

AGENDA WORKSHEET

Submit completed worksheet to:
Siskiyou County Clerk, 510 N Main St, Yreka, CA

Contd 7/6

Regular ☒ Time Requested: 10 min Meeting Date: June 1, 2021 12B
OR
Consent ☐

Contact Person/Department: Community Development Department Phone: (530) 841-2100

Address: 806 S Main St, Yreka, CA 96097

Person Appearing/Title: Kirk Skierski, Planning Director/ Natalie Reed, Assistant County Counsel

Subject/Summary of Issue:

Board discussion, direction, and possible action regarding second reading and public hearing on a proposed ordinance adding Article 3.5 to Chapter 13 of Title 3 of the Siskiyou County Code regarding administrative permits for extraction of groundwater for off-parcel use and clarification and amendment of Section 3-13.601 regarding fines for violation of the Groundwater Management Ordinance.

Amendments to the Code to add an administrative permit requirement for extraction of groundwater for off-parcel use is brought forward to ensure extraction for off-parcel use is incidental to a lawful activity and is for land uses consistent with zoning. Amendments to the civil penalties section of the Groundwater Management ordinance clarify the section's application and indicate the fines applicable to violators who fail to obtain the proposed administrative permit.

Financial Impact:

NO ☐ Describe why no financial impact:

YES ☒ Describe impact by indicating amount budgeted and funding source below

Amount: _____
Fund: _____ Description: _____ Org.: _____ Description: _____
Account: _____ Description: _____
Activity Code: _____ Description: _____

Local Preference: YES ☐ NO ☐

For Contracts – Explain how vendor was selected:

Additional Information: Financial impacts related to this action would be staff time to process new permit applications.

Recommended Motion:

If the Board so desires, waive the second reading and approve the adoption of the ordinance amending Chapter 13 of Title 3 of the Siskiyou County Code, entitled Groundwater Management, by adding Article 3.5 and amending Section 3-13.601 on civil penalties.

Reviewed as recommended by policy:

County Counsel

Auditor

Personnel

CAO

Special Requests:

Certified Minute Order(s)

Quantity: _____

Other: _____

NOTE: For consideration for placement on the agenda, the original agenda worksheet and backup material must be submitted directly to the Board Clerk (after reviewing signatures have been obtained) by 12:00 p.m. on the Wednesday prior to the Board Meeting.

Revised 1/15/15

ORDINANCE NO. _____

**AN ORDINANCE OF THE COUNTY OF SISKIYOU
ADDING ARTICLE 3.5 TO CHAPTER 13 OF TITLE 3 OF THE SISKIYOU COUNTY
CODE REGARDING THE ADMINISTRATIVE PERMIT REQUIRED FOR USE OF
GROUNDWATER OFF THE PARCEL FROM WHICH IT WAS EXTRACTED AND
CLARIFYING AND AMENDING SECTION 3-13.601 OF SAID CHAPTER AND TITLE
RELATED TO FINES.**

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

SECTION I: Chapter 13 of Title 3 is hereby amended to add Article 3.5 and to read as follows:

Article 3.5 – Administrative Permit Process for groundwater extraction for use off-parcel from which it was extracted.

3.5-13.101. – Limitation on Application of this Article to Groundwater Extractions Subject to Section 3-13-301.

The provisions of this article shall not apply to groundwater extractions that require a written permit pursuant to Section 3-13.301 of this Chapter.

Commercial groundwater extraction uses, whether subject to Section 3-13.301 or 3.5-13.102, shall also comply with the provisions of Chapter 6 of Title 10 of the Siskiyou County Code, which require commercial groundwater extraction uses be located in the appropriate zoning district and obtain all necessary permit approvals.

3.5-13.102. – Administrative 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 or her land, or for any person to cause, permit, aid, abet, suffer, or furnish equipment or labor for such extraction, 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 an administrative permit as provided in this chapter.

It shall be unlawful to use water extracted in violation of this section 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, or for a property owner to allow such use on their land, or for any person to cause, permit, aid, abet, suffer, or furnish equipment or labor for such use, without first obtaining an administrative permit as provided in this Article.

An administrative permit shall be required in all instances in which groundwater is extracted and transported off the parcel from which it was extracted, including occasions in which groundwater is extracted, transported off-parcel, and returns to the parcel from which it was extracted. This provision does not apply to the extraction of water for the purposes of supplying irrigation districts, emergency services, well replenishment for permitted wells, a "public water system," a "community water system," a "noncommunity water system," or "small community water system" as defined by the Health and Safety Code, serving residents of the County of Siskiyou.

For purposes of this Article, "parcel" shall mean a legal parcel. Where contiguous legal parcels are under common ownership or control, such contiguous legal parcels shall be counted as a single legal parcel for purposes of this Article.

3.5-13.103. – Application for administrative permit.

