

RESOLUTION NO. 10-066

OF BOARD OF DIRECTORS OF ALAMEDA COUNTY WATER DISTRICT
ADOPTING AN ORDINANCE OF THE ALAMEDA COUNTY WATER
DISTRICT TO REGULATE WELLS, EXPLORATORY HOLES, AND OTHER
EXCAVATIONS WITHIN THE CITIES OF FREMONT, NEWARK, AND UNION
CITY

WHEREAS, effective January 1, 2010, the Alameda County Water District Groundwater Protection Act (“ACWD Groundwater Protection Act”) was added as Article 9.3 (commencing with Section 31142.20) to Chapter 1 of Part 5 of Division 12 of the California Water Code to provide a regional approach of regulating subsurface activities for the protection of groundwater within the cities of Fremont, Newark, and Union City;

WHEREAS, prior to the enactment of the ACWD Groundwater Protection Act, the District regulated wells, exploratory holes, and other excavations pursuant to authority delegated to the District by the Well Ordinances adopted in 1973 by the cities of Fremont, Newark, and Union City (collectively “Cities”);

WHEREAS, the District may adopt, by ordinance, regulations deemed necessary or proper to carry out the ACWD Groundwater Protection Act;

WHEREAS the District has determined it is necessary and proper to adopt an ordinance to regulate wells, exploratory holes, and other excavations that are similar to the Well Ordinances adopted by the Cities, but as updated to account for the changes that have occurred over the last 37 years in regulating subsurface activities;

WHEREAS, the Cities are currently exempt from permit fees under the Well Ordinances adopted by the Cities, and the Cities supported the passage of the ACWD Groundwater Protection Act with the understanding that the Cities would continue to be exempt from permit fees for activities related to wells, exploratory holes and other excavations; and

WHEREAS, the adoption of the District Ordinance is categorically exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 15307 of the CEQA regulations as an action taken by a regulatory agency as authorized by state law to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for the protection of the environment.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the ALAMEDA COUNTY WATER DISTRICT that it adopts Ordinance No. 2010-01 titled, “An Ordinance of the Alameda County Water District to Regulate Wells, Exploratory Holes, and Other Excavations, within the Cities of Fremont, Newark, and Union City.”

BE IT FURTHER RESOLVED that the Board of Directors finds this action categorically exempt from CEQA and authorizes the filing of a Notice of Exemption.

PASSED AND ADOPTED this 9th day of December 2010, by the following vote:

AYES: Directors Huang, Gunther, Sethy, Weed, and Koller

NOES: None

ABSENT: None

/s/ MARTIN L. KOLLER
Martin L. Koller, President
Board of Directors
Alameda County Water District

ATTEST:

APPROVED AS TO FORM:

/s/ ANDREW WARREN
Andrew Warren, Assistant District Secretary
Alameda County Water District

/s/ PATRICK T. MIYAKI
Patrick T. Miyaki, Attorney
Alameda County Water District

ORDINANCE NO. 2010-01

AN ORDINANCE OF THE ALAMEDA COUNTY WATER DISTRICT TO REGULATE WELLS, EXPLORATORY HOLES, AND OTHER EXCAVATIONS WITHIN THE CITIES OF FREMONT, NEWARK, AND UNION CITY

BE IT ORDAINED by the Board of Directors of ALAMEDA COUNTY WATER DISTRICT as follows:

SECTION 1. PURPOSE AND AUTHORITY

The purpose of this ordinance is to protect the health, safety, and general welfare of the people of the Cities of Fremont, Newark, and Union City, by ensuring that the groundwater within the area of the Cities will not be degraded, polluted or contaminated by improper construction, use, maintenance, repair, improvement, decommissioning, or destruction of wells, exploratory holes, other excavations, and appurtenances. This ordinance is adopted pursuant to the Alameda County Water District Groundwater Protection Act (Division 12, Part 5, Chapter 1, Article 9.3, commencing with Section 31142.20 of the California Water Code).

