

PROTEST OF PETITION FOR CHANGE FOR WATER RIGHT LICENSE 3404 (APPLICATION 9686) AND PERMIT 20789 (APPLICATION 29981) OF GARBERVILLE SANITARY DISTRICT:

Protests must be received by the Division of Water Rights by 4:30 p.m. on December 5, 2019. A copy of the protest must also be provided to Garberville Sanitary District at the address noted below. Protests may be provided via email prior to the deadline; however, a copy of the original signed protest must be subsequently filed with the Division.

For information, please contact Michael Meza at (916) 341-5427 or michael.meza@waterboards.ca.gov. Written correspondence should be addressed as follows:

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

Any correspondence directed to the petitioner should be sent to the following contact:

Garberville Sanitary District, c/o Jennie Short, P.O. Box 211, Garberville, CA 95542

Protestant: Edward Voice & Voice Family, PO Box 572, Nice, Ca. 95464

Protestant Contact information: 707.349.1069 or evoice@mchsi.com

State of California
State Water Resources Control Board
DIVISION OF WATER RIGHTS
P.O. Box 2000, Sacramento, CA 95812-2000
Info: (916) 341-5300, FAX: (916) 341-5400, Web: <http://www.waterrights.ca.gov>

PROTEST – APPLICATION

Based on Environmental Considerations, Public Interest, Public Trust, and Other Issues.
(Protests based on INJURY TO PRIOR RIGHTS should be completed on other side of form)

APPLICATION LICENSE 3404 AND PERMIT 20789

1. I, (We) Edward Voice
Name of Protestant(s)
of PO Box 572, Nice Ca. 95464, (707) 349-1069 have read carefully a copy
Mailing address and zip code of protestant(S) Telephone Number
of, or a notice relative to, Application Lic 3404/Permit 20789 of Garberville Sanitary District
Name of applicant
South Fork Eel River
to appropriate from
Name of source
at a point Sections 13, 23, 24, 25, and 35, T4S, R3E, HB&M; and Sections 18, 19, and 20, T4S, R4E, HB&M.

2. I, (We) protest the above application on:
 ENVIRONMENTAL ISSUES, ETC.:
The appropriation will not best conserve the public interest, will have an adverse environmental impact and/or will adversely affect a public trust use of a navigable waterway. *
a. Public interest protests should clearly indicate how the appropriation will affect the public.
b. Environmental protest should identify specific impacts and provide supporting recitals on issues such as: plants, animals or fish affected, erosion, pollution, aesthetics, etc.
c. Public trust protests must identify the navigable waters to be affected and how the project will impact public trust values.
Protests of a general nature (not project specific) or opposed to constitutional or legislated state policy will not be accepted. A request for information or for studies to be conducted is not a protest.

OTHER ISSUES, ETC.:
The appropriation will be contrary to law, will require access rights, will not be in the State Water Resources Control Board's jurisdiction, or concerns other issues.

Facts and, if applicable, points of law which support the foregoing allegations are as follows: See attached comments

3. Under what conditions may this protest be disregarded and dismissed? See attached comments
(Conditions should be a nature that the applicant can address and either accept or submit mitigating measures.)

4. A true copy of this protest has been served upon the applicant by mail c/o Jennie Short, P.O. Box 211, Garberville, CA 95542.
Personally or by mail

* For the purpose of filing a protest, navigable waters include streams and lakes that may be seasonally navigable in small recreational watercraft.

Date: _____

Notes: Attach supplemental sheets as necessary. Protests must be filed within the time specified in the notice of application

Protestant(s) or authorized representative sign here
Edward Voice
Type or print name and title of representative, if applicable
PO Box 572
Street address
Nice, Ca. 95464
City and State
(707) 349-1069
Telephone number

**NOTICE OF PETITION FOR CHANGE FOR WATER RIGHT LICENSE 3404 (APPLICATION 9686) AND
PERMIT 20789 (APPLICATION 29981) OF GARBERVILLE SANITARY DISTRICT**

Re: Protest and Public Comments

To: State Water Resources Control Board, Division of Water Rights

Attn: Michael Meza, P.O. Box 2000, Sacramento, CA 95812-2000

Garberville Sanitary District, c/o Jennie Short, P.O. Box 211, Garberville, CA 95542

From: Edward Voice, PO Box 572, Nice Ca. 95464

Dear State Water Resources Control Board, Division of Water Rights,

Like the fable of the blind men and the elephant, CEQA's prohibition on "piecemealing" of environmental review is animated by a basic recognition that the "whole" of an action under review is greater than its individual parts viewed separately. (The same important insight also underlies CEQA's requirement to analyze a project's cumulative impacts.) But CEQA's expansive and rather amorphous definition of what constitutes a "project" ensures that its piecemealing rule shares another similarity with the famous fable: what conduct constitutes improper piecemealing often appears to be in the "eye of the beholder" and individual perceptions can differ greatly based on more-or-less subjective factors. Appellate courts have long wrestled with application of the relevant legal principles, which essentially attempt to prohibit a lead agency's "chopping up" of a project into smaller components so that it can turn a "blind eye" to reasonably foreseeable environmental impacts of the "whole" action.

The reason I bring this to your attention, this CEQA addendum you have before you for this Change Petition is the CEQA textbook example of "piecemealing". This metered water service connection from GSD, that would need your approval to expand GSD's diversion Place of Use, as proposed, was not reviewed, studied or analyzed under CEQA. Nor was it analyzed within the initial study for the Garberville Sanitary District (GSD) IS/MND Annexation (SCH # 2012032025) or the Southern Humboldt Community Park (SHCP) DEIR or Final EIR (SCH # 2010092037). What you have before you has been "piecemealed" between these two CEQA documents and submitted to you only as a narrative that was not analyzed as a whole under CEQA as referenced in this Petition. In other words, what you have is a bait and switch approach to CEQA. All you need to do is review and read each CEQA document (SCH # 201009037 & SCH # 2012032025) to understand this addendum is circumventing the CEQA process and my comments 1 thru 11 will help guide you through my argument and why I am opposed to this addendum being used.

The State CEQA Guidelines define a project under CEQA as "the whole of the action" that may result either directly or indirectly in physical changes to the environment. This broad definition is intended to provide the maximum protection of the environment. Piecemealing or segmenting means dividing a project into two or more pieces and evaluating each piece in a separate environmental document, rather than evaluating the whole of the project in one environmental document. This is explicitly forbidden by CEQA, because dividing a project into a number of pieces would allow a Lead Agency to minimize the apparent environmental impacts of a project by evaluating individual pieces separately, each of which may have a less-than-significant impact on the environment, but which together may result in a significant impact. Segmenting a project may also hinder developing comprehensive mitigation strategies.

In general, if an activity or facility is necessary for the operation of a project, or necessary to achieve the project objectives, or a reasonably foreseeable consequence of approving the project, then it should be considered an integral project component that should be analyzed within the environmental analysis. The project description should include all project components, including those that will have to be approved by responsible agencies. When future phases of a project are possible, but too speculative to be evaluated, the EIR should still mention that future phases may occur, provide as much information as is available about these future phases, and indicate that they would be subject to future CEQA review. CEQA case law has established the following general principles on project segmentation for different project types:

For a phased development project, even if details about future phases are not known, future phases must be included in the project description if they are a reasonably foreseeable consequence of the initial phase and will significantly change the initial project or its impacts. Laurel Heights Improvement Association v Regents of University of California (1988) 47 Cal. 3d 376.

For a planning approval such as general plan amendment, the project description must include reasonably anticipated physical development that could occur in view of the approval. City of Redlands v. County of San Bernardino (2002) 96 Cal. App. 4th 398.

For a project requiring construction of offsite infrastructure (e.g., water and sewer lines), the offsite infrastructure must be included in the project description. San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus (1994) 27 Cal.App. 4th 713.

For modification of a permit for an existing facility, the scope of the project description can be limited to the scope of the permit modification and does not cover the entire facility. Citizens for East Shore Parks v. State Lands Commission (2011) 202 Cal.App. 4th 549.

1. Nothing included in the SHCP Final EIR addressed, analyzed or mitigated the existence of past or future water service from GSD. In fact, it's stated in the addendum, page 16: "***However, the 2016 EIR did not consider potential connection to GSD for potable water supply***". Items included in this addendum have been cherry picked and "piecemealed" only using selected parts of the SHCP EIR, then cobbled together using selected parts of the GSD Annexation IS/MND. for which this addendum was created and embellished.

2. Just because the GSD included the SHCP project in GSD Annexation IS/MND as an informational item only, i.e. "Other Projects in the Garberville Area", does not mean it addressed, studied or analyzed under CEQA, because it was not. In fact, as of June 18, 2019, GSD has now increased the area to be served with this new water service connection (Place of Use) within the SHCP property, compared to what was only mentioned in the GSD Annexation IS/MND. GSD has increased the area of use by more than 3 times and added more access and use of water for non-residential and non-domestic use in those new designated areas within the SHCP property boundary, that are only intended for private commercial events, public assembly, fundraisers, concerts, festivals, new private development and now allowing 800 to 5000 visitors a day per event. How were these changes analyzed under CEQA in the GSD Annexation IS/MND? Answer: They were not.

3. In the SHCP Final EIR response to comments, it was made abundantly clear, the only use and source of water intended for use on the SHCP property came from the SHCP's own private onsite water sources, "adequate supply of potable water", it did NOT include a water source from GSD.

4. As Jennie Short stated, addressing the GSD Board on June 18, 2019; she acknowledges the elephant in the room: ***"The fact that GSD as a water source was not included in the Park's EIR was unfortunate and that would have been ideal if that had been done."***

5. As explained from the SHCP FEIR Response to Comments to the DEIR (SCH# 2010092037), in part they state and confirm the following:

(a) Re: LETTER B3 Humboldt Local Agency Formation Commission B3-1

"The commenter correctly describes much of the history of the potential annexation of the project site into the Garberville Sanitary District (GSD). However, since the site was excluded from the 2014 annexation process by GSD, the project applicant has moved on to address the park's water needs. The applicant completed a water supply and demand analysis, which showed there are adequate water supplies within the control of the applicant to develop the project. Further, the project includes a proposal for the use of an upland well as part of the overall water supply strategy. Water withdrawn from this well would not affect flows on the South Fork Eel River, which would be the case for water supplied from GSD. Thus, the proposed system of providing water from a range of sources available to the applicant is more environmentally beneficial, and annexation to GSD is not necessary."

(b) Re: LETTER B4 Garberville Sanitary District B4-1

"The commenter states that the project should not provide potable water to the public unless the project site is annexed to the Garberville Sanitary District (GSD), which would provide potable water. As discussed in Section 4.17, Utilities and Service Systems, of the DEIR, the project would have adequate supplies of potable water; thus, annexation to GSD is not necessary. The commenter repeats the flow mitigation measures included in the DEIR as a possible condition for future GSD water use. Since these mitigations are already included in Mitigation Measure BIO-5, there is no need for the project to connect to GSD to follow these diversion limits. Lastly, the commenter presents a concern about future connection to the GSD sewer system. The project does not include a proposal to connect to the GSD sewer system."

(c) Re: LETTER C6 Saxton & Associates C6-21

"Annexation to GSD has not been proposed as part of the project and was not included as a mitigation measure because it was found that adequate water could be provided to the site without annexation. If annexation were to occur at a future date, further environmental review may be required. See the responses to Comments B3-1 and B4-1 regarding annexation to GSD and comments submitted by the Humboldt Local Agency Formation Commission (LAFCo) and GSD."

6. As stated, there was no review, study, mitigation or findings that disclosed or discussed using a metered water connection from GSD in conjunction or included within the SHCP EIR project or property. And or what direct or indirect effect it would have on the environment. Nor does the Final SHCP CEQA EIR disclose, discuss or analyze the past or future existence of potable water provided by either the Garberville Water Company (past) or GSD (future) and was NOT considered by the Planning Commission or Humboldt County Board of Supervisors through the Humboldt County

General Plan Amendment process. By what method did the GSD Board surmise that this new water connection was included in the Parks EIR? Answer, they did not.

7. Included in the addendum (Exhibit "E") every one of those 25 pages of mitigation measures are from the SHCP EIR (SCH# 2010092037), not the GSD IS/MND Annexation (SCH # 2012032025). If that is not "piecemealing". I don't know what is.

8. The SHCP was excluded from the GSD Annexation IS/MND process, from which this addendum was conceived and created. But yet GSD is now using this same GSD Annexation CEQA IS/MND the SHCP was excluded from to now be included without being annexed 6 years after the fact, with no rhyme or reason, other than they did not include this same information into the SHCP EIR.

9. If GSD and Humboldt LAFCo are going to "piecemeal" this addendum by using two different CEQA documents from two different projects with two different lead agencies and combine them into one, where is the addendum to the SHCP EIR (SCH# 2010092037)! Answer, they did not require one.

10. And I would like to dispute what was stated by GSD in their opening remarks (first paragraph page 1) and cover letter submitted with this Change Petition, where it states, in part:

"At one time this property was a GSD water customer, but was not within our Place of Use. Service to the property was discontinued and we would now like to reinstate it."

Please see Attachment 1, included in my protest packet. It includes detailed information of the extent of what GSD is referring to as a ***"one time...GSD water customer"***. In fact, the truth is the SHCP illegally tied into a nearby potable waterline, without notifying GSD of its connection and water use. The reason they were originally included in the GSD Annexation process was to be included into the GSD jurisdictional boundary, place of use and have a legal water connection from GSD. However, for reasons that are not abundantly clear or were never publicly disclosed, GSD excluded the SHCP from the Annexation process (as stated above from item 5(a)), and remained outside the GSD SWRCB-DWR POU and jurisdictional boundary with no legal water connection.

11. As stated in the Response to Comments, Garberville Sanitary District Annexation Project SCH # 2012032025 (see Attachment 2), it states, in part from item 1:

"The IS/MND acknowledges the history of the SHCP connections on pages 4 and 5. Even though the goal of the project is to update the Humboldt Local Agency Formation Commission (LAFCo) approved jurisdictional boundary (boundary) and State Water Resources Control Board (SWRCB) Place of Use (POU) with the areas of historical water service provided by GSD or Garberville Water Company (GWC), the annexation area at the SHCP has been removed from the project. Any future changes or requests by the SHCP will be considered at that time. Additionally, the GSD took action on October 9, 2012, to provide conditions to be applied to an approval of any future annexation application for the SHCP. This is described on pages 23 through 26."

And item 2:

“Throughout the IS/MND, the impacts of the future SHCP project are discussed in the context of the potential for cumulative impacts within the proposed annexation area in conjunction with this annexation project to the extent that the SHCP project pertains to that impact topic.”

The key words in this characterization are ***“discussed”*** and ***“potential”***, not addressed, analyzed, studied or mitigated. The question(s) should be; did the SHCP expand or increase its scope, sheer size, development and increased water demand where the SHCP NOP or GSD Annexation IS/MND left off (2010/2013) as stated in item 2? Answer, YES, by a considerable amount!

And since the SHCP DEIR/FEIR expanded its project beyond what was denoted during the SHCP NOP (2010) and again to GSD in 2013 by the lead agency (Humboldt County), were these new impacts and effects to the environment addressed, analyzed, studied or mitigated in conjunction with the GSD Annexation IS/MND? Answer, NO!

And why is that, because as stated in item 1, ***“the annexation area at the SHCP has been removed from the project. Any future changes or requests by the SHCP will be considered at that time.”***

So, besides piecemealing this Addendum together between the GSD Annexation IS/MND and SHCP EIR, what was ***“considered”***? Answer, nothing. Because nothing was addressed, analyzed, studied or mitigated under CEQA for the SHCP to have and use potable water from GSD. And as we know, this Addendum did not include or authorize the SHCP property be annexed into the GSD jurisdictional boundary by the Humboldt LAFCo Commission.

In closing, I would like to remind the Division of Water Rights the South Fork Eel River is a Wild & Scenic River, both state and federally listed. In the 26 years I have tried to protect the South Fork Eel beneficial uses, I have never seen such a blatant disregard of the public trust as I have witnessed and read in this Petition and CEQA Addendum. For this reason and including my public comments I included for both the GSD Annexation IS/MND (SCH # 2012032025) and SHCP EIR (SCH# 2010092037), I would request you deny this Petition as stated until such time as this project can be analyzed under a standalone CEQA initial study process. Only then should this Petition move forward for the State Water Boards approval. If not, I will consider my options and right to keep defending the South Fork Eel Rivers beneficial uses which include essential fish habitat for threatened and endangered aquatic species, and reason for its inclusion and protection under the state and federal Wild & Scenic Rivers Act.

