

APPENDIX "A"

ORDINANCE NO. SCC 98-1

**AN ORDINANCE OF THE COUNTY OF SHASTA
REPEALING ORDINANCE NO. SCC 97-6 AND ADOPTING
CHAPTER 18.08 "GROUNDWATER MANAGEMENT"
REGARDING THE EXTRACTION AND EXPORTATION OF
GROUNDWATER FROM SHASTA COUNTY**

The Board of Supervisors of the County of Shasta does ordain as follows:

SECTION 1. GROUNDWATER MANAGEMENT. Chapter 18.08, entitled "Groundwater Management" is hereby added to Title 18 of the Shasta County Code to read as follows:

Chapter 18.08. Groundwater Management.

Section 18.08.010. Declaration of Findings and Purpose.

The Board hereby finds and declares:

(A) The groundwater underlying Shasta County has historically provided the people and lands of Shasta County with water for agricultural, domestic, municipal/industrial and other purposes;

(B) The Board recognizes that the principle of California law that water may be appropriated from a groundwater basin if the groundwater basin is in a surplus condition and such appropriation would not impair the reasonable and beneficial needs of overlying users;

(C) It is essential for the protection of the health, welfare, and safety of the residents of the County, that the groundwater resources of Shasta County be protected from harm resulting from the extraction of groundwater for use on lands outside of the County, until such time as needed additional surface water supplies are obtained for use on lands of the County, or as further and more accurate quantification of groundwater resources within the County is developed and groundwater management plans for affected basins have been adopted;

(D) Much of the economic production of the County depends upon the use of groundwater;

(E) The groundwater of Shasta County provides a significant amount of water for domestic uses throughout the County;

(F) The groundwater of Shasta County has been and will continue to be a vital part of the economic well-being and stability of the County;

(G) Because of the need for increased water supply to meet future needs within the county, and because surface water supplies obtained in the future may need to be used conjunctively with available local groundwater for reasonable and beneficial local uses, it is vital that the County's ground water supply and quality be preserved;

(H) Although the County intends to jointly undertake with affected local agencies to develop an integrated water resources management plan for each of the various regions of Shasta County to further plan and implement prudent water management practices, interim measures addressing the extraction of groundwater for export are needed to protect the existing groundwater basins;

(I) It is essential for information gathering and monitoring purposes, and for the protection of the County's groundwater resources, that the County adopt a permit process addressing the extraction of groundwater for use outside of the County; and

(J) In adopting and codifying this groundwater management ordinance the County does not intend to limit other authorized means of managing Shasta County groundwater, and intends to work cooperatively with interested local agencies to further develop and implement joint groundwater management practices.

Section 18.08.020. Definitions.

(A) “Annual yield” means the maximum quantity of water which can be withdrawn annually from a groundwater supply without causing a significant adverse impact on the affected basin or adverse water quality conditions, including the amount of water which can be extracted without:

(1) Exceeding in any calendar year the long-term mean annual water supply of the basin (considering all sources of recharge and withdrawal);

(2) Lowering water levels so as to make further drilling of water wells uneconomical;

(3) Causing water pumped from the basin to deteriorate below established drinking water quality standards;

(4) Violating water rights or restrictions in pumpage in the groundwater basin as established by court adjudication or application of state or federal law.

(B) “Aquifer” means a geologic formation that stores, transmits and yields significant quantities of water to wells and springs.

(C) “Board” means the Board of Supervisors of Shasta County.

(D) “Commission” means a nine (9) person decision-making body which shall be appointed, with membership serving at the pleasure of the appointing authority, as follows: one (1) representing the County of Shasta; three (3) representing the cities of Redding, Anderson and Shasta Lake, to be appointed by the City Selection Committee established pursuant to state law; three (3) representing independent water districts, including one such district located in Eastern Shasta County, to be appointed by the Special District Selection Committee established pursuant

to state law; one (1) representing agricultural users, to be nominated by the Shasta County Farm Bureau and appointed by the Board of Supervisors; and one (1) representing industrial users, to be appointed by the Board of Supervisors.

(E) “County” means the County of Shasta.

(F) “Director” means the Chief Engineer of the Shasta County Water Agency, or his designee.

