

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – ADMINISTRATIVE HEARINGS OFFICE
FEBRUARY 7, 2023**

ITEM 5

SUBJECT

Consideration of proposed order prepared by the Administrative Hearings Office (AHO) on petition of Edward Voice for reconsideration of State Water Board Order WR 2022-0152, which granted petitions of Garberville Sanitary District (Garberville SD) to change water-right License 3404 (Application A009686) and water-right Permit 20789 (Application A029981).

DISCUSSION

Background

On June 21, 2022, the State Water Board adopted Order WR 2022-0152.

That order granted the petitions of Garberville SD to change its water-right License 3404 and water-right Permit 20789 to add 18 acres within the Southern Humboldt Community Park (Southern Humboldt CP) to the authorized place of use in this license and this permit. The order concluded that the Board's approval of the petitions would not result in injury to any other legal user of water, would not unreasonably affect any fish, wildlife or other instream beneficial uses, would be in the public interest, would not cause the initiation of any new water right, and would comply with the California Environmental Quality Act (CEQA).

The order directed the Deputy Director for Water Rights to issue a new amended water-right License 3404 and a new amended water-right Permit 20789, in the forms in Appendices A and B to the order. The authorized places of use in this amended license and this amended permit include the 18 acres within Southern Humboldt CP described in Garberville SD's petition. The addition of these 18 acres allows the Garberville SD to supply potable water to Southern Humboldt CP for it to use for two residences, existing out-buildings, and public drinking fountains within this area.

Petition for Reconsideration

On July 18, 2022, Edward Voice, one of the protestants to Garberville SD's change petitions, filed a petition for reconsideration of Order WR 2022-0152. His petition alleges that the State Water Board's adoption of this order did not comply with CEQA or the CEQA Guidelines.

Mr. Voice's first argument is that the Board could not rely on Humboldt LAFCo's 2019 Addendum to the Garberville SD's 2013 CEQA Initial Study/Mitigated Negative Declaration for the Board's CEQA compliance, because the 2019 Addendum refers to and incorporates parts of Humboldt County's 2016 Environmental Impact Report for the

Southern Humboldt Community Park project. Mr. Voice's petition refers to footnote 15 on page 20 of Order WR 2022-0152, which states that the Board was not relying on the 2016 EIR for the Board's CEQA compliance for this order.

Mr. Voice's second argument is that Humboldt LAFCo's 2019 Addendum was improper piecemealing or segmenting under CEQA.

Proposed Order

If adopted by the Board, the proposed order would deny Mr. Voice's petition for reconsideration.

Responding Mr. Voice's first argument, the proposed order explains that: (a) the Board properly relied on LAFCo's 2019 Addendum for the Board's CEQA compliance; (b) footnote 15 in Order WR 2022-0152 simply confirms that the Board did not rely directly on the County's 2016 EIR for the Board's CEQA compliance; and (c) nothing in that footnote, CEQA or the CEQA Guidelines prevented the Board from relying on the 2019 Addendum for the Board's CEQA compliance, even though this addendum refers to and incorporates parts of the 2016 EIR.

Responding Mr. Voice's second argument, the proposed order quotes the part of Appendix C of Order WR 2022-0152, which summarizes Mr. Voice's prior argument on the segmentation issue and explains why it is not correct.

The proposed order concludes that Mr. Voice's petition basically repeats his prior arguments regarding the Board's CEQA compliance for Order WR 2022-0152, which the Board considered and rejected before adopting that order. The proposed order concludes that the Board should once again reject those arguments and therefore deny the petition.

POLICY ISSUE

Should the State Water Board adopt the proposed order?

FISCAL IMPACT

The activity is budgeted within existing resources and no additional fiscal demands will result from adoption of the proposed order.

REGIONAL BOARD IMPACT

None.

STAFF RECOMMENDATION

The AHO recommends that the State Water Board adopt the proposed order.