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BOARD OF SUPERVISORS
COUNTY OF VENTURA

GOVERNMENT CENTER, HALL OF ADMINISTRATION
800 SOUTH VICTORIA AVENUE, VENTURA, CALIFORNIA 93009

October 28, 2014

Board of Supervisors
County of Ventura
800 South Victoria Avenue
Ventura, CA 93009

Subject: Public Hearing for Consideration of Adoption of an Urgency Ordinance pursuant to California Government Code sections 25123 and 25131 that Would Establish a Moratorium on New Water Wells in Four Watersheds in Ventura County and Establish Certain Exceptions and Procedures for Waivers; Adoption of California Environmental Quality Act Findings; Adoption of Urgency Findings; Adoption of Urgency Ordinance Prohibiting New Water Wells and Water Well Permits in Four Watersheds in Ventura County, and Establishing Certain Exceptions (Exhibit 1) (four/fifths vote required, effective immediately); Direct Filing of a CEQA Notice of Exemption and Direct Publication.

Recommendations:

1. Find that the Urgency Ordinance (Exhibit 1) is exempt from the California Environmental Quality Act (CEQA) for the reasons set forth in Section 1.A. of the Urgency Ordinance.
2. Adopt the Findings of Fact constituting the Urgency and Declaration of Urgency set forth in Section 1.B and 1.C. of the Urgency Ordinance.
3. Read the Urgency Ordinance in title only, waive further reading and adopt the Urgency Ordinance (Exhibit 1) to be effective immediately (4/5th vote required).
4. Direct the County Executive Officer to file a CEQA Notice of Exemption and direct the Clerk of the Board to publish the Urgency Ordinance as adopted.

Discussion:

Groundwater is one of Ventura County's most precious assets. Ventura County's groundwater basins used to be so full they served as artisan wells and were under such pressure that you could service a two story house without additional pumping.

Unfortunately a combination of significant increases in groundwater pumping and the recent drought have combined to put our groundwater basins under tremendous stress.

Groundwater basins throughout the County have registered sharply declining storage volumes, and in some cases are at or approaching critical levels. Groundwater levels in all 16 key monitoring wells across the County declined significantly in all basins for the spring 2013 measurement as compared to the 2012 spring measurement

Water levels have decreased in all basins an average of approximately 13 feet, with the greatest water level decrease, 78.4 feet, in the Ojai Valley. In some groundwater basins water levels are consistently, and substantially in some places, below sea level.

Wells have gone dry and are possibly damaged, and because of increased overdraft, seawater intrusion and other water quality degradation are occurring.

If additional demand is placed upon groundwater basins, dewatering of additional wells and further degradation of water quality are the expected result.

In the Ojai Valley, the incidence of wells going dry has contributed to increased demand on Lake Casitas.

The absence of effective groundwater management in many areas of the County has contributed to groundwater extractions exceeding groundwater recharge and resulted in a depletion of groundwater that is irreversible without improved groundwater management. A continuation of unmanaged groundwater extraction may cause a permanent loss of groundwater supplies in some areas.

The recent passage of state legislation regarding groundwater management is a substantial step in the right direction; however, the heavy lifting still remains to be done and there can be a substantial delay between the implementation of this legislation January 1st of 2015 and the actual adoption of any significant measure to control groundwater pumping in some of Ventura County's basins.

At its core, the package of three groundwater bills directs that local water agencies or cities or counties step up to adopt groundwater "sustainability plans" and take measures to assure the sustainable supply of groundwater. Should local agencies fail to fulfill the responsibilities set out in the bills, the State can step in.

The state legislation, combined with the drought and basin depletion resulting from significant pumping of our groundwater basins, makes the implementation of this

ordinance, proposing a moratorium on new wells in four of the major watersheds of Ventura County, both timely and urgent.

The ordinance has five main purposes:

1. To help stabilize groundwater extractions until appropriate regulatory oversight, as recently designated by the state, can take place.
2. To protect current communities, growers and other users who are reliant on groundwater from the adverse consequences that can result from a rush of new pumpers permanently impacting their ability to obtain needed water.
3. To decrease the possibility that groundwater supplies will be exhausted during this extended drought and before groundwater sustainability plans can be implemented.
4. To decrease the likelihood that people will further tap stressed groundwater supplies in an attempt to avoid restrictions and conservation efforts being made by water districts.
5. To conserve critical and dwindling water supplies during a severe statewide and local drought so that there will be adequate supplies for health, safety, and welfare.