(G) “Export” means the transportation of water from within Shasta County to any location outside of the County *by pipe, canal, stream, river or similar conveyance method. The transportation of bottled water outside of the County by vehicle shall not constitute an “export” as that term is used in this chapter.*

(H) “Groundwater management plan” means a plan prepared pursuant to the California Groundwater Management Act (commencing with Water Code Section 10750 et seq.) or California Water Code Section 1220, and adopted by the Board.

(I) “Groundwater” means all water beneath the surface of the earth within the zone below the water table in which the soil is completely saturated with water, but does not include water which flows in known and definite channels.

(J) “Historical practice” means the consistent or predominant practice of an applicant within seven (7) years preceding the operative date of this chapter.

(K) “Hydraulic gradient” means the slope of the water table.

(L) “Hydrology” means the origin, distribution, and circulation of water through precipitation, stream flow, infiltration, groundwater storage, and evaporation.

(M) “Integrated water resources management plan” means a comprehensive surface and groundwater planning and management program involving affected local agencies.

(N) “Interested party” means any local agency or any property owner overlying an aquifer from which groundwater is proposed to be, or has been pumped, which is subject to the permit requirements of this chapter.

(O) “Local Agency” means a city located within Shasta County, or an independent special district wholly or in part located within the boundaries of the County, which is a purveyor of waters for agricultural, domestic, or municipal use.

(P) “Overdraft” means the condition of a groundwater supply in which the amount of water extracted by pumping exceeds the amount of water replenishing the supply, and the point at which extractions from the supply exceed its annual yield.

(Q) “Percolation” means the movement of water through the soil to the groundwater table.

(R) “Permeability” means the capability of the soil or another geologic formation to transmit water.

(S) “Piezometric surface” means the surface to which the water in a confined aquifer will rise

(T) “Porosity” means void or open spaces in alluvium and rocks that can be filled with water.

(U) “Recharge” means flow to groundwater storage from precipitation, irrigation, infiltration from streams, spreading basins and other sources of water.

(V) "Specific capacity" means the volume of water pumped from a well in gallons per minute per foot of draw down.

(W) "Spreading water" means discharging native or imported water to a permeable area for the purpose of allowing it to percolate to the zone of saturation including well injection and other forms of artificial recharge and replenishment.

(X) "Transmissivity" means the rate of flow of water through an aquifer.

(Y) "Usable storage capacity" means the quantity of groundwater of acceptable quality that can be economically extracted from storage.

(Z) "Water table" means the surface or level where groundwater is encountered in a well in an unconfined aquifer.

(AA) "Water agency" means the Shasta County Water Agency.

(BB) "Water year" means the year beginning October 1 and ending the last day of the following September.

(CC) "Zone of saturation" means the area below the water table in which the soil is saturated with groundwater.

Section 18.08.030. Permit Required for Export for Use Outside County.

It shall be unlawful to extract groundwater underlying lands in Shasta County for export of that groundwater, either directly or indirectly, without first obtaining a permit as provided in this chapter. For purposes of this section, the extraction of ground water to replace a surface water supply which has been, is being, or will be exported for commercial purposes shall be considered an extraction of groundwater that is subject to this ordinance.

Section 18.08.040. Exclusions From Permit Requirements.

This chapter shall not apply to the extraction of groundwater in the following circumstances:

- (A) To prevent the flood of lands; or
- (B) To prevent the saturation of the root zone of agricultural land; or
- (C) For use within the boundaries of a local agency which is located in part within County and located in part in another County where such extraction quantities and use are consistent the with historical practice of the local agency; or
- (D) For extractions to boost heads for portions of local agency facilities, consistent with the historical practice of the local agency; or
- (E) To enable water export that is expressly permitted by terms of an adopted groundwater management plan; or
- (F) Where the person or entity demonstrates to the satisfaction of the Director that its water management practices will result in an average annual groundwater basin recharge which is equal to or in excess of its extraction of groundwater for export uses.

The person or entity asserting that one or more of the exclusions of this section applies shall have the burden of supporting its assertion that no permit is required.

Section 18.08.050. Application for a use Permit.