An application for a permit required by this Article shall be filed with the Siskiyou County Community Development Department, Environmental Health Division, on forms provided by said division and shall contain all information required by such division. Upon receipt of the permit application, the Environmental Health Division, shall review the application with affected county departments including, but not limited to, the Agricultural Commissioner and Planning Director. After obtaining the comments of the affected county departments, the Environmental Health Division, shall cause the application together with all received comments to be reviewed by the Community Development Director, or his or her designee. Upon receipt of an application, the Community Development Director, or his or her designee, may require an inspection of any or all parcels associated with the application prior to the issuance of an administrative permit.

3.5-13.104. – Granting of ministerial, administrative permit.

In order to grant the ministerial, administrative permit, the purpose and use of groundwater shall be incidental to a lawful activity. Extracted groundwater shall only be for uses and activities allowed by the underlying zoning designation of the parcel(s) receiving the extracted groundwater or uses that have received Conditional Use Permit approval or are legal non-conforming uses.

The Community Development Director, or his or her designee, may withhold the processing of and/or issuance of an administrative permit, where a Notice to Appear, Civil Action, Notice to Comply, Administrative Citation, and/or a Notice and Order to Abate has been issued and/or is pending administrative or judicial review on any of the associated parcels requesting an administrative permit, until the subject property or properties are found to be in complete compliance with any and all applicable County Code sections.

3.5-13.105. – Appeal of Decision

The decision of the Community Development Director, or his or her designee, is appealable to the Board of Supervisors. An appeal must be filed in writing with the Clerk of the Board within 10 days of the action taken by the Community Development

Director, or his or her designee, and must set forth the reason(s) for appeal with specificity.

3.5-13.107. – Annual review of permit.

The permit granted pursuant to this Article shall be for one year. At the request of the applicant, the administrative permit may be reviewed by the Community Development Department for a renewal term of one-year subject to the same criteria set forth in section 3.5-13.104. Upon receipt of a request for renewal, the Community Development Director, or his or her designee, may require an inspection of any or all parcels associated with the request prior to the issuance of a renewed administrative permit. Said decision by the Environmental Health Division, may be appealed to the Board of Supervisors by the applicant or any other affected person.

3.5-13.108. – Enforceability.

Violations of this Article are unlawful and shall constitute a public nuisance and may be enforced and abated through any available remedy provided by the Siskiyou County Code, including Article 6 below, or any other federal, state, or local law.

SECTION II: Section 3-13.601 of Chapter 13 of Title 3 of the Siskiyou County is amended to clarify the section and to read as follows (additions appear in underline):

Sec. 3-13.601. - Civil penalty.

The County may elect to proceed with a civil action against a violator, including injunctive relief, or through administrative enforcement. Any person or entity who violates this chapter shall be subject to fines of up to Five Thousand (\$5,000) Dollars per separate violation. A person shall be deemed to have committed separate violations for each and every day or portion thereof during which any such violation is committed, continued, or permitted as well as for each and every separate groundwater well with which any such violation is committed, continued, or permitted. For purposes of the violation of Section 3.5-13.102, each instance in which groundwater is extracted and transported off the parcel from which it was extracted from without the required administrative permit is a separate violation.

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

SECTION IV: The Board hereby finds that this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) because it can be seen with certainty that there is no possibility of a significant effect on the

environment from the adoption of this Urgency Ordinance establishing an administrative permit process for groundwater extraction for use off-parcel, as the Ordinance does not itself prohibit or authorize groundwater extraction for any particular parcel or project. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. In addition, the Board of Supervisors further finds that the ordinance is categorically exempt from review under CEQA under the Class 8 Categorical Exemption, 14 CCR § 15308, (regulatory activity to assure protection of the environment) and Class 7 Categorical Exemption, 14 CCR § 15307, (regulations and restrictions on activities to assure the maintenance, restoration, or enhancement of a natural resources).

SECTION V: This ordinance shall become effective 30 days after its passage and shall, within 15 days of adoption, be published once in a newspaper of general circulation, printed and published in the County of Siskiyou.

PASSED AND ADOPTED this 1st day of June, 2021, at a regular meeting of the Board of Supervisors by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Ray A. Haupt, Chairman
Board of Supervisors

ATTEST:

LAURA BYNUM, CLERK,
Board of Supervisors

By _____
Deputy

AGENDA WORKSHEET

2nd read on
Submit completed worksheet to: 6/1/21
Siskiyou County Clerk, 510 N Main St, Yreka, CA

Regular ☒ Time Requested: 5 min Meeting Date: 5/4/21
OR
Consent ☐

Contact Person/Department: County Counsel's Office Phone: 530-842-8100

Address: 1312 Fairlane Road, Yreka, CA

Person Appearing/Title: Natalie Reed, Assistant County Counsel/Kirk Skierski, Planning Director/Rick Dean, Community Development Director

Subject/Summary of Issue:

Board discussion, direction, and possible action regarding first reading of a regular ordinance adding Article 3.5 to Chapter 13 of Title 3 of the Siskiyou County Code regarding administrative permits for extraction of groundwater for off-parcel use and clarification and amendment of Section 3-13.601 regarding fines for violation of the Groundwater Management Ordinance.

