

ORDINANCE NO. 587

AN ORDINANCE OF THE COUNTY OF KINGS
ESTABLISHING WATER WELL STANDARDS
IN ACCORDANCE WITH CALIFORNIA
WATER CODE SECTION 13801

The Board of Supervisors of the County of Kings ordains as follows:

SECTION 1. Chapter 14A of the Kings County Code of Ordinances is hereby repealed effective August 29, 2000.

SECTION 2. Chapter 14A of the Kings County Code of Ordinances is hereby added to read as follows:

“Chapter 14A

WATER WELLS

ARTICLE I. GENERAL PROVISIONS

Sec. 14A-1. Policy.

It is the purpose of this Chapter to protect the health, safety, and general welfare of the people of Kings County and of the State of California by ensuring that the ground waters of Kings County and of this state will not be polluted or contaminated. To this end, minimum requirements are contained in this Chapter for construction, reconstruction, repair, and destruction of water wells, cathodic protection wells, and monitoring wells.

Sec. 14A-2. Definitions.

Except as otherwise required by the context of this Chapter, the terms used in this Chapter shall have the same meaning as in Chapter 10 of Division 7 of the California Water Code and the Department of Water Resources Bulletin 74-81 and subsequent supplements or revisions thereto, including, but not limited to, Department of Water Resources Bulletin 74-90.

(a) “Abandoned Well” shall mean a well whose use has been permanently discontinued.

(b) “Applicant” shall mean the owner of the property upon which a well is located, or proposed to be located, or a licensed well driller or other person duly authorized in writing to act on behalf of the property owner.

(c) “Board” shall mean the Kings County Board of Supervisors.

(d) “Building Official” shall mean the chief building official of the County of Kings, or his designee.

(e) “Cathodic Protection Well” as used in this chapter, means any artificial excavation in excess of fifty feet deep constructed by any method for the purpose of installing equipment or facilities for the protection of metallic equipment in contact with the ground.

(f) “Compliance Agency” shall mean the Kings Public Works Department.

(g) “Compliance Officer” shall mean the Kings County Public Works Director, or his designee.

(h) “Inactive Well” shall mean a well the use of which has been temporarily discontinued and has not been abandoned.

(i) “Monitoring Well” as used in this chapter, means any artificial excavation by any method for the purpose of monitoring fluctuations in groundwater levels, quality of underground waters, or the concentration of contaminants in underground waters.

(j) “Person” shall mean any person, firm, corporation or governmental agency, to the extent authorized by law.

(k) “Repair” does not include ongoing well and pump maintenance or minor repairs, including, but not limited to, pulling of the pump and pump column for repair or modification of the pump, video taping of the well casing, cleaning of encrusted or plugged perforations, swedging of the well casing, jetting and conducting pump tests.

(l) “Well or Water Well” as used in this chapter, means any artificial excavation constructed by any method for the purpose of extracting water from, or injecting water into, the underground. The definition does include Monitoring Wells. This definition shall not include: (a) oil and gas wells, or geothermal wells constructed under the jurisdiction of the Department of Conservation, except those wells converted to use as water wells; or (b) wells used for the purpose of (1) dewatering excavation during construction, or (2) stabilizing hillsides or earth embankments; or (c) potholes, drainage trenches or canals, waste water ponds, stock ponds, shallow root zone piezometers and similar devices, or evaporation or sinking basins or similar excavations.

Sec. 14A-3. Interpretation.

(a) Tense, Gender or Number. Words used in the present tense include the future as well as the present. Words used in the masculine gender include the feminine. The singular number includes the plural, and the plural the singular.

(b) Section Headings. When contained in this Chapter, section headings shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of this Chapter.

ARTICLE II. PERMITS

Sec. 14A-21. Permit Requirements.

(a) When Required. No person shall dig, bore, drill, deepen, modify, repair, or destroy a water well, cathodic protection well, observation well, monitoring well or any other excavation that may intersect ground water without first applying for and receiving a permit as provided in this Chapter unless exempted by law.

(1) Applicant. An application for a permit may be filed by the owner of the property upon which the well is located, or proposed to be located, or by a licensed well driller or any other person duly authorized in writing by the property owner to apply for such permit.

(2) Persons Permitted to Work on Wells. All construction, reconstruction, or destruction work on wells shall be performed by a person who possesses an active C-57 contractor's license in accordance with the provisions of the California Business and Professions Code, Section 7000, et. seq. and Water Code Section 13750.5.

(3) Registration Requirement. All properly licensed persons who do work on wells under the provisions of this Chapter must register with the Compliance Agency under procedures established by the Compliance Agency.