An application for a permit shall be filed with the Water Agency on a form specified by the Director, which shall include all information specifically requested thereon and other information requested by the Director to address specific aspects of the proposed groundwater export. Concurrently, the applicant shall consent to the commencement and financing of

appropriate environmental review as may be required by the California Environmental Quality Act ("CEQA"; Public Resources Code §21000 et seq.) and applicable guidelines. The application for a permit and required environmental review shall be accompanied by the deposit of fees for these purposes, as shall be established by Board resolution.

Section 18.08.060. Procedures for Processing.

(A) Within ten (10) calendar days of filing of a complete permit application, which shall include all of that information and the deposit of fees required by section 18.08.050, the Director shall post a notice on the County Public Works Department public bulletin board that an application has been filed, and shall send a copy of the notice to all local agencies within the County which have jurisdiction over lands overlying or adjacent to the location of the proposed extraction, and to any interested party who has made a written request to the Director for such notice within the last twelve (12) calendar months, seeking written comments. Upon posting and otherwise providing notice of the application, the Director shall review the application to determine whether it is complete for purposes of proceeding pursuant to CEQA requirements and shall thereafter commence environmental review as may be appropriate.

(B) The Director may review the matter of the application with affected County departments, staff of the State Department of Water Resources, staff of the Regional Water Quality Board - Central Valley Region, and any interested local water agency within whose boundary the proposed activity is proposed to occur. If the applicant is proposing to extract groundwater from within or adjacent to an area within the County for which a groundwater management plan has been adopted, but which plan does not expressly permit the export of water, the Director shall consider the contents of any such plan and other relevant information provided

by each affected local agency. Any interested person or agency may provide written comments relevant to the matter of the proposed extraction of groundwater, which shall be submitted within thirty (30) days of the date of posting and mailing the notice of filing the permit application.

(C) The environmental review shall be undertaken in accordance with CEQA and implementing guidelines. All costs of the environmental review determined appropriate by the Water Agency shall be the responsibility of the applicant.

(D) Upon completion of the required environmental review the Director shall forward the application, together with any written comments received, environmental documentation and the Director's recommendations, to the Commission. Upon receipt of the Director's recommendations, the Commission shall immediately schedule a public meeting to consider the permit application, which shall be noticed pursuant to Government Code Section 6061.

Section 18.08.070. Public Review Concerning Issuance of Permit.

(A) Formal rules of evidence shall not apply in the Commission's public review proceeding for the application, but the Commission may establish such rules as will enable the expeditious presentation of the matter and receipt of relevant information thereto. At the Commission's public review, which may be continued from time to time as determined appropriate by the Commission, the applicant shall be entitled to present any oral or documentary evidence relevant to the application, and the applicant shall have the burden of proof of establishing the facts necessary for the Commission to make the required findings. The Commission shall also hear relevant evidence presented by other interested persons and entities, the Director, other County staff, and the public.

(B) The Commission, in considering each permit application, shall consider all potential impacts the proposed export would have on the affected aquifer, including but not limited to potential hydraulic gradient, hydrology, percolation, permeability, piezometric surface, porosity, recharge, annual yield, specific capacity, spreading waters, transmissivity, usable storage capacity, water table and zone of saturation impacts.

(C) The Commission may request any additional information it deems necessary for its decision. The cost of such additional information shall be borne by the applicant.

Section 18.08.080. Findings Required for Granting of Permit Approval or Denial.

The permit may only be granted if there is a majority of the total membership of the Commission present at the required public meeting and a majority of the total membership of the Commission finds that the proposed groundwater extraction will not have significant detrimental impacts on the affected groundwater basin by determining that:

(A) The proposed extraction will not cause or increase an overdraft of the groundwater underlying the County;

(B) The proposed extraction will not adversely affect the long term ability for storage or transmission of groundwater within the aquifer;

(C) The proposed extraction will not exceed the annual yield of the groundwater underlying the County and will not otherwise operate to the injury of the reasonable and beneficial uses of overlying groundwater users;

(D) The proposed extraction will not result in an injury to a water replenishment, storage, or restoration project operating in accordance with statutory authorization;

(E) The proposed extraction is in compliance with Water Code Section 1220; and

(F) The proposed extraction will not be otherwise detrimental to the health, safety and welfare of property owners overlying or in the vicinity of the proposed extraction site(s).

