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SUBJECT: Comments on the Ongoing Process to Amend Sonoma County Code Chapter 25B (the Well Ordinance)

To Sonoma County Board of Supervisors and County Staff:

The above-listed organizations represent citizens in Sonoma County and statewide with a keen interest in ensuring groundwater is sustainably and equitably managed for the benefit of all Californians and the ecosystems we all depend on for our health and welfare. We thank you for the opportunity to comment on the ongoing process to amend the Sonoma County Well Ordinance to ensure public trust resources are protected when issuing groundwater well permits.

As a precedential act within the State of California, Sonoma County has the opportunity to set a strong example of how best to manage groundwater resources to protect our shared public trust resources from adverse impacts caused by unsustainable groundwater extraction. In addition to protecting the shared public trust resources that make Sonoma County a great place to live—including the fish, wildlife, and recreational opportunities provided by our rivers and streams—from the adverse impacts of groundwater extraction, this well ordinance update can help ensure long-term water security for all County residents and help make rural residents more resilient to a changing climate and increased drought.

It is well documented that groundwater resources throughout Sonoma County are oversubscribed, and that unsustainable groundwater extraction is not only threatening water security and human health of Sonoma County communities, but it is also negatively impacting the rich public trust resources valued by our diverse communities. Overuse of groundwater resources leads to the depletion of surface flows and reduced cold water flows that makes our rivers and creeks safe to recreate in and drink from, for locals and tourists alike, while also leading to the destruction of essential fish and riparian habitat that is essential to maintaining healthy fish and wildlife populations. These devastating losses have, and will continue to have, resounding impacts everywhere in our County including: the loss of tourism and our robust recreation economy, loss of our local salmon fishery, loss of habitats of cultural and historical importance, reduced groundwater quality, and dry wells.

We appreciate and recognize the tremendous work and effort committed by County staff to develop a robust and effective ordinance meant to fulfill its trustee duties and address the problems identified above. We have been following the County-convened technical and policy working groups' efforts—via limited publicly accessible meetings—and appreciate the hard work and long hours members of these groups have contributed. We also appreciate the County's recognition of its public trust duty to protect salmon and other species in Sonoma County's creeks and rivers, as well as confirmation of its duty to mitigate water extractions that harm public trust resources (including rejection when necessary).

The County must take measures to strengthen groundwater pumping protections and not allow the unsustainable status quo to continue. The County's duty is to identify and evaluate adverse impacts of groundwater extraction on public trust resources, and to mitigate those impacts to the extent feasible. To fulfill its obligations, the County must base groundwater extraction permitting decisions on reliable scientific information and robust modeling regarding the impacts of a proposed well, both individually and cumulatively with all other existing groundwater extractions. In addition, the County must develop and implement a program that provides continuing oversight on both existing and proposed water wells to ensure that all users take necessary steps to mitigate the impacts of groundwater extraction on public trust resources.

We remain concerned that the recommendations from the working groups do not address all aspects of the problem or ensure that any subsequent ordinance adopted by the County will effectively and adequately protect public trust resources now and into the future. For example, there appears to be outstanding ambiguity on the following key questions: 1) what is reasonable residential consumption; 2) what is an adverse impact; 3) how will collected data be utilized to inform an adaptive management process; 4) what criteria will be used to evaluate impacts and

any proposed mitigation when reviewing discretionary permits; and 5) what analysis has been done to identify and determine measures necessary to mitigate impacts of groundwater extraction that will be authorized with ministerial permits?

