

2022 Calendar Year Water Source Capacity Report

Prepared for:
Garberville Sanitary District
Board of Directors
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HISTORY OF WATER SOURCES

In 2004 the Garberville Sanitary District (GSD) purchased the Garberville Water Company (GWC) from the Hurlbutt family. The GWC had a number of historical water sources which included:

- South Fork Eel River (SFER) Diversion
- Tobin Well
- Miller Well
- Unnamed Stream

In addition to these GWC water sources, GSD had the right to use water from an unnamed creek on Brisbin's property for the wastewater treatment plant. The right to this water source was relinquished as part of the lot line adjustment agreement for the acquisition of the new primary pond at the wastewater plant.

When the purchase of GWC was completed, only the South Fork Eel River diversion, Tobin well, and Miller well was transferred to GSD.

In recent history the GSD has used the water from the SFER and Tobin well. Some effort has been made to clean out the well casing on the Miller Street Well, but no water has been pumped from this well in the past 10 years.

INFRASTRUCTURE OF WATER SOURCES

The **South Fork of the Eel River Infiltration Gallery** provides collection of the main water source. It was originally installed in 1940. According to the December 1977 Engineering Report prepared by State of California - Health & Welfare Agency, Department of Public Health, Associate Sanitary Engineer Eugene W. Parham: *"Water is obtained through an infiltration gallery in a gravel bar on the west side of the river. Infiltration is through 640 feet of perforated 8-inch diameter metal pipe, buried approximately 6 feet below the low water level. In 1966 the infiltration works capacity increased with the installation of two 8-inch infiltration laterals 260 feet long. Collected water flows to a 3-foot diameter concrete collection chamber 12-feet in depth. From the collection chamber bottom, an 8-inch double strength steel pipe equipped with a single check valve leads to two submersible pumps on the east side of the river. The submersible pumps are housed in a concrete-shielded CMP, 30 feet deep and 4 feet in diameter."* As part of the 2015 Improvement Project, the 4' diameter corrugated metal pipe on the east side of the river was extended to 55 feet high to place the top outside of the river flow for a 100-year flood event. The two 25-HP submersible pumps in the 4' CMP supply up to 350 GPM to the system. The pump discharges to a 6" raw water pipeline that transports the raw water to the new surface water treatment plant (SWTP) on Tooby Ranch Road.

The **SWTP** consists of flocculation, direct filtration, chlorination, and finished water pumping system. The water treatment plant utilizes Catfloc L Polymer as a coagulant and filter aid. The polymer is injected into the raw water line prior to entering the flocculation basin located upstream of the filters. The baffled flocculation tank is 5,500 gallons, 8 feet in diameter and 14 feet straight shell length, 150 psi pressure tank.

The filtration system is a duplex Loprest model and generally consists of two 108" diameter x 72" straight shell length, 150 psi pressure tanks with 18" filter sand and 12" anthracite with two grades media support gravel and associated piping, valves, controls, and accessories. The filtrations

system requires occasional backwash of the filter medium. The spent backwash water is stored in a 35,000-gallon, 18 feet diameter by 18 feet side water depth with overall height of 22 feet, steel welded storage tank. The clearwater from the backwash storage tank will be recycled back into the treatment plant system and the sediment will periodically be pumped from the tank and disposed of by the pumping company. The backwash recycling pump allows the clearwater from the storage tank to be pumped back into the treatment plant.

The water is chlorinated using liquid sodium hypochlorite. The liquid sodium hypochlorite can be injected prior to flocculation and after the water has been filtered. After the sodium hypochlorite is injected, the chlorination detention time must be satisfied prior to the water being used. Originally the SWTP was constructed with an underground chlorine contact chamber of 30" serpentine pipe. That pipe failed in Nov. 2017 and had to be replaced. The construction of an above ground steel baffled pressure vessel was completed in 2018 to replace the underground chamber.

The finished water is pumped up Sprowel Creek Road, through town, and to the existing main storage tank on APN 032-211-012. These pumps are a duplex pumping system. The SWTP has a permanently mounted, diesel, 60 kW generator with a tank that will allow for 72 hours of continuous operation. This generator can power the entire SWTP facility during power outages.

Tobin Well is a groundwater source with a duplex pumping system with chlorination. According to the 1977 Engineering Report, "The Tobin Well was dug in 1931, and is used only as an emergency supply. It is about 45 feet deep with a 6-foot diameter concrete casing." From the January 25, 2013, report by SHN Engineers & Geologists entitled *Tobin Well Supplemental Project Report*, "The existing Tobin Well is located at 510 Pine Lane in Garberville, CA. The property is approximately 75 feet along Pine Lane and 150 feet deep. The well house is located along the front of the property with a storage building located at the rear of the property. The well is currently used to provide a backup water supply to the district during high turbidity events in the Eel River. The existing well produces approximately 45 GPM providing approximately 65,000 gallons per day. The well is housed in a 12-foot x 15-foot pump house. The existing pressure tank is functional but shows heavy signs of corrosion. The well is a 5-foot diameter well approximately 45 feet in depth with a concrete landing approximately 24 feet below the existing ground surface. The concrete landing has a 24-inch square access hatch. It appears the well draws water from an unconfined aquifer. Disinfection is provided through a chlorine drip into the well to provide a .5 to 1.0 mg/1 dose of sodium hypochlorite. The District's operations staff has conducted drawdown tests with the existing 45 gpm pump. After 12 hours of continuous pumping, the well stabilized at a depth of 36.4 with a drawdown of approximately 6 feet. The well reached a 95 percent recovery five hours after the pumps were turned off."

In 2014 the District installed duplex variable speed pumps sized to pump up to 100 gallons per minute (gpm) with level control. The specifics on the pumps are: Goulds model 95L07, 6" diameter, 5-stage submersible pump rated approximately 100 GPM @ 173' TDH, driven by a 7.5 HP, 3/60/230-volt motor. Pump has a 3" NPT discharge. The pumps can be controlled by the water level in the well and can vary the pump's output to maintain a preset water surface. The controller is a Goulds model CPC20311 Aquavar variable speed controller, 30.8-amp output with a Goulds model 9K396 submersible pressure transducer, 7.5 PSI with 100' cable. Most times this automation is not used since the cycle times for automated pumping are too short.

Miller Well is a groundwater source with no pumping system and is not currently operational. The Miller Street well is thirty-two feet deep with a water depth of fifteen feet. The well is 48” in diameter. In March of 2015 the water was tested and is safe for human consumption.

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 500,000 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 and 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.

EXCERPTS FROM SWRCB AND CDFG AFFECTING DIVERSION

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. Both documents were amended as of October 11, 2013, and can be found in Appendix A. In September 2019 the District submitted a Petition for Change in Place of Use to add portions of the Southern Humboldt Community Park property. On June 21, 2022, the SWRCB unanimously approved the Proposed Order on pending petitions of Garberville Sanitary District to change water-right License 3404 and Permit 20789. In addition, GSD executed a Lake and Streambed Alteration Agreement with the California Department of Fish and Game dated June 26, 2012. This document can be found in Appendix B.

Some specific terms of the License are:

*#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**.*

*#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**.*

*#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**.*

Some specific terms of the Permit are:

*#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**.*

#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.

Some of the terms of the DFG Agreement for the diversion are:

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.

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.

So, in summary, GSD is allowed to divert at a rate up to **336 GPM** (0.75 cfs) with a maximum of up to 176 million gallons per year (442.2 acre-feet per year) limited to the maximum amount diverted during the 5-year construction period ending December 31, 1999; which was **80 million gallons** in one year.

For assessment of the amount allowable under the SFER diversion, we use these 80 million gallons per year maximum annual diversion at a rate of up to 336 GPM. The new SWTP is capable of treating 350 GPM.

In November 2019 the SWRCB Division of Drinking Water issued a replacement Domestic Water Supply Permit. It is included in Appendix D.

DIVERSION TRENDS AND WATER SALES

To follow are two graphs summarizing the District's water diversions, metered customer sales, and bulk water sales. **Graph 1** depicts the annual diversions from the South Fork of the Eel River as reported to the SWRCB for the license plus the permit from 1977 to 2022. The average from 1977 to 2022 was **60,886,329** gallons per year. The average over the past 20 years was **59,065,728**. The average over the past 10 years was **57,335,318**. This 10-year average continues to be lower each year than the previous year in part because GSD implemented a new rate structure from 2009 - 2014 and again in August 2020 that effectively increased rates, causing the customers to conserve water as much as possible. In addition, the District replaced the leaking Alderpoint Road Tank in 2014/15 and removed the Robertson Tank from service this year. Once the Robertson, Hurlbutt and Wallan storage tanks are replaced, the District will likely see an additional decrease in the annual diversion quantity.

Graph 2 depicts the 2013 - 2022 diversions, metered customer sales, and bulk water sales.

Worth noting on graph 2 is the downward trend of water sold in the past ten years. This year was the lowest amount shown. There are a number of commercial accounts that have decreased their consumption and/or businesses that have closed completely and not been replaced. The District is seeing the effect of these lower usage quantities reflected in the water revenues.

Table 1. Type and Number of Water Customer Accounts

Customer Type	Number of Accounts
Residential	292
Commercial	109
Other (Master, GSD & discontinued)	11
Irrigation	5
Multi-family/Mixed Use	42
Cannabis Cultivation	10
Vacant/Inactive	3
Total	472

PROJECTS APPROVED AND CONNECTED IN 2022

The following table lists various projects that have been approved by GSD within the last few years and were connected to the system during 2022. It details the type of development and the annual water consumed by those customers in 2022. These consumption amounts are already included in the total water sold and diverted for 2022. These project locations are illustrated in dark blue on Figure 1A and 1B in Attachment 1.

Table 2. Approved Projects that were Connected in 2022

APN	Description	Actual 2022 Water Consumption (Gallon/year)	Conn Fee Paid?	In IS/MND?
032-011-029	Humboldt County Mini-Complex	24,684	N/A	Existing
032-034-001	Remodel kitchen for new restaurant	80,784	N/A	Existing
223-191-005	Ag Meter - A Clary	0	Yes	Existing
223-191-002	Ag meter - Alban	0	Yes	Existing
	Total for Table	105,468		

CANNABIS

In November 2016, California voters approved the Adult Use of Marijuana Act (Proposition 64) to legalize the recreational use of cannabis. As a result of recreational legalization, local governments (city and county) may not prohibit adults from growing, using, or transporting marijuana for personal use. The creation of rules and regulations from Prop 64 have been forthcoming over the past 4 years and continue to be updated at the state and county levels.

The District has been proactive in its efforts to put policies into place. In January 2018, GSD's Board adopted an ordinance for cannabis cultivation as Section 15.9 Commercial Agricultural Water Use. It can be found in Appendix I.

In 2018 the District contacted all the residential accounts that had high water use to determine if cannabis was being cultivated and notifying them that purchasing a second meter for their parcel was necessary. One meter for residential consumption and one meter for the cultivation of cannabis. A number of these customers came in and applied for an agricultural meter. Some no longer cultivate cannabis and some never did, they just have larger lots that are landscaped.

The District has continued to work with property owners to issue will serve letters for properties within the District's Place of Use that desired to obtain an ag meter for the water supply of their commercial cannabis enterprise and to document the approximate area on each parcel being used for cultivation of cannabis.

In June 2020 the District adopted a new rate structure that added a third tier to the residential rates for excessive water users. As of December 31, 2022, the charge per unit for this third tier of water is \$12, in contrast to tier 1 costing \$2.50 and Tier 2 at \$4.50 per unit. When a property owner installs an ag meter, it is a commercial account and is charged under the commercial rates which are \$4.50 per unit for Tier 1 and \$3.75 per unit for Tier 2. There is a significant financial incentive for residential customers irrigating cannabis to obtain an ag meter which allows the District to account for the portion of water within the District is being used for this business.

The following ten APNs have an ag meter issued for them as of **December 31, 2022**: 032-171-027, 223-191-008, 223-171-001, 223-171-002, 223-171-003, 222-156-016, 222-156-018, 222-156-019, 223-191-002 and 223-191-005. The water delivered through these meters is tallied separately and reported on the District's annual report for the License and Permit diversions. In calendar year 2022 they were billed for a total of 722,568 gallons, which is approximately 300,000 gallons less than 2021. There was one APN that converted from an ag meter to a standard commercial account - APN 222-156-014. There is one additional APN (222-156-015) that is approved for an ag meter but the meter has not been set because the permit or construction process is incomplete.

The District continues to identify any Tier 3 residential water users that could potentially be cultivating cannabis, and inform the current property owner of the District's policy requiring an ag meter for cannabis. We also respond to any County referrals related to cannabis with the requirement that the property owner obtain the necessary meter for commercial cannabis operations.

Humboldt County has progressively adopted numerous ordinances related to cannabis and is responsible for enforcement of them. They are summarized as:

2020 Amendments to Streamline Permitting for Small Farmers, Establish Personal Use Allowances for Large Parcels, and Financial Security

The Board of Supervisors adopted the following on October 6, 2020.

- Small Cultivator Ordinance 2652
- Personal Use Ordinance 2653
- Financial Security Ordinance 2655 Part 1
- Financial Security Ordinance 2654 Part 2

Phase I / II - Indoor / Outdoor Personal Use Cultivation

- Ord No. 2523 - Indoor/Outdoor Personal Use Cultivation
- Phase II Outdoor Cultivation - Summary Chart

Phase III - Dispensaries

- Ord. No. 2554 Adopted by Board of Supervisors July 19, 2016

Phase IV - Commercial Medical Marijuana Land Use Ordinance (CMMLUO)

Adopted by the Board of Supervisors on September 13, 2016 - often referred to as “Ordinance 1.0”

- Ord No. 2559 - Adopted by Board of Supervisors September 13, 2016
- Ord No. 2559 with comparison language with Ord No. 2544
- Resolution No. 16-14 - CMMLUO
- Final Mitigated Negative Declaration - CMMLUO
- Notice of Determination - CMMLUO
- Ord. No. 2583 - Adopted by Board of Supervisors October 17, 2017
- Resolution No. 17-84 - CMMLUO

Commercial Cannabis Land Use Ordinance (CCLUO)

Adopted by the Board of Supervisors on May 8, 2018 - often referred to as “Ordinance 2.0”

- Ord. No. 2598 - CCLUO [coastal zone] certified copy - not yet effective, Certification by Coastal Commission pending
- Ord. No. 2599 - CCLUO [inland] certified copy
- Ord. No. 2600 - 45-day moratorium in areas of Yurok Traditional Tribal Cultural Affiliation
- Resolution 18-43 Countywide Permit Cap - watershed-specific caps on total permits and acreage of cultivation which may be authorized
- Resolution 18-40 Certifying Final EIR
- Notice of Exemption - CCLUO [coastal zone] for Ord. No. 2598, filed May 8th, 2018
- Notice of Determination - CCLUO [inland] for Ord. No 2599, filed May 8th, 2018
- Ord. No. 2638 -- Repeal and Replace Existing Personal Use Ordinance #2523, Coastal Zone Only-not yet effective, Certification by Coastal Commission pending
- Ord. 2639 -- Repeal and Replace Existing Cannabis Dispensaries Ordinance #2554, Coastal Zone Only - not yet effective, Certification by Coastal Commission pending

Interim Ordinances

- Ord. No. 2583 - Coastal Zone Commercial Cannabis Prohibition - Adopted October 17, 2017
- Notice of Exemption - Ord. No. 2583
- Ord. No. 2586 - Extending Duration of Ord. No. 2583 for a total of 2 years - Adopted November 14, 2017
- Ord. No. 2588 - Interim Adult Use Amendments & Interim Permitting - Adopted November 14, 2017
- Notice of Determination - Ord. No. 2588 (PDF)

The County has staffed a large department whose purpose is to identify and either permit or abate cannabis cultivators that were not in compliance with County Code.

In 2019 the **Waterboard** completed guidelines for Water Code section 13149(b)(2) which states that the Waterboard shall adopt principles and guidelines under this section as part of state policy for water quality control adopted pursuant to Article 3 (commencing with Section 13140) of Chapter 3 of Division 7. Water Code section 13142 that outlines specific requirements for a state policy for water quality control, which Cannabis Cultivation Policy Principles and Guidelines for Cannabis Cultivation adopted by the Waterboard on February 5, 2019 and was Approved by Office of Administrative Law on April 16, 2019. This document provided guidelines for the cultivation of cannabis and the definition of who had to acquire a license from the State.

These include:

- Commercial Recreational
- Commercial Medical
- Personal Use Medical

This Policy does not apply to recreational cannabis cultivation for personal use, which is limited to six plants under the Adult Use of Marijuana Act (Proposition 64, approved by voters in November 2016).

The Cannabis Policy states that *“instream flow Requirements and forbearance period listed in this section shall not apply to retail water suppliers, as defined in Section 13575 of the Water Code³², whose primary beneficial use is municipal or domestic, unless any of the following circumstances are present:*

- a. the retail water supplier has 10 or fewer customers and delivers water that is used for cannabis cultivation;*
- b. the retail water supplier delivers 10 percent or more of the diverted water to one or more cannabis cultivator(s) or cannabis cultivation site(s), as established by an assessor’s parcel number;*
- c. 25 percent or more of the water delivered by the retail water supplier is used for cannabis cultivation; or*
- d. a cannabis cultivator and the retail water supplier are affiliates, as defined in California Code of Regulations, title 23, section 2814.20.”*

Since none of these circumstances apply to GSD, we are categorized as a Retail Water Supplier. On the 2019 Annual diversion reports for our license and permit, the State began requiring the diversion holder to report on the amount of water being used for all irrigation purposes. We provide this information as required based upon the information in our records and any information that we can collect from the property owners.

2022 Report of Licensee

All cannabis diversions and acreages were included in the report for the License and none was placed in the permit.

Special Use Categories	
Are you using any water diverted under this right for the cultivation of cannabis?	Yes
Total amount of water used under this water right for cannabis cultivation	2.350620 acre-feet
Total irrigated acreage of cannabis cultivated	82095 square feet
Amount of cannabis cultivated by lighting condition type	
Outdoor Cultivated Canopy Size	55395 square feet
Outdoor Total Number of Plants Harvested	8360
Outdoor Number of Harvests	1
Indoor Cultivated Canopy Size	
Indoor Total Number of Plants Harvested	
Indoor Number of Harvests	
Mixed Light Cultivated Canopy Size	28700 square feet
Mixed Light Total Number of Plants Harvested	39200
Mixed Light Number of Harvests	2
Irrigation methods that are used to cultivate cannabis	Hand water, Drip/micro spray irrigation
Is your cultivation of cannabis a commercial cannabis activity?	No

BULK WATER SALES

In December of 2012, the District received a Cease-and-Desist Order from the State Water Resources Control Board (see appendix F). The CDO in part required that the District “*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*”.

In an email from John O’Hagan, Manager of the SWRCB DWR Enforcement Unit dated Dec 03, 2012, responding to District staff inquiry on the definition of an “emergency domestic water supply” criteria, he states “*Our intent in providing an 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 uses. State Water Board staff does not agree with your proposal to use the definition of Domestic use provided by section 660 of Title 23, California Code of Regulations to interpret the draft CDO. This section is the definition used by the State Water Board for a domestic beneficial uses of water when an applicant files for a water right permit. When referring to “emergency domestic”, the draft CDO was intentionally narrowing this broad definition of Domestic use down to the essential uses necessary to sustain human and animal life, and for the water necessary for sanitation. Uses for outside irrigation of lawns, gardens and landscaping, even if within ½ acre, would not be an emergency need of water.*”

In 2015, bulk water was sold to Cal FIRE to fill water tender type trucks out of the fire hydrant near their complex on Alderpoint Road to fight the Buck Fire on Alderpoint Road. This water was used directly on the fire and for the personnel housed as the Eel River Fire Base Camp just outside of our POU. We deemed this to be an emergency that met the criteria of the CDO.

In 2017, we sold bulk water for several emergency projects. In April 2017 a large slide covered all lanes of Hwy 101 and closed the road to southern Humboldt County. Caltrans issued an emergency contract for the work with Mendocino Construction Services as a subcontractor. MCS needed water for the work to be done at the site. We also sold bulk water to Cox & Cox and Mercer Frasier for the work on the Garberville Airport.

In 2018 a complaint was filed, the District supplied the requested documents, and the SWRCB notified the District that bulk water sales for construction were a violation of the CDO. The District issued a notice that all bulk water sales outside of the Place of Use would cease. For bulk water sales the applicant must show that the water will be beneficially used within the POU.

In November 2019, Ed Voice and Jessie Jeffries filed complaints with the SWRCB-DWR that the County of Humboldt was trucking water from their road maintenance yard facility’s existing long-standing commercial water account to an emergency road project on Old Briceland Road.

During 2020 the District was involved in confidential negotiations with the State Water Resources Control Board regarding a draft Administrative Civil Liability Complaint regarding the sale of bulk water to various state and county agencies for emergency projects as a violation of Cease-and-Desist Order WR 2012-0036-DWR. District Counsel headed the negotiations team, which eventually agreed to terms that are captured in the settlement agreement. ORDERS WR 2020-0104-EXEC approving the settlement agreement was signed on August 26, 2020. The 2020 order states,

“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."

The Settlement Agreement entered by the Garberville Sanitary District constitutes a resolution of disputed claims, not an admission of fault or liability on the part of GSD. Related to the Settlement:

1. The Bulk Water Sales which occurred after 2012, as alleged in the Water Board Settlement Documents and Draft Administrative Complaint, relate to assertions that GSD's sale of water to public entities/agencies constituted a violation of a restriction included in the 2012 Cease and Desist Order restricting bulk water sales only for "emergency domestic water supply".
2. GSD made several water sales to public agencies, including: (1) water supply to the California Department of Forestry to assist in firefighting efforts; (2) Contractors working for Caltrans on a slide on Highway 101, south of Garberville, to re-open the Highway in response to a Governor declared emergency; (3) water sales to the County of Humboldt through their existing commercial water meter that they used for the emergency repair of a failed culvert within Whitmore Grove on Briceland Road at PM 11.20 in accordance with the Local Emergency Proclamation for Briceland Thorn Road adopted by the Humboldt County Board of Supervisors in cooperation with California State Parks.
3. All of the bulk water sales were authorized by GSD based on the urgent and public safety needs identified with the sales. As alleged in the public Settlement Documents, the Water Board asserted that there was not "domestic use" component of the sales, and a violation was asserted.
4. Although the practice of all bulk water sales to government agencies to respond to health and safety related events has now stopped, GSD is petitioning the Water Board and seeking its assistance to expand the definition of "emergency use" in the 2012 CDO so it can make bulk water sales where necessary to respond to substantial public health events and/or imminent threats to public health and/or safety exist.

The date of the most recent bulk water sale was October 26, 2018. In January 2020, the District informed Humboldt County Public Works Department that even though they are a commercial water customer in GSD's Place of Use, they cannot fill water trucks from the standpipe at their Garberville Road Maintenance Yard and take the water outside of the GSD Place of Use. They were reminded again of the limitations on Sept 3, 2020.

The fine levied in the settlement agreement was \$40,000.

WATER LOSS

Water loss is a normal part of any water system. The US EPA, Office of Water. 2013. Drinking Water Infrastructure Needs Survey and Assessment: Fifth Report to Congress. EPA 816-R-13-006, states *“The US EPA’s fifth national assessment of public water system infrastructure needs documents a 20-year capital improvement need of over \$384 billion between 2011 and 2030.” They also state, “Lost water from aging infrastructure is also costing local governments and utilities lost revenue or unrecovered costs of production. Thus, taxpayer and ratepayer dollars are being wasted along with the commodity itself. A positive return on investment is almost certain for many systems, and tools are available for determining the economic level of loss for an individual water supply system - the level at which the cost of investing in water loss management is less than the value of the lost water.”*

Graph 3 shows water uses by calendar year including the amount of “lost” water within our water system each year. Lost water exists within every water system, although the magnitude of the loss varies with the age of the system. This lost water was reduced with the replacement of the Alderpoint Road Tank and has been reduced as we have identified specific sources of leaks and accounted for them.

EPA’s Document No EPA 816-F-13-002, dated July 2013, entitled “WATER AUDITS AND WATER LOSS CONTROL FOR PUBLIC WATER SYSTEMS” provides instructions and ideas for ways to identify unauthorized water consumption, leakage, by conducting a water audit of the system.

Some of the likely sources of the District’s lost water are:

- Inaccurate (old) meters that do not record the total water actually coming through the meter
- Leaking waterlines (from old joints) and broken waterlines (cracks/holes in the waterline itself) especially with the amount of old clay and transite waterlines in the District’s system
- Leakage from fire hydrants and valves
- Leakage and overflows from storage tanks
- Leakage from service connections (laterals) or service meters
- Unauthorized consumption (theft)
- systematic data handling errors in the meter reading and billing processes

The District has many miles of old waterline and replacement of this quantity of waterline for a small system is a massive undertaking. During 2022, the District replaced and repaired leaking waterlines as they were reported. Also, the District replaces sections of waterline as part of larger infrastructure projects.

Another significant source of apparent water loss in a system this old comes from old meters that do not register all of the water that passes through them. This water is beneficially used, but not documented in the water sold totals, nor is it included in the revenue. Over the past 5 years, the District has undertaken a meter replacement program. In 2022, the District replaced 22 meters. In the past five years, the District has replaced 131 meters, or approximately one quarter of all the meters in the District.

Recordkeeping for unmetered water that is beneficially used has been expanded to estimate the amounts leaking from each storage tank, identified waterline breaks, fires, fire hydrant exercising, hydro-jetting, filling the vac-trailer, WWTP water use for processing, and the use of finished water within the SWTP for operations of various equipment and meters.

Leaking Tanks

The District has three very old leaky water storage tanks - Robertson, Hurlbutt, and Wallan. The Robertson tank is a 50,000 gallon partially in-ground concrete tank with a wood roof structure fed from the Arthur Road pump station and the Alderpoint Road Tank. The tank was reportedly constructed in 1921 and was originally part of the Robertson water system. The tank has visible structural cracks that have been held together with a cable system for several decades. The tank serves the Arthur Road pressure zone.

The Hurlbutt Tank is a 200,000-gallon partially in-ground concrete tank with a wood roof structure. It was built around 1940. The tank was inspected and cleaned in 2013, at which time it was identified as needing replacement due to its age, structural integrity, construction materials, and leakage. The concrete has cracks that allows the water to constantly leak into the surrounding soils. The replacement tank will likely be located on the parcel above the existing Hurlbutt Tank. The new tank would be sized to meet maximum day demand and fire flow requirements for the District. Replacement of Robertson and Hurlbutt Tanks together may allow for the combination of these tanks into a single larger tank. Both Robertson and Hurlbutt tanks will need to be demolished once the new tank is operational.

The Wallan Tank was constructed in 1978 as part of the Meadows Subdivision Unit 1 Phase 2 development project. It is a 20,000-gallon redwood tank with large holes. Historically the holes were drilled and filled, which allowed for the tank's useful life to be extended. The holes are now larger and irregular in shape as the wood has continued to rot. There are also holes in the bottom of the tank which cannot be repaired. This tank has far exceeded its useful life and needs to be replaced. The tank serves the Upper Wallen Road pressure zone and is necessary for continued service to the residences in that pressure zone. Replacement with a new steel water tank at the existing site of the redwood tank is likely the long-term solution.

There is visible evidence of the significant volume of water that is leaking from the cracks in all of these tanks - they have been leaking for decades and are progressively getting worse. The water that leaks from these tanks has been approximated and included in the water calculations in this report.

During the July 2020 inspection of the Robertson Tank, Water Board District Staff observed the remains of a lizard and sediment in the bottom of the tank. A remediation plan was agreed to between Barry Sutter and Ralph Emerson, and the District began completing those items.

A Compliance Order was issued on August 28, 2020 by The Division of Drinking Water (Appendix H). The following Directives are included in the Compliance Order:

- “1. By November 1, 2020, remove all sediment from bottom of the Robertson Tank.*
- 2. By December 31, 2020, 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 June 30, 2021, construct a replacement tank or install a pressure reducing valve in accordance with the design proposal in Directive 1 above, and take the Robertson Tank offline permanently.*

4. Maintain all vegetation and grass to less than six inches of height within five feet of the tank.

5. Inspect the exterior of the tank and access hatch for openings at least once per week. Seal all openings that are greater than 3/16" Dia. Look into the tank weekly via the access hatch and note any signs of animal intrusion or other signs of contamination. Records of the date and findings of each weekly inspection must be kept until the tank is replaced.

6. If Garberville Sanitary District is unable to perform the tasks specified in this Order for any reason, whether within or beyond its control, and if Garberville Sanitary District notifies the Division in writing no less than thirty days in advance of the due date, the Division may extend the time for performance if Garberville Sanitary District demonstrates that it has made its best efforts to comply with the schedule and other requirements of this Order."

