

Prepared for:



# Garberville Sanitary District Recirculated Initial Study/Mitigated Negative Declaration



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



May 2013  
011184

Prepared by:  
**SN**  
Consulting Engineers  
& Geologists, Inc.

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

As of July 9, 2013, written comments were received from:

- State Clearinghouse Correspondence
- State Water Resources Control Board
- Kristin Vogel
- Donald Courtemanche (with attachments)
- Sandy Feretto
- Humboldt County Department of Health and Human Services – Division of Environmental Health
- Humboldt Local Agency Formation Commission
- Ed Voice (via Saxton & Associates)



EDMUND G. BROWN JR.  
GOVERNOR

STATE OF CALIFORNIA  
GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH  
STATE CLEARINGHOUSE AND PLANNING UNIT



KEN ALEX  
DIRECTOR

June 28, 2013

Jennie Short  
Garberville Sanitary District  
919 Redwood Drive  
P.O. Box 211  
Garberville, CA 95542



Subject: Boundary Change (Annexation)  
SCH#: 2012032025

Dear Jennie Short:

The State Clearinghouse submitted the above named Mitigated Negative Declaration to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on June 27, 2013, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

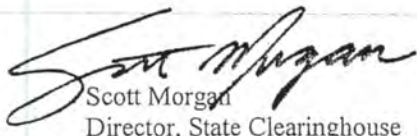
Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

  
Scott Morgan  
Director, State Clearinghouse

Enclosures  
cc: Resources Agency



**Document Details Report  
State Clearinghouse Data Base**

**SCH#** 2012032025  
**Project Title** Boundary Change (Annexation)  
**Lead Agency** Garberville Sanitary District

**Type** MND Mitigated Negative Declaration  
**Description** The GSD has a jurisdictional boundary and Sphere of Influence that has been approved by Humboldt Local Agency Formation Commission (LAFCo). The GSD also has a POU for the surface water diversion permit and license that has been approved by the State Water Resources Control Board Division of Water Rights. The GSD proposes to modify its existing jurisdictional boundary and POU to include areas currently served by the water system purchased from the Garberville Water Company (GWC) in 2004.

**Lead Agency Contact**

**Name** Jennie Short  
**Agency** Garberville Sanitary District  
**Phone** 707 923 9566 **Fax**  
**email**  
**Address** 919 Redwood Drive  
P.O. Box 211  
**City** Garberville **State** CA **Zip** 95542

**Project Location**

**County** Humboldt  
**City**  
**Region**  
**Lat / Long**  
**Cross Streets** Not applicable  
**Parcel No.**  
**Township**

**Range** **Section** **Base**

**Proximity to:**

**Highways** Hwy 101  
**Airports** Garberville Airport  
**Railways**  
**Waterways** South Fork of the Eel River  
**Schools**  
**Land Use** Not applicable

**Project Issues** Agricultural Land; Air Quality; Archaeologic-Historic; Biological Resources; Geologic/Seismic; Minerals; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Sewer Capacity; Traffic/Circulation; Water Supply; Growth Inducing; Landuse; Aesthetic/Visual; Forest Land/Fire Hazard

**Reviewing Agencies** Resources Agency; Department of Fish and Wildlife, Region 1E; Department of Parks and Recreation; Department of Water Resources; Caltrans, Division of Aeronautics; California Highway Patrol; Caltrans, District 1; CA Department of Public Health; State Water Resources Control Board, Division of Financial Assistance; State Water Resources Control Board, Division of Water Rights; Regional Water Quality Control Board, Region 1; Native American Heritage Commission; State Lands Commission

**Date Received** 05/29/2013 **Start of Review** 05/29/2013 **End of Review** 06/27/2013



EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

JUN 07 2013

Jennie Short  
Garberville Sanitary District  
919 Redwood Drive, P.O. Box 211  
Garberville, California 95542

C1808  
6/27/13  
P

RECEIVED

JUN 11 2013

STATE CLEARING HOUSE

Dear Ms. Short:

CLEAN WATER STATE REVOLVING FUND (CWSRF) PROGRAM INFORMATION FOR THE GARBERVILLE SANITARY DISTRICT (DISTRICT); GARBERVILLE SANITARY DISTRICT BOUNDARY CHANGE (ANNEXATION) (PROJECT); HUMBOLDT COUNTY; STATE CLEARINGHOUSE NO. 2012032025

We have received a copy of the District's draft Initial Study/Mitigated Negative Declaration (IS/MND) from the State Clearinghouse for the Project. Since the Project may be eligible for CWSRF financing, the State Water Resources Control Board (State Water Board) is providing information on the environmental review requirements of the CWSRF Program, should the District decide to pursue CWSRF financing in the future.

The CWSRF Program provides low-cost financial assistance for a wide variety of water quality improvement and enhancement projects that protect water quality and public health. It has grant funds under certain conditions with limited availability. The application period is continuous. For additional information, please refer to the State Water Board's CWSRF Program website at:

[http://www.waterboards.ca.gov/water\\_issues/programs/grants\\_loans/srf/index.shtml](http://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/index.shtml).

Due to staffing constraints, we are unable to review the IS/MND and provide "specific" comments at this time if there are no clear indications that an agency will seek funding from the CWSRF Program. If the District decides to pursue CWSRF financing, please note that in addition to California Environmental Quality Act (CEQA) requirements, there are federal environmental laws and regulations applicable to the CWSRF Program. Any environmental issues raised must be resolved before the State Water Board can approve CWSRF financing for your Project. Four enclosures are included that further explain the CWSRF Program environmental review process and the additional federal requirements. The District must meet those listed federal requirements if it decides to seek CWSRF financing.

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE OFFICER

1001 I Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 100, Sacramento, Ca 95812-0100 | [www.waterboards.ca.gov](http://www.waterboards.ca.gov)



Thank you for your consideration of the CWSRF Program. State Water Board staff is more than happy to discuss the CWSRF Program environmental requirements in more detail if you decide to apply for CWSRF financing. If you have any questions or concerns about the State Water Board CWSRF Program environmental review process or the information provided in this letter, please feel free to contact me at (916) 327-9117, or [DWerner@waterboards.ca.gov](mailto:DWerner@waterboards.ca.gov), or contact Ahmad Kashkoli at (916) 341-5855, or [AKashkoli@waterboards.ca.gov](mailto:AKashkoli@waterboards.ca.gov).

Sincerely,



Ahmad Kashkoli  
Senior Environmental Scientist  
Division of Financial Assistance

Enclosures (4)

1. SRF & CEQA-Plus
2. Quick Reference Guide to CEQA Requirements for State Revolving Fund Loans
3. Instructions and Guidance for "Environmental Compliance Information"
4. Basic Criteria for Cultural Resources Reports

cc: State Clearinghouse  
(Re: SCH# 2012032025)  
P.O. Box 3044  
Sacramento, CA 95812-3044



July 8, 2013

Jennie Short  
Garberville Sanitary District  
919 Redwood Drive  
Garberville, CA 95542

Re: GSD Annexation – Recirculated Initial Study/Mitigated Negative Declaration  
- Public Comments from Kristin Vogel.

II (b) and (e) page 26

**SHCP is in the process of preparing a Draft EIR for a General Plan Amendment that has the potential to convert prime agricultural soils. However, the Garberville Sanitary District Annexation project only proposes to annex the areas of the historical water service, which are ancillary buildings for the existing uses at the site.**

Comment:

The Garberville Sanitary District Board of Directors has proposed to annex 5 acres of the Southern Humboldt Community Park. They have chosen to do this without a formal application from SHCP and without a public review of the proposal. The 5-acre area proposed for annexation has not been surveyed and is outside the District's Place of Use (POU). There is no health or safety emergency to justify a rush to supply the residents of the property with District water. **There is no legitimate historical water service to the property that can be verified by GSD or SHCP, therefore there is nothing that has to be rectified or restored.** There was, for a short period in '07, an unauthorized do-it-yourself trench dug from the yellow house to the Park residences with a scabbed-in pipe placed in it by the then Park caretaker and a Park Board member. That is what the above "historical" claim to District water is based on, scabbed-in lines outside of the District's service boundary. The District water taken by SHCP at that time was used to fill a 50,000 gallon storage tank that supplied waterlines connected to areas in the Park that the SHCP used for unpermitted amplified events until the County shut down the events.

The SHCP property, formerly called the Tooby Flat, has its own on-site water. It served the Tooby family for many decades and it has served the SHCP since they became owners of the property. In several County documents over the last 10 years, the SHCP has stated they have on-site water.

The existing uses of on-site water at SHCP are for domestic use at the ranch house and bunkhouse. Behind these there are a couple of garages used for storage, a chicken coop, a stable which shelters three draft horses, and a barn which is used to store hay for sale. The on-site water used inside or near these so-called "ancillary buildings" is used to operate a separate commercial business called the Garberville Community Farm.

GSD has failed to date to document that District water was being used legitimately in any of these areas.

Therefore this IS/MND is deficient because it fails to give legitimate reasons why GSD and the SHCP are promoting the use of District water for commercial activities at SHCP. A new project description was brought to a recent LAFCo meeting by SHCP. Park Board directors who spoke at the meeting distributed to LAFCo commissioners a **General Plan Amendment project description of future plans for the same 5-acre area of the property.** The project description showed the 5-acre annexation area is now planned for conversion into a SHCP Park headquarters, restrooms and venue site. Please explain why GSD has not included this project description in this MND and what direct and cumulative impacts residential water used for commercial purposes at SHCP will have on the South Fork of the Eel River. Please include a discussion of how the Park's imminent annexation as a whole can be expected to draw down the South Fork Eel River.

The problem with this push by GSD to annex a 5-acre piece of the Park for water service is that it is the first step in the conversion of agricultural soils and induced growth. Please explain in a full EIR the environmental impacts of inducing growth on these valuable agricultural soils to foster commercial non-ag related activities.

This MND is inadequate for the task of analyzing the Park's impacts on water use on our river and the conversion of ag soils. It looks like an end run by GSD and SHCP to provide District water into the Park property without a full EIR and before the SHCP has an approved and adopted GPA EIR to rezone the property.

GSD staff stated in a recent public meeting that the SHCP corporation has not agreed to the conditions of this unique island annexation agreement. **Yet, their signed acceptance of the annexation conditions is itself one of the conditions of the agreement. To date, the SHCP has not signed.** So please explain why GSD continues to include the SHCP 5-acre island annexation in the annexation project MND?

Please provide written documentation that verifies legitimate "historical" service to the park caretaker residences from the records of the Garberville Water Company or the GSD?

Please explain why GSD is proceeding with such urgency to create an annexation island inside the SHCP before SHCP completes their own GPA and EIR?

Please explain how GSD can make a valid environmental assessment of the impacts of this expansive GSD annexation project on the South Fork Eel River without a water capacity study and full EIR?

Kristin Vogel  
POB 453  
Garberville, CA 95542



## Courtemanche Comments

&lt;jshort@garbervillesd.org&gt;

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**From:** Donald Courtemanche <donauldcourtemanche@wavecable.com>  
**To:** tina <admin@garbervillesd.org>, lafco <execofficer@humboldtlafo.org>, Jennie Short <jshort@garbervillesd.org>, Michael Richardson <MRichardson@co.humboldt.ca.us>  
**Date:** Jul 08 '13 3:07pm  
**Subject:** Fw: Comments to Garberville Sanitary District's Recirculated IS/MMD 2013  
**Attach.:** GSD Connick Creek - Garberville Water Co letter 1991.pdf (262.41 KB), GSD ConnickCr\_1997Agmt.pdf (1.98 MB), Hull Documents (1) GSD.pdf (299.34 KB)

<http://www.garbervillesd.org/PDFs/20130528-PublicDraftIS-MND.pdf>

Comments to Garberville Sanitary District's Recirculated IS/MMD 2013

Annexation

July 8, 2013

The IS/MMD for Annexation of 2013 proposed by GSD is but one of six projects currently in progress by GSD and dependent upon approval of this annexation by the GSD BOD for these projects to move forward. All six projects are closely related and interdependent on each other therefore their cumulative effects on the environment can only be properly assessed by an EIR or PEIR.

These six projects are The Kimtu Water Pipeline IS/MMD CDPH 2009, Drinking Water Treatment Plant IS/MMD GSD 2011, Alder Point Road Storage Tank GSD IS/MMD 2013 and the IS/MMD 2013 for Annexation.

GSD plans to tier off of the annexation for their proposed expansion of water rights with CWRCB, also dependent on the annexation(#5). This annexation is also needed for their approval of the current MSR/SOI from Humboldt County LAFco which so far has only been adopted(#6).

Tiering or piecemealing off of a CEQA in a IS/MMD should not be done, as in this case, to circumvent assessment of the cumulative effects that these six projects have had and will have on the environment. It is contrary to CEQA Law.( See below)

CEQA requires that the Lead Agency, through its initial study, review the whole of a project. A project must not be broken into smaller parts, each of which alone might qualify for a Negative Declaration, in an attempt to avoid preparing an EIR (Association for Sensible Development of Bishop Area v. County of Inyo (1985) 172 Cal.App.3d 151).

The decision to prepare a mitigated Negative Declaration (and a Negative Declaration for that matter) must be grounded in an objective, good faith effort on the part of the Lead Agency to review the project's potential for significant impacts (Sundstrom v. County of Mendocino, supra (1988) 202 Cal.App.3d 296).

In GSD's Annexation IS/MMD 2013 in figure 6C an island of service is represented by a blue circle on a 105 acre parcel APN 223-061-025. This parcel is served by the privately owned Connick Creek water line; GSD has no control of this line or the water in it after it leaves their waste water plant master meter. (I have included the original contract between GSD and Connick Creek to support this statement)

The Connick Creek water line is about 1½ miles long. It crosses 3 other parcels of A.E.land. One of these parcels is APN 222-156-012, which is 345 acres. It has a future water service contract with GSD. Once again how can GSD enter into an enforceable contract for water service without controlling the water line or the water?

The island of service on APN 223-061-012 has even less enforcement mechanisms than the Southern Humboldt Community Park's 5 acre island of service. In that island it's described as 2 residential/multi-family connections but it will also serve the "outbuildings."

The SHCP is proposing a commercial concert venue at this very 5 acre site with concerts proposed all year long in their upcoming GPA. This is not 2 residential/multi-family connections because it's a commercial concert venue and an onsite commercial farm will also use this water for its operation.

The proposed annexation of the SHCP will not stop at 5 acres. In the IS/MND the GSD admits that the whole parcel can be annexed if the county allows it in the park's GPA.

This will add 400 more acres to this annexation and when you consider the 345 acres of APN 223-061-012 and the 105 of APN 223-061-025 on top of the 375 acres GSD admits to annexing you arrive at 955 acres of A.E. resource land opened up for development. Up here all you need is the water then the money and the county falls right into line.

GSD's narrative about water service on the west side of the South Fork of the Eel River (the Connick Creek side) is untrue. I have provided the documentation to show that the Garberville Water Company only agreed to provide water to Thomas Lane which is inside their PUC service area and on the east side of the river. GSD then agreed with Mr. Terry to use the water supplied for their waste water treatment plant through an aerial water line across the river for Terry's subdivision and other parcels along the pipeline route.

GSD then entered into the illegal water business with Mr. Terry and others. GSD did not inherit these water connections from the GWC as stated in this IS/MMD. The billing went to Mr. Terry and other parcel owners on the west side of the river from GSD and not from the GWC. Mr. Terry and the other property owners had a convenient road which the GSD used in the winter time to service their sewer treatment plant when their low water bridge across the Eel was underwater.

