Appendix B
Tehama County Ordinance No. 1617

ORDINANCE NO. 1617

AN ORDINANCE REPEALING, ENACTING AND REENACTING THE SUBSTANTIVE PROVISIONS OF ORDINANCES 1552 AND 1553 OF THE COUNTY OF TEHAMA

THE BOARD OF SUPERVISORS OF THE COUNTY OF TEHAMA FINDS AND DECLARES THAT:

1. Imprudent operation of water wells, including, but not limited to, unfettered extraction of groundwater (especially for use on lands other than that from which the water is extracted) creates the potential of severe adverse environmental and economic impacts. These environmental impacts can effect individuals, communities and the County of Tehama as a whole.

2. No state system exists under which proposed extractions of groundwater for use on lands other than those from which the water is extracted are subjected to scrutiny for adverse impacts on the persons or communities which may be, or would be, impacted by such extractions; and under which persons adversely affected by such proposed extractions would have actual or constructive notice of such proposed extractions and an opportunity to be heard respecting such proposals.

3. Presently no state system exists under which such operation of wells are regulated in any meaningful manner. While Water Code §§ 1215, et seq. and Sections 10750, et seq., provide for the adoption in limited situations of groundwater management plans by certain entities, they are not exclusive and are inadequate to address all the concerns affecting the health and welfare of the residents of the County of Tehama.

4. The substantive provisions of Ordinances 1552 and 1553, adopted on February 4, 1992 and February 18, 1992 respectively, are, in the judgement of the Board of Supervisors, an appropriate exercise of the police power by the County of Tehama establishing, as it does, (1) a permit requirement on conduct which consists of extraction of groundwater from one parcel of land for use on another parcel or parcels of land, when such other parcels of land are not contiguous to, and under common ownership with, the parcel from which the groundwater is extracted; and (2) restrictions on the operation of wells in a manner which would, or could, adversely effect the operations of wells on adjoining property owned by others.

5. Although a trial court has determined that said provisions are unenforceable for the reason that the subject matter is beyond the reach of the County of Tehama because the State of California has impliedly pre-empted the field, that determination and judgement is not final because the County of Tehama has filed and served its "Notice of Appeal" of said Judgement; and,

6. But for an action of this Board, the substantive provisions of Ordinance 1552 would become ineffective on February 28, 1994; and,

7. It is appropriate that there be no lapse in the substantive provisions of Ordinances 1552 and 1553 pending the ultimate outcome of the current judicial proceedings.

NOW, THEREFORE,

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

SECTION 1. Section 15.56.020.13 of the Tehama County Code is hereby repealed.

SECTION 2. Chapter 9.40 of the Tehama County Code, entitled "Aquifer Protection", consisting of 9.40.010 through 9.40.120, is hereby repealed.

SECTION 3. The English title of Chapter 15.56 of the Tehama County Code shall hereafter be: "Water Well Construction, Rehabilitation, Repair and Destruction".

SECTION 4. New Section 15.56.020.13 defining "Cone of Depression" is hereby added to the Tehama County Code to read: "Cone of Depression. A depression in the groundwater table or potentiometric surface that has the shape of an inverted cone and develops around a well from which water is being withdrawn. It defines the area of influence of a well."

SECTION 5. A new Chapter 9.40, entitled "Aquifer Protection", is hereby added to Title 9 of the Tehama County Code to read as follows:

Chapter 9.40

AQUIFER PROTECTION

9.40.010 Definitions. The definitions applying to this chapter shall be those definitions found in Section 15.56.020, Title 15 of this Code together with the definitions set out in this section. In the event of conflict between a definition in this section and one found in Section 15.56.020,

the definition in this section shall control for the purposes of this chapter.

1. Conjunctive Use, Conjunctive Operation. The coordinated operation of a groundwater basin and surface water supplies. One purpose is to artificially recharge a basin during years of above-average precipitation so that groundwater can be withdrawn during years of below-average precipitation, when surface supplies are less than normal. Conjunctive operation also refers to meeting the needs of an area within the County through the coordinated use of groundwater during years when surface water is not available.