Thank you for your time and consideration,

Edward Voice and Voice Family, former Garberville/Redway resident, homeowner and neighboring property own of the Southern Humboldt Community Park 1961-2015

Attachment

1



GARBERVILLE SANITARY DISTRICT

P.O. BOX 211 • GARBERVILLE, CA 95542 • (707) 923-9568

October 22, 2013

Southern Humboldt Community Park Board of Directors
P.O. Box 185
Garberville, CA 95542

Re: RESPONSE TO SHCP ASSERTIONS FOR WATER SERVICE

Dear Members of the Park Board:

The GSD Board of Directors has received your letter dated September 18, 2013. The Southern Humboldt Community Park (SHCP) Board requested a response from the GSD Board. The District has communicated numerous times in the past 18 months regarding the complexities surrounding the properties that were part of APN 222-091-006, but have since been divided into several different APNs with various owners and the associated water service from GSD. In an effort to understand the history, below is a list of information as we understand it.

GENERAL BACKGROUND ON WATER SUPPLIES TO SHCP PROPERTY

1. On August 15, 2001, as part of the SHCP Scoping Meeting the following were questions and answers given in regards to "WATER," which describes that the SHCP was not connected to the Garberville Water Company (GWC) system at that time:

Water

Q. What about water supply?

A. River water would be the primary source. Test wells show that the closer to the river the better. We have applied to Humboldt Area Foundation for a grant for development.

Q. Why not use the existing community water system?

A. It's a private system that is not expanding (and it's for sale).

Q. Can we take water out of the river?

A. A permit to sink a well near the river has been applied for. The application does not include the quantity of water.

Q. What about different potential demands for water, i.e. agricultural, soccer fields?

A. A permit would specify how much water could be withdrawn; and also the quality of water returned to the river is regulated.

Q. Could there be ponds or other storage?

A. Yes - a large cistern could be developed...maybe about 3 years out.

2. The SHCP Board meeting minutes of September 22, 2004, state "Tim would like to consider tapping into Garberville water for the domestic needs." This appears to indicate that as of September 22, 2004, the SHCP was not connected to the GWC system.
3. The Environmental Checklist for the SHCP dated May 3, 2010 signed by Tim Metz and Kathryn Loboto, part of the Notice of Preparation circulated by the Humboldt County Planning and Building Department (formerly the Department of Community Development Services) for referral in September 2010. Checklist item XVI. "Utilities and Service Systems" states that "the location has its own abundant water sources including springs and a well on the property." The checklist also states that the property is within the GSD sphere of influence. There is no mention of a connection to the GSD water system. Furthermore, the SHCP has informed Humboldt County

Planning and Building Department (as the lead agency on the general plan amendment/zone reclassification/conditional use permit/special permit project) in the various application documents that there are two wells, a 400 gpm infiltration gallery in the SF Eel River, and a seasonal spring for which they have an agreement for use. LACO Associates completed a Well Production Study dated August 18, 2005, for the well in the southerly middle location on the property, which reported that 2.6 gallons per minute can be sustainably withdrawn from that well.

BILLING HISTORY FOR METER AND NEW CONNECTION

4. In November 2004, when the GSD bought the assets of the GWC, there was one meter that served APN 222-091-006 and was billed to the tenant residing in the yellow house. It was determined after reviewing the 1992 GWC meter books, that this meter was billed to the yellow house in 1992 and appears to have been billed to a tenant in that residence until June 2008. These are the oldest records that we have received to date from GWC.
5. In February 2007, the meter to the yellow house was locked out. The meter was turned back on in March 2008 and we began billing the yellow house tenant and copied to Bob McKee as the property owner.
6. June 2008, was the first time that the SHCP became the name on the GSD billing records. The SHCP was billed for consumption from June 2008 until March 2009 and then no consumption until the August and September 2009 bills. There has been no consumption since the September 2009 bill.
7. The GSD billed the base meter charge to the SHCP from October 2009 to September 2013, but has never billed for two connections. There has always only been one meter and one bill. The total of the charges to SHCP for the base rate from October 2009 to now are \$2,182.95. It is this Board's opinion that the previous District Administrator believed that when the Kimtu line was put into service, that the SHCP residences could be served off a new connection from that waterline, and billed the base-rate on this presumption. On February 8, 2013, when CDPH issued the amended water supply permit to GSD for the new Kimtu waterline, it became evident that connection to the Kimtu line was not and may never be available. The District is offering to refund these base rate payments to correct this.
8. The current conditions for the Kimtu waterline are that a connection cannot be made to the Kimtu line without both HLAFCo and CDPH approval. It is likely that HLAFCo would approve the connection once the SHCP GPA and associated permits have been approved by the Humboldt County Board of Supervisors. That would leave approval from CDPH, which may never be attainable because of fire flow conditions that must be satisfied prior to approval of any connection:
 - a. The condition in the CDPH issued Garberville Sanitary District Permit Amendment No. 01-01-12(P)-002, which states: "Garberville Sanitary District shall not allow new service connections to the 8-inch transmission main, constructed as part of Kimtu Meadows Mutual Water Company 's Proposition 50 project, that will reduce the design fire-flow at the Kimtu Meadows subdivision hydrants to below 750 gallons per minute at adequate pressure. The following information pertains to addressing this condition:
 - i. In June 2012, LACO Associates performed fire flow testing of the newly constructed Kimtu Waterline. The results of those tests were that when the 6" and 2" pressure reducing valves were open the flow rate at the Kimtu hydrant was 445 gpm; when only the 6" pressure reducing valve was open the flow rate at the same hydrant was 475 gpm. The pressure reducing station (at the intersection of Sprowel Creek Road and Camp Kimtu Road) does inhibit the flow rate available at the Kimtu Meadows Subdivision but is necessary to keep pressures in the line to an acceptable operational pressure. Connections on the

downstream side of the pressure reducing station would have more impact on the fire flow at the Kimtu hydrant than those upstream of the station. These conditions may mean that connection to the Kimtu waterline near the SHCP "Kimtu Parking Lot" area, which is proposed for baseball fields and a concessions stand with restrooms, may never be viable.

- ii. The new SWTP is designed to be able to produce up to 350 gallons per minute. This amount is available to add to the flows available from storage in an event of a fire at the Kimtu Meadows Subdivision.
 - iii. The GSD is currently constructing an 8" waterline in Sprowel Creek Road between Redwood Drive and the end of the existing 8" Kimtu waterline which will eliminate a constriction in the transmission line between the main storage tank and the Kimtu Meadows Subdivision fire hydrant. LACO's evaluation of the fire flow testing indicated that removal of this constriction should assist in the ability to meet or exceed the 750 gpm requirement for the Kimtu project. When this new waterline is in operation, the GSD plans to retest the fire flow at the Kimtu subdivision and then again when the SWTP is in operation.
- b. The outcome of the future physical flow testing results, and the calculations for the SHCP use off the Kimtu line, would be submitted to CDPH for consideration of any service connections to the Kimtu line. CDPH approval is not a certainty.

LOT LINE ADJUSTMENT AND DIVISION OF PROPERTY SERVED

9. In 2004, the SHCP, Steven Dazey, and Buck Mountain Ranch applied to Humboldt County Planning and Building Department for a Lot Line Adjustment. This lot line adjustment (LLA) was completed in January 2009 and recorded March 18, 2009.
10. The lot line adjustment divided off the current SHCP property from the 80 acres owned by Buck Mountain Ranch, which contains the yellow house.
11. The lot line adjustment did not include any easements for the water service line from the yellow house to the SHCP residences. The only easements were for the water storage tank, waterline filling the tank from the spring, and the line from the water tank to the SHCP property line as described in Instrument 2009-5751-20.
12. GSD's water ordinance Section 4.9 Reads:

Sec 4.9 Service Connection. *It shall be unlawful to maintain a connection excepting in conformity with the following rules:*

- a. *Each building under separate ownership must be provided with a separate service connection and meter. Two or more buildings under same ownership and on the same lot or parcel may be supplied through the same service connection and meter.*
- b. *Multiple service connections for single parcel with single owner are allowed under these conditions:*
 1. *A master meter is installed at the property line*
 2. *Metered service connections are provided for each sub unit. Meters and valves will be supplied and remain property of GSD.*
 3. *Supply line from master meter to each of the units shall be installed and maintained by owner.*
 4. *Owner will be responsible for usage on master meter, determined by deducting each sub unit from master meter.*
- c. *Different Owner. A service connection shall not be used to supply adjoining property of a different owner or to supply property of the same owner across a street or alley.*
- d. *Divided Property. When property provided with a service connection is divided, each parcel will have a separate service connection. Changes to existing services is also subject to but not limited to sections 2.6 and 4.4.*

District Staff can find no record that the County referred the LLA to the District for review prior to approval, and no GSD conditions of approval are documented. It is understandable why the property owners did not know that they needed to apply for a new connection when the area served was divided into two parcels.

13. The GSD notified the SHCP, Bob McKee/Buck Mountain Ranch, and Sanford Goldeen/River Ranch Homes on March 28, 2012 that the various property owners needed to determine and agree upon who retained ownership of the one connection now that the property had been divided.
14. The joint response received by GSD explained that the property owners did not understand that the lot line adjustment would create the equivalent of a division of lands that were served at the time the LLA had been completed, and that they wanted the District to find a way to correct the situation.
15. GSD staff conducted a site visit to the SHCP with Ms. Loboto on April 30, 2012. District staff observed the various locations that water infrastructure was visible above ground and prepared a GIS overview map depicting these observations and approximate locations. It is GSD's understanding from the verbal account of the SHCP Executive Director during the site tour, that by 2007 there were private water lines extended from what is now APN 222-091-011 to bring water from the yellow house to a "hub" that is connected to the caretaker's cottage and various other outbuildings on the SHCP property. The date of the original installation of the private water lines is undocumented. The interconnection at this hub of the GSD water service line and the water from the spring to the storage tank is unclear.
16. During the October 9, 2012 GSD board meeting, absent a decision by the various property owners, the GSD Board assigned the historical water connection to APN 222-091-011 based upon the documentation available and the terms of the Surface Water Treatment Plant easement agreement. At that time the GSD Board agreed to allow a new future connection for the SHCP when the State Water Resources Control Board and Humboldt Local Agency Formation Commission had both approved service to all or part of the Park property. The GSD Board adopted the following conditions on October 9, 2012 for this new connection:
 - a. *"SHCP would be given one new connection (3/4" meter) to rectify the condition that both the yellow house and the park are served off the same meter. This condition was created in 2009 when the Lot Line Adjustment was recorded and the property line was moved so that the residential structures were split into two properties.*
 - b. *The SHCP will make application for this new service connection. The application will stipulate at which location the park is proposing installation of the one new 3/4" meter. The three possible locations currently under consideration are:*
 - i. *On Tooby Ranch Road near the property line between APN 222-091-014 (SHCP) and 222-091-011 (Buck Mountain Ranch) on the existing 1" line that currently serves the park property.*
 - ii. *On Tooby Ranch Road off the future 8" waterline that may be constructed as part of the Drinking Water Improvement Project. The project is currently ~~unfunded for construction~~. If the project were to be constructed, under construction with an estimated completion date of Summer 2014. The California Department of Public Health ("CDPH") may need to approve service connection(s) on this new line. The Tooby Ranch Road connection location will not be available until or if the District completes the construction of this Project.*
 - iii. *On Sprowel Creek Road off the existing 8" waterline that serves the Kimtu Subdivision. This location requires CDPH and LAFCo approval the connection to the Kimtu waterline. The approval from CDPH cannot be obtained until and unless the currently unfunded Drinking Water Improvement Project is completed.*
 - c. *No connection fee would be charged, but the SHCP would be responsible for all costs associated with the installation of the new meter, pressure reducer, and backflow preventer plus any associated appurtenances.*

- d. The one new ¾" meter is for residential use only and is not intended to be used to serve future development on the Property contemplated by SHCP in the application for a General Plan Amendment (and associated applications for a conditional use permit, the Operational Plan, and the CEQA Initial Study Checklist as submitted to the Humboldt County Planning Department by SHCP) currently on file with the Humboldt County Planning Department.*
 - e. The usage for the connection is limited to 2,000 cubic feet per month. The usage will be monitored monthly in conjunction with the reading of the meters. The SHCP will be notified each time the usage reading is in excess of the 2,000 cubic feet per month limit. The meter will be shut off if the usage is more than 1.5 times (3,000 cubic feet per month) the allowable quantity for any 2 months in a 12 month period. If the meter is shut off, the SHCP will have to petition the Board for reinstatement of service and obtain approval from LAFCo if necessary.*
 - f. As part of the application for the new connection, the SHCP will be required to enter into a legally binding agreement that will be recorded for the parcel agreeing to the stipulated types and quantities of use as well as the enforcement methods."*
17. The Final IS/MND prepared for the Annexation Project (State Clearinghouse No. 2012032025) identifies these circumstances described above and listed these conditions. As part of the impact analysis to determine sufficient water supplies, the CEQA document accounts for a future consumption quantity of up to 2,000 cubic feet per month (approximately 180,000 gallons per year) for APNs 222-091-014 and 222-241-009.
 18. If the new SHCP connection is made at Tooby Ranch Road, the Park would be responsible for constructing the waterlines within Park property to bring the potable water to all locations that are to be served with potable water. This will mean constructing an extensive and expensive network of new waterlines to keep the potable water separate from the various other untreated water sources that the Park uses on their property. The County Public Health Department will determine which locations need potable water.
 19. Any proposed uses other than the 2,000 cubic feet per month for the two residences and the existing outbuildings are not currently approved by the District and will be evaluated based upon the District's available water supply at the time that the Park requests any expanded water uses.
 20. The District has limited water sources and many not have water available for any expanded uses at the Park.
 21. The Park's Draft EIR is still not available for review.
 22. The GSD Board's decision to remove the Park from the GSD Annexation Project is a delay in annexation, but does not preclude the Park from being annexed in the future.

This Board has made numerous efforts, expended funds, delayed the annexation project, and provided significant support to the SHCP in their endeavors to develop their property into a park that would eventually have public water. That the SHCP Board now feels it is appropriate to assert that the Garberville Sanitary District is obligated to establish a new connection where no evidence of a separate historical connection exists is very disappointing.

Sincerely,

Dennis Bourassa
Chair of the Board of Directors

CC: George Williamson, Humboldt Local Agency Formation Commission
John Miller, Humboldt County Planning and Building Department

Attachment

2



Reference: 011184

September 20, 2013

Ms. Jennie Short
Garberville Sanitary District
PO Box 211
Garberville, CA 95542

Subject: Response to Comments, Garberville Sanitary District Annexation Project

Dear Jennie:

SHN Consulting Engineers & Geologists, Inc. has been requested to review comments and provide a response to comments to the Initial Study/Mitigated Negative Declaration (IS/MND) for the *Garberville Sanitary District Annexation Project: Change in Jurisdictional Boundary and Place of Use* prepared in May 2013 for the use of the Garberville Sanitary District (GSD) Board as the lead agency in making a decision.

Notably, pursuant to the California Environmental Quality Act (CEQA), GSD is only required to *consider* comments received during the public comment period, rather than provide a written response to each comment (Pub. Resources Code, § 21091, subds. (d), (f); CEQA Guidelines, § 15074, subd. (b)). At the District's request, SHN has reviewed the comments and prepared a summary list of the general comments received during the public review. Instead of giving each comment a numerical designation, the comments are summarized by the environmental issues raised and/or changes to the project. Comments that are speculative in nature or that simply express concern or make generalized inquiry are not included. Each comment is italicized with the response below.

1. *The history of water service to the Southern Humboldt Community Park (SHCP).*

The IS/MND acknowledges the history of the SHCP connections on pages 4 and 5. Even though the goal of the project is to update the Humboldt Local Agency Formation Commission (LAFCo) approved jurisdictional boundary (boundary) and State Water Resources Control Board (SWRCB) Place of Use (POU) with the areas of historical water service provided by GSD or Garberville Water Company (GWC), the annexation area at the SHCP has been removed from the project. Any future changes or requests by the SHCP will be considered at that time. Additionally, the GSD took action on October 9, 2012, to provide conditions to be applied to an approval of any future annexation application for the SHCP. This is described on pages 23 through 26.

