

# 2020 Annual Water Source Capacity Analysis

## Appendices

Prepared for:  
Garberville Sanitary District  
Board of Directors  
April 27, 2021 Meeting

Prepared by:  
Jennie Short  
Consultant Project Manager

Garberville Sanitary District  
P.O. Box 211  
Garberville, CA 95542  
(707)923-9566



April 2021

# Appendix A

## License and Permit for South Fork Eel River Diversion



**STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD**

**DIVISION OF WATER RIGHTS**

**RIGHT TO DIVERT AND USE WATER**

APPLICATION 9686

PERMIT 5487

LICENSE 3404

Right Holder: Garberville Sanitary District  
P.O. Box 211  
Garberville, CA 95542

The State Water Resources Control Board (State Water Board) authorizes the diversion and use of water by the right holder in accordance with the limitations and conditions herein SUBJECT TO PRIOR RIGHTS. The priority of this right dates from **July 31, 1939**. This right is issued in accordance with the State Water Board delegation of authority to the Deputy Director for Water Rights (Resolution 2012-0029) and the Deputy Director for Water Rights redelegation of authority dated July 6, 2012. This right supersedes any previously issued right on **Application 9686**. The right holder has made proof, to the satisfaction of the State Water Board, of the quantities of water put to beneficial use during the authorized development schedule.

The Deputy Director for Water Rights finds that: (a) the change will not operate to the injury of any lawful user of water; (b) good cause has been shown for the change; (c) the petition does not constitute the initiation of a new right; and (d) the State Water Resources Control Board (State Water Board) has made the required findings pursuant to the California Environmental Quality Act (CEQA) or the project is exempt from CEQA.

The State Water Board has complied with its independent obligation to consider the effect of the proposed change on public trust resources and to protect those resources where feasible. (*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419 [189 Cal.Rptr. 346, 658 P.2d 709].)

**Right holder is hereby granted a right to divert and use water as follows:**

1. Source of water: **(1) South Fork Eel River**  
tributary to: **(1) Eel River thence the Pacific Ocean**  
within the County of **Humboldt**.

2. Location of point of diversion

By California Coordinate System of 1983 in Zone 1	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
<b>(1) North 1,922,330 feet and East 6,059,360 feet</b>	<b>SW ¼ of SE ¼</b>	<b>24</b>	<b>4S</b>	<b>3E</b>	<b>H</b>

3. Purpose of use	4. Place of use					
	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian	Acres
<b>Municipal</b>	<b>Within the Garberville Sanitary District service area boundary within Sections 13, 23, 24, 25 and 35, T4S, R3E, HB&amp;M; and Sections 18, 19, and 20, T4S, R4E, HB&amp;M; as shown on map.</b>					

The place of use is shown on map dated September 9, 2013 on file with the State Water Board.

5. The water appropriated under this right shall be limited to the quantity which can be beneficially used and shall not exceed **0.155 cubic foot per second** by direct diversion to be diverted from January 1 to December 31 of each year. The maximum amount diverted under this right shall not exceed **112.2 acre-feet per year**.  
(0000005A)
6. The total quantity of water diverted under this right and the right pursuant to Application 29981 shall not exceed **542.2 acre-feet per year**.  
(0000005Q)
7. The maximum simultaneous rate of diversion under this right and the right pursuant to Application 29981 shall not exceed **0.75 cubic foot per second**.  
(0000005S)
8. Based on the information in the Division's files, water has not been used under a claimed existing right on the place of use. If right holder exercises a claimed existing right on the place of use authorized by this right without prior approval from the State Water Board, right holder shall forfeit this water right.  
(0000021C)
9. The equivalent of the authorized continuous flow allowance for any 7-day period may be diverted in a shorter time, provided there is no interference with other water rights and instream beneficial uses, and provided further that all terms and conditions protecting instream beneficial uses are observed.  
(0000027)
10. No water shall be directly diverted under this right unless right holder is monitoring and reporting said diversion of water. This monitoring shall be conducted using a device and methods satisfactory to the Deputy Director for Water Rights. The device shall be capable of monitoring the rate and quantity of water diverted and shall be properly maintained.  
  
Right holder shall provide the Division of Water Rights with evidence that the device has been installed with the first annual report submitted after device installation. Right holder shall provide the Division of Water Rights with evidence that substantiates that the device is functioning properly every five years after device installation as an enclosure to the current annual report or whenever requested by the Division of Water Rights.  
  
Right holder shall maintain a record of all diversions under this license that includes the date, time, rate of diversion, and the amount of water diverted. The records shall be submitted with the annual report or whenever requested by the Division of Water Rights.  
(000000R)

**THIS RIGHT IS ALSO SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

- A. Right holder is on notice that: (1) failure to timely commence or complete construction work or beneficial use of water with due diligence, (2) cessation or partial cessation of beneficial use of water, or (3) failure to observe any of the terms or conditions of this right, may be cause for the State Water Board to consider revocation (including partial revocation) of this right. (Cal. Code Regs., tit. 23, § 850.) (0000016)
- B. Right holder is on notice that when the State Water Board determines that any person is violating, or threatening to violate, any term or condition of a right, the State Water Board may issue an order to that person to cease and desist from that violation. (Wat. Code, § 1831.) (0000017)
- C. Right holder is not authorized to make any modifications to the location of diversion facilities, place of use or purposes of use, or make other changes to the project that do not conform with the terms and conditions of this right, prior to submitting a change petition and obtaining approval of the State Water Board. (0000018)
- D. Right holder shall maintain records of the amount of water diverted and used under this right to enable the State Water Board to determine the amount of water that has been applied to beneficial use. (0000015)
- E. Right holder shall promptly submit any reports, data, or other information that may reasonably be required by the State Water Board, including but not limited to documentation of water diversion and use under this right and documentation of compliance with the terms and conditions of this right. (0000010)
- F. No water shall be diverted under this right unless right holder is operating in accordance with a compliance plan, satisfactory to the Deputy Director for Water Rights. Said compliance plan shall specify how right holder will comply with the terms and conditions of this right. Right holder shall comply with all reporting requirements in accordance with the schedule contained in the compliance plan. (0000070)
- G. Right holder shall grant, or secure authorization through right holder's right of access to property owned by another party, the staff of the State Water Board, and any other authorized representatives of the State Water Board the following:
  - 1. Entry upon property where water is being diverted, stored or used under a right issued by the State Water Board or where monitoring, samples and/or records must be collected under the conditions of this right;
  - 2. Access to copy any records at reasonable times that are kept under the terms and conditions of a right or other order issued by State Water Board;
  - 3. Access to inspect at reasonable times any project covered by a right issued by the State Water Board, equipment (including monitoring and control equipment), practices, or operations regulated by or required under this right; and,
  - 4. Access to photograph, sample, measure, and monitor at reasonable times for the purpose of ensuring compliance with a right or other order issued by State Water Board, or as otherwise authorized by the Water Code. (0000011)

- H. This right shall not be construed as conferring right of access to any lands or facilities not owned by right holder. (0000022)
- I. All rights are issued subject to available flows. Inasmuch as the source contains treated wastewater, imported water from another stream system, or return flow from other projects, there is no guarantee that such supply will continue. (0000025)
- J. This right does not authorize diversion of water dedicated by other right holders under a senior right for purposes of preserving or enhancing wetlands, habitat, fish and wildlife resources, or recreation in, or on, the water. (Wat. Code, § 1707.) The Division of Water Rights maintains information about these dedications. It is right holders' responsibility to be aware of any dedications that may preclude diversion under this right. (0000212)
- K. No water shall be diverted or used under this right, and no construction related to such diversion shall commence, unless right holder has obtained and is in compliance with all necessary permits or other approvals required by other agencies. If an amended right is issued, no new facilities shall be utilized, nor shall the amount of water diverted or used increase beyond the maximum amount diverted or used during the previously authorized development schedule, unless right holder has obtained and is in compliance with all necessary requirements, including but not limited to the permits and approvals listed in this term.
- Within 90 days of the issuance of this right or any subsequent amendment, right holder shall prepare and submit to the Division of Water Rights a list of, or provide information that shows proof of attempts to solicit information regarding the need for, permits or approvals that may be required for the project. At a minimum, right holder shall provide a list or other information pertaining to whether any of the following permits or approvals are required: (1) lake or streambed alteration agreement with the Department of Fish and Wildlife (Fish & G. Code, § 1600 et seq.); (2) Department of Water Resources, Division of Safety of Dams approval (Wat. Code, § 6002); (3) Regional Water Quality Control Board Waste Discharge Requirements (Wat. Code, § 13260 et seq.); (4) U.S. Army Corps of Engineers Clean Water Act section 404 permit (33 U.S.C. § 1344); and (5) local grading permits.
- Right holder shall, within 30 days of issuance of any permits, approvals or waivers, transmit copies to the Division of Water Rights. (0000203)
- L. Urban water suppliers must comply with the Urban Water Management Planning Act (Wat. Code, § 10610 et seq.). An "urban water supplier" means a supplier, either publicly or privately owned, providing water for municipal purposes either directly or indirectly to more than 3,000 customers or supplying more than 3,000 acre-feet of water annually.
- Agricultural water users and suppliers must comply with the Agricultural Water Management Planning Act (Act) (Water Code, § 10800 et seq.). Agricultural water users applying for a permit from the State Water Board are required to develop and implement water conservation plans in accordance with the Act. An "agricultural water supplier" means a supplier, either publicly or privately owned, supplying more than 50,000 acre-feet of water annually for agricultural purposes. An agricultural water supplier includes a supplier or contractor for water, regardless of the basis of right, which distributes or sells for ultimate resale to customers. (0000029D)

- M. Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this right, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the State Water Board may be exercised by imposing specific requirements over and above those contained in this right with a view to eliminating waste of water and to meeting the reasonable water requirements of right holder without unreasonable draft on the source. Right holder may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this right and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the State Water Board also may be exercised by imposing further limitations on the diversion and use of water by right holder in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution, article X, section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

- N. The quantity of water diverted under this right is subject to modification by the State Water Board if, after notice to right holder and an opportunity for hearing, the State Water Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the State Water Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

- O. This right does not authorize any act which results in the taking of a candidate, threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, § 2050 et seq.) or the federal Endangered Species Act (16 U.S.C. § 1531 et seq.). If a "take" will result from any act authorized under this right, right holder shall obtain any required authorization for an incidental take prior to construction or operation of the project. Right holder shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this right.

(0000014)

*This right is issued and right holder takes it subject to the following provisions of the Water Code:*

*Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.*

*Section 1629. Every licensee, if he accepts a license, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefore shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).*

*Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.*

*Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.*

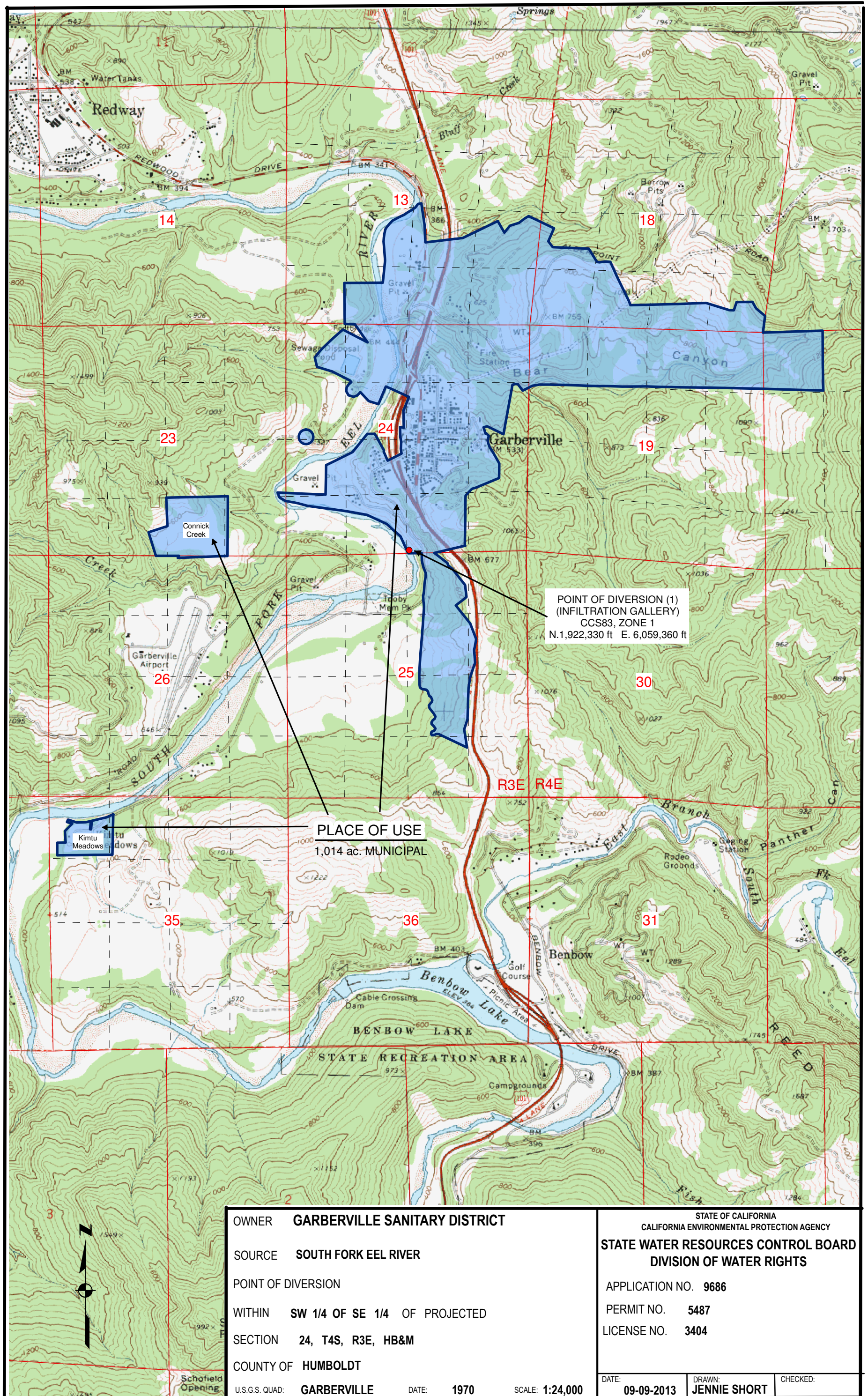
STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:  
KATHERINE MROWKA, ACTING MANAGER FOR

*Barbara Evoy, Deputy Director  
Division of Water Rights*

Dated: OCT 11 2013





OWNER	<b>GARBERVILLE SANITARY DISTRICT</b>		STATE OF CALIFORNIA CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY	
SOURCE	<b>SOUTH FORK EEL RIVER</b>		<b>STATE WATER RESOURCES CONTROL BOARD DIVISION OF WATER RIGHTS</b>	
POINT OF DIVERSION			APPLICATION NO. <b>9686</b>	
WITHIN	<b>SW 1/4 OF SE 1/4 OF PROJECTED</b>		PERMIT NO. <b>5487</b>	
SECTION	<b>24, T4S, R3E, HB&amp;M</b>		LICENSE NO. <b>3404</b>	
COUNTY OF	<b>HUMBOLDT</b>		DATE: <b>09-09-2013</b> DRAWN: <b>JENNIE SHORT</b> CHECKED:	
U.S.G.S. QUAD:	<b>GARBERVILLE</b>	DATE:	<b>1970</b>	SCALE: <b>1:24,000</b>

Note: This map does not constitute a public land survey as defined by California Business & Professions Code section 8726. It has been prepared for descriptive purposes only.





**STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD**

**DIVISION OF WATER RIGHTS**

**RIGHT TO DIVERT AND USE WATER**

APPLICATION 29981

PERMIT 20789

Right Holder: Garberville Sanitary District  
P.O. Box 211  
Garberville, CA 95542

The State Water Resources Control Board (State Water Board) authorizes the diversion and use of water by the right holder in accordance with the limitations and conditions herein **SUBJECT TO PRIOR RIGHTS**. The priority of this right dates from **July 22, 1991**. This right is issued in accordance with the State Water Board delegation of authority to the Deputy Director for Water Rights (Resolution 2012-0029) and the Deputy Director for Water Rights redelegation of authority dated July 6, 2012. This right supersedes any previously issued right on **Application 29981**.

The Deputy Director for Water Rights finds that: (a) the change will not operate to the injury of any lawful user of water; (b) good cause has been shown for the change; (c) the petition does not constitute the initiation of a new right; and (d) the State Water Resources Control Board (State Water Board) has made the required findings pursuant to the California Environmental Quality Act (CEQA) or the project is exempt from CEQA.

The State Water Board has complied with its independent obligation to consider the effect of the proposed change on public trust resources and to protect those resources where feasible. (*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419 [189 Cal.Rptr. 346, 658 P.2d 709].)

**Right holder is hereby granted a right to divert and use water as follows:**

1. Source of water: **(1) South Fork Eel River**  
tributary to: **(1) Eel River thence the Pacific Ocean**  
within the County of Humboldt.

2. Location of point of diversion

By California Coordinate System of 1983 in Zone 1	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
<b>(1) North 1,922,330 feet and East 6,059,360 feet</b>	<b>SW ¼ of SE ¼</b>	<b>24</b>	<b>4S</b>	<b>3E</b>	<b>H</b>

3. Purpose of use	4. Place of use					
	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian	Acres
Municipal	<b>Within the Garberville Sanitary District service area boundary within Sections 13, 23, 24, 25 and 35, T4S, R3E, HB&amp;M; and Sections 18, 19, and 20, T4S, R4E, HB&amp;M; as shown on map.</b>					

The place of use is shown on map dated September 9, 2013 on file with the State Water Board.

5. The water appropriated under this right shall be limited to the quantity which can be beneficially used and shall not exceed **0.595 cubic foot per second** by direct diversion to be diverted from January 1 to December 31 of each year. The maximum amount diverted under this right shall not exceed **430 acre-feet per year.** (000005A)
6. The total quantity of water diverted under this right and the right pursuant to Application 9686 shall not exceed **542.2 acre-feet per year.** (000005Q)
7. The maximum simultaneous rate of diversion under this right and the right pursuant to Application 9686 shall not exceed **0.75 cubic foot per second.** (000005S)
8. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 1999. (000009)
9. Based on the information in the Division's files, water has not been used under a claimed existing right on the place of use. If right holder exercises a claimed existing right on the place of use authorized by this right without prior approval from the State Water Board, right holder shall forfeit this water right. (000021C)
10. The equivalent of the authorized continuous flow allowance for any 7-day period may be diverted in a shorter time, provided there is no interference with other water rights and instream beneficial uses, and provided further that all terms and conditions protecting instream beneficial uses are observed. (000027)
11. No water shall be directly diverted under this right unless right holder is monitoring and reporting said diversion of water. This monitoring shall be conducted using a device and methods satisfactory to the Deputy Director for Water Rights. The device shall be capable of monitoring the rate and quantity of water diverted and shall be properly maintained.  
 Right holder shall provide the Division of Water Rights with evidence that the device has been installed with the first annual report submitted after device installation. Right holder shall provide the Division of Water Rights with evidence that substantiates that the device is functioning properly every five years after device installation as an enclosure to the current annual report or whenever requested by the Division of Water Rights.  
 Right holder shall maintain a record of all diversions under this license that includes the date, time, rate of diversion, and the amount of water diverted. The records shall be submitted with the annual report or whenever requested by the Division of Water Rights. (000000R)

**THIS RIGHT IS ALSO SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

- A. Right holder is on notice that: (1) failure to timely commence or complete construction work or beneficial use of water with due diligence, (2) cessation or partial cessation of beneficial use of water, or (3) failure to observe any of the terms or conditions of this right, may be cause for the State Water Board to consider revocation (including partial revocation) of this right. (Cal. Code Regs., tit. 23, § 850.) (0000016)
- B. Right holder is on notice that when the State Water Board determines that any person is violating, or threatening to violate, any term or condition of a right, the State Water Board may issue an order to that person to cease and desist from that violation. (Wat. Code, § 1831.) (0000017)
- C. Right holder is not authorized to make any modifications to the location of diversion facilities, place of use or purposes of use, or make other changes to the project that do not conform with the terms and conditions of this right, prior to submitting a change petition and obtaining approval of the State Water Board. (0000018)
- D. Once the time to develop beneficial use of water ends under this permit, right holder is not authorized to increase diversions beyond the maximum annual amount diverted or used during the authorized development schedule prior to submitting a time extension petition and obtaining approval of the State Water Board. (0000019)
- E. The amount of water for consideration when issuing a license shall be limited to only the amount of water diverted and applied to beneficial use in compliance with the terms and conditions of this right, as determined by the State Water Board. (Wat. Code, § 1610.) (0000006)
- F. Right holder shall maintain records of the amount of water diverted and used under this right to enable the State Water Board to determine the amount of water that has been applied to beneficial use. (0000015)
- G. Right holder shall promptly submit any reports, data, or other information that may reasonably be required by the State Water Board, including but not limited to documentation of water diversion and use under this right and documentation of compliance with the terms and conditions of this right. (0000010)
- H. No water shall be diverted under this right unless right holder is operating in accordance with a compliance plan, satisfactory to the Deputy Director for Water Rights. Said compliance plan shall specify how right holder will comply with the terms and conditions of this right. Right holder shall comply with all reporting requirements in accordance with the schedule contained in the compliance plan. (0000070)
- I. Right holder shall grant, or secure authorization through right holder's right of access to property owned by another party, the staff of the State Water Board, and any other authorized representatives of the State Water Board the following:
1. Entry upon property where water is being diverted, stored or used under a right issued by the State Water Board or where monitoring, samples and/or records must be collected under the conditions of this right;



2. Access to copy any records at reasonable times that are kept under the terms and conditions of a right or other order issued by State Water Board;
3. Access to inspect at reasonable times any project covered by a right issued by the State Water Board, equipment (including monitoring and control equipment), practices, or operations regulated by or required under this right; and,
4. Access to photograph, sample, measure, and monitor at reasonable times for the purpose of ensuring compliance with a right or other order issued by State Water Board, or as otherwise authorized by the Water Code. (0000011)

J. This right shall not be construed as conferring right of access to any lands or facilities not owned by right holder. (0000022)

K. All rights are issued subject to available flows. Inasmuch as the source contains treated wastewater, imported water from another stream system, or return flow from other projects, there is no guarantee that such supply will continue. (0000025)

L. This right does not authorize diversion of water dedicated by other right holders under a senior right for purposes of preserving or enhancing wetlands, habitat, fish and wildlife resources, or recreation in, or on, the water. (Wat. Code, § 1707.) The Division of Water Rights maintains information about these dedications. It is right holders' responsibility to be aware of any dedications that may preclude diversion under this right. (0000212)

M. No water shall be diverted or used under this right, and no construction related to such diversion shall commence, unless right holder has obtained and is in compliance with all necessary permits or other approvals required by other agencies. If an amended right is issued, no new facilities shall be utilized, nor shall the amount of water diverted or used increase beyond the maximum amount diverted or used during the previously authorized development schedule, unless right holder has obtained and is in compliance with all necessary requirements, including but not limited to the permits and approvals listed in this term.

Within 90 days of the issuance of this right or any subsequent amendment, right holder shall prepare and submit to the Division of Water Rights a list of, or provide information that shows proof of attempts to solicit information regarding the need for, permits or approvals that may be required for the project. At a minimum, right holder shall provide a list or other information pertaining to whether any of the following permits or approvals are required: (1) lake or streambed alteration agreement with the Department of Fish and Wildlife (Fish & G. Code, § 1600 et seq.); (2) Department of Water Resources, Division of Safety of Dams approval (Wat. Code, § 6002); (3) Regional Water Quality Control Board Waste Discharge Requirements (Wat. Code, § 13260 et seq.); (4) U.S. Army Corps of Engineers Clean Water Act section 404 permit (33 U.S.C. § 1344); and (5) local grading permits.

Right holder shall, within 30 days of issuance of any permits, approvals or waivers, transmit copies to the Division of Water Rights. (0000203)

- N. Urban water suppliers must comply with the Urban Water Management Planning Act (Wat. Code, § 10610 et seq.). An "urban water supplier" means a supplier, either publicly or privately owned, providing water for municipal purposes either directly or indirectly to more than 3,000 customers or supplying more than 3,000 acre-feet of water annually.

Agricultural water users and suppliers must comply with the Agricultural Water Management Planning Act (Act) (Water Code, § 10800 et seq.). Agricultural water users applying for a permit from the State Water Board are required to develop and implement water conservation plans in accordance with the Act. An "agricultural water supplier" means a supplier, either publicly or privately owned, supplying more than 50,000 acre-feet of water annually for agricultural purposes. An agricultural water supplier includes a supplier or contractor for water, regardless of the basis of right, which distributes or sells for ultimate resale to customers.

(0000029D)

- O. Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this right, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the State Water Board may be exercised by imposing specific requirements over and above those contained in this right with a view to eliminating waste of water and to meeting the reasonable water requirements of right holder without unreasonable draft on the source. Right holder may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this right and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the State Water Board also may be exercised by imposing further limitations on the diversion and use of water by right holder in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution, article X, section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

- P. The quantity of water diverted under this right is subject to modification by the State Water Board if, after notice to right holder and an opportunity for hearing, the State Water Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the State Water Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

- Q. This right does not authorize any act which results in the taking of a candidate, threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, § 2050 et seq.) or the federal Endangered Species Act (16 U.S.C. § 1531 et seq.). If a "take" will result from any act authorized under this right, right holder shall obtain any required authorization for an incidental take prior to construction or operation of the project. Right holder shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this right.

(0000014)

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*This right is issued and right holder takes it subject to the following provisions of the Water Code:*

*Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer .*

*Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).*

STATE WATER RESOURCES CONTROL BOARD

for *Katherine Mrowka, Acting Manager*  
*Barbara Evoy, Deputy Director*  
*Division of Water Rights*

Dated: **OCT 11 2013**



Mr. Mark Bryant, General Manager  
Garberville Sanitary District

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OCT 11 2013  
- 2 -

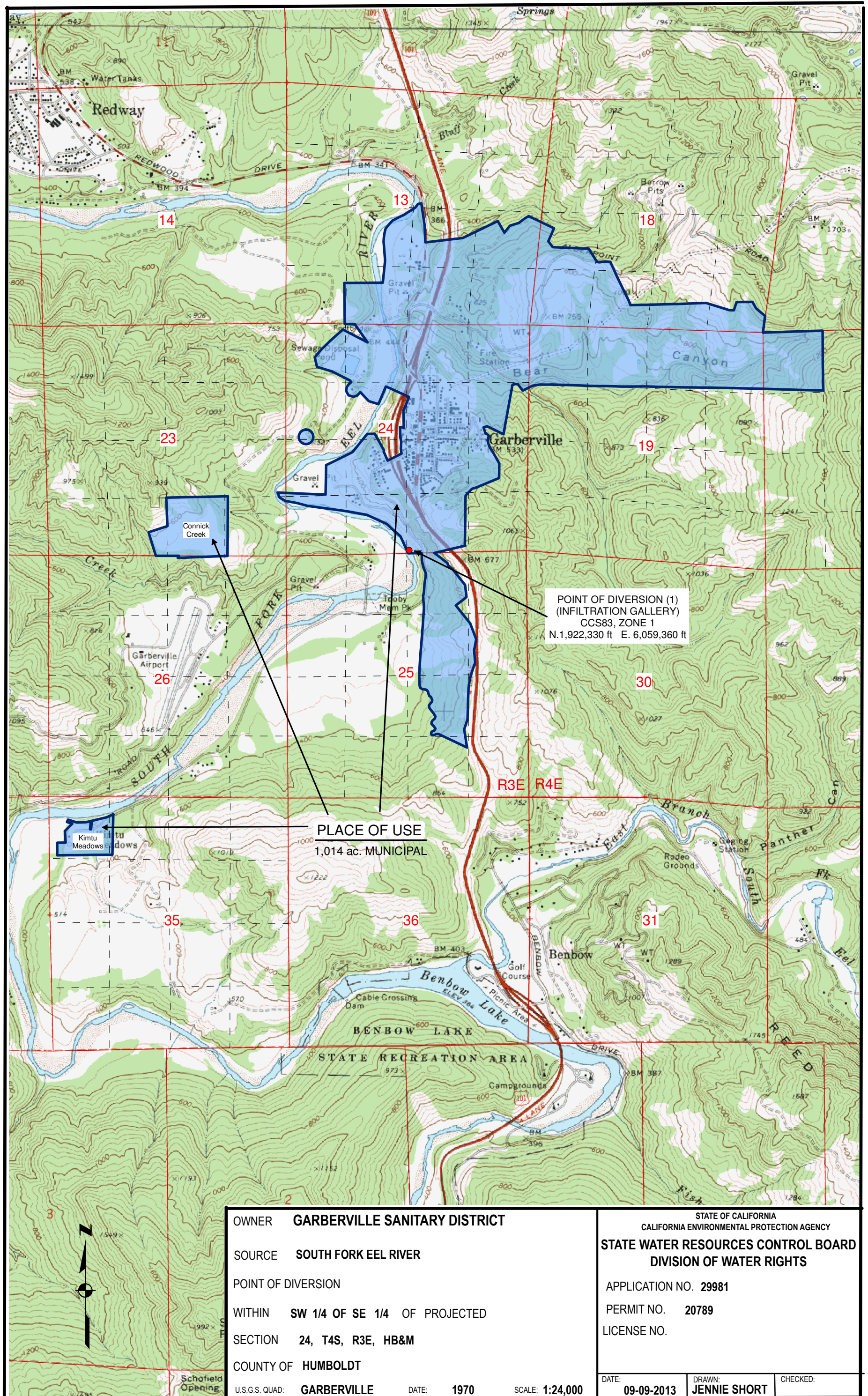
OCT 11 2013

cc (w/enclosures):

Department of Fish and Wildlife  
Northern Region  
c/o Mrs. Jane Arnold  
619 Second Street  
Eureka, CA 95501

Regional Water Quality Control Board  
North Coast Region  
c/o Mr. Bryan McFadin  
5550 Skylane Boulevard, Suite A  
Santa Rosa, CA 95403





OWNER	<b>GARBERVILLE SANITARY DISTRICT</b>		
SOURCE	<b>SOUTH FORK EEL RIVER</b>		
POINT OF DIVERSION	<p>WITHIN <b>SW 1/4 OF SE 1/4</b> OF PROJECTED SECTION <b>24, T4S, R3E, HB&amp;M</b></p>		
COUNTY OF	<b>HUMBOLDT</b>		
U.S.G.S. QUAD:	<b>GARBERVILLE</b>	DATE:	<b>1970</b>
		SCALE:	<b>1:24,000</b>

STATE OF CALIFORNIA CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY		
<b>STATE WATER RESOURCES CONTROL BOARD DIVISION OF WATER RIGHTS</b>		
APPLICATION NO. <b>29981</b>		
PERMIT NO. <b>20789</b>		
LICENSE NO.		
DATE:	DRAWN:	CHECKED:
<b>09-09-2013</b>	<b>JENNIE SHORT</b>	

Note: This map does not constitute a public land survey as defined by California Business & Professions Code section 8726. It has been prepared for descriptive purposes only.