SECTION 2. DEFINITIONS

- (a) "Abandoned" shall mean any well, exploratory hole, or other excavation that meets any of the criteria outlined in Section 3(c).
- (b) "Abatement" shall mean any action required to eliminate a public nuisance, as defined by this ordinance.
- (c) "Applicant" or "Permittee" shall mean the legal owner(s) of the property or person authorized by the owner on which a well, exploratory hole, or other excavation is to be constructed, repaired, inactivated or destroyed.
- (d) "Appurtenances" shall mean any part or feature of a well or other excavation necessary for its operation (*e.g.*, column pipe, well pump or motor, or wellhead).
- (e) "Aquifer" shall mean a geologic formation from which groundwater may be extracted.
- (f) "Aquitard" shall mean a geologic formation with very low permeability.
- (g) "Board" shall mean the members of the Board of Directors of the Alameda County Water District.
- (h) "Destruction" or "Destroy" shall mean the proper sealing of wells, exploratory holes, and other excavations to ensure that the groundwater supply is protected and preserved for future use and to eliminate potential physical hazards.
- (i) "District" shall mean the Alameda County Water District.

- (j) “Exploratory Hole” shall mean any temporary excavation that is open for less than 24 hours and constructed by any method, for the purpose of determining subsurface geological or hydrogeological information. An exploratory hole that is open for less than 24 hours and used to inject fluids or other substances to enhance remediation at cleanup sites is also included within this definition. Exploratory holes are also known as exploratory boreholes, boreholes, or borings.
- (k) “General Manager” shall mean the General Manager of the District.
- (l) “Groundwater” shall mean the water beneath the natural surface of the ground, whether or not flowing through known and definite channels.
- (m) “Inactivation” or “Decommissioning” shall mean taking any well or other excavation temporarily out of service, and maintaining the well or other excavation in compliance with the provisions of this ordinance while it is temporarily out of service.
- (n) “Ordinance” shall mean this Ordinance of the Alameda County Water District to Regulate Wells, Exploratory Holes, and Other Excavations within the Cities of Fremont, Newark, and Union City.
- (o) “Other Excavations” shall mean an excavation or structure, other than a well or an exploratory hole, constructed by any method that intersects an aquifer, or that may impact the integrity of any aquitard located directly above an aquifer. The following structures are also deemed to be other excavations for the purposes of this ordinance:
- (1) “Cathodic Protection Well” shall mean any artificial excavation constructed by any method for the sole purpose of installing equipment or facilities for the protection of metallic equipment in contact with the ground.
 - (2) “Cleanup Site Excavation” shall mean an excavation associated with cleanup site activity under the oversight of a regulatory agency.
 - (3) “Elevator Shaft” shall mean any cased structure constructed to contain the mechanism for an elevator system that intersects an aquifer, or that may impact the integrity of any aquitard located directly above an aquifer.
 - (4) “Inclinometer” shall mean any artificial excavation constructed by any method for the purpose of monitoring ground movement.
 - (5) “Shaft,” “Tunnel,” or “Directional Borehole” shall mean any passage or opening that intersects an aquifer, or that may impact the integrity of any aquitard located directly above an aquifer.
 - (6) “Support Piers,” “Piles,” or “Caissons” shall mean any cased or uncased pier, pile, or caisson that intersects an aquifer, or that may impact the integrity of any aquitard located directly above an aquifer.

