

ORDINANCE NO. 3717

AN ORDINANCE OF THE MONTEREY COUNTY WATER RESOURCES AGENCY
ADOPTING REQUIREMENTS FOR
WATER SUPPLIERS WITHIN ZONES 2, 2A AND 2B
TO REPORT WATER USE INFORMATION FOR
GROUNDWATER EXTRACTION FACILITIES AND SERVICE CONNECTIONS, AND
TO INSTALL FLOWMETERS ON GROUNDWATER EXTRACTION FACILITIES
AND SERVICE CONNECTIONS
AND REPEALING ORDINANCE NOS. 3663 AND 3696

PASSED: OCTOBER 5, 1993

(AMENDED BY ORDINANCE #3718)

FILED

OCT 1 1 1993

ERNEST A. MAGGINI
MONTEREY COUNTY CLERK
DEPUTY

Monterey County Water Resources Agency
NOTICE OF EXEMPTION

(Pub. Res. Code Sec. 21152; 14 CCR Secs. 15062)

To:
 County Clerk [] Other county clerk:
Monterey County
240 Church St., Rm 318
Salinas, CA 93901

On October 5, 1993, the Monterey County Water Resources Agency approved the project described below. This project is exempt from the requirements of CEQA, as hereinafter described.

PROJECT: Ordinance Nos. 3717 and 3718

PROJECT PROPONENT: Monterey County Water Resources Agency (MCWRA)

LEAD AGENCY: Monterey County Water Resources Agency (MCWRA)

Contact Person: Name: Deborah Shifflett
Address: P.O. Box 930, Salinas, CA 93902
Phone: (408) 755-4860

Decision-making body: MCWRA Board of Supervisors
[] MCWRA Board of Directors
[] MCWRA General Manager

PROJECT DESCRIPTION: The MCWRA already requires the installation of flowmeters on groundwater extraction facilities in the Zones 2, 2A, and 2B. Ordinance No. 3717 advances the deadline for installation of such meters from February 15, 1995, to February 15, 1994, in the areas of Zones 2, 2A, and 2B that are outside the P-1, P-2, and E-1 sub-areas. Ordinance No. 3718 provides for the granting of a variance to that deadline, allowing for an extension of time of up to four months in certain situations.

PROJECT LOCATION: Zones 2, 2A, and 2B are located in the Salinas Valley, running from approximately San Ardo in the south to the Pacific Coast in the north, all in Monterey County, California

EXEMPT STATUS:

- Not a project within the meaning of 14 CCR Sec. 15378 (14 CCR Sec. 15061(b)(1))
- Ministerial exemption (PRC Sec. 21080(b)(1); 14 CCR Sec. 15268);
- Statutory exemption under PRC Sec. _____, 14 CCR Sec. 15260 et seq., Sec. _____
- Categorical exemption under 14 CCR Sec. 15307 and 15308.
- With certainty, the project has no significant adverse effects on the environment (14 CCR Sec. 15061(b)(3)).

(EXEMPT1.NOT - 10/6/93)

REASONS WHY PROJECT IS EXEMPT: Changing the date for the installation of flowmeters on groundwaters will have no adverse effect on the environment.

The well metering speedup ordinance advances the date by which meters must be installed on groundwater wells in portions of the Salinas Valley Groundwater Basin, and the second ordinance provides for variances from the advanced deadline. This action will have no effect on the environment. It will facilitate the gathering of information about pumping in the Salinas Valley.

The ordinances are exempt from CEQA under the following sections of the CEQA Guidelines, as follows:

1. Sec. 15061(b)(3): it can be seen with certainty that there is no possibility that the ordinance may have a significant adverse effect on the environment.

2. Sec. 15307: the ordinance is categorically exempt as an action taken by a regulatory agency as authorized by state law or local ordinance to assure the maintenance, restoration, or enhancement of a natural resource, where the regulatory process involves procedures for protection of the environment. In the present case, the procedure for protection of the environment was to prepare an initial study under CEQA to analyze the potential environmental effects of the proposed ordinance.

3. Sec. 15308: the ordinance is categorically exempt as an action taken by a regulatory agency as authorized by state law or local ordinance to assure the maintenance, restoration, or enhancement of the environment, where the regulatory process involves procedures for protection of the environment. In the present case, the procedure for protection of the environment was to prepare an initial study under CEQA to analyze the potential environmental effects of the proposed ordinance.