Please consider my comments in your review of this IS/MMD for annexation. GSD claims to be only getting their legal house in order through this IS/MMD after years of illegal activity. Isn't it ironic then that they would be increasing their annexation size by 375 acres in this process? This annexation is the largest in recent California history and an MMD will not address all of the environmental impacts or the cumulative effects that a project of this size and scope will have on our river.

Also please keep in mind that a number of us are unpaid private citizens. We are the only oversight for the unelected GSD BOD and we are trying to protect the South Fork of the Eel, which is a State and Federally listed Wild and Scenic River. And it needs your help now.

Humboldt County's policy for new housing development is that development will occur where services (such as water) are located, so when GSD extends water service to new and developable land they must acknowledge that annexation is the essential first step in the development process, not Humboldt County. This need to be addressed in an EIR or PEIR.

Thanks for your time. Donald Courtemanche Sprowel Creek Road Garberville

GARBERVILLE WATER COMPANY, INC.

P. O. BOX 516

GARBERVILLE, CALIF.

Garberville Water Company is willing to provide water for domestic use for 9 5-acre lots (parcel # 213-296-05) to the meter located east of the Eel River on Thomas Lane. Owners will provide pipe and maintenance of water lines to the existing pipe.

Fred Hundert  
Mr. Fred Hundert  
Garberville Water Company

*[Faint handwritten notes, possibly a checklist or list of items, including words like 'system', 'water', 'meter', 'pipe', 'cost', 'etc.']*



After Recording Return to  
Connick Creek Association  
P.O. Box 36  
Garberville, CA 95542

**1998-2664-11**  
Recorded — Official Records  
**Humboldt County, California**  
Carolyn Crnich, Recorder

Recorded by D INGOLD

Rec Fee 37.00

Clerk: MH Total: 37.00

Feb 2, 1998 at 11:29

**CONFORMED COPY**

**Courtemanche Attachments**

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RECORDING COVER PAGE FOR AGREEMENT BETWEEN THE GARBERVILLE  
SANITARY DISTRICT AND CONNICK CREEK ASSOCIATION

## AGREEMENT

This agreement is entered into on the date given below between the Garberville Sanitary District, known in this agreement as District, and Connick Creek Association, known in this agreement as Association.

District provides sanitation services including the collection, treatment and disposal of sewage for the community of Garberville, California. As part of its operation District purchases water from the Garberville Water Company, known in this agreement as GWC, and District owns and maintains a water line that extends from a location near the junction of Thomas Lane and Redwood Drive in Garberville to its sewer plant on the west side of the South Fork of the Eel River for the purpose of transporting the purchased water to its treatment facilities.

Association is an unincorporated association whose members consist of Gregory W. Terry and Kathleen P. Carmer, the sole owners of the property described in Schedule A commonly known as 201 Old Briceland Road, Garberville, California and which will upon completion of the subdivision now being processed consist of 8 five acre parcels of real property. Schedule A is attached hereto and incorporated herein by this reference. Association wishes to obtain water from GWC and to transport the water to the property owned by its members, and to utilize, for part of that distance, the water line owned by District.

District hereby agrees to allow Association to transport water through its water line subject to the following terms and conditions.

1. To accommodate the additional flow of water occasioned by the supply going to Association's members, the District's water line and facilities will need to be upgraded. The upgrade will consist of replacing the existing 5/8 inch line with a 1 and ½ inch line from the beginning point (the point where District obtains the water from GWC) to the terminus point (the point where the water line leaves the District property on the west side of the river). In addition Association will install a master meter and a shut off valve and a check valve at the terminus point. The upgrade will be done under the supervision and control of District which will approve all materials and all work. All costs of the upgrade including costs of design, labor and materials, and all costs to the District for supervision, inspection and administration including the cost of preparing this Agreement, shall be paid by Association. District shall remain the owner of this section of the water line.

2. Association will also pay all costs for the installation of the water line extending from the terminus point to the property owned by the Association's members. Association shall own this section of the water line and District shall bear no responsibility for the installation, maintenance, repair or replacement of this section of the water line.

3. The parties acknowledge that subsequent to this agreement and subsequent to the completion of the upgrade described above, the District's water line may be relocated in conjunction with the construction of a new bridge over the South Fork of the Eel River. If the District decides to relocate the water line in conjunction with the new bridge, Association agrees to share equally with the District the cost of the relocation for that portion of the waterline that is west of the river and the proposed bridge to the point where it connects with Association's waterline.



4. The District will maintain its water line from the beginning point to the terminus point. Association will pay half the costs the District incurs in maintaining, repairing, and if necessary, replacing this section of the water line. However, Association will pay all costs if the master meter, shut off or check valves at the terminus point have to be repaired or replaced.

5. District will pay for all water used by District and Association will pay for all water that leaves the terminus point and enters into that section of the water line owned and maintained the Association.

6. Association agrees that no property shall be served by the water line described in this agreement other than the District and the 8 parcels owned by the Association's members and such other parcels as may be governed by prior agreements made by District.

7. Responsibility for performance of Association's duties under this agreement including the responsibility to pay for upgrade described in paragraphs No. 1 and 3 above, the costs described in paragraph No. 4 above, and the obligation to pay for water under paragraph No. 5 above, shall be the responsibility of the Association and in addition of each owner of the 8 parcels, even if the costs were incurred prior to the date the owner purchased the property.

8. Expenses incurred by District under this agreement shall be billed to Association by District not more frequently than monthly nor less frequently than quarterly. Association shall pay the statement in full within thirty-days of billing. Should District determine that Association has failed to comply with the terms of this Agreement, it shall notify Association in writing of its intention to terminate this agreement and shall state the manner in which Association has breached the agreement. Should Association not come into compliance within sixty days of the notice having been sent, District may terminate the Agreement, and disconnect the water line at the

terminus point without further notice. Under emergency conditions--for example, a break in the Association's section of the water line--District may disconnect the water line at the terminus point without prior notice but shall permit reconnection once repair has been made by Association. Association may terminate this agreement by giving District a 90 day notice of termination and by paying District for all obligations incurred up to and including termination.

9. When executed this agreement shall be recorded in such a way as to be placed into the chain of title of each parcel of land described in Schedule "A". The agreement shall inure to the benefit of and shall be binding upon the parties, their successors and assigns.

10. This agreement represents the entire agreement between the parties and may be modified only by a subsequent writing signed by the parties or their successors in interest.

11. Should litigation be commenced by one of the parties to enforce any term of this agreement the prevailing party shall be entitled to such attorneys' fees as the court should determine reasonable.

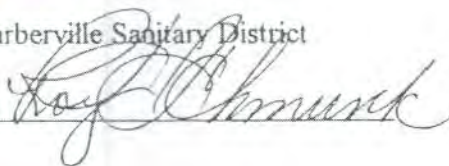
12. Notices sent to the addresses given below shall be considered properly sent unless a party has given the other a new address in writing prior to the date the notice was sent.

This agreement is entered into in Garberville, California on the 9 day of October, ~~August~~,

1997.

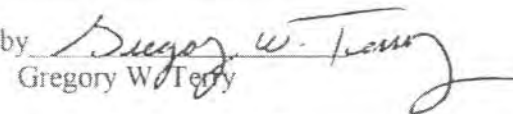
Garberville Sanitary District

by



Connick Creek Association

by

  
Gregory W. Terry

by

  
Kathleen P. Carmer

Address:

Box 215, Garberville, CA.

Address:

P.O. Box 36

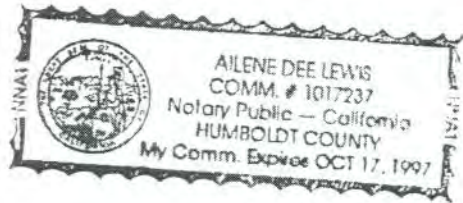
ACKNOWLEDGMENT

State of California  
County of Humboldt

On October 9, 1997 before me, Ailene Dee Lewis, a notary public in  
and for said State personally appeared ~~Greg W. Terry and Kathleen~~  
P. Carmer, ~~personally known to me~~ (or proved to me on the basis of satisfactory evidence) to be  
the persons whose names are subscribed to the within instrument and acknowledged to me that  
they executed the same in their authorized capacity and that by their signatures on the instrument  
the persons, or the entities upon behalf of which the persons acted, executed the instrument.

Witness my hand and official seal.

*Ailene Dee Lewis*





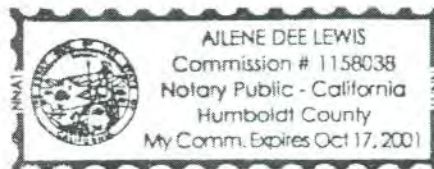
ACKNOWLEDGMENT

State of California  
County of Humboldt

On January 22, 1998, ~~1997~~ before me Ailene Dee Lewis, a notary public in  
and for said State personally appeared Roy Schunk, ~~Greg W. Terry and Kathleen~~  
~~P. Carmer~~, personally known to me (or ~~proved to me on the basis of satisfactory evidence~~) to be  
the persons whose names <sup>is</sup> are subscribed to the within instrument and acknowledged to me that  
they executed the same in <sup>his</sup> their authorized capacity and that by <sup>his</sup> their signatures on the instrument  
the persons, or the entities <sup>is</sup> upon behalf of which the persons acted, executed the instrument.

Witness my hand and official seal.

Ailene Dee Lewis



SCHEDULE A

The land referred to in this report is situated in the State of California, County of Humboldt, and is described as follows:

PARCEL ONE

The Southwest Quarter of the Southeast Quarter of Section 23 in Township 4 South of Range 3 East of Humboldt Meridian.

PARCEL TWO

ALSO COMMENCING at the quarter section corner of the South line of said Section 23;  
and running thence North along the quarter section line, 670.4 feet;  
thence South 72 degrees 30 minutes West, 440 feet;  
thence Southeasterly to a point on the South line of said Section 23, which is 280 feet Westerly from said South quarter section corner;  
and thence Easterly along the South line of the section, 280 feet, more or less, to the place of beginning.

PARCEL THREE

A non-exclusive easement for ingress, egress, and public and private utilities for residential and agricultural purposes, over the existing road from the Briceland County Road to the South boundary of said land, including the bridge over Connick Creek in and over a strip of land 50 feet in width, the centerline of which is described as follows:

BEGINNING at a point on the centerline of BRICELAND ROAD, which bears South 937.84 feet and East 593.18 feet from the quarter section corner common to Sections 23 and 26, Township 4 South, Range 3 East, Humboldt Meridian;  
thence North 13 degrees 00 minutes 00 seconds East, 17.23 feet;  
thence along a curve to the left with a radius of 60.00 feet, through an angle of 63 degrees 32 minutes 00 seconds for a distance of 66.53 feet;  
thence North 50 degrees 32 minutes 00 seconds West, 20.97 feet;  
thence along a curve to the right, with a radius of 80.00 feet, through an angle of 36 degrees 42 minutes 00 seconds for a distance of 51.24 feet;  
thence North 13 degrees 50 minutes 00 seconds West, 57.39 feet;

SCHEDULE A (continued)

PARCEL THREE (continued)

thence along a curve to the left, with a radius of 600.00 feet, through an angle of 1 degree 58 minutes 30 seconds for a distance of 20.68 feet;  
thence North 11 degrees 51 minutes 30 seconds West, 103.11 feet;  
thence along a curve to the left, with a radius of 50.00 feet, through an angle of 114 degrees 02 minutes 00 seconds for a distance of 99.51 feet;  
thence South 54 degrees 06 minutes 30 seconds West, 156.56 feet;  
thence along a curve to the left with a radius of 125.00 feet, through an angle of 13 degrees 35 minutes 00 seconds for a distance of 29.63 feet;  
thence South 40 degrees 31 minutes 30 seconds West, 80.05 feet;  
thence along a curve to the right, with a radius of 100.00 feet, through an angle of 52 degrees 10 minutes 30 seconds for a distance of 91.06 feet;  
thence North 87 degrees 18 minutes 00 seconds West, 139.20 feet;  
thence along a curve to the left with a radius of 250.00 feet through an angle of 4 degrees 35 minutes 15 seconds for a distance of 20.02 feet;  
thence South 88 degrees 06 minutes 45 seconds West, 84.80 feet;  
thence along a curve to the right with a radius of 100.00 feet, through an angle of 39 degrees 01 minute 45 seconds for a distance of 68.12 feet;  
thence North 52 degrees 51 minutes 30 seconds West, 98.29 feet;  
thence along a curve to the right with a radius of 100.00 feet, through an angle of 28 degrees 53 minutes 30 seconds for a distance of 50.43 feet;  
thence North 23 degrees 58 minutes 00 seconds West, 64.64 feet;  
thence along a curve to the right with a radius of 300.00 feet, through an angle of 6 degrees 35 minutes 30 seconds for a distance of 34.51 feet;  
thence North 17 degrees 22 minutes 30 seconds West, 67.42 feet;  
thence along a curve to the right with a radius of 60.00 feet through an angle of 162 degrees 58 minutes 00 seconds for a distance of 170.66 feet;  
thence South 34 degrees 24 minutes 30 seconds East, 5.71 feet;  
thence along a curve to the left with a radius of 70.00 feet, through an angle of 129 degrees 28 minutes 00 seconds for a distance of 158.17 feet;



SCHEDULE A (continued)

PARCEL THREE (continued)

thence North 16 degrees 07 minutes 30 seconds East, 38.09 feet;  
thence along a curve to the right, with a radius of 100.00 feet, through an angle of 33 degrees 42 minutes 00 seconds, for a distance of 58.82 feet;  
thence North 49 degrees 49 minutes 30 seconds East, 31.79 feet;  
thence along a curve to the right, with a radius of 100.00 feet, through an angle of 20 degrees 36 minutes 00 seconds for a distance of 35.95 feet;  
thence North 70 degrees 25 minutes 30 seconds East, 65.65 feet;  
thence along a curve to the left, with a radius of 100.00 feet, through an angle of 48 degrees 56 minutes 00 seconds, for a distance of 85.40 feet;  
thence North 21 degrees 29 minutes 30 seconds East, 130.95 feet;  
thence along a curve to the right, with a radius of 550.00 feet, through an angle of 5 degrees 13 minutes 00 seconds, for a distance of 50.08 feet;  
thence North 26 degrees 42 minutes 30 seconds East, 102.61 feet, to the South line of said Section 23.

PARCEL FOUR

The non-exclusive right to use in common with others, the existing road running in a Northerly direction from said lands to the County Road and the Summer Bridge across the Eel River. This right is subject to the terms of an agreement between Velma V. Marshall and Donna Dae Brisbin, being the same as conveyed to Gregory N. Terry, et ux, in deed recorded November 6, 1990, as Recorder's File No. 1990-27131-6.

PARCEL FIVE

The right to take and use water from the following sources of water:

- a) A spring on land now owned by DONNA DAE BRISBIN located as follows:

At a point North 15 degrees 30 minutes West, 1,580 feet from the Northwest corner of the Southwest Quarter of the Southeast Quarter of Section 23, Township 4 South, Range 3 East, Humboldt Meridian, together with the right to lay and maintain a pipeline from said spring to the Southwest Quarter of the Southeast Quarter of said Section 23.