- (7) “Vibrating Wire Piezometer” shall mean a device used to monitor pore water pressures or the effects of ground improvement systems.
- (8) “Wick Drains” shall mean an artificial drainage system used to remove water from soil and accelerate the consolidation of compressible soil.
- (p) “Person” shall mean any individual, trust, firm, joint stock company, corporation, association, or public agency.
- (q) “Public Nuisance” shall mean any abandoned or unused well, exploratory hole, or other excavation that creates or threatens to create a water contamination hazard. The following shall also be included within the definition:
- (1) Any well, exploratory hole, or other excavation that is in violation of this ordinance.
 - (2) Any abandoned pit, well, or other excavation that is not covered, filled, or fenced securely and creates or threatens to create a physical hazard (Division 104, Part 9.5, Section 115700 of the California Health and Safety Code).
 - (3) Any artesian well which is not capped or equipped with a mechanical appliance which will readily and effectively arrest and prevent the flow of any water from the well (Division 1, Chapter 2.5, Article 4 of the California Water Code).
- (r) “Repair,” “Reconstruction” or “Improvement” shall mean digging, driving, drilling, excavating, jetting, pushing, boring, casing, perforating, sleeving, removal of well casing, re-perforating, screening, gravel packing, deepening and/or sealing by any method of an existing well or other excavation.
- (s) “Use” or “Operation” shall mean to put into service or utilize a well or other excavation for its intended purpose.
- (t) “Water Contamination Hazard” shall mean a condition created by wells, exploratory holes, other excavations, or appurtenances into which poor or marginal quality water or other fluids will or may foreseeably flow and threaten to impair the quality of the groundwater.
- (u) “Well” shall mean any artificial excavation constructed by any method for the purpose of monitoring groundwater levels, extracting, injecting, or circulating water, or extracting, injecting, or circulating other fluid or gas solely for the purpose of soil or groundwater remediation, beneath the natural surface of the ground.
- (v) “Wellhead Protection Area” shall mean the surface and subsurface area surrounding a water well or wellfield used in connection with a public water system through which contaminants could enter the water well or wellfield.

SECTION 3. CLASSIFICATIONS

All wells, exploratory holes, and other excavations shall be classified as one of the following: “Active,” “Inactive,” “Abandoned,” or “Destroyed.” The final determination as to the status of a well, exploratory hole, or other excavation will be made by the District.

(a) Active

An active classification is a well or other excavation that is in compliance with this ordinance and has been utilized at least once in the preceding 12 months for its intended purpose.

(b) Inactive

An inactive classification is a well or other excavation that is in compliance with this ordinance and has not been used for a period of 12 months for its intended purpose, but is maintained in such a condition that it could be used.

- (1) The owner of a well or other excavation who desires to place or maintain it in the inactive classification shall obtain from the District, at intervals set by the District, a permit verifying the inactive classification.
- (2) As evidence of the owner’s intention regarding continued use and as a condition of the permit, the owner shall properly maintain the well or other excavation in such a way that:
 - i. The well or other excavation has no defects which will permit the impairment of the quality of groundwater.
 - ii. The well or other excavation is appropriately protected to prevent accidental entry or unauthorized access of any person, entry by any animal, and entry of water, fluids, or foreign matter.
 - iii. The well or other excavation is marked so as to be easily visible and located.
 - iv. The area surrounding the well or other excavation is kept clear of brush, debris, and waste materials.
 - v. The well or other excavation shall be accessible by a drill rig so that work can be performed on the well or other excavation as needed.

(c) Abandoned

An abandoned classification is a well, exploratory hole, or other excavation that meets any of the following criteria:

- (1) A well or other excavation that has not been used in the preceding 12 months for its intended purpose and has not been issued a permit for inactive classification.
- (2) A well or other excavation that is no longer functional for its intended purpose.
- (3) An exploratory hole that is not completely filled with appropriate sealing material.
- (4) A well, exploratory hole, or other excavation that is not in compliance with this ordinance.

(d) Destroyed

A destroyed classification is a well, exploratory hole, or other excavation that has been destroyed in compliance with this ordinance.

SECTION 4. GENERAL PROVISIONS

(a) Declaration of Water Shortage Emergency

If the Board declares a water shortage emergency, then the Board may prohibit the issuance of new water well construction permits and may implement water use limitations throughout the water shortage emergency.

(b) Prohibition Areas

The District may prohibit the construction of any well, exploratory hole, or other excavation in a designated wellhead protection area near any water supply well owned and operated by the District.