The District petitioned the Water Board to modify the order to postpone the deadlines recited in directives 2 and 3, which was granted. The new language for Directives #2 and 3 now reads:

*"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."*

Directives #1, 4, and 5 were completed in 2020. Directives #4 and 5 are things that are and will continue to be completed by Operations Staff.

On or about August 26th, 2021, while performing the required weekly inspections, District Operations Staff found that a section of the tank near the intersection of the concrete wall with the ground to have been dislodged, likely due to seismic activity. Further inspection found that a crack around the circumference of the tank is also evident. Due to the drought conditions being experienced at that time, Operations Staff notified the customers served off the Robertson Tank and lowered the "tank full" floats to a level that is just below this crack to minimize the water pumped out of the river, being treated and distributed to this tank, and then leaking out on the ground. District staff began coordination with a local contractor to install a pressure reducing valve station at the intersection of Arthur Road and Alderpoint Road. This PRV connects the Arthur Road pressure zone to the Alderpoint Tank distribution line and thereby allows for this pressure zone's service to be transferred to Alderpoint Tank. In February 2022, the PRV was completed and the Robertson Tank was taken offline (Letter to DDW in Attachment 4). The District then disconnected the Robertson Tank from the system so that no additional water would be lost through the cracks. The amount of water diverted this year, and the historically low quantity of lost water, would indicate that there has been a noticeable decrease in lost water following the removal of this tank from the system.

The District has now completed Directive #2 and #3, and the compliance order has been satisfied.

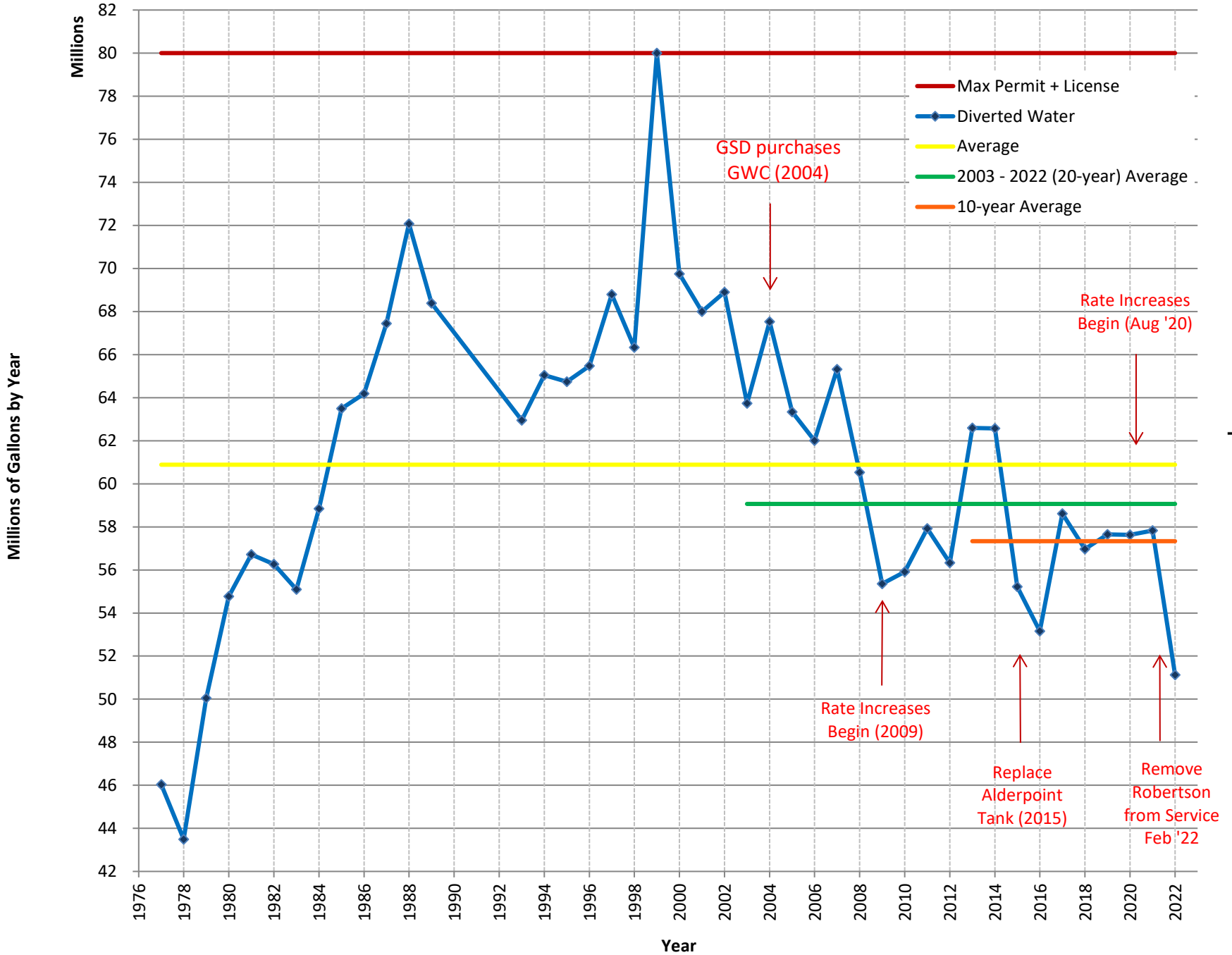
Tank Replacement Funding

In 2019, the District submitted DWSRF planning phase funding applications for the replacement of the Wallan Road Tank and the Robertson Tank as well as rerouting the waterline over Bear Canyon. In 2021, the District also applied for replacement of the Hurlbutt Tank. In December 2021, the District received from the State Water Resources Control Board Division of Financial Assistance, a Proposition 68 Funding Agreement D2102010 for the Planning Phase work necessary to replace the Robertson, Wallan, and Hurlbutt Tanks (Attachment 4 contains reference documents). It will take two to three years to get through the preliminary engineering, CEQA, and final design efforts before we will be able to bid this project and begin construction. Ideally construction would begin the spring of 2025.

In November 2021, the District submitted a grant application packet for the Small Community Drought Relief Program for the Wallan, Robertson, and Hurlbutt Tanks. On August 22, 2022, the District received notice from the State of California Department of Water Resources Small Community Drought Relief Program that they had approved funding in an amount not to exceed \$4,545,000 for this project. This grant covers administration, project development, property acquisition, and construction for the tank replacement project.

Once this tank design is complete and construction funds are awarded, the removal of all three tanks from the system should result in a substantial decrease in the amount of lost water.

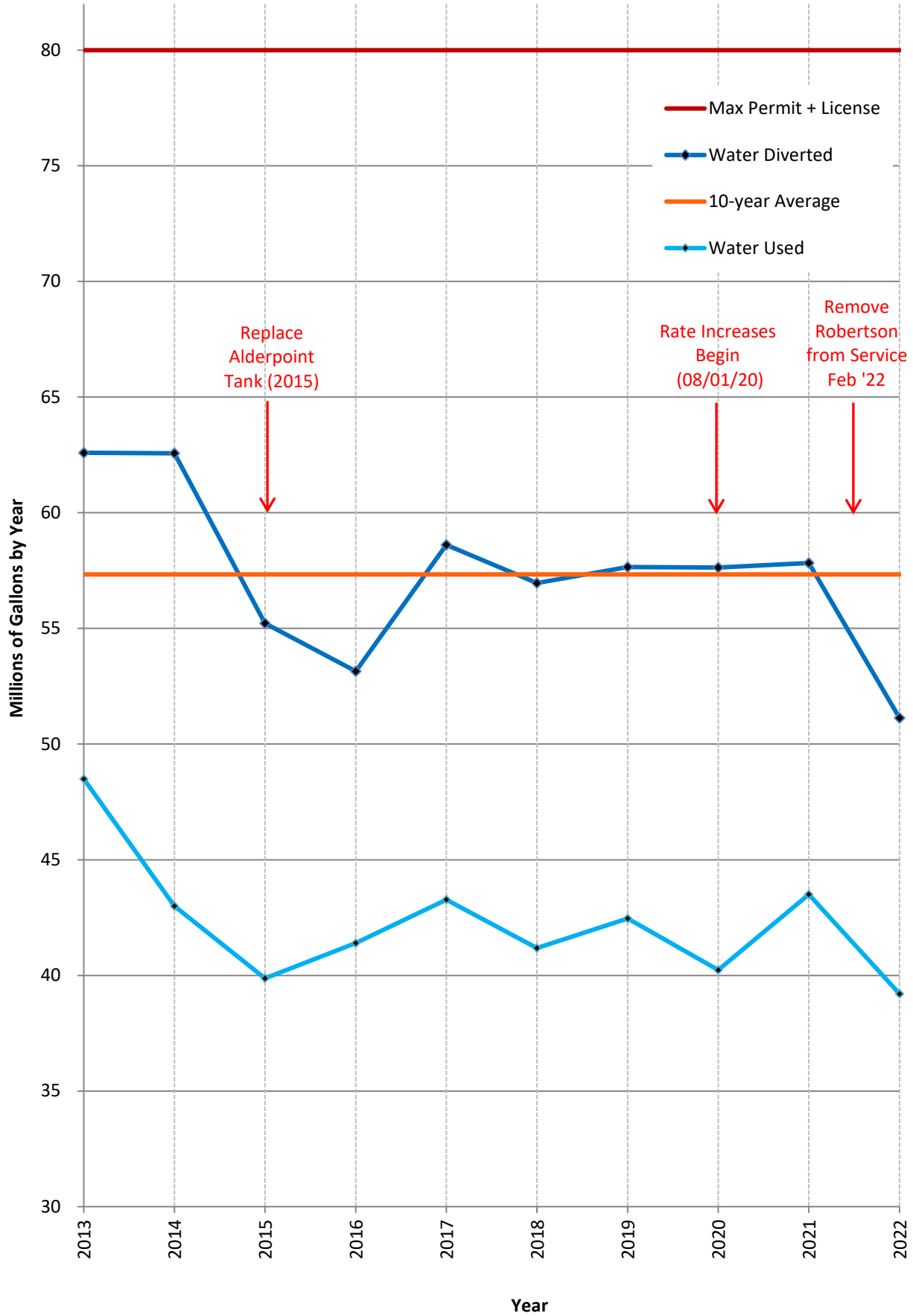
Summary by Year of Water Diversion Reported



Graph 1

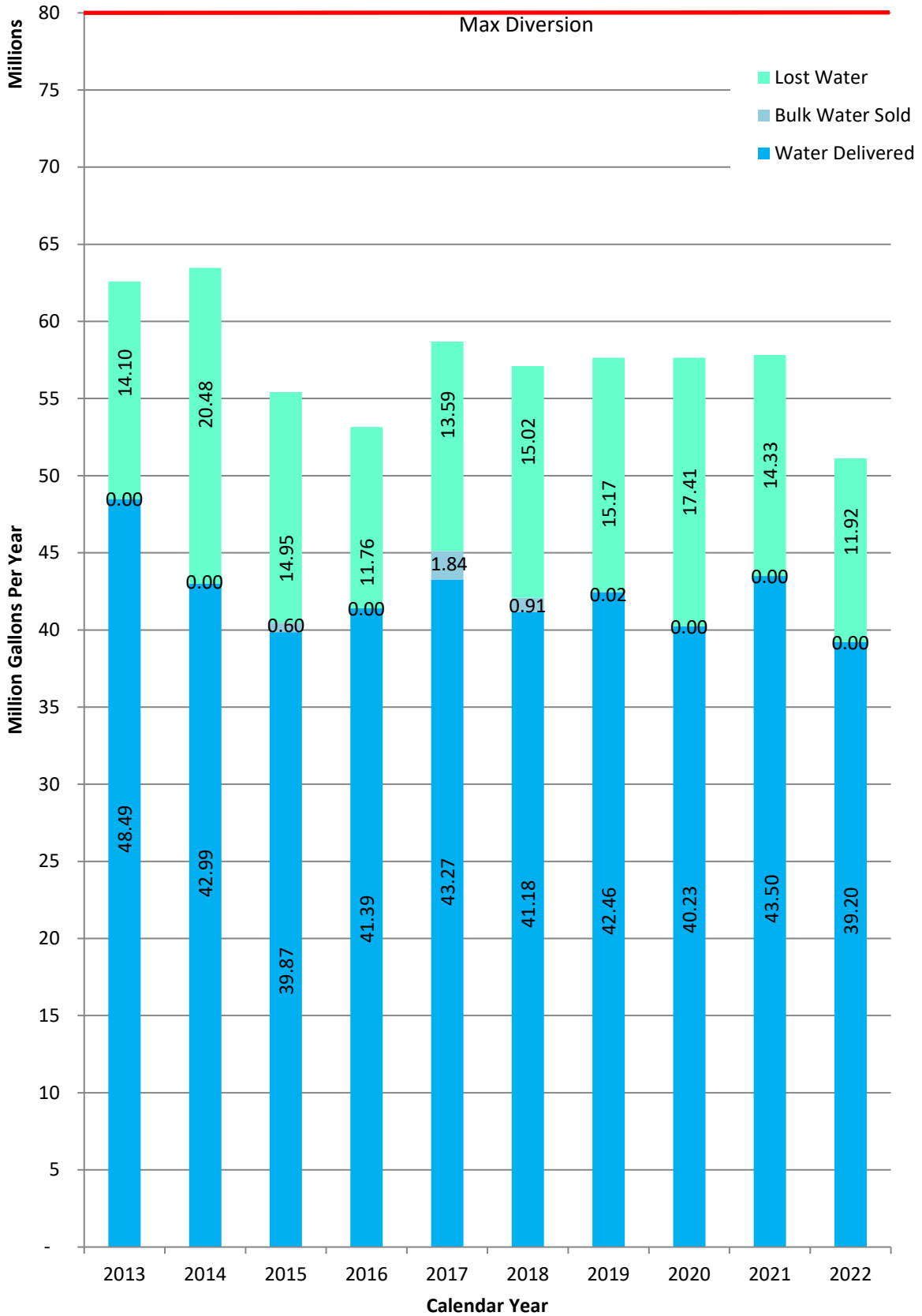
Summary by Year of Water Diversion Reported

Graph 2



Water Uses by Calendar Year

Graph 3



PROJECTS REVIEWED BY THE DISTRICT IN 2022

For all planning and building projects within the GSD place of use, Humboldt County is responsible for sending GSD a project referral asking for our input on whether the project will be served with GSD water and or sewer. As part of this referral process, GSD can and should enumerate any conditions that will be placed upon the applicant to receive or expand their service. When projects are at the planning stage, many applicants do not know exactly how much water and sewer capacity they will need. Staff works with the applicants to supply general information on our infrastructure and any concerns we have about connection so that the applicant can proceed with designing their project and eventually apply for new water or sewer services using our application. Future applicants can also contact GSD directly prior to applying for water or sewer service to receive information on possible service at a particular parcel. Projects that are commercial in nature or include four or more single family residential units will be reviewed by the Board prior to approval.

GSD receives numerous County referrals each year. Many do not include new water service. They are electrical, mechanical, roofing, or other non-expansion building permits. Some are planning actions that do not have a specific water service component. The table below lists the projects that do or could have an effect on the water consumption. They have been approved by the District but have yet to be connected to the District's water system. These project locations are illustrated in medium blue on Figure 1A and 1B in Attachment 1.

Table 3. Projects Approved by District with potential water use increase - unconnected as of 12/31/22

APN	Development Description	Estimated Future Water Consumption (gallon/year)	Conn Fee Paid?	In IS/MND?
032-044-008 & 09	Bank Remodel	211,500	≈2 of 3	Existing
222-156-015	Ag Meter - Jacobsen	499,000	N	Y
032-063-006	Healthcare Worker Hostelry 291 Sprowel Creek Road	584,000	0 of 8	Y *
032-091-014, -016, -017, -018, -019, and 032-171-018	Garberville Hospital and Medical Office Building 286 Sprowel Creek Road	1,679,000	1 of 18	Y *
Total for Table		2,973,500		

* These projects will have an independent CEQA process through the County's approval of the planning and building permits.

The District reviewed planning projects numbered PLN-2022-17915, PLN-2022-17878, PLN-2022-17596, and PLN-2022-17586; and building permit projects numbered BLD-2022-57505, BLD-2022-57498, BLD-2022-56707, BLD-2022-55721, and BLD-2022-55639 and determined that there is no anticipated change in water consumption for these existing customers.

The **Bank Remodel** project was originally approved in 2018, and will add three connections for water and sewer service. According to the County, “the remodel will include two new first floor lease spaces, Unit "A" (business, mercantile, or restaurant occupancy) at 2,156 square feet and Unit "B" (business/mercantile occupancy) at 3,609 square feet. New mezzanine spaces will be created. At the existing second floor, a new office lease space, Unit "C" at 444 square feet, will be created as well as two new studio apartments, Units "D" and "E" at 562 square feet and 405 square feet, respectively. A new façade is also proposed, including new windows, new stucco, new lighting and siding.” The developer completed offsite water and sewer infrastructure improvements for this project.

The **Jacobsen** (Patient to Patient, cannabis project, on APN 222-156-015 off Connick Creek Road, generally consist of construction the following:

1. 40' x 80' drying barn
2. 25' x 25' processing building
3. Seven 35' x 120' cultivation greenhouses totaling 29,400 square feet
4. An eighth 35' x 120' greenhouse with 600 square feet of flowering canopy and 3,600 square feet of non-commercial nursery area

The operations plan calls for rain water catchment from the drying barn into twenty 5,000-gallon water storage tanks to offset the total water demand and hand watering of the plants every two days. The total water demand is included in Table 3 above.

Healthcare Worker Hostelry by the Southern Humboldt Community Healthcare District (SHCHD)

GSD’s review of this project is preliminary based upon the general information provided in planning application # PLN-2022-17878. The following are the anticipated components of the project as currently approved by the GSD Board of Directors:

1. A 3,168 square-foot 12-room 5 ½-bathroom hostelry with a common cooking area that will be utilized by the healthcare workers employed with the SHCHD.
2. A 484 square-foot 1-bedroom apartment.
3. The existing 840 square-foot building will continue to be utilized as SHCHD office space, and will not be remodeled to include any increase in occupancy or uses.

This project is estimated to generate a net increase of 8 ERUs, or approximately 584,000 gallons annually.

The Project Specific Conditions are: The new **Hostelry** and Apartment building will need a single new and separate sewer service lateral and water meter, with all on-site infrastructure need to be constructed as part of the development of the project. GSD will supervise the final connection in Sprowel Creek Road to the existing water and sewer lines.

Garberville Hospital and Medical Office Building by the Southern Humboldt Community Healthcare District (SHCHD)

The SHCHD has completed only a plausible design at this point and is working towards selecting an architect to complete the detailed design for the facility. The following are the anticipated components of the project as currently approved by the GSD Board of Directors:

1. A 28,100 square-foot 15 bed hospital for SWING program patients with ER/trauma treatment, outpatient lab, radiology (Ultrasound/Fluoroscopy/CT Scan), and Kitchen/Dining/Vending/Staff Break area.
2. A 10,200 square-foot medical office building with clinic, physical therapy, and a trailer hookup for MRI service a few days each month.
3. The existing building will be remodeled to contain offices, a retail pharmacy, meeting rooms, counseling/service programs and the existing theater will remain.

Based upon 4,600 gallons per day, the total annual water demand for this project as approved is 1,679,000 gallons. The Board directed staff to keep the difference between LACO’s 2019 estimate and the 2022 estimate as a possible future allocation to the Hospital. This amount (3,084,250 gallons) is shown in Table 4.

The Project Specific Conditions for the Hospital are:

1. The existing infrastructure for sewage collection in Sprowel Creek Road and Sunnybank Lane as well as the pump station at Sunnybank Lane are not sufficient to service the proposed development. The Developer will be responsible for all design, construction and inspection costs associated with both on-site and off-site improvements necessary to increase the District’s collection and pumping capacity to provide service to this project in addition to existing flows.
2. All on-site and off-site improvements must be analyzed and evaluated within the Developer’s CEQA documents for the Project.

PROJECTS BEING PROCESSES - UNAPPROVED AND UNCONNECTED

The following table lists some projects that are still in the planning phases for their total development type, needed off-site infrastructure, and associated water consumption estimates. Some are still in the preliminary stages of development so the specific amount of water consumption is not listed in the table if it has yet to be determined. These projects have yet to be approved with a specific water consumption amount from GSD. These project locations are illustrated in light blue on Figure 1A and 1B in Attachment 1.

Table 4. Projects Under Consideration

APN	Potential Development Description	Estimated Future Water Consumption (gallon/year)	Conn Fee Paid?	In IS/MND?
032-091-014	Extra Hospital Allocation pending final design	3,084,250	No	Existing
222-091-015	SHCP	180,000	N/A	Y/Add
	Total for Table	3,264,250		

Projects that have been abandoned and are no longer included in this table include Bilandzia and the So Hum Inn.

Southern Humboldt Community Park Project.

In the area known as the SHCP, GSD & GWC water service has been previously provided to two residences and outbuildings, but they do not currently consume water. The Final IS/MND prepared for the Annexation Project (State Clearinghouse No. 2012032025) identifies the history of the water service and lists conditions for future approval. As part of the impact analysis to determine sufficient water supplies, the CEQA document accounts for a future consumption quantity of up to 2,000 cubic feet per month (approximately 180,000 gallons per year) for APNs 222-091-014 and 222-241-009 (these have recently been combined to be APN 222-091-015).

In June 2019, the SHCP came to the District Board of Directors to request that reestablishment of their water service be processed by the District through the Humboldt Local Agency Formation Commission (HLAFCo) and the State Water Resource Control Board Division of Water Rights (SWRCB-DWR). The Board adopted Resolution 19-02 to begin the process. The District completed the application to HLAFCo for an Out of Agency Service Extension.

HLAFCo reviewed the CEQA documents submitted and determined that an Addendum to the 2013 IS/MND would be necessary. They prepared the Addendum, circulated it for public comments, and held a public hearing in September 2019. During the September 2019 HLAFCo meeting the Commission adopted RESOLUTION NO. 19-04: ADOPTING THE ADDENDUM TO THE GARBERVILLE SANITARY DISTRICT ANNEXATION PROJECT: CHANGE IN JURISDICTIONAL BOUNDARY AND PLACE OF USE FINAL RECIRCULATED INITIAL STUDY/ MITIGATED NEGATIVE DECLARATION and RESOLUTION NO. 19-05: AUTHORIZING THE GARBERVILLE SANITARY DISTRICT TO PROVIDE WATER SERVICES OUTSIDE THE DISTRICT BOUNDARY TO APN 222-091-015 (SOUTHERN HUMBOLDT COMMUNITY PARK). HLAFCo also filed a Notice of Determination for the Addendum dated September 23, 2019.

The District Petitioned the SWRCB-DWR to Change the Place of Use for the District's License 3404 and Permit 20789 (Applications A009686 and A029981) on **September 30, 2019**. The Petition was noticed and four protests were received. The District participated in the protest resolution process. The SWRCB reviewed the protests and responses and transferred the public hearing process to the Administrative Hearings Office.

- On May 11, 2021, the AHO held the pre-hearing conference.
- On May 17, 2021, the AHO held the public hearing.
- On June 15, 2021, the AHO issued a post-hearing order.
- On November 1, 2021, the AHO issued its Notice of Draft Proposed Order and invited the parties to submit comments on the draft proposed order on or before December 1, 2021.
- The AHO forwarded a proposed order on March 28, 2022 to the Clerk of the Waterboard.
- On June 21, 2022, the SWRCB unanimously approved the Proposed Order on pending petitions of Garberville Sanitary District to change water-right License 3404 and Permit 20789.
- On September 9, 2022, GSD informed Humboldt LAFCo Executive Director of the change in location for the meter of the new water service. (communication is included in Attachment 2)
- Ed Voice filed a request with the SWRCB for a reconsideration of the action taken.
- On February 2, 2023, GSD contracted for installation of a waterline from the 8" distribution line in Sprowel Creek Road to an empty meter box in the shoulder of Sprowel Creek Road.
- The SWRCB, on February 7, 2023, unanimously denied Mr. Voice's request for reconsideration of their approval of our petition to change the place of use.
- The Order changing the water right has been fully approved.

- SWRCB DWR filed a Notice of Determination with the State Clearinghouse through CEQAnet.
- The SWRCB Division of Water Rights is processing the amendment to the license and permit.

The 2,000 cubic feet per month allocation has been included in Table 4 above.

DEVELOPMENT POTENTIAL WITHIN PLACE OF USE

As stated in the Annexation IS/MND, 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 table 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 become GSD customers. On September 12, 2017, Humboldt County abandoned a section of Redwood Drive right-of-way, which created a parcel (APN 223-171-027) via Quitclaim Deed #2017-016748.

The potential water consumption in the table is based upon the customer type and zoning, then 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. Agricultural meters can vary widely in the amount of water used.

There could be additional 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 10 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. One unit exists and was connected to the system in 2019. 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. These locations are shown in yellow on both Figure 2A and 2B in Attachment 1. Figure 2A and 2B (in Attachment 1) illustrate in turquoise, the APNs within the Place of Use that were not consuming water during 2022.

When the parcel is unconnected **and** has an HOZ/second dwelling unit possibility, both turquoise and yellow are applied and they appear green.

The table below lists those APNs and estimates the future potential water consumption for each parcel and a brief description of the type of development anticipated on the parcel. None of these parcels have any indication that this potential development will actually occur in the near future, or ever, but the water is allocated so that their right to develop in this manner and have water service is generally reserved.

Table 5. Potential Future Development within POU - Unconnected as of 12/31/22

APN	Potential Development Description	Estimated Future Water Consumption (gallon/year)	Conn Fee Paid?	In IS/MND?
032-011-010	SFR	70,500	N	Y
032-042-017	Commercial	177,500	N	Y
032-102-028	SFR	70,500	N	Y
032-111-019	Burn Down; 821 Locust St.	70,500	N/A	Existing
032-121-019	Commercial	177,500	N	Y
032-121-020	Commercial	177,500	N	Y
032-171-022	SFR	70,500	N	Y
032-171-023	SFR	70,500	N	Y
032-171-024	SFR	70,500	N	Y
032-211-003	HOZ/Second Dwellings	65,465	N	Y
032-211-010	HOZ/Second Dwellings	65,465	N	Y
032-211-012	HOZ/Second Dwellings	65,465	N	Y
032-211-015	HOZ/Second Dwellings	65,465	N	Y
032-211-018	SFR + HOZ/Second Dwellings	135,965	N	Y
032-211-021	SFR + HOZ/Second Dwellings	135,965	N	Y
032-211-034	SFR + HOZ/Second Dwellings Was 032-211-014	135,965	N	Y
032-231-016	RESIDENTIAL	70,500	N	Y
032-231-028	RESIDENTIAL	70,500	N	Y
032-231-043	RESIDENTIAL	70,500	N	Y
032-231-045	Has Shops	177,500	N	Y
032-231-053	RESIDENTIAL	70,500	N	Y
032-231-054	RESIDENTIAL	70,500	N	Y
032-231-056	RESIDENTIAL	70,500	N	Y
222-091-011	3 SFR (4th Connected 2019)	211,500	N	Y
223-061-025	SFR (was APN 222-156-012)	70,500	N	Y
223-061-034	HOZ/Second Dwellings	65,465	N	Y
223-171-007	COMMERCIAL	177,500	N	Y
223-171-027	COMMERCIAL	177,500	N	N
223-181-012	RESIDENTIAL	70,500	N	Y
223-181-017	RESIDENTIAL	70,500	N	Y
223-181-020	RESIDENTIAL	70,500	N	Y
223-181-031	HOZ/Second Dwellings	65,465	N	Y
223-181-043	HOZ/Second Dwellings	65,465	N	Y
223-181-044	HOZ/Second Dwellings	65,465	N	Y
223-183-010	RESIDENTIAL	70,500	N	Y
	Total for Section	3,406,615		

ANALYSIS OF DIVERSIONS AND DEVELOPMENT POTENTIAL

For calendar year 2022, a total of 51,126,300 gallons were diverted from the SF of the Eel River. This is the lowest recorded diversion since 1979. The average diversion for years 1977 - 2022 was 60,886,329. After adding the estimated water consumption for the potential development in Table 5 for undeveloped and under-developed parcels plus future water consumption for recent county referral projects from Table 3, the total estimated average annual water diversion would be 65,003,444. See Table 6 below for details.

Table 6. Total Estimated Annual Water Diversion Needs

DESCRIPTION	AMOUNT GALLONS PER YEAR
1977 - 2022 average water diversion	60,886,329
Undeveloped and under-developed (Table 5)	3,406,615
Approved Projects unconnected as of 12/31/22 (Table 3)	2,973,500
Total estimated annual water diversion needed to meet existing commitment	67,266,444
Available from 80M Gallon Allotment	12,733,556
Buffer for Annual Variation	- 5,000,000
Available for future development	7,733,556

The water diversion needed can be collected from any combination of the South Fork Eel River diversion and/or the Tobin Well. The total estimated annual water diversion needed can be easily diverted from the river with the Tobin well remaining as a backup water supply when river water quality is poorer than desirable for treatment at the new SWTP.