In addition to these ambiguities, we have identified a list of items that we believe need to be addressed and included before any ordinance the County adopts will adequately and effectively meet its Public Trust obligations:

1. A robust process to identify and mitigate the cumulative impacts, of both existing and new wells, to public trust resources, including a review of ongoing cumulative impacts and any potential cumulative impacts that may arise both within and outside of the Public Trust Review Area (PTRA). On its own, one single well may seem benign, but the more wells there are in an area, all those uses compound and can cause significant groundwater decline.
2. To qualify for a ministerial permit (*across-the-counter with no judgement by the county required*), it is paramount that a “low water use” well not exceed 0.5 acre-feet in use each year. Any use greater than 0.5 acre-feet each year must be subject to discretionary permitting, as uses above this would equate to more than 111 gallons per day (GPD) per person in a family for four. In 2021, the average residential user used less than 91 GPD, including all outdoor uses. In contrast, 2.0 acre-feet would equate to almost 450 GPD per person for a family of four. Any additional groundwater use permitted by the County has the potential to impact public trust resources either now or in the future as cumulative impacts build. By choosing to not cap pumping volume anywhere, regardless of impacts, the County is allowing additional adverse impacts in perpetuity. We do not agree with this approach, but at the very least additional wells should be reasonably judicious with water use.
3. Conservation measures must be required for all groundwater uses. To reduce adverse impacts to the extent feasible, all groundwater must be used more conservatively with reductions quantified. Strong conservation measures are necessary to ensure that ongoing impacts, cumulative impacts, and future impacts are reduced. Many of the proposed conservation measures under the ordinance are simple things that many properties already have in place, which means future permit decisions will continue, not mitigate, the current situation.
4. Mitigation measures that go beyond simply requiring conservation must be evaluated and required, as necessary, to address ongoing and potential new adverse impacts. The current status quo—of unmitigated and oversubscribed use—must be addressed so that groundwater supplies can recover, and public trust resources are preserved for all County residents. Conservation measures alone will not offset or address the timing of existing acute or cumulative impacts, and thus will not mitigate impacts on public trust resources.
5. A “replacement well” should be limited to those wells that are truly a replacement due to structural failures or when an existing well is mechanically inoperable. These wells must be conditioned with metering and reporting requirements. Wells that change type of use, depth, and/or pump rate (or potential pumping rate) is a new well, and should be evaluated and permitted as such, subject to well permitting processes, including any ministerial or discretionary public trust review elements. If “replacement wells” are excluded from the ministerial or discretionary public trust review elements of any

adopted ordinance, then existing and ongoing adverse impacts will be allowed to continue indefinitely in dereliction of the County's duties.

6. Metering must be a basic requirement for all well types, including a true "replacement well," as part of the permitting process. Real-time and/or regular reporting, must be required to ensure prompt correction of overuse, timely enforcement, and effective model updates. All use reports must be made publicly available without unnecessary privacy violations. There are numerous grant opportunities to help pay for metering and reporting requirements for low-income and disadvantaged communities, as well as to improve broadband access throughout the County.

Lastly, we would like to note the significant lack of public transparency throughout this process. It is understood that County Staff and consultants were working under an extremely tight timeline; however, with such an important and lasting impact to our public resources being discussed for recommendation, more could and should have been done. In addition to the few public meetings, the County could and should have been sharing meeting notes, modeling proposals, and other documents with the public on its website. By instead placing the onus on those in the working groups, important information was siloed, and not broadly shared with the greater community. This is a significant issue and resulted in key stakeholder groups, many that will be directly impacted, being excluded, their input omitted and vital information excluded from this process.

The county should implement the measures identified above to restore public trust resources and ensure their sustainability. We therefore urge Staff and the Board to address all of these issues by adopting strong, protective measures that are designed for timely adaptation as crucial information is gathered, analyzed and available for use. The stakes could not be higher.

Sincerely,

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Community Alliance with Family Farmers
(CAFF)
Community Clean Water Institute
Fircrest Mutual Water Company
Friends of Atascadero Wetlands
Friends of Graton (FOG)
Friends of Gualala River (FoGR)
Friends of the Mark West Watershed
Forest Unlimited
Neighborhood Coalition, Sonoma County
NOW (Neighbors of West County)
River Watch
Rural Alliance
Save the Sonoma Coast (SOS)

Sebastopol Water Information Group
(S.W.I.G.)
Sierra Club, Sonoma Group
Sonoma County Climate Activist Network
(SoCoCAN!)
Sonoma County Conservation Action
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