

MENDOCINO

Local Agency Formation Commission

Ukiah Valley Conference Center | 200 South School Street | Ukiah, California 95482
Telephone: (707) 463-4470 | E-mail: eo@mendolaafco.org | Web: www.mendolaafco.org

A G E N D A

Regular Meeting of **Monday, June 1, 2020** at 9:00 AM
County Board of Supervisors Chambers 501 Low Gap Road, Ukiah, California

*Live web streaming and recordings of Commission meetings are available via the County of Mendocino's YouTube Channel. Links to recordings and approved minutes are available on the LAFCo website <http://mendolaafco.org/recorded-meetings/>
Meeting documents are available online: <http://mendolaafco.org/meeting-documents/>*

Important Notice

Pursuant to State Executive Order N-29-20 pertaining to the convening of public meetings in response to the COVID-19 pandemic, effective March 20, 2020, the Mendocino Local Agency Formation Commission (LAFCo) meetings will be conducted remotely and will not be available for in person public participation until further notice.

The regularly scheduled meeting of the Commission will be live streamed and available for viewing on the Mendocino County YouTube page at the following link:
www.youtube.com/MendocinoCountyVideo.

In order to minimize the risk of COVID-19 exposure, the public may provide written and verbal comments in lieu of personal attendance as outlined below.

Submit **written comments** electronically to eo@mendolaafco.org by 8:00 a.m. on June 1. In the subject line, specify the agenda item number for your comments, "To be read aloud" if desired, and in the body of the email include your name. If to be read aloud, please keep your comments to 500 words or less. All written comments will be provided as soon as feasible to the Commission and posted on the website at the following link www.mendolaafco.org/meeting-documents.

Provide **verbal comments** via teleconference with the information below. Please pre-register by email to eo@mendolaafco.org by 8:00 a.m. on June 1 to allow staff time to provide meeting participation instructions. In the subject line, specify the agenda item number for your comments and "...Live" (Example: Item 4a Public Comment Live), your name. Participants will receive instructions for participation in the meeting. Each participant will have three minutes to provide comments related to the agenda item.

We thank you for your understanding and appreciate your continued interest.

1. CALL TO ORDER and ROLL CALL

2. PUBLIC EXPRESSION

The Commission welcomes participation in the LAFCo meeting. Any person may address the Commission on any subject within the jurisdiction of LAFCo which is not on the agenda. There is a three-minute limit and no action will be taken at this meeting. See public participation information above.

COMMISSIONERS

Carre Brown, Chair

County Board of Supervisors

Tony Orth, Vice Chair

Brooktrails Township CSD

Gerald Ward, Treasurer

Public Member

Gerardo Gonzalez

Willits City Council

John Huff

Mendocino Coast Recreation and Park District

Scott Ignacio

Point Arena City Council

John McCowen

County Board of Supervisors

Jenifer Bazzani, Alternate

Ukiah Valley Fire District

Will Lee, Alternate

Fort Bragg City Council

Richard Weinkle, Alternate

Public Member

John Haschak, Alternate

County Board of Supervisors

STAFF

Executive Officer

Uma Hinman

Analyst

Larkyn Feiler

Commission Clerk

Kristen Meadows

Counsel

Scott Browne

REGULAR MEETINGS

First Monday of each month at 9:00 AM in the Mendocino County Board of Supervisors Chambers 501 Low Gap Road, Ukiah

3. CONSENT CALENDAR

The following consent items are expected to be routine and non-controversial, and will be acted on by the Commission in a single action without discussion, unless a request is made by a Commissioner or a member of the public for discussion or separate action.

- 3a) Approval of the April 6, 2020 Regular Meeting Summary
- 3b) Approval of the May 4, 2020 Regular Meeting Summary
- 3c) Approval of the May 2020 Claims & Financial Report

4. PUBLIC HEARING ITEMS

Public Hearings are scheduled for Commission consideration and possible adoption of items. Questions and comments from the Commission, participating agencies, and members of the public are welcome. Documents are available for review at: <http://mendolafco.org/meeting-documents/>

4a) Final Budget and Work Plan for Fiscal Year 2020-2021

The Commission will consider the Final Budget and Work Plan for Fiscal Year 2020-2021. RECOMMENDED ACTIONS: 1) Adopt Resolution No. 19-20-04, approving the Final Budget and Work Plan for Fiscal Year 2020-2021; and 2) Direct staff to distribute the Final Budget and Work Plan to agencies and the County Auditor.

5. WORKSHOP ITEMS

Workshops are scheduled for Commission review of draft reports prior to noticing for public hearing. The Commission is invited to discuss and provide feedback to staff in anticipation of considering formal action as part of a public hearing at a future meeting. No action will be taken by the Commission as part of the following item. Questions and comments from the Commission, participating agencies, and members of the public are welcome. Documents are available for review at: <http://mendolafco.org/meeting-documents/>

5a) Mendocino City Community Services District MSR/SOI Update

The Commission will hold a second Workshop on the Draft Mendocino City Community Services District Municipal Service Review (MSR) and Sphere of Influence (SOI) Update. The Commission will review and discuss the Draft and welcomes public comment on the document. No formal action on the MSR/SOI will be taken at this meeting; a public hearing will be scheduled for formal consideration of the MSR/SOI.

6. MATTERS FOR DISCUSSION AND POSSIBLE ACTION

6a) Legal Counsel Services Report

The Commission will receive a report on the current Legal Counsel Services Agreement and consider direction to staff regarding proposed changes to the level of service and billing rates, and to update the LAFCo Fee Schedule accordingly. RECOMMENDATION: Direct staff to prepare an amendment to the Legal Services Agreement to increase the average number of hours under contract, clarify regular project billing for legal services, and updates to the LAFCo Fee Schedule and Fee Agreement for Commission consideration

6b) Cancellation of July 6, 2020 Regular Meeting of the Commission

The Commission will consider cancellation of the July 6, 2020 Regular Meeting as a cost savings measure. RECOMMENDATION: Direct staff to cancel the July 6, 2020 Regular Meeting of the Commission and distribute notice as appropriate.

7. INFORMATION AND REPORT ITEMS

The following informational items are reports on current LAFCo activities, communications, studies, legislation, and special projects. General direction to staff for future action may be provided by the Commission.

- 7a) Work Plan, Current and Future Proposals (Written)
- 7b) Correspondence (Copies provided upon request)
- 7c) Executive Officer's Report (Verbal)
- 7d) Committee Reports (Executive Committee/Policies & Procedures) (Verbal)
- 7e) Commissioner Reports, Comments or Questions (Verbal)
- 7f) CALAFCO Business and Legislative Report

ADJOURNMENT

The next Regular Commission Meeting is scheduled for Monday, **July 6, 2020** at 9:00 AM

Location to be determined pending updates regarding social distancing mandates and the COVID-19 pandemic.

Notice: This agenda has been posted at least five (5) calendar days prior to the meeting and in accordance with the temporary Brown Act Guidelines instated by State Executive Order N-29-20.

Participation on LAFCo Matters: All persons are invited to testify and submit written comments to the Commission on public hearing items. Any challenge to a LAFCo action in Court may be limited to issues raised at a public hearing or submitted as written comments prior to the close of the public hearing.

Americans with Disabilities Act (ADA) Compliance: Because the meeting is being held by teleconference, if you are hearing impaired or otherwise would have difficulty participating, please contact the LAFCo office as soon as possible so that special arrangements can be made for participation, if reasonably feasible.

Fair Political Practice Commission (FPPC) Notice: State Law requires that a participant in LAFCo proceedings who has a financial interest in a Commission decision and who has made a campaign contribution to any Commissioner in the past year must disclose the contribution. If you are affected, please notify the Commission before the hearing.

MENDOCINO

Local Agency Formation Commission

Ukiah Valley Conference Center | 200 South School Street | Ukiah, California 95482
Telephone: (707) 463-4470 | E-mail: eo@mendolafco.org | Web: http://mendolafco.org

Agenda Item No. 3a

kCOMMISSIONERS

Carre Brown, Chair
County Board of Supervisors

Tony Orth, Vice Chair
Brooktrails Township CSD

Gerald Ward, Treasurer
Public Member

Gerardo Gonzalez
Willits City Council

John Huff
Mendocino Coast Recreation
and Park District

Scott Ignacio
Point Arena City Council

John McCowen
County Board of Supervisors

Jenifer Bazzani, Alternate
Ukiah Valley Fire District

Will Lee, Alternate
Fort Bragg City Council

Richard Weinkle, Alternate
Public Member

John Haschak, Alternate
County Board of Supervisors

STAFF

Executive Officer
Uma Hinman

Analyst
Larkyn Feiler

Commission Clerk
Kristen Meadows

Counsel
Scott Browne

Regular Meetings

First Monday
of each month
at 9:00 AM
in the Mendocino
County Board
of Supervisors Chambers
501 Low Gap Road

DRAFT MINUTES

Local Agency Formation Commission of Mendocino County

Regular Meeting of Monday, April 6, 2020

Meeting held via Zoom due to COVID-19 Pandemic Emergency Conditions

1. CALL TO ORDER and ROLL CALL (Video Time 3:30)

Chair Brown called the meeting to order at 9:00 a.m.

Regular Commissioners Present: Carre Brown, Tony Orth, Gerald Ward, Gerardo Gonzalez, John Huff, Scott Ignacio, and John McCowen

Regular Commissioners Absent: None

Alternate Commissioners Present: Jenifer Bazzani, Richard Winkle

Alternate Commissioners Absent: Will Lee, John Haschak

Staff Present: Uma Hinman, Executive Officer; Larkyn Feiler, Analyst; Kristen Meadows, Clerk; Scott Browne, Legal Counsel

2. PUBLIC EXPRESSION (Video Time 3:14)

No one from the public indicated interest in public expression.

3. OTHER BUSINESS None

4. CONSENT CALENDAR (Video Time 4:25)

4a) Approval of the March 2, 2020 Regular Meeting Summary

4b) Approval of the March 2, 2020 Claims & Financial Report

Commissioner Ignacio asked staff to verify the order of items for the final meeting summary.

March 2020 Claims totaling	\$ 15,134.95
Hinman & Associates Consulting	\$ 12,285.50
P. Scott Browne	\$ 1453.30
Ukiah Valley Conference Center	\$ 464.00
County of Mendocino	\$ 576.30
Commissioner Reimbursements	\$ 355.85

Following a motion by Commissioner McCowen and a second by Commissioner Ignacio, the March 2, 2020 Regular Meeting Summary and the Claims & Financial Report were approved by roll call vote.

Ayes: (7) Orth, McCowen, Ward, Gonzalez, Huff, Ignacio, Brown

5. PUBLIC HEARING ITEMS

None

6. WORKSHOP ITEMS (Video Time 8:40)

6a) Preliminary Budget and Work Plan for Fiscal Year 2020-21

EO Hinman presented the Draft Preliminary FY 2020-21 Budget and Work Plan. EO Hinman provided background, noting this was the second Workshop on the Preliminary Budget, and summarized direction given to staff at the previous workshop.

- Coordinate with Scott Browne to refine the preliminary budget item for legal counsel services.
- Present the preliminary budget with apportionment options for \$160,000 and \$170,000.

EO Hinman noted that the Preliminary Budget includes the following proposed increases:

- Notices received from SDRMA and CALAFCO indicate substantial increases in insurance (increase of 174%) and membership (increase of 148%) fees.
- A review of the current fiscal year usage of Legal Counsel shows approximately four hours per month over the past six months. The current contract is for an average of three hours per month. Due to complex issues that are anticipated to continue into the foreseeable future, an increase for legal counsel (Account 6300) is proposed to provide for an average of four hours per month. Scott Browne also advised that the hourly rate will be increasing in the next fiscal year, the last increase was in 2017.

EO Hinman noted that no change to the prior preliminary Work Plan was proposed, and is as follows: finishing Ukiah Valley Sanitation District and CSA 3, and including the City of Ukiah, the Ukiah Valley Fire Protection District, and the Covelo Community Services District.

EO Hinman noted that staff will notice and distribute the Proposed Budget and Work Plan for fiscal year 2020-21 to the County, cities and special districts in preparation for a public hearing on May 4, 2020 for the Proposed Budget and Work Plan. A Final Budget and Work plan public hearing will be scheduled for June 1, 2020.

Following the presentation, Chair Brown called on each Commissioner individually for comments and questions.

Commissioner Orth suggested re-evaluating the following budget line items due to the COVID-19 emergency:

- A possible increase to Televising Meetings
- Possible decreases to In-County Travel & Stipends, Travel & Lodging Expenses, and Conferences for a potential savings of approximately \$12,500.

Commissioner Ward agreed with Commissioner Orth and recommended apportionment fees of \$160,000.

Commissioners Gonzalez, Huff and Ignacio agreed.

Commissioner McCowen questioned the increase in legal fees and shared his opinion that the increase in legal fees should be off-set by application fees from the applicants or agencies whenever appropriate. He noted that all public jurisdictions will experience a significant hit to revenue as well as increases to expenses due to COVID-19. He suggested directing staff to explore a more modest increase to apportionment fees of \$150,000.

Alternate Commissioners Bazzani and Weinkle agreed with the comments noted above.

Chair Brown reminded the Commission of the two previously proposed budget amounts of \$150,000 and \$160,000 for the year and re-asked all Commissioners present for their vote. The results were 7 to 3 in favor of \$150,000.

- Orth - \$160,000
- Ward - \$150,000
- Gonzalez - \$150,000
- Huff - \$150,000
- Ignacio - \$160,000
- McCowen - \$150,000
- Bazzani - \$150,000
- Weinkle - \$150,000
- Brown - \$160,000

Counsel Browne reminded the Commissioners that although there is a mid-year budget review, there is no ability to increase apportionment fees, only to move money from reserves and/or accounts within the existing budget.

EO Hinman asked for clarification regarding In-County Travel and Stipends. Commissioner Ward confirmed the suggestion is a reduction. He also confirmed that he will submit his budget worksheet to staff to disseminate to all Commissioners.

Commissioner Ward asked if the remaining \$20,000 from the current year's Work Plan budget line would be spent by the end of this fiscal year. EO Hinman responded depending on timeliness of responses from agencies, it is anticipated that staff will come close to utilizing that amount. Commissioner Ward added that some items on the work plan could be pushed into the next fiscal year if necessary.

Commissioner McCowen asked Commissioner Ward if he believes that \$150,000 in apportionment fees would be enough. Commissioner Ward concurred.

Public Comment

One public comment was received via email, after the item concluded, from Elizabeth Salomone, General Manager, Russian River Flood Control District (see Attachment 1).

Direction to Staff

Notice and distribute the Proposed Budget and Work Plan for fiscal year 2020-21 to the County, cities and special districts in preparation for a public hearing on May 4, 2020.

7. MATTERS FOR DISCUSSION AND POSSIBLE ACTION (Video Time 35:20)

7a) Sustainable Agricultural Lands Conservation Grant Project Agreement for Services

EO Hinman presented the item. The Commission discussed approval of signing an Agreement for Services with the Mendocino County Resource Conservation District for the Sustainable Agricultural Lands Conservation project with a maximum grant reimbursement of \$10,200 and authorizing staff to perform the assigned tasks. The project is being administered by the District under contract with the County of Mendocino Department of Agriculture and funded by the Department of Conservation in conjunction with the Natural Resources Agency. Mendocino LAFCo is identified as the lead for Task 4 described as to increase communication with diverse stakeholders regarding the coalescence of agricultural land conservation and sustainable housing development. LAFCo's total budget for the project is \$14,200, of which \$10,200 is reimbursable through the grant and \$4,000 is match funding. The match funding will be in kind services performed and documented by LAFCo staff through typical operations and application processing.

Commissioner Orth expressed his support of the project stating that this is a very valued service.

Commissioner Ward asked the following questions:

- How would the \$4,000 be returned to LAFCo? EO Hinman clarified that the match requirement would be accounted for in typical LAFCo activities including application processing and sphere of influence studies. Staff time would be recorded and submitted as in-kind services, therefore having no impact to the budget.
- Would the work be done by LAFCo staff or Hinman & Associates Staff? EO Hinman answered that the grant services qualify as a special project.
- Would the Executive Officer need approval to work on the project? Legal Counsel clarified that the agreement is referring to LAFCo staff, therefore the agreement for services is not technically an assignment.
- What is Legal Counsel's opinion on the indemnification? Counsel Brown answered that initially it was a one-sided indemnification, so he added a paragraph to the agreement to make it even handed.
- Does LAFCo have public liability insurance of \$1,000,000? EO Hinman noted the question and will confirm.
- Do we have to purchase the Smart Sheet software program? EO Hinman responded that it is provided through the MCRCD.

Public Comment:

One public comment was received via email, after the item concluded, from Phil Williams, City of Ukiah Special Counsel (see Attachment 2).

Following the questions and expressed support from the Commissioners, Commissioner Gonzalez motioned to approve with a second from Commissioner Huff. Signing of the Grant Agreement was approved by roll call vote.

Ayes: (7) Orth, McCowen, Ward, Gonzalez, Huff, Ignacio, Brown

8. INFORMATION/ REPORT ITEMS (Video Time: 47:10)

8a) Work Plan, Current, and Future Proposals

EO Hinman presented the staff report, noting the following in particular:

Applications

- The Weger/Mendocino Coast Health Care District application was approved by the Commission at its regular meeting on March 2, 2020. The CEQA Notice of Exemption was filed on March 2, 2020.
- The Moores application to annex a parcel of approximately 16.8 acres directly north of the Irish Beach Water District (IBWD) into the District has been reviewed and staff has sent correspondence to Mr. Moores and IBWD regarding requirements and next steps for processing the application.
- The application by the City of Ukiah to detach UVSD served areas from the City was deemed incomplete in December 2014. The City has requested the application remain on hold; there remains a balance of \$1,532 held in LAFCo's account.

Work Plan

- County Service Area (CSA) No. 3 – The Administrative Draft MSR/SOI is in process and has been delayed due to COVID-19 emergency.
- Mendocino City Community Services District - The Workshop Draft MSR/SOI is ready for a May 4th Workshop.
- Ukiah Valley Sanitation District (UVSD) – The District has requested until the end of April to submit their response to the Request for Information. The Administrative Draft is in process.
- Covelo Community Services District - Due to delays with other MSR/SOI updates, the data collection process has been initiated and the Request for Information has been sent to the District.

Commissioner Orth asked what the deadline is to file a challenge to the Weger application decision. EO Hinman answered there is a 30-day reconsideration period following the decision, which has passed. Additionally, the CEQA Notice of Exemption was recorded with the County Clerk-Recorder's Office on March 2, 2020, and the associated 35-day statute of limitations has passed.

Commissioner Ward asked that EO Hinman reach out to agencies listed on this year's Work Plan to confirm their participation in order to do a final accounting of expenses for the end of the year. EO Hinman confirmed corresponding with the City of Ukiah and their confirmation of readiness to proceed with the MSR/SOI update.

Chair Brown shared her understanding that many agencies' staff are working from home during the pandemic; nevertheless, she agreed it would be good to have an update.

Legal Counsel Browne encouraged a virtual process/platform that would allow for real time public participation, noting the importance of public participation in public workshops and hearings.

Commissioner McCowen requested staff to explore additional resources that would allow live public comment at future public hearings.

EO Hinman responded that staff has been working closely with County Information Services who is working to get a webinar component for Zoom, which would allow for public participation at the next meeting/public hearing.

8b) Correspondence None

8c) Executive Officer's Report (Video Time 55:50)

EO Hinman reported the following:

- The LAFCo office is closed due to COVID-19, however staff is working remotely from home, the clerk visits the office twice a week to check for correspondence. A notice has been posted on the website and sent to agencies and interested parties.
- A public records request has been received and staff is working to complete it.

Commissioner McCowen asked the nature of the request. EO Hinman clarified the request is in regard to the City of Ukiah's application for detachment of Ukiah Valley Sanitation District lands.

8d) Committee Reports (Executive Committee/Policies & Procedures) None

8e) Commissioners Reports, Comments or Questions None

8f) CALAFCO Business and Legislation Report (Video Time 58:10)

- EO Hinman expressed gratitude to CALAFCO for the support provided over the last month during the closure of LAFCo offices due to COVID-19. They have provided weekly teleconferences and webinars specifically related to temporary revisions to Brown Act requirements, remote meeting platforms, responding to public records act requests, and office operations in general.
- The FPPC has extended the filing date for Form 700 until June 1, 2020.
- The CALAFCO Staff Workshop scheduled for April 2020 was canceled due to the COVID-19 emergency order.

ADJOURNMENT

There being no further business, the meeting was adjourned at 10:00 a.m. The next regular meeting is scheduled for Monday, May 4, 2020 at 9:00 a.m. The location is to be determined based on guidelines recommended by the Mendocino County Public Health Officer and Executive Orders regarding the COVID-19 pandemic.

Live web streaming and recordings of Commission meetings are now available via the County of Mendocino's YouTube Channel. Links to recordings and approved minutes are also available on the LAFCo website.

<https://www.youtube.com/watch?v=8scxYelAmGY&list=PLraKTU7AyZLOXUgRLLzYuAU9eq1qMFheb&index=4&t=0s>

Attachment 1: Public Comment Email, Elizabeth Salomone, General Manager, Russian River Flood Control District

Attachment 2: Public Comment Email, Phillip Williams, Special Counsel, City of Ukiah

MENDOCINO

Local Agency Formation Commission

Ukiah Valley Conference Center | 200 South School Street | Ukiah, California 95482
Telephone: (707) 463-4470 | E-mail: eo@mendolafco.org | Web: http://mendolafco.org

Agenda Item No. 3b

COMMISSIONERS

Carre Brown, Chair
County Board of Supervisors

Tony Orth, Vice Chair
Brooktrails Township CSD

Gerald Ward, Treasurer
Public Member

Gerardo Gonzalez
Willits City Council

John Huff
Mendocino Coast Recreation
and Park District

Scott Ignacio
Point Arena City Council

John McCowen
County Board of Supervisors

Jenifer Bazzani, Alternate
Ukiah Valley Fire District

Will Lee, Alternate
Fort Bragg City Council

Richard Weinkle, Alternate
Public Member

John Haschak, Alternate
County Board of Supervisors

STAFF
Executive Officer
Uma Hinman

Analyst
Larkyn Feiler

Commission Clerk
Kristen Meadows

Counsel
Scott Browne

Regular Meetings

First Monday
of each month
at 9:00 AM
in the Mendocino
County Board
of Supervisors Chambers
501 Low Gap Road

DRAFT MINUTES

Local Agency Formation Commission of Mendocino County

Regular Meeting of Monday, May 4, 2020

Meeting held via Zoom due to COVID-19 Pandemic Emergency Conditions

1. CALL TO ORDER and ROLL CALL (Video Time 10:00)

Chair Brown called the meeting to order at 9:06 a.m.

Regular Commissioners Present: Carre Brown, Tony Orth, Gerald Ward, Gerardo Gonzalez, Scott Ignacio, and John McCowen

Regular Commissioners Absent: John Huff

Alternate Commissioners Present: Jenifer Bazzani, Richard Winkle (at 9:40am)

Alternate Commissioners Absent: Will Lee, John Haschak

Staff Present: Uma Hinman, Executive Officer; Larkyn Feiler, Analyst; Kristen Meadows, Clerk; Scott Browne, Legal Counsel

2. PUBLIC EXPRESSION (Video Time 14:36)

No one from the public indicated interest in public expression.

3. OTHER BUSINESS None

4. CONSENT CALENDAR (Video Time 17:04)

4a) Approval of the April 6, 2020 Regular Meeting Summary

Chair Brown noted that EO Hinman provided confirmation that LAFCo holds sufficient liability insurance to comply with the Sustainable Agricultural Lands Committee Agreement for Services.

Commissioner Ward clarified that the current Legal Counsel contract is for an average of three hours per month.

Commissioner McCowen requested that the Commissioners' straw poll taken during the 2020-21 Preliminary Budget Workshop discussion of apportionment fees be included in the meeting summary.

The April 6, 2020 meeting summary will be revised and considered during the June 1, 2020 regular meeting of the Commission.

4b) Approval of the April 6, 2020 Claims & Financial Report

April 2020 Claims totaling	\$ 11,381.66
Hinman & Associates Consulting	\$ 9,876.00
P. Scott Browne	\$ 600.00
Ukiah Valley Conference Center	\$ 434.00
County of Mendocino	\$ 271.66
Commissioner Stipends	\$ 200.00

Following a motion by Commissioner Orth and a second by Commissioner Gonzalez, the April 6, 2020 Claims & Financial Report were approved by roll call vote.

Ayes: (7) Orth, McCowen, Ward, Gonzalez, Bazzani, Ignacio, Brown

5. PUBLIC HEARING ITEM (Video Time 26:21)

5a) Proposed Budget and Work Plan for Fiscal Year 2020-21

EO Hinman presented the Proposed Fiscal Year (FY) 2020-2021 Budget and Work Plan. The Commission held two workshops on the Preliminary Budget and Work Plan for Fiscal Year (FY) 2020-21: March 2 and April 6, 2020. Staff and Treasurer Ward confirmed the year-end financial summary prior to distribution of the Preliminary Budget and Work Plan. The Preliminary Budget and Work Plan distributed to Special Districts, Cities and the County in April included \$167,150 in operating expenses funded by apportionment fees of \$160,000 and the remainder from operations reserves.

Following the distribution of the Preliminary Budget and Work Plan, staff continued to work with Treasurer Ward to further reduce the Proposed Budget and revise the Proposed Work Plan in recognition of the fiscal challenges due the COVID-19 emergency. Additional reductions amounting to \$5,500 were identified and presented, consisting of abstention from the CALAFCO annual conference and travel expense savings from holding virtual meetings during the COVID-19 emergency. Additionally, staff further refined projected expenses identifying an anticipated roll-over of approximately \$13,500 from the Work Plan.

Staff recommended a revised Proposed FY 2020-21 Budget and Work Plan of \$161,650 and apportionment fees of \$160,000.

Chair Brown called on each Commissioner in turn for comments and questions. (Video Time 31:26)

- Commissioner McCowen expressed continued support of \$150,000 in apportionment fees and proposed that the remaining balance of expenditures be withdrawn from reserves. He noted that it is a prudent approach that protects the financial sustainability of LAFCo, acknowledges the significant budget impact to the member agencies in the coming year, and limits the increase in apportionment fees.
- Commissioner Bazzani concurred with Commissioner McCowen.
- Commissioner Orth expressed support of \$160,000 in apportionment fees.
- Commissioner Ward stated that \$150,000 would be best given the financial impact of COVID-19, utilizing \$2,500 of reserves, and raising fees next year as needed. In response to the notice from the Special District Risk Management Agency (SDRMA) of substantial increases in insurance (174%), he also requested staff research the possibility of lowering insurance coverage and cost.
- Commissioner Gonzalez concurred with Commissioner Ward.
- Chair Brown asked about the increase in general liability insurance. EO Hinman explained that the SDRMA had noted that the increase is a general increase across the board due to recent catastrophic events around the world (i.e. wildfires, global catastrophes).
- Commissioner Ignacio expressed concern with the \$150,000 in apportionment fees stating that spending from a reserve should not be a line item in the budget. He encouraged the Commission to rely on the recommendations from Staff and Legal Counsel and supported \$160,000 in apportionment fees.

Upon motion by Commissioner McCowen and second by Commissioner Ward, Resolution No. 19-20-03 was adopted thereby approving the Proposed Budget and Work Plan for FY 2020-2021 for \$161,650 in operating expenses, funded by apportionment fees of \$150,000 and the difference being withdrawn from reserves and directing staff to notice a public hearing for the Final Budget and Work Plan for FY 2020-2021 for June 1, 2020.

Ayes: (4) Gonzalez, Ward, Bazzani, McCowen

Nays: (3) Ignacio, Orth, Brown

6. WORKSHOP ITEMS (Video Time 51:50)

6a) Mendocino City Community Services District MSR/SOI Update

Chair Brown introduced the Workshop item and called for staff presentation. EO Hinman noted that Alternate Commissioner Weinkle joined the meeting at 9:40 a.m. and briefly introduced the item. Analyst Feiler presented the Mendocino City Community Services District (MCCSD) Workshop Draft Municipal Service Review and Sphere of Influence (MSR/SOI) Update and noted that the District was not able to attend the meeting due to preparations for a District Board of Directors meeting that same day.

Chair Brown invited members of the public to provide comments. Public comments were received from Ed Powers, Barbara Reed, Steven Gomes, Paul Clark, and Trey Strickland (Mendocino County Environmental Health Director).

Mr. Powers inquired as to why the sphere is being reduced instead of expanded to include the north end of Lansing Street and Road 500D and noted that the District's wastewater system has excess capacity available, there is a 4-inch pressured wastewater line from Russian Gulch State Park that runs through this area to the District, and there are non-standard septic system failures on Road 500D.

Ms. Reed noted that Section 2.1.1.1 did not mention the three private Mutual Water Companies within the District named Point of View Estates, Hills Ranch, and Big River Vista; the population estimate during tourist season in Section 3.3.2 was inaccurate and recommended an alternate estimate based on capacity of lodging facilities from the Mendocino Town Plan; and expressed concerns regarding questionable noticing by the District for special public meetings in April to adopt new ordinances that were recently subject to a lawsuit and a short time frame to submit registered voter protest in the middle of a pandemic. Ms. Reed also inquired as to whether the District has applied to LAFCo to form a water replenishment district.

Mr. Gomes summarized the 2015 lawsuit he filed against the District in which he was recently awarded \$128,000 in attorney fees, and explained that there needs to be a fair allotment program for the area that needs it. He also stated that the groundwater management plan is not effective because there is low connectivity between the hydrologic zones; Mendocino needs a municipal water system and there is a water source on State property; and until the District forms a water replenishment district they may not lawfully adopt a groundwater management program.

Mr. Clark expressed concerns regarding private property rights issues and a deed restriction required by the District when he purchased his property based on an ordinance that the Court has since stricken.

Mr. Strickland explained that there are very marginal septic systems in different areas of the County due to poor soil conditions, the problem typically does not improve, and in those cases Environmental Health encourages connecting to a municipal system when possible.

Commissioner McCowen noted that the public had raised complicated legal issues that cannot necessarily be resolved in the study and requested clarification regarding LAFCo's role in addressing such legal disputes in the MSR/SOI Update. Counsel Browne explained that under LAFCo Law the MSR should consider accountability to the public as a core issue of governance and noted that staff will also need to research whether the District is proposing to provide a new service subject to the requirement of LAFCo approval. Commissioner McCowen concluded that there should be some discussion of these issues in the MSR.

Commissioner Orth inquired as to whether there are any technical or other feasibility issues related to hook-up of additional wastewater connections from Road 500D and Lansing Street to the 4-inch pressure main from Russian River State Park. Commissioner Ward requested that the study include information regarding the lawsuit, updated information from Mr. Powers, and noted that he will provide additional questions to staff. Chair Brown requested that the study be revised to address the mutual water companies in the District and the 3,500 population estimate, and requested more information on the public notice concerns and the water replenishment district questions.

Commissioner McCowen made a motion to continue the Workshop to the June 1 meeting to allow staff time to address additional public comments received and the District to participate in the workshop. Commissioner Orth seconded, and the motion passed unanimously by roll call vote.

Ayes: (7) Orth, McCowen, Ward, Gonzalez, Bazzani, Ignacio, Brown

SHORT BREAK (Video Time 1:43:48)

At 10:42 a.m. Chair Brown called for a five-minute break.

Following the break, Chair Brown confirmed Commissioners and Staff had returned before proceeding to the next agenda item.

7. MATTERS FOR DISCUSSION AND POSSIBLE ACTION None

8. INFORMATION/ REPORT ITEMS

8a) Work Plan, Current, and Future Proposals (Video Time: 1:49:02)

EO Hinman presented and update:

Active Proposals

- Staff is coordinating with the applicant for the Weger Detachment to finalize the remaining list of requirements to complete the Certificate of Completion and Board of Equalization submittal. Staff is waiting for additional fee deposit before proceeding.
- Since distribution of the agenda packet, the City of Ukiah submitted application materials and a request to amend and initiate its application for detachment of overlap areas from the Ukiah Valley Sanitation District.

Future Proposals

- The Anderson Valley CSD has obtained two state planning grants to prepare a feasibility study and CEQA review for wastewater and water treatment plants and infrastructure to serve the community area of Boonville. No changes to the status at this time.

Work Plan

- The County Service Area No. 3 and Ukiah Valley Sanitation District MSR/SOIs have been delayed due to the pandemic.
- Due to delays noted above, Staff initiated the data collection efforts for the Covelo Community Services District. Response was received and the Administrative Draft MSR/SOI is in process.

8b) Correspondence None

8c) Executive Officer's Report (Video Time: 1:53:50)

EO Hinman thanked everyone for their patience as Staff worked through the bugs of hosting the meetings via Zoom and noted that this is the first meeting with live participants from the public. She then reported the following:

- Staff completed a public records request.
- The LAFCo office remains closed due to COVID-19; however, staff is working remotely, corresponds via phone and email, and the Clerk visits the office twice a week to check for correspondence and messages.
- EO Hinman participated in a conference call with the Mendocino County Farm Bureau regarding spheres of influence, process for adoption of SOIs, and state and local policies regarding agricultural preservation.

8d) Committee Reports (Executive Committee/Policies & Procedures) None

8e) Commissioners Reports, Comments or Questions (Video Time: 1:56:52)

- Commissioner Ward requested staff research with SDRMA the possibility of reducing general liability insurance from \$2.5 to \$1 million. He also requested the Legal Services Agreement be added to the next Commission agenda for discussion. In particular for clarification regarding the Legal Services Agreement Amendment 2 regarding special projects and process for passing on legal fees to applicants

and entities that require legal involvement. Commissioner Orth noted his support. EO Hinman confirmed she will work with legal counsel to prepare and present at the next meeting.

- Chair Brown expressed her appreciation and congratulated Staff on a successful second meeting including bringing in live public comment.

8f) CALAFCO Business and Legislation Report (Video Time: 1:59:40)

EO Hinman reported that CALAFCO is moving forward with plans and preparations for the CALAFCO Conference in October. It continues to provide support to its member agencies including sharing of virtual resources and providing a weekly virtual meeting for LAFCo staff to discuss issues and resources.

ADJOURNMENT (Video Time: 2:01:00)

There being no further business, the meeting was adjourned at 11:00 a.m. The next regular meeting is scheduled for Monday, June 1, 2020 at 9:00 a.m. The location is to be determined based on guidelines recommended by the Mendocino County Public Health Officer and Executive Orders regarding the COVID-19 pandemic.

Live web streaming and recordings of Commission meetings are now available via the County of Mendocino's YouTube Channel. Links to recordings and approved minutes are also available on the LAFCo website.

<https://www.youtube.com/watch?v=zYKzppzF4g0&list=PLraKTU7AyZLQXUgRLLzYuAU9eq1qMFheb&index=5&t=0s>

MENDOCINO Local Agency Formation Commission Staff Report

DATE: June 1, 2020
 TO: Mendocino Local Agency Formation Commission
 FROM: Uma Hinman, Executive Officer
 SUBJECT: **Financial Report and Claims for May 2020**

RECOMMENDED ACTION

Approve the May 2020 claims and financial report.

Name	Account Description	Amount	Total
Hinman & Associates Consulting, Inc.	5300 Basics Services	\$ 6,520.00	\$ 9,088.00
	5600 Office Expenses	\$ 70.00	
	6200 Bookkeeping	\$ 300.00	
	7000 Work Plan MCCSD	\$ 1,238.00	
	UVSD	\$ 80.00	
	Covelo CSD	\$ 204.00	
	8010 City of Ukiah Application	\$ 676.00	
P. Scott Browne	6300 Legal Counsel-Monthly (Apr)	\$ 600.00	\$ 600.00
Newspapers	5900 Public Notice for Budget	\$ 190.70	\$ 190.70
Ukiah Valley Conf. Center	5502 Office space	\$ 434.00	\$ 434.00
Commissioner Stipends	6740 Bazzani	\$ 50.00	\$ 150.00
	6740 Huff (Absent)		
	6740 Orth	\$ 50.00	
	6740 Weinkle	\$ 50.00	
Total:			\$ 10,462.70

Deposits: Weger \$1,585.50

Attachments:

- Budget Track Spreadsheet
- Invoices: Hinman & Associates Consulting

Please note that copies of all invoices, bank statements, and petty cash register were forwarded to the Commission Treasurer.

Mendocino Local Agency Formation Commission
 FY 2019-20 Budget and Application Tracking

Acct #	Task	FY 19-20 Budget	1st Qtr Subtotals	2nd Qtr Subtotal	3rd Qtr Subtotal	April	May	June	Year to Date	Remaining Budget	% of Budget Expended
EXPENSES											
5300	Basic Services - EO/Analyst/Clerk	\$72,060	\$13,977.00	\$18,484.00	\$23,473.00	\$8,061.00	\$6,520.00		\$71,455.00	\$605.00	99%
	Unfunded Mandates (RDA Oversight)	\$0		\$525.00	\$415.00						
5500	Rent	\$5,460	\$1,365.00	\$1,374.00	\$1,392.00	\$434.00	\$434.00		\$4,999.00	\$461.00	92%
5600	Office Expenses	\$2,700	\$450.20	\$414.01	\$492.19	\$70.00	\$70.00		\$1,496.40	\$1,203.60	55%
5700	Internet & Website Costs	\$1,300	\$1,152.52	\$0.00	\$0.00				\$1,152.52	\$147.48	89%
5900	Publication & Legal Notices	\$2,000	\$54.87	\$1,078.08	\$0.00		\$190.70		\$1,323.65	\$676.35	66%
6000	Televising Meetings	\$3,000	\$0.00	\$457.71	\$377.31	\$271.66	\$0.00		\$1,106.68	\$1,893.32	37%
6100	Audit Services	\$3,500	\$1,625.00	\$0.00	\$1,625.00				\$3,250.00	\$250.00	93%
6200	Bookkeeping	\$4,500	\$1,090.00	\$1,120.00	\$1,450.00	\$370.00	\$300.00		\$4,330.00	\$170.00	96%
6300	Legal Counsel (S Browne)	\$7,200	\$1,800.00	\$1,800.00	\$1,800.00	\$600.00	\$600.00		\$6,600.00	\$600.00	92%
6400	A-87 Costs County Services	\$428	\$0.00	\$0.00	\$1,633.00				\$1,633.00	\$-1,205.00	382%
6500	Insurance - General Liability	\$1,100	\$0.00	\$0.00	\$0.00				\$0.00	\$1,100.00	0%
6600	Memberships (CALAFCO/CSDA)	\$2,750	\$1,075.00	\$1,446.00	\$0.00				\$2,521.00	\$229.00	92%
6670	GIS Contract with County	\$2,500	\$0.00	\$77.13	\$380.10		\$0.00		\$457.23	\$2,042.77	18%
6740	In-County Travel & Stipends	\$4,000	\$673.06	\$609.37	\$655.35	\$200.00	\$150.00		\$2,287.78	\$1,712.22	57%
6750	Travel & Lodging Expenses	\$3,500	\$0.00	\$1,052.03	\$0.00				\$1,052.03	\$2,447.97	30%
6800	Conferences (Registrations)	\$3,000	\$2,080.00	\$0.00	\$73.30				\$2,153.30	\$846.70	72%
7000	Work Plan (MSRs and SOIs)	\$41,250	\$1,309.00	\$2,108.00	\$11,995.00	\$1,105.00	\$1,522.00		\$18,039.00	\$23,211.00	44%
Monthly/ Year to Date Totals		\$160,248.00	\$26,651.65	\$30,545.33	\$45,761.25	\$11,111.66	\$9,786.70	\$0.00	\$123,856.59	\$36,391.41	77%
APPLICATIONS											
		DEPOSIT (total by application)	1st Qtr Subtotals	2nd Qtr Subtotal	3rd Qtr Subtotal	April	May	June	Project Total to Date	Remaining Budget	Notes
A-2009-8001	Irish Beach WD Moores Annexation	\$2,889.44	\$0.00	\$0.00	\$1,487.00	\$0.00	\$0.00	\$0.00	\$1,487.00	\$1,402.44	
P-2014-8010	City of Ukiah Detachment of UVSD lands	\$1,532.75	\$0.00	\$0.00	\$0.00	\$0.00	\$676.00	\$0.00	\$676.00	\$856.75	
D-2019-1 (8020)	Weger Detachment from MCHD	\$12,055.65	\$5,647.00	\$2,173.15	\$0.00	\$270.00	\$0.00	\$0.00	\$11,285.65	\$770.00	
P-2019-2 (8021)	RRFC Annexation Pre-Application	\$1,200.00	\$244.00	\$275.00	\$681.00				\$1,200.00	\$0.00	\$681 refunded 01/20
Applications to Date Totals		\$16,477.84	\$5,891.00	\$2,448.15	\$4,846.50	\$270.00	\$676.00	\$0.00	\$14,648.65		
EXPENSES AND APPLICATION TOTALS			\$32,542.65	\$32,993.48	\$50,607.75	\$11,381.66	\$10,462.70	\$0.00	\$138,505.24		

DEPOSITS

5/13/2020 Lisa Weger \$ 1,585.50

ACCOUNT BALANCES

County of Mendocino Account Balance \$ 2,216
 Operations (Checking) Account Balance \$ 20,972
 Legal Reserve Balance \$ 35,000
 Operations Reserve Balance \$ 55,426
 Total \$ 113,614

County statement as of 5/20/2020
 Quickbooks as of 5/26/2020
 Bank statement as of 4/30/2020
 Bank statement as of 4/30/2020

Mendocino LAFCo
FY 2019-20 Estimated Work Plan Implementation Schedule and Cost Tracking
 May 2020

Disclaimer: The estimated schedule and costs for the Fiscal Year 2019-20 Work Plan are subject to change based on agency responsiveness and timely provision of requested information, complexity of issues, and public controversy. Each study is assumed to be exempt from CEQA; therefore, a separate cost estimate would be necessary for studies subject to a Negative Declaration or EIR. It is difficult to completely contain staff activities in a single fiscal year; therefore, completion of the studies listed below may roll over to the next fiscal year. This estimated work plan implementation schedule and cost tracking table will be prepared on a monthly basis to enhance communication and transparency.

Agency	Request for Information	Outreach	Admin Draft	Public Workshop	Public Hearing	Final Study	Cost Estimate	Cost to Date ⁽¹⁾
<i>Brooktrails CSD</i>	<i>Complete</i>				<i>8/5/2019</i>	<i>8/31/2019</i>		<i>\$544</i>
Ukiah Valley Sanitation District	Complete	In progress	In progress	TBD	TBD	TBD	\$20,000	\$1,882
County Service Area 3	In progress	Initiated	In progress	TBD	TBD	TBD	\$10,000	\$3,876
Mendocino City CSD	Complete	In progress	Complete	5/4/2020, 6/1/2020	TBD	TBD	\$11,250	\$11,227
Covelo CSD	Complete	In progress	In progress	TBD	TBD	TBD	\$8,000	\$306
Estimated Total							\$49,250	\$17,835

(1) The Cost to Date category accounts for all staff activities related to each study and is not limited to a specific fiscal year.



Hinman & Associates Consulting

PO Box 1251 | Cedar Ridge, CA 95924
 (916) 813-0818
 uhinman@comcast.net

Date May 24, 2020
To Mendocino LAFCo
Project Executive Officer Services
Work Period April 27 - May 24, 2020

Invoice No. 480
Invoice Total \$ 9,088.00

Account Description	Staff/Hours			Other (At Cost)	Totals
	Executive Officer \$100	Analyst \$68	Clerk \$40		
5300 Basic Services	45.50	12.50	28.00		\$ 6,520.00
5601 Office Supplies Quickbooks Online Fee Office Supplies				\$ 70.00	\$ 70.00
6200 Bookkeeping	2.00		2.50		\$ 300.00
7000 Work Plan (MSR/SOI/Special Studies)					
MCCSD	1.50	16.00			\$ 1,238.00
UVSD			2.00		\$ 80.00
CSA 3					\$ -
Covelo CSD		3.00			\$ 204.00
8020 Weger MCHD Detachment Application					\$ -
8010 City of Ukiah Detachment Application	2.00	7.00			\$ 676.00
Totals	\$ 5,100.00	\$ 2,618.00	\$ 1,300.00	\$ 70.00	\$ 9,088.00

5300 Basic Services

Administrative tasks and Clerk duties. Website updates and postings. File research and maintenance. Communications with Commissioners, public inquiries, etc. May 4 and June 1 agenda packets for regular Commission meetings. Conference calls and coordination with special districts, legal counsel, and staff.

6200 Bookkeeping

Prepared May claims. Entered claims into Quickbooks and prepared checks. Coordinated with Treasurer regarding claims. Reconciled Quickbooks. Budget development reports, review of budget worksheets, and confirmation of financials.

7000 Work Plan (Sphere of Influence Updates, Municipal Service Reviews, and Special Studies)

Prepared Workshop Draft MCCSD MSR/SOI Update. Worked on development of Administrative Draft Covelo CSD MSR/SOI. Coordinated with UVSD General Manager and attorney regarding information request; collected information.

8020 Weger MCHD Detachment Application

8010 City of Ukiah Detachment of UVSD Area

Reviewed the 2014-2015 files and materials, and May 2020 submittal of application materials to restart processing of the 2014 application. Coordinated with LAFCo Legal Counsel and prepared correspondence to City.

**MENDOCINO
Local Agency Formation Commission**

Staff Report

DATE: June 1, 2020
TO: Mendocino Local Agency Formation Commission
FROM: Uma Hinman, Executive Officer
SUBJECT: **Public Hearing** for the Final Budget and Work Plan for FY 2020-21

RECOMMENDATION

- 1) Adopt LAFCo Resolution 19-20-04, approving the Final Budget and Work Plan for Fiscal Year 2020-21, which reflects the priorities for the coming fiscal year; and
- 2) Direct staff to transmit the Final Budget and Work Plan to the funding agencies and others as specified in Government Code Section 56381.

BACKGROUND

The Proposed Budget and Work Plan for Fiscal Year (FY) 2020-21 was approved by the Commission on May 4, 2020. Pursuant to California Government Code Section 56381, the Proposed and Final Budgets has been circulated to all member agencies including the County, Cities and Independent Special Districts. No comments have been received throughout the budget proceedings for FY 2020-21.

Budget

In recognition of the uncertain economic future due to the COVID-19 pandemic, the recommended Final Budget includes a number of considerations intended to limit expenditures despite significant increases in membership fees and insurance premium. The attached Final Budget reflects a very small increase in the overall budget from last fiscal year (\$1,402) (Table 1).

In summary, the Final Budget for FY 2020-21, as presented:

1. Excludes participation in the annual CALAFCO Conference and out of County travel for Commissioners and Staff;
2. Approves an increase to the Legal Services Agreement to provide for an average of four hours per month of legal support and accommodates a rate increase;
3. Limits necessary increases in member agencies' apportionments to 10% and advises member agencies of the potential necessity to incrementally increase apportionment rates in future fiscal years in order for the Commission to achieve its expanding state mandated responsibilities, consistent with Government Code Section 56381; and
4. Utilizes reserves to fund the difference between apportionments and expenditures.

The funding formula for LAFCo's budget is established in the Cortese-Knox-Hertzberg Act. LAFCo's budget is funded primarily by the County, Cities and Independent Special Districts, with each group paying one-third of the LAFCo adopted budget. The Final Budget has been distributed to the County, Cities and Independent Special Districts.

Table 1. Summary of FY 2019-20 Budget and Preliminary and Final FY 2020-21 budgets

Budget Summary	FY 2019-20		FY 2020-21	Difference
	Adopted (\$)	Projected (\$)	Final Budget (\$)	
Apportionment	135,000	135,000	150,000	15,000
Interest	350	450	450	150
SALC Grant ¹			5,100	5,100
Revenues Total	135,350	135,450	155,550	20,200
Staffing	72,060	75,060	72,060	0
Services and Supplies	46,938	39,472	47,090	152
Work Plan	41,250	27,750 ²	42,500	1,250
Operations Total	160,248	142,282	161,650	1,402
SALC Grant ¹			5,100	5,100
Expenditures Total	160,248	142,282	166,750	6,502
Estimated Use of Reserves	(24,898)	(6,832)	(11,200)	

¹The Sustainable Agricultural Lands Conservation (SALC) grant funded project is a two-year project that will incur staff time beginning in FY 2020-21 and will be reimbursed through the grant. For purposes of the budget development, half of the overall grant reimbursement for the project (\$10,200) is accounted for in each of the next two fiscal years

²Due to agency delays in response to LAFCo requests for information resulting from the COVID-19 pandemic, staff anticipates rolling \$13,500 of the Work Plan budget into FY 2020-21.

Work Plan

A Work Plan must be adopted in conjunction with the budget to fulfill the purposes and programs of State Law and Commission policy. The 5-Year Rolling Work Plan in Attachment 2 identifies the projected priority of Municipal Service Reviews (MSR) and Sphere of Influence (SOI) updates based on the agencies' last update and level of activity. While the goal is to review and/or update each agency's MSR/SOI on a five-year cycle, budget constraints and staff work load greatly affect progress on the Work Plan.

For FY 2020-21, the focus of the Work Plan will primarily be on the Ukiah Valley area. The Ukiah Valley Sanitation District MSR/SOI has been initiated and is anticipated to be completed in FY 2020-21. Additionally, the City of Ukiah and the Ukiah Valley Fire Protection District will be initiated in the next FY. The City of Ukiah MSR/SOI will be coordinated with the City's General Plan Update process as much as possible, including the associated environmental review. Finally, the County Service Area (CSA) 3 and Covelo Community Services District, both initiated in FY 2019-20, are scheduled to be completed in FY 2020-21.

Table 2. Final FY 2020-21 Work Plan

Agency	Last MSR/SOI Update
Ukiah Valley Sanitation District	Initiated in FY 2019-20
City of Ukiah	MSR 2012 (initiate in FY 2020-21)
Ukiah Valley Fire Protection District	MSR/SOI 2008
Covelo Community Services District	MSR/SOI 2010 (initiated in FY 2019-20)
CSA 3	First MSR/SOI (initiated in FY 2019-20)

The Final Budget, Work Plan and signed Resolution will be submitted to the County Auditor's Office. The City and District shares will be pro-rated based on general revenues reported to the State Controller's Office by the jurisdictions. The County Auditor will calculate the cost to each jurisdiction and distribute invoices for payment to the Special Districts, Cities and County in the first quarter of the FY 2020-21.

