

ORDINANCE NO. 04011

AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, PROHIBITING AND/OR REGULATING THE DRILLING OF NEW WATER WELLS IN IDENTIFIED AREAS OF THE COUNTY LOCATED ON THE FORMER FORT ORD MILITARY BASE; AND ADDING AN INDEMNIFICATION AND HOLD HARMLESS PROVISION APPLICABLE WITHIN SPECIAL GROUNDWATER PROTECTION ZONE AREAS FOR AREAS WHERE GROUNDWATER PROBLEMS ARE KNOWN TO EXIST TO CHAPTER 15.08, TITLE 15, OF MONTEREY COUNTY CODE.

COUNTY COUNSEL SUMMARY

This Ordinance takes effect 30 days after adoption to prohibit and/or regulate the approval of any ministerial development entitlements in a defined area of the County of Monterey within the boundaries of the former Fort Ord due to groundwater contamination constraints. This Ordinance amends the depth of "well" or "water well". The Ordinance prohibits the construction of water wells and precludes acceptance of applications for well construction permits within a zone of prohibition and further requires special evaluation by appropriate authorities for wells within a consultation zone around the contaminant plumes. The Ordinance also contains an indemnification and hold harmless provision for special groundwater protection zone areas where groundwater quality problems are known to exist.

THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, ORDAINS AS FOLLOWS:

SECTION 1. Subsection A.15 of of Section 15.08.020 of Chapter 15.08 of Title 15, of the Monterey County Code, shall be amended to read as follows:

"Well" or "water well" means any artificial excavation constructed by any method for the purpose of extracting water from, or injecting water into, the underground. "Well" includes abandoned wells, monitoring wells, observation wells, cathodic protection wells, test wells, and dry wells. In the Former Fort Ord Special Groundwater Protection Zone. "Well" shall include geotechnical borings greater than 50 feet in depth. "Well" or "water well" does not include:

- a. Oil and gas wells, or geothermal wells constructed under the jurisdiction of the Department of Conservation, except those wells converted to use as water wells; or
- b. Wells used for the purpose of dewatering excavation during construction, or stabilizing hillsides or earth embankments.

SECTION 2. Subsection C of Section 15.08.140 of Chapter 15.08 of Title 15, of the Monterey County Code shall be added to read as follows:

C. In areas overlying or adjacent to the contaminant plumes on the former Fort Ord (Prohibition Zone), water well construction shall be prohibited and no application for a ministerial well permit shall be accepted for any real properties within the Prohibition Zone area. The Prohibition Zone area is identified on the former Fort Ord, Special Ground Water Protection Zone Map, prepared and maintained by the United States Army and on file in the County of Monterey, Department of Health. This map will be updated as determined by the Fort Ord Base Realignment and Base Closure Team (BCT). The BCT consists of representatives of the U.S. Army, U.S. Environmental Protection Agency, California Department of Toxic Substances Control, and the California Regional Water Control Board, Central Coast Region. Whether or not the location of a proposed well is within the territory subject to this prohibition shall be determined by the Health Officer in consultation with the BCT in accordance with the map on file in the Department of Health.

This prohibition shall not apply to monitoring wells constructed for groundwater quality monitoring and to wells constructed for the purpose of remediation of the contaminant plumes.

SECTION 3. Subsection D of Section 15.08.140 of Chapter 15.08 of Title 15, of the Monterey County Code shall be added to read as follows:

D. In areas where groundwater extraction may impact or be impacted by the contaminated plumes on the former Fort Ord (Consultation Zone) m well construction shall be subject to special review, evaluation, conditions of construction, and possibly prohibition against drilling. The Consultation Zone area is identified on the former Fort Ord, Special Ground Water Protection Map. Whether or not the location of a proposed well is within the consultation zone area shall be determined by the Health Officer in consultation with the BCT in accordance with the map on file in the Department of Health.

The applicant will be responsible to provide all such information necessary to determine potential impacts, including but not limited to design specifications, anticipated uses, perforation levels, pumping and production schedules, and a plume impact modeling report.

Applications will be deemed complete or incomplete within 30 days from the date of receipt. Any permits issued shall be subject to conditions of approval regarding construction and use. If permit approval is appropriate, as determined by the Health Officer, such permit will be issued within 30 days of submittal of a complete application, or as soon thereafter as reasonably practicable.

This Consultation Zone restriction shall not apply to monitoring wells constructed for groundwater quality or quantity monitoring, or to wells constructed for the purpose of remediation of the contaminant plumes.

SECTION 4. Subsection E of Section 15.08.140, of Chapter 15.08 of Title 15, of the Monterey County Code, shall be added to read as follows:

E. Each permit issued pursuant to this Section shall have as a condition of the permit approval, a requirement that the applicant indemnify and hold harmless the County and its officers, agents, and employees from actions or claims of any description brought on account of any injury or damages sustained by any person or property resulting from the issuance of the permit and the conduct of the activities authorized under said permit.

SECTION 5. EFFECTIVE DATE.

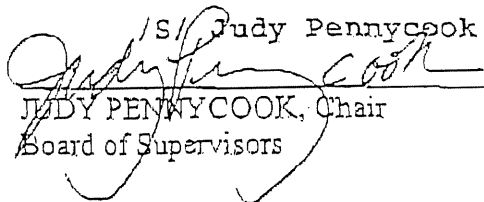
This Ordinance will be in effect 30 days after adoption by the Board of Supervisors.

PASSED AND ADOPTED this 27th day of April, 1999, by the following vote:

AYES: Supervisors Salinas, Pennycook, and Calcagno.

NOES: None.

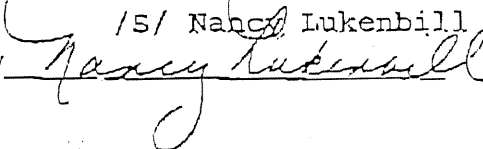
ABSENT: Supervisors Johnsen and Potter.

/s/ Judy Pennycook

JUDY PENNYCOOK, Chair
Board of Supervisors

ATTEST:

(SEAL)

Sally R. Reed
Clerk of the Board

/s/ Nancy Lukenbill
By 

APPROVED AS TO FORM:

By /s/ Douglas C. Holland
County Counsel