

# *In the Rooms of the Board of Supervisors*

County of Inyo, State of California

I, HEREBY CERTIFY, that at a meeting of the Board of Supervisor of the County of Inyo, State of California, held in their rooms at the County Administrative Center in Independence on the 5<sup>th</sup> day of *January, 2016* an order was duly made and entered as follows:

Ord 1198/Interim Urgency Ordinance Prohibiting New Non-Groundwater Neutral Agricultural Uses in the Indian Wells Groundwater Basin

The Chairperson opened the public hearing at 11:40 a.m. on an interim urgency ordinance titled "An Interim Ordinance of the Board of Supervisors of the County of Inyo, State of California Pursuant to Government Code Section 6585(a) Prohibiting New Non-groundwater Neutral Agricultural Uses and Declaring the Urgency Thereof." The Planning Director, Josh Hart, reviewed the Staff Report and recommendations. The Agricultural Commissioner, Nate Reade, addressed the Board to talk about the agricultural uses in the area. Earl Wilson of Lone Pine addressed the Board to talk about the impact of the drought on current agricultural uses in the County and supporting the ordinance to limit new water uses. Sophia Merk of Ridgecrest, asked that the reference to the condition of the groundwater basin be changed from severe to critical and to recommend notification to the property owners. The County Administrator introduced an alternative thought that he said might not be politically correct. He prefaced his remarks by saying he was not suggesting that the Board not consider going forward with Interim Urgency 45 day Ordinance. He began his remarks by noting the irony of the situation. He said that Inyo County is an economic desert due to water export to the City of Los Angeles and noted that the City of Los Angeles is doing pretty well economically with Inyo County water. He pointed out that the County is not only an economic desert due to water export, but also to the ensuing land tenure patterns that results in only 2% of the County's over 10,000 square miles being in private hands for potential economic development. He said that the Board, by trying to do the right thing in a global and regional sense, is basically talking about taking some of that 2% privately held land out of economic production, and limiting the little bit of water that remains in Inyo County. He suggested that the Board use the 45 day period to discuss this concept of economic following, explaining that if you take limited, scarce private land, out of potential economic development and limit uses of water for economic gain in Inyo County, it's a very real loss to the County. He pointed out that the groundwater basin that is in overdraft right now is in overdraft to the economic benefit of Kern County and the communities in eastern Kern County. Supervisor Kingsley thanked the County Administrator for his comments. The Board and staff continued to discuss the ordinance. The Chairperson closed the public hearing at 12:02 p.m.

On a motion by Supervisor Kingsley and a second by Supervisor Totheroh, Ordinance 1198 titled "An Interim Ordinance of the Board of Supervisors of the County of Inyo, State of California Pursuant to Government Code Section 6585(a) Prohibiting New Non-groundwater Neutral Agricultural Uses and Declaring the Urgency Thereof" was enacted: motion unanimously passed and adopted.

WITNESS my hand and the seal of said Board this 5<sup>th</sup>

Day of January 2016



KEVIN D. CARUNCHIO  
Clerk of the Board of Supervisors

By:

*Patricia Gunsolley*  
Patricia Gunsolley, Assistant

## Routing

CC \_\_\_\_\_  
Purchasing \_\_\_\_\_  
Personnel \_\_\_\_\_  
Auditor \_\_\_\_\_  
CAO \_\_\_\_\_  
Other Planning - Ordinance List \_\_\_\_\_

DATE: January 20, 2016

ORDINANCE NO. 1198

**AN INTERIM ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF INYO, STATE OF CALIFORNIA PURSUANT TO GOVERNMENT CODE SECTION 65858(a) PROHIBITING NEW NON-GROUNDWATER NEUTRAL AGRICULTURAL USES IN PEARSONVILLE AND DECLARING THE URGENCY THEREOF.**

The Board of Supervisors of the County of Inyo ordains as follows:

**SECTION ONE. PURPOSE/AUTHORITY.**

The purpose of this interim ordinance is to prohibit new non-groundwater neutral agricultural uses in Pearsonville. This ordinance is enacted pursuant to the authority given this Board of Supervisors by the California Planning and Zoning Law, set forth in Government Code 65000 et seq., which authorizes a county to enact ordinances governing the uses of land within its jurisdiction. Specifically, Government Code Section 65858 enables the County to adopt interim zoning ordinances to protect the public safety, health, and welfare.