(b) Monetary Penalty for Failure to Obtain Permit. Any person who shall commence any work for which a permit is required by this Chapter without having obtained a permit shall be required, if subsequently granted a permit for this work, to pay double the standard permit application fee.

(c) Emergency Work. The above provisions shall not apply to emergency work required on short notice to maintain drinking water or agricultural supply systems. In such cases, the person responsible for the emergency work shall:

(1) Apply for a permit within three working days after commencement of emergency work; and

(2) Satisfy the Building Official that such work was urgently necessary; and

(3) Demonstrate that all work performed was in conformance with the technical standards as designated in Article III hereof.

(d) Fees. Application, permit and other fees may be set by the Board from time to time by ordinance or resolution. The Board may provide for the waiver of fees under appropriate circumstances.

Sec. 14A-22. Application Procedure.

Applications for permits shall be made to the Building Official on forms approved by the Building Official and shall contain all such information that the Building Official and the Compliance Agency require to accomplish the purposes of this Chapter and state law. The application shall be accompanied by the required filing fee. If the Building Official finds the application contains all necessary information, he shall process the application as set forth in this Article.

(a) Review Process. Prior to approval of a permit, and within two days of receipt of a complete permit application, the Building Official shall submit a copy of the permit application to the Compliance Agency for review and comment. The Compliance Agency shall comment in writing or electronically to the Building Official, if at all, within five calendar days of receipt of the copy of the permit application.

(b) The Building Official shall review the comments, if any, received from the Compliance Agency and any other agency to which the application was submitted. Within ten calendar days of the submission of the permit application for comment, and after review of any comments received, the Building Official shall determine whether the application complies with this Chapter and with State law. If it so complies, the Building Official shall issue to the applicant a comprehensive permit containing such conditions as are necessary to fulfill the purposes of this Chapter and State law.

(c) Notice To Compliance Agency. Immediately upon issuance of a permit, the Building Official shall transmit a copy of the permit to the Compliance Agency. Thereafter, except for inspections as set forth in Section 14A-50 below, the Compliance Agency shall be responsible for enforcement of the permit and for ensuring compliance with the permit terms and conditions and with the provisions of this Chapter.

Sec. 14A-23. Permit Conditions.

(a) Limitations. When the Building Official issues a permit pursuant to this Chapter, he may condition the permit in any manner necessary to carry out the purposes of this Chapter and State law. Conditions may include, but are not limited to, such quantity and quality testing methods as the Building Official or the Compliance Agency finds necessary.

(b) Performance Bond. The Building Official may require a performance bond as a condition to issuance of the permit.

(c) Proper Disposal of Drilling Fluids. The permit shall contain a clause requiring the safe and appropriate handling and disposal of drilling fluids and other drilling materials used in connection with the permitted work.

(d) Abandoned Wells. As a condition to the issuance of a construction or reconstruction permit, any known abandoned wells on the property shall be destroyed in accordance with the Standards provided in this Chapter.

(e) Posting of Permit. It shall be the responsibility of the permittee to maintain a copy of the permit on the drilling site during all stages of construction, reconstruction or destruction.

Sec. 14A-24. Permit Denial.

The Building Official shall deny an application for a permit if, in his judgment, the issuance of the permit would result in a violation of this Chapter or State law or regulations. The denial of a permit may be appealed as set forth in Section 14A-27.

Sec. 14A-25. Permit Expiration.

The permittee shall complete the work authorized by the permit within 180 days of the date of issuance of the permit. Upon written application, and if there have been exceptional circumstances, the Building Official may grant the applicant one extension of time. Upon the expiration of the permit, no further work shall be done unless and until the applicant has received an extension or a new permit.

Sec. 14A-26. Permit Suspension and Revocation.

(a) Circumstances for Such Action. The Building Official or the Compliance Agency may suspend or revoke any permit issued pursuant to this Chapter whenever it finds that the permittee has violated any of the provisions of this Chapter or State law or regulation, has not complied with permit terms or conditions, or has misrepresented any

material fact in his application, or any supporting documents, for such a permit. Prior to ordering any such suspension or revocation, the Building Official or the Compliance Agency shall give the permittee an opportunity for a hearing thereon, after reasonable notice. The hearing shall be before the Building Official or the Compliance Agency head or his designated representative. An appeal may be made as set forth in Section 14A-27 below.

(b) Consequences. No person whose permit has been suspended or revoked may continue to perform the work for which the permit was granted. In the case of suspension, the work may be resumed when the permit has been reinstated by the Building Official or the Compliance Agency. In the case of revocation, a new permit must be applied for and obtained prior to resumption of work.