## Appendix B

### DFG Agreement for South Fork Eel River Diversion

**CALIFORNIA DEPARTMENT OF FISH AND GAME**  
REGION 1 – NORTHERN REGION  
601 Locust Street  
Redding, CA 96001

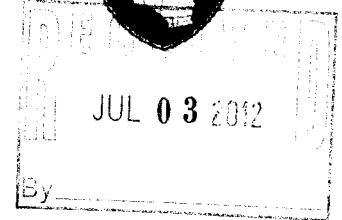
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**D. F. G. – EUREKA**



**LAKE or STREAMBED ALTERATION AGREEMENT**  
NOTIFICATION No. 1600-2012-0030-R1  
Unnamed Tributaries to the South Fork Eel River and the South Fork  
Eel River



**GARBERVILLE SANITARY DISTRICT**  
**GARBERVILLE SANITARY DISTRICT WATER SYSTEM IMPROVEMENT PROJECT**

This Lake or Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Game (DFG) and Garberville Sanitary District represented by Mr. Herb Schwartz (Permittee).

**RECITALS**

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, Permittee notified DFG on April 27, 2012, that Permittee intends to complete the project described herein.

WHEREAS, pursuant to FGC section 1603, DFG has determined that the project could substantially adversely affect existing fish or wildlife resources and has included measures in the Agreement necessary to protect those resources.

WHEREAS, Permittee has reviewed the Agreement and accepts its terms and conditions, including the measures to protect fish and wildlife resources.

NOW THEREFORE, Permittee agrees to complete the project in accordance with the Agreement.

**PROJECT LOCATION**

The project is located at unnamed tributaries to South Fork Eel River and South Fork Eel River, in the County of Humboldt, State of California; Sections 24 and 25; Township 5S; Range 3E; Humboldt Base and Meridian, U.S. Geological Survey (USGS) Garberville map; Assessor's Parcel Number 032-211-019; 222-091-006; and 032-231-045.

**PROJECT DESCRIPTION**

The project is limited to the diversion of water from the South Fork Eel River; upgrading a South Fork Eel River water intake facility; constructing a new surface water treatment plant; upgrading the Oak Street Booster Pump station; and constructing or upgrading the raw and treated water distribution mains from the intake to the treatment plant and storage tank. Facility upgrading and construction work was determined by Army Corps of Engineers to be above ordinary high water mark.

The South Fork Eel River diversion for the Kimtu subdivision has been replaced with Garberville Sanitary District water supply as part of the project upgrades. The rate of diversion from the South Fork Eel River does not exceed 0.75 cubic feet per second (cfs). Water is diverted from an infiltration gallery in the South Fork Eel River.

## PROJECT IMPACTS

Existing fish or wildlife resources the project could substantially adversely affect include: steelhead trout (*Oncorhynchus mykiss*), Chinook (*O. tshawytscha*) and coho salmon (*O. kisutch*), amphibians, other aquatic species and native riparian vegetation. The adverse effects the project could have on the fish or wildlife resources identified above include: direct and/or incidental take, impede up- and/or down- stream migration of aquatic species, damage to spawning and/or rearing habitats and potential cumulative impacts.

## MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES

### 1. Administrative Measures

Permittee shall meet each administrative requirement described below.

- 1.1 Documentation at Project Site. Permittee shall make the Agreement, any extensions and amendments to the Agreement, and all related notification materials and California Environmental Quality Act (CEQA) documents, readily available at the project site at all times and shall be presented to DFG personnel, or personnel from another state, federal, or local agency upon request.
- 1.2 Providing Agreement to Persons at Project Site. Permittee shall provide copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the project at the project site on behalf of Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
- 1.3 Notification of Conflicting Provisions. Permittee shall notify DFG if Permittee determines or learns that a provision in the Agreement might conflict with a provision imposed on the project by another local, state, or federal agency. In that event, DFG shall contact Permittee to resolve any conflict.
- 1.4 Project Site Entry. Permittee agrees that DFG personnel may enter the project site at any time to verify compliance with the Agreement.

### 2. Avoidance and Minimization Measures

To avoid or minimize adverse impacts to fish and wildlife resources identified above, Permittee shall implement each measure listed below.

- 2.1 Except where otherwise stipulated in this Agreement, all work shall be in accordance with the work plan submitted with Notification No. 1600-2012-0030-R1, as of April 27, 2012.
- 2.2 Except for the diversion of water, all work in or adjacent to a stream shall be conducted during the period June 1 through October 15 of each year.
- 2.3 The Permittee shall contact DFG within the 7-day period preceding the beginning of work permitted by this Agreement. Information to be disclosed shall include Agreement number and the anticipated start date. The Permittee shall contact DFG within thirty days of completion of the work permitted by this Agreement. Information to be disclosed shall include Agreement number.
- 2.4 Work at encroachments shall be left in a finished condition with all hydrologic connectivity from the road or ditch to the crossing eliminated as feasible and effective erosion control in place prior to any rainfall event capable of generating runoff. Effective erosion control shall extend away from the crossing to at least the first waterbreak.
- 2.5 No fill material shall be placed within a stream except as specified in this Agreement. No native fill shall be placed in a live stream. Any fill material used shall be placed and/or removed in such a manner that it shall cause no sediment discharge or siltation in the stream.
- 2.6 All heavy equipment that will be entering the live stream shall be cleaned of materials deleterious to aquatic life including oil, grease, hydraulic fluid, soil and other debris. Cleaning of equipment shall take place outside of the riparian area and prior to entering the water.
- 2.7 For all activities performed in the field involving the use of petroleum or oil based substances, the Permittee shall employ absorbent material designated for spill containment and clean up activity on site for use in case of accidental spill. Clean-up of all spills shall begin immediately. The Permittee shall immediately notify the State Office of Emergency Services at 1-800-852-7550. DFG shall be notified by the Permittee and consulted regarding clean-up procedures.
- 2.8 Refueling of equipment and vehicles and storing, adding or draining lubricants, coolants or hydraulic fluids shall not take place within riparian areas or within streambeds, banks or channels. All such fluids and containers shall be disposed of properly. Heavy equipment including water drafting trucks parked within riparian areas or streambeds, banks or channels shall use drip pans or other devices (i.e., absorbent blankets, sheet barriers or other materials) as needed to prevent soil and water contamination.
- 2.9 No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any logging, construction, or associated activity of whatever nature shall be allowed to

enter into or be placed where it may be washed by rainfall or runoff into Waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area.

- 2.10 Disturbance or removal of vegetation shall not exceed the minimum necessary to complete operations.
- 2.11 Adequate and effective erosion and siltation control measures shall be used to prevent sediment or turbid or silt-laden water from entering streams. Where needed, the Permittee shall use native vegetation or other treatments including jute netting, straw wattles, and geotextiles to protect and stabilize soils. Geotextiles, fiber rolls, and other erosion control treatments shall not contain plastic mesh netting.
- 2.12 All bare mineral soil exposed in conjunction with construction and/or maintenance activities shall be treated for erosion prior to the onset of precipitation capable of generating run-off or the end of the yearly work period, whichever comes first. Restoration shall include the seeding, covering, and armoring of all bare mineral soil exposed in conjunction with encroachment work. Erosion control shall consist only of native blue wild rye seed (*Elymus glaucus*). No annual (Italian) ryegrass (*Lolium multiflorum*) shall be used.
- 2.13 The Permittee shall provide site maintenance including, but not limited to, re-applying erosion control to minimize surface erosion and ensuring drainage structures, streambeds and banks remain sufficiently armored and/or stable.

#### Site-Specific Conditions

- 2.14 Equipment shall not operate in a live (flowing) stream.
- 2.15 The Permittee shall not divert more than 0.75 cfs or 10% of the streamflow as measured at the USGS Gauge Station No. 11476500 at Miranda.
- 2.16 The Responsible Party shall maintain log books when required to measure streamflow. Log books shall have current operational information including: (a) site location, (b) date and time, (c) diversion rate (in gallons per minute or cubic feet per second), and (d) measured streamflow at USGS Gauge Station No. 11476500 shall be maintained. The log books shall be made available to DFG upon request.
- 2.17 Rock slope protection shall be of sufficient size to remain in place during 100-year flood flows.
- 2.18 Revegetation of the water intake work site shall occur. Vegetation planted shall utilize the native plant pallet of species currently or historically present in the work area. Seeds, cuttings and divisions of locally-collected native plants are recommended.

- 2.19 Planting shall be conducted during the most favorable period of the year for plant establishment.
- 2.20 Restoration of native plants at a ratio of 3:1 or with a planting density typical of historic conditions or at a level that will facilitate natural recruitment and recovery of the native riparian species.
- 2.21 If an invasive non-native plant species is present in the water intake work area, then non-native species shall be removed.
- 2.22 All stream work on an unnamed tributary at Oak Street Booster Station shall be completed using hand tools. Work shall cause no sediment delivery to the stream or head-cutting or down-cutting of the stream.

### **3. Reporting Measures**

Permittee shall meet each reporting requirement described below.

- 3.1 The Permittee shall notify the DFG, in writing, at least five (5) days prior to initiation of construction (project) activities and at least five (5) days prior to completion of construction (project) activities. Notification shall be faxed to the Department at (707) 441-2021.
- 3.2 Permittee shall provide log books to DFG upon request.

### **CONTACT INFORMATION**

Any communication that Permittee or DFG submits to the other shall be in writing and any communication or documentation shall be delivered to the address below by U.S. mail, fax, or email, or to such other address as Permittee or DFG specifies by written notice to the other.

#### To Permittee:

Mr. Herb Schwartz  
Garberville Sanitary District  
919 Redwood Drive  
Garberville, California 95542



To DFG:

Department of Fish and Game  
Northern Region  
619 2<sup>nd</sup> Street  
Eureka, California 95501

Attn: Lake and Streambed Alteration Program  
Notification #1600-2012-0030-R1  
Fax: (707) 441-2021

**LIABILITY**

Permittee shall be solely liable for any violations of the Agreement, whether committed by Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents or contractors and subcontractors, to complete the project or any activity related to it that the Agreement authorizes.

This Agreement does not constitute DFG's endorsement of, or require Permittee to proceed with the project. The decision to proceed with the project is Permittee's alone.

**SUSPENSION AND REVOCATION**

DFG may suspend or revoke in its entirety the Agreement if it determines that Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, is not in compliance with the Agreement.

Before DFG suspends or revokes the Agreement, it shall provide Permittee written notice by certified or registered mail that it intends to suspend or revoke. The notice shall state the reason(s) for the proposed suspension or revocation, provide Permittee an opportunity to correct any deficiency before DFG suspends or revokes the Agreement, and include instructions to Permittee, if necessary, including but not limited to a directive to immediately cease the specific activity or activities that caused DFG to issue the notice.

**ENFORCEMENT**

Nothing in the Agreement precludes DFG from pursuing an enforcement action against Permittee instead of, or in addition to, suspending or revoking the Agreement.

Nothing in the Agreement limits or otherwise affects DFG's enforcement authority or that of its enforcement personnel.

## **OTHER LEGAL OBLIGATIONS**

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from obtaining any other permits or authorizations that might be required under other federal, state, or local laws or regulations before beginning the project or an activity related to it.

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with other applicable statutes in the FGC including, but not limited to, FGC sections 2050 *et seq.* (threatened and endangered species), 3503 (bird nests and eggs), 3503.5 (birds of prey), 5650 (water pollution), 5652 (refuse disposal into water), 5901 (fish passage), 5937 (sufficient water for fish), and 5948 (obstruction of stream).

Nothing in the Agreement authorizes Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, to trespass.

## **AMENDMENT**

DFG may amend the Agreement at any time during its term if DFG determines the amendment is necessary to protect an existing fish or wildlife resource.

Permittee may amend the Agreement at any time during its term, provided the amendment is mutually agreed to in writing by DFG and Permittee. To request an amendment, Permittee shall submit to DFG a completed DFG "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the corresponding amendment fee identified in DFG's current fee schedule (see California Code Regulations, Title 14, section 699.5).

## **TRANSFER AND ASSIGNMENT**

This Agreement may not be transferred or assigned to another entity, and any purported transfer or assignment of the Agreement to another entity shall not be valid or effective, unless the transfer or assignment is requested by Permittee in writing, as specified below, and thereafter DFG approves the transfer or assignment in writing.

The transfer or assignment of the Agreement to another entity shall constitute a minor amendment, and therefore to request a transfer or assignment, Permittee shall submit to DFG a completed DFG "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the minor amendment fee identified in DFG's current fee schedule (see California Code Regulations, Title 14, section 699.5).

## **EXTENSIONS**

In accordance with FGC section 1605(b), Permittee may request one extension of the Agreement, provided the request is made prior to the expiration of the Agreement's term. To request an extension, Permittee shall submit to DFG a completed DFG "Request to Extend Lake or Streambed Alteration" form and include with the completed form payment of the extension fee identified in DFG's current fee schedule (see California Code Regulations, Title 14, section 699.5). DFG shall process the extension request in accordance with FGC section 1605(b) through (e).

If Permittee fails to submit a request to extend the Agreement prior to its expiration, Permittee must submit a new notification and notification fee before beginning or continuing the project the Agreement covers (FGC section 1605, subd. (f)).

## **EFFECTIVE DATE**

The Agreement becomes effective on the date of DFG's signature, which shall be: 1) after Permittee's signature; 2) after DFG complies with all applicable requirements under the California Environmental Quality Act (CEQA); and 3) after payment of the applicable FGC section 711.4 filing fee listed at [http://www.dfg.ca.gov/habcon/ceqa/ceqa\\_changes.html](http://www.dfg.ca.gov/habcon/ceqa/ceqa_changes.html).

## **TERM**

This Agreement shall expire five years from execution, unless it is terminated or extended before then. All provisions in the Agreement shall remain in force throughout its term. Permittee shall remain responsible for implementing any provisions specified herein to protect fish and wildlife resources after the Agreement expires or is terminated, as FGC section 1605(a)(2) requires.

## **AUTHORITY**

If the person signing the Agreement (signatory) is doing so as a representative of Permittee, the signatory hereby acknowledges that he or she is doing so on Permittee's behalf and represents and warrants that he or she has the authority to legally bind Permittee to the provisions herein.

## **AUTHORIZATION**

This Agreement authorizes only the project described herein. If Permittee begins or completes a project different from the project the Agreement authorizes, Permittee may be subject to civil or criminal prosecution for failing to notify DFG in accordance with FGC section 1602.

**CONCURRENCE**

The undersigned accepts and agrees to comply with all provisions contained herein.

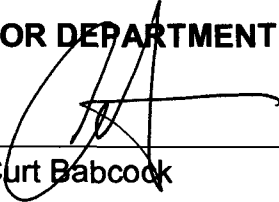
**FOR GARBERVILLE SANITARY DISTRICT  
MR. HERB SCHWARTZ**



Mr. Herb Schwartz

6/15/12  
Date

**FOR DEPARTMENT OF FISH AND GAME**



T. LABANEZ

Curt Babcock  
Environmental Program Manager

6/26/12

Date

Prepared by: Jane Arnold, Staff Environmental Scientist

## Appendix C

### Division of Drinking Water Inspection Report

California State Water Resources Control Board  
 Division of Drinking Water  
 Field Inspection Report Version 2/5/2019

Purveyor Garberville Sanitary District; **Community System** System Number 1210008  
 Persons Contacted & Position Dan Arreguin, WTO (707) 223-4569  
 Date of Inspection January 15, 2019 Reviewing Engineer Franklin Saylor  
 Last Inspection February 13, 2017, Franklin M. Saylor District Engineer Barry Sutter

**A. INTRODUCTION**

1. **Permit Status** Mass mail permit only; permit Amendment 01-01-11(P)-004 due to change in ownership as of 12/15/2004; permit Amendment 01-01-12(P)-002 2/8/2013 to add Kimtu Meadows MWC service area to Garberville SD; permit Amendment 8/15/2014 for new filter plant and associated improvements.
2. **Changes** Since 2/13/17 Added CT tank. Planned Replace Wallen Road Tank with HDPE tank.
3. **Consumer & Production Data (from Annual Reports to DDW)**

Year	MGA	MG max month	MG max day	Max day gpm	Conn.	Pop.	GPD/conn
2017	58.62	7.20 (August)	8/4/17: 0.2957	205	442	913	670
2016	53.15	6.28 (July)	8/26/16: 0.2535	175	442	913	575
2015	55.34	6.15 (August)	10/3/15: 0.263	183	417	913	630
2014	63.47	6.77 (July)	7/4/14: 0.269	187	422	1396	637
2013	62.60	7.18(August)	8/20/13: 0.384	267	423	1396	909
2012	62.66	7.69 (August)	0.319	221	418	734	762
2011	57.92	6.77 (Sept.)	0.279	194	398	1500	701
2010	60.85	6.86 (August)	0.321	223	399		805
2009	57.09	7.01 (July)	0.262	182	409		641
2008	60.34	6.835	0.257	178	409		628
2007	65.32	8.259 (August)	0.312	217	409		763
2006	62	7.64 (July)	0.33	229	409		807
2005	63.33	8.45 (August)	0.31	215	409		758
2004	---	Data not available		---	---		---
2003	63.72	8.43 (July)	0.31	215	394		787

**B. SOURCE DATA**

Sources	Status	Capacity	Comments
Well 1- Tobin Well	Active	limited, water level pulls down during sustained pumping	~45' down to water level from ground surface. I did not climb down to lower stage. Well produced 1.54 MGA in 2012. Not run at all in 2013. Lower stage has better surface seal than in 2014. Improved seal on well cover as of 1/23/2019. <b>Features:</b> 1) Has ~6" raised curb to reduce possibility of surface water entry. 2) Chlorination is into the well bore. Raw water sampling is done on the water not yet chlorinated upon start-up. Start-up water is discharged into the street until chlorine residual is detected. 3) Has check valve as well as gate valves to prevent backflow from distribution. 4) Has totalizing water production meter. 5) Well vented via small openings in cover plate. <b>Recommend rebuilding well cover to improve seal &amp; accessibility.</b>
Eel River	active	350 gpm one pump; only one pump can run at a time.	4' dia CMP infiltration gallery with 2 variable frequency drive submersible pumps. Two 4-inch diameter perforated pipes in river bed feed to the gallery.
Unnamed creek	inactive	Unknown	Last used as low turbidity source during January 2006 Eel River flood stage storm. Flow was too low during last several winters to be useful. Not in use since 2006, per Arreguin 1/15/19.

**Purchased from other systems; Emergency Connections: None**

Discussion No reported water shortages in system.

## C. TREATMENT

1. **Surface Water Sources:** Are there significant sewage hazards? No  
Is there significant recreation? Yes, Benbow Lake State Park is a few miles upstream.  
Has a watershed sanitary survey been conducted? Yes; DWSAP completed January 2002.  
Treatment Direct filtration. Per Section 64653 2-log Giardia and 2-log Cryptosporidium removal credit.  
Treatment process: 1) Water is pumped from the Eel River infiltration gallery to filter plant.  
2) Ultrion 8157 polymer is fed ahead of coagulation tank. 3) Two 10-foot filter cells are next. Pressure tank/CT vessel roughly 5 ft diameter by 12 feet length. Entirely new filter system completed 2014.  
Approved maximum filter rate and plant capacity Two mixed media pressure filters: allowed 3 gpm/ft<sup>2</sup>.  
Vessel Size: 2 X 10-foot diameter, ~80 SF each, or 160 SF total. At 3 gpm/SF "Regulated" flow per Title 22 Section 64460(b)(1), this would allow ~480 gpm maximum plant output. However, raw water river pumps are capable currently of delivering just 350 gpm with one pump. Due to the telemetry, only one pump at a time can be operated. So, maximum rate of operation is ~350 gpm maximum. Maximum day per record was 267 gpm in 2013. Next highest was in 2006; 229 gpm. Both of these were before the 2014 WTP was completed. Rates below 350 gpm are possible, as the river pumps are variable frequency drive.  
How is filter rate controlled? Valve and varying number of active raw water delivery pumps.  
Filter rates exceeded maximum approved rate? No. Max day (8/20/2013) 267 gpm, before new WTP in 2014. New WTP has capacity of roughly 480 gpm; river pumps cannot deliver this much raw water. So, 3 gpm/sq. ft. filter rates cannot be exceeded with the current river pumps.  
Are filters operated to minimize shutdowns and startups or rapid changes in filter rates? Are filter rates constant or varied to meet system demands? Yes. The filter rate is varied to meet system demands. Also, filters are shut down when raw water supply has very high turbidities (usually in winter).  
Coagulation used at all times and optimized. Yes, Ultrion 8157 cationic polymer used.  
How is coagulant feed rate determined and optimized? By hand, turbidity in finished water (Trial & Error).  
Metering pumps (make, model, and capacity) LMI 0.26 gph @ 250 psi.  
Standby metering pumps? Yes.  
How often metering pumps calibrated? Field adjusted under load.  
Describe backwash cycle: The source of backwash water is finished water from the distribution system. adjacent to the filters. BW is done manually in summer at least once/week, and in winter about 2-3 times/week, based upon experience. BW does include surface wash, but does not include air scour. Backwash water flow rates are about 10 gpm/ sq. ft. Uses ~940 gpm including surface wash, ~850 gpm with just backwash.  
Frequency of backwashing and/or what initiates backwash manual BW; see above.  
Method used to minimize turbidity spikes after backwashing or other interruption events. Filter to waste.  
If filter to waste provided, length of time? Yes, about five minutes, but WTO can vary rinse to waste time based upon prior experience.  
Are filter rates gradually increased after backwashing or other shut down? Yes. After backwash discharge valve to backwash tank closes, then another valve to distribution opens. Slow opening valve restarts at 0%-ramps up to 100% of set filter flow within 2-3 minutes.  
If coagulant added to backwash water, dosage and name of coagulant? none  
Is reclaimed backwash water returned to headworks? Yes. How is the rate kept to less than 10% of total inlet flow? Backwash water recycle pump is small, cannot produce more than ~ 10% of total flow.  
Are pressure filters physically inspected annually? No. Request 2019 inspection.  
Is emergency plan for disinfection failure up-to-date? Yes. Have spare hypochlorite injector and emergency power generator. Can also hand dose any of the storage tanks with liquid chlorine bleach if needed.  
Is operations plan up-to-date? No, Operations Plan for the new WTP has not been completed. During my 2/13/2017 field visit, Mr. Arrequin agreed to a completion date for the updated Operations Plan of August 31, 2017. Not yet done, request; new deadline of May 31, 2019.  
Discussion Appears the new filter plant is operating within DDW regulations 100% of the time.  
**Filtration performance**  
Performance (performance standard is  $\leq 0.3$  NTU 95% of time, and not to exceed 2 NTU at any time (Federal LT2)) 100% of readings 2014 since the new plant was put on line, through January 2017 less than 0.1 NTU, most below 0.05 NTU.  
Does turbidity after backwashing meet criteria for each filter? ( $\leq 0.5$  NTU after 4 hours and  $\leq 1.0$  NTU 90% of time during last 12 months and not to exceed 2.0 NTU) Yes.  
Are performance standards met for combined effluent and individual filters? Yes;  $<0.3$  NTU 95% of time.  
Discussion See above and below.  
**40 CFR, Part 141, LT1 ESWTR Requirements (Enforced by USEPA):**

Disinfection profiling (Sections 141.530-141.536): Not required. The TTHM/HAA5 distribution samples are below the 40/30 disinfection profile triggers.

Combined filter effluent requirements (Sections 141.550-141.553): The system is required to meet a 95<sup>th</sup> percentile turbidity value of 0.3-NTU and not to exceed 1.0 NTU.

Individual filter turbidity requirements (Section 141.560-141.564): The system has two separate filter cells; but currently monitor only combined filtered NTU.

Discussion and Appraisal: Have continuous-reading turbidimeter. Report monthly on minutes in operation, minutes below 0.3 NTU.

**Monitoring and Alarms** High NTU, low water level in main tank.

Are samples collected at proper locations that give accurate and representative results (must be before clearwell) Samples taken just after filter.

Can each filter or filter cell be monitored for turbidity Yes, but only by shutting down one filter cell. Normal operation monitors combined output turbidity.

Discuss other monitoring or sampling (particle counters, etc.) none

Other alarms related to treatment plant process none

Alarms adequate to provide warning of coagulation, filtration, and disinfection failures or describe alternatives? No, but levels checked visually daily.

Are alarms tested, and if so, how often? Alarms – Both per Arreguin: Chlorine residual analyzer tested every time the electrical generator is tested, as while on generator, it does not work. The high turbidity alarm goes off every time the filters are backwashed, as the backwashed water is also sent through the turbidity meter.

#### **Turbidimeters**

Type and model of turbidimeters used 2-Hach 1720E; 1-Hach 2100A bench top.

How often turbidimeters calibrated? 2-3 times per year.

Discussion Complete compliance with the 0.3 NTU limit, vast majority of finished NTU in 2016 below 0.05.

Records maintained of treatment Daily meter reading, water produced, chlorine tank level, chlorine used, chlorine feed rate, polymer used, free chlorine residual, and finished water turbidity, daily raw water turbidity, water temperature, and pH, daily CT calculation.

Are operations criteria met? (filtration rate, operation plan, etc.) Yes.

Standby replacement Replacement pump not available; no replacement pump motor.

Redundant backup Yes; two river pumps; two pipes into the river gravels. Two filter vessels at filter plant, each can be isolated and run separately.

Standby power New filter plant built in 2014 has standby power generator located on site. Tobin Well has 'pigtailed' for rapid hookup and use of rented emergency generator.

Disinfection of surface water sources Pre-chlorination using NSF 61 approved NaOCl 12.5%

Type LMI Positive displacement diaphragm. Capacity 24 gpd at 100 psig.

Standby feeders on site.

"CT" (Per Ronnean Lund & Craig Bunas, aided by Tracer study by Guy Schott, all DDW):

Residuals 1.8-2+ PPM.

Time CT vessel 20,00 gallons; baffling factor (from Schott slug dose study 10/30-31/2018) =0.45

pH range Used 7.4 for worst case. Temperature range Used 10 C for worst case.

CT 20,000 gallons/350 gpm X 0.45 X 1.9 PPM=49 CT. From CT Tables, pH of 7.4, 10 C, this provides 1-log Giardia reduction.

Distribution residuals at least a trace 95%? Yes. Alarms Low chlorine residual alarm at WFP

Discussion Turbidimeters reportedly calibrated 2-3 times per year. **Need to revise WTP monitoring records to include daily calculation of CT required and CT obtained, and show ratio between these two.** Thus, a ratio equal or greater than 1 means CT obtained > CT required. **Recommend installing guard rail at top of retaining wall at Water Filtration Plant.**

2. **Groundwater Sources:** Is continuous disinfection provided? Yes

Describe facilities Sodium Hypochlorite 12.5% injected.

