

No. S251709

IN THE SUPREME COURT OF CALIFORNIA

PROTECTING OUR WATER & ENVIRONMENTAL
RESOURCES et al.,

Plaintiffs and Appellants,

vs.

STANISLAUS COUNTY et al.,

Defendants and Respondents.

SUPREME COURT
FILED

JAN 14 2019

Jorge Navarrete Clerk

Deputy

After a Decision by the Court of Appeal, Fifth Appellate District
Case No. F073634

Appeal from the Stanislaus County Superior Court
Case No. 2006153

The Honorable Roger M. Beauchesne, Judge, Presiding

**RESPONDENTS' REQUEST FOR JUDICIAL NOTICE;
MEMORANDUM OF POINTS AND AUTHORITIES;
DECLARATION OF LAUREN M. TARPEY;
[PROPOSED] ORER**

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**REQUEST AND MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF RESPONDENTS'
REQUEST FOR JUDICIAL NOTICE**

Pursuant to California Evidence Code sections 451, 452, and 459, and California Rules of Court Rules 8.520(g) and 8.252(a), Defendants and Respondents Stanislaus County et al. request that this Court take judicial notice of the excerpts of county code attached as Exhibit 1:

Exhibit 1 Alameda County Code of Ordinances § 6.88.060
Alpine County Code § 8.36.030
Amador County Code § 14.06.170
Butte County Code of Ordinances § 23B-5
Calaveras County Code of Ordinances § 8.20.020
Colusa County Code § 35-10
Del Norte County Code § 7.32.70
El Dorado County Code of Ordinances § 8.39.120
Glenn County Code § 20.080.060
Humboldt County Code § 631-10
Imperial County Code of Ordinances § 92103.02
Inyo County Code § 14.28.100
Kern County Code of Ordinances § 14.08.210
Kings County Code of Ordinances § 14A-31
Lake County Code of Ordinances § 9-66
Lassen County Code § 7.28.100
Madera County Code of Ordinances § 13.52.050
Mariposa County Code § 13.16.030
Merced County Code § 9.28.060
Modoc County Code of Ordinances § 13.12.030
Mono County Code of Ordinances § 7.36.070

Monterey County Code of Ordinances § 15.08.110
Nevada County Code § L-X 2.12
Orange County Code of Ordinances § 4-5-30
Placer County Code § 13.08.100
Plumas County Code of Ordinances § 6-8.05
Riverside County Code of Ordinances § 13.20.100
Sacramento County Code § 6.28.040
San Benito County Code of Ordinances § 15.05.095
San Bernardino County Code of Ordinances §
33.0633
San Diego County Code of Regulatory Ordinances §
67.421
San Francisco Health Code § 806
San Luis Obispo County Code § 8.40.060
Santa Barbara County Code of Ordinances § 34A-12
Santa Cruz County Code § 7.70.090
Shasta County Code of Ordinances § 8.56.070
Sierra County Code § 12.04.080
Siskiyou County Code of Ordinances § 5-8.21
Solano County Code § 13.10-14
Sonoma County Code of Ordinances § 25B-6
Sutter County Code of Ordinances § 765-040
Trinity County Code of Ordinances § 15.20.080
Tulare County Code § 4-13-100
Tuolumne County Ordinance Code § 13.16.160
Ventura County Code of Ordinances § 4814
Yuba County Code of Ordinances § 7.03.040

The documents for which notice is sought do not relate to proceedings occurring after the Court of Appeal's judgment and

were not presented to the trial court or the appellate court in this case.

I. The submitted documents are subject to judicial notice.

The excerpted provisions of county code attached as Exhibit 1 incorporate the well-construction standards set forth in Bulletin No. 74 that are the subject of this litigation. Judicial notice of these excerpts is proper under the California Rules of Court and the Evidence Code.

Under Rules 8.520(g) and 8.252(a) of the Rules of Court and Evidence Code section 459(a), this Court shall take notice of each matter the trial court was required to notice under sections 451 or 453. Additionally, this Court may take judicial notice of any matter subject to judicial notice under Evidence Code section 452. (Evid. Code § 459(a).) Although the documents for which the County is requesting judicial notice were not presented to the trial court or the Court of Appeal, they are properly subject to judicial notice under Rule 8.252(a).

Judicial notice of the submitted documents is proper under Evidence Code section 451(a), which requires that judicial notice be taken of the “decisional, constitutional, and public statutory law of this state.” Because counties are legal subdivisions of the state, their statutory law as codified in county codes constitutes the “public statutory law of the state” under Evidence Code section 451(a). (See Cal. Const., art. XI, § 1(a).) Accordingly, courts have relied on section 451 to take judicial notice of county code provisions. (See *Resource Defense Fund v. County of Santa Cruz*

(1982) 133 Cal.App.3d 800, 806, fn. 6 [taking judicial notice of “photographic copies of pertinent county code provisions” pursuant to Evid. Code § 451 et seq.].)

The submitted documents are also subject to permissive judicial notice under Evidence Code section 452. This section authorizes courts to take judicial notice of “legislative enactments issued by or under the authority of . . . any public entity in the United States” (Evid. Code § 452(b)), “[o]fficial acts of the legislative, executive, and judicial departments . . . of any state of the United States” (*id.* § 452(c)), and “[f]acts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy” (*id.* § 452(h)).

This Court has taken judicial notice of legislative enactments of local agencies, including ordinances, pursuant to Evidence Code section 452(b). (See, e.g., *Longshore v. County of Ventura* (1979) 25 Cal.3d 14, 24 [taking judicial notice of county ordinances pursuant to Evid. Code § 452(b)]; see also *Desmond v. County of Contra Costa* (1993) 21 Cal.App.4th 330, 336.) Similarly, courts have taken judicial notice of county records, including resolutions, under section 452(c) on the grounds that “counties are legal subdivisions of the state.” (*Cooke v. Superior Court* (1989) 213 Cal.App.3d 401, 416 (citing *Edna Valley Assn. v. San Luis Obispo County and Cities Area Planning Coordinating Council* (1977) 67 Cal.App.3d 444, 449-50).) Finally, section 452(h) applies to the documents submitted here because these are publicly available,

and thus “capable of immediate and accurate determination.” (Evid. Code § 452(h).)