**SECTION TWO. DECLARATIONS AND FINDINGS.**

The County has consistently supported agriculture and provides excellent resources for it and related uses. Recently, several proposals have been described to develop portions of the Pearsonville within the Indian Wells Valley Groundwater Basin with pistachio farms, which require large amounts of water to cultivate. Little surface water is available within the Basin, and it is anticipated that such development would exclusively utilize groundwater.

California is experiencing the most severe drought on record, and increasing demand has stretched limited water supplies. The State of California and Inyo County have declared drought-related emergencies. The Indian Wells Groundwater Basin is in overdraft, and a plan is being developed to address groundwater issues within the Basin pursuant to the Sustainable Groundwater Management Act of 2014. Kern County recently modified the Indian Wells Valley Land Use Plan to reduce potential increases in groundwater use within its portion of the Basin.

Development of new groundwater intensive agricultural uses within the Inyo County portion of the Basin could severely exacerbate these existing conditions. Increases in groundwater production within the Inyo County portions of the Basin may result in potential impacts to the environment in the County and in neighboring Kern and San Bernardino counties.

The County is working to amend its rules, procedures, policies, and regulations to address groundwater intensive agricultural uses in Pearsonville. Updates to the Inyo County Code, and possibly the General Plan and other relevant plans, will be necessary to account for these uses. Therefore, proposals in the near future for groundwater intensive agricultural uses within Pearsonville may be in conflict with any longer-range modifications to the zoning ordinance, General Plan, or other relevant planning tools that may be instituted to minimize environmental impacts on the physical, social, and economic environment of Inyo County. If not properly studied, such proposals are an immediate threat to the public safety, health, and welfare, and approval of entitlements for non-groundwater neutral agricultural uses would be an immediate threat to the public safety, health, and welfare.

Government Code Section 65858 permits enactment of an interim ordinance regarding land use matters to protect the public safety, health, and welfare while studies are being carried out to address the relevant issues. This Ordinance will prohibit new non-groundwater neutral agricultural uses in Pearsonville until the County can adequately study these issues and adopt appropriate regulations in compliance with applicable law. It is urgent and essential for the protection of the public safety, health, and welfare of the citizens of Inyo County, and the public benefit of the State and neighboring counties, that new water intensive uses within the Indian Wells Valley Groundwater Basin be regulated by the County to minimize potential impacts to the physical, social, and economic environment.

### **SECTION THREE. DEFINITIONS**

For the purpose of this Ordinance, new non-groundwater neutral agricultural uses shall be development, new well(s), new plantings, or other improvements of private property for the purposes of farming the following, including but not limited to, grains, field crops, vegetables, melons, fruits, tree nuts, flower fields and seed production, ornamental crops, tree and sod farms, other crops, orchards, vineyards or other agricultural products or Agriculture as defined by Inyo County Code Section 18.06.030 using irrigation supplied from groundwater. Pearsonville shall be all private lands within the Pearsonville community, as illustrated in Exhibit A.

### **SECTION FOUR. MORATORIUM FOR NEW NON-GROUNDWATER NEUTRAL AGRICULTURAL USES IN PEARSONVILLE.**

A moratorium is hereby established for non-groundwater neutral agricultural uses in Pearsonville within Inyo County, and no new non-groundwater neutral agricultural uses in Pearsonville (or accessory uses thereto) shall be constructed or begin to operate, and no building permits, electrical permits, plumbing permits, well permits, occupancy permits, subdivisions, variances, use permits, General Plan amendments, zoning reclassifications, or other entitlement requests shall be processed for new non-groundwater neutral agricultural uses in Pearsonville.

**SECTION FIVE. SEVERABILITY.**

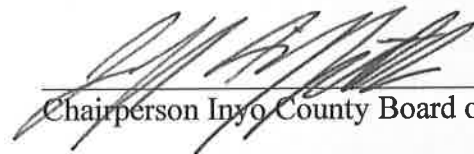
If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of this ordinance would be subsequently declared invalid or unconstitutional.

**SECTION SIX. EFFECTIVE DATE.**

This Ordinance is intended to protect the public safety, health, and welfare pursuant to Government Code Section 65858 and shall be in full force and effect immediately upon a four-fifths vote of the Board of Supervisors. This Ordinance shall be of no further force and effect 45 days from its date of adoption, unless extended pursuant to Government Code Section 65858.