(c) Ordered Additional Work. Upon suspending or revoking any permit, the Building Official or the Compliance Agency may order the permittee to perform any work reasonably necessary to protect the underground waters from pollution or contamination, if any work already done by the permittee has left a well in such condition as to constitute a hazard to the quality of the underground waters. No permittee or person who has held any permit issued pursuant to the Chapter shall fail to comply with any such order.

Sec. 14-27. Permit Appeals.

(a) Right of Hearing. Any person whose application for a permit has been denied, or granted conditionally, or whose permit has been suspended or revoked, or whose variance request has been denied, may appeal to the Board, in writing, within ten days after any such denial, conditional granting, suspension, or revocation. Such appeal shall specify the grounds upon which it is taken, and shall be accompanied by the applicable filing fee as established by the Board. The clerk of the Board shall set such appeal for hearing at the earliest practicable time, and shall notify the appellant and the Building Official or the Compliance Agency, in writing, of the time so set at least five days prior to the hearing.

(b) Action by the Board. After such hearing, the Board may reverse, wholly or partly, may modify, or may uphold the order or determination appealed from.

ARTICLE III. WELL STANDARDS

Sec. 14A-31. Well Standards.

(a) State Standards. Except as otherwise specified, the standards for the construction, repair, reconstruction, or destruction of wells under this Chapter shall be as set forth in California Department of Water Resources Bulletin 74-81 "Water Well

Standards, State of California” except as modified by supplements and revisions thereto, including, but not limited to, Bulletin 74-90. Such standards are referred to in this Chapter as the "Standards".

(b) Local Regulations. The Board may by resolution adopt regulations designed to implement this Chapter, but only to the extent that such regulations are not inconsistent with State laws, regulations or Bulletins 74-81, 74-90 and amendments thereto.

Sec. 14A-32. Variances.

Based upon the recommendation of the Compliance Agency, the Building Official shall have the power to grant a variance from any provision of the standards referred to above and to prescribe alternative requirements in their place, if both the following conditions are met:

(a) Special Circumstances. There must be, in a specific case, a special circumstance where practical difficulties or unnecessary hardship would result from the strict interpretation or enforcement of any standard.

(b) Intent of Chapter Not Compromised. The granting of such a variance is consistent with the purposes of this Chapter.

ARTICLE IV. SPECIAL PROTECTION AREAS

Sec. 14A-40. Special Ground Water Protection Area.

The Compliance Agency may designate areas where ground water quality problems are known to exist and where a well will penetrate more than one aquifer. The Compliance Agency may require in these designated areas special well seals to prevent mixing of water from several aquifers. Where an applicant proposes well construction, reconstruction, or destruction work in such an area, the Compliance Agency may require the applicant to provide a report prepared by a Registered Geologist or Registered Civil Engineer (California Business and Professions Code Sections 7850 and 6762 respectively) that identifies all strata containing poor quality water and recommends the location and specifications of the seal or seals needed to prevent the entrance of poor-quality water or its migration into other aquifers.

(a) Designation Procedures. The Compliance Agency shall not designate a special groundwater protection area without obtaining the approval of the Board of Supervisors. Prior to designating any area as a “special ground water protection area” within the meaning of this Chapter, the Compliance Agency shall hold at least one public hearing before the Board on the issue of designation of such area. Notice of the public

hearing shall be published in a daily newspaper of general circulation published in Kings County once a week for two successive weeks with the last date of publication occurring at least ten days prior to the hearing date. In addition, the Compliance Agency shall provide written notice by mail to all owners of property directly overlying the proposed special groundwater protection area. For the purposes of this section, the owners of property shall be those shown on the Kings County Assessment Roll.

ARTICLE V. INSPECTIONS

Sec. 14A-50. Inspections of New Permitted Well Construction.

The Building Official or his designee shall make an inspection of the annular seal construction work. In addition, he may make an initial inspection of each proposed drilling site, an inspection at the completion of the work, and inspections at such other times as it deems appropriate.

(a) Initial Inspection. Upon receipt of a copy of an application, the Building Official may make an inspection of the drilling site prior to the issuance of a well permit. The purpose of this inspection is to determine whether there are any site conditions which

would require the Building Official to do any of the following:

(1) Relocation of Drilling Site. Require relocation of the drilling site should the location shown on the permit application be too close to potential sources of pollution.

(2) Additional Conditions. Establish any additional conditions if needed to remediate any previously unknown ground water quality protection problems.

