



# CALAVERAS COUNTY

## BOARD OF SUPERVISORS

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San Andreas, California 95249

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January 24, 2012

Delta Stewardship Council  
980 Ninth Street, Suite 1500  
Sacramento, CA 95814

Re: Delta Plan Draft EIR

Dear Chairman Isenberg and Members of the Council:

Thank you for the opportunity to review and comment on the Delta Plan EIR. Calaveras County is within the Watershed Area of the Delta. The Mokelumne River, Calaveras River, Stanislaus River and a portion of the critically-overdrafted Eastern San Joaquin Groundwater Basin are located in Calaveras County.

The Delta Plan does not propose implementation of any particular physical project; rather it seeks to influence, either through limited policy regulation or through recommendations, other agencies to take certain actions that will lead to achieving the dual goals of Delta ecosystem protection and water supply reliability.

Watershed management is necessary to provide a more reliable water supply for California. Effective management of the watershed is needed to address:

- Erosion and sedimentation of streams and lakes as well as past land use practices such as mining that may be contributing to downstream water quality impacts;
- Non-point sources of pollution including failing septic systems and other sources of pathogens that may affect surface water and groundwater quality, affecting drinking water quality, recreation, aquatic life;
- Modification of forestry management plans to reduce fuel loads, fire hazards, sediment loads and other water quality impacts. Modifications of forestry management plans should explore various methodologies to accomplish these goals, including timber harvesting as a beneficial tool.
- Fire risk due to dense vegetation resulting in risk to public safety, water supply, water quality, and ecosystem impacts;
- Public and private roads used for OHV and other activities in the watersheds contribute sediment to streams/rivers and reservoirs/lakes;
- Impact of land uses on High Sierra meadows and ponds resulting in degradation of meadow condition causing loss of groundwater storage/flood flow attenuation, increase in summer stream temperatures, loss of fisheries/riparian habitat and increased erosion and sediment loads.

The following are our comments and questions for your consideration.

Section 3 Water Resources:

- The primary sources of surface water that feed or effect the delta are rivers that drain the western slope of the Sierra Nevada. Clearly, there is a need to ensure there is appropriate management and protection of the watershed. ***The Project should include mechanisms to provide essential funding options for ongoing watershed management to protect the surface water resources as part of the Delta Plan's Finance Plan Framework, Policies and Recommendations, and/or Mitigation Measures.***
- The County supports the Project's recommendation to update DWR Bulletin 118 (Proposed Project Recommendation #WR R8) regarding groundwater resources. *The County is especially interested in how an update of the Bulletin will address concerns associated with the Eastern San Joaquin Groundwater Basin.* The County supports a quantitative analysis on groundwater resources to support the proposed project alternatives necessary to meet co-equal goals.
- The project discusses avenues of groundwater recharge but does not appear to take into account recharge from Class V Injection Wells (community leachfields) and/or Onsite Wastewater Treatment Systems. Does the presence of these systems make enough of an impact to even be considered as contributing to groundwater recharge?
- Under Section 3.4.3.3 Water Quality Improvement, what specifically is meant by operation and maintenance of wells (withdrawal, recharge, monitoring)? Does this only apply to the Delta proper or specific project(s) in the Delta or does this apply to individual domestic wells in source counties, and if so, who pays for the monitoring and what is the geographic scope?
- Attached is a copy of County Ordinance 2681 as it pertains to regulating the extraction and transfer of groundwater in Calaveras County. This may apply to proposed non-conjunctive use projects involving the Eastern San Joaquin Groundwater Basin or even other parts of the county especially in areas where the Tertiary River Channel (buried rivers) Systems exist.
- Are water projects that occur upstream of the Delta subject to Delta Stewardship Council's review authority?

Section 6 Land Use and Planning:

- Calaveras County is currently conducting a comprehensive update of our General Plan. The land uses shown in Figure 6-7, "Future Land Uses in the Delta Watershed and Areas Outside the Delta that use Delta Water" for Calaveras County will be outdated in the near future. We recommend a footnote to disclose the pending General Plan Update for Calaveras County.