SCHEDULE A (continued)

PARCEL FIVE (continued)

- b) One-half of Grantor's right to take water from the site near Eel River on property owned by Pancoast lying to the East of the Tario property, as set forth in a Grant of Easement recorded November 29, 1968 in Volume 983, Official Records of Humboldt County, page 245.

Being the same as conveyed to Gregory W. Terry, et ux, in deed recorded November 6, 1990, as Recorder's File No, 1990-27131-6.

EB/ch





10-26-2007

I am writing with regards to the residence located at 401 Bear Canyon Road in Garberville California. We are requesting a water hook up for this sight.

Per our discussion at the last board meeting I have enclosed the documents from 1965 stating that we were in fact given rights to the excess water.

In actuality the excess water was never available. It is our understanding that during installation or shortly there after. The 4 inch water line was broken and instead of replacing it with another 4 inch line a 2 inch water line was run through the broken line instead. Thus creating a circumstance in which there was never excess water.

Right before the bridge over the river was built John Hull went to the water board again and requested a hook up. He was told that he request could be accommodated but his contact would be Mark Bryant. Mark Bryant said that due to the bridge contract he could not give a meter until the bridge was completed but after completion we could have one.

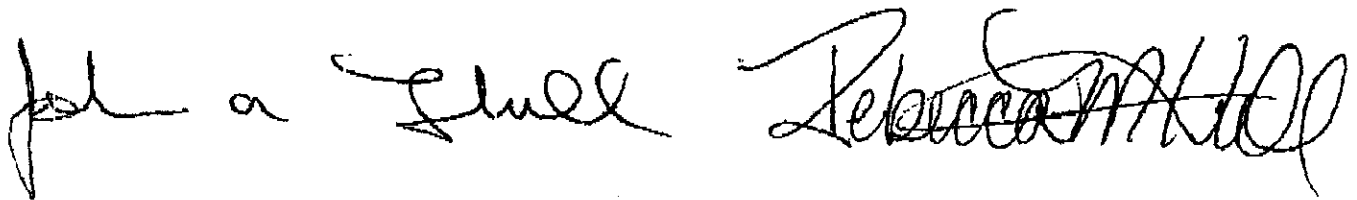
One was never issued.

We are requesting permission now.

Thank you for your consideration,

Rebecca Hull  
John Hull

We certify this to be true and correct to the best of our knowledge.

Handwritten signatures of John Hull and Rebecca Hull.

6940 Irving Dr.  
Eureka, California

July 30, 1965

RECEIVE

AUG 2 1965

HILL & HILL

Mr. Clayton Rost  
Hill & Hill  
730 5th St.  
Eureka, California

Re: Garberville Sanitation District

Dear Mr. Rost,

The cable which was increased in size to accommodate the 4 inch water line has now arrived. The 4 inch pipe is on the job site and part of it is installed.

This short note is to request \$1,200.00 as a partial payment of the \$2,218.00 which was quoted for this increase in size of the water line.

Very truly yours,

Sam J. Alexander - Gen.

SJA/ra

Re: Dorothy Klacik

draft of a letter 4 ccs.

Garberville Sanitary District  
c/o Huber & Goodwin  
Attorneys at Law  
Sixth and I Streets  
Eureka, California

Attention: Mr. Dayton Murray

Re: Water line across Eel River

Gentlemen:

This will constitute a letter of agreement concerning water line across Eel River.

Mrs. Klacik and Mrs. Gray on behalf of the estate of Eileen Hull will make a separate agreement with contractor Sam Alexander for an increase in the size of the cable bringing the water line across together with the water line increasing the size from two inches to four inches. They will pay for the additional cost.

It is agreed that they will have the right to the excess water not used by the Sanitary District for its own purposes in operating the sanitary facilities and the facilities on the property which was purchased from Marshall by the Sanitary District.

It is agreed that the parties will cooperate to work out the means by which the water is brought across the river and metered.

Very truly yours,

HILL & HILL

By



AGREED:

HUBER & GOODWIN

By

Dayton D. Murray, Jr. Attorneys for  
Garberville Sanitary District

Roy F. Schmank,  
PRESIDENT

Sherman Hensell,  
SECRETARY

# GARBERVILLE SANITARY DISTRICT

GARBERVILLE, CALIFORNIA

November 29, 1966

Mrs. Andrew Klacik  
P. O. Box 268  
Garberville, California

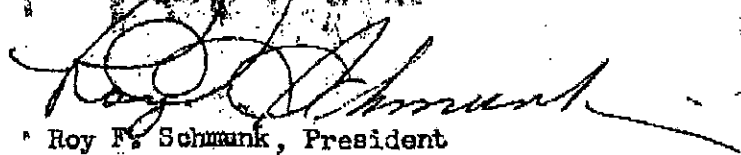
Dear Mrs. Klacik:

On October 6, 1966, the Garberville Sanitary District held its regular meeting. The subject concerning your use of the water pipe which runs across the Eel River was discussed. The following statement is directly from the minutes of the District and gives you the rights so stated.

"The Garberville Sanitary District agrees to show the Klaciks consideration in the use of their water line crossing the Eel River because of the financial consideration the Klaciks made in the cost of installing the larger line. They further agree to allow the Klaciks to run a pipe line across district property at Klacik's expense, the location of the right of way to be selected by the District. The Board does not agree to furnish water at any time, nor to repair or maintain the lines, except at the District's own discretion, as they are not in the water business."

If you have any questions, please let us know.

Sincerely,



Roy F. Schmank, President

RES/bd

October 21, 1965

Garberville Sanitary District  
c/o Ed Scown  
Rancho Motel  
Garberville, California

Re: Water Line Across Eel River

Gentlemen:

This will constitute a letter of agreement concerning the water line across Eel River. The basic cable crossing and the cost of a two inch line were paid for by the District. The additional cost from a two inch line to a four inch line was paid for by a separate agreement by Mrs. Klacik and Mrs. Gray.

Mrs. Klacik and Mrs. Gray on behalf of the estate of Eileen Hull will make a separate agreement with the Contractor, Sam Alexander, for an increase in the size of the cable to bring the water line across, therewith increasing the water line size from two inches to four inches; they will pay all additional cost for this work.

It is agreed that Mrs. Klacik and Mrs. Gray on behalf of the estate of Eileen Hull have a right to excess water not used by the Sanitary District for its own purposes in operating the sewage facilities, the home, and any improvement for future facilities on the property which was purchased from Marshall by the Sanitary District, (approximately 24 acres). It is agreed however that such rights shall not be exclusive but that future developers or purchasers of property on the West side of the river may purchase any portion of that right by the repayment of a prorate share of the excess cost in proportion to the expected use by all parties concerned exclusive of the Sanitary District, who shall have been deemed to have paid all cost, now and in the future for water to be used on their property.



Garberville Sanitary District  
October 21, 1965  
Page 2

As Mrs. Klacik and Mrs. Gray on behalf of the estate of Eileen Hull have been responsible for the installation of the larger line therefore they shall have certain priority to the excess water insofar as they can show past, present and future beneficial use of the water on their property.

It is agreed that the District does not guarantee water service nor does the District guarantee to maintain any water line either on the west side or the east side of the river nor on the cable crossing. Such maintenance responsibility shall be at the discretion of the water purveyor as governed by existing F. U. C. regulations.

It is agreed that the parties will cooperate to work out the means by which water is brought across the river, transmitted across the property, used, metered and billed.

It is further agreed that should there be any disagreement that cannot be settled by a meeting of the parties thereto that such disagreement shall be submitted to the Board of Arbitration, and that their decision shall be binding in said matter.

Very truly yours,

\_\_\_\_\_  
Dorothy R. Klacik

\_\_\_\_\_  
Carol A. Gray, individually and as  
administratrix of the estate of  
Eileen Hull

AGREED:  
GARBERVILLE SANITARY DISTRICT

By \_\_\_\_\_

APPROVED AS TO FORM:  
HILL & HILL

HUBER & GOODWIN

By \_\_\_\_\_  
Clayton C. Rost, Attorney  
for Dorothy R. Klacik

By \_\_\_\_\_  
Attorneys for Garberville  
Sanitary District

## GARBERVILLE SANITARY DISTRICT

GARBERVILLE, CALIFORNIA

10/5/1965

The meeting held at the Veteran's Memorial Building and attended by Eddie Soowan, Monroe Tobin, Roy Schunk, and Sherman Hensell. Also present was our consulting engineer, Bob Kelly. Time at 1:00 P.M.

It was moved and seconded to contact Bertha Pons to be secretary at our meetings and \$5.00 was suggested as being the amount it was felt she should be paid. Tobin to contact her.

An agreement from Huber and Goodwin giving the Klaciks and the Arleigh Grays exclusive rights to any excess water not used by the Sanitary District which passes through the water line which is installed on the sewer-line crossing. The Arleigh Grays and the Andrew Klaciks have paid the increased cost of the pipe from a 2" line to a 4" line. This matter discussed and felt by board members present consideration should be granted the Klaciks and Grays but not an exclusive use of the excess water. The Sanitary District will not be using nearly all of the water their 2" line is capable of carrying in all probability, and of course the district has borne most of the cost of the system as to up-right standards and crossing facilities. Bob Kelly, of Winzler & Kelly Engineers will draw up an agreement to be inserted as Sanitary Board policy, if acceptable by both the Board and the Grays and Klaciks.

Bob Kelly asked that we supply him with a copy of all checks written to date. Sherman Hensell will have list compiled by Gene Fox. Kelly needs this to determine our financial position and so he can submit a bill to the Division of Highways and to determine whether we need more money to carry on. Sherman Hensell remarked that this was supposed to have been done by Gene Fox.

Letter regarding Eric Denton property and pumping stations discussed. Bob Kelly said Jim Johnson contractor is to take care of it and not to cost more than \$100.00 for deed to property for pumping stations.

Bob Kelly suggested that Carl Miller be hired to take care of Sanitary work and Maintenance. Kelly also suggested that we have a more systematic way of taking care of our business.

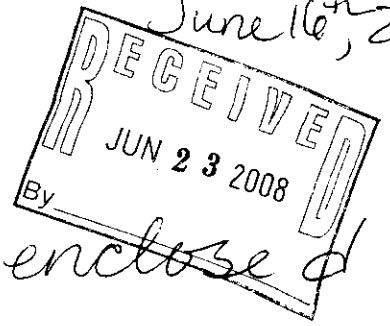
Bills were moved and seconded to be paid:

Southern Humbolt	\$10.00	Carl Miller	\$2.80.00
Ed & Jim's	\$ 2.28	Winzler & Kelly	\$785.00
David L. Hooney	\$20.00	"	"
Winzler & Kelly	\$980.84 (survey)	"	\$5,757.80
"	\$483.85	"	"

Meeting adjourned at 3:45 P.M.

June 16<sup>th</sup>, 2008

Dear Bunny,



Please find enclosed  
the signed agreement for  
the water hookup.

Thank you for all of  
your help and hard work  
in getting this accomplished.

Sincerely,

Rebecca M. Hill



# **GARBERVILLE SANITARY DISTRICT**

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

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## AGREEMENT

This agreement is entered into between the Garberville Sanitary District, a California special district (District) and John Adrian Hull and Rebecca Mahree Hull (Hulls).

The Hulls own certain real property located in Humboldt County, California at 401 Bear Canyon Road, Garberville. The property is further described as assessor's parcel number 223-171-023-000 (the property).

The District provides water and sewer services within a defined boundary encompassing the community of Garberville. The property is located outside of but adjacent to the District's boundaries.

In 1965 the District entered into a agreement to provide access for water services to the property noted above. The parties now want to carry out the agreement and therefore, in consideration of their mutual promises and for other good and valuable consideration, receipt of which is acknowledged, they agree as follows:

The District will provide water to the property pursuant to Government Code Section 56133 and the District's ordinances. The Hulls will pay for the Materials and Labor necessary to provide for connection and for the water delivered to the property. The Hulls recognize that by accepting water from the District that they are subject the District's ordinances.

The Hulls further agree that should the District ever choose to annex the property within its boundary that they will not oppose the annexation.

Time is of the essence of this agreement.

This document constitutes the entire agreement between the parties and may be modified only by a writing signed by the parties.

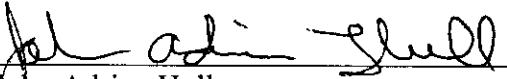
This agreement shall be interpreted and enforced pursuant to the laws of the State of California.

If either party files an action to enforce any provision of this agreement, or for breach of any provision, the losing party agrees to pay the prevailing party's costs of suit including the reasonable attorney's fees of the prevailing.



This agreement is binding upon and inures to the benefit of the parties, their heirs, successors and assigns.

Executed this 16<sup>th</sup> day of June, 2008 in Humboldt County, California.

  
\_\_\_\_\_  
John Adrian Hull

  
\_\_\_\_\_  
Rebecca Mahree Hull

Garberville Sanitary District

by   
\_\_\_\_\_  
Name and Position



## GARBERVILLE SANITARY DISTRICT

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

March 25 2008

Mr. and Mrs. Hull

Subject: Water service for APN 223.171.023.000  
401 Bear Canyon Road

Dear Mr. and Mrs. Hull

We have received your request of a water service. The District can provide a water service connection provided specific statutory requirements are met. This process is relatively simple. It has come to our attention that the parcel noted above is not within the Garberville Services District jurisdictional boundaries as required in Government Code Section 56133. However because of a specific provision (gov. code section 56133.e) that allows service connection outside service jurisdictional boundaries provide "an extended service that a city or district was providing on or before January 1, 2001". Because our agreement predates (1965) the January 1<sup>st</sup>, 2001 the District can provide the requested water service connection. This is provided you are willing to enter in to an agreement with the District that states you or the future owners of the parcel will not contest the future annexation of the parcel into the Garberville Services District jurisdictional boundaries.

If you are in agreement with that I will proceed with drafting the agreement and forward it on to you.

*4.25.08 OK / phone call  
REBECCA HULL*

**DRAFT**

56133. (a) A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundaries only if it first requests and receives written approval from the commission in the affected county.

(b) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence in anticipation of a later change of organization.

(c) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries and outside its sphere of influence to respond to an existing or impending threat to the public health or safety of the residents of the affected territory if both of the following requirements are met:

(1) The entity applying for the contract approval has provided the commission with documentation of a threat to the health and safety of the public or the affected residents.

(2) The commission has notified any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, or sewer system corporation as defined in Section 230.6 of the Public Utilities Code, that has filed a map and a statement of its service capabilities with the commission.

(d) The executive officer, within 30 days of receipt of a request for approval by a city or district of a contract to extend services outside its jurisdictional boundary, shall determine whether the request is complete and acceptable for filing or whether the request is incomplete. If a request is determined not to be complete, the executive officer shall immediately transmit that determination to the requester, specifying those parts of the request that are incomplete and the manner in which they can be made complete. When the request is deemed complete, the executive officer shall place the request on the agenda of the next commission meeting for which adequate notice can be given but not more than 90 days from the date that the request is deemed complete, unless the commission has delegated approval of those requests to the executive officer. The commission or executive officer shall approve, disapprove, or approve with conditions the contract for extended services. If the contract is disapproved or approved with conditions, the applicant may request reconsideration, citing the reasons for reconsideration.

(e) This section does not apply to contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider. This section does not apply to contracts for the transfer of nonpotable or nontreated water. This section does not apply to contracts or agreements solely involving the provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county. This section does not apply to an extended service that a city or district was providing on or before January 1, 2001. This section does not apply to a local publicly

owned electric utility, as defined by Section 9604 of the Public Utilities **Code**, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundaries.