2. Culture (Land Use). The land use or land cover existing under natural conditions or as modified by man.

3. Domestic Water Well. A well devoted exclusively to the residential and related yard, garden and barnyard uses within the curtilage of a dwelling located on the same parcel of land as the served dwelling house or upon another parcel of land respecting which the owner of the served dwelling has a legally cognizable interest in the nature of real property. Such uses as recognized in this section do not include the growing of crops, or production of other agricultural commodities for commercial purposes.

4. Groundwater. Water in the zone of saturation. Groundwater is presumed to be percolating, although it does occur in known and definite channels.

5. Groundwater, Confined. A body of groundwater overlain by material sufficiently impervious to sever free

hydraulic connection with overlying groundwater except at the intake.

6. Groundwater, Free (Unconfined). Unconfined water is found in the zone of saturation whenever the upper surface of the zone forms a water table under atmospheric pressure, free to rise and fall with changes in volume of stored water.

7. Hydraulic Gradient. Slope of the water table.

8. Hydrology. The origin, distribution, and circulation of water through precipitation, streamflow, infiltration, groundwater storage, and evaporation.

9. Imported Water. Water transported into a watershed from a different watershed. Native water is water naturally within a watershed.

10. Mining. Extraction of groundwater by any means, including pumping and the use of artesian wells, from any aquifer within the county of Tehama which in contemplation of pre-existing extractions of ground water used beneficially upon lands overlying the aquifer within the County and the reasonably foreseeable beneficial uses to which groundwater from the aquifer could be made to lands overlying the aquifer within the County which exceeds the reasonably foreseeable replenishment potential of the watersheds' native water together with such imported water as may be available to be applied to the recharge the aquifer.

11. Overdraft. The condition of a groundwater basin where the amount of water withdrawn exceeds the amount of water replenishing the basin over a period of time. Also, as the

point at which extractions from the basin exceed its safe yield plus any temporary surplus.

12. Percolation. The movement of water through the soil to the groundwater table.

13. Permeability. The capability of soil or other geologic formation to transmit water.

14. Piezometric Surface. The surface to which the water in a confined aquifer will rise.

15. Porosity. Voids or open spaces in alluvium, other soils and rocks that can be filled with water.

16. Radius of influence. The radial distance from the center of a well bore to the point where there is no lowering of the water table or potentiometric surface (the edge of the well's cone of depression).

17. Recharge. Flow to groundwater storage from precipitation, infiltration from streams, irrigation, spreading basins, and other sources of water.

18. Safe Yield. The maximum quantity of water which can be withdrawn annually from a groundwater supply under a given set of conditions without causing an undesirable result. The phrase "undesirable result" is intended to refer to a gradual lowering of the groundwater levels resulting in, or tending to result in, the eventual depletion of or the substantial diminution of the supply of water.

19. Salt Water Intrusion. The movement of salt water into fresh water aquifers.

20. Specific Capacity. The volume of water pumped from a well in gallons per minute per foot of drawdown.

21. Spreading Water. Discharging native or imported water to a permeable area for the purpose of allowing it to percolate to the zone of saturation. Spreading, artificial recharge and replenishment all refer to operations used to place water in a groundwater basin.

22. Transmissivity. The rate of flow of water through an aquifer.

23. Usable Storage Capacity. The quantity of groundwater of acceptable quality that can be economically withdrawn from storage.

24. Water Table. The surface where groundwater is encountered in a well in an unconfined aquifer.

25. Zone of Saturation. The area below the water table in which the soil is completely saturated with groundwater.

9.40.020 Mining of Groundwater Prohibited. It shall be unlawful to conduct any mining for water within this County, or for the owner of real property to allow groundwater of any nature, or connate water, to be mined, where the water extracted is transported, by any means, from the County of Tehama.