Exhibit 1 excerpts sections of county code that have been enacted and published by the counties listed above. Each excerpted code section regulates the construction of groundwater wells, incorporating the well-construction standards set forth in *Bulletin No. 74, California Well Standards*, which are at issue in this litigation. Each of the excerpts is an official, legislative act and a record of the legislative body of the county at issue.

Each county listed above is a public entity in the United States and a subdivision of the State of California. Furthermore, the enactment and contents of each exhibit are not reasonably subject to dispute and are capable of immediate and accurate determination. The exhibit attached here is therefore judicially noticeable under Evidence Code section 451(a), as well as under section 452(b), (c), and (h).

II. The exhibit is relevant to the issues before this Court.

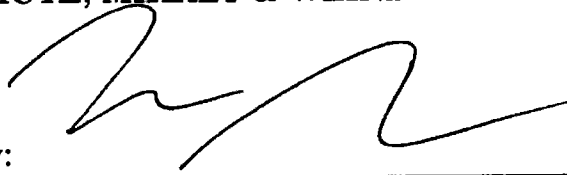
Exhibit 1 is relevant to the issues before this Court because it supports the County’s contention that, if the state Bulletin standards are determined to be discretionary in whole or in part, such a finding will have sweeping practical consequences for the vast majority of counties in the state. Because the 46 counties represented in the exhibit incorporate the state Bulletin standards in their well permitting ordinances in a manner similar to Stanislaus County, the Court’s decision about the nature of the

Stanislaus County ordinance and the state Bulletin standards will affect the permitting processes for these 46 counties.

January 14, 2019

SHUTE, MIHALY & WEINBERGER LLP

By:



MATTHEW D. ZINN
Attorneys for Defendants and
Respondents
County of Stanislaus et al.

DECLARATION OF LAUREN M. TARPEY


I, Lauren M. Tarpey, declare as follows:

1. I am an attorney licensed to practice in the State of California and am employed at Shute, Mihaly & Weinberger LLP, attorneys for Defendants and Respondents County of Stanislaus et al. I have personal knowledge of the facts set forth herein, except as to those stated on information and belief, and as to those, I am informed and believe them to be true. If called as a witness, I could and would competently testify to the matters stated herein.

2. Exhibit 1, attached to this Request for Judicial Notice and Declaration, contains a true and correct copy of each excerpted code section cited in the exhibit and provides the website from which I obtained each section.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 14th day of January, 2019, at San Francisco, California.



Lauren M. Tarpey

[PROPOSED] ORDER

Good cause appearing, Respondents' Request for Judicial Notice is hereby granted.

DATED: _____, 2019

JUSTICE OF THE CALIFORNIA
SUPREME COURT

EXHIBIT 1

Alameda County Code of Ordinances

Title 6 – Health and Safety
Chapter 6.88 – Water Wells
6.88.060 – Standards.

Standards for the construction, repair, reconstruction, destruction, or abandonment of water wells, monitoring wells and cathodic protection wells shall be as set forth in Chapter II of the Department of Water Resources Bulletin No. 74-81, "Water Well Standards: State of California," Department of Water Resources Bulletin No. 74-90 (supplement to Bulletin 74-81), and any subsequent supplements or revisions thereof, with the following additions and modifications:

[Subections (A) – (H) omitted.]

https://library.municode.com/ca/alameda_county/codes/code_of_ordinances?nodeId=TIT6HESA_CH6.88WAVE_6.88.060ST

Alpine County Code

Title 8 – Health and Safety
Chapter 8.36 – Wells
Section 8.36.030 Standards for work.

Standards for the construction, repair, modification or destruction of wells shall be as set forth in Chapter II of the California Department of Water Resources Bulletin No. 74, "Water Well Standards," state of California, with the following exceptions:

A. All community water supply wells and individual domestic wells shall be provided with a pipe or other effective means through which chlorine or other disinfecting agents may be introduced directly into the well. The pipe, if provided, shall be installed at a height equal to the pump slab or at least six inches above the finished grade, shall be kept sealed, and shall be provided with a threaded or equivalently secure cap (in a well pit, the pipe shall be twelve inches above the floor of the pit). Equivalent protection for excluding contamination from the well

shall be provided for subsurface pump discharge installations. If an air relief vent is used, it shall terminate downward twelve inches above ground level and be screened and protected against contamination material entering the vent (sixteen-mesh screen).

B. Every new, repaired or modified community water supply well or domestic water well, after construction, modification or repair, and before being placed into service, shall be thoroughly cleaned of all foreign substance and shall be thoroughly disinfected. Procedures delineated in Appendix E of the aforementioned Department of Water Resources Bulletin No. 74, state of California, or equivalent, are required. (Ord. 364 § 7, 1976)

<https://www.codepublishing.com/CA/AlpineCounty/>

Amador County Code

Title 14

Chapter 14.06 Well Drilling Permits and Standards

14.06.170 Standards for wells.

Standards for the location, construction, and work on wells shall be as set forth in Chapter II of the State Department of Water Resource Bulletins 74-81 and 74-90 entitled "Water Well Standards: State of California." (Ord. 1730 §2(part), 2013).

<https://www.codepublishing.com/CA/AmadorCounty/#!/AmadorCounty14/AmadorCounty1406.html#14.06.170>

Butte County Code of Ordinances

Chapter 23B – Water Wells

23B-5 – Well standards.

