

ORDINANCE NO. 114A

AN ORDINANCE ESTABLISHING A 365-DAY MORATORIUM PROHIBITING THE CONSTRUCTION, INSTALLATION OR PERMITTING OF SPECIFIC INDUSTRIAL PROCESSING WELLS IN DAKOTA COUNTY

SECTION 1.00 APPLICABILITY

This ordinance applies to specific Industrial Processing Wells in Dakota County, Minnesota.

SECTION 2.00 PURPOSE

Dakota County has administered Ordinance No. 114, Well and Water Supply Management, through a delegation agreement with the Minnesota Department of Health to manage and operate a well regulatory program since its initial adoption on December 20, 1988. The purpose of Ordinance No. 114 is to establish standards for the construction, reconstruction, sealing, maintenance, and regulation of wells to protect ground water and the environment and to promote the health, safety and welfare of the public. Ordinance No. 114 has been amended four times (1992, 1995, 1998 and 2019).

Ordinance 114 applies to regulating the construction, reconstruction, operation, maintenance, repair, permanent sealing, and annual maintenance permitting in the county of:

- Any well used:
 - As a private water-supply well
 - As part of a non-community public water system as defined in 40 C.F.R.141.2 (e.g. wells serving schools, parks, motels, restaurants)
 - For irrigation
 - For agricultural, commercial, or industrial water supply
 - For heating or cooling, including groundwater thermal exchange devices but excluding bored geothermal heat exchangers
 - For environmental wells
 - For dewatering wells
- Any other wells listed in the Delegation Agreement between the Minnesota Department of Health and Dakota County.

Dakota County is also in the process of developing a Groundwater Plan under Minnesota Statute 103B.255 to replace the Groundwater Plan that was previously incorporated into the County's Comprehensive Plan. The Groundwater Plan will address water quantity, water quality, water education, and governance. Because groundwater supplies 90% of the County's water supply, one priority of the Ground Water Plan is to safeguard the County's water supply.

In 2019, a commercial enterprise proposed to pump 500 million gallons of groundwater per year from Dakota County and ship it by rail to sell in the southwestern United States. Exporting millions of gallons of groundwater from Dakota County could deplete the County's future water supply for human uses and damage natural ecosystems.

Current Minnesota Statutes and Rules, as well as Dakota County Ordinance No. 114, do not adequately address the construction of wells for bulk water exportation. Currently, insufficient information exists to understand the impacts to public health and the environment if millions of gallons of water are removed from Dakota County watersheds. Additional time is needed to study the impacts of bulk water exportation and to determine whether the pending water plan ensures sufficient groundwater levels to support the County's growing population, agriculture, and industry, and determine whether other regulatory measures to ensure sufficient groundwater supplies to support human uses are needed, and to determined what modifications, if any, are needed to Ordinance No. 114.

SECTION 3.00 MORATORIUM ESTABLISHED

In accordance with the purpose set forth above and pursuant to the authority of Minnesota Statutes 394.34 (Interim Zoning) and the jurisdictional authority of the Dakota County Well and Water Management Ordinance (Ordinance No. 114), and the County's Groundwater Plan, a moratorium on the construction, installation, or permitting of new wells estimated to use a water volume greater than 10,000

gallons per day or 1,000,000 gallons per year for the following proposed Minnesota Department of Natural Resources (DNR) water uses and types:

- Commercial/Institutional Water Supply
- Other Water Supply
- Agriculture/Food Processing

This ordinance does not apply to existing wells or replacement of existing wells.

SECTION 4.00 EFFECTIVE DATE

The moratorium shall be in effect for 365-days commencing May 5, 2020.

ATTEST:
COUNTY OF DAKOTA, STATE OF MINNESOTA

Jeni Reynolds
Jeni Reynolds
Clerk to the County Board
DATE: 5-13-2020

Mike Slavik
Mike Slavik, Chair
Dakota County Board of Commissioners
DATE: 5-13-2020

Approved as to Form:

/s/ Helen R. Brosnahan
Helen R. Brosnahan
Assistant County Attorney
DATE: May 13, 2020

Approved as to Execution:

Helen R. Brosnahan
Helen R. Brosnahan
Assistant County Attorney
DATE: 5-15-2020