Discussion Well dosed at approx. 0.5 ppm; mostly used in emergencies. In 2012-1.54 MGA by Well. 2013: Well not used. 2016: Was used one day in 2016. Used in November 2017, following CT pipe break on Nov. 25<sup>th</sup>, 2017. Not used for domestic supply in 2018 or 2019 through 1/14/2019.

3. **Other Treatment or Blending Facilities:** None

4. **Describe Records Maintained of Treatment:** See above under "Surface Water Sources".

5. **Stage 1 Disinfection Byproducts Rule:** No issues; all results less than 40/30.



**D. STORAGE DATA**

Name	Type	Capacity	Zone	Comments
Main-Hurlbutt	concrete	0.20 MG	Main	Located at Hurlbutt Orchard. No immediate defects as of 1/19/2019. <b>Old tank with wood roof; recommend replacement. Recommend site security fencing.</b>
Robertson Tank	concrete	0.05 MG	Robertson	Fills from Alderpoint zone. No immediate defects as of 1/24/2019. No apparent leakage. <b>Old tank with cable reinforcing loop and wood roof. Recommend replacement. Recommend site security fencing.</b>
Alderpoint Road Tank	Welded Steel	0.2 MG	Alderpoint	New in 2014. No defects as of 1/19/2019
Wallen Road Tank	Redwood	0.02 MG	Wallen Road	Roofing okay. Filled by booster from Alderpoint Road Tank. Very minor leakage; <1 gpm. Reportedly to be replaced by an HDPE tank. No defects as of 1/19/2019.
House-Pressure Tanks at Hurlbutt tank	Bladder type pressure tanks	5 tanks @ 50 gallons each	Booster	Good condition. Supplies approx. 6 connections near but above Hurlbutt Tank HGL. Tanks new in 2018, tan in color. Covered in winter to reduce freezing potential.
Maple Lane	HP	800 gal.	Maple	Fair condition; surface rust; supplies 21 homes

Does storage capacity comply with Waterworks Standards? Yes  
 Are all data sheets completed & on file? No; send 'blank' data sheets to be completed by WTO.  
 Are DDW coating procedures adhered to? N/A – redwood and concrete tanks  
 Discussion (Plans for recoatings, cleanings, or inspections?) No recent tank cleanings. Numerous woodpecker holes in several tanks; repaired with screening except those below water line were plugged.

**E. TRANSMISSION FACILITIES:** 6" PVC pipe wet well to filter plant; 6" steel from 2014 filter plant to & under Freeway 101; 8" asbestos cement pipe Freeway to Hurlbutt tank. However, plan for some future customer services to take water from this line, so it will no longer solely a transmission line in the next few years.

Are there low head lines? No  
 Discussion Reportedly in good condition, new in 2014.

**F. DISTRIBUTION SYSTEM**

**1. Pressure Zones:** Five pressure zones, all fed by same sources. All outlying zones pump from main zone. Zone numbering per 2012 Bacteriological Sample Site Plan. All pressures reported as greater than 35 psig.

Pressure Zone Name	Pressure Range	Water Sources	Storage Capacity	~No. of Conn.
Zone 1 – Main	?	All	0.2 MG	325
Zone 2 – Booster (House @ Main Tank)	?	Main Tank	None	21*
Zone 3 – Robertson	?	Alderpoint Tank	0.05 MG	18
Zone 4 - Alderpoint Road	?	Main zone	0.03 MG	39
Zone 5 - Wallen Road	?	Alderpoint Tank	0.02 MG	6
Oak Street	?	Main Tank-serves same as "House" zone*	None	21*
Arthur Rd. Booster	?	Robertson Tank	None-boosted zone only	18

## 2. Booster or Reducing Stations

Station	Capacity	Status	From Zone	To Zone	Comments
House (Booster @ Main Tank)	?	active	Main Tank	Booster	Serves approx 17 connections at roughly same elevation as Main Tank.
Wallen Road PS	2 @ 7.5 HP	active	Alderpoint Road Tank	Wallen Road Tank	Controlled by float switch in Wallen Road Tank. Two parallel pumps.
Arthur Road Road PS	(2) 15 HP	active	Main	Alderpoint Road Tank	Pumps in lead/lag arrangement. <b>Check valve leaks back into lower pressure zone, about 5,000 gallons per day.</b>
Maple Lane Pump Station; runs about 10 hours/year	5 HP	Standby	Main	Maple Lane	Mystery tie-in; only kicks on when House Booster PS fails. Serves 21 houses. Tank drained manually every other month to add air & keep water fresh.

## 3. Mains: Unknown; poor or nonexistent historic maps/records.

Material	Amount %	Size	Condition	Comments
Galvanized Steel	Unknown	1 to 8 inches	Unknown	Extremely poor records of system
Cast Iron	Unknown	1 to 8 inches	Unknown	
PVC	Unknown	1 to 8 inches	Unknown	
Copper	Unknown	1 to 8 inches	Unknown	
Asbestos Concrete	Unknown	1 to 8 inches	Unknown	

## 4. Leak history 2017-2/1/2019 Minor.

5. Are Distribution facilities constructed per **Waterworks Standards**? Unknown; see above.

6. **Water main & sewer line separation** Reportedly meet separation standards for recent repairs.

7. Extent of **lead pipes, joints, or lead solder** used in distribution system & present policy Some lead joints in cast iron mains; unknown quantity.

Discussion Distribution system in unknown condition; however, few leaks.

## G. WATER QUALITY & MONITORING

1. **Bacteriological Monitoring:** Two samples per month collected by Dan Arreguin and analyzed by North Coast Laboratory.

Coliform Site Sampling Plan approved & current Yes, updated 12/13/2012. Includes Kimtu.

Number of samples per month or week required? 2 per month based on population.

MCL violations in past year? None

Discussion Good monitoring program. Sampling rotated through all pressure zones every two months. No positive samples in last year.

Reminder: **Whenever Tobin Well is in use, a monthly raw water coliform sample must be taken, and analyzed via MPN methods.**

2. **Chemical Monitoring:** Sample per WQI-R charts. Who collects samples? Dan Arreguin.

Discussion Fair program; schedules due as shown on table below.

Intentionally left blank to keep chemical tests due chart on one page.

Source	2nd GP	IC	Nitrate	Nitrite	Per-chlorate	Grs Alpha	VOC	SOC	Comments
Eel River	2013	11/15/16 Cr6+: 1/28/16	9/25/2018 (Annual)	11/15/16	9/25/2018 (Annual)	2009	5/23/02	1990	Asbestos done 11/15/16 ND
<b>NEXT DUE</b>	2022	IC: 2025 Cr6+: waived- MCL withdrawn	<b>2019</b>	<b>2019</b>	<b>2019</b>	<b>2018 4 qtrs</b>	Waived (surface water)	N/A	Asbestos 2025
Tobin Well	12/20/16	11/15/16 Cr6+:12/15/14	9/25/18	11/15/16	11/15/16 (triennial)	2009	2012	1990	Asbestos waived
<b>NEXT DUE</b>	2025	IC: 2025 Cr6+: waived- MCL withdrawn	<b>2019</b>	<b>2019</b>	<b>2019</b>	<b>2018 4 qtrs</b>	<b>12/2018</b>	N/A	No serpentine within 2 miles

3. **Other Organics:** None required.
4. **Trihalomethanes, HAA5:** Collected as required. RAA 2005-2010 <40/30 TTHM/HAA5. System qualifies for Federal DBPR Stage 2 40/30 Waiver. Stage 2 DBP Plan signed by the District 8/21/2013, approved by DDW. Requires 1 DSS sample per year during summer from the hydrant across from 1100 Wallen Road. Last samples: 6/28/2018: TTHM-21 ppb; HAA5-25 ppb; 9/18/18 TTHM 11 ppb, HAA5 5.4 ppb. **NEXT sample due summer 2019.**
5. **Additional Monitoring** Lead and copper sampling listed below; 10 sites required.

Sampling Period	90 <sup>th</sup> % Lead	90 <sup>th</sup> % Copper	Comments
December 1993	ND	0.36 ppm	First round for EPA. Complies with AL
June 1994	6 ppb	0.46 ppm	Second round for EPA. Complies with AL
August 1999	ND	0.43	Complies with AL
October 2000	6 ppb	0.380	Complies with AL
September 2003	ND	0.43	Complies with AL
September 2006	ND	0.46	Complies with AL
September 2009	3.3 ppb	0.47	Complies with AL
9/13/12	0.002	0.19	10 sites in 2012; triennial; complies with AL
2/2/2016	ND	0.19	Complies with AL
<b>NEXT</b>	<b>2019</b>		

**Discussion** In compliance with schedule for lead and copper sampling, **next due summer 2019.**

Distribution Asbestos Sampling: Last sample was 12/16/98. Sampling once every 9 years required, **distribution Asbestos testing due summer 2017. OVERDUE.**

Discussion In compliance with schedule for lead and copper sampling.

6. Is an approved water quality **monitoring plan** on file? Not required.
7. Annual Consumer Confidence Report sent to the customers? Yes; 2016 sent 3/28/2017.  
Date sent? 6/1/2018 Is a copy of the report on file with DDW? Yes  
Are there needed additions or changes? No, 2017 follows Federal format. A-OK
8. **Electronic Annual Report:** 2017 submitted 7/31/2018, OK. 2018 website not yet available 2/1/19.

## H. OPERATION & MAINTENANCE

1. **Planning & Personnel:** System improvements made per Waterworks Standards? Yes.  
Does the utility have up-to-date distribution system maps? No; see above.  
Is up-to-date copy of system schematic on file? Yes, received from WTO Arreguin ~2/1/2019.  
What is the minimum grade requirement? T2, D2

Certified personnel Dan Arreguin, T2 #33213 expires 1/1/2021, D2 #39353 expires 11/1/2020; Brian Miller, T2 #33055, expires 4/1/19, D2 #39410, expires 11/1/2020. Have Mutual Aid Agreement with Redway.

2. **Cross-Connection Control Program** inspector Brian Miller.  
Cross-connection control ordinance on file? Yes; adopted 3/22/2016. DDW copy in Permit File.  
Discussion Per 2017 Annual Report, 9 devices in system, 9 tested in 2017, 1 failed, repaired, retested, and passed.
3. **Complaints:** Few complaints, ever.  
Discussion Nine complaints shown on 2017 EAR: chlorine taste & odor. Few since per WTO Arreguin.
4. Up-to-date **emergency notification plan** on file? No, needs update after 2019 field visit.  
Emergency response plan Yes, dated 1/29/13; received copy in field from WTO on 1/29/2014.  
Notification of DDW of significant system problems Yes. Discussion Appears adequate.
5. **Main Disinfection Program** for new & repaired mains AWWA Standard, HTH tabs  
Does the main disinfection program comply with AWWA standards? Yes  
Discussion All repair work contracted out.
6. **Valve Maintenance** Basically, none. No valve exercise program. Poor maps; some valves buried.
7. **Flushing** As needed. Number of dead ends Unknown. Poor distribution system maps.  
The system lacks maps or adequate historic records of the distribution system construction.

## I. **CLIMATE CHANGE VULNERABILITY ASSESSMENT**

*(Per State Water Board Resolution # 2017-012)*

1. **Fire:** Is a Defensible Space of 100 feet (*California Public Resources Code, 4291*) maintained around all structures managed by the Garberville CSD? Not all. The infiltration Gallery is submerged below normal water level in the Eel River, and piping is 3-4 feet deep in the ground, so fire danger is small. Around the water treatment plant there has well-defined defensible space, but roughly 50-feet, not 100-feet in radius. The Hurlbutt (Main) Tank has roughly a 100-foot defensible space around it. Most of the remaining system facilities are surrounded by redwood forest or public and private buildings within the 100-foot radius. However, since the annual average rainfall in Humboldt County is more than 50-inches per year, the fire danger may be somewhat less than in the inland California Counties. See photos in Appendix.
2. **Flooding:** Are any of the drinking water facilities vulnerable to flooding? **Cascadia Earthquake and Tsunami:** Tsunami appraisal performed by FEMA has identified roughly 200-foot MSL as the high-water mark for the Cascadia Earthquake Event Tsunami. The elevation of the majority of the service area is roughly 500 feet MSL or greater. Thus, it is not likely that Cascadia Earthquake and Tsunami would reach the Garberville facilities. **Eel River flood stages:** 1) The Eel River flood stage is below the treatment plant and other system facilities. The Eel River raw water pumps are submersible and designed to operate under water. See Google Earth clips in the Appendix.
3. **Drought:** Is system prepared for drought related shortages or outages? (interties, backup supply, increased storage) During the recent (2012-2017) California drought, Humboldt County experienced an annual rainfall of at least 130% of normal. Thus, perhaps recent Climate Change has caused a localized increase of rainfall, rather than the reverse. The source of water for the treatment plant is the underflow of the Eel River. In addition, the system can use water from the Tobin Well. Both the Eel River and the Tobin Well running dry at the same time is not anticipated.
4. **Backup Power:** Is backup power available via portable generators or permanent generators? Yes. Emergency electrical power generators are available, of which the facility has several. No liquid fuels are stored near the water sources, or will be used, excepting in the equipment itself during an actual power outage emergency. **Discussion:** See individual topic areas, above.

**J. OVERALL SYSTEM APPRAISAL**

- 1) Routine raw water chemical tests due on Eel River & Tobin Well.
- 2) Perform and submit 2019 filter inspection.
- 3) Develop new Operations plan for new WTP. Dan Arrequin agreed to a revised deadline of 5/31/2019.
- 4) Distribution System Asbestos test overdue; last on record with DDW was taken 12/16/1998.
- 5) Recommend repairing leaking check valve at Arthur Road booster pump station.
- 6) Need to update Emergency Notification Plan.
- 7) Recommend rebuilding Tobin Well cover to improve seal & accessibility.
- 8) Need to revise WTP monitoring records to include daily calculation of CT required and CT obtained, and show ratio between these two.
- 9) Recommend replacement of Hurlbutt and Robertson Tanks; recommend site security fencing.
- 10) Reminder: Whenever Tobin Well is in use, a monthly raw water coliform sample must be taken, and analyzed via MPN methods.
- 11) Routine distribution system Lead & Copper sampling due; 10 sites required.
- 12) Recommend installing guard rail at top of retaining wall at Water Filtration Plant.
- 13) Need one annual TTHM and HAA5 sample from distribution system during June-September 2019.
- 14) Complete and return system facility data sheets.

**J. APPENDIX: System Record, System Schematic, 2018 CT Tracer Study, System Photos**

Report prepared by: Franklin Saylor

\_\_\_\_\_  
Signature 2/5/2019  
Date

## WATER SYSTEM RECORD

Name of System Garberville Sanitary District System Number 1210008

Date Noted	Description of Defect or Hazard	Dead line	Reported Corrected	Confirmed Corrected
8-19-11	Alderpoint Tank: Roof hatch cover needs complete replacement	---	Entirely new tank: 9-10-15	9-10-15
1-29-14	Other defects-WTP inadequacy, Alderpoint tank leakage, etc., will be replaced with new, compliant facilities within the next year	---	1-1-2016	1-1-2016
2-13-17	Tobin Well: Steel cover plate needs 3 openings sealed	---	1-23-19	1-23-19
2-13-17	Main (Hurlbutt) Tank: seal openings beneath roof-2 locations	---	1-19-19	1-19-19
2-13-17	Alderpoint Road Tank: Screen or otherwise protect overflow outlet	---	1-19-19	1-19-19
5-2-06	Need to adopt a cross-connection control ordinance	---	3-22-16	3-22-16
2-13-17	Per CCR Title 22 Section 64432.2(a), must sample distribution system water for Asbestos at least once every nine years.	12-31-17 <b>OVERDUE</b>		
1-15-19	Update Emergency Notification Plan; provide signed & dated copy to DDW	2-28-19		
1-15-19	Revise treatment monitoring records to include daily CT calculations	3-31-19		
2-13-17	Provide DDW copy of Operations plan for new WTP. If none, District to write it and give copy to DDW.	5-31-19		
2-13-17	Do filter inspection for 2019; send DDW a copy of the report.	6-30-19		
1-15-19	Complete and return system facility data sheets	6-30-19		
1-15-19	Need one annual TTHM and HAA5 sample from distribution system during June-September 2019	9-30-19		
1-15-19	Routine distribution system Lead & Copper sampling due; 10 sites required.	9-30-19		
1-15-19	Need routine raw water chemical monitoring	12-31-19		
1-15-19	Recommend repairing leaking check valve at Arthur Road booster pump station.	R		
1-15-19	Recommend replacing Hurlbutt and Robertson Tanks; recommend interim measures prior to tank replacements	R		
1-15-19	Recommend rebuilding Tobin Well cover to improve seal & accessibility	R		
1-15-19	Reminder: Take monthly raw coliform sample with MPN analysis when Tobin Well used for domestic supply	R		
1-15-19	Recommend installing guard rail at top of retaining wall at Water Filtration Plant	R		

R = Recommended for good water works practice.

## Appendix D

Division of Drinking Water

Public Water System

Water Supply Permit





GAVIN NEWSOM  
GOVERNOR



JARED BLUMENFELD  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

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## State Water Resources Control Board

Division of Drinking Water

November 22, 2019

Garberville Sanitary District  
P.O. Box 211  
Garberville, CA 95542

Attention: Ralph Emerson, General Manager

**Subject: Garberville Sanitary District, Public Water System 1210008  
Permit 01-01-19(P)001**

Please find the enclosed water supply permit for the operation of the Garberville Sanitary District public water system. Implementation and adherence to the permit conditions will help to ensure that your domestic water supply system complies with the California Safe Drinking Water Act and serves water to the public that is continuously safe for human consumption.

If you have any questions, please contact Ronnean Lund at (530) 224-6505 or me at (530) 224-4875.

A handwritten signature in blue ink that reads "Barry Sutter".

Barry Sutter, P.E., Klamath District Engineer  
Division of Drinking Water  
STATE WATER RESOURCES CONTROL BOARD

Enclosures

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E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

364 Knollcrest Drive, Suite 101, Redding, CA 96002 | [www.waterboards.ca.gov](http://www.waterboards.ca.gov)

STATE OF CALIFORNIA

**DOMESTIC WATER SUPPLY PERMIT ISSUED TO**

Garberville Sanitary District  
Public Water System No. 1210008

By The

State Water Resources Control Board  
Division of Drinking Water



PERMIT NO. 01-01-19(P)001

EFFECTIVE DATE: November 22, 2019

**WHEREAS:**

1. The State Water Resources Control Board (State Water Board), through its Division of Drinking Water (DDW) "may renew, reissue, revise, or amend any domestic water supply permit whenever the ... [State Water Board] deems it to be necessary for the protection of public health whether or not an application has been filed." (California Health and Safety Code (CHSC), Section 116525 (c))
2. "Every resident of California has the right to pure and safe drinking water." (CHSC, Section 116270 (a))
3. "The Safe Drinking Water Act is "intended to ensure that the water delivered by public water systems of this state shall at all times be pure, wholesome, and potable." (CHSC, Section 116270 (e))

**And WHEREAS:**

1. The public water system is known as the Garberville Sanitary District and is located in Garberville California, Humboldt County.
2. The legal owner of the Garberville Sanitary District public water system is the Garberville Sanitary District, whose headquarters is located at 119 Redwood Drive, Garberville, CA 95542. The Garberville Sanitary District, therefore, is responsible for compliance with all statutory and regulatory drinking water requirements and the conditions set forth in this permit.
3. The Garberville Sanitary District public water system meets the criteria for and is hereby classified as a **community** water system.

4. The applicant has demonstrated adequate technical, managerial, and financial capacity to operate reliably the proposed water system.
5. The applicant has demonstrated that the existing water system has sufficient source capacity to serve the anticipated water demand for the community.
6. The former owner, *Garberville Water Company*, was issued a permit on February 6, 1978, with a permit engineering report dated December 1977.
7. On October 27, 2011, an amended permit was issued to the current owner, Garberville Sanitary District.
8. An amended permit was issued to Garberville Sanitary District requiring lead sampling at K-12 schools on January 17, 2019.
9. A new surface water treatment plant was constructed in 2015 and a new baffled 20,000 gallon *disinfectant contact time* tank was added in 2018.
10. The 20,000 gallon disinfectant contact time tank was manufactured by *Hyland Tank Company* and has been deemed to provide a baffling factor of 0.54 as demonstrated by a tracer study performed on February 4, 2019, by DDW employee Guy Schott, PE.
11. The Garberville Sanitary District public water system is described below:

The Garberville Sanitary District (GSD) is a community public water system that serves treated surface water to approximately 442 service connections and approximately 1,500 people in the community of Garberville California, located in Humboldt County. The approved surface water sources are the Eel River Source, and Tobin Well. GSD's surface water is pumped from a wet well which is fed from an infiltration gallery beneath the Eel River. Water is pumped from the wet well to the filtration and disinfection plant where it is treated with coagulant prior to entering a 10,000 gallon flocculation contact vessel which precedes two multi-media pressure filters. After passing through the parallel-configured pressure filters, sodium hypochlorite is added to the water before entering a 20,000 gallon disinfectant contact time tank after which the water enters the distribution system. The plant is capable of recycling backwash water. The GSD's distribution system includes one (1)-200,000 gallon in-ground concrete storage tank with a wood roof, one (1)-50,000 gallon above-ground concrete storage tank with a wood roof, one (1)-200,000 gallon welded steel tank, and one (1)-20,000 gallon redwood tank. There are five pressure zones in the distribution system.

12. The Garberville Sanitary District provides multibarrier treatment of surface water using *direct filtration* and disinfection via chlorination. GSD's treatment plant has been deemed capable of providing 99% (2-log) removal of *Giardia lamblia* cysts, 90% (1-log) removal of viruses, and 99% removal of *Cryptosporidium*. The disinfection portion of the water system has been deemed capable of providing 90% (1-log) *Giardia lamblia* cyst inactivation by chlorination.



13. The design of the current water system complies with the California Water Works Standards and all applicable regulations.
14. The sanitary survey report conducted by DDW on January 15, 2019, serves as the engineering report for this permit.
15. The State Water Resources Control Board, Division of Drinking Water has the authority to issue domestic water supply permits pursuant to Health and Safety Code Section 116540.

***THEREFORE:***

The State Water Resources Control Board, Division of Drinking Water determines for the protection of public health, this Domestic Water Supply Permit is hereby issued to the Garberville Sanitary District public water system and is subject to the following conditions:

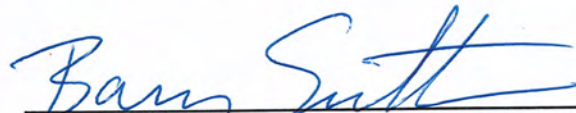
1. The only water sources permitted for use are the South Fork Eel River (PS Code = 1210008-001) and the Tobin Well (PS Code = 1210008-003).
2. The Tobin Well source water shall be continuously disinfected before entering the distribution system. Free chlorine residuals of at least 0.5 parts per million shall be maintained at the first downstream service connection.
3. A baffling factor of 0.54 or less shall be applied to the effective volume calculation of the 20,000 gallon disinfectant contact time tank in all disinfectant contact time calculations.
4. By not later than January 31, 2020, the Garberville Sanitary District shall complete and submit to the DDW Redding Field Office the following system component Data Sheets:
  - a. Pumping Station Data Sheet (each pump station)
  - b. Reservoir Data Sheet (each reservoir)
  - c. Distribution Data Sheet
  - d. Filtration Plant Data Sheet
  - e. Surface Water Source Data Sheet
  - f. Well Data Sheet
  - g. Chlorine Disinfection Data Sheet

This permit supersedes all previous domestic water supply permits issued for this public water system and shall remain in effect unless and until it is amended, revised, reissued, or revoked by the California Water Resources Control Board, Division of Drinking Water. This permit is non-transferable.

Any change in the source of water for the water system, any modification of the method of treatment as described in this permit, or any addition of distribution system storage reservoirs shall not be made unless an application for such change is submitted to the California Water Resources Control Board, Division of Drinking Water.

**FOR THE CALIFORNIA STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF DRINKING WATER**

Dated: 11-22-2019

  
**Barry Sutter, P.E., Klamath District Engineer**  
**Division of Drinking Water**  
**STATE WATER RESOURCES CONTROL BOARD**

## Appendix E

### Excerpts from Annexation IS/MND related to Water Capacity

Prepared for:



# Garberville Sanitary District Final Recirculated Initial Study/Mitigated Negative Declaration



## Garberville Sanitary District Annexation Project: Change in Jurisdictional Boundary & Place of Use



Prepared by:



Consulting Engineers  
& Geologists, Inc.

September 2013  
011184



wastewater collection infrastructure. The area to meet these additional housing units will need to be annexed into the Boundary once the location for this future development has been identified. The location will be highly dependent upon property owners desiring to develop their property to meet the need for the additional housing units.

See Figure 8 for existing land use designations within and adjacent to the existing GSD boundaries and SOI. See Figure 9 for existing zoning. See Figure 10 for proposed land use designations from the proposed Humboldt County General Plan Update Planning Commission recommended draft.

<b>Table 2 Existing General Plan Land Use Designations in District Boundary</b>		
<b>Land Use Designation</b>	<b>Acres</b>	<b>% of Total</b>
Residential Low Density (RL)	32	5.5%
Residential Medium Density (RM)	9	1.5%
Agricultural Rural (AR)	189	32.5%
Agricultural Lands-40 (AL-40)	214	36.8%
Agricultural Suburban (AS)	7	1.2%
Public Facilities (PF)	8	1.4%
Green Gulch	65	11.2%
Commercial Services (CS)	8	1.4%
Commercial General (CG)	31	5.3%
Other (highway/roads)	18	3.1%
<b>Total</b>	<b>581</b>	<b>100%</b>
Source: Humboldt LAFCo GSD MSR (2013d)		

## Current Water System

The following is directly obtained from the GSD MSR prepared and approved by Humboldt LAFCo (Humboldt LAFCo, 2013d):

*The water system consists of two water sources, a treatment plant, four water tanks, three booster stations, approximately 420 active water service connections, and a waterline distribution network. One of the water sources is surface water from the South Fork of the Eel River and one is a shallow well in downtown Garberville. The surface water source is regulated by the California Surface Water Treatment Rules and Regulations.*

*The South Fork of the Eel River Infiltration Gallery provides collection of the main water source. It was originally installed in 1940. The infiltration gallery has one 6-inch, 320-gpm, 50-HP submersible pump that was installed in November 2009 and was replaced in November 2012. The pump operates against an approximate 380 feet differential elevation head. The pump discharges to the water treatment plant adjacent to the 160,000-gallon main storage tank. The pressure filter in the water treatment plant has a limited capacity of 250 gpm. Over the past five years, the treatment plant processed between 55 and 65 million gallons of water each year. The largest year on record was shown on the 1999 Annual Progress Report submitted by the GWC to the State Water Resources Control Board, which showed 80 million gallons of water processed.*



*The District holds a water diversion permit from the State Water Resources Control Board for appropriation of water from the South Fork of the Eel River. The permit is number 20789. This permit allows the District to divert a maximum of 0.595 cubic feet per second (267 gpm) from the river, year round. The District also has a fixed license that allows the District to divert an additional 0.155 cfs. The total maximum instantaneous diversion allowed is 0.75 cfs (336 gpm). This would equate to a maximum daily diversion of approximately 484,700 gallons and 177 million gallons per year, if adequate pumps and treatment facilities were available.*

*The Tobin Well is the only subsurface water source and it has a limited capacity of 40 to 70 gpm. There is substantial draw down during sustained pumping. The District is evaluating the replacement of the pump with a duplex pumping system.*

*The existing system has adequate production, treatment, and storage capacities for the average peak daily demand. The maximum daily demand is 427,780 gpd recorded during the month of July in 1999. The total storage capacity for the system is approximately 260,000 gallons which is the sum of the four storage tanks in the system. This is sufficient to meet the average dry day water demand. The water treatment facility produces water that meets or exceeds the State regulations for drinking water but does not meet the Surface Water Treatment Regulations. The turbidity and residual free chlorine levels comply with the maximum allowable levels. The existing system provides four pressure zones with adequate pressure throughout the District.*

As discussed above, the “face value” of the South Fork of the Eel River diversion permit is 0.595 cfs or 430 acre-feet per year. The “face value” of the South Fork of the Eel River diversion license is 0.155 cfs or 112.2 acre-feet per year. The license amount is fixed so long as the District continues to divert and beneficially use the amount allowed in the license.

The development period for the South Fork of the Eel River diversion permit from SWRCB DWR expired December 31, 1999. During the development period, the maximum amount of water diverted under the Permit for beneficial use was 43,337,048 gallons in 1999. During that same year 36,662,952 gallons were diverted under the license, for a total of 80 million gallons. The terms and conditions of the permit state that the District is limited in all future years to the maximum amount diverted during the development period, unless an extension to the permit is approved by SWRCB-DWR. The District had submitted a petition for extension in conjunction with the petition for change in the POU's, but has since withdrawn that petition for extension in support of converting the South Fork of the Eel River diversion permit into a license. The District cannot divert more than the 80 million gallons under the terms of the license and permit, and the District will indefinitely be limited to 80 million gallons per year of diversion under the combined permit and license.