Attachments: (1) FY 2020-21 Final Budget
(2) FY 2020-21 Work Plan
(3) Draft Resolution No. 19-20-04

Attachment 1

Mendocino Local Agency Formation Commission Final Budget FY 2020-21

1-Jun-20

ACCOUNT #	DESCRIPTION	FY 2019-20 Adopted	FY 2020-21 Proposed
REVENUE			
	<i>Anticipated Cash Balance</i>	\$ -	\$ -
4000	LAFCO Apportionment Fees	\$ 135,000	\$ 150,000
4100	Service Charges		
4800	Miscellaneous		
4910	Interest Income	\$ 350	\$ 450
Revenue Subtotal		\$ 135,350	\$ 150,450
8000	Applications		
8601	Special Project (SALC Grant Project Reimbursement)		\$ 5,100
Revenue Total		\$ 135,350	\$ 155,550
EXPENSES			
5300	Basic Services	\$ 72,060	\$ 72,060
5500	Rent	\$ 5,460	\$ 5,568
5600	Office Expenses	\$ 2,700	\$ 3,450
5700	Internet & Website Costs	\$ 1,300	\$ 1,300
5900	Publication and Legal Notices	\$ 2,000	\$ 2,000
6000	Televising Meetings	\$ 3,000	\$ 2,000
6100	Audit Services	\$ 3,500	\$ 3,500
6200	Bookkeeping	\$ 4,500	\$ 4,500
6300	Legal Counsel	\$ 7,200	\$ 10,200
6400	A-87 Costs County Services	\$ 428	\$ 2,131
6500	Insurance-General Liability	\$ 1,100	\$ 3,000
6600	Memberships (CALAFCO/CSDA)	\$ 2,750	\$ 3,691
6670	GIS Contract with County (Counsel training, IT support)	\$ 2,500	\$ 2,500
6740	In-County Travel & Stipends	\$ 4,000	\$ 3,000
6750	Travel & Lodging Expense	\$ 3,500	\$ 100
6800	Conferences (Registrations)	\$ 3,000	\$ 150
7000	Work Plan (MSRs and SOIs)	\$ 41,250	\$ 42,500
9000	Miscellaneous (Special District Training Support, bank fees)	\$ -	\$ -
Operating Expenses Subtotal		\$ 160,248	\$ 161,650
8000	Application Filing Expenses	\$ -	\$ -
8601	Special Project (SALC Grant Project)	\$ -	\$ 5,100
Expenses Total		\$ 160,248	\$ 166,750

REVENUE/EXPENSE DIFFERENCE	\$ (24,898)	\$ (11,200)
-----------------------------------	-------------	-------------

(Negative balance indicates use of fund balance and/or reserves)

Attachment 2

Mendocino LAFCo 5-Year Rolling Work Plan	
FY 2020-21 through 2024-25	
June 1, 2020	
<p>Disclaimer: The schedule for each study identified in this Work Plan is an <u>estimate</u> and is <u>subject to change</u> based on overall staff workload, agency responsiveness and timely provision of requested information, complexity of issues, and public controversy. Each study is assumed to consist of a combined MSR and SOI Update and be exempt from CEQA. The cost estimate reflects the minimum staff time to: coordinate a response to the Request for Information (RFI), draft the study for agency review and make revisions, prepare the study for one Public Workshop and Public Hearing and make revisions, and finalize the study to post online and mail to the subject agency. This Work Plan will be <u>reviewed mid-year</u>, or sooner as needed, and revised to account for a more refined level of detail related to the anticipated scope of work for specific studies. The estimated Work Plan schedule and costs may <u>roll over</u> to the next Fiscal Year.</p>	
Prior Study	Service Provider
Fiscal Year 2020-21	
n/a	Ukiah Valley Sanitation District (continued from FY 2019-20)
n/a	CSA 3 (continued from FY 2019-20)
2012	City of Ukiah (initiated)
2013	Ukiah Valley FD (Ukiah Valley Fire Authority JPA)
2010	Covelo CSD (continued from FY 2019-20)
Fiscal Year 2021-22	
2012	City of Ukiah (continued from FY 2020-21)
2015	City of Point Arena
2015	Anderson Valley CSD
2015, 2016	Water/Wastewater Districts (14) - include Mutual Water Companies (initiated)
n/a	Lighting Districts Discovery Only (11?)
2008	Mendocino Coast Recreation and Park District
Fiscal Year 2022-23	
2015, 2016	Water/Wastewater Districts (14) - include Mutual Water Companies (continued)
2017	City of Fort Bragg
2016	Mendocino County Resource Conservation District
2016	Noyo Harbor District
Fiscal Year 2023-24	
2016	Hopland PUD
2019	Brooktrails Township CSD
2018	Fire Districts (16)
2019	City of Willits
Fiscal Year 2024-25	
2008	Mendocino City CSD
2017	Cemetery Districts (8)
n/a	Ukiah Valley Sanitation District
n/a	County Service Area 3

Resolution No. 2019-20-04
of the Local Agency Formation Commission of Mendocino County

Adopting the
Final Budget and Work Plan for Fiscal Year 2020-21

WHEREAS, in accordance with the Cortese Knox Hertzberg Act of 2000, the Mendocino Local Agency Formation Commission, hereinafter referred to as the “Commission”, annually adopts a budget pursuant to Government Code Section 56381(a) to fulfill its purposes and functions that are set by State law; and

WHEREAS, at a minimum, the proposed and final budget shall be equal to the budget adopted for the previous fiscal year unless the Commission finds that reduced staffing or program costs will nevertheless allow the Commission to fulfill the purposes and program of this chapter pursuant to Government Code Section 56381(a); and

WHEREAS, the Commission adopted a proposed budget and work plan and held a duly noticed hearing as required by law on May 4, 2020 for the purposes of developing a final budget and work plan for Fiscal Year 2020-21; and

WHEREAS, the Proposed Fiscal Year 2020-21 Budget and Work Plan has been circulated to all affected agencies pursuant to Government Code Section 56381(a); and

WHEREAS, the Commission hereby advises member agencies of the potential necessity to incrementally increase agency apportionment rates in the fiscal years to follow in order for the Commission to achieve its expanding state mandated responsibilities, consistent with Government Code Section 56381; and

WHEREAS, the Commission heard and fully considered all evidence presented at a duly noticed public hearing held on the Fiscal Year 2020-21 Final Budget and Work Plan on June 1, 2020.

NOW, THEREFORE, the Mendocino Local Agency Formation Commission does hereby RESOLVE, DETERMINE, and ORDER as follows:

1. The Commission hereby adopts the Proposed Budget as the Final Budget for Fiscal Year 2020-21 in the amount of \$161,650 as set forth in Exhibit A, attached hereto; and
2. Establishes the Fiscal Year 2020-21 Work Plan priorities as identified in Exhibit A, attached hereto; and
3. Establishes the agency apportionment fees at \$150,000 and authorizes the use of reserves in the amount of \$11,200 for purposes of offsetting the necessary increases in apportionment fees of member agencies; and
4. Finds that the Fiscal Year 2020-21 Final Budget and Work Plan allows the Commission to fulfill its prescribed regulatory and planning duties.

BE IT FURTHER RESOLVED that aforementioned Fiscal Year 2020-21 Final Budget and Work Plan is officially adopted and ordered to be circulated to all affected agencies pursuant to Government Code Section 56381(a).

PASSED and ADOPTED by the Local Agency Formation Commission of Mendocino County this 1st day of June 2020 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

CARRE BROWN, Commission Chair

ATTEST:

UMA HINMAN, Executive Officer

DRAFT

Exhibit A

Mendocino Local Agency Formation Commission Final Budget FY 2020-21

1-Jun-20

ACCOUNT #	DESCRIPTION	FY 2019-20 Adopted	FY 2020-21 Proposed
REVENUE			
	<i>Anticipated Cash Balance</i>	\$ -	\$ -
4000	LAFCO Apportionment Fees	\$ 135,000	\$ 150,000
4100	Service Charges		
4800	Miscellaneous		
4910	Interest Income	\$ 350	\$ 450
Revenue Subtotal		\$ 135,350	\$ 150,450
8000	Applications		
8601	Special Project (SALC Grant Project Reimbursement)		\$ 5,100
Revenue Total		\$ 135,350	\$ 155,550
EXPENSES			
5300	Basic Services	\$ 72,060	\$ 72,060
5500	Rent	\$ 5,460	\$ 5,568
5600	Office Expenses	\$ 2,700	\$ 3,450
5700	Internet & Website Costs	\$ 1,300	\$ 1,300
5900	Publication and Legal Notices	\$ 2,000	\$ 2,000
6000	Televising Meetings	\$ 3,000	\$ 2,000
6100	Audit Services	\$ 3,500	\$ 3,500
6200	Bookkeeping	\$ 4,500	\$ 4,500
6300	Legal Counsel	\$ 7,200	\$ 10,200
6400	A-87 Costs County Services	\$ 428	\$ 2,131
6500	Insurance-General Liability	\$ 1,100	\$ 3,000
6600	Memberships (CALAFCO/CSDA)	\$ 2,750	\$ 3,691
6670	GIS Contract with County (Counsel training, IT support)	\$ 2,500	\$ 2,500
6740	In-County Travel & Stipends	\$ 4,000	\$ 3,000
6750	Travel & Lodging Expense	\$ 3,500	\$ 100
6800	Conferences (Registrations)	\$ 3,000	\$ 150
7000	Work Plan (MSRs and SOIs)	\$ 41,250	\$ 42,500
9000	Miscellaneous (Special District Training Support, bank fees)	\$ -	\$ -
Operating Expenses Subtotal		\$ 160,248	\$ 161,650
8000	Application Filing Expenses	\$ -	\$ -
8601	Special Project (SALC Grant Project)	\$ -	\$ 5,100
Expenses Total		\$ 160,248	\$ 166,750

REVENUE/EXPENSE DIFFERENCE	\$ (24,898)	\$ (11,200)
-----------------------------------	-------------	-------------

(Negative balance indicates use of fund balance and/or reserves)

Mendocino LAFCo 5-Year Rolling Work Plan

FY 2020-21 through 2024-25

June 1, 2020

Disclaimer: The schedule for each study identified in this Work Plan is an estimate and is subject to change based on overall staff workload, agency responsiveness and timely provision of requested information, complexity of issues, and public controversy. Each study is assumed to consist of a combined MSR and SOI Update and be exempt from CEQA. The cost estimate reflects the minimum staff time to: coordinate a response to the Request for Information (RFI), draft the study for agency review and make revisions, prepare the study for one Public Workshop and Public Hearing and make revisions, and finalize the study to post online and mail to the subject agency. This Work Plan will be reviewed mid-year, or sooner as needed, and revised to account for a more refined level of detail related to the anticipated scope of work for specific studies. The estimated Work Plan schedule and costs may roll over to the next Fiscal Year.

Prior Study	Service Provider
Fiscal Year 2020-21	
n/a	Ukiah Valley Sanitation District (continued from FY 2019-20)
n/a	CSA 3 (continued from FY 2019-20)
2012	City of Ukiah (initiated)
2013	Ukiah Valley FD (Ukiah Valley Fire Authority JPA)
2010	Covelo CSD (continued from FY 2019-20)
Fiscal Year 2021-22	
2012	City of Ukiah (continued from FY 2020-21)
2015	City of Point Arena
2015	Anderson Valley CSD
2015, 2016	Water/Wastewater Districts (14) - include Mutual Water Companies (initiated)
n/a	Lighting Districts Discovery Only (11?)
2008	Mendocino Coast Recreation and Park District
Fiscal Year 2022-23	
2015, 2016	Water/Wastewater Districts (14) - include Mutual Water Companies (continued)
2017	City of Fort Bragg
2016	Mendocino County Resource Conservation District
2016	Noyo Harbor District
Fiscal Year 2023-24	
2016	Hopland PUD
2019	Brooktrails Township CSD
2018	Fire Districts (16)
2019	City of Willits
Fiscal Year 2024-25	
2008	Mendocino City CSD
2017	Cemetery Districts (8)
n/a	Ukiah Valley Sanitation District
n/a	County Service Area 3

MENDOCINO

Local Agency Formation Commission

Staff Report

MEETING June 1, 2020
TO Mendocino Local Agency Formation Commission
FROM Uma Hinman, Executive Officer
SUBJECT **Continued Workshop** for Mendocino City Community Service District Municipal Service Review and Sphere of Influence Update

RECOMMENDATIONS

Hold a Continued Workshop on the Draft Mendocino City Community Services District Municipal Service Review and Sphere of Influence Update, provide comments and requested revisions, and direct staff to notice the matter for Public Hearing for further consideration.

INTRODUCTION

This is a Continued Workshop to introduce the Draft Municipal Service Review (MSR) and Sphere of Influence (SOI) Update for the Mendocino City Community Services District (MCCSD or District). The Commission held the first Workshop on May 4, 2020 to provide comments and requested revisions on the draft study and directed staff to continue the workshop to the June meeting. The following is a list of revisions from the Commission requested before, during, and after the first workshop.

Requested Revisions

1. Provide information regarding the lawsuit between the District and Steven Gomes.
2. In the third paragraph of Section 2.1.1.1, provide information regarding the existing three private Mutual Water Companies within the District boundary serving the Point of View Estates, Hills Ranch, and Big River Vista subdivisions.
3. In Section 3.3.2, clarify the basis of the increased population estimate of 3,500 during the tourist season and consider updating this information based on an analysis of the capacity of lodging facilities from the Mendocino Town Plan.
4. On Page 2-8, the last paragraph of Section 2.3.6, and Page 4-8, under Policy 4.13-24, update the ownership information for the old grammar school property, known as Friendship Park, from Mendocino Coast Recreation and Park District to Mendocino Unified School District, which is currently leased/rented by Mendocino Community Center.
5. Modify Figure 2-1 for the area located east of Gurley Lane to clarify the boundary line between the District/proposed coterminous SOI and the AOI.
6. Modify Section 2.2.1 to summarize the process and codes that govern the appointment of vacant Board of Director seats by the subject local agency and the Board of Supervisors in lieu of election.
7. Modify Section 2.2.1 to clarify why the second vacant Board of Director seat was not filled by appointment of the Board of Supervisors similar to James Sullivan.

Staff has revised the attached study to address the Commission's requested revisions, where feasible. In addition, the following key questions were raised at the first workshop and include responses in italics.

Questions

1. Does the District have authority to provide water and groundwater management services or does this require LAFCo approval to activate latent powers?

The Community Services District (CSD) Principal Act was comprehensively updated by SB 135 which took effect in 2006. One component of SB 135 involved changing the definition of latent powers. The new CSD Principal Act specified that latent powers are services and facilities that a CSD did not provide before January 1, 2006, as determined by LAFCo. Consistent with SB 135, in 2005 LAFCo staff determined that the current services provided by Mendocino City CSD were as follows.

- 1. Collection and treatment of sewage, wastewater, recycled water and storm water in the same manner as a Sanitary District.*
- 2. Acquire, construct, improve, maintain, operate street lighting and landscaping on public property, public rights of way and public easements.*
- 3. Water services for any beneficial use in the same manner as a Municipal Water District, including a ground water management program as provided by Water Code Sections 10700-10717, and the District's Ordinance for Groundwater Extraction Permits and policies to manage and protect groundwater resources, to promote water conservation, increase the use of reclaimed water, reduce ground water extraction and to collect information on groundwater conditions in Mendocino.*

The 2008 MSR/SOI prepared for the District reaffirmed the above list of powers. Therefore, the District does not need to activate latent powers to exercise water or groundwater management services. It is noteworthy that in the legal dispute between the District and Mr. Gomes, the court found that the District has the authority to manage groundwater within the district.

2. Does the District need to form a water replenishment district to provide groundwater management services?

The District has sufficient statutory authority to provide groundwater replenishment as part of providing groundwater management services pursuant to GOV §10700-10717. However, if it has not actually been providing that service, then the Commission could determine it is a "new or different function or class of service" pursuant to Section 56824.12 and require LAFCo approval.

3. Did the District's Public Hearing process to adopt Groundwater Extraction Permit and Water Shortage Contingency Plan Ordinances meet Public Notice requirements?

The District met the Gov. Code Section 6066 public hearing notice requirement for the December 4, 2019 Public Hearing to adopt a resolution of intention to adopt a Groundwater Extraction Permit Ordinance.

Notice of the December 4, 2019, April 16, and April 27, 2020 Public Hearings were published in the Mendocino Beacon newspaper twice to meet CWC section 10703 and Gov. Code section 6066 requirements. In addition, the hearings were placed on each meeting agenda. The agendas were both emailed or mailed by US Postal Service. Notices of these hearings were placed on the District's website home page and in the Public Meeting/Agenda page. All noticing requirements were met.

The May 4, 2020 meeting was an MCCSD Board of Directors special meeting to introduce the Water Shortage Contingency Plan and Groundwater Extraction Permit Ordinances which were considered for adoption at a May 18, 2020 special meeting. These meetings have been noticed by posting in town in three conspicuous places, and on the website at mccsd.com. All individuals on the District's mailing list or email list are sent an agenda.

4. Are there technical or other feasibility issues related to hook-up of additional wastewater connections from Road 500D and Lansing Street to the 4-inch pressure main from Russian River State Park?

The State-owned forced main from Russian Gulch State Park is not an option for disposal of wastewater from parcels located on Road 500D. It is likely that wastewater from Road 500D would have to be pumped from a lift station at the low point north of the District's boundary to the District's gravity sewer main located at the corner of Little Lake Road and Lansing Street. The new sewer main would likely be constructed through an unstable section of land at the intersection of State Route 1 and Lansing Street, and the Caltrans bridge would likely be traversed by a gravity sewer collection system and a force main. An engineering feasibility study would be required to determine the best method and cost estimate of extending the wastewater collection system to Road 500D and it is possible that improvements to the District's existing collection system would be needed to handle additional flow.

In addition, according to the current LAFCo Fee Schedule, the minimum fee deposit for an annexation application and environmental review is roughly \$10,000 and would be paid for by the applicant, whether by District resolution of application or landowner/registered voter petition.

Sphere of Influence

In 2008, the Commission approved a reduction of approximately two-thirds in the size of the District SOI located east of SR 1 to reflect the area that the wastewater treatment plant and groundwater resources have the capacity to serve. There have been no changes to the District boundary or SOI since then.

The District has confirmed that their current boundary reflects existing service needs and projected service demands over the next five years. The District's SOI is recommended to be reduced to a coterminous sphere, which is a sphere that is the same as the jurisdictional boundary, consistent with Policy 10.1.4.a, since there have been no annexations in the last 12 years, there is no planned urban development, and there is low projected growth and demand for services. Policy 10.1.4.a from the Mendocino LAFCo Policies and Procedures Manual states as follows:

The Commission shall endeavor to maintain and expand, as needed, spheres of influence to accommodate planned and orderly urban development. The Commission shall, however, consider removal of land from an agency's sphere of influence if either of the following two conditions apply:

- a) the land is outside the affected agency's jurisdictional boundary but has been within the sphere of influence for 10 or more years; or
- b) the land is inside the affected agency's jurisdictional boundary but is not expected to be developed for urban uses or require urban-type services within the next 10 years.

Area of Interest

The Area of Interest Policy, per Section 10.1.12 from the Mendocino LAFCo Policies and Procedures Manual, provides for the designation or identification of geographical areas located near to, but outside the jurisdictional boundary and established SOI of a city or district, in which land use decisions or other governmental actions of another local agency directly or indirectly impact the subject local agency.

The District's 2008 SOI and the area on Road 500D have been designated as an Area of Interest (AOI) to further emphasize and support the District in requesting consideration from the County of Mendocino regarding discretionary land use entitlements or other development plans with the potential to impact District lands, facilities, and/or services.

Public Comments

The May 4, 2020 Commission meeting packet included correspondence received from Ed Powers on April 21, 2020 and a response letter from LAFCo staff. Since distribution of the May 4, 2020 Commission meeting packet on April 29, 2020, multiple public comment letters have been received as discussed below and are included as Attachment 2.

Mr. Powers is interested in identifying the north end of Lansing Street and Road 500D as a Disadvantaged Unincorporated Community (DUC) and expanding the District SOI to include this area for the following reasons: the District's wastewater system has excess capacity available, there is a 4-inch pressured wastewater line from Russian Gulch State Park that runs through this area to the District, and there are non-standard septic system failures on Road 500D.

In response, LAFCo staff conducted additional DUC analysis based on a new census data website and for areas surrounding the Mendocino Census Designated Place (CDP), which shows that the District and surrounding areas do not meet the income threshold to qualify as a DUC as defined by the Cortese Knox Hertzberg Act. While the census data is at a larger scale than the area in question, it is considered representative of the overall area. LAFCo staff has also added Road 500D to the Area of Interest Designation on Figure 2-1a and included a MSR determination recommending that the District work closely with property owners in this area regarding feasibility, willingness, and costs to provide wastewater services to address failing non-standard septic systems.

Mr. Gomes, Ms. Reed, and Mr. Clark have raised issues regarding private property rights: the District does not have the powers of a water replenishment district and may not lawfully adopt a groundwater management program, the District's groundwater management plan is not effective because there is low connectivity between the hydrologic zones, and there needs to be a fair groundwater allotment program for the area downtown that needs it. Additionally, they raised concerns regarding the District's recent public hearing notice and process to adopt Groundwater Extraction Permit and Water Shortage Contingency Plan Ordinances.

In response, LAFCo staff researched the existing powers and authority of the District with conclusions already presented in this report and briefly evaluated the District's public hearing process and discovered that the District appears to have conducted a lengthy public process between December 2019 and May 2020 to adopt Groundwater Extraction Permit and Water Shortage Contingency Plan Ordinances. LAFCo staff can further evaluate public notice requirements as directed by the Commission with the understanding that such investigation would be limited in scope and non-binding. In general, potential procedural defects in the District's public hearing process are best determined by a court of appropriate jurisdiction.

Mr. Miller and Mr. Wood raised some of the issues summarized above for Mr. Gomes, Ms. Reed, and Mr. Clark. Mr. Miller also requested clarification as to whether it is a conflict of interest for Harold Hauck to be involved in governance of the District's Board of Directors and the Big River Vista Water Company. Mr. Wood also included extensive information and analysis related to the District's hydrological modeling and associated groundwater allotment regulations. LAFCo staff is requesting Commission direction regarding next steps for addressing public comments.

The District is in the process of establishing a Groundwater Task Force to work with property owners regarding questions and concerns, such as those outlined above. LAFCo staff supports efforts by the District and property owners to collaborate and reach mutually beneficial resolution regarding wastewater and groundwater management services.

Attachments: Continued Workshop Draft Mendocino City CSD MSR/SOI Update
Public Comments since May 4, 2020 Commission meeting packet

WORKSHOP DRAFT



**MENDOCINO CITY
COMMUNITY SERVICES DISTRICT**

**Municipal Service Review and
Sphere of Influence Update**

Prepared for:

MENDOCINO LAFCO

200 South School Street

Ukiah, California 95482

<http://www.mendolafco.org/>

Workshop: May 4, 2020

Continued Workshop: June 1, 2020

Public Hearing: TBD

Adopted: TBD

LAFCo Resolution No: TBD

[This page intentionally left blank]

DRAFT

TABLE OF CONTENTS

1	INTRODUCTION	1-1
1.1	LOCAL AGENCY FORMATION COMMISSION	1-1
1.2	MENDOCINO LAFCO	1-1
1.3	SPHERE OF INFLUENCE	1-1
1.4	MUNICIPAL SERVICE REVIEW	1-2
1.5	MENDOCINO LAFCO POLICIES	1-2
1.6	SENATE BILL 215	1-5
2	AGENCY OVERVIEW	2-1
2.1	HISTORY.....	2-1
2.1.1	FORMATION.....	2-1
2.1.2	BOUNDARY	2-2
2.1.3	SERVICES.....	2-2
2.2	GOVERNMENT STRUCTURE.....	2-2
2.2.1	GOVERNING BODY.....	2-2
2.2.2	PUBLIC MEETINGS.....	2-3
2.2.3	STANDING COMMITTEES.....	2-3
2.2.4	PUBLIC OUTREACH.....	2-4
2.2.5	COMPLAINTS.....	2-4
2.2.6	TRANSPARENCY AND ACCOUNTABILITY	2-4
2.3	OPERATIONAL EFFICIENCY	2-5
2.3.1	MANAGEMENT AND STAFFING	2-5
2.3.2	AGENCY PERFORMANCE.....	2-7
2.3.3	REGIONAL AND SERVICE-SPECIFIC PARTICIPATION.....	2-7
2.3.4	INTERAGENCY COLLABORATION.....	2-7
2.3.5	CONTRACT OR JPA SERVICES	2-8
2.3.6	SHARED SERVICES AND FACILITIES.....	2-8
2.3.7	ENHANCED SERVICE DELIVERY OPTIONS	2-8
2.3.8	GOVERNMENT RESTRUCTURE OPTIONS.....	2-8
2.4	FINANCES	2-9
2.4.1	CURRENT FISCAL HEALTH	2-9
2.4.2	LONG TERM FINANCIAL CONSIDERATIONS.....	2-12
2.5	GROWTH	2-16
2.5.1	PRESENT AND PLANNED LAND USE AND DEVELOPMENT.....	2-16
2.5.2	EXISTING POPULATION AND PROJECTED GROWTH.....	2-24
2.6	DISADVANTAGED UNINCORPORATED COMMUNITIES	2-25
3	MUNICIPAL SERVICES	3-1
3.1	SERVICE OVERVIEW	3-1
3.1.1	SERVICES.....	3-1
3.1.2	OUT-OF-AGENCY SERVICES.....	3-1
3.2	WASTEWATER	3-1
3.2.1	SERVICE OVERVIEW	3-1
3.2.2	WASTEWATER SYSTEM MANAGEMENT PLAN.....	3-2
3.2.3	COLLECTION SYSTEM	3-3
3.2.4	OPERATION AND MAINTENANCE PROGRAM	3-5
3.2.5	SYSTEM CAPACITY.....	3-8
3.2.6	FACILITIES AND ASSETS.....	3-9

3.3 GROUNDWATER MANAGEMENT 3-10

 3.3.1 GROUNDWATER MANAGEMENT OVERVIEW 3-10

 3.3.2 WATER DEMAND AND CAPACITY..... 3-11

 3.3.3 WATER SUPPLY CONSERVATION AND ENHANCEMENT 3-14

 3.3.4 OPERATIONS AND CAPITAL NEEDS 3-19

3.4 STREET LIGHTING 3-19

 3.4.1 SERVICE OVERVIEW 3-19

3.5 DETERMINATIONS 3-20

 3.5.1 MSR REVIEW FACTORS 3-20

4 SPHERE OF INFLUENCE 4-1

4.1 SOI UPDATE 4-1

 4.1.1 EXISTING SPHERE OF INFLUENCE..... 4-1

 4.1.2 STUDY AREAS..... 4-1

 4.1.3 AREA OF INTEREST DESIGNATION 4-1

 4.1.4 PROPOSED SOI CHANGES..... 4-2

 4.1.5 CONSISTENCY WITH LAFCO POLICIES..... 4-2

 4.1.6 OTHER LOCAL POLICIES..... 4-2

 4.1.7 DETERMINATIONS 4-9

5 REFERENCES 5-1

6 ACRONYMS 6-1

7 ACKNOWLEDGEMENTS..... 7-1

7.1 REPORT PREPARATION 7-1

7.2 ASSISTANCE AND SUPPORT 7-1

8 APPENDICES 8-1

8.1 APPENDIX A – OPEN GOVERNMENT RESOURCES 8-1

8.2 APPENDIX B – WEBSITE COMPLIANCE HANDOUT 8-2

1 INTRODUCTION

1.1 LOCAL AGENCY FORMATION COMMISSION

Local Agency Formation Commissions (LAFCo) are quasi-legislative, independent local agencies that were established by State legislation in 1963 to oversee the logical and orderly formation and development of local government agencies including cities and special districts. There is one LAFCo for each county in California.

LAFCo is responsible for implementing the Cortese-Knox-Hertzberg (CKH) Local Government Reorganization Act of 2000 (California Government Code Section 56000 et. seq.) in order to promote orderly growth, prevent urban sprawl, preserve agricultural and open space lands, and oversee efficient provision of municipal services.

LAFCo has the authority to establish and reorganize cities and special districts, change their boundaries and authorized services, allow the extension of public services, perform municipal service reviews, and establish spheres of influence. Some of LAFCo's duties include regulating boundary changes through annexations or detachments and forming, consolidating, or dissolving local agencies.

1.2 MENDOCINO LAFCO

The CKH Act provides for flexibility in addressing State regulations to allow for adaptation to local needs. Mendocino LAFCo has adopted policies, procedures and principles that guide its operations. These policies and procedures can be found on Mendocino LAFCo's website at the following location: <http://mendolafco.org/policies-procedures/>.

Mendocino LAFCo has a public Commission with seven regular Commissioners and four alternate Commissioners. The Commission is composed of two members of the Mendocino County Board of Supervisors, two City Council members, two Special District representatives, and one Public Member-At-Large. The Commission also includes one alternate member for each represented category.

1.3 SPHERE OF INFLUENCE

The CKH Act requires LAFCo to adopt a Sphere of Influence (SOI) for all local agencies within its jurisdiction. A SOI is "a plan for the probable physical boundary and service area of a local agency or municipality as determined by the Commission" (GC §56076).

When reviewing an SOI for a municipal service provider, LAFCo will consider the following five factors:

1. The present and planned land uses in the area, including agricultural and open space lands.
2. The present and probable need for public facilities and services in the area.
3. The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.
4. The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.
5. For an update of a sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, that occurs pursuant to subdivision (g) on or after July 1, 2012, the present and probable need for

those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.

Sphere of Influence Updates include written statements or determinations with respect to each of the five mandated areas of evaluation outlined above. These determinations provide the basis for LAFCo to consider the appropriateness of establishing or modifying a service provider's SOI or probable future boundary.

1.4 MUNICIPAL SERVICE REVIEW

The CKH Act (GC §56430) requires LAFCo to prepare a Municipal Service Review (MSR) for all local agencies within its jurisdiction. MSRs are required prior to and in conjunction with the update of a Sphere of Influence (SOI).

An MSR is a comprehensive analysis of the services provided by a local government agency to evaluate the capabilities of that agency to meet the public service needs of their current and future service area.

An MSR must address the following seven factors:

1. Growth and population projections for the affected area.
2. The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.
3. Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged unincorporated communities within or contiguous to the sphere of influence.
4. Financial ability of agencies to provide services.
5. Status of, and opportunities for, shared facilities.
6. Accountability for community service needs, including governmental structure and operational efficiencies.
7. Any other matter related to effective or efficient service delivery, as required by commission policy.

MSRs include written statements or determinations with respect to each of the seven mandated areas of evaluation outlined above. These determinations provide the basis for LAFCo to consider the appropriateness of a service provider's existing and future service area boundary.

1.5 MENDOCINO LAFCO POLICIES

In addition to making the necessary determinations for establishing or modifying a SOI consistent with the CKH Act, the appropriateness of an agency's SOI is also based on an evaluation of consistency with local LAFCo policies.

The following Sphere of Influence policies are from the Mendocino LAFCo Policies and Procedures Manual, adopted November 5, 2018.

10.1.1 Legislative Authority and Intent

A sphere of influence is the probable 20-year growth boundary for a jurisdiction's physical development. The Commission shall use spheres of influence to:

- a) promote orderly growth and development within and adjacent to communities;
- b) promote cooperative planning efforts among cities, the County, and special districts to address concerns regarding land use and development standards, premature conversion of agriculture and open space lands, and efficient provision of public services;
- c) guide future local government reorganization that encourages efficiency, economy, and orderly changes in local government; and
- d) assist property owners in anticipating the availability of public services in planning for the use of their property.

10.1.2 Definitions

The Commission incorporates the following definitions:

- a) an “establishment” refers to the initial development and determination of a sphere of influence by the Commission;
- b) an “amendment” refers to a limited change to an established sphere of influence typically initiated by a landowner, resident, or agency; and
- c) an “update” refers to a comprehensive change to an established sphere of influence typically initiated by the Commission.

10.1.3 Sphere Updates

In updating spheres of influence, the Commission’s general policies are as follows:

- a) The Commission will review all spheres of influences every five years for each governmental agency providing municipal services. Municipal services include water, wastewater, police, and fire protection services.
- b) Sphere of influence changes initiated by any agency providing a municipal service shall generally require either an updated or new service review unless LAFCo determines that a prior service review is adequate.
- c) Spheres of influence of districts not providing municipal services including, but not limited to, ambulance, recreation, hospital, resource conservation, cemetery, and pest control shall be updated as necessary.

10.1.4 Reduced Spheres

The Commission shall endeavor to maintain and expand, as needed, spheres of influence to accommodate planned and orderly urban development. The Commission shall, however, consider removal of land from an agency’s sphere of influence if either of the following two conditions apply:

- a) the land is outside the affected agency’s jurisdictional boundary but has been within the sphere of influence for 10 or more years; or
- b) the land is inside the affected agency’s jurisdictional boundary but is not expected to be developed for urban uses or require urban-type services within the next 10 years.

10.1.5 Zero Spheres

LAFCo may adopt a “zero” sphere of influence encompassing no territory for an agency. This occurs if LAFCo determines that the public service functions of the agency are either nonexistent, no longer

needed, or should be reallocated to some other agency (e.g., mergers, consolidations). The local agency which has been assigned a zero sphere should ultimately be dissolved.

10.1.6 Service Specific Spheres

If territory within the proposed sphere boundary of a local agency does not need all of the services of the agency, a “service specific” sphere of influence may be designated.

10.1.7 Agriculture and Open Space Lands

Territory not in need of urban services, including open space, agriculture, recreational, rural lands, or residential rural areas shall not be assigned to an agency’s sphere of influence unless the area’s exclusion would impede the planned, orderly and efficient development of the area. In addition, LAFCo may adopt a sphere of influence that excludes territory currently within that agency’s boundaries. This may occur when LAFCo determines that the territory consists of agricultural lands, open space lands, or agricultural preserves whose preservation would be jeopardized by inclusion within an agency’s sphere. Exclusion of these areas from an agency’s sphere of influence indicates that detachment is appropriate.

10.1.8 Annexations Are Not Mandatory

Before territory can be annexed to a city or district, it must be within the agency’s sphere of influence (G.G. §56375.5). However, territory within an agency’s sphere will not necessarily be annexed. A sphere is only one of several factors that are considered by LAFCo when evaluating changes of organization or reorganization.

10.1.9 Islands or Corridors

Sphere of influence boundaries shall not create islands or corridors unless it can be demonstrated that the irregular boundaries represent the most logical and orderly service area of an agency.

10.1.10 Overlapping Spheres

LAFCo encourages the reduction of overlapping spheres of influence to avoid unnecessary and inefficient duplication of services or facilities. In deciding which of two or more equally capable agencies shall include an area within its sphere of influence, LAFCo shall consider the agencies’ service and financial capabilities, social and economic interdependencies, topographic factors, and the effect that eventual service extension will have on adjacent agencies. Where an area could be assigned to the sphere of influence of more than one agency, the following hierarchy typically applies:

- a) Inclusion within a city’s sphere
- b) Inclusion within a multi-purpose district’s sphere
- c) Inclusion within a single-purpose district’s sphere

Territory placed within a city’s sphere indicates that the city is the most logical provider of urban services. LAFCo encourages annexation of developing territory (i.e., area not currently receiving services) that is currently within a city’s sphere to that city rather than to one or more single-purpose special districts. LAFCo discourages the formation of special districts within a city’s sphere. To promote efficient and coordinated planning among the county’s various agencies, districts that provide the same type of service shall not have overlapping spheres.

10.1.11 Memorandum of Agreements (For City Sphere Amendments and Updates)

Prior to submitting an application to LAFCo for a new city sphere of influence or a city sphere of influence update, the city shall meet with the County to discuss the proposed new boundaries of the sphere and explore methods to reach agreement on development standards and planning and zoning requirements as contained in G.C. §56425. If an agreement is reached between the city and County the agreement shall be forwarded to LAFCo. The Commission shall consider and adopt a sphere of influence for the city consistent with the policies adopted by LAFCo and the County, and LAFCo shall give great weight to the agreement to the extent that it is consistent with LAFCo policies in its final determination of the city sphere.

10.1.12 Areas of Interest

LAFCo may, at its discretion, designate a geographic area beyond the sphere of influence as an Area of Interest to any local agency. (Resolution No. 2018-19-01)

- a) An Area of Interest is a geographic area beyond the sphere of influence in which land use decisions or other governmental actions of one local agency (the "Acting Agency") impact directly or indirectly upon another local agency (the "Interested Agency"). For example, approval of a housing project developed to urban densities on septic tanks outside the city limits of a city and its sphere of influence may result in the city being forced subsequently to extend sewer services to the area to deal with septic failures and improve city roads that provide access to the development. The city in such a situation would be the Interested Agency with appropriate reason to request special consideration from the Acting Agency in considering projects adjacent to the city.
- b) When LAFCo receives notice of a proposal from another agency relating to the Area of Concern, LAFCo will notify the Interested Agency and will consider its comments.
- c) LAFCo will encourage Acting and Interested Agencies to establish Joint Powers Agreements or other commitments as appropriate.

(LAFCo, 2018)

1.6 SENATE BILL 215

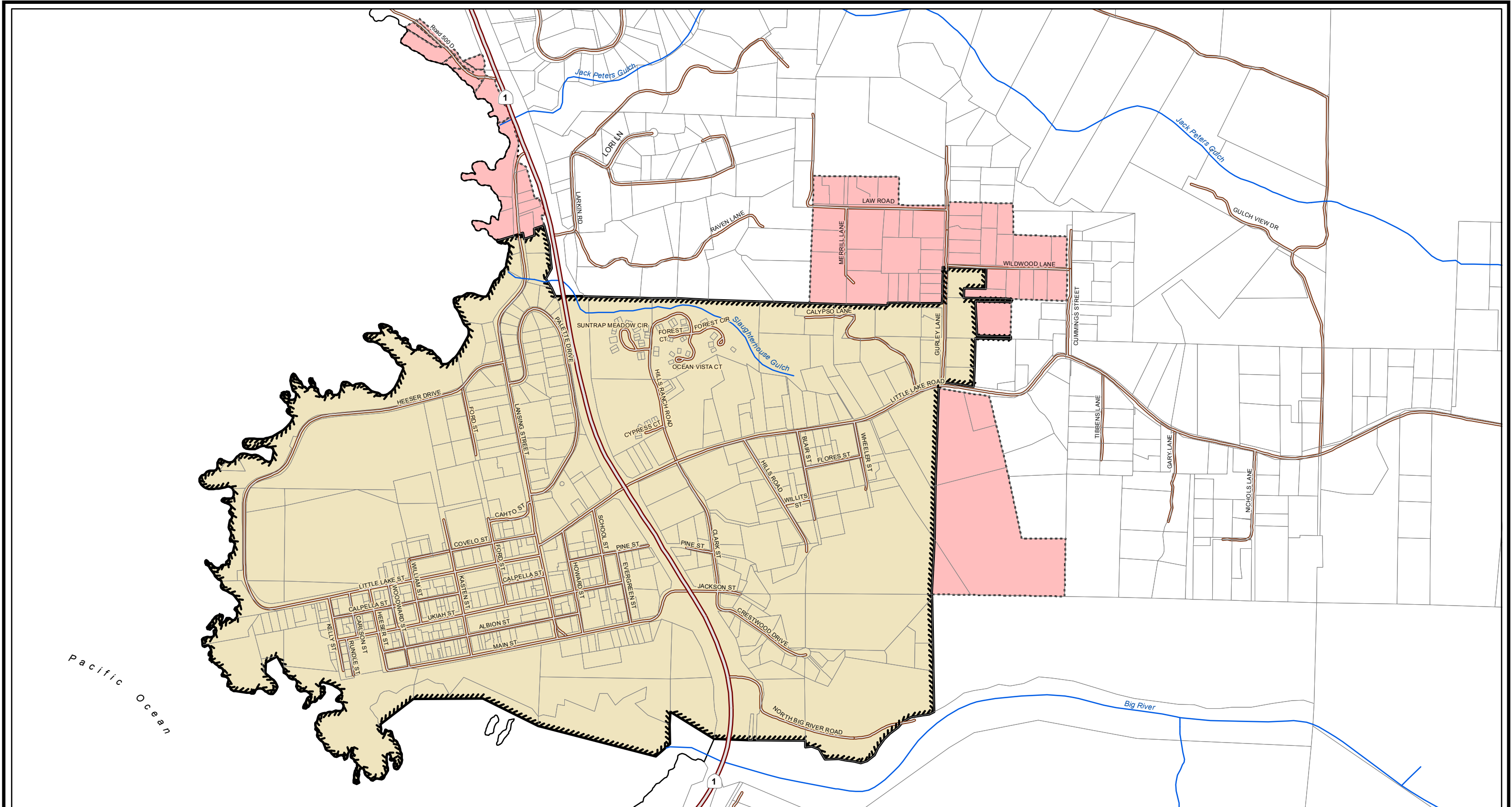
Senate Bill 215 (Wiggins) requires LAFCo to consider regional transportation plans and sustainable community strategies developed pursuant to SB 375 before making boundary decisions. Senate Bill 375 (Sustainable Communities and Climate Protection Act) requires each metropolitan planning organization (MPO) to address regional greenhouse gas (GHG) emission reduction targets for passenger vehicles in their Regional Transportation Plan (RTP) by integrating planning for transportation, land-use, and housing in a sustainable communities strategy.

Mendocino County is not located within an MPO boundary and therefore is not subject to the provisions of SB 375. However, the Mendocino Council of Governments (MCOG) supports and coordinates the local planning efforts of Mendocino County and the Cities of Fort Bragg, Point Arena, Ukiah, and Willits to address regional housing and transportation needs and helps provide a framework for sustainable regional growth patterns through the 2018 Mendocino County Regional Housing Needs Allocation (RHNA) Plan and Vision Mendocino 2030 Blueprint Plan. MCOG is also responsible for allocating regional transportation funding to transportation improvement projects consistent with the 2017 RTP for Mendocino County.

Mendocino County and the Cities of Fort Bragg, Point Arena, Ukiah, and Willits are the local agencies primarily responsible for planning regional growth patterns through adoption and implementation of general plan and zoning regulations. While Mendocino County is not subject to the provisions of SB 375, LAFCo will review applicable regional transportation and growth plans when considering a change of organization or reorganization application.

DRAFT

Figure 2-1a



Mendocino City Community Services District

Source: This map was created by the Mendocino County Division of Information Services GIS Program, May 2020.

Note: This map is not a survey product.

- Mendocino City CSD
- Sphere of Influence
- Area of Interest
- Parcels
- Highways
- Roads
- Streams

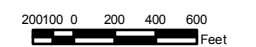
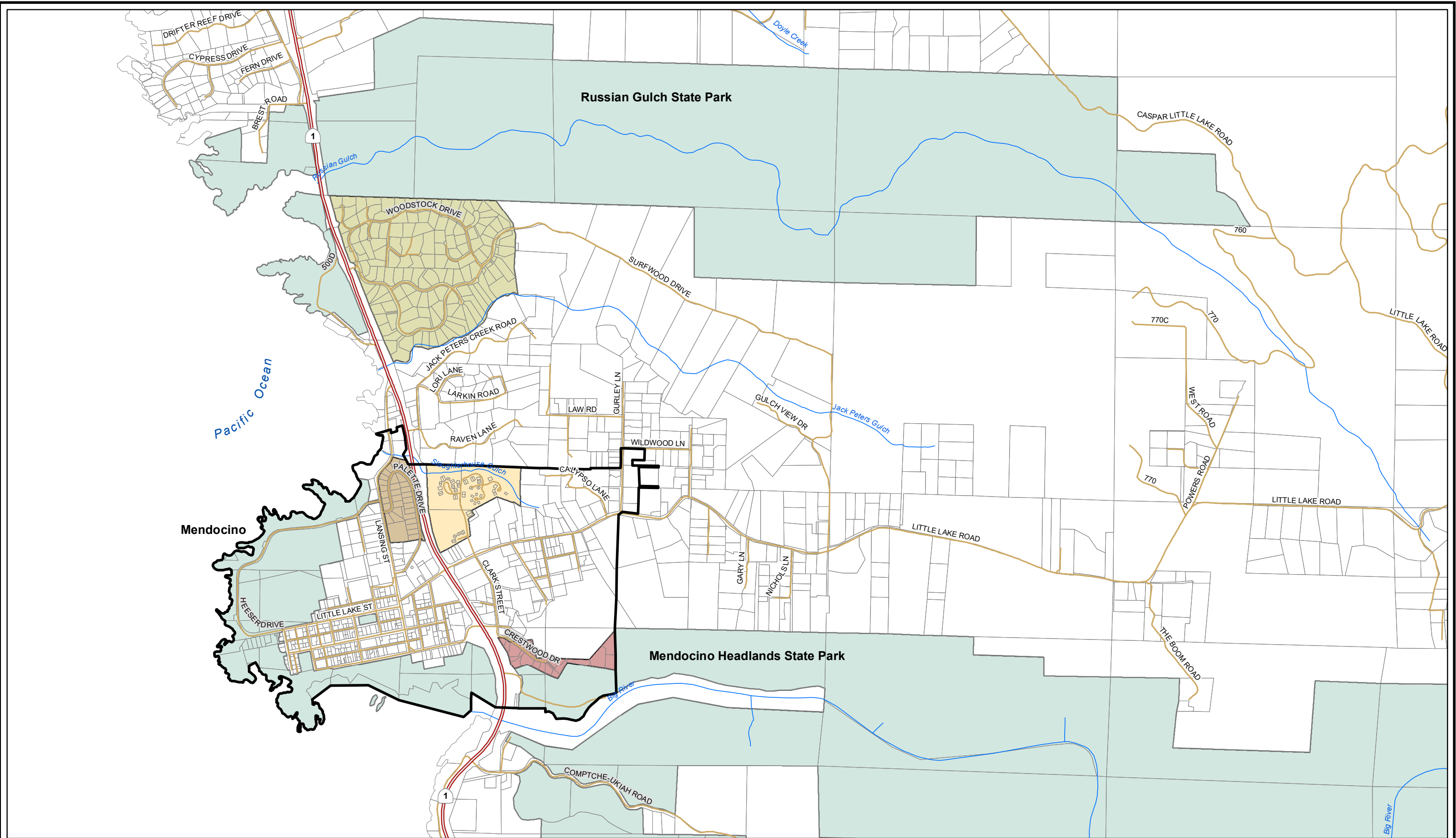


Figure 2-1b



Mendocino City Community Services District

Source: This map was created by Mendocino County Division of Information Services GIS Program, May 2020
 Note: This map is not a survey product.

- Mendocino City CSD
- Hills Ranch Mutual Water Company
- Parcels
- Surfwood Mutual Water Corporation
- Big River Vista Mutual Water Company
- Highways
- Point of View Mutual Water Company
- State Parks
- Roads
- Streams

2 AGENCY OVERVIEW

Table 2.1 MCCSD Profile

Agency Name:	Mendocino City Community Services District
Phone Number:	(707) 937-5790
Fax Number:	(707) 937-3738
Mailing Address:	P.O. Box 1029, Mendocino, CA 95460
District Office:	10500 Kelly Street, Mendocino, CA 95460
Website:	mccsd.com
General Email:	mccsd@mcn.org
Date of Formation:	1971
Agency Type:	Independent Special District, Multi-Service Provider
Enabling Legislation:	Community Services District Law: Government Code §61000 et seq.
Board Meeting Schedule:	Last Monday of each month at 7:00 p.m. at the District Office, 10500 Kelly Street, Mendocino, CA

Source: MCCSD, 2019a.

2.1 HISTORY

2.1.1 FORMATION

The Mendocino City Community Services District (MCCSD or District) was formed on August 31, 1970 by Mendocino LAFCo Resolution No. 70-7 to provide a wastewater system to collect and treat wastewater for properties within the District and the Russian Gulch State Park located outside the jurisdictional boundaries of the District. While the District has the name Mendocino City CSD, the community is unincorporated.

2.1.1.1 Background

The community of Mendocino was founded in 1851. For 120 years, the community functioned on individual wells and septic systems. General obligation bonds for the wastewater treatment facility were approved by a margin of 86 percent of District voters. Four years after the District was formed, the treatment plant became operational.

Around the time of District formation, well contamination also became a concern for the area. In 1985, the District called an election to add water supply powers to the District, and the measure passed. In 1986, when Public Contract Code 20681(a) was repealed, water authority was transferred to CSD law. CSD law was revised in 2005 which allowed any CSD that had water authority prior to 2005 to supply water for any beneficial uses pursuant to 61100 (a) & Water Code 71000 et seq. After two years of effort, the District was unsuccessful in locating an adequate water source for the community. To this day, the community continues to rely on private wells for its water supply.

There are three Mutual Water Companies within the District boundary named Point of View Estates, Hills Ranch, and Big River Vista and one Mutual Water Company located north of the District boundary named Surfwood that serve subdivisions and are shown on Figure 2-1b along with State Park lands. Refer to the 2018 LAFCo study prepared in accordance with AB 54 for more information on Mutual

Water Companies in Mendocino County available at the following link: <http://mendolafco.org/wp-content/uploads/2018/08/2018-Mutual-Water-Company-Profile-Report-w-maps.pdf>.

In 1987, the Legislature passed Water Code Sections 10700 - 10717 which authorized the District to function as a water replenishment district and to establish programs for the management of the groundwater resources within the District. Prior to enactment of this legislation, the County Health Department enforced the groundwater extraction provisions of the Mendocino Town Plan. In 1990, the District adopted a Groundwater Management Plan/Groundwater Extraction Permit Ordinance (Ordinance No. 90-1). Water Code Section 10717 provides that upon implementation of a central water system supplying water to the inhabitants within the boundaries of the District, the District's authorization to manage groundwater is terminated. A community water source has not been developed; therefore, the need for groundwater from the local aquifer to supply private wells continues to be necessary.

(MCCSD, 2019c)

2.1.2 BOUNDARY

The coastal community of Mendocino is an unincorporated area of Mendocino County, located 9.5 miles south of Fort Bragg and located on the Mendocino Headlands between Slaughterhouse Gulch and Big River, as shown on Figure 2-1a. The District boundary is approximately one square mile (640 acres) in size, with State Route (SR) 1 bisecting the District.

Since 1981 there have been several annexations to the District, as shown in Table 2.2 below. There have been no changes to the District boundary since the prior 2008 MSR.

Year	File Name	Acreage	Status	LAFCo Reso No.
1981	Sea Rock Annexation	2.5	Completed	81-11
1989	Jacobson/Fox Annexation	5.17	Completed	89-12
1993	Slauson Annexation	1.27	Completed	93-2
1994	SOI & Master Service Element Plan	--	Completed	94-4
2002	Hassebrock/Sawyer Annexation	--	Incomplete	--
2008	Chapman Annexation	2.02	Completed	2008-07
2008	General SOI MSR documentation	--	Completed	2008-08

2.1.3 SERVICES

The Mendocino City CSD provides the following municipal services: Wastewater, Groundwater Management, and Street Lighting. For more information regarding these services, refer to Chapter 3. For more information regarding other services provided by contract or agreement refer to Section 2.3.5.

2.2 GOVERNMENT STRUCTURE

2.2.1 GOVERNING BODY

The Board of Directors is the legislative body for the District and is responsible for establishing policy, adopting and amending the annual budget, enacting ordinances, adopting resolutions, and appointing committees. The District is governed by a five-member Board of Directors elected at-large to serve staggered four-year terms (Table 2.3). In order to be elected to the Board, candidates must be

registered voters residing within the District boundaries. If there are insufficient candidates for election, or if the number of filed candidates is equal to the number of vacancies, then District Board members may be appointed in lieu of election, as outlined below. Directors take office at noon on the first Friday in December following their election.

Gov. Code Sections 1780-1782 governs the process used for appointment of vacant Board of Director seats. The MCCSD Board of Directors has 60 days to appoint an interested individual to a vacant seat. The interested person must live within the District boundary and be a registered voter. If the District cannot fill the seat within the 60-day period, the Mendocino County Board of Supervisors can appoint a Director to the MCCSD Board during the next 30-day period. If the vacant seat is not filled during the 90-day period, the seat remains empty until the next election.