(c) Wells on Land to be Developed

Any person applying for any land development permit or approval within the boundaries of the City of Fremont, Newark, and Union City, shall obtain documentation from the District indicating that existing wells or other excavations are in compliance with this ordinance or that no wells or other excavations have been identified within the boundaries of the property proposed to be developed. Examples of land development permits or approval include planning review permits, demolition permits, grading permits, rezoning or other land use changes.

The property owner shall ensure that all abandoned wells on the property are located and properly destroyed in compliance with this ordinance prior to the development of the property.

(d) Discovery of Contamination

Any person who detects or encounters contamination or pollution in either soil (3 feet or deeper) or groundwater, within any property not designated as or associated with an active investigation or cleanup site by a Federal, State, local agency, or the District, shall notify the

District within 24 hours of such detection. This requirement does not supersede any local, state or federal notification requirements, but is intended to supplement any other reporting requirements.

(e) Licensing Requirements

No person shall construct, repair, or destroy any well or exploratory hole unless the person responsible for that construction, repair, or destruction possesses a valid State of California C-57 Water Well Contractor's License. A C-57 License is also required for the construction, repair, or destruction of the following other excavations: 1) Cathodic Protection Wells, 2) Inclinometers, and 3) Vibrating Wire Piezometers.

All other work shall be performed by a Contractor with the appropriate valid State of California license. All contractors must perform the work in accordance with all applicable Federal, State and local regulations.

(f) Backflow Prevention

All pump discharge pipes not open to the atmosphere shall be equipped with an automatic device to prevent backflow or back-siphonage into the well. Well systems that employ or have been modified to employ chemical feeders or injectors shall be equipped with a backflow prevention device approved by the District.

All property within the Cities of Fremont, Newark, and Union City containing a water connection to the District's water distribution system and a well, shall be reviewed to determine if the installation of a District approved backflow prevention device at the service connection of the water distribution system is required.

SECTION 5. PROHIBITIONS

(a) Work Without Permit

No person, within the Cities of Fremont, Newark, and Union City, will construct, repair, inactivate or destroy any well, exploratory hole, or other excavation without first obtaining a permit from the District.

(b) Threats to Water Quality

No person will construct, use, operate, maintain, repair, reconstruct, improve, inactivate, or decommission any well, exploratory hole, or other excavation that poses a threat to the quality of groundwater or does not meet standards established by this ordinance.

(c) Public Nuisance

No person will knowingly allow any well, exploratory hole, or other excavation that is classified as a public nuisance to exist on property owned or controlled by that person.

(d) Abandoned Wells, Exploratory Holes, or Other Excavations

No person will knowingly allow any abandoned well, exploratory hole, or other excavation to exist on property owned or controlled by that person.

(e) False Statements

No person will knowingly submit any false statement, record, or data in connection with a permit application.

SECTION 6. STANDARDS

(a) Minimum Standards

Minimum standards for the construction, use, operation, maintenance, repair, reconstruction, improvement, inactivation, decommissioning, or destruction of wells, exploratory holes, other excavations, and appurtenances are as set forth in:

- (1) This ordinance.
- (2) State of California Department of Water Resources Bulletin No. 74-2 “Water Well Standards: Alameda County” (June, 1964).
- (3) State of California Department of Water Resources Bulletin No. 74-81, “Water Well Standards: State of California” (December, 1981), together with the supplemental standards of the Department of Water Resources Bulletin No. 74-90, “California Well Standards; Water Wells, Monitoring Wells, and Cathodic Protection Wells” (June, 1991).
- (4) District “Standards for the Construction, Use, Operation, Maintenance, Repair, Inactivation, or Destruction of Wells, Exploratory Holes, Other Excavations, and Appurtenances,” which will be approved by the General Manager.
- (5) Subsequent revisions, updates, and supplements to the standards above.