Standards for the construction, repair, reconstruction, deepening, abandonment and destruction of wells in Butte County shall be as specified within bulletin 74-81 and its supplement bulletin 74-90, Water Well Standards, State of

California, except where superseded by state or federal law or modified by resolution of the board of supervisors.

(Ord. No. 3272, § 1, 6-25-96; Ord. No. 3947, § 4 (part), 12-12-06)

https://library.municode.com/ca/butte_county/codes/code_of_ordinances?nodeId=CH23BWAVE_23B-5WEST

Calaveras County Code of Ordinances

Title 8 – Health and Safety

Chapter 8.20 – Well Construction and Destruction

Article I. – General Provisions

8.20.020 – Title and adoption of state standards.

This chapter shall be known and may be cited as the Calaveras County Well Ordinance and adopts the California Department of Water Resources, Bulletin 74-81, Well Standards: State of California, and the California Department of Water Resources, Bulletin 74-90, California Well Standards (Supplement to Bulletin 74-81), and any subsequent revisions.

(Ord. No. 2946, § 1, 5-6-2008).

https://library.municode.com/ca/calaveras_county/codes/code_of_ordinances?nodeId=CALAVERAS_CO_CALIFORNIA_MUNICIPAL_CODE_TIT8HESA_CH8.20WECODE_ARTIGEPR_8.20.020TIADSTST

Colusa County Code

Chapter 35 Well Standards

35-10 Well standards.

(a) Department of Water Resources Bulletin 74-81. The California Department of Water Resources Bulletin 74-81 “Water Well Standards, State of California” except as modified by subsequent revisions.

(b) All subsequent supplements and revisions. All subsequent Bulletin 74-81 supplements or revisions issued by the Department of Water Resources, once the revised standards have been reviewed at appropriate public hearing. (Ord. No. 509, § 3.)

<https://www.codepublishing.com/CA/ColusaCounty/>

Del Norte County Code

Title: 7 – Health and Welfare

Chapter: 32 – Regulations of Wells and Preservation of Groundwater

Section: 70 – Standards Established

Standards for the construction, repair, reconstruction, abandonment and destruction of wells in Del Norte County are set forth in the most current edition of Department of Water Resources Bulletin No. 74, "Water Well Standards," and are adopted herein by reference, with the following modifications:

[Subections A – E omitted.]

(Ord. 94-13 § 1 (part), 1994.)

<http://ccode.dnco.org/?Title=7&Chapter=32&Section=70>

El Dorado County Code of Ordinances

Title 8 – Public Health and Safety

Chapter 8.39. – Well Standards

Sec. 8.39.120. – Well standards.

Except as otherwise specified, the standards for the construction, repair or reconstruction or abandonment of wells shall be as set forth in Department of Water Resources Bulletins 74-81 and 74-90; the California Department of Water Resources Bulletins 74-81 and 74-90 "Water Well Standards, State of California."

(Code 1997, § 8.39.120; Ord. No. 4110, § 1(part), 1990)

https://library.municode.com/ca/el_dorado_county/codes/code_of_ordinances?nodeId=PTAGECOOR_TIT8PUHESA_CH8.39WEST

Glenn County Code

Title 20 – Water

Chapter 80 – Water Well Drilling Permits & Standards

20.080.060 Standards

A. In order to provide minimum standards for the proper regulation of well drilling and abandonment, the water well standards: State of California (Department of Water Resources Bulletin 74-81 and 74-90), as may be amended from time to time, is adopted, incorporated and made a part of this chapter by reference without further publication, as though set forth at length in this chapter and is declared to be the well drilling and abandonment code of the county, and shall apply to and govern all wells drilled or abandoned in the unincorporated areas of the county.

[Subsection B omitted.]

(Ord. 982 § 6, 1991; Ord. 818 § 1 (part), 1984.)

<https://www.countyofglenn.net/govt/county-code/title-20/chapter-80>

Humboldt County Code

Title VI – Water and Sewage

Division 3 – Wells

Chapter 1 – Wells

§ 631-10. Well Standards.

Except as otherwise specified, the standards for the construction, repair, reconstruction, or destruction of wells shall be as set forth in: (Ord. 1885, § 2, 02/13/90)

(a) *Department of Water Resources Bulletin 74-81.* The California Department of Water Resources Bulletin 74-81 "Water Well Standards, State of California", except as modified by subsequent revisions. (Ord. 1885, § 2, 2/13/1990)

(b) *All Subsequent Supplements and Revisions.* All subsequent Bulletin 74-81 supplements or revisions issued by the Department of Water Resources, once the revised standards have been reviewed at appropriate public hearing. (Ord. 1885, § 2, 2/13/1990)

<https://humboldt.county.codes/Code/631-10>

Imperial County Code of Ordinances

Title 9 – Land Use Code

Division 21 – Water Well Regulations

Chapter 3 – General Provisions

Section 92103.02 – Well standards.

Except as otherwise specified, the standards for the construction, repair, reconstruction, alteration, reactivation, operation, or abandonment of wells shall be as set forth in:

A. The California Department of Water Resources Bulletin 74-81 entitled, "Water Well Standards, State of California," except as modified by subsequent supplements or revisions issued by the Department of Water Resources.

B. The California Department of Water Resources Bulletin 74-90 and any subsequent supplements or revisions issued by the Department of Water Resources.

C. The following factors, to the extent necessary to avoid conditions of overdraft, subsidence, well interference, water quality degradation, or other environmental degradation:

[Subsections 1 – 9 omitted.]

(Ord. 1415 § 334, 2006)

https://library.municode.com/ca/imperial_county/codes/code_of_ordinances?nodeId=TIT9LAUSCO_DIV21WAWERE_CH3WEST_92103.02WEST

Inyo County Code

Title 14 – Building and Safety

Chapter 14.28 – Water Wells

14.28.100 Standards and specifications applicable—Exceptions.

Standards for the construction, repair, modification or destruction of wells shall be Chapter II of California Department of Water Resources Bulletin No. 74, “Water Well Standards: State of California” and Chapter II of Bulletin No. 74-1, “Cathodic Protection Well Standards: State of California,” with the following exceptions:

A. The health officer may adopt rules and regulations more stringent than state requirements to be applicable in all of the unincorporated area of the county.