The following quantities of water were billed to customers within the two POU's and the areas outside of the POU. These numbers do not reflect the bulk water sales, errors in readings, backwashes, nor system losses, but are purely the number of units of water billed to the customers.

Table 3 Water Billed to Customers						
Description	Connections	Units Billed in 2008	Units Billed in 2009	Units Billed in 2010	Units Billed in 2011	Units Billed in 2012
In License POU	255	42,786	43,553	40,435	38,761	37,057
In Permit POU	129	15,228	14,603	14,042	13,613	13,509
Outside POU	34	2,058	2,172	1,485	1,305	3,132
<b>Total<sup>1</sup></b>	<b>418</b>	<b>60,072</b>	<b>60,328</b>	<b>55,962</b>	<b>53,679</b>	<b>53,698</b>
1. There are three additional water meters that pay the base rate, but do not currently consume water. These customers include the SHCP and two Connick Creek APNs.						

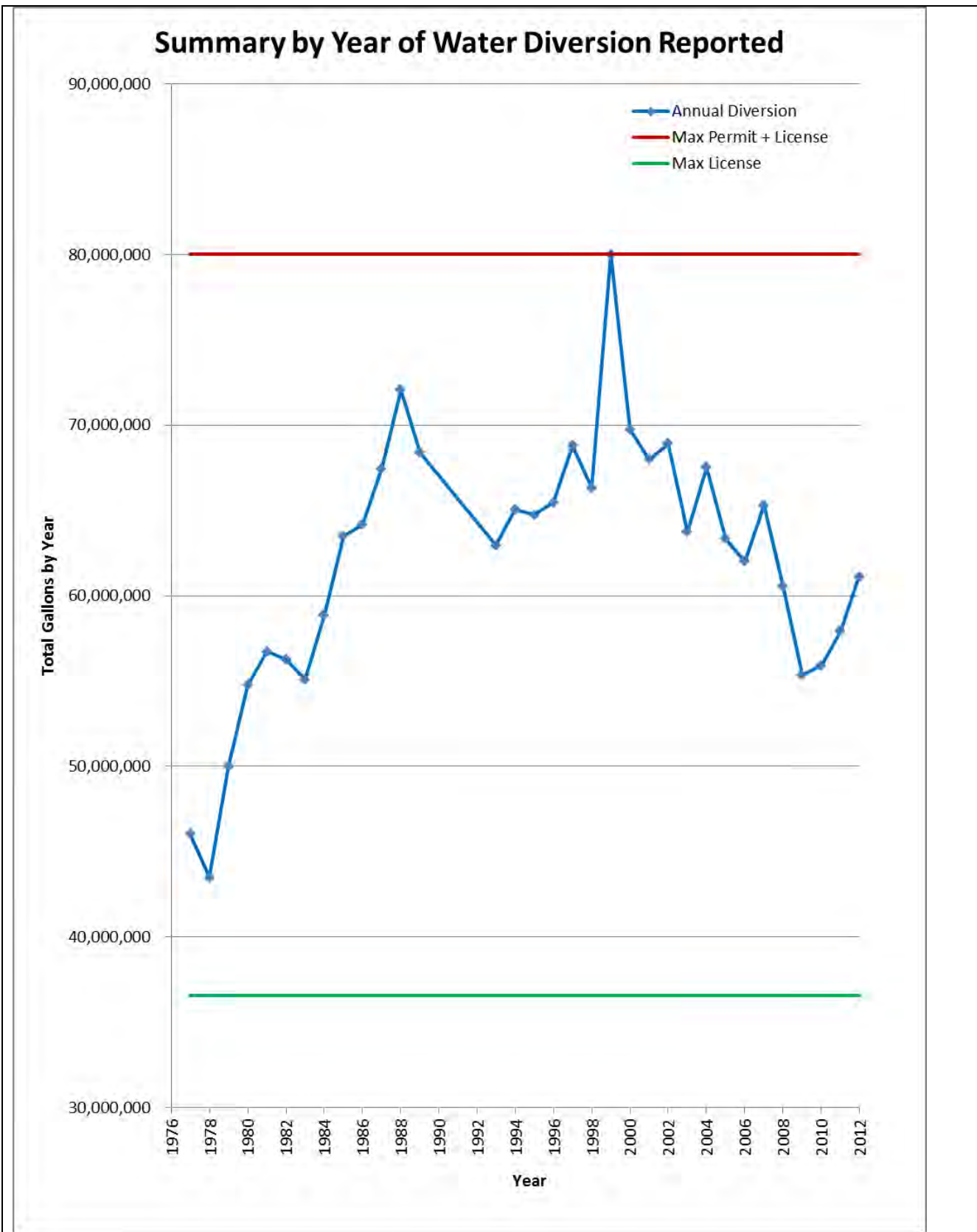
The following graph depicts the annual diversions from the South Fork of the Eel River as reported to the SWRCB for the license plus the permit. The graph reflects the total water diverted by calendar year from the SF of the Eel River. The average from 1985 to 2012 was 65,131,644 gallons per year.

Figure 3b in Attachment 1 illustrates the APNs that are not currently consuming water. There are APNs within the existing jurisdictional boundary, the existing license POU and the existing permit POU that are not consuming water.

In addition to the annual average, the total consumption of the 20 Kimtu Meadows Subdivision customers for August 2012 through June 2013 was 2.4 million gallons, when annualized is 2.6 million gallons. The KMWC was utilizing an unauthorized diversion from the South Fork of the Eel River. When KMWC consolidated to GSD, the historical diversion amount under the unauthorized diversion was not added to the GSD license or permit although this unauthorized diversion has ceased. Thus, GSD must serve these 20 new connections from the existing diversion limits on the license and permit. This additional diversion amount was included in half of the 2012 reporting amounts, but none of the previous years, and is not accounted for in the average annual diversion amount. The 2013 annual report will be the first time that the total annual amount of additional diversion to service the Kimtu Meadows Subdivision has been included in the total water consumption for the District. This additional diversion amount for Kimtu has been accounted for below, as part of the baseline conditions for water consumption.

In addition to the existing consumption, there are vacant APNs and/or APNs that are not GSD customers and are not consuming water within the existing permit and license POU. For the purposes of determining potential water consumption within the existing license and permit POU, the following tables 4 and 5 document by APN the potential water consumption in areas within the license POU and permit POU that may be realized in the future if the parcels not currently consuming water becomes GSD customers. The parcels not currently consuming water in the permit POU expansion area were not included, because all of these APNs are also included in the annexation area which is summarized below.

The potential water consumption is based upon the customer type, zoning, and estimates the anticipated future consumption associated with each APN. The GSD customers' billing data was separated by billing code into two categories: residential and commercial/industrial. This separated data was then averaged. The average annual demand of the GSD commercial customers is 177,500 gallons or 237 units per year. This average has been applied to the properties that are commercially or industrially zoned. The average demand of the GSD residential customers is 70,500 gallons or 94 units per year, and this average has been applied to parcels that are residentially zoned.



**Graph 1. Summary by Year of Water Diversion Reported**

Table 4 APNs Not Currently Consuming GSD Water in Existing Jurisdictional Boundary and License POU				
APN	Acres	Zoning <sup>1</sup>	Potential Development (Residential or Commercial)	Annual Consumption Potential Based upon Development Type (gallons)
032-042-017	0.17	C-2-D	Commercial	177,500
032-102-028	0.26	R-4	SFR <sup>2</sup>	70,500
032-231-045	1.65	RS-B-5(5)	Has Shops	177,500
032-111-024	1.41	R-4-Q	16 multifamily units	1,128,000
032-121-019	0.55	C-2-D	Commercial	177,500
032-121-020	0.48	C-2-D	Commercial	177,500
<b>Total</b>				<b>1,908,500<del>1,908,500</del></b>
<p>1. C-2-D: Community Commercial-Design Review Combining R-4: Apartment Professional Zone R-4-Q: Apartment Professional Zone - Qualified Combining Zone RS-B-5(5): Residential Suburban- Special Building Site, 5 acre minimum lot size</p> <p>2. SFR: Single Family Residence</p>				

Table 5 APNs Not Currently Consuming GSD Water in Existing Jurisdictional Boundary and Permit POU				
APN	Acres	Zoning <sup>1</sup>	Potential Development (Residential or Industrial)	Annual Consumption based upon Development Type (gallons)
223-181-012	1.79	AE-B-6	SFR <sup>2</sup>	70,500
223-181-017	2.03	AE-B-6	SFR	70,500
223-181-020	2.52	AE-B-6	SFR	70,500
223-183-010	2.38	AE-B-6	SFR	70,500
032-231-056	0.77	R-1	SFR	70,500
032-231-053	0.20	R-1	SFR	70,500
032-231-054	0.10	R-1	SFR	70,500
032-231-016	0.53	R-1	SFR	70,500
032-231-028	0.12	R-1	SFR	70,500
032-231-043	0.85	R-1	SFR	70,500
<b>Total</b>				<b>705,000</b>
<p>1. AG-B-5(5): Special Building Site, 5 acre minimum lot size AE-B-6: Agriculture Exclusive, Special Building Site Combining Zone -6 acre minimum parcel size MH: Heavy Industrial RS-B-5(5): Residential Suburban- Special Building Site, 5 acre minimum lot size</p> <p>2. SFR: Single Family Residence</p>				

Table 6 APNs Not Currently Consuming GSD Water Outside Existing Jurisdictional Boundary and Inside Permit POU				
APN	Acres	Zoning <sup>1</sup>	Potential Development (Residential or Industrial)	Annual Consumption based upon Development Type (gallons)
223-171-002	1.14	MH	Industrial	177,500
223-171-007	5.57	MH	Industrial	177,500
032-211-014	0.54	RS-B-5(5)	SFR <sup>2</sup>	70,500
032-211-021	8.83	RS-B-5(5)	SFR	70,500
032-171-015	4.16	AG-B-5(5)	SFR	70,500
<b>Total</b>				<b>566,500</b>
1. AG-B-5(5): Special Building Site, 5 acre minimum lot size AE-B-6: Agriculture Exclusive, Special Building Site Combining Zone -6 acre minimum parcel size MH: Heavy Industrial RS-B-5(5): Residential Suburban- Special Building Site, 5 acre minimum lot size 2. SFR: Single Family Residence Potential development also included in areas proposed for annexation into the jurisdictional boundary.				

Table 7 summarizes the existing water consumption from the current water customers and potential consumption from the existing permit and license POU.

Table 7 Summary of Water Consumption	
Description of Consumption	Amount (gallons)
Existing Average Use	65,131,644
Kimtu Meadows Subdivision Customers	2,600,000
APNs Not Currently Consuming GSD Water in Existing Jurisdictional Boundary and License POU	1,908,500
APNs Not Currently Consuming GSD Water in Existing Jurisdictional Boundary and Permit POU	705,000
APNs Not Currently consuming GSD Water Outside Existing Jurisdictional Boundary and inside Permit POU	566,500
<b>Total</b>	<b>70,911,644</b>

There are also two APNs for which there is either a historical water service or a contract that obligates GSD to provide future water service. One is APN 222-091-014 and the other is APN 222-156-012. APN 222-091-014 has been allocated up to 2,000 cubic feet per month (180,000 gallons per year) and APN 222-156-012 allocated one SFR connection. This brings the total allocated water to 71,162,144 gallons per year.

XVII. Utilities and Service Systems. Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?			X	
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?		X		
c) Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
d) Have insufficient water supplies available to serve the project from existing entitlements and resources (i.e., new or expanded entitlements are needed)?		X		
e) Result in a determination by the wastewater treatment provider, which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?			X	
f) Be served by a landfill with insufficient permitted capacity to accommodate the project's solid waste disposal needs?				X
g) Violate any federal, state, and local statutes and regulations related to solid waste?				X

**Thresholds of Significance:**

This IS/MND considers impacts of the proposed project as follows: a) result in expansion of existing wastewater facilities or construction of new wastewater facilities and exceeding wastewater treatment requirements established by the RWQCB; b) result in environmental effects caused by the construction of any new stormwater drainage; c) result in expansion of water entitlements due to insufficient supplies for the proposed project; d) exceed the capacity of the wastewater treatment provider and/or landfill provider, thus impacting their service commitments to other customers; or e) result in the violation of any federal, state, or local solid waste regulations.

**Discussion:**

**(a and e) Less Than Significant Impact:** The GSD is not proposing to provide sewer services to all of the proposed annexation areas, thus a separate service area is proposed to provide only water service. Of the 11 APNs that are proposed to be served both water and sewer service, 9 SFRs are within a "Housing Opportunity Zones." In November 2011, the NCRWQCB issued Order No. R1-2011-0096 WDID No. 1B831200HUM which contains capacity limitations of an average dry weather flows (ADWF) of 0.162 million gallons per day and an average wet weather flow (AWWF) of 0.235 million gallons per day. The ADWF for the new plant is about 59,000 gallons per day, and the AWWF for 2011 and 2012 is 130,412 gallons per day, which is 55.49 percent of the AWWF allowed in the WDID order. The WWTP is currently operating at 38.88 percent of the capacity during dry weather flows. There is sufficient wastewater capacity to serve these future users because the treatment plant is operating well below the allowable flows in the order; therefore, the project will not result in exceeding applicable RWQCB requirements. Furthermore, the existing services will

continue, and APNs with existing onsite wastewater systems will not be required to connect to the wastewater system unless there is a failing onsite wastewater system or new project or permit is issued.

### *Cumulative Impacts*

The GSD recently constructed the Wastewater Treatment Plant Improvement Project to achieve compliance with the NCRWQCB WDR Order No. R1-2000-58. On November 29, 2004, the North Coast Water Board issued CDO No. R1-2004-0097 due to chronic violations of effluent limitations for various constituents, including BOD, TSS, and Total Coliform. In addition, effluent flow rates chronically exceed the Monthly ADWF effluent limitation during the months of June through October. This project was completed in 2011. The NCRWQCB adopted Order No. R1-2011-0096 on November 3, 2011, which rescinded previous orders. This WDR contains capacity limitations for an average dry weather flow of 162,000 gpd, 235,000 gpd average wet weather flow, and wet weather peak flow of 600,000 gpd. The treatment plant is currently operating at 38.88 percent of the capacity during dry weather flows and 55.49 percent of average wet weather flows.

One project recently constructed is the Chautauqua Natural Food Store located in downtown Garberville. This project included a general plan amendment and zone reclassification to change the 9,800 square foot parcel from Residential, Multiple Family (RM) general plan land use designation and zoned Apartment Professional (R-4) to Commercial General (CG) plan designation and Community Commercial (C-2) zone classification. The result of the general plan amendment and zone reclassification will result in relocation of the Chautauqua Natural Foods to the Masonic Lodge Building and the development of four apartment units on the second floor. Information about this project was gathered from the June 14, 2010 staff report to the Humboldt County Planning Commission (Humboldt County, 2009a). Sufficient wastewater supplies are available for this project.

Another project in Garberville is the Winters multifamily project on APN 032-111-024 (16-units proposed). This project only required a building permit from the Humboldt County Planning and Building Department. Sewer service is proposed. It is estimated that this project will utilize up to 1,128,000 gallons of water per year and discharge approximately 789,600 gallons of sewage per year (2,163 gpd).

The wastewater system is operating below its capacity it is capable of serving the additional development that could result from this project and the other related cumulative projects identified. Therefore, the cumulative impacts to exceeding wastewater treatment requirements of the applicable RWQCB are less than significant.

### **(b and d) Less Than Significant with Mitigation Incorporated:**

#### *Background*

The purpose of the annexation is to change the existing District boundary to achieve consistency with the actual area being served.

GSD holds water diversion license #03404 from the SWRCB for appropriation of water from the SF Eel River, which allows the instantaneous diversion rate of 0.155 cfs, which is equivalent to 112.2 acre-feet or 37 million gallons annually for continual diversion. At the same point of diversion, GSD maintains a water diversion permit #20789, which allows a total annual diversion of 430 acre-feet,

which equals a continual maximum (instantaneous) rate of 0.595 cfs. The total of these two diversion rights is 177 million gallons per year (542 acre-feet per year), or continual maximum withdrawal rate of 0.75 cfs. This would equate to a maximum daily diversion of approximately 484,000 gallons, if adequate pumps and treatment facilities were available. The new drinking water treatment plant will be capable of pumping and treating up to 336 gallons per minute and can divert this maximum amount. Over the past five years, the water treatment plant processed between 55 and 65 million gallons of water each year. The average from 1985 to 2012 is 65,131,644 gallons per year. The 1999 Annual Progress Report submitted to the SWRCB documented the greatest year on record of 80 million gallons of processed water from both the license and permit. The maximum future annual diversions are limited to the maximum amount diverted under the permit development timeframe. This timeframe expired December 31, 1999, therefore the 80 million gallon maximum diversion for 1999 is the maximum annual diversion allowed for the license plus the permit. The maximum daily demand was recorded in July 1999 and was 427,780 gallons.

#### *Potential Development*

The following section presents a discussion regarding the potential water consumption that could result from the potential future development within the project area. A summary of this information is also presented in Table 9, above.

The change in boundary will result in several APNs that are vacant and/or not currently fully developed under current regulations that could be further developed for housing. The development potential was derived from a review of all areas proposed for annexation. The project could result in development of an additional 14 SFRs on a combination of vacant or underdeveloped APNs. Of these 14 SFRs, three are already within the POU and were accounted for in the baseline analysis above. Based on the average consumption of a single family residence (70,500 gallons), the projected consumption of development potential of the remaining 11 SFRs is 775,500 gallons per year. Because one of the vacant residential APNs is within the existing license this quantity of future water consumption was assumed as part of the baseline.

There are also two industrial APNs that are vacant in the annexation area that are within the POU and the future consumption for those two parcels was included in the baseline above. There is one industrial APN that is currently developed with a residence that could develop into an industrial customer. The additional water consumption for this conversion is 107,000 gallons per year. This information was included in the baseline information because they are located within the existing Permit POU, but outside the existing jurisdictional boundary.

There could be development as a result of "Housing Opportunity Zones" and second dwelling units, but this is considered unlikely due to the previous development history that does not include second dwelling units in the Garberville area. There are 14 APNs within "Housing Opportunity Zones," and 9 APNs that are allowed second dwelling units (these are all within the "Housing Opportunity Zones)," and one APN with Agriculture Exclusive zoning that allows 4 single detached dwelling units. For planning purposes, water supplies were identified to include potential second dwelling units. Assuming that most second dwellings units are equivalent to an apartment type user, Metcalf & Eddy's estimates that apartment flows are approximately 93% of the average residential house. Using this ratio, the equivalent consumption per second dwelling unit would be 65,465 gallons per year. For the 14 APNs located within a "Housing Opportunity Zone," this would equate to an additional 1,198,510 gallons per year.



In addition to the potential development as a result of the project, there is one developed APN in the Connick Creek subdivision that uses a water source other than GSD. GSD is contractually obligated to provide service to this parcel should they apply, so that APN has been included in the summary of water consumption (Table 10) because water service could be requested in the future. This amount is for one SFR.

<b>Table 10</b>	
<b>Summary of Water Consumption for Expanded Jurisdictional Boundary</b>	
<b>Description of Consumption</b>	<b>Amount (gallons)</b>
Baseline (from Table 7)	70,911,144
11 SFRs	775,500
14 "Housing Opportunity Zones"	1,198,510
APN 222-156-012 (Connick Creek Subdivision Parcel with own water source)	70,500
<b>Total Potential Water Consumption</b>	<b>72,955,654</b>

This demonstrates that on average, the GSD's license and permit maximum diversion of 80 million gallons per year is sufficient to accommodate the average total water consumption at build out with approximately 7,044,346 gallons per year excess. Other than the maximum year of 1999, there has been no other year since 1977 for which the diversion would have exceeded the allowable 80 million gallons after factoring in all of the non-consuming parcels and the development potential in the annexation and POU expansion areas.

The existing system has sufficient water supplies available to serve any potential future development on APNs that are part of the project from the existing license and permit. Because the water license and permit have limits and individual consumers will change over time, Mitigation Measure No. 1 has been included to ensure that GSD has sufficient water supplies for any future development or change in intensification of use. Mitigation Measure No. 1 includes adoption of an ordinance by the GSD that, at a minimum, states that any future and existing development that proposes intensifying uses within the GSD service boundaries that relies on use of the GSD services for implementation will be reviewed by the GSD. A "will serve" letter will be provided to the developer that indicates the ability of the GSD to provide a service connection, based upon the current system capacity (water or wastewater) to provide that service. The ordinance will clearly articulate that future connections to the GSD services will be based, in part, on availability of the water or wastewater system to handle additional demands. Additionally, any change to the General Plan and zoning requires discretionary review by GSD.

*Future Service*

**APN 222-156-012.** Water service is currently provided to the Connick Creek area from a master meter regulated by the GSD. Mitigation Measure No. 2 has been included to address continuing service from the Connick Creek Subdivision private water line because it will not be maintained by the GSD. GSD will not be financially responsible for any modification necessary to ensure that distribution meets appropriate and applicable regulations for providing water service or costs associated with obtaining easements. This will ensure that GSD activities will not result in impacts to the delivery of water service that could potentially require the construction of new water treatment facilities or expansion of existing facilities. Furthermore, APN 222-156-012 was a party to the Connick Creek Subdivision agreement recorded on October 8, 2010, as Instrument Number 2010-22217-9. This APN does not have an existing water connection, and is not included in the proposed

District boundary or existing SOI. Mitigation Measure No. 3 specifies that connection of this parcel is subject to approval by all applicable planning and building regulations. Water service to APN 222-156-012 will also require an update to the POU and any approvals by Humboldt LAFCo (annexation or out of boundary connection). A single family residential connection equivalent quantity of water has been set aside for the service of this parcel.

#### *Conclusion*

Based the above analysis, the District will be able to serve the existing and potential customers within the proposed POU and jurisdictional boundary within the allowable 80 million gallons per year.

#### *Cumulative Impacts*

**SHCP.** In the area known as the SHCP, water service has been previously provided to two residences and outbuildings, but they do not currently consume water. A previous water connection was extended to bring water to a caretaker's cottage and various other outbuildings on the former APN 222-091-006 from the yellow house. As a result of several lot line adjustments, the structures served by the GWC (and subsequently GSD) are now split between a portion of APN 222-091-014 and 222-091-011.

Currently, the Humboldt County Planning and Building Department is processing an application from the SHCP for a general plan amendment and rezone for APN 222-241-009 and APN 222-091-014. A Draft EIR is being prepared and is scheduled for public circulation September 2013 (Richardson, 2013a). It is conceivable that changes in use will result in increased water demand, but the specific details of such a change in service are not known at this time. Implementation of Mitigation Measure No. 1 will ensure that any changes to the existing water quantities or areas of water service will allow review and approval by GSD to confirm sufficient water supplies are available.

**Alderpoint Road Tank Project.** The GSD is currently in the planning and engineering phase of the Alderpoint Road Tank Replacement Project. The GSD has adopted a Mitigated Negative Declaration to replace a 30,000 gallon tank with a 200,000 gallon tank at the same location as the existing tank. As documented in the Initial Study and Environmental Checklist prepared by LACO Associates (2013) for the project, the current water system lacks sufficient storage, therefore GSD proposes a 200,000 gallon tank. The storage will be increased by 170,000 gallons, which currently operates in a deficit between 74,000 and 182,780.

The storage tank deficit is based upon the maximum daily demand. The average residential customer uses 305 gallons per day in the maximum annual month. For 23 residential services this would theoretically add 7,015 gallons to the existing storage deficiency. The average commercial customer uses 640 gallons per day in the maximum annual month. For 3 commercial or industrial services this would theoretically add 1,920 gallons to the existing storage deficiency. The total deficiency would then be between 82,935 and 191,715 gallons. The environmental analysis concluded that the GSD has sufficient water supplies for the change in tank size necessary (LACO, 2013). Even though the GSD does not have sufficient storage to meet state standards, the additional capacity necessary would not result in any additional water diversions from the South Fork of the Eel River.

**Water System Improvement Project.** The SWTP is currently in construction and was designed to treat up to 336 gallons per minute (gpm) from the South Fork of the Eel River plus up to 33 gpm of

recycled backwash water. The treatment plant upgrade is to meet existing water demands and current CDPH requirements for redundancy, providing reliable high quality water to the District's costumers. The environmental analysis concluded this project will not result in additional water supplies other than those already established for GSD.

Based the above discussion, the District will be able to serve all the developable parcels within the proposed POU within the allowable 80 million gallons per year. These projects, in conjunction with the proposed project, will not result in a significant cumulative environment impact because the water infrastructure projects planned for the GSD are intended to satisfy current water demands.

**(c) No Impact:** The project does not require or result in the construction of any new stormwater drainage facility or the expansion of any existing facility the construction of which would cause significant environmental effects.

**(f- g) No Impact:** The project does not include development that would require a change in landfill capacities, or conflict with any federal, state, and local statues and regulations related to solid waste.

**Mitigation Measure No. 1.** The GSD Board of Directors shall adopt an ordinance that, at a minimum, states that any future development or intensification of use within the GSD boundary or future annexations or outside agency boundary service that relies on connection to the GSD water or sewer services for implementation will be reviewed by the GSD prior to approval by the County. A "will serve" letter will be provided by GSD to Humboldt County and the project applicant, indicating the ability of the GSD to provide a service connection based upon the current water and/or wastewater system capacity to provide that service. If sufficient water or wastewater service is not available, the applicant will be denied service until such time that the service is available. This ordinance will also identify the location of the water and sewer service area and only water service area overlay. These areas are shown on Figure 16. GSD shall notify Humboldt County of the new ordinance so that it will be included in current planning activities.

**Mitigation Measure No. 2.** The GSD Board of Directors shall adopt a resolution stating that the Connick Creek Subdivision as described in this IS/MND is responsible for any maintenance necessary to ensure that distribution meets appropriate and applicable regulations for providing water service from the private water line. The resolution shall state that the GSD is not responsible for any costs or maintenance associated with provision of water in this area other than from the master meter described in agreement recorded on October 8, 2010, as Instrument # 2010-22217-9. The resolution shall note that annexation of the Connick subdivision is not intended to constitute a modification, express or implied, of the October 8, 2010, agreement (recorded as Instrument # 2010-22217-9), or an expansion of any rights or interests any member of the Connick Creek Subdivision Association possess under said agreement."

**Mitigation Measure No. 3.** The GSD Board of Directors shall adopt a resolution stating that in the future, all new connections that are guaranteed through existing agreements that are outside of the GSD boundary must satisfy all planning and building regulations at the owner's cost and expense. Specifically, the area adjacent to the Connick Subdivision includes APN 222-156-012, which is a party to the agreement recorded on October 8, 2010, as Instrument Number 2010-22217-9. This APN does not have an existing water connection. No service will be provided until the property owner petitions the District for water service and appropriate approvals have been granted by all appropriate agencies including, but not be limited to the SWRCB DWR, County of Humboldt, and Humboldt LAFCo.

## Appendix F

December 2012  
SWRCB Cease and Desist Order

November 2018  
Notice of CDO Violation

Mr. Ralph Emerson, General Manager  
Garberville Sanitary District  
P.O. Box 211  
Garberville, CA 95542

Dear Mr. Emerson:

NOTICE OF VIOLATION OF ORDER WR 2012-0036-DWR

On December 27, 2012 the State Water Resources Control Board (State Water Board) issued Order WR 2012-0036-DWR requiring Garberville Sanitary District (GSD) to cease and/or abate a threatened or ongoing violation of one or more conditions of License 3404 (Application 9686) and Permit 20789 (Application 29981).

Order WR 2012-0036-DWR required GSD to cease and desist the bulk sale and delivery of water under License 3404 and/or Permit 20789 to areas outside the authorized place of use, unless it is demonstrated to the satisfaction of the State Water Board that the water is needed for emergency domestic water supply.

On September 4, 2018 the State Water Board, Division of Water Rights (Division) received a complaint requesting an investigation to determine if GSD was in violation of Order WR 2012-0036-DWR. In a September 5, 2018 email correspondence with the complainant Ed Voice, GSD confirmed that it sold water outside of its licensed and permitted place of use for construction related activities.

This letter serves to inform GSD that sales of bulk water for construction related activities outside of the place of use of License 3404 and Permit 20789 is a violation of Order WR 2012-0036-DWR. Order WR 2012-0036-DWR specifies that bulk water can only be sold outside of the place of use for License 3404 and Permit 20789 if it is for emergency domestic water supply. GSD shall cease all sales of bulk water for purposes other than emergency domestic water supply.

If you have any questions, please contact Skyler Anderson at (916) 341-5307 or via e-mail at: [skyler.anderson@waterboards.ca.gov](mailto:skyler.anderson@waterboards.ca.gov). Written correspondence should be addressed as follows: State Water Resources Control Board, Division of Water Rights Attn: Skyler Anderson, P.O. Box 2000 Sacramento, CA 95812-2000.

