

## **NOTICE OF PROPOSED AQUIFER EXEMPTION**

### **15-DAY SUPPLEMENTAL PUBLIC COMMENT PERIOD**

Notice Published December 2, 2015

**NOTICE IS HEREBY GIVEN** that the California Department of Conservation, Division of Oil, Gas, and Geothermal Resources (“Division”), in consultation with the State Water Resources Control Board and the Central Coast Regional Water Quality Control Board (collectively “Water Boards”), have provided additional information to the proposed exemption and, therefore, reopened a 15-day supplemental comment period to receive comment on the additional information.

On August 20, 2015, the Division and the Water Boards publically noticed a proposal to expand the current aquifer exemption designation for the Dollie sands of the Pismo formation in the Arroyo Grande oil field (in unincorporated San Luis Obispo county near the intersection of Ormonde Road and Price Canyon Road). Subject to approval by the United States Environmental Protection Agency (“US EPA”), the proposed aquifer exemption would allow the State, in compliance with the federal Safe Drinking Water Act, to approve Class II injection into the identified area, either for enhanced oil recovery or for injection disposal of fluids associated with oil and gas production

Based on consultation as required under Public Resources Code section 3131, the Division and the Water Boards preliminarily concur that the proposed aquifer exemption area meets the criteria for exemption under the Code of Federal Regulations, title 40, section 146.4 because it does not currently serve as a source of drinking water, and it will not serve as a source of drinking water in the future because the area is currently hydrocarbon producing or is capable of hydrocarbon production. The Division and the Water Boards also preliminarily concur that the injected fluid is expected to remain in the area that would be exempted and is not expected to affect the quality of water that is, or may reasonably be, used for any beneficial use, due to geologic conditions and hydraulic controls.

### **WRITTEN COMMENT PERIOD**

Any person, or his or her authorized representative, may submit to the Department of Conservation (“Department”) written statements, arguments, or comments relevant to the proposed action. Comments may be submitted by email to [comments@conservation.ca.gov](mailto:comments@conservation.ca.gov) by facsimile (FAX) to (916) 324-0948, or by mail to:

Department of Conservation  
801 K Street, MS 24-02  
Sacramento, CA 95814  
ATTN: Aquifer Exemption

**The written comment period closes at 5pm on December 16, 2015.** The Department will not consider any comments received at the Department’s offices after that time.

### **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

The complete aquifer exemption proposal, pertinent background information, and any additions to the proposal, can be accessed at [www.conservation.ca.gov/dog/Pages/Aquifer\\_Exemptions.aspx](http://www.conservation.ca.gov/dog/Pages/Aquifer_Exemptions.aspx) or obtained from the local Division Office, 195 S. Broadway, Ste 101, Orcutt, CA 93455 or by contacting Jon Iverson, 805-937-7246.

## BACKGROUND

The Division regulates the underground injection of fluids associated with oil and gas production (“Class II injection”) through an underground injection control (“UIC”) program approved by US EPA pursuant to the federal Safe Drinking Water Act. The Safe Drinking Water Act requires that the protection of underground sources of drinking water (or “USDW”), which are defined broadly in federal regulation as including any aquifer that supplies or contains a sufficient quantity of groundwater to supply a public water system and that has a total dissolved solids (“TDS”) composition of less than 10,000 mg/l. (See 40 C.F.R. § 144.3.)

An aquifer or its portion that would otherwise qualify as a USDW may be “exempted,” however, if it meets specific exemption criteria enumerated in federal regulation and undergoes an exemption process that involves both the State and US EPA. (See 40 C.F.R., §§ 146.4, 144.7.) Specifically, a USDW may be exempted for the purposes of Class II injection if it meets the following criteria:

- (a) It does not currently serve as a source of drinking water; and
- (b) It cannot now and will not in the future serve as a source of drinking water because:
  - (1) It is mineral, hydrocarbon or geothermal energy producing, or can be demonstrated by a permit applicant as part of a permit application for a Class II or III operation to contain minerals or hydrocarbons that considering their quantity and location are expected to be commercially producible.
  - (2) It is situated at a depth or location which makes recovery of water for drinking water purposes economically or technologically impractical;
  - (3) It is so contaminated that it would be economically or technologically impractical to render that water fit for human consumption; or
- (c) The TDS content of the ground water is more than 3,000 and less than 10,000 mg/l and it is not reasonably expected to supply a public water system.

(40 C.F.R. § 146.4.)

In California, exempted aquifers may be designated by the State and submitted to US EPA for review and possible approval. Industry participants who need an aquifer exemption in order to apply for Division approval of injection operations may provide the Division information showing the aquifer meets the exemption criteria. If the Division finds the aquifer meets the exemption criteria and is appropriate for Class II injection, the Division consults with and seeks concurrence from the Water Boards. The Division and the Water Boards consult as to the conformity of the proposal with all of the following: 1) the aquifer or portion of an aquifer meets the exemption criteria in the federal regulations; 2) the injection of fluids will not affect the quality of water that is, or may reasonably be, used for any beneficial use; and 3) the injected fluid will remain in the aquifer or portion of the aquifer that would be exempted. If, after such consultation, the Division and the Water Boards agree that the aquifer or portion of an aquifer merits consideration for exemption by US EPA, then the proposal will be subject to a public comment period of at least 30 days and a public comment hearing. After review of the public comments, if the Division and the Water Boards continue to concur that the proposal merits

consideration, then it will be submitted to US EPA. (Pub. Res. Code, § 3131.) No aquifer exemption is valid unless and until it is approved by US EPA. (See 40 C.F.R. § 144.7.)

### **DECISION AND RESPONSE TO COMMENTS**

Following the written comment period and public hearing, the Department will review all timely and relevant comments received (including oral comments received at the hearing). Thereafter, the Department may submit the proposed aquifer exemption to US EPA for its review and possible approval.

If the Department elects to submit the proposed aquifer exemption to US EPA for approval, it will publish a document that (1) announces the decision, (2) provides a concise statement of the basis for the decision, and (3) summarizes the substantive comments received and the disposition of those comments. This document will be included in the submission to US EPA. If, after consider public comment, the Department makes any substantial changes to the scope of the proposed exemption, the Department will reopen a 15-day supplemental notice period to receive comment on the changes.

### **CONTACT PERSON**

Inquiries concerning the proposed action may be directed to:

Tim Shular  
Department of Conservation  
801 K Street, MS 24-02  
Sacramento, CA 95814  
Phone: (916) 322-3080  
Email: [Comments@conservation.ca.gov](mailto:Comments@conservation.ca.gov)