9.40.030 Permit Required for Extraction of Groundwater for Use Off-Parcel. It shall be unlawful to extract groundwater of any nature or description, or for a property owner to allow such extraction on his land, for the purpose of

using the water or selling the water for use on other than the parcel of land upon which the extraction occurs, or contiguous parcels of land under the same ownership as the parcel from which the extraction occurs, without first obtaining a permit as provided in this chapter. This provision does not apply to the extraction of water for the purposes of supplying a "public water system", a "community water system", a "noncommunity water system", or "State small water system" as defined by Division 5, Part 1, Chapter 7 of the California Health and Safety Code commencing with Section 4010, serving residents of the County of Tehama.

9.40.040 Radius of Influence of Well Restricted. It shall be unlawful for any person to operate, or for a property owner to allow any person to operate, any well, excepting a domestic well as defined by Section 9.40.010.3, or a well serving any "public water system", "community water system", "noncommunity water system" or "State small water system", in such a manner that the radius of influence of such well extends beyond the boundaries of the parcel of land upon which the well is located, or alternatively, beyond the boundaries of contiguous parcels of land under the same ownership as that parcel upon which the well is located.

9.40.045 Restriction on Radius of Influence Not Applicable to Pre-existing Operating Wells. The prohibition of Section 9.40.040 shall not be applicable to any well actually in operation in calendar year 1991 or any prior year.

9.40.050 Application for Permit. An application for a permit required in this chapter shall be filed with the Tehama County Health Agency, Environmental Health Division, on forms provided by said Division and shall contain all information required by such Division. Concurrently, a request for environmental review thereof shall be filed as required by County guidelines. The application for permit and request for environmental review shall be accompanied by the fee's established therefor. Upon receipt of the permit application, the Health Agency, Environmental Health Division, shall review the application with affected County departments including, but not limited to, the Agricultural Commissioner and Planning Director. The Health Agency, Environmental Health Division, shall also review the application with the State Department of Water Resources and the Regional Water Quality Control Board. After obtaining the comments of the affected county departments and the affected state agencies, the Health Agency, Environmental Health Division, shall cause the application together with all received comments to be reviewed by the County Technical Advisory Committee and file a written report incorporating the observations and recommendations, if any, of the Technical Advisory Committee, accompanied by the Planning Director's review, with the Board of Supervisors, with a copy to the applicant. Upon receipt of such report, the Board of Supervisors shall set a public hearing on the issuance of the permit. Said hearing shall be noticed pursuant to Government Code § 6061 and said hearing may not be held within fifteen

(15) days of the time that the Board of Supervisors receives the report from the Health Agency, Environmental Health Division.

9.40.060 Public Hearing on Issuance of Permit. At said hearing, the applicant shall be entitled to present any relevant evidence to his application. The Board may request any additional geologic studies it deems necessary to obtain information required for its decision. The cost of such studies shall be borne by the applicant. The Board shall also hear relevant evidence presented by the public and County staff. The Board shall consider all effects the proposed permit would have on the affected groundwater, and the affected aquifer or aquifers, including, but not limited to, the hydraulic gradient, hydrology, percolation, permeability, piezometric surface, porosity, recharge, safe yield, salt water intrusion, specific capacity, spreading water, transmissivity, usable storage capacity, water table, and zone of saturation.

9.40.070 Granting of Permit. The permit referred to in this chapter may only be granted where the Board, after having reviewed the potential effects referred to in Section 9.40.060, finds and determines that the permit will not bring about an overdraft, will not bring about salt water intrusion, will not adversely affect transmissivity within the aquifer, will not adversely affect the water table and will not result in the mining of water. The decision of the Board of Supervisors shall be final. The Board shall impose such conditions upon the permit so as to prohibit overdraft, and may impose

conditions including, specifically but not limited to, a requirement for observation and/or monitoring wells, that it deems necessary for the health, safety and welfare of the people of the County of Tehama. Notwithstanding the foregoing, the Board may issue the permit if the Board finds that the applicant has provided for mitigation which will offset any adverse affect that is determined to exist.

