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9/3/14	Farm Bureau	Questions: What is the intended interaction with irrigation districts that already have groundwater management plans? Is this ordinance intended to leave them alone?	Current and future compliant groundwater management plan areas will continue to have an exemption. The analysis of "compliant" may have to be technically and institutionally analyzed by the Water Advisory Committee and the Technical Advisory Committee so the BOS is comfortable the areas meet the exemption criteria.
	"	Concerns: The ordinance fails to reference or attempt to protect groundwater rights. Given that the ordinance uses terms that are not consistent with existing water law, it could give the appearance of attempting to supersede groundwater rights and replace them with some county defined allocation generally described as "sustainable groundwater management." This concern also exists to a degree with the state legislation, but there is clear language in that legislation providing that this is not the intent, and structurally the legislation does not function that way. This ordinance is not so structured and could be interpreted to be a very broad assertion of County police power.	The ordinance is inherently designed to protect the groundwater rights of all groundwater users in the County. The implementation process involves comparing and contrasting those uses within the County to determine if some users are unreasonably harming other users. The exemption for existing plan areas allows that process to be done by those entities in their area. The BOS is responsible for the areas where there is no clear existing organization to conduct that analysis. If it would be useful to declare that the intent of the ordinance is to protect our citizens' groundwater rights and reasonable uses we would appreciate some constructive wording to that effect.
	"	It is not clear why the ordinance declares "unsustainable extraction of groundwater" is "presumptively unreasonable." The effect of this is to try and shift the burden of proof against the water user. Since reasonableness is a legal term with huge legal implications, it warrants consideration of whether this is needed to achieve the desired outcome.	We could alternately say it is "constitutionally unreasonable" which it is. The proof will be the reliably available water over an agreed upon time frame divided by the total use over that time; that is not a calculation solely dependent on the users, it will take other professional examination that has to pass the test of scientific rigor. The user data is just a component of the analysis, to say the entire burden is therefore on the users is not correct.

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	"	Very broad latitude is left to the Department of Environmental Resources (DER) to develop the substantive and procedural elements of the ordinance (see 9.37.060(B) & 9.37.065). It may be better to better define how the ordinance will be implemented and allow the DER some narrower range of flexibility. This could help avoid future conflicts with DER proposals by having the contours of their authority and water users obligations fleshed out in advance.	We concur some process elements are not developed yet. We will consider developing a flow diagram and potential permit language to assist in understanding the entire scope of the County efforts but need a revised ordinance adopted to help establish the framework for process flow and implementation tools.
	"	Definitions 4-8 are problematic: Most troubling is "sustainable groundwater management" which includes a list of factors which are not qualified (e.g. "ecosystem degradation" and "depletions from surface water bodies"). These will likely trigger conflict and litigation.	These elements will need to be included because they are part of the evaluation process inherent in the new legislation. The "depletions from surface water bodies" is already under litigation and the resulting court cases will likely define the circumstances that surface water is under the influence of groundwater and vice versa (see the Scotts Valley case in northern CA). It would be prudent to recognize the need for our own local investigation of these matters and their impacts rather than have the State, likely the Department of Fish and Wildlife, investigate them for us as in the Scotts Valley case.
	"	9.37.060(B) appears to create a permitting system for groundwater extraction, including existing water users. If this is discretionary, which it appears to be, then CEQA will be more of a problem.	We concur that CEQA will be a process that will need careful consideration. However, recognize the County's responsibility will be focused on the areas of County responsibility. County exempted groundwater plan areas will be challenged with the same requirement as the new legislation did not offer any exemption for fully State-approved plans. The CEQA needs in the existing plan areas will be far greater than the County-responsible areas.