Appendix C Policies and Recommendations of the Proposed Project and Alternatives

- Delta Plan Recommendation Number WR-R5 states "the State Water Resources Control Board and/or the Department of Water Resources should require that proponents requesting a new point of diversion, place of use, or purpose of use that results in new or increased use of water from the Delta watershed should demonstrate that the project proponents have evaluated and implemented all other feasible water supply alternatives." The recommendations need to be consistent with existing water right laws and areas of origin.
- Delta Plan Recommendation Numbers WR P1 & P2: the proposed regulation impacting local water management decisions, including the transfer of water, should be deleted or revised.

We appreciate the opportunity to comment on the Delta Plan EIR. If you have any questions, please contact Brian Moss, Environmental Management Agency Administrator/ Director of Environmental Health, at 209-754-6399 or Rebecca Willis, Planning Director at 209-754-2850.



Gary Tofaneli, Chair

Attachment: County Ordinance 2681

CC: Board of Supervisors  
County Administrative Officer  
County Counsel  
Regional Council of Rural Counties (RCRC)  
California State Association of Counties (CSAC)  
Tuolumne-Stanislaus IRWMP  
Calaveras County Water District (CCWD)

1 BOARD OF SUPERVISORS, COUNTY OF CALAVERAS  
2 STATE OF CALIFORNIA

3 January 22 \_\_, 2002

4 ORDINANCE AN ORDINANCE ADDING CHAPTER 17.85 TO TITLE 17 OF THE  
5 NO. 2681 CALAVERAS COUNTY CODE REGULATING THE EXTRACTION  
6 AND TRANSFER OF GROUND WATER

7 The Board of Supervisors of the County of Calaveras does hereby ordain as follows:

8 Section 1: Addition of Chapter 17.85 to Title 17 of the Calaveras County Code is hereby  
9 adopted to read as follows:

10 Chapter 17.85

11 GROUND WATER MANAGEMENT

12 Sections:

13 I. General Provisions

14 17.85.010 Declaration of Findings and Purpose  
15 17.85.020 Title  
16 17.85.030 Definitions

17 II. Permits

18 17.85.040 Administration and Permit Processing  
19 17.85.050 Permit required for transfer of ground water outside of County  
20 17.85.060 Radius of influence of well restricted  
21 17.85.070 Restriction on radius of influence not applicable to pre-existing operating  
22 wells  
23 17.85.080 Application for permit  
24 17.85.090 Public review and Planning Commission recommendation to Board  
25 concerning issuance of permit  
26 17.85.100 Burden of proof  
27 17.85.110 Re-application after permit denial  
17.85.120 Duration of permit.  
17.85.130 Inspections.  
17.85.140 Limitation of permit

III. Administrative variance

17.85.150 Administrative variance.

IV. Violations

17.85.160 Violations

V. Severability

17.85.170 Severability

1 I. GENERAL PROVISIONS

2 17.85.010 Declaration of Findings and Purpose. The Calaveras County Board of  
3 Supervisors hereby finds and declares:

4 A. Adequate supplies of water are vital to the economy of the County and the health and well-being  
5 of its citizens.

6 B. The ground water underlying Calaveras County has been and will continue to be an important  
7 source of water for the people and lands of the County for agricultural, domestic, municipal and  
8 other purposes.

9 C. Under California case law, water may be appropriated from a ground water basin if the ground  
10 water supply is surplus and exceeds the reasonable and beneficial needs of overlying users.

11 D. It is essential for the protection of the health, welfare and safety of the residents of the County,  
12 that the ground water resources of Calaveras County be protected from harm resulting from the  
13 extraction of ground water for use on lands outside of the County, until such time as needed  
14 additional surface water supplies are obtained for use on lands of the County, or as further and more  
15 accurate quantification of ground water resources within the County is developed and ground water  
16 management plans for affected basins have been adopted.