Projects under “consideration” **could** total 12.7 M gallons per year and still stay under the 80 million gallon maximum. Some cushion should be maintained, as this analysis is based upon AVERAGE annual flows. Conservatively keeping 5 M-gallons as a buffer would still leave **7.7 M gallons of available water capacity per year** that could be diverted and sold to projects currently under consideration and/or unidentified future projects. If all the projects under consideration were approved at the currently estimated consumption levels, then **4.5 M gallons of available water capacity per year** would still remain. The Board is considering a policy that limits this available water capacity to projects other than cannabis cultivation. That would minimize any additional cannabis cultivation projects within the District and limit future projects to residential and smaller commercial projects.

FINAL SUMMARY

After evaluating the capacity of each water source, the water diversions over the past 45 years, the future development potential within the place of use, and the projects both approved and under consideration, **there are adequate water sources to serve all these purposes as well as possible additional development** within the POU or future annexations to the POU and jurisdictional boundary.

2022 Annual Water Source Capacity Analysis

ATTACHMENT 1

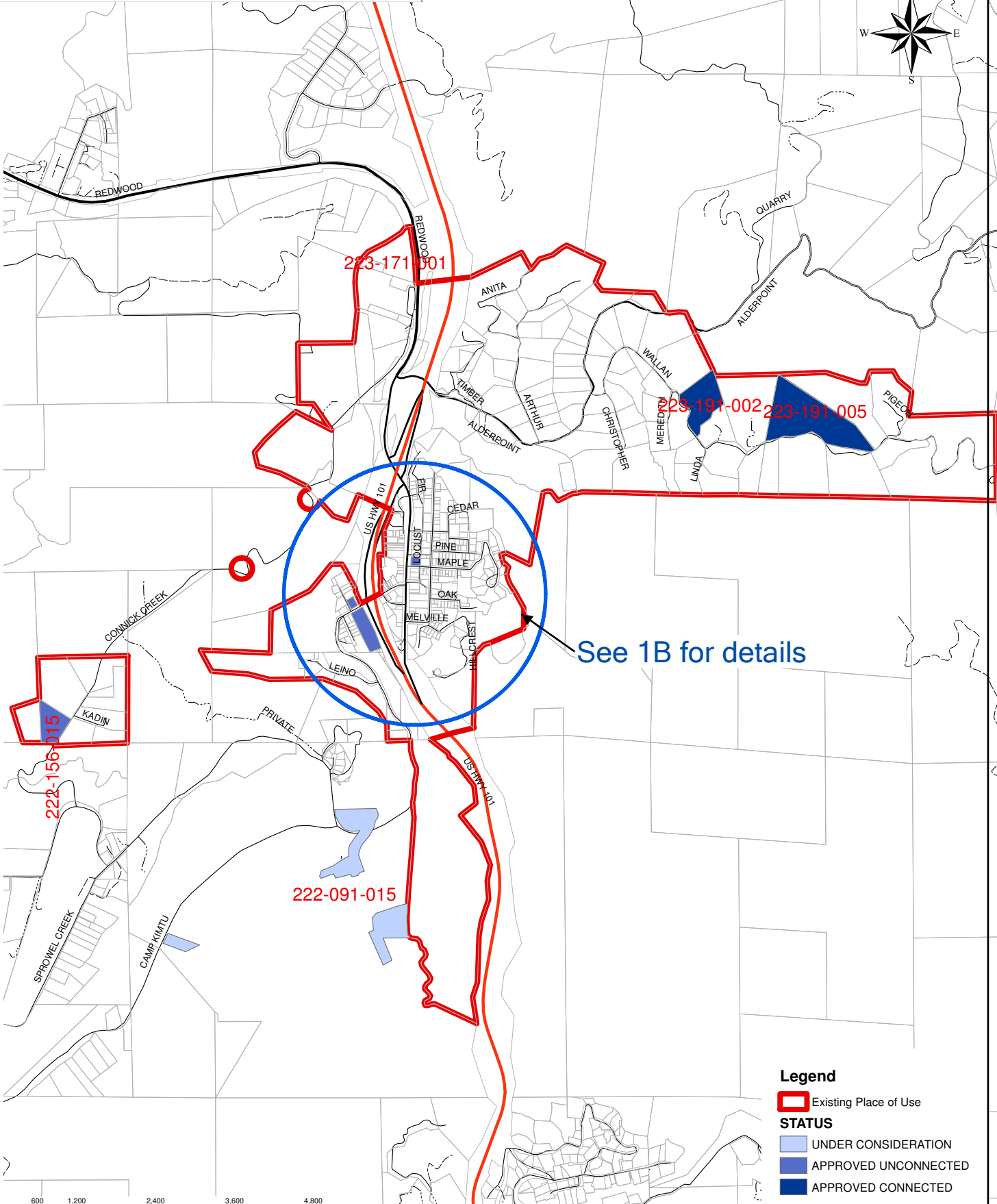
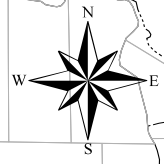
Figure 1A. Status of Projects as of 12/31/22 - Overview

Figure 1B. Status of Projects as of 12/31/22 - Downtown

Figure 2A. Undeveloped or Under-developed Parcels - Overview

Figure 2B. Undeveloped or Under-developed Parcels -
Downtown

This figure was prepared based upon data from Humboldt County and is for planning purposes only. While every effort has been made by Humboldt County to assure the accuracy of this information, it should be understood that it does not have the force and effect of law, rule, or regulation. Should any difference or error occur, the law will take precedence.



- Legend**
- Existing Place of Use
- STATUS**
- UNDER CONSIDERATION
 - APPROVED UNCONNECTED
 - APPROVED CONNECTED

0 600 1200 2400 3600 4800 Feet



Water Capacity Report

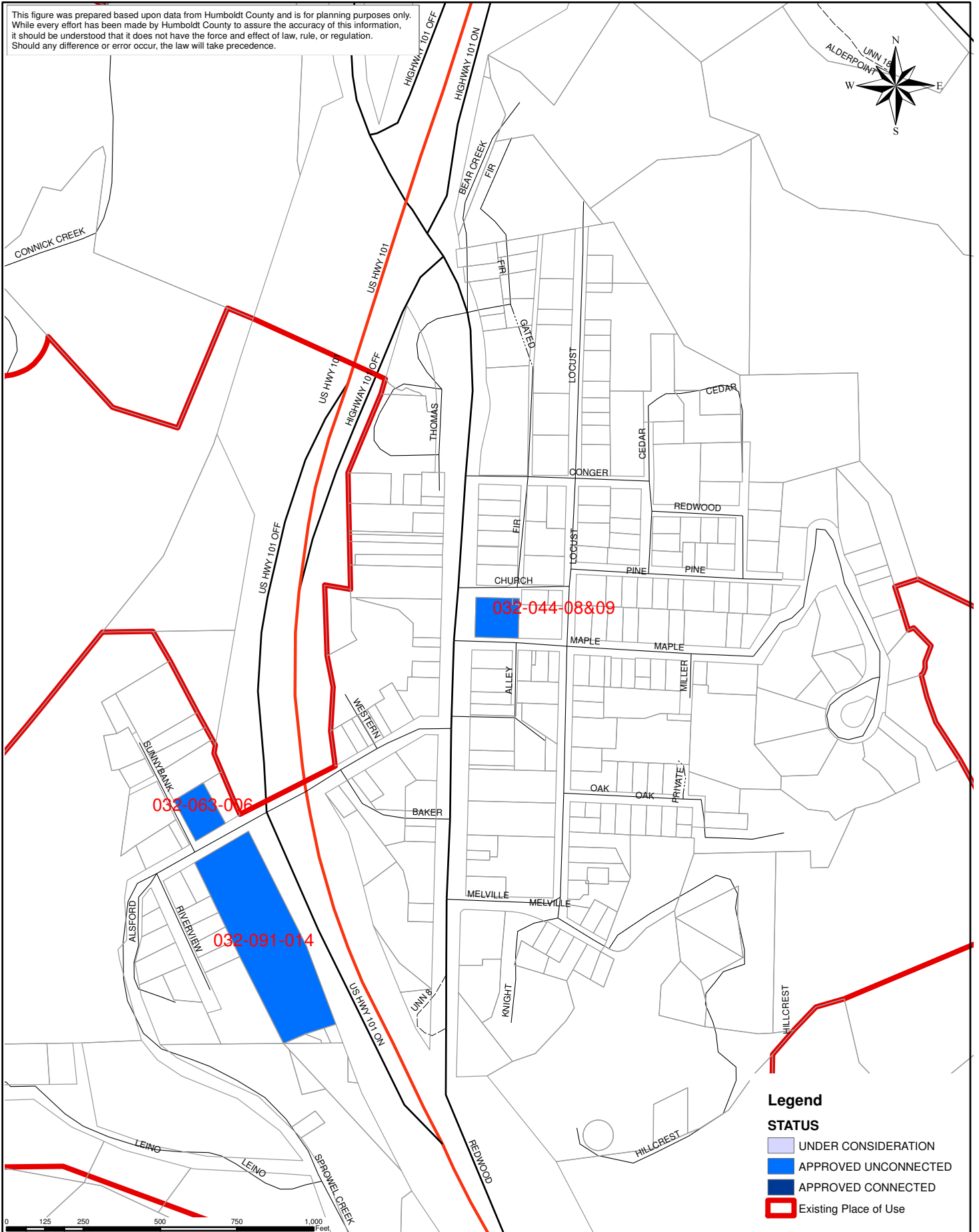
Garberville Sanitary District (707) 923-9566

PROJECT STATUS
AS OF 12/31/22

SCALE: 1:24,000 DRAWN BY: J. SHORT DATE: 05/13/2023

Figure
1A

This figure was prepared based upon data from Humboldt County and is for planning purposes only. While every effort has been made by Humboldt County to assure the accuracy of this information, it should be understood that it does not have the force and effect of law, rule, or regulation. Should any difference or error occur, the law will take precedence.



- Legend**
- STATUS**
- UNDER CONSIDERATION
 - APPROVED UNCONNECTED
 - APPROVED CONNECTED
 - Existing Place of Use



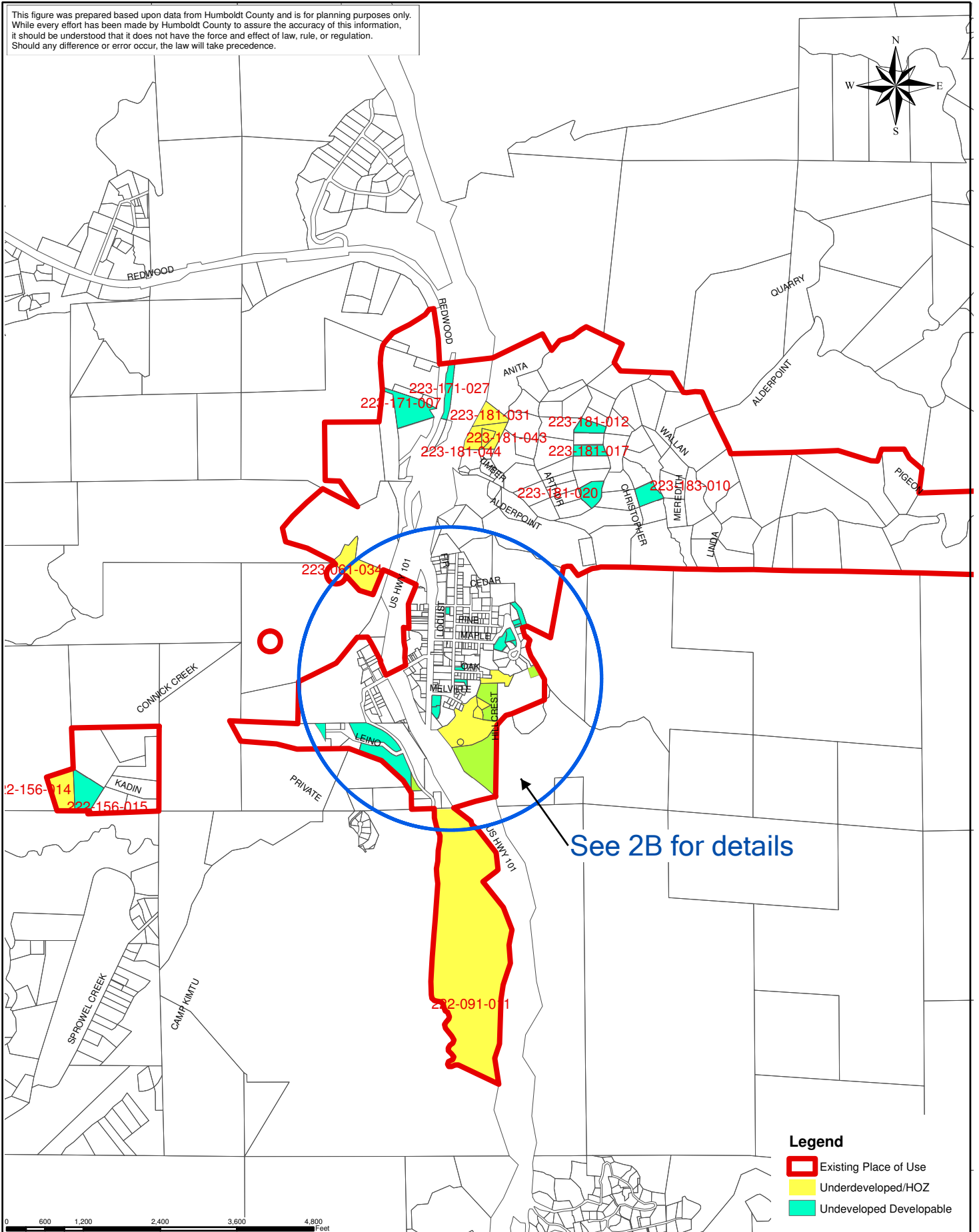
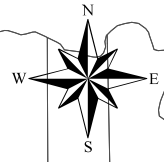
Water Capacity Report
 Garberville Sanitary District (707) 923-9566

PROJECT STATUS AS OF 12/31/22

SCALE: 1:5,000	DRAWN BY: J. SHORT	DATE: 05/13/2023
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Figure
1B

This figure was prepared based upon data from Humboldt County and is for planning purposes only. While every effort has been made by Humboldt County to assure the accuracy of this information, it should be understood that it does not have the force and effect of law, rule, or regulation. Should any difference or error occur, the law will take precedence.



See 2B for details

- Legend**
- Existing Place of Use
 - Underdeveloped/HOZ
 - Undeveloped Developable

0 600 1,200 2,400 3,600 4,800 Feet

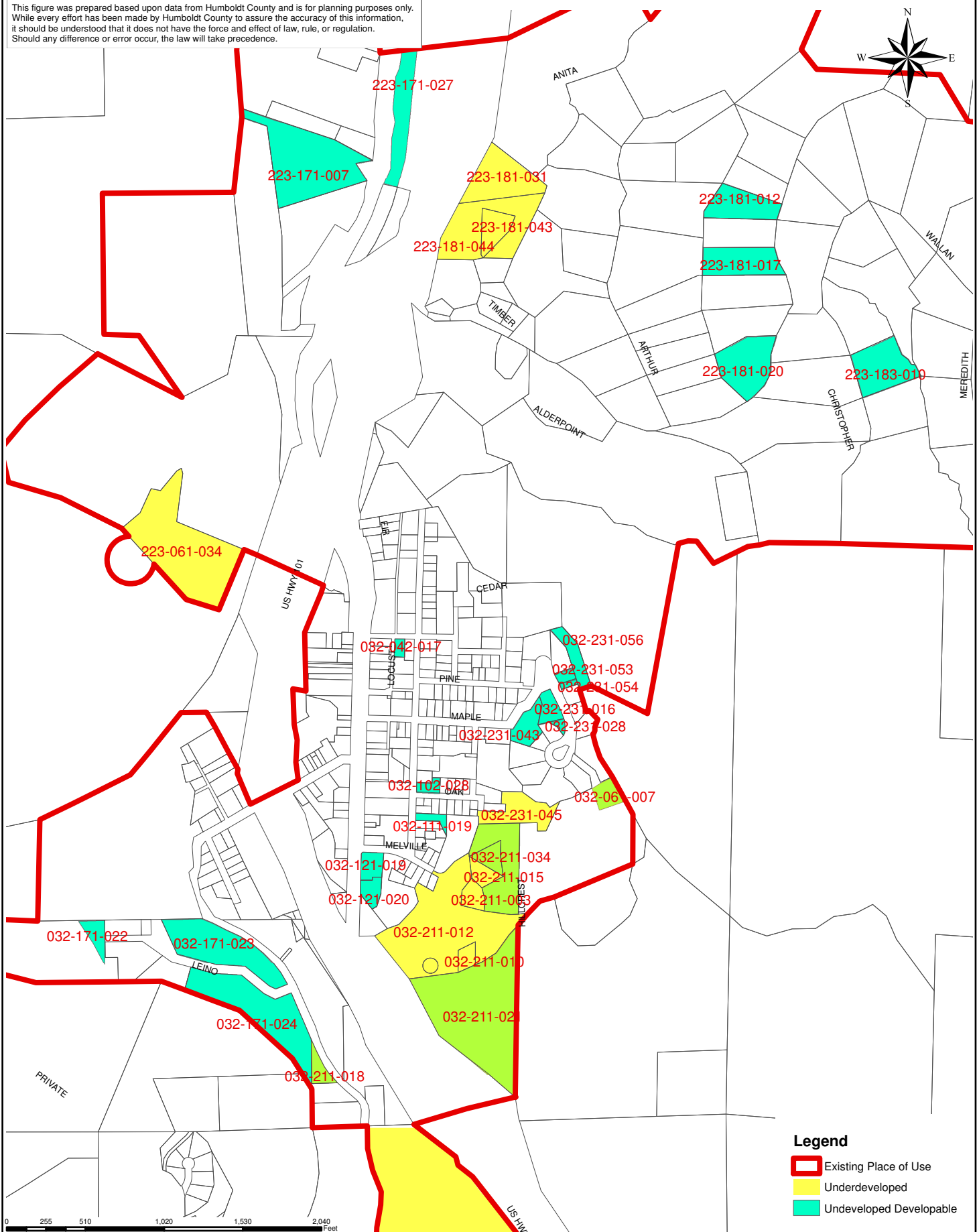
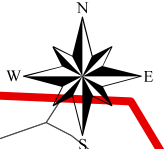


Water Capacity Report
 Garberville Sanitary District (707) 923-9566

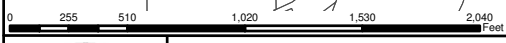
Undeveloped or Under-developed Parcels
 SCALE: 1:24,000
 DRAWN BY: J. SHORT
 DATE: 05/13/2023

Figure
2A

This figure was prepared based upon data from Humboldt County and is for planning purposes only. While every effort has been made by Humboldt County to assure the accuracy of this information, it should be understood that it does not have the force and effect of law, rule, or regulation. Should any difference or error occur, the law will take precedence.



- Legend**
- Existing Place of Use
 - Underdeveloped
 - Undeveloped Developable



Water Capacity Report

Garberville Sanitary District (707) 923-9566

Undeveloped or Under-developed Parcels

SCALE: 1:10,000	DRAWN BY: J. SHORT	DATE: 05/13/2023
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Figure
2B

2022 Annual Water Source Capacity Analysis

Attachment 2

Various Documents for
Projects Under Consideration

SHCP

222-091-015
Southern Humboldt Community Park
Request for Water Service

This project continues to be processed
Through the SWRCB-DWR
For issuance of the amended water rights
Following SWRCB's approval of the Order

<jmshort@garbervillesd.org>

From: Colette Metz <colettem@humboldtlafo.org>
To: 'jmshort' <jmshort@garbervillesd.org>
Cc: 'Ralph Emerson' <remerson@garbervillesd.org>, 'Mary Nieto' <m.nieto@garbervillesd.org>, laura@sohumpark.org <laura@sohumpark.org>, 'Carolyn Hino-Bourassa' <ceikoh@yahoo.com>
Date: 2022-09-08 10:44am
Subject: RE: New meter location for SHCP Water Service

Thank you, Jennie. I appreciate this update and will let you know if I have any questions.

Colette Metz Santsche
Humboldt LAFCo
707.445.7508
www.humboldtlafo.org

From: jmshort <jmshort@garbervillesd.org>
Sent: Thursday, September 08, 2022 10:38 AM
To: 'Colette Metz' <colettem@humboldtlafo.org>
Cc: Ralph Emerson <remerson@garbervillesd.org>; Mary Nieto <m.nieto@garbervillesd.org>; laura@sohumpark.org; 'Carolyn Hino-Bourassa' <ceikoh@yahoo.com>
Subject: New meter location for SHCP Water Service

Hello Colette,

Now the the State Waterboard has approved the change in place of use, GSD and SHCP are working on the final details for installation of the water service. I wanted to make sure you were informed of the change in location of the GSD meter for service to the SHCP before the meter is installed. The attached document contains the details of the change. Please let me know if you have any concerns.

Thanks, Jennie



GARBERVILLE SANITARY DISTRICT

P.O. BOX 211 • GARBERVILLE, CA 95542 • (707) 923-9566

TRANSMITTAL COVER SHEET

To: Humboldt Local Agency Formation Commission
Attn: Executive Officer
1125 16th Street, Suite 202
Arcata, CA 95521

Date: September 6, 2022

Transmitted Via: Mail Federal Express Hand Delivered email

Project: Southern Humboldt Community Park Water Service

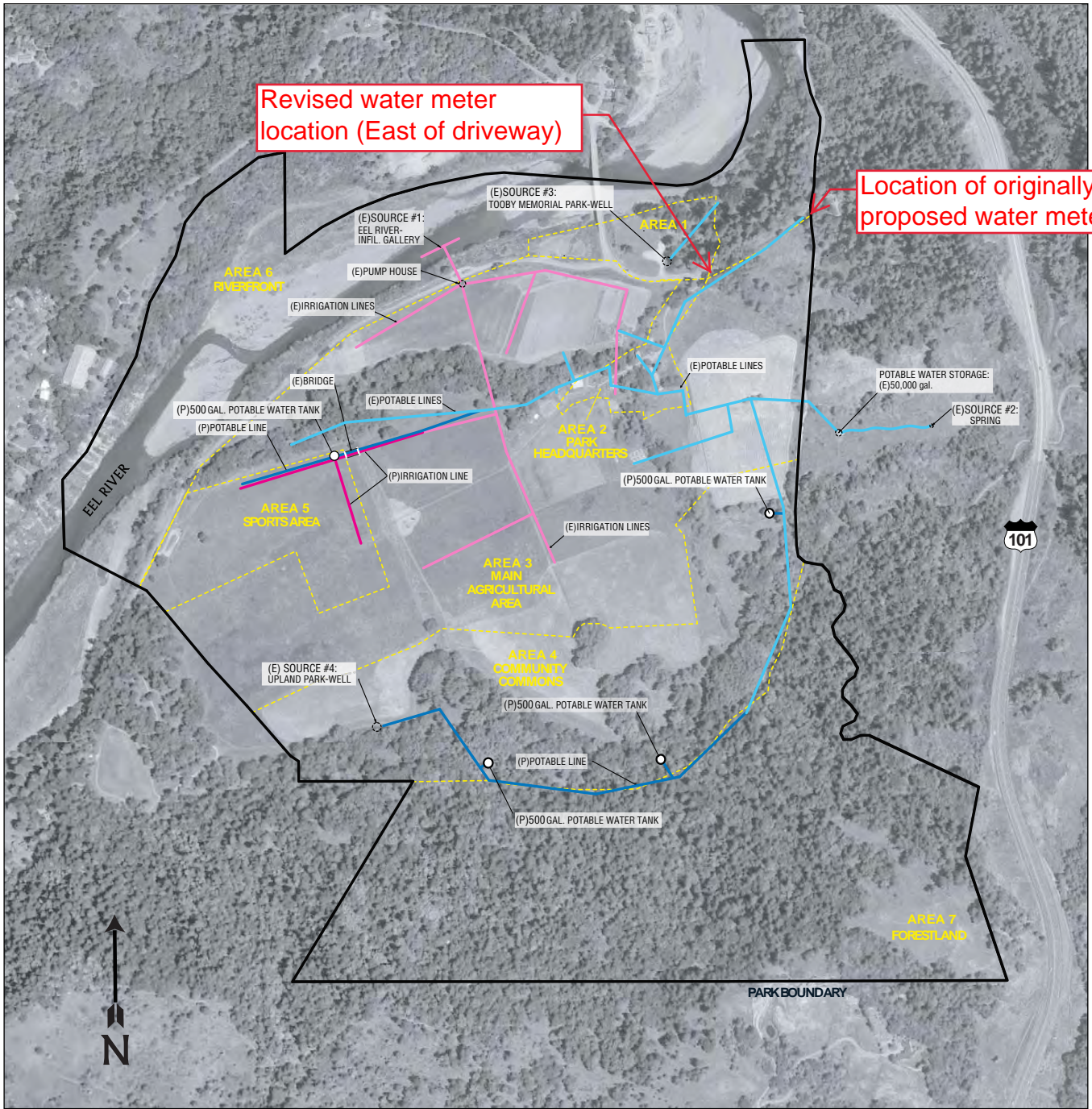
Items Transmitted:

No. Copies	Description of Item	Action Needed?	Deadline
1	Fig 3-11 with water meter locations notated	No	
1	Example Conceptual Water Service Connection and PRV/Backflow Preventor Details	No	

In July 2019, when GSD applied to LAFCo for approval to provide an out of area water service to portions of the Southern Humboldt Community Park, we thought that the Park would end up repurposing the existing potable waterlines for the new water service. In addition, at that time there were restrictions from the State Division of Drinking Water (DDW) on GSD for connection to the 8" waterline in Sprowel Creek Road (aka the Kimtu Waterline). Since then, the DDW issued a new Water Permit to GSD which removed all restrictions related to the Kimtu Waterline. Over the past few weeks, the Park has decided that they will be constructing new waterlines for the potable water service to make sure that there is no possibility for cross contamination between the new potable water and the existing irrigation water they utilize on the property for agricultural products. GSD supports this decision and has selected a location just east of the Park's driveway immediately adjacent to Sprowel Creek Road as the best place for setting the Park's water meter for these new waterlines. The backflow preventor and any needed pressure reducing valve assembly will be installed behind the meter on the new waterline. The Park will construct the new waterline along the shoulder of the driveway to the residences, office, and a drinking fountain in Area 2 (Park Headquarters) as Phase 1. The rest of the future waterline construction is separated into four additional phases.

Since GSD had specified a meter location which we are now modifying, I wanted to inform you of the change in case anyone inquired. As always, if you have questions or need additional information, please don't hesitate to call my cell at (707)223-4567.