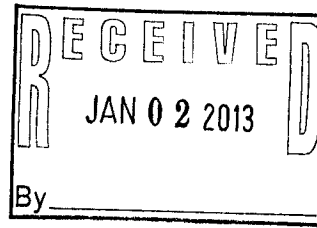
Sincerely,

ORIGINAL SIGNED BY:

Skyler Anderson  
North Coast Enforcement Unit  
Division of Water Rights

Ec: Mr. Ed Voice  
[evice@mchsi.com](mailto:evice@mchsi.com)

Ms. Jane Arnold  
[jane.arnold@wildlife.ca.gov](mailto:jane.arnold@wildlife.ca.gov)



EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

**State Water Resources Control Board**

**DEC 27 2012**

In Reply Refer to:  
KB:262.0(12-18-04),  
A009686, A029981

CERTIFIED MAIL NO. 7004-2510-0003-9146-5724  
Return Receipt Requested

Mr. Mark Bryant, General Manager  
Garberville Sanitary District  
P.O. Box 211  
Garberville, CA 95542

Dear Mr. Bryant:

**ORDER ADOPTING CEASE AND DESIST ORDER FOR LICENSE 3404  
(APPLICATION 9686) AND PERMIT 20789 (APPLICATION 29981)**

Enclosed is a copy of Order WR 2012-0036-DWR, signed by the Assistant Deputy Director of the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) on December 27, 2012. This Order adopts the draft Cease and Desist Order (CDO), transmitted to you by certified letter dated November 20, 2012.

The November 20, 2012 draft CDO required Garberville Sanitary District (GSD) to: (1) cease and desist the bulk sale and delivery of water under its permit and license to areas outside the authorized place of use, unless the water is needed for emergency domestic water supply; (2) diligently pursue the processing of its petitions for change in place of use under its permit and license filed with the Division; and (3) submit required annual use reports for your Permit and License. The Division allowed 20 days from your receipt of the draft CDO for you to request a hearing to contest the findings and requirements of the CDO as written.

GSD did not submit a request for hearing. In accordance with California Water Code section 1834, the Division is adopting the draft CDO as written. The Division appreciates Garberville's ongoing cooperation in meeting the requirements of the draft CDO. To date, GSD informed the Division that it has taken appropriate measures to come into compliance with the directives of the draft CDO, as follows:

CHARLES R. HOPPIN, CHAIRMAN | THOMAS HOWARD, EXECUTIVE DIRECTOR

1001 I Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 100, Sacramento, CA 95812-0100 | www.waterboards.ca.gov

- On December 3, 2012, the GSD Board of Directors held a special meeting to review the draft CDO. The GSD Board of Directors took action to cease the sale of bulk water, effective January 2, 2013, unless the water is needed for emergency domestic use. Future delivery of bulk water for emergency domestic use must be approved by GSD and the Division and is limited to the quantity of water necessary to sustain human and animal life, including sanitary use.
- GSD submitted petitions for change in place of use for their permit and license and, as of the date of this letter, are working with Division staff in the processing of the petitions.
- The 2010 and 2011 annual use reports for License 3404 and Permit 20789 were submitted by GSD to the Division within the 20 days allowed in the notice of the draft CDO.

Your failure to comply with the terms or requirements of a CDO may subject you to civil liability in a sum up to \$1,000 for each day in which the violation occurs in accordance with California Water Code section 1845.

Division staff has reviewed the 2010 and 2011 annual use reports for License 3404 and Permit 20789, submitted by GSD on December 2, 2012 and has determined that GSD has satisfied the third directive of the CDO. In order to avoid future potential liability, GSD must remain in compliance with the remaining directives of the CDO regarding bulk water sales and the petition for change in place of use.

If you have any questions, please contact me, the Division's Enforcement Section Manager, at (916) 341-5368; or Ms. Ellen Howard, Staff Counsel, Office of Enforcement, at (916) 341-5677 or via e-mail at: [Ellen.Howard@waterboards.ca.gov](mailto:Ellen.Howard@waterboards.ca.gov). If you wish to write a letter, please send a written response to:

State Water Resources Control Board  
Division of Water Rights  
Attention: Enforcement Section  
P.O. Box 2000  
Sacramento, CA 95812-2000

Sincerely,

  
for

John O'Hagan, Manager  
Enforcement Section  
Division of Water Rights

Enclosure: Cease and Desist Order

cc: Please see next page.

Mr. Mark Bryant

- 3 -

cc: Mr. Ed Voice  
P.O. Box 580  
Garberville, CA 95542



STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER WR 2012-0036-DWR

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**CEASE AND DESIST ORDER**

In the Matter of Unauthorized Diversion and Violation of Terms and Conditions for License 3404  
(Application 9686) and Permit 20789 (Application 29981) by

**Garberville Sanitary District**

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SOURCE: South Fork Eel River

COUNTY: Humboldt County

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The State Water Resources Control Board (State Water Board or Board) is authorized under California Water Code section 1831 to issue a Cease and Desist Order (CDO) requiring Garberville Sanitary District (referred to herein as GSD) to cease and/or abate a threatened or ongoing violation of one or more conditions of License 3404 (Application 9686) and Permit 20789 (Application 29981).

GSD is alleged to have violated or is threatening to violate California Water Code (Water Code) section 1052 and/or license terms issued in accordance with Water Code Division 2. Water Code section 1831 et seq. authorizes the State Water Board to issue a Cease and Desist Order when it determines that any person is violating or threatening to violate any of the following:

- (1) The prohibition set forth in Section 1052 against the unauthorized diversion or use of water subject to this division.*
- (2) Any term or condition of a permit, license, certification, or registration issued under this division.*
- (3) Any decision or order of the board issued under (part 2 of Division 2 of the Water Code [commencing with Section 1200]), Section 275, or Article 7 (commencing with Section 13550) of Chapter 7 of Division 7, in which decision or order the person to whom the cease and desist order will be issued, or a predecessor in interest to that person, was named as a party directly affected by the decision or order.*

On November 20, 2012, and in accordance with the provisions of section 1834 of the California Water Code, the State Water Board, Division of Water Rights (Division) provided notice of the CDO against GSD for the violation of the terms and conditions of its license and permit and/or Chapter 2, Article 20, sections 847, 925, and 929 of the California Code of Regulations and the unauthorized diversion or use of water. Pursuant to State Water Board Resolution 2012-0029, the Deputy Director for Water Rights is authorized to issue a notice of cease and desist, and when a hearing has not been timely requested, issue a Cease and Desist Order (CDO) in accordance with California Water Code section 1831 et seq. State Water Board Resolution 2012-0029 also authorizes redelegation of this authority from the Deputy Director for Water Rights to the Assistant Deputy Director for Water Rights. This authority has been redelegated.

## FACTUAL BASIS FOR ISSUING THE CDO

The facts and information upon which this CDO is based are as follows:

1. The Division issued License 3404 (Application 9686) to Garberville Water Company (GWC) on February 29, 1952. License 3404 authorizes the diversion of 0.155 cubic foot per second (cfs) from the South Fork of the Eel River at North 26° East, 190' from the south quarter corner of Section 24, T 4 S, R 3 E, H.B.M. The licensed place of use is "Town of Garberville as bounded by Garberville Sanitary District," and the licensed purpose of use is "municipal use."
2. On April 2, 1990, Division staff conducted an inspection of GWC and noted that water was being diverted in excess of license limits and being delivered outside the licensed place of use. Division staff noted in the inspection report that GWC was delivering water to areas outside of the Place of Use depicted on the map submitted with Application 9686 (Exhibit A). On July 22, 1990 GWC submitted Application 29981 to appropriate water by permit, expanding the place of use to the GWC service boundaries. A map of the town of Garberville, depicting the proposed place of use under permit Application 29981 was submitted on April 19, 1990 as part of the application package (Exhibit B). Application 29981 indicates that 366 residences, equal to 1400 people, would be served domestic water under the water right. The application also indicates that zero acres per year will be irrigated under the water right.
3. On May 15, 1995, the Division issued Permit 20789 (Application 29981) to GWC, which authorizes the diversion of 0.595 cfs and a maximum of 430 acre-feet per year from the same point of diversion as License 3404. The permitted place of use is "within the boundaries of the town of Garberville," as shown on the map submitted with the application, and the permitted purpose of use is "municipal." GSD purchased GWC in November 2004 and notified the Division of the change of name and ownership on October 23, 2007. The Division's records indicate the ownership for License 3404 and Permit 20789 were changed on October 23, 2007.
4. In 2012 the Division received two complaints alleging that GSD was violating terms and conditions of License 3404 and Permit 20789. The first complaint, filed on August 6, 2012 by Mr. Ed Voice, alleged that GSD was selling bulk water to commercial water delivery companies that re-sell the water to customers outside of the GSD's licensed and permitted place of use. The second complaint, filed on September 6, 2012, alleged that GSD was providing service connections to residential homes and properties outside of the authorized place of use. As part of its investigations for the complaints, Division staff reviewed GSD's record, including its required reports of water diversion and use under its permit and license. The Division notified GSD of the first complaint by letter dated August 23, 2012 and of the second complaint by e-mail dated September 13, 2012. GSD responded to the complaints by letter dated September 18, 2012.

### Bulk Water Sales and Place of Use

5. The August 6, 2012 complaint and September 18, 2012 response indicate that GSD sells water to commercial water haulers through an unmetered fire hydrant on Redwood Drive. The third-party commercial water haulers provide GSD with self-reported information about the quantity of water purchased, but GSD does not maintain records about the purpose and location of the use of this water. GSD summarized the annual bulk water sales reported by the haulers for 2010/2011 and 2011/2012 as 877,720 gallons (2.69 acre-feet) and 1,734,200 gallons (5.32 acre-feet), respectively.

6. The September 18, 2012 response from GSD included a statement from Heather Kornberg of Pura Vida Water Delivery, a commercial water hauler that obtains water from GSD. The letter indicates that most of Pura Vida's water deliveries are to "rural homesteads" in the Eel River watershed. It does not indicate if Pura Vida keeps records on the purpose of use of trucked water. It also does not indicate if these residences are inside or outside of the town of Garberville. During a telephone conversation with Division staff on September 25, 2012, Mr. Ed Voice indicated that he has observed commercial water haulers deliver water obtained from GSD to customers outside of the GSD's place of use.
7. In its September 18 response, GSD indicated that it may use groundwater from its Tobin well to provide water to commercial water haulers. According to GSD, Tobin well is a shallow well located in downtown Garberville with a limited capacity of 40 to 70 gallons per minute (gpm), a rate which appears to be sufficient to provide water equivalent to the annual volume of bulk water sales. GSD ordered and installed a water meter to quantify the water produced from the well as a result of the complaint. The direct sale of pumped groundwater from Tobin well may not require or involve a water right, provided that the well does not draw from a subterranean stream within the jurisdiction of the State Water Board. The existence of a subterranean stream is determined through a hydrogeologic analysis, in consultation with the Division.
8. Based on the information provided to the Division, continued bulk water sales would pose a threat of unauthorized diversion and use of water outside the authorized place of use covered by GSD's permit and license.

#### Residential Property Service Connections Outside of Place of Use

9. In the September 18 response, GSD confirmed that they are currently providing water service to 35 parcels that are outside of the licensed and permitted place of use. Twenty of the thirty-five parcels are within the Kimtu Meadows Subdivision project, which connected to GSD's water system in July 2012. GSD states that the remaining fifteen parcels have been receiving water prior to November 2004, when GSD purchased the water system from the Garberville Water Company.
10. On April 5, 2012, Division staff notified GSD that a Petition for Change and a Petition for Extension of Time must be filed with the Division to expand the place of use and to come into compliance with the terms and conditions of License 3404 and Permit 20789. According to the September 18 response, GSD is working with the Division to submit the necessary documents to petition to expand the place of use under License 3404 and Permit 20789 to include the 35 parcels. The GSD jurisdictional boundary, sphere of influence, and types of provided services are regulated by the Humboldt County Local Agency Formation Commission (HLAFCo). GSD has contracted with SHN Engineers and Geologists to conduct the CEQA review to support the change in their jurisdictional boundaries required by HLAFCo.
11. GSD intends to submit the appropriate documents to the Division within two months of the September 18 response. However, the unauthorized service outside of the GSD place of use will continue until the State Water Board approves the Petition for Change and Petition for Extension of Time, if ever. Continued delivery of water to parcels outside of the authorized place of use covered by GSD's permit and license constitutes an unauthorized diversion and use of water.

#### Failure to File Water Use Reports

12. Senate Bill X7-8, which was signed into law in 2009, authorized the State Water Board to adopt regulations requiring online reporting of water diversions. Consistent with the Senate Bill, the State Water Board has adopted regulations requiring annual reporting of water diversion and use under permits and licenses, and developed a new online Report Management System (RMS) as a component of the enhanced Water Right Information Management System (eWRIMS). The regulation specifying annual permittee and licensee reporting requirements is codified in Title 23, Chapter 2.7, Article 2, sections 925 and 929 of the California Code of Regulations.

13. In February 2011 the Division mailed out initial notices to GSD, notifying GSD of the annual use reporting requirements and instructions on how to access the RMS system to submit, at a minimum, the 2010 use reports online. GSD was also notified that if there were any questions on the new reporting process, GSD could contact the Division by telephone or e-mail. The deadline to submit the 2010 use reports online was July 1, 2011.
14. In September 2011 the Division mailed out delinquency letters, which also included a copy of the February 2011 letter, to all the permittees and licensees who had not submitted their 2010 use report by July 1, 2011. The delinquency letter provided notice that failure to submit the annual use report was a violation of the terms and conditions of the applicable permit and/or Chapter 2, Article 20, section 847 of the California Code of Regulations, and that continued failure to submit the annual use report may result in enforcement action by the State Water Board.
15. As of November 16, 2012, the Division has not received GSD's 2010 annual use reports for License 3404 and Permit 20789.
16. On March 5, 2012, the Division mailed out notices to GSD, notifying GSD of the annual use reporting requirements and instructions on how to access the RMS system to submit the 2011 use reports online. GSD was also notified that if there were any questions on the reporting process, GSD could contact the Division by telephone or e-mail. The deadline to submit the 2011 use reports online was June 30, 2012.
17. As of November 16, 2012, the Division has not received GSD's 2011 annual use report for License 3404 or Permit 20789.

**IT IS HEREBY ORDERED**, pursuant to sections 1831 through 1836 of the California Water Code, that:

1. Within 30 days of the date of this order, GSD must: (1) cease and desist the bulk sale and delivery of water under License 3404 and/or Permit 20789 to areas outside the authorized place of use, unless it is demonstrated to the satisfaction of the State Water Board that the water is needed for emergency domestic water supply; and (2) if bulk water sales continue, then GSD shall keep accurate records of each sale, including the volume of water sold, the date of the sale, the name of the commercial water hauler purchasing the water, and the final place of use. Records of any bulk sales of water, including place of use of water, shall be made available to the Division upon request.
2. By letter dated November 14, 2012, GSD filed petitions for change in place of use under License 3404 and Permit 20789 to include areas served by GSD with water diverted under these water rights. GSD shall diligently pursue the processing of these petitions by submitting all necessary fees, environmental documents, and other information required by the State Water Board within the time schedules specified. If and until the State Water Board approves the change petitions, GSD shall maintain monthly records of the amount of water served to areas outside the authorized places of use and report the monthly amounts separately from the amounts reported on its annual permit and license reports. The monthly records of amounts served outside the places of use shall be submitted as an attachment to the annual permit and license reports.
3. GSD shall immediately come into compliance with the terms of License 3404 and Permit 20789 by submitting its reports of 2010 and 2011 annual use by accessing the Report Management System at [www.waterboards.ca.gov/RMS](http://www.waterboards.ca.gov/RMS) using the User ID and Passwords shown on the User Information Sheet accompanying this CDO. For these two years, GSD shall estimate an annual amount for the water served by bulk water sellers outside the place of use and separate these amounts from the monthly amount beneficially diverted and used under the permit and license. The bulk water sales should be reported in the Remarks section of the online reports. Please note the User ID is a seven-digit alphanumeric string that begins with the letter "A" and followed by six numbers corresponding to your original application number. If you have any problems accessing the reporting system, please contact Division staff noted on the letter accompanying this CDO.

### **Consequences of Non-Compliance**

In the event GSD fails to comply with the requirements of this Order, GSD shall be in violation of this CDO and subject to additional enforcement, which may include the imposition of administrative civil liability, pursuant to California Water Code section 1845 (b)(1), of up to \$1,000 for each day in which the violation occurs or referral to the Attorney General to take further enforcement action as described in California Water Code section 1845(a):

**Upon the failure of any person to comply with a cease and desist order issued by the board pursuant to this chapter, the Attorney General, upon the request of the board, shall petition the superior court for the issuance of prohibitory or mandatory injunctive relief as appropriate, including a temporary restraining order, preliminary injunction, or permanent injunction.**

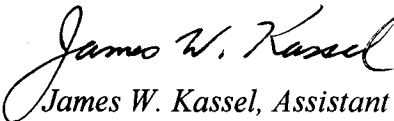
### **Reservation of Enforcement Authority and Discretion**

Nothing in this Order is intended to or shall be construed to limit or preclude the State Water Board from exercising its authority under any statute, regulation, ordinance, or other law, including but not limited to, the authority to bring enforcement against GSD for unauthorized diversion of water in accordance with California Water Code section 1052.

### **Regulatory Changes**

Nothing in this Order shall excuse GSD from meeting any more stringent requirements that may be imposed hereafter by applicable legally binding legislation, regulations, or water right license requirements.

STATE WATER RESOURCES CONTROL BOARD

  
*James W. Kassel, Assistant Deputy Director*  
*Division of Water Rights*

Dated: **DEC 27 2012**

Exhibit A

ORDER WR 2012-0036-DWR

9886

STATE OF CALIFORNIA  
DEPARTMENT OF PUBLIC WORKS  
DIVISION OF WATER RESOURCES

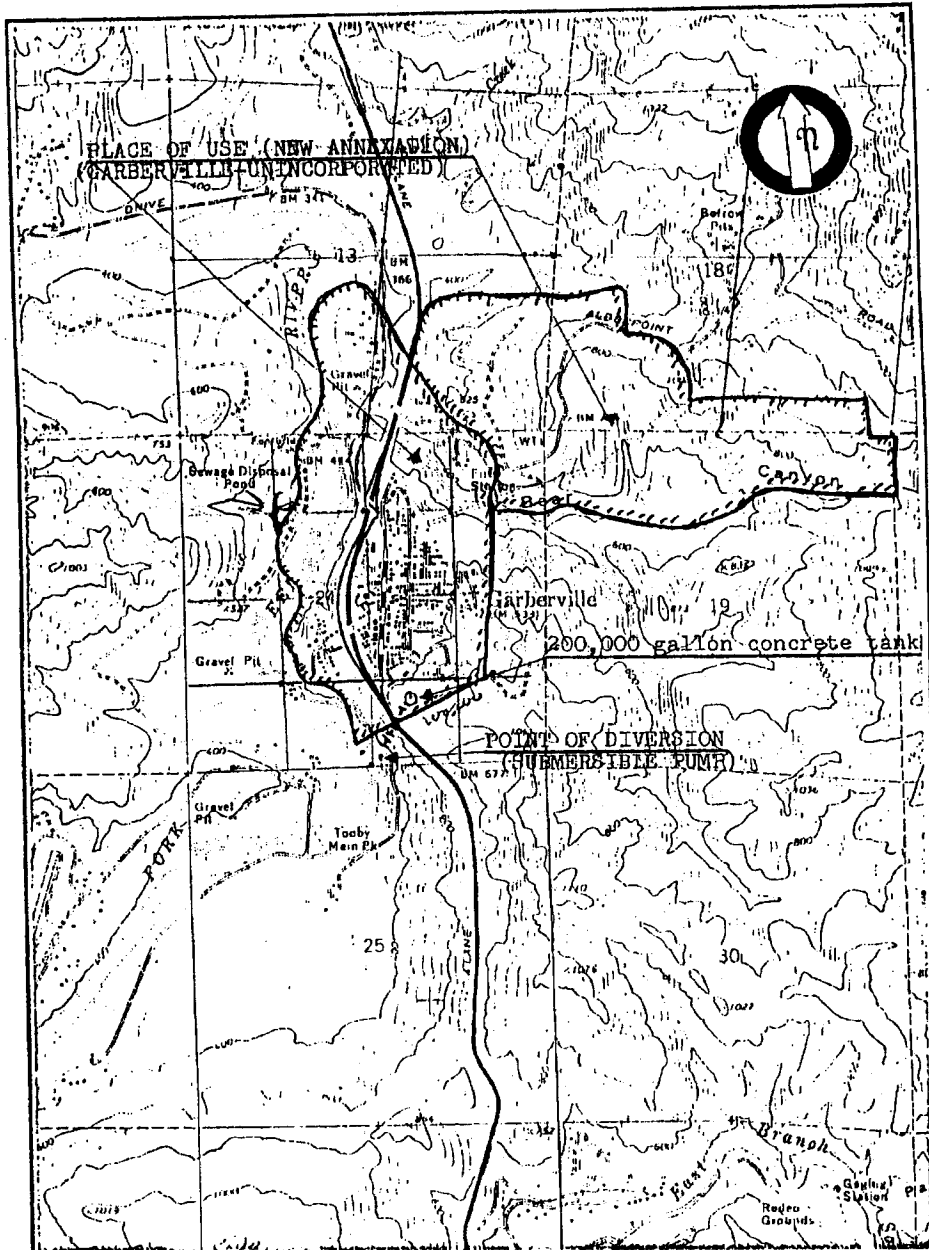
Section 33, Township 3 S., Range 3 E., Meridian

County 00000001

NOTE: Maps are to be drawn on this plan only when total amount of water to be diverted does not exceed three cubic feet per second for  
diverted diversion or two hundred acre-feet per season for storage. For amounts less than those above stated the average applicant  
can prepare a new preliminary map without the aid of a surveyor by following instructions on the reverse side of this plan.

Exhibit B

ORDER WR 2012-0036-DWR



OWNER <u>Garberville Water Co., Inc.</u>	
SOURCE <u>South Fork Eel River</u>	
POINT OF DIVERSION WITHIN <u>SW 1/4 SE 1/4 OF</u> <u>SECTION 21, T. 4S, R. 3E, H. B &amp; M</u>	
COUNTY OF <u>Humboldt</u>	
<u>Garberville 1970</u>	<u>1:24,000</u>
U.S.G.S. QUAD	DATE SCALE
STATE OF CALIFORNIA STATE WATER RESOURCES CONTROL BOARD DIVISION OF WATER RIGHTS	
APPLICATION <u>9686 29981</u>	
PERMIT <u>5487</u>	
LICENSE <u>3404</u>	
DATE <u>4/19/90</u>	DRAWN BY: <u>JTA</u>

FORC02A 2

## Appendix G

August 2020

ORDER WR 2020-0104-EXEC  
ORDER APPROVING SETTLEMENT AGREEMENT

SWRCB Settlement Agreement

Administrative Civil Liability Complaint



STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

**ORDER WR 2020-0104-EXEC**

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In the matter of Violation of Order WR 2012-0036-DWR by  
**GARBERVILLE SANITARY DISTRICT**

**ORDER APPROVING SETTLEMENT AGREEMENT**

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**BY THE EXECUTIVE DIRECTOR<sup>1</sup>**

**1.0 INTRODUCTION**

This matter comes before the Executive Director of the State Water Resources Control Board (State Water Board or Board) following the settlement negotiations regarding alleged violations of Order WR 2012-0036-DWR (Cease and Desist Order or CDO). In accordance with the attached Settlement Agreement, the State Water Board's Division of Water Rights Prosecution Team (Division Prosecution Team) and Garberville Sanitary District (GSD) have agreed to settle this matter in lieu of proceeding to a hearing. The Division Prosecution Team and GSD are collectively referred to as the Settling Parties. The issuance of a decision or order pursuant to a settlement agreement is authorized under Government Code section 11415.60.

**2.0 BACKGROUND**

GSD holds License 3404 (Application A009686) and Permit 20789 (Application A029981) to appropriate water from the South Fork Eel River for the purpose of Municipal use. The place of use for License 3404 and Permit 20789 is within Sections 13, 23, 24, 25 and 35, T4S, R3E, HB&M; and Sections 18, 19, and 20, T4S, R4E, HB&M.

<sup>1</sup> State Water Board Resolution 2012-0061 delegates to the Executive Director the authority to issue a decision or order by settlement of the parties under Government Code section 11415.60.

On December 27, 2012, the State Water Board adopted the CDO, ordering GSD to: 1) cease and desist the bulk sale and delivery of water under License 3404 and Permit 20789 to areas outside the authorized place of use, unless it is demonstrated to the satisfaction of the State Water Board that the water is needed for emergency domestic water supply (Provision 1); and 2) if bulk water sales continue, keep accurate records of each sale, including the volume of water sold, the date of the sale, the name of the commercial water hauler purchasing the water, and the final place of use, which shall be made available to the Division upon request (Provision 2).

On September 4, 2018, the Division received a complaint alleging that GSD violated Provision 1 of the CDO through the bulk sale and delivery of water outside of the authorized place of use described under License 3404 and Permit 20789.

On November 20, 2018, Division staff issued a Notice of Violation placing GSD on notice that Division staff had determined that GSD had violated both Provision 1 and Provision 2 of the CDO by selling bulk water for use outside of the authorized place of use, and failing to keep accurate records of each sale of bulk water.

On November 30, 2018, GSD responded to the Notice of Violation by informing the Division that GSD ceased bulk water sales in October 2018.

GSD is alleged to have violated both Provision 1 and Provision 2 of the CDO through the bulk sale and delivery of water outside of the authorized place of use under License 3404 and Permit 20789 for uses other than emergency domestic water supply, and failing to keep accurate records of each sale of bulk water. The alleged violations are described in a Draft Administrative Civil Liability Complaint (ACLC) attached to the Settlement Agreement.

The Settling Parties have engaged in settlement negotiations and mutually agreed to settle the alleged violations. The Settlement Agreement represents a compromise of disputed claims. Nothing contained in the Settlement Agreement shall be construed as an admission of fault or liability on the part of GSD.

### **3.0 SETTLEMENT AGREEMENT**

The Settling Parties executed the Settlement Agreement attached hereto. The general terms of the settlement are that the Division Prosecution Team will deem the Draft ACLC satisfied and will not pursue further enforcement of any of the violations alleged in the Draft ACLC if GSD (1) waives the right to reconsideration of this Order; (2) agrees to the terms as described in the Settlement Agreement and incorporated herein; (3) specifically implements the compliance actions described in Paragraphs 7.a and 7.b of the Settlement Agreement to ensure compliance with the CDO; and (4) pays an administrative civil liability penalty of \$40,000.00 within 30 days following the issuance of this Order.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the attached Settlement Agreement between the Division Prosecution Team and GSD is approved. GSD must:

1. Implement the compliance actions described in Paragraphs 7.a and 7.b of the Settlement Agreement; and
2. Pay a total of \$40,000.00 by cashier's check or money order to the "*State Water Board Water Rights Fund*" no later than 30 days from issuance of this Order. The payment must include a note or other reference to "*Order WR 2020-0104-EXEC*" and must be mailed to the following address:

State Water Resources Control Board  
Division of Water Rights  
Attn: Julé Rizzardo  
P.O. Box 2000  
Sacramento, CA 95812-2000

The compliance actions described in ordering paragraph 1 of this Order (Paragraphs 7.a and 7.b of the Settlement Agreement) are necessary for GSD to come into compliance with the CDO. Failure to implement these compliance actions will be subject to

enforcement under section 1845, subdivision (b), of the Water Code, at the discretion of the State Water Board. In adopting this order, the State Water Board has considered all relevant circumstances, including those identified in the Settlement Agreement. GSD's failure to timely pay the amount required in ordering paragraph 2 of this Order will be deemed a failure to satisfy the administrative civil liability under this Order, and will be subject to enforcement and recovery by the State Water Board under section 1055.4 of the Water Code.

August 26, 2020



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Date

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Eileen Sobeck  
Executive Director

## **SETTLEMENT AGREEMENT**

This Settlement Agreement is made this 11th day of May, 2020, by and between Garberville Sanitary District (GSD) and the Prosecution Team of the State Water Resources Control Board (“State Water Board”) Division of Water Rights (“Division”). GSD, and the Prosecution Team are collectively referred to as the Settling Parties.