The Board of Directors elects officers, including a President (Chairman) and Vice-President every year at the December organizational meeting of the Board. The Board may create additional offices and elect Board members to those offices, provided that no member of a Board of Directors holds more than one office. Board members receive no compensation. Staff support for the Board include a Superintendent, three additional full-time staff, and contract services of legal counsel, accountant, architect, and engineer as needed. (MCCSD, 2019a)

Name	Title	Term Expiration
Harold Hauck	Vice-President	2022
Otto Rice	Director	2020
Jean Arnold	Director	2022
James Sullivan	Director	2020
Vacant	Director	2020

Source: MCCSD: 2019a & 2020.

The District recently had two vacancies on the Board of Directors. On March 24, 2020, the Mendocino County Board of Supervisors appointed James Sullivan to the MCCSD Board of Directors per County Resolution No. 20-028. There was not an interested and qualified candidate to appoint to the second vacant seat. Three seats are set to expire this year and are scheduled to be filled by election in November 2020 (MCCSD, 2020).

2.2.2 PUBLIC MEETINGS

Regularly scheduled meetings for the District Board of Directors are held on the last Monday of each month at 7:00 p.m. at the District office located at 10500 Kelly Street in Mendocino. In accordance with the Brown Act, all meetings are open to the public and are publicly posted in three places within District, including at the meeting location, a minimum of 72 hours prior to regular meetings or a minimum of 24 hours prior to special meetings. Public notice and meeting information including agendas, meeting minutes, reports, resolutions, and ordinances are published on the District's website and are available at the District's office upon request. Minutes are kept for all public Board meetings and are adopted at a subsequent meeting. (MCCSD, 2019a)

2.2.3 STANDING COMMITTEES

Committees assist in carrying out various functions of local government. The District has five standing committees: Plant Operations, Finance, Personnel and Management, Groundwater Management, and

Street Lighting. Additional ad hoc committees are also formed as needed. One additional ad hoc committee on Safety is also currently meeting. These committees meet as needed at the District Office at 10500 Kelly Street in Mendocino. Committees must have at least one Board member and must seek Board approval for actions taken on behalf of the Board, including expenditure of funds. Committees may consist only of Board members as appointed by the Board, or consist of one or more Board members and residents of the District.

2.2.4 PUBLIC OUTREACH

The District maintains a website at www.mccsd.com as required by SB 929, which is a helpful communication tool to enhance government transparency and accountability. The District's website has well organized information that appears to meet the special district transparency requirements of State law, including the availability of agendas, ordinances, and financial information. The website also contains staffing and Board member information; job postings; plans and reports on upcoming projects such as the wastewater treatment plant upgrade project; educational materials on water conservation, water recycling, and fat, oil, grease (FOG) waste; ordinances and resolutions; and the Sewer System Management Plan. The District encourages public participation and keeps constituents informed of District activities through its website and with press releases and mailers.

The District's website could be enhanced by posting a map of the District boundaries and permit applications, and a link to the regular Board meeting schedule on the Board of Directors page. Also valuable for public access would be a comprehensive content management system, such as DocuShare, to provide a searchable document archive system for Board meeting packets and adopted ordinances, resolutions, annual budgets, past and current financial audit reports, and other digital records. The website could also be further improved with an update to the "Services" tab of the website to incorporate more information about the most recent drought from late 2011 to early 2019 (US Drought Monitor, 2019).

2.2.5 COMPLAINTS

The public can submit written or provide verbal comments or complaints in person or by phone at the District office during business hours, Monday through Friday from 8:00 a.m. to 5:00 p.m., or at the District Board of Directors meetings during the general public comment period. The District has received several complaints of odors from the wastewater system in the last five years. These complaints have been addressed in person by District staff and District operations were found to be in compliance with applicable laws and regulations. The District now has an Online Odor Reporting Form for customer use and responds to these reports immediately. (MCCSD, 2019a; Kelley, 2019)

2.2.6 TRANSPARENCY AND ACCOUNTABILITY

The District adopted Governance Guidelines by motion on September 30, 2008, which address the Board of Directors' elections, officers, meeting conduct, conflicts of interest, decisions, rules of order, and responsibilities. The District also adopted Fiscal Policies by motion on September 30, 2008, which include administrative policies, fiscal policies, personnel policies, and purchasing policies and bidding regulations. On October 27, 2008, the District adopted by Ordinance 08-3 Policies and Procedures for Purchasing of Supplies and Equipment, for Procuring Professional and Maintenance Services, and for the Disposal of Surplus Property. This is the District's primary purchasing policy document. These policies were all adopted following the recommendations of the previous MSR for MCCSD. (MCCSD, 2008; LAFCo, 2008)

The Political Reform Act requires all state and local government agencies to adopt and promulgate a Conflict of Interest Code pursuant to Government Code §81000 et seq. The Political Reform Act also requires persons who hold office to disclose their investments, interests in real property, and incomes by filing a Statement of Economic Interests (Fair Political Practices Commission Form 700) each year pursuant to Government Code §87203.

According to AB 1234, if a local agency provides compensation or reimbursement of expenses to local government officials, then all local officials are required to receive two hours of training on public service ethics laws and principles at least once every two years and establish a written policy on reimbursements pursuant to Government Code §53235.

The District complies with these above requirements (MCCSD, 2019a).

Refer to Appendix A for a brief list of educational resources regarding open government laws and Appendix B for a website compliance handout.

2.3 OPERATIONAL EFFICIENCY

2.3.1 MANAGEMENT AND STAFFING

The Board of Directors appoints a Superintendent to support their efforts and oversee the daily operations of the District to ensure that the Board's policies, programs, and priorities are implemented. The responsibilities and specific duties of the District Superintendent include the following:

- The implementation of the policies established by the Board of Directors for the operation of the District, including planning, organizing, directing, and reviewing the operation of the wastewater treatment facilities, collection and recycled water systems, groundwater management, and street lighting.
- The appointment, supervision, discipline, and dismissal of the District's employees, consistent with the employee relations system established by the Board of Directors.
- The daily supervision of the District's wastewater treatment facility.
- The supervision of the District's administrative activities and finances.

(MCCSD, 2019a)

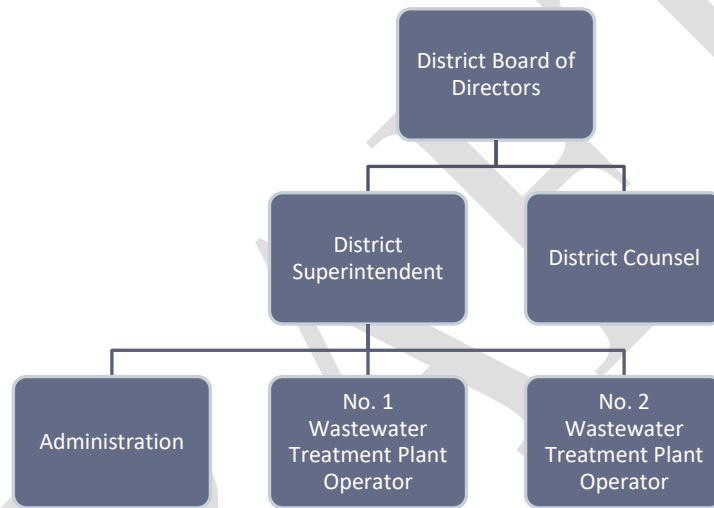
General government services provided under the direction of the District Superintendent include wastewater treatment plant operations, administration, finance, and planning. Financial activities include accounting, utility billing, purchasing, payroll, collections, and assisting with the annual audit process. Wastewater treatment plant operations include day-to-day operations and maintenance of the plant, management of employees, and ensuring compliance with the National Pollutant Discharge Elimination System (NPDES) permit for the Wastewater Treatment Plant for waste discharge and water recycling requirements.

Administrative activities include preparation of reports such as the monthly Groundwater Management Report, preparing for public meetings and updates to the Board, providing customer service at the District office and other outreach opportunities, and maintaining the District's official records such as meeting minutes, ordinances, resolutions, legal documents, and legal opinions. Planning activities include review and vetting of the Sewer System Management Plan, Groundwater Management Plan, and other long-range plans and policies such as District ordinances. Planning activities also include

application for grant funds for capital improvement and planning projects for wastewater facilities and groundwater planning/services. The District Superintendent also processes new Groundwater Extraction Permit and Special Event Permit applications, which involves assisting customers with the application, reviewing the required hydrological studies, and making recommendations to the Board on water metering and allotment as applicable.

District staffing consists of four (4) Full Time Equivalent (FTE) positions. Table 2.4 shows District staffing levels by personnel groups. The District has authorization for 4 full-time positions and currently has 4 full-time employees as follows: one Superintendent, one District Secretary, and two (2) Wastewater Treatment Operators. Figure 2-2 shows the District’s organizational chart, and Table 2.4 summarizes staffing levels.

Figure 2-2 MCCSD Organizational Chart



Source: MCCSD, 2019a.

Personnel Groups	FTE
Management	1.0
Administration	1.0
Wastewater	2.0
Total	4

Source: MCCSD, 2019a.

Three (3) of these four (4) positions will be retiring within the next 18 months; the District Superintendent, District Secretary, and a Wastewater Treatment Operator. Given the remote location of the District and the small number of staff, it is recommended that the District consider early recruitment and overlapping training of new personnel with current personnel.

The District also maintains part-time professional services contracts with an attorney for general legal counsel, a Certified Public Accountant for financial services, and an architect and engineer for District facilities projects. These contracts are used on an as-needed basis.

(MCCSD, 2019a)

2.3.2 AGENCY PERFORMANCE

A component of monitoring agency performance is routinely evaluating staff productivity. The District has indicated that it does not track employee workload and productivity through a timekeeping mechanism but does conduct annual written performance evaluations for all employees.

During the annual budget development process, the Board reviews the goals and objectives from the prior fiscal year and establishes goals and objectives for the upcoming fiscal year.

In the regular performance of duty, District staff identifies areas of improvement and takes corrective action when feasible and appropriate or informs the District Superintendent when further direction is needed.

District staff also learns about new opportunities to achieve operational efficiencies by attending regional and service-specific meetings and communicating with colleagues regarding industry standards, best management practices, changing regulations, and service delivery models implemented by other local agencies.

The District monitors and evaluates agency operations through regulatory reporting and review of District databases and records.

(MCCSD, 2019a)

2.3.3 REGIONAL AND SERVICE-SPECIFIC PARTICIPATION

The District participates in the California Rural Water Association (CRWA) (MCCSD, 2019a). CRWA provides training, technical assistance, resources and information to assist rural water and wastewater utilities. Their services include but are not limited to assistance developing rate schedules, setting up proper testing methods, understanding changing government regulations, preparing a Consumer Confidence Report (CCR), and updating operator certification requirements.

2.3.4 INTERAGENCY COLLABORATION

Below are examples of the District's interagency collaborative arrangements:

- The District participates in the California Water/Wastewater Response Agency (CalWARN) for mutual assistance. CalWARN provides a mutual assistance program consistent with other statewide mutual aid programs and the Standardized Emergency Management System (SEMS) and the National Incident Management System (NIMS) through a process that allows for sharing emergency resources among signatories statewide and the resources to respond and recover more quickly from a disaster.
- The District participates in the Golden State Risk Management Authority for the purpose of pooled insurance for providing liability and workers compensation for its facilities, operations, and employees.
- Retirement for District employees is provided through the California Public Employee Retirement System (CalPERS).

(MCCSD, 2019a)

2.3.5 CONTRACT OR JPA SERVICES

The District does not contract with private or public entities or provide services to District residents through Joint Powers Authority (JPA). Other services within the community are provided outside the purview of the District, such as road maintenance through the County of Mendocino and solid waste and recycling through Waste Management, as described further in Section 2.3.7 below.

2.3.6 SHARED SERVICES AND FACILITIES

The District works cooperatively with other local agencies to deliver services more effectively or efficiently by sharing public facilities, resources, and/or service delivery responsibility when feasible.

The District provides wastewater treatment to Russian Gulch State Park and the Headlands State Park via contract. Russian Gulch State Park is outside the District boundaries, and Mendocino Headlands State Park is within the District boundaries.

The District also maintains a Memorandum of Understanding (MOU) with the Mendocino Unified School District (MUSD) for recycled water to irrigate the School District's fields. MCCSD and MUSD approved a 1997 Memorandum of Understanding and Joint Resolution 97-1 at the regular MCCSD Board of Directors meeting on February 24, 1997 to commit the necessary capital for upgrading the old water reclamation system. Water Reclamation Requirements Order No. 97-66, adopted by the California Regional Water Quality Control Board North Coast Region on August 27, 1997, outlined the provisions of the joint water reclamation system. The system pumps tertiary treated effluent from the wastewater plant to the Mendocino High School. The treated water is used to irrigate the school athletic fields. An average of two million gallons per year is transferred to the school. The fields are now in excellent condition, in part due to the reused water, and the reused water has helped reduce the demand on the groundwater resource.

There are planned expansions of the recycled water system that include a recycled water fire hydrant system, an irrigation system for the middle and grammar schools, and an irrigation system for Friendship Park. These expansions will require cooperative agreements between the Mendocino Fire Protection District, the MUSD and the Mendocino Community Center non-profit that leases this property.

2.3.7 ENHANCED SERVICE DELIVERY OPTIONS

The District is the primary municipal service provider in the community of Mendocino and the immediate surrounding area. The County of Mendocino provides law enforcement, code enforcement, transportation, and stormwater collection services within the District. The Mendocino Fire Protection District and Mendocino Volunteer Fire Department provide fire suppression, basic life support and medical services, cliff and water rescue, hazardous conditions and vehicle collision response, as well as other safety assistance such as lift assist, locked in car, etc. CAL FIRE Mendocino Unit provides wildland fire suppression and mutual aid to local fire agencies during the declared fire season. (County, 2008)

There is no redundancy in the provision of municipal services to the District.

No new opportunities for the District to achieve organizational or operational efficiencies were identified during the preparation of this MSR.

2.3.8 GOVERNMENT RESTRUCTURE OPTIONS

Government restructure options should be pursued if there are potential benefits in terms of reduced costs, greater efficiency, better accountability or representation, or other advantages to the public.

There is no recommendation for a reorganization of local municipal service providers in the area at this time.

2.4 FINANCES

The District's financial resources are accounted for as an enterprise or proprietary fund type. Enterprise funds use the accrual basis of accounting, wherein revenues are recorded when earned and expenses are recorded when liabilities are incurred. The activities of enterprise funds closely resemble those of private businesses in which the purpose is to conserve and add to basic resources while meeting operating expenses from current revenues. Enterprise funds are used for operations that provide services on a continuous basis and are substantially financed by revenues derived from user charges.

The District's financial resources are accounted for in different funds based on organizational units, which are further distinguished by being operating or non-operating revenues and expenses. Operating revenues include income derived from wastewater services and related activities. Operating expenses include all costs applicable to providing these services. Non-operating revenues and expenses include income and costs not associated with the District's normal business of providing wastewater services. Other operating items include groundwater management and administration.

The cost of providing enterprise services is intended to be financed predominantly through service user fees, which include regular recurring charges for wastewater use, wastewater right of use, annual grease mitigation fees for commercial properties that qualify, groundwater management fees, and water meter reading fees. Non-recurring fees are collected for new groundwater extraction permits and special event permits. Property taxes are also received from the County, which is considered non-operating revenue. (G&A, 2019)

2.4.1 CURRENT FISCAL HEALTH

2.4.1.1 Financial Summary

The District prepares and adopts an annual budget prior to the beginning of each fiscal year (July 1), which serves as a financial planning tool and an expense control system. Budgetary revenue estimates represent original estimates modified for any authorized adjustments, contingent upon new or additional revenue sources. Budgetary expenditure amounts represent original appropriations adjusted by budget transfers and authorized appropriation adjustments made during the year. All budgets are adopted on a non-GAAP basis. Expenses cannot exceed the authorized budgeted amounts unless the budget is amended by the Board of Directors by resolution during the fiscal year. Unused appropriations lapse at the end of the fiscal year (June 30) and are available to be allocated in the following budget. This method is known as zero-based budgeting. The District also has annually audited financial statements prepared by a Certified Public Accountant (CPA) which serve as financial assurance for the use of public funds. This section includes District financial information for Fiscal Years (FY) 2014-15, 2015-16, 2016-17, 2017-18, and 2018-19 and highlights specific revenue sources and long-term financial considerations.

Table 2.5 provides year-end (not budget) financial information for the District. This table summarizes the Statement of Activities for FY 2014-15 through 2018-19, prepared by Goranson & Associates, and for FY 2014-15 prepared by Rick Bowers, CPA. The table represents the short-term financial standing of the District based on reporting annual income, expenses, and profits/losses using the full accrual basis of

accounting. This involves depreciation, which is a method of spreading the cost of a capital asset over its estimated useful life, as opposed to recognizing the cost of a capital asset as an expenditure at the date of acquisition. The District defines a capital asset as a fixed asset (land, buildings and improvements, equipment, and vehicles) with an initial cost of \$5,000 or greater with an estimated useful life in excess of one year (MCCSD, 2020). Figure 2-4 shows the most recent Statement of Net Position, which represents the long-term financial standing, or net position, of the District based on reporting the difference between the District's assets and liabilities. The following hyperlink from the District's website can be accessed to download a full copy of the District's FY 2018-19 Audit: <http://www.mccsd.com/2019-pdf/10/2018-19%20Audit.pdf>.

Table 2.5 MCCSD Financial Summary					
	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY18-19
Beginning Aggregated Net Position	\$1,938,423	\$1,769,895	\$4,692,276	\$4,747,215	\$4,763,632
Prior Period Adjustments	(\$258,207)	\$2,868,691	\$0	\$0	\$0
Ending Aggregated Net Position	\$1,769,895	\$4,692,276	\$4,747,215	\$4,763,632	\$4,770,555
Revenue					
<u>General Revenues</u>					
Property Taxes	\$85,475	\$88,957	\$89,836	\$92,939	\$97,086
Debt Service Taxes	\$1,837	\$4,225	\$316	\$0	\$0
Loan Fees	(\$1,569)	\$18,186	(\$1,458)	(\$1,400)	(\$5,141)
Investment Earnings	\$1,998	\$2,502	\$2,575	\$4,945	\$5,839
Sub-total	\$87,741	\$113,870	\$91,269	\$96,484	\$97,784
<u>Program Revenues</u>					
Wastewater Services	\$588,706	\$680,191	\$698,401	\$679,965	\$674,722
Groundwater Surcharge and Permit Fees	\$137,097	\$69,458	\$35,724	\$69,265	\$103,547
Hookup Fees and Other Revenues	\$32,187	\$25,316	\$22,610	\$11,423	\$1,650
Sub-total	\$757,990	\$774,965	\$756,735	\$760,653	\$675,835
Total Revenue	\$845,731	\$888,835	\$848,004	\$857,137	\$877,703
Expenses					
Personnel and Benefits	\$365,687	\$408,779	\$390,743	\$392,587	\$380,047
Collection	\$2,899	\$4,527	\$12,193	\$5,791	\$12,391
Disposal	\$18,307	\$20,255	\$21,810	\$21,899	\$25,189
Groundwater Management	\$56,733	\$60,850	\$20,505	\$88,158	\$33,257
Treatment	\$151,553	\$122,073	\$139,555	\$112,549	\$126,199
Wastewater	\$0	\$0	\$0	\$0	\$77,104
General and Administrative	\$46,922	\$79,471	\$45,018	\$50,206	\$44,896
Interest Expense	\$15,504	\$15,504	\$14,533	\$13,936	\$16,906
Depreciation	\$98,447	\$133,686	\$148,708	\$155,594	\$154,791

	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY18-19
Total Expenses	\$756,052	\$845,145	\$793,065	\$840,720	\$870,780
Net Program Revenues/(Expenses)	\$89,679	\$43,690	\$54,939	\$16,417	\$6,923

Sources: Bowers, 2015; G&A: 2017, 2018a, 2018b, 2019.

According to the audited financial information in the table above, the District generally operates at a net income, or revenue gain, which is a key measure of fiscal health and indicates that the District does not need to utilize reserve funds to balance the budget or meet current operating costs. The District has maintained a balanced budget for the past several years. (G&A, 2019)

The District's financial performance decreased in FY 2014-15 and increased during FY 2015-16. The decrease for FY 2014-15 was due to the recording of the net pension liability as required by GASB 68. However, operating revenues increased during FY 2014-15 by \$65,259 because of an increase in wastewater service, groundwater surcharge and permit fees. Operating expenditures increased during FY 2014-15 by \$117,317 because of corrected reporting of depreciation expense and increase of personnel expenses. Net capital assets decreased by \$14,676 during FY 2014-15 because of depreciation. A prior period restatement for FY 2014-15 was due to GASB 68 and a requirement to disclose net pension liability. (Bowers, 2015; G&A, 2017)

The increase for FY 2015-16 was due to prior understated fixed assets as well as net income. Operating revenues increased during FY 2015-16 by \$16,975 because of an increase in customers. General revenues increased by \$40,185 because of an increase in property taxes and loan fee income. Operating expenditures increased during FY 2015-16 by \$89,093 because of correct reporting of depreciation expense and increase of personnel expenses. Net capital assets increased by \$3,228,231 during FY 2015-16 because of understated prior year fixed assets and overstated accumulated depreciation. Investment in capital assets are 91 percent of total net position. Long-term liabilities decreased by \$73,719 for FY 2015-16 because of deferred inflows and principal payments to debt. A prior period adjustment for FY 2015-16 is due to incorrectly stated fixed assets for the prior years. (G&A, 2018a)

The District's financial performance continued to increase in FY 2016-17 through FY 2018-19. In FY 2016-17 the increase was due to increased net income. At the end of FY 2016-17 the District's net position was \$4,747,215. The increase in FY 2017-18 and 2018-19 was due to a combination of construction in process and a decrease in long-term debt. At the end of FYs 2017-18 and 2018-19, the District's aggregated net position was \$4,763,632 and \$4,770,555, respectively. Net capital assets increased in FYs 2016-17 through 2018-19 because of an increase to projects in progress. At the same time, long-term liabilities decreased in FYs 2016-17 through 2018-19 because of deferred inflows and principal payments to debt. In FY 2018-9, the District took out a line of credit for \$200,000, and it is due to be paid in March 2020. (G&A; 2018b, 2019)

2.4.1.2 Enterprise Activities

The District's business-type operations include wastewater collection and treatment services and groundwater management services. These enterprise activities are funded by service rates. The District reviews rates and fees during the annual budget development process and proposes an increase when necessary to support the ongoing delivery of services. The District Board of Directors adopts rates and fees annually at a duly noticed Public Hearing based on actual expenditures and cost recovery.

It is District policy that connection fees are proportionately charged to all users. The connection fee is called the Right of Use fee by MCCSD. This is a hook-up fee or capacity share fee. The charge is based on an Equivalent Single Dwelling (ESD) of wastewater treatment plant capacity. The fee represents the value of the proportionate share of the existing wastewater system charges to new customers or expanding users. The fee is normally calculated by adding existing system value, previously paid debt service, future capital improvements, and a proportionate share of current debt service.

The District adopted Rates and Fees for Fiscal Year 2018-2019 per Resolution No. 2019-1. The District's monthly sewer charge is \$50.60 per ESD, and the one-time hook-up fee, the "Right of Use Capacity Charge," per ESD is \$2,858. Groundwater extraction permits involve three one-time fees, which include \$200 for the administrative portion of the permit, \$300 for the Board permit approval, and \$700 for the Hydrological Study approval. The District also charges \$10.63 per ESD on a monthly basis for groundwater management services, \$100 for an annual water metering by the District, and a one-time fee of \$120 to administer the water meter reading agreement. The District's enterprise services are currently operating at a net income or revenue gain. (G&A, 2019)

2.4.2 LONG TERM FINANCIAL CONSIDERATIONS

2.4.2.1 Reserves

The District does not have any reserve accounts established. The District practices zero-sum budgeting and reserves are zeroed out at the end of the year. (G&A, 2019)

The District currently has \$400,000 in cash reserves in a Local Agency Investment Fund (LAIF) and approximately \$200,000 in checking and savings accounts (MCCSD, 2020).

It is recommended that the District establish a financial reserves policy for fiscal stability, unforeseen operating needs, and to accumulate restricted funds for capital improvements and equipment replacement costs.

2.4.2.2 Long-Term Liabilities

The District has a note payable to California Infrastructure and Economic Development for a biosolids drying unit and housing for the unit for \$650,000 that is originally dated April 2005. The note matures August 2034 and has an interest rate of 3.05 percent. The District also has a line of credit with a local financial institution in the amount of \$750,000. The interest rate for the line of credit is 7.25 percent and the loan matures March 2020. (G&A, 2019)

Other long-term liabilities consist of compensated absences and retirement pension liability. Figure 2-3 shows the District's long-term liabilities for FY 2018-19.

Figure 2-3 Long-term Liabilities for FY 2018-19

	Beginning Balance	2019		Ending Balance	Due Within One Year
		Additions	Reductions		
Note payable	\$ 425,551	\$ -	\$ (20,455)	\$ 405,096	\$ 21,077
Deferred outflows	270,268	51,603	(52,386)	269,485	46,000
Line of credit	-	200,000	-	200,000	200,000
Compensated absence	2,738	-	-	2,738	-
Total long-term liabilities	\$ 698,557	\$ 251,603	\$ (72,841)	\$ 877,319	\$ 267,077

Source: G&A, 2019.

Future maturity for notes payable and line of credit at June 30, 2019 is as follows:

2020	\$221,077
2021	\$21,721
2022	\$22,835
2023	\$23,066
2024	\$24,495
Thereafter	\$312,806

Source: G&A, 2019.

2.4.2.3 Capital Improvement Plan

The District's Capital Improvement Plan (CIP) is for anticipated wastewater system improvements. This program includes the cost of major rehabilitation, expansion or upgrading of the treatment plant and the collection system as they reach their useful lives. Improvements can include increasing system design capacity or improvements needed for new regulatory operational requirements.

The District does not have a restricted or separate fund for capital improvements. The funds that are not used in a fiscal year are added to the District's unrestricted general fund.

The original residential hook-up fee was \$250 and the commercial connection cost was \$350 until the Right of Use ordinance and connection fee schedule were revised. The connection fee charges were increased based on an engineering study that revalued the wastewater system and recommended the fee increase to recover the current value of the remaining plant capacity. Major rehabilitation, expansion or upgrading of the District's collection system, as shown in Table 2.6 below, will be funded by this program. The ocean outfall survey has been completed and construction of the plant upgrades is scheduled to be completed by December 2020 (MCCSD, 2020).

(MCCSD, 2018)

Component	Acquisition Date	Unit Cost	Average Life, Years
Outfall survey	2019	\$21,900	20
Upgrade plant & recycled water systems	2019	\$1,048,500	20
Upgrade drying beds	2019	\$216,000	40
Backwash PLC controls	2019	\$80,000	30
Replace pond liner	2019	\$60,000	40
Plant electrical system upgrade	2019	\$515,000	40
Collection system upgrades	2023	\$697,731	40
Storage unit	2025	\$500,000	40
Wastewater outfall additional cost over replacement	2025	\$5,000,000	45

Source: MCCSSD, 2019d.

2.4.2.4 Equipment Replacement Program

An inventory of critical spare parts and collection system sewer lines are stored at the treatment plant or at individual lift stations to ensure that critical equipment can be repaired immediately. If a component fails that is not in stock, the District has pump-around equipment and lift station bypass equipment to prevent a Sanitary Sewer Overflow (SSO) until the replacement parts can be delivered and the repairs made.

The District sets aside equipment replacement funds on an annual basis as a line item budget expense determined from the amount equal to the straight-line depreciation (based on original costs) of the assets. The original plant, collection system, outfall, two lift stations and subsequent plant improvements were valued at \$3.77 million for the connection fee study in 2006. For the FY 2019-20 budget, \$96,297 was included in the budget for equipment replacement. The District does not have a restricted Equipment Replacement Fund (Depreciation Fund); revenues collected for equipment replacement are deposited into the general fund. (MCCSSD, 2019d)

2.4.2.5 Rehabilitation and Replacement Plan

Following regularly scheduled annual collection system cleaning and videotaping, the private contractor prepares a detailed report and videotape of the work that was performed. The location of damaged sewer lines root intrusion and excessive grease deposits are identified in the report. Cracked and damaged lines are scheduled as soon as possible for repairs. The District uses local plumbing and underground contractors to make the point repairs. Equipment Replacement Fund reserves are used to pay for sewer line rehabilitation and lift station equipment replacement.

Any deficiencies in the collection system that are identified during routine maintenance are scheduled to be upgraded during the current fiscal year. Cash reserves from the Capital Improvement Fund are used for collection system upgrades and improvements. (MCCSD, 2018)

Figure 2-4 FY 2018-19 Statement of Net Position

	2019	2018
LIABILITIES		
Current liabilities:		
Accounts payable and accrued expenses	\$ 10,270	\$ 11,995
Current portion of note payable	221,077	20,454
Total current liabilities	<u>231,347</u>	<u>32,449</u>
Long term liabilities:		
Note payable	404,473	425,551
Compensated absences	2,738	2,738
Deferred outflows:		
Net pension liability	269,031	270,268
Total long term liabilities	<u>676,242</u>	<u>698,557</u>
Total liabilities	<u>907,589</u>	<u>731,006</u>
NET POSITION		
Net investment in capital assets	4,694,108	4,580,972
Restricted for debt service	67,640	67,640
Restricted for Groundwater Management	200,793	200,793
Unassigned	(191,986)	(85,773)
Total net position	<u>4,770,555</u>	<u>4,763,632</u>
Total liabilities and net position	<u>\$ 5,678,144</u>	<u>\$ 5,494,638</u>

Source: G&A, 2019.

2.5 GROWTH

2.5.1 PRESENT AND PLANNED LAND USE AND DEVELOPMENT

2.5.1.1 Town of Mendocino

Founded in 1851, the unincorporated community of Mendocino was the first lumber town on California's north coast. The District encompasses this historical community on the Mendocino Headlands, which was added to the National Register of Historic Places listings in 1971 as the Mendocino and Headlands Historic District (NPS, 2010).

Mendocino Headlands is a peninsula that is bounded on three sides by ocean cliffs that range in height from 40 to 100 feet. Maximum elevations within the community are on the eastern edges of the community with a slope of approximately 10 percent toward the western bluffs. The location of the community on the headlands has the effect of geographically constraining growth, and the natural decline of the area provides a pathway for surface flow and aquifer drainage to the ocean bluffs.

The District's historical area of development, which includes the core community of Mendocino, is west of SR 1 on the headlands, with newer development to the east.

Mendocino's economy is largely tourism-based, with a downtown commercial district facing the ocean and a large number of hotels and bed and breakfasts. Mendocino Headlands State Park is within the community of Mendocino, and Russian Gulch State Park is located approximately one mile north of the District boundaries. These open space and recreational lands are also a draw for tourists and recreationists.

During the tourist season, the day and night time population increases substantially. Since 1987, Mendocino has been the site of the Mendocino Music Festival, which is held annually in the Mendocino Headlands State Park. This event and others like it bring large crowds of visitors to the area that put an additional demand on groundwater and wastewater treatment resources.

The Town of Mendocino is a "special community" as described in Section 30253(5) of the Coastal Act with a balance of residential, commercial, and visitor serving facilities.

2.5.1.2 Land Use Authority

The County of Mendocino regulates land use growth in the unincorporated community of Mendocino through Division III of Title 20 of the Mendocino County Code, the "Mendocino Town Zoning Code." The Mendocino Town Zoning Code implements the Mendocino Town Plan geographical segment, which is an area certified by the California Coastal Commission through the Local Coastal Program. The Local Coastal Program consists of the Town Plan, the Town Land Use Map, the Town Zoning Code, and the Town Zoning Map, all of which must be certified by the Coastal Commission. The Town Zoning Code supersedes the County's Zoning Code because of the involvement of the Coastal Commission with development in the community, and Chapter 3 of the California Coastal Act and the decisions of the Coastal Commission guide the implementation and interpretation of the Town Zoning Code. (County, 2019)

2.5.1.3 Mendocino Town Plan

The Mendocino Town Plan is a chapter within the Mendocino County General Plan's Coastal Element. The Town Plan was adopted on June 10, 1992. During the Plan development the community voiced strong support for maintaining the Town's residential character and limiting population growth.

The primary issues facing the Town of Mendocino identified in the plan are as follows:

1. **Specificity of Plan:** The historic attractiveness of the Town largely arises from its architectural diversity, so a single set of development standards would be contrary to the preservation of the historic nature of the community. As described further in Section 2.5.14, the Mendocino Historical Review Board now oversees development review in the Town of Mendocino to ensure the preservation of the architecture and character of the Historic District of the Town of Mendocino.
2. **Growth:** There is general community agreement that growth in the town must be limited, but disagreement as to how controlled it should be. The Town Plan calls for preserving Mendocino as a "real" town, rather than as a resort, to limit expansion of overnight visitor accommodations. The resulting reduction in total visitor days spent in the town offsets the slight increase in additional automobile travel per visitor. Section 30007.5 of the Coastal Act applies as the conflict between maximum accessibility and preservation of the town must "be resolved in a manner which on balance is the most protective of coastal resources." The plan attempts to achieve compromise between "no-growth" and "free-market" partisans.
3. **Amount of Development:** Some residents believe that virtually all vacant land in the Historic District should remain unbuilt, while others hold that well-designed new buildings at some locations will not harm, and will perhaps improve, the town.
4. **Historic Preservation:** The County of Mendocino recognized, through adoption of the Mendocino Historic Preservation District for the Town of Mendocino, the importance of preserving the style of architecture which dominates the Town. Examples of early Northern California architecture and the character of the community resulting from development connected with the early redwood lumber industry along the Mendocino Coast in the last half of the 19th Century is evident throughout the community. Additionally, it is found that the preservation of the architecture and the community character is essential in maintaining the Town as a special community within the context of the Coastal Act and which contributes to the economy of the Town and the County.
5. **Design of New Buildings:** Some find new development that closely follows the architectural style of the pre-1900 buildings most acceptable. Others want new buildings to be readily distinguishable as such, but less prominent than historic buildings.
6. **Intensity of Development:** There is no one intensity that is typical. Some blocks have high building coverage; others are largely open. Two-story buildings are interspersed with one-story buildings, but most commercial buildings are two stories. Water towers and outbuildings, often crowded in back yards, contrast with a vacant lot adjoining or across the street. Most houses are modest cottages on lots 40 to 50 feet wide, but there are about a dozen mansions on larger lots with wide yards.
7. **Views of the Town:** Public acquisition of the headlands effectively conserves the view of the Historical District (Zone A) from Highway 1. Though each large tree and water tower is important, the main visual concern of the plan is the character of the district as seen from within the town and

the view of the town as seen from the southerly approaches. The asphalt expanse of the highway is the only significant element of discord seen from outside the town. The less noticeable new development east of Highway 1 can be, the sharper the definition of the old town.

8. **Views from the Town:** West of Highway 1, Mendocino's gridiron street pattern and sloping site provide marine views from most streets and from many buildings over vacant lots or low buildings. Coastal Commission policy has been to protect views from public right of way but avoid restricting the use of private property to preserve private views. Some private views could be preserved by regulating the location of a new building on a lot in a view corridor, but in most instances, shifting the new building would block another existing or potential view. Limiting the height of new buildings to one story would preserve some views, but would adversely affect both town character and equity. Limiting maximum height would help to preserve town character.
9. **Affordable Housing:** Affordable housing is scarce within the Mendocino town plan area. New affordable units will not be provided unless specifically addressed as a housing program within the scope of the housing element of the General Plan or accomplished through considerations of Mixed Use, RR-2 or R+ designations. Preservation of existing affordable units may be another effective measure available to protect affordable units. Allowing non-transient lodging houses and second units in predominantly single-family areas and requiring construction of housing as a condition of development of commercial space would be additional ways of increasing the supply of relatively low-priced rentals.
10. **Water Supply and Wastewater Disposal:** In 1983, the MCCSD wastewater treatment plant operated at two-thirds capacity, partially because most residents use their limited water supply sparingly. Lack of a community water system limits development to the satisfaction of some and the frustration of others. Many wells went dry during the 1977 drought and some run low nearly every summer. Residents endure inconvenience and are concerned that new development could deplete their water supply. No information is available which would allow determination of the population that can be supported by individual wells. Although many residents favor a community water system, there was also a concern that it could affect the visual character of the Historical Zone because of the growth inducing impacts it could have. Lots smaller than 12,000 square feet could be created if permitted by zoning regulations; water towers would be decorative only; and less open space would be necessary.

(County, 2017)

2.5.1.4 Historic Preservation District

The Historical Preservation District for the Town of Mendocino was incorporated into the Mendocino County Zoning Ordinance in 1973. The Preservation District established the Mendocino Historical Review Board (MHRB) that must approve demolition, construction, remodeling, excavation, and painting within Zone A, comprising the 19th century town west of Highway 1. The Board has less specific powers of approval in Zone B, the area east of Highway 1 visible from Zone A (see Figure 2-5). Together the two areas constitute a National Register Historic District, allowing building owners to qualify for federal grants and tax incentives for preservation and restoration. There are only two such districts in the State of California; the Town established the Preservation District as a condition of the State acquiring the headlands.

The Mendocino Historical Review Board reviews applications for development to protect the landmark status of buildings and ensure development is compatible with surrounding development. The Mendocino Historical Review Board consists of five members who must be electors and residents within the Historic District. Members of the Review Board are appointed by the Board of Supervisors.

(County, 1992)

2.5.1.5 Land Use

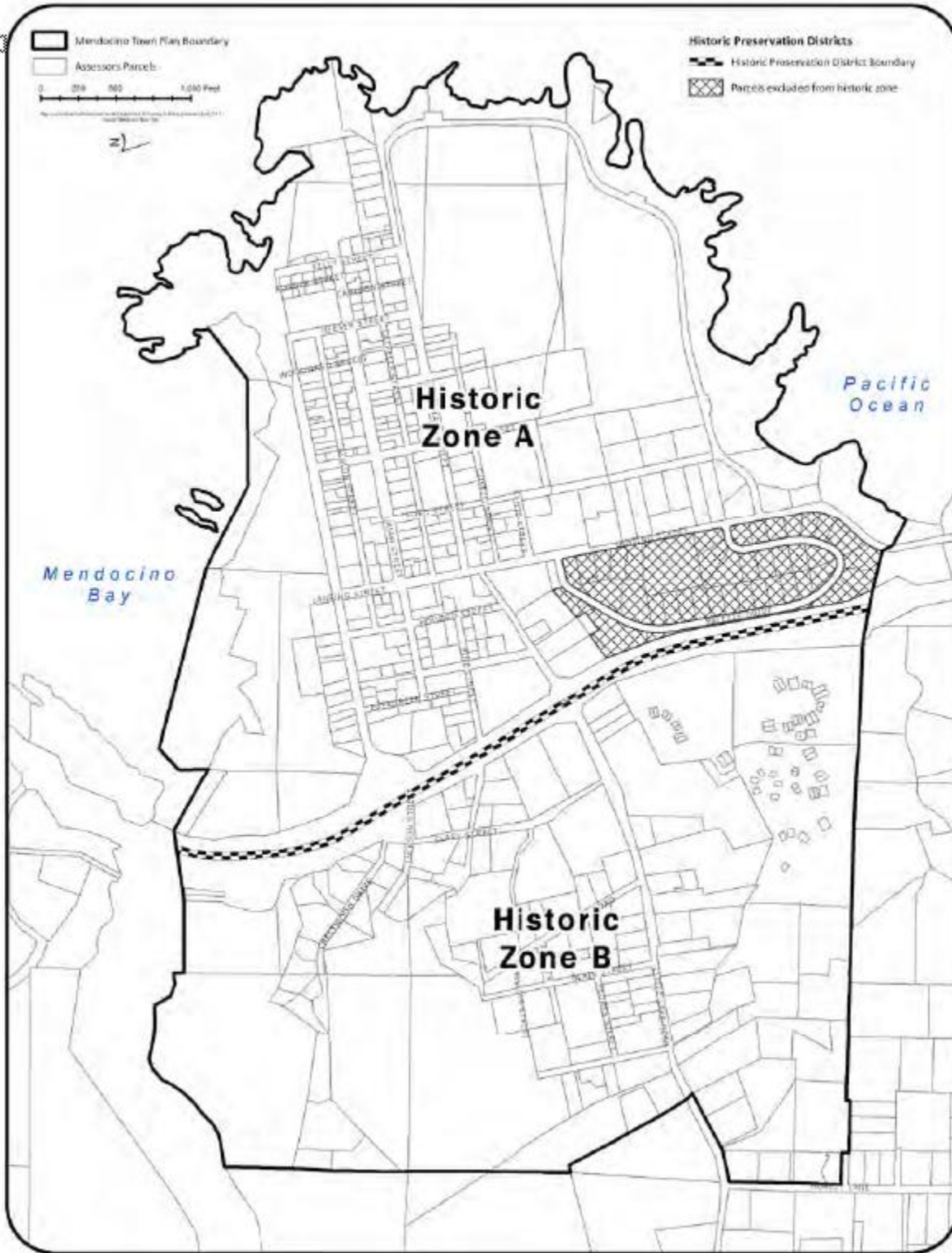
The Mendocino Town Plan Land Use Map (Figure 2-6) shows that the downtown area is comprised largely of residential and commercial uses, but also has a large amount of public facility use designation and nearby open space in the Mendocino Headlands State Park. East of State Route 1 is some suburban residential development, as well as more rural residential development and open space. The specific zoning designations for the Town of Mendocino are listed below and are based on the Mendocino Town Plan. Both the Mendocino Town Land Use Map and Mendocino Town Zoning Map were last updated on November 7, 2017. Both Plans were adopted by the Mendocino County Board of Supervisors and certified by the California Coastal Commission.

- MC - Commercial
- MMU - Mixed Use
- MRM - Multiple Family Residential
- MOS - Open Space
- MPF - Public Facilities
- MRR1 - Rural Residential (1 acre minimum)
- MRR2 - Rural Residential (2 acre minimum)
- MRR2: - PD Rural Residential (Planned Development)
- MSR – Suburban Residential
- MTR – Mendocino Town Residential

The Mendocino Town Zoning Map shows the Town boundaries as approved by the California Coastal Commission in the 1990 geographic segmentation of the Town for Local Coastal Plan map purposes. The map also shows hotels, inns, and bed and breakfast accommodations (Figure 2-7).

(County, 2017)

Figure 2-5 Mendocino Town Plan Historic Zones



Source: County, 2017.

2.5.1.6 Development

Existing development in the Town of Mendocino consists primarily of residential, commercial, public facilities, and open space uses. The controlling goal of the Town Plan, as stated in Coastal Element Policy 4.13-1, is the preservation of the Town's character, which is a blend of historic character, the natural setting, the aesthetic features of the of the architecture and land forms, and the blend of cultural, educational and commercial facilities. The Plan seeks to preserve the Town's character while allowing for orderly growth. The community seeks to balance residential units, visitor accommodations and commercial uses, while providing open space and siting structures to retain public views of the sea. Specifically, this balance is implemented by regulating additional commercial uses through development limitations cited in the Mixed Use and Commercial Land Use Classifications and by limiting the number of visitor-serving uses.

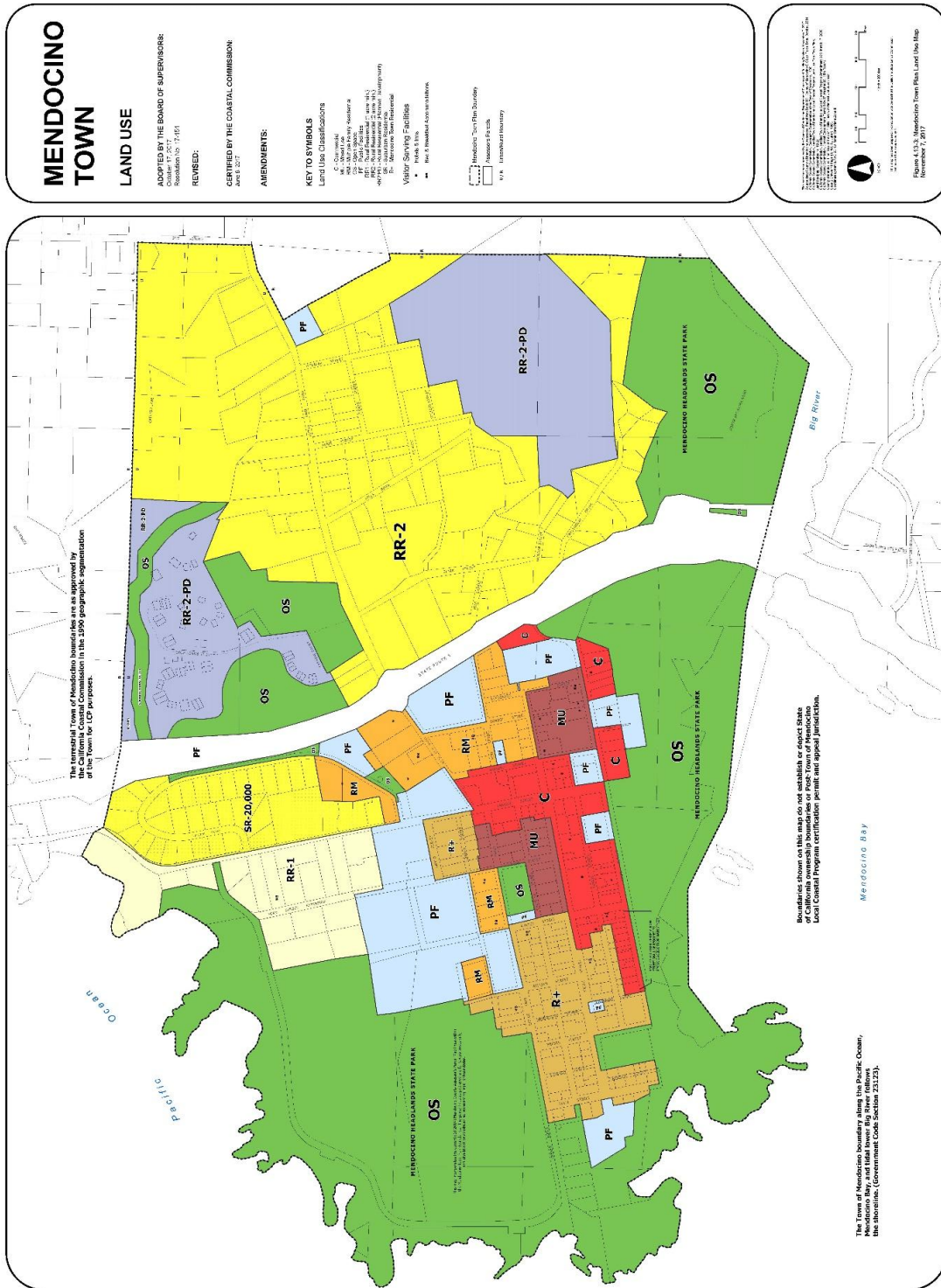
The Town has a large number of visitor-serving facilities, including hostels, hotels, bed and breakfast inns, motels, student/instructor temporary housing, single unit rentals, and vacation home rentals, as denoted on the Town Plan Land Use and Zoning Maps (Figure 2-6 and 2-7). The Mendocino Town Plan designates existing Visitor Serving Facilities providing overnight accommodations on a parcel-by-parcel basis by placing the appropriate designation on the Town Plan Map. Any additional Visitor Serving Facilities for overnight accommodations above and beyond these designations require a Plan amendment. No hotels or motels with more than 25 overnight units are permitted. Existing visitor serving facilities that propose to expand beyond the maximum number of units listed in the Plan require a General Plan Amendment. Visitor Serving Units remain fixed, with a ratio of 13 long-term dwelling units to one Vacation Home Rental or one Single Unit Rental.

To maintain the scale of the town, the Town Plan land use classifications limit the size of a single store to 8,000 square feet. Much of the downtown area is designated mixed use, with arts and crafts studios and professional offices. The intent of the Town Plan is to continue this mix, while maintaining an environment that will encourage new residential investment. North of Saint Anthony's Church along the west side of Lansing Street, the plan shows one unit per acre. In the Palette Drive area on the east side of Lansing Street a pattern of 20,000 square foot lots is established, with the exception of the Hill House property which is RM.

East of SR 1 the plan recognizes the Hills Ranch Planned Unit Development, approved with 54 units on 40.6 acres, and designates the remaining area east of SR 1 as two-acre minimum sites. Two large parcels totaling approximately 41 acres at the southeast boundary of the district are shown as planned unit development to ensure the preservation of the wooded hillside viewed from the south side of Big River and by north bound traffic on SR 1. The plan notes existing public facilities, such as schools, churches, cemeteries, community buildings, and utilities, and assumes that all will remain.

Acquisition of Mendocino Headlands State Park in 1975 preserved the town's setting. Grindle Park on Little Lake Road, the only locally controlled public open space, was deeded to the Town by the heirs of an early resident and is now owned by the Mendocino Fire Protection District. Heider Field, a parcel of approximately one acre in the center of town, has been acquired by State Parks and Recreation to remain as community open space. Mendocino's present charm is in part dependent on the many vacant or partially unused parcels within the town. The plan calls for three approaches to preservation of some of this open space: dedication of scenic easements, special site planning standards, and property acquisition.

Figure 2-6 Mendocino Land Use



Source: County, 2017.

be intermixed with commercial uses in the Commercial (C) and Mixed Use (MU) land use classifications, limiting the conversion of dwelling units to non-residential uses, and allowing for student/instructor intermittent temporary housing in the Mendocino Art Center.

(County, 2017)

Growth in the community is governed both by the applicable land use regulatory authorities of Mendocino County and the California Coastal Commission, and by groundwater resource and wastewater system constraints. Growth of the wastewater system could occur through new development within the MCCSD boundaries or expansion of the system to serve existing areas adjacent to the District in the 2008 Sphere of Influence area currently utilizing on-site septic systems. There are currently approximately 87 acres of undeveloped land within the District, and approximately 125 acres of land adjacent to the District's boundaries contained within the 2008 Sphere of Influence. The wastewater system is generally in good condition with sufficient capacity for full build out within the 2008 Sphere of Influence (SHN, 2010). Groundwater resources, however, may be limited depending on specific location and use, and so are evaluated on a case-by-case basis as development occurs.

