

**SANTA CRUZ COUNTY  
BOARD OF SUPERVISORS INDEX SHEET**

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**Continue Date(s): [1] 10/7/08**

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**Index:** --Letter of the Health Services Agency of September 15, 2008  
--Letter of the San Andreas Mutual Water Company dated August 28, 2008  
--Electronic Correspondence of Douglas Dietch dated September 19, 2008

**Item: 28.** ACCEPTED AND FILED report regarding actions and financing mechanisms necessary to address groundwater overdraft in the Pajaro Groundwater Basin and directed the Water Resources Division Director to provide a further report on October 7, 2008, **as** recommended by the Director of Health Services



# County of Santa Cruz

## HEALTH SERVICES AGENCY

701 OCEAN STREET, ROOM 312, SANTA CRUZ, CA 95060-4073  
(831) 454-2022 FAX: (831) 454-3128 TDD: (831) 454-4123

ENVIRONMENTAL HEALTH

**APPROVED AND FILED** [www.co.santa-cruz.ca.us/lehlehome.htm](http://www.co.santa-cruz.ca.us/lehlehome.htm)

**BOARD OF SUPERVISORS**

September 15, 2008

DATE: *9/23/08*  
COUNTY OF SANTA CRUZ

September 23, 2008 Agenda

Board of Supervisors  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, CA 95060

SUSAN A. MAURIELLO  
EX-OFFICIO CLERK OF THE BOARD  
BY *Alicia Mauriello* JEP:1.4

**SUBJECT: Groundwater Management in the Pajaro Basin**

Dear Members of the Board:

On August 19, 2008, your Board held a public hearing to consider declaring a groundwater emergency within the boundaries of the Pajaro Valley Water Management Agency (PWMA). After considering the testimony, your Board directed staff to work with the PWMA to identify actions from the staff report that could be accomplished in the next six months to move toward addressing the groundwater overdraft. Staff has been working with PWMA, the City of Watsonville, County Planning, and other agencies to identify relevant actions. A draft report has been prepared, but additional time is needed for the other agencies to review and comment on the report. In addition, the PWMA Board will be meeting on September 17 to discuss their augmentation fee and potential County actions relative to declaring a groundwater emergency. It would be desirable to consider the outcome of that meeting prior to recommending any follow up action to your Board.

It is, therefore, RECOMMENDED that your Board accept and file this report and direct the Water Resources Division Director to provide a further report on October 7, 2008, regarding actions and financing mechanisms necessary to address groundwater overdraft in the Pajaro Groundwater Basin.

Sincerely,

Rama Khalsa, Ph.D.  
Health Services Agency Director

RECOMMENDED:

SUSAN A. MAURIELLO  
County Administrative Officer

cc: County Administrative Office  
County Counsel  
Planning Director  
HSA Administration  
Water Resources Division/EH  
P W M A  
City of Watsonville  
Monterey County Water Resources Agency

# San Andreas Mutual Water Company

P.O.Box 326, Aptos, CA 95001-0326



28-August-2008

Ellen Pirie  
Santa Cruz County Supervisor

Re: Public Hearing on Declaration of a Ground Water Emergency in the Pajaro Valley

Ellen:

The members of the SAMWAC Board that attended the Supervisors meeting in Watsonville on 19-August were all very pleased with the force that you tried to bring to bear in favor of getting the Pajaro Valley overdraft situation on the road to recovery. You seemed to be the only Supervisor in favor of quick action.

The Board of SAMWAC wants you to know that we support the path that you are trying to take. Given the end result of the meeting was a delay for County Staff and PVWMA to organize a goal list, we would like to suggest three items that the County can act on independently of the Staff/PVWMA efforts that will affirm that the County is serious.

- 1) Item 5 on the Staff Recommendation list: Establish a temporary moratorium on new subdivisions and building permits for new homes in the unincorporated areas overlying the Pajaro Basin.
- 11) Item 6 on the Staff Recommendation list: Establish a temporary moratorium on new ground water wells for residential or agricultural use.
- 111) Replace the PVWMA Board member appointed by the County of Santa Cruz. The present appointment is due to expire in Dec-2008.

The other items suggested by County Staff in their report to the Council, that were within the jurisdiction of the County, were headed by words such as "urge" and "support". While valuable efforts, they are not very tangible. The three items

above are very solid and will get the attention of the entire Pajaro Valley effected area. The first two could easily be crafted within the 30 day delay period. The third actually requires the locating and vetting of a suitable candidate that can contribute to the solution of this problem. The County needs a representative to the PVWMA Board who will lead it out of this situation without constant County oversight and conflict with the public. While this may take longer than 30 days, the initiation of the process will certainly have an effect of the PVWMA Board.

