

# WELL ORDINANCE AMENDMENT

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

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# Public Trust Doctrine

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- Legal doctrine, in CA constitution, mandates that the government hold certain natural resources ‘in trust’ for the benefit of current and future generations
- Public trust purposes or uses include commerce, recreation, fishing, wildlife habitat, and preservation of trust lands in their natural state
- Resources held in trust include tidelands and inland “navigable waters”



# Public Trust Resources

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## Navigable waterways of Sonoma County:

- ❑ Russian River (Pacific Ocean to County line)
  - ❑ Petaluma River (SF Bay to downtown)
  - ❑ Sonoma Creek (SF Bay to Hwy 12/121)
  - ❑ Gualala (west of Highway 1)
  - ❑ Estero Americano (Pacific Ocean to near Valley Ford)
  - ❑ Salmon Creek (west of Highway 1)
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- ❑ From Army Corp Survey, 1971, and Hitchings vs Del Rio Wood, 1976

# Background

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- 2015 – Last major changes to Well Ordinance
- 2018 – California Court of Appeals Ruling 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
- August 9, 2022, Sonoma County Board of Supervisors

# BOS Direction

## August 9 BOS Hearing

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- Conduct Public Outreach
- Coordinate with GSAs
- Interest in:
  - ▣ Comprehensive “One Water” policy
  - ▣ Streamlined review or priority system for existing land uses
  - ▣ Water conservation and monitoring
- Return in October with revised Ordinance to address Public Trust duties

