

NOTICE OF PROPOSED AQUIFER EXEMPTION

Notice Published December 9th, 2016

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 is considering a proposal to expand the current aquifer exemption designation for the Greenville Sands member of the Cierbo Formation in the Livermore Oil Field located approximately 3,400 feet East of Greenville Road, the Eastern boundary for the Livermore City Limits. 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.

Following consultation required under Public Resources Code section 3131, the Division and the State Water Board preliminarily concur that the proposed aquifer exemption area meets the criteria for exemption under Code of Federal Regulations, title 40, section 146.4, because the area does not currently serve as a source of drinking water and because it contains groundwater with concentrations of total dissolved solids between 3,000 and 10,000 milligrams per liter and is not reasonably expected to supply a public water system due to the presence of hydrocarbons in the proposed exempted area and the availability of higher quality groundwater in shallower geologic zones that is easier to access and sustainable. Pursuant to Public Resources Code section 3131, the Division and the State Water Board also preliminarily concur that, due to geologic conditions and hydraulic controls, 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.

WRITTEN COMMENT PERIOD AND PUBLIC COMMENT HEARING

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 by facsimile (FAX) to (916) 445-3319, or by mail to:

Department of Conservation
801 K Street, MS 18-05
Sacramento, CA 95814
ATTN: Aquifer Exemption

The written comment period closes at 5 pm on Wednesday, January 25th, 2017. The Department will not consider any comments received at the Department’s offices after that time.

Additionally, any interested person or their authorized representative may present, either orally or in writing, comments regarding the proposed action at the public hearing, to be held at the following time and place:

January 11, 2017 at 5pm
Council Chambers
3575 Pacific Avenue
Livermore, CA 94550

Services, such as translation between English and other languages, may be provided upon request. To ensure availability of these services, please make your request no later than ten working days prior to the hearing by calling the staff person referenced in this notice.

Servicios, como traducción de Inglés a otros idiomas, pueden hacerse disponibles si usted los pide en avance. Para asegurar la disponibilidad de éstos servicios, por favor haga su petición al mínimo de diez días laborables antes de la reunión, llamando a la persona del personal mencionada en este aviso.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The complete aquifer exemption proposal, including pertinent data can be accessed at www.conservation.ca.gov/dog/Pages/Aquifer_Exemptions.aspx or obtained from the local Division Office, 801 K Street, MS 18-05, Sacramento, CA 95814, Telephone (916) 322-1110.

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 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 a portion of an aquifer 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 State Water Board. 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 State Water Board 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 and a public hearing held following a minimum of 30 days public notice. After review of the public comments, if the Division and the State Water Board continue to concur that the proposal merits consideration, then it will be submitted to US EPA. (See 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 announces the decision and summarizes the substantive comments received and the disposition of those comments. This document will be included in the submission to US EPA. If, after considering all public comments, 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 PERSONS

Inquiries concerning the proposed action may be directed to:

Tim Shular
Department of Conservation
801 K Street, MS 18-05
Sacramento, CA 95814
Phone: (916) 322-1110
Email: Comments@conservation.ca.gov