9.40.080 Annual Review of Permit. The permit granted pursuant to this chapter shall be subject to an annual staff review. In the event the Health Agency, Environmental Health Division, determines that an overdraft is occurring because of the conditions then existing, the permit may be amended by order of the Health Agency, Environmental Health Division, to decrease the amount of water allowed to be extracted. Said decision by the Health Agency, Environmental Health Division, may be appealed to the Board of Supervisors by the applicant or any other affected person.

9.40.090 Inspection. The Director or his or her representative, with good cause, may at any and all reasonable times enter any and all places, property, enclosures and structures, for the purposes of making examinations and investigations to determine whether any provision of this Ordinance is being violated.

9.40.100 Violation: Criminal Penalty. Any person who violates any provision of this chapter, or the terms and/or conditions of any permit issued pursuant to this chapter, with intent to do so shall be guilty of a misdemeanor, punishable by

fine not exceeding $1,000.00 per violation, or by imprisonment not exceeding six (6) months, or by both such fine and imprisonment; and any person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any such violation is committed, continued, or permitted, and for each and every separate well with which any such violation is committed, continued, or permitted; and for each such subject violation of day or well, shall be subject to the same punishment as for original offense.

9.40.110 Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held illegal, invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The Board hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared illegal, invalid or unconstitutional.

SECTION 6. This ordinance shall take effect thirty (30) days from and after its adoption, and prior to the expiration of fifteen (15) days from the adoption thereof shall be published for at least one time in the *Red Bluff Daily News*, a newspaper of general circulation in Tehama County.

The above and foregoing Ordinance was duly passed and adopted by the Board of Supervisors of the County of Tehama, State of California, at a regular session of said Board on the

18th day of January, 1994, by the following vote of the Board:

AYES: Supervisors Marelli, Hicks, Landingham, Rowen and McIver

NOES: None

ABSENT OR NOT VOTING: None

/s/ Jane Landingham
Chairman of the Board of Supervisors

ATTEST: January 18, 1994

MARY ALICE GEORGE, County Clerk and ex-officio Clerk of the Board of Supervisors of the County of Tehama, State of California

By Julie A Scoperos
Deputy

GROUNDWATER EXTRACTION AND OFF PARCEL USE

PERMIT NO. WE-03/01

REISSUED AUGUST 18, 2009

In accordance with Chapter 9.40 of the Tehama County Code a Groundwater Extraction and Exportation Permit is hereby granted to Deer Creek Irrigation District subject to the following conditions:

1. Overdraft of the water table shall not occur.

2. Monitoring of the surface and groundwater systems shall comply with "groundwater Monitoring and Management Guidelines" set forth on Pages 23 through 31 of Appendix B to the Permit Application.

3 Field measurement of conductivity shall be conducted and evaluated on a monthly basis.

4. Report project status and monitoring results on a monthly basis to the Tehama County Flood Control & Water Conservation AB3030 Technical Advisory Committee.

5. During the pumping period, data loggers in key wells will record changes in groundwater levels every two-hours, but downloading of data and groundwater level monitoring of extending grid shall occur monthly.

6 Members of the 2003 Deer Creek Water Advisory Committee membership shall receive monthly updates of project status and monitoring results.

7. The total volume of groundwater extracted shall be limited to a maximum of 550 acre-feet between April and October of year during the term of the Permit.

8. The "Phase one" and "Phase two" activities described on Page 4 of the Permit Application and Page 4 of Appendix B to the Permit Application are not authorized by this Permit. No extraction of groundwater for off parcel use associated with these activities shall occur unless this Permit is amended in accordance with Chapter 9.40 of the Tehama County Code.

9. This Permit shall remain in effect for seven (7) calendar years from the date of issuance, unless amended or revoked in accordance with Chapter 9.40 of the Tehama County code.

THIS PERMIT IS VOID IF NOT USED WITHIN ONE YEAR FROM DATE OF ISSUE.

Granted August 18, 2009
DATE

Signed Angela L. Ford
Deputy Clerk of the Board, Tehama County Board of Supervisors