<jshort@garbervillesd.org>

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**From:** Sandy Feretto <sferetto@yahoo.com>  
**To:** Jennie Short <jshort@garbervillesd.org>  
**Date:** Jul 07 '13 8:40pm  
**Subject:** Comments GSD annexation IS/MND

Garberville Sanitary District  
Regarding the  
Recirculated Initial Study/Mitigated Negative Declaration  
Dated May 2013

July 8, 2013

To Garberville Sanitary District:

Here are some of the projects that GSD is undertaking or has undertaken:  
Expand capacity of water treatment in water treatment improvement project  
Enlarge storage capacity in the Alder Point water tank replacement  
Increase the district service area by at least 60% or more  
Increase wastewater treatment capacity by 270 %

Yet GSD claims there are no environmental impacts from all this. What we need is an Environmental Impact Report to assess the truth.

GSD indicates that all this expansion and enlargement and increase in services and service areas is a bunch of separate projects because parts are funded separately, but in reality this is one huge services district expansion: Increase of drinking water treatment capacity, increase of wastewater treatment capacity, increase of storage capacity and increase of acreage served by the district, all done without any environmental assessment of the cumulative impacts, because it has been piecemealed in separate mitigated negative declarations.

CEQA requires that the Lead Agency, through its initial study, review the whole of a project. A project must not be broken into smaller parts, each of which alone might qualify for a Negative Declaration, in an attempt to avoid preparing an EIR (Association for Sensible Development of Bishop Area v. County of Inyo (1985) 172 Cal.App.3d 151).

The decision to prepare a mitigated Negative Declaration (and a Negative Declaration for that matter) must be grounded in an objective, good faith effort on the part of the Lead Agency to review the project's potential for significant impacts (Sundstrom v. County of Mendocino, supra (1988) 202 Cal.App.3d 296).

A complete comprehensive assessment of impacts to the river, the wildlife habitat and the environment can only be properly addressed in an EIR or PEIR.

The General Plan Update policy of concentrating growth in the areas where services are provided must be addressed in regards to adding at least 373 acres of land to the district.

CEQA is not to be used to get illegal hookups into compliance with the law.

GSD has a past history of hooking people up without any environmental assessment. Now GSD's IS/MND appears to say there are no environmental effects when people have been surreptitiously hooked up, or when GSD looked the other way while parcels "tapped into" Garberville water (as in the case of the Southern Humboldt Community Park board) because the environmental impacts have never been assessed.

GSD says on pages 43 and 44 of the IS/MND that

"Most of the parcels are partially or mostly included in the existing boundary and could already have been further developed within the existing boundary if the property owner was interested. The infrastructure and service to these parcels has been available for more than a decade and there has been very little development of second dwelling units and no use of the density bonus."

However, having a dwelling illegally hooked up to a district outside the district boundaries with a wink and a nod is not conducive to development through the county but being in the district is conducive to development, especially now that it is the stated goal of the General Plan Update is to concentrate development where services are [legally] provided.

The General Plan Update policy of concentrating growth in the areas where services are provided must address the growth inducing potential of adding at least 373 acres of land to the district.

Inclusion in a services district enables a landowner to seek urban density development and the county planning goal is the same. So hundreds of acres is a lot of urban density potential. Even if developed at less than urban densities, the growth inducing impacts of all this land being annexed into the district must be assessed in an EIR.

To say that landowners will have to go to the county to develop their property is not mitigation, since development in service districts is the county's goal.

Annexation to a service district is the first step toward development.

It is unclear how water service only as opposed to water and sewer service is held to account since the sanitary district became the water district with no oversight at all. Once a parcel is annexed into the district, it is in the water and sewer district with no mechanism in place for differentiating service. Thus, the growth inducing aspect of annexing so many parcels into the district has not been adequately analyzed.

The impacts can only be properly assessed by an EIR or PEIR.

SHCP – The Southern Humboldt Community Park should not have any area at all annexed into the district until after they have completed their General Plan Amendment, and maybe not even then.

Documentation needs to be presented showing how and when the yellow house got hooked up to GSD outside the district boundaries. Furthermore, the property of the yellow house was not park property, but was an area "retained" by Bob McKee, who owns it again and again.

Does GSD have an ordinance that would prohibit McKee from extending service to his other parcels on Buck Mountain Ranch?

The yellow house, which has a murky hookup history itself, has spawned more connections that GSD now wants to legitimize without any environmental assessment.

The Southern Humboldt Community Park did not tap into Garberville water until sometime after September of 2004. See SHCP meeting minutes of Sept. 22, 2004 under the heading – water: “Tim would like to consider tapping into Garberville water for the domestic needs.” Which is what they apparently did. We saw the trenching Tim Metz did for water lines from the yellow house to the farm house and, according to Kathryn Lobato at a GSD meeting “water lines all over the park.”

The IS/MND does not say that GSD had changed the SHCP park board’s proposed new connections to multi-family connections. This must be stated and assessed for environmental impacts.

It’s remarkable that the park board now says they have temporarily removed their request for having three to five acres zoned for multi-family housing in their GPA when that is exactly what GSD is providing to the park. So no part of the park should be allowed into the district, not even just three to five leetle bitty acres, unless GSD does an Environmental Impact Report on how multi-family housing at the park will affect the environment.

And at what point will any environmental impact assessment have been done for housing at the park? Not in their GPA obviously since they took it out. Not by GSD, who says they believe the park is doing an EIR. So GSD must do an environmental impact report for the annexation of park property or not annex the park at all.

The IS/MND needs to acknowledge that the owner of the property upon which the water treatment plant is being built is Bob McKee, owner and developer of 12,000 or so acres contiguous with the parcel the GSD water treatment plant is on.

Regarding Brisbin property APN 222-156-012: This is 345 acres that has a contract with GSD to provide services. It’s supposedly mitigated because they have to go to the county and say they’ve got a contract with GSD to provide service? That’s really going slow down development. Brisbin, or any subsequent owner could put in another meadows subdivision there. It’s prettier than the meadows and really close to the sewer treatment plant. So the development potential for the Brisbin properties need to be looked at in an EIR, too. There is a lot of development potential there once you are annexed officially into the district.

The IS/MND must address the General Plan Update Housing Opportunity Zones, which includes parcels in this annexation proposal. The annexation to the district of these areas will allow incentives for development such as increased density bonuses and relaxed restrictions. Water service, or water and sewer district inclusion will facilitate urban density zoning in the areas to be annexed. An example of this are parcels 032-211-021 and 032-211-012, which together total 16.7 acres and are in the GPU Housing Opportunity Zone which could result in, even without density bonuses, 117 units, thus inducing a lot of growth. The Humboldt County General Plan Update’s stated goal is to concentrate development in areas where services are provided.

It hardly seems like a mitigation to say it probably won’t happen because it hasn’t happened yet.

I like the part on page 19 where it says estimations of potential development are likely an overestimation of new development that could occur as a result of the proposed project, since the IS/MND keeps saying there will be no development generated by these projects.

I also really like the assertion that it is “unlikely” that any density bonus projects would be implemented since they hardly ever are.  
Oh wait, though. What about Chautauqua?

Where is GSD’s consumption study? How much water is being pulled from the river? How much water is being treated and where is it going? This vital information must be reviewed in environmental documents.

I have tried to give some examples of the areas of deficiency in the GSD Annexation IS/MND. There are more, but I’m not getting paid to do this.

GSD, you really need an Environmental Impact Report.

Thank you for your attention to this important issue.  
Sandy Feretto  
Garberville



<jshort@garbervillesd.org>

---

**From:** Metcalfe, Kevin <KMetcalfe@co.humboldt.ca.us>  
**To:** 'jshort@garbervillesd.org' <jshort@garbervillesd.org>  
**Cc:** Martel, Melissa <MMartel@co.humboldt.ca.us>  
**Date:** Jul 03 '13 4:34pm  
**Subject:** Rivercrest Mutual Water System and Garberville Sanitary District  
**Attach.:** 2235\_001.pdf (271.17 KB), 2236\_001.pdf (204.85 KB)

Hi Jennie, the Rivercrest Mutual Water System is a state small water system regulated by the local enforcement agency. They are not defined as public water systems, but are intended for oversight under limited requirements. Under the state requirements surface water sources only require continuous disinfection and do not require filtration.

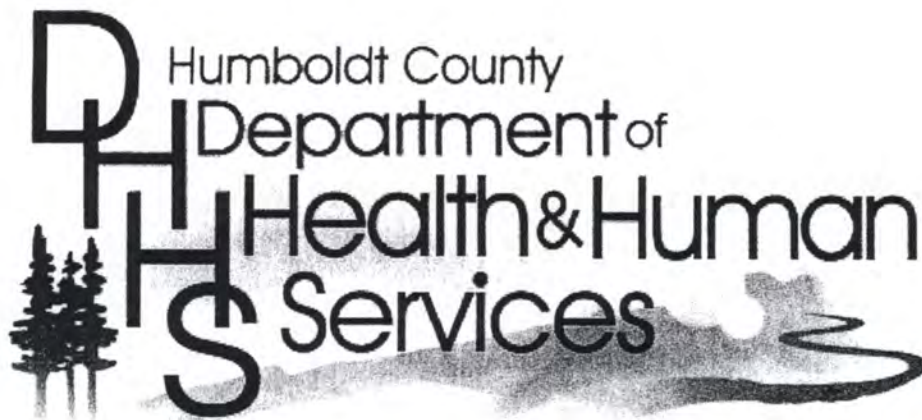
The two documents above are recent correspondence to Ron Olsen the contact for the system regarding concerns with the source, adequate disinfection, and a boil water notice.

We encourage the connection and consolidation of this water system into the Garberville Sanitary District for the health and safety of the persons on this system.

Please let me know if you need further information, or if we may be of further assistance.

Thank you, Kevin

**Kevin Metcalfe, REHS | Supervisor | Humboldt County DHHS | Division of Environmental Health | Consumer Protection Program** | 100 H. St. Suite 100 | Eureka, CA 95501 📞 707-268-2210 (phone) | 707-441-5699 (fax) | ✉️ [kmetcalfe@co.humboldt.ca.us](mailto:kmetcalfe@co.humboldt.ca.us)



## Memorandum

**To:** Humboldt County Planning Division  
**From:** <sup>dm</sup>Kevin Metcalfe, REHS, Consumer Protection Program Supervisor  
**Date:** June 28, 2013  
**Subject:** Garberville Sanitary District Annexation Project: Change in Jurisdictional Boundary & Place of Use - Recirculated Initial Study/Mitigated Negative Declaration

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We would like to bring to the attention of the applicant and community planners a state small water system (defined as 5 to 14 service connections) within the Sphere of Influence, but not included within this project for annexation.

Our records indicated the Rivercrest Mutual Water Company serves roughly seven connections and a population 17 persons in the vicinity of Rivercrest Drive and Sprowel Creek Road. This water system utilizes an existing well on the river bar of the South Fork of the Eel River in close proximity to the well water source for the Garberville Sanitary District. The well serving this state small system is considered under the influence of surface water and has no filtration and lacks adequate storage capacity for disinfection contact time to inactivate pathogens. Because this system is not a public water system it is not eligible for emergency funds or other opportunities for infrastructure improvement that are available for public water systems.

We have issued the operator and users on this system a boil water advisory since state law requires a state small water system using surface water source to provide continuous disinfection. Our May 30, 2012, to the Rivercrest Mutual Water Company reasserts our concerns with lack of adequate disinfection and the continuance of the boil water advisory (see attached). Users on this system use the water at their own risk.

We encourage the applicant, the Rivercrest Mutual Water Company, and community planners to pursue annexation of the parcels served by this state small water system and connection to the Garberville Sanitary District water supply for the long term protection of the health and safety of the owners and occupants. Such action at this time or in the future would not create a new potential environmental impact and will reduce the potential for a waterborne disease outbreak.

Please contact me at 707 268-2210 with any questions. Thank you for the opportunity to comment on this project.

C: Rivercrest Mutual Water Company, C/O Ron Olsen  
Garberville Sanitary District  
Water system file



**Humboldt County Department of Health and Human Services  
Division of Environmental Health**

100 H Street - Suite 100 - Eureka, CA 95501  
Voice: 707-445-6215 - Fax: 707-441-5699 - Toll Free: 800-963-9241  
envhealth@co.humboldt.ca.us

May 30, 2012

Rivercrest Mutual Water Company  
c/o Ron Olsen  
18 Rivercrest Drive  
Garberville, CA 95542

**Subject: Rivercrest Mutual Water System, Garberville, California,  
Boil Water Advisory Issuance and Compliance Requirements to Rescind It**

Dear Rivercrest Mutual Water Company:

Thank you for providing us with a copy of your chlorine residual data, and lab analytical results for this last year. We remain concerned about the health and safety of your water supply given that the only water treatment now provided is disinfection with minimal contact time. The analytical results from March 15, 2011, and February 15, 2011 show the presence of fecal coliform in the water. Per our letter dated January 4, 2011 "If no fecal bacteria (E.coli) is detected in the 12 samples, DEH will reconsider the requirement for additional water storage tanks to be installed for this system." Since fecal bacteria were detected, it will be necessary to provide additional storage capacity for adequate contact time for disinfection of the water supply.

Please note that the 2008 Boil Water Advisory remains in effect. We require that the notice be distributed annually to system users as long as it is in effect. In addition, provide a copy to any prospective buyers or tenants of homes of the system.

In order to rescind the Boil Water Advisory, the following steps must be implemented:

1. Install additional water storage capacity, complete the required chemical tests, and properly monitor the chlorine in the treated water.
  - A. Provide water storage capacity that is a minimum of 5,000 gallons. This will allow about 30 minutes of contact time if the tank is plumbed correctly. Submit specifications to our office for review and obtain any necessary permits from the Humboldt County Building Division prior to installation.
  - B. Chemical testing of State Small Water Systems is required by 22 CCR § 64213. See the attached Compliance Schedule for details. The original due date for these results was September 10, 2009. Contact North Coast Labs in Arcata at 822-4649 for bottles and sampling instructions.

Rivercrest Water System

May 30, 2012

Page 2 of 2

- C. Obtain a DPD Color Wheel test kit and test the chlorine residual at the tap at least three times each week. Please send the monthly chlorine residual monitoring log to DEH by the 10<sup>th</sup> of each month. Under the current water treatment/storage system, maintain the chlorine residual at a minimum of 3.0 ppm at all times.
- D. Submit monthly treated water samples for bacteriological testing.

The Boil Water Advisory for your water system will be in effect until adequate storage is installed. Adequate storage will provide a minimum 30 minute contact time for the disinfectant. Since the water source is considered surface water, we also strongly recommend that a filtration system be installed prior to chlorination to accomplish cyst removal and reduce chlorine demand on the system. Please contact us for additional information.

Thank you for your cooperation regarding the safety and review of your state small water system. We commend Ron Olsen on his efforts to collect water samples, and operate the chlorinator for the Rivercrest Mutual Water System. Our goal is to ensure that safe drinking water is delivered to your homes at all times.

Please let us know once a schedule for installation has been established and notify us for inspection once the above have been completed. We look forward to hearing from you. I may be reached at 707-268-2218 between 8:30 and 9:30 am.