17 E. California courts have recognized and upheld the ability of counties, through the exercise of their  
18 police powers, to regulate ground water extraction and transfer from basins within their boundaries.  
19 *See, e.g., Baldwin, et al. v. Tehama County* (1994) 31 Cal.App.4th 166.

20 F. Because of the need for increased water supply to meet future needs within Calaveras County, and  
21 because surface water supplies obtained in the future may be used conjunctively with available local  
22 ground water for reasonable and beneficial local uses, it is vital that the County's ground water  
23 supply and quantity be preserved.

24 G. It is essential for information gathering and monitoring purposes, and for the protection of the  
25 County's ground water resources, that the County adopt a permit process addressing the extraction  
26 of ground water for use outside the county, or in place of surface water used similarly. In adopting  
27 and codifying this ground water management ordinance, the County does not intend to limit other  
authorized means of managing Calaveras County ground water, and intends to work cooperatively  
with interested local public agencies to further develop and implement joint ground water  
management practices.

17.85.020 Title. This chapter shall be known and may be cited as the Calaveras County  
Ground Water Management Ordinance.

17.85.030 Definitions. The terms used in this chapter shall have the following meanings:

- 23 1. "Aquifer" means an aquifer as defined in Chapter 8.20. (Ord. 2547, June 29, 1998).
- 24 2. "Basin" means an underground aquifer or the land immediately overlying such an aquifer.
- 25 3. "Board" means the County Board of Supervisors as defined in Chapter 16.03. (Ord. 2590,  
26 August 16, 1999).
- 27 4. "Commission" means the Planning Commission or "commission" as defined in Chapter  
16.03. (Ord. 1523, 1982).

- 1 5. "County" means the County of Calaveras.
- 2 6. "Department" means the Calaveras County Planning Department.
- 3 7. "District" means any special district wholly or in part located within the boundaries of the  
4 County, which is a purveyor of waters for agricultural, domestic, or municipal use.
- 5 8. "Domestic water well" means a well devoted exclusively to the residential and associated  
6 uses on a parcel of land.
- 7 9. "Ground water Management Act" means ground water management as defined in California  
8 Water Code Section 10750 et seq.
- 9 10. "Ground water" for the purposes of this chapter and as defined in California Water Code  
10 Section 10752 (a), means all water beneath the surface of the earth within the zone below the  
11 water table in which the soil is completely saturated with water, but does not include water  
12 which flows in known and definite channels.
- 13 11. "Ground water extraction" means removal of ground water by a well, a pump, or other  
14 artificial means from an underground aquifer.
- 15 12. "Ground water transfer, transferring, transferred " means the intentional transfer by a person  
16 of ground water through any type of method of conveyance, including but not limited to  
17 pipes, drainage's, ditches, canals, streams, rivers or motor vehicles. Ground water transfer  
18 as defined in this chapter shall not include transfers which take place internal to the County.
- 19 13. "Hard rock formation " means an impermeable geologic formation, including but not limited  
20 to, igneous, including granitic and metamorphic, including serpentine rocks.
- 21 14. "Historical practice" means the consistent or predominant practice of an applicant within  
22 seven (7) years preceding the operative date of this chapter.
- 23 15. "Hydraulic gradient" means the slope of the water table.
- 24 16. "Hydrology" means the origin, distribution, and circulation of water through precipitation,  
25 stream flow, infiltration, ground water storage, and evaporation.
- 26 17. "Overdraft" means the condition of a ground water supply in which the amount of water  
27 withdrawn by pumping exceeds the amount of water replenishing the supply over a period  
of time and also the point at which extractions from the supply exceed its safe yield plus any  
temporary surplus.
18. "Percolation" means the movement of water through the soil to the ground water table.
19. "Permeability" means the capability of the soil or another geologic formation to transmit  
water.