B. Every new, repaired or modified community water-supply well or domestic water well, after construction, modification or repair, and before being placed into service, shall be thoroughly cleaned of all foreign substance and shall be thoroughly disinfected. Procedures delineated in Appendix “E” of aforementioned Department of Water Resources Bulletin No. 74, or equivalent, are required. (Ord. 309 § 8, 1976.)

<http://www.qcode.us/codes/inyocounty/>

Kern County Code of Ordinances

Title 14 – Utilities

Chapter 14.08 – Water Supply Systems

Article III. – Well Standards

14.08.210 – Well construction standards.

A. Except as otherwise specified, the standards for the construction, repair, reconstruction or destruction of wells shall be as set forth in:

1. Department of Water Resources Bulletin 74-81. The California Department of Water Resources Bulletin 74-81 "Water Well Standards, State of California" except as modified by subsequent revisions;

2. All Subsequent Supplements and Revisions. All subsequent Bulletin 74-81 supplements or revisions issued by the Department of Water Resources, once the revised standards have been reviewed at appropriate public hearing.

[Subsections B – C omitted.]

D. It is unlawful to inject any pesticide or chemical into the discharge pipe of a well which is not equipped with an approved backflow protection device or methods as described in Section 14.08.280.

(Ord. G-5356 § 6, 1990; Ord. G-5006 § 2 (part), 1989)

https://library.municode.com/ca/kern_county/codes/code_of_or_dinances?nodeId=TIT14UT_CH14.08WASUSY_ARTIIIWEST_14.08.210WECOST

Kings County Code of Ordinances

Chapter 14A – Water Wells

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.

(Ord. No. 587, § 2, 8-29-00)

https://library.municode.com/ca/kings_county/codes/code_of_ordinances?nodeId=COOR_CH14AWAWE_ARTIIIWEST_S14A-31WEST

Lake County Code of Ordinances

Chapter 9 – Health and Sanitation

Article VIII. – Regulation of Wells and Preservation of Groundwater

Sec. 9-66. – Standards Established.

Standards for the construction, repair, reconstruction, abandonment and destruction of wells in Lake County are set forth in Chapter II and related appendixes of the current Department of Water Resources Bulletin No. 74-81, "Water Well Standards" as revised and amended, and are adopted herein by reference, with the following modifications:

[Subsections (a) – (p) omitted.]

(Ord. No. 1823, § 1, 4-25-89)

(Ord. No. 2998, § 7, 1-28-2014)

https://library.municode.com/ca/lake_county/codes/code_of_ordinances?nodeId=COOR_CH9HESA_ARTVIIIREWEPGR_S9-66STES

Lassen County Code

Title 7 – Health and Sanitation

Chapter 7.28 Water Wells

7.28.100 Standards and specifications applicable—Exceptions.

Standards for the construction, repair, modification or destruction of wells shall be Chapter II of California Department of Water Resources Bulletin No. 74-81 “Water Well Standards: State of California” and Chapter II of Bulletin No. 74-1, “Cathodic Protection Well Standards: State of California,” with the following exceptions:

[Subsections A – F omitted.]

(Ord. 488-A § 2, 1988; Ord. 488 § 1, 1988).

<http://www.qcode.us/codes/lassencounty/>

Madera County Code of Ordinances

Title 13 – Water and Sewers

I. – Water

Chapter 13.52 – Well Standards

13.52.050 – Well standards.

A. Standards Adopted. Excepted as otherwise specified, the standards for the construction, repair, reconstruction, or abandonment of wells published in the Department of Water Resources Bulletins 74-81 and 74-90, "Water Well Standards, State of California" and subsequent revisions and addendums are incorporated and made a part of this chapter. Standards for monitoring wells shall be those adopted by the director in conformance with requirements of the Department of Water Resources.

[Subsections B – T omitted.]

(Ord. No. 674B, § 1, 2-3-15; Ord. 492B § 5, 2007; Ord. 492 (part), 1985).

https://library.municode.com/ca/madera_county/codes/code_of_ordinances?nodeId=TIT13WASE_IWA_CH13.52WEST

Mariposa County Code

Title 13 – Water and Sewers

13.16 – Well Ordinance

13.16.030 Well Standards

Except as otherwise specified, the standards for the construction, repair, reconstruction, or destruction of wells shall be as set forth in:

A. Department of Water Resources Bulletin 74-81: The California Department of Water Resources bulletin 74-81 "Water Well Standards, State of California" except as modified by subsequent revisions.

B. All subsequent supplements and revisions: All subsequent bulletin 74-81 supplements or revisions issued by the Department of Water Resources, once the revised standards have been reviewed at appropriate public hearing.

[Subsections C – E omitted.]

(Ord. 802, Sec. I, 1991)

http://mariposa.municipalcodeonline.com/book?type=ordinances#name=13.16.030_Well_Standards

Merced County Code

Title 9 General Health and Safety

Chapter 9.28 Wells

9.28.060 Water well standards.

A. Standards Adopted. Except as may be otherwise specified in this chapter, the standards for the construction, repair, reconstruction, modification, abandonment, or destruction of wells published in the Department of Water Resources Bulletin

74-81, "Water Well Standards," State of California and Bulletin 74-90, "Monitoring Well Standards and Cathodic Protection Well Standards" or as may be subsequently revised or supplemented, are hereby incorporated in and made an applicable section of this chapter.

[Subsection B omitted.]

C. Well Construction

[Subsections 1 – 2 omitted.]