(b) Best Available Technology

New materials and techniques that are developed in the future will be encouraged and permitted, contingent upon their approval by the District, if they equal or exceed standards in performance and level of protection.

(c) Variances

Upon making certain findings based upon unique circumstances, the District may grant a variance from any provision of the standards and prescribe alternative requirements in their place. The findings must determine that the granting of such a variance is consistent with the purposes and intent of this ordinance, that special conditions exist on the property that make

strict compliance with the standards infeasible, and the granting of the variance is necessary for the preservation and enjoyment of a substantial property right.

SECTION 7. PERMITS

All persons performing any work regulated by this ordinance must obtain a permit issued by the District prior to the start of such work and must comply with all the conditions set forth in this ordinance, required by law, or established by the permit.

(a) Application

- (1) The District shall prescribe and provide a form of application for the use of any applicant for a permit required by this ordinance. The application form will require the name and address of the applicant, the location and description of work to be done, purpose of the proposed work, and other pertinent information determined to be necessary by the District. In addition, drawings and specifications of the proposed work shall be submitted in an approved form for review.
- (2) A work plan is required for all chemical investigations and must be signed and stamped by the same Professional Geologist or Professional Civil Engineer that signed the permit application form.

(b) Fees and Costs

The schedule of fees and costs will be those established and adopted by the Board. The Cities of Fremont, Newark, and Union City must apply for permits, but are exempt from paying the permit fee. Other governmental agencies shall pay permit fees unless otherwise contrary to Federal or State law.

(c) Guarantee of Performance

If the applicant or permittee has violated this ordinance within five years of the date on the permit application, the District may require a guarantee of performance from the applicant or permittee. The applicant or permittee shall post with the District a cash deposit or bond guaranteeing compliance with the terms of this ordinance and the applicable permit prior to the issuance of a permit. The bond or cash deposit shall guarantee the faithful performance of all conditions of the permit, including the replacing of, or making acceptable, any defective, faulty, or uncompleted work. The bond or cash deposit shall be maintained in full force and effect until each and every one of the conditions of the permit is completed. The amount of said bond or deposit shall be 100 percent (100%) of the total estimated costs of the work and 100% of the total estimated costs incurred by the District to oversee said work.

(d) Permit Approval

Upon satisfactory completion of a permit application, the District shall issue the applicant a permit containing such conditions as are necessary to fulfill the purposes of this ordinance.

Permit approval shall be for a specific type and scope of work; any additional work not approved under the permit may require an additional permit and fees.

(e) Compliance with Other Regulations

The issuance of any permit pursuant to this ordinance shall not relieve the permittee from complying with any applicable federal, state, county, and local regulations, or from obtaining any permits or consent required by other federal, state, or local governmental agencies.

(f) Scheduling Work

It shall be the responsibility of the permittee to coordinate, schedule and confirm with the District the start date, start time, and the number of days necessary to complete the proposed permitted work. Prior to scheduling a starting date, the permittee must submit a satisfactorily completed permit application with the appropriate fees. The District will attempt to accommodate scheduling requests; however, all scheduling decisions shall be at the discretion of the District.

(g) Permit at Work Site

It shall be the responsibility of the permittee to maintain a copy of the permit at the work site during all stages of permitted activities.

(h) Chemical Testing Results

Any chemical tests conducted on soil, vapor, or groundwater samples collected from work related to a permit under this ordinance shall be submitted to the District within thirty (30) calendar days after completion.

(i) Well Completion Report

A copy of the Well Completion Report (Department of Water Resources Form 188), required by California Water Code Section 13751, shall be submitted to the District within sixty (60) calendar days after completion. The District may request any geologic information obtained during the construction of an exploratory hole or other excavation. If requested, the geologic information shall be submitted to the District within sixty (60) calendar days after completion.