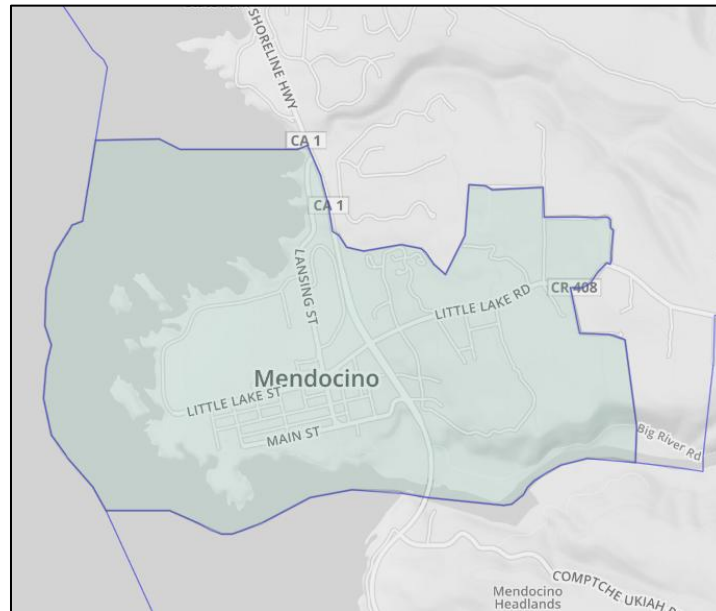
2.5.2 EXISTING POPULATION AND PROJECTED GROWTH

The Town of Mendocino is a Census Designated Place (CDP) in Mendocino County. According to the Census Bureau, Mendocino CDP has a total area of 7.4 square miles, of which 2.3 square miles are land and 5.2 square miles are water. As of the 2010 census, there were 894 persons living in Mendocino, up from 824 in 2000. Of those, 830 people lived in households, 64 lived in non-institutionalized group quarters, and 10 were institutionalized. There were 447 households. The average household size was 1.86, down from 1.94 in 2000, and the average family size was 2.41, also down from 2.51 in 2000. Median age was 56.1 years. There were 617 housing units at an average density of 83.1 per square mile, of which 271 were occupied by renters. The homeowner vacancy rate was 3.9 percent and the rental vacancy rate was 9.2 percent.

While the CDP boundaries are not the same as the District; this information provides some insight into demographic circumstances of the District. The size of the District is slightly over one square mile.

According to the American Community Surveys Demographic and Housing Estimates for 2018, there are 548 housing units in Mendocino CDP, with the total population of 782 being divided at 61.6 percent male, 38.4 percent female, and with a median age of 55.8.

Based on the 2013-2017 American Community Survey 5-Year Estimates, the population estimate for Block Group 4 is 782 (USCB, 2018a) as shown in Figure 2-8 below.

Figure 2-8 MCCSD and Block Group 4 Boundaries

Source: US Census Bureau: ACS 5-Year Estimates, 2018.

Another way to determine the estimated population size for the District is the number of residential units, or wastewater service connections, multiplied by the average household size. Based on CDP data of 1.86 persons per household and the District's current data of 425 residential wastewater service connections, there are approximately 790 people residing in the District. For the purposes of this study, the current District population is estimated to be approximately 800 people.

Population growth is expected to increase at an annual rate of approximately 0.5 percent for Mendocino County (DOT, 2017). Based on this growth rate, the District can expect a small population increase of 20 people within the next five years.

2.6 DISADVANTAGED UNINCORPORATED COMMUNITIES

Senate Bill (SB) 244, which became effective in January 2012, requires LAFCo to evaluate any Disadvantaged Unincorporated Communities (DUCs), including the location and characteristics of any such communities, when preparing an MSR that addresses agencies that provide water, wastewater, or structural fire protection services. A DUC is an unincorporated geographic area with 12 or more registered voters with a median household income (MHI) that is less than 80 percent of the State MHI. This State legislation is intended to ensure that the needs of these communities are met when considering service extensions and/or annexations in unincorporated areas.

The Town of Mendocino is a Census Designated Place (CDP). Mendocino CDP and two adjacent census tract block groups have been evaluated and the economic information from Table 2.7 below shows that the District and surrounding areas do not meet the income threshold to qualify as a DUC. MHI data is not available at a geographic unit smaller than census tract block group in order to conduct a more refined level of economic analysis for the north end of Lansing Street and Road 500D. Special consideration will be given to any future identified DUCs affected by future annexation proposals consistent with GC §56375(8)(A) and LAFCo Policy.

Table 2.7 2018 Median Household Income (MHI)	
California MHI	\$75,277
80% of California MHI	\$60,222
Mendocino CDP MHI	\$63,801
Block Group 2, Census Tract 110.2 MHI	\$73,097
Block Group 3, Census Tract 110.2 MHI	\$82,596

Source: United States Census Bureau website: <https://data.census.gov/cedsci/>
 2018: American Community Survey (ACS) 5-Year Estimates Detailed Tables
 Table B19013: Median Household Income in the Past 12 Months (In 2018 Inflation-Adjusted Dollars)

DRAFT

3 MUNICIPAL SERVICES

A Municipal Service Review (MSR) is a comprehensive analysis of the services provided by a local government agency to evaluate the capabilities of that agency to meet the public service needs of their current and future service area. The MSR determinations inform the SOI Update process and assist LAFCo in considering the appropriateness of a public service provider's existing and future service area boundary. The information and analysis presented in Chapters 2 and 3 of this document form the basis for the MSR determinations provided under Section 3.7.

3.1 SERVICE OVERVIEW

3.1.1 SERVICES

Mendocino City CSD provides the following municipal services:

- Wastewater Collection and Treatment
- Groundwater Management
- Street Lighting

Planning and design review is provided by the Historical Review Board, and additional municipal services are provided to District residents by other public agencies or non-profit organizations through agreements and by private businesses through service contracts, as detailed in Section 2.3.4.

This MSR only reviews services provided by the District. This is the second MSR prepared for the District; the first one was adopted by the Commission on November 3, 2008 (LAFCo Resolution No. 2008-08).

3.1.2 OUT-OF-AGENCY SERVICES

The District provides out-of-agency services (OAS) by agreement to Russian Gulch State Park, which is located approximately one mile north of the District boundaries. The agreement to serve Russian Gulch and Headlands State Parks allowed the District to establish the wastewater system in the 1970s by locating the District's wastewater treatment plant on Headlands State Park land; it appears that Russian Gulch State Park was never within the District boundary. The District does not provide any other OAS.

Local agencies are required to obtain LAFCo approval prior to entering into contracts with private individuals or organizations to provide services outside of the agency's boundaries. However, an extended service that a city or district was providing on or before January 1, 2001 is exempt from LAFCo review pursuant to GOV §56133(e)(4). The District's OAS to Russian Gulch State Park was established in the 1970s and is therefore exempt from LAFCo approval.

3.2 WASTEWATER

3.2.1 SERVICE OVERVIEW

The District owns, operates, and maintains a public wastewater system. The District estimates that the wastewater system serves approximately 3,499 people daily, including the Headlands and Russian Gulch State Parks visitors (Table 3.1). The MCCSD wastewater service area is predominantly characterized by

residential and commercial development and open space, with one larger institutional user, the Mendocino Unified School District. There is no industrial flow to the MCCSD sewerage system.

Type	#
Residents	497
Inn guests	450
Business employees	250
Restaurant employees	80
Russian Gulch SP overnight	200
Grocery Stores employees	12
Headlands SP day visitors *	1,700
Russian Gulch & Headlands State Parks employees	10
MUSD students	250
MUSD teachers and staff	30
Hall, theater, church employees	20
Total	3,499
* The figure for Headlands State Park is conservative; State Parks estimates 2,500 daily visitors.	

The District reports the following wastewater customers by use type: 425 residences, 1 cottage industry, 11 guest cottages, 2 sleeping units, 26 vacation homes, 255 hotels, motels, and bed and breakfasts, and a number of commercial and institutional uses. There are also 12 residences served by on-site septic systems within the District boundaries. Usually the residences on the visitor accommodation parcels are for the manager or owner of the inn or Bed & Breakfast. There are no industrial dischargers in the District.

The MCCSD wastewater system is comprised of collection, treatment and disposal facilities. The District manages and maintains over 47,000 feet of collection system sewer lines and 3 lift stations (Figure 3-1). The California Department of Parks and Recreation maintains a collection system and fourth lift station at Russian Gulch State Park. State Park wastewater is pumped from their lift station through a force main to the MCCSD gravity collection system. Wastewater collected from the Mendocino wastewater system is treated at the District's wastewater treatment plant. The plant provides full tertiary treatment before discharge via an ocean outfall.

3.2.2 WASTEWATER SYSTEM MANAGEMENT PLAN

MCCSD's sewer services are regulated under the Statewide General Waste Discharge Requirements (WDR), which mandates the development of a Sewer System Management Plan (SSMP) and the reporting of SSOs using an electronic reporting system. The SSMP outlines the annual management and scheduled maintenance for the sewer lines and the District's three lift stations. The District last updated its SSMP in 2018.

The SSMP identifies the staff responsible for various elements and programs of the SSMP, including for its overflow emergency response plan, system evaluation and capacity assurance plan, and fats, oil, and grease (FOG) control program. It also identifies the chain of communication for responding to and reporting SSOs. It provides details on its operation and maintenance program, which includes

maintaining map layers of wells, manholes, and sewer lines; how and on what schedules sewer lines are cleaned and videotaped; and provides a maintenance schedule as shown in Figure 3-2.

3.2.3 COLLECTION SYSTEM

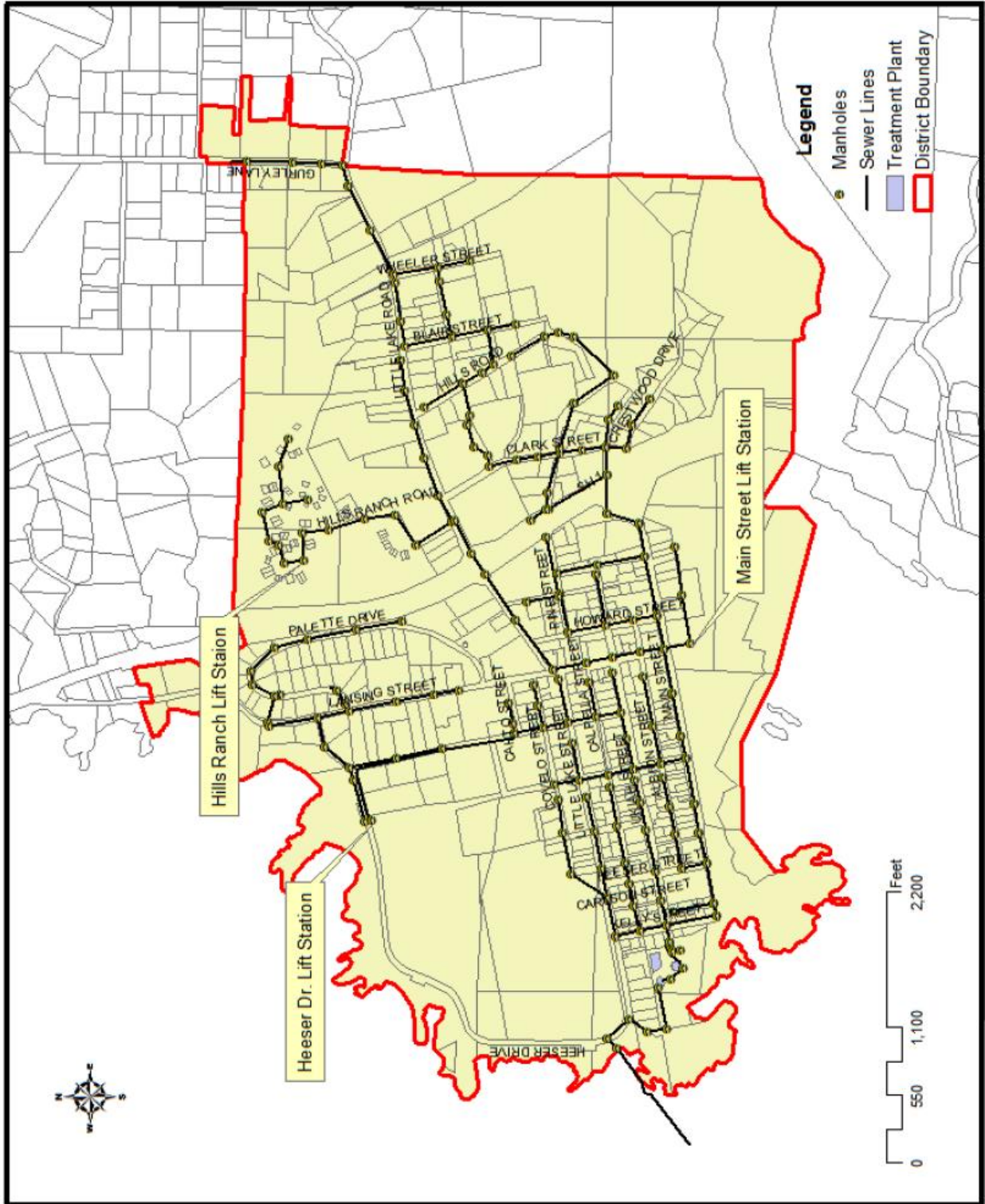
The District's wastewater collection system is comprised of vitrified clay, concrete, and PVC pipe ranging in size from 15-inch trunk lines to 4-inch laterals. The collection system includes the major portion of the system that was built in the mid 1970's, several pre-existing concrete collection lines, and a private collection system constructed three years after the District system was completed in the Hills Ranch Subdivision.

Several of the old sewer lines were incorporated into the District collection system that was completed in 1975. The date of the installation of the original system is unknown. In 2003, the District added a privately owned Hills Ranch Subdivision collection system and lift station at the request of the property owners. This system was constructed in 1978.

Three lift stations, "A" (Main Street), "B" (Heeser Drive), and "C" (Hills Ranch) are now maintained and operated by the MCCSD. Originally, lift stations "A" and "B" served only a limited number of local residents and had wet wells designed to provide 12 hours storage capacity, which eliminates the need for standby power facilities. Hills Ranch Lift Station C, located in the Suntrap Meadow Circle cul-de-sac, collects wastewater from the areas within the subdivision. This station pumps wastewater by means of centrifugal pumps through a 4-inch PVC force main to the gravity portion of the system at Manhole No. HR9 located in the intersection of Hills Ranch Road and Suntrap Meadow Circle. The lift station has an emergency generator.

In addition to the District's three lift stations, the California Department of Parks and Recreation maintains a collection system and lift station at Russian Gulch State Park. Park water is pumped from their lift station through a force main to the MCCSD gravity system. Headlands State Park, with whom the District has a contract to provide wastewater services, discharges directly into the gravity system.

Figure 3-1 Location Map Showing MCCSD Collection System and Lift Stations



Source: MCCSD, 2018.

3.2.4 OPERATION AND MAINTENANCE PROGRAM

The District has a System Operation and Maintenance Program (SOMP) which establishes procedures intended to prevent or minimize the potential for sanitary sewer overflows. The program includes guidelines for the operation and maintenance of the sanitary sewer collection system, which includes a detailed discussion about the District's collection system maps, operation and maintenance activities, the District's capital improvement program, system rehabilitation and replacement, and District personnel training. As part of the SOMP, MCCSD has developed a five-year cleaning and videotaping schedule of the sewer lines and lift stations. The District performs ongoing repair and maintenance activities to the collection system and the ocean outfall line as needed. Any damage to the collection system found during regular collection system maintenance is repaired during that year.

To prevent or contain SSOs, the District has emergency pump-around and containment equipment for sewer line blockages. This equipment is installed until the blockage is cleared and any wastewater that has been contained in a storm drain is pumped back to the gravity collection system. Plant operators are given regular training in the operation and setup of the pump-around and containment equipment.

Areas where visual or video inspections indicate repeated or unusual accumulation of grease, grit, roots or other debris, or in areas with a past history of sewage blockages, are considered hot spots. Hot spots are cleaned as frequently as necessary to prevent sewer line blockages and spills; however, in no case is the interval greater than once annually for cleaning or inspection. Hot spots are also mapped and added to the Collection System Operation and Maintenance Program when they are identified.

The variety of lift station equipment requires different operation and maintenance procedures for each lift station design and the type of pumps that are used at each station. To facilitate the maintenance of the District's lift stations, a pump run is initiated several times during the week during routine inspections. Routine maintenance is performed, including the monthly greasing of all bearing and fittings, until major service is required. Additional pump maintenance is based upon manufacturer's recommendations. A checklist, tailored to each site, is used to document and assist in the routine maintenance. Routine maintenance is performed at each lift station from a weekly maintenance checklist printed from the District's Jet Stream maintenance program. Work performed at the lift stations is entered into the District's wastewater maintenance database on a weekly basis from the data obtained from the checklist.

Each lift station has an emergency bypass, so in case of a prolonged power outage or an equipment failure the lift station wet well can be pumped to the gravity portion of the collection system. A bypass pump installed in the wet well is powered by an emergency generator in these situations. District personnel are trained on the setup and operation of this equipment. The District also has a Safety Program that includes training in confined space entry, infections and infectious diseases, traffic hazards, and underground excavation safety.

3.2.4.1 Collection System Maps

In 2001, the District approved development of a Geographic Information System (GIS) for the wastewater system. Manhole and sewer line layers were created to show the sewer lines between manholes. An attribute table with manhole and sewer line information was georeferenced to each manhole and sewer line, which lists the line type, line material and the pipe diameter. The District is able to use the attribute table and map displays for collection system maintenance scheduling, to query information about the system, and to create maps and labels. A well layer was also created with the

location of 420 wells, along with an attributes table that includes well depths and coordinates. The collection system overlies the town's shallow aquifer, as knowing the location of all wells in relation to the collection system is critical to preventing contamination of the groundwater supply. The sewer line layer was used to create a no-well-drilling buffer zone. Mendocino County restricts well drilling within 50 feet of a sewer line.

New lateral connections and existing laterals are added to the sewer lateral layer as needed. A hot spot layer will also be generated in the near future to assist maintenance crews to regularly maintain these trouble areas.

3.2.4.2 Sewer Line Cleaning

In 2009, MCCSD purchased a trailer mounted high pressure jetter for sewer line cleaning of sewer mains and emergency cleaning of mainline blockages. In 2011 MCCSD purchased an Aries Portable Pipeline Television Inspection System. The District cleans and videotapes the collection system using the jetter and camera system. Contractors are used to clean lift station wet wells. Normally one-fifth of the collection system and hot spot areas are cleaned on an annual basis. There are several old sections of the collection system that are not accessible to jetting equipment or are exceptionally long sections without manhole access. In these areas, flushing is used to keep the lines clear of material that may cause blockages.

3.2.4.3 Videotaping of Sewer Lines

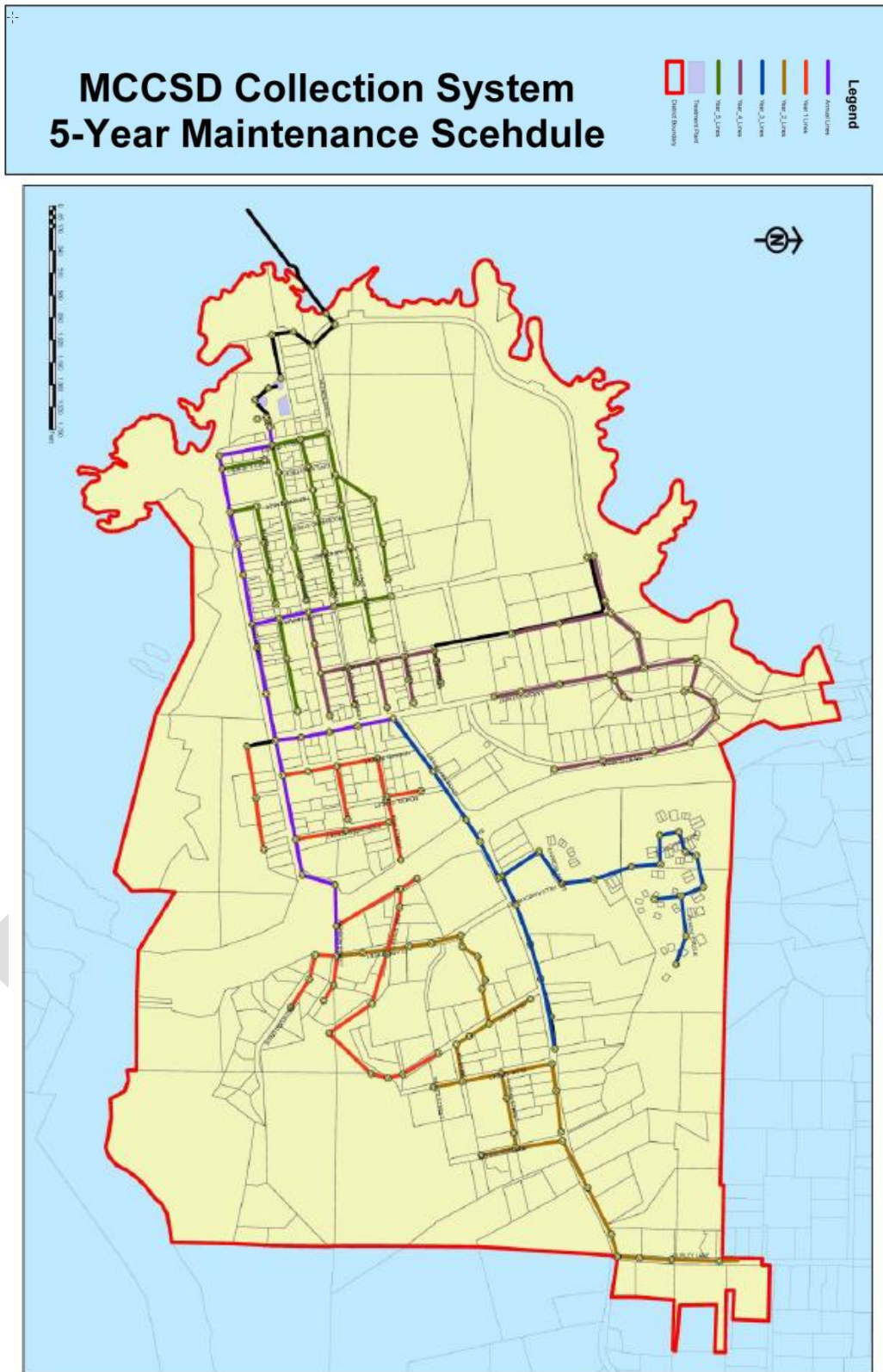
During annual cleaning, all sewer lines that are high pressure water jetted are then videoed and recorded. The video recording is used to locate damage to the collection system, which is next scheduled for repair during the current budget year. Hot spots are video inspected to determine if the cause is due to damage, root intrusion, breakage or separation, etc., and corrective actions are then initiated.

3.2.4.4 Record Keeping

The District maintains collection system cleaning logs and video recording records, which are then used to locate and schedule repairs to damaged sections. The Sewer Maintenance Database is regularly updated from the data collected during annual maintenance. Maintenance logs include data on hot spot line segments, the condition of lines, line size and type, and any offset or cracked sewer lines.

(MCCSD, 2018)

Figure 3-2 Five-Year Collection System Maintenance Program Map



Source: MCCSD, 2018.

3.2.5 SYSTEM CAPACITY

The MCCSD wastewater collection, treatment, and disposal facilities serve a community with an approximate resident population of 800, covering an area of approximately one square mile. This area is predominantly characterized as oceanside residential, commercial, and visitor serving facilities.

The District's total plant capacity is divided by an Equivalent Single Dwelling (ESD) of system capacity and there are 1,500 ESDs of plant capacity in the MCCSD wastewater system. In FY 2016-17, 1,098.36 ESDs of plant capacity were collected from past and current users. The remaining portion (401.64 ESDs of plant capacity) of the capital costs of the system will be recovered from future users and expanding users through connection fees.

In 2020, there are 1,115 ESDs of wastewater system use resulting in a remaining plant capacity of 385 ESDs for new development, changes in use, and expansion of existing uses (MCCSD).

Growth of the wastewater system could occur through new development within the boundaries of the MCCSD or expansion of the system to serve existing areas adjacent to the MCCSD currently utilizing on-site sewage disposal systems (septic systems). There are approximately 87 acres of undeveloped land within the District, and approximately 125 acres of land adjacent to the District's boundaries contained within the 2008 Sphere of Influence. However, growth in Mendocino is anticipated at only 0.5 percent per year, for a total population increase of only 20 individuals within the next five years.

The District completed a Sewer System Capacity Analyses study in November 2009. The study was performed by SHN Consulting Engineers & Geologists, Inc. to inventory collection system components, determine the effects of population growth on existing wastewater capacity, and analyze and evaluate wastewater collection system performance during peak day flows and storm and wet weather events. The study also measured collection system inflow and infiltration. SHN hydraulically modeled the collection system to recognize hydraulic deficiencies that could lead to future SSOs. A capital improvement plan was included in the SHN report. Eight capital improvement projects with their 2010 estimated costs were recommended by SHN, as shown in Figure 3-3 below, which have not been completed to date. (MCCSD, 2018)

Figure 3-3 Capital Improvements Summary

Project #	Location	Description	Estimated Cost
Project #1	MH 10 to MH 11	Upgrade line size from 15" to 24"	\$98,337
Project #2	MH 16 to MH 19	Repair/Replacement for Sags	\$212,850
Project #3	MH 4A to C/O 4A	Manhole Additions	\$29,700
Project #4	MH 81 to hr0 and hr0 to hr1	Upgrade line size from 6" to 8"	\$159,300
Project #5	MH H to MH I and MH I to MH J	Upgrade line materials from Plastic to PVC	\$132,894
Project #6	MH 47 to C/O 47 and C/O 47 to Capped Main Line	Manhole Additions	\$23,625
Project #7	MH 73 to C/O 73 to C/O 73a to C/O at Parcel	Manhole Additions	\$29,025
Project #8	Various Locations	Root Treatment	\$10,000

The SHN report indicates that the wastewater system is in good condition and that the system currently has no capacity problems and will not have capacity problems even at build out, except where an oversized line was installed on an extremely low slope. One of the improvements included in the capital improvements recommendations is replacement of this section of line; however, the priority for

implementing this project is low. Other project identified in Figure 3-3 above address specific defects or material susceptible to failure. Overall, the collection system has been maintained in such a way that has extended the useful life of the system well past its design life, and continued maintenance at existing levels will continue to extend its practical functions.

(SHN, 2010)

3.2.6 FACILITIES AND ASSETS

The District owns, operates, and maintains multiple capital assets including land, structures, equipment, and infrastructure to provide services to its constituents. As of June 30, 2019, the District's capital assets totaled \$5,319,658, including projects in process. The District also has a no-cost lease from the State of California for one square-foot of ground space related to seven monitoring wells that was set to expire in October 2019. The District requested that the lease be renewed; however, State Parks has not renewed the lease to date (MCCSD, 2020).

The Districts owns and operates its wastewater collection, treatment, and disposal system, as described in Sections 3.3.1 and 3.3.3. It also owns office equipment and three vehicles to support its operations. Capital assets as of June 30, 2019, with depreciation, are shown in Figure 3-4 below.

Figure 3-4 MCCSD Capital Assets as of June 30, 2019

	Beginning Balance	Net additions and deletions	Ending Balance
Capital assets, not being depreciated:			
Projects in process	\$ 706,296	\$ 592,817	\$ 1,299,113
Land	1,600,000	-	1,600,000
Total capital assets, not being depreciated	<u>2,306,296</u>	<u>592,817</u>	<u>2,899,113</u>
Capital assets, being depreciated:			
Improvements & Infrastructure	\$ 4,649,129	\$ 10,249	\$ 4,659,378
Vehicles	46,800		46,800
Office equipment and furniture	50,736		50,736
Equipment	650,733	-	650,733
Total capital assets, being depreciated	<u>5,397,398</u>	<u>10,249</u>	<u>5,407,647</u>
Less accumulated depreciation for:	<u>(2,832,311)</u>	<u>(154,791)</u>	<u>(2,987,102)</u>
Total capital assets, being depreciated, net	<u>2,565,087</u>	<u>(144,542)</u>	<u>2,420,545</u>
Capital assets, net	<u>\$ 4,871,383</u>	<u>\$ 448,275</u>	<u>\$ 5,319,658</u>

Source: G&A, 2019.

The District is also in the process of upgrading its wastewater treatment plant as follows:

- Treatment plant process facilities: Construction of a new plant operations building, upgrade of the treatment plant's main electrical service, replacement of tertiary filter backwash control panel, upgrade of motor control panels in the blower room, and updating the electrical wiring throughout the treatment plant facility to current electrical code.

- Relocation of existing laboratory in the old control building to the new operations building.
- Relocation of service vehicle and sewer maintenance and emergency equipment into the new plant operations building's garage area.
- Installation of new electrical panel in the new plant operations building for future upgrade of the recycled water system, #2 plant water system, and chlorination and de-chlorination systems.
- Remodel of the District Office to meet ADA access compliance, addition of an ADA-compliant parking space with a path of travel between facility buildings, and conversion of the existing laboratory/ control room into a meeting room for monthly Board meetings.

The Notice of Award for the construction contract was issued in October 2019, and construction is anticipated to begin on the new operations building in spring 2020. The upgrade to the plant wiring will begin during the winter of 2019-20. (MCCSD, 2019b)

3.3 GROUNDWATER MANAGEMENT

3.3.1 GROUNDWATER MANAGEMENT OVERVIEW

Groundwater is the primary water supply for the unincorporated Town of Mendocino. Mendocino residents and business owners rely on approximately 420 privately owned wells for their water supply. Although the permanent population in the District is less than 800, the Town of Mendocino is a popular tourist destination, which increases the population served by the District substantially at various times of the year.

Groundwater is pumped from the unconfined Mendocino Headlands aquifer (Department of Water Resources Bulletin 118 Groundwater Basin 1-021, Fort Bragg Terrace Area Basin). Unlike typical California groundwater basins, which contain alluvial sediments surrounded by low permeability bedrock that holds the water in the basin, the Mendocino Headlands are surrounded by cliffs. A major portion of the annual inflow into the aquifer is discharged through these cliffs via springs generally within the same water year, so a significant amount of water loss occurs annually.

Groundwater conditions are strongly influenced by the amount of annual precipitation. Historically, the Town of Mendocino has experienced water shortages during dry years and even during years with normal rainfall. In response to the high concentration of wells, lack of inter-annual (carryover groundwater) storage in the aquifer, and frequent water shortages, MCCSD obtained groundwater management authority in 1987 (CWC § 10700 et seq.) under Assembly Bill 786, which provided the District with the authority to establish programs for the management of groundwater resources within the District. Prior to enactment of AB 786, the Mendocino County Department of Environmental Health enforced the groundwater extraction provisions of the Mendocino Town Plan. In 1990, MCCSD assumed responsibility of groundwater management from Mendocino County.

The groundwater management authority provided in Water Code 10700 et seq. was considered an interim authority until the District could find a water source suitable for a community water system. Due to a lack of water source, however, a community water system has never been completed, and the Groundwater Management Plan, which limits water extraction, has stayed in effect.

The Groundwater Management Plan was initially developed in 1990, along with a Groundwater Extraction Permit Ordinance, to limit groundwater withdrawals from the Mendocino Headlands aquifer.

The Groundwater Management Plan was most recently updated in 2019, and includes a Water Conservation Program, Data Management Program, Groundwater Monitoring Program, Water Recycling Program, and Water Shortage Contingency Plan.

The primary goals of the Groundwater Management Plan are to:

- Promote water conservation
- Limit groundwater withdrawals to prevent aquifer overdraft
- Manage Mendocino’s groundwater supply during drought
- Ensure groundwater quality is protected
- Develop groundwater management programs that serve as a foundation for groundwater management decision-making

(MCCSD, 2019c)

3.3.1.1 Gomes v. MCCSD

On June 30, 2015, Mr. Gomes filed legal action against the MCCSD in a Petition for Writ of Mandate and Complaint for Declaratory Relief and Damages. The petition was heard by Judge Richard Henderson who denied Gomes all relief on his petition. Mr. Gomes then filed a First Amended Complaint on June 13, 2016 which added claims for alleged taking of property for public use without compensation, violation of procedural and substantive due process, and damages claiming the fines levied by the District for Mr. Gomes’ non-compliance with the Groundwater Management Program were unconstitutional excessive fines. Trial of these claims was held before Judge Cindee Mayfield who denied Mr. Gomes all relief on his complaint and upheld the District Groundwater Management Program.

Mr. Gomes then appealed the denial of the petition and complaint. On appeal, the court found that the District has the authority to manage groundwater within the district (based on California Water Code § 10700 et seq.). However, the court determined that the District should have used the “majority protest” procedures found in Water Code §10703-10706 when adopting changes to the Groundwater Management Program in 2007. The District had followed those procedures when initially adopting its Groundwater Management Program in 1990. The District held multiple public hearings prior to adopting the 2007 amendments to its Groundwater Management Program, but did not precisely follow the “majority protest” provisions of the Water Code as it did not appear to the District that the procedure was required for the changes made in 2007.

The trial court judge had agreed with this determination, but the court of appeal reversed on that narrow procedural ground and awarded Mr. Gomes \$128,000 in Attorney fees. The District recently re-adopting its 2007 Groundwater Management Program using the procedures set forth in the Water Code. The resolutions of intention to adopt the Water Shortage Contingency Plan and related ordinances were passed by the MCCSD Board of Directors, and a determination has been made that there has been no majority protest against the Groundwater Management Program.

(MCCSD, 2020)

3.3.2 WATER DEMAND AND CAPACITY

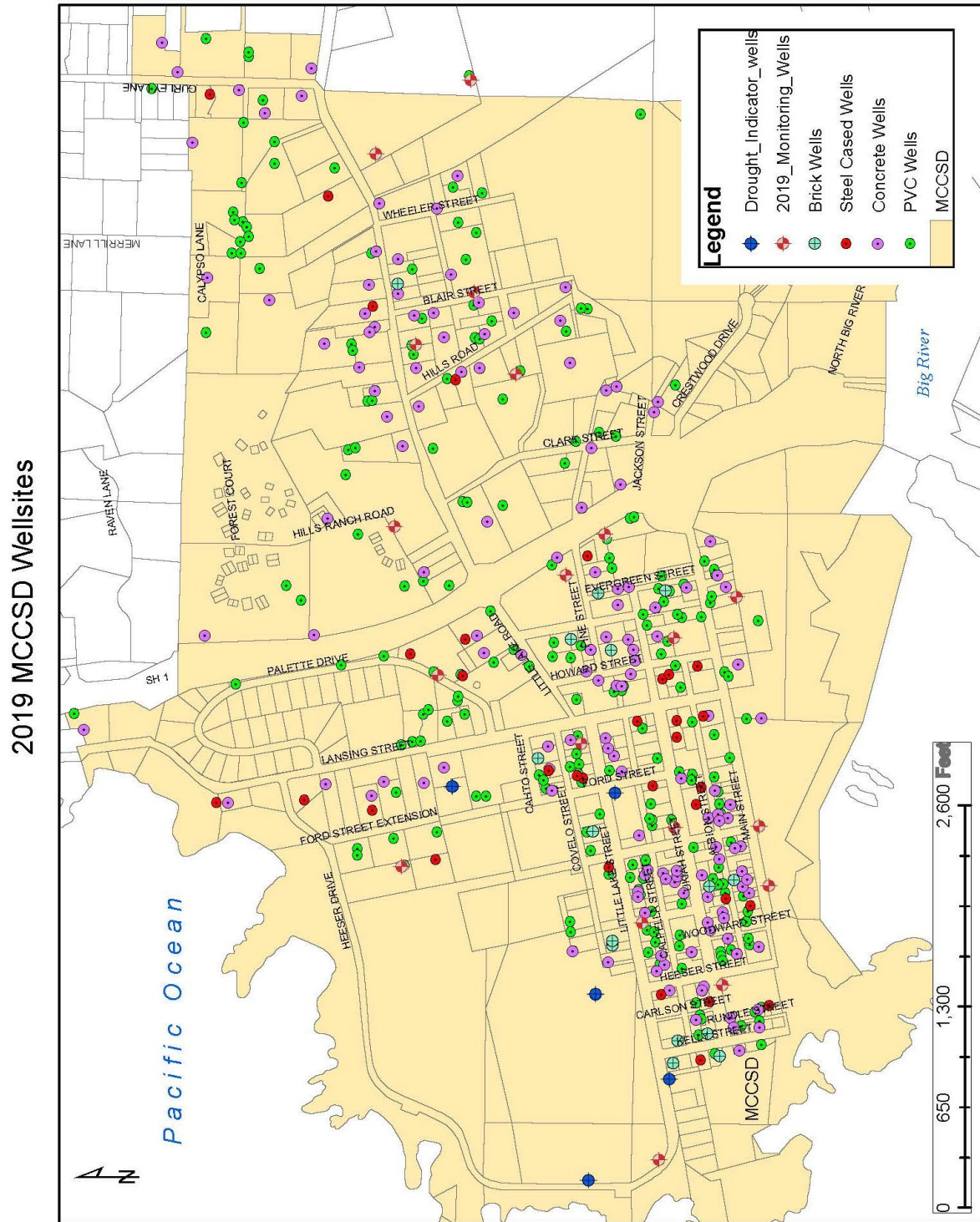
The permanent population of the Town of Mendocino is about 800. However, Mendocino is a well-known tourist destination and the population increases by approximately 524 during the high tourist

season based on full lodging facilities from the Mendocino Town Plan. The main business district of the Town of Mendocino is along the southern portion of the peninsula along Mendocino Bay. The population is concentrated near the main business district. Other residential areas are located to the north and east of the main business district. The northern and western portions of the peninsula are primarily open space with much of the land included in Mendocino Headlands State Park.

As shown in Figure 3-5 below, groundwater wells are located throughout the extent of the District, with the highest density of pumping wells lying in the southern portion of the Mendocino Headlands where commercial development is most concentrated. Well depths typically range between 40 to 200 feet, with most new wells in the range of 100 to 150 feet. A few older wells are as shallow as 20 to 25 feet. Shallower wells may be completed solely in the terrace gravels; however, most wells are composite and are completed in the underlying Franciscan bedrock. Flow rates to wells are quite variable, but typically range from less than 1 gallon per minute (gpm) to over 25 gpm. Wells which produce above 10 gpm are considered high yield wells in this area, while high yield wells in most areas typically produce over 100 gpm. Higher flow rates are typically for short time intervals and during high water level periods during the winter months.

Because of these low yields, most properties employ storage tanks and, through the MCCSD, the community has implemented significant water conservation measures. Even so, some wells run dry in the late fall months, especially in drier than normal years, and water is trucked in to replenish storage tanks at several properties on a regular basis in the fall. This practice becomes more widespread during periods of drought.

Figure 3-5 2019 MCCSD Well Locations



Source: MCCSD, 2019c.

As shown in Table 3.1, residential users represent the largest amount of groundwater demand, with visitor-serving uses such as vacation and hotel accommodations and restaurants also using a considerable amount of groundwater.

User Category	Gal/day
Residential	118,396
Inns, Hotels, B&Bs, Vac. Home Rentals	40,938
Restaurants, Bars	31,708
Retail, Office, Grocery, Service, Vet., Station, Home Occupation, Personal Services, gov. buildings	26,344
Library, MFPD	690
Churches, Halls	4,175
Ballpark, Community Center	2,314-
Rainbow School	240
Headlands Park	2,000
TOTAL (gallons per day)	226,805
TOTAL (acre-feet per year)	254.07

Source: MCCSD, 2019c.

3.3.3 WATER SUPPLY CONSERVATION AND ENHANCEMENT

The function of the Groundwater Management Plan is to conserve water in order to strike a balance between the water needs of the community and the amount of water available on an annual basis. To that end, the Groundwater Management Plan includes several plans and programs to monitor water usage, model future supply and demand, and limit groundwater use. These programs include the groundwater extraction permit ordinance, water conservation program, groundwater monitoring program, water recycling program, data management program, and water shortage contingency plan.

3.3.3.1 Groundwater Model

In 2002, MCCSD received a California Department of Water Resources (DWR) Local Groundwater Management Assistance Grant, in part for the purpose of developing a groundwater model using the U.S. Geological Survey developed model code MODFLOW to assist MCCSD in managing the groundwater resources for the Town of Mendocino. Other portions of the grant funded the development of an updated groundwater monitoring system, including the drilling and completion of ten new monitoring wells to supplement the existing monitoring well network.

A numerical model, Groundwater Modeling Study of the Mendocino Headlands, was developed to help implement the District's groundwater management program. Model development combined the existing understanding of the Mendocino Headland hydrogeology from the DWR 1985 study with recently collected data from the MCCSD. This existing data includes historic pump test results, new pump tests completed on the monitoring wells, a well water level canvass, and topographic survey information. The model development includes locating the saturated zones of the marine terrace deposits. Model calibration was based on groundwater elevation data collected by MCCSD from wells in the area. From the model results, an estimate of the perennial or safe yield of the Mendocino Headlands aquifer was calculated.

The Groundwater Model has been updated several times since its development as additional groundwater data, new hydrologic budgets, and updated software become available. Water data has been updated to incorporate recent years, and the results compared to measured groundwater elevation data. Drought criteria in the 2007 Water Shortage Contingency Plan has also been updated. The long-term “sustainable” yield for the Mendocino Headlands aquifer and a series of model scenarios to evaluate groundwater conditions at potential future “build-out” has also been evaluated. A number of different scenarios and conditions has also been evaluated, including various rainfall conditions, groundwater conditions during droughts, and the effects of water conservation on the groundwater supply.

3.3.3.2 Groundwater Extraction Permit Ordinance

On January 29, 1990 MCCSD adopted a Resolution of Intention, Resolution No. 113, to adopt the Groundwater Management Plan. On February 26, 1990 the District Board of Directors voted in favor of Groundwater Extraction Permit Ordinance 90-1, which was the first element in the District’s groundwater management program. The Ordinance included groundwater extraction permitting procedures and a mandatory water conservation requirement. Since that time, there have been several amendments to the Groundwater Extraction Permit Ordinance (Resolutions 91-3, 92-2, 00-1, 01-1, and 04-1), which have clarified the original ordinance, outlined the hydrological study and aquifer test procedures and methodology, enabled the ordinance to conform to the Mendocino Coastal Groundwater Development Guidelines, defined several terms, and addressed the issue of cumulative effects to surrounding wells during aquifer testing.

The District’s extraction permit ordinance requires any person seeking to extract groundwater for a new development, change in use, or expansion of existing use to apply for and obtain a valid and current MCCSD Groundwater Extraction Permit (GWEP). The GWEP process includes a hydrological study and aquifer pump test. Approval of the hydrological study is a prerequisite for application of the GWEP, and issuance of a GWEP is a prerequisite to the issuance of a County building permit for any new development or a use permit for any change in use within the District. Water may not be imported from outside the District to supplement available local groundwater for the purpose of proving the existence of adequate water for a project.

Public comment on the proposed development is heard at a regular meeting of the Board of Directors. Following public comment, the Board independently determines whether to approve the hydrological study. The Board of Directors may not approve a hydrological study or a Groundwater Extraction Permit application if the aquifer pump test had an adverse impact on a hydrologically contiguous well or the aquifer. The Board may also consider mitigation measures that eliminate adverse impacts to surrounding wells as a condition of approval of the hydrological study.

A GWEP contains standard conditions with an approved allotment of water, installation of a water meter, and submission of monthly meter readings. Water use allotments are based on the size and type of approved parcel development, and are calculated from the District’s Water Use Standards. The Water Use Standards are periodically reevaluated based on actual data collected by the District. An approved water meter must also be installed to monitor water use. Meter readings are sent monthly to the District office.

(MCCSD, 2019c)

3.3.3.3 Water Conservation Program

The community of Mendocino is extremely conservative in its water use as compared with other North Coast towns, with an estimated 70 gallons per day (gpd) per capita on average, or 45-76 percent of use in towns similarly situated.

The following recommendations were made by the Department of Water Resources in their 1982 Groundwater Study for the Mendocino Coast and hold continued relevance to any discussion of water conservation. DWR stated that the first two recommendations could reduce water consumption by 50 percent, while the subsequent recommendations are designed to maximize groundwater recharge while minimizing run-off.

1. All new development should incorporate proven water conservation technology in planning and construction of the project (E.g., low-flush toilets, low-flow shower heads, single faucets with aerators, water-efficient clothes washer and dishwashers, hot-water pipe insulation, water reclamation, water storage, and drought-tolerant landscaping).
2. The installation of efficient irrigation systems, such as drip irrigation, soil moisture sensors, and automatic timers, which minimize runoff and evaporation and maximize the amount of water reaching the plant's roots, is recommended to all citizens.
3. Where feasible, all new development should endeavor to retain rainwater for groundwater recharge. At minimum, the development and construction of a project should be designed to reduce, retard, and disperse runoff (e.g., mulched or terraced slopes reduce erosion and retain rainfall; porous drain swales and paving materials allow infiltration of rainwater; out sloped roads spread runoff evenly down a slope; landscaping with drought-resistant ground cover will protect the soil, facilitate infiltration, and reduce runoff).
4. Cluster development should be encouraged wherever appropriate.
5. The preservation of existing natural drainage areas and incorporation of natural drainage in new developments aids groundwater recharge.
6. Flood plains and aquifer recharge areas, which are the best sites for groundwater recharge, should be preserved as open space.
7. In addition, all new street and off-street parking development should utilize permeable materials to aid groundwater recharge. Water that might otherwise recharge the aquifer is presently lost to run-off from the use of non-permeable paving materials.
8. The District adopted its Water Conservation Program on February 25, 1991. The District promotes water conservation by both voluntary water conservation education program and a mandatory water conservation requirement in the Groundwater Management Plan ordinance.

(DWR, 1982)

MCCSD uses an ongoing public awareness campaign to promote water conservation in Mendocino, and the Groundwater Extraction Permit Ordinance requires that water conservation devices be installed for all new development as a condition of permit approval. Water use standards are included in the ordinance to limit the quantity of water that can be extracted for new development, changes of use, or expansion of an existing use.

Recommendations provided in the Groundwater Management Program include encouraging gardeners and residents to cultivate drought tolerant plants, and cataloging low water use technologies for public reference, in addition to adopting the above recommendations from DWR-82 as applicable. The District also plans to expand the recycled water system.

(MCCSD, 2019c)

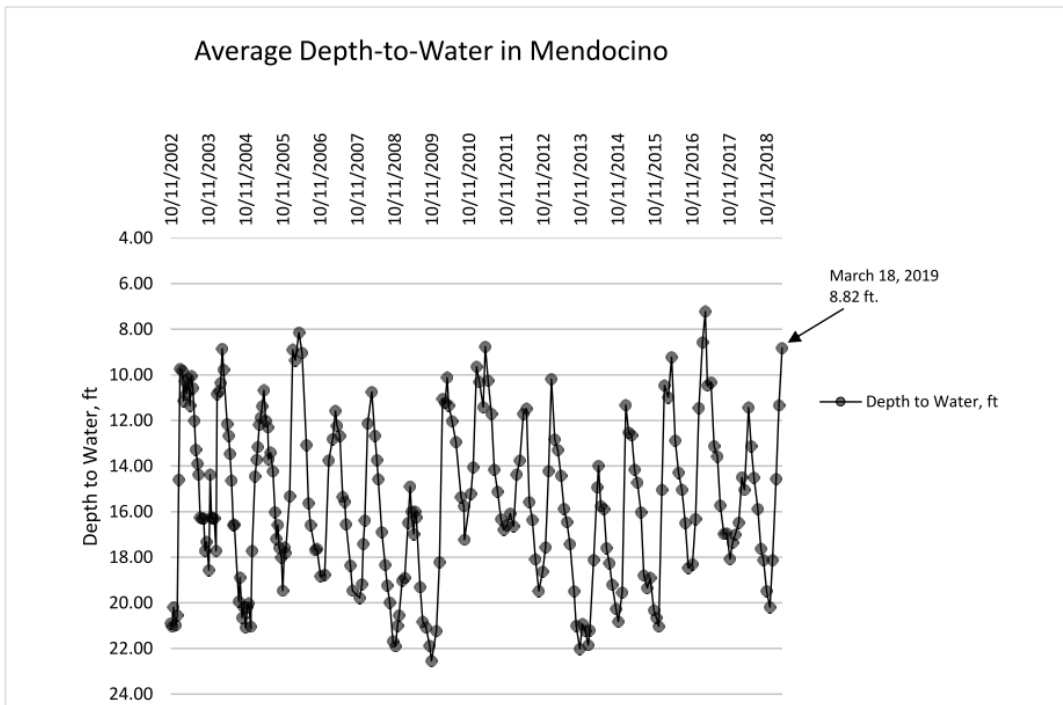
3.3.3.4 Groundwater Monitoring Program

In 1987, the California Department of Health Services recommended that the District develop a Groundwater Monitoring Program. The purpose of the groundwater monitoring program is to provide information that will allow computation of the change of groundwater in storage. The information needed includes spring and fall groundwater levels, the hydraulic properties of the aquifer (such as permeability and specific yield), and the land area covered by the District.

An adequate monitoring well network has been developed with 24 monitoring wells that are representative of the vertical and lateral dimensions of the aquifers. Establishing the network of monitoring wells required that each monitoring well log was reviewed to ensure that the well tapped the monitored aquifer.

Data collected from each monitoring well is entered into a computer database. These data can then be used to create hydrographs, groundwater elevation contour maps, and groundwater change contour maps that will provide the tools to evaluate groundwater levels and determine changes in the amount of groundwater in storage. All of these factors are then used to regularly update the Mendocino Groundwater Model. Changes in average groundwater levels have been monitored in the revised well yield from October of 2002 to March 2019 (see Figure 3-6).

Figure 3-6 Average Depth-to-Water in Mendocino



Source: MCCSD, 2019c.

District groundwater level monitoring data since 2002 indicate that changes in groundwater storage are directly related to annual precipitation as shown in Figure 3-7 below and are not due to increased groundwater extraction, since Mendocino water demand has declined since 2002. The District's GWMP has been effective in preventing aquifer depletion by conserving the groundwater resource based on current groundwater level data.

Figure 3-7 Measured Rainfall 2002-2018

Year	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2015	2016	2017	2018
Rainfall	34.7	49.6	36.4	43.0	53.5	29.8	31.8	24.4	47.2	46.9	32.6	32.4	24.2	44.5	57.3	32.2

Source: MCCSD, 2019c.

3.3.3.5 Water Recycling Program

MCCSD and Mendocino Unified School District approved a Memorandum of Understanding and Joint Resolution 97-1 on February 24, 1997 to commit the necessary capital for a water reclamation project using treated wastewater for irrigation purposes at Mendocino High School's (MHS) sports fields. In 1998 the water reclamation system was constructed with funds provided by MCCSD and a grant from the Reebok Corporation. Approximately two million gallons per year of reused water has been used on the MHS athletic fields for irrigation since the new system was installed. Due to many field improvements and reclaimed water, the MHS soccer field is now considered one of the best in the conference.

An expansion of the recycled system may include: 1) a recycled water fire hydrant system, 2) an irrigation system for the middle and grammar schools, and 3) an irrigation system for Friendship Park.

3.3.3.6 Data Management Program

In 2004 MCCSD received a second Local Groundwater Assistance Program Grant from DWR to create a GIS geodatabase to upgrade the District's GIS and to expand the well database. The geodatabase allowed for easy presentation of charts, graphs, and maps from attribute data for wells, parcel maps, water demand, and other themes in the database. Potential future uses include determination of drought stage in accordance with the proposed Water Shortage Contingency Plan, assistance in project review for permitting new extraction wells, permitting for well abandonment, permitting for changes to existing wells, and groundwater management planning and infrastructure engineering.