Sincerely,



Melissa Richard, REHS  
Consumer Protection Program

Attachments: Boil Water Advisory for Rivercrest Water System  
Rivercrest Mutual Water System Compliance Schedule

C: Melissa Martel, Director, DEH  
Tony Wiedemann, District Engineer, California Department of Public Health



**State Small Water System Compliance Schedule for:  
Rivercrest Mutual Water System, 2008/2009**

<u>Bacteriological Tests</u>	<u>Frequency</u>		<u>Due at DEH on 10th of:</u>
Total & Fecal Coliform Presence/Absence in Treated Water	Monthly		each month
Free Chlorine Residual	Daily		each month
<u>Chemical Tests (Raw Water)</u>	<u>Frequency</u>	<u>Maximum Contaminant Level (mg/L)</u>	<u>Due at DEH by:</u>
Aluminum	Once in system lifetime	1.0	10-Sep-09
Antimony	" "	0.006	" "
Arsenic	" "	0.05	" "
Asbestos	" "	7 million fibers/L (MFL)	" "
Barium	" "	1.0	" "
Beryllium	" "	0.004	" "
Cadmium	" "	0.005	" "
Chloride	" "	n/a	" "
Chromium	" "	0.05	" "
Cyanide	" "	0.15	" "
Fluoride	" "	2.0	" "
Iron	" "	n/a	" "
Manganese	" "	n/a	" "
Mercury	" "	0.002	" "
Nickel	" "	0.1	" "
Nitrate (as NO3)	" "	45.0	" "
Nitrate + Nitrite (sum as Nitrogen)	" "	10.0	" "
Nitrite (as Nitrogen)	" "	1.0	" "
Perchlorate	" "	0.006	" "
Selenium	" "	0.05	" "
Thallium	" "	0.002	" "
Total Dissolved Solids	" "	n/a	" "
<u>Reporting</u>	<u>Description</u>		<u>Due Date</u>
Permit Application & Emergency Notification Plan	Forms are attached		10-Sep-08
Technical Report	See the letter for details		10-Sep-09
Chemical Test Results	Results of tests for the above chemicals		10-Sep-09
Chemical Test Results Consumer Report	Report to consumers must include a comparison of the Maximum Contaminant Levels for all the chemicals listed in Table 64431-A (attached).		Send to all water system users by 10-Dec-09; & copy of distribution notice to DEH
Consumer Notification (use attached form)	Post in central location within area served by the water system or mail annually to all consumers.		Next annual inspection
Send or FAX above to Harriet Hill, DEH, 100 H Street, Suite 100, Eureka, CA 95501. FAX: 707-441-5699			

# NOTICE

**DATE: May 6, 2008**

## **BOIL WATER ORDER**

**Este informe contiene informacion muy importante sobre su agua potable.  
Traduzcalo o hable con alguien que lo entienda bien.**

### **BOIL YOUR WATER BEFORE USING**

**Failure to follow this advisory could result in stomach or intestinal illness.**

Due to recent test results for your current water supply, the Humboldt County Health Division of Environmental Health is advising users of the **Seascape Lane #2 Water System** to use boiled tap water or bottled water for drinking and cooking purposes as a safety precaution.

**DO NOT DRINK THE WATER WITHOUT BOILING IT FIRST.** Bring all water to a boil, **let it boil for (1) minute**, and let it cool before using, or use bottled water. Boiled or bottled water should be used for drinking and food preparation **until further notice**. This is the preferred method to assure that the water is safe to drink.

- An alternative method of purification for residents that do not have gas or electricity available is to use fresh liquid household bleach (Clorox®, Purex®, etc.) To do so, add 8 drops (¼ teaspoon) of bleach per gallon of water or 16 drops (1/2 teaspoon) per gallon of cloudy water, mix thoroughly, and allow to stand for 30 minutes before using. A chlorine-like taste and odor will result from this purification procedure and is an indication that adequate disinfection has taken place.
- Water purification tablets may also be used by following the manufacturer's instructions.

We will inform you when tests show no bacteria and you no longer need to boil the water or use bottled water.

For more information call:

Rivercrest Water System Manager, Ron Olson, at 223-3831

Humboldt County Division of Environmental Health, Melissa Richard, at 707-268-2218 or 1-800-963-9241.



## Humboldt County Department of Health and Human Services Division of Environmental Health

100 H Street - Suite 100 - Eureka, CA 95501  
Voice: 707-445-6215 - Fax: 707-441-5699 - Toll Free: 800-963-9241  
envhealth@co.humboldt.ca.us

January 4, 2011

FILE COPY

Rivercrest Mutual Water Company  
c/o Ron Olsen  
18 Rivercrest Drive  
Garberville, CA 95542

**Subject: Rivercrest Mutual Water System, Garberville, California,  
Boil Water Advisory Issuance and Compliance Requirements to Rescind It**

Dear Rivercrest Mutual Water Company:

I spoke to Ron Olsen in July 2010 about actions that the Humboldt County Division of Environmental Health (DEH) might take to obtain compliance with state regulations for your water system. I stated that if additional water storage is not provided, we will issue a Boil Water Advisory that will remain in effect indefinitely until corrections are made for this system. The Rivercrest well, which is inundated yearly by the South Fork Eel River during the winter, is considered to be under the direct influence of surface water. The State Small Water System regulations at 22 CCR §64217 requires that "All state small water systems using surface water as a source of supply shall provide continuous disinfection treatment of the water..."

The water tank on this system does not provide enough storage volume for the water to be properly disinfected. A period of "contact time" is required for the chlorine to mix with and disinfect the pathogens in the water. The storage capacity presently available is a 500-gallon pressure tank which contains mostly air and quickly empties when the water demand is high. Thus, essentially no contact time is achieved.

We remain concerned about the health and safety of your water supply given that the only water treatment now provided is chlorination with minimal contact time. Since the chlorinator was installed there have been three positive total coliform results (3/10/09, 7/15/09 and 6/24/10) and recent measurements of free chlorine residuals that were either below the required 0.2 ppm level (0.08 ppm on 6/24/10) or greatly exceeding the state maximum contaminant level of 4.0 ppm (8.0 ppm on 6/28/10). It is very challenging to maintain proper, consistent chlorine residuals for a surface water source, especially without pre-filtration and adequate storage capacity.

An important consideration in terms of disinfection is the turbidity or cloudiness of the raw well water. We know that 1) the well is under the influence of surface water and 2) the cloudiness of the surface water fluctuates above standards (see the attached Garberville Sanitary District or GSD turbidity data which is collected about 200 yards downstream of the Rivercrest well). This further increases the importance of installing enough storage so that proper disinfection can take place.

For these reasons, we are now issuing a Boil Water Advisory for this water system. Immediately provide the attached Advisory to everyone on the system. Until an adequate water treatment system is fully operational, the water supply is not considered safe to drink at all times, as stated by this notice. We require that the notice be distributed annually to system users as long as it is in effect. It also must be given to any prospective buyers or tenants of homes of the system.

Below are described two options which you could undertake to potentially get the Boil Water Advisory rescinded.

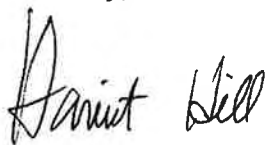
1. Install additional water storage capacity, complete the required chemical tests, and properly monitor the chlorine in the treated water.
  - A. The minimum amount of water storage capacity that you must install is 7500 gallons. This will allow about 30 minutes of contact time if the tank is plumbed correctly. Submit specifications to our office for review and obtain any necessary permits from the Humboldt County Building Division prior to installation.
  - B. Chemical testing of State Small Water Systems is required by 22 CCR § 64213. See the attached Compliance Schedule for details. The original due date for these results was September 10, 2009. Contact North Coast Labs in Arcata at 822-4649 for bottles and sampling instructions.
  - C. You must obtain a DPD Color Wheel test kit and test the chlorine residual at the tap at least three times each week. The test strips currently being used do not provide accurate results, as we determined during the inspection on June 24, 2010. Send the monthly chlorine residual monitoring log to DEH by the 10<sup>th</sup> of each month, starting in November 2010. Under the current water treatment/storage system, the chlorine residual must be maintained at a minimum of 3.0 ppm at all times.
  - D. Submit monthly treated water samples for bacteriological testing as per usual, OR
2. Carry out the following raw water sampling to determine whether your system is subject to fecal coliform or chemical contamination. Based on the results, DEH may reconsider the requirement for additional water storage installation and may rescind the Boil Water Advisory.
  - A. Collect monthly samples of the raw water to be tested for coliform bacteria for one full year. You would need to install a sample tap prior to the chlorine injection point so that the raw water samples can be collected along with the treated water samples. If no fecal bacteria (E. coli) are detected in the 12 samples, DEH will reconsider the requirement for additional water storage tanks to be installed for this system. We would require you to hire a Certified Treatment Operator to take the samples. (DEH will need to further discuss the exact sampling requirements and schedule if you choose this option).
  - B. Obtain a DPD Color Wheel test kit and test the chlorine residual at the tap at least three times each week (see discussion above under 2.)
  - C. Complete the chemical testing as outlined in the attached Compliance Schedule.

FILE COPY

Please let me know by February 1, 2011 what your plan of action will be. The Boil Water Advisory for your water system will be in effect until either 1) adequate storage is installed, or 2) the monitoring program described above is implemented and the results are acceptable. We also strongly recommend that a filtration system be installed prior to chlorination to accomplish cyst removal and reduce chlorine demand on the system.

Thank you for your cooperation regarding the safety and review of your state small water system. We commend Ron Olsen on his past efforts to collect water samples, and operate the chlorinator for the Rivercrest Mutual Water System. Our goal is to ensure that potable water is delivered to your homes at all times.

Sincerely,



Harriet Hill, REHS  
Drinking Water Program  
Consumer Protection Program

C: Melissa Martel, Director, DEH  
Tony Wiedemann, District Engineer, California Department of Public Health

Attachments: Boil Water Advisory for Rivercrest Water System  
GSD Turbidity Data  
Rivercrest Mutual Water System Compliance Schedule





1125 16<sup>th</sup> Street, Suite 202, Arcata, CA 95521  
(707) 445-7508 / (707) 825-9181 fax  
[www.humboldtlafo.org](http://www.humboldtlafo.org)

July 8, 2013

Jennie Short  
Capital Projects Manager  
Garberville Sanitary District  
919 Redwood Drive  
Garberville, CA 95542

Subject: LAFCo COMMENTS ON THE GARBERVILLE SANITARY DISTRICT ANNEXATION PROJECT RECIRCULATED INITIAL STUDY/ MITIGATED NEGATIVE DECLARATION (IS/MND)

Dear Jennie,

Humboldt LAFCo staff has reviewed the Garberville Sanitary District Annexation Project recirculated IS/MND. This document considers the potential effects of annexation, and must be adopted by the Garberville Sanitary District Board of Directors prior to approving a Resolution of Application to LAFCo.

LAFCo staff has considered the potential environmental effects of the proposed boundary changes as evaluated in the IS/MND. The document provides a description of existing conditions, development potential, and anticipated uses. The analysis includes mitigation measures that: 1) clarifies the District's authority and responsibility for the provision of water and wastewater services, and 2) limits future development and intensification of existing uses within District boundaries that would rely on District services without adequate District review and acceptance. In addition, the document describes the intended uses of the IS/MND by responsible agencies, which includes Humboldt LAFCo for its consideration of the District's Annexation Project, and by the State Water Resources Control Board (SWRCB) Division of Water Rights (DWR) for its consideration of the District's "Petition to Change the Place of Use for the Permit and License."

The District's Annexation Project serves to modify the existing jurisdictional boundary to include areas currently served by the District's water system. These outside agency services were reviewed in the Municipal Service Review prepared by LAFCo for the Garberville Sanitary District, adopted on March 20, 2013. LAFCo staff has the following comments related to the proposed boundary changes that will need to be addressed upon resolution of application to LAFCo.

1. The proposed annexation currently does not include two parcels (Assessor's Parcel Numbers 032-063-001 and 032-151-004) and a portion of U.S. Highway 101 located on the east side of the South Fork Eel River, just north of Sunny Bank Lane. Adjusting the boundary to follow the river may serve a more logical boundary for service provision in the future.

2. The annexation boundaries should follow lines of assessment or ownership as much as possible. The creation of small district "pockets" should be limited, as feasible. For example, the existing residential uses located on APN 223-061-025 could be approved as an outside agency service pursuant to G.C. Section 56133, as compared to annexing the small developed areas that are part of a larger parcel. This option may promote more logical boundaries for the District.
3. With regard to the proposed transfer of connections off Leino Road and Sprowel Creek Road to the Kimtu transmission line, LAFCo staff concurs that an amendment to LAFCo Resolution No. 10-06 would be required. This section of the IS/MND is referenced below.

*Page 6, Kimtu Meadows Subdivision – On March 20, 2013, LAFCo adopted Resolution 13-02 adopting the GSD MSR and Resolution 13-03 adopting the updated SOI, which included the Kimtu Meadows Subdivision into the SOI. As part of the proposed change in jurisdictional boundary, the District will request that LAFCo amend its action of the Kimtu waterline extension to include connections on Leino Lane and Sprowel Creek Road as approved for service off the Kimtu waterline. This is also subject to approval by the California Department of Public Health (CDPH). As required by the Amended Permit No. 01-01- 12(P)-002 letter, the GSD is not allowed to add any additional connection if doing so will reduce the fire-flow at the Kimtu Meadows Subdivision fire hydrants to below 750 gallons per minute. Prior to any connection, GSD will provide CDPH and Humboldt LAFCo the necessary information to satisfy the fire-flow requirements.*

Thank you for the opportunity to comment on this project. It is requested that responses to our, and other comments received, be forwarded to us prior to adoption of the IS/MND by the GSD Board. Please contact staff at 445-7508 if you have questions regarding this letter.

Sincerely,

George Williamson, AICP  
LAFCo Executive Officer



July 8, 2013

Jennie Short  
Garberville Sanitary District  
919 Redwood Drive  
P.O. Box 211  
Garberville, CA 95542

Re: Public Comments on Garberville Sanitary District Boundary Change (Annexation) –  
Recirculated Initial Study/Mitigated Negative Declaration

Dear Ms. Short,

Thank you for the opportunity to submit comments on the Project identified above. I write today on behalf of my client, Mr. Ed Voice and the Voice Family. We write to ask the following, as discussed in detail below: (1) the Project be analyzed under an Environmental Impact Report due to the significant impacts that the project causes on the environment, particularly water resources and land use; (2) the EIR be a Programmatic EIR, due to the subsequent discretionary approvals that will be made pursuant to Mitigation Measure No. 1; and (3) the District refrain from annexing the Community Park until after the Park's EIR is completed and the District is informed about the water and sewer services needed.

**PROJECT IS DISCUSSED INACCURATELY**

The project starts from the wrong baseline. The baseline is the point that the Garberville Sanitation District ("District") must determine whether a project will have a significant impact on the environment. The project should have looked at the physical impacts to the environment (namely the water diversion from the South Fork of the Eel River and groundwater and prime agriculture land use) from the point when the District took over the GWC contract in 2004, along with the new connections that will be added at River Ranch and the Community Park. Instead, the District framed the project as a simple update of its boundaries to include areas currently provided with water service and, therefore, concludes that the project will not result in impacts to the environment or growth-inducing impacts from increased population.

In the past nine years since the District took over GWC's water service contract, the District has undergone an expansion to its waste treatment facility and is currently undergoing an expansion to its water production facilities. (In fact, we understand that the District's funding for the facility is dependent upon the completion of this project and, specifically, the expansion to the current Place of Use area.) These expansions were needed, in part, because of the expanded jurisdictional boundary and the Place of Use area which is now, after the fact, under environmental review.