- 1 20. "Person" means not only any natural person, but also any corporation, partnership,  
association, trust, municipality, or any other entity with legal existence under California law.
- 2 21. "Piezometric surface" means the surface to which the water in a confined aquifer will rise.
- 3 22. "Porosity" means voids or open spaces in alluvium and rocks that can be filled with water.
- 4 23. "Recharge" means flow to ground water storage from precipitation, irrigation, infiltration  
5 from streams, spreading basins, injection and other sources of water.
- 6 24. "Safe yield" means the maximum quantity of water which can be withdrawn annually from  
7 a ground water supply under a given set of conditions without causing overdraft or adverse  
8 water quality conditions. Specifically "safe yield" is the amount of water which can be  
9 withdrawn without:
- 10 (a) Exceeding in any calendar year the long-term mean annual water supply of the basin  
(considering all sources of recharge and withdrawal);
- 11 (b) Lowering water levels so as to make further drilling of water wells uneconomical;
- 12 (c) Causing water pumped from the basin to deteriorate below drinking water standards;
- 13 (d) Violating water rights or restrictions in pumpage in the ground water basin as established  
14 by court adjudication or applicable State or Federal law.
- 15 25. "Specific capacity" means the volume of water pumped from a well in gallons per minute  
16 per foot of draw-down.
- 17 26. "Spreading water" means discharging native or imported water to a permeable area for the  
18 purpose of allowing it to percolate to the zone of saturation. Spreading, artificial recharge  
19 and replenishment all refer to operations used to place water in a ground water table.
- 20 27. "Transmissivity" means the rate of flow of water through an aquifer.
- 21 28. "Usable storage capacity" means the quantity of ground water of acceptable quality that can  
22 be economically withdrawn from storage.
- 23 29. "Water table" means the surface or level where ground water is encountered in a well in an  
unconfined aquifer.
- 24 30. "Water year" for the purposes of this chapter and as defined in California Water Code  
25 Section 71683, means the period commencing on October 1st of one calendar year and  
26 ending on September 30th of the calendar year immediately following.
- 27 31. "Well" means a well or water well as defined in Chapter 8.20. (Ord. 2547, June 29, 1998).
32. "Zone of saturation" means the area below the water table in which the soil is completely  
saturated with ground water.

## II. PERMITS

1  
2 17.85.040 Administration and Permit Processing. The implementation of this Ordinance  
3 shall be in accordance with the provisions of Title 17 of the Calaveras County Code as set forth in  
4 Section 17.88 (Procedures), Section 17.90 (Permit Validation, Revocation), Section 17.94 (Filing  
5 Fees), and Section 17.98 (Appeals).

6 17.85.050 Permit required for transfer of ground water outside of County. (a) It shall be  
7 unlawful for any person to extract ground water underlying the County, directly or indirectly, for use  
8 of that ground water outside County boundaries, or use of that ground water to replace water  
9 transferred outside County boundaries, without first obtaining a permit as provided in this chapter  
10 subject to exceptions cited in subsection (b).

11 (b) This chapter shall not apply to the extraction of ground water (1) for activities occurring prior  
12 to the adoption of this chapter; or (2) for bottling and/or transferring bottled water by a commercial  
13 bottling water enterprise; or (3) for use by a District on land or within an area that is within the  
14 boundaries of a District.

15 17.85.060 Radius of influence of well restricted. It shall be unlawful for any person to  
16 operate, or for a property owner to allow for any person to operate, any well, excepting a domestic  
17 well as defined in Section 17.85.030 (8), in such a manner that the radius of influence of such well  
18 extends beyond the boundaries of the parcel of land upon which the well is located, or alternatively,  
19 beyond the boundaries of contiguous parcels of land under the same ownership.

20 17.85.070 Restriction on radius of influence not applicable to pre-existing operating wells.  
21 The conditions of prohibition cited under Section 17.85.060 shall not apply to any well which was  
22 in operation prior to adoption of this chapter.

23 17.85.080 Application for permit. (a) An application for permit shall be filed with the  
24 County Planning Department on forms provided by the Department and shall contain all information  
25 required by the Department, including that deemed necessary to conduct the appropriate  
26 Environmental Review in accordance with CEQA. The application for a permit shall be  
27 accompanied by the fees which shall be established from time to time by the Board.