PASSED AND ADOPTED this 5<sup>th</sup> day of January 2016, by the following vote of the Inyo County Board of Supervisors:

AYES: Supervisors Totheroh, Griffiths, Pucci, Tillemans and Kingsley  
NOES: -0-  
ABSTAIN: -0-  
ABSENT: -0-

  
Chairperson Inyo County Board of Supervisors

ATTEST: Kevin Carunchio  
Clerk to the Board

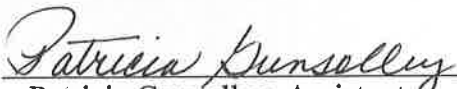
By:   
Patricia Gunsolley, Assistant

Exhibit A – Private Lands Within Pearsonville





**AGENDA REQUEST FORM**  
BOARD OF SUPERVISORS  
COUNTY OF INYO

For Clerk's Use Only: <b>AGENDA NUMBER</b>
25

- Consent     Departmental     Correspondence Action     Public Hearing  
 Scheduled Time for 11:30 a.m.     Closed Session     Informational

**FROM:** Inyo County Planning Department

**FOR THE BOARD MEETING OF:** January 5, 2016

**SUBJECT:** Interim Urgency Ordinance to Prohibit New Non-groundwater Neutral Agricultural Uses in Pearsonville

**PLANNING DEPARTMENT RECOMMENDATION:**

Conduct a public hearing and enact the attached Ordinance entitled An Interim Ordinance of the Board of Supervisors of the County of Inyo, State of California Pursuant to Government Code Section 65858(a) Prohibiting New Non-groundwater Neutral Agricultural Uses and Declaring the Urgency Thereof.

**SUMMARY DISCUSSION:**

The County has consistently supported agriculture and provides excellent resources for it and related uses. Recently, several proposals have been described to develop portions of the Pearsonville area within the Indian Wells Valley Groundwater Basin in Inyo County with pistachio farms, which require large amounts of water to cultivate. Little surface water is available within the Basin, and it is anticipated that such development would exclusively utilize groundwater.

California is experiencing the most severe drought on record, and increasing demand has stretched limited water supplies. The State of California and Inyo County have declared drought-related emergencies. The Indian Wells Groundwater Basin is in overdraft, and a plan is being developed to address groundwater issues within the Basin pursuant to the Sustainable Groundwater Management Act of 2014. Kern County recently modified the Indian Wells Valley Land Use Plan to reduce potential increases in groundwater use within its portion of the Basin.

Development of new groundwater intensive agricultural uses within the Inyo County portion of the Basin could severely exacerbate these existing conditions. Increases in groundwater production within the Inyo County portions of the Basin may result in potential impacts to the environment in the County and in neighboring Kern and San Bernardino counties.

***Potential Impacts:*** While there are many benefits, water intensive agriculture dependent on groundwater development may result in a variety of adverse impacts on the physical, social, and economic environment. These include, but are not limited to, ground subsidence, well depletion, changes to groundwater quality, increased seismicity, declining levels of groundwater dependent vegetation and wildlife (up to and including potentially destruction of these resources), and changes to visual and cultural resources. Cumulative and growth-inducing impacts are also of concern within the Indian Wells Valley Groundwater Basin.

***Planning Studies:*** Staff has been considering a permanent solution to water issues within the Pearsonville area that will provide for a net benefit to County citizens, minimize potential impacts, and work to meet

local, State, and federal agriculture and water conservation goals. Updates to the Inyo County Code, and possibly the General Plan and other relevant plans and/or development of new plans, will be necessary to address the potential for new intensive groundwater development within the Inyo County portions of the Indian Wells Valley Groundwater Basin. Therefore, proposals in the near future for new water intensive agricultural uses may be in conflict with any longer-range modifications to the zoning ordinance, General Plan, or other relevant planning tools that may be instituted to minimize environmental impacts on the physical, social, and economic environment of Inyo County. If not properly studied, such proposals are a threat to the public safety, health, and welfare.

***Interim Urgency Ordinance:*** Government Code Section 65858(a) permits enactment of an interim ordinance regarding land use matters to protect the public safety, health, and welfare while studies are being carried out to address the relevant issues. Due to unique circumstances in this instance – no applications for the land uses of concern have been applied for – the County has elected to conduct a hearing for enactment of the ordinance, even though not required. Such an ordinance becomes effective immediately upon a four-fifths vote of the Board of Supervisors for 45 days. If not extended within the 45-day period, the ordinance expires. The ordinance may be extended during the 45-day period by a four-fifths vote of the Board at a public hearing for 10 months and 15 days, and subsequently for another year. Within 10 days before expiration of the ordinance, a report shall be made describing measures taken to alleviate the issue.