Jennie M. Short
Consultant Project Manager



- (E) EXISTING POTABLE LINES
- (P) PROPOSED POTABLE LINE
- (E) EXISTING IRRIGATION LINES
- (P) PROPOSED IRRIGATION LINES
- (P) PROPOSED POTABLE WATER TANKS
- AREA BOUNDARY

Figure 3-11

WATER INFRASTRUCTURE

SOURCE: Ross Huber, 2014

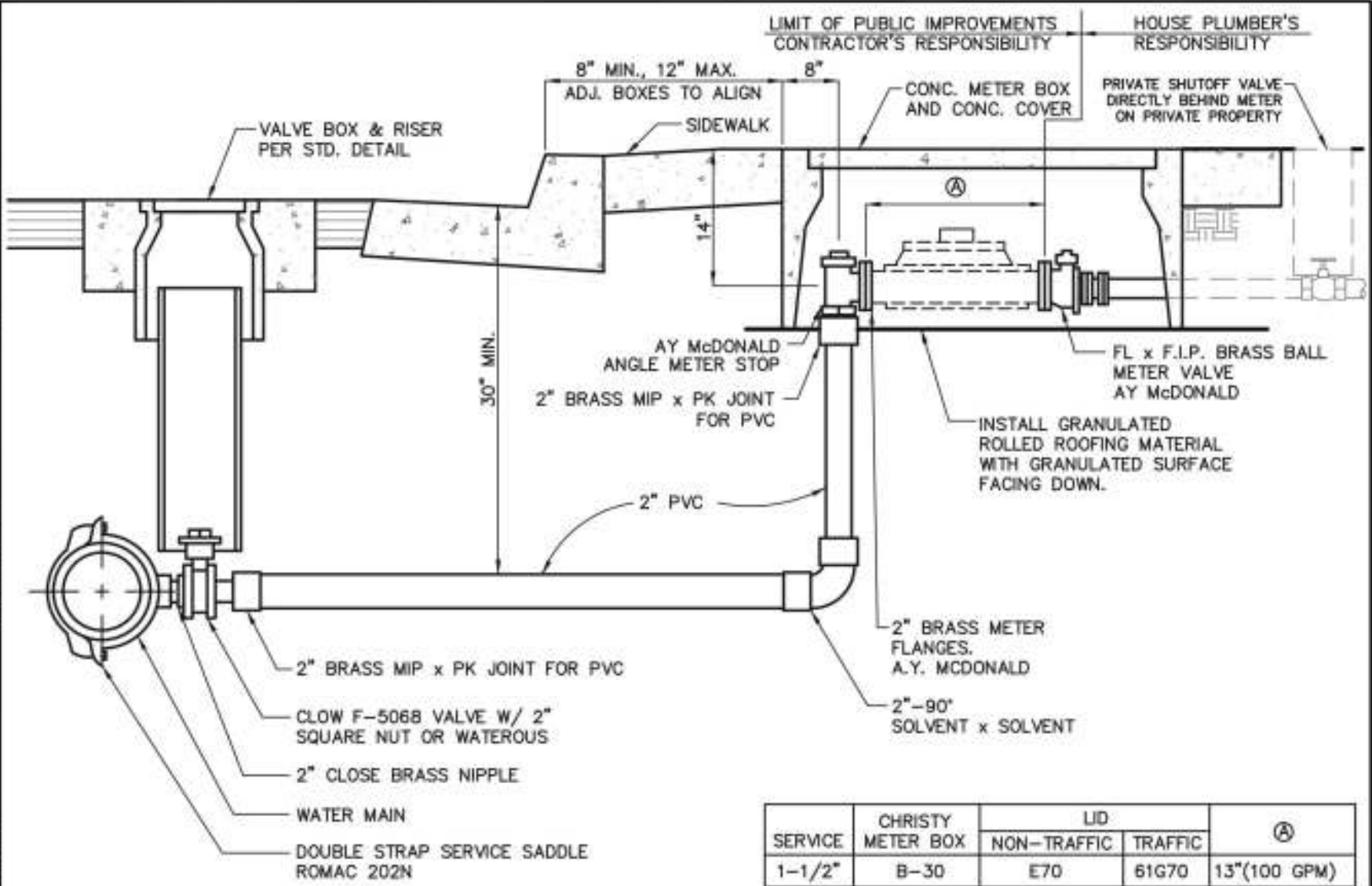
HUMBOLDT COMMUNITY SERVICES DISTRICT

DOMESTIC WATER SERVICE

WS-105

APPROVED DATE: 9/2016

STD. DWG.



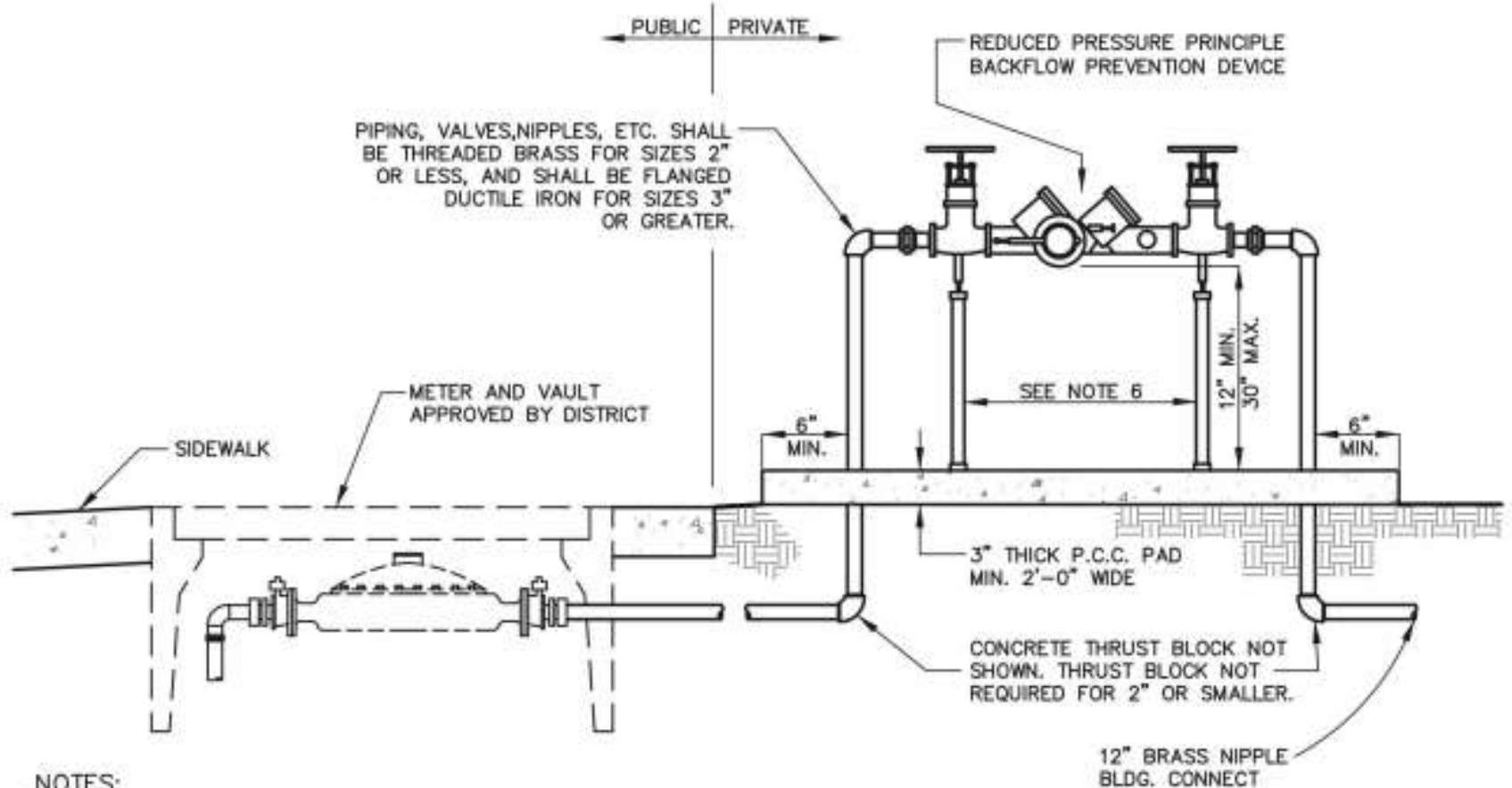
NOTES:

1. METERS PROVIDED AND SET BY DISTRICT AT DEVELOPER'S EXPENSE.

SHCP CONCEPTUAL 3/4" DOMESTIC WATER SERVICE

HUMBOLDT COMMUNITY SERVICES DISTRICT

REDUCED-PRESSURE BACKFLOW PREVENTER



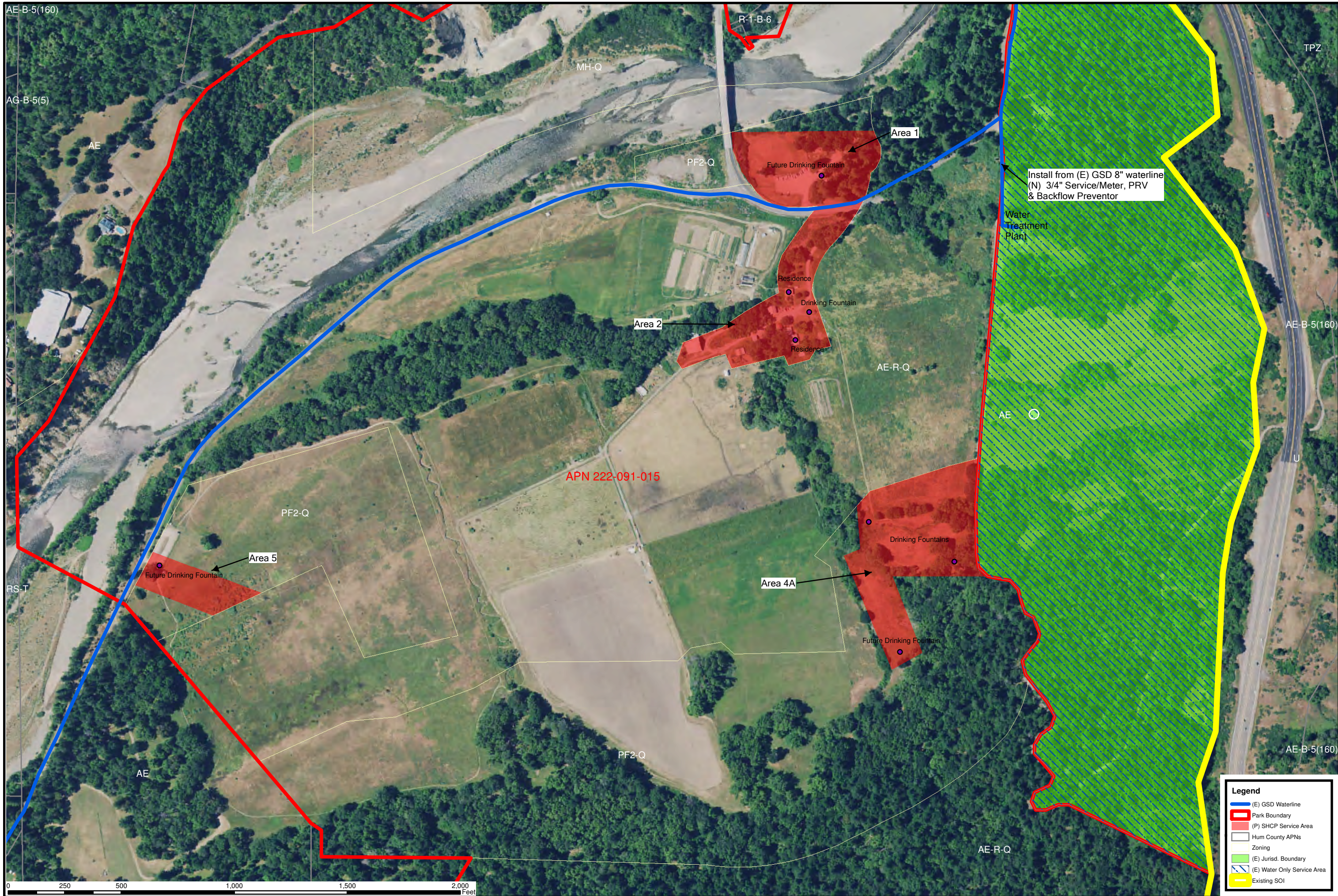
NOTES:

1. REDUCED-PRESSURE TYPE BACKFLOW PREVENTION DEVICES SHALL BE REQUIRED FOR ANY USE WHERE TOXIC MATERIALS ARE USED OR WHERE POSITIVE PROTECTION FOR THE PUBLIC WATER SUPPLY IS REQUIRED. TYPICAL APPLICATIONS INCLUDE; IRRIGATION SERVICES, COMMERCIAL SERVICES, INDUSTRIAL SERVICES, HOSPITALS, LABORATORIES, MORTUARIES, OR AS DETERMINED BY THE DISTRICT. (TITLE 17 CALIF. ADMINISTRATION CODE).
2. REDUCED-PRESSURE TYPE BACKFLOW PREVENTION DEVICES SHALL BE AS LISTED BY THE UNIVERSITY OF SOUTHERN CALIFORNIA STUDY, LATEST REVISION, AND APPROVED BY THE DISTRICT.
3. BACKFLOW PREVENTION DEVICES SHALL BE INSTALLED ADJACENT TO AND ON THE PROPERTY SIDE OF SIDEWALK WHERE APPLICABLE. THE ASSEMBLY SHALL BE INSTALLED AS CLOSE TO THE WATER METER LOCATION AS PRACTICAL.
4. DEVICE TO BE SAME SIZE OR LARGER THAN SERVICE METER.
5. LANDSCAPING OR OTHER SCREENING AROUND THE BACKFLOW DEVICE SHALL BE AS SHOWN ON APPROVED PLANS.
6. 3" BACKFLOW PREVENTION DEVICE OR LARGER TO HAVE SUPPORTS.
7. IT IS RECOMMENDED THAT ABOVE GROUND PIPING MAY BE INSULATED (WRAPPED) TO PREVENT FREEZING.

**REDUCED-PRESSURE PRINCIPLE BACKFLOW PREVENTER
PRIVATELY OWNED AND MAINTAINED**

APPROVED DATE: 9/2016

WS-109



Legend

- (E) GSD Waterline
- Park Boundary
- (P) SHCP Service Area
- Hum County APNs
- Zoning
- (E) Jurisd. Boundary
- (E) Water Only Service Area
- Existing SOI

Figure No.	2
	Scale
1:4,500	Date
08/04/19	Drawn By
J. SHORT	Client Name:
GSD	SHCP Water Service Areas
Figure Title:	
4Js Consulting P.O. Box 653, Blue Lake, Ca 95525	



GAVIN NEWSOM
GOVERNOR



JARED BLUMENFELD
SECRETARY FOR
ENVIRONMENTAL PROTECTION

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

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

364 Knollcrest Drive, Suite 101, Redding, CA 96002 | 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:

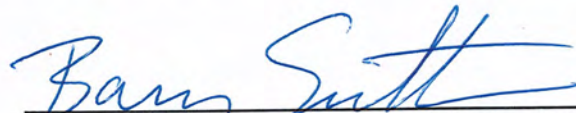
1. The only water sources permitted for use are the South Fork Eel River (PS Code = 1210008-001) and the Tobin Well (PS Code = 1210008-003).
2. The Tobin Well source water shall be continuously disinfected before entering the distribution system. Free chlorine residuals of at least 0.5 parts per million 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

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

ORDER WR 2022-____

In the matter of the pending petitions of

Garberville Sanitary District

to change water-right License 3404 (Application A009686)
and water-right Permit 20789 (Application A029981),
which authorize diversions of water from the South Fork Eel River
in Humboldt County.

SOURCE: South Fork Eel River

COUNTY: Humboldt

ORDER ON CHANGE PETITIONS

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Figure 1 – General Location Map for Garberville SD Change Petitions

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APPENDIX A – New Amended Water-Right License 3404

APPENDIX B – New Amended Water-Right Permit 20789

APPENDIX C – Summaries of Parties’ Other Arguments and Board’s Responses

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

ORDER WR 2021-____

In the matter of the pending petitions of

Garberville Sanitary District

to change water-right License 3404 (Application A009686)
and water-right Permit 20789 (Application A029981),
which authorize diversions of water from the South Fork Eel River
in Humboldt County.

SOURCE: South Fork Eel River

COUNTY: Humboldt

ORDER ON CHANGE PETITIONS

BY THE BOARD:

1.0 INTRODUCTION

This matter came to the State Water Resources Control Board (State Water Board or Board) as a proposed order prepared by the Presiding Hearing Officer of the Board's Administrative Hearings Office (AHO), pursuant to Water Code section 1114, subdivision (c)(1). Pursuant to Water Code section 1114, subdivision (c)(2)(A), the Board adopts the AHO's proposed order in its entirety.

As discussed in this order, we grant the petitions of Garberville Sanitary District (Garberville SD) to change water-right License 3404 (Application A009686) and water-right Permit 20789 (Application A029981) to add 18 acres of the Southern Humboldt

Community Park to the authorized place of use, and we direct the Board's Deputy Director for Water Rights to issue the attached amended license and amended permit.

2.0 BACKGROUND

2.1 Application A009686, License 3404

On July 31, 1939, Garberville Water Works filed water-right Application A009686 (A009686) with the Department of Public Works, Division of Water Resources, a predecessor of the State Water Board. (1939-07-31 A009686 Application.)¹

In 1940, the Division of Water Resources issued water-right Permit 5487 to Garberville Water Company, Inc. (Garberville Water Company).² The permit authorized direct diversions of water from the South Fork Eel River at rates up to 100,000 gallons per day (gpd), which equals 0.155 cubic-foot per second (cfs), for municipal purposes of use. (1940-01-19 Terms for Water-Right Permit 5487.) The authorized diversion season was from January 1 and December 31 of each year. (*Id.*) Permit 5487 did not contain any annual limit on diversions. (*Id.*)

Following a field visit in 1951 (1951-08-06 Field Visit Memo), the Division of Water Resources issued water-right License 3404 (License 3404) to Garberville Water Company in 1952. (1952-02-29 License 3404.) This license, which superseded Permit 5487, authorized the water company to directly divert water at rates up to 0.155 cfs from

¹Copies of some of the documents in the Board's Division of Water Rights Records Unit paper files for Applications A009686 and A029981 are in the administrative record for this matter. These documents are in files with filenames that contain the dates of the documents, followed by brief descriptions. Some of the files in this folder also may be in the parties' exhibits. The parties' exhibits are in subfolders within the administrative record's "Hearing Documents" folder.

The AHO has posted this administrative record in the AHO folder on the State Water Board's FTP site. Unless otherwise noted, references to page numbers in documents, including parties' exhibits, refer to the page numbers at the top of the screen reading software used to view the pdf files of these documents.

² Water-right Permit 5487 is not in the Water Right Records Unit paper files for Application A009686, so the AHO could not add it to the administrative record. The administrative record contains a copy of the permit terms for this permit. (1940-01-19 Terms for Water-Right Permit 5487.)

the South Fork Eel River between January 1 and December 31 of each year, for municipal uses within the Town of Garberville. (*Id.*)

2.2 Application A029981, Permit 20789

In 1990, State Water Board, Division of Water Rights (Division) staff inspected Garberville Water Company's facilities. (1990-04-19 Report of Inspection.³) The 1990 Report of Inspection noted that the water company's diversions were at rates greater than the maximum rate authorized by License 3404 and that the water company therefore needed to file an application for a new water-right permit. (*Id.*, p. 1.) Following this inspection, Garberville Water Company filed water-right Application A029981 with the Division in 1991. (1991-06-22 A029981 application.)

In 1995, the Division issued water-right Permit 20789 (Permit 20789) to Garberville Water Company. (1995-05-15 Permit 20789.) This permit authorized the water company to directly divert water from the South Fork Eel River at the same point of diversion as that specified in License 3404, at rates up to 0.595 cfs between January 1 and December 31 of each year, with total annual diversions under the permit not to exceed 430 acre-feet per year (af/yr), for municipal uses within the Town of Garberville. Term 7 of this permit required that construction work be completed by December 31, 1996. Term 8 of this permit required that complete application of the water to the authorized use be made by December 31, 1999.

2.3 Order WR 2012-0036-DWR

In 2012, the Division issued Order WR 2012-0036-DWR. (2012-12-27 Order WR 2012-0036-DWR.) This order noted that Garberville SD had purchased Garberville Water Company in 2004 and had notified the Division of the changes of name and ownership in 2007. (*Id.*, p. 2, ¶ 3.)

The order discussed two complaints that had been filed against Garberville SD in 2012: (a) a complaint alleging that Garberville SD was selling bulk water to commercial water

³ This document is in the folder for "Background Documents" and the subfolder for Application A009686.

delivery companies that were re-selling the water to customers outside of the authorized place of use in License 3404 and Permit 20789; and (b) a complaint alleging that Garberville SD was providing water through service connections to residential homes and properties outside this authorized place of use. (*Id.*, p. 2, ¶ 4.) The order also noted that Garberville SD had not filed the required annual reports of water diversions and use for License 3404 and Permit 20789. (*Id.*, pp. 3-4, ¶¶ 12-17.)

This order directed Garberville SD: (a) to cease and desist the bulk sales and deliveries of water under License 3404 or Permit 20789 to areas outside the authorized place of use; (b) to diligently pursue processing the petitions to change License 3404 and Permit 20789 that are described in the next section of this order; and (c) to immediately submit annual licensee and permittee progress reports for 2010 and 2011. (*Id.*, p. 4.)

2.4 Garberville SD 2012 Petitions to Change License 3404 and Permit 20789; Amended License 3404 and Amended Permit 20789; Annual Licensee and Permittee Progress Reports for 2010-2011; Petition for Extension of Time for Permit 20789

In 2012, Garberville SD filed petitions to change License 3404 and Permit 20789. (2012-11-20 Petition to Change A009686; 2012-11-20 Petition to Change A029881.) These petitions asked the Board to expand the authorized places of use in the license and the permit to include all parcels that were receiving water service from Garberville SD at that time. (*Id.*)

In 2013, the Division issued amended License 3404 and amended Permit 20789. (2013-10-11 Amended License 3404; 2013-10-11 Amended Permit 20789.) This amended license and this amended permit refer to and include new maps of the authorized place of use. They have the same maximum authorized instantaneous diversion rates and the same authorized diversion seasons as those in the original License 3404 and the original Permit 20789. (*Id.*) Amended License 3404 contains a new annual diversion limit of 112.2 af/yr. (2013-10-11 Amended License 3404, p. 2, ¶ 5.) Both the amended license and the amended permit contain a new overall annual limit on total diversions under the license and the permit of 542.2 af/yr. (*Id.*, p. 2, ¶ 6; 2013-10-11 Amended Permit 20789, p. 2, ¶ 6.)

Garberville SD submitted annual licensee reports for 2010-2011 for License 3404, and annual permittee progress reports for these years for Permit 20789, on December 2, 2012. (Reports of Licensee, 2010-2011, p. 1; Reports of Permittee, 2010-2011, p. 1.)

In 2012, Garberville SD filed a petition for extension of time for Permit 20789. (2012-11 Petition for Extension of Time.) This petition requested 15-year extensions of the December 31, 1996 and December 31, 1999 deadlines in this permit to complete construction work and to apply water to beneficial use. (*Id.*)

In a letter dated March 28, 2013, which was filed with the Division on April 24, 2013, Garberville SD asked to withdraw its petition for extension of time. (2013-04-24 ltr. from Garberville SD to SWRCB.) In this letter, Garberville SD stated that the maximum total amount of water diverted under License 3404 and Permit 20789 during any year between 1995 and 1999 was 80 million gallons in 1999, that this amount was representative of the maximum amount the district would divert in future years, and that the district therefore requested licensing of the permit, with the understandings that the Board would issue a water-right license to replace Permit 20789 and the maximum total amount that could be authorized for diversion under License 3404 and the new license would be 80 million gallons per year. (*Id.*)

2.5 Order WR 2020-0104-EXEC

In 2018, the Division received a complaint alleging that Garberville SD had violated the provision of Order 2012-0036-DWR that prohibited bulk water deliveries outside the License 3404 and Permit 20789 authorized place of use. (Order WR 2020-0104-EXEC, p. 2.) Later in 2018, the Division issued a Notice of Violation and a draft Administrative Civil Liability Complaint (ACL Complaint) to Garberville SD. (*Id.*)

In 2020, representatives of Garberville SD and the Division's Prosecution Team signed a settlement agreement regarding this draft ACL Complaint. (*Id.*, pp. 5-10.) The settlement agreement provided that Garberville SD would pay the State Water Board \$40,000 to resolve the violations alleged in the draft ACL Complaint and would prohibit its metered customers from purchasing bulk water and transporting it outside the authorized place of use. (*Id.*, p. 6, ¶ 3; p. 7, ¶ 7.)

On August 26, 2020, the Board’s Executive Director signed Order WR 2020-0104-EXEC, which approved the settlement agreement and directed Garberville SD to make the payment and take the compliance actions described in the settlement agreement. (*Id.*, pp. 3-4.)

2.6 Garberville SD 2019 Petitions to Change License 3404 and Permit 20789 to Add Southern Humboldt Community Park to Authorized Place of Use

On October 7, 2019, Garberville SD filed a petition to change the authorized place of use in License 3404 and Permit 20789 to add 18 acres within the Southern Humboldt Community Park (Southern Humboldt CP or SHCP), to allow Garberville SD to supply potable water to two residences, existing out-buildings, and public drinking fountains within this area. (2019-09-30 Petition to Change License 3404 and Permit 20789 - with attachments.) Garberville SD’s Resolution No. 19-02, a copy of which was included with the petition, contained the following condition of approval:

- E. The usage for the connection is limited to 2,000 cubic feet per month (20 units). The usage will be monitored monthly in connection with the reading of the meters. The SHCP will be notified each time the usage reading is in excess of the 2,000 cubic feet per month limit. The meter will be shut off if the usage is more than 1.5 times (3,000 cubic feet per month) the allowable quantity for any 2 months in a 12 month period. If the meter is shut off, the SHCP will have to petition the Board for reinstatement of service and obtain approval from LAFCo if necessary.

(GSD-10⁴, p. 3, ¶ 1.E.)

The attached Figure 1 is a general location map for Garberville SD’s water-right change petitions. The attached Figure 2 shows the existing authorized place of use for License 3404 and Permit 20789 in blue and labeled “PLACE OF USE,” and the areas that Garberville SD’s petitions ask to be added to this authorized place of use in red and labeled “TO BE ADDED TO PLACE OF USE.”

⁴ Exhibits are identified by party name—here “GSD” stands for “Garberville Sanitary District”—and an exhibit number. These documents are in the “Hearing Documents” folder in the administrative record, in subfolders for the various parties.

On November 11, 2019, the Division issued its public notice of the petitions. The Division received 27 letters from interested parties supporting the petitions (2019-12-05 Comment Letters to Notice of Petitions), and letters from four parties protesting the petitions.⁵ The protest letters were filed by Redway Community Services District (Redway CSD), Linda Sutton, Kristin Vogel, and Edward Voice. (2019-11-25 Protest to Petition – Redway; 2019-11-27 Protest to Petition – Sutton; 2019-11-30 Protest to Petition – Vogel; 2019-12-02 Protest to Petition – Voice.) These four parties are jointly referred to in this order as the “Protestants.”

On February 10, 2020, Garberville SD sent response letters to each of the Protestants. (2020-02-10 Garberville SD Responses to Protests - Redway CSD, Vogel, Sutton and Voice.) In April 2020, the Protestants filed protest-dismissal conditions. (2020-04-14 Protest Dismissal Conditions - Voice; 2020-04-15 Protest Dismissal Conditions – Redway CSD; 2020-04-17 Protest Dismissal Conditions - Vogel and Sutton.) Garberville SD and the Protestants filed additional letters and comments in June 2020, but Garberville SD and the Protestants did not resolve any of the protests.

2.7 California Environmental Quality Act Documents

Garberville SD filed hearing exhibits regarding the following three California Environmental Quality Act (CEQA) documents.⁶

2013 Garberville Sanitary District Annexation Project Initial Study/Mitigated Negative Declaration for Change in Jurisdictional Boundary & Place of Use

In September 2013, Garberville SD completed and circulated its Final Recirculated Initial Study/Mitigated Negative Declaration (IS/MND) for Garberville SD’s District Annexation Project: Change in Jurisdictional Boundary and Place of Use. (CEQA-3.) The proposed project analyzed in this Initial Study was to modify Garberville SD’s jurisdictional boundary and the authorized place of use in License 3404 and Permit

⁵ Documents related to the protests are saved on the FTP site in the “Background Documents” folder and the “2019 Petitions to Change Petitions” subfolder.

⁶ Garberville SD filed these documents with exhibit names that begin with “CEQA.” They are filed in the Hearing Documents folder of the administrative record in a separate folder titled “CEQA.”

20789 to add the areas that were being served by the district's water system at that time but were not within the district's jurisdictional boundary or the license and permit authorized place of use. (CEQA-3, pp. 9-15.) This proposed project included Garberville SD's 2012 petitions to change License 3404 and Permit 20789. (*Id.*, p. 15; see section 2.4.)⁷

This proposed project did not include any proposed deliveries of water from Garberville SD to Southern Humboldt CP. (*Id.*, pp. 29-32.) The Initial Study stated that these proposed deliveries and related land use changes were being analyzed in an Environmental Impact Report (EIR) that was being prepared by Humboldt County. (*Id.*, p. 31.)

On September 27, 2013, Garberville SD filed a Notice of Determination as the CEQA lead agency for this Negative Declaration with State Office of Planning and Research. (CEQA-6.) On October 14, 2013, the Division filed a Notice of Determination as a CEQA responsible agency. (CEQA-7.) On July 21, 2014, the Humboldt Local Agency Formation Commission (Humboldt LAFCo) filed a Notice of Determination as a CEQA responsible agency. (CEQA-8.)⁸

2016 Humboldt County Environmental Impact Report – Southern Humboldt Community Park

In April 2016, the Humboldt County Planning Department circulated a Draft EIR for the Southern Humboldt Community Park project. (CEQA-9.) The proposed project described in this Draft EIR included various new land and facility uses and types of events. (*Id.*, pp. 46-84.) The Draft EIR described the park's existing water system and the proposed system improvements that were part of the proposed project. (*Id.*, pp. 76-

⁷ Unless the context indicates otherwise, "section" refers to sections of this order.