(b) Inspection of Well Seal. The Building Official shall inspect the annular space grout depth prior to the sealing and shall inspect the construction of the annular seal during its placement. Except as set forth in Section 14A-21(c) above and subsection (b)(2) below, no seal shall be tremied or placed unless the Building Official is present and until permission to proceed is given.

(1) Required Notice. The permittee shall notify the Building Official a minimum of forty-eight hours prior to sealing the annular space. Drillers who anticipate completing a well in less than one day shall notify the Building Official twenty-four hours prior to commencement of drilling and provide the anticipated time to commence the sealing of the annular space. Permittees shall make best efforts to schedule inspections on days other than Saturdays, Sundays and holidays. If the permittee is unable to meet this requirement, he shall comply with the self-certification process established by the Building Official.

(2) Should Building Official Fail to be Present. If the Building Official is unable to be present at the time the annular seal is to be tremied or placed, the driller shall seal the well in accordance with the standards of this Chapter, State laws and regulations, and any permit conditions. At the time the Building Official first learns that he will be unable to be present, he shall give permission to proceed in his absence, subject to the requirements set forth herein.

(c) Final Inspection. If requested by the Building Official, the driller shall notify the Building Official within seven days of the completion of their work at each drilling site. The Building Official may make a final inspection after completion of the work to determine whether the well was completed in accordance with this Chapter.

Sec. 14A-51. Inspections of Abandoned Well Destruction.

(a) The Building Official or his designee shall make an inspection of the sealing of all abandoned wells. In addition, it may make an initial inspection of each proposed destruction site, an inspection at the completion of the work, and inspections at such other times as it deems appropriate.

(b) Inspection of Well Sealing. The Building Official shall inspect any well which is proposed for destruction and shall inspect the construction of each seal during its placement. Permittees shall make best efforts to schedule inspections on days other than Saturdays, Sundays and holidays. If the permittee is unable to meet this requirement, he shall comply with the self-certification process established by the Building Official.

(1) Required Notice. The permittee shall notify the Building Official a minimum of forty-eight hours prior to placing each seal in the well.

(2) Should Building Official Fail to be Present. If the Building Official is unable to be present at the time the well is sealed, the driller shall seal the well in accordance with the standards of this Chapter, State laws and regulations, and any permit conditions

Sec. 14A-52. Waiver of Inspections.

The Building Official, after consultation with the Compliance Agency, may waive inspections should any of the following conditions exist:

(a) Well Inspected by Other Agencies. Inspections may be waived where the work will be inspected by the staff of the California Regional Water Quality Control Board or the California Department of Health Services if these designated agencies will inspect and report to the Building Official on all drilling features required by the Standards.

(b) Monitoring Wells Under Specified Conditions. Inspections may be waived for monitoring wells that will penetrate only aquifers containing degraded waters or will penetrate only formations that normally contain no water.

(c) Drilling Sites Known to Have No Threats to Ground Water Quality. Initial inspections may be waived when the drilling site is well known to the Building Official and it is known that no significant threats to groundwater quality exist in the area.

ARTICLE VI. REPORTS

Sec. 14A-60. Completion Reports.

The driller shall provide the Compliance Agency a completion report within thirty days of the completion of any well construction, reconstruction, repair or destruction job.

(a) Submittal of State “Report of Completion”. A copy of the “Report of Completion” (Water Well Drillers Report, Department of Water Resources Form 188) required by California Water Code Section 13751 shall be submitted by the permittee to the Compliance Agency within thirty days of construction, alteration, or destruction of any well. This report shall document that the work was completed in accordance with the Standards and all additional permit conditions. This section shall not be deemed to release any person from the requirement to file said report with the state Department of Water Resources.

(b) Confidentiality of Report. In accordance with California Water Code Section 13752, reports shall be kept confidential. Reports shall be made available to any person who obtains written authorization from the owner of the well.

(c) Other Agency’s Requirements. Nothing in this Chapter shall be deemed to excuse any person from compliance with the provision of California Water Code Sections 13750 through 13755 relating to notices and reports of completion, or with any other federal, State, or local reporting regulations.

Sec. 14A-61. Reports to the Regional Board.

Pursuant to California Water Code Section 13225 (c), the Compliance Agency shall submit a report, not less than annually, to the Central Valley Regional Water Quality Control Board. This report shall contain the following data, unless the Regional Board determines a lesser amount of information is necessary:

(a) Wells Constructed or Destroyed. The number of wells constructed or destroyed.

(b) Abatement Actions. Descriptions of all well destructions undertaken by the Compliance Agency using its regulatory authority under nuisance abatement powers.

(c) Variances Granted. A description of each specific case where variances were granted and the circumstances that made a variance necessary.

