Natural Resources and §15308 for Actions by Regulatory Agencies for Protection of the Environment because the amendments are regulatory in nature and are designed to assure the maintenance, restoration, or enhancement or protection of natural resources and the environment and at §15061(b)(3) because the amendments and associated fee create and fund an application review process designed to public trust resources, where no exception to applicability of the exemptions under §15300.2, and because it can be seen with certainty that there is no possibility that this ordinance or application fee may have a significant effect on the environment. Similarly, CEQA does not apply to fee changes pursuant to this ordinance as such fees are for the purpose of meeting operating expenses (Public Resources Code §21080 and 14 CCR §15273).

The County's to approve the ordinance and fee will not authorize any construction activities, but instead impose requirements, consistent with existing law, to consider impacts to public trust resources via discretionary permit applications, subject to an at-cost fee, and to facilitate data collection through metering, and to make other related changes, none of which result in any direct physical change to the environment on their own, and which are designed to be protective of public trust resources and the environment. Discretionary applications for new water supply wells under the amended ordinance must comply with CEQA, unless exempt. Ministerial applications remain exempt from CEQA.

This Notice of Exemption is filed pursuant to the provisions of Section 15062 of the State CEQA Guidelines.

Lead Agency Contact Person:

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