⁸ The CEQA lead agency is the public agency that has the principal responsibility for carrying out or approving the proposed project and decides whether to prepare an environmental impact report (EIR) or a negative declaration for the project, and then prepares the document. (Cal. Code Regs, tit. 14 (CEQA Guidelines), § 15367.) CEQA responsible agencies are the public agencies that propose to carry out or approve a project for which the CEQA lead agency has prepared an EIR or negative declaration. (CEQA Guidelines, § 15381.)

79.) The proposed project did not include any proposed water service from Garberville SD. (*Id.*)

The Humboldt County Planning Department completed the Final EIR for this project in November 2016. (CEQA-12.) The Humboldt County Board of Supervisors certified this EIR (CEQA-14), and the Planning Department sent a CEQA Notice of Determination to the State Office of Planning and Research on April 25, 2017 (CEQA-13).

2019 Humboldt LAFCo Addendum to 2013 Initial Study/Mitigated Negative Declaration

In September 2019, Humboldt LAFCo completed an addendum to Garberville SD's 2013 IS/MND (2019 CEQA Addendum). (CEQA-18.) The proposed project described in this addendum was the connection of a ¾" meter to Garberville SD's Tooby Ranch Road 8" waterline to supply potable water to various facilities within 18 acres of Southern Humboldt CP. (*Id.*, p. 6.)

The addendum's project description refers to Garberville SD's Resolution No. 19-02 and quotes several of the conditions of approval in that resolution, including Condition E (quoted above in section 2.6). Condition E states that the usage for this new connection will be limited to 2,000 cubic feet per month and that the meter will be shut off if the usage is more than 3,000 cubic feet per month during any two months in a 12-month period. (*Id.*, pp. 6-7.)

The 2019 CEQA Addendum discusses the various resource topics analyzed in 2013 IS/MND. (*Id.*, pp. 8-19.) In the discussion of Utilities and Service Systems, the addendum states: "The proposed service extension would provide up to 2,000 cubic feet of water per month to the existing residences and new drinking water fountains at SHCP." (*Id.*, p. 18.) The addendum repeats this limitation at the beginning of its summary of findings and then concludes: "As evidenced in this addendum to the 2013 IS/MND, any impacts associated with the proposed service extension are not anticipated to be more significant than those discussed in the previously prepared environmental document." (*Id.*, p. 19.)

On September 18, 2019, Humboldt LAFCo adopted Resolution No. 19-04, in which it certified that it had independently reviewed and considered the 2019 CEQA Addendum and found that it was adequate to support Garberville SD's proposal for potable-water service to Southern Humboldt CP. (CEQA-20.) Humboldt LAFCo also adopted Resolution No. 19-05, which authorized Garberville SD to provide potable-water service outside its jurisdictional boundary to Southern Humboldt CP. (CEQA-21; see Gov. Code, § 56133.)

On September 23, 2019, Humboldt LAFCo filed a CEQA Notice of Determination for the 2019 CEQA Addendum with the Humboldt County Clerk-Recorder. (CEQA-22.) During the AHO hearing (see section 2.9), Collette Metz Santsche, Humboldt LAFCo's Executive Director, testified that no one had filed a legal challenge to Resolution No. 19-04, and that any such challenge now would be barred by the applicable statute of limitation. (2021-06-15 AHO Hearing Recording – Morning (audio+video), 03:06:44 - 03:06:49).⁹

2.8 AHO Proceedings

On September 30, 2020, Erik Ekdahl, Deputy Director for the Division, transmitted a memorandum to Eileen Sobeck, the State Water Board's Executive Director, which recommended that the Board assign to the AHO for further proceedings Garberville SD's petitions to change the authorized place of use in License 3404 and Permit 20789. (2020-09-30 Memo Recommending Transfer to AHO.) On September 30, 2020, Ms. Sobeck transmitted a memorandum to Alan Lilly, the AHO's Presiding Hearing Officer,

⁹ The files of the audio+video recording of the 2021-06-15 AHO hearing are in the administrative record in the "Hearing Documents" folder. There is one file for the morning session and one file for the afternoon session. These are the official records of the AHO hearing. This order refers to them as "Hearing Recording - Morning" and "Hearing Recording - Afternoon."

There also are files of the Zoom-generated transcripts of these hearing sessions. These files are included in case parties want to use them to locate certain testimony or statements in the audio+video Hearing Recording files. The Zoom-generated transcripts are not official records of the AHO hearing.

which assigned the petitions to the AHO. (2020-09-30 Memo Assigning Petitions to AHO.)

On March 30, 2021, the AHO issued a Notice of Public Hearing and Pre-Hearing Conference. (2021-03-30 Notice of Pre-Hearing Conference and Hearing.) The notice specified the following hearing issues:

- 1) Should the State Water Board approve Garberville SD's petitions to change the authorized place of use for License 3404 and Permit 20789?
 - a) Would the State Water Board's approval of these petitions result in injury to any other legal user of water?
 - b) Would the State Water Board's approval of these petitions unreasonably affect any fish, wildlife or other instream beneficial use?
 - c) Would the State Water Board's approval of these petitions be in the public interest?
 - d) Would the State Water Board's approval of these petitions cause the initiation of any new water right?
 - e) What is the status of Garberville SD's actions to comply with the California Environmental Quality Act (CEQA) for these petitions?
- 2) If the State Water Board grants these petitions, what new terms or conditions, if any, should be added to this license and this permit when the petitions are granted?
 - a) Should the AHO hearing officer include the attached Draft Amended License 3404 and Draft Amended Permit 20789 in the draft proposed order the hearing officer will transmit to the Board?
 - b) If so, should the AHO hearing officer make any changes to these drafts before including them in the hearing officer's proposed order?

(*Id.*, pp. 5-6.) The notice stated that the AHO had prepared the draft amended water-right License 3404 and draft amended water-right Permit 20789 that were referred to in hearing issue 2) a), and that copies of these drafts were attached to the notice. (*Id.*, p. 5.)

On May 11, 2021 the AHO held a Pre-Hearing Conference with the parties via Zoom teleconference. On May 17, 2021 the AHO issued a Pre-Hearing Conference Order. It added the following hearing issue:

- 3) Does part 2 of section 3 of Attachment A of the State Water Board's *Cultivation Policy – Principles and Guidelines for Cannabis Cultivation* apply to Garberville SD?

(2021-05-17 Pre-Hearing Conference Order (Garberville SD), p. 4.)

2.9 AHO Hearing

On June 15, 2021 the AHO held its hearing on Garberville SD's water-right change petitions by Zoom teleconference.

Garberville SD called two witnesses, Jennie Short and Ms. Santsche. Ms. Short, a consultant to the district, testified about the history of the Garberville Water Company and Garberville SD, the district's historical water service to Southern Humboldt CP and the district's proposal for new water service to the park. (GSD-12, pp. 1-4.) Her testimony also addressed each of the hearing issues. (*Id.*, pp. 5-16.) Ms. Santsche testified about Humboldt LAFCo's process for preparing and approving the 2019 CEQA Addendum, adopting Resolution Nos. 19-04 and 19-05, and filing the CEQA Notice of Determination. (GSD-13.)

Southern Humboldt CP called one witness, Laura Cochrane, the park's executive director. She testified about the park and the benefits it provides to the people and communities of the area (SHCP-1) and about several pictures of the park (SHCP-24). Southern Humboldt CP also submitted 22 letters of support for Garberville SD's petitions (SHCP-2 through SHCP-23), and a petition of support signed by 132 people (SHCP-25).

Redway CSD called one witness, Cody Cox, the district's general manager. He testified that Redway CSD diverts water from the South Fork Eel River at a point downstream of Garberville SD's diversion, and that Redway CSD historically has faced operational issues during summer months due to low river flows, which cause slower recharge to the district's infiltration gallery and hinder the district's ability to keep up with general demand. (Redway CSD-1; Hearing Recording - Afternoon 00:53:48). He testified that the South Fork Eel River is an impaired waterbody for sedimentation and temperature. (Hearing Recording - Afternoon 00:54:14.) He testified that the district believes that the

Southern Humboldt CP project will directly add to the overdraft concerns of the South Fork Eel River. (Hearing Recording - Afternoon 00:54:49.)

Mr. Voice testified about his experience living in the Garberville area since 1961 and his love for the South Fork Eel River. (EV-28, p. 1.) He testified about the various exhibits he submitted for the hearing. (*Id.*, pp. 2-8.) He requested that the various resolutions, agreements and CEQA documents regarding Garberville SD's change petitions "be sent back to GSD and LAFCo to be re-written and amended to contain all same language and restrictions, following all CEQA guidelines." (*Id.*, p. 8.)

Ms. Vogel submitted a policy statement (KV-3) and some documents regarding Garberville SD's petitions (KV-1, KV-2, KV-4). Ms. Vogel said approving the petitions would not be in the public interest and asked the Board to deny the petitions. (Hearing Recording - Afternoon 02:15:19-02:18:13.)

Ms. Sutton submitted a policy statement (LS-7) and some documents regarding Garberville SD's petitions (LS-1 through LS-6). Ms. Sutton said the South Fork Eel River was an impaired waterbody and the water is a finite resource. (Hearing Recording - Afternoon 02:44:20 – 02:44:42.)

Jesse Hill made an oral policy statement during the AHO hearing. Mr. Hill stated his support for Garberville SD's providing drinking water to the Southern Humboldt CP. (Hearing Recording - Morning 32:35-34:56.)

On June 16, 2021, the AHO issued a Post-Hearing Order. The order repeated the hearing issues, directed the parties to organize their closing briefs to address these issues, and specified a July 2, 2021 filing deadline. At the request of Mr. Voice, the AHO later extended the filing deadline to July 9, 2021. Garberville SD, Southern Humboldt CP, Redway CSD, Mr. Voice and Ms. Sutton filed closing briefs.

On September 27, 2021, the AHO issued a notice extending its October 7, 2021 deadline for transmitting its proposed order to the State Water Board to November 6, 2021. (See Water Code, § 1114, subd. (c)(1).)

On November 1, 2021, the AHO issued a Notice of Draft Proposed Order and circulated its draft proposed order. The AHO's notice directed parties to submit comments by December 1, vacated the prior submission of this matter to the AHO, and stated that the matter would be deemed re-submitted on December 1, 2021. Garberville SD, Redway CSD, Ms. Sutton, Mr. Voice and Ms. Vogel submitted comments on the draft proposed order. On February 25, 2022, the AHO issued a notice of extension of the AHO's deadline for transmitted its proposed order to the Clerk of the Board. The AHO transmitted its proposed order to the Clerk of the Board on March 28, 2022. Appendix C discusses the parties' comments on the AHO's draft proposed order and our responses.

3.0 DISCUSSION

3.1 Should the State Water Board Grant Garberville SD's Change Petitions?

3.1.1 Would the State Water Board's Approval of These Petitions Result in Injury to Any Other Legal User of Water?

Water Code section 1702 states that, before the Board may grant a petition to change the authorized point of diversion, place of use or purpose of use in a water-right license or permit, "the petitioner shall establish, to the satisfaction of the board, and it shall find, that the change will not operate to the injury of any legal user of the water involved."

In *Barnes v. Hussa* (2006) 136 Cal.App.4th 1358, 1369, the court discussed how changes in place of use in appropriative rights may impact other legal users of water:

Injury from a change in place of use generally occurs when use at the new location results in the appropriator using a greater amount of water than he was entitled to [citation] or when use at the new location reduces return flows to the watercourse, thus reducing the amount of water available for diversion by downstream users [citation].

(*Id.*)

If the Board grants Garberville SD's change petitions, the instantaneous and annual diversion limits in License 3404 and Permit 20789 will not change. Granting these change petitions therefore will not result in Garberville SD using a greater amount of water than it currently is authorized to divert and use under this license and this permit. The proposed expansion of the authorized place of use in this license and this permit

may result in Garberville SD diverting slightly more water from the South Fork Eel River. However, even these slight increases in Garberville SD's diversions probably will be offset by a corresponding slight reduction in the amounts of water Southern Humboldt CP currently diverts from the river under its riparian rights for the uses that in the future will be supplied by potable water from the district. (GSD-12, p. 12.)

During the hearing, Mr. Cox expressed concerns about the potential effects on Redway CSD's ability to divert water from the South Fork Eel River if the Board grants Garberville SD's petitions. (See section 2.9.) However, if the Board grants the district's change petitions, and if Garberville SD's diversions increase as a result, those increases will be very small, with a maximum monthly average increase of about 0.001 cfs.¹⁰ During the AHO hearing, Mr. Cox admitted that these very small potential increases in diversion rates would not have any measurable effects on Redway CSD's ability to divert water from the river. (Hearing Recording - Afternoon 1:12:52-1:13:59.)

For these reasons, it is very unlikely that there will be any measurable net changes in South Fork Eel River flows or the amounts of water available to downstream water users from the State Water Board's approval of Garberville SD's change petitions, and the Board's approval of these petitions therefore will not result in any injury to any other legal user of the water involved.

3.1.2 Would the State Water Board's Approval of These Petitions Unreasonably Affect Any Fish, Wildlife or Other Instream Beneficial Uses?

Although Water Code section 1702 does not explicitly refer to effects of changes to water-right permits or licenses on fish, wildlife or other beneficial instream uses, the

¹⁰ An average diversion of 2,000 cubic feet per month (the maximum average monthly amount of Garberville SD's proposed new potable water deliveries to Southern Humboldt CP (see section 2.6) equates to a maximum monthly average flow rate of 0.00076 cfs. The maximum proposed new monthly delivery of 3,000 cubic feet (see section 2.6) equates to a flow rate of 0.0011 cfs.

State Water Board considers such effects when it acts on water-right change petitions. (Decision 1651, p. 17, fn. 12 [citing Order WR 2009-0033, p. 6, fn. 4].)¹¹

Garberville SD's 2013 CEQA Initial Study for its annexation project (see section 2.6 above) discusses the 0.75-cfs overall diversion limit in License 3404 and Permit 20789 (see 2013-10-11 amended License 3404, p. 2, ¶ 7; 2013-10-11 amended Permit 20789, p. 2, ¶ 7), and the term in the 2012 Lake or Streambed Alteration Agreement (LSAA or SAA) between the California Department of Fish and Game (now called the California Department of Fish and Wildlife (CDFW)) that prohibits Garberville SD from diverting more than 0.75 cfs or 10 percent of the streamflow measured by USGS Gauge No. 11476500 at the Miranda gauge. (CEQA-3, p. 49; see GSD-6, p. 4, ¶ 2.15.)¹² The 2013 CEQA Initial Study states that the lowest South Fork Eel River flow of record was 10 cfs on August 30, 1964, and that "[t]he restrictions specified by the [SWRCB] license and permit and the CDFW SAA on the diversion rate will ensure impacts to aquatic resources within the SF Eel River will be less than significant." (CEQA-3, p. 49.)

Humboldt LAFCo's 2019 CEQA Addendum discusses this analysis in the 2013 CEQA Initial Study (CEQA-18, p. 10), and concludes that the new project, with Garberville SD's water-right change petitions, will not have any impacts that will be more significant than those analyzed in the 2013 Initial Study (*Id.*, p. 19).

Considering these CEQA documents, the fact that South Fork Eel River flows are not likely to measurably decrease if the Board grants Garberville SD's petitions (see section 3.1.1), and the fact that no party submitted any specific evidence that the Board's decision to grant the change petitions will cause any significant impacts to biological

¹¹ Unless the context indicates otherwise, references to Decisions and Orders in this order are to water-right decisions and orders of the State Water Board and its predecessors.

¹² This USGS gauge is located on the South Fork Eel River, 10.8 miles downstream of the authorized point of diversion in License 3404 and Permit 20789. (See attached Figure 1.) Although the 2012 LSAA does not state when the 0.75-cfs limit applies and when the 10-percent limit applies, we assume that the 10-percent limit applies when river flows are less than 7.5 cfs, when it would limit authorized diversions to rates less than 0.75 cfs.

resources, we conclude that the State Water Board's approval of these petitions will not unreasonably affect any fish, wildlife or other instream beneficial uses.

3.1.3 Would the State Water Board's Approval of These Petitions Be in the Public Interest?

Although Water Code section 1702 does not explicitly refer to the public interest, the State Water Board considers the public interest when it acts on water-right change petitions. (Decision 1651, p. 17, fn. 12.)

During the hearing, Ms. Short testified that the public "is extremely supportive of the SHCP overall and for them being allowed to have potable water." (GSD-12, p. 6.) To support this statement, her testimony refers to "the over 400 signatures of support and almost 600 letters of support in the County's processing of the SHCP EIR, General Plan Amendment, and Rezone project." (*Id.*, referring to CEQA-11, support letters, parts 1 through 6.) She also referred to the letters of support Southern Humboldt CP submitted as hearing exhibits. (GSD-12, p. 6; see SHCP-2 through SHCP-23.)¹³

Ms. Cochran testified that the Southern Humboldt CP "is a beloved community asset that the community toiled tirelessly for nearly 2 decades to create" and that "[p]roviding drinking water to Park residents and patrons is a necessity." (SHCP-1, pp. 1-2.)

Mr. Cox noted that the South Fork of the Eel River "is an already impaired Water Shed [sic] for Water Quality, Sedimentation, as well as temperature" and that the Southern Humboldt CP project "would directly add overdraft concerns of the South Fork Eel River." (Redway CSD-1.)

Ms. Sutton's policy statement contended that the South Fork Eel River is impaired, the local water usage already is having significant impacts, and that all uses contribute to cumulative impacts. (LS-4, p. 2.) She contends that SHCP's plans for the Park are controversial for the small rural community. (LS-7.)

¹³ In response to the Division's November 11, 2019 Notice of Petitions, 27 people filed letters supporting the petitions. (See section 2.6.)

Ms. Vogel's policy statement stated that Garberville SD's petitions are not in the public interest and should not be approved because the service agreement between Garberville SD and Southern Humboldt CP "lacks an environmental analysis of impacts specific to the introduction of public water into the SHCP property." (KV-3, p. 1.) She stated that, if the change petition "were done under the auspices of a normal annexation process," she would not protest it, but she was concerned that, with the present agreement, "it's only a matter of time before GSD and the Park will be back asking for more water." (*Id.*, pp. 2-3.)

This testimony and these policy statements indicate that an overwhelming majority of the people interested in Garberville SD's water-right change petitions support them, so Southern Humboldt CP can obtain a reliable potable water supply. Although some people stated their oppositions to these petitions, we conclude that the State Water Board's approval of these petitions is in the public interest.¹⁴

This order also is in the public interest because it furthers the policies in Water Code section 106.3 and State Water Board Resolution No. 2016-0010.

Water Code section 106.3, subdivision (a), provides:

- (a) It is hereby declared to be established policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.

To implement this policy, the State Water Board adopted Resolution No. 2016-0010. In this resolution, the Board adopted "the human right to water as a core value" and adopted "the realization of the human right to water as a top priority for the Water Boards." (Resolution No. 2016-0010, p.5, ¶ 1.) This resolution directs State Water Board staff, "when submitting a recommendation to the board pertinent to the human right to water, to describe how the right was considered . . ." and "to evaluate the extent to which a proposed project, plan, decision, or action, pertinent to the human right to

¹⁴ None of the findings in this order are based on policy statements, which are not evidentiary. (See Cal. Code Regs., tit. 23, § 648.1, subd. (d).) This order just refers to these policy statements to support the general conclusion that the Board's approval of Garberville SD's petitions is in the public interest.

water, has been developed with meaningful engagement of impacted communities.”
(*Id.*, p. 6, ¶¶ 7, 9.)

This order furthers these goals by authorizing Garberville SD to provide potable water to water users within the 18-acre part of Southern Humboldt CP that will be added to the authorized places of use in water-right License 3404 and water-right Permit 20789.

3.1.4 Would the State Water Board’s Approval of These Petitions Cause the Initiation of a New Water Right?

“A fundamental principle of water right law . . . is that a right cannot be so changed that it in essence constitutes a new right.” (Order WR 2009-0061, p. 5, citing Cal. Code Regs., tit. 23, § 791, subd. (a).) Changes that may constitute a new right include expansions of the right “to appropriate a greater amount of water, to increase the season of diversion, or to use a different source of water.” (Order WR 2009-0061, pp. 5-6.) “The common feature among the changes that have been found to constitute the creation of a new right, as opposed to a change in an existing right, is that the changes that initiate a new right increase the amount of water taken from a water source at a given time.” (*Id.*, p. 6.)

Garberville SD’s petitions do not ask the State Water Board to increase any of the instantaneous or annual diversion limits in License 3404 or Permit 20789, to change the authorized season of diversion, or to change authorized point of diversion or the source of the water. The Board’s approval of these petitions therefore will not cause the initiation of any new water right.

3.1.5 What Is the Status of Garberville SD’s Actions to Comply with CEQA for These Petitions?

As discussed in section 2.7, in 2013 Garberville SD prepared and certified a CEQA Initial Study/Mitigated Negative Declaration for its Annexation Project: Change in Jurisdictional Boundary and Place of Use. In 2019, Humboldt LAFCo prepared and certified a CEQA Addendum for Garberville SD’s Change in Jurisdictional Boundary and Place of Use. The project analyzed in this CEQA Addendum was the extension of Garberville SD’s potable water service to the parts of Southern Humboldt CP that the

district now asks the Board to add to the authorized place of use in License 3404 and Permit 20789. Humboldt LAFCo's actions regarding this CEQA Addendum complied with CEQA Guidelines section 15164 and no one filed a legal challenge to these actions. (Hearing Recording - Morning 03:06:45 – 03:06:49.)

For purposes of considering whether to approve Garberville SD's petitions, the State Water Board is a responsible agency under CEQA. (See Pub. Resources Code, § 21069.) In deciding whether and how to approve a project, a CEQA responsible agency must consider the environmental effects of the project as disclosed in the environmental documentation prepared by the lead agency. (CEQA Guidelines, § 15096, subd. (f).) Except under limited circumstances when a responsible agency may assume lead agency status or prepare subsequent CEQA documentation, a CEQA responsible agency must presume that the conclusions reached by the CEQA lead agency in its CEQA documentation regarding the environmental effects of the proposed project are adequate, or challenge the lead agency in court. (*Id.*, subds. (e) & (f).)

As required by CEQA Guidelines section 15096, subdivisions (a) and (f), we have considered Garberville SD's 2013 CEQA Initial Study and Humboldt LAFCo's 2019 CEQA Addendum and the environmental effects described in those documents. Exercising our independent judgment, we conclude that these CEQA documents are adequate for our actions in this order. Considering those documents and the other evidence described in this order, we have decided to take the actions described in this order.¹⁵

For the reasons discussed in sections 3.1.1 through 3.1.5, we conclude we should grant Garberville SD's change petitions.

¹⁵ Although section 2.6 discusses the 2016 Humboldt County EIR for the Southern Humboldt CP project, the proposed project described and analyzed in that EIR did not include proposed extensions of Garberville SD water service to Southern Humboldt CP, and the 2019 Humboldt LAFCo CEQA Addendum was not an addendum to that EIR. We therefore do not rely on the 2016 EIR for the Board's CEQA compliance for this order.

3.2 If the State Water Board Grants These Change Petitions, What New Terms or Conditions, If Any, Should Be Added to License 3404 and Permit 20789 when the Petitions Are Granted?

Water Code section 1704, subdivision (a), authorizes the Board, after a hearing, to “approve with conditions” a petition to change a water-right license.

The AHO’s May 30, 2021 Notice of Pre-Hearing Conference and Hearing included drafts of amended water-right License 3404 and amended water-right Permit 20789 as attachments. As discussed in section 2.8, the hearing issues specified in the notice included the following: (i) what new terms or conditions, if any, should be added to this license and this permit? (ii) should the AHO hearing officer include the Draft Amended License 3404 and Draft Amended Permit 20789 that were attached to the hearing notice in the proposed order the hearing officer will transmit to the Board? and (iii) if so, should the AHO hearing officer make any changes to these drafts before including them in the hearing officer’s proposed order?

Garberville SD argues that several amendments should be made to these drafts of amended License 3404 and amended Permit 20789.

First, Garberville SD argues that the July 31, 2019 draft place-of-use map in Figure 2 should be replaced with a final map, with the entire authorized place of use shown in blue and with an updated acreage label. (GSD-12, p. 13; Garberville SD Closing Brief, p. 3.) The AHO has addressed this argument by including the final maps submitted by Garberville SD (2021-06-30 Garberville POU map – License 3404; 2021-06-30 Garberville POU map – Permit 20789)¹⁶ in the amended License 3404 and amended Permit 20789 that are attached to this order.

Second, Garberville SD argues that term 11 of draft amended License 3404 and term 12 of draft amended Permit 20789, which would limit Garberville SD’s deliveries to Southern Humboldt CP to 3,000 cubic feet during a maximum of two months during any 12-month period, and to 2,000 cubic feet per month during the other months of each

¹⁶ These two maps are in the “Hearing Documents” folder in the subfolder for Garberville GSD.

such period, should be deleted. (GSD-12, pp. 13-14; Garberville SD Closing Brief, pp. 3-4.)

During the hearing, Ms. Short argued that, because Humboldt LAFCo already has adopted conditions regarding the limits on Garberville SD's water service to Southern Humboldt CP, the State Water Board should focus only on the overall diversion limits in the license and the permit, and not on the amounts of water delivered to any single customer during any month. (GSD-12, p. 14.) She stated that, if some version of this term remains in the amended license and amended permit, then it should be modified to match the conditions in the district's water service agreement with the park. (*Id.*) She stated that, if the Board includes this term in the new amended license and new amended permit, then the Board should describe the process the district will need to follow to amend this condition in the future. (*Id.*)

Garberville SD's closing brief argues that "there is no need to add a condition to limit the amount of water supplied to SHCP in the GSD water rights documents" and that "GSD's choice to limit the quantity of water for service to [Southern Humboldt CP] should not become a condition in GSD's permit or license." (Garberville SD closing brief, p. 4; see CEQA-18, p. 19.)

We disagree. The State Water Board, as a CEQA responsible agency, must consider the environmental effects described in Garberville SD's 2013 IS/MND and Humboldt LAFCo's 2019 CEQA Addendum before reaching a decision on the district's petitions. (CEQA Guidelines, § 15096, subd. (f).) The project description in Humboldt LAFCo's 2019 CEQA Addendum included the limitation on Garberville SD's potable water deliveries to Southern Humboldt CP to 2,000 cubic feet per month and the provision that the meter for these deliveries will be shut off if usage exceeds 3,000 cubic feet during any two months in any 12-month period. (CEQA-18, pp. 6-7, ¶ e.) If these limits are in place, then the district's deliveries to the park will be limited to a maximum of 26,000 cubic feet during any 12-month period (2,000 cubic feet per month x 10 months + 3,000 cubic feet per month x 2 months = 26,000 cubic feet per 12 months). This amount equals 194,494 gallons.

Without these limits, the district's 12-month deliveries to the park could be as high as 679,828 gallons, the park's total estimated annual demand stated in the 2019 CEQA Addendum. (*Id.*, pp. 18-19.)¹⁷ Annual deliveries of water to the park that exceed 194,494 gallons and might be as high as 679,828 gallons could result in environmental impacts that were not analyzed in the 2013 IS/MND or the 2019 CEQA Addendum.

Ms. Santsche testified that Humboldt LAFCo has no regulatory authority to enforce the 2,000 cubic feet per month limit and no ability to impose any fines or penalties if this limit is exceeded. (Hearing Recording - Morning 02:42:51 – 02:44:36.) There is no evidence in the administrative record that, absent this water-right license and permit term, Garberville SD would be required to limit its monthly deliveries of potable water to Southern Humboldt CP to the monthly maximum amounts in the 2019 CEQA Addendum's project description. Moreover, Ms. Short's testimony and Garberville SD's closing brief indicate that, if we do not include a term with monthly delivery limits on the district's potable-water deliveries to Southern Humboldt CP in amended License 3404 and amended Permit 20789, then the district will take the position that its potable-water deliveries to the park are not subject to any monthly delivery limits. (GSD-12, pp. 13-14; Garberville SD Closing Brief, p. 4.)

It would not be appropriate under CEQA for the State Water Board to issue an order that would allow the district's potable-water deliveries to the park to exceed these monthly limits. (See *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 190, 192-193, 199-200 [water purveyor violated CEQA when it approved groundwater-pumping project with significantly higher pumping rates than those in EIR's project description]; *San Joaquin Raptor Rescue Ctr. v. County of Merced* (2007) 149 Cal.App.4th 645, 655 [county violated CEQA when it issued conditional use permit for

¹⁷ The 679,828-gallon estimate in the 2019 CEQA Addendum is based on the table of estimated post-project water demands in Humboldt County's 2016 EIR. (CEQA-9, App. G, Table 9, p. 632.) This estimate is the total of the monthly water demands listed in that table for all non-irrigation uses (baseline water use and events, camps and tournaments for Areas 1-5). (Hearing Recording - Morning 03:04:40 – 03:10:46.)

mine that would allow substantial increases in annual production while draft EIR stated that there would not be any substantial increases in production].)