3.3.3.7 Proposed Water Shortage Contingency Plan

A Water Shortage Contingency Plan was developed in 2006 for the Groundwater Management Plan. The various rainfall/recharge and water conservation scenarios for the Water Shortage Contingency Plan were based on typical drought year rainfall. Five numeric groundwater model scenarios were run: baseline average rainfall, 25 percent below normal rainfall, 40 percent below normal rainfall, historic drought (64 percent below normal rainfall), and a no rainfall year scenario. The Water Shortage Contingency Plan was prepared with a plan for serious and critical water shortages. The Plan included how to determine a groundwater shortfall, possible responses to a water supply shortage, a water shortage contingency plan with drought stage conditions and requirements, and an emergency water rationing plan.

The plan provides a strategy and specific response measures for different stages of drought, forecasts drought impacts so that appropriate measures can be taken to curtail water use for overall protection of the groundwater supply for the community, and establishes a program of voluntary and mandatory water conservation measures to be implemented after the Plan is reviewed and adopted by the District. The Water Shortage Contingency Plan documents the drought history of the District, previous DWR Grants, existing MCCSD Groundwater Management Planning, and the Water Budget. An analysis of the water budget includes correlation of pumping demand and rainfall correlated from the groundwater model. This information and model data was used to determine the criteria for declaring four different drought stages with corresponding conservation efforts. Finally, an economic impact analysis of drought was completed and is summarized in the plan.

A Water Shortage Emergency Ordinance draft was also developed to address both the need for the Board of the MCCSD to declare a water shortage emergency and to implement non-emergency water conservation measures. The Draft Ordinance was based on a review of a number of Water Conservation Ordinances and Water Shortage Emergency Ordinances throughout California, but was specifically tailored to Mendocino's unique conditions.

(MCCSD, 2019c)

3.3.4 OPERATIONS AND CAPITAL NEEDS

The District does not own, operate or maintain any water collection, treatment, or distribution facilities and infrastructure, so there are no infrastructure needs. However, the District does own and operate groundwater monitoring facilities and equipment, including a well sounder, monitoring wells, a utility trailer, a weather station, and various office equipment. According to the 2019 Capital Improvement Program, there is currently no need to replace or add to these facilities and equipment. Additionally, the minor nature of these items in tandem with the dedicated annual funds and annual surcharges and permit fees for groundwater management, there are no issues foreseen with replacing or maintaining these items into the future.

3.4 STREET LIGHTING

3.4.1 SERVICE OVERVIEW

Street lighting within the Mendocino City CSD is paid for by the District, but the street lights are owned and maintained by PG&E. There are no facilities or equipment associated with street lighting that are the responsibility of MCCSD. MCCSD does have a standing committee on Street Lighting to address any issues with it as the need arises. (Kelley, 2019)

3.5 DETERMINATIONS

This section presents the required MSR determinations pursuant to California Government Code §56430(a) for the Mendocino City Community Services District.

3.5.1 MSR REVIEW FACTORS

3.5.1.1 Growth

Growth and population projections for the affected area

1. The Mendocino City CSD is estimated to serve a population of approximately 800 residents. The number of actual users of groundwater increases by approximately 524 people during the tourist season based on full lodging facilities and the wastewater system is estimated to serve approximately 3,500 people daily with the inclusion of business, school, and State Parks users.
2. There are approximately 87 acres of undeveloped land within the District, and approximately 125 acres of land adjacent to the District's boundaries contained within the 2008 Sphere of Influence. According to the Sewer System Capacity Analysis in November 2009, the District's wastewater treatment plant has the capacity to accommodate all growth at build out.
3. Population growth is expected to increase at an annual rate of approximately 0.5 percent for Mendocino County. Based on this growth rate, the District can expect a small population increase of 20 people within the next five years. It is anticipated that the District will experience very limited growth.
4. Mendocino County and the California Coastal Commission have land use authority over privately-owned lands within the District boundary. Mendocino County makes land use decisions based on the Mendocino Town Plan and the Mendocino Town Zoning Code.
5. MCCSD has authority over groundwater extraction permits, which include proof of adequate water supply, and are required prior to any development or change in land use that uses more water, within the District boundaries.

3.5.1.2 Disadvantaged Unincorporated Communities

The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence

6. The Town of Mendocino is a Census Designated Place (CDP). Mendocino CDP has a median household income (MHI) of \$63,801 and the two adjacent census tract block groups have MHIs of \$73,097 and \$82,596, which do not meet the income threshold of \$60,222 to qualify as a DUC. Special consideration will be given to any future identified DUCs affected by future annexation proposals consistent with GC §56375(8)(A) and LAFCo Policy.

3.5.1.3 Capacity of Facilities and Adequacy of Services

Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged unincorporated communities within or contiguous to the sphere of influence

7. The District provides wastewater collection and treatment, groundwater management, and street lighting services.

8. The MCCSD service area encompasses a population of approximately 800 residents. This area is predominantly characterized by residential development, with two larger institutional users, the Mendocino Unified School District and Russian Gulch State Park. There is no industrial flow to the MCCSD wastewater system.
9. The District provides wastewater treatment services to Russian Gulch State Park, which is located approximately one mile north of the District boundaries. The District does not provide any other out of agency services.
10. The District manages and maintains over 47,000 feet of collection system sewer lines and three lift stations. The California Department of Parks and Recreation maintains a collection system and fourth lift station at Russian Gulch State Park. State Park wastewater is pumped from their lift station through a force main to the MCCSD gravity collection system. Wastewater collected from the Mendocino wastewater system is treated at the District's wastewater treatment plant. The plant provides full tertiary treatment before discharge via an ocean outfall.
11. The total plant capacity is divided by an Equivalent Single Dwelling (ESD) of system capacity and there are 1,500 ESDs of plant capacity in MCCSD wastewater system. In 2020, there are 1,115 ESDs of wastewater system use resulting in a remaining plant capacity of 385 ESDs for new development, changes in use, and expansion of existing uses. The District has adequate capacity to serve all land uses at projected buildout.
12. It is recommended that the District work closely with property owners on the north end of Lansing Street and Road 500D to explore the technical feasibility, willingness, and associated costs of providing wastewater services to address failing non-standard septic systems.
13. Current CIP projects planned to implemented in 2020 and 2021 include constructing a new plant operations building, upgrading the treatment plant's main electrical service, replacing the tertiary filter backwash control panel, upgrading the motor control panels in the blower room, bringing the electrical wiring throughout the treatment plant facility up to current electrical code, relocating the existing laboratory in the old control building to the new operations building, relocating the service vehicle and sewer maintenance and emergency equipment into new plant operations building's garage area, and installing a new electrical panel in the new plant operations building for future upgrade of the recycled water system, #2 plant water system, and chlorination and de-chlorination systems. Also planned is remodeling the District Office to meet ADA access compliance, add an ADA compliant parking space with a path of travel between facility buildings, and convert existing laboratory/ control room into a meeting room for monthly Board meetings.
14. The SSMP recommends that additional documentation of the collection system using the MCCSD GIS system should be considered.
15. The Groundwater Management Program recommends encouraging gardeners and residents to cultivate drought tolerant plants, cataloging low water use technologies for public reference, and adopting the recommendations from DWR's Mendocino County Coastal Groundwater Study as applicable.

3.5.1.4 Financial Ability of Agency

Financial ability of agencies to provide services

16. The District prepares an annual Budget and has annual Independent Financial Audits prepared by a qualified Certified Public Accountant. The District must provide LAFCo a complete copy of all future financial audit reports (starting with Fiscal Year 2019-20) prepared by a Certified Public Accountant

within 12 months of the end of the fiscal year or years under examination consistent with the timeframes established by Government Code Section 26909(a)(2)(b)(ii) as amended by SB 448.

17. According to audited financial information from Fiscal Years 2014-15 through 2018-19, the District generally operates at a net income or revenue gain to sufficiently cover operating costs and maintains a sufficient fund balance. This indicates that under the current level of service delivery, the District is able to meet its ongoing financial obligations. The District has adequate finances to meet current and future demands for public services within the next five years.
18. The District has a note payable with California Infrastructure and Economic Development for \$405,096 as of June 30, 2019, for a capital facilities improvement, which matures August 2034 and has an interest rate of 3.05 percent. The District also has a line of credit with a local financial institution. The line of credit is \$750,000, and the District currently owes \$200,000, due within one year. These amounts are budgeted in the annual CIP and accounted for in the overall budget.
19. Previous grants reduced the cost to the District of the facilities. Connection fees are only required to recover the present value of the actual costs to the District of the facilities. Funds to replace the facilities (depreciation) should be collected as a part of user fees and should be adequate to cover the full replacement costs of the facilities as grants may not be available in the future.
20. The District currently has \$400,000 in cash reserves in a Local Agency Investment Fund and approximately \$200,000 in checking and savings accounts. As of June 30, 2019, the District's cash and cash equivalents balance was \$141,502 for its enterprise activities. It is recommended that the District establish a financial reserves policy for fiscal stability, unforeseen operating needs, and to accumulate restricted funds for capital improvements and equipment replacement costs.
21. The District has a Capital Improvement Program that is updated on an annual basis.

3.5.1.5 Shared Services and Facilities

Status of, and opportunities for, shared facilities

22. The District provides wastewater treatment services for Russian Gulch State Park and Mendocino Headlands State Park by agreement.
23. The District maintains a Memorandum of Understanding (MOU) with the Mendocino Unified School District for recycled water to irrigate the School District's fields.
24. There are planned expansions of the recycled water system that include a recycled water fire hydrant system, an irrigation system for the middle and grammar schools, and an irrigation system for Friendship Park. These expansions will require cooperative agreements between the fire district, the school district and the park district.
25. The District participates in the California Water/Wastewater Response Agency (CalWARN) for mutual assistance. CalWARN provides a mutual assistance program consistent with other statewide mutual aid programs and the Standardized Emergency Management System (SEMS) and the National Incident Management System (NIMS) through a process that allows for sharing emergency resources among signatories statewide and the resources to respond and recover more quickly from a disaster.
26. The District participates in the Golden State Risk Management Authority for the purpose of pooled insurance for providing liability and workers compensation for its facilities, operations, and employees.
27. Retirement for District employees is provided through the California Public Employee Retirement System (CalPERS).

28. The District does not contract with private or public entities or provide services to District residences through Joint Powers Authority (JPA). Other services are provided outside the purview of the District, such as road maintenance through the County of Mendocino and solid waste and recycling through Waste Management.
29. There are no additional opportunities for the District to achieve organizational or operational efficiencies identified during the preparation of this MSR.

3.5.1.6 Accountability, Structure, and Operational Efficiencies

Accountability for community service needs, including governmental structure and operational efficiencies

30. The District is governed by a five-member Board of Directors elected to serve 4-year terms. Several of the Board members have served the District for multiple consecutive terms which can be a significant benefit in establishing long-standing positive working relationships in the community, understanding the history and unique aspects of the organization, and maintaining institutional knowledge. The District currently has one vacancy on the Board of Directors and three seats that are set to expire this year and are scheduled to be filled by election in November 2020.
31. Regularly scheduled Board meetings are held on the last Monday of each month at 7:00 p.m. at the District office located at 10500 Kelly Street in Mendocino. All meetings are open to the public and are publicly posted a minimum of 72 hours prior to the meeting in accordance with the Brown Act.
32. The District Board of Directors conducts business and takes action by approving motions and adopting resolutions and ordinances by a majority vote of a sufficient quorum.
33. The District adopted Governance Guidelines by motion on September 30, 2008, which addresses the Board of Directors elections, officers, meeting conduct, conflicts of interest, decisions, rules of order, and responsibilities. The District adopted Fiscal Policies by motion on September 30, 2008, which include administrative policies, fiscal policies, personnel policies, and purchasing policies and bidding regulations. On October 27, 2008, the District adopted by Ordinance 08-3 Policies and Procedures for Purchasing of Supplies and Equipment, for Procuring Professional and Maintenance Services, and for the Disposal of Surplus Property. The District Board members file a Statement of Economic Interests (Fair Political Practices Commission Form 700) each year pursuant to Government Code §87203 of the Political Reform Act. The District Board of Directors considers proposed increases to rates and fees at a properly noticed Public Hearing and subject to mailing a Notice of Hearing for Protests to all property owners pursuant to Proposition 218. The District complies with local government ethics laws and regulations and operates with accountability and transparency.
34. The District maintains a website, at www.mccsd.com, which is a helpful communication tool to enhance government transparency and accountability. The District's website has well organized information that appears to meet the special district transparency requirements of State law including the availability of agendas, ordinances, and financial information. The website also contains staffing and Board member information; job postings; plans and reports on upcoming projects such as the wastewater treatment plant upgrade project; educational materials on water conservation, water recycling, and fat, oil, grease (FOG) waste; ordinances and resolutions; and the Sewer System Management Plan.

35. The public can submit written or provide verbal comments or complaints in person or by phone at the District office during business hours, Monday through Friday from 8:00 a.m. to 5:00 p.m., or at the District Board of Directors meetings during the general public comment period.
36. The District's website could be enhanced by posting a map of the District boundaries and permit applications, and a link to the regular Board meeting schedule on the Board of Directors page. Also valuable would be a comprehensive content management system, such as DocuShare, to provide a searchable document archive system for Board meeting packets and adopted ordinances, resolutions, annual budgets, past and current financial audit reports, and other digital records. The website could also be further improved with an update to the "Services" tab of the website to incorporate more information about the most recent drought from late 2011 to early 2019 (US Drought Monitor, 2019).
37. District staff has been very responsive, helpful, and cooperative throughout the intensive and iterative study development process in preparing the MSR/SOI Update.

3.5.1.7 Other Service Delivery Matters

Any other matter related to effective or efficient service delivery, as required by commission policy

38. There are no other matters related to service delivery required by Mendocino LAFCo Policy.

4 SPHERE OF INFLUENCE

LAFCo prepares a Municipal Service Review (MSR) prior to or in conjunction with the Sphere of Influence (SOI) Update process. An SOI Update considers whether a change to the SOI, or probable future boundary, of a local government agency is warranted to plan the logical and orderly development of that agency in a manner that supports CKH Law and the Policies of the Commission. The MSR and required determinations are presented in Chapters 2 and 3 of this document and form the basis of information and analysis for this SOI Update. This chapter presents the SOI Update and required determinations pursuant to California Government Code §56425(e) for Mendocino City Community Services District.

4.1 SOI UPDATE

4.1.1 EXISTING SPHERE OF INFLUENCE

The existing Sphere of Influence (SOI) for Mendocino City CSD is larger than the District boundary and was established by LAFCo on November 3, 2008 (LAFCo Resolution No. 2008-08). In 2008, the Commission approved a reduction of approximately two-thirds in the size of the District SOI located east of SR 1 to reflect the area that the wastewater treatment plant and groundwater resources have the capacity to serve. There have been no changes to the District boundary or SOI since then.

4.1.2 STUDY AREAS

4.1.2.1 2008 SOI

The SOI area adopted by the Commission in 2008 included a total of approximately 55 parcels located north of the District boundary along Lansing Road and located east of SR 1 adjacent to the District boundary along Law Road, Merrill Lane, Wildwood Lane, and an area accessed from Little Lake Road, as shown on Figure 2-1a.

4.1.2.2 Road 500 D

A property owner with an undeveloped parcel on Road 500D, located north of the District boundary and west of SR 1, is interested in receiving wastewater services from the District via a 4-inch pressure main that crosses the subject parcel between Russian Gulch State Park and the District. The property owner has provided public records of failing or failed non-standard septic systems in the area of Road 500D to document the need for municipal wastewater services.

Serving this parcel would require annexation of all intervening parcels to the District boundary line; approximately 12 parcels along Lansing Road and 5 parcels along Road 500D. In addition, the annexing property owners would be responsible for considerable costs associated with extending wastewater infrastructure. At a minimum, extending services would entail engineering and developing a gravity collection system, lift station, and force main to the District's collection system. (Kelley, 2019)

4.1.3 AREA OF INTEREST DESIGNATION

LAFCo's Area of Interest Policy, per Section 10.1.12, provides for the designation or identification of unincorporated areas located near to, but outside the jurisdictional boundary and established SOI of a city or district, in which land use decisions or other governmental actions of another local agency directly or indirectly impact the subject local agency.

An Area of Interest (AOI) designation serves as a compromise approach that recognizes situations involving challenging boundary or municipal service delivery considerations, or for which urbanization may be anticipated in the intermediate or long-range planning horizons. It is a tool intended to enhance communication and coordination between local agencies.

An AOI designation is most helpful when the county and city or district can reach agreement that development plans related to LAFCo designated Areas of Interest will be treated the same as if these areas were within the city or district SOI boundary regarding notification to and consideration of input from the city or district.

The two SOI Study Areas described above have been designated as an AOI to further emphasize and support the District in requesting consideration from the County of Mendocino regarding discretionary land use entitlements or other development plans with the potential to impact District lands, facilities, and/or services.

4.1.4 PROPOSED SOI CHANGES

The District has confirmed that their current boundary reflects existing service needs and projected service demands over the next five years (MCCSD, 2019a). A coterminous SOI, which is a sphere that is the same as the jurisdictional boundary, is appropriate given that there have been no annexations in the last 12 years, there is no planned urban development, and there is low projected growth and demand for services. The SOI for the Mendocino City CSD is recommended to be reduced to a coterminous sphere, as shown in Figure 2-1a, consistent with Policy 10.1.4.a.

4.1.5 CONSISTENCY WITH LAFCO POLICIES

The District is comprised of a historical mixed use residential and commercial community with a visitor-oriented economy and open space resources. Reducing the District's existing 2008 SOI to a coterminous sphere is consistent with Mendocino LAFCo Policies (refer to Section 1.5 for the specific SOI policies).

4.1.6 OTHER LOCAL POLICIES

Mendocino County's General Plan establishes a policy framework for the Mendocino town area in Chapter 7 Coastal Element, Chapter 4.13 Mendocino Town Plan, dated June 10, 1992. The following policies are specific to the Mendocino town area, and supplement the countywide goals and policies included elsewhere in the County's General Plan. Where there are conflicts between the Town Plan and the County General Plan, the Town Plan controls due to the involvement of the California Coastal Commission with oversight of the area.

Growth Management

Policy 4.13-1: The town of Mendocino shall be designated a special community and a significant coastal resource as defined in Coastal Act Section 30251. New development shall protect this special community which, because of its unique characteristics, is a popular visitor destination point for recreational uses.

Mendocino shall be recognized as a historic residential community with limited commercial services that are important to the daily life of the Mendocino Coast. The controlling goal of the Town Plan shall be the preservation of the town's character. This special character is a composite of historic value, natural setting, attractive community appearance and an unusual blend of cultural, educational and commercial facilities.

The preservation of the town's character shall be achieved, while allowing for orderly growth. This shall be done by careful delineation of land uses, provision of community services and review and phasing of

development proposals. Balance shall be sought between residential units, visitor accommodations and commercial uses. Provision of open space and siting of structures to retain public views of the sea shall be considered as part of all new development proposals. The objective shall be a Town Plan which retains as much as possible the present physical and social attributes of the Mendocino Community.

"Balance" between residential uses, commercial uses and visitor serving uses shall be maintained by regulating additional commercial uses through development limitations cited in the Mixed Use and Commercial Land Use Classifications; and, by limiting the number of visitor serving uses.

Visitor Serving Units listed on Table 4.13-1 (234) shall remain fixed, and a ratio of thirteen long term dwelling units to one Vacation Home Rental or one Single Unit Rental (Tables 4.13-2 and 4.13-3) shall remain fixed; until the plan is further reviewed and a plan amendment is approved and certified by the California Coastal Commission.

For example, an increase in long term residential dwelling units from the current count of 306 to 319, would allow an increase of one short term rental, whether Single Unit Rental or Vacation Home Rental. Tables 4.13-2 (Single Unit Rentals) and 4.13-3 (Vacation Home Rentals) shall be flexible as to location and such changes of location shall not require a plan amendment.

Policy 4.13-2: This amended plan shall be reviewed three years after certification of this plan amendment date to determine the effect of development on town character. The plan shall be revised, if necessary, to preserve town character consistent with Policy 4.13-1.

Policy 4.13-3: To preserve town character, commercial development shall be limited as mapped and shown in the plan, though at some point the amount of commercial space will be less than the market could support.

Policy 4.13-4: Visitor Serving Accommodations: These policies are intended to preserve town character and Visitor Serving Facilities shall be limited and regulated consistent with the provisions set forth below. All development of Visitor Serving Facilities shall be designed in scale, architecture and materials to maintain existing character of the town consistent with the special community designation.

(1) The Mendocino Town Plan designates existing Visitor Serving Facilities providing overnight accommodations for these uses on a parcel by parcel basis by placing the appropriate designation on the Town Plan Map. Any additional Visitor Serving Facilities for overnight accommodations above and beyond these designations shall require a plan amendment. Any legally existing Visitor Serving Facility inadvertently omitted from the Town map shall be corrected as a mapping error. Bed and Breakfast rooms are identified with an asterisk "B" and all others with an asterisk. A listing of these rooms appear on Table 4.13-1.

(2) No Inn, Hotel or Motel operated as one business entity shall exceed 25 overnight units.

(3) All visitor serving facilities shall be designed in scale, architecture and materials to maintain existing character of the town consistent with the special community designation.

Any expansion of visitor accommodation units to the number allowable on a parcel by parcel basis identified on Table 4.13-1, but not yet existing, shall require a conditional use permit.

The designation of new visitor serving facilities not listed on Table 4.13-1 shall require a General Plan Amendment. Existing visitor serving facilities listed on Table 4.13-1 that propose to expand beyond the maximum number of units listed on Table 4.13-1 shall require a General Plan Amendment.

The total number of units allowable (234) on Table 4.13-1 shall remain fixed until the plan is further reviewed and a plan amendment is approved and certified by the California Coastal Commission.

(4) All existing locations approved for inns, hotels, motels, hostels, Bed and Breakfast rooms and Student/Instructor housing are specifically designated on the Town Plan Map. All new Visitor Serving Facilities providing overnight accommodations, over and above those designated in Table 4.13-1, not specifically designated on the Town Plan Map shall only be allowed in the Mixed Use or Commercial Zoning Districts and shall be deemed commercial development and subject to the development limitations of the applicable zoning district. In the Mixed Use Zone, the 50 percent commercial/50 percent residential requirement for long term residential dwelling housing shall apply.

(5) In addition to the visitor accommodations listed on Table 4.13-1, the plan allows for two other categories of visitor serving uses.

Table 4.13-2 is a listing of Single Unit Rentals (attached or detached) operated as a short term rental in conjunction with an existing residential dwelling unit or commercial use.

Table 4.13-3 is a listing of Vacation Home Rentals (a dwelling unit that is the only use on the property which may be rented short term for transient occupancy).

Table 4.13-2 currently lists 23 such units and Table 4.13-3 currently lists 23 such units.

Single Unit Rentals and Vacation Home Rentals shall be subject to Chapter 520 (Uniform Transient Occupancy Tax) and Chapter 6.04 (Business License Tax) of the Mendocino County Code.

Tables 4.13-2 and 4.13-3 shall remain flexible as to location and the County of Mendocino shall have the authority to adjust locations on these two tables from time to time without a plan amendment process, but not to add to the tables numbers of units that would exceed the following criteria:

To preserve town character and maintain the town as a residential community with limited commercial services, the County shall maintain, at all times, for new Vacation Home Rentals or Single Unit Rentals approved subsequent to certification of this amendment, a ratio of thirteen long term residential dwelling units to either one Single Unit Rental or Vacation Home Rental, but shall not require any reduction in the number of Vacation Home Rentals or Single Unit Rentals in existence on the date of certification by the Coastal Commission of this amendment.

Single Unit Rentals (Table 4.13-2) shall be exempted from the above limitations in the Commercial Zone.

Business licenses for Single Unit Rentals (Table 4.13-2) and Vacation Home Rentals (Table 4.13-3) shall not be transferable.

Applications for new locations to be listed on Tables 4.13-2 and 4.13-3 shall be subject to a conditional use permit and an additional nonrefundable fee of \$100.00 shall be required of such applicants and applications shall be considered in chronological order from date of application, with first priority given to Single Unit Rentals.

(6) Any visitor serving facility listed on Table 4.13-1 that is operating without a coastal development permit where one is necessary must file an application for a coastal development permit within one year of the adoption of the revised table, or the option to continue providing visitor serving accommodations shall be deemed forfeited and such locations eliminated from the table.

(7) The reservation of specific sites for visitor serving facilities providing overnight accommodations shall not be preempted by conversion to other permanent uses excepting residential uses.

(8) Existing Student/Instructor Temporary Housing is identified in Table 4.13-1. Any new sites other than those identified on Table 4.13-1 shall require a plan amendment.

(9) Student/Instructor, temporary and intermittent, housing facilities provided by the Mendocino Art Center on site are recognized in Table 4.13-1. This use shall require a County Business License and adequate record keeping to ensure payment of bed tax on monies grossed from transient occupancy (less than 30 days stay, per occupant).

Policy 4.13-5: NONCONFORMING USES: A nonconforming use is a use of a structure or land which was lawfully established and maintained prior to the adoption of this amended plan, but which does not conform with the use for the land use category in which it is located.

(A) All existing legal uses shall be deemed consistent with the town plan.

(B) A nonconforming use that is discontinued for a period of one (1) year, or is changed or replaced by a conforming use, shall be deemed abandoned and shall not be resumed, and subsequent use of the site shall be in conformance with all provisions of this plan.

(C) A nonconforming use may be continued and structures used therefore may be maintained, provided that:

(1) Structural alterations shall be limited to the interior of a building, with no change in the exterior dimensions of a building or portions thereof used for a nonconforming use.

(2) Structural alterations shall be made only in compliance with applicable building code requirements and, where applicable, with the requirements of the Mendocino Historical Review Board.

(3) There shall be no expansion of the nonconforming use.

NONCONFORMING LOTS: All legally created lots shall be deemed potential building sites, subject to the same controls as lots 12,000 square feet or larger.

Policy 4.13-6: All persons operating Visitor Serving Facilities or Student/Instructor temporary housing as herein defined are subject to the provisions of Chapter 5.20 (Uniform Transient Occupancy Tax) and Chapter 6.04 (Business License Chapter) of the Mendocino County Code.

Policy 4.13-7: Residential dwelling units in the town shall not be converted to any nonresidential use except in the Commercial "C" zone, or as provided for by the permitted ratio referenced in Policy 4.13-4(5).

Design Guidelines

Policy 4.13-8: The Historical Preservation District Zoning Ordinance, as amended, shall be made a part of the implementing ordinances of the Mendocino Town Plan and the Mendocino Historical Review Board shall continue to exercise those charges as specified by the ordinance.

Policy 4.13-9: Design review guidelines shall set criteria which will be utilized to ensure preservation, protection, enhancement, rehabilitation, reconstruction and perpetuation of existing structures of historic significance in a manner consistent with the character of the Town.

New buildings, rehabilitations and renovations to existing structures will be consistent with the character of the town and they shall not degrade the setting of buildings of landmark stature (as described in the Inventory of Historic Building, Appendix, Historic Structures). Regulations shall be consistent with the historic ordinance and guidelines as accepted by the County Board of Supervisors. Such criteria shall include, but not be limited to architectural design, size, height, dormers, windows, structures, appurtenances, proportion and placement of improvements on the parcel, and landscaping, including planting or removal of vegetation, must be reviewed in the application process.

Policy 4.13-10: No building permit shall be finalized or occupancy permit issued until all aspects and conditions of the permit approval have been met.

Policy 4.13-11: Review of applications for all new development shall include consideration of requiring dedicated scenic easements to protect views from Highway 1, as well as public views to the sea and landmark structures as described in the Inventory of Historic Structures (Appendix).

Policy 4.13-12: Any proposed private use of the Middle School site or changed public use that would remove existing permanent buildings or would intensify development of the site shall require amendment of the Town Plan.

Policy 4.13-13: In addition to any design review related to protection of the character of the town, all development shall conform to Section 30251 of the Coastal Act, and any specifically designated scenic and view areas as adopted on the map. Provisions of open space and siting of structures to retain public views shall be considered as part of all new development proposals.

Circulation and Parking

Policy 4.13-14: The County technical staff shall be directed to review the submittal by the appointed Mendocino Citizens Advisory Committee outlining the eleven (11) priorities for safety improvements (dated October 17, 1989) and implement improvements at the earliest possible funding date(s).

Policy 4.13-15: Installation of a traffic signal at the intersection of Highway 1 and Little Lake Road (1989) should alleviate safety problems at that intersection. The California Department of Transportation should continue to monitor traffic safety at the intersection of Highway 1 and Main Street and make improvements as necessary for optimal safety.

Policy 4.13-16: The County shall implement a requirement for off-street parking on all new development and use permit applicants consistent with requirements of the applicable zoning district. Where no off-street parking is feasible, then the County shall require in-lieu fees, such fees to be placed in an encumbered account to be used solely in the Town of Mendocino for street and parking improvements.

Policy 4.13-17: The County shall make every effort to develop a plan for optimal circulation and parking of heavy weight tourist vehicles (large recreational vehicles, tour busses, pickup campers, etc.) on designated County or State lands.

Policy 4.13-18: Consistent with the Town designation as a Special Community with historic significance, and recognizing that historically Main Street, east to Highway 1, was "Main" Street in the early years of this century, the Board of Supervisors shall direct that Main Street be so designated and the incorrect Lansing Street naming shall be abandoned.

Policy 4.13-19: Consistent with the Town designation as a Special Community, and with the reality of the continued use of the old three and four digit street numbers, the County Board of Supervisors shall restore the old numbering system and abandon the County's five digit numbering system, with the restoration of the three and four digit numbers being based on the street the structures face, within the Town boundaries.

Affordable Housing

Policy 4.13-20: Consistent with the Affordable Housing criteria cited on Page 7 of this plan, residential dwelling units in the town shall not be converted to any nonresidential use except in the Commercial "C" zone, or as provided for by the permitted ratio referenced in Policy 4.13-4(5).

Policy 4.13-21: Second residential dwelling units are allowable in the R+ Zoning District on parcels larger than 9,000 square feet; and, in the RR-2 Zoning District on parcels larger than 40,000 square feet, subject to the following criteria and standards. Second dwelling units are intended to provide long term housing. Deed restrictions, as a part of the permit process, shall ensure maintenance of the housing inventory and consistency with the balance cited in Policy 4.13-1.

- (1) The parcel contains an existing single family dwelling unit.
- (2) The second dwelling unit does not exceed 900 square feet.
- (3) An adequate water system as approved by the County Division of Environmental Health and the Mendocino City Community Services District is available to serve the second dwelling unit.
- (4) The second dwelling unit shall conform to height, setback, lot coverage, architectural review, site plan review, off street parking and other zoning district requirements applicable to the zone in which the second dwelling unit is located.
- (5) Second dwelling units are intended for long term occupancy, by family members or tenants, and are not intended for sale.
- (6) A second dwelling unit shall not have a negative impact on the designated land use and second dwelling units shall not be permitted if identified impacts are contrary to the goals and policies of this plan.
- (7) Second dwelling units shall not be permitted in Planned Unit Development Combining Districts.

Water

Policy 4.13-22: All new development shall be contingent upon proof of an adequate water supply during dry summer months which will accommodate the proposed development and will not deplete the

ground water table of contiguous or surrounding uses. The findings of the Coastal Ground Water Study of June 1982 shall be incorporated in the Mendocino Town Plan.

Public Facilities

Policy 4.13-23: Previous Policy 4.13-17(1) (November 5, 1985) requested that the centrally located vacant parcel known then as the "Heider Lot" now known as "Heider Field", be acquired by a public agency or nonprofit agency. This acquisition has been accomplished (1987) through special legislation that allowed a trade of parcels between State Parks and Recreation and the Mendocino Presbyterian Church. A rezoning of the Heider Field to Open Space and a rezoning of the exchange parcel south of the Presbyterian Church have been effected, subject to the following criteria:

(1) Construction of any structure upon that portion of Assessor's Parcel Number 119-250-24, conveyed by State Parks to the Mendocino Presbyterian Church, shall be compatible with the character and use of Mendocino Headlands State Park in consultation with the State Historic Preservation Officer. Any improvements made, including landscape screening, shall not obscure visibility of any portion of the Church sanctuary from State Highway One or Brewery Gulch Drive. Any improvements made shall also be in conformance with all local ordinances pertaining to the Historic District.

(2) Public pedestrian access via the end of Church Street, shall be provided at all times to the Mendocino Headlands State Park and the mouth of Big River on that part of Assessor's Parcel Number 119-250-24, conveyed by State Parks and Recreation to the Mendocino Presbyterian Church and designated PF by Mendocino Coastal Plan Amendment 2-87. An alternative access way will be identified at the time of development and should that development include a parking area, vehicular access and parking by the public shall be granted upon the property, except during regular church services and after dusk.

Policy 4.13-24: A public agency or private nonprofit agency, in that order, shall be requested to acquire the former Middle School (44800 Pine Street), owned by the Mendocino Unified School District and currently leased to the Mendocino Community Center non-profit, for permanent community use.

Policy 4.13-25: To ensure preservation, in perpetuity, of the Memorial Triangle, privately owned and a portion of Assessor's Parcel Number 119-250-07, the County, other public agency or private nonprofit association should acquire, through outright purchase or an easement given in perpetuity, this small area and preserve it as Open Space, Memorial Site, in perpetuity.

Policy 4.13-26: The plan amendment now defines Vacation Home Rental as a Visitor Serving Accommodation and limits the number to a ratio of one Vacation Home Rental (or Single Unit Rental) to thirteen residential units.

Policy 4.13-27: Because Mendocino is a registered historic district, categorical exemptions within the California Environmental Quality Act shall not apply unless it can be clearly demonstrated that there is no potential for adverse impact. The County shall amend the County's California Environmental Quality Act (CEQA) Guidelines to provide specificity for the Town of Mendocino.

(County, 2017)

4.1.7 DETERMINATIONS

It is recommended that the Commission reduce the existing 2008 Sphere of Influence for Mendocino City Community Services District to a coterminous sphere as shown in Figure 2-1a. The following statements have been prepared in support of this recommendation.

4.1.7.1 Land Uses

The present and planned land uses in the area, including agricultural and open space lands

The Mendocino Town Plan Land Use Map shows that the downtown area is comprised largely of residential and commercial uses, but also has a large area of public facility uses, as well as surrounding open space with the Mendocino Headlands State Park. East of State Route 1 is some suburban residential development, as well as more rural residential development and open space. The County of Mendocino regulates land use growth in the unincorporated community of Mendocino through Division III of Title 20 of the Mendocino County Code, the “Mendocino Town Zoning Code.” The Mendocino Town Zoning Code implements the Mendocino Town Plan geographical segment, which is certified by the California Coastal Commission through the Local Coastal Program. The Local Coastal Program consists of the Town Plan, the Town Land Use Map, the Town Zoning Code, and the Town Zoning Map, all of which must be certified by the Coastal Commission. The Town Zoning Code supersedes the County’s Zoning Code because of the involvement of the Coastal Commission with development in the community, and Chapter 3 of the California Coastal Act and the decisions of the Coastal Commission guide the implementation and interpretation of the Town Zoning Code.

4.1.7.2 Need for Facilities and Services

The present and probable need for public facilities and services in the area

The District provides Wastewater Collection and Treatment, Groundwater Management, and Street Lighting services. The Mendocino City CSD is estimated to serve a population of approximately 800 residents. The number of actual users of groundwater increases by approximately 524 people during the tourist season based on full lodging facilities and the wastewater system is estimated to serve approximately 3,500 people daily with the inclusion of business, school, and State Parks users. Population growth is expected to increase at an annual rate of approximately 0.5 percent for Mendocino County. Based on this growth rate, the District can expect a small population increase of 20 people within the next five years. It is anticipated that the District will experience very limited growth. The residents and visitors currently receiving services from the District will continue to need these public services. Additionally, as determined in the MSR, it is recommended that the District work closely with property owners on the north end of Lansing Street and Road 500D to explore the technical feasibility, willingness, and associated costs of providing wastewater services to address failing non-standard septic systems.

4.1.7.3 Capacity of Facilities and Adequacy of Services

The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide

As determined in the MSR prepared for the District, the Mendocino City CSD has adequate facilities and equipment to meet current and future demands for public services within the next five years. Additionally, as determined in the MSR, funds to replace the facilities (depreciation) should be collected

as a part of user fees and should be adequate to cover the full replacement costs of the facilities as grants may not be available in the future.

4.1.7.4 Communities of Interest

The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency

No social or economic communities of interest have been identified that should be included in the Mendocino City CSD boundary or SOI.

4.1.7.5 Disadvantaged Unincorporated Communities

The present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence

The Town of Mendocino is a Census Designated Place (CDP). Mendocino CDP has a median household income (MHI) of \$63,801 and the two adjacent census tract block groups have MHIs of \$73,097 and \$82,596, which do not meet the income threshold of \$60,222 to qualify as a DUC. Special consideration will be given to any future identified DUCs affected by future annexation proposals consistent with GC §56375(8)(A) and LAFCo Policy.

5 REFERENCES

- California Coastal Commission. Amended July 27, 1992. County of Mendocino Coastal Zone, Map 17: Mendocino.
- California Department of Transportation (DOT). 2017. Mendocino County Economic Forecast. [Online]. Available at: http://www.dot.ca.gov/hq/tpp/offices/eab/socio_economic_files/2017/Mendocino.pdf. Accessed December 10, 2018.
- California Department of Water Resources (DWR). June 1982. Mendocino County Coastal Groundwater Study.
- California Rural Water Association. 2019. [Online] Available at: <https://calruralwater.org/home/about-us/>. Accessed January 20, 2019.
- Goranson & Associates (G&A). September 30, 2019. Mendocino City Community Services District: Financial Statements for the Years Ended June 30, 2019 and 2018. Santa Rosa, CA.
- Goranson & Associates (G&A). October 29, 2018a. Mendocino City Community Services District: Financial Statements for the Years Ended June 30, 2018 and 2017. Santa Rosa, CA.
- Goranson & Associates (G&A). January 9, 2018b. Mendocino City Community Services District: Financial Statements for the Years Ended June 30, 2017 and 2016. Santa Rosa, CA.
- Goranson & Associates (G&A). January 30, 2017. Mendocino City Community Services District: Financial Statements for the Years Ended June 30, 2016 and 2015. Santa Rosa, CA.
- Kelley, Mike. January 21, 2019. Mendocino City Community Services District Superintendent. Email to LAFCo Executive Director Uma Hinman.
- LAFCo, County of Mendocino. November 5, 2018. Policies & Procedures Manual. [Online]. Available at: <http://mendolafco.org/wp-content/uploads/2018/11/FINAL-Adopted-Mendo-LAFCo-PP-Manual-2018-1.pdf>. Accessed December 13, 2018.
- LAFCo, County of Mendocino. November, 2008. Mendocino City CSD Sphere of Influence and Municipal Service Review Report. [Online]. Available at: http://mendolafco.org/msr/Mendocino%20City%20CSD_MSR-SOI%202008.pdf. Accessed January 1, 2020.
- Mendocino City Community Services District (MCCSD). March 2020. District Response to Information Request from the Local Agency Formation Commission of Mendocino County in preparation for the Municipal Service Review and Sphere of Influence Update.

- Mendocino City Community Services District (MCCSD). November 2019a. District Response to Information Request from the Local Agency Formation Commission of Mendocino County in preparation for the Municipal Service Review and Sphere of Influence Update.
- Mendocino City Community Services District (MCCSD). October 27, 2019b. District Superintendent Memo to RWQCB: Plant Upgrade Description.
- Mendocino City Community Service District (MCCSD). 2019c. Groundwater Management Plan.
- Mendocino City Community Services District (MCCSD). January 22, 2019d. Asset List and Capital Improvement Plan 2019.
- Mendocino City Community Services District (MCCSD). 2019e. Mendocino City Community Services District Website. [Online] Available at: www.mccsd.com. Accessed November 20-23, 2019.
- Mendocino City Community Services District (MCCSD). August 1, 2018. Sewer System Management Plan.
- Mendocino City Community Services District (MCCSD). September 30, 2008. Meeting Minutes. [Online] Available at: <http://www.mccsd.com/minutes/September-30.pdf>. Accessed November 25, 2019.
- Mendocino, County of (County). December 31, 2019. Mendocino Town Zoning Code. Chapter 20.604, Division III. [Online] Available at: https://library.municode.com/ca/mendocino_county/codes/code_of_ordinances?nodeId=MECOCO_TIT20ZOOR_DIVIIIMETOZOCO_CH20.604BAPR_S20.604.015A. Accessed January 15, 2020.
- Mendocino, County of (County). October 2017. Mendocino Town Plan.
- Mendocino, County of (County). The County of Mendocino General Plan. August 2009.
- Mendocino, County of (County). September 2008. General Plan Update Draft Environmental Impact Report, pp. 4.12-3-4.12-4.
- National Park Service (NPS). July 9, 2010. National Register of Historic Places. "National Register Information System."
- Rick Bowers, CPA (Bowers). May 5, 2016. Mendocino City Community Services District. Financial Statements. June 30, 2015. Irving, TX.
- SHN Consulting Engineers & Geologists, Inc. (SHN). February 2010. Prepared for Mendocino City Community Services District. Sewer System Capacity Analyses. Willits, CA.
- U.S. Census Bureau (USCB). 2018. American Community Survey (ACS) 5-Year Estimates Detailed Tables, Table B19013: Median Household Income in the Past 12 Months (In 2018 Inflation-Adjusted Dollars). [Online] Available at: <https://data.census.gov/cedsci/>. Accessed April 24, 2020.
- U.S. Drought Monitor. 2019. [Online] Available at: <https://www.drought.gov/drought/states/california>. Accessed November 15, 2019.

6 ACRONYMS

AF	Acre-feet
CalPERS	California Public Employees Retirement System
CalWARN	California Water/Wastewater Response Agency
CDP	Census-Designated Place
CEQA	California Environmental Quality Act
CIP	Capital Improvement Plan
CKH	Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000
CPA	Certified Public Accountant
CRWA	California Rural Water Association
CSD	Community Services District
ESD	Equivalent single-family dwelling unit
FOG	fat, oil, grease
FY	Fiscal Year
GHG	Greenhouse gas
GPD	Gallons per day
GPM	Gallons per minute
GWEP	Groundwater Extraction Permit
JPA	Joint Powers Authority
LAFCo	Local Agency Formation Commission
LLFPD	Little Lake Fire Protection District
MCCSD	Mendocino City Community Services District
MCOG	Mendocino Council of Governments
MG	million gallons
MGD	million gallons per day
MHI	Median household income
MHS	Mendocino High School
MOU	Memorandum of Understanding
MSR	Municipal Service Review
MUSD	Mendocino Unified School District
NIMS	National Incident Management System
RHNA	Regional Housing Needs Allocation
RTP	Regional Transportation Plan
SEMS	Standardized Emergency Management System
SOI	Sphere of Influence
SOMP	System Operations and Maintenance Program
SSMP	Sewer System Management Plan
SSO	Sanitary Sewer Overflow
WTP	Water Treatment Plant
WWTP	Wastewater Treatment Plant

7 ACKNOWLEDGEMENTS

7.1 REPORT PREPARATION

This Municipal Service Review and Sphere of Influence Update was prepared by Jessica Hankins in consultation with Hinman & Associates Consulting, Inc., contracted staff for Mendocino LAFCo.

Uma Hinman, LAFCo Executive Officer
Larkyn Feiler, LAFCo Analyst
Kristen Meadows, LAFCo Commission Clerk

7.2 ASSISTANCE AND SUPPORT

This Municipal Service Review and Sphere of Influence Update could not have been completed without the assistance and support from the following organizations and individuals.

Mendocino City CSD	Michael Kelley, Former District Superintendent Ryan Rhoades, New District Superintendent Jodi Mitchell, Former District Secretary
--------------------	---

8 APPENDICES

8.1 APPENDIX A – OPEN GOVERNMENT RESOURCES

The purpose of this appendix is to provide a brief list of some educational resources for local agencies interested in learning more about the broad scope of public interest laws geared towards government transparency and accountability. This appendix is not intended to be a comprehensive reference list or to substitute legal advice from a qualified attorney. Feel free to contact the Mendocino LAFCo office at (707) 463-4470 to make suggestions of additional resources that could be added to this appendix.

The websites listed below provide information regarding the following open government laws: (1) **Public Records Act** (Government Code §6250 et seq.), (2) **Political Reform Act** – Conflict-of-Interest regulations (Government Code §81000 et seq.), (3) **Ethics Principles and Training** (AB 1234 and Government Code §53235), (4) **Brown Act** – Open Meeting regulations (Government Code §54950 et seq.), and (5) **Online Compliance** regulations (Section 508 of the US Rehabilitation Act and Government Code §11135).

- Refer to the State of California Attorney General website for information regarding public access to governmental information and processes at the following link: <https://oag.ca.gov/government>.
- Refer to the State of California Attorney General website for information regarding Ethics Training Courses required pursuant to AB 1234 at the following link: <https://oag.ca.gov/ethics>.
- The Fair Political Practices Commission (FPPC) is primarily responsible for administering and enforcing the Political Reform Act. The website for the Fair Political Practices Commission is available at the following link: <http://www.fppc.ca.gov/>.
- Refer to the California Department of Rehabilitation website for information regarding Section 508 of the US Rehabilitation Act and other laws that address digital accessibility at the following link: <http://www.dor.ca.gov/DisabilityAccessInfo/What-are-the-Laws-that-Cover-Digital-Accessibility.html>.
- Refer to the Institute for Local Government (ILG) website to download the Good Governance Checklist form at the following link: www.ca-ilg.org/post/good-governance-checklist-good-and-better-practices.
- Refer to the Institute for Local Government (ILG) website to download the Ethics Law Principles for Public Servants pamphlet at the following link: www.ca-ilg.org/node/3369.
- Refer to the Institute for Local Government (ILG) website for information regarding Ethics Training Courses required pursuant to AB 1234 at the following link: <http://www.ca-ilg.org/ethics-education-ab-1234-training>.
- Refer to the California Special Districts Association (CSDA) website for information regarding online and website compliance webinars at the following link: <http://www.csda.net/tag/webinars/>.

8.2 APPENDIX B – WEBSITE COMPLIANCE HANDOUT

Refer to the next page.

DRAFT

Appendix B

California Website Compliance Checklist

Use this checklist to keep your district's website compliant with State and Federal requirements.

Public Records Act

SB 929

Our district has created and maintains a website

Passed in 2018, all independent special districts must have a website that includes contact information (and all other requirements) by Jan. 2020

SB 272

Our Enterprise System Catalog is posted on our website

All local agencies must publish a catalog listing all software that meets specific requirements—free tool at getstreamline.com/sb272

AB 2853 (optional):

We post public records to our website

This bill allows you to refer PRA requests to your site, if the content is displayed there, potentially saving time, money, and trees

The Brown Act

AB 392:

Agendas are posted to our website at least 72 hours in advance of regular meetings, 24 hours in advance of special meetings

This 2011 update to the Act, originally created in 1953, added the online posting requirement

AB 2257:

A link to the most recent agenda is on our home page, and agendas are searchable, machine-readable and platform independent

Required by Jan. 2019—text-based PDFs meet this requirement, Microsoft Word docs do not

State Controller Reports

Financial Transaction Report:

A link to the Controller's "By the Numbers" website is posted on our website

Report must be submitted within seven months after the close of the fiscal year—you can add the report to your site annually, but posting a link is easier

Compensation Report:

A link to the Controller's PublicPay website is posted in a conspicuous location on our website

Report must be submitted by April 30 of each year—you can also add the report to your site annually, but posting a link is easier

Healthcare District Websites

AB 2019:

If we're a healthcare district, we maintain a website that includes all items above, plus additional requirements

Including budget, board members, Municipal Service Review, grant policy and recipients, and audits

Open Data

AB 169:

Anything posted on our website that we call "open data" meets the requirements for open data

Defined as "retrievable, downloadable, indexable, and electronically searchable; platform independent and machine readable" among other things

Section 508 ADA Compliance

CA gov code 7405:

State governmental entities shall comply with the accessibility requirements of Section 508 of the federal Rehabilitation Act of 1973

Requirements were updated in 2018—if you aren't sure, you can test your site for accessibility at achecker.ca



California Special Districts Association
CSDA
Districts Stronger Together

csda.net



getstreamline.com

The Brown Act: new agenda requirements

Tips for complying with AB 2257 by January, 2019

Placement:

What it says: An online posting of an agenda shall be posted on the primary Internet Web site homepage of a city, county, city and county, special district, school district, or political subdivision established by the state that is accessible through a prominent, direct link to the current agenda.

What that means: Add a link to the **current agenda directly to your homepage**. It cannot be in a menu item or otherwise require more than a single click to open the agenda.

Exception:

What it says: A link to the agenda management platform may be added to the home page instead of a link directly to the current agenda, if the agency uses an integrated agenda management platform that meets specified requirements, including, among others, that the current agenda is the first agenda available at the top of the integrated agenda management platform.

What that means: If you use an agenda management system, you may add a link to that system directly to your homepage (again, not in a menu item), if the format of the agenda meets the requirements below, and if the current agenda is the first at the top of the list.

Format:

What it says: [agenda must be] Retrievable, downloadable, indexable, and electronically searchable by commonly used Internet search applications. Platform independent and machine readable. Available to the public free of charge and without any restriction that would impede the reuse or redistribution of the agenda.

What that means: You cannot add Word Docs or scanned (image-based) PDFs of your agenda to your website—Word Docs are not platform independent (the visitor must have Word to read the file), and scanned PDFs are not searchable. Instead, **keep your agenda separate from the packet** and follow these steps:

1. From Word or other document system: Export agenda to PDF
2. Add that agenda to your website (or to your agenda management system), and include a link to that agenda on your homepage
3. Then, you can print the agenda, add it to your pile of documents for the packet, and scan that to PDF - just keep the packet separate from the agenda (only the agenda must meet AB 2257)
4. Keep the link on the homepage until the next agenda is available, then update the link

Questions? Contact sloane@getstreamline.com or dillong@csga.net

Attachment 2

5-1-2020

To: Uma Hinman, Executive Officer
Mendocino Local Agency Formation Commission
200 School St.
Ukiah, CA 95482

At the April 16th meeting with a new Board member appointed by the Board of Supervisors without any public notice from MCCSD, made a new motion and voted again. This was a special meeting to approve the water plans. These special meetings are not of an emergency nature and are being held during this pandemic when the public can not physically attend or present documents including water studies.

Interested parties have requested emails of meeting agendas. MCCSD has failed to consistently provide everyone on the list the emails/agendas.

For the purpose of processing protest letters, MCCSD declined to provide a list of registered voters and the County Register of Voters also refused to provide the list of voters.

On April 21, 2020 the District Vice Chairman, Harold Hauck sent a letter to registered voters referring the proposed water plan as servicing "Consumers".

The MCCDS is not authorized to provide water service and the area has private wells and private water systems. The private water systems stand alone similar to Districts in a District.

Voting Procedures

Lack of proper Public Notice prior to adopting the water plan ordinances, caused a lawsuit that the California Court of Appeals ruled to invalidate all water ordinance plans adopted since 2001.

MCCSD established a quorum at their December 4, 2019 and January 9, 2020 meetings. The public physically attended both meetings. At both of these meetings the Board voted NOT TO PURSUE adopting ground water management plans. After a final vote, it was the public's understanding that water plans would not be pursued for one year (according to Water Code 10705 and 10706). The Boards Votes should have been equal to the Protest Action as described by the Water Codes.