(j) Liability

Permittee shall be responsible for all liability for personal injury or property damage caused by work permitted and done by permittee under the permit, or caused by failure on permittee's part to satisfactorily perform any obligation under the permit. District review of drawings, designs, specifications, work plans, reports or incidental work and materials shall not relieve the permittee of responsibility for the technical adequacy of their work. If any claim of such liability is made against the District, its officers, employees, or agents, permittee shall defend, indemnify and hold them and each of them, harmless from such claim.

(k) Permit Expiration

The permittee shall complete the work authorized by the permit prior to the expiration date indicated on the issued permit.

(l) Term and Completion of Work

The permittee shall complete the work authorized by a permit issued pursuant to this ordinance within sixty (60) calendar days from the date of issuance unless a different completion date is stated in the permit. If the work is not begun within sixty (60) days or within the time stated in the permit and the permittee has not requested the permit to be cancelled, then the permit shall become void and the permit fee shall be retained. After a permit is voided, the permittee must resubmit both application and required fees to proceed with work. If the permitted work is started within the sixty (60) calendar days from the date stated in the permit and then stopped, and the work is not completed before the permit expiration date, the permit will be deemed to be an expired permit.

Once the work authorized by the permit has been satisfactorily completed, the permit will be deemed to be complete and will be closed by the District. Wells or other excavations constructed, repaired, or reconstructed in compliance with this ordinance will be assigned an active classification so long as the well or other excavation is utilized at least once a year for its intended purpose. If a well or other excavation will not be used during the following year, then a permit for inactive classification must be obtained.

(m) Permit for Inactive Classification

A permit for inactive classification must be obtained for any well or other excavation which will not be used for a period of twelve (12) months, but which the owner intends to use in the future. Permits for inactive classification must be renewed annually and must be issued on or prior to the expiration date on the current permit for inactive classification. As a condition of issuance of a permit for inactive classification, the well or other excavation must be maintained in such a manner as to meet all current standards set forth in this ordinance.

If the well or other excavation is not activated or if a plan to activate the well or other excavation is not submitted to the District within twelve (12) months after issuance of the tenth consecutive permit for inactive classification, the permittee will be denied the issuance of any additional permits for inactive classification. Written notice will be given to the permittee that the well or other excavation is in violation of this ordinance and shall be classified as abandoned and must be destroyed in accordance with this ordinance.

If a well or other excavation has not been in use during any twelve (12) month period and a permit for inactive classification has not been issued, then the well or other excavation shall be classified as abandoned and must be destroyed in accordance with this ordinance.

(n) Permit Denial

The District will deny an application for a permit if:

- (1) The applicant is not a person authorized to perform the work as provided by this ordinance.
- (2) The permit application is incomplete.
- (3) The proposed work does not meet the standards set forth in this ordinance.
- (4) The proposed work does not meet the purpose of this ordinance.
- (5) The applicant has an issued permit that is out of compliance. No additional permits will be issued to any person who has a District permit that is not in compliance with that permit until the compliance issues are resolved.
- (6) The applicant is (a) requesting a permit for construction or reconstruction of a well, exploratory hole, or other excavation, and (b) there is an abandoned well, exploratory hole, or other excavation as designated in Section 3, located within the boundaries of the property in the permit application.

(o) Permit Review

Any person aggrieved by the refusal of a permit, the terms of a permit, or any decision made regarding the permit may, upon request in writing, have the matter reviewed by the General Manager or the General Manager's designee. Upon request for review, the matter shall be scheduled for review by the General Manager or the General Manager's designee and the applicant shall be given fifteen (15) days' written notice of the time and place of said review. Following the review, a decision will be made by the General Manager or the General Manager's designee. The decision of the General Manager shall be final and binding upon all parties.

SECTION 8. INSPECTION

Representatives of the District shall have the right to enter upon any premises at all reasonable times to inspect and investigate wells, exploratory holes, and other excavations, take measurements, collect data, including samples of groundwater, and make analyses pertaining to wells and the use of groundwater within the District. The representatives of the District shall first present proper credentials and request entry. If the premises are unoccupied, a reasonable effort will be made to locate the owner or other person having control of the property. A reasonable effort may include but is not limited to phone calls, written notification, and/or site visits. If entry is refused, the District may seek assistance from other agencies as needed to obtain entry.