2. *The proposed uses at the SHCP and pending draft Environmental Impact Report (EIR). There is concern about different project descriptions available to the public.*

The Final IS/MND acknowledges the SHCP project on pages 23 through 26 and Attachment 4 as a project considered within the cumulative impact analysis for this annexation project. The Final IS/MND includes the project description included in the Notice of Preparation (NOP) to prepare an EIR and the one provided to Humboldt LAFCo and GSD staff in February 2013. The schedule of the Draft EIR and project description was confirmed with Humboldt County Planning and Building Supervising Planner, Michael Richardson on July 19, 2013. According to Mr. Richardson, the SHCP project as stated in the NOP is the project that will be analyzed in the Draft EIR with the

exception of the multifamily housing. Any modification to the project description described in the NOP will be addressed in the SHCP EIR's alternative analysis. The Draft EIR is currently scheduled for September 2013, rather than summer 2013, as stated in the IS/MND. Throughout the IS/MND, the impacts of the future SHCP project are discussed in the context of the potential for cumulative impacts within the proposed annexation area in conjunction with this annexation project to the extent that the SHCP project pertains to that impact topic.

3. *Lack of a Water Capacity Study.*

The Final IS/MND includes information regarding available water supplies. During discussions with the SWRCB Department of Water Resources (DWR) and Humboldt LAFCo, it was determined that a water capacity study was not necessary; therefore, a formal analysis was not prepared. The District had evaluated the available water sources for the Draft IS/MND, but only an overview of the information was included in the Draft. This more detailed information pertaining to water supplies, existing and future consumption, and remaining available water supply was included in the Final IS/MND in response to the comments received. This can be located on pages 12 through 17. Furthermore, the Final IS/MND evaluates the potential water consumption of future development within the project area. This can be found on pages 72 through 76 in the Final IS/MND.

4. *Lack of discussion regarding cumulative environmental impacts from several projects by GSD that have been constructed, are currently under construction, or are in the planning phase.*

The Final IS/MND includes a cumulative impact methodology on pages 19 through 26 and impact analysis under each category throughout the Environmental Checklist.

5. *The potential difficulty with enforcement of "islands of service" on Assessor's Parcel Number (APN) 223-061-025 and potential future service on APN 223-061-012.*

APN 223-061-012 is not a part of the annexation project. Enforcement of the planning and building regulations is conducted by the Humboldt County Planning and Building Department and outside the scope of a CEQA document. Enforcement of the Place of Use is conducted by the SWRCB, which is evidenced by the current Cease and Desist Order that addresses water service outside the existing POU.

6. *The history of water service to the Connick Creek Subdivision.*

The history of service to the Connick Creek Subdivision is included on pages 7 and 8. It is understood that GSD did not inherit these water connections from the GWC. Rather, these connections were served from a water line constructed by property owners associated with the Connick Creek Subdivision from a master meter with GWC, GSD, and County approval. In 2010, GSD entered into an agreement with Connick Creek Subdivision for provision of these services.

7. *Concern that this project is being used to legitimize illegal hookups.*

In 2004, when the GSD acquired the GWC, there were water services outside the existing GSD boundary, as well as some services that were outside of the 1978 GWC Public Utility Commission-approved "Service Area" and the POU for the license and permit (see Figure 3 in Attachment 1 for

locations). The GSD has continued service to all existing and historical customers, even if they were outside the GSD boundary or POU. As a result, water services were extended and have continued to be provided to areas for which GWC and subsequently GSD did not have approvals. The objective of this project is to update the current boundary and SWRCB POU with the areas of historical water service provided by GSD or GWC. This project generally proposes water or sewer services in areas currently receiving water or sewer service, areas approved for development, and/or an area within existing developed areas. Notably, for the purposes of the analysis in the IS/MND, it is immaterial that GSD has been providing service that is arguably unauthorized because it is outside of its jurisdictional boundary and permitted POU; CEQA is only concerned about environmental conditions associated with such existing service (*Riverwatch v. County of San Diego* [1999] 76 Cal. App. 4th 1428, 1442-1453; *Fat v. County of Sacramento* [2002] 97 Cal. App. 4th 1270, 1280-1281[ongoing operation of unpermitted airport]). See our response to Comment 12 for a discussion about appropriate baseline to conduct the CEQA analysis.

8. *Request to include the Rivercrest Mutual Water System into the proposed GSD boundary.*

In the future, GSD could consider the potential for serving the areas associated with the Rivercrest Mutual Water System. This subdivision is not an area that GSD currently serves and expansion into new areas of service is not within the bounds of this project's purpose. If the Rivercrest Mutual Water System desires to pursue consolidation with GSD for service, those properties would need to approach the District with further details on the proposed consolidation, at which time the District could evaluate the viability for such a consolidation. Any future consolidation would require another CEQA analysis and approval by LAFCo for the services and the SWRCB to change the POU.

9. *Inclusion of APN's 032-063-001 and APN 032-151-004 into the proposed jurisdictional boundary.*

These two APNs are very steep and adjacent to the Eel River. These parcels are not currently served, and services are not expected to be extended to these areas. These areas were not included in the public review of the IS/MND. In discussions with GSD staff Jennie Short, it was concluded that these parcels do not have any future potential for service and should not be annexed into the GSD boundary.

10. *Use of existing property lines as much as feasible for boundaries, instead of "pockets" of service within a parcel. Approval of "pockets" could be approved by the Humboldt LAFCo as "outside agency services."*

As discussed during GSD Board of Director meetings, GSD is aware that areas currently served that are not included as part of this project could be approved as "outside agency services" and understands that LAFCo may choose to approve these "pockets" using those policies instead of annexing the areas into the Jurisdictional Boundary. Because all areas served with water must be within the SWRCB POU, the District prefers to annex those areas so that the Jurisdictional Boundary and POU are consistent with each other.

11. *The Humboldt LAFCo resolution regarding the Kimtu Meadows Subdivision will have to be amended if connections along Leino Lane and Sprowel Creek Road were to be transferred to the Kimtu line for service.*

The IS/MND acknowledges on page 6 that the LAFCo resolution will need to be amended. GSD anticipates the Humboldt LAFCo will address Humboldt LAFCo Resolution 10-06 during the processing of the annexation application.

12. *The project baseline should be when the GSD acquired the Garberville Water Company in 2004.*

This comment incorrectly contends that the environmental baseline was established when the GSD acquired the GWC. For the purposes of CEQA, the environmental setting, or baseline conditions for a project are determined to be the conditions existing at the time the environmental analysis is commenced when preparing an Initial Study or when the Notice of Preparation is published for an EIR. In this case, the environmental setting was established during the preparation of the Initial Study in 2012. To the extent the commenter objects to GSD's acquisition of GWC in 2004, the time for challenging the action under CEQA has passed. The statute of limitations for such a challenge is either 30 days after a notice of determination is filed or 180 days after the public agency decision or commencement of the project (Pub. Resources Code, § 21167; CEQA Guidelines, § 15112). In either case, the statute of limitations for a legal challenge of the GSD decision to acquire the GWC has expired.

13. *Preparation of an EIR or Programmatic EIR is to evaluate project impacts and to address future discretionary actions that has the potential to impact surface and groundwater. Specific areas of impact analysis for an EIR include: cumulative impacts, agriculture and forestry resources, biological resources, hydrology and water quality, and growth inducing impacts.*

The goal of the project is to update the current boundary and SWRCB POU with the areas of historical water service provided by GSD or GWC. As a result, there will be APNs included into to the GSD boundary that may be further developed under the current land use designation and zoning. However, this project proposes water or sewer services in areas currently receiving water or sewer service, areas approved for development, and/or areas with existing development.

The potential development of areas within the annexation area was discussed in the IS/MND on pages 27 through 29. Due to the nature of the project, the impact analysis was focused on the potential impacts from the development of vacant or underused parcels. In this regard, the Final IS/MND analyzes impacts from potential development based on the zoning and land use, regardless of existing water or sewer services. It was determined that the project impacts are less than significant with mitigation incorporated.

New development would be subject to the standard development application and development review requirements and procedures required by Humboldt County and state and federal agencies. All discretionary development applications (conditional use permits, tentative subdivision applications, etc.), as well as all routine ministerial applications (building permits, business license applications, etc.) in the proposed annexation area would continue to be subject to all established County development review procedures, including review by the County's Planning and Building Department for compliance with all applicable County-adopted General Plan, zoning, and other

Ms. Jennie Short
Response to Comments, Garberville Sanitary District Annexation Project
September 20, 2013
Page 5

applicable policies and regulations pertaining to development. To address impacts from unknown potential development, mitigation measures were included in the Final IS/MND to ensure that GSD maintains sufficient water supplies.

The Final IS/MND also uses the appropriate standard to determine environmental impacts. The significance of the impacts on "human beings" discussion pertains to a question from the environmental checklist under the "Mandatory Findings of Significance," "*Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?*" It is unclear how this was interpreted to represent the basis for the entire project analysis.

Not only was an EIR requested by some of the comments, but also a programmatic EIR. Program EIRs are prepared to address a series of actions by a plan or project, such as, a phased development or General Plan. In this case, no other subsequent project by GSD is anticipated. GSD does expect responsible agencies (Humboldt LAFCo and SWRCB), as defined by CEQA, to rely on the impact analysis in order take action on permit applications. Furthermore, the comment does not describe the other discretionary actions that will result from the project. CEQA does not require analysis of speculative or unknown projects.

Please call me at 441-8855 if you wish to amend any part of this response.

Sincerely,

SHN Consulting Engineers & Geologists, Inc.

Rosalind Litzky
Environmental Planner
441-8855

RRL:lms

GSD

**Annexation
comments**



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 agriculture 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. Cornick 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.)¹ 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

¹ 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 fluid and cursive, with the first name "Lynne" being more prominent than the last name "Saxton".

Lynne R. Saxton
Attorney at Law

GSD

**Annexation
comments**



SAXTON & ASSOCIATES
WATER QUALITY AND TOXICS ENFORCEMENT

May 21, 2014

Humboldt Local Agency Formation Commission

1125 16th Street, Suite 202
Arcata, CA 95521
Phone: (707) 445-7508
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LAFCo Administrator: Colette Metz
Executive Officer: George Williamson

Re: Garberville Sanitary District Boundary Change (Annexation) Application – May 21,
2014 Humboldt LAFCo Commission Public Meeting Agenda Item

Dear Executive Officer Williamson,

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, and be discussed in length during the July 16, 2014 meeting in detail, that: (1) the Project be analyzed under an Environmental Impact Report due to the significant impacts that the project causes on the environment; (2) the EIR be a Programmatic EIR, due to the subsequent discretionary approvals that will be made pursuant to Mitigation Measure No. 1, 2 and 3; and (3) the District refrain from annexing any property that is not already using GSD services or infrastructure, e.g. water and sewer services.

New and significant information has been revised and added to this GSD Annexation Application since the final adopted GSD Annexation MND without adding any corresponding mitigation measures.

The project starts from the wrong baseline. The baseline is the point that the GSD must determine whether a project will have a significant impact on the environment. The Annexation Application should look 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 GSD purchased the Garberville Water Company (GWC) in 2004, along with the new connections that will be added. Instead, GSD 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.

The whole point of the annexation was to allow GSD to identify where they are serving water and sewer outside their approved LAFCo jurisdictional boundaries, e.g. to get back in compliance. 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, GSD is fostering development and inducing growth in including these properties in the Annexation which contradicts with the Adopted GSD Annexation MND and their effects on the environment, i.e. the South Fork Eel River.

In the past ten years since GSD purchased GWC, 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 which is now, after the fact, under environmental review.

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.

In the Annexation Application, the GSD concluded:

” No development is proposed by the proposal. The areas being annexed have had water service available to them for many decades, and either have been developed or could have been developed. The proposed change in the GSD Boundary only changes the agency that has jurisdiction over the water service to those areas. The purpose of this project is not to facilitate additional development. Rather the project is intended to update the boundaries with areas of existing service”

However, as discussed above, the project is to expand the jurisdictional boundary area, which in turns requires that more water be diverted from the South Fork Eel River. The reality that this

project is being conducted 10 years after the fact does not change the District's requirement under CEQA to discuss the environmental impacts of the expansions on the river.

We believe that there is substantial evidence before Humboldt LAFCo 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.

How can GSD now, in this Annexation Application 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? If these properties are not receiving water or sewer services they need to be left out.

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

We also have requested more time during the July Humboldt LAFCo hearing to argue our points with GSD's request for more connections to the Kimtu Waterline that was also included in the Annexation Application.

GSD has been working on these different projects for more than 5 years and we feel 3 minutes will not cover our talking points and presentation.

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,

A handwritten signature in black ink, appearing to read "Lynne R. Saxton". The signature is fluid and cursive, with the first name being the most prominent.

Lynne R. Saxton

SHCP EIR Comments



SAXTON & ASSOCIATES

WATER QUALITY AND TOXICS ENFORCEMENT

June 27, 2016

Michael Richardson
Senior Planner
Humboldt County Planning and Building Department
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Eureka, CA 95501
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Re: *Public Comments for Southern Humboldt Community Park Draft Environmental Impact Report*

Dear Mr. Richardson,

I'm writing to you today on behalf of Ed Voice and the Voice Family to provide public comments concerning the Southern Humboldt Community Park Draft Environmental Impact Report ("DEIR"). The Voice Family appreciates the opportunity to provide comments to the proposed changes to the park and generally encourages an improved park for the community's use and enjoyment. However, the Voice Family is concerned about several aspects of the project, particularly water supply demands and impacts on water quality, and believes the DEIR should be amended and recirculated. These concerns are underscored by the fact that there is now discussion about the annexation of the park by the Garberville Sanitation District (GSD) in order to supply the park with potable water. If that occurs, the DEIR must be amended to discuss the impacts of annexation. At such time, the Voice Family respectfully requests that the other matters discussed below also be addressed in the amended DEIR prior to recirculation.

Introduction and Relevant Background Information

The park project covers 405-acres and the parcel contains approximately one mile of river frontage on the South Fork Eel River.

The park has four sources of water, which are an infiltration gallery located on the right bank of the South Fork Eel River, a developed spring that contributes to a Class III stream that runs through the park, a well near Tooby Memorial Park and an upland well that is currently not in use. The largest increase in proposed water use is for irrigation to service the agricultural area and the 10-acre Sports Fields. The future plans propose a several-fold increase in the amount of water to be drawn from the South Fork Eel River at the infiltration gallery during summer low-flow periods, particularly for irrigation of the Sports Fields. However, as discussed below, the Pacific Watershed Associates' (PWA) report states that flow from the South Fork Eel River during low summer months in drought conditions is too low for the irrigation of the ball fields. It further states that any significant increase of water during summer low flow conditions will exacerbate, however slightly, the undesirable conditions that already exist (high water temperatures, low dissolved oxygen, and elevated nutrient concentrations) and would contribute

to the creation of conditions that could be lethal for salmonids. Notably, the South Fork Eel River is habitat for threatened coho and Chinook salmon and steelhead trout.

The proposed land use designation changes for the park and conditional use permits should take into consideration the people and environment which may be affected by those changes, which include water diversion from the South Fork of the Eel River and the spring, disposal of human waste, contaminants which may enter the river, traffic and the health and safety of anybody using the park's water due to the current lack of an adequate potable water supply. In addition, there should be more detailed discussion about, and an ultimate cap on, the number of events that allow up to 800 attendees and how many of these events will occur after sunset. These events have lights and amplified music, which are potential significant impacts on birds and wildlife.

For the reasons discussed in more detail below, the Voice Family believes the scope of the proposed changes to the park are too broad and should be narrowed. For example, the DEIR estimates that there will be an increase of 800 visitors a day during peak seasons (late spring, summer and early fall), the spring (which the DEIR cites as the primary source of potable water) is not potable, and there is insufficient water supply to irrigate the ball fields during summer low flow periods, particularly during drought conditions. The Voice Family requests that the DEIR be amended and recirculated after proposed changes have been scaled back to account for the actual environmental impacts and limitations on water supply.

Water Quantity and Supply

The two primary water sources are the South Fork of the Eel River and the spring. However, these sources have limited capacity to provide water. The park can divert 0.24 cubic feet per second (cfs) for irrigation from the South Fork of the Eel River. The river water diversion is under riparian rights and it is understood that water from this source cannot be stored. The park can also divert up to 2,000 gallons per day or 10% of flow, whichever is less, from the spring between November 1 and July 1 of each year. Water from the spring is stored in a 55,000 tank for use during off-season months.