The central tenet of the California Environmental Quality Act (Public Resources Code

§21000 *et. seq.*, 14 CCR 15000 *et. seq.*) (“CEQA”) is to provide an environmental document for the public and decision makers to review *before* decisions are made. (*Napa Citizens for Honest Government v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 355.) Moreover, sufficient information is required in order to adequately assess the environmental impacts. The District deprived both the public and its Board important information about the true direct and cumulative impacts of this project by analyzing it nine years after the fact. Furthermore, as discussed below, the analysis should have been conducted in an Environmental Impact Report (“EIR”), rather than a Mitigated Negative Declaration (“MND”), as was done here. (Public Resources Code §21100.)

In Section II. Agriculture and Forestry Resources, the District concludes that impacts from development of lands with prime agricultural soils and lands zoned agriculture exclusive will be less than significant with mitigation because the project is restricted to areas that have had historical water service, *i.e.* areas which the District has been providing service since at least 2004. This is circular analysis. More importantly, it fails to provide the actual environmental impacts (direct and cumulative) of expanding the District’s jurisdictional boundary and Place of Use area.

In fact, the MND repeatedly states “The project does not include any physical change to the environment.” (MND, p. 30, 35, 39, 42.) This is untrue. The expansion of the District boundary and Place of Use area does impact the physical environment, specifically water diversion from the South Fork Eel River and groundwater and land development on agricultural exclusive zoned lands and lands with prime agricultural soils. The District must analyze environmental effects based on the actual impacts that the expansion will have on the environment.

Last, the District uses the wrong standard to determine if the project will have significant impacts, pursuant to CEQA. The MND states “the project as mitigated... will not have any environmental effect that will cause substantial adverse effects on human beings, either directly or indirectly.” (MND, p. 52.) The correct standard is whether the project will have significant impacts on the *physical environment*, such as needing to divert more water from the South Fork of the Eel River or groundwater or whether development will occur on lands zoned agricultural exclusive or on lands with prime agricultural soils.

## **PROJECT DESCRIPTION**

The project description should clearly and specifically describe the maximum capacity of the annexation and Place of Use, the expected maximum demand – both directly and cumulatively – and identify any remaining capacity within the proposed annexation and current District service boundary. This is important information in considering the degree to which the project could induce growth.

The project description should also describe the development potential of the proposed annexation and current District Service Boundaries and disclose how many additional dwelling units the General Plan Update would allow to be constructed. In addition, the project description should include a summary of the projects that are planned and proposed in the area of the

project and their environmental effects for this project, e.g. Goldeen, Johnson and SHCP. It is important that these other related projects be fully discussed because they, in combination with the improvements associated with the proposed Annexation, will induce growth in the Garberville area.

### **THE PROJECT SHOULD BY ANALYZED UNDER AN EIR**

All lead agencies shall prepare, or cause to be prepared, an environmental impact report on any project which they propose to carry out or approve that may have a significant effect on the environment. (Public Resources Code 21100.)

A Mitigated Negative Declaration is only appropriate when the initial study shows that there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment. (Public Resources Code §21151; 14 CCR §15070.) The decision to adopt a negative declaration and dispense with an EIR is essentially a determination that a project will have no meaningful environmental effect. (*Sierra Club v. California Depart. of Forestry and Fire Protection* (2007) 150 Cal.App.4th 370.)

CEQA is a comprehensive scheme designed to provide long-term protection to the environment. (*Napa Citizens*, 91 Cal.App.4th at 355.) The foremost principle under CEQA is that the Legislature intended the act “to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” (*Id.*, quoting *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 533, 563-564.)

The EIR has been aptly described as the “heart of CEQA.” Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made. (*Napa Citizens*, 91 Cal.App.4th at 355 (emphasis in original).) Thus, the EIR “protects not only the environment but also informed self-government.” (*Id.*, quoting *Citizens of Goleta Valley*, 52 Cal.3d at 563-564.) The ultimate decision of whether to approve a project, be that decision right or wrong, is a nullity if based upon an EIR that does not provide the decision-makers, and the public, with the information about the project that is required by CEQA. The error is prejudicial “if the failure to include relevant information precludes informed decisionmaking and informed public participation, thereby thwarting the statutory goals of the EIR process.” (*Napa Citizens*, 91 Cal.App.4th at 355-356, quoting *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 721-722.)

Thus, the validity of the MND depends in large part upon whether it provides the information necessary for the District’s Board and the public to understand the nature and environmental consequences of the project.

In fact, the project should be analyzed as a Programmatic EIR because, as stated in Mitigation Measure No. 1, any change to the existing uses is subject to approval by the District, ensuring that adequate water supplies are available. These subsequent approvals will be discretionary decisions that impact the environment. These subsequent decisions are subject to CEQA and, presumably, will be tiered off of the current project. Thus, the current project should be analyzed as a Programmatic EIR.



In addition, the MND doesn't discuss actual impacts to land use, particularly the Agricultural Exclusive and Prime Agricultural soils. For example, Bear Canyon Road (APN 223-171-023) is in an area zoned Agriculture Exclusive, yet it's able to develop 3 single family residences on the property. This is a significant environmental impact that requires an EIR. (Public Resources Code §21100.)

The Community Park is also zoned Agriculture Exclusive but the anticipated development there is anything but. This too is a significant environmental impact that should be discussed in terms of the current project. As discussed below, review of the likely environmental effects of the annexation and expanded Place of Use cannot be postponed until such effects have already manifested themselves through requests for amendment of the general plan and applications for approval of Park development. (*Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 158-159.)

Next, the MND states that the water system's storage has sufficient capacity to meet the average dry day water demand. It is silent regarding the average wet day water demand. It also states that the current system has sufficient production based on the maximum daily demand of 427,780 gpd recorded during the month of July in 1999. Under the District's permit, the District has a maximum daily diversion from the South Fork Eel River of 484,700 gallons. However, the MND fails to discuss how the new connections (Connick Creek, River Ranch, Community Park and future development) would impact water storage and production. The MND states later that the Water System Improvement Project "is to meet existing water demands." However, this fails to adequately address the impact that 61 additional connections will have on the South Fork of the Eel River and groundwater, let alone the development that is opened up as a result of the annexation and expanded Place of Use.

The document states that there will be 85 APNs that will be added to the District boundary, 27 of which can be further developed. It does not state how many water or sewer connections could potentially be added.

### **THE PROJECT INDUCES GROWTH**

Under CEQA, the District is required to analyze indirect or secondary effects which are later in time or farther removed but still reasonably foreseeable. Indirect or secondary effects may include growth-inducing effects and other effects related to induce changes in the pattern of land use, population density, or growth rate, and related effects on water and other natural systems. (Public Resources Code §21151; 14 CCR §15358; *see also Bozung v. Local Agency Formation Commission of Ventura County* (1975) 13 Cal.3d 263 (approval by local agency of city annexation of agricultural land proposed to be used for residential, commercial and recreational purposes was a project that may have a significant effect on environment and required an EIR due in part to resulting population growth).)

CEQA Guidelines §15126(d) requires an EIR to discuss the Growth Inducing Impact of the Proposed Project. Guidelines §15126.2(d) elaborates:

...Discuss the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment... Increases in population may tax existing community service facilities, requiring construction of new facilities that could cause significant environmental effects. Also discuss the characteristic of some projects which may encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively. It must not be assumed that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment.

It is well established that a CEQA document must discuss growth-inducing impacts even though those impacts are not themselves a part of the project under consideration, and even through the extent of the growth is difficult to calculate. (*Napa Citizens*, 91 Cal.App.4th at 368; citing *City of Antioch v. City Council* (1986) 187 Cal.App.4d 1325.) In *City of Antioch*, the question was whether an EIR was required (as opposed to a Negative Declaration). The Appellate Court found that the project required an EIR notwithstanding that the project itself involved only the construction of a road and sewer project which did not in and of themselves have a significant effect on the environment. The Court recognized that the sole reason for the construction was to provide a catalyst for further development in the immediate area. It held that because the construction of the project could not easily be undone, and because achievement of its purpose would almost certainly have significant environmental impacts, the project should not go forward until such impacts were evaluated in an EIR in the manner prescribed under CEQA. (*Napa Citizens*, 91 Cal.App.4th at 368, discussing *City of Antioch*, 187 Cal.App.3d at 1337-1338.)

The same rationale holds here. The expansion of the District's boundaries and Place of Use, regardless that the environmental analysis was conducted after the fact, has the effect of increasing water and sewer connections and, by virtue of annexing property into the District's boundary, increasing the potential for future connections. This cannot be undone. In fact, as a result of the expansion, in part, the District has expanded its waste treatment and water production facilities and infrastructure.

In *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, the Court considered a proposed construction of a country club and golf course and attendant facilities. It was contended that an EIR was not required because the growth-inducing impacts of the proposed project were too remote or speculative, and EIRs would be prepared in connection with any application for a housing development. The Court responded, "The fact that the exact extent and location of such growth cannot now be determined does not excuse the County from preparation of an EIR... [R]eview of the likely environmental effects of the proposed country club cannot be postponed until such effects have already manifested themselves through requests for amendment of the general plan and applications for approval of housing developments." (*Napa Citizens*, 91 Cal.App.4th at 368-369, discussing *Stanislaus Audubon Society*, 33 Cal.App.4th at 158-159.)

Likewise, the fact that the Community Park and other contemplated future development will require additional approvals does not preclude the need for an EIR at this time to analyze the actual impacts of the expansion of the District's boundary and Place of Use.

The MND acknowledges that the project “could result in future development” (MND, p. 26), but fails to adequately assess the impacts of the development on the physical environment – namely the need for greater water diversions from the South Fork Eel River, extraction of groundwater and development of agriculture exclusive zoned land and lands with prime agricultural soils.

This project looks to add 69 partial or entire APNs to the Place of Use. Simultaneously, 85 APNs will be added to the District boundary, 27 of which can be further developed. Eight of those 27 are new water service users. It is adding 61 housing units to the District’s boundary. The document does not adequately address growth inducement and the impacts on the physical environment.

The MND concludes that: “It is difficult to summarize the additional development potential as a result of the proposed project because the majority of APNs that could support additional development are within, or a majority within the exiting POU.” (MND, p. 19.) However, pursuant to the decision in *Stanislaus Audubon*, discussed above, the fact that the exact extent and location of such growth cannot now be determined does not excuse the District from preparation of an EIR at this time. (*Stanislaus Audubon Society*, 33 Cal.App.4th at 158-159.)

Moreover, as soon as the APN is in the jurisdictional boundary, the property is then open to water and sewage connections. This will induce growth. Connick Creek, for example, has a 105 acre parcel that is anticipated to be developed.

The Community Park, too, intends to undergo significant development. Only 5 acres for Community Park water service are included in the Project. However, as noted, 430 acres are to be added to the District’s jurisdiction, providing opportunity for future development and service connections. Impacts of future water service were not discussed in the MND. Nor were they discussed in the Water Improvement Project, as the Park was outside of the District’s then-current jurisdiction. Also, the MND fails to adequately discuss anticipated development on the 5 acres. According to the Park’s Notice of Preparation, the 5 acres is deemed the Park headquarters and, among other things, public bathrooms and a commercial performance stage will be added. The music events that are anticipated could have a substantial impact on water usage. This is a significant cumulative impact that requires an EIR for the current project. (*See Stanislaus Audubon Society*, 33 Cal.App.4th at 158-159; *City of Antioch*, 187 Cal.App.3d at 1337-1338; *Napa Citizens*, 91 Cal.App.4th at 368-369.)

The MND concludes:

*According to the District, there is limited available land for new residential and commercial development within the District boundaries due to existing development densities and physical constraints. Significant additional growth in the future would likely need to occur outside the District’s boundary, and would likely be dependent upon construction of water distribution and wastewater collection infrastructure. The area to meet these additional housing units will need to be annexed into the Boundary once the*

*location for this future development has been identified. The location will be highly dependent upon property owners desiring to develop their property to meet the need for the additional housing units.*

However, this doesn't adequately address the probable growth inducement of the project. First, apparently this is a discussion of the current district pre-annexation. Second, it doesn't discuss the General Plan Update that is currently underway and the Housing Opportunity Zone Density designation changes that are expected. This is a significant cumulative impact that should be addressed in an EIR.

Moreover, the MND fails to adequately address the fact that once the properties are included into the District's boundary, they will be open to receive water and sewage connections, including any neighboring property owners. This will induce growth, which is a significant environmental impact requiring an EIR.

The MND states: "The GSD serves approximately 847 residents and 353 connections within its existing boundaries. It is estimated that the 2030 projected population potentially served by the District would be 936 residents and 390 housing units, or an additional 89 residents and 37 housing units. (Humboldt LAFCo, 2013d). (MND, p. 43.) It is understood that Humboldt LAFCo obtained this information from the District and it is unclear where the District obtained these figures.

The MND further states that there is only a 0.05% projected growth rate. However, this appears to underestimate the true growth projection based on known projects and known potential development in the District. For example, there are three new connections anticipated for the River Ranch properties. The Connick Subdivision approval allows the development of four new single family residences. It apparently would allow for second dwelling units that are subordinate to the existing structure.

In addition, the Community Park seeks two additional connections for this project. Future projects, such as building of public bathrooms on the 5 acres, will involve additional connections. Moreover, the project will bring the 430 acres of the park into the District's boundary, which substantially increases the Park's access to water and sewer connections in the future. This project induces growth far greater than has been described in the MND. An EIR is appropriate to analyze the significant environmental impacts that will occur due to the direct and cumulative growth inducement from this project. Moreover, as discussed above in the *City of Antioch* decision, it is not appropriate to wait for future environmental reviews to determine the impact of the current project. (*City of Antioch*, 187 Cal.App.3d at 1337-1338.) In other words, the District cannot wait until the Park's CEQA review has been completed to find out the impact of the annexation and the water and sewer services that will likely be required.

Furthermore, the function of CEQA is to provide the information regarding impacts *before* decisions need to be made. Thus, if the District does not conduct a complete environmental analysis on the cumulative impacts of annexation of the Community Park and expansion of the Place of Use at this time, the District should refrain from annexing the Community Park until after its EIR is complete and at such time that the District knows what

kinds of service and infrastructure is needed.

In addition to the River Ranch, Community Park, Connick Creek, Meadows and Hillcrest connections, there has been additional growth in Garberville. For example, APN 032-111-024 has made an application to the District from a developer named David Winters for a 12 to 16 unit multi-family low income housing complex(s) in downtown Garberville. Humboldt County Planning Department is expected to receive a “Will Serve Letter” from the District for this project. In addition, this year, Garberville had additional water and sewer connections for 5 new apartments that were build atop of a business called Chautauqua Natural Foods in downtown Garberville. These projects are mentioned here because they draw question to the District’s conclusion that there is only a 0.05% project growth per year and, therefore, that this project will not induce significant growth.

Moreover, the MND states that the project will add 85 APNs to the District boundary. However, this number does not take into account the Meadows Subdivisions Phases 3 and 4. The District’s environmental analysis should factor in the growth potential from this development.

The MND acknowledges additional potential for grown. It states that “there are several APNs that are vacant and/or not currently fully developed under current regulations that could be further developed... This includes an additional 15 [single family residences] on a combination of vacant or underdeveloped APNs, 14 APNs within “Housing Opportunity Zones,” and 10 APNs that are allowed second dwelling unit.” (MND, p. 43.)