The ordinance calls for a moratorium on new wells in the Ventura River watershed, the Santa Clara River watershed, the Cuyama watershed and the portions of the Calleguas Creek watershed that include the Oxnard groundwater basin, the Pleasant Valley groundwater basin, the Las Posas groundwater basis and the Arroyo Santa Rosa groundwater basin.

Because the Fox Canyon Groundwater Management Agency has already imposed a moratorium on new extractions in the GMA basin, this ordinance exempts those areas covered by the Fox Canyon GMA. In addition state law restricts the applicability of this ordinance to most actions within and by cities and special districts created by the state.

The State legislation calls for the State to identify the basins that are considered of high and medium priority in the state of California by January 31st of 2015. After those designations are made, this moratorium will then only apply to those specific basins that are identified by the State as high and medium priority.

The well moratorium will then be lifted off of those basins designated as high or medium priority when the agency managing that basin files a sustainability plan or an alternative plan as described in the new state legislation.

This urgency ordinance requires a 4/5th vote to take effect immediately. I urge the Board to adopt this ordinance as an urgency ordinance for two reasons. One, because it is clearly needed in Ventura County. Two, the adoption of this as a regular ordinance would require a delay of more than 30 days during which a significant number of well permits could be applied for and granted and this would materially weaken the effectiveness of this ordinance.

County Counsel and the Watershed Protection District have worked closely with my office in preparing this ordinance and will be in attendance during the Board hearing for questions that you could not get answered in advance of the meeting.

Cordially,

A handwritten signature in cursive script, reading "Steve Bennett".

Steve Bennett
Supervisor, First District

Exhibit 1

ORDINANCE NO. _____

AN URGENCY ORDINANCE OF THE COUNTY OF VENTURA, STATE OF CALIFORNIA, PROHIBITING NEW WATER WELL PERMITS AND NEW WATER WELLS IN FOUR WATERSHEDS IN THE UNINCORPORATED AREA OF VENTURA COUNTY, AND ESTABLISHING CERTAIN EXCEPTIONS AND PROCEDURES FOR WAIVERS

The Board of Supervisors of the County of Ventura hereby ordains as follows:

Section 1. Findings and Declarations.

The Board of Supervisors makes the following findings and declarations in support of the enactment of this urgency ordinance:

A. CEQA Exemption Findings. This Ordinance is exempt from the California Environmental Quality Act (CEQA) because it can be seen with certainty that there is no possibility that it will have a significant effect on the environment as it includes regulations to protect groundwater resources within watersheds in the unincorporated area of Ventura County from further depletion (CEQA Guidelines §15061(b)(3)); because it consists of regulations and restrictions on activities to assure the maintenance, restoration, or enhancement of a natural resources, namely the groundwater resources within watersheds in the unincorporated area of Ventura County (Class 7, CEQA Guidelines §15307); and because it consists of regulations and restrictions on activities to assure the maintenance, restoration, or enhancement of the environment, including groundwater resources within watersheds within the unincorporated area of Ventura County (Class 8, CEQA Guidelines §15308). No exceptions to these exemptions are present.

This Ordinance is also exempt from CEQA because it is an urgency Ordinance that prevents or mitigates impacts from the sudden, unexpected failures of existing wells within watersheds in the unincorporated areas of Ventura County which failures impose a clear and imminent danger to existing residential and agricultural water wells in the watersheds in the unincorporated area of Ventura County and to those that rely on the water from those wells, and which requires immediate action to prevent or mitigate the loss of, or damage to, life, health, property, and essential public services. This urgency Ordinance, therefore, qualifies for an exemption under Public Resources Code section

21080(b)(4) and CEQA Guidelines section 15269(c).

B. Declaration of Purpose and Facts Constituting the Urgency.

1. Purposes:

The purposes of this ordinance are:

- a. to stabilize groundwater extractions until appropriate regulatory oversight, as recently designated by the state, can take place.
- b. to protect current communities, growers and other users, who are reliant on groundwater, from the adverse consequences that can result from a rush of new pumpers permanently impacting their ability to obtain needed water.
- c. to decrease the possibility that groundwater supplies will be exhausted during this extended drought and before groundwater sustainability plans can be implemented
- d. to decrease the likelihood that people will further tap stressed groundwater supplies to avoid restrictions and conservation efforts being made by water districts.
- e. to conserve critical and dwindling water supplies during a severe statewide and local drought so that there will be adequate supplies for health, safety, and welfare.