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	"	The groundwater monitoring obligation is significant and may exceed what is useful or necessary for good planning.	We agree that any monitoring program has to be efficiently designed and mindful of all the existing efforts such as regulatory requirements (eg the dairy program) and other planning processes (IRWMP) so as to minimize redundancy and collect only what is needed to obtain optimum coverage. We will rely on the TAC and other experts to be vigilant and thrifty in any design by them advising us of any existing efforts that will meet long-term needs.
9/5/14	MID/TID	General Comments: 1. Unclear what the revisions are intended to accomplish. Revisions to mining are combined with other revisions that appear to try and bring the ordinance in line with the legislation. However, there appear to be conflicts between the legislation and the draft ordinance. A thorough review of the ordinance and the legislation are needed to ensure conflicts are resolved. Our initial review identified a few, which are included in the specific comments below. Additionally, a summary page should be developed to clarify the intent of the revisions.	Please help identify all the conflicts. The summary page is a good idea.
	"	2. Unclear how it would be implemented. It is unclear how one would prove sustainability or unsustainability as the ordinance is currently drafted. Additionally, sustainability seems to be tied to future Groundwater Sustainability Agencies (GSA) and the Groundwater Sustainability Plans (GSP), and as such it is unclear how the proposed revisions to the ordinance will be implemented while the GSAs and GSPs are developed. Prior to considering any revisions to the ordinance, the implementation process should be established, to ensure that it is implementable, and will not result in unintended consequences. One approach might be to develop the implementation process, and then tailor the ordinance changes to reflect that process.	As stated in responses 2 and 4, we recognize the processes are not all in place yet for implementing the ordinance in the areas where the County will have responsibility unless those areas are added to existing qualified, compliant, exempt plan areas. If it is useful for the remaining County areas, staff may develop both the process flow diagram and permit elements to demonstrate how the ordinance will be implemented in areas of County responsibility.

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	"	3. Conflicts between GSA authorities and the draft ordinance. Some of the requirements included in the proposed revisions appear to be requiring actions and implementing authorities that have been given to GSAs (pursuant to the new legislation). It is premature to include those requirements in the ordinance (as a County requirement) until it is clear if the GSA wishes to take on that role. Time should be given for GSAs to form, before including that type of language into the ordinance. This would help to facilitate a more collaborative groundwater management effort between the County and the GSAs. Alternatively, language should be included such that when a GSA forms, it could take over that role.	If the GSA's do not have all the necessary elements to be fully State compliant the BOS will ask the TAC and WAC for recommendations on what role the County might need to take to assure groundwater users rights and responsibilities are adequately covered. For groundwater areas remaining under County responsibility it would be prudent to have all the compliance components even if the GSAs do not.
	"	4. Which version of the revised ordinance is correct? The TAC received two different versions of the draft revisions. While many of the changes between drafts dated 8/10/2014 and 8/13/2014 weren't significant, there were a few that were. We attempted to make comments on both versions in an effort to be responsive.	We apologize for multiple versions, we will develop a version that supersedes all others and make it plain which version is current in all future correspondence.
	"	5. Unsustainable Extraction and/or Export. Are the provisions applied to unsustainable extraction and export or unsustainable extraction or export? These are two different things. However, they are used interchangeably within the draft ordinance. We try to make note of some of those places within the specific comments. However, the draft ordinance should be reviewed thoroughly and revised as necessary with respect to this issue.	Noted.
9/5/14	MID/TID	<u>Specific Comments</u>: 1. Findings, Item 1: Refers to "specific acts" that are not defined with the ordinance. This should be clarified. This is also one of the areas where extraction and export are listed (see note 5 above).	Noted.
	"	2. Findings, Item 6: Extraction and export are not beneficial uses of water, they are actions of transporting or conveying water for eventual use. As the phrase implies, beneficial uses are simply uses of water. Agricultural irrigation and drinking water are examples of uses of water.	Noted.
	"	3. Definitions: The definitions should be revised to be in line, if not identical, with the legislation.	To the extent the definitions can be aligned with the legislation they will. Items of a specific nature and purpose for Stanislaus County will need to remain distinct and in addition to the relevant State law definitions.

