



## GARBERVILLE SANITARY DISTRICT

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

June 1, 2020

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

SUBJECT: SUMMARY OF PROTEST RESOLUTION – Redway Community Services District  
GSD PETITIONS FOR CHANGE IN PLACE OF USE ON LICENSE 3404 AND PERMIT  
20789 (APPLICATIONS 9686 and 29981) OF GARBERVILLE SANITARY DISTRICT, SOUTH  
FORK EEL RIVER IN HUMBOLDT COUNTY

Dear Mr. Meza:

The Garberville Sanitary District received a protest filed by Redway Community Services District (RCSD) for the petitions on License 3404 and Permit 20789. The District reviewed the protest to determine what the protestant's objections are to the approval of the petition and the basis for these objections. The District provided a letter dated February 10, 2020, responding to the protestant's concerns. RCSD sent a letter dated April 15, 2020 with three protest dismissal conditions. Those conditions were:

- 1) The Southern Humboldt Community Park shall hold public meetings regulated by the Brown Act and all future development on Park property will be referred by the County, to all downstream users of the South Fork of the Eel River before permitting.*
- 2) The Garberville Sanitary District will be required to publish the monthly meter reads of the Park Connection to the Board Meeting Agenda so that members of the general public can see that usage is within the allocated volumes. If usage exceeds allocated volumes, the discontinuation of service will be enforced by GSD. If the discontinuation of service is not enforced by GSD, GSD will receive enforcement action by the State Water Resources Control Board.*
- 3) If any portion of the Park property that is served by GSD is sold or changes hands, the connection to the GSD will be terminated.*

GSD's Board of Directors considered the three conditions put forward by RCSD at their May 19, 2020 meeting, and did not accept any of the conditions. The reasons are:

1. GSD cannot force the Southern Humboldt Community Park to hold their board meetings regulated by the Brown Act (which only applies to public entities) nor can GSD stipulate to Humboldt County that they must refer development permit reviews to "all downstream users of the South Fork of the Eel River before permitting". GSD does not have the authority to perform either of these requested tasks.
2. Monthly water useage by the Park has always been available upon request within existing laws and regulations and has always been made available when requested. The District is committed to supplying this information, but does not accept a condition which specifies

the frequency and/or methodology by which this information must be supplied. Best methods may change in the future and the District will need to be able to change as needed. This type of detail does not seem appropriate for a condition within a permit or license water right document.

3. The executed Water Service Agreement (between GSD and SHCP which will be recorded against the property as soon as the SWRCB issues an amended water license and permit) already stipulates in section 8, *"The approval by GSD to provide water to SHCP for use on the SHCP Property is extended solely to SHCP and cannot be assigned by SHCP to any future property owners of the SHCP Property without the express written consent of GSD. GSD may withhold its consent to any requested assignment by SHCP in GSD's sole discretion. In the event the SHCP Property is transferred at any point in time including, without limitation, any transfer by sale, gift, foreclosure, or other means, the water connection and service contemplated by this Agreement will be subject to immediate termination unless and until the GSD Board of Directors reviews and approves, in GSD's complete and sole discretion, an application by the new owner for water service and identifies the type of use, the use areas on the SHCP Property, and the quantity of use requested by any new owner or transferee of the SHCP Property. The GSD Board of Directors shall have complete discretion to approve or reject any application for continued water service in the event the SHCP Property is transferred or sold, and, if approved, may impose such conditions as the GSD Board of Directors deems appropriate."*

The District believes this legally enforceable document provides more than enough protection for the concerns over possible future change in property ownership. The District feels that the SWRCB is not an appropriate agency from which to obtain approval for continued water service any time a property within the District's POU merely changes ownership or a structure within the POU area changes type of use.

The protest has not been resolved. Jennie Short attended the May 20, 2020 RCSD Board of Directors meeting via teleconference. After Ms. Short's communications with the RCSD Board during the meeting, it does not appear that there is a resolution that will be forthcoming. There are concerns from one RCSD board member (Linda Sutton – who also protested personally) that are related to overall Park development which would use the Park's pre-1914 riparian water rights that have nothing to do with the GSD provision of potable water service to this small portion of the Park's property. During the discussions there was a motion by another board member to rescind the protest letter, but that motion was not seconded. There is no way for GSD to resolve or allay these non-potable water service related concerns.

The District requests that the Waterboard dismiss this protest and move forward with filing a Notice of Determination and preparing the amended water right documents for the Petition for Change in Place of Use.

Respectfully,



Linda Brodersen  
Chair of the Board of Directors  
JMS

Cc: Redway Community Services District  
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