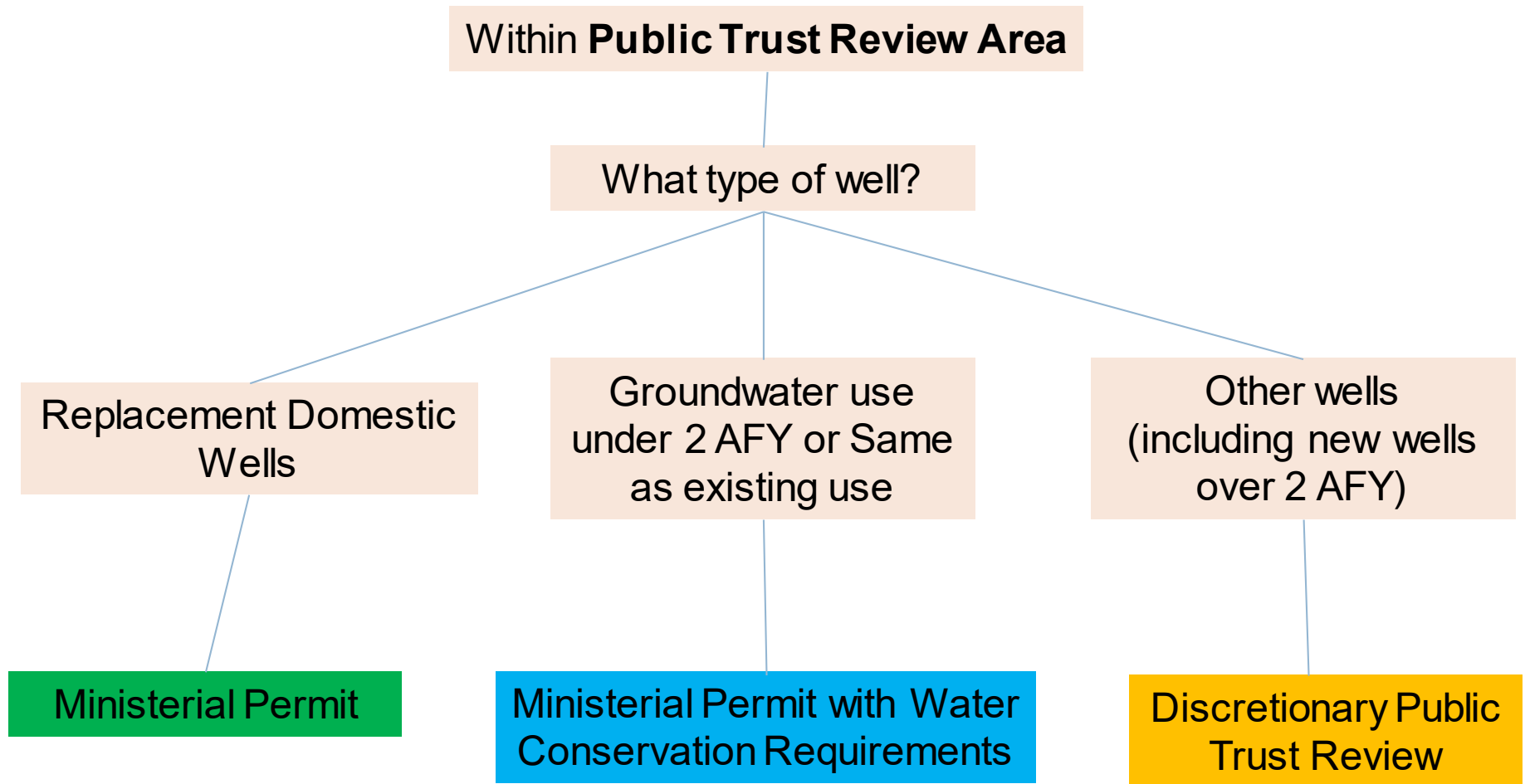
# Public Outreach

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- September 9th: Published revised draft ordinance
- Public Outreach
  - ▣ September 12, 13, 14 – Groundwater Sustainability Agency advisory committee meetings
  - ▣ September 22<sup>nd</sup> – Townhall meeting
  - ▣ Numerous press releases
- September 28th: Published revised ordinance for hearing

# Permit Screening Flow Chart

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# Public Trust Review Area

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- Includes areas within contributing watershed to navigable water, and within any of the below areas:
  - ▣ Subterranean Stream or Potential Stream Depletion Area
    - Stetson Engineers, inc., 2008
  - ▣ Critical Watershed Areas
    - Upper Mark West Creek
    - Upper Green Valley Creek
    - Mill Creek
    - Dutch Bill Creek
  - ▣ Priority Basin
    - Defined by Department Water Resources for Sustainable Groundwater Management