Part of the District’s basis for its conclusion that the project won’t induce population growth is because parcels “could already have been further developed within the existing boundary if the property owner was interested. The infrastructure and service to these parcels has been available for more than a decade and there has been very little development of second dwellings and no use of the density bonus.” (MND, p. 43.) However, this statement doesn’t take into account that, for many years, the District has been required to ban any new sewer connections, which prohibits growth. This ban was lifted now that the waste treatment facility has been expanded. Moreover, the waste treatment and water production capacity have both been expanded in recent years, providing capacity for additional connections. Thus, the annexation and expansion of the POU has significant impacts on both surface and groundwater that should be analyzed in an EIR. (Public Resources Code §21100; 14 CCR §15064.)

The District’s rationale for concluding that population growth is not expected is that: “The project is not anticipated to result in a significant impact to population and housing because the development potential is not significant comparatively to the existing population. Population growth is expected to be low; therefore, the project will not induce substantial growth...” (MND, p. 43.) This reasoning is circular.

Under Section X. Land Use Planning, the MND states that there will be less than a significant impact. The District’s reasoning is that the purpose of the project is to make the planning boundaries and service boundaries consistent with the existing services provided. (MND, p. 40.) However, this fails to take into account the fact that, even though conducted



after the fact, the expansion of the District's boundaries has an impact on the physical environment, specifically surface and groundwater and land zoned agriculture exclusive and lands with prime agricultural soils. The District's reasoning also fails to take into account the fact that the project induces growth. Instead, the District states that future projects will be subject to approvals by other agencies, such as Humboldt County. This lack of analysis is inappropriate under CEQA. This is a significant impact which requires analysis under an EIR. (Public Resources Code §21100.)

Under Section XIV. Public Services, the MND concludes: "The project does not induce significant population growth or propose service in areas not currently provided service..." (MND, p. 44.) However, the project does induce growth and thus whether such growth impacts public services should be analyzed. Moreover, the MND states: "The project will not require any new neighborhood park, or expansion to an existing park or other public facility." (MND, p. 44.) This is untrue, as the project will allow for the expansion of the Community Park by providing new water connections and, further, open the door to allowing future water and sewer connections by bringing the Park into the boundaries of the District and the SWRCB's Place of Use. The District should refrain from annexing the Park until after the Park's EIR has been completed and the District is clear of what services the Park will need.

The same arguments applies to Section XV. Recreation.

Based on the arguments above, the District should prepare an EIR to study the growth-inducing impacts of the project. (Public Resources Code §21151.) Under CEQA, the party seeking to require preparation of an EIR based on growth-inducing effect does not have the burden of presenting evidence that the project will have growth inducing effect or present evidence demonstrating that it has already spurred growth in surrounding area. Rather, the party is required only to demonstrate that the record contains substantial evidence sufficient to support a fair argument that the project may have significant growth inducing effect. (*Stanislaus Audubon*, 33 Cal.App.4th 144.) As discussed above, the Voice Family has pointed to sufficient evidence in the record that this project will have a significant growth inducing impact and an EIR should be prepared in compliance with CEQA.

### **DEVELOPMENT ON AGRICULTURAL EXCLUSIVE LANDS AND PRIME AGRICULTURAL SOILS**

This MND fails to discuss the environmental impacts of development on agriculture exclusive and agricultural grazing zoned land and agricultural and prime agricultural soils that are located within the District's proposed boundary. As stated in the MND, all of the agricultural and prime agricultural soils are within areas of existing development or are within areas that have been approved for future development. Known future and potential development are also anticipated to occur on agriculture exclusive and agricultural grazing zoned land. The purpose of these designations is to protect these lands and soils, in part from development. The District should conduct an EIR to explain the direct and cumulative impacts of expanding its boundary and expanding the Place of Use area has on these protected lands and soils.

## **BIOLOGICAL RESOURCES**

The MND fails to address the impact that the expansion of the District boundary and Place of Use have on the South Fork of the Eel River, including the impacts on the fish and habitat therein from larger water diversions. As discussed above, the project induces growth both directly and cumulatively. The project allows for new connections to River Ranch, the Community Park and additional connections at Connick Creek, in addition to future development that was discussed above. An expanded boundary of water service and growth means an increased amount of water must be diverted from the South Fork of the Eel River. This impact should be studied in an EIR. (Public Resources Code §21100.)

In addition, in relation to the District's Streambed Alteration Agreement, which conditions that the District "shall not divert more than 0.75 cfs or 10% of the streamflow as measured at the USGS Gauge Station No. 11476500 at Miranda," the MND states:

"Furthermore, based on United States Geological Survey (USGS) historical records for the South Fork Eel River at Miranda, bypass flows of 90% of the upstream discharge or greater during the low flow season are likely, because the lowest daily mean flow is 10 cfs."

(MND, p. 29.) It is unclear what the District means by this statement. Does it intend to violate this condition during low flow seasons? The MND goes on to state that the "purpose of the annexation is to change the existing District boundary to achieve consistency with the actual area being served." However, as discussed above, the project is to expand the boundary and Place of Use area, which in turns requires that more water be diverted from the South Fork Eel River. The reality that this project is being conducted 9 years after the fact does not change the District's requirement under CEQA to discuss the environmental impacts of the expansions on the river.

## **HYDROLOGY AND WATER QUALITY**

The MND states that "GSD is not proposing new groundwater wells. However, use of groundwater from the District's existing well may be necessary in the future if there is demand. Therefore, Mitigation Measure No. 1 has been proposed to address new connections and changes to existing connections." (MND, p. 39.) Mitigation Measure No. 1 requires that any approval for new water or sewer service by Humboldt County must be approved by the District prior to approval. (MND, p. 56.) Such approvals, as they will impact both groundwater and surface water, should be subject to CEQA and, presumably, will rely on this environmental document. Thus, this document should analyze these known cumulative impacts through a Programmatic EIR.

In fact, the MND states that "The project does not include any physical change to the environment." (MND, p. 39.) This is untrue. Even though the environmental analysis of the annexation and expanded Place of Use is occurring 9 years after the fact, they are expansions nonetheless. These expansions have impacts on the physical environment, namely surface and groundwater and lands zoned agriculture exclusive and prime agricultural soils. The District is

required, pursuant to CEQA, to analyze these environmental impacts as they occur both directly and cumulatively.

In addition, the MND states that it does not need to analyze whether there will be degradation to water quality because “the project does not include any physical change to the environment” and because future development will be subject to other regulations by other agencies, such as Humboldt County. (MND, p. 39.) This lack of analysis is inappropriate under CEQA, which requires the District to look at known cumulative impacts. (14 CCR 15064.)<sup>1</sup> Moreover, as discussed above under *Stanislaus Audubon*, review of the likely environmental effects of the annexation and expanded Place of Use cannot be postponed until such effects have already manifested themselves. (*Napa Citizens*, 91 Cal.App.4th at 368-369, discussing *Stanislaus Audubon Society*, 33 Cal.App.4th at 158-159.)

The same argument applies to Section XVII. Utilities and Service Systems. (MND, pp. 47-49.)

## **CONCLUSION**

As discussed above, the Ed Voice Family asks the District to analyze the matters above under the Environmental Impact Report. Moreover, this EIR should be in a Programmatic EIR to account for the future discretionary approvals impacting surface and groundwater, which are anticipated due to Mitigation Measure No. 1. Last, we ask that the annexation and expansion of the Place of Use for the Community Park be postponed until after the Park’s EIR has been completed and the District knows the types of services that will be needed.

Thank you for your consideration of the matters discussed above. Please feel free to

---

<sup>1</sup> Pursuant to 14 CCR §15064(d):

In evaluating the significance of the environmental effect of a project, the lead agency shall consider direct physical changes in the environment which may be caused by the project and reasonably foreseeable indirect physical changes in the environment which may be caused by the project.

(1) A direct physical change in the environment is a physical change in the environment which is caused by and immediately related to the project. Examples of direct physical changes in the environment are the dust, noise, and traffic of heavy equipment that would result from construction of a sewage treatment plant and possible odors from operation of the plant.

(2) An indirect physical change in the environment is a physical change in the environment which is not immediately related to the project, but which is caused indirectly by the project. If a direct physical change in the environment in turn causes another change in the environment, then the other change is an indirect physical change in the environment. For example, the construction of a new sewage treatment plant may facilitate population growth in the service area due to the increase in sewage treatment capacity and may lead to an increase in air pollution.

(3) An indirect physical change is to be considered only if that change is a reasonably foreseeable impact which may be caused by the project. A change which is speculative or unlikely to occur is not reasonably foreseeable.

contact me or my client, Mr. Ed Voice, if you have any further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Lynne R. Saxton". The signature is written in a cursive style with a horizontal line underneath it.

Lynne R. Saxton  
Attorney at Law

**Comments for the July 23, 2013 Public Hearing, Garberville Sanitary District**

Garberville Annexation Project/ Change in Jurisdictional Boundary and Place of Use

GSD Board Directors and Staff,

The narrative in the GSD Annexation MND on page 5 states, "A historical water connection was extended to (the Southern Humboldt Community Park) to bring water to a caretakers cottage and various other outbuildings on APN 222-091-006 from the yellow house." This is inaccurate and unsupported by any documents. Waterlines were scabbed in between properties belonging to different owners is not an acceptable basis for claiming a historical water connection.

I have a document here called Exhibit A which is the basis for a Resolution produced by the Park Board in March of 2009. It states that by means of an agreement in the year 2000, before the Park property was purchased by Southern Humboldt Working Together and before the Park was incorporated, Robert McKee and his partners in Buck Mountain Ranch LP maintained ownership of the 80 acre hillside to the south of Tooby Flat (which includes the yellow house near the east entrance to the Park). This ownership did not change through various lot line adjustments. This proves that the Southern Humboldt Community Park has no historical water connection with GSD because they have never been the owners of the 80 acre hillside.

Please do not move this Annexation MND forward without proper documentation of this narrative.

Please remove the Southern Humboldt Community Park from the annexation until the General Plan Update and the Southern Humboldt Community Park Board's General Plan Amendment and EIR are completed. The commercial development plans of the SHCP board for the property constitute the largest land use decisions in Garberville history. These plans must be allowed to go through a legitimate public process that is not compromised by prematurely installing public water infrastructure onto the property.

Attachment for the record: Southern Humboldt Community Park, Resolution 2009-01, Adopted March 17, 2009, Exhibit A included. Please include these comments with the written comments I have already submitted for the annexation project.

Kristin Vogel, POB 453, Garberville, CA 95542, July 23, 2013

Revised VERSION

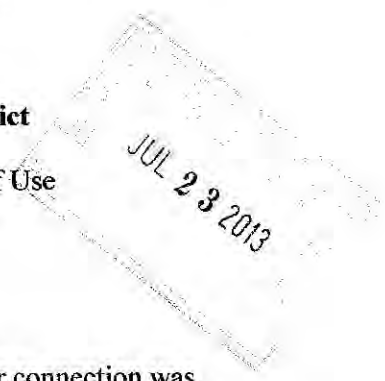


Revision - ①

*(Amended copy to come tomorrow by email - KV)*

**Comments for the July 23, 2013 Public Hearing, Garberville Sanitary District**

Garberville Annexation Project/ Change in Jurisdictional Boundary and Place of Use



GSD Board Directors and Staff,

The narrative in the GSD Annexation MND on page 5 states, "A historical water connection was extended to (the Southern Humboldt Community Park) to bring water to a caretakers cottage and various other outbuildings on APN 222-091-006 from the yellow house." This is inaccurate and unsupported by any documents. Waterlines were scabbed in from the yellow house on McKee's property to the Park property by a Park Board director. This action is not an acceptable basis for claiming a historical water connection.

I have a document here called Exhibit A which is the basis for a Resolution produced by the Park Board in March of 2009. It states that by means of an agreement in the year 2000, before the Park property was purchased by Southern Humboldt Working Together and before the Park was incorporated, Robert McKee and his partners in Buck Mountain Ranch LP maintained ownership of the 80 acre hillside to the south of Tooby Flat (which includes the yellow house near the east entrance to the Park). This ownership Humboldt Community Park has no historical water connection with GSD because they have never owned the 80 acre hillside. *has not changed*

Please do not move this Annexation MND forward without proper documentation of this narrative.

Please remove the Southern Humboldt Community Park from the annexation until the General Plan Update and the Southern Humboldt Community Park Board's General Plan Amendment and EIR are completed. The commercial development plans of the SHCP board for the property constitute the largest land use decisions in Garberville history. These plans must be allowed to go through a legitimate public process that is not compromised by prematurely installing public water infrastructure onto the property.

Attachment for the record: Southern Humboldt Community Park, Resolution 2009-01, Adopted March 17, 2009, Exhibit A included. Please include these comments with the written comments I have already submitted for the annexation project.

Kristin Vogel, POB 453, Garberville, CA 95542, July 23, 2013

*original*



## EXHIBIT A

The Tooby Ranch sale was completed in October of 2000. Prior to the sale, the non-profit Southern Humboldt Working Together (SHWT) negotiated a sale of property with Robert McKee and Buck Mountain Ranch, LP, the purchaser of the ranch. This property included Tooby Flat and the hillside to the south of the flat. At the time of the sale, the property purchased by SHWT included parts of four different but adjoining patent parcels pursuant to the Subdivision Map Act. Of the remaining portions of those patents, Robert McKee and his partners in Buck Mountain Ranch, LP agreed to maintain ownership to 80 acres and Stephen Dazey, a local entrepreneur and the founder of the Park, agreed to buy the remaining 70 acres. It was agreed that Buck Mountain Ranch, LP would retain the approximately 80 acres between Highway 101 and the lower Tooby Ranch Road and that Dazey would purchase a 70 acre parcel on the west side of the flat adjacent to the river, the final configuration of which would be determined by the Lot Line Adjustment process.

At the time of the sale, SHWT took title to three of the four patent parcels and Dazey to one patent parcel. The Patent held by Dazey is currently 80 acres and the adjusted parcel he agreed to purchase is 70 acres resulting in a net gain of 10 acres to the Southern Humboldt Community Park, the successor organization to SHWT that now holds title to the Park lands.

