

ORDINANCE NO. \_\_\_\_\_

AN INTERIM ORDINANCE OF THE GLENN COUNTY BOARD OF SUPERVISORS, ADOPTED PURSUANT TO GOVERNMENT CODE SECTION 65858, TEMPORARILY RESTRICTING NEW AGRICULTURAL WATER WELL PERMITS, WITH SPECIFIED EXEMPTIONS, PENDING THE COUNTY'S STUDY AND CONSIDERATION OF REGULATIONS

THE BOARD OF SUPERVISORS OF THE COUNTY OF GLENN ORDAINS AS FOLLOWS:

SECTION 1: Findings and Declarations.

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

A. Pursuant to Article XI, section 7 of the California Constitution, the County of Glenn ("County") may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens.

B. Pursuant to Government Code section 65858, to protect the public safety, health, and welfare, the County may, as an urgency measure, adopt an interim ordinance temporarily prohibiting land uses that may be in conflict with contemplated land use regulations that the County is studying and considering or intends to study within a reasonable time.

C. The Board of Supervisors finds that there is a current and immediate threat to the public health, safety, and welfare resulting from the drilling of new agricultural water wells within the Area of Impact, defined as that certain area shown on the map attached hereto as Exhibit A which is incorporated herein by reference. The Board of Supervisors further finds that the approval of new agricultural water well permits within these areas will result in that threat to the public health, safety and welfare, pending further study and development of regulations, based on all the following facts:

1. Climate change is intensifying the impacts of droughts on our communities, environment and economy, and the County must therefore improve drought resiliency and prepare to respond to more frequent, prolonged, and intense dry periods.

2. Rainfall totals and water storage supply have been critically low and much of California is experiencing severe to exceptional drought.

3. On September 25, 2012, then Governor Edmond G. Brown Jr. signed Assembly Bill 685 making California the first state in the nation to legislatively recognize the human right to water. Now in section 106.3 of the California Water Code, the state statutorily recognizes that "every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes; and

4. Between 2007 and 2020, California has experienced several years of dry conditions including: three (3) wet years; zero (0) above normal years; four (4) below normal years; four (4) dry years; and, three (3) critical years. California is currently in the second consecutive year of dry conditions, resulting in drought or near-drought conditions throughout Glenn County.

5. These drought conditions can result in degraded water quality, fallowing of productive farmland, destruction of permanent crops, supplemental watering and feed of livestock, setbacks to vulnerable and rural communities through job losses and longer-lasting recoveries, constraints on access to traditional lifeways, loss of aquatic and terrestrial biodiversity, and ecosystem impacts.

6. Extraordinarily warm temperatures in April and May have worsened this critically dry year for the State of California, accelerating snow melt in the Sacramento, Feather and American River watersheds. Between the April 1 and May 1 forecasts, there was a 685,000 acre-feet reduction in the projected natural flow to the Sacramento, Feather, Yuba, and American rivers.

7. It is necessary to expeditiously mitigate the effects of these drought conditions within the Sacramento and Feather River watersheds to ensure the protection of health, safety, and the environment in Glenn County.

8. On March 5, 2021, the Secretary of the United States Department of Agriculture designated California's 58 counties as a primary natural disaster area due to recent drought.

9. On May 10, 2021 the Governor of the State of California proclaimed a drought State of Emergency in 41 counties.

10. On June 1, 2021, pursuant to Government Code Sections 8558 and 8630, the Glenn County Board of Supervisors declared that the County is a disaster area and that a local emergency exists throughout Glenn County.

11. With California's traditional wet season now over, and no significant rainfall in the forecast, it is clear that the County is experiencing a second consecutive year of drought. The potential duration of the continuing drought is unknown.

12. Increasingly, limited or unreliable surface water supplies have resulted in more reliance on groundwater and a marked increase in the development of groundwater wells. This is due in part to the fact that the vast majority of water in the County is used for agricultural irrigation purposes.

13. For the past two years, rainfall in the County has been far below long-term averages. Additionally, with reduced surface water and changes in irrigation techniques, there is less available percolating water to recharge diminishing groundwater supplies.