3. Casing Perforations. All wells supplying potable water for human consumption shall be constructed with a fifty (50) foot minimum, continuous, unperforated casing at the upper end, except in areas where the only potable water is at a depth of less than fifty (50) feet. In such instances, the depth to the first perforations in the well may be reduced if prior approval is granted by the health officer. In no case shall the depth of the annular seal or the depth of the first perforations be reduced to less than twenty (20) feet below ground surface.

a. Corcoran Clay. All wells penetrating Corcoran clay shall be constructed in a manner such as to prevent the intermixing of water above and below the Corcoran clay layer. There shall be no perforations above and below the Corcoran clay layer in the same casing. There shall be no gravel pack installed above and below the Corcoran clay layer in the same borehole.

[Subsections 4 – 12 omitted.]

[Subsections D – H omitted.]

(Ord. 1948 § 1, 2016; Ord. 1271, 1988; Ord. 1197, 1985; Ord. 1128, 1983; Ord. 752, 1975).

http://www.qcode.us/codes/mercedcounty/

Modoc County Code of Ordinances

Title 13 – Public Services

Chapter 13.12 – Well Standards

13.12.030 – Well standards.

Except as otherwise specified, the standards for the construction, repair, reconstruction or abandonment of wells shall be as set forth in the California Department of Water Resources Bulletin 74-90 "Water Well Standards, State of California" and any supplements or revisions thereto.

(Ord. 292 (part), 1990)

https://library.municode.com/ca/modoc_county/codes/code_of_ordinances?nodeId=TIT13PUSE_CH13.12WEST_13.12.030WEST

Mono County Code of Ordinances

Title 7 – Health and Welfare

Chapter 7.36 – Wells

7.36.070 – Standards.

Standards for the construction, repair, modification or destruction of wells shall be as set forth in Chapter II of the California Department of Water Resources Bulletin No. 74, "Water Well Standards," state of California, with the following exceptions:

[Subsections A – C omitted.]

(Ord. 75-459 § 1 (part), 1975.)

https://library.municode.com/ca/mono_county/codes/code_of_ordinances?nodeId=TIT7HEWE_CH7.36WE_7.36.070ST

Monterey County Code of Ordinances

Title 15 – Public Services

Chapter 15.08 – Water Wells

15.08.110 – Technical standards.

A. Standards. Standards for the construction, repair, reconstruction of or destruction of "wells," including abandoned wells, monitoring wells, test wells, observation wells, and cathodic protection wells shall be as set forth in Chapter II and Appendices A, B, C D of the Department of Water Resources Bulletin No. 74-81, "Water Well Standards" (December, 1981) and the Department of Water Resources Bulletin No. 74-1, "Cathodic Protection Well Standards" (March, 1973), or as subsequently revised or supplemented. Copies of these standards are available in the offices of the Division of Environmental Health or on file with the Health Officer. These standards are incorporated by reference in this Chapter, with the following modifications:

[Subsections 1 – 6 omitted.]

[Subsections B – F omitted.]

(Ord. 3316 §§ 1, 2, 1988)

https://library.municode.com/ca/monterey_county/codes/code_of_ordinances?nodeId=TIT15PUSE_CH15.08WAVE_15.08.110TEST

Nevada County Code

Title 3 Land Use and Development Code

Chapter X: Water Supply and Resources

Article 2 Water Wells

Sec. L-X 2.12 Well Standards

Except as otherwise specified, the standards for the construction, modification or destruction of wells shall be as set forth in the California Department of Water Resources Bulletin

74-81 "Water Well Standards, State of California," as modified by subsequent revisions or supplements. (Ord. 1717, 6/11/91)

<http://qcode.us/codes/nevadacounty/>

Orange County Code of Ordinances

Title 4 – Health Sanitation and Animal Regulations

Division 5 – Water conservation

Article 2. – Construction and Abandonment of Water Wells

Sec. 4-5-30. – Standards.

Standards for the construction, reconstruction, destruction, or abandonment of wells shall be the standards recommended in the State Department of Water Resources Bulletin No. 74, Chapter II and future amendments thereto. Standards for the construction, reconstruction, destruction or abandonment of cathodic protection wells and electrical grounding wells shall be the standards recommended in the State Department of Water Resources Bulletin No. 74-1, and future amendments thereto. Well standards may be modified by the Health Officer, with the advice and concurrence of the Well Standards Advisory Board, where required to cope with the local geological and groundwater conditions.

(Ord. No. 2607, § 1, 7-18-72; Ord. No. 2691, § 1, 7-17-73)

https://library.municode.com/ca/orange_county/codes/code_of_ordinances?nodeId=TIT4HESANRE_DIV5WACO_ART2COAB_WAVE_S4-5-30ST

Placer County Code

Chapter 13 – Public Services

Article 13.08 Water Wells

13.08.100 Well standards.

Except as otherwise specified, the standards for the construction, modification or destruction of wells shall be as set forth in:

A. Department of Water Resources Bulletin 74-81. The California Department of Water Resources Bulletin 74-81, "Water Well Standards, State of California," except as modified by subsequent revisions.

B. All Subsequent Supplements and Revisions. All subsequent Bulletin 74-81 supplements or revisions issued by the Department of Water Resources, once the revised standards have been reviewed at appropriate public hearings. (Prior code § 4.820)

<http://qcode.us/codes/placercounty/>

Plumas County Code of Ordinances

Title 6 – Sanitation and Health

Chapter 8. – Water Wells

Sec. 6-8.05. – Standards.

Standards for the construction, repair, reconstruction, destruction or abandonment of wells shall be as set forth in the State Department of Water Resources Bulletin No. 74-90 "California Water Well Standards" with the following modifications:

[Subsections (a) – (d) omitted.]

