**MEMORANDUM**

Date: June 7, 2023

To: Siskiyou County Board of Supervisors

From: Bill Carroll, Deputy County Counsel

Re: **Amendment of ordinances regarding groundwater use and export**

**Discussion**

In relation to local groundwater regulation, County Counsel recommends the Board enact a proposed ordinance to repeal permitting requirements to export groundwater off-parcel. Further, that the daily penalty for the use of groundwater for the cultivation of cannabis be amended from $5,000 to $2,500, and add a requirement that a person must be "knowing" of the wrongful use before a fine may be imposed. The County has been enjoined from enforcing these code sections since September 3, 2021 by the United States District Court for the Eastern District of California and the County remains enjoined. Repealing these code sections is recommended as part of the process of resolving extended litigation over these provisions.

The corresponding code sections that would be repealed in relation to off-parcel exportation are Sections 3-13.101 through 3-13.109 (otherwise identified as Article 3.5 of Chapter 13 of Title 3 entitled "Administrative Permit Process for Groundwater Extraction). The corresponding code sections that would be amended are Section 3-13.601 (amending the fine amount to $2,500) and Section 3-13.702 (adding the word "knowingly" to the prohibition against wasting groundwater). A "redline" version and a "clean" version of the proposed ordinance are attached hereto.

**California Environmental Quality Act (CEQA)**

The proposed ordinance, if it were to have any direct or indirect physical change on the environment, would come within the “common sense” exemption of CEQA (14 CCR 15061(b)(3)) in that the proposed change in the level of knowledge required before an offense is committed, and the amount of the fine thereafter, are only financial and effect the burden of proof in court and do not affect the physical environment. Further, the proposed repeal of the administrative permit ordinance established only an administrative overlay to an already ongoing usage. Therefore, the ordinance can be seen with certainty as having no significant direct or indirect effect on the environment.

**Recommended motion**

That the Board**:**

1. Introduce, waive, and approve the first reading of an ordinance amending sections 3-13.601 and 3-13.702, and repealing Article 3.5 of Chapter 13 of Title 3, of the Siskiyou County Code regarding regulation of groundwater.

2. Find that the ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3).

3. Direct the clerk to schedule a public hearing on, and second reading of, the ordinance.