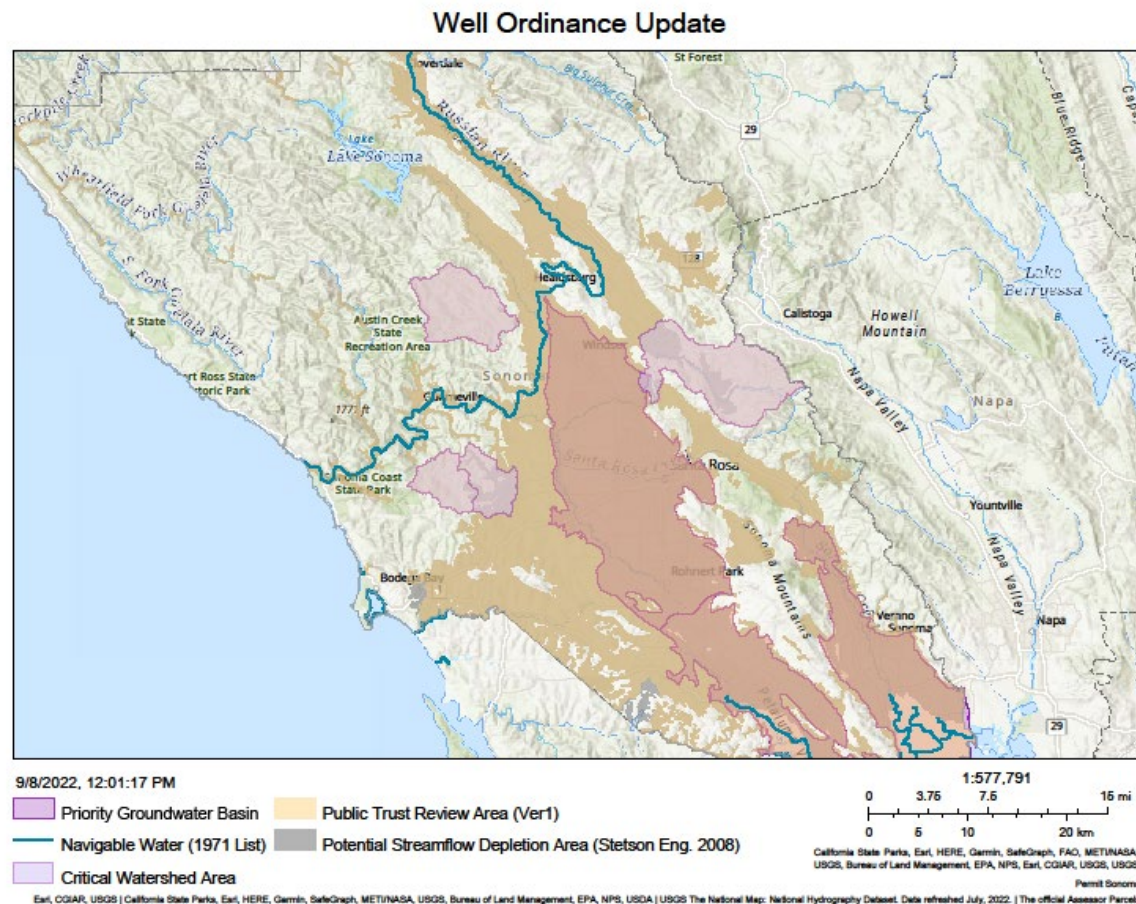


# Public Trust Review Area

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Please visit and explore using the online GIS viewer:

<https://sonomacounty.maps.arcgis.com/apps/webappviewer/index.html?id=8baedfd50be640b0b11548537f89fee2>



# Ministerial permit Pathways

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- **Replacement domestic well**
  - groundwater use of parcel limited to 2 AFY
- **Well on low water use parcel (inc. most new domestic uses)**
  - groundwater use of parcel limited to 2 AFY
  - subject to water conservation and monitoring requirements
- **Well for existing land use**
  - groundwater use of parcel limited to existing use as of the date of ordinance adoption
  - subject to water conservation and monitoring requirements
- **Public water wells,**
  - subject to CEQA

# Water Conservation Requirements

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- All showerheads and toilets meet current water efficiency standards
- Existing and future landscaped areas meet Water Efficient Landscape Regulations
- Non-functional/ornamental turf prohibited
- Individual water meters on all separate service connections served by a shared well
- Water conservation plan for commercial, industrial, and institutional projects
- Vineyard and Orchard irrigation limited to:
  - ▣ 0.4 AFY per acre for sites within a Critical Watershed Area
  - ▣ 0.6 AFY per acre within Priority Basin, and all water conservation requirements specified in a GSP or other regulations adopted by a GSA
  - ▣ 0.6 AFY per acre for all other areas, or existing use supported by data or study