If the Commission determines that one or more of the findings required by this section cannot be made, upon considering the proposed export together with potential conditions of permit issuance, it shall deny the permit application. The basis for any such denial shall be reflected in the Commission's official record of proceedings.

The applicant shall be notified in writing of the Commission's decision on the application, including the basis for denial where applicable, within fifteen (15) days of the final Commission action on the application.

Section 18.08.090. Conditions of Permit Approval.

If the permit is to be approved, the Commission shall impose appropriate conditions of permit issuance so as to prohibit overdraft or other adverse conditions, and may impose other conditions that it deems necessary to promote or maintain the health, safety, and welfare of Shasta County residents. Such other conditions of permit issuance may include, but shall not be limited to, requirements for observation and/or monitoring wells. Notwithstanding the foregoing, the Commission may issue the permit if the Commission finds that the applicant will provide adequate mitigation to offset all adverse effects that would otherwise result from the proposed extraction.

Section 18.08.100. Reapplication After Commission Denial.

Reapplication for a permit which has been denied by the Commission may not be filed with the Water Agency until the water year following the denial. For any such reapplication to be accepted as complete, and for it to be further reviewed in accordance with the procedures set forth in sections 18.08.060 through 18.08.090, it must be accompanied by information that

demonstrates a significant change in those circumstances which represented the factual basis for the previous permit application denial.

Section 18.08.110. Appeal of Commission Action on Application.

(A) The applicant and any interested party may appeal a decision of the Commission by filing a written request with the Clerk of the Board within (15) days of issuance of the decision to be appealed from. Any such appeal shall specifically set forth the procedural and substantive reasons for the appeal or be deemed incomplete and ineffectual. The Clerk shall set a Board hearing time within ten (10) days of receipt of a complete request for appeal which shall be heard within twenty (20) days of notice thereof. Written notice of the appeal shall be given to the Commission, the permit applicant, the appellant, and all other interested parties, and the appeal hearing shall be published pursuant to Government Code Section 6061.

(B) The Board shall hear the appeal as to those disputed matters which were heard by the Commission and are specifically set out in the appeal request, but may continue such hearing from time to time as determined appropriate by the Board. The appeal before the Board shall not be conducted with formal rules of evidence, but rather shall be conducted under such rules as set by the Board for the expeditious presentation of the matter and relevant information pertaining thereto by the appellant and by other parties interested in the Commission decision appealed from. An appeal decision by the affirmative vote of a majority of Board members shall be the final administrative decision in the matter.

(C) In any appeal taken under this section the permit applicant who is proposing to extract groundwater for exportation outside of the County shall have the burden of proving to the satisfaction of the Board, that such extraction is either exempt from permit requirements pursuant

to Section 18.08.040 or will not have significant detrimental impacts based on the criteria set forth in Section 18.08.080.

Section 18.08.120. Challenge to Approved Permit.

(A) Any interested party may challenge the ongoing extraction of groundwater pursuant to an approved permit during the term of the permit based on allegations that one or more of the following circumstances exists:

(1) there has been or is an ongoing violation of one or more conditions of an approved permit; or

(2) the extraction of groundwater pursuant to this chapter has caused or increased an overdraft in the basin; has adversely affected the long term ability for storage or transmission of groundwater in the affected aquifer; exceeds the annual yield of the affected groundwater basin; operates to the injury of the reasonable and beneficial uses of overlying groundwater users; is in violation of Water Code Section 1220; or results in an injury to a water replenishment, storage, or restoration project operating in accordance with statutory authorization; or

(3) the continued extraction of groundwater pursuant to a previously approved permit will be detrimental to the health, safety and welfare of one or more affected local agencies or other interested parties.