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9/26/14	Frank Canela	The proposal is better than what is there now, but still has the big issue of setting up a permit system to permit what is otherwise forbidden (unsustainable groundwater use).	We agree that the permit conditions will need to be carefully thought out to meet the intent of the ordinance. The concept of the permit is that actions are prohibited unless they are specifically allowed under a customized permit. It is difficult to say what will be permitted at this time but some items that should not be permitted are more likely to be agreed upon by the TAC and WAC. For example, it is likely groundwater pumping that knowingly will cause irreparable subsidence would not be permitted. Similarly, activities that induce poor water quality into better quality water, a science-based investigation, would not be permitted either. The case you are making is that some of the early permit conditions need to be discussed. We concur, the permit exemption needs some early parameters to allow for certain activities that otherwise would be in violation of the ordinance and therefore ripe for third parties to take action against pumpers using commonly accepted and over the long-term, non-injurious amounts and uses of water. We would propose such ideas for the TAC and WAC as soon as the improved framework ordinance is completed. We would also remind you that such permits will only apply to areas not in GWMP's.
	"	I do not understand how this would work or how pumpers would know that they need to apply for a permit. It also seems that the County could conduct investigations of some pumpers and require permits that limit pumping in a way that contradicts groundwater rights. Because of these over-arching issues regarding the structure of the proposed ordinance. It needs major over-haul to address this problem.	See above. The ordinance only frames the process. Implementation will require what has already been mentioned above, technical rigor to the conditions for obtaining a permit.

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	"	This ordinance needs to separate out (1) the concept of a permit for groundwater export from (2) the regulation of "unsustainable groundwater use." Then the WAC should discuss how the County would seek to control "unsustainable" pumping in a manner that is consistent with California law. Generally, if any pumping is unsustainable, then all pumping in the same basin is also unsustainable. This problem does not lend itself to resolution through an individual permit system, but rather through more global regulation. For example, cities are appropriators with pumping rights that are generally junior to any overlying landowner. How will the County control pumping by cities? These are tough issues but they must be addressed to do this right.	We don't agree that certain types of pumping cannot be identified early as clearly needing prohibition, see above. We do agree that cumulative pumping will be an ongoing process and dialog involving technical benchmarks reviewed and approved by the TAC and WAC with permits allowing such activities until it is shown that the activities need to be collectively reduced on some equal basis to meet the goal of sustainability. Once again the County's enforcement will be limited to areas not in existing or future plans. The other plan areas will have to go through the exact same process to comply with the new legislation so collaboration between and through the various plans and the County will be critical.
	"	The ordinance should remove the permitting system for anything other than exports of groundwater.	We disagree, the County areas will need to process those areas on an equal footing with the GWMP areas and at this time the County is the only organization with sufficient police powers to actually manage the conditions that are detrimental to the citizens of the County. It will be interesting to see if the GWMP areas will actually take on sufficient police powers under the new law to equal the County role or whether they will defer to others.
10/1/14	OID - Eric Thorburn	Under 9.37.030; #8; where it talks about “depletions from surface water bodies”, has that connectivity been legally established?	This definition has now been replaced with the definition adopted in the legislative package. The notion of "undesirable results" is related to the impacts to surface water that cause significant and unreasonable advers impacts of beneficial uses of the surface water.
	"	If so, how is that measured and quantified to make a determination?	Drawdown analysis and evaluation of induced infiltration. There are many different ways for this to be analyzed using quantitative methods and numerical modeling.