2. Facts Constituting the Urgency:

Due to lengthy drought conditions in the State of California and in Ventura County, an urgency condition regarding groundwater now exists within Ventura County. The condition of groundwater resources in watersheds and groundwater basins in Ventura County is presently critical because:

- a. On January 17, 2014, the Governor of the State of California proclaimed a state of emergency due to current drought conditions and called on Californians to reduce their water usage by 20 percent. On March 1, 2014, the Governor signed into law emergency drought legislation that finds and declares that California is experiencing an unprecedented dry period and shortage of water for its citizens, local governments, agriculture, environment, and other uses.
- b. Well measurements demonstrate that the County's groundwater is being rapidly

depleted. Continued increases in the new wells and extractions from new wells will lead to conditions such as seawater intrusion, degraded water quality, land subsidence, and damage to aquifers.

c. For the past three years, rainfall in Ventura County has been far below long-term averages. The last two years have been two of the five driest years on record. During the winter of 2012/13, the county received approximately one-third the long-term average precipitation.

d. Groundwater basins throughout the County have registered sharply declining storage volumes, and in some cases are at or approaching critical levels. Groundwater levels in all 16 key monitoring wells across the county declined significantly in all basins for the spring 2013 measurement as compared to the 2012 spring measurement. Water levels decreased in all basins an average of approximately 13 feet, with a maximum water level decrease of 78.4 feet in the Ojai Valley. In some groundwater basins water levels are consistently, and substantially in some places, below sea level.

e. Wells have gone dry and are possibly damaged, and because of increased overdraft, seawater intrusion and other water quality degradation is occurring. If additional demand is placed upon groundwater basins, dewatering of additional wells and further degradation of water quality is the expected result. In the Ojai Valley, the incidence of wells going dry has contributed to increased demand on Lake Casitas.

f. In the Santa Clara River, regulatory and legal restrictions on water diversions are expected to cause a substantial reduction in the amount of water that will be available for groundwater recharge, therefore making more critical the protection of existing groundwater supplies.

g. The number of new wells permitted in Ventura County in the first 9 months of the year already exceed by 50% the average number of new wells permitted in the 2011, 2012 and 2013.

h. Groundwater is a vital resource for health and safety in Ventura County, with many areas and users fully reliant on groundwater as the only source of water.

i. The interaction of groundwater and surface water in streams and rivers can result in adverse effects on surface waters when groundwater levels substantially decline. Users of surface waters may be harmed by declines in groundwater basin levels. Multiple endangered species rely upon the surface waters of Ventura County and the habitat they create.

j. The absence of effective groundwater management in many areas of the county have contributed to groundwater extractions exceeding groundwater recharge and resulted in a depletion of groundwater that is irreversible without improved groundwater management. A continuation of unmanaged groundwater extraction may cause subsidence and a permanent loss of groundwater supplies in some areas.

k. State legislation has been adopted that requires that groundwater sustainability plans be adopted for groundwater basins deemed to be of “high” or “medium” priority and that management strategies be implemented to bring these basins into long-term sustainability.

l. If additional wells are being drilled into affected basins on an ongoing basis, it will add increased difficulty and potential inaccuracy to analyzing/modelling the basins, crafting management strategies, and ultimately bringing the basins into long term sustainability. The continued drilling of wells effectively creates “a moving target” and makes basin analysis and management more difficult and less certain.

m. Additional wells would also necessitate that scarce water supplies be shared among a larger number of water users, increasing the adverse impact of any necessary water extraction reductions upon existing water users.

C. Urgency Ordinance. This Ordinance is adopted as an urgency Ordinance pursuant to the provisions of Government Code Sections 25123 and 25131 and shall be effective immediately upon adoption. Based on the declaration of purpose and facts constituting the urgency set forth above in Section 1. B. of this Ordinance, the Board of Supervisors finds and determines that the adoption of this Ordinance as an urgency Ordinance is necessary for the immediate preservation of the public peace, health and safety to address critical groundwater conditions in Ventura County.

Section 2. Applicability

a) This Ordinance initially applies to that real property in the unincorporated area of Ventura County that is within four major watersheds of Ventura County, more specifically described as:

1) the Ventura River Watershed, draining to Surfers' Point; 2) the Santa Clara River Watershed, draining to McGrath State Beach; 3) the Cuyama River Watershed, draining to the Santa Barbara-Ventura County Line; and 4) that portion of the Calleguas Creek Watershed that includes the Oxnard Plain Basin, the Pleasant Valley Basin, the Las Posas Valley Basin, and the Arroyo Santa Rosa Basin, draining to Mugu Lagoon, all as shown on Exhibit 1, attached hereto and incorporated by reference herein.

b) After January 31, 2015, this Ordinance shall apply only to that real property in the unincorporated area of Ventura County that is both: 1) within one of the four watershed areas as designated in Section 2. a); and, 2) within groundwater basins designated by the California Department of Water Resources ("DWR") as High or Medium Priority Basins on or before January 31, 2015, pursuant to California Water Code Section 10722.4 (effective on January 1, 2015) or, in the event the DWR fails to make priority designations by January 31, 2015 pursuant to California Water Code Section 10722.4, within groundwater basins designated as High or Medium Priority under DWR's California Statewide Groundwater Elevation Monitoring Program (CASGEM) Groundwater Basin Prioritization until priority designations are made pursuant to Water Code Section 10722.4, which shall then be applicable to this subsection.