Under CEQA Guidelines, the project would have a significant impact on water facilities if it would have insufficient water supplies available to serve the project from existing entitlement and resources or if it would require new or expanded entitlements. The DEIR states that it has sufficient water and therefore the project has a less than significant impact. However, the amount of water the park currently uses and the water demand needed for the project vary significantly according to different sources. All told, it does not appear that the park has sufficient water capacity to satisfy the needs of all the proposed changes, particularly the irrigation of the ball fields in the summer. New agricultural projects, such as the new 10-acre vineyard, discussed in more detail below, will also be water intensive and the DEIR does not discuss these new agricultural projects in sufficient detail to analyze their water demand.

First, the estimated water demand in the DEIR is substantially less than the Park Board provided to State Resources Control Board, Division of Water Rights on January 27, 2014 (Initial Statement of Water Diversions for 2012). The DEIR states that the current peak demand at the site for diversion from the South Fork Eel River is 328,015 gallons per month (May 1 through

October 31), mostly attributable to irrigation, and the total off-peak demand is 167 gallons per month (November 1 through April 30), for a total of approximately 1.97 million gallons per year. However, the Park Board reported to the Division of Water Rights that the diversion from the South Fork Eel River in 2012 was 560,000 gallons in June, July and August; 360,000 gallons in September; 250,000 gallons in May; 45,000 gallons in April; and 15,000 gallons in March and October, for a total of 2.365 million gallons for the year 2012.

Moreover, the water demand needed for irrigation of the ball fields and agricultural varies substantially according to different documents. The GHD, Inc. study (Water Supply and Demand Analysis) and the study provided by Pacific Watershed Associates (PWA) vary significantly. One reason for the discrepancy between GHD and PWA is because the PWA report (which estimates substantially less water demand) anticipates conservation practices, many of which are not likely to be adopted according to the DEIR, such as substantial water storage management and low impact development (LID) practices.¹ (PWA Report, pp. 14-15.)

In the GHD report, the estimated water demand from the South Fork Eel River in July for Phase I of the project is 23,591 gallons. (See GHD Report, Appendix B, Proposed Water Demands Summary.) Phase I of the project is pre-installation of the ball fields. However, the DEIR states that the *current* demand for water from the South Fork Eel River is 328,015 gallons in July and the Park Board reported to Water Rights Division that in July of 2012 the actual water demand for the South Fork Eel River was 560,000 gallons. Thus, GHD's Phase I water demand estimates for the SF Eel River are very low and suspect, which puts into doubt GHD's estimated water demands for Phase II, when the ball fields have been installed and the water demand significantly rises. The DEIR states that the final (post-Phase II) monthly demand for water from the South Fork Eel River will be 1.475 million gallons (it doesn't specify which month). (DEIR, pp. 4.17-7 and 4.17-8.) However, the GHD report states that the water demand for the South Fork Eel River for Phase II in July will be 2.366 million gallons. (GHD Report, Appendix B, Proposed Water Demands Summary.) These are dramatically different estimations.

To further the confusion, PWA estimates the water demand solely to irrigate the ball fields (this water would be diverted from the South Fork Eel River but does not include diversion for other uses, such as agriculture) for the month of July will be 1.318 million to 1.327 million gallons, depending on drought conditions. This is significantly less than the 1.475 million and 2.366 million gallons estimated in the DEIR and the GHD report, respectively. Moreover, as stated, these numbers reflect only water needed to irrigate the ball fields, which the DEIR states will come from the South Fork Eel River infiltration gallery.

However, it was PWA's opinion, based on their on-site observations in July of 2015, that **"flow in the SF Eel River was too low to allow turf grass irrigation at the river stage that was occurring at the time of our initial site visit.** Based on the extreme low flows in the SF Eel River channel during current drought conditions, it is conceivable that flows in the SF Eel River

¹ The PWA report states, "In our opinion, the water demands identified by GHD are upper-bound estimates and do not reflect water conservation measures that have been mandated by the State in lieu of the declared drought emergency." (Draft Water Resources Report – Southern Humboldt Community Park, dated January 12, 2016, p. 4.)

will become hyporheic, creating isolated pools and possibly stranding fish. Certainly, any significant increase of water drawn from the infiltration gallery during summer low flow conditions will exacerbate, however slightly, the undesirable conditions that already exist (high water temperatures, low dissolved oxygen, elevated nutrient concentrations), **and would contribute to the creation of conditions that could be lethal for salmonids.**" (PWA Report, p. 10, emphasis added.) As discussed in more detail below, coho and Chinook salmon and steelhead trout are threatened species and are found in the South Fork Eel River. The low-flow conditions that have existed for the past several summers are a limiting factor for survival of juvenile coho and Chinook salmon, and steelhead trout. (PWA Report, p. 10, citing NOAA, 2014.)

Thus, according to GHD, during each July the draw from South Fork Eel River's infiltration gallery is estimated to be 23,591 gallons for the project's first phase (compare that to the reported *current* use of 560,000 gallons) and shoots up to 2.3 million gallons for the second phase, which involves the irrigation of the Sports Fields. On the other hand, PWA estimates the usage in July during Phase II to be 1.3 million gallons, rather than GHD's 2.3 million. GHD's annual use of water is estimated to be 152,000 gallons for Phase I (again, compare this to the park's reported *current* usage of 2.365 million), which jumps to 10.9 million gallons during Phase II. According to PWA, annual usage for Phase II would be 6.1 million gallons, rather than 10.8 million. Considering the Phase I estimate is substantially off from the reported current usage, the accuracy of the estimated Phase II demands are suspect, unreliable and likely to be significantly underestimated.

Furthermore, the DEIR contends that the demand from the South Fork Eel River can be met by the supply, but that conclusion is not supported by the facts. The DEIR states that the demand from the South Fork Eel River's infiltration system would be 1.475 million gallons per month, compared to a supply of 2.388 million gallons. However, as stated above, the maximum diversion rate from the infiltration gallery in the South Fork Eel River is 0.24 cfs. If diversion from the South Fork Eel River is ceased at 30 cfs, as recommended by Garberville Sanitation District (GSD) and recommended in the DEIR, according to PWA's water use analysis, irrigation for the Sports Fields would have been ceased for periods in calendar years 2008, 2009, 2010, 2013, 2014 and 2015. (PWA Report, p. 16.) Note that the water demand from PWA's estimates is much less than that estimated by GHD. (PWA Report, p. 4.) Under GHD's estimates, irrigation of the ball fields would likely need to be ceased for longer periods for more years when the 30 cfs limitation is applied. Thus, the DEIR is incorrect when it states that the water demand from the SF Eel River is met by water supply, particularly for irrigation of the ball fields. Under CEQA Guidelines, this is a significant environmental impact and must be discussed as such in the DEIR. Specific mitigation measures must be discussed and adopted. The DEIR's generalized recommendations do not suffice for mitigation.

It should be noted that the DEIR states that up to 2,000 gallons per day can be diverted from the spring between November 1 and July 1, but doesn't acknowledge that the diversion is limited to 2,000 gallons per day or 10% of streamflow, whichever is less. This restriction is important to protect fish and wildlife and the DEIR should be changed to reflect this requirement, pursuant to the park's Lake or Streambed Alteration Agreement (LSAA), Provision 20.

Lastly, Mitigation Measure BIO-5 in the DEIR recommends general improvements to water storage capacity. However, the document lacks sufficient information about the quantity, type and season of storage to determine what measures will be employed or how they will protect fish and wildlife resources. First, the PWA's report discusses significantly more recommendations for water conservation, including water storage. (PWA Report, pp. 8-16.) However, the DEIR provides only generalized recommendations and leaves to the future any decision on which recommendations, if any, will be adopted. Many of the recommendations in the PWA report are not even discussed in the DEIR. This is significant not only for mitigation purposes, but also because PWA's significantly lower water demand estimates were based on the assumption that recommended conservation practices would be adopted. Thus, the DEIR should be amended to adequately adopt specific mitigation measures.

Lastly, Mitigation Measure BIO-5 should specifically state that under the LSAA, a water conservation strategy to reduce dependence on direct diversion during low flow periods must be submitted to the Department of Fish and Wildlife by August 15, 2016 and implemented by August 15, 2019.

Potable Water

The DEIR states that the spring will provide potable water. However, it appears that this water source is in fact not potable. The park submitted an Application for Pre-Planning Funding to the California Department of Public Health, November 12, 2013 ("Application"), stating that the well is used for agricultural purposes. The untreated spring is available from December 1 to June 30 and water from the spring is currently stored in one 55,000 gallon tank to serve water demands from July 1 through November 30th. However, according to the Application, water quality sampling has not been conducted on the water sources on the park's property. The Application states that it is understood that when Humboldt County conducted testing on the spring in the past, the water tested high for iron and manganese. Currently, water from the spring comes out of the tap brown and the Tooby Park caretaker must run the system for an hour before it clears. Moreover, while the water has not been sampled, "there is concern about contamination of the spring water from bacteria from animal waste and other sources." (Application, p. 4.) The Voice Family understands that there is currently a discussion about the annexation of the park to the Garberville Sanitation District (GSD) to supply potable water to the park. If this is the case, the DEIR should be amended to discuss the environmental impacts of this development and then be recirculated.

In addition, the DEIR states that the Community Commons Area will include up to 5 potable water tanks. However, the DEIR does not accurately or adequately discuss the sources of this potable water. The spring cannot be the source of potable water and it is unclear from the DEIR if water from the well near Tooby Park and/or the upland well have sufficient capacity for storage of up to 5 potable water tanks.

Water Quality

The South Fork Eel River is a state and federally designated Wild and Scenic River and a regionally-important fish-bearing stream that currently supports three listed salmonid species.

Coho salmon is a state and federally listed threatened species pursuant to the California and federal Endangered Species Acts. Chinook salmon and steelhead trout are federally listed threatened species pursuant to the federal Endangered Species Act. According to the Department of Fish and Wildlife, the South Fork Eel River coho salmon population is identified as a key population to maintain or improve as part of the *Recovery Strategy of California Coho Salmon* (DFG 2004). Coho salmon has undergone at least a 70% decline in abundance since the 1960's.

During the on-site assessment of PWA in July of 2015, water temperatures for the South Fork Eel River were approaching the lethal zone for some salmonids. Along with the high water temperatures, abundant algae covered most of the wetted channel, which can cause large diurnal fluctuations in dissolved oxygen concentrations that often result in hypoxia and anoxia, conditions that are deleterious to fish. At the time of the on-site assessment, it was PWA's opinion that flow in the South Fork Eel River was too low to allow turf grass irrigation. PWA further stated that based on the extreme low flows in the South Fork Eel River channel during current drought conditions, it is conceivable that flows in the river will become hyporheic, creating isolated pools and possibly stranding fish. As stated above, it was PWA's opinion that any significant increase of water drawn from the park's infiltration gallery during summer low flow conditions will exacerbate the undesirable conditions that already exist (high water temperatures, low dissolved oxygen, elevated nutrient concentrations), and would contribute to the creation of conditions that could be lethal for salmonids. (PWA Report, pp. 9-10.)

The DEIR states that recommendations contained in the GHD's Water Supply and Demand Analysis "shall" be implemented to mitigate potential significant impacts, such as the cumulative reduction in the surface water flows to the South Fork of the Eel River, which creates a significant impact on water quality and aquatic life, including threatened salmonids. However, the DEIR makes only generalities about what recommendations may or may not be adopted and does not provide any specifics on management or monitoring. Moreover, different recommendations were provided in the Water Supply and Demand Analysis conducted by GHD, Inc. than those recommended by PWA. As noted above, this is particularly significant because the water usage calculations provided by PWA were based on assumptions about the adoption of certain conservation techniques, many of which are not included in the general recommendations identified in the DEIR to mitigate impacts due to reduced water flow in the South Fork of the Eel River.

Moreover, the DEIR proposes the drafting of an Adaptive Management Plan to facilitate mitigation of the cumulative reduction of surface water flows to the South Fork Eel River. The DEIR provides generalities, but no specifics are identified. However, the specifics are incredibly important to determine if the mitigation measures are appropriate and will be effective. For example, the DEIR should definitively state the cut-off level of surface water flow from the spring and the South Fork Eel River that will trigger diversions from these water supplies to cease. There should also be specifications on irrigation, including a more accurate estimate of needed water supply, current usage, irrigation systems for the ballfields and agriculture to mitigate demand, water budget and the methods of water storage that will be implemented. There are significant variations that can be adopted for irrigation and storage, any of which are equally variable in terms of their effectiveness. The DEIR should provide much more specificity on what it plans to do in order to provide adequate information to the public, the Park Board and

other regulatory agencies. The Adaptive Management Plan and its monitoring and management strategies should be part of the DEIR. The DEIR should be amended accordingly and recirculated.

The Voice Family greatly appreciates that the project proposes to use drought sensitive grass. However, it is understood that these types of grasses are more susceptible to weeds and the DEIR does not discuss if, what kinds, or how much herbicides are expected to be applied to the fields. This may have a potentially significant impact on the South Fork Eel River, groundwater and the spring. More specificity is required in the DEIR in order to inform the public and decision makers about the potential significant environmental impacts of the project and appropriate mitigation measures.

In addition, according to the Department of Fish and Wildlife (DFW), the Project will encroach on several of the mapped 100-foot buffer areas recommended by DFW, and in some cases will encroach on the 50-foot setbacks required by the Humboldt County Streamside Management Area Ordinance. Moreover, according to DFW, the mitigation measures proposed are insufficient. The DEIR proposes mitigation measures that include moving the Environmental Camp outside the 50-foot buffer area, to restrict use of Temporary Event Facilities to the dry season (May 1 to October 31), and to provide signage, fencing, and dedicated paths for pedestrians. Some of these measures may be helpful, but they cause other problems. For example, the pedestrian paths and crossings will create their own impacts within the stream buffer areas. It is also unclear what mitigation will result to limiting use of the Temporary Event Facilities to the dry season for the protection of a seasonal creek, particularly if measures are taken to keep people out of the creek with signs and dedicated paths.

The Voice Family requests that the Park Board adopt, as recommended by DFW, strategies proposed in the Water Supply and Demand Analysis conducted by GHD, which recommends stream and riparian improvements of the westernmost stream on the project site. The westernmost stream is degraded and lacks any overstory vegetation. The Water Supply Analysis states that "Maintaining and elevating the grade of this stream, while adding some sinuosity to the channel, will promote development of a more natural riparian corridor with increased potential for wildlife habitat, while increasing seepage of surface water into groundwater. It is apparent that this stream was ditched at some point in the past, and has since entrenched itself." (Water Supply Analysis, p. 11.) As DFW explains in their own comments on the DEIR, there is a direct linkage between in-stream and near-stream biological communities, with near-stream riparian communities providing vital in-stream ecological services such as bank protection, reduction of sediment delivery to downstream receiving waters, habitat complexity, shade, microclimate, and woody debris, as well as providing habitat for invertebrates, birds, mammals, and amphibians. It is imperative to protect and restore near-stream riparian habitat to maintain or achieve properly functioning stream ecosystems. Thus, the Voice Family request the Park Board adopt mitigation measures recommended by the DFW, which include riparian plantings with appropriate native species in this area to mitigate for encroachment and disturbance to riparian and stream buffer areas as a result of project activities. Further, overstory riparian planting on the westernmost stream must be made a condition of permit approval by the Lead Agency.

Bathrooms and Water Supply and Quality

The DEIR is lacking necessary specifications regarding the type of bathrooms that it will construct, which in turn have significant impacts on water demand and potential water quality for the South Fork Eel River and the spring. According to GSD, as of June 21, 2016, there has been no discussion between the park and GSD about the disposal of restroom waste, but if such an agreement is to be entered into in the future, there will need to be an agreed upon contract, fees and approved lab testing to ensure that there will be no negative impact on GSD's wastewater treatment process. PWA proposed that an alternative to the bathrooms with sewage would be to have vaulted toilets in order to remedy some of the concerns regarding wastewater disposal on the site. However, it should be noted that GSD stated in a recent letter to the Park Board that it will not accept the materials pumped from the vaults and the park will need to find an alternative site to dispose of these materials. In addition, according to PWA, vaulted toilets in flood zones should be pumped clean prior to the onset of a predicted flood. What is not discussed by PWA or in the DEIR is the environmental impact of an unpredicted flood should the toilets have not been recently pumped. Such environmentally significant foreseeable situations should be discussed in the DEIR and mitigation measures should be adopted.

Bird and Wildlife Species and Habitat

As recommended by the Department of Fish and Wildlife, Mitigation Measure BIO-1 should be amended to include pre-disturbance nesting bird surveys no more than seven days prior to any project activity (rather than 14 days, as recommended in the DEIR) that could result in the taking of nests (including but not limited to haying, mowing, tilling, and other agricultural activities).