14. Groundwater levels have been on the decline in the County for the past several years due to the continuing drought, increased extraction, and reliance on limited groundwater supplies. Current groundwater levels, based on recently completed groundwater measurements, show that average County groundwater levels are at the same level that would typically be seen in the fall, when levels are at their lowest.

15. New agricultural water wells and the expansion of existing agricultural water wells further dilute the scarce groundwater supplies that must be shared among a large number of beneficial water users.

16. Groundwater is a vital resource of the health and safety of the County with many areas and users fully reliant on groundwater as their only source of water. The continued installation of new agricultural water wells and the expansion of existing agricultural water wells threaten that vital resource.

17. Without immediate action to at least mitigate or stop continuing groundwater declines, the residents, farms and businesses of the County may suffer irreparable harm and damage. Moreover, the lack of available groundwater jeopardizes the health, safety and welfare of the citizens of the County.

18. The Area of Impact, where the prohibition on the issuance of new drilling permits for agricultural water wells is shown on Exhibit A. The Area of Impact is where water levels have already been impacted by the extraordinarily warm temperatures and drought conditions.

19. This ordinance's temporary prohibition on new drilling permits for agricultural water wells in the identified areas is necessary due to the current and immediate threat to the public health, safety, and welfare that would result from new agricultural water wells in the Area of Impact, pending the development of Groundwater Sustainability Plans for the sustainable management of groundwater within the subbasins and the study and implementation of other steps to address groundwater sustainability within the County boundaries in coordination with the Groundwater Sustainability Agencies. It is the intent and purpose of this interim ordinance to temporarily halt on the issuance of new agricultural water well permits in the denoted areas under this ordinance to enable the County to study and develop policies and regulations and to study and implement other recommended actions. Absent this ordinance, applicants could continue to obtain agricultural water well permits that could exacerbate the drought conditions without the guidance of regulations to be developed for the sustainable management of groundwater within Glenn County.

20. This ordinance has due regard for exigencies that may arise in respect to domestic water supply, agricultural production, and public agency needs by exempting certain classes of wells from the prohibitions of this ordinance under the terms specified in this ordinance.

21. This ordinance is exempt from the California Environmental Quality Act (CEQA) because it is not a project under CEQA. Moreover, if it were deemed a project, it would be categorically exempt under section 15321 of Title 14, Article 7 of the California Code of Regulations because it amounts to an action by an agency for enforcement of a law, general rule, standard or objective administered or adopted by the agency. Additionally, this ordinance is exempt under Public Resources Code section 21080(b)(4) because this ordinance is necessary to prevent or mitigate an emergency, namely the loss of groundwater due to further agricultural water well drilling and expansion of existing wells. Furthermore, this ordinance is not subject to CEQA under the following sections of Title 14, Article 7 of the California Code of Regulations:

i. Section 15061(b)(3), because there is no possibility the activity in question may have a significant effect on the environment and section;

ii. Section 15307, because it regulates activities to assure the maintenance, restoration, or enhancement of natural resources;

iii. Section 15308, because it regulates activities to assure the maintenance, restoration or enhancement of the environment including groundwater resources within Glenn County; and

iv. Section 15269(c), because it is an interim urgency ordinance that prevents or mitigates impacts from sudden, unexpected failures of existing wells within the County presenting a clear and imminent danger to existing residential and agricultural water wells in the County, to users who rely on the water from those wells, and which requires immediate action to prevent or mitigate the loss or damage to life, health, property and essential public services.

D. This ordinance was adopted following a public hearing duly noticed under Government Code section 65090. Pursuant to Government Code section 65858, this interim urgency ordinance may have duration of no more than 45 days and may be extended, following notice and public hearing, for 22 months and 15 days. It is the County's intent that this interim ordinance shall be of no further force and effect after 45 days, unless the Board of Supervisors, following a noticed public hearing, elects to extend the interim urgency ordinance pursuant to law.

## SECTION 2. Applicability.

This interim urgency ordinance applies in the unincorporated area of the County of Glenn in the Area of Impact as shown on the map attached hereto as Exhibit A and as more fully described in this ordinance.

