



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 – Linda Sutton
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 Linda Sutton 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. Ms. Sutton sent a letter dated April 17, 2020 with two protest dismissal conditions. Those conditions were:

1. *GSD provides water only for the two existing residences as previously stated in the 2013 Annexation IS/MND. If either of the residences is repurposed for new development, the GSD water connection will be terminated. No GSD water will be used for new development or other park projects as stated in the 2013 Annexation IS/MND. If this occurs, the connection will be terminated.*
2. *GSD will provide ongoing public documentation by reporting monthly water useage by the Park at regular business meetings.*

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

1. 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:
 - a. *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."

- b. In Section 1 it limits the service already, *"Contingent and conditional upon (i) LAFCo's approval of the Outside Service Application and (ii) the California State Water Resources Control Board's ("SWRCB's") approval of the SHCP Property as part of GSD's Place of Use permit and license, the District shall allow SHCP, at SHCP's sole cost and expense, to install one (1), three-quarter inch (¾") meter for one (1) new service connection from Tooby Ranch Road off of the existing 8" waterline that was constructed adjacent to the Tooby Ranch Road, to serve only the existing residences and outbuildings on the SHCP Property existing as of the Effective Date and public water fountains to be constructed on the SHCP Property in the area depicted as the "Proposed Water Service Areas" on the Diagram attached hereto as Exhibit B."*
 - c. In Section 5.4. it limits the locations and uses, *"Should SHCP, at any time, petition GSD to expand the service area, change the proposed uses for the water service, or need to increase the quantity of water consumed each month beyond those recited in this Agreement, then SHCP will be required to annex the SHCP Property into the GSD jurisdictional boundary. This will include following any process required by Humboldt LAFCo process for annexation. Any change in service area will also require a change in Place of Use subject to the approval of the SWRCB Division of Water Rights."*
 - d. 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.
 - e. The GSD Board of Directors has supported the Park's request to provide potable drinking water via water fountains to existing park users and has applied to HLAFCo and SWRCB accordingly. The 2019 IS/MND Addendum prepared by Humboldt Local Agency Formation Commission (HLAFCo) evaluated the addition of the water fountains using District water while maintaining the 2,000 cubic feet per month limitation. HLAFCo approved the service to the drinking fountains as well as the historic structures in all the areas included in the Petition to Change the Place of Use. The District does not accept any condition that removes the drinking fountains as acceptable uses of the municipal water within the proposed amended Place of Use.
2. Monthly water usage 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.

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 Ms. Sutton and the unresolved concerns she voiced during the RCSD Board meeting, it does not appear that there is a resolution that will be forthcoming. There are concerns from Ms. Sutton 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. 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

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