In addition, the DEIR does not provide enough information to determine where grasshopper sparrows are nesting on-site, and thus does not ensure that project activities will not result in a take of active nests of the threatened species, which is a potentially significant impact identified in the DEIR. Therefore, Mitigation Measure BIO-1 should also include a survey and avoidance plan for grasshopper sparrows and other grassland nesting birds. This plan should be submitted to DFW for approval.

Furthermore, noise and light mitigation measures are insufficient to protect birds and other wildlife, particularly those that are nocturnal. The DEIR states that one large, multi-day festival and five large events will occur per year and will not end until midnight. In addition, these events will include camping for 1,000 people and 500 people, respectively, which will include noise and lights all night. Moreover, there are an unspecified and unlimited number of events that may occur with up to 800 people, an unspecified number of which may also proceed until midnight. There should be limits on the number of events of up to 800 attendees and on those that may proceed after sunset due to the impact on birds and wildlife.

Noise

The Noise Study states that the proposed mitigation will not be adequate for the yet unknown quantity of possible events, particularly of those that will have up to 800 attendees. Noise from

amplification even with mitigation cannot be kept from being heard outside the park. More importantly, the Noise Study focuses on impacts to neighbors and lacks any meaningful discussion on impacts to birds and other wildlife in the park.

It is understood that the everyday events that may include up to 800 people will also have amplified music. As there is no cap on the number of these events or on the number of these events that can proceed after sunset, this is a significant noise impact on birds and other wildlife.

Lights

The DEIR needs more specific information concerning the impacts of light pollution, particularly for the multi-day festival, the five large events, and the unlimited number of events with up to 800 attendees that may continue after sunset. Particularly for the latter, it is unknown how temporary the lighting for these events will be if it is unknown how many such events will occur. Light pollution is a potential significant impact on birds and wildlife, particularly those that are nocturnal. In addition, the DEIR states that lighting between buildings in Area 3 may be installed. This would be permanent lighting features and the DEIR should state whether this will occur, what type of lighting will be adopted and what mitigation measures will be taken to protect birds and wildlife. The lighting for the sporting events that will occur at night also needs to be discussed in the DEIR.

Campgrounds

The DEIR is lacking adequate information to assess the potential environmental impacts from the campgrounds. It is assumed, but not entirely clear, that camping is allowed on a daily basis and not just for special events, such as the one festival and five large events per year. It is unclear from the DEIR the number of people expected and the capacity at any given time for camping on a daily basis, assuming this is the proposal. More specifically, it is unclear how and when the park would provide services such as potable water, portable toilets and lighting. The DEIR states that portable toilets and potable water will be provided only as needed depending on the number of campers, but later the DEIR states that pipelines would be installed that would connect the upland well to the Environmental Camp in Area 4. The water source and management in the camping area should be discussed more clearly and with detail. In addition, since lighting would be 24 hours a day, an estimated volume and frequency of use of the campground is necessary to analyze the potential impact, particularly to birds and wildlife from light and noise in order to determine if any mitigation measures are appropriate and should be adopted.

Traffic

The Traffic Study failed to address the important concerns raised by the CHP over the Plan of Operation in September of 2010. These concerns are substantial as they invoke public safety and need to be adequately addressed. In addition, the Traffic Study is inadequate to address the unknown volume of traffic for the unspecified number of events of attendees of up to 800 people per day.

In 2010, CHP commented on the Plan of Operation, stating that they did not support the size of the proposed events to be held at the park. It was the expressed opinion that Sprowel Creek Road leading down to the park is narrow and in its current condition is not adequate to allow for increased traffic flow that would occur from the proposed events. In addition, CHP believed there would be real public safety issues with vehicles exiting US 101 southbound and northbound. S/B US 101 Sprowel Creek exit event traffic would have the potential to back up onto US 101, causing a hazard. On the N/B US 101 Redwood Drive exit, traffic has the potential to back up as well. According to CHP, the Plan of Operation failed to address the other US 101 exits, N/B and S/B, or signs and traffic control on US 101. Furthermore, CHP stated that Garberville traffic is already congested on Redwood Drive with businesses, especially during the summer months. The addition of event traffic could produce real problems as vehicles travel S/B and N/B on Redwood Drive and have to stop at Sprowel Creek Road and make a right/left turn onto Sprowel Creek Road. CHP stated that this intersection is especially congested with businesses on each corner.

The mitigation measure of using shuttle buses and limiting the parking for events having more than 2,000 attendees to 700 spaces (attendees and vendors/employees) does not address the traffic concerns raised by CHP for events with less than 2000 attendees, even though traffic from such events will have a significant effect on traffic and public safety. Moreover, even when shuttle buses are used, the remaining allowed number of vehicles plus the shuttle bus traffic would still trigger the concerns raised by CHP above.

In addition, CHP expressed that the alternate emergency route of using Old Briceland Road to Briceland would not be in the best interest of public safety due to being narrow and curved. CHP stated that allowing these types of events is going to increase traffic flow on these roads even when there is not an emergency, as there will be a certain percentage of traffic that will want to avoid the congestion in Garberville and the possibility of having law enforcement encounters.

CHP further expressed that the Plan of Operation failed to adequately address traffic concerns in the town of Garberville, the lack of parking in Garberville and/or Redway, traffic on US 101, the amount of traffic proposed traversing down Sprowel Creek Road to the park and the public safety issues of event goers leaving the park at night and traversing these roads, especially if alcohol is being served to event goers. Moreover, the use of shuttle buses will not mitigate the lack of parking in Garberville, even for events with more than 2000 attendees as many of the attendees would need to park in Garberville to ride the shuttle buses. CHP's concern is not addressed for events with less than 2000 attendees.

Lastly, CHP stated that if the re-zoning of this area is allowed, the Garberville CHP Area would be taxed with traffic control at Redwood Drive and Sprowel Creek Road intersection, US 101 S/B exists at Sprowel Creek and Redwood Drive, both US 101 N/B exits, on Sprowel Creek Road to enforce no pedestrians, bicyclists and equestrians who normally have the right to traverse Sprowel Creek Road, the intersection of the park entrance and extra patrol in the area due to the increased traffic flow and potential of under the influence drivers. In addition, the CHP would be called upon to mitigate concerns of property owners who cannot access their

property, illegal parking, illegal camping, and provide assistance to the HCSO and local/state fire agencies.

Utilities and Service Systems

The DEIR states that the Humboldt County Division of Environmental Health has identified the potential for impacts resulting from the handling of solid waste and recycling at the project, especially during events attracting 500 or more attendees. As a mitigation measure, the Park Board proposes UTIL-2, stating that the Board shall submit a plan for the management of solid waste and recycling for events that would attract 500 or more attendees. However, the DEIR states that it estimates 800 attendees per day during peak seasons (late spring, summer and early fall). Thus, a plan for the handling of waste and recycling should already be in place and should be part of the DEIR. The DEIR should be amended accordingly.

Vineyard

The impact of the new vineyard is not discussed in the DEIR and it has potential significant environmental impacts. The new 10-acre vineyard is not a public use, but is for private enterprise. The vineyard will take substantial amounts of water for irrigation for at least the first five years, before it matures. This use is in addition to the river water that will be used to irrigate the 10-acres of ballfields during the summer dry season. The cumulative effect is significant and not discussed in the DEIR. In addition, it is unknown if/what weed herbicides will be used and it is of concern whether they will migrate into the South Fork Eel River, affecting threatened fish species and other wildlife.

Annexation

All reasonable and foreseeable potential significant environmental impacts must be included in DEIR. The DEIR cannot be done piecemeal and must include the totality of the project. Both GSD and LAFCo recommend that the park be annexed into GSD in order to provide a reliable potable water source for the park. The GSD specifically recommends that the park NOT provide potable water for public use unless the park is annexed into GSD. (June 2, 2016 comments from GSD regarding Community Park Land Use Designation.) It is understood that the County Division of Environmental Health is reviewing the project and if they determine that annexation to the GSD is required, additional analysis would be needed in the DEIR. Ed Voice and the Voice family strongly contend that analysis of annexation be included in an amended DEIR and then recirculated for comment. While the Voice Family are concerned that annexation would open the door to more large events, which will have significant and cumulative environmental impacts, the environmental impacts of such a decision must be discussed.

As part of the annexation discussion, GSD recommended that to ensure sufficient water for the customers of GSD, GSD would require when drought conditions cause the river flow to fall below ten cfs at the Eel River Gauge, at the Sylvandale Bridge, all river diversion will stop. GSD further recommends that all recreational irrigation be discontinued when the river flow is below 30 cfs, which is proposed in their DEIR. The Voice Family contends that 10 cfs and 30

cfs, respectively, is far too low and that diversions, particularly for watering the ballfields and other non-essential water uses, be stopped far above 30 cfs for recreational irrigation and 10 cfs for all diversions. These levels are not protective of fish and wildlife, particularly threatened species such as the coho and Chinook salmon and steelhead trout, and water quality of the South Fork Eel River. The PWA report stated that any significant diversion from the SF Eel River during summer months, particularly under drought conditions, would exacerbate the already undesirable conditions (high water temperatures, low dissolved oxygen, elevated nutrient concentrations), and would contribute to the creation of conditions that could be lethal for salmonids.” (PWA Report, p. 10.)

Development

Since the NOP meeting in September 2010, the Park Board has taken housing development out of the DEIR discussion, but wants to retain its rights to develop parcels on the park property. Either the development should be included in the DEIR or the rights should be excluded. Projects under CEQA cannot be done piecemeal and the totality of the project must be discussed in the DEIR. The park should be used solely by and for the public and be kept a natural and open space.

Gravel Mining

Randall Sand and Gravel has a lease with the park on 36 acres for surface mining on the gravel bar in the Riverfront Area. The gravel mining operation is not discussed in the DEIR. However, gravel mining has a significant impact on the water quality and the impacts of the gravel mining operation on the South Fork Eel River should be discussed in the DEIR as part of the cumulative impact discussion, particularly since the South Fork Eel River is designated a Wild and Scenic River under both state and federal acts. Wild and scenic rivers are designated as such to protect their free-flowing nature and the extraordinary value (such, in the case of the South Fork Eel River, its cold water fisheries and habitat for salmonids, including threatened coho, chinook and steelhead) for which the river segment was designated a wild and scenic river.

Gravel mining involves the use of dump trucks and front loaders to remove gravel bars during summer low flows. The sand and gravel is then stockpiled on the rivers’ edge until it can be hauled away in dump trucks. Numerous environmental studies have shown that gravel mining has short-term and long-term detrimental impacts on rivers, including impacts on river geomorphology (banks, bed complexity and scouring), fish and their habitat and the food web. Effects directly related to sand and gravel extraction and changes in geomorphology include increased sedimentation, turbidity, bank widths, higher stream temperatures, reduced dissolved oxygen, lowered water table, decreased wetted period in riparian wetlands and degraded riparian habitat. PWA’s analysis of the impacts of the diversion of water from the South Fork Eel River, as directly observed in July 2015, included temperature elevation to near lethal zones for salmonids, reduced dissolved oxygen, increased sedimentation, turbidity and the formation of toxic algae. PWA concluded that any additional diversion of water from the South Fork Eel River, particularly during low flow summer months, would increase these impacts. Considering the substantial amounts of water diversion the Park Board proposes for irrigation of the ball fields, a discussion of the cumulative impacts from the sand and gravel mining operation on 10’s

of thousands of acres of park property should be included in the DEIR. The DEIR should thus be amended and recirculated.

Conclusion

Thank you for the opportunity to provide comments on the proposed changes to the park. If you have any questions, please feel free to contact me or Ed Voice.

Sincerely,

A handwritten signature in black ink, appearing to read "Lynne R. Saxton". The signature is fluid and cursive, with the first name being the most prominent.

Lynne R. Saxton
Saxton & Associates

SHCP EIR Comments



SAXTON & ASSOCIATES
WATER QUALITY AND TOXICS ENFORCEMENT

January 4, 2017

Humboldt County Planning Commission
Attn: Suzanne Lippre, Sr. Office Asst.
Planning Building and Department
County of Humboldt
3015 H Street
Eureka, CA 95501

Re: *Public Comments Regarding Southern Humboldt Community Park's Project for a General Plan Amendment, Zone Reclassification, Conditional Use Permit and Special Permit and Certification of the Final Environmental Impact Report*

Members of the Humboldt County Planning Commission:

I am writing on behalf of the Ed Voice Family regarding the Southern Humboldt Community Park ("SHCP") Project, scheduled for a public hearing before the Planning Commission on January 5, 2017. The Ed Voice Family supports the park and believes it is a vital part of the community that should be fostered. However, the scale of the proposed Project is unsustainable and should be reduced to better suit the park and the community it serves.

Specifically, the Voice Family asks that the Project exclude medium and large events. This modification would substantially lessen the harmful environmental impacts of the Project. In particular, the Voice Family requests that the Planning Commission to:

- (1) deny the Conditional Use Permit so medium and large events are not permitted at SHCP;
- (2) modify the Plan of Operations and Conditions of Approval accordingly (see below, "Specific Actions Requested of the Planning Commission", pp. 7-8);
- (3) maintain the Agricultural Exclusive zoning designation of 87 acres currently proposed to be changed to Public Facilities; and
- (4) modify the Special Permit to restrict the one-lane bridge to foot traffic.

This request is made on the grounds that the record lacks substantial evidence to make the necessary findings to approve the Project if medium and large events are allowed. Most significantly, the EIR failed to analyze a Project Alternative that excluded medium and large events, even though this is a feasible alternative that would substantially lessen the Project's environmental impacts. In addition, the record lacks evidence to support a General Plan amendment, which requires a showing that the Project reflects a change in the community's values. The only evidence submitted on this issue are the letters of support from the community (attached to the Staff Report). However, these letters make no mention of medium or large

events, but pertain solely to less-intensive modifications to the park (sports fields, trail improvements, public gatherings, etc.) Conversely, the community letters in the Final EIR, which do address medium and large events, strongly and overwhelmingly oppose such events because of the substantial impacts on water demand, river protection, endangered species and habitat, traffic and noise. (Final EIR, pp. 41-136.)

If the Project is modified to exclude medium and large events, park improvements would still include the addition of recreational sports fields, public assembly and events, playgrounds, picnic areas, trail improvements, educational activities, camp activities and agricultural projects. In addition, SHCP could still accommodate 800 visitors a day during peak season and hold events for up to 800 attendees. A modified Project, which excludes medium and large events, preserves the fundamental changes proposed for the park, is supported by the record, has community backing and complies with the law.

DISCUSSION OF REQUESTED ACTIONS

Below is a discussion of the legally required standards and findings that must be supported in the record by substantial evidence before the Planning Commission can approve the Project and make the respective recommendations to the Board of Supervisors.

It is important to note that even if medium and large events are excluded, the Project will still have significant environmental impacts. It is crucial that strict adherence to all compliance and mitigation measures be followed on a continuous basis, including the Plan of Operations, the Adaptive Management Plan, Mitigation Monitoring and Reporting Plan and any conditions placed on the various permits that will be needed. Moreover, it is vital that these provisions be reviewed and updated on a periodic basis.

Legal Standards and Sufficiency of Record to Support Findings

In order to approve the Project, the Planning Commission must certify that the Environmental Impact Report ("EIR") complies with California Environmental Quality Act (Public Resources Code, §21000, *et. seq.*) ("CEQA") and determine that there is substantial evidence in the record to make the necessary findings to support a General Plan amendment, Zoning Ordinance amendment and approval of a Conditional Use Permit and a Special Permit. (Garberville, Redway, Benbow, Alderpoint Community Plan ("General Plan"), §1452.2; Framework Plan, §4400; Zoning Ordinance, §312-50, §312-17.1 (CUP).)

CEQA

Pursuant to CEQA, "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects" of the project. (Public Resources Code §21002.) In order to be legally sufficient, an EIR must describe and analyze a range of reasonable alternatives to the project that: (1) are potentially feasible; (2) would "feasibly attain most of the basic objectives of the project;" and (3) would avoid or substantially lessen any of the project's significant effects. (CEQA Guidelines, §15126.6(a).) The purpose of this analysis is to determine whether there is a feasible way to achieve the basic objectives of the project, while avoiding impacts. (Public

Resources Code, §21002.1.)