(b) An application for a permit shall be accompanied by a report prepared at the applicant's expense  
by a California Registered Civil Engineer or Certified Hydrologist with expertise and experience in  
geologic and hydrologic testing. The information provided in the application should provide  
information necessary to support the required findings and to establish appropriate conditions. The  
report must provide the following information:

- 1 (1) The location of the proposed project for extraction of ground water for use outside of County boundaries;
- 2 (2) The design of the project, the term of the project, and a description of the method of
- 3 extraction;
- 4 (3) The quantity of water to be extracted and transferred on an annual basis;
- 5 (4) The amount of the maximum monthly rate of extraction for transfer;
- 6 (5) The location, size, spacing and depths of all extraction wells;
- 7 (6) A description of the monitoring plan and the location of monitoring wells to measure ground
- 8 water levels, evaluate gradient, flow direction and water quality;
- 9 (7) Such other matters as the Department may require.

10 In those cases where ground water is used to replace or enhance surface water transfer outside of the  
11 County, documentation must be provided disclosing the seller, the buyer, the permits or entitlements  
12 received from the State Water Resources Control Board, the duration of the action and any  
13 conditions upon that surface water transfer.

14 (c) The environmental review shall be undertaken in accordance with the California Environmental  
15 Quality Act and County guidelines. All costs of the environmental review shall be the responsibility  
16 of the applicant.

17 (d) If the applicant is applying to pump ground water from a District, City, or the unincorporated  
18 territory in which a ground water management plan has been adopted pursuant to the Ground water  
19 Management Act, the Department shall consider a ground water management plan or any other  
20 relevant information provided by the District, City, or other local agency. Any interested person or  
21 agency may provide comments relevant to the matter of the extraction of ground water.

22 17.85.090 Public review and Planning Commission recommendation to Board concerning  
23 issuance of permit. At the Commission's public review, the applicant shall be entitled to present any  
24 oral or documentary evidence relevant to the application, and the applicant shall have the burden of  
25 proof of establishing the facts necessary for the Commission to make the required findings. The  
26 Commission may request any additional information it deems necessary for its decision, the cost of  
27 which, if any, shall be borne by the applicant. The Commission shall also hear relevant evidence  
presented by other interested persons and entities, the Department, other County staff, and the public.  
Formal rules of evidence shall not apply during the public review but the Commission may establish  
such rules as will enable the expeditious presentation of the matter and relevant information thereof.  
The Commission shall consider all effects that the granting of the permit application would have on  
the affected aquifer including, but not limited to, the hydraulic gradient, hydrology, percolation,  
permeability, piezometric surface, porosity, recharge, safe yield, specific capacity, spreading waters,  
transmissivity, usable storage capacity, water table and zone of saturation after which the  
Commission shall make a recommendation to the Board. This recommendation will specify whether  
the effects of granting a permit will not cause the following:

- 1 (1) Increase an overdraft of the ground water basin or water bearing hard rock formation underlying the County;
- 2 (2) Adversely affect the long term ability for storage or transmission of ground water within the
- 3 aquifer;
- 4 (3) Exceed the safe yield of the ground water underlying the County;
- 5 (4) Will not otherwise operate to the injury of the reasonable and beneficial uses of overlying
- 6 ground water users;
- 7 (5) Will otherwise be in compliance with Water Code Section 1220 if applicable;
- 8 (6) Will not result in an injury to a water replenishment, storage, or restoration project operated
- 9 in accordance with statutory authorization.

10 17.85.100 Burden of proof. The applicant shall have the burden of proof of establishing the

11 facts necessary for the Board to make the required findings. The permit may only be granted by the

12 Board if a majority of the total membership of the Board finds and determines that extraction:

- 13 (1) Will not cause or increase an overdraft of the ground water basin or water bearing hard rock
- 14 formation underlying the County;
- 15 (2) Will not adversely affect the long term ability for storage or transmission of ground water
- 16 within the aquifer;
- 17 (3) Will not exceed the safe yield of the ground water underlying the County;
- 18 (4) Will not otherwise operate to the injury of the reasonable and beneficial uses of overlying
- 19 ground water users;
- 20 (5) Will otherwise be in compliance with Water Code Section 1220 if applicable;
- 21 (6) Will not result in an injury to a water replenishment, storage, or restoration project operated
- 22 in accordance with statutory authorization.