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	"	Under 9.37.050; B1; an exclusion exists if water is “very near the surface”. I don’t see a definition of what “near” is. Less than 5 feet? 10 feet? 25 feet?	The intent is that the high water table (near surface) is high enough to interefere with optimum soil moisture growing conditions.
	"	Under 9.37.060; B; last sentence; can the term of the gw extraction permit be extended if the term of the gwmp is extended?	Yes, they would run concurrently is the idea.
10/9/14	Stephen Carlton	After line 63 I would add the following definition: ‘“Department” means the Stanislaus County Department of Environmental Resources.’ From then on you could use “the Department”: as it is now, sometimes Department of Environmental Resources is capitalized and sometimes it is not.	Agreed.
	"	Line 112 I would change: “Significant and unreasonable seawater intrusion.” “Significant and unreasonable brackish or saline water intrusion.”	Saline water intrusion is inclusive enough for all potential water quality changes. This change will be made.
10/9/14	Stan Co Farm Bureau-Joey Gonsalves	Lacks Clarity - It is not clear what the ordinance is trying to accomplish, particularly in light of the new state groundwater law. Even more troubling is that the details of how the ordinance intends to achieve this ambiguous goal are undefined and instead very broad latitude is left to the Department of Environmental Resources (DER) to develop the substantive and procedural elements of the ordinance. (See 9.37.060[b] & 9.37.065). It would be better to provide greater clarity on the substative elements in the text of the ordinance and allow the DER some narrower range of flexibility in the procedural aspects. This could help avoid future conflicts with DER proposals by having the contours of their authority and water users obligations sleshed out in advance.	We disagree, the ordinance is a framework. We intend to flesh out the implementation process with our advisory groups as well. Even the Butte process split their effort into two ordinances, one on policy the other on technical goals. This is a matter of preference. Numerous existing county ordinances exist and they have various alternate constructions and this proposal is not an uncommon approach.
	"	Ignores Water Rights - The ordinance fails to reference or attempt to protect groundwater rights. Given that the ordinance uses terms that are not cosistent with existing water law, it gives the appearance of attempting to supersede groundwater rights and replace them with some county defined allocation generally described as "sustainable groundwater management." The state legislation contains clear language protecting water rights.	County Counsel has proposed changes to answer this concern. See revised version.

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	"	Inappropriately Applies State Law Definitions - The state law defines certain terms in the context of developing a required Groundwater Sustainability Plan. The proposed ordinance woiuld use these same terms (9.37.030), but effectively establish them as a definition of "unresonableness" under the California Constitution, which has the effect of declaring there is no such right. By using terms intended for planning to eliminate water rights, the ordinance would have serious, negative implications for water rights. Although it is important for the County to prepare for the new state law, the draft ordinance goes far too afield of what is appropriate.	County Counsel is also preparing changes to reflect these comments.
	"	Universal Discretionary Permitting - Section 9.37.060(B) appears to create a permitting system for groundwater extraction that would include all existing and future groundwater pumers other than public agencies with AB 3030/SB 1938 plans and de minimis pumpers.	The goal of ordinance is to cover areas not covered by others now and in the future. If that is what you mean, then the answer is yes.
	"	Discretionary Permits Would Trigger CEQA - By creating a discretionary permitting system, the county is setting up a situation in which CEQA compliance might be mandatory. This would likely exacerbate the risk of litigation against the county. Further, CEQA compliance to issue well permits is time-consuming, costly, and likely unnecessary inconvenience for the permit applicant in many cases. A better approach would be to create in the county ordinance a more comprehensive set of mandatory technical requirements, to in this way remove the element of discretion, yet ensure that permit approval is grounded in technical reality. (e.g. Butte County Ordinance).	County Counsel is aware of the CEQA issues. As far as the technical requirements, that will be developed under the implementation process mentioned previously under the guidance of the TAC and WAC. We expect it will rigorous but fair in determining compliance with the ordinance goals.
	"	Proprietary Information Protections are Not Adequate - The provision purporting to exempt extraction information as "proprietary information" from disclosure under the PRA does not necessarily make it so, and would appear to ignore the actual legal meaning and amorphous nature of the category of potential exempt information under the PRA itself. (See attached exerpts re: "proprietary information" within the meaning of the CA PRA).	Yes we share your concern, but ultimately it is up to the courts and how well the private interests articulate that release of the info will cause them "substantial competitive harm."