### **RECITALS**

1. GSD holds License 3404 (A009686) and Permit 20789 (A029981) to appropriate water from the South Fork Eel River for the purpose of Municipal use. The place of use for Permit 20789 and License 3403 is within Sections 13, 23, 24, 25 and 35, T4S, R3E, HB&M; and Sections 18, 19, 20, T4S, R4E, HB&M.
2. On September 6, 2012, the Division received a complaint alleging that GSD was violating the terms and conditions of License 3404 and Permit 20789 by providing service connections to residential homes and properties outside of GSD’s licensed and permitted place of use.
3. On November 20, 2012, the Division served GSD with a draft Cease and Desist Order (CDO).
4. On December 27, 2012 the State Water Board adopted Cease and Desist Order 2012-0036-DWR, ordering GSD to: 1) cease and desist the bulk sale and delivery of water under License 3404 and Permit 20789 to areas outside the authorized place of use unless, it is demonstrated to the satisfaction of the State Water Board that the water is needed for emergency domestic water supply (Provision 1), and 2) if bulk water sales continue, to keep accurate records of each sale, including the volume of water sold, the date of the sale, the name of the commercial water hauler purchasing the water, and the final place of use, which shall be made available to the Division upon request (Provision 2).
5. On September 4, 2018, the Division received a complaint alleging that GSD violated Provision 1 of the Final CDO through the bulk sale and delivery of water outside of the authorized place of use described under License 3404 and Permit 20789.
6. On November 20, 2018, Division staff issued a Notice of Violation placing GSD on notice that Division staff had determined that GSD had violated both Provision 1 and Provision 2 of the Final CDO by the selling bulk water for use outside of the authorized place of use, and failing to keep accurate records of each sale of bulk water.

## GSD Settlement Agreement

7. On November 30, 2018, GSD responded to the Notice of Violation by informing the Division that GSD ceased bulk water sales in October 2018.
8. GSD is alleged to have violated both Provision 1 and Provision 2 of Cease and Desist Order 2012-0036-DWR through the bulk sale and delivery of water outside of the authorized place of use under License 3404 and Permit 20789 for uses other than emergency domestic water supply, and failing to keep accurate records of each sale of bulk water. California Water Code section 1845 states that a person or entity who violates a cease and desist order may be held civilly liable in an amount not to exceed one thousand dollars (\$1000) for each day in which the violation occurs. The alleged violations are described in a Draft Administrative Civil Liability Complaint (ACLC) ("Attachment A"). The Draft ACLC proposes an administrative civil liability in the amount of \$50,000 based on the relevant circumstances alleged therein.
9. This Settlement Agreement is a compromise of disputed claims. Nothing contained in this Settlement Agreement shall be construed to be an admission of fault or liability on the part of GSD.
10. The Settling Parties have engaged in settlement negotiations and agree to settle the matter without administrative or civil litigation by presenting this Settlement Agreement and a proposed order to the State Water Board for adoption as an order by settlement, pursuant to Government Code section 11415.60. This Settlement Agreement will become effective when the State Water Board's Executive Director issues an order approving the settlement, provided that the Settling Parties concur in any substantive changes to the approving order proposed by the Executive Director.

NOW, THEREFORE, in consideration of these Recitals and in consideration of the mutual covenants set forth in this Settlement Agreement, the Settling Parties do hereby agree to settle the violations alleged as follows:

1. **Recitals Incorporated.** The preceding Recitals are incorporated herein.
2. **Settlement Conditionally Confidential.** Unless and until the State Water Board's Executive Director issues an order approving this Settlement Agreement, this Settlement Agreement is a confidential settlement document subject to all of the limitations on admissibility set forth in California Evidence Code sections 1152 and 1154. Furthermore, pursuant to Government Code section 11415.60, this Settlement Agreement is not admissible in an adjudicative proceeding or civil action for any purpose.
3. **Payment Amount.** GSD shall pay a total of \$40,000.00 as directed herein to resolve all violations alleged in the ACLC.



4. **Consideration of Relevant Circumstances.** The Prosecution Team has determined for purposes of Water Code section 1055.3 that the Payment Amount in Paragraph 3 is an appropriate resolution to the violations alleged in the Draft ACLC based on consideration of the relevant circumstances, including: GSD's alleged knowledge that the sale of bulk water was in direct violation of the Cease and Desist Order, the economic benefit realized by GSD through the sale of bulk water, the commitments set forth in Paragraph 7 below, and the settlement purpose of this agreement.
5. **Administrative Civil Liability Payment Due Date.** The Payment Amount set forth in Paragraph 3 is due within 30 days following the State Water Board Executive Director's approval of this Settlement Agreement. The State Water Board will deposit said funds in the Water Rights Fund pursuant to Water code sections 1054, et seq.
6. **Satisfaction of Administrative Civil Liability Complaint.** GSD's full payment of the Payment Amount will be a complete and final satisfaction of the administrative civil liability described in the draft ACLC, and the State Water Board will not bring any further administrative civil liability or other enforcement action regarding any of the alleged violations described in the draft ACLC.
7. **Compliance Actions.** The Settling Parties agree that GSD will take the following actions to come into compliance with Cease and Desist Order 2012-0036-DWR:
  - a. GSD shall, in compliance with the terms of Provision 1 of Cease and Desist Order 2012-0036-DWR, prohibit metered customers who are located within the authorized place of use described under License 3404 and Permit 20789 from purchasing bulk water and transporting it outside the place of use. Where GSD has knowledge of a violation of this prohibition, it will take reasonable and necessary actions to halt the activity.
  - b. In the event any future requests are received by GSD for the purchase of bulk water and transport outside the place of use that is not needed for emergency domestic water supply or any other use allowed by Cease and Desist Order 2012-0036-DWR pursuant to its current or amended text (if later amended), GSD will deny the request unless the customer has a temporary urgency change petition approved by the State Water Board in accordance with California Water Code section 1435.
8. **Enforcement of this Settlement Agreement.** The compliance actions described in Paragraph 7 are necessary for GSD to come into compliance with the CDO. Failure to implement these

## GSD Settlement Agreement

compliance actions will be subject to enforcement under Water Code section 1845 at the discretion of the State Water Resources Control Board. A failure to pay the amount required in Paragraph 3 will be deemed failure to pay an ACL, recoverable as provided in Water Code section 1055.4.

9. **Request for Executive Director Approval.** Upon execution of this Settlement Agreement by each of the Settling Parties, the Settling Parties shall submit this Settlement Agreement and a proposed order approving this Settlement Agreement to the Executive Director for consideration and approval.
10. **Waiver of Reconsideration.** GSD waives the right to request reconsideration of the State Water Board Executive Director's order approving this Settlement Agreement, provided no material modifications to this Settlement Agreement or additional requirements beyond the requirements of this Settlement Agreement are included in that order.
11. **Successors.** This Settlement Agreement is binding on any successors or assigns of GSD, and the State Water Board.
12. **Independent Judgment.** Each party represents and declares that in executing this Settlement Agreement it is relying solely on its own judgment, knowledge and belief concerning the nature, extent and duration of its rights and claims, and that it has not been influenced to any extent whatsoever in the execution of this Settlement Agreement by any representations or statements regarding any matters made by other parties hereto or by any person representing them.
13. **No Precedent.** This Settlement Agreement involves unique facts and legal issues and shall not be used as a precedent decision of the State Water Board.
14. **Additional Documents.** Each party agrees that it will cooperate fully in executing any additional documents necessary to give full effect to this Settlement Agreement.
15. **Entire Agreement.** This Settlement Agreement reflects and represents the entire agreement between and among the parties and supersedes any and all prior understandings, representations, and agreements whether written or unwritten. Each party represents that it has not relied on any inducements, promises or representations made by the other party other than those contained in this Settlement Agreement.
16. **Mutual Agreement.** The parties have agreed to the particular language in this Settlement Agreement, and this Settlement Agreement shall not be

## GSD Settlement Agreement

construed against the party that drafted this Settlement Agreement or any portion of this Settlement Agreement.

- 17. Counterparts.** This Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.
- 18. Disputed Claim and Reasonableness of Settlement.** This Settlement Agreement is a compromise of disputed claims. Nothing contained in this Settlement Agreement shall be construed to be an admission of fault or liability on the part of GSD. Without limitation on the foregoing, the parties represent and warrant that this Settlement Agreement is made in good faith and in full recognition of the implications of such agreement.
- 19. Section Headings.** The parties intend that the paragraph headings of this Settlement Agreement be used solely as a convenient reference and that they shall not in any manner amplify, limit, modify or otherwise aid in the interpretation of this Settlement Agreement.
- 20. Effective Date.** This Settlement Agreement shall become effective immediately upon the State Water Board Executive Director's Order Approving Settlement Agreement.
- 21. Choice of Law.** This Settlement Agreement shall be interpreted and governed by the laws of the State of California.
- 22. Authorization.** Each party warrants that the individual executing this Settlement Agreement on behalf of such party is duly authorized to do so.
- 23. State Water Board Is Not Liable.** Neither the State Water Board members nor the Board's staff, attorneys or representatives shall be liable for any injury or damage to persons or property resulting from acts or omissions by GSD, or their directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Settlement Agreement, nor shall the State Water Board, its members or staff be held as parties to or guarantors of any contract entered into by GSD's directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Settlement Agreement.
- 24. No Waiver of Other Requirements.** Nothing in this Settlement Agreement or any implementing Order shall excuse GSD from applicable legislation, regulation, order or any other requirements or restrictions imposed by the State Water Board or pursuant to its delegated authority.

GSD Settlement Agreement

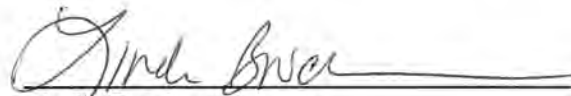
Dated: May 7 2020

 Digitally signed by Julie Rizzardo  
Date: 2020.05.07 09:02:25 -07'00'

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Julé Rizzardo  
Assistant Deputy Director  
State Water Board, Division of Water Rights  
Prosecution Team

Dated: May 11 2020

  
Linda Brodersen  
Board Chair  
Garberville Sanitary District Board of Directors

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

**ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

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In the Matter of Violation of Cease and Desist Order 2012-0036-DWR

**Garberville Sanitary District**

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SOURCE: South Fork Eel River tributary to Eel River

COUNTY: Humboldt

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**YOU ARE HEREBY GIVEN NOTICE THAT:**

1. On December 27, 2012 the State Water Resources Control Board (State Water Board or Board) adopted Cease and Desist Order WR 2012-0036-DWR, ordering Garberville Sanitary District (GSD) to 1) cease and desist the bulk sale and delivery of water under License 3404 and Permit 20789 to areas outside the authorized place of use unless, it is demonstrated to the satisfaction of the State Water Board that the water is needed for emergency domestic water supply (Provision 1), and 2) if bulk water sales continue, to keep accurate records of each sale, including the volume of water sold, the date of the sale, the name of the commercial water hauler purchasing the water, and the final place of use, which shall be made available to the Division upon request (Provision 2).
2. Garberville Sanitary District is alleged to have violated both Provision 1 and Provision 2 of Cease and Desist Order 2012-0036-DWR through the bulk sale and delivery of water outside of the authorized place of use under License 3404 and Permit 20789 for uses other than emergency domestic water supply, and failing to keep accurate records of each sale of bulk water.
3. California Water Code section 1845 states that a person or entity who violates a cease and desist order may be held civilly liable in an amount not to exceed one thousand dollars (\$1000) for each day in which the violation occurs. Liability may be imposed by the State Water Board pursuant to California Water Code section 1055.
4. California Water Code section 1055 subdivision (a), provides that the Executive Director of the State Water Board may issue a complaint to any person or entity on whom Administrative Civil Liability (ACL) may be imposed. The Executive Director has delegated this authority to the Deputy Director for the Division of

Water Rights (Deputy Director), who has redelegated this authority to the Assistant Deputy Director for the Division of Water Rights (Assistant Deputy Director). State Water Board Resolution 2012-0029 authorizes the Deputy Director to issue an order imposing an ACL when a complaint has been issued and no hearing has been requested within 20 days of receipt of the complaint. The Deputy Director has redelegated this authority to the Assistant Deputy Director.

### HISTORY

5. GSD holds License 3404 (A009686) and Permit 20789 (A029981) to appropriate water from the South Fork Eel River for the purpose of Municipal use. The place of use for Permit 20789 and License 3403 is within Sections 13, 23, 24, 25 and 35, T4S, R3E, HB&M; and Sections 18, 19, 20, T4S, R4E, HB&M. A summary of the water rights is listed below:

	A009686	A029981
Type	License 3403	Permit 20789
Source	South Fork Eel River	South Fork Eel River
Priority Year	1939	1991
Purpose of Use	Municipal	Municipal
Season of Diversion	1/1 – 12/31	1/1 – 12/31
Rate (cfs)	0.155	0.595
Max Rate (cfs)	0.75	0.75
Max Amount (acre-ft)	112.2	430

6. On August 6, 2012 the Division of Water Rights (Division) received a complaint from Mr. Ed Voice alleging that GSD was violating the terms and conditions of License 3404 and Permit 20789 by selling bulk water to commercial water delivery companies that re-sell the water to customers outside of GSD’s licensed and permitted place of use.
7. On September 6, 2012, the Division received a complaint alleging that GSD was violating the terms and conditions of License 3404 and Permit 20789 by providing service connections to residential homes and properties outside of GSD’s licensed and permitted place of use.
8. On November 12, 2012, GSD submitted a petition to expand the place of use to extend treated water from the GSD’s system to the Kimtu Meadows subdivision for municipal purposes. Permit 20789 and License 3404 were amended to reflect the petitioned place of use on October 11, 2013.
9. On November 20, 2012, the Division served GSD with a draft Cease and Desist Order (CDO).
10. On November 27, 2012, Division staff spoke to a GSD employee, Jennie Short, over the phone. Ms. Short informed the Division that GSD was contemplating



ceasing all bulk water sales in response to the draft CDO. Division staff informed Ms. Short that Provision 1 of the draft CDO does not require the complete cessation of bulk water sales, only those sales for water delivery outside of GSD's place of use. Division staff explained that Provision 1 of the draft CDO includes an Emergency Domestic Use exception to this requirement and provided an example of when that exception would apply.

11. On December 3, 2012, Division staff sent Ms. Short an email further explaining that the exception allowing for bulk water sales for Emergency Domestic Use is a limited and narrow exception available "only in temporary circumstances where such deliveries are required for essential health and safety." Moreover, Division staff articulated that it would be GSD's responsibility to comply with this requirement by reviewing each request for water by bulk water haulers outside GSD's authorized place of use to confirm that a legitimate alternate water supply was not available, the quantity of water requested was reasonable for the emergency domestic needs, and that a plan exists to remedy and correct the emergency need for water.
12. On December 3, 2012, Ms. Short presented the draft CDO to the GSD Board in open session at a special board meeting. The transcript of that meeting indicates that Ms. Short relayed the Division's explanation of the Emergency Domestic Use exception in the draft CDO. Following discussion of the terms of the draft CDO, the GSD Board members voted to waive their right to a hearing on the draft CDO.
13. On December 27, 2012, the Assistant Deputy Director issued Cease and Desist Order WR 2012-0036-DWR (Final CDO) pursuant to authority delegated by State Water Board Resolution 2012-0029, requiring GSD to cease and desist the bulk sale and delivery of water outside of the authorized place of use described under License 3404 and Permit 20789. The Final CDO is attached hereto as **Attachment A**.
14. On a January 11, 2013 conference call Division staff and a representative of GSD, Ms. Tina Stillwell, discussed the terms of the Final CDO, and responded to Ms. Stillwell's questions regarding the Emergency Domestic Use exception. Division staff explained that GSD does not need the Division's approval when authorizing sales to commercial water haulers and it is GSD's responsibility to only approve sales based on the guidelines of the CDO. Division staff recommended that GSD submit a completed Emergency Domestic Use application to the Division, where the application can be reviewed, and GSD can receive feedback on the approved applications. Ms. Stillwell also asked Division staff their opinion on a Garberville resident requesting a water delivery. Division staff explained that under the scenario provided, GSD should not deny the resident water for Emergency Domestic Use, but that a corrective action plan must be put in place.

## INVESTIGATION

15. On September 4, 2018, the Division received a complaint by Mr. Ed Voice alleging that GSD violated Provision 1 of the Final CDO through the bulk sale and delivery of water outside of the authorized place of use described under License 3404 and Permit 20789.
16. On October 16, 2018, Division staff emailed GSD and requested all records of bulk water sales between 2015-2017, which GSD must keep pursuant to Provision 2 of the Final CDO.
17. On October 16, 2018, GSD responded to Division staff's request for records of bulk water sales by forwarding the Progress Report by Permittee for Permit 20789 and a Report of Licensee for Licensee 3404 for the 2017 water year that had been previously filed on August 10, 2018 via the electronic Water Rights Information Management System (eWRIMS). Both reports detail the amount of bulk water sold. GSD indicated that they sold water to supply CalFire for firefighting operations and to various construction companies for road construction projects outside of the authorized place of use.
18. On October 16, 2018, GSD sent an email to Division staff stating that no bulk water sales occurred prior to 2017.
19. On October 22, 2018, GSD informed the Division that, in addition to the eWRIMS reports, GSD kept records of its bulk water sales, but did not record or report water sales to CalFire for use in firefighting activities. Division staff notified Ms. Short that due to the immediacy of CalFire's needs for water during a firefighting crisis, the Division would not consider GSD's failure to keep accurate records of those sales a violation of the Final CDO.
20. On October 23, 2018, Division staff contacted GSD via email requesting copies of the bulk water sales records kept by GSD in accordance with Provision 2 of the Final CDO stating, "The 2012 CDO requires that Garberville Sanitary District maintain records of each sale, including the volume of water sold, the date of the sale, the name of the commercial water hauler, and the final place of use."
21. On October 24, 2018, the Division received a complaint by Mr. Jessie Jeffries alleging that GSD violated Provision 1 of the Final CDO through the bulk sale and delivery of water outside of the authorized place of use described under License 3404 and Permit 20789.
22. On November 6, 2018, GSD provided the Division with some records of its bulk sale of water for delivery. The records contained weekly logs with the water hauler's name, some meter readings, some payment receipts, and some invoices. The records provided by GSD were neither accurate nor complete records of each sale and did not contain either the volume of water sold, or the final place of use as required by Provision 2 of the Final CDO.

23. The information in the records provided by GSD labeled “Fire Hydrant Use Application” included only a California Department of Transportation (CalTrans) project number and vague descriptions of the project location such as “various locations” and “multiple locations” along Highway 101. The records did not provide a destination of each individual truck load that would allow for verification of whether the delivery was within the authorized place of use. The records associated with the sale of bulk water for construction occurring at the Garberville Airport were the only sales records that were sufficiently detailed to meet the requirements of Provision 2 of the Final CDO.
24. On November 20, 2018, Division staff issued a Notice of Violation placing GSD on notice that Division staff had determined that GSD had violated both Provision 1 and Provision 2 of the Final CDO by the selling bulk water for use outside of the authorized place of use, and failing to keep accurate records of each sale of bulk water.
25. On November 30, 2018, GSD’s General Manager, Mr. Ralph Emerson, responded to the Notice of Violation and informed the Division that GSD has cease bulk water sales since October 2018. The response letter also stated that if GSD receives any future emergency water requests, that the Division will be contacted prior to water sales. Mr. Emerson also attached the notice posted on October 25, 2018 notifying the public that all bulk water services to public agencies for emergency services including public road repairs have ceased until the State Water Board issues a response.
26. On January 9, 2019, GSD provided more records of GSD’s bulk water sales. GSD Provided a summary of the sales records, which, after cross referencing with the actual sales records, proved to be inaccurate. Despite that the Final CDO requires GSD to keep accurate records of each sale including the volume of water sold, the date of the sale, and the place of use, the records GSD provided lacked much of that information. Division staff was able to determine that GSD sold bulk water, but in many instances was unable to immediately determine the purpose of use, for example if it was for emergency domestic water supply, and whether the final place of use of that water was outside of the GSD’s place of use. Many of the records contained only project numbers that correspond to specific CalTrans project sites, rather than a description of what the water was used for, or where it was delivered. The records relating to GSD’s sale of bulk water to Mendocino Construction Company indicate that the water was used for construction purposes, but the records do not provide sufficient information to determine if the water was used outside of the authorized place of use. Each time GSD sold bulk water but failed keep accurate records of that sale it violated Provision 2 of the CDO.
27. On December 27, 2018, Division staff contacted the CalTrans Public Information Officer, Cori Reed, to obtain information pertaining to the provided project numbers and the location of the projects identified in GSD’s records. CalTrans staff confirmed that the projects 01-0G6504, 01-0H1004 and 01-0A4604 were all

located partially or completely outside of the Permit and License place of use. CalTrans staff, Dan Bornman, Area Construction Engineer, provided exact Post Mile locations for each project. These Post Mile locations include all locations of the project provided in the CalTrans contract under the project descriptions. Although 01-0H1004 had some Post Mile locations within the place of use, the records provided by GSD lacked the specific 'final place of use' information as required by the terms of the CDO.

28. On January 18, 2019, CalTrans staff, Dan Bornman, provided more documentation of GSD's sales of bulk water for use outside of the authorized place of use. These documents were omitted from the records provided by GSD on January 9, 2019. After review of the documents, Division staff determined that GSD sold bulk water to Mendocino Construction Company for use on a construction project located outside of the authorized place of use defined by GSDs water rights, in violation of Provision 1.
29. On November 6, 2019, the Division received a complaint by Mr. Jessie Jeffries alleging that GSD violated Provision 1 of the Final CDO through the bulk sale and delivery of water outside of the authorized place of use described under License 3404 and Permit 20789 for road repair.
30. On November 7, 2019, Division staff contacted Humboldt County's (County) Road Division Manager, Steve Finch, who confirmed that the County purchases water from GSD and was currently using water for a road construction project on Old Briceland Road. Mr. Finch provided the Road Closure notice.
31. On November 8, 2019, Ms. Short, on behalf of GSD, emailed the Division and confirmed that GSD sold bulk water to the County through a commercial meter for use on road construction projects outside of the authorized POU.
32. Using the documents provided by GSD, Caltrans, and the County, Division staff created a map of GSD's place of use and plotted the locations of the final place of use for each project. Division staff have determined that all the CalTrans projects with the exception of only one were completely outside of GSD's place of use based on the Post Mile locations listed in the CalTrans Contracts. In many instances the water was used outside of the Eel River watershed. Division staff determined that the County's construction project on Old Briceland Road is completely outside of GSD's authorized place of use described under License 3404 and Permit 20789. Each day GSD sold water for use outside of the authorized place of use, for purposes other than emergency domestic use, it violated Provision 1 of the CDO. The map Division staff created is attached to this complaint as **Attachment B**.

The table below summarizes each project that GSD sold bulk water to:

<u>Water Hauler</u>	<u>Project Name</u>	<u>Project Dates</u>	<u>Water used for Emergency Domestic Use?</u>	<u>Outside POU?</u>
<b>Mendocino Construction Company (MCS)</b>	CalTrans 01-0G6504 (A)	12/11/2016-Ongoing	<u>No:</u> Repair of road effected by Piercy landslide	Yes
<b>Mendocino Construction Company</b>	CalTrans 01-0H1005 (B)	03/27/2017-Ongoing	<u>No:</u> Repair of failed road culverts	Partially
<b>Serafix Engineering (SE)</b>	CalTrans 01-0A4604 (C)	08/21/2017-12/05/2017	<u>No:</u> Scour Mitigation project at multiple locations	Yes
<b>Mendocino Construction Company</b>	CalTrans 01-0J1704 (D)	8/24/2018-On Hold	<u>No:</u> Wall construction project (Contractor is Golden State Bridge)	Yes
<b>Mercer Fraser Company (MF)</b>	Job #1933 (E)	03/26/2018-04/17/2018	<u>UNKNOWN:</u> Records did not indicate	Yes
<b>Mercer Fraser Company and Cox &amp; Cox (C&amp;C)</b>	Garberville Airport (F)	07/28/2017-7/31/2018	<u>No:</u> Airport reconstruction project	Yes
<b>CalFire</b>	Buck Fire (Not Mapped)	07/30/2015-08/19/2015	N/A	N/A
<b>Hat Creek Construction</b>	Locust Street	09/24/2018-11/15/2018	N/A	No
<b>Humboldt County (HumCo)</b>	Old Briceland Rd	11/4/2019 – 11/11/2019	<u>No:</u> Road Maintenance	Yes

33. The sales records provided by GSD covering bulk water sales for 2018 included bulk water sales to Hat Creek Construction for construction purposes on Locust Street, in Garberville. Using Attachment B, Division staff determined that the Locust Street construction project is within the place of use of Permit 20789 and License 4304, therefore, the Division does not consider this a violation of the Final CDO.
34. The records provided by GSD were incomplete and not all records included the final place of use. GSD provided CalTrans project numbers 01-0G6504, 01-0H1004, and 01-0A4604, however, Division staff was unable to determine the exact Post Mile locations from the information provided by GSD where water was being used to for these projects. Division staff reached out to CalTrans staff to help determine the place of use for each CalTrans project number provided. GSD

records were missing two additional CalTrans project numbers, 01-0J1704 and an unknown project number, which were later provided by CalTrans staff. Division staff used the information provided by CalTrans determined that all the CalTrans contracts were construction projects. Projects 01-0G6504, 01-0A4604, 01-0J1704 were mapped by using the Post Mile locations and it was determined that these projects were completely outside GSD's place of use. The records provided by GSD were detailed enough to determine the place of use for CalTrans project 01-0H1004.

35. Not all records have meter readings on the record logs. Many of the records showed estimated values for volume of water sold. There were five meter reading logs which included a total of 251 truckloads, however, the amount of water in each load was not stated. Therefore, Division staff was unable to include the 251 truckloads in the total. The records in the summary page provided by GSD indicated a total of 1,842,799 gallons of water sold in 2017 and 936,508 gallons of water was sold in 2018. GSD's summary pages for 2017 and 2018 added up to be 2,779,307 gallons of water.
36. Information provided by the County also stated that, as of the date of this complaint, GSD has sold at least 45 truckloads of bulk water in 2019, totaling about 135,000 gallons.

### **ALLEGATIONS**

37. Violation 1: violation of the prohibition of bulk water sales outside of the authorized place of use as required by Provision 1 of the Final CDO.
  - a. Provision 1 of CDO 2012-0036-DWR orders GSD to cease and desist "the bulk sale and delivery of water under License 3404 and Permit 20789 to areas outside the authorized place of use unless, it is demonstrated to the satisfaction of the State Water Board that the water is needed for emergency domestic water supply." Division staff reviewed the documents provided by GSD regarding the sale of bulk water and determined that none of the water was used for emergency domestic supply use but was instead used for various construction related activities occurring outside of GSD's authorized place of use. Each day that GSD sold bulk water outside of the authorized place of use for purposes other than emergency domestic supply constitutes a day of violation of Provision 1 of the Final CDO.
  - b. Each day that GSD sold bulk water for use outside of the authorized place of use for purposes other than emergency domestic supply constitutes a day of violation of Provision 1 of the Final CDO. Days of violation of the Final CDO were calculated by reviewing the documents provided by both Caltrans, GSD, and the County to determine when GSD sold bulk water, for what purpose, and where the water was used. The number of days of violation calculated by the Prosecution Team for Provision 1 violations is a



conservative calculation due to the incomplete and inaccurate records provided by GSD. Between April 20, 2017 and the date of this Complaint GSD violated Provision 1 of the Final CDO on a total of 99 days.

38. Violation 2: failing to keep accurate and complete records of bulk water sales as required by Provision 2 of the Final CDO.

- a. Provision 2 of CDO 2012-0036-DWR states that if bulk water sales continue, GSD must “keep accurate records of each sale, including the volume of water sold, the date of the sale, the name of the commercial water hauler purchasing the water, and the final place of use, which shall be made available to the Division upon request.” Following the issuance of the Final CDO, GSD continued to sell bulk water without keeping accurate and complete records of each sale. Over half of the sales records that GSD provided to the Division lacked the requisite information. Significantly, the ultimate place of use of the bulk water was not identified in many of the records, making it difficult for Division staff to determine compliance.
- b. Each day that GSD sold bulk water but failed to keep accurate records constitutes a day of violation of Provision 2 of the Final CDO. Days of violation of the Final CDO were calculated by reviewing the documents provided by both Caltrans and GSD to determine when GSD sold bulk water, for what purpose, and where the water was used. Between April 20, 2017 to October 26, 2018 GSD violated Provision 2 of the Final CDO on a total of 106 days.

39. GSD accrued a total of 205 days of violation between 2017, 2018, and 2019:

	<b>Violation of Provision 1</b>	<b>Violation of Provision 2</b>
2017	52	45
2018	39	61
2019	8	N/A
<i>Total Days in Violation</i>	99	106

**MAXIMUM ADMINISTRATIVE CIVIL LIABILITY**

40. Violation 1: violation of the prohibition of bulk water sales outside of the authorized place of use as required by Provision 1 of the Final CDO.

- a. Water Code section 1845 states that a person or entity who violates a cease and desist order may be held civilly liable in an amount not to exceed one thousand dollars (\$1000) for each day in which the violations occurs.

