

WELL ORDINANCE AMENDMENT

PUBLIC TRUST REVIEW PROCESS, AT COST FEE, WELL METERING,
AND OTHER TECHNICAL CORRECTIONS

Nathan Quarles, Deputy Director of Construction and Engineering

August 09, 2022

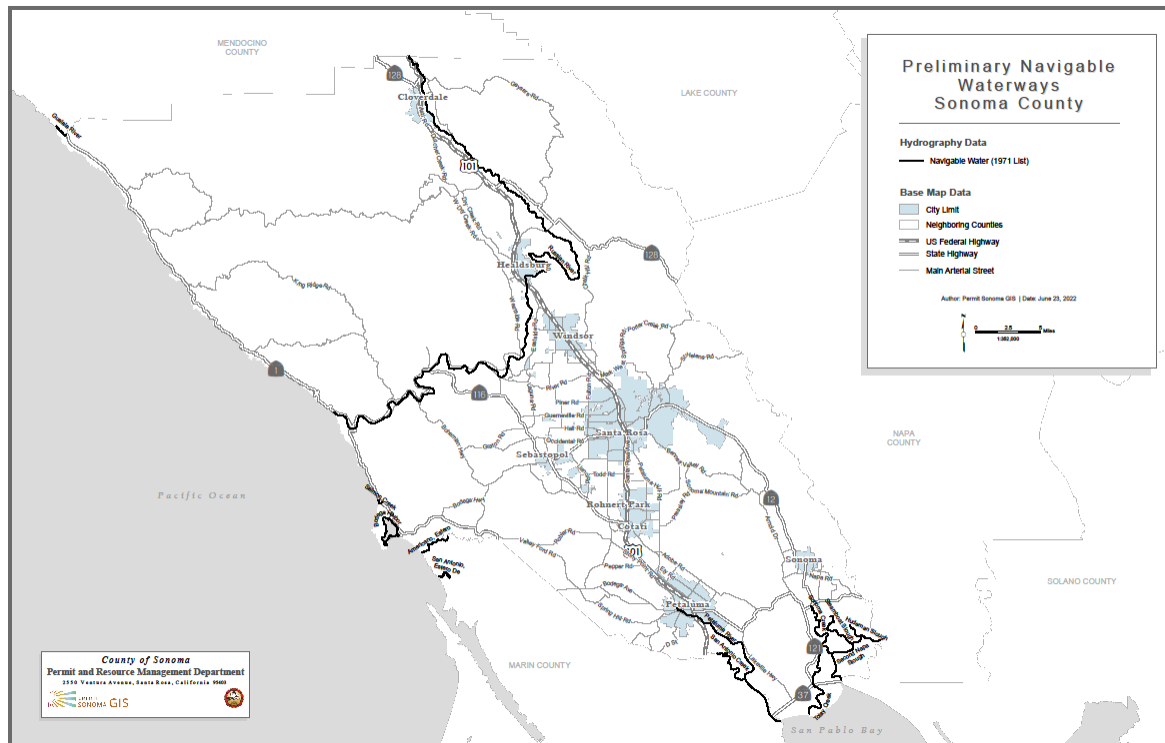
Public Trust Resources

- Navigable waterways that, pursuant to the Public Trust Doctrine, the government is obligated to hold in trust for the benefit of the public for purposes of commerce, navigation, recreation, fishing, and preservation of wildlife habitat and natural resources.



Public Trust Resources

- Navigable waterways: “capable of being navigated by oar or motor-propelled small craft” California public right of navigation test



Public Trust Resources



- Main Navigable waterways:
- Russian River (Pacific Ocean to County line)
- Petaluma River (SF Bay to downtown)
- Sonoma Creek (SF Bay to Hwy 12/121)

Legal Rulings

- 1983, California Supreme Court in *National Audubon Society v. Superior Court*
 - ▣ Public Trust Doctrine “protects navigable waters from harm caused by diversion of non-navigable tributaries.”

- 2018, California Court of Appeals in *Environmental Law Foundation (ELF) v. State Water Resources Control Board.*,
 - ▣ Public Trust Doctrine applies to permitting of groundwater wells if extraction of groundwater adversely impacts a navigable waterway

Background



- 2015 – last major changes to Well Ordinance
- 2018 – Ruling on ELF case finding Public Trust Doctrine applies to groundwater wells
- 2021 - California Coastkeeper Alliance filed a lawsuit against the County of Sonoma seeking compliance with Public Trust Doctrine when issuing well permits

Proposed Public Trust Review

- Adding several definitions
- County shall not issue a well permit if it will have an adverse impact on public trust resources
- Applications will be required to provide information to assess potential impacts on public trust resources.
- County will produce written findings relative the potential impacts

Proposed Public Trust Review

- ❑ Any person can appeal the County's determination to Board of Supervisors
- ❑ Board can approve the issuance of a prohibited well
- ❑ Board can establish criteria so that certain well applications can be treated as ministerial permits
- ❑ Domestic replacement wells are exempted

Well Monitoring

Well Meters on New Water Supply Wells

- Requires a totalizing water meter be installed for permits issued after January 1, 2023,
- Quarterly Readings
- Annual Reporting
- Exception for water wells:
 - ▣ Limited to 2 ac-ft or less
 - ▣ Domestic land use

At Cost Fee for Discretionary Wells

- Current well fees are flat fees
- Proposing an At-Cost fee
- Minimum deposit of \$1392, equivalent to 8 hours of review time by Engineer or Professional Geologist
- Any remaining balance will be returned to applicant once permit processing is complete

Future Staffing and Monitoring Fees

- Program development
- Anticipate 50 to 100 well permits per year
- Public Trust Impact Evaluation
 - ▣ Eight hours per application
- Well monitoring data
- Anticipate ½ of a position
- Evaluate staffing needs in six months

Other Changes

- Discretionary Applications
- Emergency Wells
- Removes the one year application term for discretionary water well permits.
- Notification of well seal

Recommendation

- ❑ Adopt ordinance amending SCC Chapter 25B
 - ❑ Creates Discretionary Review
 - ❑ New Water Wells
 - ❑ Public Trust Resources
 - ❑ Exempts Replacement Wells
 - ❑ Requires Water Meters on New Wells
 - ❑ Except for Small Domestic Uses