County staff has received complaints about groundwater being extracted from local wells and then delivered in water trucks to Illegal Cannabis Cultivation sites, most of which are without legally established residences and used exclusively for Illegal Cannabis Cultivation. Amendments to the Code to add an administrative permit requirement for extraction of groundwater for off-parcel use is brought forward to ensure extraction for off-parcel use is incidental to a lawful activity and is for land uses consistent with zoning. Amendments to the civil penalties section of the Groundwater Management ordinance clarify the section's application and indicate the fines applicable to violators who fail to obtain the proposed administrative permit.

Financial Impact:

NO <input type="checkbox"/>	Describe why no financial impact:		
YES <input checked="" type="checkbox"/>	Describe impact by indicating amount budgeted and funding source below		
Amount:			
Fund:	Description:	Org.:	Description:
Account:	Description:		
Activity Code:	Description:		
Local Preference: YES <input type="checkbox"/>	NO <input type="checkbox"/>		
For Contracts – Explain how vendor was selected:			
Additional Information: Financial impacts related to this action would be staff time to process new permit applications.			

Recommended Motion:

If the Board so desires: 1. Introduce, waive, and approve the first reading of the ordinance amending Section 3-13.601 and adding Article 3.5 to Chapter 13 of Title 3 of the Siskiyou County Code regarding Groundwater Management; and 2. Direct the clerk to schedule a public hearing on, and second reading of, the ordinance as soon as practicable.

Reviewed as recommended by policy:

County Counsel

Auditor

Personnel

CAO

Special Requests:

Certified Minute Order(s)

Quantity:

Other:

NOTE: For consideration for placement on the agenda, the original agenda worksheet and backup material must be submitted directly to the

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3.5-13.102. – Administrative Permit required for extraction of groundwater for use off-parcel.

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It shall be unlawful to use water extracted in violation of this section 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, or for a property owner

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3.5-13.103. – Application for administrative permit.

An application for a permit required by this Article shall be filed with the Siskiyou County Community Development Department, Environmental Health Division, on forms provided by said division and shall contain all information required by such division. The application for administrative permit shall be accompanied by the fees established therefor, which fees shall be established by resolution of the Board of Supervisors. Upon receipt of the permit application, the Environmental Health Division, shall review the application with affected county departments including, but not limited to, the Agricultural Commissioner and Planning Director. After obtaining the comments of the affected county departments, the Environmental Health Division, shall cause the application together with all received comments to be reviewed by the Community Development Director, or his or her designee. Upon receipt of an application, the Community Development Director, or his or her designee, may require an inspection of any or all parcels associated with the application prior to the issuance of an administrative permit.

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The decision of the Community Development Director, or his or her designee, is appealable to the Board of Supervisors. An appeal must be filed in writing with the Clerk of the Board within 10 days of the action taken by the Community Development Director, or his or her designee, and must set forth the reason(s) for appeal with specificity.

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The permit granted pursuant to this Article shall be for one year. At the request of the applicant and upon payment of the renewal application fee, the administrative permit may be reviewed by the Community Development Department for a renewal term of one-year subject to the same criteria set forth in section 3.5-13.104. Upon receipt of a request for renewal, the Community Development Director, or his or her designee, may require an inspection of any or all parcels associated with the request prior to the issuance of a renewed administrative permit. Said decision by the Environmental Health Division, may be appealed to the Board of Supervisors by the applicant or any other affected person.

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SECTION III: Constitutionality: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such decision

shall not affect the validity of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

SECTION IV: The Board hereby finds that this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) because it can be seen with certainty that there is no possibility of a significant effect on the environment from the adoption of this Urgency Ordinance establishing an administrative permit process for groundwater extraction for use off-parcel, as the Ordinance does not itself prohibit or authorize groundwater extraction for any particular parcel or project. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. In addition, the Board of Supervisors further finds that the ordinance is categorically exempt from review under CEQA under the Class 8 Categorical Exemption, 14 CCR § 15308, (regulatory activity to assure protection of the environment) and Class 7 Categorical Exemption, 14 CCR § 15307, (regulations and restrictions on activities to assure the maintenance, restoration, or enhancement of a natural resources).

SECTION V: This ordinance shall become effective 30 days after its passage and shall, within 15 days of adoption, be published once in a newspaper of general circulation, printed and published in the County of Siskiyou.

PASSED AND ADOPTED this _____ day of _____, 2021 at a regular meeting of the Board of Supervisors by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Ray A. Haupt, Chairman
Board of Supervisors

ATTEST:

LAURA BYNUM, CLERK,
Board of Supervisors

By _____
Deputy