**SOUTHERN HUMBOLDT COMMUNITY PARK,  
A California Non-Profit Public Benefit Corporation**

**Resolution 2009-01  
Adopted March 17, 2009**

**“A RESOLUTION APPROVING A LOT LINE ADJUSTMENT WITH  
ADJOINING OWNER AND CORPORATE DIRECTOR STEPHEN DAZEY, AS  
PROVIDED IN CORPORATIONS CODE §5233(d)”**

---

**Whereas, the Board of Directors of Southern Humboldt Community Park (hereafter “Board”), upon written waiver of notice, on Tuesday, March 17, 2009, in Redway, California, having established the presence of a quorum, met for the purpose of reviewing and approving its tentative agreement with Stephen Dazey, an adjoining landowner and Board member, for a lot line adjustment of lands between the Corporation and Mr. Dazey; and,**

**Whereas, the Board reviewed the history of acquisition of real property intended to constitute the Southern Humboldt Community Park, from Buck Mountain Ranch, L.P., a California limited partnership; and,**

**Whereas, the Board acknowledges that the parcels comprising the area of the Southern Humboldt Community Park were not consistent with the topographic and planning configurations suitable to the needs of the Board with respect to its intended future use and development of the site as a public park, nor with the intentions of Buck Mountain Ranch, L.P.; and,**

**Whereas, the Board acknowledges the donative intention of Board member Mr. Dazey and his contributions to the goals of the Park and the Board by effectively “warehousing” the title to key portions of the Park over these recent years, pending approval and closing of the pending lot line adjustment between the Park and Mr. Dazey’s adjoining parcel; and,**

**Whereas, the Board acknowledges the donative character of Mr. Dazey’s agreement to adjust land area between his adjoining parcel and that of the Park so that what was formerly an eighty (80) acre parcel will become seventy (70) acres owned by Mr. Dazey; and,**

**Whereas, the Board acknowledges that the proposed lot line adjustment with Mr. Dazey will transfer to the Park the lands most suitable and appropriate to the public benefit character of the site, expanding the area of Tooby Flat under the Board’s management and control that best meets its management plans and intentions; and,**

Whereas, the Board has this day read and approved a chronological narrative statement of the facts and circumstances surrounding this long-hope-for lot line adjustment with Mr. Dazey, a Board member, and attached that statement hereto as Exhibit A, and made it a part hereof, and that its President and Secretary have read and reported to the Board concerning the escrow documents prepared for this transaction; and,

Whereas, the Board, in consideration of the facts aforesaid and incorporated herein, does find that:

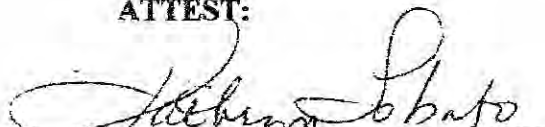
- a. The corporation has entered into its lot line adjustment agreement transaction with Mr. Dazey for its own benefit;
- b. The transaction with Mr. Dazey was fair and reasonable as to the corporation when it entered into it.

NOW, THEREFORE, be it resolved that the pending escrow at Humboldt Land Title Company, number 116479, is approved, the majority of the Board (with Board member Mr. Dazey neither present nor voting) having found, consistent with its duties set forth in Corporations Code §5233(d), that the facts surrounding the transaction are, in good faith, in the best interests of the corporation, and that, after a reasonable investigation of the facts (see the attached Exhibit A), the Board concludes that the corporation could not have obtained a more advantageous arrangement with reasonable effort under the circumstances.

Resolved this 17<sup>th</sup> day of March, 2009.

  
\_\_\_\_\_  
Tim Metz, President

ATTEST:

  
\_\_\_\_\_  
Kathryn Lobato, Secretary

Voting of Board Members on Resolution 2009-01:

<u>Name of Board Member</u>	<u>Yes</u>	<u>No</u>
Tim Metz	✓	
Peter Ryce		ABSENT
Kathryn Lobato	✓	
Doug Wallace	✓	
Liz Lewin-Arnoul	✓	

**Waiver of Notice of Meeting of the Board of Directors**

The Board of Directors of Southern Humboldt Community Park (hereafter "Board") hereby consents to a written waiver of notice of meeting of the Board on Tuesday, March 17, 2009.

Tim Metz-Chair	<u>Tim Metz, President</u>	Date <u>3-17-09</u>
Kathryn Lobato-Secretary	<u>Kathryn Lobato</u>	Date <u>3-17-09</u>
Peter Ryce-Treasurer	_____	Date _____ ABSENT
Stephen Dazey	<u>Stephen Dazey</u>	Date <u>3/17/09</u>
Liz Lewin-Arnoul	<u>Liz Lewin-Arnoul</u>	Date <u>3-17-09</u>
Doug Wallace	<u>Doug Wallace</u>	Date <u>3-17-09</u>

Attach: Minutes, Resolutions

To Garberville Sanitary District  
Re: IS/MND annexation, May 2013

At the July board meeting, I asked the board to please consider protecting the water, except that in speaking off the cuff as I did, maybe it wasn't clear what I meant. Another speaker actually made my point much more poignantly. He said GSD's mandate is to provide water and sewer service to the district.

That is my point. Your mandate is to provide service to all these many acres that you are seeking to add to the district in this annexation. The IS/MND still ignores the obvious growth inducing potential of the annexation in the Humboldt County General Plan Update Housing Opportunity Zones, areas of urban density zoning. The district needs an EIR to assess how the growth inducement from the annexation will affect the river.

In the charts included with the IS/MND for annexation dated May 2013, I counted 28.11 acres of land that are currently outside the district but are proposed for annexation for both water and sewer and are in the Housing Opportunity Zone in the Humboldt County General Plan Update.

Just those 28 acres could potentially induce growth by adding 450 units to the district. That's a lot. The growth inducing potential of this proposed annexation cannot be addressed in the IS/ MMD and must be addressed in an EIR.

Sandy Feretto  
Aug. 19, 2013

Rec'd 8/19/13  
@ Board Mtg



Prepared for:



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



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



September 2013  
011184

Prepared by:  
**SN**  
Consulting Engineers  
& Geologists, Inc.



To the Board of Directors  
Garberville Sanitary District

September 18, 2013

Dear Board Members,



The Southern Humboldt Community Park has been an active participant in your community process for determining the SOI and annexation process. Many members of the community have filled your board room to express their support for safe drinking water in the Park and your board agreed. The conclusion of that process there was a 5/0 vote by your Board to include the entire park in both the Annexation and Sphere of Influence.

We were disheartened to learn that threatened litigation by Ed Voice has caused you to remove the Park from your annexation.

At this time, the Community Park is considering our options. One is to apply for annexation on to the district through LAFCo, which regardless of what you may hear, is another enormous and expensive hurdle.

Another possibility is for the Park to create its own public water company to provide safe public drinking water to families using the playground and the ball fields. Meanwhile GSD will operate a drinking water plant adjoining our property and has water lines running the length of our property.

What a remarkably inefficient and redundant bureaucratic system! Is there no sensible solution?

We are very concerned about the implications for our current residential service connection. At our meeting with Jennie Short and Rio Anderson last month, Jennie informed us that the Park was the only rate payer that was taken out of the annexation. The reason she cited was that we aren't currently receiving water. The decision is completely in opposition to the advice that we received on multiple occasions from your own General Manager - Mark Bryant.

When a significant leak was discovered in the Community Park's 2000' water line, we received advice from your General Manager at the time. Since GSD was planning to abandon the line that served the Park, Mark Bryant advised the Park to turn the water off temporarily and to continue to pay our bill. We were assured that paying our monthly bill would protect our service connection until the new plant was up and running.

We revisited this advice again with Mr. Bryant in November of 2011. Please see the attached email sent from the Community Park to Mark Bryant and Jennie Short on November 29, 2011. This email summarizes and documents the nature of our conversations and the advice given. Phone conversations with Mark Bryant at the time confirmed that we did not need to do anything additional to preserve our future service but to keep paying the bill.

Every month you have sent us a bill, and every month we have paid it. This constitutes an active agreement between us. We did this to protect our service connection at the advice of your General Manager

Our counsel informs us that you cannot unilaterally make a decision that potentially removes our existing service connection in this manner. This appears to constitute a more complicated issue that violates our legal rights. We believe that you are obligated to honor our existing service connection. Please respond to these concerns.

Sincerely,

Dennis Huber  
Board of Directors, Southern Humboldt Community Park

Subject: Community Park Water service

From: "Kathryn Lobato" <kathryn@lostcoast.net>

Date: 11/29/2011 2:58 PM

To: "Mark Bryant" <mbryant@garbervillesd.org>, "Jenny Short" <jshort@garbervillesd.org>

BCC: "Rachel Sowards Thompson" <rhsowards@gmail.com>, "Tim Metz" <timmetz@asis.com>, "Peter Ryce" <beginnings@asis.com>, "Carol Van Sant" <carolvansant@gmail.com>, "Dennis Huber" <lalahuber@asis.com>, "Eric Kirk" <ericvkirk@gmail.com>, "Sanford Goldeen" <sanfordgo@comcast.net>

Hi Mark,

I thought the meeting went well last night. Thanks for providing the opportunity for community input on the SOI process. I was impressed with the level of participation and appreciative of the outcome.

I'd like to follow up on our past conversations regarding the Community Park's current, metered connection to the GSD water system.

As I recall, in summer of 2009 a water loss issue was identified that appeared to be coming from the Park's side of the water line. After much work, we were unable to find the source of the loss. At that time, neither the Park nor GSD had specific resources to address those issues. In my conversation with you, we decided the best approach was to temporarily turn off the flow of water until we were prepared to fix the problem.

I made it clear that the Community Park valued the water connection. You assured us at that time, and again during our conversation last week, that temporality turning off the water to that line would not in any way jeopardize our future service. You told me that our water service would remain active as long as our bills were being paid.

Is our current or future water service threatened in any way because the water is currently not turned on? Is there some sort of "use-it-or-lose-it" policy at the GSD or with LAFCo?

If there any risk to our future service, then we are ready to do whatever is necessary to repair any problems on our side of the line that has caused that line to be turned

off.

Do you think we should ask LAFCo for clarification on this issue?

Best Regards,

Kathryn

<jshort@garbervillesd.org>

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**From:** Donald Courtemanche <donauldcourtemanche@wavecable.com>  
tina <admin@garbervillesd.org>, Jennie Short <jshort@garbervillesd.org>, lafco <execofficer@humboldtlafo.org>, Tony (CDPH-DDWEM) Wiedemann <Tony.Wiedemann@cdph.ca.gov>, water <CRich@waterboards.ca.gov>, waterboards <cgehr@waterboards.ca.gov>, DFG <MVANHATTEM@dfg.ca.gov>, virginia <vbass@co.humboldt.ca.us>, estell fennell <efennell@co.humboldt.ca.us>

**To:**

**Date:** Sep 24 '13 10:38am

**Subject:** The Garberville Sanitary District's new Annexation Process. Elimination of the public process.

**Attach.:** GSD 20130920-FinalIS-MND\_Redline.pdf (1.65 MB), GSD finished 20130920-FinalIS-MND(reduced).pdf (7.29 MB)

## Garberville Sanitary District

### Final **Uncirculated** Initial Study/Mitigated Negative Declaration September 24, 2013

These comments are for the GSD Board and other responsible agencies.

This final I/S MMD has never been circulated and it consists of 129 new pages and is "substantially rewritten" and completely changed with new maps and figures, new parcels have been added and others redefined. There is so much new information in this new document and there is not enough time to review it to write comments before the Tuesday 5 pm GSD board meeting.

And a hard copy of this new I/S MMD was not made available until Monday 9/23/2013 the day before the GSD BOD votes on this new I/S MMD. It is quite clear that a 30 day recirculation of this document is required. The changes are substantial enough to trigger the following CEQA guidelines and codes.

[CEQA Guidelines Section 15073.5](#). And CEQA

**Section 15073.5. Recirculation of a Negative Declaration Prior to Adoption.** (a) A lead agency is required to recirculate a negative declaration when the document must be substantially revised after public notice of its availability has previously been given pursuant to Section 15072, but prior to its adoption. Notice of recirculation shall comply with Sections 15072 and 15073.

**Note:** Authority cited: Section 21083, Public Resources Code. Reference: Section 21080, Public Resources Code; *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359; *Leonoff v. Monterey County Board of Supervisors* (1990) 222 Cal.App.3d 1337; *Long Beach Savings and Loan Assn. v. Long Beach Redevelopment Agency* (1986) 188 Cal.App.3d 249.

Thank you for your time in this matter.

Donald Courtemanche Sprowel Creek Road Garberville



September 24, 2013

Jennie Short  
Garberville Sanitary District  
919 Redwood Drive  
P.O. Box 211  
Garberville, CA 95542

Re: Public Comments on Garberville Sanitary District Boundary Change (Annexation) –  
Final Initial Study/Mitigated Negative Declaration

Dear Ms. Short,

Thank you for the opportunity to submit comments on the Project. I write today on behalf of my client, Mr. Ed Voice and the Voice Family. We write to submit the following comments and questions to the Garberville Sanitary District's Final IS/MND. We also incorporate by reference the comments submitted on July 8, 2013 on the Recirculated IS/MND.

Initially, it is our feeling that the public does not have sufficient time to review and make comprehensive comments on the revised IS/MND. Two working days is simply insufficient, particularly since there are some significant changes to the Final IS/MND such as the new discussion on cumulative impacts. We request that the Final IS/MND be re-circulated for another 30 day public comment period to give the public sufficient time to submit meaningful and substantive comments.

GSD has added new and significant information to the revised IS/MND without adding any corresponding mitigation measures. Most notably, GSD added new properties with receiving water and sewer connections and services that were not included in the last recirculated IS/MND. For example, No. 6, Connick Creek from the SHN Response to Comments. First, it seems that it contradicts the Revised IS/MND. It states that GSD did not "inherit" the water connections from GWC at Connick Creek. This information not only contradicts the last recirculated IS/MND, it does not even disclose the same information in this new revised final IS/MND. GSD is now including properties at Connick Creek that are not even receiving water and have nothing built on the property and will still need to obtain approved building permits with the Planning Commission. The only approval from Humboldt County was for a Lot Line Adjustment and Subdivision, with as a condition, water storage for fire prevention per property, which was never completed. Nor were fire hydrants ever installed at Connick Creek. So, why are these properties not receiving water now included in this annexation?

The whole point of the annexation and place of use petition was to allow GSD to identify where they are serving water and sewer outside their approved LAFCo and DWR license and permitted place of use and jurisdictional boundaries, e.g. to get back in compliance. In fact, BOD Anderson stated on KMUD News on August 22, 2013, "It's just a boundary change to make us compliant, it's not like we're doing some huge project, we're just trying to be

compliant with State law.” If that is the case, why is GSD now including properties for future connections and services? It seems that by allowing these properties that have not been “inherited” by GSD since the purchase of the GWC in 2004, GSD is fostering development and inducing growth in including these properties in the Annexation/Place of Use, which contradicts the IS/MND and their effects on the environment, i.e. the Eel River.

GSD has also changed the Project Description to include: ***“or contracted from the GSD for future water service”***, which does not coincide with the new properties you have identified that do not currently have water or sewer services provided from GSD since or before 2004. Nor does it include the incorporation of mitigation measures that has reduced this effect from "Potentially Significant Impact" to a "Less Than Significant Impact.” The lead agency must describe these mitigation measures, and briefly explain how they reduce the effect to a less than significant level.

GSD has significantly modified the existing maps and figures in this new IS/MND, identifying the properties that are not currently receiving water or sewer services.

How can GSD now, in this revised IS/MND include new properties that they did not know about before and properties that have not or are not receiving water from either GWC before 2004 or GSD after 2004 and include these properties in the annexation and place of use? If these properties are not receiving water or sewer services they need to be left out.

The point of this annexation and place of use was to make GSD identify where they are serving water and sewer outside their approved LAFCo and DWR license and permitted place of use and Jurisdictional boundaries. If that is the case, why are they now including properties for future connections and services?

If GSD has taken the Community Park property completely out of this annexation/place of use IS/MND, why are they still in the revised property description in the new IS/MND just like they are included, why not take them out completely? Why are they still included in the IS/MND?

We believe that there is substantial evidence before GSD that the project, as revised, may have a significant effect on the environment which cannot be – or which is not being – mitigated or avoided. Thus, GSD should prepare a draft EIR, pursuant to 14 CCR §15073.5.

Thank you for your attention to these matters. Please feel free to contact me or my client, Ed Voice, if you have any questions.

Sincerely,



Lynne R. Saxton