- b. The terms of the Final CDO prohibited the sale of bulk water outside of the place of use for purposes other than emergency domestic supply. Division staff have determined that GSD sold bulk water to construction contractors for use on construction projects outside of the place of use on at least 99 days over the course of three years.
  - c. The State Water Board may consider a maximum penalty for Violation 1 of \$99,000 (\$1000 per day x 99 days of violation).
41. Violation 2: failing to keep accurate and complete records of bulk water sales as required by Provision 2 of the Final CDO.
- a. Water Code section 1845 states that a person or entity who violates a cease and desist order may be held civilly liable in an amount not to exceed one thousand dollars (\$1000) for each day in which the violations occurs.
  - b. The terms of the Final CDO required GSD to maintain records of all bulk water sales that includes the volume of water sold, the date of the sale, the name of the commercial water hauler, and the final place of use. Division staff have determined that GSD sold bulk water on 106 individual days over the course of two years but failed to keep accurate records of those sales.
  - c. The State Water Board may consider a maximum penalty for Violation 2 of \$106,000 (\$1000 per day x 106 days).
42. The State Water Board may consider a maximum penalty of **\$205,000.00**. This amount represents 99 days of violation of Provision 1 of the CDO at \$1000 per day, plus 106 days of violation of Provision 2 of the CDO at \$1000 per day.

### **PROPOSED ADMINISTRATIVE CIVIL LIABILITY**

43. Under Water Code section 1055.3, in determining the amount of civil liability, the State Water Board shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and the corrective action, if any, taken by the violator.
44. Consideration of relevant circumstances pursuant to Water Code section 1055.3 for Violation 1:
- a. **Extent of harm caused by the violation:**
    - i. Permit 20789 and License 4304 allow for GSD to divert water from the South Fork Eel River. A total of 43 water rights or claim of rights are located downstream of the point of diversion on the South Fork Eel River and Eel River. The South Fork Eel River is fully

appropriated year-round, pursuant to State Water Board Order WR 98-08. To the extent that downstream water right holders rely on any return flows within the Eel River watershed, water sold by GSD for use outside of the watershed necessarily results in less water available for those downstream water rights.

- ii. Cease and Desist Order WR 2012-0036-DWR was adopted by the Board for the purpose of ensuring that GSD adhere to the terms and conditions of License 3404 and Permit 20789 and maintain accurate records about each bulk water sale. These terms provide certainty regarding the amount of water being diverted, and where it is being used, which may help GSD, the Board, and the water user community make informed water management decisions. Non-compliance with State Water Board orders negatively impacts the integrity of the Board's ability to regulate the water rights system and, if left unchecked may encourage similarly situated diverters in the regulated community to disregard other Board orders.

**b. Nature and persistence of the violation:**

- i. Division of Water Rights staff provided GSD with detailed explanations of the prohibition on bulk water sales in the Final CDO, and the limitation of the Emergency Domestic Use allowance. GSD had notice of this requirement prior to engaging in the sale of bulk water, and had sufficient knowledge, skill, or capacity to understand that requirement. Notwithstanding GSD's claim that the water sales were for emergency construction use, it is reasonable to assume from the facts available to the Division that GSD knowingly, or intentionally violated the prohibition on the sale of bulk water outside of the place of use for purposes other than emergency domestic supply by selling bulk water for use at construction sites outside GSDs place of use.
- ii. Prior to the issuance of the NOV, GSD demonstrated knowledge that bulk water sales to public agencies requiring water for emergency services for public roads is also prohibited by the Division without prior approval. GSD also sent a response letter to the Division addressing that they understood the Division's requirements and that they would not commence any future bulk water sales without the Division's approval. Following the issuance of the NOV GSD continued to sell bulk water for use outside GSD's place of use.
- iii. In the 2017 and 2018 summary pages provided by GSD, there was a total of 324 truckloads of water hauled in a total of 91 days. From the record logs provided by GSD, division staff calculated 329 truckloads in a total of 91 days.

- iv. In the 2017 and 2018 summary pages provided by GSD, there was a total of 1,106,157 gallons of water hauled. From the Meter Reading logs provided by GSD, division staff calculated 1,117,076 gallons of water hauled.
- v. In 2019 GSD sold at least 45 truckloads of bulk water, representing about 135,000 gallons of water for use outside of the authorized place of use.

**c. Length of time over which the violation has occurred:**

- i. The violations of Provision 1 of the Cease and Desist Order 2012-0036-DWR began occurring on April 20, 2017 and continue to occur through the date of the issuance of this Complaint.

**d. The corrective action, if any, taken by the violator:**

- i. On November 30, 2018, Mr. Ralph Emerson responded to the Notice of Violation on behalf of GSD, outlining the corrective action for the violation of the Final CDO. Mr. Emerson stated that as of October 2018, all water sales for emergency construction activities outside of the place of use ceased, and a notice was posted to the public. On November 6, 2019, Division staff were informed that GSD continued to sell bulk water for construction uses outside of the place of use despite Mr. Emerson stating otherwise.

**e. Economic Benefit:**

- i. GSD received an economic benefit from its noncompliance with the Final CDO, specifically through the sale of bulk water for use outside of the place of use of License 3404 and Permit 20789 in violation of the Final CDO. By selling bulk water outside of the place of use for uses other than emergency domestic use, GSD avoided the costs of compliance with the Final CDO. The costs of providing the water to the various bulk water haulers is negligible: the infrastructure required to provide this water preexisted the Final CDO, and the operation of fill stations requires no supervision. Thus, the economic benefit derived from the sale of water outside of the place of use can be adequately captured by the invoices provided by GSD and records provided by Humboldt County's Road Division.
- ii. Due to the inaccuracy of the records provided by GSD, an accurate estimate of economic benefit cannot be determined. If GSD would have separated CalTrans Projects 01-0G6504 and 01-0H1004 in their records, the economic benefit under this provision would be significantly higher because 01-0G6504 is

completely outside of GSD's place of use. Further, if the exact place of use for each truckload for project 01-0H1004 would have been recorded, it is likely that additional economic benefit under this provision would have been included as well.

- iii. Because this information was lacking in GSD's records, Division staff was only able to determine that GSD derived at least \$16,069.61 in avoided compliance costs, from violating Provision 1 of the CDO.

45. Having taken into consideration the factors described above, and the need for deterrence, the Assistant Deputy Director for Water Rights recommends an Administrative Civil Liability in the amount of **\$30,000 for Violation 1**.

46. Consideration of relevant circumstances pursuant to Water Code section 1055.3 for Violation 2:

**a. Extent of harm caused by the violation:**

- i. Cease and Desist Order WR 2012-0036-DWR was adopted by the Board for the purpose of ensuring that GSD adhere to the terms and conditions of License 3404 and Permit 20789 and maintain accurate records about each bulk water sale. These terms provide certainty regarding the amount of water being diverted, and where it is being used, which may help GSD, the Board, and the water user community make informed water management decisions. Non-compliance with Board orders negatively impacts the integrity of the Board's ability to regulate the water rights system and, if left unchecked may encourage similarly situated diverters in the regulated community to disregard other Board orders and notices of violation.

**b. Nature and persistence of the violation:**

- i. GSDs failure to keep accurate records of each sale of bulk water in violation of Provision 2 of the Final CDO occurred after Division of Water Rights staff provided GSD with detailed explanations of the requirement. Provision 2 enumerates specific and straightforward details to be included in the records of sale, including the volume of water sold, the date of the sale, the name of the commercial water hauler purchasing the water, and the final place of use. GSD provided over 170 pages of records.
- ii. Many of the records provided by GSD did not contain the required information. For instance, three of the five "Fire Hydrant Use Application Contracts" provided by GSD indicated that the water GSD sold would be used at "various" or "multiple" locations, while the checks and invoices of bulk water sales provided by GSD were

broken down by month, rather than day, so staff was unable to use these documents to differentiate the payments for one project rather than another, and many of the meter readings provided by GSD were duplicated in different documents. Moreover, Division staff was unable to account for the amount of water hauled for 251 truckloads due to the fact that five of the meter reading logs lacked the actual meter readings.

**c. Length of time over which the violation has occurred:**

- i. The violations of Provision 2 of the Cease and Desist Order 2012-0036-DWR began occurring on April 20, 2017 and continue to occur through the date of the issuance of this document.

**d. The corrective action, if any, taken by the violator:**

- i. On January 9, 2019, GSD provided the sales records in their possession, along with a summary of the data contained therein in an apparent attempt correct the violation and to facilitate the Division's review of the records. However, the summary was neither accurate nor complete in its description of the sales records. Consequently, Division staff spent hours reviewing each and every page of the sales records, compiling the available data to determine compliance with the Final CDO.

**e. Economic Benefit:**

- i. GSD received an economic benefit from the noncompliance with the Final CDO, specifically the cost savings derived from failing to keep accurate records as required. GSD is required to maintain records accurate enough to allow for Division staff to determine compliance with the Final CDO. GSD could have complied with Provision 2 of the Final CDO with a relatively small increase in staff time needed to ensure that all requisite information was included and organized appropriately. The avoided cost of compliance that GSD realized from the failure to keep accurate records resulted in a *de minimis* economic benefit.

47. Having taken into consideration the factors described above, and the need for deterrence, the Assistant Deputy Director for Water Rights recommends an ACL in the amount of **\$20,000 for Violation 2.**
48. Staff Costs for Enforcement. The Division conservatively estimates that its staff cost to investigate this matter and develop the enforcement documents for the violations alleged in this complaint to be **\$8,430.**



49. Minimum Liability: The Division recommends that the State Water Board should assess a minimum liability at a level equal to the sum of staff costs and economic benefits, if any, associated with the acts that constitute the violation. The Division conservatively estimates that its staff cost to investigate and develop the enforcement documents for the violations alleged in this complaint to be \$8430.00. The total economic benefit of the violations alleged in this complaint is \$16,069.00. Therefore, the minimum ACL equal to the sum of staff costs and the economic benefit of noncompliance for the violations alleged in this complaint would be **\$24,499**.
50. Total Proposed Penalty: Having taken into consideration the factors described above, and the need for deterrence, the Assistant Deputy Director for Water Rights recommends a total ACL in the amount of **\$50,000.00**. Should the matter proceed to hearing, the State Water Board may accept, reject, or modify the proposed liability up to the maximum amount provided by the Water Code.

### RIGHT TO A HEARING

51. Garberville Sanitary District may request a hearing on this matter before the State Water Board. Any such request for hearing must be in writing and received or postmarked within 20 days of the date this notice is received. (Water Code, §1055, subd. (b)).
52. If Garberville Sanitary District requests a hearing, Garberville Sanitary District will have an opportunity to be heard and to contest the allegations in this complaint and the imposition of an ACL by the State Water Board. If a hearing is requested, a separate notice setting the time and place for the hearing will be mailed no later than 10 days before the hearing date.
53. If Garberville Sanitary District requests a hearing, the State Water Board will consider at the hearing whether to impose the civil liability, and, if so, whether to adjust the proposed liability within the amount authorized by statute. Based on the evidence received at the hearing, the State Water Board may take any appropriate action in accordance with Water Code sections 100, 275, and 1050 *et seq.* and its responsibilities under the public trust doctrine. Any State Water Board order imposing an ACL shall be final and effective upon issuance.
54. If Garberville Sanitary District does not wish to request a hearing within 20 days of the date of receipt of this complaint, Garberville Sanitary District shall waive its rights to a hearing and reconsideration of this matter, and remit a cashier's check or money order for the ACL amount set forth in Paragraph 49 above, to:

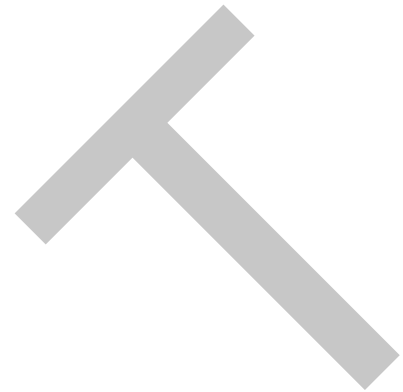
State Water Resources Control Board  
Division of Water Rights  
Enforcement Section  
P.O. Box 2000  
Sacramento, CA 95812-2000

55. If Garberville Sanitary District does not request a hearing and does not remit the ACL amount, the State Water Board will issue a final ACL Order and seek recovery of the full amount of the ACL as authorized by Water Code, §1055.4

STATE WATER RESOURCES CONTROL BOARD

*Julé Rizzardo, Assistant Deputy Director*

*Division of Water Rights*



# Attachment A

DECEMBER 27 2012

In Reply Refer to:  
KB:262.0(12-18-04),  
A009686, A029981

CERTIFIED MAIL NO. 7004-2510-0003-9146-5724  
Return Receipt Requested

Mr. Mark Bryant, General Manager  
Garberville Sanitary District  
P.O. Box 211  
Garberville, CA 95542

Dear Mr. Bryant:

ORDER ADOPTING CEASE AND DESIST ORDER FOR LICENSE 3404  
(APPLICATION 9686) AND PERMIT 20789 (APPLICATION 29981)

Enclosed is a copy of Order WR 2012-0036-DWR, signed by the Assistant Deputy Director of the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) on December 27, 2012. This Order adopts the draft Cease and Desist Order (CDO), transmitted to you by certified letter dated November 20, 2012.

The November 20, 2012 draft CDO required Garberville Sanitary District (GSD) to: (1) cease and desist the bulk sale and delivery of water under its permit and license to areas outside the authorized place of use, unless the water is needed for emergency domestic water supply; (2) diligently pursue the processing of its petitions for change in place of use under its permit and license filed with the Division; and (3) submit required annual use reports for your Permit and License. The Division allowed 20 days from your receipt of the draft CDO for you to request a hearing to contest the findings and requirements of the CDO as written.

GSD did not submit a request for hearing. In accordance with California Water Code section 1834, the Division is adopting the draft CDO as written. The Division appreciates Garberville's ongoing cooperation in meeting the requirements of the draft CDO. To date, GSD informed the

Division that it has taken appropriate measures to come into compliance with the directives of the draft CDO, as follows:

On December 3, 2012, the GSD Board of Directors held a special meeting to review the draft CDO. The GSD Board of Directors took action to cease the sale of bulk water, effective January 2, 2013, unless the water is needed for emergency domestic use. Future delivery of bulk water for emergency domestic use must be approved by GSD and the Division and is limited to the quantity of water necessary to sustain human and animal life, including sanitary use.

- GSD submitted petitions for change in place of use for their permit and license and, as of the date of this letter, are working with Division staff in the processing of the petitions.
- The 2010 and 2011 annual use reports for License 3404 and Permit 20789 were submitted by GSD to the Division within the 20 days allowed in the notice of the draft CDO.

Your failure to comply with the terms or requirements of a CDO may subject you to civil liability in a sum up to \$1,000 for each day in which the violation occurs in accordance with California Water Code section 1845.

Division staff has reviewed the 2010 and 2011 annual use reports for License 3404 and Permit 20789, submitted by GSD on December 2, 2012 and has determined that GSD has satisfied the third directive of the CDO. In order to avoid future potential liability, GSD must remain in compliance with the remaining directives of the CDO regarding bulk water sales and the petition for change in place of use.

If you have any questions, please contact me, the Division's Enforcement Section Manager, at (916) 341-5368; or Ms. Ellen Howard, Staff Counsel, Office of Enforcement, at (916) 341-5677 or via e-mail at: [Ellen.Howard@waterboards.ca.gov](mailto:Ellen.Howard@waterboards.ca.gov). If you wish to write a letter, please send a written response to:

State Water Resources Control Board  
Division of Water Rights  
Attention: Enforcement Section  
P.O. Box 2000  
Sacramento, CA 95812-2000

Sincerely,

ORIGINAL SIGNED BY:  
BRIAN COATS FOR

John O'Hagan, Manager  
Enforcement Section  
Division of Water Rights

Enclosure: Cease and Desist Order

cc: Mr. Ed Voice  
P.O. Box 580  
Garberville, CA 95542

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

**ORDER WR 2012-0036-DWR**

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**CEASE AND DESIST ORDER**

In the Matter of Unauthorized Diversion and Violation of Terms and Conditions  
for License 3404 (Application 9686) and Permit 20789 (Application 29981) by

**Garberville Sanitary District**

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SOURCE: South Fork Eel River

COUNTY: Humboldt County

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The State Water Resources Control Board (State Water Board or Board) is authorized under California Water Code section 1831 to issue a Cease and Desist Order (CDO) requiring Garberville Sanitary District (referred to herein as GSD) to cease and/or abate a threatened or ongoing violation of one or more conditions of License 3404 (Application 9686) and Permit 20789 (Application 29981).

GSD is alleged to have violated or is threatening to violate California Water Code (Water Code) section 1052 and/or license terms issued in accordance with Water Code Division 2. Water Code section 1831 et seq. authorizes the State Water Board to issue a Cease and Desist Order when it determines that any person is violating or threatening to violate any of the following:

- (1) The prohibition set forth in Section 1052 against the unauthorized diversion or use of water subject to this division.*
- (2) Any term or condition of a permit, license, certification, or registration issued under this division.*
- (3) Any decision or order of the board issued under (part 2 of Division 2 of the Water Code [commencing with Section 1200]), Section 275, or Article 7 (commencing with Section 13550) of Chapter 7 of Division 7, in which decision or order the person to whom the cease and desist order will be issued, or a predecessor in interest to that person, was named as a party directly affected by the decision or order.*

On November 20, 2012, and in accordance with the provisions of section 1834 of the California Water Code, the State Water Board, Division of Water Rights (Division) provided notice of the CDO against GSD for the violation of the terms and conditions of its license and permit and/or Chapter 2, Article 20, sections 847, 925, and 929 of the California Code of Regulations and the unauthorized diversion or use of water. Pursuant to State Water Board Resolution 2012-0029,



the Deputy Director for Water Rights is authorized to issue a notice of cease and desist, and when a hearing has not been timely requested, issue a Cease and Desist Order (CDO) in accordance with California Water Code section 1831 et seq. State Water Board Resolution 2012-0029 also authorizes redelegation of this authority from the Deputy Director for Water Rights to the Assistant Deputy Director for Water Rights. This authority has been redelegated.

## **FACTUAL BASIS FOR ISSUING THE CDO**

The facts and information upon which this CDO is based are as follows:

1. The Division issued License 3404 (Application 9686) to Garberville Water Company (GWC) on February 29, 1952. License 3404 authorizes the diversion of 0.155 cubic foot per second (cfs) from the South Fork of the Eel River at North 26° East, 190' from the south quarter corner of Section 24, T 4 S, R 3 E, H.B.M. The licensed place of use is "Town of Garberville as bounded by Garberville Sanitary District," and the licensed purpose of use is "municipal use."
2. On April 2, 1990, Division staff conducted an inspection of GWC and noted that water was being diverted in excess of license limits and being delivered outside the licensed place of use. Division staff noted in the inspection report that GWC was delivering water to areas outside of the Place of Use depicted on the map submitted with Application 9686 (Exhibit A). On July 22, 1990 GWC submitted Application 29981 to appropriate water by permit, expanding the place of use to the GWC service boundaries. A map of the town of Garberville, depicting the proposed place of use under permit Application 29981 was submitted on April 19, 1990 as part of the application package (Exhibit B). Application 29981 indicates that 366 residences, equal to 1400 people, would be served domestic water under the water right. The application also indicates that zero acres per year will be irrigated under the water right.
3. On May 15, 1995, the Division issued Permit 20789 (Application 29981) to GWC, which authorizes the diversion of 0.595 cfs and a maximum of 430 acre-feet per year from the same point of diversion as License 3404. The permitted place of use is "within the boundaries of the town of Garberville," as shown on the map submitted with the application, and the permitted purpose of use is "municipal." GSD purchased GWC in November 2004 and notified the Division of the change of name and ownership on October 23, 2007. The Division's records indicate the ownership for License 3404 and Permit 20789 were changed on October 23, 2007.
4. In 2012 the Division received two complaints alleging that GSD was violating terms and conditions of License 3404 and Permit 20789. The first complaint, filed on August 6, 2012 by Mr. Ed Voice, alleged that GSD was selling bulk water to commercial water delivery companies that re-sell the water to customers outside of the GSD's licensed and permitted place of use. The second complaint, filed on September 6, 2012, alleged that GSD was providing service connections to residential homes and properties outside of the authorized place of use. As part of its

investigations for the complaints, Division staff reviewed GSD's record, including its required reports of water diversion and use under its permit and license. The Division notified GSD of the first complaint by letter dated August 23, 2012 and of the second complaint by e-mail dated September 13, 2012. GSD responded to the complaints by letter dated September 18, 2012.

#### Bulk Water Sales and Place of Use

5. The August 6, 2012 complaint and September 18, 2012 response indicate that GSD sells water to commercial water haulers through an unmetered fire hydrant on Redwood Drive. The third-party commercial water haulers provide GSD with self-reported information about the quantity of water purchased, but GSD does not maintain records about the purpose and location of the use of this water. GSD summarized the annual bulk water sales reported by the haulers for 2010/2011 and 2011/2012 as 877,720 gallons (2.69 acre-feet) and 1,734,200 gallons (5.32 acre-feet), respectively.
6. The September 18, 2012 response from GSD included a statement from Heather Kornberg of Pura Vida Water Delivery, a commercial water hauler that obtains water from GSD. The letter indicates that most of Pura Vida's water deliveries are to "rural homesteads" in the Eel River watershed. It does not indicate if Pura Vida keeps records on the purpose of use of trucked water. It also does not indicate if these residences are inside or outside of the town of Garberville. During a telephone conversation with Division staff on September 25, 2012, Mr. Ed Voice indicated that he has observed commercial water haulers deliver water obtained from GSD to customers outside of the GSD's place of use.
7. In its September 18 response, GSD indicated that it may use groundwater from its Tobin well to provide water to commercial water haulers. According to GSD, Tobin well is a shallow well located in downtown Garberville with a limited capacity of 40 to 70 gallons per minute (gpm), a rate which appears to be sufficient to provide water equivalent to the annual volume of bulk water sales. GSD ordered and installed a water meter to quantify the water produced from the well as a result of the complaint. The direct sale of pumped groundwater from Tobin well may not require or involve a water right, provided that the well does not draw from a subterranean stream within the jurisdiction of the State Water Board. The existence of a subterranean stream is determined through a hydrogeologic analysis, in consultation with the Division.
8. Based on the information provided to the Division, continued bulk water sales would pose a threat of unauthorized diversion and use of water outside the authorized place of use covered by GSD's permit and license.

## Residential Property Service Connections Outside of Place of Use

9. In the September 18 response, GSD confirmed that they are currently providing water service to 35 parcels that are outside of the licensed and permitted place of use. Twenty of the thirty-five parcels are within the Kimtu Meadows Subdivision project, which connected to GSD's water system in July 2012. GSD states that the remaining fifteen parcels have been receiving water prior to November 2004, when GSD purchased the water system from the Garberville Water Company.
10. On April 5, 2012, Division staff notified GSD that a Petition for Change and a Petition for Extension of Time must be filed with the Division to expand the place of use and to come into compliance with the terms and conditions of License 3404 and Permit 20789. According to the September 18 response, GSD is working with the Division to submit the necessary documents to petition to expand the place of use under License 3404 and Permit 20789 to include the 35 parcels. The GSD jurisdictional boundary, sphere of influence, and types of provided services are regulated by the Humboldt County Local Agency Formation Commission (HLAFCo). GSD has contracted with SHN Engineers and Geologists to conduct the CEQA review to support the change in their jurisdictional boundaries required by HLAFCo.
11. GSD intends to submit the appropriate documents to the Division within two months of the September 18 response. However, the unauthorized service outside of the GSD place of use will continue until the State Water Board approves the Petition for Change and Petition for Extension of Time, if ever. Continued delivery of water to parcels outside of the authorized place of use covered by GSD's permit and license constitutes an unauthorized diversion and use of water.

## Failure to File Water Use Reports

12. Senate Bill X7-8, which was signed into law in 2009, authorized the State Water Board to adopt regulations requiring online reporting of water diversions. Consistent with the Senate Bill, the State Water Board has adopted regulations requiring annual reporting of water diversion and use under permits and licenses, and developed a new online Report Management System (RMS) as a component of the enhanced Water Right Information Management System (eWRIMS). The regulation specifying annual permittee and licensee reporting requirements is codified in Title 23, Chapter 2.7, Article 2, sections 925 and 929 of the California Code of Regulations.
13. In February 2011 the Division mailed out initial notices to GSD, notifying GSD of the annual use reporting requirements and instructions on how to access the RMS system to submit, at a minimum, the 2010 use reports online. GSD was also notified that if there were any questions on the new reporting process, GSD could contact the Division by telephone or e-mail. The deadline to submit the 2010 use reports online was July 1, 2011.

14. In September 2011 the Division mailed out delinquency letters, which also included a copy of the February 2011 letter, to all the permittees and licensees who had not submitted their 2010 use report by July 1, 2011. The delinquency letter provided notice that failure to submit the annual use report was a violation of the terms and conditions of the applicable permit and/or Chapter 2, Article 20, section 847 of the California Code of Regulations, and that continued failure to submit the annual use report may result in enforcement action by the State Water Board.
15. As of November 16, 2012, the Division has not received GSD's 2010 annual use reports for License 3404 and Permit 20789.
16. On March 5, 2012, the Division mailed out notices to GSD, notifying GSD of the annual use reporting requirements and instructions on how to access the RMS system to submit the 2011 use reports online. GSD was also notified that if there were any questions on the reporting process, GSD could contact the Division by telephone or e-mail. The deadline to submit the 2011 use reports online was June 30, 2012.
17. As of November 16, 2012, the Division has not received GSD's 2011 annual use report for License 3404 or Permit 20789.

**IT IS HEREBY ORDERED**, pursuant to sections 1831 through 1836 of the California Water Code, that:

1. Within 30 days of the date of this order, GSD must: (1) cease and desist the bulk sale and delivery of water under License 3404 and/or Permit 20789 to areas outside the authorized place of use, unless it is demonstrated to the satisfaction of the State Water Board that the water is needed for emergency domestic water supply; and (2) if bulk water sales continue, then GSD shall keep accurate records of each sale, including the volume of water sold, the date of the sale, the name of the commercial water hauler purchasing the water, and the final place of use. Records of any bulk sales of water, including place of use of water, shall be made available to the Division upon request
2. By letter dated November 14, 2012, GSD filed petitions for change in place of use under License 3404 and Permit 20789 to include areas served by GSD with water diverted under these water rights. GSD shall diligently pursue the processing of these petitions by submitting all necessary fees, environmental documents, and other information required by the State Water Board within the time schedules specified. If and until the State Water Board approves the change petitions, GSD shall maintain monthly records of the amount of water served to areas outside the authorized places of use and report the monthly amounts separately from the amounts reported on its annual permit and license reports. The monthly records of amounts served outside the places of use shall be submitted as an attachment to the annual permit and license reports.
3. GSD shall immediately come into compliance with the terms of License 3404 and Permit 20789 by submitting its reports of 2010 and 2011 annual

use by accessing the Report Management System at [www.waterboards.ca.gov/RMS](http://www.waterboards.ca.gov/RMS) using the User ID and Passwords shown on the User Information Sheet accompanying this CDO. For these two years, GSD shall estimate an annual amount for the water served by bulk water sellers outside the place of use and separate these amounts from the monthly amount beneficially diverted and used under the permit and license. The bulk water sales should be reported in the Remarks section of the online reports. Please note the User ID is a seven-digit alphanumeric string that begins with the letter "A" and followed by six numbers corresponding to your original application number. If you have any problems accessing the reporting system, please contact Division staff noted on the letter accompanying this CDO.

### **Consequences of Non-Compliance**

In the event GSD fails to comply with the requirements of this Order, GSD shall be in violation of this CDO and subject to additional enforcement, which may include the imposition of administrative civil liability, pursuant to California Water Code section 1845 (b)(1), of up to \$1,000 for each day in which the violation occurs or referral to the Attorney General to take further enforcement action as described in California Water Code section 1845(a):

**Upon the failure of any person to comply with a cease and desist order issued by the board pursuant to this chapter, the Attorney General, upon the request of the board, shall petition the superior court for the issuance of prohibitory or mandatory injunctive relief as appropriate, including a temporary restraining order, preliminary injunction, or permanent injunction.**

### **Reservation of Enforcement Authority and Discretion**

Nothing in this Order is intended to or shall be construed to limit or preclude the State Water Board from exercising its authority under any statute, regulation, ordinance, or other law, including but not limited to, the authority to bring enforcement against GSD for unauthorized diversion of water in accordance with California Water Code section 1052.

### **Regulatory Changes**

Nothing in this Order shall excuse GSD from meeting any more stringent requirements that may be imposed hereafter by applicable legally binding legislation, regulations, or water right license requirements.

