



Merced County
Groundwater Mining and Export Ordinance #1930 (Effective 04/15/15)
Frequently Asked Questions

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Introduction

One of Merced County's foremost concerns is the ongoing drought and its impact on the health, welfare and safety of residents. As drought conditions intensify, so does the use of groundwater resources. In an effort to protect one of our most valuable natural resources, the County has been working with outside experts and stakeholders to develop a groundwater ordinance. The purpose of the ordinance is to prohibit the unsustainable extraction/conveyance of groundwater outside of a basin. Several exemptions and processes are in place to allow water districts and other users to operate without hindrance. Staff is continuing to work with local stakeholders and outside experts to determine how to best implement the ordinance to protect our local farming community while preserving local groundwater resources. The County's intent throughout this process has been and continues to be open and inclusive. The following is a list of "frequently asked questions" to provide some guidance on the purpose of the ordinance. Most of the questions are of a general nature, but some have been specifically asked by participants during the development process.

1. Why is the County considering a groundwater ordinance?

Answer: Counties have the overall responsibility to protect the safety, health and welfare of all citizens within its boundaries, and access to water is a health and safety issue. Groundwater is a significant source of water for many County residents and data show that some areas of the County have declining groundwater levels, which leads to several negative impacts. Declining groundwater levels can result in increased groundwater overdraft, land subsidence, uncontrolled movement of inferior-quality groundwater, increased groundwater degradation, streamflow depletion, depleted basins, the loss of arable agricultural land, increased pumping costs, infrastructure damage due to subsidence, economic losses, and other adverse impacts.

2. Can I drill a new well?

Answer: Applications for new wells would be reviewed by the Public Health Department's Division of Environmental Health through a permit process similar to the one currently in place. The application will be reviewed to determine the purpose of the well, the proposed pumping volume, and possible environmental impacts. If the well meets all screening and review requirements, it would be eligible for approval.

3. Will I be able to drill a new well to replace one that's failed?

Answer: Yes. A replacement well with the same size and capacity as the previous well is exempted from the proposed groundwater ordinance.

4. How long would it take to get a permit to drill or re-drill a well?

Answer: The permit review time will vary with intended use, site location, and other factors. Prompt reviews will be a priority.

5. Does the County have the capability to implement and enforce this ordinance?

Answer: Yes. County staff will use existing processes to implement the ordinance, such as new well construction permits and “projects” subject to the California Environmental Quality Act. However, the County will develop additional strategies and need additional resources to manage groundwater. A key strategy will be forming partnerships with all the existing water management agencies in the County in order to collectively address groundwater management issues. The County will also continue to engage with outside experts as policies are implemented and proposed activities are considered. The most likely activities prohibited would be groundwater extraction proposals that would cause or exacerbate subsidence, cause water quality problems or harm existing legitimate groundwater use.

6. Are incorporated cities covered by the ordinance?

Answer: No. Incorporated cities, such as Atwater, Dos Palos, Gustine, Livingston, Los Banos, and Merced, are not covered by the proposed ordinance. However, unincorporated areas, such as Hilmar and Delhi, are covered by the ordinance.

7. Can a City install a new well within a City's limits without the County's approval?

Answer: Yes. All the cities in Merced County are within the scope of existing exempt groundwater plans or have their own rights and authorities to supply groundwater to their citizens.

8. Can an Irrigation District install a new well within a City's limits without the County's approval?

Answer: Yes, however, the City would need to give the Irrigation District approval to install a well in its jurisdiction.

9. Can a City or an Irrigation District install a new well in the unincorporated area without the County's approval?

Answer: No. All well installations outside of an incorporated City but within the County (even if within a city's Sphere of Influence), would need to go through the County's permitting process.

10. Would a water district that transfers groundwater to a part of its district that is outside the groundwater basin be required to obtain a permit?

Answer: If the District has a current groundwater management plan that meets the requirements of Senate Bill 1938 and is posted to the California Department of Water Resources website, it may be able to qualify under one of the exemptions. The proposed project must be a component of that groundwater management plan.

11. Are forced water sales exempt (e.g. unimpaired flow requirements through State Water Board action for downstream water quality)?

Answer: Yes, they are exempt. However, the proposed action would still be required to go to the County to verify that the proposed use meets the exemption.

12. If I'm in a water district that has allowed me to transfer well water to myself in a neighboring district, will this ordinance somehow prevent that?

Answer: As long as the transfer is within the same groundwater basin and is an approved use under the County's exemption process, this would continue to be allowed.

13. How will the additional monitoring by the County be paid for? Will taxes or fees increase?

Answer: No tax increase is being proposed as a result of this ordinance. The County is currently assessing how this new program will be funded and will conduct a study on the fee structure in the near future.

14. What is an example of someone being able to obtain a County permit to export water out of a groundwater basin that is not otherwise exempt?

Answer: Exports in compliance with the overlying groundwater management plan will have a greater chance of meeting approval requirements. For example, a grower in a plan area could use a Warren Act contract to bank water at San Luis Reservoir then bring the same amount of water back into the original County groundwater area during peak water demand.

15. Does the ordinance create another layer of oversight regarding water use?

Answer: This ordinance will assist the County with the transition of implementing recently-passed State legislation that will require more stringent oversight on groundwater and the formation of local Groundwater Sustainability Agencies.

16. How would this proposed ordinance affect property owners on smaller parcels of land that use significantly less water than a neighboring grower?

Answer: Property owners using two acre-feet of groundwater or less per year would be exempted, but must still go through the permit process to apply for that exemption.

17. Will meters be required on wells as a result of this ordinance?

Answer: New State legislation provides authority to Groundwater Sustainability Agencies to require groundwater pumping volume to be measured through metering devices. As part of the transition process into the new legislation, the County's permit process will require new wells to similarly have measuring devices installed to monitor flow.

18. Will new wells or proposed exports require environmental review (CEQA)?

Answer: Project applications that don't fall under immediate approvals and require further staff screening, application review and studies could require environmental review as a prerequisite to possible permit approval.

19. What is the process for an exemption?

Answer: The individual seeking an exemption would need to complete an application and submit it to the Public Health Department's Division of Environmental Health to verify that the proposed activity meets one of the exemptions. Depending on the complexity of the request, varying levels of review – including Preliminary Application Review – could apply prior to issuance of an approval or declination statement.

20. If I don't agree with County staff's finding regarding a permit request, how would I appeal?

Answer: All appeals would be made to the Merced County Board of Supervisors and must be made in writing, clearly set forth the reasons why the appeal should be granted and must be received by the Clerk of the Board within 15 calendar days of the postmark date on the envelope that transmits the

administrative determination. Any appeal must also include the required fee. Contact the Clerk of the Board at (209) 385-7366 for further information.

21. If I own two contiguous parcels of agricultural land that straddle a basin boundary, will I be able to transfer groundwater to myself?

Answer: If the parcels are contiguous and groundwater has been used for existing agricultural operations, it may qualify for an exemption. Any individual transferring water in such a manner will be responsible for installing a County-approved water flow meter and reporting annually to the County the amount of groundwater that's been exported from the basin.