The EIR is legally insufficient because it failed to analyze the Project without medium and large events, even though such an alternative is feasible, would satisfy the objectives of the Project and would significantly lessen environmental impacts. Moreover, because this alternative is both feasible and substantially lessens the environmental impact, the Planning Commission cannot approve the project as currently proposed in compliance with CEQA.

Findings to Support General Plan and Zoning Ordinance Amendments and CUP

Amendments to the General Plan require substantial evidence that the amendment reflects a change in community values or that the proposed amendment maintains *established* uses otherwise consistent with a comprehensive view of the plan. (General Plan, §1452.2.) Since the proposed Project does not reflect *established* uses, the record must support a finding that community values have changed. In addition, the record must show that the Project is in the public interest. (*Ibid.*) Under the Framework Plan, parks and recreation areas must reflect public needs and minimize environmental impacts. (Framework Plan, §4400.) Furthermore, the Zoning Ordinance amendment and the Conditional Use Permit each require a finding that the Project is consistent with the General Plan and, therefore, are contingent on approval of the General Plan amendment and a finding that the Project reflects changed community values and is in the public interest. (Zoning Ordinance, §312-50, §312-17.1 (CUP).)

However, the only evidence submitted by the Planning Department to establish a change in community values are the community support letters attached to the Staff Report. However, none of those letters (many are form letters drafted by SHCP) address medium or large events. The letters express general support for smaller scale park uses (trails, sports fields, community agricultural uses, educational and nature events, etc.), but are silent on large scale changes. However, community responses to the Draft EIR do address medium and large events and are overwhelmingly opposed to them due to the substantial impacts on water demand, river health, endangered species, traffic and noise. (Final EIR, pp. 41-136.) The community wants the park to be used for “aquatic life, wild life and wild life habitat, and low-impact public use.” (Final EIR, p. 76; 41-136.) Not concerts. (Final EIR, pp. 41, 44, 48, 52-64, 74-76, 84, 86, 90, 93-95, 103, 107-120, 126-127, 131-134.)

Furthermore, the record does not support a finding that the Project is in the public interest. The only reason given that the Project is in the public interest is based on the erroneous contention that the Project reflects changes in community values. (Staff Report, p. 29; General Plan, §1452.2.) Since the record cannot support a finding that the Project (with the medium and large events included) reflects changed community values, it cannot support a finding that the Project is in the public interest and, therefore, the record does not provide substantial evidence to support a General Plan amendment. Since the Zoning Ordinance amendment and Conditional Use Permit are contingent on a finding that they are consistent with the General Plan, these approvals are also not supported by the record.

Modifying the Project to exclude medium and large events would substantially reduce environmental impacts, as discussed below. Moreover, the record would support the modified Project and it would be in compliance with the respective laws at issue.

Environmental Impacts

The Project, even without medium and large events, will cause significant negative environmental impacts. Some of these, such as the supply of potable water, have not yet been adequately addressed. However, the additional burdens caused by medium and large events are unsustainable and they should be excluded from the Project in order to substantially reduce the environmental impacts.

Potable Water

Whether or not medium and large events are excluded from the Project, a serious and timely issue is the erroneous claim that on-site water (unnamed spring and upland well, Sources #2 and #4, respectively) is potable and meets water quality standards. (See, e.g., Final EIR, p. 68; DEIR, p. 4.17-2, Plan of Operation, Staff Report, etc.) Since SHCP does not intend to be annexed under the Garberville Sanitation District (“GSD”),¹ it must ensure that its on-site water is safe before providing it to the public.

The State Water Board, Division of Drinking Water addressed this issue in two substantive letters dated September 20, 2016 and January 3, 2017. [See letter dated September 20, 2016 to Planning Department commenting on Draft EIR (attached to Staff Report, pp. 76-77) and letter dated January 3, 2017 to Saxton & Associates responding to questions about Final EIR (attached hereto as Exhibit A).]

Most significantly, the State Water Board, DDW states that references to on-site “potable” water sources are “presumptive, and it should not be assumed that any of the existing water sources on the property meet the regulatory criteria for use by a *public water system* as is.” (Sept. 20, 2016 letter, p. 77 of Staff Report.) In order to determine if on-site water is potable, significant analysis of the spring source and the design/development of the spring must be conducted by a licensed civil engineer with drinking water experience. (January 3, 2017 letter, Ex. A, p. 2.) Moreover, “a permit to operate a public water system **must be applied for and obtained** from [the State Water Board, Division of Drinking Water] **before water can be served** [to the public].” (January 3, 2017 letter, Ex. A, p. 2 (emphasis added).) SHCP cannot wait until they hold their first medium event before complying with drinking water standards, as is currently the plan pursuant to the Plan of Operation, Conditions of Approval and the Staff Report. SHCP’s current plan could be harmful to public health and could expose SHCP to liability.²

¹ See FEIR, p. 36 (Response to Humboldt Focal Agency Formation Commission re: annexation to the GSD); FEIR, p. 38 (Response to GSD re: annexation of park); FEIR, pp. 65-66, 68, 69, 72 (Response to Saxton/Voice Comments, C6-1, C6-2 (“The commenter states that spring water is not potable...”), C6-6, C6-11, C6-21, respectively.

² SHCP reported to the California Department of Public Health in 2013 that it was concerned the unnamed spring was contaminated by bacteria from animal waste and other sources, that prior testing had likely shown high levels of iron and manganese, and water from the tap at Tooby Park came out brown and needed to run for an hour before it cleared. (See, SHCP’s Application for Pre-Planning Funding to the California Department of Public Health, Safe Drinking Water State Revolving Fund, November 2013, attached hereto as Exhibit B, p. 4, sections (a) and (b).)

Furthermore, SHCP's single water quality test conducted in February of 2016 does not establish that the Unnamed Spring is potable, contrary to SHCP's contentions that it does, as expressed in the Final EIR. (Test result is attached hereto as Exhibit C; discussion of the test results as alleged evidence that the spring is potable is at FEIR, p. 68 (Response to Saxton/Voice Comments C6-6).) The State Water Board, DDW made clear that this single test does not establish potability of the Spring and "additional testing is required". (January 3, 2017 letter, Ex. A, p. 1.) "The spring source will need to be investigated by a licensed civil engineer with drinking water experience and the design/development of the spring will need to be completed by a licensed civil engineer with drinking water experience. If it is determined that the spring is under the direct influence of surface water, then a surface water treatment system will need to be designed by a licensed civil engineer with drinking water experience, and the system will need to be constructed before a permit can be issued by [the State Water Board, Division of Drinking Water]." (*Id.*, p. 2.)

Regardless of the clear statements by the State Water Board, DDW, however, the Final EIR, Staff Report, Conditions of Approval and Plan of Operation still contend that on-site water is potable and that compliance with drinking water standards are not required, if at all, until SHCP holds a medium size event. This issue must be addressed, and the Conditions of Approval and Plan of Operation must be amended accordingly.

Lastly, the EIR, Staff Report and Plan of Operation all state that the source of water for the restrooms will be the Infiltration gallery (Source #1, South Fork Eel River). However, water used for handwashing must be potable and the South Fork Eel River is not a potable water source. Thus, the EIR, Conditions of Approval, Plan of Operations and Staff Report must be modified accordingly.

Water Use – Spring and Upland Well

The Spring and Upland Well is expected to supply potable water (see discussion above) for the Park Headquarters and office buildings, cooking areas, Tooby Park, and the Sports Fields. The demand for daily use alone is significant, as it must supply potable water for up to 800 people a day in peak season (May through October) and for unlimited events of up to 800 attendees. Water diversion is limited by the Lake or Streambed Alteration Agreement (LSAA) with the Department of Fish and Wildlife (2,000 gallons/day or 10% of streamflow from November 1 to July 1) and storage is limited to a 55,000 gallon tank. To meet daily usage needs and to protect the stream, fish and wildlife, the Department of Fish and Wildlife expect SHCP to improve water conservation measures, make water storage capacity improvements and enact future forbearance periods. (Final EIR, pp. 9-10, 12.) This still needs to be done.

Water demand needed for daily usage will only be sustainable if substantive measures are enacted to conserve, store and restrict water usage. The additional water needed to support medium (five events for 800-2,5000 people each) and large events (one 2-day event for up to 5,000 people/day) is unsustainable, particularly because these events occur in summer months when diversion from the Spring is prohibited. The Project should be modified to exclude medium and large events in order to substantially reduce harmful environmental impacts.

Water Use – South Fork Eel River

The Project calls for the extraction of large quantities of water from the South Fork Eel River to irrigate sports fields and agricultural crops and to supply water for restrooms (note discussion above, however, in that handwashing in restrooms must be from a potable water source and the South Fork Eel River is not potable).

The South Fork Eel River is a Wild and Scenic River under both Federal and State Acts and is a regionally-important fish-bearing stream that currently supports three listed salmonid species under state and federal Endangered Species Acts (coho, chinook and steelhead). The Department of Fish and Wildlife and Pacific Watershed Associates, who prepared the water impact report for the EIR, both acknowledge that any diversion from the South Fork Eel during drought conditions (as we've had for the last 3 years and will likely occur in the future) can cause lethal conditions for endangered salmonids and cause toxic algae growth. (Final EIR (Department letter), pp. 8-10; PWA Report, p. 10.) When PWA performed a site-visit in July of 2015, "flow in the SF Eel River was too low to allow turf grass irrigation... Certainly, any significant increase of water drawn from the infiltration gallery during summer low flow conditions will exacerbate, however slightly, the undesirable conditions that already exist (high water temperatures, low dissolved oxygen, elevated nutrient concentrations), and would contribute to the creation of conditions that could be lethal for salmonids." (PWA Report, p. 10.)

The water demand for daily usage alone will cause undue strain on the South Fork Eel River. The increased burden to supply water for medium (800 to 2,500 people) and large events (up to 5,000 per day) is unreasonable and unsustainable, particularly since these events occur during summer months when flows are already low. Supplying water during drought conditions would be highly consequential to the health of the river. Medium and large events should be excluded from the Project, as a feasible alternative to reduce harmful environmental impacts.

Traffic and Noise

Excluding medium and large events from the Project will substantially relieve traffic and noise impacts on the community. As discussed in the Final EIR, neighbors of the park were particularly concerned about the traffic and noise from big events and strongly contended that the mitigation measures proposed were insufficient. (Final EIR, pp. 41-136.) Some mitigation will still be needed in order to address traffic and noise impacts from smaller events of up to 800 attendees. However, these measures are significantly less burdensome than the measures proposed for medium and large events and will be more effective for smaller-scale events.

Zoning Designation for 87 Acres (AE)

One of the proposed amendments to the Zoning Ordinance seeks to change the designation of 87 acres from Agriculture Exclusive (AE) to Public Facilities (PF). It is understood that the purpose of this change is to facilitate the use of this land for medium and large events. If those events are excluded from the Project, this particular designation change is not necessary. If it cannot be established that the zoning change is necessary, it is not in the public interest and this Zoning

Ordinance amendment cannot supported by the record.

Riparian Buffers and Foot Bridge

The Department of Fish and Wildlife recommend that a condition for Project approval include the planting of overstory vegetation on the western-most stream in order to mitigate encroachment and disturbance to riparian and stream buffer areas as a result of Project activities. (Final EIR, p. 9, 12.) It does not appear that this specific condition was included as part of the Mitigation Measures for the final Project. Mitigation Measures should be modified (or clarified) to address this issue.

The foot bridge that is part of the Special Permit request should not be used for vehicular traffic. The EIR analyzed the impacts of the bridge based on pedestrian crossing, not motorized vehicles. Impacts from motorized vehicles are substantially more severe than foot traffic and the use should be limited to that analyzed in the EIR.

Agricultural Activities

Irrigation of agricultural crops is a significant burden on public water resources. SHCP should take particular care to only allow agricultural activities that benefit the community, such as participation in the Park to Plate project or other community services or educational programs. Purely commercial ventures, such as vineyards and gravel mining, only serve private interests and provide no benefit for the community.

SPECIFIC ACTIONS REQUESTED OF THE PLANNING COMMISSION

The Ed Voice Family requests the Planning Commission to take the following actions:

1. Make the findings in Attachment 1 (Recommended Conditions of Approval) of the Planning Division staff report, **EXCEPT** for the following:
 - a. Modify the Plan of Operation to: (i) indicate that the Spring and Upland Well (Source #2 and #4, respectively) are not potable water sources; (ii) state that water service to restrooms for handwashing must be potable water and, therefore, cannot be supplied by Source #1- Infiltration gallery-Well (South Fork Eel River); and (iii) remove discussion of medium and small events.
 - b. Modify the Mitigation Measures in Attachment 6 of the Staff Report to require planting of overstory vegetation on the western-most stream.
 - c. No. 1: delete the section regarding medium and large events.
 - d. No. 2: change compliance with State Office of Drinking Water standards to be required at such time as SHCP meets the definition of a public water system (i.e., when SHCP serves on-site water to 25 or more people for 60 or more days in a year), as required by law, as opposed to requiring compliance with such standards prior to SHCP holding its first medium sized event. (Also, note that this office is now the State Water Board, Division of Drinking Water.)
 - e. No. 5: delete language referencing medium or large events.

- f. No. 7: require the removal of Underground Storage Tanks (UST) to be completed prior to any small events, as opposed to prior to SHCP holding its first medium or large event.
- g. No. 8: require the condition to be met prior to holding any event that requires off-site parking, as opposed to requiring the condition to be met prior to any medium or large event.
- h. No. 9: change the condition to make it applicable for any event in which the services of the respective agencies are required, as opposed to being applicable for medium or large events.

2. Make the following recommendations to the Board of Supervisors:

- a. General Plan Amendment: Approve the amendments requested by the Planning Department;
- b. Zoning Ordinance Amendment: Approve the amendments requested by the Planning Department, **EXCEPT** for the proposal to change 87 acres from Agricultural Exclusive (AE) to Public Facilities (PF) – the 87 acres should remain AE, since the requested designation change was needed to facilitate medium and large events;
- c. Conditional Use Permit: **DENY** the Conditional Use Permit, so that medium and large events are not permitted at SHCP;
- d. Special Permit: Conditionally approve, as requested by the Planning Department, **EXCEPT** that the one-lane bridge should be restricted to foot traffic, as the environmental impacts of vehicular traffic were not addressed in the EIR.

CONCLUSION

Thank you for your time and consideration on the matters discussed above. The Ed Voice Family hopes that you will consider postponing the hearing on this Project until the next public meeting so that the members of the Planning Commission will have sufficient time to review all the relevant information. The public, including the Voice Family, expended significant time and effort to provide the Commission with substantive and thoughtful comments. However, because key documents were not available until shortly before the hearing, we were unable to get written comments to you any sooner than at the time of the hearing. We hope that you will take the necessary time to fully consider these comments and the requests made therein.

Thank you.

Sincerely,



Lynne R. Saxton
Saxton & Associates
Counsel for Ed Voice Family

Exhibit A



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board
Division of Drinking Water

January 3, 2017

Lynne R. Saxton
Saxton & Associates
912 Cole Street, #140
San Francisco, CA 94117

Re: Southern Humboldt Community Park (SHCP)

Dear Ms. Saxton,

Below are the answers to the questions posed in your December 20, 2016, letter to our office regarding SHCP's Final EIR:

1(A) Question: Is SHCP required to provide water obtained from a public water system?

Answer: If their activities meet the definition of a public water system, the answer is yes. See attached excerpts from the regulations regarding definitions of types of public water systems and the attached "Decision Tree For Classification Of Water Systems". For example, at such time that SHCP serves 25 or more people at least 60 days of a year (they do not have to be the same 25 people), they will be deemed a public water system and will need to be in compliance with public water system regulations.

1(B) Question: If SHCP does not receive water from GSD, is SHCP required to develop a new public water system before it can provide water to the public?

Answer: See answer 1(A) above.

2. Question: Has SHCP taken steps to satisfy any of the three listed items below?

- 1) An application will need to be submitted to our office for formation of a new *public water system*.**
- 2) Technical, managerial, and financial capacity for the proposed new *public water system* will need to be demonstrated, along with proof of water rights.**
- 3) Source water assessments will need to be completed on any proposed water sources."**

Answer: No, our office has not received any information concerning the above listed items.

3(A) Question: Does the February 2016 North Coast Laboratories test result establish that the water from the spring is potable?