STATE WATER RESOURCES CONTROL BOARD

*James W. Kassel, Assistant Deputy Director  
Division of Water Rights*

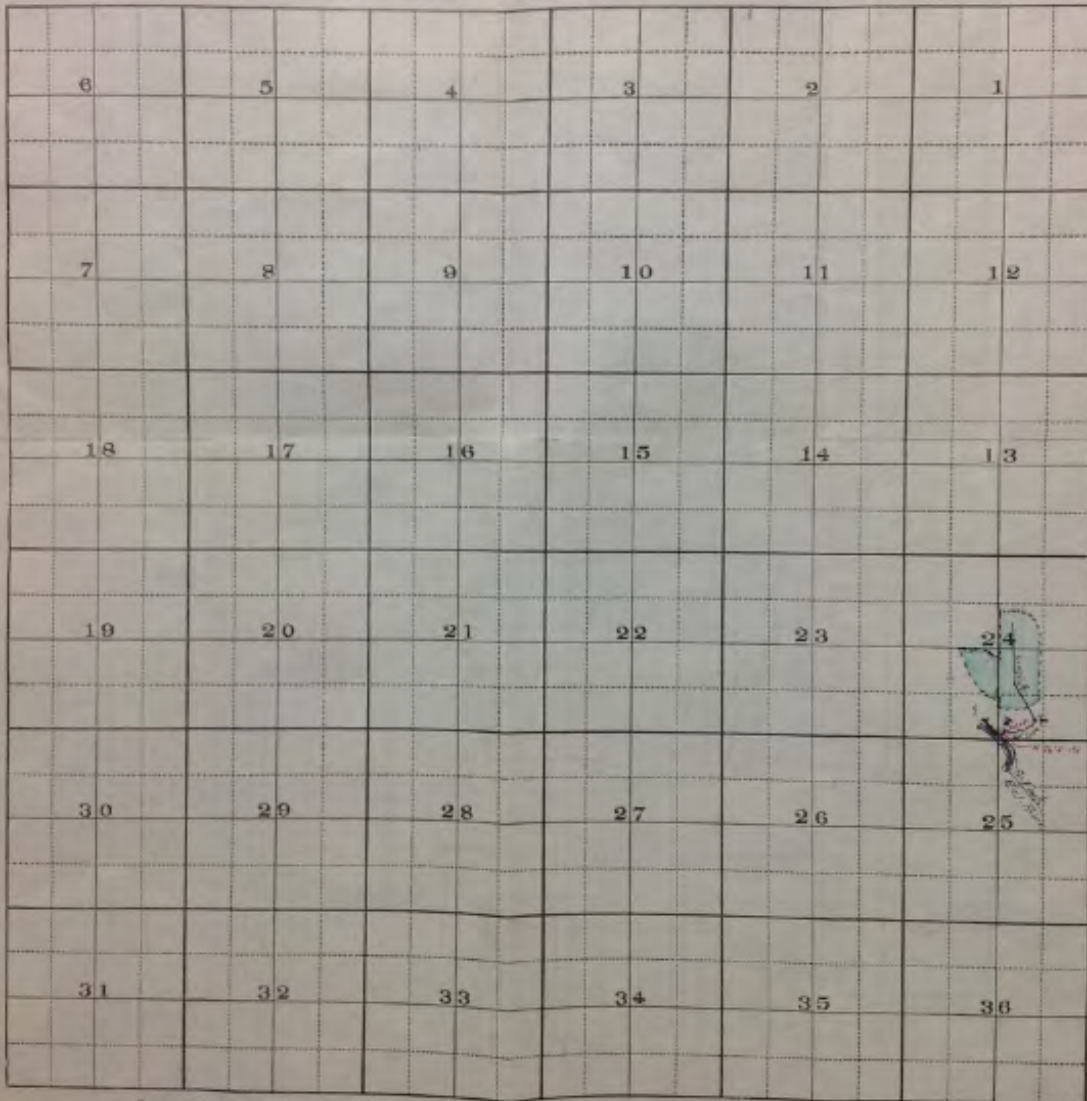
Application 9686  
 Permit SWP7  
 License 2374

FORM 17-A

STATE OF CALIFORNIA  
 DEPARTMENT OF PUBLIC WORKS  
 DIVISION OF WATER RESOURCES

Applicant Corberrville Water Works Sec. 24 Township 4 S. Range 3 E. Meridian  
 Mapped by Corberrville Water Works County San Joaquin

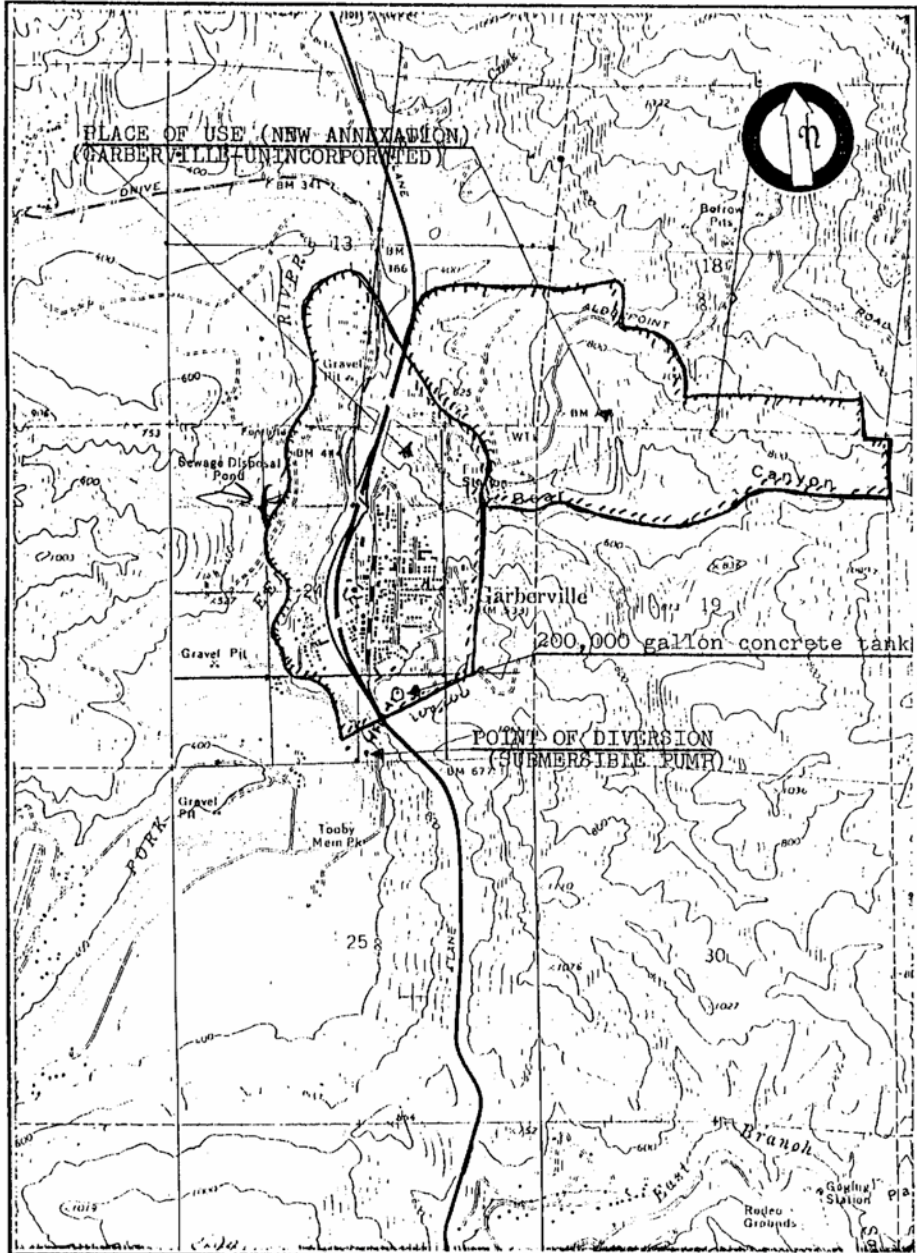
NOTE—Maps are to be drawn on this plan only when total amount of water to be diverted does not exceed three cubic feet per second for direct diversion or two hundred acre-feet per annum for storage. For amounts less than those above stated the average applicant can prepare a very satisfactory map without the aid of a surveyor by observing instructions on the reverse side of this plan.



Legend: \* is intake well. \* is storage tank. Pipe line from well to tank is 4" continuous black line shows 8" water main from storage tank. Dotted line is the territory to be served, which is Corberrville Sanitary District.

Location— Point of Division is to be located on So. Fork of Eel River 40 S. 36° W. 95' point 17.5 chains S. and E. 1.61 chains from of known as N. P. ...





OWNER <u>Garberville Water Co., Inc</u>	
SOURCE <u>South Fork Eel River</u>	
POINT OF DIVERSION WITHIN SW <u>1/4</u> SE <u>1/4</u> OF SECTION <u>24</u> , T <u>4S</u> , R <u>3E</u> , H <u>B &amp; M</u> COUNTY OF <u>Humboldt</u>	
Garberville 1970 1:24,000 U.S.G.S. QUAD DATE SCALE	
STATE OF CALIFORNIA STATE WATER RESOURCES CONTROL BOARD DIVISION OF WATER RIGHTS	
APPLICATION <u>9686 29981</u>	
PERMIT <u>5487</u>	
LICENSE <u>3407</u>	
DATE <u>4/19/90</u>	DRAWN BY: <u>JTA</u>

FOR0024 2



# Attachment B

# CalTrans Projects

## Hydrants/Fill Stations



### Project 01-0H1004

- HUM 101

### Project 01-0G6504

- MEN 271, MEN 101

### Project 01-0J1704

- HUM 36

### Project 01-0A604

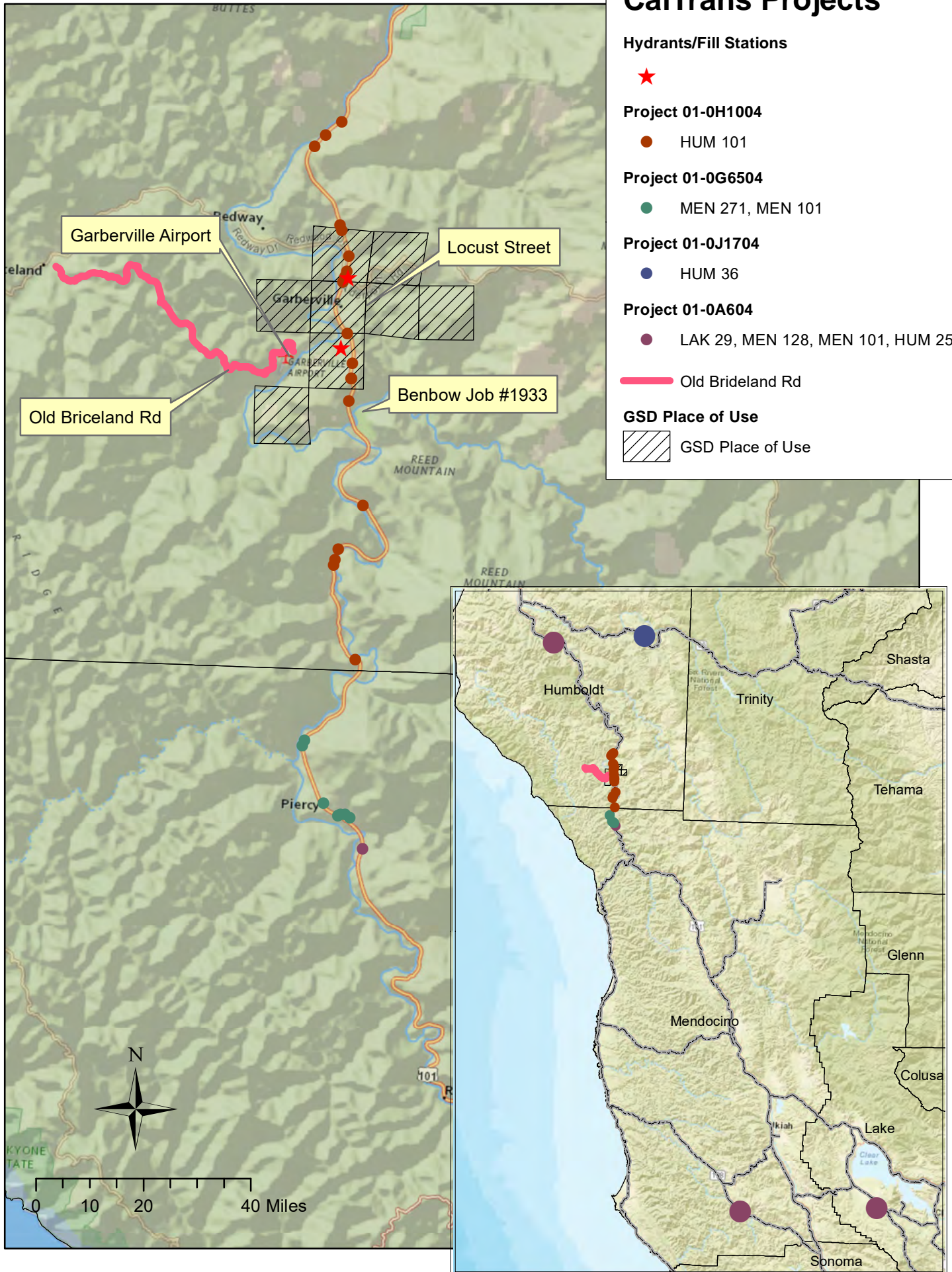
- LAK 29, MEN 128, MEN 101, HUM 254

Old Brideland Rd

## GSD Place of Use



GSD Place of Use



## Appendix H

DDW Extension for CDO Directives # 2 and #3  
October 14, 2020

Compliance Order No. 01\_01\_20(R)\_004  
Robertson Tank  
August 28, 2020

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## State Water Resources Control Board

Division of Drinking Water

October 14, 2020

Garberville Sanitary District (GSD)  
P.O. Box 211  
Garberville, CA 95812

Attention: Linda Broderson, Chair, Board of Directors

**COMPLIANCE ORDER NO. 01\_01\_20(R)\_004  
GARBERVILLE SANITARY DISTRICT PUBLIC WATER SYSTEM (PWS #1210008)  
ROBERTSON TANK REPLACEMENT**

We have reviewed your letter, dated September 22, 2020, requesting an extension of the dates for compliance with Directive #2 and Directive #3 of Compliance Order No. 01\_01\_20(R)\_004. Based on our review of the reasons noted in your letter, we agree that an extension is warranted for Directive #2 and Directive #3. The dates in Compliance Order No 01\_01\_20(R)\_004 for Directive #4 is extended as follows:

Note: According to our records Garberville Sanitary District has complied with Directive #1

Refer to section entitled, DIRECTIVES:

2. **By January 31, 2022**, submit a design proposal for replacement of the Robertson Tank with either another tank or with the installation of a pressure reducing valve that complies with California Waterworks Standards.
3. **By September 30, 2022**, construct a replacement tank or install a pressure reducing valve in accordance with the design proposal in Directive 2, and take the Robertson Tank offline permanently.

---

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

364 Knollcrest Drive, Suite 101, Redding, CA 96002 | [www.waterboards.ca.gov](http://www.waterboards.ca.gov)



The Division reserves the right to make such modifications to the Order as it may deem necessary to protect public health and safety. Such modifications may be issued as amendments to this Order and shall be effective upon issuance. All submittals required by this Order shall be addressed to:

Barry Sutter, P.E., Klamath District Engineer  
SWRCB, Division of Drinking Water  
[barry.sutter@waterboards.ca.gov](mailto:barry.sutter@waterboards.ca.gov)

If you have any questions or if we can be of further assistance, please contact Scott Gilbreath at (530) 224-4876 or Barry Sutter at (530) 224-4875.



Kim Hanagan, PE, Chief, Northern California Section  
Division of Drinking Water  
STATE WATER RESOURCES CONTROL BOARD

System No. #1210008



## State Water Resources Control Board

Division of Drinking Water

August 28, 2020

Certified Mail No. 7017 0190 0000 6413 0898

Garberville Sanitary District  
P.O.Box 211  
Garberville, Ca 95542

Attention: Ralph Emerson, General Manager

Subject: Compliance Order No. 01\_01\_20(R)\_004  
Violation of the California Waterworks Standards  
Garberville Sanitary District, Public Water System #1210008

Enclosed is Compliance Order No. 01\_01\_20(R)\_004 (hereinafter "Order"), issued to the Garberville Sanitary District public water system. Please note that there are legally enforceable deadlines associated with this Order.

California Health and Safety Code (hereinafter "CHSC") Section 116577 provides that a public water system must reimburse the State Water Board for actual costs incurred by the State Water Board for specified enforcement actions, including preparing, issuing and monitoring compliance with an order. The Garberville Sanitary District will be billed at the State Water Resources Control Board's (hereinafter "State Water Board") hourly rate of approximately \$180 per hour for the time spent on issuing this Order. A bill will be sent by the State Water Board to Garberville Sanitary District in August of the next fiscal year. At this time, the State Water Board has spent approximately three hours on enforcement activities associated with the Order.

Any person who is aggrieved by a citation, order or decision issued under authority delegated to an officer or employee of the State Water Board under Article 8 (commencing with CHSC, Section 116625) or Article 9 (commencing with CHSC, Section 116650), of the Safe Drinking Water Act (CHSC, Division 104, Part 12, Chapter 4), may file a petition with the State Water Board for reconsideration of the citation, order or decision.

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

364 Knollcrest Drive, Suite 101, Redding, CA 96002 | [www.waterboards.ca.gov](http://www.waterboards.ca.gov)

Petitions must be received by the State Water Board within 30 days of the issuance of the citation, order or decision by the officer or employee of the State Water Board. The date of issuance is the date when the Division of Drinking Water mails a copy of the citation, order or decision. If the 30th day falls on a Saturday, Sunday, or state holiday, the petition is due the following business day by 5:00 p.m.

Information regarding filing petitions may be found at:

[http://www.waterboards.ca.gov/drinking\\_water/programs/petitions/index.shtml](http://www.waterboards.ca.gov/drinking_water/programs/petitions/index.shtml)

If you have any questions regarding this matter, please contact Scott Gilbreath at (530) 224-4876 or me at (530) 224-4875.

Sincerely,



Barry Sutter, P.E., Klamath District Engineer  
Division of Drinking Water  
STATE WATER RESOURCES CONTROL BOARD

Enclosures

cc: Kim Hanagan, P.E., Chief, DDW, Northern California Section



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**STATE OF CALIFORNIA**  
**STATE WATER RESOURCES CONTROL BOARD**  
**DIVISION OF DRINKING WATER**

**Public Water System: Garberville Sanitary District**  
**Public Water System No: 1210008**

Attn: Ralph Emerson, General Manager  
Garberville Sanitary District  
P.O. Box 211  
Garberville, CA 95542

Issued: August 27, 2020

**COMPLIANCE ORDER FOR NONCOMPLIANCE**  
**CALIFORNIA HEALTH AND SAFETY CODE, SECTION 116555 AND**  
**CALIFORNIA WATERWORKS STANDARDS**  
**DESIGN AND CONSTRUCTION OF DISTRIBUTION RESERVOIRS**  
**Section 64585**  
**Title 22, California Code of Regulations**

The California Health and Safety Code (hereinafter "CHSC"), Section 116655 authorizes the State Water Resources Control Board (hereinafter "State Water Board"), to issue a Compliance Order to a public water system when the State Water Board determines that the public water system has violated or is violating the California Safe Drinking Water Act (hereinafter "California SDWA"), (CHSC Division 104, Part 12, Chapter 4, commencing

1 with Section 116270), or any regulation, standard, permit, or order issued or adopted  
2 thereunder.

3  
4 The State Water Board, acting by and through its Division of Drinking Water (hereinafter  
5 "Division"), and the Deputy Director for the Division, pursuant to Section 116655 of the  
6 CHSC, hereby issues Compliance Order No. 01\_01\_20(R)\_004 (hereinafter "Order") to  
7 the Garberville Sanitary District for violations of California Code of Regulations (CCR),  
8 California Waterworks Standards, Section 64585, Design and Construction of  
9 Distribution Reservoirs.

#### 10 11 **APPLICABLE AUTHORITIES**

12 CCR, Section 64551.10 defines a Distribution Reservoir as:

13 "Distribution reservoir" means any tank or other structure located within or connected to  
14 the distribution system and used to store treated/finished drinking water.

15 CCR, Section 64585 (Design and Construction of Distribution Reservoirs) states in  
16 relevant part:

17 (a) Each distribution reservoir shall meet the following:

18 (2) Vents and other openings shall be constructed and designed to prevent the entry of  
19 rainwater or runoff, and birds, insects, rodents, or other animals;

20 (4) A reservoir shall not be designed, constructed, or used for any activity that creates a  
21 contamination hazard.

#### 22 23 **STATEMENT OF FACTS**

24 The Garberville Sanitary District is classified as a Community public water system  
25 serving approximately 442 connections and 1500 people. The Garberville Sanitary  
26 District water system consists of a surface water diversion, one well, a surface water  
27



1 filtration and chlorination plant, the water distribution system, and four treated drinking  
2 water storage tanks including the Robertson Tank.

3  
4 The Robertson Tank is an aging circular in-ground concrete tank with a wood roof and a  
5 storage capacity of approximately 50,000 gallons. The tank serves approximately 20  
6 homes. It was constructed over 70 years ago and is in generally poor condition. It is  
7 also vulnerable to damage by wildfire based on the location and use of wood as a  
8 construction material.

9  
10 Little consideration in the original design was given to convenient maintenance of the  
11 Robertson Tank as evidenced by the reported lack of a dedicated drainage line and lack  
12 of valving to allow for bypassing the tank. Without a dedicated drain and bypass, it is  
13 difficult for Garberville Sanitary District staff to perform routine maintenance and interior  
14 tank cleaning without draining the tank and consequently depressurizing the 20 homes  
15 served by the tank. Reportedly, the tank has not been cleaned for many years and  
16 sediment has accumulated on the bottom of the tank.

17  
18 In 2019 and in 2020, while conducting routine sanitary surveys, Division staff identified  
19 sanitary defects in the Robertson Tank including cracked concrete, tank leakage, a  
20 poorly fitted access hatch, and small openings between the wood roof structure and the  
21 top of the concrete tank. The remains of two lizards were identified at the bottom of the  
22 tank during the 2020 inspection, suggesting they entered the tank by way of a small  
23 opening somewhere in the tank structure.

24  
25 As of the date of this Order, Garberville Sanitary District staff have removed the lizard  
26 remains from the tank and sealed the identifiable openings. However, as the degradation  
27

1 of the Robertson Tank continues the risk of animal intrusion and/or other contamination  
2 will also continue.

3  
4 **DETERMINATION**

5 The Division has determined the following:

- 6
- 7 1. The Robertson Tank suffers from fundamental design flaws leaving it  
8 susceptible to animal intrusion and does not meet current standards outlined in  
9 the California Waterworks Standards, Sections 64585(a)(2) and 64585(a)(4).  
10
  - 11 2. The Robertson Tank is difficult to clean and maintain because it does not have a  
12 dedicated drain line for cleaning purposes and there is no practical means to  
13 bypass the Robertson Tank during maintenance.  
14
  - 15 3. The above ground portion of the Robertson Tank is constructed of wood which is  
16 combustible and is therefore highly vulnerable to damage by wildfire.  
17

18 **DIRECTIVES**

19 Garberville Sanitary District is hereby directed to take the following actions:

- 20
- 21 1. **By November 1, 2020**, remove all sediment from bottom of the Robertson Tank.  
22
  - 23 2. **By December 31, 2020**, submit a design proposal for replacement of the Robertson  
24 Tank with either another tank or with the installation of a pressure reducing valve  
25 that complies with California Waterworks Standards.  
26  
27



- 1 3. **By June 30, 2021**, construct a replacement tank or install a pressure reducing valve  
2 in accordance with the design proposal in Directive 1 above, and take the Robertson  
3 Tank offline permanently.  
4
- 5 4. Maintain all vegetation and grass to less than six inches of height within five feet of  
6 the tank.  
7
- 8 5. Inspect the exterior of the tank and access hatch for openings at least once per  
9 week. Seal all openings that are greater than 3/16" Dia. Look into the tank weekly  
10 via the access hatch and note any signs of animal intrusion or other signs of  
11 contamination. Records of the date and findings of each weekly inspection must be  
12 kept until the tank is replaced.  
13
- 14 6. If Garberville Sanitary District is unable to perform the tasks specified in this Order  
15 for any reason, whether within or beyond its control, and if Garberville Sanitary  
16 District notifies the Division in writing no less than thirty days in advance of the due  
17 date, the Division may extend the time for performance if Garberville Sanitary District  
18 demonstrates that it has made its best efforts to comply with the schedule and other  
19 requirements of this Order.  
20

21 If Garberville Sanitary District fails to perform any of the tasks specified in this Order by  
22 the time described herein or by the time as subsequently extended pursuant to Directive  
23 6 above, Garberville Sanitary District shall be deemed to have failed to comply with the  
24 obligations of this Order and may be subject to additional enforcement action, including  
25 civil penalties specified in the CHSC, Section 116650  
26  
27

1 All submittals required by this Order, unless otherwise specified in the directives above,  
2 must be electronically submitted to the State Water Board at the following address. The  
3 subject line for all electronic submittals corresponding to this Order must include the  
4 following information: Water System name and number, compliance order number and  
5 title of the document being submitted.

6  
7 Barry Sutter, P.E., Klamath District Engineer  
8 Barry.sutter@waterboards.ca.gov

9  
10 The Division reserves the right to make such modifications to this Compliance Order as it  
11 may deem necessary to protect public health and safety. Such modifications may be  
12 issued as amendments to this Compliance Order and shall be effective upon issuance.

13  
14 Nothing in this Compliance Order relieves Garberville Sanitary District of its obligation to  
15 meet the requirements of the California Safe Drinking Water Act (CHSC, Division 104,  
16 Part 12, Chapter 4, commencing with Section 116270), or any regulation, standard,  
17 permit or order issued thereunder.

#### 18 19 **PARTIES BOUND**

20 This Compliance Order shall apply to and be binding upon Garberville Sanitary District,  
21 its owners, shareholders, officers, directors, agents, employees, contractors, successors,  
22 and assignees.

#### 23 24 **SEVERABILITY**

25 The Directives of this Compliance Order are severable, and Garberville Sanitary District  
26 shall comply with each and every provision thereof notwithstanding the effectiveness of  
27 any provision.



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**FURTHER ENFORCEMENT ACTION**

The California SDWA authorizes the Division to issue a citation or compliance order with assessment of administrative penalties to a public water system for violation or continued violation of the requirements of the California SDWA or any permit, regulation, permit or order issued or adopted thereunder including, but not limited to, failure to correct a violation identified in a citation or compliance order. The California SDWA also authorizes the Division to take action to suspend or revoke a permit that has been issued to a public water system if the system has violated applicable law or regulations or has failed to comply with an order of the Division; and to petition the superior court to take various enforcement measures against a public water system that has failed to comply with an order of the Division. The Division does not waive any further enforcement action by issuance of this citation or compliance order.

Kim Hanagan  
Kim Hanagan, P.E., Chief, Northern California Section  
Division of Drinking Water  
STATE WATER RESOURCES CONTROL BOARD

8/28/2020  
Date

Certified Mail No. 7017 0190 0000 6413 0898





# Appendix I

## GSD Ordinance - Cannabis

### Section 15.9

Adopted January 2018

## **Sec 15.9 Commercial Agricultural Water Use.**

### **1. Commercial Agricultural Water Use Requirements**

- a. Any person requesting treated potable water for a commercial agricultural business will be required to submit an application at the District office. This application will include the agricultural product, the operational plan, a site map, any permit required by the County and a \$150 handling and inspection fee. This application will be renewed annually, or commercial agricultural water use will be denied.
- b. This application will include the name and contact information of the owner and tenant of the property as well as the address of property and estimated gallons of water to be used monthly.
- c. A GSD new and separate approved water meter and a connection fee will be required for every approved new commercial agricultural business or farm and all approved applicants will pay an additional base rate and water usage fee.
- d. In the event that Garberville Sanitary District faces drought conditions, infrastructure deficiencies or limitation on the approved diversion rate, the agricultural water will be turned off, to ensure adequate water for residential use and human consumption.
- e. All commercial agricultural operations which request water will have their property inspected by the General Manager or designee, at which time the infrastructure will be evaluated to ensure that it is capable of handling the increased water volume.
- f. In the event the infrastructure is not adequate for the increased volume of water, an agreement will be made with the commercial agricultural business to upgrade the infrastructure or work with the District to do so before the application will be approved.
- g. When an infrastructure upgrade is required but the commercial agricultural business will not pay for or participate in upgrading the infrastructure, the application will be denied. Any commercial agricultural business will be required to comply with all requirements listed below.
- h. Commercial Agricultural customers will be required to show a water catchment plan that collects water during the winter months while preparing for high demand summer months.
- i. A reconciliation report will be required annually to compare projections with actual water use and efficiency.
- j. **REASON FOR DENIED WATER SERVICE**
  1. Negative impact to neighbors
  2. Excessive pedestrian or vehicle traffic based on site visits and complaints.
  3. Excessive signage
  4. Excessive noise as determined by the District and complaints.
  5. Excessive lights, glare, or brightness.
  6. Negative smells determined by District and complaints
  7. Negative impact to fire suppression capabilities.
  8. Inadequate water supply
  9. Violation of State diversion and permit limits.

**Noncompliance with any of these requirements or from excessive complaints will result in your application being denied.**