DATED: October 6, 1993

MONTEREY COUNTY WATER RESOURCES
AGENCY, William F. Hurst,
General Manager

BY 

(EXEMPT1.NOT - 10/6/93)

Monterey County
Water Resources Agency

Ordinance No. 3717

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WATER SUPPLIERS WITHIN ZONES 2, 2A AND 2B
TO REPORT WATER USE INFORMATION FOR
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AND SERVICE CONNECTIONS
AND REPEALING ORDINANCE NOS. 3663 AND 3696**

County Counsel Summary

This ordinance applies to all groundwater extraction facilities located within Zones 2, 2A and 2B with a discharge pipe having an inside diameter of at least 3 inches. The ordinance requires that the owner or operator of such facilities make annual reports to the Monterey County Water Resources Agency concerning quantities of water pumped from the facilities, as well as additional information concerning the distribution and use of the water. The ordinance requires that flowmeters be installed on all groundwater extraction facilities on or before November 1, 1993, in subareas P-1, P-2, and E-1, and on or before February 15, 1994, in the remaining areas of Zones 2, 2A and 2B, and limits the purposes for which monetary exactions may be imposed based upon water use measured by the meters. The ordinance provides a variance procedure and also establishes penalties for violations of the ordinance. This ordinance repeals Ordinance No. 3663 and Ordinance No. 3696, which enacted similar but not identical provisions.

WHEREAS on February 2, 1993, the Board of Supervisors adopted Ordinance No. 3663, adopting requirements for water suppliers within Zones 2, 2A and 2B to report water use information for groundwater extraction facilities and service connections, and to install flowmeters on groundwater extraction facilities and service connections, and said ordinance required metering of all water wells covered by the ordinance in Zones 2, 2A and 2B not later than February 15, 1995; and

WHEREAS on July 27, 1993, the Board of Supervisors adopted Ordinance No. 3696, amending Ordinance No. 3663 to advance the time for metering of wells in subareas P-1, P-2, and E-1 of Zones 2 and 2A from February 15, 1995, to November 1, 1993; and

Ordinance No. 3717

WHEREAS the Board of Supervisors now determines that an earlier metering date will be required for the remaining wells in Zones 2, 2A, and 2B, due to requirements of the State Water Resources Control Board and the need to deal more expeditiously with the problems of seawater intrusion and basin-wide overdraft in the Salinas Valley Groundwater Basin;

NOW, THEREFORE, the Board of Supervisors of the Monterey County Water Resources Agency ordains as follows:

SECTION 1. The following provisions are hereby enacted:

PART I -- INTRODUCTION

1.01.00 AUTHORITY

Under the Monterey County Water Resources Agency Act (Stats. 1990, Chap. 1159), the Agency has jurisdiction over matters pertaining to water within the entire area of the County of Monterey, including both incorporated and unincorporated areas. Under the Act, the Agency is authorized to conserve water in any manner, to prevent the waste or diminution of the water supply within the territory of the Agency, to conserve water for the present and future use within the territory of the Agency, and to prevent groundwater extractions which are determined to be harmful to the groundwater basin. The Agency may further adopt, by ordinance, reasonable procedures, rules, and regulations to implement the Act, and may specify in any ordinance that a violation of the ordinance is an infraction. The Board further has power to perform all other acts necessary or proper to accomplish the purposes of the Act.

1.01.01 FINDINGS

A. Groundwater supplies in the Salinas Valley basin are being diminished in both quantity and quality. This inability to maintain a constant, usable water supply is due to historical overdraft, increases in demand, lack of new water supplies, and contamination of the existing supply.

B. Increases in demand have come from all sectors of the Salinas Valley -- agricultural, residential, industrial, commercial, and others. These increases in demand, coupled with the recent six year drought, have exacerbated water quality impacts and significantly accelerated overdraft.

C. Even without drought, overdraft of the groundwater basin is a constant problem; it depletes the existing water supply and contributes to the intrusion of seawater into the basin along the coast.

D. New water supplies need to be developed; however, efficient use of the existing groundwater supply must be documented in order to obtain approval for new supply projects. Reliable documentation of extractions can be provided by water flowmeters, a requirement of this Agency.