23 Permits for extraction of ground water, other than where extraction is a part of a ground water

24 replenishment program, shall limit extraction to no more than the demonstrated reasonable historical

25 use or in an amount not to exceed what is required to maintain the public health, safety, and welfare

26 of the people of Calaveras County, whichever is less. Other conditions in the permit may include,

27 but are not limited to, requirements for observation and/or monitoring wells.

17.85.110 Re-application after permit denial. Re-application for a permit which has been

denied may not be filed with the Department until the following water year and must be

accompanied with information that demonstrates a significant change in conditions in the ground

water and/or change in the proposed extraction.

17.85.120 Duration of permit. All permits shall be valid for a term set by the Board, not to

exceed three (3) water years from the date of issuance of the permit. Nothing contained in this

chapter or in the conditions of the permit shall be construed as giving an exclusive right to use

ground water or to establish a compensable right in the event that the permit is subsequently revoked

or modified by the Board after a hearing on a challenge to the permit.

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17.85.130 Inspections. An employee, agent, assign or designee of the Department, with good cause, may at any and all reasonable times enter any and all places, property, enclosures and structures for the purposes of making examinations and investigations to determine whether any provision of this chapter is being violated. Upon 24 hours notice, all extractors shall make available to an employee, agent, assign or designee of the Department, at the extractor's principal place of business, primary residence, or other convenient location within the County, the original of all logs, reports, data, analysis of data or other records maintained on their ground water extractions.

17.85.140 Limitation of permit. The permit process of this chapter is not to be construed as a grant of any right or entitlement, but rather the permit evidences that the health, welfare, and safety of the residents of the County will not be harmed by the extraction and transfer of ground water for off-parcel use as defined in this chapter. The permit in no way exempts, supersedes, or replaces any other provisions of Federal, State, and local laws and regulations including but not limited to Water Code Section 1220, the Groundwater Management Act, and any actions provided for in California ground water law, well drilling and maintenance or building permit requirements.

III. ADMINISTRATIVE VARIANCE

17.85.150 Administrative variance. The Department may grant an administrative variance from any standard set forth in this chapter where evidence is submitted that an unusual circumstance exists whereby an unnecessary hardship would result from the application of the standard and that the granting of the variance will not compromise the intent of this chapter. The Department shall issue findings with respect to its determination of the request for a variance.

IV. VIOLATIONS

17.85.160 Violations. Any act in violation of the provisions of this Chapter and the standards incorporated herein is a misdemeanor and is deemed as a public nuisance which may, in addition to any other legal or equitable remedies available to the County, be prosecuted and/or enjoined and is subject to abatement as provided under provision of the Civil Code or through abatement under any County Ordinance enacted pursuant to Section 25845 of the Government Code. 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 ground water well with which any such violation is committed, continued, or permitted.

V. SEVERABILITY

17.85.170 Severability. If any clause, provision, sentence or paragraph of the Chapter or the application thereof, is deemed to be invalid as to any person, entity, establishment, or circumstance, such invalidity shall not affect the other provisions of this Chapter which shall remain in effect, and to this end, is hereby declared that the provisions of this chapter are severable.

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Section 2: This ordinance shall take effect thirty (30) days from and after the date of its passage and shall be published once within fifteen (15) days of its passage in a newspaper of general circulation, printed and published in the County of Calaveras, with the names of the supervisors voting for and against same.

Passed and adopted upon the 22nd day of January, 2002 by the following vote:

AYES: Supervisors Thein, Stein, Callaway, Tryon & Bailey  
NOES: None  
ABSENT: None

  
Chair, Board of Supervisors

ATTEST:  
  
\_\_\_\_\_  
County Clerk and Ex Officio  
Clerk of the Board of Supervisors  
County of Calaveras, State of California