We agree with Garberville SD that, consistent with the district's service agreement with Southern Humboldt CP (and the project description in the 2019 CEQA Addendum), the term in the drafts of License 3404 and Permit 20789 that were attached to the AHO's March 30, 2021 hearing notice should be amended to add a provision that monthly deliveries may be up to 3,000 cubic feet in up to two months during any 12-month period. The AHO has made the appropriate amendments. With these amendments, Term 11 of amended License 3404 states:

The total amount of water right holder's deliveries to the Southern Humboldt Community Park under this right and the right pursuant to Application 29981 shall not exceed 3,000 cubic feet per month during two months of any 12-month period and shall not exceed 2,000 cubic feet per month during the remaining months of any such period. Right holder shall attach a table to each year's annual report of licensee that lists (in cubic feet) the amount of water right holder delivered to the Southern Humboldt Community Park during each month of the year covered by the annual report.

Term 12 of amended Permit 20789 contains similar language.

If Garberville SD and Southern Humboldt CP in the future decide to amend their water service agreement to increase the monthly amounts of potable water that the district may deliver to the park above these limits, then the district may file a petition with the Board requesting amendments to License 3404 and Permit 20789 to authorize such increases.¹⁸ If Garberville SD decides to file such a petition, then the district or Humboldt LAFCo will need to determine whether a new addendum to the 2013 IS/MND and the 2019 CEQA Addendum is appropriate, or whether a new negative declaration or EIR is necessary (See CEQA Guidelines, § 15064, subd. (b)), and the district or

¹⁸ Although Water Code section 1701 refers only to an applicant, permittee, or licensee changing points of diversion, places of use and purposes of use, a Board regulation authorizes an applicant, permittee, or licensee to petition the Board for other changes in water-right license and permits. (Cal. Code Regs., tit. 23, § 791, subd. (e).)

Humboldt LAFCo then will need to complete and certify the appropriate CEQA document before the Board may act on the petition.

Garberville SD's third argument is that the overall diversion limit of 542.2 af/yr in Term 6 of amended License 3404 and amended Permit 20789 should not be reduced to 245.5 af/yr until the Board completes the work necessary to prepare a water-right license to replace Permit 20789. (Garberville SD Closing Brief, p. 5; Hearing Recording - Morning 00:53:45 - 00:54:20).

As discussed in section 2.4, Garberville SD sent a letter to the Division in 2013, which withdrew the district's petition for extension of the December 31, 1999 beneficial-use deadline in Term 8 of Permit 20789. The district's letter stated that the maximum total amount of water diverted under License 3404 and Permit 20789 during any year between 1995 and 1999 was 80 million gallons in 1999, and that this amount was representative of the maximum amount the district would divert in future years.¹⁹ This amount equals 245.5 af/yr. The district has not filed any subsequent petition for extension of time for Permit 20789, and the district did not submit any evidence during the AHO hearing that the district's diversions ever exceeded this amount during any other year, or that they are projected to exceed this amount in the future.

Considering these facts, we conclude that it is appropriate to include the 245.5 af/yr total limit in the amended License 3404 and amended Permit 20789 that we are approving in this order. Following our adoption of this order, Garberville SD may renew its request to the Division for water-right licensing of Permit 20789.

3.3 Applicability of Cannabis Cultivation Policy to Garberville SD

Term 10 of the draft amended License 3404 and Term 11 of the draft amended Permit 20789 that were attached to the AHO's March 30, 2021 hearing notice stated:

No water shall be diverted or used under this right for commercial and applicable personal medical use cannabis cultivation unless the water

¹⁹ The district's permittee progress report for 1999 for Permit 20789 stated that the district used 80 million gallons in 1999. (A029982, Annual Permittee Progress Reports, 1999 PROGRESS REPORT BY PERMITTEE.)

right holder is in compliance with all applicable conditions, including the numeric and narrative instream flow requirements, of the current version of the State Water Board's *Cannabis Cultivation Policy – Principles and Guidelines for Cannabis Cultivation*.

During the AHO's pre-hearing proceedings, Garberville SD argued that this policy is not applicable to the district. In response to this argument, the AHO added the following hearing issue:

- 3) Does part 2 of section 3 of Attachment A of the State Water Board's *Cultivation Policy – Principles and Guidelines for Cannabis Cultivation* apply to Garberville SD?

(See section 2.8.)

The State Water Board adopted its Cannabis Cultivation Policy – Principles and Guidelines for Cannabis Cultivation (Cannabis Policy) on February 5, 2019, and the Office of Administrative Law approved this policy on April 16, 2019.²⁰ Part 2 of section 3 of Attachment A to the Cannabis Policy states:

2. **Retail Water Suppliers:** The instream flow Requirements and forbearance period listed in this section shall not apply to retail water suppliers, as defined in Section 13575 of the Water Code, whose primary beneficial use is municipal or domestic, unless any of the following circumstances are present:
 - a. the retail water supplier has 10 or fewer customers and delivers water that is used for cannabis cultivation;
 - b. the retail water supplier delivers 10 percent or more of the diverted water to one or more cannabis cultivator(s) or cannabis cultivation site(s), as established by an assessor's parcel number;
 - c. 25 percent or more of the water delivered by the retail water supplier is used for cannabis cultivation; or
 - d. a cannabis cultivator and the retail water supplier are affiliates, as defined in California Code of Regulations, title 23, section 2814.20.

(Cannabis Policy, p. 105, footnotes omitted, underlining in original.)

²⁰ A copy of this policy is in the "Administrative Record" folder, in the "Background Documents" subfolder.

Water Code 13575, subdivision (b)(6) defines “retail water supplier” as “any local entity, including a public agency, city, county, or private water company, that provides retail water service.” Garberville SD is a “retail water supplier” under this definition.

Ms. Short testified that Garberville SD has 470 water customers, that nine of these customers have “cannabis ag meters,” and that 1.47 percent of the water diverted by Garberville SD during 2020 was billed to these meters. (GSD-12, p. 15.) She also testified that Garberville SD is not affiliated with any of its cannabis customers. (*Id.*)

Based on this testimony, we conclude that Garberville SD is not subject to part 2 of section 3 of Attachment A of the Cannabis Policy at this time. Thus, even though the above standard water-right license and permit term is included in the amended License 3404 and amended Permit 20789 that are attached to this order, the Cannabis Policy does not currently apply to Garberville SD.

3.4 Other Arguments

Redway CSD, Mr. Voice, Ms. Vogel and Ms. Sutton made various arguments in their closing briefs after the AHO hearing, and these parties and Garberville SD submitted comments on the AHO’s draft proposed order. Those arguments are summarized in Appendix C to this order, which also contains our responses.

4.0 CONCLUSIONS

1. We grant Garberville SD’s petitions to change water-right License 3404 and water-right Permit 20789. Appendices A and B are new amended License 3404 and new amended Permit 20789. They contain the new terms discussed in this order.
2. With the terms in new amended License 3404 and new amended Permit 20789, our granting Garberville SD’s change petitions will not operate to the injury of any other legal user of the water involved, will not unreasonably affect fish, wildlife or other instream beneficial uses or any other public trust values, will be in the public interest, and will not initiate any new water rights.

ORDER

IT IS HEREBY ORDERED THAT:

1. Garberville SD's petitions to change water-right License 3404 and water-right Permit 20789 are granted.
2. The Deputy Director for the Division of Water Rights is directed to issue new amended License 3404 and new amended Permit 20789 in the forms of Appendices A and B.
3. The Deputy Director for the Division of Water Rights is directed to prepare and file a CEQA Notice of Determination for this order.

CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on June 21, 2022.

AYE:

NAY:

ABSENT:

ABSTAIN:

Jeanine Townsend
Clerk to the Board

FIGURES AND APPENDICES

Figure 1 – General Location Map for Garberville SD Change Petitions

Figure 2 – Existing and Proposed Places of Use for Garberville SD Change Petitions

APPENDIX A – New Amended Water-Right License 3404

APPENDIX B – New Amended Water-Right Permit 20789

APPENDIX C – Summaries of Parties' Other Arguments and Board's Responses

Figure 1 - General Location Map for Garberville SD Change Petitions

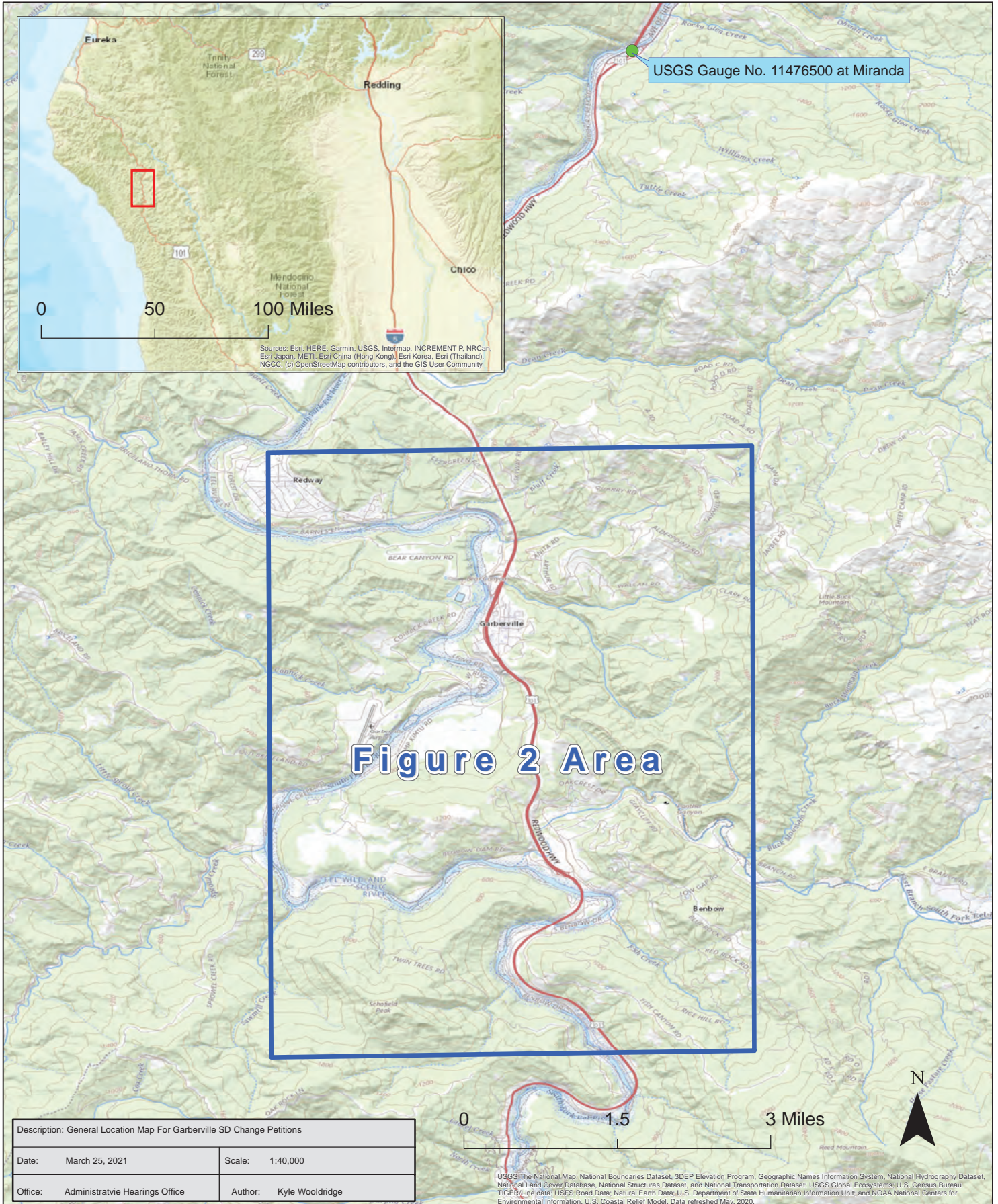
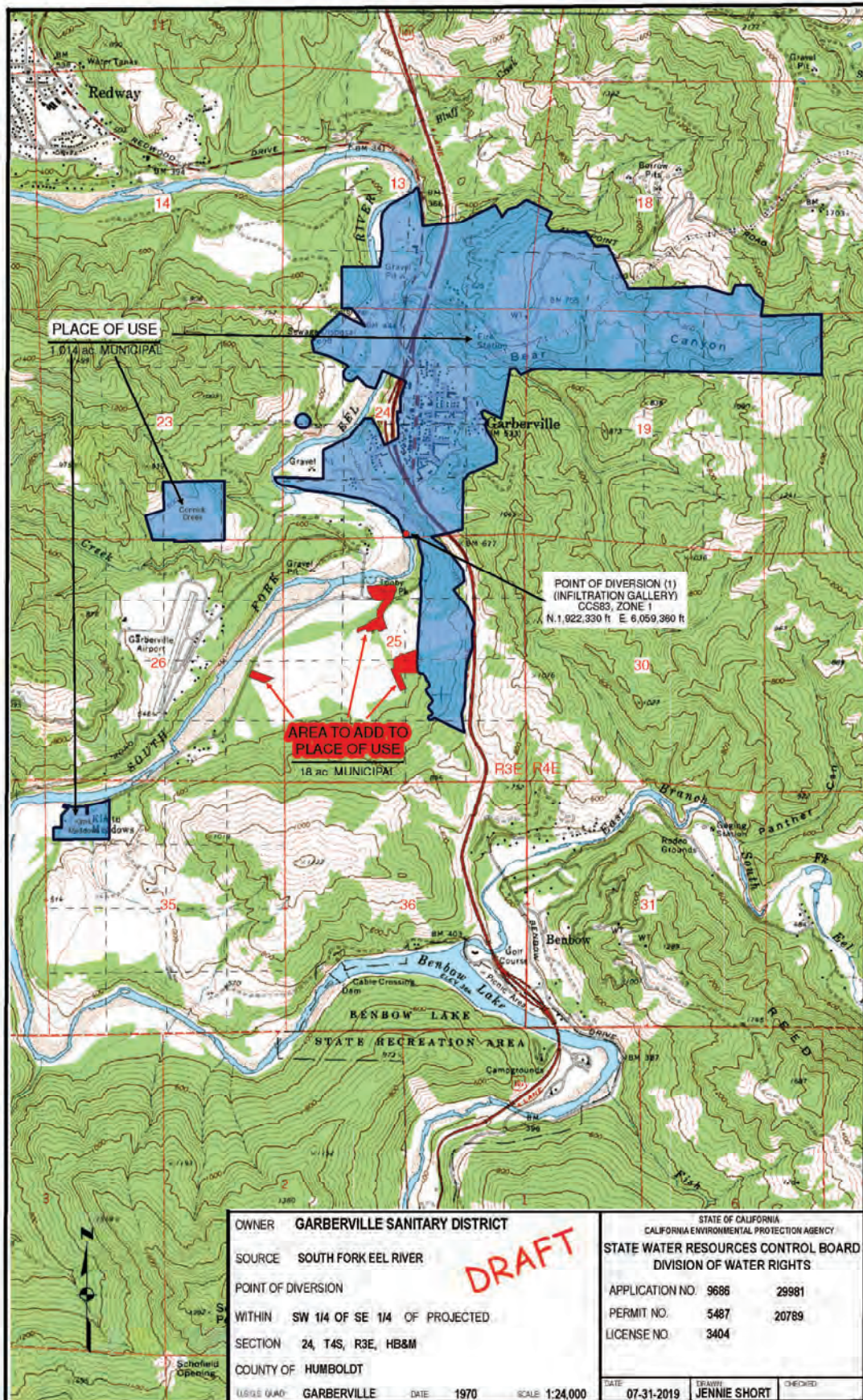


Figure 2 - Existing and Proposed Places of Use for Garberville SD Change Petitions



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 A

New Amended Water-Right License 3404



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

DIVISION OF WATER RIGHTS

**AMENDED LICENSE FOR DIVERSION
AND USE OF WATER**

APPLICATION 9686

PERMIT 5487

LICENSE 3404

Licensee: 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 licensee (right holder) in accordance with the limitations and conditions stated herein **SUBJECT TO PRIOR RIGHTS**. The priority of the right confirmed by this license dates from **July 31, 1939**.

This license (right) supersedes any previously issued permit or license on **Application 9686**.

This license confirms that right holder has an appropriate right for the diversion and use of water as follows:

1. Source of water: **South Fork Eel River**
tributary to: **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
North 1,922,330 feet and East 6,059,360 feet	SW ¼ of SE ¼	24	4S	3E	H

This place of use is shown on the attached map dated July 31, 2019.

5. The water appropriated under this right shall be limited to the quantity that 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 maximum amount of water diverted under this right and the right pursuant to Application 29981 shall not exceed **245.5 acre-feet per year**.
(0000005Q)
7. The maximum combined total rate of diversion under this right and the right pursuant to Application 29981 shall not exceed **0.75 cubic foot per second**.
(0000005S)
8. The equivalent of such continuous flow allowance for any 30-day period may be diverted in a shorter time provided there is no interference with other rights and instream beneficial uses and provided further that all terms or conditions protecting instream beneficial uses are observed.
(0000027)
9. Upon a judicial determination that the place of use for the right confirmed by this license or a portion thereof is entitled to the use of water by riparian right or pre-1914 appropriative right, the right so determined and the right confirmed by this license shall not result in a combined right to the use of water in excess of that which could be claimed under the larger of the two rights.
(0000021C)
10. No water shall be diverted or used under this right for commercial and applicable personal medical use cannabis cultivation unless the water right holder is in compliance with all applicable conditions, including the numeric and narrative instream flow requirements, of the current version of the State Water Board's *Cannabis Cultivation Policy – Principles and Guidelines for Cannabis Cultivation*.
(0000120)

11. The total amount of water right holder's deliveries to the Southern Humboldt Community Park under this right and the right pursuant to Application 29981 shall not exceed 3,000 cubic feet per month during two months of any 12-month period and shall not exceed 2,000 cubic feet per month during the remaining months of any such period. Right holder shall attach a table to each year's annual report of licensee that lists (in cubic feet) the amount of water right holder delivered to the Southern Humboldt Community Park during each month of the year covered by the annual report.
12. Right holder shall attach to each year's annual report of licensee a diagram of the water-conveyance infrastructure that conveys water diverted under this right within the Southern Humboldt Community Park and a map of the places within the park where such water is used, sufficient to demonstrate that no water diverted under this right and delivered to Southern Humboldt Community Park is used anywhere outside the authorized place of use specified in this license.

THIS LICENSE 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.) Civil liability may be imposed administratively by the State Water Board pursuant to Wat. Code, § 1055, or may be imposed by the superior court. The Attorney General, upon the request of the board, shall petition the superior court to impose, assess, and recover those sums. (Wat. Code, § 1846.)

(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 measure the amount of water beneficially used under this right using devices and/or methods satisfactory to the Deputy Director for Water Rights. In order to demonstrate compliance with the beneficial use monitoring requirements of this right, right holder shall provide evidence that the devices and/or methods are functioning properly, in a manner satisfactory to the Deputy Director of Water Rights, within thirty days of first use of the device and/or method, with the reports required by chapter 2.7, title 23, California Code of Regulations, and whenever requested by the Division of Water Rights.

(0000015)

E. Right holder shall comply with the reporting requirements as specified in the terms of this right or any reporting requirements by statute, order, policy, regulation, decision, judgment or probationary designation. The more stringent requirement shall control in each instance where there is conflict or inconsistency between the requirements.

Right holder shall comply with the reporting requirements of chapter 2.7, title 23, California Code of Regulations.

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 beneficial use under this right, and documentation of compliance with the terms and conditions of this right.

(0000010)

- F. 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)

- G. This right shall not be construed as conferring right of access to any lands or facilities not owned by right holder.

(0000022)

- H. 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)

- I. 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)

- J. 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.

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)

- K. Urban water suppliers shall 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. All Urban Retail Water Suppliers shall comply with the provisions of Division 6, Part 2.55 (commencing with Chapter 9, section 10609.20) and Part 2.6 (commencing with Chapter 3, section 10608.34) of the Water Code. An “urban retail water supplier” means a water supplier, either publicly or privately owned, that directly provides potable municipal water to more than 3,000 end users or that supplies more than 3,000 acre-feet of potable water annually at retail for municipal purposes.

Agricultural water users and suppliers shall comply with the provision of Division 6, Part 2.55 of the Water Code and the Agricultural Water Management Planning Act (Water Code, § 10800 et seq.). An “agricultural water supplier” means a supplier, either publicly or privately owned, providing water (excluding recycled water) to 10,000 or more irrigated acres, including a supplier or contractor for water, regardless of the basis of right, which distributes or sells for ultimate resale to customers.

(0000029D)

- L. 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.

(0000012)

M. 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)

N. 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 is 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).

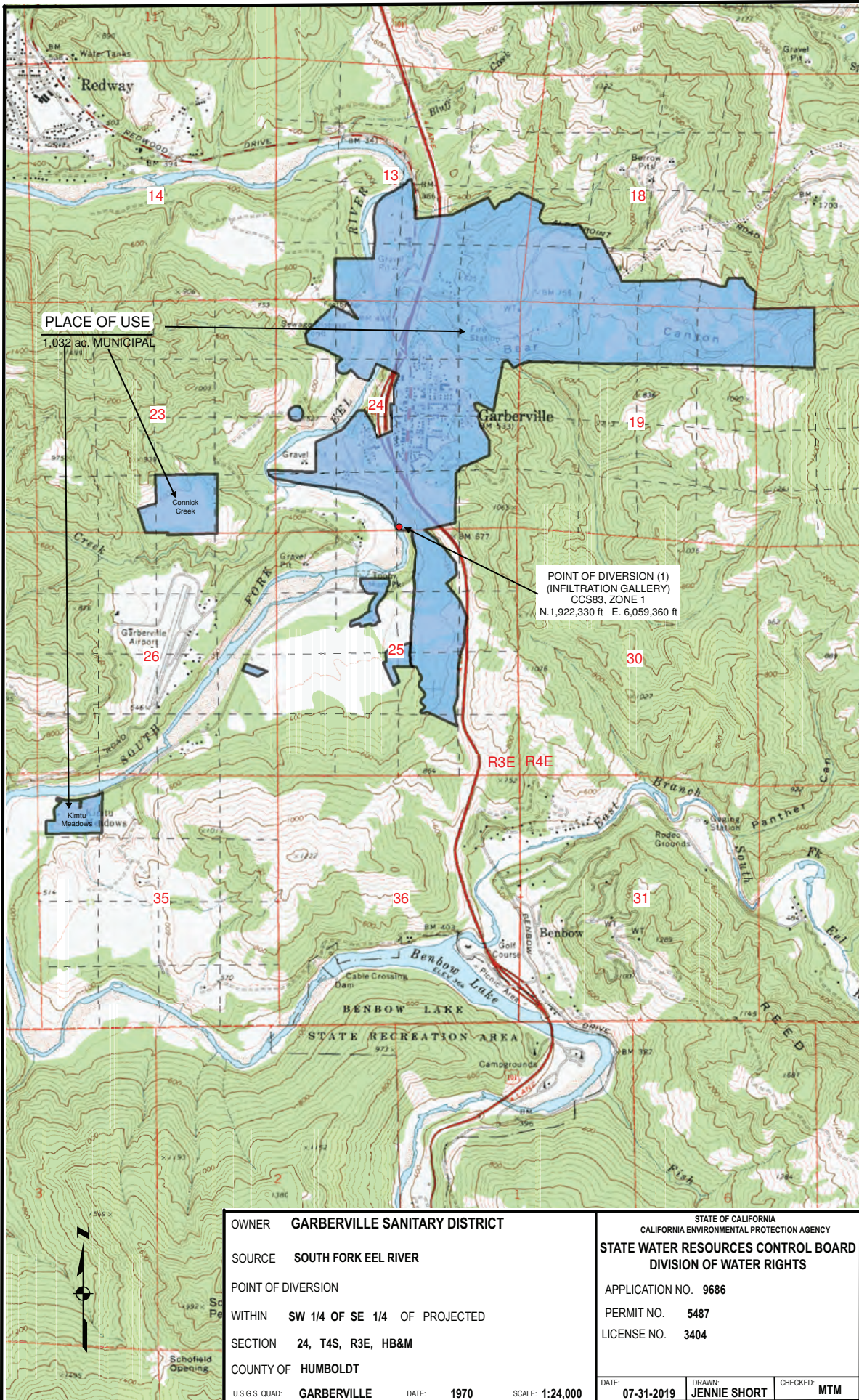
Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied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

*Erik Ekdahl, Deputy Director
Division of Water Rights*

Dated:



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

STATE OF CALIFORNIA CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY		
STATE WATER RESOURCES CONTROL BOARD DIVISION OF WATER RIGHTS		
APPLICATION NO.	9686	
PERMIT NO.	5487	
LICENSE NO.	3404	
DATE:	DRAWN:	CHECKED:
07-31-2019	JENNIE SHORT	MTM

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

New Amended Water-Right Permit 20789



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

DIVISION OF WATER RIGHTS

**AMENDED PERMIT TO
APPROPRIATE WATER**

APPLICATION 29981

PERMIT 20789

Permittee: 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 permittee (right holder) in accordance with the limitations and conditions herein **SUBJECT TO PRIOR RIGHTS**. The priority of this permit (right) dates from **July 22, 1991**.

This permit supersedes any previously issued permit on **Application 29981**.

Right holder is hereby authorized to appropriate water as follows:

1. Source of water: **South Fork Eel River**
tributary to: **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
North 1,922,330 feet and East 6,059,360 feet	SW ¼ of SE ¼	24	4S	3E	H

3. Purpose of use:	4. Place of use:
Municipal	Within the Garberville Sanitary District service area boundary within Sections 13, 23, 24, 25, 26 and 35, T4S, R3E, HB&M; and Sections 18, 19, and 20, T4S, R4E, HB&M; and portions of Sections 25 and 26 not within the existing Garberville Sanitary District services boundary as shown on map.

This place of use is shown on the attached map dated July 31, 2019.

5. The water appropriated under this right shall be limited to the quantity that 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.

(0000005A)

6. The maximum amount of water diverted under this right and License 3404 (Application 9686) shall not exceed **245.5 acre-feet per year**.

(0000005Q)

7. The maximum simultaneous rate of diversion under this right and License 3404 (Application 9686) shall not exceed **0.75 cubic foot per second**.

(0000005S)

8. The equivalent of such continuous flow allowance for any 30-day period may be diverted in a shorter time provided there is no interference with other rights and instream beneficial uses and provided further that all terms or conditions protecting instream beneficial uses are observed.

(0000027)

9. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 1999.

(0000009)

10. Upon a judicial determination that the place of use under this right or a portion thereof is entitled to the use of water by riparian right or pre-1914 appropriative right, the right so determined and the right acquired under this right shall not result in a combined right to the use of water in excess of that which could be claimed under the larger of the two rights.

(0000021C)

11. No water shall be diverted or used under this right for commercial and applicable personal medical use cannabis cultivation unless the water right holder is in compliance with all applicable conditions, including the numeric and narrative instream flow requirements, of the current version of the State Water Board's *Cannabis Cultivation Policy – Principles and Guidelines for Cannabis Cultivation*.
(0000120)

 12. The total amount of water right holder's deliveries to the Southern Humboldt Community Park under this right and the right pursuant to Application 9686 shall not exceed 3,000 cubic feet per month during two months of any 12-month period and shall not exceed 2,000 cubic feet per month during the remaining months of any such period. Right holder shall attach a table to each year's annual permittee progress report that lists (in cubic feet) the amount of water right holder delivered to the Southern Humboldt Community Park during each month of the year covered by the annual report.

 13. Right holder shall attach to each year's annual permittee progress report a diagram of the water-conveyance infrastructure that conveys water diverted under this right within the Southern Humboldt Community Park and a map of the places within the park where such water is used, sufficient to demonstrate that no water diverted under this right and delivered to Southern Humboldt Community Park is used anywhere outside the authorized place of use specified in this permit.
(0350900)
-

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.) Civil liability may be imposed administratively by the State Water Board pursuant to Wat. Code, § 1055, or may be imposed by the superior court. The Attorney General, upon the request of the board, shall petition the superior court to impose, assess, and recover those sums. (Wat. Code, § 1846.)

(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 measure the amount of water beneficially used under this right using devices and/or methods satisfactory to the Deputy Director for Water Rights. In order to demonstrate compliance with the beneficial use monitoring requirements of this right, right holder shall provide evidence that the devices

and/or methods are functioning properly, in a manner satisfactory to the Deputy Director of Water Rights, within thirty days of first use of the device and/or method, with the reports required by chapter 2.7, title 23, California Code of Regulations, and whenever requested by the Division of Water Rights.