E. Overpumping reduces water quantity; pollution reduces water quality. The overapplication of irrigation water contributes to the deep percolation of fertilizers and aggravates the nitrate pollution problem in many areas of the Salinas Valley. An effective method of reducing nitrate contamination is to increase on-farm irrigation efficiency, thereby reducing the deep percolation of nitrate-contaminated water. Irrigation efficiency can only be proven by the documentation of extraction data obtained through flowmeters.

F. The location of the seawater intrusion front poses an imminent threat to the municipal water supply for the City of Salinas. A reduction in groundwater pumping and its resultant overdraft will aid in decreasing the rate of seawater intrusion. The immediate implementation of such a demand reduction strategy requires that the timeline for the installation of flowmeters be changed from February 15, 1995, to November 1, 1993, for the aquifers in the northern Salinas Valley (subareas P-1, P-2, and P-3), and to February 15, 1994, for the remainder of Zones 2, 2A, and 2B.

1.01.02 PURPOSE

It is the purpose of this ordinance to:

A. Determine actual amounts of water produced by each groundwater extraction facility.

B. Provide information that can be used to develop demand management programs needed to curtail the threat to public health, safety, and welfare created by an inadequate water supply. Water demand management may include such programs as conservation, groundwater allocation and economic strategies.

C. Facilitate and encourage water conservation in the territory subject to this ordinance by monitoring water use patterns and practices.

D. Facilitate the development of new water supplies to serve the increasing demands for water in the territory. The collection of water use data will document water use and water conservation efforts within the Salinas Valley, so as to support any determination that new water projects are necessary.

E. Allow the Agency to allocate the costs of water management activities in the Salinas Valley Groundwater Basin and any new water projects for the basin, based upon actual water use. Fees or assessments based on water use will only be used for the production and delivery of water and for water management activities, including, but not limited to, the development and implementation of water allocation plans, water conservation plans, and water supply projects.

1.01.03 DEFINITIONS

A. AGENCY shall mean the Monterey County Water Resources Agency.

B. GROUNDWATER EXTRACTION FACILITY ("Facility") shall mean a groundwater well or facility for the extraction of groundwater which employs a motor-driven pump for the extraction of groundwater and which has a discharge pipe with an inside diameter equal to or greater than 3 inches.

C. PERSON shall mean an individual; a sole proprietorship, corporation, partnership, association, trust, or any other form of business or non-profit entity; or a city, county, state, the United States, or any other federal, state, local or foreign government entity.

D. SERVICE CONNECTION shall mean a connection between a water distribution system and a water user's pipes or facilities. When a water distribution system provides water to a multi-unit condominium or apartment complex (including two units or more) or to a multi-unit commercial or residential building or property (including two units or more), where the building or property is under common ownership, management, or supervision, "service connection" shall mean the connection between the distribution system and the complex, building or property and not the individual units, unless the customers or manager of the distribution system elect to have the connections to the individual units treated as service connections.

E. USE CATEGORY shall refer to the designations residential, commercial, industrial, governmental, and agricultural.

F. WATER DISTRIBUTION SYSTEM shall mean a groundwater extraction facility and the pipelines or other distribution facilities that deliver the water to the water user, where the system meets either of the following conditions:

1. The water system supplies water to 15 or more service connections; or

2. The water system supplies water to one or more industrial, commercial, or governmental water users.

G. WATER SUPPLIER shall mean a person who owns or operates a groundwater extraction facility.

H. WATER USER shall mean a person who receives water from a groundwater extraction facility for consumptive use.

I. WATER REPORTING YEAR shall be from November 1 to October 31 of the following year.

J. TERRITORY shall mean Zones 2, 2A, and 2B of the Water Resources Agency, outside the jurisdiction of the Monterey Peninsula Water Management District.

K. SALINAS VALLEY BASIN SUBAREAS P1, P2 AND E1 shall mean the area in the northern portion of the Salinas Valley between the coast and Harris and Williams Roads, which is more particularly described in Attachment A.

L. WATER MEASURING DEVICE shall mean a water flowmeter or any other device used in calculating or estimating the amount of water produced from a groundwater extraction facility or transmitted through a service connection.