MCCSD was authorized by LAFCO in 1971 to provide sewer services. Since 1986 AB786 authorized a "LOCAL AGENCY" that was authorized by law to provide water services defined by Water Code 515 to have powers of a replenishment district as defined in Water Code 6000 to 60622

Our opinion MCCSD needs to initiate formation as a water replacement district in order to be lawfully authorized to provide water services WC515 as described in to comply with WC10702. This would require a vote of the property owners to establish such a district. This district could regulate ground water from private wells not subject to the Mendocino Town Plan 4-13-16.

We would like to add more information, at this point we would like to answer your questions and ask that you delay approval of the Municipal Services Review,

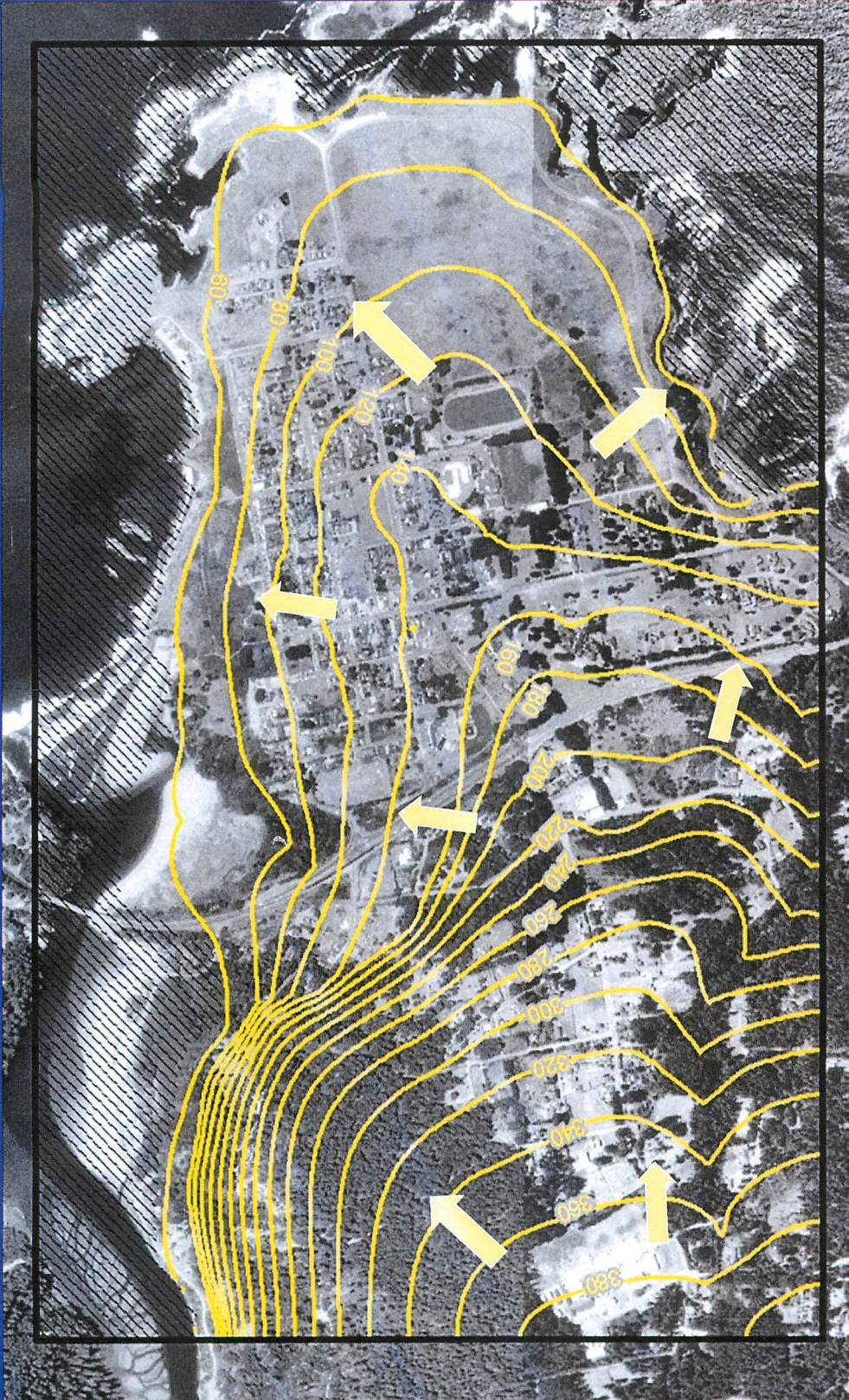
Sincerely,

Steven Gomes

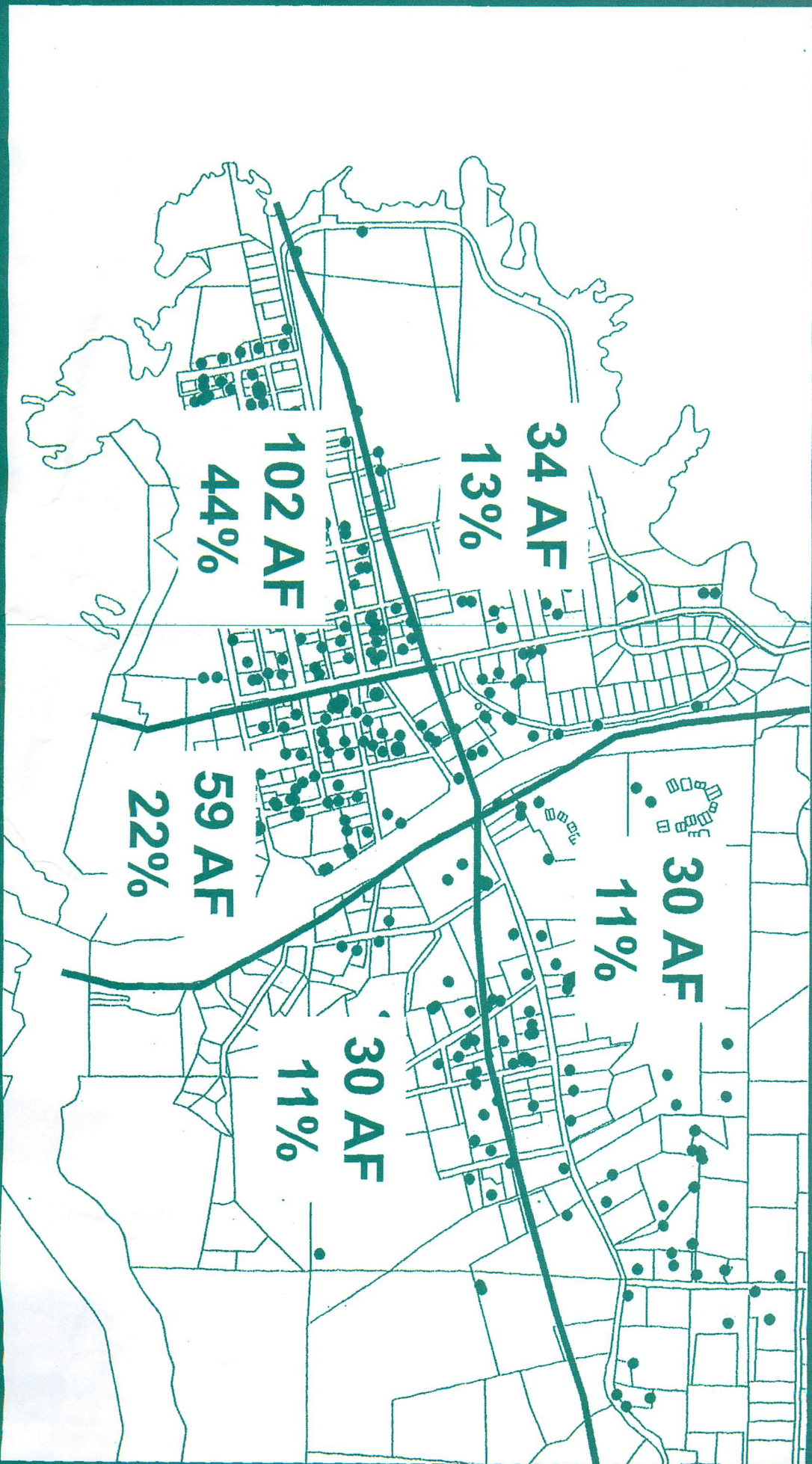
Paul Clark

Barbara Reed

Groundwater Flows towards the Cliffs



Groundwater Pumping Varies Across the District



May 5, 2020

Uma Hinman, Executive Officer
Mendocino Local Agency Formation Commission
200 School Street,
Ukiah, CA 95482 (via email to: eo@mendolafco.org)

re: Comments for LAFCo Meeting of May 5, 2020, Re: Workshop review of Draft MCCSD MSR/SOI UPDATE

Dear Uma,

As you know from our many conversations and my letter to you (included in the Packet for this meeting, pgs 110-117), I am working with property owners on Road 500 D to obtain a Coastal Development Permit for an undeveloped 1.3 acre parcel, APN 119-010-01, located just north of the town of Mendocino. The lot is shown on map on pg 112 of the Packet. As you also know, there is currently a State Parks owned sewerline that runs from Russian Gulch State Park to the MCCSD facility in the town of Mendocino (shown on pg 111 of the Packet). From what I understand, any annexation of the parcel would require inclusion in a Sphere of Influence, or SOI prior to annexation. I want to clarify some issues brought up in your MCCSD MSR/SOI Update and letter to me dated April 24, 2020, both included in the Packet for today's meeting, as now is an opportune time to address pressing issues regarding SOI/annexation which have been ignored for too long.

As you mention in your letter, SOIs for MCCSD are to be reviewed '*as necessary*' every five years, and the last review was in 2008. Sub Section 4.1.1 pg 91 of your Draft MSR/SOI Update addresses states, "*In 2008, LAFCo approved reduction in the size of the SOI for the district to reflect the area that the waste water treatment plant had the capacity to serve. There have been no changes in the District boundary or SOI since then.*" First, I'd like to point out that there hasn't been a SOI review since 2008, and I'd like to know what constitutes a necessity. Additionally, I would like to know how many and which parcels were removed from the District in 2008 due to service capacity. Please see exhibit 2 which I obtained from mendolafco.org, your website. Section 3.2.5 addresses MCCSD System Capacity and states, "*In 2020, there are 1,115 ESD's (Equivalent Single Dwelling) of wastewater system use resulting in a remaining plant capacity of 385 ESD's for new development, changes in use, and expansion of existing uses (MCCSD).*" meaning the district is currently using 65% of its capacity with 35% unused so the District's ability to handle expansion exists. Also worth noting is the '0.5% annual growth rate' in the 'Determinations' section of the draft SOI Update. Page 86, sub-section 3.5.1.1, -3 states, "*...Based on this growth rate, the District can expect a small population increase of 20 people within the next five years. It is anticipated the District will experience very limited growth.*" So there is not any anticipated demand to speak of in the foreseeable future.

Further, sub-sections 4.1.2.1 & 2, in the Draft SOI Update, pg 91, mention the current SOI (as adopted in 2008) includes 55 properties total, 43 east of Highway 1 and 12 along the northernmost portion of Lansing St. boundary to Jack Peters Creek. Figure 2-1, pg 42 of your Packet, shows these areas as 'Areas of Interest' and not 'Sphere of Influence', according to the legend on the map. Which designation is correct? And if they are indeed AOI's, were these the areas removed in 2008 due to lack of service capacity as mentioned above? Please note the map on pg 112 of the Packet illustrates how these parcels are contiguous with the parcels on Road 500D, and the majority of these have failing septic systems. In my letter to you of April 20, again, Packet pages 110-117, I provided excerpts from the existing Non-Standard Septic Permits on file with the Environmental Health Dept. showing documentation these failures, pgs 113-116. Please explain what 'official documentation' you need in addition to these documents and I'll obtain them. Your Draft also states on pg 91 of the Packet, 4.1.2.2, annexation of all intervening parcels from the existing boundary on Lansing St. to Russian Gulch Park would require annexation of "*...approx. 9 parcels along Lansing St and at least two of 5 along 500D. In addition, the annexing property owners would be responsible for considerable costs associated with extending wastewater infrastructure...engineering, developing a gravity collection system, lift station and force main to the districts collection system.*"

According to the Assessors Parcel Maps for the area (exhibit 1), there are 12 parcels along Lansing St, not 9, currently in the SOI (or AOI). However since the septic systems along that Rd. 500D are either currently failing or have failed, and are not being inspected as their Non-Standard septic permits require, all 5 should be included. This makes grand total of 17 for inclusion in the SOI. As for the infrastructure needed your Draft is incorrect as there is currently a 4" pressurized main line that runs from Russian Gulch State Park to the Heeser Drive Lift Station. I have a public records request with State Parks, which has been delayed for 60 days, to get the official information regarding this line including the possibility/feasibility of turning over this line from State Parks to the MCCSD.

As for the cost associated with extending the infrastructure, we've discussed SBs 215 and 244 provide funds to pay for this type of work assuming that the community qualifies as a DUC (Disadvantaged Underserved Community) which according to the 2018 Mendocino Census it would. The number I've found for the Mendocino CDP MHI (census designated place median household income) for 2018 is \$51,830, exhibit 3, (not \$63,801 as shown in your table for 2018 Median Household Income, Staff Report page 31, or \$49,550 as stated in your April 24th letter to me, pg 120 of Packet, or \$51,124 as stated on pg 86 in the 'Determinations' section of the Packet, pg 86.) The \$51,830 is well below the 80% of the California MHI of \$60,222 for 2018 which is part of the criteria for qualifying. Further on pg 31, Staff Report states "...Upon identification of a geographic area containing 12 or more registered voters and household income provided for those registered voters, LAFCo staff can conduct further review of potential DUC status consistent with Policy 9.14.1." I think the above information identifies a geographic area with at least 12 registered voters, Please let me know what further information you need to commence a further review.

Again, now is an opportune time for all interested agencies, specifically LAFCo, MCCSD and Mendocino County Environmental Health, to work in concert to solve some long standing issues, and I firmly believe that expansion of the SOI to include Road 500D, (and the northernmost portion of Lansing Street if it's not currently in the SOI) should be a top priority for LAFCo, as it is part of the organization's mandate. The reasons presented to support this include;

- There existing infrastructure that services Russian Gulch State Park and is in place along all these parcels. (As I've asked before, how can service be provided to Russian Gulch Park and it not be considered part of the district? I've yet to get any information answering this question. Do I need to file a Public Records Request?);
- Non-standard septic systems along Rd 500D have failed or are currently failing;
- Funds are available through Senate Bills 215 and 244 to pay for infrastructure improvements if criteria is met and I believe it is as mentioned above.

Prior to any SOI/District expansion decision making, there are inaccuracies in your Draft MSR/SOI Update and Staff Report that need to be addressed. Further in my conversations with MCCSD, it appears their stance is one of little to no changes to District's boundary regardless of existing excess service capacity, existing infrastructure being in place for expansion and the mandated possibility of having State funds cover infrastructure improvements needed for expansion. Despite this, each time I've spoken with MCCSD's Mike Kelley, his answer to expanding the District was that it can't happen. Now is the time to explore how it can happen for the benefit of all concerned and using funds the State has set aside for this exact purpose.

Please make this letter part of the comments for the May 5th meeting.
Thank you,

Ed Powers
ed@mcn.org
707-357-0902

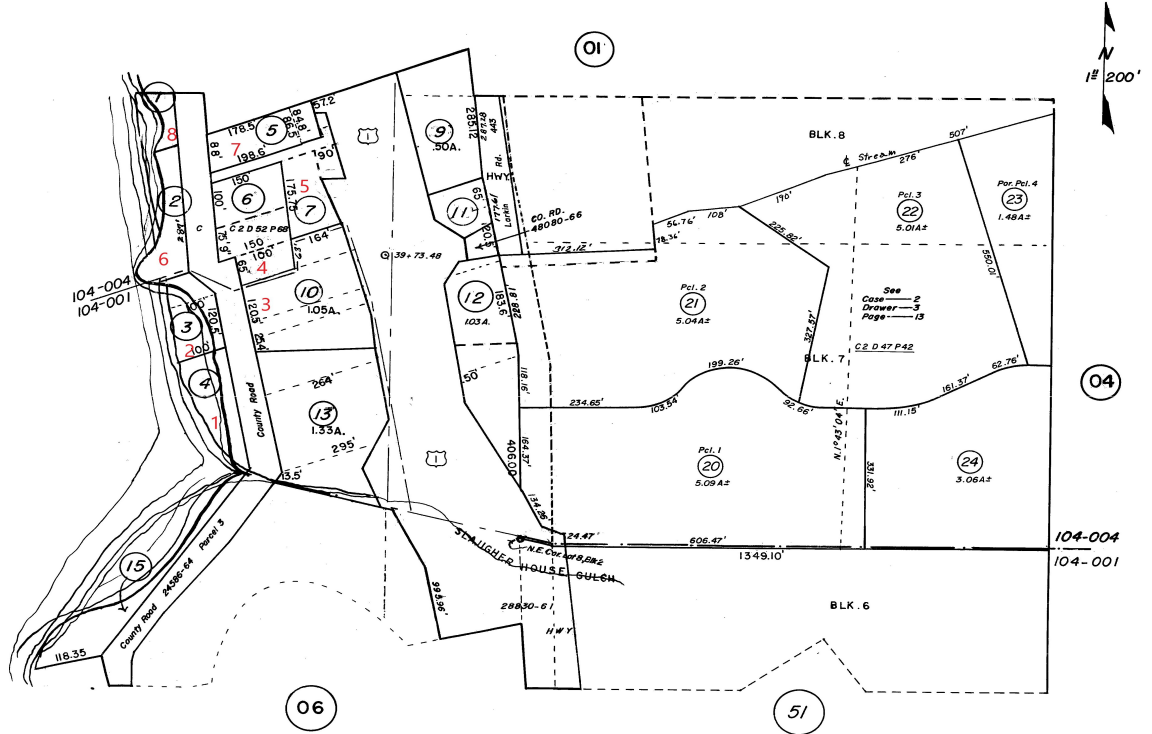
cc: Marlayna Duley/Trey Strickland, Mendocino County Environmental Health

exhibit 1 – Pg 1 of 3 Assessors Parcel Maps showing 17 Parcels (numbered in Red Text)
between current MCCSD northernmost boundary and Russian Gulch State Park

Hills Tract, Lot 4, SW $\frac{1}{4}$ of SE $\frac{1}{4}$ Sec. 19 T.17 N.R.17 W.M.D.B. 8 M.

104-001
104-004

119-03



10-5-88
3-17-89
3-18-91

NOTE: This map was prepared for assessment purposes only. No liability is assumed for the data delineated hereon.

Assessor's Map
County of Mendocino, Calif.
March, 1965

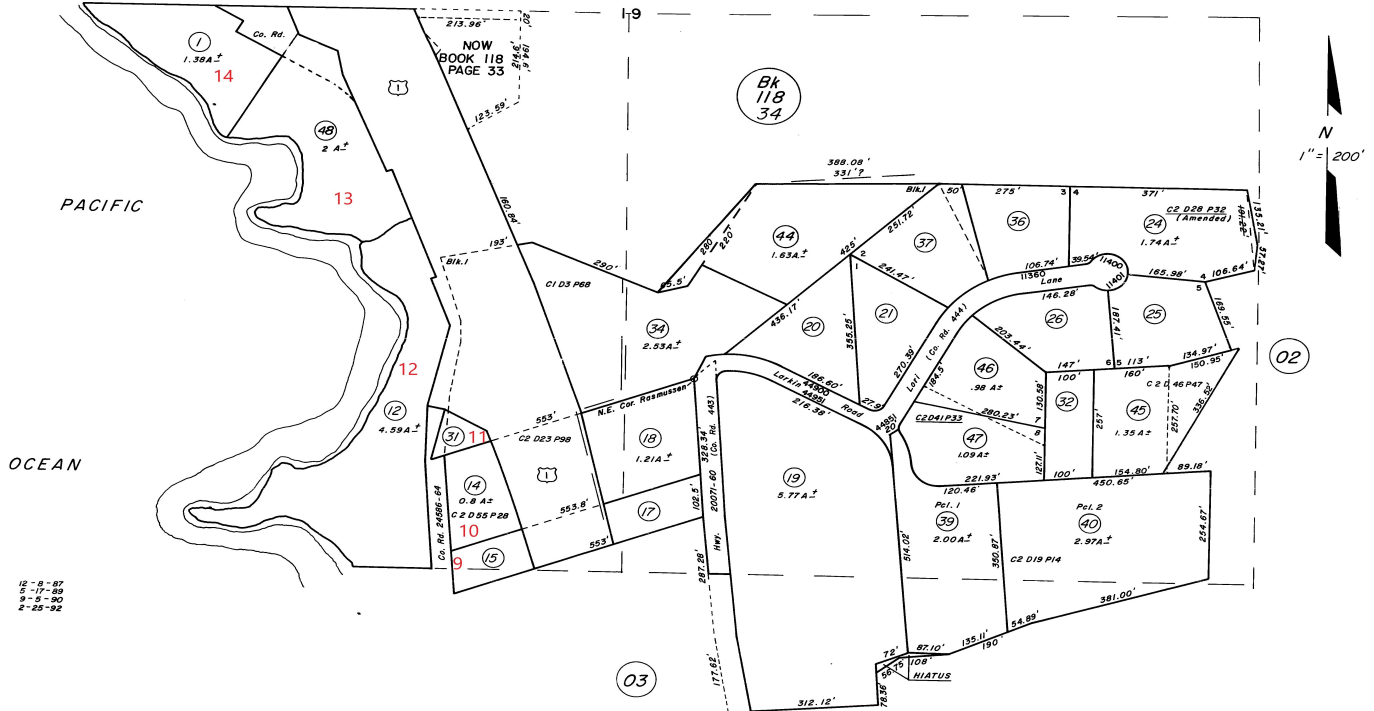
exhibit 1 – Pg 2 of 3 Assessors Parcel Maps showing 17 Parcels (numbered in Red Text)
 between current MCCSD northernmost boundary and Russian Gulch State Park

PARCEL MAPS
 C2 D19 P14
 C2 D28 P32 (Amended)
 C2 D41 P33

Lot 3 and the N.W. 1/4 of S.E. 1/4 Sec. 19, T.17N. R.17W. MDB&M
 Hills Tract Blk.1
 Halter Sub.

104-004

119-01



12 - 8 - 87
 5 - 17 - 89
 9 - 5 - 90
 2 - 25 - 92

NOTE: This map was prepared for assessment purposes only. No liability is assumed for the data delineated hereon.

Assessor's Map
 County of Mendocino, Calif.
 March, 1972

exhibit 1 – Pg 3 of 3 Assessors Parcel Maps showing 17 Parcels (numbered in Red Text)
between current MCCSD northernmost boundary and Russian Gulch State Park

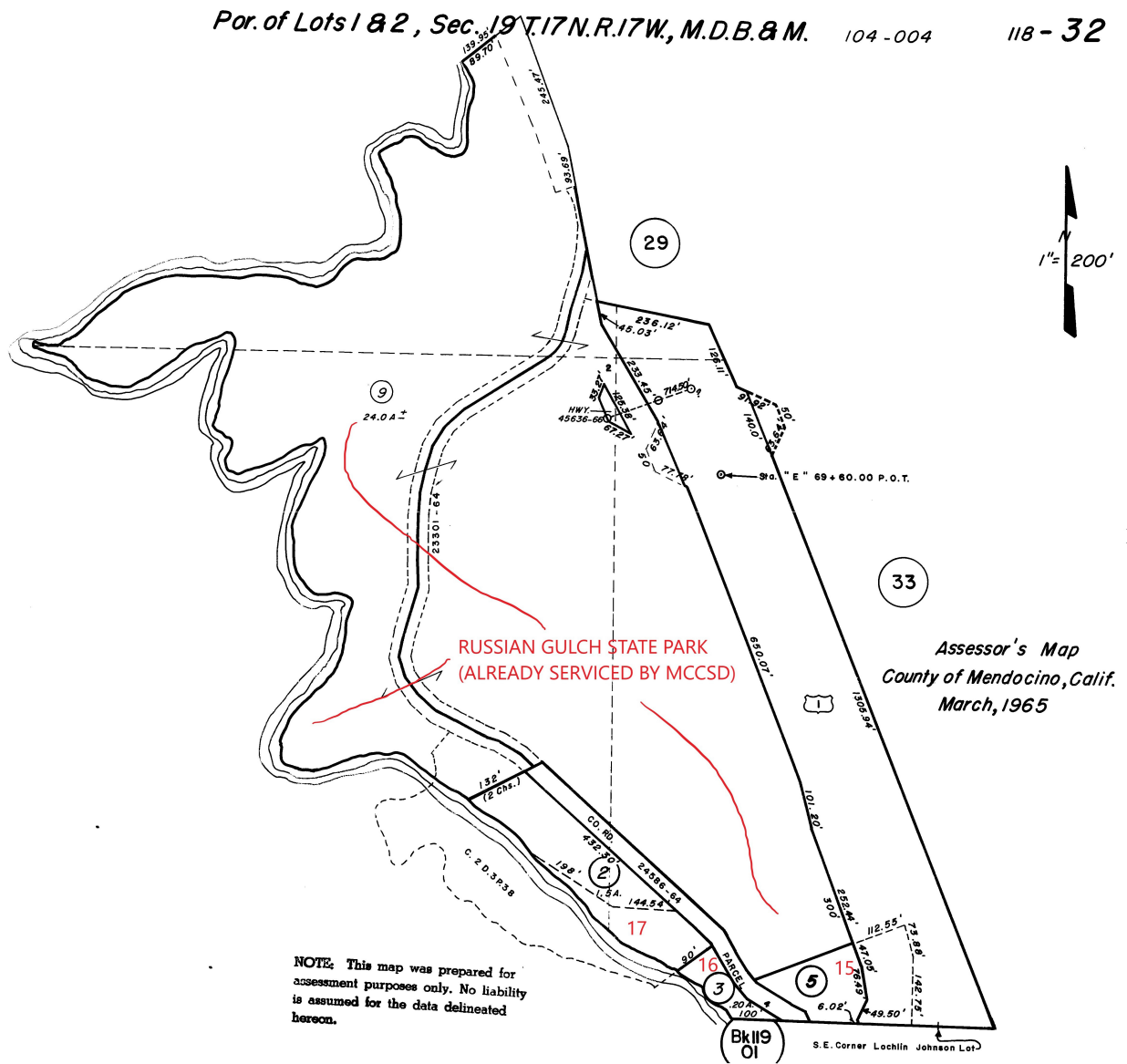


exhibit 2 – MCCSD System Capacity
note: excerpt Mendolafco.org website

3.2.5 SYSTEM CAPACITY

The MCCSD wastewater collection, treatment, and disposal facilities serve a community with an approximate resident population of 800, covering an area of approximately one square mile. This area is predominantly characterized as oceanside residential, commercial, and visitor serving facilities.

The District's total plant capacity is divided by an Equivalent Single Dwelling (ESD) of system capacity and there are 1,500 ESDs of plant capacity in the MCCSD wastewater system. In FY 2016-17, 1,098.36 ESDs of plant capacity were collected from past and current users. The remaining portion (401.64 ESDs of plant capacity) of the capital costs of the system will be recovered from future users and expanding users through connection fees.

In 2020, there are 1,115 ESDs of wastewater system use resulting in a remaining plant capacity of 385 ESDs for new development, changes in use, and expansion of existing uses (MCCSD).

Growth of the wastewater system could occur through new development within the boundaries of the MCCSD or expansion of the system to serve existing areas adjacent to the MCCSD currently utilizing on-site sewage disposal systems (septic systems). There are approximately 87 acres of undeveloped land within the District, and approximately 125 acres of land adjacent to the District's boundaries contained within the 2008 Sphere of Influence. However, growth in Mendocino is anticipated at only 0.5 percent per year, for a total population increase of only 20 individuals within the next five years.

The District completed a Sewer System Capacity Analyses study in November 2009. The study was performed by SHN Consulting Engineers & Geologists, Inc. to inventory collection system components, determine the effects of population growth on existing wastewater capacity, and analyze and evaluate wastewater collection system performance during peak day flows and storm and wet weather events. The study also measured collection system inflow and infiltration. SHN hydraulically modeled the collection system to recognize hydraulic deficiencies that could lead to future SSOs. A capital improvement plan was included in the SHN report. Eight capital improvement projects with their 2010 estimated costs were recommended by SHN, as shown in Figure 3-3 below, which have not been completed to date. (MCCSD, 2018)

Figure 3-3 Capital Improvements Summary



exhibit 3– US Census Bureau's MHI for Mendocino

U.S. Cellular 11:14 AM 27% data.census.gov

United States Census Bureau

Median household income for Mendocino town California

ALL TABLES MAPS PAGES

About 7 results | Filter

EXPLORE DATA

\$51,830 +/- \$4,580 **Median Household Income in Mendocino County, California**

Source 2018 American Community Survey 1-Year Estimates
<https://www.census.gov/programs-surveys/acs/>

EXPLORE DATA

Mendocino County, California Profile

Covering 3,505.4 square miles, Mendocino County, California is the 15th-largest county in California by area.

Related Searches

- Income and Poverty
- Families and Living Arrangements
- Income and Earnings
- Populations and People
- Race and Ethnicity
- Housing
- Families and Household Characteristics
- Age and Sex
- Owner/Renter (Householder) Characteristics

Tables

INCOME IN THE PAST 12 MONTHS (IN 2018 INFLATION-ADJUSTED DOLLARS)

Survey/Program: American Community Survey
 Years: 2018,2017,2016,2015,2014,2013,2012,2011,2010 Table: S1901

	Households		Families	
	Estimate	Margin of Error	Estimate	Margin of Error
▼ Total	33,794	+/-1,416	21,433	+/-1,000
Less than \$10,000	4.3%	+/-1.8	4.1%	+/-1.0
\$10,000 to \$14,999	7.4%	+/-3.0	2.9%	+/-1.0
\$15,000 to \$24,999	11.1%	+/-2.8	9.2%	+/-2.0
\$25,000 to \$34,999	10.5%	+/-2.7	6.7%	+/-1.0
\$35,000 to \$49,999	14.8%	+/-3.3	15.2%	+/-2.0

MEAN INCOME IN THE PAST 12 MONTHS (IN 2018 INFLATION-ADJUSTED DOLLARS)

Survey/Program: American Community Survey
 Years: 2018,2017,2016,2015,2014,2013,2012,2011,2010 Table: S1902

Send Feedback
 cedsci.feedback@census.gov

May 3, 2020

E: Agenda Item 6(A) MCCSD MSR/SOI

Chairman Ms. Brown

Members of the Commission

The actions of the MCCDS requires public review and possible actions by this Commission to remedy a long history of overreach in enacting and enforcing Ground Management Plans.

In 1990 the MCCSD was given authority by Mendocino County Health Department to administrate ground water management of the Mendocino Town Plan sec. 4.13-16. Controlling new uses primarily from new construction activities. MCCSD has no authority to modify the adopted Town Plan and Coastal Development requirements.

In 1986 AB 786[Hauser] created specified powers for [“any local agency authorized by law” to provide water services”] {WC 10702}, to have the specified powers of a water replenishment district starting at WC 60220. Water Code 60220 thru 60232 defines the powers of a Water Replenishment District which would provide and sell additional ground water. It is a water district without pipes. In this case the Water Replenishment District, as required by statute must be formed under LAFCO’s jurisdiction and be an additional “Principle Act”. Only after all property owners and potential beneficiary users agreed by vote and LAFCO approval, could the MCCSD be authorized by law to provide “water services” as defined by WC515 and WC10702. MCCSD is not authorized to provide water, defined in [WC 515 “]. We must note that WC 60230 (h) excerpt “the right of eminent domain may not be exercised with respects to water and water rights devoted to beneficial use”.

If we look at the recently enacted State Ground Management Act 2014 [WC 10720 – 10737.8] MCCSD is deemed to be exclusive local agency with powers to comply with this act. The District has apparently chosen not to manage the Mendocino Headlands Aquifer under this Act. Included in the powers of

Water Replenishment District and powers of a Groundwater Sustainability Agency [WC10723.2] the holders of overlying ground water rights, private wells and Public Mutual Water systems must be considered. The MCCSD boundaries contain at least five different hydrologic zones.

The MCCSD has initiated many groundwater studies which clearly describe limited effectiveness of ground management plans due to the fact no “basin” exists to store water. Additionally, the area of concern is [Mendocino Headlands and Aquifer Zone 1 &2] bounded by ocean on three sides ranging in height from 40 to 100 feet above sea level. This description is from page 58 MS/SOI Update. Sixty per-cent of the water in the “Old Town” area is lost to the sea and additionally twenty per-cent is lost thru evaporation leaving twenty per-cent utilized by private consumers. Mendocino is in a permanent use-it - or- loose-it situation.

MCCSD makes no mention of the lawsuit file in 2015 regarding lack of proper public notice and the basis for declaring a permanent water crisis even in years of adequate rainfall. The Appellate Court decided against MCCSD and an order to pay attorney fees of over \$128,000 has been issued the Mendocino County Superior Court. MCCSD took it upon itself to place water allotments starting at 200 gallons per-day for existing private water wells and allotments for properties that had new owners, even though there was no new use! The minimum water supply established by State and County Health departments requires 200 gallons per/day to legally inhabit a dwelling unit. This is the standard MCCSD levied upon the properties without regard to vastly different water availability and no science to base their shared water theory. To obtain a building permit the proven water supply minimum is one gallon per/min. or about 1480 gallons per/day. This can be reduced to 740 gallons per/day if a storage tank is utilized.

We are hopeful that LAFCO examines the water issues carefully and included in supporting documents is a statement by a former MCCSD Board member at the December 4th, 2019 MCCSD meeting regarding a viable water source for the Town pages 67 & 68.

The many people in opposition to MCCSD’s Water Plans as authored hope for a remedy without litigation.

Steven L. Gomes

Barbara Reed

Paul Clark

Supporting Documents

Transcript Dec.4th MCCSD meeting.

Various maps by Kennedy & Jenks

Mr. Maley deposition from trial Gomes vs MCCSD

April Letter from Gomes to public

Statement of legal objections and Board violations C Morrow esq.

Pg 6, 10, & 11 Kennedy and Jenks Tech. Memorandum 2007

Appellate Decision 5/2019

Court Order 4/2020

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MENDOCINO COMMUNITY SERVICES DISTRICT
BOARD MEETING

SPECIAL MEETING

Proceedings held at 10525 School Street,
Mendocino, California,
on Wednesday, December 4, 2019, at 7:00 p.m.
Reported by Anne Ramirez, CSR 6186.

ADAIR, POTSWALD & HENNESSEY
Certified Shorthand Reporters
P. O. Box 761, Ukiah, California
(707) 462-8420 and (800) 747-3376

1 APPEARANCES

2 For the District: JAMES JACKSON
3 Attorney at Law
4 Jackson Law Office
245 East Laurel Street
Fort Bragg, California 95437

5 For Steve Gomes: BRIAN S. MOMSEN
6 Attorney at Law
7 Carter Momsen
305 North Main Street
Ukiah, California 95482

8 Also Present: Harold Hauck, Board Member
9 Robert Kerstein, Board Member
10 Otto Rice, Board Member
11 Jodi Mitchell, Board Secretary
12 Jeannee Christ, Board Secretary
13 Michael Kelley, Superintendent

14
15
16
17
18
19
20
21
22
23
24
25

1 BOARD MEMBER HAUCK: I'll call the special
2 meeting -- call the special meeting of the Mendocino
3 Community Services District to order.

4 This is a special meeting. The three of us --
5 we have a four-member board; unfortunately, our board
6 chair is ill and will not be able to attend. So I'm
7 Harold Hauck and, as vice president, I'll be chairing
8 the meeting tonight.

9 The agenda -- second item on the agenda is a
10 request of communications, and I'll ask if we've had any
11 communications that need to be discussed.

12 MR. KELLEY: No.

13 BOARD MEMBER HAUCK: No.

14 MR. KELLEY: We have a few letters, but for
15 the next meeting.

16 BOARD MEMBER HAUCK: Oh, okay. We will be
17 going to closed session on a personnel matter after this
18 meeting is adjourned.

19 At this time I'd like to open the meeting for
20 public comment on anything that is not on the agenda.
21 So if anybody has anything that they would like to talk
22 to us about that is not on the agenda, now is your time.
23 The items that are on the agenda, as we bring them up,
24 you will, of course, have an opportunity to discuss
25 those items with us.

1 So seeing and hearing no -- no public comment,
2 I will move on then to item four, the public hearing.
3 And we have three resolutions in the public hearing that
4 we are going to be considering tonight. And I'm going
5 to ask our superintendent, Mike, to go ahead and begin
6 the discussion with Resolution No. 2019-261.

7 MR. KELLEY: Okay. It's the Resolution of
8 Intention to adopt the Groundwater Extraction Permit
9 Ordinance. And I'll read it, it's short:

10 "Whereas, in 1987, the California
11 Legislature passed California Water Code
12 Section 10700 to 10717, as outlined in
13 Assembly Bill No. 786, which provided the
14 Mendocino City Community Services District
15 with the authority to establish programs for
16 groundwater resources management within the
17 District boundaries; and

18 "Whereas, in 1990, the Mendocino City
19 Community Services District assumed
20 responsibility for groundwater management, and
21 adopted a Groundwater Extraction Permit
22 Ordinance pursuant to California Water Code
23 Sections 10703 through 10706; and

24 "Whereas, on May 14, 2019, the California
25 Court of Appeal First Appellate District

1 declared Amended Groundwater Extraction Permit
2 Ordinance 07-1 void, and ordered that MCCSD
3 re-adopt the Ordinance following the enhanced
4 procedures of California Water Code Sections
5 10703 through 10706.

6 "Now, therefore be it resolved, pursuant
7 to California Water Code 10703 through 10706
8 the Board of Directors does hereby adopt a
9 Resolution of Intention to re-adopt and
10 implement an amended Groundwater Extraction
11 Permit Ordinance to protect the water
12 resources of the District."

13 BOARD MEMBER HAUCK: So before we either vote
14 or have the board discuss anything on this issue, is
15 there anything the public would like to say about this
16 resolution that is before us at this point?

17 MR. GOMES: Yeah, I'd like to.

18 Do you have the copy of the Assembly Bill that
19 was passed that you mentioned there, 786, available
20 tonight?

21 MR. KELLEY: I have a copy of the Water Code
22 section.

23 MR. GOMES: Well, you specifically say that
24 you're following Assembly Bill 786, which includes those
25 codes attached to the bill. Okay? So I mean I'd like

1 to have you guys do a reading of this Assembly Bill for
2 us tonight so that the public knows what it says.

3 AUDIENCE MEMBER: I agree.

4 MR. JACKSON: The Assembly Bill was codified
5 in Water Code 10703-10706. Is that what you want to
6 hear?

7 MR. GOMES: No, I want to hear what was passed
8 by the Assembly and signed by the Governor.

9 MR. JACKSON: That's sort of irrelevant once
10 it's codified in the statute book what the bill said.
11 And I have it right here if you really need to hear it.
12 I'm sure you've probably heard it before, Mr. Gomes.

13 MR. GOMES: No, I want the public to hear what
14 the bill says.

15 BOARD MEMBER HAUCK: Do you have the bill,
16 Jim?

17 MR. JACKSON: Well, there's no reason I would
18 have brought AB 786 to this meeting. No, sir.

19 BOARD MEMBER HAUCK: Okay.

20 MR. JACKSON: It's actually irrelevant.

21 MR. GOMES: I have a copy. Would you like to
22 read it?

23 MR. JACKSON: Why don't you read it since you
24 have it.

25 BOARD MEMBER HAUCK: Sir, you have it. You

1 can read it.

2 MS. ARNOLD: I'm sorry, can you say what your
3 name is?

4 MR. JACKSON: That's Steve Gomes.

5 MR. GOMES: I'm Steve Gomes.

6 MS. ARNOLD: Thank you.

7 MR. GOMES: I'm one of the property owners up
8 here on Little Lake Road.

9 Okay. Well, I'll attempt to read it for you.
10 I'm not the greatest reader.

11 So AB 786 was adopted or sponsored by Dan
12 Hauser at that time. Groundwater resources says Town of
13 Mendocino -- it says under existing law certain special
14 districts are authorized to establish programs for the
15 management of groundwater resources within their
16 boundaries. It says this bill, subject to specific
17 limitations, authorizes any local agencies -- agency
18 whose jurisdiction includes the area within the
19 Mendocino City Community Services District.

20 Now, this is just talking about the
21 boundaries. So they're -- and -- and which is
22 authorized by law to provide water services to establish
23 by ordinance or by resolution if not authorized to act
24 by ordinance. Programs for the management of
25 groundwater resources within the area in which the water

1 service is being provided in accordance with the
2 prescribed procedures, the bill would authorize the
3 local agencies to exercise specific powers of a water
4 replenishment district and subject to the approval of
5 the voters of the agency to fix and collect rates for
6 the extraction of groundwater or to levy a water
7 replenishment assessment based on water that the
8 replenishment district would be providing to the
9 groundwater.

10 Does everybody understand what that means?

11 BOARD MEMBER HAUCK: Would you like to explain
12 it to us?

13 MR. GOMES: Well, replenishment districts are
14 used throughout, like, Southern California areas,
15 especially San Joaquin, where you have detention basins;
16 you take floodwaters from rivers, water that's not being
17 used by anybody, and then you flood the whole basin area
18 so it soaks into the ground in the winter to recharge
19 water for the summer. And basins are generally a
20 confined area that can store water underground.

21 So this is saying that you are a -- I'm sorry,
22 let me get it right here -- you are a water
23 replenishment district. I mean you have to be the
24 district to have the powers.

25 BOARD MEMBER HAUCK: Are you interpreting the

1 ordinance or are you reading the ordinance?

2 MR. GOMES: Well, it says what it says.

3 BOARD MEMBER HAUCK: I'm asking if you're
4 interpreting it.

5 MR. KELLEY: He's not reading the ordinance.

6 MR. GOMES: I'm interpreting it. It says you
7 are, you know, operating as a groundwater replenishment
8 district.

9 MR. MOMSEN: Are you reading it or --

10 MR. GOMES: I'm reading it. Well, I'm --

11 MR. MOMSEN: Let them know when you're reading
12 or when you have stopped.

13 MR. GOMES: Okay. Maybe someone else wants to
14 do it.

15 AUDIENCE MEMBER: He gave him a chance to read
16 it.

17 MR. GOMES: Somebody else could be doing it.

18 So after you can fix and collect, you know,
19 water, extract water, levy water, a replenishment
20 district, you can collect rates, you can collect fees.
21 The local agency will no longer be authorized to
22 exercise this power upon completion of a municipal
23 central water system as prescribed.

24 And then it goes on to these codes. But I
25 don't think you can take the codes and separate them

1 from what the wording of the bill is.

2 BOARD MEMBER HAUCK: Is that your opinion,
3 sir?

4 MR. GOMES: Well, yeah.

5 BOARD MEMBER HAUCK: Okay. Thank you.

6 MR. GOMES: Yeah, sure.

7 BOARD MEMBER HAUCK: Is there any other
8 comments?

9 MR. MOMSEN: Well, I'm Steve's lawyer; I'm
10 Brian Momsen. I didn't really mean to wear a suit here
11 today, but Steve picked me up right from court before we
12 drove over.

13 MR. JACKSON: You can take your tie off,
14 Brian.

15 MR. MOMSEN: Well, it is a Jerry Garcia tie.

16 MR. JACKSON: Well, in that case, leave it on.

17 MR. MOMSEN: I really just wanted to respond
18 to -- there was a letter that was sent out by the
19 District on November 15th that kind of discussed this
20 meeting and characterized Mr. Gomes's lawsuit and the
21 results of it. And I want to just -- it's a letter
22 from -- a press release, actually, from this Board that
23 I just read and I wanted to respond to quickly.

24 First of all, you know, there's a claim when
25 it starts discussing what Mr. Gomes's lawsuit was about,

1 which essentially the lawsuit challenged the procedures
2 that the '07 ordinances were adopted by as not following
3 the ordinances which required these heightened notice
4 requirements and two meetings and this protest vote
5 where the people of the District could actually override
6 the Board's decision. In '07 the board decided not to
7 follow that and made an interpretation that when they
8 enacted their initial program in 1990, they didn't have
9 to follow those procedures again. That was one part of
10 his suit. And there were other issues as well.

11 This letter characterizes Mr. Gomes's suit as
12 saying that he claimed that he had the right to pump
13 continuously from his well without limits. I do not
14 believe he ever made that claim. He claimed that he
15 should have been compensated for his water rights being
16 taken and that the procedures weren't followed.

17 And then later in the press release discussing
18 the Court of Appeal decision it mentions that the court
19 ordered that -- that these ordinances be re-adopted,
20 when actually they voided the ordinances because the
21 procedures weren't followed. It's up to the board
22 whether they want to re-adopt them or not, but the Court
23 of Appeal didn't order that. And they didn't reach many
24 of the other issues raised by Mr. Gomes because --
25 because of this procedural flaw, it kind of just sent

1 the board back to square one.

2 There's other things here in this press
3 release that --

4 BOARD MEMBER HAUCK: You're saying this is a
5 press release or was it a reported item of the board?

6 MR. MOMSEN: It's a press release from this
7 board dated November 15th, 2019.

8 BOARD MEMBER HAUCK: Okay.

9 MR. MOMSEN: It mentions that proportionate
10 allocation of groundwater supply through the issuance of
11 extraction permits has helped prevent localized
12 depletion of the aquifer and overextraction. But no
13 evidence was ever provided in the case that the
14 extraction limits have worked.

15 The District's own expert at the trial
16 mentioned that approximately 70 percent of the available
17 water during the rainy season flows out into the ocean,
18 which it's kind of a "use it or lose it" basin. And to
19 me that is the biggest flaw of these regulations is it
20 doesn't address that problem.

21 There's no -- there's nothing in the
22 regulations that stores water, for example, in the rainy
23 season that could be used later in the dry season; it
24 just limits people's use. But the water's gone anyway
25 by the, you know, late summer because it's all run into

1 the ocean.

2 And there's some quotations of the law in this
3 press release that no -- groundwater is a resource that
4 is owned by people in common, for example. Well, that's
5 kind of an oversimplistic statement of California law.
6 Property -- water rights are linked to property
7 ownership. And if your property has better hydrology
8 than a neighbor's, you can pump more water as long as
9 you're not harming anyone else.

10 I mean this release kind of paints Gomes as
11 being someone who just wants to pump as much as he wants
12 and doesn't care about anybody else. But that's not
13 what his suit was about. It was making the District
14 follow the procedures and protecting his private
15 property rights.

16 I also -- again, the press release states that
17 this extraction permit and allotments was successful,
18 but no evidence has been provided of that because most
19 of the water runs into the ocean anyway.

20 So I wanted to address the press release at
21 least.

22 I -- I'd point out in the legislative history,
23 which I do have some copies of -- and, by the way, my
24 office sent a letter today to -- to the board staff and
25 to Mr. Jackson. I just wanted to make sure that was

1 going to be in the record for this hearing.

2 MR. JACKSON: Yeah, I did receive a letter a
3 couple of hours ago. I haven't had a chance to really
4 digest it. I'll be responding to that letter. And you
5 can take that up at the December 30 hearing if this
6 moves forward.

7 BOARD MEMBER HAUCK: Unfortunately, if you
8 sent it yesterday, we obviously haven't had a chance to
9 read it or be able to comment tonight. So when we
10 receive it, we'll put it into the record.

11 MR. MOMSEN: Okay. I have other copies here.

12 MR. GOMES: Would you like to receive it?

13 AUDIENCE MEMBER: I'd like one.

14 MR. MOMSEN: Here you go.

15 MR. JACKSON: You can certainly receive a copy
16 of this letter today. But it's a long letter, it's 24
17 pages long. I would suggest that you read it at your
18 leisure and then -- well, the letter is 12 pages and the
19 attachments are another 12 pages, to be clear.

20 BOARD MEMBER HAUCK: Okay.

21 MR. JACKSON: And they raise a lot of the same
22 issues they raised at trial and a couple of new ones,
23 and I'll be responding to it. It's a letter of concern
24 which you'll be dealing with at the second hearing.

25 MR. MOMSEN: So who should I give it to?

1 BOARD MEMBER HAUCK: Do you have anything more
2 that you wanted to say?

3 MR. JACKSON: The three board members and the
4 board secretary. It's not the sort of letter you'll be
5 able to read and digest in five minutes.

6 SECRETARY MITCHELL: Could we get one here?

7 MR. JACKSON: And the board secretary as well.
8 Thank you.

9 BOARD MEMBER HAUCK: Do you have anything
10 further?

11 MR. MOMSEN: Yes.

12 MR. JACKSON: I have a copy. Thank you.

13 MR. GOMES: Could I say one more thing?

14 BOARD MEMBER HAUCK: Let your attorney finish
15 his thoughts.

16 MR. GOMES: Okay.

17 MR. MOMSEN: The legislative history and the
18 intent of -- of the Water Code sections that were
19 adopted back in the 1980s were originally to protect the
20 existing well owners from new construction and new
21 development coming in and drilling deeper wells. If you
22 read the legislative history, that was the purpose; it
23 wasn't necessarily because of drought.

24 And these new regulations tend to kind of
25 cannibalize the very group of people that the

1 legislation was designed to protect in the first place,
2 based on a drought that happened in 2014, I'm gathering.

3 And Mr. Gomes is correct that the -- the
4 statutes give the District the powers of a replenishment
5 district, which is kind of technical, but it's a
6 creature of statute. And those powers -- there is Water
7 Code 60230 which states that, one, their power is
8 eminent domain, meaning they can condemn property. Like
9 when a freeway goes through, the government condemns
10 someone's property, but they're supposed to adjust
11 compensation for that. And that code section limits
12 that power to prevent that type of taking if the water
13 is already being put to beneficial use.

14 And there's another section, 60051, that
15 states that a replenishment district can't take already
16 existing water rights.

17 Enough of the legal terminology. I tried to
18 read through some of these statutes, and I had more
19 questions than answers. One of them is -- I'm not sure
20 what the differences are between these ordinances you
21 want to pass tonight and what was passed in '07. In '07
22 there wasn't an automatic allotment and a meter for
23 every property owner until a Stage 4 drought occurred,
24 which was declared in 2014. I'm not clear that these
25 new ordinances require another Stage 4 drought to occur

1 before, you know, everyone is on --

2 MR. JACKSON: Let me respond to that, Brian.

3 MR. MOMSEN: Okay.

4 MR. JACKSON: They do not. The main
5 difference between the 2007 ordinances and the ones now
6 under consideration are that everyone has to get on the
7 program. It eliminates the Stage 4 drought triggering
8 event because that triggering event has already
9 occurred. And just about everybody in the District
10 already has a Groundwater Extraction Permit because of
11 that.

12 So that's the primary -- that and some changes
13 in the recitals are the primary changes. And I will be
14 submitting red line copies of the ordinances and plan in
15 the next few days. So you'll have copies so you can see
16 precisely what we're doing.

17 MR. MOMSEN: Okay. So that kind of begs the
18 question: What's the point of the allotments and the
19 meters in years of plenty? If there's 80 inches of
20 rainfall in a given year, these are still in effect even
21 though the Stage 4 drought occurred in 2014, which, at
22 least to me, seems arbitrary.

