

ORDINANCE NO. 79

AN ORDINANCE REPEALING ORDINANCES 4 AND 16 AND AN ORDINANCE PROVIDING FOR APPLICATION FOR DRILLING PERMITS, ADOPTION OF GUIDELINES FOR ACTION THEREON, REGISTRATION OF HIGH CAPACITY WELLS, AND PROVIDING PENALTIES FOR VIOLATIONS

WHEREAS, the Trustees of the Imperial Valley Water Authority on December 12, 1990 adopted Ordinance No. 4 which was An Ordinance Providing for Application for Drilling Permits, Adoption of Guidelines for Action Thereon, Registration of High Capacity Wells, and Providing Penalties for Violations;

WHEREAS, the Trustees of the Imperial Valley Water Authority on October 9, 1996 adopted Ordinance No. 16 which was An Ordinance Amending Ordinance No. 4 of the Imperial Valley Water Authority to Provide a Definition of the Word "Driller";

WHEREAS, the Imperial Valley Water Authority has, pursuant to the foregoing Ordinances, received several requests for permits and have conducted several hearings concerning requests for permits;

WHEREAS, in the course of receiving applications and conducting hearings the Trustees of the Imperial Valley Water Authority have determined that there is cost incurred by the Imperial Valley Water Authority receiving applications and conducting Hearings on applications for permits including legal, possible scientific costs and publication costs;

WHEREAS, the Imperial Valley Water Authority currently requires payment of an application fee of only \$200 even though the majority of other Water Authorities in the State of Illinois require a much higher permit fee for high capacity wells;

WHEREAS, the Trustees of the Imperial Valley Water Authority received information concerning a hearing that was conducted by the Northern Logan County Water Authority to determine that the cost of receiving, processing, conducting hearings on and if required,

monitoring high capacity wells, is in excess of \$10,000.

WHEREAS, the Trustees of the Imperial Valley Water Authority desire to codify in one document all regulatory ordinances of the Imperial Valley Water Authority.

WHEREAS, the Trustees of the Imperial Valley Water Authority desire to amend the current regulatory structure of the Trustees of the Imperial Valley Water Authority for high capacity wells to provide for a nonrefundable application fee of \$2,000.

NOW THEREFORE BE IT ORDAINED by the Board of Trustees of the Imperial Valley Water Authority as follows:

Section 1: Whenever used in this Ordinance the following definitions shall apply to the following words:

- a. The words "exempted use wells" are hereby defined as follows: wells used for agricultural purposes, farm irrigation or water used for domestic purposes in which not more than four families that are supplied from the same well or immediate source.
- b. The words "the water authority" are hereby defined to be the Imperial Valley Water Authority.
- c. The word "enlarged" is hereby defined to mean the deepening, extending, enlarging, expansion or otherwise altering an existing well to increase production capacity.
- d. The words "rated capacity" is hereby defined as the potential output of water based upon a 24 hour period of withdrawal of any new well or enlarged well.
- e. The word "well" is hereby defined as a deep hole or shaft dug or drilled into the earth to obtain water.

- f. The words "high capacity well" is hereby defined as a well designed or enlarged to obtain water at a rated capacity of 100,000 gallons or more or any "test well" intended for such purpose.
- g. The word "person" is hereby defined to mean any natural person, association of natural persons, partnership, corporation public or private, or any other entity with legal status.
- h. The words "underground water" are defined to mean the water underlying the territory of the water authority.
- i. The words "person that drills a well" is hereby defined to be the person, as described in Section 1(g) that actually drills the well and shall include but is not limited to a person who is licensed by the State of Illinois to drill water wells.

Section 2: Except for exempted use wells no person shall pump or otherwise take any of the underground waters underlying any of the territory of the Water Authority except as hereinafter provided.

Section 3: Except for exempted use wells, no high capacity water wells shall be drilled or construction commenced, or the capacity of an existing high capacity well enlarged or a well enlarged to such an extent that it becomes a high capacity well, without a permit therefore first being obtained from the Board of Trustees of the Water Authority which has been granted pursuant to an application therefore as hereinafter provided.

Section 4: In order to obtain a permit an application must first be filed with the Water Authority. The application shall be filed with the Secretary of the Water Authority. Application forms shall be made available by the Secretary of the Water Authority. The application shall be accompanied by the appropriate fee as provided for in Section 5 of this Ordinance, and shall be accompanied by a duplicate copy of the application for a State permit and a duplicate copy of

any other required applications to construct said well, or enlargement of existing well and shall contain the following information:

- a. The name, address, and telephone number of the applicant and person contemplated to do the drilling or facility enlargement.
- b. The location of the proposed well or enlargement, including a map.
- c. A general description of the type of well or enlargement proposed.
- d. The date when the proposed drilling or enlargement is contemplated.
- e. The rated capacity of the well or proposed enlargement.
- f. The size of the casing pipe to be utilized for the well or proposed enlargement.
- g. The gallonage of the water expected to be extracted per day.
- h. A copy of all permits obtained and application for permits submitted to other governmental agencies having jurisdiction over the proposed well or enlargement.
- i. A copy of any public or private hydrogeological evaluations of the distribution, relationship and impact of the proposed drilling or enlargement.
- j. Name, address, and telephone number of the property owners on whose land the proposed well or enlargement is located.
- k. Name, address and telephone number of all persons known to the applicant, after the applicant has exercised reasonable inquiry, to own a well within a one (1) mile radius of the proposed well or enlargement.
- l. Any other information as required by the Water Authority from time to time as established by appropriate regulations that are adopted pursuant to the terms of this ordinance.