(§ 43209, P.C.O.C., added by Ord. 786, as amended by § 1, Ord. 91-775, eff. January 16, 1992, § 11 (Exh. A), Ord. 98-902, eff. September 10, 1998, § 12, Ord. 02-968, effective April 16, 2002, § 2, Ord. 03-991, adopted May 13, 2003; § 3, Ord. 16-1104, adopted December 6, 2016)

https://library.municode.com/ca/plumas_county/codes/code_of_ordinances?nodeId=TIT6SAHE_CH8WAVE_S6-8.05ST

Riverside County Code of Ordinances

Title 13 – Public Services

Chapter 13.20 – Water Wells

13.20.100 – Standards.

Standards for the construction, reconstruction, abandonment or destruction of wells shall be the standards recommended in the Bulletins of the California Department of Water Resources as follows: Bulletin NO 74-81 Chapter II Water Wells, and Bulletin NO 74-90 (Supplement to Bulletin 74-81) and as these Bulletins may be amended by the state of California from time to time. The content of the Bulletins is incorporated by reference with the following additions or modifications:

[Modifications omitted.]

(Ord. 682.3 § 10, 1999)

https://library.municode.com/ca/riverside_county/codes/code_of_ordinances?nodeId=TIT13PUSE_CH13.20WAVE_13.20.100ST

Sacramento County Code

Title 6 Health and Sanitation

Chapter 6.28 Wells and Pumps

6.28.040 Water Well Standards.

The following water well standards have been designed to meet or exceed the water well standards contained in the Department of Water Resources' Bulletins 74-81 and 74-90. All community domestic wells, as a minimum, shall be sited and constructed in accordance with the California Waterworks Standards (California Code of Regulations, Title 22, Division 4, Chapter 16), which are hereby incorporated by reference.

[Subsections A – B omitted.]

(SCC 1455 § 4, 2010; SCC 1217 § 2, 2002.)

<http://qcode.us/codes/sacramentocounty/>

San Benito County Code of Ordinances

Title 15: Public Works

Chapter 15.05: Water

Article III. Well Standards

Subarticle III. Well Standards

§ 15.05.095 Well Standards.

Except as otherwise specified, the standards for the construction, repair, reconstruction, or destruction of wells shall be as set forth in the California Department of Water Resources Bulletin 74-81 "Water Well Standards, State of California" except as validly modified by subsequent revisions and/or supplements.

(1966 Code, § 17C-10) (Ord. 779, § 1(part))

[http://library.amlegal.com/nxt/gateway.dll/California/sanbenitocounty_ca/sanbenitocountycaliforniacodeofordinance?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:sanbenitocounty_ca](http://library.amlegal.com/nxt/gateway.dll/California/sanbenitocounty_ca/sanbenitocountycaliforniacodeofordinance?f=templates$fn=default.htm$3.0$vid=amlegal:sanbenitocounty_ca)

San Bernardino County Code of Ordinances

Title 3: Health and Sanitation and Animal Regulations

Division 3: Environmental Health

Chapter 6: Domestic Water Sources and Systems

Article 3: Water Wells

§ 33.0633 Standards.

Standards for the construction, reconstruction, destruction or abandonment of wells shall be the standards recommended in the California Department of Water Resources Bulletin No. 74-81, Chapter II, as may be amended by the State from time to time and is hereby incorporated herein by reference. For cathodic protection wells, the standard shall be those recommended in Chapter 11 of the California Department of Water Resources Bulletin No. 74-1, as amended from time to time and is hereby incorporated herein by reference.

(Ord. 3105, passed - -1986)

http://library.amlegal.com/nxt/gateway.dll/California/sanbernardinocounty_ca/sanber%20nardinocountycaliforniacodeofordin?f=templates\$fn=default.htm\$3.0\$vid=amlegal:sanbernardinocounty_ca

San Diego County Code of Regulatory Ordinances

Title 6 Health and Sanitation

Division 7. Water and Water Supplies

Chapter 4. Wells

Article 3. Standards

Sec. 67.421. Standards for Water Wells.

Standards for the construction, repair, reconstruction or destruction of water wells shall be as set forth in Chapter II of State Department of Water Resources Bulletin No. 74-81 and Bulletin No. 74-90 (three copies of which have been filed with the Clerk of the Board of Supervisors of the County of San Diego and marked as Document No. 761185 and Document No. 761185A with the following modifications to Document No. 761185A:

[Modifications omitted.]

(Amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 10238 (N.S.), effective 1-4-13)

http://library.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:sandiegoco_ca_mc

San Francisco Health Code

Article 12B: Soil Boring and Well Regulations

Division II – Well and Soil Boring Construction, Modification, Operation and Maintenance

Sec. 806. Permit Issuance and Mandatory Provisions.

Upon satisfactory compliance with the requirements of Sections 804 and 805 of this Article, the Department shall issue to the applicant a permit for the construction, modification, maintain and operation of the well. The Department may include

such terms in the permit, as necessary, to ensure compliance with the requirements of this Article. In addition, the permit shall be issued with the following terms and conditions whether explicitly stated or not, when applicable:

(a) The construction or modification of the well or soil boring on the property shall be comply with the standards set forth in the "Water Well Standards: State of California, California Department of Water Resources Bulletin 74," 1968, including all subsequent modifications and with this Article;

[Subsections (b) – (m) omitted.]

(Added by Ord. 113-05, File No. 050547, App. 6/10/2005)

http://library.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:sanfrancisco_ca

San Luis Obispo County Code

Title 8 – Health and Sanitation

Chapter 8.40 – Construction, Repair, Modification and
Destruction of Wells

Section 8.40.060 – Standards.

(a) State Standards. Standards for the construction, repair, modification or destruction of wells shall be as set forth in Chapter II of the California Department of Water Resources Bulletin No. 74-81 entitled "Water Well Standards: State of California" and its Appendices B, C, and D; and those pertaining to Zones II and III as delineated in Figure 1 of the Department of Water Resources Bulletin No. 74-7 entitled "Water Well Standards, Arroyo Grande Basin, San Luis Obispo County," and as set forth in Chapter II of the same, in Department of Water Resources Bulletin No. 74-1, entitled "Cathodic Protection Well Standards, State of California."