## SECTION 3. Regulations.

### A. Prohibition on new agricultural water wells:

1. The County shall not accept for processing, process, or approve any application to construct a new agricultural water well in the Area of Impact depicted in Exhibit A in the unincorporated area of the County, unless exempted under the terms of this ordinance. For the purposes of this ordinance, "agricultural water well" as used in this ordinance means wells, with casings in excess of six (6) inches in diameter, that are used primarily to supply water for irrigation or other agricultural purposes.

2. If the proposed agricultural water well is in an area that is outside of the Area of Impact depicted in Exhibit A within the unincorporated area of the County, the County may process an application to construct a new agricultural water well.

### B. These regulations shall take effect on the effective date of this interim ordinance.

C. The term "new agricultural water well" as used in this ordinance does not include (1) any well for which a construction permit has been issued by the County prior to the effective date of this ordinance; and (2) any agricultural water well for which drilling or construction activities have commenced prior to the effective date of this ordinance in accordance with a well construction permit issued by the County.

D. These regulations apply during the term of this interim ordinance and any duly adopted extension of this interim ordinance, unless a specific exemption under this ordinance is applicable.

## SECTION 4. Exemptions

A. The following categories of agricultural water wells are exempt from the regulations set forth in Section 3 of this ordinance:

1. Repairs or deepening of existing agricultural water wells.

2. New replacement agricultural water wells in the following circumstances:

i. The new agricultural water well replaces an existing agricultural water well that will be abandoned and destroyed, or converted to a dedicated monitoring well, in conformity with the law and to the satisfaction of the County within sixty (60) days following completion of the new replacement agricultural water well. A sixty (60) day extension may be granted.

ii. A new agricultural water well may replace a shared agricultural water well used by adjoining properties. The new agricultural water well may be placed on either of the adjoining properties regardless of the property location of the original agricultural water well but still must continue to be a shared agricultural water well among the adjoining properties. The new agricultural water well will comply with the same requirements of Item 2(i).

3. New agricultural water wells in the following circumstances:

i. The new agricultural water well does not extract groundwater or does not extract groundwater for any purpose other than sampling to comply with monitoring requirements. Non-producing test holes are exempt from the moratorium.

ii. Pursuant to an agricultural water well permit approved prior to June 1, 2021, that has not yet expired. Such permit may be extended one (1) time for no greater than a twelve (12) month period.

4. Monitoring wells.

5. Municipal water supply wells.

6. Well destructions.

B. Exemption under this ordinance does not guarantee approval of the agricultural water well. Wells exempt under this ordinance are subject to all other applicable federal, state, and County policies and regulation.

## SECTION 5. Enforcement

Any violation of this interim ordinance is unlawful and a public nuisance. In the event of a violation of this ordinance, the County may, in its discretion, in addition to all other remedies, take such enforcement action as is authorized under the Glenn County Code and such other enforcement action as is authorized by law.

## SECTION 6. No Taking of Property Intended

Nothing in this ordinance shall be interpreted to affect an unconstitutional taking of property of any person. If the Board of Supervisors determines, based on specific evidence in the administrative record, that the application of one or more of the provisions of this ordinance to a proposed use of land would affect an unconstitutional taking of private property, the Board shall disregard such provisions to the extent necessary to avoid such unconstitutional taking.

## SECTION 7. Effective Date

In light of the recitals in this ordinance, the Board declares that this interim ordinance is necessary as an urgency measure for preserving the public health, safety, and welfare. This interim ordinance shall take effect immediately upon adoption for the reasons set forth herein and shall expire 45 days thereafter unless extended pursuant to law.

SECTION 8. Severability

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

PASSED AND ADOPTED this 15th day of June 2021, by the Glenn County Board of Supervisors, State of California, by the following vote:

AYES:

NOES:

ABSENT:

COUNTY OF GLENN

By: \_\_\_\_\_  
Keith Corum, Chairman  
Glenn County Board of Supervisors

ATTEST:  
DI AULABAUGH

By: \_\_\_\_\_  
CLERK OF THE BOARD

APPROVED AS TO FORM:

By: \_\_\_\_\_  
WILLIAM J. VANASEK  
GLENN COUNTY COUNSEL