Section 5: The nonrefundable fee for each permit application shall be \$2,000.00. In addition, if the Water Authority determines that it is necessary to retain any professional to assist it in reviewing the application the Water Authority shall notify the applicant of the name, address and telephone number of the professional, what services the proposed professional shall provide and the estimated cost for the services to be provided by such professional. If the applicant does not wish to pay for the cost of professional then the applicant may withdraw its application.

Section 6: Upon receipt of an application the Secretary shall promptly inform the other members of the Board of Trustees of the Water Authority. A public hearing shall then be scheduled within 120 days from the date of application unless extended by consent of the applicant. The Secretary of the Water Authority shall cause public notice to be made of the proposed public hearing by publication in a newspaper of general circulation in the territory of the Water Authority and shall also notify the applicant in writing. Notice shall include the name of the applicant, a brief description of the proposed activity, date, time and place of the public hearing on the application. The Board of Trustees of the Water Authority shall conduct a public hearing on the application. The purpose of the public hearing shall be to determine what impact, if any, of the high capacity well or proposed enlargement of high capacity well upon the underground water underlying the territory of the Water Authority. The burden of proof shall be upon the applicant to show by a preponderance of evidence that the proposed high capacity well or enlargement of high capacity well will not have an adverse impact upon the underground water, is consistent with the reasonable regulation of the underground water, will not pollute underground water and will not endanger public health, safety or welfare. Before a decision is made on any application, the Water Authority may receive the review of the Illinois State Water Survey and the State Geological Survey required pursuant to Ill. Rev.

Stat. 1989, Ch. 5, par. 1605, the review of any County soil and water conservation district having Jurisdiction over the proposed location, and evidence of a permit from any and all other governmental Jurisdictions having permit authority over the proposed well or facility enlargement. In the event the proposed well or facility enlargement is not subject to review by the Illinois State Water Survey and State Geological Survey pursuant to IL Rev. Stat. 1989, Ch. 5, par. 1605, then the applicant may be required to prepare and submit a similar type review for consideration by the Water Authority. Parties to the public hearing before the Water Authority shall consist of: (1) the applicant; (2) any well owner within a half (1/2) mile radius of the proposed well or facility enlargement; and (3) any other interested person filing a written entry of appearance. Hearings before the Water Authority shall be preserved by means of a sound recording. The tape of the hearing shall be retained for not less than one (1) year following close of the hearing. In the event any party desires a verbatim transcript of the public hearing, a written request shall be filed with the Water Authority not less than two (2) weeks prior to the hearing date. Cost of taking such a transcript shall be paid by the applicant. Any party desiring a transcript of the proceedings shall pay all transcription or copying costs. The Water Authority shall prepare findings of fact from the evidence received at the public hearing indicating the extent of any injury or harm to the water supply source arising from the proposed well or facility enlargement. The Water Authority in its findings of fact may impose any conditions or restrictions on the granting of the requested permit which it deems necessary to prevent injury or harm to the water supply source. If the Water Authority determines that no injury or harm will occur to the water underlying the territory of the Water Authority, determines that the reasonable regulation of the use of water requires the granting of the permit, determines that the granting of the requested permit will not endanger public health, welfare, or safety, and will not pollute underground water, then it shall issue a permit for the

proposed well or facility enlargement. If the water authority determines that it cannot issue a permit then it shall deny the applicant a permit. A copy of the decision of the Water Authority shall be mailed to each party within thirty (30) days following the close of the public hearing or receipt of the required review material from the Illinois State Water Survey, the State Geological Survey, any applicable soil and water conservation district or any private review submitted by the applicant, whichever is later.

Section 7: All high capacity wells, and any exempted use wells that are used for agricultural purposes and farm irrigation that are drilled or enlarged after the effective date of this Ordinance must register with the Water Authority. Registration shall be on a form promulgated by the Water Authority and shall contain information concerning the output of water from the well and other reasonable information concerning the well. Registration forms shall be made available by the Secretary of the Water Authority. This information shall be utilized by the Water Authority in accordance with its obligations to reasonably regulate the use of underground water in the Water Authority. There shall be no charge for registration. The person that drills a well that is required to be registered shall register the well within thirty (30) days after completion of the well.

Section 8: Notwithstanding any of the provisions contained herein, the Water Authority may grant temporary permits for wells that require a permit for the temporary removal of underground water within the water authority in emergency situations upon a finding after application, notice, and hearing that such removal would serve the public interests without substantial harm to the water supply source. Any such emergency permit shall be subject to such reasonable restrictions, as the Water Authority deems necessary to protect the water supply source from substantial harm or injury.

Section 9: Any person who violates any section or provision of this Ordinance, or any terms or conditions imposed by the Trustees pursuant to this Ordinance, shall be guilty of a misdemeanor and subject to a fine by the Circuit Clerk of Mason or Tazewell County not to exceed \$50.00 for each act of violation and each days violation shall constitute a separate offense.

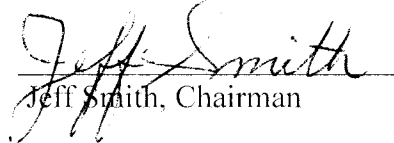
Section 10: If any section or part of this Ordinance is held invalid, it shall not affect the validity of the remainder of this Ordinance.

Section 11: Ordinance No. 4 and Ordinance No. 16 of the Imperial Valley Water Authority are hereby repealed upon the effective date of this Ordinance.

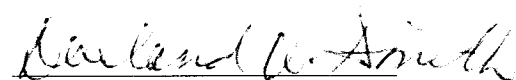
Section 12: This Ordinance shall take effect 10 days after publication thereof as provided by Law.

Adopted on a roll call vote this 14<sup>th</sup> day of April, 2010.

APPROVED:

  
Jeff Smith, Chairman

ATTESTED TO:

  
Dorland Smith, Secretary

Votes: Ayes: 4

Nays: 0

Absent: 0