1.01.04 TERRITORIAL APPLICATION OF ORDINANCE

This ordinance applies to groundwater extraction facilities that are located in the territory defined in section 1.01.03.J. This ordinance applies to water distribution systems, service connections, water suppliers, or water users, only when a groundwater extraction facility subject to this ordinance is a source of water for such system, connection, supplier, or user; and then the ordinance applies thereto even though the system, connection, supplier, or user may be located in whole or in part outside Zones 2, 2A and 2B or within the territorial jurisdiction of the MPWMD.

PART II -- RECORD-KEEPING AND REPORTING

1.01.10 RECORD-KEEPING AND REPORTING REQUIREMENTS

A. Each water supplier shall keep records showing the total monthly and annual water use, in conformity with this section. The records shall be maintained for each groundwater extraction facility, for each service connection receiving water from such facility, and for the water distribution system associated with such facility. The records shall show the following information for each

month of operation and cumulatively for the water reporting year, in such format as may be prescribed by the Agency:

1. the quantity of water produced by each extraction facility,
2. the quantity of water delivered by the system for use in each use category,
3. the use categories served through each service connection, and
4. for all service connections that are required to be metered under this or any other ordinance or as a condition of receiving water service, the quantity of water delivered through each service connection.

B. All information concerning quantities of water produced or delivered shall be obtained through flowmeters meeting specifications prescribed by the Agency, except that before November 1, 1993, in Salinas Valley Subareas P1, P2 and E1, and before February 15, 1994, in all other areas, such data may be obtained through any of the following methods:

1. Water flowmeters.

- a. Flowmeters installed on or after the effective date of the ordinance must comply with all the specifications established by the Agency on the date of installation.

- b. Flowmeters installed before the effective date of this ordinance shall comply with the accuracy specifications established by the Agency.

- c. All water flowmeters will be tested annually by an Agency-recognized tester, and will be calibrated to comply with the applicable Agency specifications.

- d. Upon completion of the annual test, the tester will submit to the Agency a report of testing which will include the water flowmeter reading on the date of testing.

2. Electrical records.

- a. The reporting party will report quantities of water used, based on calculations using accurate electrical bills, data from pump efficiency tests, and such formulas as may be approved by the Agency.

b. Electrical bills shall be based on electrical meters on the facility. The facility's use of electricity shall be the only electrical use measured by the electrical meter.

c. The reporting party must submit information showing the kilowatt hours used each month by each facility.

d. The reporting party shall obtain a groundwater extraction facility test (pump efficiency test) and shall include all data concerning such test, as prescribed by the Agency. The test shall be performed by an Agency-recognized testing company. The test shall be a three-point efficiency test which evaluates three discharge pressures and shall be obtained during the period March through June. Upon completion of the annual test, the tester will submit to the Agency a report of testing which will include the electrical meter reading on the date of testing.

e. The reporting party must submit all computations necessary to show the quantity of water used, including the raw data, the computation itself, and the result, as prescribed by the Agency.

3. Hour meters.

a. The reporting party will report quantities of water used, based on calculations using readings from hour meters, discharge rates derived from pump efficiency tests, and such formulas as may be approved by the Agency.

b. Hour meters shall be accurate to within +/- 2% of correct time.

c. The reporting party must submit information showing the total number of hours each facility was operated each month.

d. The reporting party shall obtain a groundwater extraction facility test (pump efficiency test) and shall include all data concerning such test, as prescribed by the Agency. The test shall be performed by an Agency-recognized testing company. The test shall be a three-point efficiency test which evaluates three discharge pressures and shall be obtained during the period March through June. Upon completion of the annual test, the tester will submit to the Agency a report of testing which will include the hour meter reading on the date of testing and the discharge rates determined pursuant to the test.

e. The reporting party must submit all computations necessary to show the quantity of water used, including the raw

data, the computation itself, and the result, as prescribed by the Agency.

C. Not later than February 15 following the close of each water reporting year during which a water supplier maintained an operational groundwater extraction facility, each such water supplier shall submit to the Agency its annual report. The annual report shall include all of the information required to be kept under paragraph A, together with any additional supporting information required in paragraph B, above. In addition, the report shall include any current information necessary to update the information that would be required for registration of the extraction facility.

