

NOTICE OF DRAFT PROPOSED ORDER

12/01/2021

The State Water Resources Control Board Administrative Hearings Office held a hearing regarding the pending petitions of Garberville Sanitary District to change water-right License 3404 and Permit 20789 (Applications A009686 and A029981), which authorize diversions of water from the South Fork Eel River in Humboldt County.

TO: State Water Resources Control Board Administrative Hearings Office

FROM: Ed Voice (GSD Petition Protestant)

RE: Public Comments to the above mentioned Draft Proposed Order

Dear SWRCB-AHO Hearing Officer and Staff,

The SWRCB-AHO is being petitioned by the Garberville Sanitary District (GSD) to expand GSD's water diversion license and permitted place of use (POU), allowing GSD to sell treated water only in a limited water use area of 18 acres within the 400 acre property (APN 222-091-015) known as the Southern Humboldt Community Park (Park):

- 1.** This change petition is built on a false premise that the Park had a historical water service connection with GSD. This misconception could not be farther from the truth. If you read KV 4, in which Jennie Short stated, under oath, she wrote this very detailed public document, put together this timeline of events and statements for the GSD Board, and confirmed this beyond the shadow of a doubt the Park never had an historical water service connection with GSD. And just because KV 4 was not signed by the GSD Board at that time, it does not make KV 4 any less truthful or less relative to those documented facts as publicly stated.
- 2.** However, since this new POU is mitigated to 18 acres of the Park property under CEQA and limited water usage, the Park will be utilizing its current waterline infrastructure (GSD-4 Figure 3-11), connecting it to the new GSD meter that would connect GSD's treated water within and through-out a massive maze of existing interconnected non-potable waterlines in every direction of the entire 400 area Park property, including and not limited to the 18 acres of mitigated usage of the new POU?
- 3.** Since Humboldt County or the Park cannot provide or produce the alleged and executed Consent and Covenant agreements that the Park claims they have (testified to under oath June 15, 2021), that conveyed all of the Park's development rights to Humboldt County, what is to keep the Park from using GSD water through-out the 400 acre parcel for future development, that is not included in this change petition or 2019

Addendum IS/MND, using their current waterline infrastructure through-out the whole Park (400 acres) and keep from inducing growth?

4. CEQA Guidelines requires discussion in which the proposed project could foster economic or population growth, or the construction of additional commercial office space, housing etc, either directly or indirectly (CEQA Guidelines §15126.2(e)). it seems to me, having GSD water sold through-out 400 acres at the Park, could and would removal obstacles for reasonable and foreseeable future development and induce growth with GSD water use for events, concerts, festivals, sporting events as the Park indicated they would complete in the near future and as stated in the Park's 2016 EIR?

5. Also, if the Park uses this same waterline infrastructure (GSD-4 Figure 3-11), through-out the whole existing Park waterline system (400 acres), the whole system of waterlines are cross connected between untreated raw river water, untreated spring water and water storage tanks that are not tested or inspected for potable water use by either the Humboldt County DEH or SWRCB-DDW and could create a new public health and safety concern through waterborne illness (see EV-21), allowing the GSD treated drinking water to be compromised and contaminated by non-potable water sources provided to the public. On November 11, 2021, in an email, I questioned Jennie Short on this same issue, she replied, "They will have a waterline plan before the water meter is turned on." Why is this new "waterline plan" only mentioned now and not reviewed in their 2019 Addendum IS/MND or this Change Petition Application?

6. Since the GSD water will only be mitigated to this new 18 acre water service area, located within the 400 acre Park property, what is to keep the Park from filling their 55,000 gallon water storage tank with GSD water, located outside the Park property through an easement agreement with a neighboring property owner, but also connected to and used through the current 400 acres Park property (GSD-4 Figure 3-11), which is also connected to the new POU and 18 acres of limited use area (Area 1, 2, 4A and 5)?

7. I totally agree (100%) with the AHO assessment of including the following language into both the GSD amended water diversion License 3404 and Permit 20789 (Applications A009686 and A029981), this is one step of closing all the development loopholes included in the 2019 Addendum IS/MND:

"The total amount of water right holder's deliveries to the Southern Humboldt Community Park under this right and the right pursuant to Application 9686 shall not exceed 3,000 cubic feet per month during two months of any 12-month period and

shall not exceed 2,000 cubic feet per month during the remaining months of any such period. Right holder shall attach a table to each year's annual permittee progress report that lists (in cubic feet) the amount of water right holder delivered to the Southern Humboldt Community Park during each month of the year covered by the annual report."

8. Same with the following statement made on page 27, should also be included:

"If Garberville SD and Southern Humboldt CP in the future decide to amend their water service agreement to increase the monthly amounts of potable water that the district may deliver to the park above these limits, then the district or Humboldt LAFCo will need to determine whether a new addendum to the 2013 IS/MND and the 2019 CEQA Addendum is appropriate, or whether a new negative declaration or EIR is necessary. (See CEQA Guidelines, § 15064, subd. (b).) After the appropriate CEQA document is prepared and certified, Garberville SD may file a petition with the Board requesting amendments to License 3404 and Permit 20789 to authorize such increases. (Although Water Code section 1701 refers only to an applicant, permittee, or licensee changing points of diversion, places of use and purposes of use, a Board regulation authorizes an applicant, permittee, or licensee to petition the Board for other changes in water-right license and permits. (Cal. Code Regs., tit. 23, § 791, subd. (e).)"

9. I sent the SWRCB-AHO Hearing Officer emails after the June 15, 2021 hearing (Email to SWRCB-AHO Lilly file) and included in my Closing Brief, (EV-38 #7 & 8) to point out some issues and misstatements made by GSD and the Park while under oath during the June 15, 2021 hearing. I Wanted to know how the SWRCB-AHO addresses perjury under sworn testimony. I request a formal reconsideration and challenge in this matter.

In closing, the Park should only use a restricted treated waterline from the new GSD meter to the water connections within the new POU and 18 acre limited water usage area, bypassing the current non-potable waterline infrastructure as shown in GSD-4 Figure 3-11, so as not to be used through-out the 400 acre property and follow all the recommendations included in EV-21.

Thank you,

Ed Voice