[Subsection (b) omitted.]

(Ord. 2400 § 1 (part), 1989; Ord. 1271 § 1 (part), 1973)

https://library.municode.com/ca/san_luis_obispo_county/codes/county_code?nodeId=TIT8HESA_CH8.40COREMODEWE

Santa Barbara County Code of Ordinances

Chapter 34A – Wells

Sec. 34A-12. – Standards for wells.

(a) Standards for construction, repair or modification, destruction or inactivation of wells as set forth in the Bulletins, are hereby adopted as part of this chapter, with the following additional clarification and requirements for well construction:

[Subsections (1) – (10) omitted.]

[Subsection (b) omitted.]

(Ord. No. 12-4844, 9-11-2012; Ord. No. 5046, 6-19-2018)

https://library.municode.com/ca/santa_barbara_county/codes/code_of_ordinances?nodeId=CH34AWE_S34A-12STWE

Santa Cruz County Code

Title 7 Health and Safety

Chapter 7.70 – Water Wells

Section 7.70.090 – Technical standards.

Standards for the construction, repair, reconstruction of or destruction of wells, abandoned wells, monitoring wells, test wells, geothermal heat exchange wells, and cathodic protection wells shall be as set forth in Chapter II of the Department of Water Resources Bulletin No. 74-81, “Water Well Standards” (December 1981), the Department of Water Resources Bulletin No. 74-90, “Water Well Standards” (June 1991), and Chapter II of the Department of Water Resources Bulletin No. 74-1, “Cathodic Protection Well Standards” (March 1973), or as subsequently revised or supplemented, which are

incorporated by reference in this chapter, with the following modifications:

[Subsections (A) – (I) omitted.]

[Ord. 4901 § 1, 2008; Ord. 4593A § 1, 2000].

<https://www.codepublishing.com/CA/SantaCruzCounty/#!/SantaCruzCounty07/SantaCruzCounty0770.html#7.70.090>

Shasta County Code of Ordinances

Title 8 – Health and Safety

Chapter 8.56 – Water Wells

8.56.070 – Standards of construction established.

Standards for the construction, repair, reconstruction, abandonment and destruction of wells in the county are set forth in Chapter II of the Department of Water Resources Bulletin No. 74-81, "Water Well Standards," and are adopted herein by reference, with the following modifications:

[Subsections A – E omitted.]

(Prior code § 3776)

https://library.municode.com/ca/shasta_county/codes/code_of_ordinances?nodeId=CD_ORD_TIT8HESA_CH8.56WAVE_8.56.070STCOES

Sierra County Code

Title 12 – Building and Construction

Chapter 12.04 – Building Code

12.04.080 – Uniform Building and Construction Codes adopted.

The following codes, standards, and regulations are adopted as if set forth herein:

[Subsections A – K omitted.]

L. Water Well Standards, California State Department of Water Resources Bulletin 74-90 (supplement to bulletin 74-81) by CDWR.

[Subsection M omitted.]

<https://sierra.county.codes/SCC/12.04.080>

Siskiyou County Code of Ordinances

Title 5.- Sanitation and Health

Chapter 8. – Standards for Wells

Sec. 5-8.21. - Well standards.

Except as otherwise specified, the standards for the construction, repair, reconstruction or destruction of wells shall be as set forth in:

(a) Department of Water Resources Bulletin 74-81. The California Department of Water Resources Bulletin 74-81 "Water Well Standards, State of California" except as modified by subsequent revisions.

(b) All Subsequent Supplements and Revisions. All subsequent Bulletin 74-81 supplements or revisions issued by the Department of Water Resources of the State, once the revised standards have been reviewed at appropriate public hearings.

(c) Exceptions. In cases where application of the foregoing documents would result in conflict or violation of other law, regulation, or ordinance, the more stringent application shall prevail.

(§ I, Urgency Ord. 90-2, eff. January 23, 1990)

https://library.municode.com/ca/siskiyou_county/codes/code_of_ordinances?nodeId=TIT5SAHE_CH8STWE_S5-8.21WEST

Solano County Code
Chapter 13.10 – Well Standards
13.10-14. Standards

The standards for construction, reconstruction, destruction, and inactivation set forth in the California Department of Water Resources Bulletin No. 74-81: “Water Well Standards,” in California Department of Water Resources Bulletin No. 74-1, “Cathodic Protection Well Standards,” and in California Department of Water Resources Bulletin No. 74-88, “Monitoring Well Standards” (one copy of each of which is on file in the office of the clerk of the board of supervisors), as each may be amended, are hereby adopted as the “Well Ordinance” for the unincorporated area of the county, and by reference incorporated herein as if fully set forth, with the following additional clarifications and requirements:

[Subsections (a) – (k) omitted.]

(Ord. No. 1348, §1; Ord. No. 1398, §1)

<https://www.codepublishing.com/CA/SolanoCounty/>

Sonoma County Code of Ordinances
Chapter 25B – Water Well Construction Standards
Article II. – Procedure and Construction Requirements.
Sec. 25B-6. – Well construction requirements.

(a) Requirements for Well Construction. All materials and workmanship shall be no less than the quality specified herein. These requirements are minimum standards only. The standards contained in the department of water resources bulletins 74-81, 74-90 and any subsequent revisions shall apply to all work authorized by this chapter, except that in the event of

a conflict between the bulletins and the standards of this chapter, the standards of this chapter shall take precedence.

[Subsections (b) – (y) omitted.]