Staff recommends that the Board enact the attached Interim Ordinance to prohibit new groundwater intensive agricultural uses in Pearsonville. Staff is working on a permanent solution to the issues described herein, and plans to bring forward a zoning text amendment for consideration in the near future. If the amendment is not complete within 45 days, the Board may extend the Interim Ordinance.

***Environmental Review:*** The Interim Ordinance revises regulations, is intended to avoid impacts and protect the public safety, health, and welfare, and will have no potential significant adverse impact on the physical environment. Therefore, it is not subject to the California Environmental Quality Act (CEQA) per the “General Rule” [CEQA Guidelines, Section 15061(b)(3)].

**ALTERNATIVES:**

- Do NOT enact the Ordinance, thereby allowing applications for new non-groundwater neutral agricultural uses to be processed. This alternative is not recommended due to the immediate threat to the public safety, health, and welfare.
- Return to staff with other direction.

**OTHER AGENCY INVOLVEMENT:**

Inyo County Building & Safety Division, Water Department, and Environmental Health Department; Kern County and others working to develop the Groundwater Basin Plan

**FINANCING:**

General Fund Resources were utilized to process the Ordinance.

**APPROVALS**

COUNTY COUNSEL: <i>12/22/15</i>	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by county counsel prior to submission to the board clerk.) <i>Margaret Kemp Williams</i>
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)

**DEPARTMENT HEAD SIGNATURE:**  
(Not to be signed until all approvals are received)

*John Horta*

Date: *12/24/15*

Attachment: Interim Ordinance



# PROOF OF PUBLICATION

(2015.5 C.C.P.)

STATE OF CALIFORNIA,  
COUNTY OF INYO

I am a citizen of the United States and a resident of the County aforesaid. I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the printer of the

The Inyo Register

This space is for County Clerk's Filing Stamp

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## Proof of Publication of Public Notice

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### County of Inyo

*The Inyo Register* has been adjudged a newspaper of general circulation by the Superior Court of the County of Inyo, State of California, under date of Oct. 5, 1953, Case Number 5414; that the notice, of which the annexed is a printed copy (set in type not smaller than non-pareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof, on the following dates, to wit:

DECEMBER 26

in the year 2015

I certify (or declare) under penalty of perjury that the foregoing is true and correct, on this 29TH Day of DECEMBER, 2015

  
Signature

#### 320 PUBLIC NOTICES

#### PUBLIC HEARING NOTICE

NOTICE IS HEREBY GIVEN the Inyo County Board of Supervisors will conduct a public hearing Tuesday, January 5, 2016 at 11:30 a.m. in the Board of Supervisors Room, County Administrative Center, at 224 North Edwards Street, Independence, to consider the following:

#### INTERIM URGENCY ORDINANCE TO PROHIBIT NEW NON-GROUNDWATER NEUTRAL AGRICULTURAL USES IN PEARSONVILLE

Inyo County has consistently supported agriculture and provides excellent resources for it and related uses. Recently, several proposals have been described to develop groundwater intensive agriculture in portions of the Pearsonville within the Indian Wells Valley Groundwater Basin within Inyo County. Due to the most severe drought on record, the State of California and Inyo County have declared drought-related emergencies. The Indian Wells Groundwater Basin is in overdraft, and a plan is being developed to address these issues. Development of new groundwater intensive agricultural uses within the Inyo County portion of the Basin could severely exacerbate existing conditions and potentially impact the environment.

The Inyo County Board of Supervisors will consider enacting an Interim Urgency Ordinance pursuant to Government Code Section 65858(a) to prohibit new non-groundwater neutral agricultural uses in Pearsonville. Such an ordinance becomes effective for 45 days, and if not extended, expires. The ordinance may be extended for 10 months and 15 days, and subsequently for another year.

If you challenge any finding, determination, or decision made regarding this project in court, you may be limited to raising only the issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered prior to the hearing.

Written comments and all questions should be addressed to the Inyo County Planning Department, P. O. Drawer "L", Independence, CA 93526 or to: [inyoplanning@inyocounty.us](mailto:inyoplanning@inyocounty.us) Copies of the Draft General Plan Amendment are available for review at the Inyo County Planning Department, 168 N. Edwards Street, Independence, during regular business hours. If you have any questions, please call (760) 878-0263. (IR 12/26/15, #11933)