No. Additional testing is required. If not, what additional information would be needed to make that determination? (i.e., location of sample, location of spring, spring development construction, quantity produced in dry and rainy seasons,

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

384 Knollcrest Drive, Suite 101, Redding, CA 96002 | www.waterboards.ca.gov

repeated testing, testing for constituents in addition to Total Coliform and E. coli). The spring source will need to be investigated by a licensed civil engineer with drinking water experience and the design/development of the spring will need to be completed by a licensed civil engineer with drinking water experience. Is SHCP or the Planning Department qualified to make that determination or does it need to be made by the SWRCB's Drinking Water Division? The Division of Drinking Water will make a determination based on all available information submitted in the permit application.

3(B) Question: Does the North Coast Laboratories test result provide any information about the presence and/or level of iron or manganese in the spring water?

Answer: No.

3(C) Question: Are there enforceable limitations for iron and/or manganese?

Answer: Yes, secondary maximum contaminant levels specified in the regulations are enforceable.

3(D) Question: In order to be potable, does the spring water need to come from groundwater and not be surface water influenced? Generally, what type of testing would be required to establish that?

Answer: The spring source will need to be investigated by a licensed civil engineer with drinking water experience and the design/development of the spring will need to be completed by a licensed civil engineer with drinking water experience. If it is determined that the spring is under the direct influence of surface water, then a surface water treatment system will need to be designed by a licensed civil engineer with drinking water experience, and the system will need to be constructed before a permit can be issued by this office.

4. Question: Does the Planning Department's recommendation in the Staff Report to the Planning Commission satisfy the concerns your office raised in response to the Draft EIR? If not, what additional provisions should be included in the Final EIR?

Answer: Since the proposed project may result in the formation of a public water system, a permit to operate a public water system must be applied for and obtained from this office before water can be served. If, after reviewing the permit application, we determine there is a need for additional public health provisions, we will add the appropriate conditions in the permit. We cannot know what the conditions will be, if any, until we have reviewed a complete permit application package. Please note, *California Health and Safety Code, Article 7. §116525.(a) states, "No person shall operate a public water system unless he or she first submits an application to the department and receives a permit as provided in this chapter."*

Sincerely,

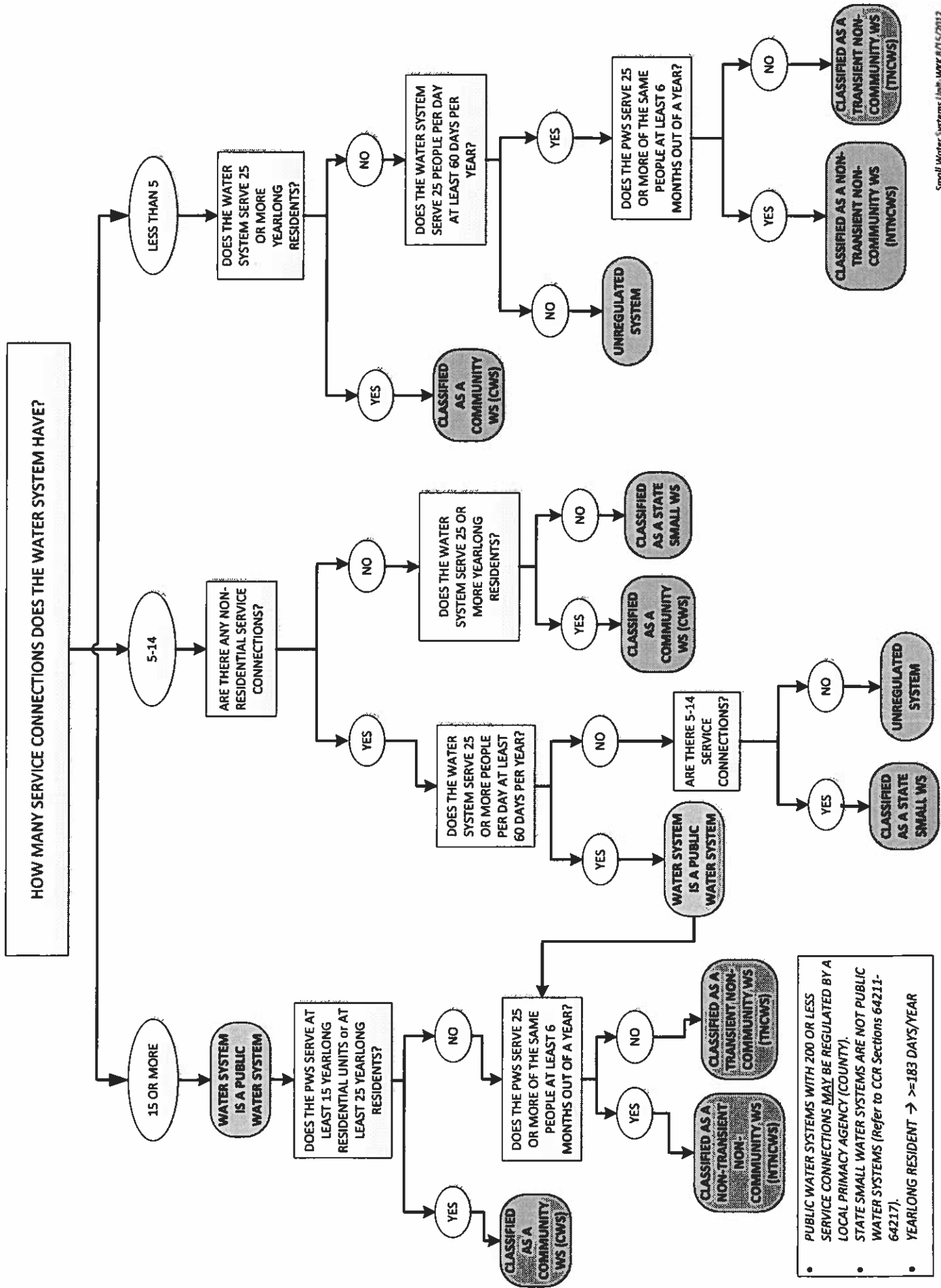


Barry Sutter, P.E.

Klamath District Engineer, Northern California Drinking Water Field Operations Branch

Cc: Humboldt County Environmental Health

DECISION TREE FOR CLASSIFICATION OF WATER SYSTEMS



- PUBLIC WATER SYSTEMS WITH 200 OR LESS SERVICE CONNECTIONS MAY BE REGULATED BY A LOCAL PRIMACY AGENCY (COUNTY).
- STATE SMALL WATER SYSTEMS ARE NOT PUBLIC WATER SYSTEMS (Refer to CCR Sections 64211-64217).
- YEARLONG RESIDENT → ≥183 DAYS/YEAR

EXCERPTS FROM CALIFORNIA WATER CODE, 116275.

NOTE: This publication includes a variety of California statutes related to the subject of drinking water, which may not be complete and should not be relied upon as the State of California's representation of the law. The published codes are the only official representation of the law. Refer to the actual published codes whenever specific citations are required. Drinking water-related regulations are in Titles 22 and 17 of the California Code of Regulations.

§116275. Definitions.

As used in this chapter:

- (a) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.
- (b) "Department" means the state board.
- (c) "Primary drinking water standards" means:
 - (1) Maximum levels of contaminants that, in the judgment of the state board, may have an adverse effect on the health of persons.
 - (2) Specific treatment techniques adopted by the state board in lieu of maximum contaminant levels pursuant to subdivision (j) of Section 116365.
 - (3) The monitoring and reporting requirements as specified in regulations adopted by the state board that pertain to maximum contaminant levels.
- (d) "Secondary drinking water standards" means standards that specify maximum contaminant levels that, in the judgment of the state board, are necessary to protect the public welfare. Secondary drinking water standards may apply to any contaminant in drinking water that may adversely affect the odor or appearance of the water and may cause a substantial number of persons served by the public water system to discontinue its use, or that may otherwise adversely affect the public welfare. Regulations establishing secondary drinking water standards may vary according to geographic and other circumstances and may apply to any contaminant in drinking water that adversely affects the taste, odor, or appearance of the water when the standards are necessary to ensure a supply of pure, wholesome, and potable water.
- (e) "Human consumption" means the use of water for drinking, bathing or showering, hand washing, oral hygiene, or cooking, including, but not limited to, preparing food and washing dishes.
- (f) "Maximum contaminant level" means the maximum permissible level of a contaminant in water.
- (g) "Person" means an individual, corporation, company, association, partnership, limited liability company, municipality, public utility, or other public body or institution.
- (h) "Public water system" means a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. A public water system includes the following:
 - (1) Any collection, treatment, storage, and distribution facilities under control of the operator of the system that are used primarily in connection with the system.
 - (2) Any collection or pretreatment storage facilities not under the control of the operator that are used primarily in connection with the system.
 - (3) Any water system that treats water on behalf of one or more public water systems for the purpose of rendering it safe for human consumption.
- (i) "Community water system" means a public water system that serves at least 15 service connections used by year-long residents or regularly serves at least 25 year-long residents of the area served by the system.
- (j) "Noncommunity water system" means a public water system that is not a community water system.

- (k) “Nontransient noncommunity water system” means a public water system that is not a community water system and that regularly serves at least 25 of the same persons over six months per year.
- (l) “Local health officer” means a local health officer appointed pursuant to Section 101000 or a local comprehensive health agency designated by the board of supervisors pursuant to Section 101275 to carry out the drinking water program.
- (m) “Significant rise in the bacterial count of water” means a rise in the bacterial count of water that the state board determines, by regulation, represents an immediate danger to the health of water users.
- (n) “State small water system” means a system for the provision of piped water to the public for human consumption that serves at least five, but not more than 14, service connections and does not regularly serve drinking water to more than an average of 25 individuals daily for more than 60 days out of the year.
- (o) “Transient noncommunity water system” means a noncommunity water system that does not regularly serve at least 25 of the same persons over six months per year.
- (p) “User” means a person using water for domestic purposes. User does not include a person processing, selling, or serving water or operating a public water system.
- (q) “Waterworks standards” means regulations adopted by the state board entitled “California Waterworks Standards” (Chapter 16 (commencing with Section 64551) of Division 4 of Title 22 of the California Code of Regulations).
- (r) “Local primacy agency” means a local health officer that has applied for and received primacy delegation pursuant to Section 116330.
- (s) “Service connection” means the point of connection between the customer’s piping or constructed conveyance, and the water system’s meter, service pipe, or constructed conveyance. A connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection in determining if the system is a public water system if any of the following apply:
- (1) The water is used exclusively for purposes other than residential uses, consisting of drinking, bathing, and cooking, or other similar uses.
 - (2) The state board determines that alternative water to achieve the equivalent level of public health protection provided by the applicable primary drinking water regulation is provided for residential or similar uses for drinking and cooking.
 - (3) The state board determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a passthrough entity, or the user to achieve the equivalent level of protection provided by the applicable primary drinking water regulations.
- (t) “Resident” means a person who physically occupies, whether by ownership, rental, lease, or other means, the same dwelling for at least 60 days of the year.
- (u) “Water treatment operator” means a person who has met the requirements for a specific water treatment operator grade pursuant to Section 106875.
- (v) “Water treatment operator-in-training” means a person who has applied for and passed the written examination given by the state board but does not yet meet the experience requirements for a specific water treatment operator grade pursuant to Section 106875.

(w) "Water distribution operator" means a person who has met the requirements for a specific water distribution operator grade pursuant to Section 106875.

(x) "Water treatment plant" means a group or assemblage of structures, equipment, and processes that treats, blends, or conditions the water supply of a public water system for the purpose of meeting primary drinking water standards.

(y) "Water distribution system" means any combination of pipes, tanks, pumps, and other physical features that deliver water from the source or water treatment plant to the consumer.

(z) "Public health goal" means a goal established by the Office of Environmental Health Hazard Assessment pursuant to subdivision (c) of Section 116365.

(aa) "Small community water system" means a community water system that serves no more than 3,300 service connections or a year-long population of no more than 10,000 persons.

(ab) "Disadvantaged community" means the entire service area of a community water system, or a community therein, in which the median household income is less than 80 percent of the statewide average.

(ac) "State board" means the State Water Resources Control Board.

(ad) "Deputy director" means the deputy director appointed by the state board pursuant to subdivision (k) of Section 116271.



SAXTON & ASSOCIATES
WATER QUALITY AND TOXICS ENFORCEMENT

December 20, 2016

Via Email

Ronnean Lund
Sanitary Engineer
State Water Resources Control Board,
Division of Drinking Water
364 Knollcrest Drive, Suite 101
Redding, CA 96002
Ronnean.Lund@waterboards.ca.gov

Re: Questions Regarding Southern Humboldt Community Park's Final EIR And Whether The Water Sources The Park Board Intends To Use For The Project Are Both Potable And A Public Water System

Dear Ms. Lund,

I'm an environmental attorney working with Ed Voice to prepare comments on the Southern Humboldt Community Park's Environmental Impact Report (EIR). We appreciate the comments that the State Water Resource Control Board, Division of Drinking Water submitted on September 20, 2016 concerning the Draft EIR. (Those comments are attached, for your convenience.) As you know, the Final EIR, with responses to comments, was recently circulated and responses to your office's comments were omitted. Although it is understood that the Humboldt County Planning Department (Lead Agency) intends to respond to your office's comments in the Staff Report for the Humboldt County Planning Commission in preparation for the Planning Commission's meeting on January 5, 2017 to approve the project.

To prepare our comments for the Planning Commission, Mr. Voice and I have some questions for your office concerning SHCP's drinking water supply, which your office raised in its comments on the Draft EIR. Specifically, we are concerned about whether the water from the unnamed spring is potable and whether it is (and needs to be) a public water system.

1. Annexation of SHCP into the Garberville Sanitation District ("GSD"):

Your September 20, 2016 comment letter stated that SHCP would either need to form a new public water system or potable water would need to come from Garberville Sanitary District (GSD) for any intended development that the project is meant to accommodate. (SWRCB Comment letter, pg. 1.)

In the Final EIR's responses to comments, the Planning Department states that SHCP will not be annexed into nor receive water from GSD. (See FEIR, p. 36 (Response to Humboldt Focal Agency Formation Commission re: annexation to the GSD); FEIR, p. 38

(Response to GSD re: annexation of park); FEIR, pp. 65-66, 68, 69, 72 (Response to Saxton/Voice Comments, C6-1, C6-2 (“The commenter states that spring water is not potable...”), C6-6, C6-11, C6-21, respectively).¹

Questions:

- (A) Is SHCP required to provide water obtained from a public water system?
- (B) If SHCP does not receive water from GSD, is SHCP required to develop a new public water system before it can provide water to the public?

2. New Public Water System

Your office’s comment letter of September 20, 2016 states:

“If it is determined that a new public water system will need to be formed in order to supply potable water to future development, the following list of items should occur, at a minimum:

- 1) An application will need to be submitted to our office for formation of a new *public water system*.
- 2) Technical, managerial, and financial capacity for the proposed new *public water system* will need to be demonstrated, along with proof of water rights.
- 3) Source water assessments will need to be completed on any proposed water sources.”

Question: Has SHCP taken steps to satisfy any of the three listed items above?

3. Potable Nature of Water from Unnamed Spring

In November of 2013, SHCP submitted an Application for Pre-Planning Funding to the California Department of Public Health, Safe Drinking Water State Revolving Fund Pre-Planning and Legal Entity Formation Assistance Program. (See Attached) On page 4, sections (a) and (b) of the Application, SHCP stated:

- Water is supplied to the Park from an untreated spring which is used from December 1 to June 30
- Water from the spring is stored in a 55,000 gallon tank to serve water demands from July 1 through November 30
- A groundwater well supplies water for agricultural purposes on the property
- Water quality sampling has not been conducted [at that time] on the water sources and SHCP does not have access to historical sampling records.

¹ See also, FEIR p. 79 (Response to Saxton/Voice comment, C7-7); FEIR, p. 89 (Response to McKaskle comment, C12-1); FEIR pp. 124-125 (Response to LaBoyeaux comment, C18-5); FEIR, p. 128 (Response to Lewis Comment, C19-1).

- The Tooby Park caretaker who lives on a portion of SHCP property recalls that when Humboldt County conducted testing, the water tested high for iron and manganese.
- Currently [at that time], the water comes out of the tap brown and the caretaker must run the system for an hour before it clears up.
- While the water has not been sampled, there is concern about contamination of the spring water from bacteria from animal waste and other sources.