Section 3. Section 4826.1, Section 4826.2 and Section 4826.3 are hereby added to Division 4, Chapter 8, Article 1 of the Ventura County Ordinance Code to read as follows:

4826.1 Water Well and Water Well Permit Prohibitions.

Notwithstanding any other provision of this Article 1., beginning October 28, 2014, due to drought and groundwater conditions in Ventura County, no permits for the construction of new water wells or modification or repair of existing wells shall be issued under Section 4813.B. (1) and no person shall construct a new water well or modify and repair and existing water well under Section 4813.B.1 within the area described in Section 2 "Applicability" of Ventura County Ordinance Number _____, except as provided in Sections 4826.2 and 4826.3.

4826.2 Exceptions to Water Well and Permit Prohibitions.

The water well and permit prohibitions in Section 4826.1 shall not apply to:

- a. Water wells permits for the repair, modification or replacement of an existing permitted water well or legal nonconforming water well involving no increase in well capacity. Well capacity means the name plate performance rating for the existing well equipment.
- b. Water well permits for backup or standby wells which do not initiate any new or increased use of groundwater. For purposes of this Section, a new or increased uses of groundwater is a use that did not exist before October 22, 2014.
- c. Water well permits within areas in which groundwater rights have been adjudicated by a court where this water well permit prohibition would interfere with the court's order, decree, or physical solution.
- d. County water well permit applications approved for processing by a Groundwater Management Agency, provided that on October 22, 2014, the Groundwater Management Agency is prohibiting new groundwater extraction facilities. For purposes of this Section 4826.2, Groundwater Management Agency shall mean an agency formed under California Water Code -Appendix Sections 121-102 et seq.
- f. County water well permit applications filed on or before October 22, 2014.
- g. Water well permits applications within groundwater basins designated as High or Medium Priority under Department of Water Resources' ("DWR") California Statewide Groundwater Elevation Monitoring Program (CASGEM) Groundwater Basin Prioritization for which designations are made pursuant to Water Code Section 10722.4 and for which a groundwater sustainability agency has adopted and submitted to DWR a groundwater sustainability plan or alternative plan pursuant to Water Code Sections 10727 and 10733.6 (effective January 1, 2015).

4826.3 Waivers to the Water Well and Permit Prohibitions

A waiver to the water well and permit prohibitions in Section 4826.1 may be granted by the Director on a case by case basis, upon receipt of an application for a waiver and upon the Director's determination that the application demonstrates:

1. That there are special circumstances or exceptional characteristics of the real property and groundwater which do not apply generally to comparable real property and groundwater conditions in the same vicinity, and that the granting of such waiver will not be detrimental to the condition of groundwater resources; or
2. That strict application of the water well prohibition as it applies to the real property or its groundwater conditions will result in practical difficulties or unnecessary hardships inconsistent with the purpose and findings of Ventura County Ordinance No. _____; and that the granting of such waiver will not be detrimental to the condition of groundwater resources.

Section 3. Enforcement. A violation of this Ordinance is a violation of the Ventura County Ordinance Code and is enforceable pursuant to Sections 13 through 13-4 and Section 4823 of the Ventura County Ordinance Code.

Section 4. Duration. This urgency Ordinance shall remain in effect and operative from the date of adoption until it is amended, or repealed by the Board of Supervisors.

Section 5. Effective Date. In light of the findings and declaration of facts in Section 1, the Board of Supervisors declares that this Ordinance is necessary as an urgency measure for the immediate preservation of the public peace, health, and safety. This Ordinance shall take effect and be operative on October 28, 2014.

PASSED AND ADOPTED this 28th day of October, 2014, by the following vote:

AYES: Supervisors _____

NOES: _____

ABSENT: _____

Chair, Board of Supervisors
County of Ventura

ATTEST:

MICHAEL POWERS

Clerk of the Board of Supervisors

County of Ventura, State of California

By: _____

Deputy Clerk of the Board

Exhibit 1 to Ordinance

A map of Ventura County in four colors showing the four watershed areas described in Section 2, Applicability, subsection a) of this Ordinance.