23 And then one of the ordinances that the Court
24 of Appeal voided was -- I can't remember if it was 07-01
25 or 07-04, but it had to do with when a property sold,

1 changed ownership, that an allotment and a meter was
2 required. And, again, what about a change of ownership
3 as opposed to a change of use puts any more burden on
4 the aquifer?

5 MR. JACKSON: Actually, Brian, and I'm sorry
6 you haven't seen the red line yet, but the sale of
7 property triggering event has also been eliminated in
8 the new ordinance.

9 MR. MOMSEN: Okay. So that's a difference?

10 MR. JACKSON: Yeah. So, basically, everybody
11 is going to get on the program. And then the prior
12 requirements that if you were developing undeveloped
13 property, you'd have to do a hydro study and get a
14 permit, they remain. But that -- that fourth item of
15 sale of property, that has been eliminated.

16 MR. MOMSEN: Okay. Okay. I'm almost done
17 here, but just a couple other issues I wanted to bring
18 up.

19 I already brought up the issue of this -- most
20 of the water running out into the ocean. And it doesn't
21 seem like any of these regulations address -- really the
22 main problem with this aquifer is it's not contained.
23 It doesn't -- it's not a basin. It flows out every
24 year.

25 And there doesn't seem to be any inertia since

1 the late eighties to form a municipal water system,
2 drill wells. Westport has a municipal water system.
3 Boonville is trying to get one now. Mr. Gomes has
4 talked to our local supervisor about getting funding for
5 that. It's one of the best, or if not the best world
6 renown tourist attraction in our county, yet all there
7 is for water is private wells. And nothing seems to
8 change. There doesn't seem to be any inertia to get
9 that done.

10 BOARD MEMBER HAUCK: Can I respond to that
11 just briefly?

12 MR. MOMSEN: Sure.

13 BOARD MEMBER HAUCK: In the 1990s there was a
14 significant effort made by this board and the community
15 of Mendocino to try and develop a municipal water
16 source. There was much investigation, there was much
17 analysis, and it was proven to be, at that time, not a
18 feasible thing for this community to do. There was
19 no -- no way that this community could fund -- come
20 anywhere near funding the effort to create a municipal
21 water source.

22 MR. MOMSEN: Okay.

23 MS. ARNOLD: May I say something?

24 MR. MOMSEN: Sure.

25 MS. ARNOLD: I think the word you're looking

1 for is "momentum" and not "inertia."

2 MR". MOMSEN: Well --

3 BOARD MEMBER HAUCK: Anything else, sir?

4 MR. MOMSEN: Well, just on that, just to
5 address that point, the supervisor for the county,
6 Mr. Williams, Ted Williams, has informed Mr. Gomes that
7 there is funding available from the State. So maybe he
8 can show up at the next meeting and explain that better
9 than I can, but --

10 BOARD MEMBER HAUCK: That would be interesting
11 to hear.

12 MR. MOMSEN: And then in the last ordinance,
13 at least the way that it was enforced, the downtown
14 businesses could get their allotment amount based on an
15 estimate of their needs, where the residential owners,
16 such as Mr. Gomes, the allotment was just based on the
17 number of rooms in their house.

18 MR. JACKSON: Brian, that's simply not true.
19 The commercial residential rates are based on the water
20 use standards in the ordinance. There was one or two
21 situations, the service station and the veterinary,
22 where they were unusual operations and the District
23 worked with those property owners to determine a good,
24 you know, allotment. But beyond those two instances,
25 every single commercial use is bound by the same water

1 use standards as residential users.

2 MR. MOMSEN: But just the number of bedrooms
3 in the house, regardless of the size of the property or
4 the people living there, is -- seems like a fairly
5 arbitrary standard.

6 MR. JACKSON: And hotels are based on how many
7 rooms. I mean there are standards and those are the
8 standards that have been uniformly imposed upon the
9 properties in this district.

10 MR. MOMSEN: And then I don't know if you
11 read -- there was a letter submitted by Barbara Reed.
12 I'm not sure if she's here. And I don't fully
13 understand this, but she mentioned that some of the
14 board members live in subdivisions that have their own
15 separate water systems and do not necessarily have
16 individual meters like someone like Mr. Gomes might.

17 MR. KELLEY: They all do. They all have
18 meters.

19 MR. JACKSON: They all do. They're all
20 regulated by the same requirements as Barbara is, as
21 Mr. Gomes is.

22 MR. GOMES: Can I enter something here?

23 MR. JACKSON: Yes.

24 MR. GOMES: When those water systems were
25 created, it was part of a subdivision of land. So they

1 had certified water sources that were capable at that
2 time, independent of everything else, to supply those
3 lots. And that was certified to the State of
4 California --

5 MR. JACKSON: Uh-huh.

6 MR. GOMES: -- as ample water. So all of
7 those districts are small systems, as they call them,
8 have their own water supplies, totally independent of
9 what we're talking about here.

10 MR. KELLEY: Well, they're extracting from the
11 same aquifer.

12 MR. JACKSON: Yeah, so it's not totally
13 independent. It's just a water source that serves more
14 than one property.

15 MR. GOMES: Okay.

16 MR. JACKSON: But it's still in the same
17 aquifer and it's still regulated by this District
18 through a Memorandum of Understanding with the
19 subdivision.

20 MR. GOMES: Okay. You have one owner that
21 got -- has a half-a-gallon-per-minute regulation on that
22 parcel because he got a building permit before this
23 board was capable of -- or thinks they were assigned to
24 have this kind of water management. Okay? And he gets
25 750 gallons a day based on the fact that the County

1 requires that before he can get a permit. That's what
2 the County Health Department says you must have. Those
3 subdivisions are under that same rule. Whatever they
4 had in the beginning they have to have today. They
5 can't be subject to less water at any time because
6 that's not the way the subdivision land regulations
7 work.

8 MR. JACKSON: Yeah, I'm not sure that's true.

9 MR. GOMES: Well, it's an issue that we need
10 to discuss.

11 The other thing you just said, that they all
12 pump from the same aquifer, I mean I think you need a
13 peer review on your hydro studies to find out if you
14 have an aquifer. Because somebody made up --

15 BOARD MEMBER HAUCK: We have engineering
16 studies that have told us that we have one.

17 MR. GOMES: Well, I've read them all. Okay?
18 And I read a 1985 study two days ago that says there's
19 no water in the headlands. There's no water in there.
20 Okay?

21 The bottom line is these hydro studies are
22 saying, "well, it's challenging" and then they name
23 something called an open aquifer. Is that a scientific
24 term?

25 BOARD MEMBER HAUCK: Well --

1 MR. KELLEY: The groundwater basin is usually
2 surrounded by impervious -- you know, like it's a bowl
3 and water sits in that; but in this case it doesn't, the
4 water discharges over the headlands.

5 MR. GOMES: And so there is no basin.

6 MR. KELLEY: Well, there are marine terraces
7 and so there is storage within the marine terraces and
8 those recharge the deeper fractures for the deep wells.
9 So there is -- you know, and that's why they consider it
10 an open system.

11 MR. GOMES: Well, when you discuss safe yield
12 in a basin, it is an understanding that that basin could
13 hold water from year to year, which this one cannot.

14 Do you agree on that?

15 MR. KELLEY: Yeah.

16 BOARD MEMBER HAUCK: Mr. Gomes, can I ask you
17 what your point is?

18 MR. GOMES: The point is that what you're
19 doing is totally ineffective and does not give any more
20 water to the wells that go dry. Okay? They've been dry
21 forever. I remember my uncle used to come over and take
22 showers at my grandmother's house.

23 BOARD MEMBER HAUCK: Thank you, sir. So I
24 understand that. Now I'm going to ask that we go
25 forward with our meeting.

1 MR. MOMSEN: Well, you did ask him a question.

2 AUDIENCE MEMBER: Well, it's his turn to talk.

3 BOARD MEMBER HAUCK: Do you have anything else
4 that you wish to bring up?

5 MR. MOMSEN: I'm done. There are a lot of
6 people here. They should get a chance to respond.

7 BOARD MEMBER HAUCK: Jim, would you like to
8 respond to any of this?

9 MR. JACKSON: I've responded as necessary as
10 things came up. Thank you, Mr. Chairman.

11 BOARD MEMBER HAUCK: Let me bring the -- is
12 there any other community members that wish to have --

13 MS. ARNOLD: Yes, I would like to --

14 AUDIENCE MEMBER: So all their work was
15 declared invalid?

16 MS. ARNOLD: I think I have the floor.

17 AUDIENCE MEMBER: I apologize. I just wanted
18 to know, all of their work was declared invalid?

19 BOARD MEMBER HAUCK: Sir, after she is done,
20 you can have the floor.

21 MS. ARNOLD: My name is Jean Arnold; Jean like
22 a pair of pants, Arnold like Benedict.

23 So from the things that you two have been
24 saying, there are two things I'm getting from this. And
25 I used to work for the Marin Water District and I'm a

1 marine engineer. So when you say that it's sort of not
2 a bowl but an open thing that goes out to the water,
3 that says to me it's more fragile than a bowl. So I
4 think that's evident.

5 The other thing that you said, Mr. Momsen, was
6 that there was no proof that restrictions worked.
7 Well, the only way to prove that they work or don't work
8 is for us to run out of water. Then you could prove
9 that they didn't work.

10 So as someone who has a shallow well here, I
11 just -- you know, you're playing with fire. We have no
12 idea what the climate is doing, we have a limited
13 resource, and we have a number of people dependent on
14 it. So I just -- I'm sort of stunned by the whole
15 argument.

16 But basically we have a very fragile water
17 system here and I'm happy to restrict -- you know, I'm
18 just bucket flushing, you know, using water out of our
19 shower, because I feel everybody should be preserving
20 this resource. If this were air we were talking about,
21 I don't think we'd be having this conversation. If you
22 said you can only have "X" amount of air and all the air
23 is flying away, I don't think you'd leave everybody to
24 die. But this community will die without water.

25 MR. GOMES: I have a question for you.

1 MR. MOMSEN: I'd like to respond to that.

2 BOARD MEMBER HAUCK: Address your comments to
3 the board, please.

4 MR. GOMES: Okay. I was just wondering, the
5 last speaker here, Jean, how deep is your well?

6 MS. ARNOLD: Twenty-five feet.

7 BOARD MEMBER HAUCK: Address the board,
8 please.

9 MR. GOMES: Okay. So how many gallons per
10 minute does that well produce?

11 BOARD MEMBER HAUCK: You're asking the board
12 how many gallons per minute?

13 MR. GOMES: Yeah.

14 BOARD MEMBER HAUCK: If she wishes to tell
15 you, then she can.

16 MS. ARNOLD: We have a great well, we do. I
17 still preserve as much as I can for my neighbors who
18 don't have good wells.

19 MR. GOMES: Okay.

20 BOARD MEMBER HAUCK: So the purpose of your
21 questioning of her comments is?

22 MR. GOMES: Well, the fact that a 25-foot well
23 is too shallow to be into the aquifer as you show on
24 your graphs, because at 23 feet you're saying that
25 there's no more water.

1 BOARD MEMBER HAUCK: I am not going to debate
2 the science of what is going on here.

3 MR. GOMES: Okay.

4 BOARD MEMBER HAUCK: That is a nonproductive
5 kind of use of our time, I think.

6 MS. ARNOLD: May I just say one thing in
7 response?

8 BOARD MEMBER HAUCK: Yes.

9 MS. ARNOLD: From my knowledge, and I have a
10 D3 license from the State and I have a T2 license from
11 the State, aquifers are not shelves. Things go up and
12 down. If there's pressure on one side, it will actually
13 go uphill.

14 Thank you.

15 MR. ANDERSON: I'm addressing the board about
16 the general topic of the ordinances.

17 BOARD MEMBER HAUCK: Please state your name.

18 MR. ANDERSON: I'm sorry. Chet Anderson. I
19 live in Mendocino on Palette Drive. Up there someplace.

20 I primarily want to say that I totally support
21 the effort that the District and this board has made and
22 continues to make to moderate the use of water. We have
23 a limited supply. If there's anybody here who has any
24 intelligence at all, not necessarily hydrological, you
25 don't have to be -- I'm a registered civil engineer, but

1 I'm not a hydrological engineer, and there's a big
2 difference, but anybody who thinks that we don't have a
3 limited water resource here, I don't know what to say
4 about that.

5 There may be legal particularities that I'm
6 not familiar with. I can't question Mr. Momsen's
7 citations of various codes and things, but I just want
8 to say that it's very important that the board continue
9 the course of monitoring and maintaining control,
10 because if we don't have appropriate limitations and
11 restrictions, then it's like the Wild West.

12 I live in one of those subdivisions that
13 Mr. Gomes referred to that was approved by the County in
14 about 1965. And whatever their criteria was at that
15 time, there was one well of very limited production.
16 How they came to decide that that was enough to serve 32
17 large lots, you know, into the future doesn't make any
18 sense. Okay? You can't cite something that happened
19 then as a suggestion that there's adequacy.

20 Talking about the production of things, I'm
21 talking about the well. Well, I'm not representing
22 any -- I'm representing myself, but I do live in an area
23 that has a mutual water company, a state certified water
24 company, and we have wells -- the minimum is 120 feet,
25 up to 240 feet, and the water level drops very

1 precipitously when they are pumped hard and all that.

2 We recognize this is a unique -- I spent a lot
3 of years in San Bernardino, the garden spot of
4 California, and the aquifer there, the basin, you know,
5 is 1,000 feet deep; water levels, you know, six or 700
6 feet, you know, above the basin. And, yeah, there's
7 recharge and all that kind of thing, very easy to keep
8 track of and that kind of thing. This is unique. This
9 is very different. It isn't something that we can play
10 around with. We need to really -- I just want to go on
11 record that I support the District, I support your
12 effort, the details, you know, that things can be worked
13 out.

14 BOARD MEMBER HAUCK: Okay. Any other comments
15 from the audience?

16 All right. Yes, sir.

17 MR. JELIC: I would like to comment. My name
18 is Jovan Jelic. I was a board member on this board for
19 a number of years. Jodi probably knows how long; 10 or
20 12 years. I was actually one of the first people who
21 got a Groundwater Extraction Permit from the County of
22 Mendocino prior to 1990 when MCCSD took it over. And I
23 was really frustrated at the time for having to go
24 through -- doing the hydro study that no one else in
25 town had done yet. I have lived by my extraction

1 allotment. I have actually been one of the lowest
2 users, well below my allotment. It's plenty. I've
3 raised two children here.

4 I remember that we got a lot of grants and
5 help from the State of California with groundwater
6 modeling and we have a lot of information on what the
7 groundwater is here in town, and we are very fortunate
8 for that. And I think that the District has put
9 together a program that is very fair for everybody in
10 town that helps to make everybody who lives here to have
11 available water without people running out. And there
12 are wells that run out on a yearly basis. But just
13 because someone has a lot of property or a really good
14 well does not, I don't think, justify being able to take
15 more. I think as a community we are really bound to
16 work together. We're blessed to live here.

17 BOARD MEMBER HAUCK: Okay. Thank you.

18 MR. JELIC: And I don't understand why there's
19 a problem with this. Like, Chet, I totally support what
20 you're doing.

21 BOARD MEMBER HAUCK: Thank you.

22 Anybody else?

23 MS. ARNOLD: I just wanted to say that in
24 Marin County they have a system where, when it gets to
25 rationing, if you've used a ton of water and you're

1 totally wasteful, they cut you back by a percentage. So
2 to me it's sort of like the rich man's happy universe
3 where if you have a huge lot and you want to have
4 gardens and lawns everywhere, you can continue to do
5 that. And people who conserve, whether out of the sense
6 of community or just to be cheap, it doesn't matter.

7 Some of us had gotten to the point we couldn't
8 conserve any more, and yet we were supposed to conserve
9 another 10, 20 percent. So this system, when I moved
10 here, seems so much fairer. It's a matter of how many
11 bedrooms you have and not how wasteful you've been or
12 how much money you have or how big your house is, unless
13 it's got a lot of bedrooms. It's a much more sensible
14 and fairer system and gives a sense of community. So I
15 commend what you're doing, too. I know you know that,
16 but I'd just like to put it on the record.

17 BOARD MEMBER HAUCK: I'd like to bring it
18 back to the board now.

19 MR. JACKSON: Mr. Chairman, I want to respond
20 to one thing I realize that I hadn't responded to.

21 Mr. Momsen and Mr. Gomes both mentioned water
22 replenishment, and it's a bit of a red herring and
23 something they raised throughout the underlying case.
24 You do have the powers of a replenishment district, but
25 you've never exercised those powers because you don't

1 have a source of water to replenish the aquifer.

2 I just wanted to say that.

3 BOARD MEMBER HAUCK: Thank you.

4 MR. JACKSON: Thank you.

5 BOARD MEMBER HAUCK: All right. Somebody else
6 wanted to make a comment.

7 MR. ARDEN: Yeah. I'm Tom Arden. I guess I'm
8 just asking, so the decision of the appeals court was
9 what again exactly, the decision that was made?

10 MR. JACKSON: I would characterize it this
11 way.

12 MR. ARDEN: I was actually speaking with these
13 guys.

14 MR. JACKSON: Okay. You can ask their
15 opinion, but I handle the side for the District.

16 MR. MOMSEN: And I don't want to disrupt the
17 order, but can I answer his question?

18 BOARD MEMBER HAUCK: You may.

19 MR. MOMSEN: Okay. Thank you.

20 The Court of Appeal found that the ordinances
21 passed in 2007, one of which said that if there's a
22 change of ownership in the home, that new owner had to
23 get an extraction limit and a meter. And the other one
24 defined these four stages of drought, and it said when
25 there was a Stage 4 drought, that everyone under the

1 District had to get an extraction limit meter.

2 They found -- and I'll be fair to Mr. Jackson,
3 they did hold also that the District has the power to
4 impose extraction limits in the abstract. But they also
5 found that those ordinances adopted in '07 didn't follow
6 the statutory codes that govern the board because they
7 didn't give proper notice to the public and didn't have
8 two meetings and then allow the District members to
9 write protest letters. Which theoretically if 51
10 percent of the eligible District members wrote these
11 protest letters, that could override the board's
12 decision. So they voided those ordinances.

13 MR. ARDEN: Okay.

14 MR. MOMSEN: And they didn't reach several
15 other issues.

16 MR. ARDEN: So everything was invalid? Their
17 work was invalid?

18 MR. MOMSEN: They voided them. They didn't
19 really get into the details of whether what they did was
20 invalid so much as the procedure wasn't followed and the
21 ordinances were voided.

22 MR. ARDEN: Thank you.

23 MR. JACKSON: And I would state that slightly
24 differently.

25 Mr. Chairman, if I may.

1 BOARD MEMBER HAUCK: Please do.

2 MR. JACKSON: The Court of Appeals upheld our
3 legal authority to impose extraction limits on
4 properties in Mendocino; however, we did not follow the
5 specific procedures in the Water Code 10703 through
6 10706, which requires two meetings and an opportunity
7 for a majority protest. We did give notice. We did
8 adopt these ordinances and plan at public meetings.
9 There were multiple public meetings, particularly
10 concerning the Water Shortage Contingency Plan. There
11 were many, many people that supported that plan that
12 came out to those meetings.

13 So to say we did it without notice is just not
14 true. We just didn't follow the precise procedure.
15 And, frankly, Mike and I had a discussion: Do you think
16 we have to follow this procedure or do we just follow
17 the same procedure we do for any other ordinance since
18 we're a community services district? We decided -- and,
19 you know, we can be second-guessed by the Court of
20 Appeals, but we decided that since we had already
21 adopted the program and we were just amending it, we
22 would adopt things like we always do, which is two
23 meetings, public notice, on the agenda and no big deal.
24 We didn't have the majority protest issue, so we're
25 going back and doing that now. But I think we did the

1 job right and we just, you know, didn't follow the right
2 procedure.

3 The trial judge agreed with how we had done
4 it. He parsed out the statute and said: Well, it seems
5 to me that you don't have to do it. Court of Appeal
6 disagrees. Fine. So now we're going to re-adopt them
7 with the two meetings and an opportunity for a majority
8 protest.

9 BOARD MEMBER HAUCK: Is it fair to say, Jim,
10 that the law says one thing that could be interpreted in
11 different ways?

12 MR. JACKSON: Correct.

13 BOARD MEMBER HAUCK: In 2007 it was
14 interpreted one way.

15 MR. JACKSON: Right.

16 BOARD MEMBER HAUCK: The trial court in this
17 issue didn't disagree with that interpretation.

18 MR. JACKSON: That's correct.

19 BOARD MEMBER HAUCK: When Mr. Gomes appealed
20 it, the appellate court said, well, we think that maybe
21 the other interpretation is the valid one.

22 MR. JACKSON: That's correct.

23 BOARD MEMBER HAUCK: And so they said the
24 ordinances -- not what we're doing, but the ordinance,
25 because how it was adopted, is not valid. Therefore,

1 the District, if they want to continue doing what we're
2 doing, which we do, need to follow the process that the
3 appellate court said was the process we needed to follow
4 in order to re-adopt these ordinances. That's what
5 we're doing.

6 MR. JACKSON: Yes.

7 AUDIENCE MEMBER: That's what the --

8 BOARD MEMBER HAUCK: We're obeying the mandate
9 of the appellate court in adopting these ordinances.

10 MR. JACKSON: I would agree with that.

11 MR. JELIC: I would like to just put in that I
12 was there at the time this was happening and we were
13 following what we believed was the proper course, and we
14 did have multiple meetings with the ability for people
15 to talk and interject.

16 BOARD MEMBER HAUCK: Yeah.

17 MR. JELIC: The fact that -- to me I'm kind of
18 surprised, and that's one reason I came to this meeting,
19 that the appellate court found differently because I
20 felt like at the time we went through everything the way
21 it should have been and we had the support of the
22 community to do what we did.

23 BOARD MEMBER HAUCK: I'm sure you did.

24 MR. JELIC: What we were trying to do on the
25 board at the time was trying to get more people on the

1 program because we felt like -- I say "we," but it's the
2 royal "we," I guess, that we're talking about today, but
3 I was part of a five-person board that decided that, in
4 fairness, that we should bring people on. So not --
5 some people are on, but everybody gets on eventually.
6 So we brought in the idea of the sale of a property,
7 opening up a building permit as things that would
8 trigger bringing more people on, with the idea that over
9 time everyone would be on it.

10 BOARD MEMBER HAUCK: With the stipulation that
11 if there was a Stage 4 drought, everyone would be on it.

12 MR. JELIC: Yes.

13 BOARD MEMBER HAUCK: And we had a Stage 4
14 drought.

15 MR. JELIC: And everything that was created
16 from that was done with all this incredible amount of
17 information that we had because of these grants that we
18 had through the State of California, Department of Water
19 Resources that did all this groundwater modeling
20 underneath this town. I mean it is not a flat bowl. It
21 goes up and down and there are spots.

22 I have a well that doesn't -- has not run out
23 and it's very low yield, but I have a neighbor across
24 the street that runs out almost every single year and
25 it's, you know, 50 feet away from each other. And

1 that's the underground modeling that has been -- I mean,
2 you know, it's proved to be correct.

3 BOARD MEMBER HAUCK: Yes. Thank you.

4 MR. JELIC: It's real.

5 BOARD MEMBER HAUCK: Thank you.

6 Anybody else?

7 All right. Then I'm going to bring it back to
8 the board.

9 We have had a reading of Ordinance No.
10 2019-261, a Resolution of Intention to adopt the
11 Groundwater Extraction Permit Ordinance. I need a -- is
12 there any discussion among the board on this ordinance?

13 BOARD MEMBER RICE: No.

14 BOARD MEMBER HAUCK: If not, I'd appreciate a
15 motion and a second.

16 BOARD MEMBER RICE: I have some questions.

17 BOARD MEMBER HAUCK: Okay.

18 BOARD MEMBER RICE: I just want to make sure
19 I'm understanding this right. So if we pass this or if
20 we vote for this tonight, then we're going to --

21 BOARD MEMBER HAUCK: We're only talking about
22 261.

23 BOARD MEMBER RICE: Okay. Then we're going to
24 revisit it at our next meeting?

25 MR. JACKSON: Correct.

1 BOARD MEMBER HAUCK: There will be another --

2 BOARD MEMBER RICE: Because my understanding
3 was the public was going to come to the next meeting and
4 not this one.

5 BOARD MEMBER HAUCK: I think the public is
6 invited to both meetings.

7 MR. JACKSON: Right.

8 BOARD MEMBER HAUCK: This meeting is we are
9 adopting the ordinance.

10 MR. JACKSON: It's a resolution of intention.

11 BOARD MEMBER HAUCK: Resolution of intention
12 to adopt the ordinance. The title of it says,
13 "Resolution of Intention."

14 At the next meeting we will be looking at the
15 community comments and the number of people within the
16 community that have voted no, that they don't want to
17 have this. And if the number of people in the community
18 is greater than 50 percent, then we would not be able to
19 adopt. If there are not 50 percent of the community
20 voting no, we will then vote to adopt these ordinances
21 at the next community meeting.

22 MR. JACKSON: Right. Which is scheduled for
23 December 30.

24 BOARD MEMBER HAUCK: Which is December 30,
25 right.

1 MR. GOMES: I have one question in there.

2 BOARD MEMBER HAUCK: Yes.

3 MR. GOMES: On the amount of people, you say,
4 50 percent of, what is the real number of the people
5 that are voters or how many letters do we have to
6 receive?

7 MR. KELLEY: It's a little less than 500
8 registered voters.

9 MR. JACKSON: A little less than 500
10 registered?

11 MR. KELLEY: Yes.

12 MR. JACKSON: Okay. So a little less than 500
13 voters.

14 MR. GOMES: Okay.

15 BOARD MEMBER RICE: Do you want to talk?

16 I want to say thank you to you guys for
17 coming, you two there, because that's the only opposing
18 I've heard since I've been on the board. So I
19 appreciate that.

20 You know, these guys here are my neighbors. I
21 live up on Flores Street, so I'm surrounded with
22 neighbors here. Steve is my neighbor across the street.
23 I am probably the only board member that is opposed to
24 this or has been opposed to this. I voiced my concerns
25 in the past since I've been on this board. And I hear

1 everybody's view on this and I respect them. I have a
2 few things I wanted to respond to that were brought up
3 by different people.

4 First on the standards, based on the standards
5 on different -- on the amount of rooms we have as
6 opposed to the size of our lots, I agree with you guys
7 on that 100 percent. I have three acres. In town you
8 have little parcels that are all jammed up next to each
9 other. I feel like in town that's a completely
10 different situation than those of us that live up on the
11 hill with larger parcels, and I think that there should
12 be something there. There should be a difference. I
13 don't think treating us who are in the rural area to the
14 same standards as basically a city setting down here, I
15 don't think that's -- I don't think it's a "one size
16 fits all" type of situation, and I agree with you guys
17 on that.

18 Also, the wintertime gathering or in times
19 when we have water, basically, coming out of the ground
20 on our properties, we're still limited on the amount
21 that we can take per month. And people like me, I run
22 out of water every summer. This is the first time I
23 didn't, actually, for some reason, but I run out almost
24 every summer and that late rain saved me this year. It
25 would be wonderful to be able to have the storage

1 capacity because I want to have a garden. I have three
2 acres. I want to have a garden. It would be wonderful
3 to be able to pull out a large amount of water in times
4 when it's not going to be missed by anybody and store
5 that water for the times that I'm going to run out.
6 Regardless if we have meters or not, I'm going to run
7 out.

8 And I also thought the idea of on years when
9 we've had higher rains or especially -- it's not even so
10 much higher rains. I've been -- I grew up here, it's
11 later rains, the later spring rains. That's what gets
12 us through the summer. That's why we're not out of
13 water right now, is because we had late spring rains.
14 And allowing people to have water based on what we're
15 seeing, I think that would be something to consider,
16 too, based on how much rain we've had the previous year,
17 but be able to adjust our allotments based on that.
18 That's a very interesting idea.

19 One thing I wanted to bring up that nobody
20 brought up, you guys talked about property rights. When
21 I initially signed this Groundwater Extraction Permit --
22 was that four years ago, three years ago when we did
23 that -- when we had our drought a couple years back, I
24 had to sign this and this is where this lawsuit came
25 from. It says right on there you're signing that MCCSD

1 has the right to enter your property and inspect your --
2 your water equipment pretty much at any time, I believe.
3 And I don't like that. I don't like living in a
4 community -- I mean I didn't move back to Mendocino to
5 live in a place where a local government can just come
6 on my property. That bothers me. That's not something
7 I like, but it seems like -- nothing against this board
8 or Mike, these are great people, and if we could
9 guarantee these people would stay on here forever,
10 that's fine, but that is the type of power that can be
11 abused. That's what I worry about. I grew up in
12 Mendocino, so that's how it goes.

13 AUDIENCE MEMBER: We're awesome.

14 BOARD MEMBER RICE: Somebody said -- over here
15 somebody said -- somebody said it would be like the Wild
16 West if we just were all allowed to take as much water
17 as we can. I just want to point out that we are
18 surrounded by areas all around us that do not have
19 limits -- that don't have this water metering program in
20 place. You go up Little Lake Road just past the school
21 and there is no water metering going on up there. I
22 don't think Albion has anything. I don't think the
23 State regulates people outside of this District. So
24 there are plenty of areas around here that do not have
25 water meters and regulations on the amount of water they

1 take out of their wells and they are being successful.

2 So I don't think -- perhaps in town -- perhaps
3 in the town, if we had unlimited water extraction, that
4 could cause a problem. I don't think in the surrounding
5 areas in our district that's necessarily true. I just
6 question that.

7 And, like I said, I live across the street
8 from Steve's property and I've never once thought that
9 his property was causing me to run out of water.

10 So that's all I have.

11 BOARD MEMBER HAUCK: Okay.

12 Bob, anything you want to say?

13 BOARD MEMBER KERSTEIN: No. Chet and I, we
14 have our own community system and we're fine.

15 BOARD MEMBER HAUCK: I understand, you know,
16 that there are different opinions on these things. It
17 is our job as a board, I think, to try and implement
18 ordinances and programs that will be of benefit to the
19 greater community of Mendocino. And I believe that
20 these ordinances that we are offering an intent to adopt
21 are the basis for a water plan that has benefited this
22 town and has demonstrated its ability to benefit this
23 town, particularly in the drought years that we
24 experienced.

25 So at this point then I'm going to ask for a

1 motion to adopt 2019 -- Resolution No. 2019-261, the
2 intention to adopt a groundwater permit ordinance.

3 BOARD MEMBER KERSTEIN: I'm writing it down so
4 I get that right what he said.

5 I make a motion that we adopt the 2019-261 as
6 a resolution by the board for water safety -- the water
7 use.

8 BOARD MEMBER HAUCK: Thank you.

9 Is there a second?

10 BOARD MEMBER KERSTEIN: Are you going to
11 second?

12 BOARD MEMBER RICE: No, I'm going to abstain.

13 BOARD MEMBER HAUCK: Okay. I will second it.

14 So we have a -- the motion is made by Bob and
15 seconded by me.

16 Call for the vote. All in favor?

17 BOARD MEMBER KERSTEIN: Aye.

18 BOARD MEMBER HAUCK: Aye.

19 BOARD MEMBER RICE: I abstain.

20 BOARD MEMBER HAUCK: There are no noes, but
21 one abstention; is that right?

22 BOARD MEMBER RICE: Correct.

23 BOARD MEMBER HAUCK: Okay.

24 So moving on then to Resolution No. 2019-262,
25 a resolution of intention by the MCCSD to adopt the

1 Water Shortage Contingency Plan.

2 Mike, would you read the ordinance, please.

3 MR. KELLEY: Okay.

4 "A Resolution of Intention by the
5 Mendocino City Community Services District to
6 adopt the Water Shortage Contingency Plan:

7 "Whereas, in 1987, the California
8 Legislature passed California Water Code
9 Section 10700 through 10717, as outlined in
10 Assembly Bill No. 786, which provided the
11 Mendocino Community Services District with the
12 authority to establish programs for
13 groundwater resources management within the
14 District boundaries; and

15 "Whereas, in 2004, the Mendocino City
16 Community Services District received a Local
17 Groundwater Assistance Program Grant
18 (Agreement No. 4600002462) from the Department
19 of Water Resources, Division of Planning and
20 Local Assistance to develop a Water Shortage
21 Contingency Plan; and

22 "Whereas, Questa Engineering Corporation
23 completed preparation of the Water Shortage
24 Contingency Plan in 2006; and

25 "Whereas, the Water Shortage Contingency

1 Plan was developed to guide emergency water
2 supply shortage planning and response
3 implementation; and

4 "Whereas, the Water Shortage Contingency
5 Plan outlines the criteria for when to declare
6 a water shortage through four stages of alert
7 and action, and to identify appropriate
8 conservation measures and response actions for
9 each water shortage stage to protect the water
10 resources of the District; and

11 "Whereas, MCCSD held public hearings to
12 notify the public, property owners, and
13 registered voters residing within the District
14 of the proposed Water Shortage Contingency
15 Plan.

16 "Now, therefore be it resolved, the Board
17 of Directors does hereby adopt a Resolution of
18 Intention to adopt and implement Water
19 Shortage Contingency Plan to declare a water
20 shortage through four stages of alert and
21 action, and to require appropriate
22 conservation measures and response actions for
23 each water shortage stage to protect the water
24 resources of the District."

25 BOARD MEMBER HAUCK: All right. Any comments

1 or questions from the audience on this item?

2 Seeing none, I'll bring it back to the board
3 for discussion and action.

4 Any comments from the board members?

5 BOARD MEMBER KERSTEIN: No.

6 BOARD MEMBER HAUCK: Hearing none, I'll ask
7 for a motion to adopt Resolution No. 2019-262, a
8 Resolution of Intention by the Mendocino City Community
9 Services District to adopt the Water Shortage
10 Contingency Plan.

11 BOARD MEMBER KERSTEIN: I'll make the motion.

12 BOARD MEMBER HAUCK: All right. Is there a
13 second to the motion?

14 I will second the motion.

15 Motion has been made by Bob and seconded by
16 me.

17 I'll call for the vote. All in favor.

18 BOARD MEMBER KERSTEIN: Aye.

19 BOARD MEMBER RICE: Abstain.

20 BOARD MEMBER HAUCK: Aye.

21 Let the record show two ayes and one
22 abstention. Motion passes.

23 So moving on then to the third resolution,
24 which is Resolution No. 2019-263, a resolution by the
25 MCCSD to adopt the Water Shortage Contingency Plan

1 Ordinance.

2 Do you want to read that one?

3 MR. KELLEY: Okay.

4 "Whereas, in 1987, the California
5 Legislature passed California Water Code
6 Section 10700 to 10717, as outlined in
7 Assembly Bill No. 786, which provided the
8 Mendocino Community Services District with the
9 authority to establish programs for
10 groundwater resources management within the
11 District boundaries; and

12 "Whereas, in 2004, Mendocino Community
13 Services District received a Local Groundwater
14 Assistance Program Grant from the Department
15 of Water Resources, Division of Planning and
16 Local Assistance to develop a Water Shortage
17 Contingency Plan; and

18 "Whereas, Questa Engineering Corporation
19 completed preparation of the Water Shortage
20 Contingency Plan in 2006; and

21 "Whereas, the Water Storage Contingency
22 Plan was developed to guide emergency water
23 supply shortage planning and response
24 implementation; and

25 "Whereas, the Water Shortage Contingency

1 Plan outlines the criteria for when to declare
2 a water shortage through four stages of alert
3 and action, and to identify appropriate
4 conservation measures and response actions for
5 each water shortage stage to protect the water
6 resources of the District, and

7 "Whereas, MCCSD held public hearings to
8 notify the public, property owners, and
9 registered voters residing within the District
10 of the proposed Water Shortage Contingency
11 Plan.

12 "Now, therefore be it resolved, the Board
13 of Directors does hereby adopt a Resolution of
14 Intention to adopt and implement the Water
15 Shortage Contingency Plan Ordinance to provide
16 the authority to declare a water shortage
17 through four stages of alert and action, and
18 to require appropriate conservation measures
19 and response actions for each water shortage
20 stage to protect the water resources of the
21 District."

22 BOARD MEMBER HAUCK: All right. Any community
23 comments?

24 Mr. Gomes.

25 MR. GOMES: Yes. I'd like to say that -- if I

1 heard it right, you're going to have Questa come and do
2 another study?

3 MR. KELLEY: No.

4 BOARD MEMBER HAUCK: No.

5 MR. GOMES: You're going to use the one you
6 had or have?

7 MR. KELLEY: Yes.

8 MR. GOMES: Okay. I'd just like to say,
9 before you pass this resolution or adopt this program,
10 that you have a peer review -- questions worked to the
11 public and get full information before you do that, not
12 after you've adopted it.

13 BOARD MEMBER HAUCK: All right.

14 Any other comments?

15 Yes, sir.

16 MR. FIX: My name is Michael Fix. I live
17 here in Mendocino. When you say a Resolution of
18 Intention, this is the third one that is a Resolution
19 of Intention. You mentioned earlier about voting.
20 What -- how and what structure is that voting? Is that
21 the letter-writing, the 51 percent, or was there
22 something different?

23 BOARD MEMBER HAUCK: Jim, do you want to
24 address that?

25 MR. JACKSON: Yeah.

1 It's a majority protest. So if you have an
2 objection to the program, you can send a letter to the
3 District saying "I object" or words to that effect.

4 MR. FIX: Thank you for the clarification.

5 AUDIENCE MEMBER: Does that include you are
6 counting only returned ballots?

7 MR. JACKSON: It's not really a ballot. We
8 have a list of registered voters, which under the
9 statute they are the ones who are entitled to the
10 majority protest. But a simple letter saying, you know,
11 "I support" or "I don't support," "I object," would be
12 sufficient. It's not a ballot.

13 AUDIENCE MEMBER: Only those are counted as
14 opposed to someone that does not reply.

15 MR. JACKSON: That's correct. It's a majority
16 protest; you have to be heard in order to be heard.

17 MR. MOMSEN: Jim, does there have to be a
18 separate letter to each of the three ordinances?

19 MR. JACKSON: I would suggest one.

20 MR. MOMSEN: Just one letter?

21 MR. JACKSON: I would say, "I object to the
22 program," you know, and that would be, I think, adequate
23 to object to all three. And if you support some and not
24 others, you know, I would be specific about that; but,
25 otherwise, if you object to the whole program, I would

1 just say, "I object to all three" or something like
2 that.

3 MR. MOMSEN: All right. Thank you.

4 MR. GOMES: One more point.

5 Will the District put on their website a
6 letter that somebody could respond to by the website to
7 say "I protest this"?

8 MR. JACKSON: I don't quite understand your
9 question.

10 MR. GOMES: Well, if you wanted to respond by
11 e-mail and said -- you know, would the District produce
12 some language in a letter saying that this is a valid
13 protest and I'm that person and I want to do it by
14 e-mail?

15 BOARD MEMBER HAUCK: I think that in terms of
16 the understanding whether the individual responding
17 through the internet was a valid property owner in this
18 community would be very difficult.

19 MR. JACKSON: Well, registered voter actually.

20 BOARD MEMBER HAUCK: That would be very
21 difficult to --

22 MR. JACKSON: If your question is: Is an
23 e-mail objection adequate? I would say yes. If your
24 question is: Are we going to put some form letter on
25 our website to help you object? I don't know that that

1 was our intention.

2 MS. ARNOLD: There's no way to verify if
3 somebody sends an e-mail to you saying, "I'm Jean Arnold
4 and I own this house." You don't know what my e-mail
5 address is. I think that's really dangerous. I think
6 it should be something with your signature on it, your
7 name on it, and what you feel about it.

8 MR. JACKSON: That's a fair point, actually.
9 I hadn't really thought about it. E-mails can be --

10 MS. ARNOLD: Marin had the same issue and they
11 were putting in a rationing program, and they required
12 that people send letters in because of this issue.

13 MR. JACKSON: Now, you could e-mail a scanned
14 letter with a signature on it. You know, I mean you can
15 communicate with us via e-mail. But you're not so
16 comfortable with that either?

17 MS. ARNOLD: No, I just feel it's safest that
18 you have ink on paper.

19 BOARD MEMBER HAUCK: I think in answer to
20 Mr. Gomes' question, it is not the District's intention
21 to do that between now and December 30th.

22 Any other questions or comments?

23 AUDIENCE MEMBER: I just have one question.

24 BOARD MEMBER HAUCK: Sure.

25 AUDIENCE MEMBER: Just to clarify. So do you

1 want -- does silence mean consent?

2 MR. JACKSON: Yes.

3 AUDIENCE MEMBER: If people don't send in a
4 letter at all, that is interpreted as a positive we want
5 to keep the rationing going; right? Is that correct?

6 MR. JACKSON: That is correct.

7 AUDIENCE MEMBER: That's what I just asked.

8 AUDIENCE MEMBER: I asked just to get it
9 straight.

10 MR. JACKSON: If you support it, you can
11 either not respond or send a letter saying you support
12 it. If you object, you must send a letter to the
13 District to say "I object."

14 AUDIENCE MEMBER: It has to be over 50 percent
15 of registered voters to protest it.

16 MR. JACKSON: To stop it, right.

17 MR. GOMES: I have one more question, too, if
18 you're ready.

19 So can you protest or could somebody protest
20 just one of these individual resolutions?

21 MR. JACKSON: Yes. The ordinance -- this is
22 just a Resolution of Intention.

23 MR. GOMES: Right. It would be one body of --

24 MR. JACKSON: There's two ordinances and the
25 Water Shortage Contingency Plan. And if you support the

1 plan but you don't like one of the ordinances, you can
2 object singularly, yes.

3 MR. GOMES: Okay. Thank you.

4 AUDIENCE MEMBER: Wonder if you never signed
5 up for you guys?

6 MR. JACKSON: I'm not sure what you mean,
7 sir.

8 AUDIENCE MEMBER: Voluntary compliance, I
9 don't recall that means mandatory. I was always trying
10 to understand why Jovan was never penalizing me for not
11 voluntarily joining the fire department. Every notice
12 you sent to me, you like to leave little threatening
13 letters about misdemeanor prosecution. But this is all
14 voluntary compliance. When the lady that wrote the
15 letter with the red curly hair, she asked you, you said
16 it was voluntary that day. Explain this to me.

17 MR. JACKSON: If I sent you a letter saying
18 we're going to penalize you if you don't do something, I
19 would suggest it's no longer voluntary compliance.

20 AUDIENCE MEMBER: Well, then why would you
21 write in your letter that it was voluntary compliance?

22 MR. JACKSON: Well, I don't know what letter
23 you're referring to.

24 AUDIENCE MEMBER: I will give it to you.

25 MR. JACKSON: Please do.

1 AUDIENCE MEMBER: But what does "voluntary
2 compliance" mean officially? I mean I know what it
3 means.

4 BOARD MEMBER HAUCK: That is not on topic with
5 this ordinance. So I don't know --

6 AUDIENCE MEMBER: Well, you guys, if we all
7 want to do the right thing, share water, we're raising
8 kids in this community, I do see the need for some water
9 infrastructure to be built. It's not for everybody.

10 BOARD MEMBER HAUCK: That's what we're trying
11 to do.

12 AUDIENCE MEMBER: I see ways of improving our
13 septic designs to reduce the amount of water and to
14 accommodate better growth because that's what's going to
15 happen. In a lot of ways I think we're all really on
16 board together, but there needs to be a lot more
17 discussion.

18 It concerns me you don't live here. Can I ask
19 where you live?

20 BOARD MEMBER HAUCK: Yes. I live in the town
21 of Mendocino.

22 AUDIENCE MEMBER: Okay. Well, he's
23 over the -- he's out of the District.

24 BOARD MEMBER KERSTEIN: I live up on --

25 MR. JACKSON: In order to be on this board,

1 you have to live in the District.

2 AUDIENCE MEMBER: I thought you said you
3 were -- I'm sorry, where do you live?

4 BOARD MEMBER KERSTEIN: I live right up the
5 hill.

6 BOARD MEMBER HAUCK: To be on this board, you
7 have to be in the District.

8 MS. ARNOLD: I wanted to be on the board, and
9 I was told I have to wait until next year, next
10 November, to apply to be on it. If you look at the
11 board and the gentleman who is missing, they are having
12 a hard time attracting people to the board. And they
13 have gone with four people for an extended period
14 already. So it's not as if it's easy to find people who
15 want to do this. And I've attended a number of
16 meetings, and typically I'm the only member of the
17 public, maybe there's another person and there might be
18 someone from the Beacon. But it's not as if the
19 community is trying to get their voice heard and they
20 don't get an opportunity. They get an opportunity every
21 month and, you know, nobody shows up and nobody -- these
22 boards are a pain in the neck. You have all this
23 paperwork and people mad at you and the neighbors and
24 money flying out.

25 AUDIENCE MEMBER: Yeah.

1 MS. ARNOLD: It's very difficult and I really
2 honor these guys for trying to do it.

3 AUDIENCE MEMBER: I agree with you because
4 what has made me most frustrated has also inspired me to
5 do a lot of reading and research and really think about
6 what you guys are doing and think about how I'm managing
7 myself, which is one of the biggest problems here. And
8 in order to change that, we have to start with our kids
9 and we have to create a platform, which is what makes
10 this small community such a perfect platform for the
11 world to follow. And I think with Otto and me and a lot
12 of the newer energy that is coming to this town, we can
13 do it. We're positive we can.

14 BOARD MEMBER HAUCK: Thank you.

15 AUDIENCE MEMBER: And we can still accommodate
16 growth.

17 MS. ARNOLD: I have a question. This is sort
18 of off topic, but I'm really curious about how many --
19 how many holders there are, I guess you'd call them, how
20 many landowners there are, how many parcels there are
21 who are regulated by this regulation. And I'd also like
22 to know how much money was spent on this lawsuit and how
23 that is apportioned to each of us.

24 AUDIENCE MEMBER: Six hundred dollars each.
25 Jim got \$400,000 and the result was --

1 AUDIENCE MEMBER: Let the District answer.

2 MS. ARNOLD: If it's totally off topic -- I'm
3 just curious, you know, while we are here.

4 MR. JACKSON: There's 404 developed properties
5 in the District, and this District's spent about \$90,000
6 at the trial level. And I've never calculated what the
7 appeal cost is. I would estimate about 30, but I don't
8 know for a fact. And I know Mr. Gomes spent quite a bit
9 of money as well.

10 MS. ARNOLD: Thank you.

11 MR. GOMES: I must mention the fact that there
12 is still a pending case of awarding attorney fees for my
13 efforts in that lawsuit. So that could be substantial.

14 MR. JACKSON: That's true.

15 MS. ARNOLD: I'll start saving. Thank you.

16 MR. GOMES: Okay.

17 BOARD MEMBER HAUCK: All right. Any other
18 comments that relate to the ordinance that we are
19 discussing, which is Ordinance No. 2019-263?

20 MR. JACKSON: Resolution.

21 BOARD MEMBER HAUCK: Resolution. I'm sorry,
22 Resolution of Intention to adopt.

23 MR. JACKSON: That's correct.

24 BOARD MEMBER HAUCK: If there are none, then
25 I'll bring it back to the board for discussion and

1 motion.

2 Any further discussion on this resolution?

3 BOARD MEMBER KERSTEIN: This is 2019-262?

4 BOARD MEMBER HAUCK: 263.

5 BOARD MEMBER KERSTEIN: 263.

6 BOARD MEMBER RICE: The only difference is it
7 says "Ordinance" on the top.

8 I will mention, because somebody brought up
9 the voting system, but I've got a lot of negative
10 feedback from the public the last time I had a vote.
11 It's not directly related to this, but it's something
12 maybe later on we could talk about.

13 BOARD MEMBER HAUCK: Well, that's mandated by
14 State law.

15 MR. JACKSON: It's in the Water Code.

16 BOARD MEMBER RICE: I just mean in terms of
17 our responsibility trying to get that information out to
18 the public.

19 MR. JACKSON: Oh, no. That certainly should
20 be done.

21 BOARD MEMBER HAUCK: Absolutely. That's the
22 intention of tonight's meeting, this meeting, so that
23 the public can be made aware of what we are going to do
24 on the 30th, which is adopt the ordinances that we're
25 making the resolution to adopt today.

1 AUDIENCE MEMBER: I'd also -- both my wife and
2 I each got a letter from the District about these
3 meetings. So I'm assuming that everyone who is involved
4 with the opportunity to vote on this has received that
5 as an initial connection.

6 BOARD MEMBER HAUCK: Yes.

7 AUDIENCE MEMBER: If someone decides not to
8 let you know how they vote one way or another, that's
9 their own reasoning for not saying aye or nay. And I
10 think if they don't say aye or nay, then they can be
11 assumed to be an aye.

12 AUDIENCE MEMBER: Or not part of the club
13 because it's a volunteer club.

14 AUDIENCE MEMBER: No, it's not a club.
15 Everybody got a notification. If you got a
16 notification --

17 AUDIENCE MEMBER: If you're not part of the
18 club, you don't have to vote. You don't vote for me.

19 BOARD MEMBER HAUCK: Can I --

20 AUDIENCE MEMBER: It's a club. It's an
21 agency.

22 BOARD MEMBER HAUCK: If I may, the method of
23 voting is prescribed by law that we have to follow. So
24 we can't debate that here. It's not something that we
25 can change.

1 AUDIENCE MEMBER: Thank you.

2 BOARD MEMBER HAUCK: This is what the State
3 says we have to do and how we have to do it, and that's
4 what we're in the process of trying to do.

5 So I'm going to stop public comment now and --
6 actually, we stopped it earlier. And I'm going to bring
7 it back for a motion on -- any other comments from the
8 board?

9 BOARD MEMBER KERSTEIN: No.

10 BOARD MEMBER HAUCK: Could I have a motion to
11 adopt the Resolution of Intention by the District to
12 adopt the Water Shortage Contingency Plan, Resolution
13 No. 2019-263?

14 BOARD MEMBER KERSTEIN: 263. I have to get it
15 right.

16 I'd like to make a motion that we adopt
17 Resolution 2019-263 --

18 BOARD MEMBER HAUCK: Okay.

19 BOARD MEMBER KERSTEIN: -- as discussed.

20 BOARD MEMBER HAUCK: Is there a second?

21 I will second the motion to adopt the
22 resolution.

23 The motion has been made by Bob and seconded
24 by me.

25 I will call for the vote. All in favor?

1 BOARD MEMBER KERSTEIN: Aye.

2 BOARD MEMBER RICE: Abstain.

3 BOARD MEMBER HAUCK: Aye.

4 2019-263 passes with two ayes and one
5 abstention.

6 At this point we're at item five, which is
7 matters from the board.

8 There's no matters from the board, so at this
9 point then I think we are ready to adjourn this meeting.

10 Yes, sir.

11 MR. ANDERSON: Could I just -- I didn't want
12 to interject before because it wasn't really germane to
13 the discussion about the resolutions, but our good
14 friend Mr. Momsen in his document represents that
15 finding funding and an ability to build a community
16 water system is like a slam dunk; there are lots of
17 people worse, not as bad, whatever. And I have a lot of
18 experience with state public health treatment water
19 programs and the funding programs, and let me assure you
20 that unless you are a disadvantaged community,
21 number one, and, number two, that you have demonstrated
22 severe drinking water quality problems, it's going to be
23 a hard -- a hard trek to get any kind of grant funding.
24 You might get loan funding, but even that's a long shot.