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10/16/14	Letter from TAC Water Agency reps	This year marks the third consecutive dry year in California, surface water supplies have been cut dramatically and we are all actively engaged in continued water resources planning to ensure sustainability moving forward. The Technical Advisory Committee (TAC) appreciates the opportunity to actively participate in the ongoing groundwater planning activities currently being convened by Stanislaus County and looks forward to engaging in a process to develop local Groundwater Sustainability Agencies (GSA). That said, the TAC has several concerns with the ongoing process as discussed to some extent at recent TAC and Water Advisory Committee (WAC) meetings and noted below. Please note that no specific merit has been given to the order in which they appear.	Your concerns are duly noted and will be brought to the full TAC and WAC so as to be considered, deliberated and acted upon. We recognize we are operating in a challenging environment and the new groundwater law is not completely understood or mapped adequately for everyone to follow. We request your assistance in making this happen in a timely fashion so whomever does not have coverage in the future will have adequate local representation to meet the challenges. The ordinance must move forward to create the capacity for such coverage.
10/20/14	email from Garner Reynolds	Suggest an effect of extracting more groundwater than is recharged…basically a balanced water budget. May not use more water than is recharged as a means of establishing if the use is undesirable.	A balanced budget may not always be attainable and further over-extraction may have to be allowed based on health and safety issues to the extent the resource could be significantly damaged. Hopefully such circumstances will never occur but emergency declarations could over-ride the goals of this ordinance and any other plans to manage the resource.
	"	How is this defined? Similar to the LAFCO requirements on Cities?	The planning horizon is defined by the GSA or equivalent organization and based on the hydrologic record needed to establish the sustainability goals. For initial purposes the goal is likely 30 years.
	"	Are the “other periods” within the planning and implementation horizon?	Yes.
	"	Is the county proposing to have the Cities get a permit for their municipal wells?	Only if the wells are not covered by a qualified exemption and in unincorporated areas (outside the legal boundaries of the city and not covered by a qualified plan).
	"	Will this include local governmental agencies?	Ditto above.
	"	A technical report on a form provided by the county? Perhaps consider re-wording to …Technical Reports and/or forms provided by the county.	A technical report is inclusive of sub-elements or other subordinate information needs. If you mean multiple applications at one time perhaps the wording you suggest is appropriate but for economy of words we believe the intent is clear.

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	"	Does this mean the County will investigate the Cities?	See 37 above, only to the extent necessary based on the location of the activities.
10/21/14	Letter from Mason Robbins et al	Extraction is not a use. Use refers to the how the water is applied once it has been extracted. Suggest retaining extraction and deleting use.	Addressed by Counsel, see revised version.
	"	In the version dated 8/13/2014, "Water resources management practices" are replaced with "Sustainable groundwater management practices" which changes the intent of the exemption. The original language (i.e. water resources) should remain in place. Recent legislation required that water resources be managed in a sustainable way. As a result, water management practices, will inherently need to be "sustainable."	Addressed by Counsel, see revised version.
	"	Sustainable groundwater management practices should be exempt regardless of whether the public agency has jurisdiction and a compliant groundwater management plan because only unsustainable extraction of groundwater is prohibited by this ordinance.	Addressed by Counsel, see revised version.
	"	If the extraction is sustainable then a permit is not required by this ordinance.	Addressed by Counsel, see revised version.
	"	Suggest deleting this subsection and combining all under the heading water management practices exempt from the prohibitions. This section claims to exempt certain practices from the export prohibition yet 1 and 2 don't necessarily involve export. B.3. and B.4. describe transfer water outside the place of use or out of the area, but say nothing about outside the county.	The revised version has a clearer distinction between the activities, specific water management activities that are exempted clearly still need a separate section.