D. If during any period of time any water-measuring device is known to be inaccurate or malfunctioning, the reporting party shall nevertheless provide water quantity information for the duration of such period of time, using any of the other water-measuring methods described in paragraph B, above, or, in the absence of necessary equipment, such other method of estimating water use as may be approved by the Agency General Manager in writing. The reporting party shall exercise due diligence to repair all equipment promptly upon discovery of its need for repair, and shall immediately notify the Agency General Manager in writing of the equipment failure if the failure has lasted longer than 2 weeks and none of the alternate methods of measuring water authorized by this ordinance is available for the facility in question.

1.01.11 REQUEST FOR ADDITIONAL DATA

Within 60 days after receipt of a written request by the Agency for any additional information reasonably required by the Agency pertaining to a groundwater extraction facility, water distribution system, or service connection, each water supplier receiving the request shall to the best of their ability provide the information requested.

1.01.12 FORMS PRESCRIBED BY AGENCY

The Agency may prescribe standard forms and methods for any of the records or reports required by this ordinance. Persons required to keep records shall put into effect the prescribed record-keeping forms and methods within 60 days after receipt of the prescribed forms from the Agency.

1.01.13 PRIVACY OF DATA

All water use data obtained by the Agency from a Water Supplier by reason of this ordinance shall be used only for purposes consistent and compatible with the purposes for which the Agency

exists. The Agency shall restrict access to and distribution of personally identifiable information consistent with privacy protections and requirements and trade secret protections.

PART III -- FLOWMETER REQUIREMENTS

1.01.14 GROUNDWATER EXTRACTION FACILITY METERS REQUIRED

A. After November 1, 1993, no person may operate any groundwater extraction facility which draws water from Salinas Valley basin subarea P1, P2, or E1 and is subject to this ordinance unless the facility is equipped with an operational water flowmeter that meets specifications approved by the Agency.

B. After February 15, 1994, no person may operate any groundwater extraction facility that is subject to this ordinance unless the facility is equipped with an operational water flowmeter that meets specifications approved by the Agency.

C. Each groundwater extraction facility constructed after the effective date of this ordinance shall be equipped with such a meter before construction of the facility is completed.

1.01.15 SERVICE CONNECTION METERS REQUIRED

A. After February 15, 1994, no person may operate any water distribution system that is subject to this ordinance unless each service connection to the system is equipped with an operational water flowmeter that meets specifications approved by the Agency. Each service connection installed after the effective date of this ordinance shall be equipped with such a meter at the time the service connection is installed.

B. This section does not apply to service connections providing water solely for agricultural irrigation and uses incidental thereto. Incidental uses include, but are not limited to, residences on or immediately adjacent to the agricultural premises, when such residences are used by persons owning, operating, or working on the agricultural premises.

1.01.16 BYPASSING METERS PROHIBITED

No person shall take water from the discharge end of a groundwater extraction facility required to be metered under this ordinance, unless all such water first passes through the meter. No person shall take water from a water service connection required to be metered under this ordinance, unless all such water first passes through the meter.

1.01.17 FLOWMETER SPECIFICATIONS

A. The Agency Board of Directors shall adopt flowmeter specifications for use pursuant to this ordinance, and may amend such specifications from time to time. Such specifications may establish standards for the kinds of meters that will be acceptable, performance standards that must be met by the meters, testing capabilities, tamper-proof capabilities, and other pertinent standards. Flowmeters shall come from the manufacture with a provable accuracy of +/- 2%. Flowmeters shall read within +/- 5% at all times after installation.

B. No person who has installed a flowmeter in conformity with specifications in effect at the time of installation shall be required to alter or replace such flowmeter because of later changes in specifications. Each such flowmeter shall be maintained so that it complies, at a minimum, with the specifications in effect on the date of installation of the meter.

1.01.18 MAINTENANCE AND PERIODIC TESTING OF METERS

A. Each owner of a water flowmeter shall maintain the meter in an operational condition and in conformity with the requirements of this ordinance and all applicable meter specifications adopted by the Agency.

B. The Agency may test meters throughout its jurisdiction, in order to insure that meters remain operational and in conformity with applicable specifications. The Agency may develop procedures, which may include random sampling and other procedures, in order to exercise this authority and to encourage maintenance of meters by the meter owners.

