



COUNTY OF HUMBOLDT

Legislation Text

File #: 24-970, **Version:** 1

To: Planning Commission

From: Planning and Building Department

Agenda Section: Departmental Report

SUBJECT:

Analysis of Wells
Assessor Parcel Numbers (APN) 000-000-000
Countywide

Discussion of County Well Permitting and County Practice of Reviewing Existing and Proposed Wells

RECOMMENDATION(S):

That the Planning Commission:

1. Receive the report.

DISCUSSION:

Project Location: All of the unincorporated areas of Humboldt County, including the Coastal Zone.

Present General Plan Land Use Designation: All land use designations.

Present Zoning: All zoning districts.

Environmental Review: Not a project.

Executive Summary: Historically well permits have been reviewed by the Division of Environmental Health with respect to whether it complies with County and State well construction standards. This occurred as a ministerial review and was exempt from environmental review pursuant to the California Environmental Quality Act (CEQA). Where a well was proposed to be utilized, or an existing well proposed to be utilized for a project that is considered discretionary under CEQA, the County Planning Department would conduct an analysis of potential impacts associated with the use of the well, utilizing available information such as topographic and water resource maps, and well completion reports.

In 2018 the California appeals court decided Environmental Law Foundation v. State Water Resources Control Board and ruled that the public trust doctrine extended beyond navigable waterways to groundwater resources, and found that counties have a requirement to administer the public trust. Beginning in late 2020 a number of additional events led to a changing approach to well reviews. In Protecting Our Water and Environmental Resources (POWERS) v. County of Stanislaus the California Supreme Court found that treating well permits as ministerial and not requiring review under CEQA, may violate CEQA. Shortly thereafter, in April of 2021 the Governor declared a State of Emergency due to ongoing drought conditions across the State and imposed additional requirements for the review of well permits. In addition, and perhaps in large part due to the State of Emergency due to the drought, the County Planning Commission began receiving substantially more public concern related to the permitting of well for cannabis operations, and in November of 2021 the Planning Commission received correspondence from a Certified Hydrogeologist and Certified Engineering Geologist that raised concerns regarding the County's approach to reviewing wells for potential impacts to groundwater and water resources.

The combination of these factors led the County to change its approach to review of well permits. For a time, the County was requesting that cannabis applicants have a geologic analysis prepared, by a registered geologist or certified hydrogeologist. This was understood to be an interim approach while the County developed a more comprehensive approach to reviewing impacts associated with well permitting. In addition, there are very limited professional geologic and hydrogeologic resources within Humboldt County for property owners and applicants to consult with.

The current approach that the County is utilizing for review of all well permits, including domestic and agricultural wells, is to conduct an analysis of the proposed well using all available resources to determine potential impacts to public trust resources, which include riparian habitats and groundwater resources. This approach has been developed with assistance from and informed by consultations with licensed engineers and certified geologists, as well as with Trustee agencies. Available information includes but is not limited to topographic data, riparian and wetland mapping tools from State agencies such as CDFW and the Waterboards, existing well completion reports, riparian flow and rainfall data, and geologic mapping data where available. In reviewing wells for potential impacts to public trust resources the County is taking a conservative approach and continuing to seek geologic expertise when necessary. Factors in determining when an analysis from a professional geologist may be necessary include distance to watercourses, well depth, topographic features, geology, and estimated amount of water to be used.

Moving forward, the Planning Commission should expect to see public trust analyses completed by Planning staff for projects relying on new or existing wells, and hydrogeological analyses from qualified experts will continue to be utilized when deemed necessary by Planning staff. The Commission has the discretion to accept or not accept such analyses prepared by staff on a case-by-case basis, or to add additional conditions for water storage and forbearance where deemed necessary.