



ENVIRONMENTAL LAW FOUNDATION

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8 August 2022

Subject: COMMENTS ON THE PROPOSED AMENDMENT TO THE SONOMA COUNTY CODE CHAPTER 25B (WELL ORDINANCE)

To Sonoma County Board of Supervisors:

The above-listed organizations represent citizens in Sonoma County and statewide with a keen interest in ensuring groundwater is sustainably and equitably managed for the benefit of all Californians and the ecosystems we all depend on for our health and welfare. We thank you for the opportunity to comment on the proposed Amendment to the Sonoma County Code Chapter 25B (Well Ordinance Amendment or Amendment) to ensure public trust resources are protected when issuing groundwater well permits.

We are pleased that the County is taking the first step to ensure the public trust resources are protected from the impacts of groundwater extraction. The County's acknowledgement of its public trust duty to protect salmon and other species in Sonoma County creeks and rivers, confirmation of the County's discretion to reject wells harming public trust resources, and the County's commitment to gauging new wells, are all important milestones. However, the Amendment does not do enough to ensure the County meets its obligations as trustee of the County's rivers, streams, interconnected groundwaters, and the wildlife dependent on these waters.

Every agency, scientist, non-profit, or consultant that has examined the issue confirms that public trust resources in Sonoma County waters are severely impacted by low instream flows and high-water temperatures. This is evidenced by endangered salmon populations and unhealthy ecosystems with algal blooms that deprive people of recreational opportunities. Further, wells throughout the County continue to go dry due to existing pumping at unsustainable levels.

Unfortunately, the Amendment fails to protect these endangered and already impaired public trust resources. The current proposal provides only a vague prohibition on new wells impacting public trust resources, with no identification of what those resources are, or any methodology for evaluating or preventing impacts. Further, the proposed amendment includes significant exemptions from public trust analysis and mitigation requirements, without analysis or factual support, and authorizes development of even broader future exempted categories of wells.

To effectively meet its duties as trustee, the Amendment must ensure the County's decisions to grant permits to extract groundwater are founded on reliable scientific information and modeling regarding the impacts of a proposed well, both individually and cumulatively with all other existing groundwater extractions. In addition, the County must develop and implement a program that provides continuing oversight on both existing and proposed water wells to ensure that all users take steps, when necessary, to ensure the impacts of groundwater extraction on public trust resources is mitigated.

A well permitting ordinance that would meet the County's public trust duties and protect public trust resources must include at least the following:

- 1) A methodology for determining whether a proposed well will impact public trust resources, given current and future conditions, using modeling;
- 2) A commitment to undertake and complete a study that will evaluate the cumulative impacts analysis for all wells, and a mechanism to account for these impacts when permitting new wells and mitigating the impacts of current and existing groundwater impacts;

- 3) Reference to and application of groundwater level-based criteria that protect public trust resources and go beyond the Santa Rosa Plain GSP Minimum Threshold Levels;¹
- 4) Reference to and application of instream flow standards for all Sonoma County creeks to protect public trust resources that will be used in evaluating impacts to and establishing appropriate mitigation of harms to public trust resources from groundwater extractions;²
- 5) A requirement that any new low volume domestic well or emergency well exempted from public trust review nonetheless be required to comply with specific mitigation measures intended to protect against potential public trust impacts (e.g., requirement to meet water conservation standards, limitations on use based on contribution to cumulative impacts on surface flows and public trust resources, metering of “emergency” wells).
- 6) A program and mechanisms to be applied to both existing and future permitted wells countywide to restore instream flows and groundwater use to sustainable levels.

In addition to the above requirements and to ensure that new wells protect the County's public trust values, the County must enact requirements for **existing** wells to mitigate existing and resulting cumulative harms to those resources. At minimum, the county should require metering of existing wells when determined by a hydrological study to have an influence on interconnected groundwaters. The county should also implement the measures identified in item (5) above to restore public trust resources and ensure their sustainability.

We therefore urge the Board return the draft amendment to staff, and to provide detailed direction as to the content and analysis required to protect Sonoma County’s precious resources, and to comply with law. Further, we urge the County to pause issuance of further groundwater extraction permits to prevent further harm to public trust resources until an amended ordinance adequate to protect public trust resources is developed and adopted. Finally, we urge Sonoma

¹ The California Department of Fish and Wildlife’s recent comment letter confirms that the MTs proposed in the SRPGSP do not protect salmonids in the Russian River system:

[T]he GSP states “undesirable result occurs if MTs are exceeded at 40 percent of RMP wells during drought years and 10 percent of RMP wells during non-drought years.” It is unclear how these percentages relate to ecological impacts. The GSP should identify monitoring metrics for GDEs that will enable the GSA to characterize GDE vulnerability to groundwater depletion and associated undesirable results, and to undertake management intervention accordingly. . . . Setting Minimum Thresholds and measurable objectives using data from years with historically low rainfall (i.e., 2014-2016) would likely create historically high streamflow depletion rates and potentially negatively impact GDEs and their critical habitat.

(CDFW 2022, at p. 3.)

² While California Department of Fish and Wildlife and the State Water Resources Control Board develop and approve instream flow standards for Sonoma County creeks, use of National Marine Fisheries Service Bi-op standards, as well as modeled pre-pumping flows as developed by the Nature Conservancy can act as protective standards.

County to suspend permit issuance unless and until the data and analysis are available to identify and mitigate impacts to surface waters from groundwater wells in Sonoma County rivers and creeks.

Sincerely,



Don McEnhill, Executive Director
Russian Riverkeeper



Jennifer Clary, California Director
Clean Water Action



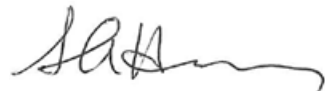
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Additional Organizations in Support:

Save the Sonoma Coast

Coalition for Better Sonoma County

Sebastopol Water information Group (SWiG)

Friends of the Mark West Watershed

Wine and Water Watch

The Neighborhood Coalition

Friends of Gualala River

Sonoma County Climate Activist Network (SoCoCAN!)

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Sonoma County Conservation Action