SECTION 9. ORDINANCE VIOLATION

In the event a well, exploratory hole, other excavation, or appurtenances subject to this

ordinance is: 1) in violation of this ordinance, or 2) constructed, repaired, inactivated, or destroyed in violation of the terms of the permit issued pursuant to this ordinance, the District shall give written notice to the person owning the land as shown on the most recent equalized assessment roll, or to the permittee at the address listed on the permit. The notice shall state the nature of the violation, the corrective measures to be taken, the time within which such corrections must be made, and that if the land owner or permittee fails to make corrections within the period specified, the District may determine that the well, exploratory hole, or other excavation is a public nuisance.

SECTION 10. PENALTY FOR FAILURE TO OBTAIN PERMIT

Whenever the District discovers a person drilling a well, exploratory hole, or other excavation subject to this ordinance without a valid permit, the District will direct the person to: 1) cease and desist drilling activities; and 2) take appropriate actions to achieve compliance with the ordinance.

Any person who commences any work for which a permit is required by this ordinance without having obtained a permit, shall be required to obtain a permit, pay all applicable permit fees and costs, and pay a fee for performing work without a permit as established and adopted by the Board. Additional actions may be required to demonstrate that work performed was done in conformance with the standards designated in Section 6.

SECTION 11. PUBLIC NUISANCE

(a) Notification and Hearing

If the District determines that a public nuisance exists, it shall, by certified mail, notify the record owner of the property to abate the public nuisance. The notice of public nuisance shall describe the public nuisance and specify the time, date, and place for a hearing regarding the public nuisance. The hearing shall take place no sooner than 10 calendar days and no later than 60 calendar days from the date of mailing of the notice of public nuisance. At the hearing, District staff shall present evidence of a public nuisance and the record owner may present evidence to the General Manager that a public nuisance does not exist or has been abated.

(b) Abatement Notification

If, after the hearing, the General Manager determines a public nuisance exists, the District shall, by certified mail, send a notice to the record owner requiring that the record owner abate the public nuisance within a specified time. The notice shall state that, unless the public nuisance is abated within the time specified by the District, the District may abate the public nuisance and the costs of the abatement will be assessed against the property.

(c) Abatement Procedures

If the public nuisance is not abated within the time specified by the District in the notice, the District may abate the public nuisance. Any entry upon private property by the District for this purpose shall be preceded by written notice to the record owner of the property stating the

date and place of entry and that the purpose of entry is to abate the public nuisance. If the mailed notice is returned undelivered, the District must post a copy of the notice at the proposed entry point of the property at least five days prior to entry. Thereafter, the District may take all actions necessary to abate the public nuisance.

(d) Lien Procedures

All costs incurred by the District in abating a public nuisance pursuant to this act are a lien upon the property.


Notice of the lien must include the name of the record owner, the property on which the nuisance was abated, and the amount of the lien. The notice of lien shall be recorded by the District in the Office of the Alameda County Recorder within one year after the date on which the District initially incurs costs to abate the public notice or within 90 days after the completion of the abatement of the public nuisance, whichever occurs first. Upon recordation of the notice of lien, the lien shall have the same force, effect, and priority as a judgment lien, except that it will attach only to the property described in the notice, and shall continue until released or otherwise discharged.

PASSED AND ADOPTED this 9th day of December 2010, by the following vote:

AYES: Directors Huang, Gunther, Sethy, Weed, and Koller

NOES: None

ABSENT: None




Martin L. Koller, President
Board of Directors
Alameda County Water District

ATTEST:



Andrew Warren, Assistant District Secretary
Alameda County Water District

APPROVED AS TO FORM:



Patrick T. Miyaki, Attorney
Alameda County Water District