C. The owner of each water flowmeter shall have each such meter tested and calibrated annually by an Agency-recognized tester to ensure compliance with the applicable Agency specifications. Upon completion of the annual test, the tester will submit to the Agency a report of testing which will include the water flowmeter reading on the date of testing.

1.01.19 AUTHORIZED USE OF METERS

A. No governmental entity shall use flowmeters installed on privately owned groundwater extraction facilities or service connections, or the data obtained from such meters, in order to levy or collect any general fund taxes or for any other purpose except the following:

1. To facilitate the collection of water supply and water use data;

2. To facilitate the development and implementation of water management plans, including, but not limited to, water allocation plans, water conservation plans and water supply projects;

3. To impose fees, charges, water tolls, or assessments solely to pay for the planning, development, acquisition, construction, operation, and maintenance of water supply projects, and for other water management activities, including, but not limited to, the development and implementation of water allocation or conservation plans.

B. The fees, charges, water tolls, or assessments described in paragraph A may be imposed only to pay for projects and activities that benefit the land on which the water extraction facility is located or the land on which the water is used.

C. The fees, charges, water tolls, or assessments described in paragraph A that are imposed to pay for water supply projects may only be imposed to pay for projects that commence operation after January 1, 1994.

PART IV -- VARIANCES AND ENFORCEMENT

1.01.20 VARIANCES

A. Any person may, at any time, apply in writing for a variance from the strict application of this ordinance. The application for the variance shall be filed with the Agency. The General Manager may dispense with the requirement of a written application upon finding that an emergency condition requires immediate action on the variance request.

B. The applicant shall submit an action plan within 30 days after the variance request is filed, describing how and when the applicant will comply with this ordinance without the need for a variance. Compliance with this plan, as presented by the applicant or as modified by the General Manager, shall be a condition of granting the variance.

C. The General Manager may grant a variance to the terms of this ordinance upon making both of the following findings:

1. The strict application of the ordinance would create an undue hardship, or an emergency condition requires that the variance be granted; and

2. Granting the variance will not cause a significant adverse effect on the water supply or on service to other water

consumers and will not cause a significant loss in the accuracy or completeness of water use data provided to the Agency.

D. In granting a variance, the General Manager may impose any conditions in order to ensure that the variance is consistent with the overall goals of this ordinance. Variances may be granted for a limited period of time. The variance and all time limits and other conditions attached to the variance shall be set forth in writing, and a copy of the written variance shall be provided to the applicant.

E. The decision of the General Manager on an application for a variance may be appealed as provided in the section of Ordinance No. 3539, as now in effect or as subsequently amended or superseded, pertaining to appeals.

F. No person shall operate or maintain a groundwater extraction facility, water distribution system or service connection for which a variance has been granted hereunder, or use water therefrom, in violation of any of the terms or conditions of the variance.

1.01.21 PENALTIES

A. Any person who violates any provision of this ordinance is guilty of an infraction.

B. Any violation of this ordinance is hereby declared to be a public nuisance.

C. Any violation which occurs or continues to occur from one day to the next shall be deemed a separate violation for each day during which such violation occurs or continues to occur.

D. Any person who violates this ordinance shall be assessed a fine of \$100 for each violation.

E. Any person who violates this ordinance shall be liable for the cost of enforcement, which shall include but need not be limited to:

1. Cost of Investigation
2. Court Costs
3. Attorney Fees
4. Cost of Monitoring Compliance

PART V -- CONCLUDING PROVISIONS

1.01.22 SEVERABILITY

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, it shall not affect the validity of the remaining portions of this ordinance, including any other section, subsection, sentence, clause, or phrase therein.

SECTION 2. REPEAL OF PRIOR ORDINANCES. Ordinance No. 3663 and Ordinance No. 3696 are hereby repealed.

SECTION 3. EFFECTIVE DATE. This ordinance shall take effect 30 days after its final adoption by the Board of Supervisors.

PASSED AND ADOPTED this 5th day of October, 1993, by the following vote:

AYES: Supervisors Salinas, Shipnuck, Perkins, Johnsen & Karas.
NOES: None.
ABSENT: None.



BARBARA SHIPNUCK, Chairwoman
Board of Supervisors

ATTEST:

ERNEST K. MORISHITA
Clerk of the Board

By 

Deputy

APPROVED AS TO FORM:

County Counsel