(d) Inspection Waivers Granted. A description of each specific case where an inspection was waived and the circumstances that made the waiver necessary.

ARTICLE VII. ENFORCEMENT

Sec. 14A-70. Right of Entry and Inspection.

(a) Representatives of the Compliance Agency and/or the Building Official shall have the right to enter upon any premises at all reasonable times to make inspections and tests for the purpose of enforcement and administration. If any such premises are occupied, he shall first present proper credentials and request entry. If the same is unoccupied, he shall first make a reasonable effort to locate the owner or other person having charge or control of same and request entry. If such entry is refused, he shall have recourse to such remedies as are provided by law to secure entry.

(b) As a condition of the approval of any permit issued under the terms of this Chapter, the permitted party shall sign a statement expressly stating that the Compliance Agency and/or the Building Official shall have the right to enter upon the premises to make inspections and tests for the purpose of enforcement and administration of this Chapter and to ensure compliance with the permit terms and conditions.

Sec. 14A-71. Abatement of Abandoned Wells.

All persons owning an Abandoned Well as defined in this Chapter shall destroy it in accordance with the standards established herein, except those wells excluded by the California Health and Safety Code or other applicable provision of law.

(a) Abatement by County as Nuisance. Abandoned Wells which are not destroyed in accordance with the terms of this Chapter, or in accordance with any applicable permit condition imposed by the Building Official, are hereby declared to be public nuisances which may be abated by the County in accordance with Article IV of Chapter 14 of the Kings County Code of Ordinances.

(b) Maintenance of Inactive Well. In accordance with Section 115700 of the California Health and Safety Code, as evidence of intention for future use, the well owner shall properly maintain an Inactive Well in compliance with the following requirements:

(1) The well shall not allow impairment of the quality of water within the well or ground water encountered by the well.

(2) In order to prevent unauthorized access, to prevent a safety hazard to humans or animals, and to prevent illegal disposal of wastes or other contaminated materials in the well, the top of the well or well casing shall be provided with a cover that is secured by a lock or other security device preventing the use of the cover without the use of equipment or tools. In order to prevent entry of surface waters, the cover shall be watertight where the top of the well casing or other surface openings to the well are below either ground level or known levels of flooding or irrigation practices. Regardless of the position of the top of the well casing, the cover shall be watertight if the well is inactive for more than five consecutive years. A pump motor, angle drive, or other surface feature of a well shall suffice as a cover if it is in compliance with the above provisions.

(3) An Inactive Well shall be marked so as to easily visible and located and labeled so as to be easily identified as a well.

(4) The area around an Inactive Well shall be kept clear of brush, debris and waste materials.

(5) Biannually, on or before December 31 of every other year during which an Inactive Well has been continuously maintained as such, the well owner shall submit a written, signed statement to the Compliance Officer identifying the well, indicating its status as an Inactive Well, and stating that the above requirements have been met.

Sec. 14A-72 Criminal and Civil Enforcement.

(a) Violation a Misdemeanor. Any person who violates any of the provisions of this Chapter is guilty of a misdemeanor, and upon conviction thereof is punishable by such penalties as the Board shall from time to time set by ordinance.

(b) Civil Enforcement as a Nuisance. Wells constructed, reconstructed, deepened, or destroyed which are not constructed, reconstructed, deepened, or destroyed in accordance with the terms of this Chapter, or in accordance with any applicable permit condition imposed by the Building Official, are hereby declared to be public nuisances which may be abated in accordance with the provisions of Article IV of Chapter 14 of the Kings County Code of Ordinances. The property owner or his agent may abate any such public nuisance described hereinabove at any time prior to commencement of actual abatement by or at the direction of the Compliance Agency or the Building Official.

SECTION 3. This ordinance shall take effect and be in force thirty (30) days after its adoption, and, before the expiration of fifteen (15) days after its passage, a summary of this ordinance shall be published once with the names of the members of the Board of Supervisors voting for and against the same in the Hanford Sentinel, a newspaper of general circulation published in the County of Kings.

The foregoing ordinance was introduced at a meeting of this Board of Supervisors of the County of Kings held on August 15, 2000, and adopted at a meeting held August 29, 2000, by the following vote:

AYES: TONY OLIVEIRA, JOE NEVES, JON RACHFORD, TONY BARBA, ALENE TAYLOR
NOES: NONE
ABSENT: NONE

Chairman of the Board of Supervisors
County of Kings, State of California

WITNESS my hand and seal of said Board of Supervisors this 29th day of August, 2000.

Clerk of said Board of Supervisors

h/ordinance/watwell5
ver-8/8/2000
8:30 am