(B) A challenge pursuant to this section shall be commenced by filing a written request with the Director on a form prescribed by the Director. Such a challenge shall allege one or more of the circumstances specified by this section and shall generally describes facts in support of those alleged circumstances. In such event the Director shall, within ten (10) days of receipt of such challenge in a completed form, give notice of the challenge to the Commission, the

permittee, the appellant, all affected local agencies, and to any other interested party which has requested such notice. A Commission review shall be held on the matter following the procedures set out in Section 18.08.070. The Commission's decision may be to deny the challenge and leave the previously issued permit unchanged, to grant the challenge and terminate the permit, or to impose modified conditions to the permit, which the permittee shall be obligated to adhere to if continued extraction for export purposes is to occur, based on findings addressing the criteria specified in Section 18.08.080.

(C) The standard for review in any such challenge proceeding shall be substantial evidence. The burden of proof shall be upon the person or entity extracting the groundwater that is the subject of the challenge.

(D) Appeals from Commission decisions on challenges may be made to the Board in accordance with the procedures in Section 18.08.110.

Section 18.08.130. Permit Term.

Except as may be modified pursuant to Section 18.08.110, all approved permits shall be valid for a term not to exceed three (3) water years from the date of the issuance of the permit, as determined by the approving body; however, if the permit is for extraction as part of a conjunctive use program that has been approved by the Board the permit shall not exceed the length of the term of that program. For the purpose of calculation, the water year in which the permit is granted shall not be counted in determining the three year time period if less than four (4) months remain in the water year at the time of final permit approval.

Section 18.08.140. Limitation of Permit.

(A) Nothing contained in this chapter nor in the conditions an issued permit shall be construed as giving the permittee an exclusive right to groundwater extraction, nor as establishing a compensable right in the event the permit is subsequently terminated or modified following a challenge to the permit.

(B) The issuance of a permit pursuant to this chapter shall evidence that the health, welfare, and safety of County residents will not be harmed by the extraction and exportation of local groundwater outside the County boundaries.

(C) Any issued permit shall not exempt, supersede, or replace any requirements of federal, state, and local laws and regulations, including but not limited to California Water Code section 1220, the Groundwater Management Act, and any other statutes governing California groundwater law, well drilling and maintenance or building permit requirements, and is to be construed and applied in harmony with applicable existing law.

(D) Upon the adoption of a groundwater management plan or similar plan affecting a particular groundwater basin or aquifer within Shasta County, as approved the Board of Supervisors in concert with other local agencies having jurisdiction, any provisions of such plan or permits issued thereunder shall supersede the provisions of this chapter and permits approved hereunder, in the event of any inconsistency.

Section 18.08.150. Inspection.

The Director, with good cause, may at any and all reasonable times enter any and all places, property, enclosures and structures. for the purpose of making examinations and investigations to determine whether any provision of this chapter has been violated.

Section 18.08.160. Civil Penalty.

Upon determining that a violation of this chapter has occurred or is ongoing, the County may elect to proceed with a civil action against a violator, including, but not limited to, injunctive relief. Any person or entity who violates this chapter shall also be subject to fines of up to five thousand dollars (\$5,000) per separate violation. A person shall be deemed to have committed separate violations for each and every day or portion thereof during which any such violation is committed, continued, or permitted, as well as for each and every separate groundwater well within which any such violation is committed, continued or permitted.

SECTION 2. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held illegal, invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof.

SECTION 3. This ordinance shall take effect and be in full force and effect thirty (30) days after its passage, and prior to the expiration of fifteen (15) days from the passage thereof shall be published once in one or more newspapers of general circulation, printed and published in the County of Shasta.

DULY PASSED AND ADOPTED this 27th day of January, 1998, by the Board of Supervisors of the County of Shasta by the following vote:

AYES: Supervisors Clarke, Dickerson, Fust, Hawes, and Wilson

NOES: None

ABSENT: None

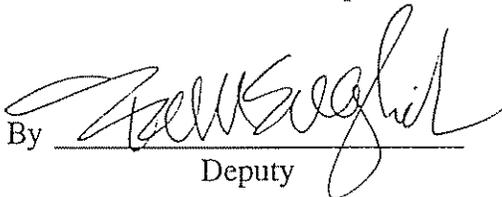
ABSTAIN:



PATRICIA A. CLARKE, Chairman
Board of Supervisors
County of Shasta
State of California

ATTEST:

CAROLYN TAYLOR
Clerk of the Board of Supervisors

By 
Deputy