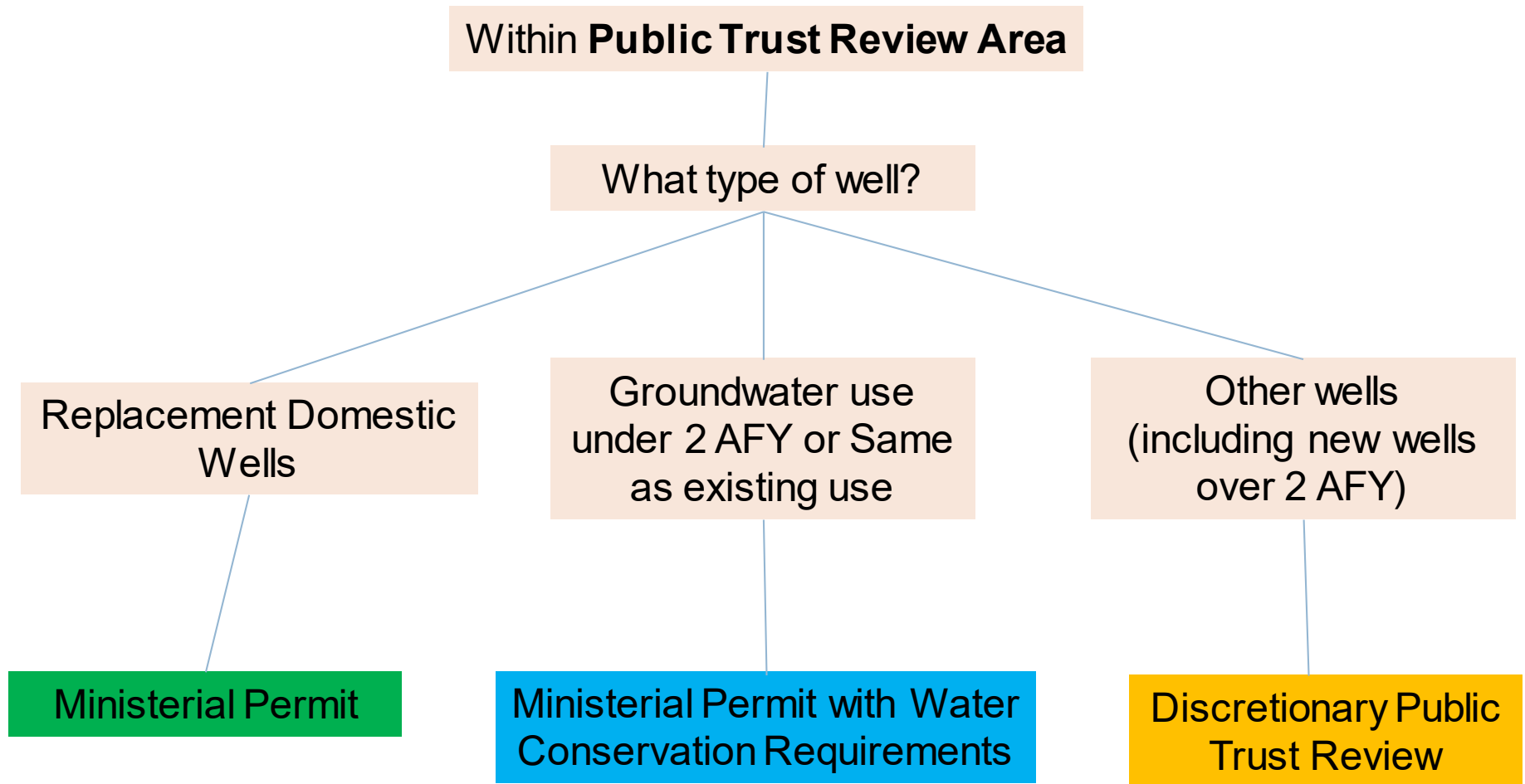
# Well Monitoring

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- Domestic properties with less than 2 acre feet per year do not need well monitors
- Water meters on all wells on parcels that are subject to requirements (including new commercial or agriculture wells, and domestic wells drawing more than 2 acre feet per year)
- Monthly Readings
- Annual Reporting

# Permit Screening Flow Chart

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# Discretionary Public Trust Review

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- ❑ County shall not issue a well permit without considering impacts to public trust resources
- ❑ Applications would be required to provide information to assess potential impacts
- ❑ County will produce written findings relative the potential impacts
- ❑ County determination may be appealed to Board of Supervisors
- ❑ Board can approve a well with overriding consideration of public benefit

# Other Changes

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

# Short Term Program Development and Staffing

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- Immediate Program development
  - ▣ Application, forms, administrative policies
  - ▣ Public outreach
  - ▣ Database development
  - ▣ Well monitoring database
- Well monitoring fees
- Anticipate ½ to 1 additional positions
- Evaluate staffing needs in six months



# Medium Term Program Development

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- Conduct evaluation of groundwater use across the County
- Consider contract for hydrogeologic analysis and/or review of well permits subject to public trust review
  - ▣ Consultant would use existing models from:
    - Groundwater Sustainability Agencies
    - U.S. Geological Survey for Russian River
    - Critical watershed areas

# Long term Program Development

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- Comprehensive policy development
  - ▣ Advisory committee(s) from diverse stakeholders
  - ▣ Science based policy development
- Prioritize watersheds based off hydrogeology, groundwater use, existing conditions, and resource value
- Develop mitigation measures for new development
  - ▣ Zero net use or groundwater “positive” development
  - ▣ Water conservation, recycling, recharge, farm plans, monitoring, etc.

# Recommendation

- ❑ Adopt ordinance amending SCC Chapter 25B
  - ❑ Creates Discretionary Public Trust Review Process
  - ❑ Creates Public Trust Review Area
  - ❑ Exempts
    - ❑ Replacement Domestic Wells
    - ❑ Public water wells (subject to CEQA)
    - ❑ Wells for low water use parcels and wells for existing uses (subject to water conservation/metering)
- ❑ Temporary Moratorium until November 17, 2022
- ❑ Provide direction on program development