(Ord. No. 6121, § III(Exh. A) , 7-28-2015)

https://library.municode.com/ca/sonoma_county/codes/code_of_ordinances?nodeId=CH25BWAWECCOST_ARTIIPRCORE_S25B-6WECORE

Sutter County Code of Ordinances

700 – Health and Sanitation

Chapter 765 – Water Wells

765-040 – Standards for Water Wells

Standards for the construction, repair, reconstruction, or the destruction of water wells shall be as set forth in Chapter II of State Department of Water Resources Bulletin Number 74-81 entitled "Water Wells Standards: State of California", except as otherwise may be provided in this Chapter.

https://library.municode.com/ca/sutter_county/codes/code_of_ordinances?nodeId=n700HESA_CH765WAVE

Trinity County Code of Ordinances

Title 15 – Buildings and Construction

Chapter 15.20 – Water Wells

15.20.080 – Standards.

Standards for the construction, repair, modification or destruction of wells shall be as set forth in Chapter II of the California Department of Water Resources Bulletin No. 74, "Water Well Standards," state of California, with the following exceptions:

[Subsections A – C omitted].

(Ord. 1119 §8, 1989)

https://library.municode.com/ca/trinity_county/codes/code_of_ordinances?nodeId=TIT15BUCO_CH15.20WAVE_15.20.080ST

Tulare County Code

Part IV – Health, Safety and Sanitation

Chapter 13. Construction of Wells

Article I. General Provisions

4-13-100 Legislative Authority: Title and Adoption of State Standards:

This Chapter is enacted pursuant to authority granted by sections 13700 to 13806 of the California Water Code. This Chapter shall be known and may be cited as the Tulare County Well Ordinance. The California Department of Water Resources Bulletin 74-81, Water Well Standards: State of California, Bulletin 74-90, California Well Standards: Water Wells, Monitoring Wells, Cathodic Protection Wells (Supplement to Bulletin 74-81), Geothermal Heat Exchange Wells (Draft April 1999), and any subsequent revisions are hereby referred to, adopted and made part of this Chapter as if fully set forth herein.

(Added by Ord. No. 3507, effective 8-31-17)

<https://www.codepublishing.com/CA/TulareCounty/#!/TulareCounty04/TulareCounty0413.html#4-13-1000>

Tuolumne County Ordinance Code

Title 13 – Water and Sewers

Chapter 13.16 – Water Wells

Section 13.16.160 Standards

13.16.160 Standards.

All water wells (excluding monitoring wells) shall be located at an adequate horizontal distance from known or potential sources of pollution or contamination, as determined by the Environmental Health Division. Such sources include, but

are not limited to: sanitary, industrial, and storm sewers; septic tanks; and leachfields; sewage industrial waste ponds; land used for disposal of or irrigation with treated (recycled) wastewater; barnyard or stable areas; feedlots; solid waste disposal sites; above and below ground tanks and pipelines for storage and conveyance of petroleum products or other chemicals; and, storage and preparation areas for pesticides, fertilizers, and other chemicals. All work on a well shall conform to the standards set forth in Chapter II and Appendices A and B of "Water Well Standards: State of California", Bulletin 74-81, December 1981, Department of Water Resources, and subsequent supplements or amendments. Such standards are incorporated herein by reference with the following amendments:

[Subsection A – B omitted.]

(Ord. 3134 § 50, 2010; Ord. 2404 §2 2001; Ord. 2207 § 12, 1997; Ord. 1472 § 1 (part), 1986).

<https://www.tuolumnecounty.ca.gov/DocumentCenter/View/377/Chapter-1316---Water-Wells?bidId=>

Ventura County Code of Ordinances

Division 4. – Public Health

Chapter 8. – Water

Article 1. – Groundwater Conservation

4814 – Standards.

(a) Standards for the construction, relocation, replacement, repair, backup or standby, modification or destruction of wells shall be those set forth in the Department of Water Resources, California Well Standards Bulletins Nos. 74-81 and 74-90, and Ventura County Water Well Standards Bulletin No. 74-9.

[Subsections (b) – (j) omitted.]

(Ord. No. 4468, § 1, 12-16-2014)

https://library.municode.com/ca/ventura_county/codes/code_of_ordinances?nodeId=DIV4PUHE_CH8WA_ART1GRCO_4814ST

Yuba County Code of Ordinances

Title VII. – Health and Sanitation

Chapter 7.03 – Water Wells

7.03.040. – Standards adopted.

Standards for the construction, repair, reconstruction, or the destruction of water wells shall be as set forth in Chapter II of the State Department of Water Resources Bulletin, Number 74-81, entitled, "Water Wells Standards: State of California" including the amendments thereto or thereafter adopted, except as otherwise provided in this Chapter.

(Prior Code, § 7.03.040; Ord. No. 1034; Ord. No. 1400)

State Law reference— Adoption by reference, Government Code § 50022.1 et seq.

https://library.municode.com/ca/yuba_county/codes/code_of_ordinances?nodeId=TITVIIHESA_CH7.03WAVE_7.03.040STAD

PROOF OF SERVICE

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of San Francisco, State of California. My business address is 396 Hayes Street, San Francisco, CA 94102.

On January 14, 2019, I served true copies of the following document(s) described as:

**RESPONDENTS' REQUEST FOR JUDICIAL NOTICE;
MEMORANDUM OF POINTS AND AUTHORITIES;
DECLARATION OF LAUREN M. TARPEY**

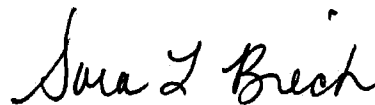
on the parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY ELECTRONIC SERVICE: I electronically filed the document(s) with the Clerk of the Court by using the TrueFiling system. Participants in the case who are registered TrueFiling users will be served by the TrueFiling system. Participants in the case who are not registered TrueFiling users will be served by mail or by other means permitted by the court rules.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 14, 2019, at San Francisco, California.



Sara L. Breckenridge

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