We would also like to know if the County of Santa Cruz or the PVWMA have the legal authority to limit ground water pumping on private property? From the staff report, there is mention that while in a “Ground Water Emergency”, the county can act to impose “water conservation measures”. This is far from the ability to restrict ground water pumping. How far can public agencies go to restrict pumping?

The SAMWAC Board will make efforts to convince the PVWMA Board to move forward on a proper “218 compliant” funding arrangement.

Board of Directors - San Andreas Mutual Water Company

Gerald Fehr, President  
Ann Stemler, Secretary  
Dwight Lynn, Member at Large

Sandra Hoppe, Vice President  
Owen Sharp, Treasurer

## CBD BOSMAIL

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**From:** CBD BOSMAIL  
**Sent:** Friday, September 19, 2008 8:49 AM  
**To:** CBD BOSMAIL  
**Subject:** Agenda Comments

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**Meeting Date :** 9/23/2008

**Item Number :** 28

**Name :** Douglas Deitch

**Email :** ddeitch@pogonip.org

**Address :** 3540 Porter Gulch Road  
Aptos, Ca., 95003

**Phone :** 831-476-7662

### Comments :

REQUEST FOR PUBLIC HEARING DE NOVO BASED ON MATERIAL ERROR IN AUGUST 19,2008 COUNTY STAFF REPORT AND HEARING ON DECLARATION OF GROUNDWATER EMERGENCY IN PAJARO VALLEY

Dear Chairman Pirie and Board,

On August 19, 2008 you held a public hearing to consider declaration of a groundwater emergency in the Pajaro Valley in PVWMA.

Your staff report on page 3 at the very bottom indicated that a fourth finding was required by ?supervisors to declare an emergency based on the Supervisors' finding that "adequate progress" was not being made to address the problem., finding number "4."

Testimony was tendered by various parties opposing the groundwater emergency based on the testifiers' belief that this "fourth finding" was required by the Well Ordinance. In fact, Dale Skillicorn, Watsonville City Councilmember was quoted in Metro Santa Cruz, Aug 27-Sept. 3, 2008, NUZ, p.7, "A declaration of groundwater emergency requires a finding that adequate measures are not being taken. Well, they are!"

It was a material error to include finding number 4. in the County staff report because this is not the law. The fourth finding considering "adequate progress", though approved twice by supervisors, does not become law until approved by Coastal Commission review not yet accomplished.

Te public deserves the right to be accurately informed of the actual law the supervisors are sworn to follow. The supervisors need to know, as well, apparently.

In 1987, under the state constitution and it's police powers, supervisors like you then had powers to take actions in many different areas in extraordinary circumstances at their election and discretion. Nonetheless, a law was enacted here in 1987 by the Gary Patton to protect our groundwaters here over and above the police powers already extant.

<http://pogonip.org/ordhtm>

Notwithstanding these extensive discretionary police powers, Gary's 1987 law, by it's specific language, outlined certain specific measures that "shall" be undertaken by the supervisors in emergency situations when certain, essentially, objective findings are made.

<http://www.begentlewiththeearth.com/>

9/19/2008

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For the last ten years consistently & continuously, ending with Tuesday, August 19, 2008, despite the continuous and uncontested existence of the 3, not 4, requisite findings required, the supervisors have refused to take the measures that they "shall" take outlined under the 1987 law...(and have, in fact, been trying to change the law for the last 3 years, but original law still remains in effect today....)

Supervisors, by their actions and otherwise, contend that measures under the 1987 are discretionary, and not obligatory and ministerial, as the law on its face seems to clearly read.

My question is why would the Gary Patton in 1987 codify certain specific measures which "shall" be taken in certain specific circumstances, intending anything other than that these measures be a ministerial and obligatory duty (providing for a higher level of mandatory, nondiscretionary protection required by the extraordinary circumstances and third party Coastal Commission approval of amendments of this law and obligation, which have not yet been accomplished) (rather than as a discretionary option), if the supervisors essentially already had all these "police powers" to use already at their election and discretion prior to the enactment of the 1987 law or even in its absence?

My other question is why are you supervisors trying to change the law for the last 3 years by addition of a new language which creates a new subjective/discretionary additional required finding....if the law, by its terms, already is providing you with the discretionary review which you now (and for the last ten years continuously) claim you are legitimately exercising?

Please correct the material error in the County Staff report cited above so all members of the public, various agencies and jurisdictions will be first properly and accurately informed. Then please renotice and hold a new public hearing to consider a groundwater emergency..however please include Soquel Creek Water District in the emergency area under consideration in respect to the portion of Soquel Creek District overlying the Aromas Re Sands (ie mostly PVWMA) aquifer. PVWMA's problem in this area is SqCWD'd problem, as well.

Respectfully submitted  
Douglas Deitch