

RESOLUTION 2019-13

RESOLUTION DECLARING A FREEZE OR A TEMPORARY MORATORIUM ON DEVELOPMENT IN THE AQUIFER OVERLAY ZONING;

Whereas, the Board of Commissioners for Albany, County (County) has reaffirmed that safeguarding the County's drinking water in the Casper Aquifer is critical to the protection of public health and safety within County;

Whereas, the Casper Aquifer supplies more than fifty percent (50%) of the County's fresh drinking water and one hundred percent (100%) to the rural homeowners that fall within the Casper Aquifer Recharge Area;

Whereas, the delineated recharge area of the Casper Aquifer in the Laramie area encompasses approximately seventy-nine (79) square miles that lie east of the City and extends to the crest of the Laramie Range, with the northern boundary approximately six (6) miles north and the southern boundary six (6) miles south of City limits. The City of Laramie has municipal well fields 3-6 which draw water from this area. Exposure of the Casper Formation in the delineated area results in increased vulnerability to contamination from land uses;

Whereas, on January 4, 2011, County Commissioners adopted the Casper Aquifer Protection Plan;

Whereas, the Casper Aquifer Protection Plan (Plan) indicated that care should be taken to protect the Casper Aquifer from potential contamination and drawdown resulting from residential densities becoming too high and recommended Casper Aquifer Area for further low-density residential development and that commercial land uses not be extended into this area;

Whereas, the Plan includes a Delineation Report, Contaminant Source Inventory, Contaminant Management Plan and Contingency Plan for the Casper Aquifer wells and springs and provides standards for development within the Casper Aquifer Protection Plan Area;

Whereas, County Commissioners adopted zoning regulations creating the Aquifer Protection Overlay Zone to safeguard the Casper Aquifer wells and spring area;

Whereas, due to a recent litigation between the County and a retail gas station which is a pre-existing non-conforming use located on the Casper Aquifer, it was determined that the current regulations failed to provide a process for addressing pre-existing nonconforming uses as well as review and enforcement provisions for compliance with Aquifer Protection regulations;

Whereas, the Supreme Court has recognized that the zoning authority which has been granted to counties includes the power to adopt temporary freeze resolutions so that the status quo may be preserved until planning and zoning decisions can be made." (citing *Schoeller v. Bd. Of County Commissioners*, 568 P.2d at 874-75). However, the power is subject to restrictions. "A freeze resolution may initially continue only for a length of time which affords an opportunity to give notice and hold a hearing on the issue of whether such resolution should be given more permanent status under Wyo. Stat. § 18-5-202." *Schoeller* at 878-879;

Whereas, Wyoming law requires that said hearing occur after a notice of time and place of the hearing being given by one (1) publication in a newspaper of general circulation in Albany County at least fourteen (14) days before the date of the public hearing;

Whereas, pursuant to Wyo. Stat. § 16-4-404(d), the County may hold an emergency meeting on matters of serious immediate concern to take temporary action without notice. All action taken at an emergency meeting is of a temporary nature and in order to become permanent shall be acted upon at an open public meeting within 48 hours;

Whereas, it is recognized that if the subject matter of the freeze resolution was not noticed, there is a concern that developers and landowners would file applications for development or expansion in the Casper Aquifer Protection Zone prior to the implementation of the freeze resolution taking effect, thus defeating the legitimate governmental purpose of freezing construction in the Casper Aquifer until the new amended Casper Aquifer Regulations and other applicable regulations can be completed. According to County Zoning Resolution, once an application is deemed sufficient, the application is reviewed pursuant to the Regulations in place on that date, thus any changes made to Regulations after the application is deemed sufficient, would have no applicability to that application;

Whereas, inappropriate development on the Aquifer Protection Overlay Zone can adversely affect the water quality can adversely affect the quality of the City's drinking water through the intentional or unintentional release of contaminants harmful to the health and welfare of County residents;

Whereas, for the protection of the public welfare, health and safety of the citizens of the County, a revision of the Aquifer Protection Regulations is necessary to ensure the protection of the County's water supply from inappropriate development and pollution that could degrade the aquifer and be harmful to the health and safety of the County's citizens;

Whereas, the County Commissioners met yesterday on June 10, 2019 at 3:30 p.m. in an emergency meeting and approved Emergency Resolution 2019-001 declaring a freeze or a temporary moratorium on development in the Aquifer Overlay Zone.

Whereas, Wyo. Stat. 16-4-404(D) requires that any action taken in an emergency meeting be reviewed and acted upon at an open public meeting within 48 hours.

NOW THEREFORE THE BOARD OF COUNTY COMMISSIONERS OF ALBANY COUNTY, WYOMING, RESOLVE:

Section 1. That the foregoing recitals are incorporated in and made a part of this Emergency Resolution by this reference.

Section 2. That the Emergency Resolution 2019-001 that was adopted yesterday, on June 10, 2019 in an Emergency Meeting is hereby incorporated by this resolution all provisions are affirmed

and approved by the County Commissioners within the 48hour period as directed by Wyo. Stat. 16-4-404(d).

Section 3. That the Board of County Commissioners of Albany County declare that a temporary freeze or moratorium for 90 days is placed on any building permit, subdivision plat or any other development, construction, or land use or zoning application regarding property situated in whole or in part within the Aquifer Protection Overlay Zone located in the unincorporated area of Albany County except that the freeze will not apply to all pending permits and to all development or construction for projects approved by the County Commissioners pursuant to current County Zoning Regulations to allow Albany County, Wyoming the opportunity to revise the zoning regulations for the protection of the Casper Aquifer and for the health and safety of the citizens of the County, specifically, the process of addressing pre-existing non-conforming uses and the application, review and enforcement provisions for the protection of the Casper Aquifer.


PASSED, APPROVED, AND ADOPTED this 12th day of June 2019.

**THE BOARD OF COUNTY COMMISSIONERS OF
ALBANY COUNTY, WYOMING**



Terri Jones, Chairperson

ATTEST:



Jackie R. Gonzales,
Albany County Clerk