(0000015)

- G. Right holder shall comply with the reporting requirements as specified in the terms of this right or any reporting requirements by statute, order, policy, regulation, decision, judgment or probationary designation. The more stringent requirement shall control in each instance where there is conflict or inconsistency between the requirements.

Right holder shall comply with the reporting requirements of chapter 2.7, title 23, California Code of Regulations.

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 beneficial use under this right, and documentation of compliance with the terms and conditions of this right.

(0000010)

- H. 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)

- I. This right shall not be construed as conferring right of access to any lands or facilities not owned by right holder.

(0000022)

- J. 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)

- K. 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)

- L. 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.

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)

- M. Urban water suppliers shall 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. All Urban Retail Water Suppliers shall also comply with the provisions in Water Code § 10609.20, §10609.22, and §10609.24. An “urban retail water supplier” means a water supplier, either publicly or privately owned, that directly provides potable municipal water to more than 3,000 end users or that supplies more than 3,000 acre-feet of potable water annually at retail for municipal purposes.

Agricultural water users and suppliers shall 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 10,000 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)

- N. 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)

- O. 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)

- P. 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.)

(0000014)

This right is issued, and right holder is subject to the following provisions of the Water Code:

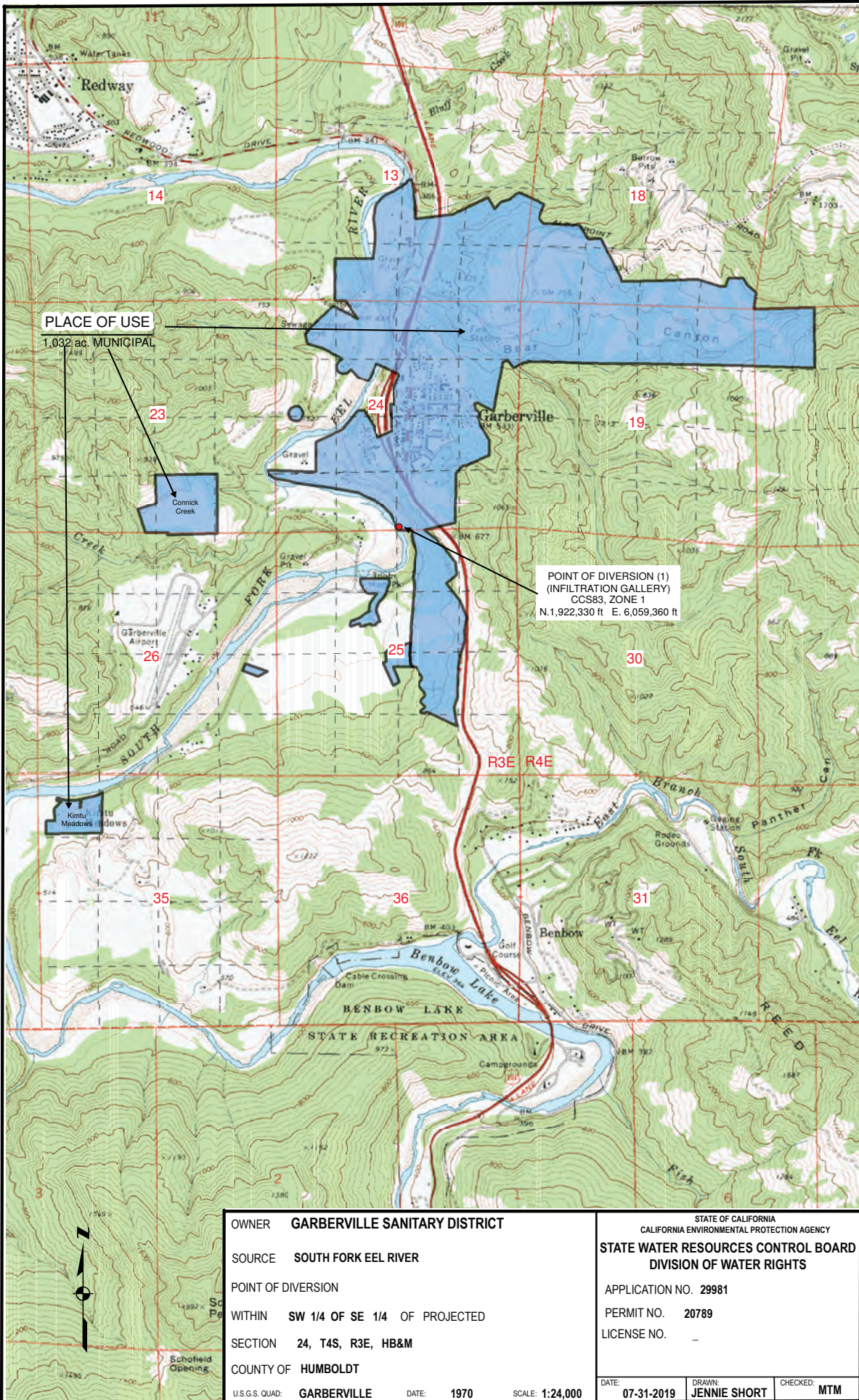
Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

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

*Erik Ekdahl, Deputy Director
Division of Water Rights*

Dated:



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

STATE OF CALIFORNIA CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY		
STATE WATER RESOURCES CONTROL BOARD DIVISION OF WATER RIGHTS		
APPLICATION NO. 29981		
PERMIT NO. 20789		
LICENSE NO. -		
DATE:	DRAWN:	CHECKED:
07-31-2019	JENNIE SHORT	MTM

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 C

Summaries of Parties' Other Arguments and Board's Responses

The parties' closing briefs to the AHO and their comments on the AHO's draft proposed order contain various arguments that are not discussed in the body of this order. The following paragraphs contain summaries of these arguments and the Board's responses.

1. In their closing briefs to the AHO, Redway CSD, Mr. Voice and Ms. Vogel argued to the AHO that, before Garberville SD provides potable-water service to Southern Humboldt CP, the district should annex the park to the district's service area. (7021-07-09 Redway CSD Closing Brief, p. 2; 7021-07-09 E. Voice Closing Brief²¹, p. 5; KV-3, pp. 2-3.)

Response: This was an issue for Humboldt LAFCo to decide. (See Gov. Code, § 56133.) Humboldt LAFCo's decision on this issue does not affect the State Water Board's analyses under the Water Code of Garberville SD's petitions to change License 3404 and Permit 20789.

2. Mr. Voice argued to the AHO that the amounts of potable water that Garberville SD delivers to Southern Humboldt CP may exceed the 2,000 and 3,000 cubic feet per month amounts in the 2019 CEQA Addendum, and could be as high as 679,000 gallons per year, unless the State Water Board includes appropriate terms in License 3404 and Permit 20789. (E. Voice Closing Brief, pp. 5-6.)

Response: We have addressed this issue with Term 11 in amended License 3404 and Term 12 in amended Permit 20789. (See section 3.2)

3. Mr. Voice and Ms. Sutton argued to the AHO that the CEQA process for Garberville SD's petitions to change License 3404 and Permit 20789 was "piecemealed,"

²¹ Mr. Voice submitted two documents labeled "closing brief". This order cites the version with the later date, with the filename "2021-07-09 E. Voice Final Final Closing Brief from AHO Hearing June 15, 2021".

confusing, incomplete and inadequate. (E. Voice Closing Brief, pp. 3-4; L. Sutton Closing Brief, p. 5.)

Response: Section 2.7 discusses Garberville SD's 2013 ID/MND, Humboldt County's 2016 EIR, and Humboldt LAFCo's 2019 CEQA Addendum. While this CEQA history is complicated, Garberville SD's 2013 IS/MND and Humboldt LAFCo's 2019 CEQA Addendum together satisfy the applicable CEQA requirements for Garberville SD's petitions to change License 3404 and Permit 20789. As a CEQA Responsible Agency, the State Water Board may use these CEQA documents for the Board's CEQA compliance for this order. (See CEQA Guidelines, § 15096, subd. (e) & (f).)

4. Redway CSD, Mr. Voice and Ms. Sutton made several other arguments to the AHO in their closing briefs.

Response: These other arguments concern issues that are not relevant to the Board's order on Garberville SD's petitions to change License 3404 and Permit 20789. We do not address these other arguments this order.

5. Garberville SD's comments on the AHO's draft proposed order include a graph of the annual diversions by the district and the Garberville Water Company and note that the annual diversions in many years exceeded the 10-year average of 168.23 af/yr and the 180.19 af/yr maximum for 2010-2020 that was discussed in footnote 18 in the draft proposed order. The district argues that the lower diversion amounts during 2010-2020 are the results of tank repairs, increased water rates and water conservation efforts, and that it is "quite misleading" for the order to refer to these numbers while ignoring the higher annual diversions that occurred before 2010. (2021-11-30 Garberville SD comments, p. 2.) Garberville SD requests that the State Water Board "move forward with converting our permit to a license with a total limit of 245.5 af/year." (*Id.*)

Response: The AHO deleted footnote 18 of the draft proposed order before preparing the proposed order it transmitted to the Board. After we adopt this order, Garberville SD may renew its request to the Division to process the district's request to license Permit 20789. During the licensing process, the district may present its data and arguments regarding the amounts of its historical diversions and the

amounts saved through water-conservation actions. We express no opinion in this order regarding what annual diversion limit should be specified in the new water-right license that will supersede this permit.

6. Redway CSD's comments on the AHO's draft proposed order raised concerns about "the organization structure and the transparency of the entity operating the [Southern Humboldt] CP as its Board of Directors. (2021-11-29 Redway CSD comments, p. 1.)

Response: These issues are not within the purview of the State Water Board

7. Redway CSD's comments on the AHO's draft proposed order expressed concerns that Southern Humboldt CP will "exceed the allocated volumetric usage" and "will not have regulatory practices in place, which are necessary to enforce volumetric limitations," and, as a result, Redway SCD's operations could be adversely affected. (*Id.*, pp. 1-2.)

Response: As discussed in section 3.2, term 11 of amended License 3404 and term 12 of amended Permit 20789 will limit the amounts of water Garberville SD may divert under this license and this permit and deliver to Southern Humboldt CP. These terms will require the district to include a table in each annual report it files with the Division that lists the amounts of monthly deliveries to the park. The district's representative that files each annual report will need to declare, under penalty of perjury, that the statements in the report are correct. If any report is not correct or shows any that the district's deliveries to Southern Humboldt CP exceeded any of the applicable delivery limits, then the Division may bring an appropriate enforcement action.

8. Ed Voice's comments on the AHO's draft proposed order state that Garberville SD's "change petition is built on the false premise that the Park had a historical water service connection with GSD." (2021-12-01 E. Voice comments, p. 1, ¶ 1.)

Response: This order does not contain any findings on this issue, and it is not necessary for us to address this issue in this order.

9. Mr. Voice's comments express concerns that the Southern Humboldt CP may use the potable water that Garberville SD delivers to the park throughout the park's 400

acres, and not just on the 18 acres within the park that will be added to the authorized places of use in License 3404 and Permit 20789. (*Id.*, pp. 1-2, ¶¶ 2-6.)

Response: The AHO added a new term 12 to amended License 3404 to address this issue. It states:

Right holder shall attach to each year's annual report of licensee a diagram of the water-conveyance infrastructure that conveys water diverted under this right within the Southern Humboldt Community Park and a map of the places within the park where such water is used, sufficient to demonstrate that no water diverted under this right and delivered to Southern Humboldt Community Park is used anywhere outside the authorized place of use specified in this license.

The AHO added a new term 13 to amended Permit 20789, which contains similar language. These new terms are appropriate to require Garberville SD to demonstrate that it and Southern Humboldt CP are complying with the place-of-use provisions of License 3404 and Permit 20789, especially considering the district's past violations of these provisions. (See sections 2.3 and 2.5.)

10. Mr. Voice's comments refer to some of his prior e-mails to the AHO and his closing brief, and assert that representatives Garberville SD and Southern Humboldt CP made misstatements, and that the State Water Board should address "perjury under sworn testimony." (*Id.*, p. 3, ¶ 9.)

Response: The AHO hearing officer reviewed Mr. Voice's arguments and assertions and concluded that they all concerned issues that the State Water Board does not need to resolve in this order. We agree with the AHO hearing officer's conclusion.

11. Kristen Vogel's comments on the AHO's draft proposed order assert that there has been considerable community opposition to proposed re-zoning of the Southern Humboldt CP that would have opened the park up to activities that would adversely affect nearby neighborhoods and the Town of Garberville. Her comments state concerns about "high decibel noise" and traffic and parking problems. (2021-12-01 K. Vogel comments, pp. 1-2.)

Response: The comments and policy statements in the administrative record indicate substantial support for the Board's granting Garberville SD's petitions to

change License 3404 and 20789, which support our conclusion that granting the petitions would be in the public interest. (See section 3.1.3.) We defer to the local agencies with regulatory authority over land-use and related issues to address the noise, traffic and parking issues raised by Ms. Vogel's comments.

12. Ms. Vogel's comments state the concern that Southern Humboldt CP may circulate water it receives from Garberville SD throughout the 400-acre park. (2021-12-01 K. Vogel comments, p. 2.)

Response: As discussed above, the AHO added a new term 12 to amended License 3404, and a new term 13 to amended Permit 20789, to address this issue.

13. Ms. Vogel's comments raise the issue of the employment relationship between Ms. Short and Garberville SD. (*Id.*, p. 2.)

Response: It is not necessary for this order to address this issue.

14. Ms. Sutton's comments on the AHO's draft proposed order state concerns about whether Garberville SD will comply with the limitations in License 3404 and Permit 20789 on the amounts of water Garberville SD may deliver to Southern Humboldt CP and on the places where the park may use this water. (2021-11-30 L. Sutton comments, pp. 1-2.)

Response: As discussed above, term 11 of amended License 3404 and term 12 of amended Permit 20789 specify the maximum amounts of water diverted under this license and this permit that Garberville SD may deliver to Southern Humboldt CP, and term 12 of amended License 3404 and term 13 of amended Permit 20789 address the place-of-use issue.

15. Ms. Sutton's comments also raise concerns about the potential impacts on Redway CSD.

Response: Those potential impacts are discussed in section 3.1.1.

**2022 Annual
Water Source Capacity Analysis**

Attachment 3

Will Serve Letters with Layout

SHCHD - Hospital

SHCHD - Hostelry



GARBERVILLE SANITARY DISTRICT

P.O. BOX 211 • GARBERVILLE, CA 95542 • (707) 923-9566

July 19, 2022

Southern Humboldt Community Health District
Attn: Kent Scown
733 Cedar Street
Garberville, CA 95542

SUBJECT: Conditional Water and Sewer Will Serve Commitment for Proposed Development of Garberville Hospital and Medical Office Building Project
286 Sprowel Creek Road, Garberville

Dear Mr. Scown;

The Garberville Sanitary District ("District") is in receipt of the Southern Humboldt Community Healthcare District's ("Developer") Updated Preliminary Water and Wastewater Useage Estimates for the conceptual hospital and medical office building behind the old Garberville School at 286 Sprowel Creek Road, Garberville, CA (the "Project"). This project location is within the GSD jurisdictional boundary and Place of Use and we can supply both water and sewer service to this location subject to the conditions listed in this letter, which include significant off-site improvements to our sewer infrastructure.

We understand that the SHCHD has completed only a plausible design at this point and is working towards selecting an architect to complete the detailed design for the facility. Our commitment in this letter is based upon the following general understanding of the anticipated components of this project:

1. A 28,100 square-foot 15 bed hospital for SWING program patients with ER/trauma treatment, outpatient lab, radiology (Ultrasound/Fluoroscopy/CT Scan), and Kitchen/Dining/Vending/Staff Break area.
2. A 10,200 square-foot medical office building with clinic, physical therapy, and a trailer hookup for MRI service a few days each month.
3. The existing building will be remodeled to contain offices, a retail pharmacy, meeting rooms, counseling/service programs and the existing theater will remain.

Should these change significantly, the District will need to review updated demand calculations and modification of the resulting Equivalent Residential Units and associated connection fees.

CONDITIONS OF COMMITMENT

Project Specific Conditions:

1. The existing infrastructure for sewage collection in Sprowel Creek Road and Sunnybank Lane as well as the pump station at Sunnybank Lane are not sufficient to service the proposed development. The Developer will be responsible for all design, construction and inspection costs associated with both on-site and off-site improvements necessary to increase the District's collection and pumping capacity to provide service to this project in addition to existing flows.
2. All on-site and off-site improvements must be analyzed and evaluated within the Developer's CEQA documents for the Project.

Standard Conditions:

3. All rights, privileges, and conditions of this Commitment are made to the Developer for this specific Development and may not be transferred or assigned to any other person, firm or entity, or for any other purpose without the District's written consent. The District reserves the right to impose further requirements, which it deems appropriate.
4. This letter and any representations or assurances made herein, shall expire and be null and void at the sooner to occur of either twenty-four (24) months from the date hereof if water and/or sewer service has not been installed to the Development or upon the termination or expiration of any building permit issued to the Developer for construction of improvements on the real property which is the subject of the Commitment. The Developer and the Development shall not be entitled to any individual water and/or sewer service connections not installed prior to expiration of this letter. Upon expiration of the Commitment, the Developer must submit a request for a new Commitment to the District for review and approval.
5. At any time prior to connection to the existing water system, and upon a finding by the Board of Directors of the District that it is unable to serve the Development for reasons beyond District's control, this letter may be revoked by the District.
6. The District can provide safe and reliable water service to Development, and fully expects to be able to continue providing safe and reliable water service into the future. In relying upon this letter and District's ability to provide water service to the Development, Developer is aware of the restrictions and limitations contained in this letter and the reliance of District upon its wells and surface water from the SF Eel River under the District' License and Permit to Divert Water for municipal water purposes, both of which are subject to restriction.
7. By issuing this letter, the District does not guarantee any specific quantities or quality of water, pressures or flows with respect to water service provided by the District.
8. This Will-Serve letter does not imply that that any required California Environmental Quality Act (CEQA) analysis of project-related utility impacts has been conducted.
9. The provision of water or sewer service to the Development is conditioned upon the Developer meeting all requirements of any other governmental entity having jurisdiction over the Development.
10. Developer, for itself and on behalf of its successors, agrees to defend at Developer's expense, any action brought against District, its agents, officers or employees because of the issuance of this letter or any approvals or authorizations obtained in connection with the Development, or in the alternative, to relinquish any such approvals or authorizations. Developer shall reimburse District for any costs, fees or expenses District may incur as a

result of any such legal action. Further, Developer agrees that in conducting the defense of such action, District shall be entitled to engage its own attorneys, the entire expense of which shall be paid by Developer.

11. The Developer shall construct, at no cost to the District, any and all on-site and/or off-site potable water and sewer facilities ("Facilities") needed to provide service to the Property, as determined by the District, in its sole and absolute discretion, so that District may establish and maintain its ability to meet the water and sewer demands of the Property.
12. Prior to the construction of the Facilities or alteration to the District's existing facilities, the Developer shall prepare and submit to the District, detailed construction plans and specifications for the Facilities and extensions and modifications to the District's existing facilities in full and complete accordance with District's design criteria and standards. Fire flow requirements shall be determined by the regulatory agency with applicable jurisdiction (e.g., Garberville Volunteer Fire Department or State Fire Marshal). The size and scope of any facilities required to deliver adequate fire flow will be confirmed by the District based upon design prepared by Developer's Engineer.
13. No alteration of the District's existing facilities shall take place until the District has approved the plans.
14. In the event District disapproves the plans and specifications, the Developer shall modify the plans and specifications in accordance with the reasons given for disapproval and shall within sixty (60) days after disapproval by District submit the revised construction plans and specifications to District for approval or disapproval. The foregoing procedure shall be continued until the construction plans and specifications have been approved by District. District may approve or disapprove the Developer's planning and design work and/or plans and specifications, in District's sole discretion.
15. District shall have the right, in District's sole determination and at any time and at the Developer's cost and expense, to procure consulting engineering services to verify the ability of the existing water and sewer systems to meet the demands of the Project. The cost of such services shall be reimbursed by the Developer prior to the District's sign off on a Certificate of Occupancy.
16. Any insurance maintained by the Developer and/or any contractor of the Developer to construct the Facilities shall (a) name District, its officers and agents as additional insureds, (b) apply severally to the Developer and District, its officers, employees and agents; (c) cover the Developer and District as insureds in the same manner as if separate policies had been issued to each of them, (d) contain no provisions affecting the rights, which either of them would have as claimants if not so named as insureds; and (e) be primary insurance with any other valid and collectible insurance available to the aforesaid additional insureds constituting excess insurance.
17. As part of the approval of the construction plans as stipulated above, the Developer shall, at its sole cost and expense, prepare and duly executed by the property Developer(s) the easements, rights of way, exhibits and any other instruments required to assure the District's unequivocal right to own, operate, maintain, replace, repair, enlarge, reconstruct, remove and improve the Facilities which the District shall own after they are constructed. The Developer shall ensure that all deeds of trust and mortgages are subordinated to the easements set forth in this Section.

Equivalent Residential Units and Connection Fees:

18. The Developer shall pay to the District Water and/or Sewer Connection Fees as determined by the District in accordance with the District's Connection Fee rates in effect at the time water and/or sewer service is scheduled to commence to the Project. Charges for

residential, industrial, commercial and professional office development shall be based on ultimate tenant improvements. Resolution 20-007 Attachment #2 (attached) contains the District's Wastewater Equivalent Residential Unit Determination table. Alternative calculation methodology may be submitted, but must be compared with the resulting calculations from this table.

19. Based upon the information provided by LACO Associated, the District has determined that this project will generate sewage equivalent to **23 ERUs**.
20. The District has determined that the credit for the existing school building is **5 ERUs**. This results in a net increase of **18 ERUs**.
21. The connection fees for the project are currently estimated at **\$288,000** based upon 18 ERUs. Should the scope of the project change, these fees would also change.
22. Receipt of all applicable fees are due and payable prior to issuance of the County Building Permit for the Project and the initiation of water and/or sewer service pursuant to this Commitment.
23. The Developer must pay one water and one sewer connection fee totaling **\$16,000** and provide a **\$2,500 deposit** for reimbursable expenses associated with plan review and project processing to the District at the time of acceptance of this letter.

If you concur with the terms and conditions contained herein, please sign the acceptance statement below and return to the District with the required payment to validate the Commitment by the District. If you have any questions regarding the calculations of the ERUs and connection fees, don't hesitate to contact Jennie Short by phone at (707)223-4567 or email at jmshort@garbervillesd.org.

Sincerely,



Doug Bryan, Chair
GSD Board of Directors

Enclosure: Resolution 20-007 Attachment #2 - Wastewater Equivalent Residential Unit Determination table

AGREED AND ACCEPTED BY DEVELOPER:

Southern Humboldt Community Health District

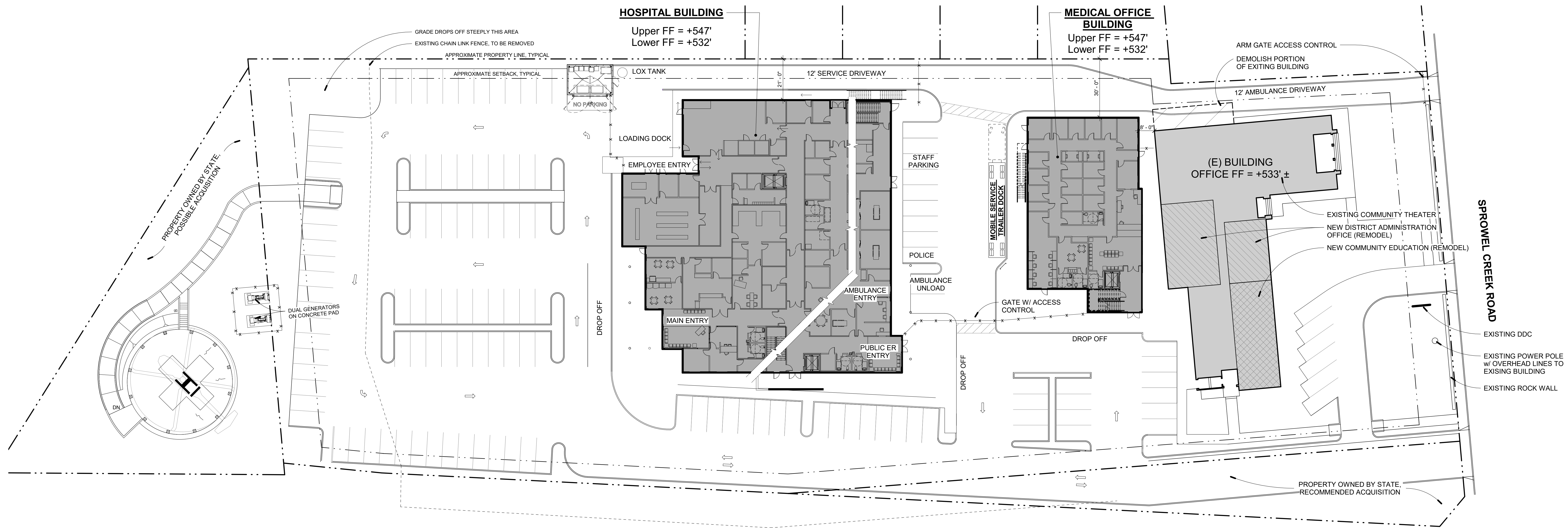
Signature _____

Name _____

Position _____

Date _____

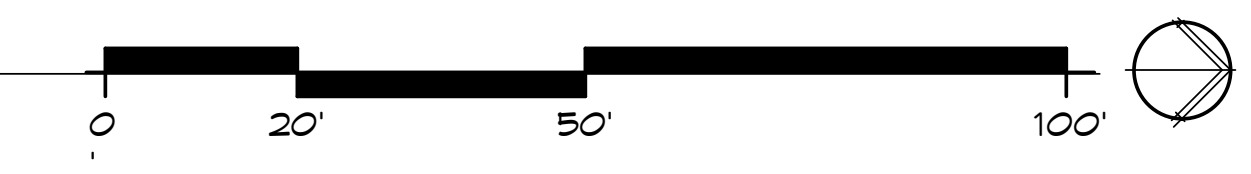
Attach acceptable documentation for authority to bind DEVELOPER (i.e., Resolution, Minutes of Board Meeting, etc.)



NOTE:
 100± STANDARD PARKING SPACES
 6 ACCESSIBLE PARKING SPACES
 2 AMBULANCE UNLOADING PARKING SPACES

CONCEPTUAL MATERIALS:
 ROOF: CLASS "A" FIRE RESISTIVE SBS WITH GRANULATED CAP SHEET (BUILT UP ROOF) OR SINGLE PLY MEMBRANE ROOF
 EXTERIOR WALLS: CEMENT PLASTER, METAL PANELS, OR WOOD OVER FIRE RATED GYPSUM BOARD WITH TEMPERED GLAZING TO MEET WILDLAND FIRE INTERFACE REQUIREMENTS AND ONE-HOUR FIRE RESISTANCE RATING.

SITE PLAN
 1" = 20'-0"



NEW HOSPITAL & MEDICAL OFFICE BUILDING

286 SPROWEL CREEK ROAD

GARBERVILLE, CALIFORNIA

CONCEPTUAL SITE



OCTOBER 20, 2020



GARBERVILLE SANITARY DISTRICT

P.O. BOX 211 • GARBERVILLE, CA 95542 • (707) 923-9566

August 23, 2022

Planning Clerk - Attn: Jacob Dunn
County of Humboldt Planning and Building Department
3015 H Street
Eureka, CA 95501

Email: PlanningClerk@co.humboldt.ca.us

SUBJECT: Conditional Water and Sewer Will Serve Commitment for Proposed Development of Provisional Healthcare Worker Hostelry Project
291 Sprowel Creek Road, Garberville
APN: 032-063-006-000
County APPS#: PLN-2022-17878

Dear Mr. Dunn;

The Garberville Sanitary District ("District") is in receipt of the Southern Humboldt Community Healthcare District's ("Developer") planning project referral documents from Humboldt County Building and Planning for the development of a Provisional Healthcare Worker Hostelry at 291 Sprowel Creek Road, Garberville, CA (the "Project"). This project location is within the GSD jurisdictional boundary and Place of Use and we can supply both water and sewer service to this location subject to the conditions listed in this letter.

The documents received from the County only included an overall site plan which is labeled sheet 1 of 7. The rest of the architectural sheets were not supplied. The plans do not include the level of detail that would normally accompany a building permit as this is a planning application, so GSD's review of this project is preliminary based upon this general information. Our commitment in this letter is based upon the following general understanding of the anticipated components of this project:

1. A 3,168 square-foot 12-room 5 ½-bathroom hostelry with a common cooking area that will be utilized by the healthcare workers employed with the SHCHD.
2. A 484 square-foot 1-bedroom apartment.
3. The existing 840 square-foot building will continue to be utilized as SHCHD office space, and will not be remodeled to include any increase in occupancy or uses.