However, the Planning Department's response to comments for the Final EIR states that SHCP can provide potable water. (*See*, FEIR, p. 68 (Response to Saxton/Voice Comments C6-6). As evidence, the Final EIR references a water quality test performed on February 9, 2016 by North Coast Laboratories showing an absence of Total Coliform and E.coli. (FEIR, p. 68; *see* attached North Coast Laboratories test result.) The Final EIR states that the North Coast Laboratories test shows that the water meets drinking water standards. (FEIR, p. 68.) The Final EIR further states:

“Iron was not found to be high in tests completed and manganese limits are secondary maximum contaminant levels, which are non-enforceable guidelines regulating contaminants that may cause cosmetic effects (such as skin or tooth discoloration) or aesthetic effects (such as taste, odor, or color) in drinking water. Thus, these constituents do not make the water non-potable.” (FEIR, p. 68.)

Questions:

- (A) Does the February 2016 North Coast Laboratories test result establish that the water from the spring is potable? If not, what additional information would be needed to make that determination? (i.e., location of sample, location of spring, spring development construction, quantity produced in dry and rainy seasons, repeated testing, testing for constituents in addition to Total Coliform and E.coli) Is SHCP or the Planning Department qualified to make that determination or does it need to be made by the SWRCB's Drinking Water Division?
- (B) Does the North Coast Laboratories test result provide any information about the presence and/or level of iron or manganese in the spring water?
- (C) Are there enforceable limitations for iron and/or manganese?
- (D) In order to be potable, does the spring water need to come from groundwater and not be surface water influenced? Generally, what type of testing would be required to establish that?

4. Adequacy of Planning Department's Insertion in Staff Report in Response to SWRCB's comments on the Draft EIR

As you are aware, the Final EIR omitted your office's comments on the Draft EIR. Based on the December 6, 2016 email to you from Michael Richardson, Senior Planner for the Department of Planning, the Staff Report for the Planning Commission's January 5, 2017 meeting to approve the project will include the following excerpt in response to your office's comments on the Draft EIR:

“The project shall comply with the requirements of the State Office of Drinking Water as described in their letter to the Planning Commission dated September 30, 2016 (*sic*). The project applicant shall work closely with the State Office of Drinking Water to ensure compliance with public water system requirements before installing new public drinking water services from on-site water supplies. The applicant shall revise the Plan of Operation to incorporate new information about water supply and distribution that meets the requirements of the Office of Drinking Water as soon as possible, and prior to the first Medium Size event.”

Question: Does the above excerpt satisfy the concerns your office raised in response to the Draft EIR? If not, what additional provisions should be included in the Final EIR?

Thank you very much for your attention to these issues. Please let me know if there's any additional information that I can provide to assist you. Mr. Voice and I will submit our comments to the Planning Commission on January 2, 2017, so any information that you can provide to us prior to then would be greatly appreciated. If you have any questions, you can contact me at (415) 317-6713 or via email. I believe you also have Mr. Voice's contact information.

Sincerely,

A handwritten signature in black ink, appearing to read "Lynne R. Saxton". The signature is fluid and cursive, written over a thin horizontal line.

Lynne R. Saxton
Saxton & Associates

Exhibit B



State of California—Health and Human Services Agency
California Department of Public Health



NOV 12 2013

Headquarters - Sacramento

RON CHAPMAN, MD, MPH
 Director & State Health Officer

EDMUND G. BROWN JR.
 Governor

**SAFE DRINKING WATER STATE REVOLVING FUND
 PRE-PLANNING AND LEGAL ENTITY FORMATION ASSISTANCE PROGRAM**

2013 APPLICATION FOR PRE-PLANNING FUNDING

Applicants must submit **one complete paper copy and one digital copy** (on a CD/DVD in Adobe .pdf or Microsoft Word .doc format) of the application and all required attachments and supporting documentation by mail to:

ATTN: TECHNICAL SUPPORT UNIT
 California Department of Public Health
 Safe Drinking Water State Revolving Fund Program
 P.O. Box 997377
 Sacramento, CA 95899-7377

APPLICATION DUE DATE: NOVEMBER 8, 2013 (post marked)

For assistance and application guidance please contact Kim Dinh at (916) 552-9127 or Kim.Dinh@cdph.ca.gov or your local Regional Funding Coordinator (RFC):
<http://www.cdph.ca.gov/programs/Documents/DDWEM/OriginalDistrictMapCDPH.pdf>

APPLICANT (Please print or type)

Legal Name of the Applicant (Name of entity applying for funding)

Southern Humboldt Community Park

Location of the Project (define geographic area and/or identify affected community)

Garberville, CA

Title of the Project

SHCP Water Supply Evaluation and LAFCO Annexation Project

County

Humboldt

Authorized Representative*

Kathryn Lobato

Title

Executive Director

Address (number, street)

PO Box 185

City

Garberville

ZIP code

95542

Office Telephone

(707) 923-2928

e-mail

kathryn@sohumpark.org

Mobile Telephone

(707) 223-4300

Fax

(-)

*Authorized Representative: Identify the person who has the authority to sign documents pertaining to this 2013 application and funding agreement for Pre-Planning funds. If there is a change of the authorized representative prior to final execution of the funding agreement, CDPH must be notified immediately in writing with a copy of a new resolution.

APPLICATION CERTIFICATION

I declare under penalty of law the following:

- The truthfulness of all representations in this application;
- The individual signing the form has the legal authority to submit this application on behalf of the applicant;
- There is no current, threatened or pending litigation that may impact the financial condition of the applicant or its ability to complete the proposed Project;
- The applicant will comply with all terms and conditions identified in this application if selected for funding; and
- The applicant has legal authority to enter into a contract with the State.

Signature:

Kathryn Lobato, Executive Director

Date:

11-7-2013

Legal Name of the Applicant

Southern Humboldt Community Park

ADDITIONAL PROJECT CONTACT INFORMATION (Use additional sheets as necessary)

List additional people if necessary that may be contacted for the Project. This may include project managers, administrative staff, professional contractors, and individuals filling out this application, etc.

Additional Project Contact Rebecca Crow		Title/Project Role Project Engineer	
Address (number, street) 718 Third Street	City Eureka	ZIP code 95501	Office Telephone (707)443-8328
e-mail rebecca.crow@ghd.com	Mobile Telephone (707)497-8284	Fax (707)444-8330	

Additional Project Contact Dennis Huber		Title/Project Role Board Chairman	
Address (number, street) PO Box 185	City Garberville	ZIP code 95542	Office Telephone (707)923-2928
e-mail lelahuber@asis.com	Mobile Telephone (707)496-8223	Fax (-)	

Additional Project Contact		Title/Project Role	
Address (number, street)	City	ZIP code	Office Telephone
			()
e-mail	Mobile Telephone	Fax	
	()	()	

ORGANIZATION TYPE OF THE APPLICANT (Use additional sheets as necessary)

Specify the Organization Type of the Applicant:

<p>Public Organization</p> <p><input type="checkbox"/> Municipality</p> <p><input type="checkbox"/> County Agency</p> <p><input type="checkbox"/> Special District</p> <p><input type="checkbox"/> Irrigation District</p> <p><input type="checkbox"/> Other: _____</p>	<p>Private Organization</p> <p><input type="checkbox"/> Incorporated Mutual</p> <p><input checked="" type="checkbox"/> Non-Profit Organization - Federal Tax ID #: 75-3073362</p> <p><i>Note: Non-profit organizations must include the appropriate IRS non-profit Federal Tax ID number.</i></p>
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APPLICANT RESOLUTION (OR OTHER AUTHORIZING DOCUMENT APPLICABLE TO YOUR ENTITY)

The applicant must submit a resolution from the applicant's governing body designating the authorized representative and authorizing that individual to apply for SDWSRF Pre-Planning funds, sign a funding agreement, sign a Budget and Expenditure Summary, sign claim forms and a final release. (See sample resolution at the end of this application.)

1. Resolution Status:	<input type="checkbox"/> Pending, copy to be submitted when approved by governing body	<input checked="" type="checkbox"/> Approved, copy attached
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If the resolution/other authorizing document has been approved by the applicant's governing body, attach a copy of the resolution/authorizing document to the application. If the authorization is pending, state the date that the authorization will be approved and any other information on its status. The resolution/authorizing document should be submitted to CDPH as soon as it is finalized.

2. Provide any additional information on the resolution status (i.e., date scheduled for approval).

N/A - Resolution Attached.

WORK PLAN

The work plan consists of two parts:

Part A is in report format, questions and topics to be considered are provided below. Please provide relevant and concise details in your responses.

Part B is intended to be a task oriented overview. Please use the supplied template.

The work plan must be a concise, responsive, and well-developed plan such that the applicant will be ready to proceed with implementation of work plan activities if funding is awarded. Refer to the "Solicitation for 2013 Pre-Planning Applications" for a list of eligible and ineligible Project components: www.cdph.ca.gov/services/funding/Pages/Pre-Planning.aspx

Note: A "Project" for the purposes of the 2013 Pre-Planning application is limited to activities related to assisting communities with existing drinking water quality or quantity public health problems in the exploration and formation of an entity with the required legal authority to enter into a contract with the State for SDWSRF planning or construction funding. These funds are not intended to be used for activities which are eligible for funding under SDWSRF planning or construction projects.

WORK PLAN – PART A

1. PROJECT PURPOSE

- a. Provide a description of the Project, issues to be addressed and the goals to be achieved. The objectives should be specific, attainable, and relevant to successful completion of the Project. Discuss information relevant to the success of the Project.

The proposed project is to complete the necessary steps to annex the Southern Humboldt Community Park (SHCP) into the Garberville Sanitary District (GSD). Currently, the SHCP facilities are serviced by a combination of untreated surface water and groundwater wells. The goal of the project is to provide clean drinking water to community members at SHCP Facilities. The objectives of the project are to determine the water demands at the SHCP and available supply from a combination of GSD and SHCP water sources; to complete the CEQA document necessary to support annexation of the SHCP into GSD; to complete a LAFCO annexation application and submit for processing; and upon successful completion of the annexation process to complete the necessary water rights documentation for the expanded service area.

- b. Describe the Project location. This should include a general description of the affected area and the county in which the affected area is located. **Attach a map identifying the specific geographical area. The Southern Humboldt Community Park is located in an unincorporated area of southern Humboldt County, approximately one mile south of Garberville, at the intersection of Sprowel Creek Road with Camp Kimtu Road, located at 934 Sprowel Creek Road as shown in Figure 1 (attached).**
- c. **Attach a parcel map that shows the location of homes and/or businesses included in the Project, if available. All facilities proposed to be served by the project are located on Assessor's Parcels 222-241-009 and 222-091-014, which compose the SHCP boundary as shown on Figure 1 (attached).**

2. BACKGROUND

Identify the drinking water public health problem in the affected community. Questions to address, if applicable, are as follows:

- a. What is the source of water (domestic well or surface water)?
Water is supplied to the Park from an untreated spring which is used from December 1 to June 30. Water from the spring is stored in a 55,000 gallon tank to serve water demands from July 1 through November 30th. A groundwater well supplies water for agricultural purposes on the property.
- b. What is the contaminant(s) (if applicable)?
Water quality sampling has not been conducted on the water sources on the SHCP property. SHCP also does not have access to historical sampling records. The Tooby Park caretaker who lives on a portion of the SHCP property recalls that when Humboldt County conducted testing, the water tested high for Iron and manganese. Currently, the water comes out of the tap brown and the Tooby Park caretaker must run the system for an hour before it clears up. While the water has not been sampled, there is concern about contamination of the spring water from bacteria from animal waste and other sources.
- c. What is the contaminant concentration level(s) (if applicable)? Provide the number of samples collected per parcel and range of detected concentrations, if available. Describe how the results represent the defined geographic area.
As discussed under Item b. above, the SHCP has not conducted sampling to provide details on possible contamination. The public health issues are discussed in more detail below in Item d.
- d. Describe the public health problem and explain how it fits into an SDWSRF Category A-G. Attach any available supporting documentation.

Consider the following example responses:

- Water quality testing results indicate elevated nitrate concentration levels, including some that exceed the MCL. Documentation attached includes a list of wells serving the affected area, water quality sampling results of a representative number of these wells, and verifies groundwater sources are scattered throughout the community, indicating the problem is widespread. Therefore we believe this would satisfy the requirements for a Category F ranking.
- The community was constructed in a hard rock area, the geology of which is known to cause the limited production of water in wells. In recent years the community has faced an increasing water quantity problem. Documentation attached lists parcels in the affected community and indicates those with a considerable decrease in pumping rates, including some wells that have gone dry. It is our understanding this supports a Category E ranking.

The primary public health issue to be addressed is the unfiltered surface (spring) water used on the property. Water Systems which have a surface supply that is unfiltered and for which state filtration avoidance criteria has not been met, qualify as Category C in the SDWSRF ranking criteria. The SHCP is currently planning on expanding the use of the property and thus water use on the property will also be expanded. Safe potable water will be needed for park visitors as well as the current Park residents.

3. COMMUNITY SUPPORT

Community support is crucial to the successful completion of your Project. Please use the below section to demonstrate the extent of your public outreach and the public's response to it. A *Sample Acknowledgement Form* has been provided at the end of this application for your use. (Note that points are awarded based upon the degree of community support received. Only property owner(s) of developed parcels can commit to participating as that is the person(s) with the legal authority to bind the property.)

- a. Has the governing entity to be formed already been determined?

Yes

If yes, please describe the steps taken to determine the entity, any pre-formation activities and attach any supporting documentation (if applicable).

The Garberville Sanitary District is an already formed legal entity. They currently have the authority to provide water and wastewater services. They are currently regulated by CDPH and have received funding from CDPH. The annexation proposed in this application would be for the Southern Humboldt Community Park to be annexed into the GSD.

- b. Have the steps to form the selected governing entity been identified? YES NO

If yes, have the tasks to accomplish the formation been included in Part B of the work plan? YES NO

Include any comments on the selected governing entity or its formation or governance, if necessary, in the box below.

This project proposes that the Southern Humboldt Community Park Annex to the Garberville Sanitary District (GSD). GSD is already a legal entity. The steps for annexation are laid out in the work plan which is part of this application.

- c. Is there written proof of support by affected property owners to be part of the Project? YES NO

If yes, please describe the steps taken and attach any supporting documentation.

The property to be annexed is owned wholly by the Southern Community Park which is governed by a board of directors. All directors are in favor of the proposed project. An Acknowledgement Form signed by the Board of Directors of the Park is attached as proof of support. In addition, the GSD is in support of this project. Also attached to this application is a letter from GSD supporting the pre-planning application which was unanimously approved by the GSD Board.

- d. If the applicant has conducted public outreach or held community meetings to gauge support of the Project, describe those actions in detail and attach any relevant supporting documentation.

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Exhibit C



NORTH COAST LABORATORIES LTD
5680 West End Rd, Arcata, California 95521 (707)822-4649

Please complete the following sample information:

POTABLE WATER SOURCE WATER WASTEWATER

System # Spring Sampling Time 830

Location Garberville Sampled By Jina Silva

Sampling Date 2/9/16 Phone # (707) 923-2928

Routine Sample Repeat Replacement Special

Payment is due at time of service. We are pleased to accept the following (please check one):

Check \$ 35 3807 Cash \$

Visa Mastercard Am. Express Discover \$

If you are paying by credit card and are not submitting samples in person please use the enclosed form to provide credit card information

Attn./email: _____

Name Kathryn Lobato

Address PO. Box 185

City/State/Zip Garberville, CA 95542

DATE CLIENT NOTIFIED _____ INITIALS _____

DATE REGULATOR NOTIFIED _____ INITIALS _____

For Office Use Only

SAMPLE TEMP 20.8 ON ICE? N

REC'D BY ? TIME REC'D _____

DATE REC'D 2/9/16 INOC 12016 2-9-16-830

SAMPLE # 11002701 READ 1016 2-9-16-830

TESTS REQUESTED:

Presence / Absence Total Coliform Absence

QUANTI-TRAY Fecal Coliform

3 X 5 MTF HPC Absence

HPC

Analyst Notes: _____

Quanti-Tray/2000: Total coliform _____ (large/small) E. coli _____ (large/small)

Bacterial Examination Report All microbiology data will be destroyed after 6 years

Hrs	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
24															
48															
24															
48															
24															

BCF
Quality Assurance Unit

Item	Matrix	Code	Qty	List Price	Test Total
Coliform Presence/Absence	Aqueous	330	1	\$35.00	\$35.00

Order TOTAL: \$35.00

Discount: 0.00%

Surcharge: 0.00%

Misc Charges: \$0.00

Subtotal: \$35.00

Payment Received: \$35.00

INVOICE Total \$0.00

Comments: Kathryn Lobato
PO Box 185
Garberville, CA 95542