RESOLUTION NO. \_\_\_\_

# RESOLUTION OF THE BOARD OF SUPERVISORS

# OF THE COUNTY OF SISKIYOU MAKING PUBLIC TRUST FINDINGS FOR THE ENVIRONMENTAL HEALTH DIVISION’S (EHD) MINISTERIAL ISSUANCE OF DE MINIMIS WATER WELL PERMITS IN THE SCOTT VALLEY AND DIRECTING EHD TO BRING FORWARD AN INTERIM ORDINANCE FOR A MORATORIUM ON NEW PRODUCTION WELL APPLICATIONS AND PERMITS IN THE SCOTT VALLEY, WITH CERTAIN EXCEPTIONS.

WHEREAS, courts in California have held that Siskiyou County, as a political subdivision of the state of California, has an obligation to consider impacts to public trust resources in the Scott River, such as navigation, recreation and fisheries, whenever the County issues a permit for a new well that, through the extraction of groundwater interconnected with the Scott River’s surface waters, may substantially impair the Scott River’s public trust resources; and

WHEREAS, the Siskiyou County Community Development Department, Environmental Health Division and the Siskiyou County Administrator’s Natural Resources Division have committed themselves to meeting the County’s public trust obligation and have been working with environmental consultants Drs. Harter and Foglia, as contracted through Larry Walker Associates (“LWA”), to identify interim solutions for obtaining data about the Scott Valley’s hydrology to inform well permitting decisions; and

WHEREAS, in May of 2021, LWA introduced the Board and the public to a hydrologic modeling tool that LWA developed to inform well permitting decisions in the Scott Valley and to help the Environmental Health Division and Natural Resources Division evaluate potential public trust impacts to the Scott River; and

WHEREAS, LWA has modeled various pumping scenarios across the watershed using its tool, which has resulted in a series of maps that delineate color-coded impact zones surrounding the Scott River; and

WHEREAS, these maps model impacts from the pumping of either a new non-production well, such as a domestic well, or a new production well in either a year with average flows or in a dry year using data collected over a twenty-year period from 1991-2011; and

WHEREAS, LWA’s modeling evidences that new non-production wells, will not substantially impair or interfere with public trust uses or values within interconnected navigable waters; and

WHEREAS, there is a high degree of groundwater aquifer recharge associated with household water use (recycling); and

WHEREAS, there is an overall limited volume of groundwater extracted from non-production wells, such as domestic water wells and stock wells; and

WHEREAS, the majority of domestic wells are located on the margins of the valley where geologic water bearing stratigraphy has reduced hydraulic conductivity and influence on Scott River and its trust resources; and

WHEREAS, the limits of development within the Scott Valley based on density restrictions in the Scott Valley specific plan further limit the potential impact on public trust uses or values from domestic wells in the Scott Valley; and

WHEREAS, non-production wells are de minimis groundwater wells that have a limited potential impact on trust uses or values in the Scott Valley; and

WHEREAS, de minimis groundwater wells are water wells in aggregate on a single parcel delivering two acre-feet of groundwater per year or less for domestic or stock water use on property under the same ownership as the parcel on which the well is located;

WHEREAS, in considering impacts to public trust resources from de minimis wells the Board held a public hearing across multiple days and received and considered public comment from interested members of the public, and then closed the public hearing; and

WHEREAS, contrasting with de minimis wells, LWA’s modeling suggests that new production wells in the Scott Valley could create significant additional consumptive use in the watershed that needs to be evaluated more thoroughly for potential impact on public trust uses or values within interconnected navigable waters; and

WHEREAS, the Board desires to direct staff to bring forward an interim ordinance that would implement a moratorium on new production well applications and production well permits in the Scott Valley, with certain exceptions, including when a production well applicant is able to show no significant impact, or mitigate for, increased “consumptive use effects” from a proposed production well as associated with the subject property’s overall groundwater use.

NOW, THEREFORE, BE IT RESOLVED that the Siskiyou County Board of Supervisors that:

1. The Board finds the above recitals are true and correct and incorporates them herein.
2. The Board finds that pumping from existing and future de minimis well sites in the Scott Valley watershed in reasonably foreseeable domestic volumes will not substantially impair or interfere with public trust uses or values within interconnected downstream navigable waters, including the Scott River.
3. The Board directs that well applications shall provide space for applicants to represent whether or not the subject well will be a de minimis well delivering two acre-feet of groundwater per year or less for domestic or stock water use on property under the same ownership as the parcel on which the well is located.
4. For purposes of this resolution and its direction, the Board defines a production well as any water well constructed with a well casing having an inside diameter greater than six inches, regardless of use (e.g., agricultural, industrial) or any well delivering more than two acre-feet per year.
5. The Board finds that to the extent a proposed de minimis well may ultimately contribute to cumulative reductions in surface waters in downstream navigable waters, the production of groundwater for livestock, drinking, bathing, cooking, and other domestic uses on parcels in the Scott Valley is within the public interest because these parcels hold inchoate unexercised groundwater rights intended to be put to beneficial use consistent with Article X, section 2 of the California Constitution.
6. These findings shall be included in the Environmental Health Division’s ministerial issuance of individual Scott Valley de minimis permits as evidence of the County’s consideration of the impacts to public trust resources in the Scott River in its issuance of a permit for a new domestic well.

BE IT FURTHER RESOLVED that the Environmental Health Division is directed to bring forward an ordinance to implement a moratorium on new production well applications and production well permits in the Scott Valley, subject to any staff recommended exceptions, such as repairs, deepenings, replacements or applications that demonstrate no significant impact, or mitigate for, increased consumptive use effects on public trust resources.

BE IT FURTHER RESOLVED that the Board directs the Natural Resources Division to continue to work towards identifying opportunities for the Siskiyou County Flood District and Water Conservation District and the County to partner or share information that will assist the County in meeting its public trust duty in well permitting.

BE IT FURTHER RESOLVED that the Board finds this resolution 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. 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 15307, because it regulates activities to assure the maintenance, restoration, or enhancement of natural resources; ii). Section 15308, because it regulates activities to assure the maintenance, restoration or enhancement of the environment including groundwater resources within Siskiyou County; iii.) Section 15061(b)(3), because there is no possibility this resolution making public trust findings for domestic wells and directing staff to bring forward a moratorium on production wells in the Scott Valley may itself have a significant effect on the environment.

PASSED AND ADOPTED by the Siskiyou County Board of Supervisors at a special meeting of said Board, held on the 4th day of January, 2022, by the following vote

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

, Chair

Siskiyou County Board of Supervisors

ATTEST:

LAURA BYNUM,

COUNTY CLERK

By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_