Should these change significantly, the District will need to review updated demand calculations and modification of the resulting Equivalent Residential Units and associated connection fees.

CONDITIONS OF COMMITMENT

Project Specific Conditions:

1. The new **Hostelry** and Apartment building will need a single new and separate sewer service lateral and water meter, with all on-site infrastructure need to be constructed as part of the development of the project. GSD will supervise the final connection in Sprowel Creek Road to the existing water and sewer lines.

Standard Conditions:

2. All rights, privileges, and conditions of this Commitment are made to the Developer for this specific Development and may not be transferred or assigned to any other person, firm or entity, or for any other purpose without the District's written consent. The District reserves the right to impose further requirements, which it deems appropriate.
3. This letter and any representations or assurances made herein, shall expire and be null and void at the sooner to occur of either twenty-four (24) months from the date hereof if water and/or sewer service has not been installed to the Development or upon the termination or expiration of any building permit issued to the Developer for construction of improvements on the real property which is the subject of the Commitment. The Developer and the Development shall not be entitled to any individual water and/or sewer service connections not installed prior to expiration of this letter. Upon expiration of the Commitment, the Developer must submit a request for a new Commitment to the District for review and approval.
4. At any time prior to connection to the existing water system, and upon a finding by the Board of Directors of the District that it is unable to serve the Development for reasons beyond District's control, this letter may be revoked by the District.
5. The District can provide safe and reliable water service to Development, and fully expects to be able to continue providing safe and reliable water service into the future. In relying upon this letter and District's ability to provide water service to the Development, Developer is aware of the restrictions and limitations contained in this letter and the reliance of District upon its wells and surface water from the SF Eel River under the District' License and Permit to Divert Water for municipal water purposes, both of which are subject to restriction.
6. By issuing this letter, the District does not guarantee any specific quantities or quality of water, pressures or flows with respect to water service provided by the District.
7. This Will-Serve letter does not imply that that any required California Environmental Quality Act (CEQA) analysis of project-related utility impacts has been conducted.
8. The provision of water or sewer service to the Development is conditioned upon the Developer meeting all requirements of any other governmental entity having jurisdiction over the Development.
9. Developer, for itself and on behalf of its successors, agrees to defend at Developer's expense, any action brought against District, its agents, officers or employees because of the issuance of this letter or any approvals or authorizations obtained in connection with the Development, or in the alternative, to relinquish any such approvals or authorizations. Developer shall reimburse District for any costs, fees or expenses District may incur as a result of any such legal action. Further, Developer agrees that in conducting the defense of such action, District shall be entitled to engage its own attorneys, the entire expense of which shall be paid by Developer.

10. District shall have the right, in District's sole determination and at any time and at the Developer's cost and expense, to procure consulting engineering services to verify the ability of the existing water and sewer systems to meet the demands of the Project. The cost of such services shall be reimbursed by the Developer prior to the District's sign off on a Certificate of Occupancy.
11. As part of the approval of the project, the Developer shall, at its sole cost and expense, prepare and duly executed by the property Developer(s) the easements, rights of way, exhibits and any other instruments required to assure the District's unequivocal right to own, operate, maintain, replace, repair, enlarge, reconstruct, remove and improve the Facilities which the District shall own after they are constructed. The Developer shall ensure that all deeds of trust and mortgages are subordinated to the easements set forth in this Section.

Equivalent Residential Units and Connection Fees:

12. The Developer shall pay to the District Water and/or Sewer Connection Fees as determined by the District in accordance with the District's Connection Fee rates in effect at the time water and/or sewer service is scheduled to commence to the Project. Charges for residential, industrial, commercial and professional office development shall be based on ultimate tenant improvements. Resolution 20-007 Attachment #2 (attached) contains the District's Wastewater Equivalent Residential Unit Determination table. Alternative calculation methodology may be submitted, but must be compared with the resulting calculations from this table.
13. Based upon the information provided on the plot plan, the District has determined that this project will generate sewage equivalent to **9.00 ERUs**.

Project Element	ERU Calculation Method	Element's Quantity	ERU for Element
Hostel Rooms without cooking facilities	0.600/Room	12	7.20
Apartment	0.800/Individual Living Unit	1	0.80
Office Space	1.00 for First 1,000 Sq Ft 0.500/Each addit. 1,000 sq. ft.	840 sq ft	1.00
		Total:	9.00

14. The District has determined that the credit for the existing office building is **1 ERUs**. This results in a net increase of **8 ERUs**.
15. The connection fees for the project are currently estimated at **\$128,000** based upon **8 ERUs**. Should the scope of the project change, these fees would also change.
16. Receipt of all applicable fees are due and payable prior to issuance of the County Building Permit for the Project and the initiation of water and/or sewer service pursuant to this Commitment.

If there are any questions regarding the calculations of the ERUs and connection fees, don't hesitate to contact Jennie Short by phone at (707)223-4567 or email at jmshort@garbervillesd.org .

Sincerely,

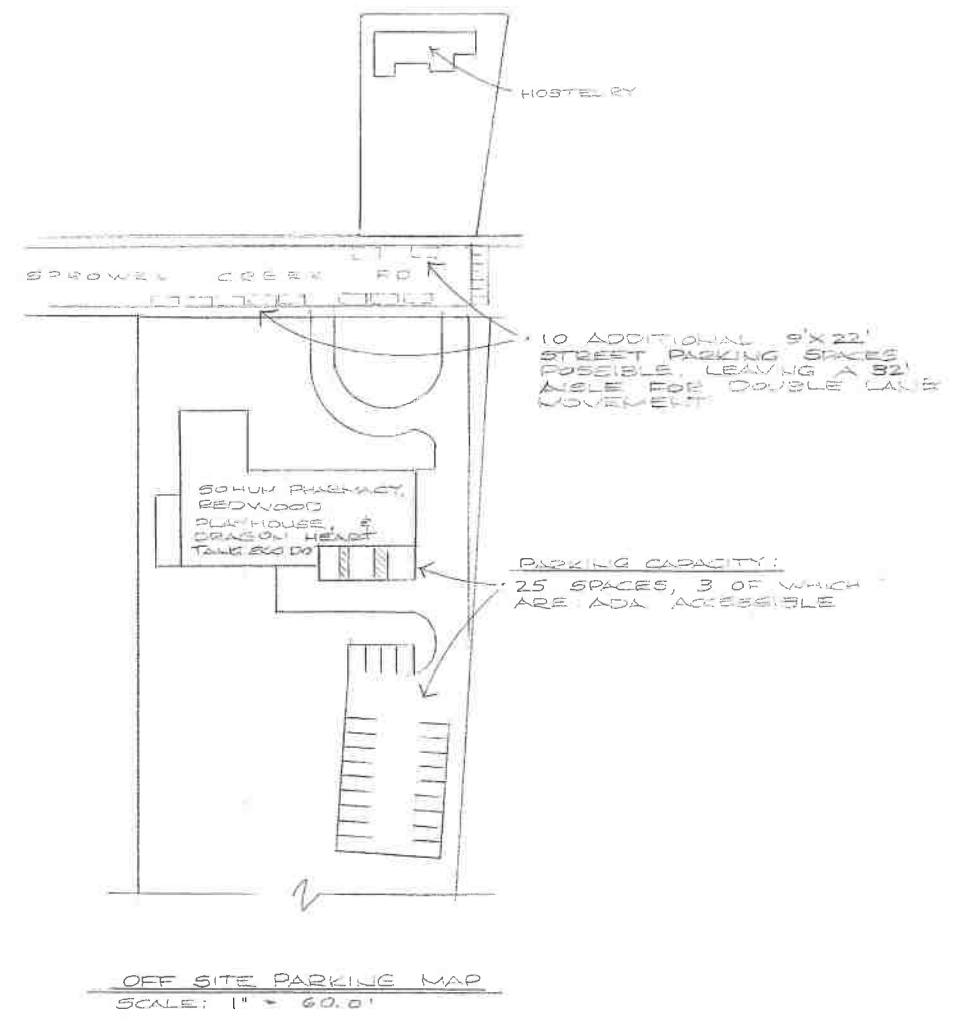
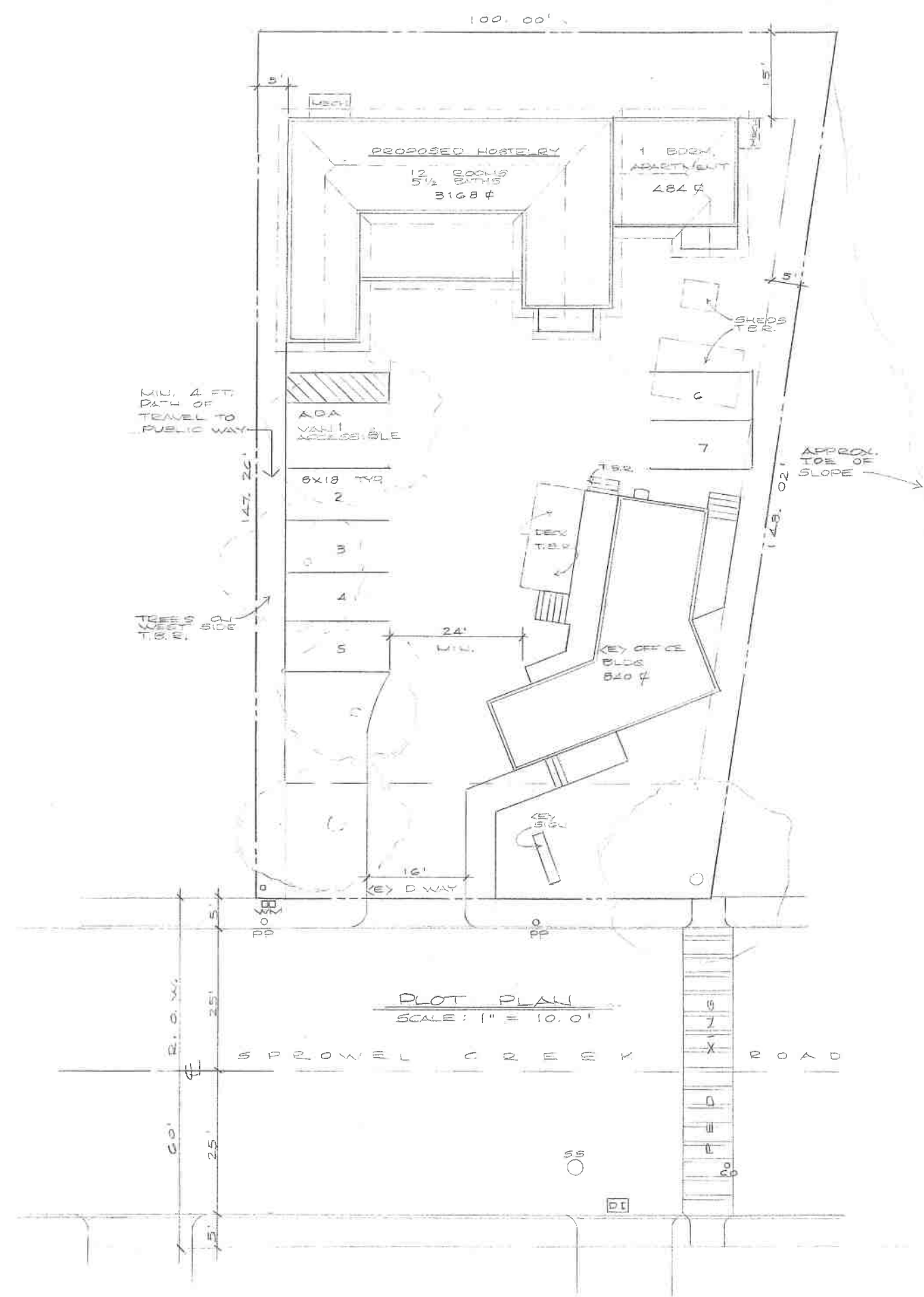


Doug Bryan, Chair
GSD Board of Directors

jms

Enclosure: Resolution 20-007 Attachment #2 - Wastewater Equivalent Residential Unit
Determination table

Cc: Southern Humboldt Community Health District
733 Cedar Street
Garberville, CA 95542



PROJECT LOCATION:
291 SPOWEL CREEK RD
GARBERVILLE
AP # 082.063.006

PROVISIONAL HEALTHCARE WORKER HOSTELRY		SHEET 1 OF 7
SOHUN COMMUNITY HEALTHCARE DIST. KENT SCOWIN 707.223.1959 733 CEDAR ST. GARBERVILLE CA 95542		
PLOT PLAN		
DATE: 4/22 DRAWN: CLARE FREEMAN 707.725.6416 clarefreeman@gn@gms1.com		

**2022 Annual
Water Source Capacity Analysis**

Attachment 4

**Capital Improvement Projects
Summary Documents from this year**

Robertson Tank Compliance Order

Robertson/Wallan/Hurlbutt Tank Replacement Project

**Robertson Tank
Compliance Order**

February 25, 2022 Letter to Klamath District Engineer



GARBERVILLE SANITARY DISTRICT

P.O. BOX 211 • GARBERVILLE, CA 95542 • (707) 923-9566

September 9, 2021

State Water Resources Control Board
Division of Drinking Water
Klamath District 01, Field Operations Branch
Attn: Barry Sutter, PE, Klamath District Engineer
364 Knollcrest Drive, Suite 101
Redding, CA 96002

SUBJECT: ROBERTSON TANK: STATUS OF REPLACEMENT - REPORT OF
ADDITIONAL DAMAGE - ACTIONS TAKEN AND UNDERWAY
COMPLIANCE ORDER NO. 01_01_20(R)_004
VIOLATION OF THE CALIFORNIA WATERWORKS STANDARDS
PUBLIC WATER SYSTEM #1210008

Dear Mr. Sutter;

The Garberville Sanitary District regrets to inform you that additional damage has been observed at the Robertson Tank. On or about August 26th, 2021, while performing the required weekly inspections, District Operations Staff found that a section of the tank near the intersection of the concrete wall with the ground to have been dislodged, likely due to seismic activity. Further inspection found that a crack around the circumference of the tank is also evident. The following photos show the section that is dislodged, the rebar that is now showing and exposed to the air which will result in oxidation and potential breakage, and the water that pools on the ground.





In addition to this letter, I am emailing you video footage showing the magnitude of the leak caused by this additional degradation of the Robertson Tank. GSD is currently in drought tier 1 (SF Eel River is just above 7 cfs) and the river cannot afford to have this quantity of water being pumped out of the river, being treated and distributed to this tank, and then leaking out on the ground.

Hence, Operations Staff has notified the customers served off this tank and has lowered the “tank full” floats to a level that is just below this crack. This effectively decreases the storage capacity of this tank by a little over half. The District is already deficient in water storage and this decrease places us below the storage capacity allowed by the Water Works Standards.

This decrease in capacity has also lowered the service pressure at the highest elevation this tank serves to a level that is unacceptable, from a customer service standpoint. We can still maintain the required minimum 20 psi, but the volume and pressure of the water at that house is undesirable. The District has contacted two contractors to get prices and timelines for installation of an emergency pressure reducer and associated piping to switch the service of these residences from the Robertson Tank to the Alderpoint Tank line. As we have more information on the viability and affordability of this option, we will notify you.

The District has completed everything necessary for the funding of the Robertson/Hurlbutt/Wallan Tank Replacement Project Safe Drinking Water Safe Revolving Fund application for Planning Phase funding. It is my understanding from Alejandra Nunez of SWRCB DFA that the project has been approved for funding and is waiting for the preparation of the Funding Agreement. The District is ready to move forward with this project in the most accelerated manner possible, but can't afford to begin until funding has been acquired.

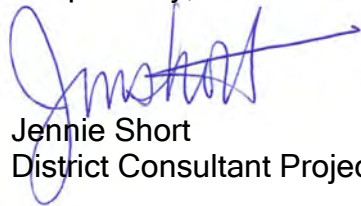
As we have discussed in the past, a PRV may be the optimal final solution for the Robertson Tank site in the replacement project if it is possible to combine the replacement of the Robertson Tank and the Hurlbutt Tank into a single larger storage

tank. I have been coordinating with Scott Gilbreath and Alejandra Nunez on the historical documents already approved by SWRCB-DDW for the construction of a 1-million-gallon tank at the Upper Hurlbutt site. I am hopeful that if the emergency PRV assembly is incorporated into the final design that it will be eligible for SRF funding and that the District will only have to “front” this expense until reimbursement for construction related expenses begins.

If there is anything you can do to help facilitate a quicker preparation of the funding agreement so that we can complete analysis, design, and environmental review of this project and move on to construction, the District would really appreciate it.

If you have any questions regarding the capital construction project, don't hesitate to contact me by phone at (707)223-4567 or email at jmshort@garbervillesd.org . If you have questions or information regarding the operations of the Robertson Tank, please contact our Senior Operator, Dan Arreguin by phone at (707)223-4569 or email at ops@garbervillesd.org.

Respectfully,



Jennie Short
District Consultant Project Manager

Cc via email:

Ralph Emerson, District General Manager
Russ Gans, District Counsel
Scott Gilbreath, SWRCB-DDW Water Engineer
Alejandra Nunez, SWRCB-DFA Water Engineer



GARBERVILLE SANITARY DISTRICT

P.O. BOX 211 • GARBERVILLE, CA 95542 • (707) 923-9566

February 25, 2022

State Water Resources Control Board
Division of Drinking Water
Klamath District 01, Field Operations Branch
Attn: Barry Sutter, PE, Klamath District Engineer
364 Knollcrest Drive, Suite 101
Redding, CA 96002

SUBJECT: ROBERTSON TANK: PRV INSTALLED & TANK OFFLINE
COMPLIANCE ORDER NO. 01_01_20(R)_004
VIOLATION OF THE CALIFORNIA WATERWORKS STANDARDS
PUBLIC WATER SYSTEM #1210008

Dear Mr. Sutter;

The Garberville Sanitary District is pleased to inform you that the District has completed the work necessary to meet the requirements in Directive 3 of the Compliance Order with the installation of an emergency pressure reducer and associated piping to switch the service of the residences on Arthur Road from the Robertson Tank to the Alderpoint Tank line this week. The vault and associated lid remain to be constructed, but all the piping, valving and associated appurtenance (see construction photo below) are complete.

As we have discussed in the past, the PRV may be the optimal final solution for the Robertson Tank site in the replacement project if it is possible to combine the replacement of the Robertson Tank and the Hurlbutt Tank into a single larger storage tank. I am hopeful that if the emergency PRV assembly is incorporated into the final design that it will be eligible for SRF funding and that the District will only have to "front" this expense until reimbursement for construction related expenses begins.

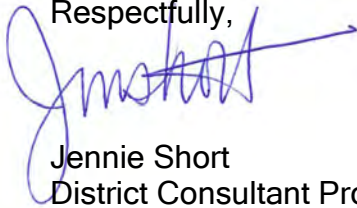
In addition, the District has executed the funding agreement for the planning phase of the Robertson/Hurlbutt/Wallan Tank Replacement Project.



The District is ready to move forward with this project in the most accelerated manner possible, and is working on acquiring a consulting firm to provide the planning, surveying, geotechnical, engineering, and environmental services for the project.

If you have any questions regarding the capital construction project, don't hesitate to contact me by phone at (707)223-4567 or email at jmshort@garbervillesd.org. If you have questions or information regarding the operations of the Robertson Tank or the installation of the PRV, please contact our Senior Operator, Dan Arreguin by phone at (707)223-4569 or email at ops@garbervillesd.org.

Respectfully,



Jennie Short
District Consultant Project Manager

Cc via email:

Ralph Emerson, District General Manager
Russ Gans, District Counsel
Scott Gilbreath, SWRCB-DDW Water Engineer

**Robertson/Wallan/Hurlbutt
Tank Replacement Project**

Planning Project Tracking Sheet

Cover Page for Prop 68 Planning Grant

Cover Page for Small Community Drought Relief Grant

Robertson/Wallan/Hurlbutt Tank Replacement Project Tracking Report

DFA FA Item	SHN Task # Description	DFA Funding Agreement \$	Reimb. Amount \$	DWR Funding Agreement \$	SHN Contract \$	SHN Billed \$	Points West Contract	Estimated Completion Date	Completion Status *	Comments
1	Project Evaluation, Alternative Analysis and Pre-design 1 Data Collection & System Evaluation 5 Draft PER Deliver: Draft Preliminary Engineering Report	35,000	30,037	60,000						
					28,000	27,983			C	
					125,500	98,453		03/31/23	C	Submitted 04/04/23
2	Surveying and Geotechnical Investigation 3 Survey 4 Geotechnical Investigation and Geologic Hazards Evaluation Deliver: Geotechnical Report	20,000	1,133	40,000	4,500	1,820	53,000	07/31/23	U	Field, Robertson, Wallan, Arthur PS Complete
		15,000		42,000	60,000	1,288		07/31/23	U	Prep for geotech
3	Final Preliminary Engineering Report 5 Final PER portion of Task 5 6 30% Plans Deliver: Final Preliminary Engineering Report Preliminary Design	55,000								
					35,000	0		05/31/23		Waiting for comments
					118,500	69,279		06/30/23	U	
4	Environmental Documents (CEQA) 2 Special Studies - Wetlands, Biological, Botany, Cultural Resources 7 CEQA Document + NOD Permitting Deliver: Draft Environmental Documents Final Environmental Documents	60,000	24,997	63,000	53,250	38,250		10/31/22	U	Some portions of the project are complete.
		20,000		45,000	50,000	218		01/31/24		
								01/31/24		
								02/28/24		
5	Plans & Specifications Deliver: Draft Plans, Specifications & Bid Documents (60%) Final Plans, Specifications & Bid Documents (100%)	70,000		220,000						Not under contract yet
								10/31/23		
								01/31/24		
6	Technical, Managerial and Financial Deliver: Draft TMF Assessment form & supporting documentation Final TMF Assessment form & supporting documentation	20,000								
								10/31/23		
								12/31/23		

Robertson/Wallan/Hurlbutt Tank Replacement Project Tracking Report

DFA FA Item	SHN Task # Description	DFA Funding Agreement \$	Reimb. Amount \$	DWR Funding Agreement \$	SHN Contract \$	SHN Billed \$	Points West Contract	Estimated Completion Date	Completion Status *	Comments
7	Water Rate Study Deliver: Draft Rate Study Final Rate Study	10,000							C	June 2020 Increases implemented June 2021 & 2022
8	Administration Deliver: Quarterly Progress Reports	20,000	7,841	15,000				12/31/25	P	Rpt#3 Submitted Reimbursement Req #1
9	Work Completion (Planning Phase)							03/31/24		
TOTAL:		\$ 325,000	\$ 64,008	\$ 485,000	\$ 474,750	\$ 237,289	\$53,000			
Post Planning Phase Major Milestones										
	Right of Way Acquisition			140,000					U	Coord w/ prop owners
	Issuance of Federal, State & County permits								U	Researching Sources
	Application for Construction Funding									
	Execution of FA for Construction Phase									
	Bid Project			10,000						
	Award Project									
	Begin Construction Work									
	Construction			3,675,000						
	CM, DA, CPM			235,000						
	Complete Construction Work									
	Final Funding Reimbursement							12/31/25		
	Total:	325,000	64,008	4,545,000						
* Notes: Completion Status Key: C = Task Complete U = Task Underway P = Periodic Task for duration of project										



**DRINKING WATER PLANNING
GRANT**

AGREEMENT No. D2102010
by and between
GARBERVILLE SANITARY DISTRICT (“Recipient”)
AND
CALIFORNIA STATE WATER RESOURCES CONTROL BOARD (“State Water Board”)

for the purpose of the

WALLAN AND ROBERTSON TANK REPLACEMENT PROJECT (“Project”)
PROJECT No. 1210008-008P

-
- Section 80140 of the Public Resources Code, and Resolution No. 2021-0022.

PROJECT FUNDING AMOUNT: \$325,000.00

ESTIMATED REASONABLE PROJECT COST: \$325,000.00
ELIGIBLE WORK START DATE: APRIL 8, 2019
WORK COMPLETION DATE: MARCH 31, 2024
FINAL REIMBURSEMENT REQUEST DATE: MARCH 31, 2024
RECORDS RETENTION END DATE: MARCH 31, 2060

EXHIBIT A – SCOPE OF WORK AND SCHEDULE

A.1 PROJECT PURPOSE AND DESCRIPTION.

The Project is for the benefit of the Recipient. The funding under this Agreement shall be used to prepare a complete construction application for replacement of the Robertson, Hurlbutt and Wallan tanks, as they have exceeded their useful life and repairs are no longer addressing issues of leakage and risk of contamination. The Recipient received a compliance order for the Robertson Tank on 8/28/2020, for violations to the California Waterworks Standards, Design and Construction of Distribution Reservoirs.

A.2 SCOPE OF WORK.

The Recipient agrees to do the following:

DEPARTMENT OF WATER RESOURCES

P.O. BOX 942836
SACRAMENTO, CA 94236-0001
(916) 653-5791



August 22, 2022

Ms. Jennie Short
Consultant Project Manager
Garberville Sanitary District
Post Office Box 211
Garberville, California 95542

Approval of Funding from Small Community Drought Relief Program –
Garberville Tank Replacement Project

Your request for funding from the Department of Water Resources' Small Community Drought Relief Program (Program) for the Garberville Tank Replacement Project (Project) has been approved. The approved funding is not to exceed the amount of \$4,545,000. The term of the funding will be from August 22, 2022, to September 30, 2024.

The Program was authorized by the Legislature pursuant to the Budget Act of 2021, as amended (Stats. 2022, ch. 44, § 25). The intent of the Program is to provide immediate and near-term financial and/or technical support to help small communities survive this and future droughts.

The purpose of this funding is to help the Garberville Sanitary District implement the above-referenced project. The Project is comprised of replacing three leaking tanks with two new tanks to provide the community with the needed storage capacity to thrive during this and future droughts.

A draft funding agreement is being developed and will be sent to you for review. You may begin incurring costs from August 22, 2022. No reimbursement of Eligible Project Costs will be issued until the funding agreement is executed. Any costs incurred are at your own risk until the funding agreement is executed. For guidance as to what are Eligible Project Costs and what type of documentation is required for reimbursement, please see the *Small Community Drought Relief Program Guidelines and Agreement Template* which may be found at: <https://water.ca.gov/Water-Basics/Drought/Drought-Funding/Small-Community-Drought-Relief>.

Ms. Jennie Short
August 22, 2022
Page 2

If you have any questions or need additional information regarding the agreement, please contact Sammy Naventhan by email at Kandasamy.Naventhan@water.ca.gov or by phone at (559) 230-3379.

Sincerely,



Arthur Hinojosa
Manager
Division of Regional Assistance
Department of Water Resources

Attachment

ACCEPTED:

Jennie Short
Consultant Project Manager
Garberville Sanitary District

Date _____

Ms. Jennie Short
August 22, 2022
Page 3

ATTACHMENT: FUNDING REQUEST

Steve Doe: ShouaNha Moua Alvarado
P:\Drought 2021\Program Management\Correspondence\ SCDRP_Commitment Letter_Garberville_August_2022

SURNAME
DWR 155 (Rev 4/02)

JH

SD

K7

[Signature]

7. Budget

Table. Budget Summary with Funding Source

Phase or Task Description	Task Amount	Phase Amount	Funding Source
Phase 1. PROJECT DEVELOPMENT		470,000	SCDRF
PROJECT EVALUATION, ALTERNATIVE ANALYSIS AND PRE- DESIGN (0% → 30%)	60,000		SCDRF
TOPOGRAPHICAL SURVEYING	40,000		SCDRF
GEOTECHNICAL EVALUATION	42,000		SCDRF
ENVIRONMENTAL REVIEW	63,000		SCDRF
PERMITTING	45,000		SCDRF
FINAL DESIGN (30% → 100%)	220,000		SCDRF
Phase 2 - PROPERTY ACQUISITION		150,000	SCDRF
Phase 3 - BID PROJECT		10,000	SCDRF
Phase 4 – CONSTRUCTION *	\$4,226,000	5,226,000	SCDRF
Phase 5 - PROJECT REPORTING & CLOSEOUT		14,000	SCDRF
Total Estimated Project Costs	\$4,870,000	\$ 5,870,000	SCDRF

DWSRF - \$325,000 = \$4,545,000

* ~~Construction costs includes \$1M of contingency.~~ In the past 18-months during the COVID-19 pandemic, the costs of materials needed to construct this project have been exceptionally volatile. At times materials as simple as water pipe are unavailable in rural Humboldt County. We have attempted to account for this potential "unknown" but actual total project costs can't be known until the project is bid.

All project costs are proposed to be funded with Small Community Drought Relief Funding.

**2022 Annual
Water Source Capacity Analysis**

Appendices

SEE SEPARATE PDF