25 And I am not opposed in any way to, you know,

1 developing a community water system, but as has been
2 represented, the board has tried. They did extensive
3 work trying to find -- one thing is, just to start with,
4 what source of water would this community water system
5 to serve these "X" hundred of lots, where would we go to
6 get that?

7 AUDIENCE MEMBER: Where is the treatment
8 facility for it.

9 MR. ANDERSON: And treatment facilities for
10 it. Everybody looks at Big River. Well, Big River
11 is -- there's a lot of restrictions, environmental and
12 et cetera.

13 And then the next thing people want to talk
14 about is desalination. And it's not infeasible, but
15 just damn expensive. And all I'm saying is we can't be
16 thrown off with the idea that this is a simple thing to
17 do.

18 I have no problem supporting the board if they
19 want to move ahead and explore more again, but just so
20 that nobody takes the throw-away line at the end -- I'm
21 sorry, I don't mean to pick on you, but you put it out
22 there -- but that last paragraph of the letter kind of
23 suggests that all you have to do is get a central water
24 system.

25 MS. ARNOLD: Tear up every street.

1 BOARD MEMBER HAUCK: Thank you.

2 MR. GOMES: Can I make one more comment? Is
3 it still open?

4 BOARD MEMBER HAUCK: Yeah.

5 MR. GOMES: Okay. During the course of the
6 trial, we got information that there was a design system
7 of about \$8 million done for the community system. And
8 I'm not sure exactly the source of water because it
9 didn't really say that, but there was a source of water,
10 not in the river, in Big River basin that was part of
11 the Union Lumber Company property at one time, Water
12 Wash Gulch, wherever that is. You guys might know where
13 that is. So at the next meeting could we have that
14 estimate here for people to talk about?

15 BOARD MEMBER HAUCK: I don't --

16 MR. KELLEY: That was an estimate from the
17 1990s.

18 MR. GOMES: That's fine. I know the numbers
19 aren't right, but --

20 BOARD MEMBER HAUCK: I'm not going to take
21 staff time to do that. Sorry.

22 MR. GOMES: Okay.

23 MR. JELIC: If I could just comment on that.

24 At the time that that was done, that was Union
25 Lumber Company property. It's now State Parks

1 properties and they have absolutely no desire to deal
2 with Mendocino as a -- as that as a water source, even
3 though it's the State of California.

4 MR. GOMES: How do you know that?

5 MR. JELIC: I know that only from talking to
6 the people who have been the head of State Parks over
7 the years. You can approach them, but they have
8 basically said, no, they're not interested. Even though
9 they're the State of California and we are someone -- a
10 stakeholder in the state that could benefit by that
11 water, they're not interested.

12 MR. GOMES: Well, they maybe should be
13 interested.

14 MR. JELIC: Well, I agree with you on that.
15 The gulches down from behind the high school, there's
16 three or four of them as you go up to Haul Road on Big
17 River. There's lots of water. But when State Parks
18 took it over from the lumber company, they said they
19 shut the door on it and they were not interested. So
20 let's try and pursue it as a community.

21 MR. GOMES: Absolutely.

22 MR. JELIC: But right now it's not on the
23 table.

24 BOARD MEMBER HAUCK: All right. We have
25 reached then the end of this meeting, and the Board is

1 going to adjourn to closed session at this time.

2 I want to thank you all for coming.

3 (Meeting concluded at 8:21 p.m.)

4 -ooOoo-

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

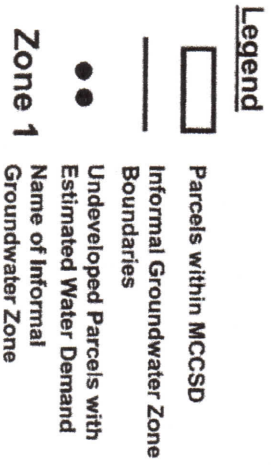
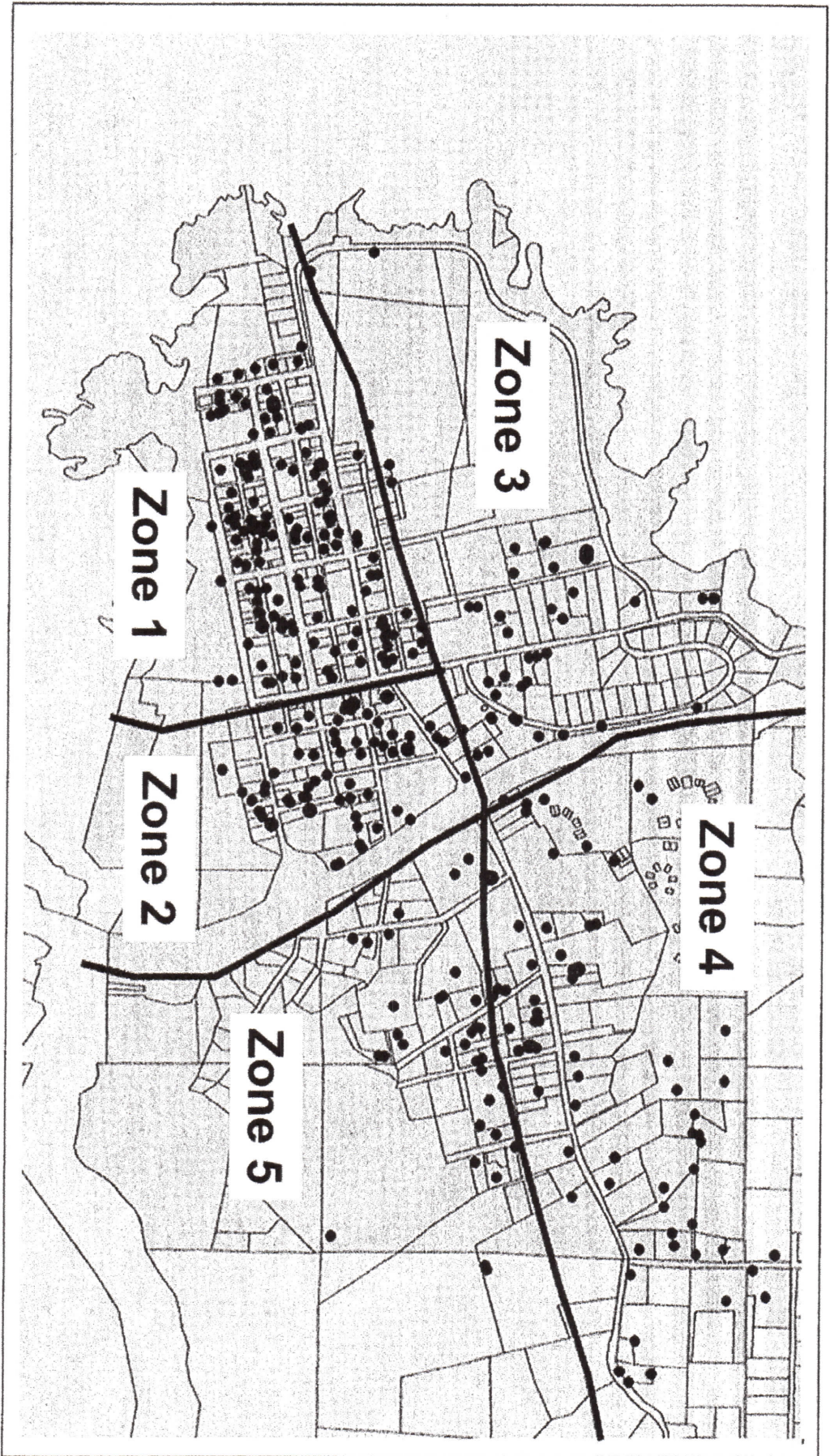
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

REPORTER'S CERTIFICATE

I hereby certify that the above transcript of proceedings was taken down, as stated in the caption, and that the foregoing 69 pages represent a complete, true and correct transcript of the proceedings had thereon.

Dated: December 13, 2019


Anne Ramirez, CSR 6186
Court Reporter



Kennedy/Jenks Consultants
 Mendocino City Community Services District
 2014 Drought Assessment
Groundwater Zones for the Subregional Analysis
 KJ 1465003'00
 April 2014
Figure 10

2014 Drought Water Import Survey w/ Well Depth for Parcels that Purchased Water

Pacific Ocean

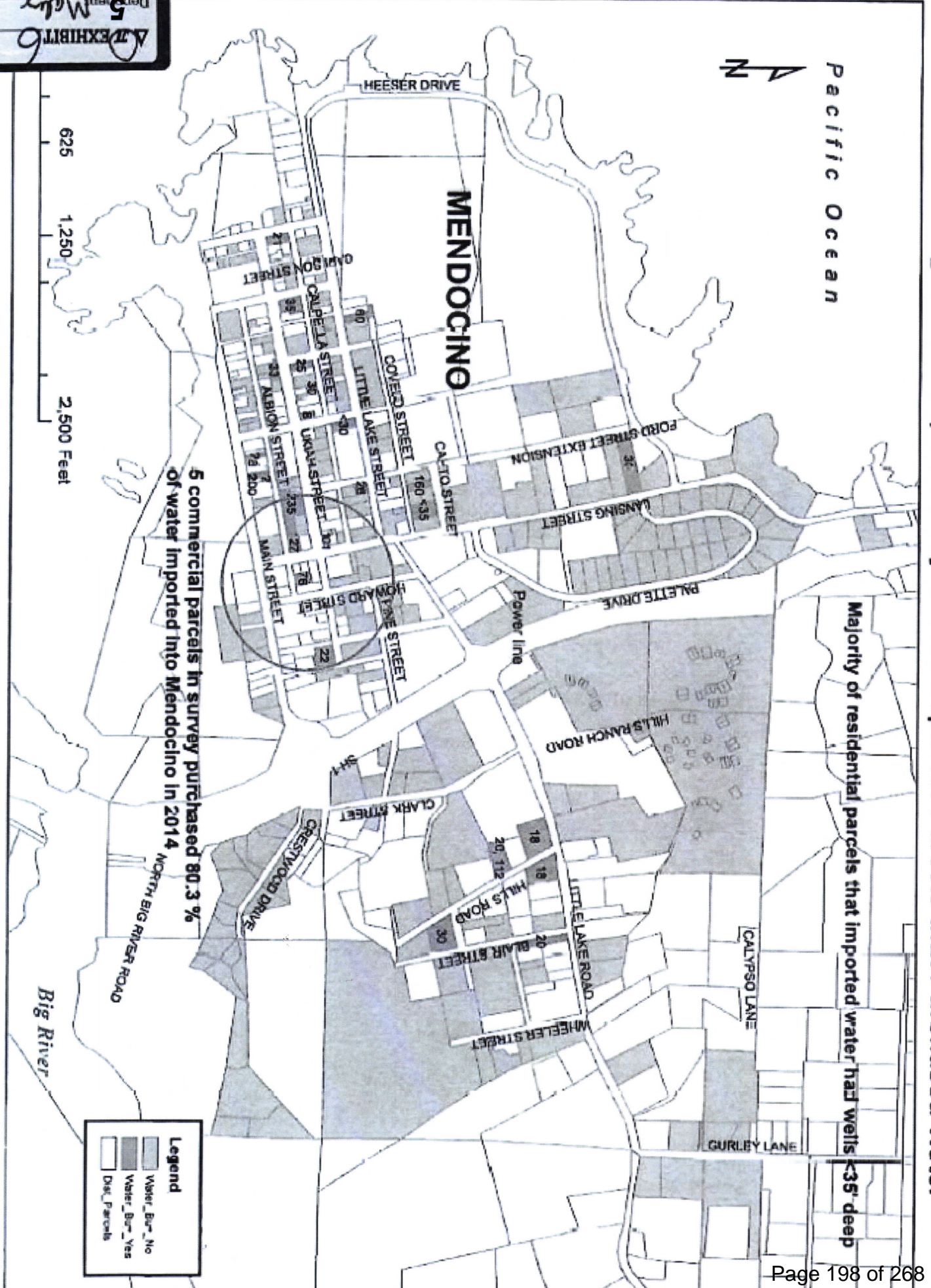


ADP EXHIBIT 6
 5 Maps
 Department
 Date 6-26-17
 Rpt. Gm

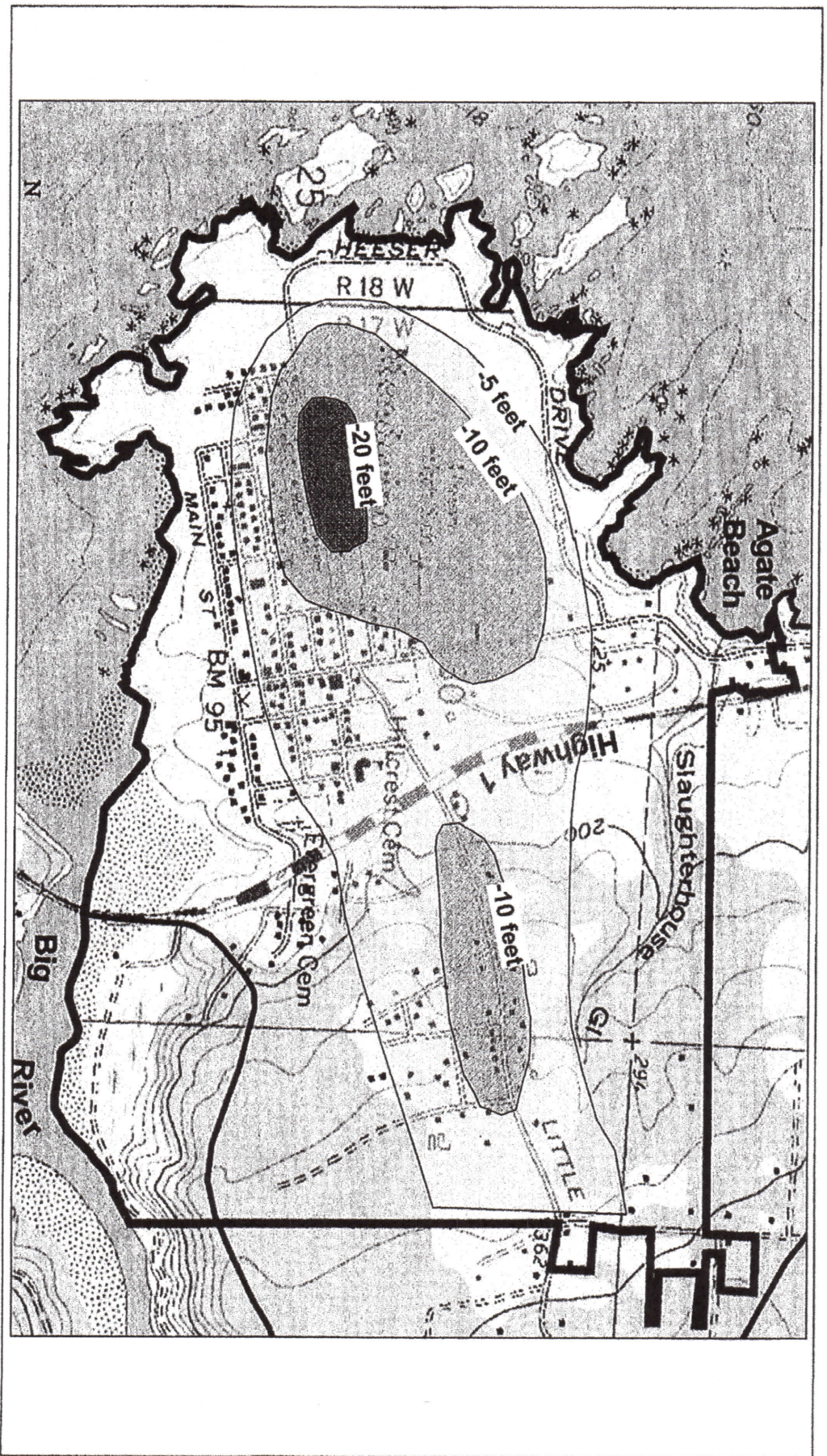
625 1,250 2,500 Feet

5 commercial parcels in survey purchased 80.3% of water imported into Mendocino in 2014

Majority of residential parcels that imported water had wells <35' deep



Legend
 Water_Bur_No
 Water_Bur_Yes
 Dist. Parcels

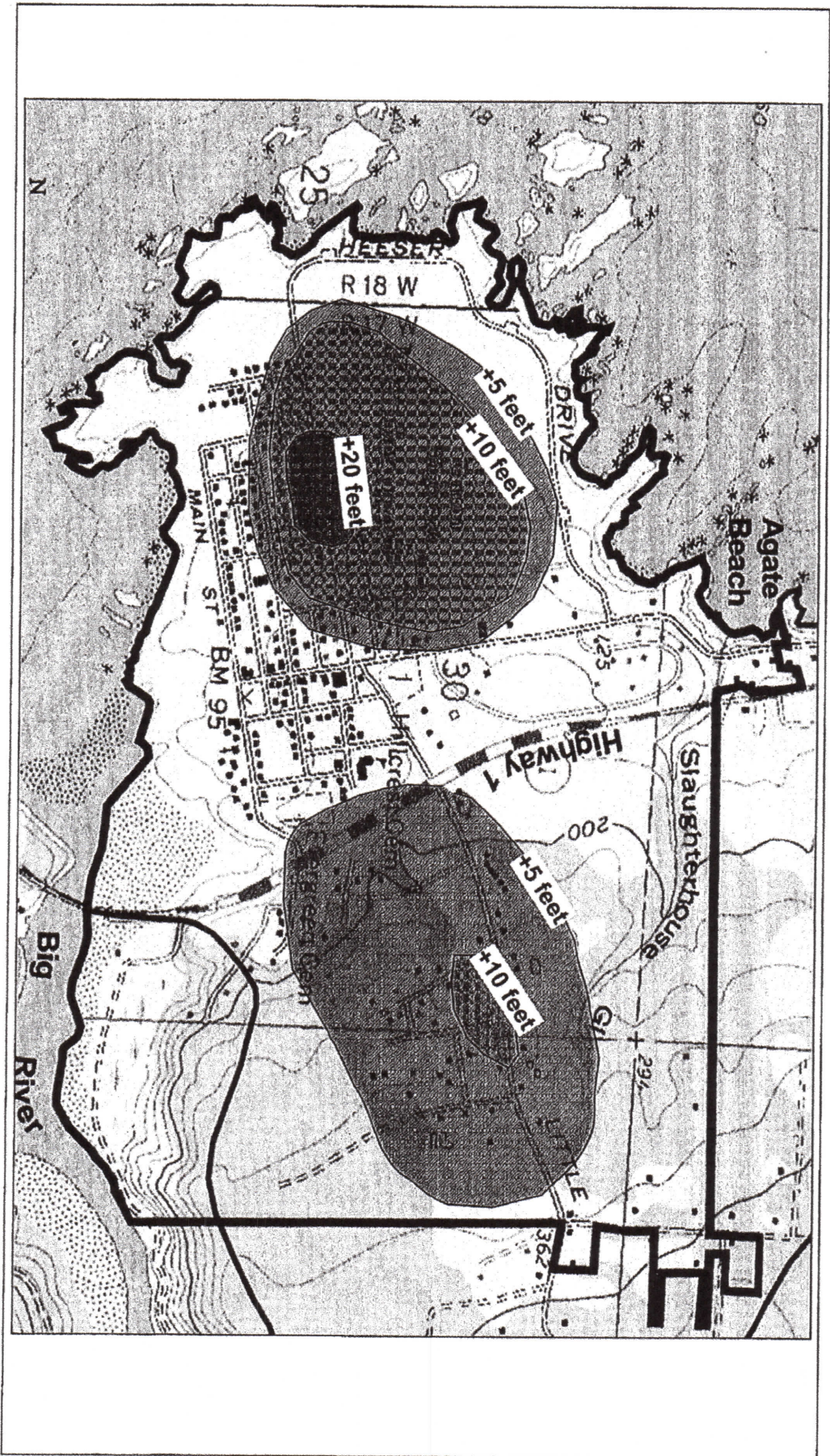


Note: Contours represent the difference in feet between the January 2014 groundwater elevation relative to the long-term average January 2014 groundwater elevation on a well-by-well basis.

Kennedy/Jenks Consultants
 Mendocino City Community Services District
 2014 Drought Assessment
Variation of January 2014 Groundwater Levels to Long-Term Average January Groundwater Levels

K/J 1465003*00
 April 2014

Figure 5



Note: Contours represent the difference in feet between the April 2014 groundwater elevation relative to the January 2014 groundwater elevation on a well-by-well basis.

Kennedy/Jenks Consultants

Mendocino City Community Services District
2014 Drought Assessment

**Recovery of Groundwater Levels
between January and April 2014**

K/J 1465003*00
April 2014

Figure 7

3 MR. JACKSON: I don't think I have any further
4 questions for Mr. Maley at this time, Your Honor.

5 THE COURT: Cross-exam?

6 CROSS-EXAMINATION BY MR. MORROW

7 Q. Good morning, Mr. Maley. Dr. Maley?

8 A. No, Mister. I have master's degree, not ph.D.

15 Q. And you had no involvement in the calculation
16 of the baseline 200 gallons per day for a residential
17 allotment?

18 A. Correct. That predated my involvement.

19 Q. And you described the groundwater under
20 Mendocino County as it's an unconfined system, not
21 confined?

22 A. It is generally unconfined. You would -- yeah,
23 it is unconfined.

24 Q. And it flows out in a number of areas, the
25 springs and cliffs to a large degree. Some discharge at
1 Slaughterhouse Creek, some evapotranspiration through
2 trees?

3 A. Correct.

4 Q. And your view is that a safe yield for
5 Mendocino would have a limited effectiveness just
6 because it's not a contained aquifer?

7 A. That is correct. It isn't contained so you
8 can't really store water.

9 Q. The Headlands, they're not contained and
10 groundwater will drain out of the aquifer via springs or
11 cliffs. So there's very little storage capacity?

12 A. Yes, very little long-term storage.

1 the, you know, west of Highway 1 where it is kind of
2 more of a -- and it's more of a northwest-southwest.

3 Based on what we have, the data and the
4 groundwater model simulation, the groundwater, because
5 there's a steeper slope as you go east. There's also a
6 component that's kind of going west because there's a
7 downward direction there. So it kind of radiates around
8 from that.

9 Q. But water from the -- water north of the
10 topographic divide isn't going to be flowing south of
11 the topographic divide?

12 A. Not -- no, not generally. I mean it could be
13 pulled somehow or locally that we don't have it in quite
14 the right place, but in concept, yes, it would be two
15 separate systems or somewhat separate.

16 Q. And I'm noticing most of the -- most of these
17 delineations tend to kind of just follow the road, which
18 makes sense. They're kind of obvious boundaries, but I
19 noticed that west -- I'm sorry, east of Highway 1 that
20 topographic divide doesn't actually follow the road but,
21 you know, bends south of it.

22 Was there a specific reason for kind of
23 attaching extra significance to kind of what was is the
24 true topographic divide, as opposed to following the
25 road?

1 Q. Do you have an opinion as to what that number
2 would be?

3 A. Let's see. We have in the model -- let me make
4 sure I'm reading this right. In 2015 we had at about
5 100 acre feet coming out of zones 4 and 5 into zones 2
6 and 3.

7 MR. JACKSON: Could you please repeat that?

8 THE WITNESS: It was about 100 acre feet.

9 BY MR. MORROW:

10 Q. So I'm looking at figure 4 or Exhibit 4.

11 A. Uh-huh.

12 Q. And it looks like, it sounds like you would be
13 able to answer these questions for me. What percentage
14 of water in zone 4 ends up in zone 2?

15 A. Very little. It would -- zone 4 would, again,
16 with this -- the horizontal east-west line being that
17 divide, zone 4 would go into zone 3 primarily. I would
18 assume very little, if any, from zone 4 to zone 2.

19 Q. Are you able -- just a negligible amount?

20 A. Yes.

21 Q. Say like single percentage?

22 A. Yeah.

23 Q. Even like 10th of --

24 A. Probably something in that. Well, less than a
25 percent.

April 27, 2020

To be read for the Record

MCCSD Board of Directors

Friends and Neighbors

After receiving the latest letter from MCCSD regarding the Water Plans there is misleading information as to the effectiveness and simply the idea of shared water. There are possibly hundreds of ground water sources and not just one aquifer.

In past years, from 1990 thru 2014, the conservation stages for water consumption were reduced voluntarily starting a 10% ending at 40% for driest of years. Until 2014 approximately 200 private wells constructed prior to 1986 were not under the policing power that the MCCSD seems to think they possess.

Water allotments and meters were required for new users based on additions to existing building or completely new projects to protect existing wells. Suddenly in 2014 Ord. 07-1 existing wells were subject to meters and allotments due to low rainfall measurements that recovered by April of that year. This confiscation of private wells caused the expensive Litigation since the allotments were still demanded even in times of adequate rainfall.

The water restriction contained in The Mendocino Town Plan Water Policies [4.13-16] and administrated by MCCSD was to not add any new users to deplete the already unreliable ground water supply until individual studies stated there was adequate water. None of these studies have ever analyzed "culminative impacts" to the water source in the surround area. The simple fact is that it cannot be done since percolating ground cannot adequately located to be managed.

At the April 16th District meeting another new project was approved to pump an additional 800 gal/per day from the same water source that is claimed to be protected from "Overdraft". Overdraft of a water basin describes damage to the permanent capacity for the" basin" to hold water as measured over a 20 to 30-year period. We do not have a water basin.

The ground water is 98% recharged by rainfall and has extraordinarily little storage from one year to the next. The claim that the District's plans protect the "aquifer from overdraft" is misleading at best and proven ineffective. Hydrologic studies by Kennedy/Jenks 2007 thru 2009 that have not been reviewed by the current Board discuss many flaws in the old water plans. There are at least five different hydrologic zones that are not connected to each other. There is no water basin, not pumping in zone 2 thru 5 does nothing for the* "Mendocino Headlands" Zone 1 Aquifer. We can all agree that rainfall is unreliable, many years ago a water system was designed with a reliable spring water source. The District never fully explored the grant money from State and Federal clean water, No water, and fire protection funds. By passing the purposed Water Plans nothing will ever be done to solve the dry well problem.

At a 2007 meeting to pass Ord. 07-1 the District claims that "the public "with meters and allotments" thought it is only fair that everyone has water meters and allotments. This supposedly represented the

same 140 people that expanded their uses over the 30 previous years. Now new uses could prevent 160 existing well users from having the same use to irrigate and suffer permanent loss of value in their properties. Therefore, a lawsuit had to be filed.

*Mendocino town Plan 4.13 p 39 Maley 2017

The District's ground water graphs indicated that the static water level in the "Mendocino Headlands" frequently is measured at 22 feet down from the surface. There are many Pre 1960 wells that are too shallow, hand dug and have always been marginal or unreliable water supplies.

The District for 30 years has never conducted a survey of the (Zone 1) western downtown area to determine how many wells are going dry and why. Sixty percent of the water falls off the cliffs into the ocean. The area wells as constructed may not be able to capture the available water.

It has always been stated that "wells go dry" even in years of adequate rainfall. It can safely be said that since 1851 wells have gone dry but now it is a crisis.

Similar water plans have been in effect for 30 years and wells still go dry. So why enact another permanent water plan.

I trust my neighbors to reduce water consumption during times of less than average rainfall.

The District Board does not trust us. We should not trust their flawed actions. The intention to pursue the water plans were voted down by a four-member Board on January 9th, 2020.

Now that the public cannot interact due to the Covid -19 virus the public protest is impossible.

Until the public has open meeting with unrestricted access the Board should continue the protest period for at least 60 days. A thorough investigation has not been conducted including the most recent Hydrological Studies that indicate the Water Plans will not be beneficial as written.

The Board rejects that voluntary reduction of water use is effective and insists the only the District's police power is needed for conservation.

Volunteer conservation for now it is the best Water Plan.

Steve Gomes

LAW OFFICES OF
CARTER MOMSEN PC

305 N. MAIN STREET
UKIAH, CALIFORNIA 95482

JARED G. CARTER (Of Counsel)
BRIAN C. CARTER
BRIAN S. MOMSEN
ALEXANDER C. RICH
COLIN W. MORROW

PHONE (707) 462-6694
FAX: (707) 462-7839
E-MAIL: colinmorrow@protonmail.com
WEBSITE: www.cartermomsen.com

April 16, 2020

VIA EMAIL ONLY

Board of Directors
Mendocino City Community Services District
10500 Kelly St.
Mendocino, CA 95460
(jackson@mcn.org)
(matthew@mlelaw.com)
(staff@mccsd.com)
(mccsd@mcn.org)

Re: Objections to Resolution Nos. 2020-261, 2020-262, and 2020-263

Dear Mendocino City Community Services District Directors and Counsel:

My firm represents Steven L. Gomes, a homeowner within the geographic boundaries of the Mendocino City Community Services District.

I understand that the Mendocino City Community Services District (“MCCSD”) Board of Directors intends to vote upon three resolutions at tonight’s MCCSD meeting to adopt an ordinance requiring groundwater extraction ordinances, to adopt a water shortage contingency plan, and to adopt a water shortage contingency plan ordinance.

Insofar as the board packet and agenda provide no proposed draft copies of any of these ordinances—a level of opacity that in and of itself betrays the Brown Act—I am attaching a December 4, 2019 letter that I respectfully ask be incorporated into the administrative record of tonight’s meeting. To the extent any of the concerns expressed therein apply to Resolution Nos. 2020-261, 2020-262, and 2020-263, all such concerns are renewed.

Best regards,

CARTER MOMSEN PC
By: Colin W. Morrow, Esq.

Enclosure(s)

Technical Memorandum

Mike Kelley, Mendocino City Community Services District
 17 January 2008
 Project No. 0764004
 Page 6

As shown in the drought model scenario (Kennedy/Jenks 2006), groundwater conditions vary on a year-to-year basis and are more directly related to the current climatic conditions. Therefore, a single season of below average precipitation can cause significant impacts. Conversely, groundwater levels can recover in one season with near average to above average precipitation showing that the aquifer system can quickly recover from drought conditions.

The safe yield of 242 acre-feet per year may serve as a useful general target for groundwater pumping for the entire aquifer. However, MCCSD is better served by a more dynamic groundwater management system as represented by the Drought Contingency Plan (Questa 2006) rather than the safe yield concept.

Subregional Assessment

The safe yield analysis is a basin-wide or aquifer-wide analysis. Previous studies have focused on an evaluation of the whole aquifer system; however, a review of the results shows that groundwater conditions in the Mendocino Headlands Aquifer are more localized. Therefore, an initial subregional assessment was conducted to better assess the localized conditions.

For this assessment, five informal subregional zones were defined for the Mendocino Headlands Aquifer based on a combination of natural and manmade conditions. The zones include:

- **Zone 1** – Southwestern aquifer that includes the western downtown area.
- **Zone 2** – South-central aquifer that includes the eastern downtown area.
- **Zone 3** – Northwestern aquifer that includes mostly park land and residential area.
- **Zone 4** – Northeastern aquifer that includes residential areas east of Highway 1.
- **Zone 5** – Southeastern aquifer that includes residential and undeveloped areas east of Highway 1.

Figure 9 shows the distribution of the subregional zones relative to the known well density in Mendocino. Table 2 provides a summary of the groundwater pumping per zone. This shows that the downtown areas (Zones 1 and 2) have nearly 66% of the total pumping even though they represent only about 33% of the total area. In contrast, the surrounding residential areas of Zones 3, 4 and 5 contain about 34% of the pumping but represent about 67% of the total area. This shows that the distribution of pumping in the aquifer is unbalanced; therefore, the impacts of pumping on the aquifer would also be anticipated to show a similar pattern.

Table 2: Distribution of current estimated groundwater pumping in the Mendocino Headlands Aquifer by subregional zone

Current Groundwater Pumping	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5	Total
Total Groundwater Pumping (acre-feet per year)	102	59	34	30	30	225
Percent Groundwater Pumping (percentage of total)	44%	22%	12%	11%	11%	100%

Technical Memorandum

Mike Kelley, Mendocino City Community Services District
17 January 2008
Project No. 0764004
Page 10

- **Zone 1** – Area of highest impacts due to a combination of factors. It contains the highest well density (Figure 9) and pumping volume (Table 2). Also, the area is underlain by less terrace deposits which limits recharge capacity.
- **Zone 2** – Area contains the second highest well density (Figure 9) and pumping volume (Table 2). However, groundwater level declines appear to be attenuated by presence of thick terrace deposits providing for high recharge capacity.
- **Zone 3** – Low density pumping appears to be within the recharge capacity of this zone and the presence of a thick terrace deposit in the eastern portion of the zone.
- **Zone 4** – Low density pumping appears to be within the recharge capacity of this zone and the presence of a thick terrace deposit in a portion of the zone.
- **Zone 5** – Area of low density pumping. Minimal impacts are observed in the northern portion where a thick terrace deposit is present; however, the lack of terrace deposits and a steep hillslope appears to be the cause of significant declines in the southern part of the zone.

CONCLUSIONS

This technical memorandum has summarized the results of the July 30, 2007 scope of work agreement between MCCSD and Kennedy/Jenks. In summary, the conclusions of this work include:

- The 2007 model update shows that the model was able to consistently simulate the variations in groundwater levels during the period from 2004 to 2007. Therefore, the model is still a viable tool for evaluating groundwater conditions for the Mendocino Headlands aquifer.
- A determination of the safe yield of 242 acre-feet per year was developed for the entire Mendocino Headlands Aquifer. The safe yield may serve as a useful general target for groundwater pumping; however, a more dynamic groundwater management system as represented by the Drought Contingency Plan (Questa 2006) is considered to be a more useful groundwater management procedure than the safe yield.
- A subregional assessment shows that the distribution of pumping is unbalanced and this produces localized areas of groundwater level declines. The cause of the localization of impacts appears to be a combination of natural hydrogeology and existing well density.
- The results of this subregional assessment suggest that future aquifer analysis should incorporate and refine the concept of localized variability.
- The results of the Build-Out Scenarios indicate that the areas already impacted are the most vulnerable to further impact by build-out whereas the areas which currently experience minimal impacts will most likely be able to absorb the effects of build-out with little additional impact.

Technical Memorandum

Mike Kelley, Mendocino City Community Services District
17 January 2008
Project No. 0764004
Page 11

RECOMMENDATIONS

The groundwater modeling has demonstrated that the effects from groundwater pumping are localized. The western downtown Mendocino area (Zone 1) is considered the most vulnerable area based on the model scenarios which consistently showing this area having the greatest groundwater level declines. This area also appears to be especially vulnerable to drought conditions due unfavorable geology and an existing high density of wells.

The primary groundwater management objective that needs to be addressed is whether the homeowners and businesses in this area can reliably depend upon the existing groundwater resource. As noted above, the groundwater level declines in the aquifer are not necessarily the same as the drawdown in an actively pumping well. A poorly constructed or maintained well may experience a drawdown significantly greater than what the groundwater level decline observed in the aquifer.

To make groundwater management decisions, MCCSD needs to determine whether the primary controlling factor is the condition of the individual wells or a localized groundwater supply issue. Understanding this will help guide whether future actions should focus on managing groundwater usage or mitigating problematic wells. For this, a survey is recommended that would identify the location of wells that historically have had problems sustaining pumping throughout the year. This survey should include the depth, age, construction and condition of the screen for these wells. If these wells are randomly interspersed with wells not having problems or if a certain construction type appears to be most vulnerable, this may indicate problems with the individual wells. If these wells are grouped together and with a variety of well constructions, then this may suggest a localized groundwater supply issue that may require special groundwater management consideration for that area.

A second recommendation is to further expand and refine the subregional assessment. The purpose of this study would be to better evaluate the localized conditions that affect the ability to sustain pumping under various hydrologic and pumping conditions. The groundwater model could be used to develop localized groundwater budgets and evaluate the limiting factors that control the availability of groundwater in the different zones. In addition, the model could also be used to test the findings of well survey if a localized groundwater issue is identified.

REFERENCES

California Department of Water Resources (DWR), 1985, Town of Mendocino Ground Water Study, California Department of Water Resources, June 1985, 53 pp.

Harbaugh, A.W., E.R. Banta, M.C. Hill and M.G. McDonald, 2000. MODFLOW 2000, The U.S. Geological Survey Modular Ground-Water Model – User Guide to Modularization Concepts and the Ground-water Flow Process, U.S. Geological Survey Open-File Report 00-92, Reston, Virginia.

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

STEVEN L. GOMES,

Plaintiff and Appellant,

v.

MENDOCINO CITY COMMUNITY
SERVICES DISTRICT,

Defendant and Respondent.

A153078

(Mendocino County
Super. Ct. No.
SCUK-CVPT-15-65985)

Steven L. Gomes, a homeowner in Mendocino County, appeals an adverse judgment rejecting his petition to invalidate an ordinance of the Mendocino City Community Services District (the district) limiting the quantity of groundwater he may extract from his property. He contends that the statute authorizing the district to establish groundwater-management programs does not give it authority to impose extraction limits but that, if it does, the district failed to adopt the present program in accordance with the procedures specified in the statute. We conclude that the statute does authorize the imposition of extraction limitations but that the district did not adopt its program as the statute requires. The present ordinance therefore must be invalidated, without prejudice to re-adoption of such a program in accordance with the statutorily mandated procedures.

Factual and Procedural History

The town of Mendocino lies on a peninsula, bounded by cliffs. It lacks a source for a community-wide water system, so its residents depend on groundwater drawn from wells. In 1972, the district was created under the Community Services District Law (Gov. Code, § 61000 et seq.) for the purpose of regulating local wastewater—not groundwater. In 1985, the California Department of Water Resources published a study

of Mendocino’s groundwater basin. It concluded that the town’s water demands exceed supply during dry years and some normal years, and that new wells should not be permitted without pump tests.

In 1986, the Legislature passed Assembly Bill No. 792. That act would have authorized any local agency providing water service in Mendocino, or any of 11 specified groundwater basins around the state that were “subject to critical conditions of overdraft,” to “establish . . . programs for the management of groundwater resources . . . in accordance with prescribed procedures.” Governor Deukmejian vetoed Assembly Bill No. 792 as “overbroad,” deeming it “more appropriate” for local agencies in such basins to petition the Legislature for such authority “on a case-by-case basis.”

Accordingly, in 1987, the Legislature added to Division 6 of the Water Code a new part 2.7 applying “only to the area within the existing boundaries of the Mendocino City Community District.” (Stats. 1987, ch. 472, § 1; Wat. Code, § 10700 et seq. (the Act).)¹ The Act provides that the district “may, by ordinance, . . . establish programs for the management of groundwater resources.” (§ 10702.)² To do so, the district must follow a prescribed multi-step process. The district must first hold a noticed public hearing “on the proposed groundwater management program” at which the board may alter the program or require more study, and after which it may “adopt a resolution of intention to adopt and implement the program.” (§ 10703.)³ If it adopts such a resolution, it must publish the

¹ All statutory references are to the Water Code.

² Section 10702 reads: “Any local agency which is authorized by law to provide water services may, by ordinance, or by resolution if the local agency is not authorized to act by ordinance, establish programs for the management of groundwater resources.”

³ Section 10703 reads: “Prior to the adoption of a groundwater management program, the governing board of the local agency shall hold a public hearing, after publication of notice pursuant to Section 6066 of the Government Code, on the proposed groundwater management program. At the hearing, the board may alter the program or require further study on the program and continue the hearing. At the conclusion of the hearing, the board may adopt a resolution of intention to adopt and implement the program.”

proposed program in a newspaper (§ 10704)⁴ and hold a second hearing to “consider protests to the implementation of the program,” at which “any eligible registered voter of the [district] may file [or withdraw] a written protest” (§ 10705).⁵ If more than 50 percent of voters file protests, “the groundwater management program shall be abandoned,” and the board may not consider a new program for one year. If a majority does not protest, the board “may adopt an ordinance or resolution to implement the program.” (§ 10706.)⁶

The Act also authorizes the district to “fix and collect rates for the extraction of groundwater” (§ 10708) and to “levy a water replenishment assessment” (§ 10709). In order to do either, the district must “hold an election on the proposition of whether or not [it] shall be authorized to levy a water replenishment assessment or to fix and collect [extraction] rates.” (§ 10710.)

In a letter urging the governor to sign Assembly Bill No. 786, its author explained its origins and purpose: “The village of Mendocino has no central water system and operates entirely off of private wells. In recent years, some developments have dug wells deeper into the water table than existing wells, causing many residents to be without

⁴ Section 10704 reads: “After the conclusion of the hearing, and if the governing board adopts a resolution of intention, copies of the groundwater management program shall be published in a newspaper of general circulation. Upon written request, any interested person shall be provided with a copy of the program.”

⁵ Section 10705 reads: “After the adoption of a resolution of intention, the governing board shall hold a second hearing and consider protests to the implementation of the program. Any interested person may appear to be heard concerning any matter set forth in the resolution or matters material thereto. Any time prior to the conclusion of the hearing, any eligible registered voter of the local agency may file a written protest or withdraw a protest previously filed.”

⁶ Section 10706 reads: “A majority protest shall be determined to exist if the governing board finds that the protests filed and not withdrawn prior to the conclusion of the second hearing represent more than 50 percent of the eligible registered voters residing within the boundaries of the local agency. If the governing board finds that a majority protest exists, the groundwater management program shall be abandoned and no new program shall be considered by the board for a period of one year following the date of the second hearing. If a majority protest has not been filed, the board, within 35 days after the conclusion of the second hearing, may adopt an ordinance or resolution to implement the program.”

water for as much as two to three months a year, even in wet years [¶] AB 786 would permit [the district] to adopt a water management program through public hearings *to regulate new development relative to water availability and the impact on neighbors.*⁷ (Italics added.)

In 1990, in compliance with the procedures specified in sections 10703 through 10706, the district adopted Ordinance No. 90-1, the “groundwater extraction permit ordinance,” which states that it is “the first component of a comprehensive groundwater management program.” The ordinance requires a property owner to obtain a groundwater extraction permit for the extraction of groundwater “for ‘new development’ or ‘change in use’ ”or “from a well constructed or modified following the adoption of this ordinance within the boundaries of [the district].” In most instances, and subject to detailed specifications, the applicant must arrange a hydrological study to determine if the well will adversely affect other wells, and must install a water meter and accept an “allotment” defining the quantity of water that may be extracted. Extraction exceeding that amount is a misdemeanor subject to daily fines.

Since adopting Ordinance No. 90-1, the district has enacted further groundwater-management measures without following the procedure specified in sections 10703 through 10706. In January 2007, for example, the district adopted Ordinance No. 07-01, requiring a property owner to obtain a permit and allotment after a property is sold, even if no new construction or change in use results.

Later in 2007, the district adopted the two measures primarily at issue on appeal: resolution No. 200, which adopted a water shortage contingency plan, and Ordinance No. 07-04 which implements the plan.⁸ The plan was created “to establish criteria for

⁷ The letter concluded by stating incorrectly that “such a management plan would be subject to a majority vote of the residents of the district,” whereas, as noted, the Act subjects a proposed groundwater management program to a majority-protest procedure (§ 10706).

⁸ Gomes also seeks to challenge Ordinance No. 2018-002, which the district adopted after entry of the judgment. Consideration of this ordinance is beyond the scope of this appeal.

when to declare a water shortage through four (4) stages of alert and action, and to identify appropriate conservation measures and response actions for each water shortage stage to protect the water resources of the district.” The plan describes four levels of water shortage criteria and the resulting measures that are to be taken at each level of water shortage. If the district declares a stage 4 “water shortage emergency,” “all property owners within the district with developed parcels shall be required to obtain a groundwater extraction permit with an allotment.”⁹ As Gomes notes, a stage 4 declaration acts as a “one-way ratchet”: It triggers the requirement that all property owners obtain permits and allotments, and that requirement remains in effect in perpetuity, even after the drought ends.

The district’s brief advises that the water shortage contingency plan “was the subject of a number of public hearings where testimony was received by the board of directors of the [district] that promoted the idea that in a truly historic drought (Stage 4) every developed property in the district should share the burden associated with reduced availability of groundwater.” Nonetheless, the district acknowledges that “[i]t is undisputed the district did not follow the procedure set forth in Water Code §§ 10703-10706 when adopting Ordinances 07-1 and 07-04, and Resolution No. 200.”

From February 2012 through December 2013, the district successively declared stage 1 through stage 3 water shortages. On February 24, 2014, the district’s board of directors adopted resolution No. 2014-231 declaring that “under the current water shortage conditions,” a stage 4 water shortage emergency condition “exists within the area served by the [district]” and directing implementation of “demand management as

We therefore deny his request that we take judicial notice of the subsequent ordinance, and of other documents, on the ground of irrelevance.

⁹ Further, during the stage 4 water shortage emergency, “all allotments shall be reduced by 40 percent. The notification [to the property owner] shall also include a listing of potential water conservation and water use reduction measures, and an advisory that [the district] staff is available upon the written request of the property owner to conduct an audit of water usage and to make specific recommendations and additional conservation measures.”

defined in the [district] water shortage contingency plan under stage 4.” In April 2014, the district sent a letter to Gomes requiring him, for the first time, to obtain a permit. He objected and demanded a hearing, and the board held one in November 2014, at which it concluded that he was obliged to obtain a permit. It promptly sent him a notice of violation demanding that he get a permit or face enforcement action and a \$100 per day charge.

The district lowered the drought level to stage 1 in December 2014 and to “No Water Shortage Condition” in February 2015. But since the stage 4 declaration had triggered the permit and allotment requirements, the district sent Gomes a second notice of violation in January 2015. He again requested a hearing, and the district again affirmed its position. The district sent a third notice of violation subjecting Gomes to daily fines of \$350. The district then began to impose such fines, which eventually mounted to a total of \$35,300.

Gomes filed this action in June 2015, seeking a writ of mandate, declaratory relief, and damages. He alleged that the district “seeks to force Gomes to put a meter on a groundwater well, which is nearly 100 years old and has been in Gomes’s family that entire time, and submit to the district’s regulatory authority to limit the amount of water Gomes can withdraw from his well regardless of either of the supply of water available or Gomes’s need for the water.” In addition to alleging that the district had not complied with its own contingency plan and had violated state and federal constitutional requirements, Gomes’s first amended complaint alleges that the district “did not follow the notice, hearing and publication requirements set forth in . . . §§ 10703 and 10704 in adopting the contingency plan or resolution 2014-231.”

After requesting briefing on “whether the Legislature intended the enhanced enactment procedures to apply to the enactment of all ordinances relating to a groundwater management plan or only to the enactment of the initial ordinance,” the court held that the Act required the district to use the “enhanced enactment procedures” only once, in adopting its first groundwater management program. Following a bench trial in which the court rejected Gomes’s causes of action for declaratory relief and damages, the

court issued a statement of decision holding that the adoptions of the water shortage contingency plan and of Ordinance No. 07-04 were “authorized by [section] 10700 et seq. The district provided appropriate notice and opportunities for citizen participation prior to adopting the plan and Ordinance No. 07-4, and its decision was based upon substantial, reliable scientific evidence. The district’s decision to require all landowners within the district to obtain a groundwater extraction permit and abide by water allotments was rationally related to a legitimate governmental purpose.”¹⁰ The court entered a judgment holding that the adoption of Ordinance Nos. 07-01 and 07-04 was valid, and Gomes timely appealed.

Discussion

1. *The district may limit groundwater extraction within its groundwater management program*

Gomes first argues that the Act cannot be read to give the district authority to impose limits on property owners’ right to extract groundwater from their own land. Although the district correctly argues that Gomes failed to make this argument in the trial court, both parties have briefed the issue, it raises a pure question of law, and we deem it advisable to address the issue on the merits.¹¹

¹⁰ The court also held that the permit and allotment requirements do not violate a constitutional provision requiring that water be put to beneficial use (Cal. Const., art. X, § 2) and did not effect a regulatory taking. On appeal, Gomes does not challenge these rulings.

¹¹ The district argues that the judgment should be affirmed on the ground that Gomes did not exhaust his administrative remedies by applying for an expanded allotment for his land. While the trial court held that Gomes failed to exhaust administrative remedies with respect to his claim that the district “violated his due process right to a hearing regarding [his] request for a water allotment that would support agricultural use,” it did not hold the same with respect to his attack on the validity of the district’s regulations. In all events, the district waived the defense of exhaustion in its answer, in which it “admits that Gomes has exhausted all available administrative remedies.” “The defense of failure to exhaust administrative remedies may be waived.” (*Mission Housing Development Co. v. City and County of San Francisco* (1997) 59 Cal.App.4th 55, 63; accord, *Cummings v. Stanley* (2009) 177 Cal.App.4th 493, 505–506; *O.W.L. Foundation v. City of Rohnert Park* (2008) 168 Cal.App.4th 568, 584; but see *Hood v. Hacienda La Puente Unified School*

Several statutes conferring groundwater management authority on different local agencies expressly confer the power to impose extraction limits (e.g., Wat. Code Appen., §§ 121-701, 128-708, 129-708), and some confer that power subject to explicit preconditions for its exercise (e.g., § 10753.9, subd. (c)). The Act before us does not specifically authorize the district to impose extraction limits, leading Gomes to argue that we should infer from the absence of such a provision that the district was not granted such authority. The district, on the other hand, argues that the express authorization of such limits in these other statutes confirms the Legislature’s view that such limits are inherently among the permissible components of a groundwater management program.

We agree that the authority to manage groundwater necessarily includes the ability to limit the quantity of water that individual users may extract. The authority to issue extraction permits and to include conditions in those permits—which unquestionably are encompassed within the authority to manage the groundwater—would be ineffectual, if not entirely meaningless, without the authority to impose limits. The Act in question is relatively brief and concise; it does not specify many of the powers that other groundwater management statutes do spell out. (E.g., Wat. Code Appen., § 121-701 [conferring powers to require conservation practices; regulate, limit, or suspend extractions and construction or enlargement of extraction facilities; prosecute legal actions; impose spacing requirements on new extraction facility construction; and impose reasonable operating regulations].) All such powers are presumably included within the authority to manage groundwater. The fact that the Act does not specify the power to limit extraction is no more an indication that the district lacks such power than that it lacks authority to use any of the other management tools that are articulated in other statutes. Gomes cites no judicial decision or other authority suggesting that when the Legislature grants authority to manage groundwater, it must specify precisely what

Dist. (1998) 65 Cal. App. 4th 435, 440–441 [noting traditional view that exhaustion may be raised at any time.]

powers are included or the power does not exist.¹² Nor does he cite any legislative history or other material suggesting that the Legislature intended to withhold the power to limit extractions from the general grant of authority to manage the groundwater resources within the boundaries of the district.

We thus conclude that the authority to manage the district’s groundwater resources includes the authority to impose extraction limitations on users of the groundwater.

2. *The district’s groundwater management program was not adopted in compliance with the requirements of the Act.*

Although the Act authorizes the district to “establish programs for the management of groundwater resources” (§ 10702) that may include extraction limitations, it may do so only if the programs are adopted pursuant to the notice, hearing and protest procedures specified in the Act. As noted above, the district acknowledges that the water shortage contingency plan, resolution No. 200 and Ordinance No. 07-04, were not adopted pursuant to the procedures specified in section 10703 through 10706. The district contends, and the trial court agreed, that adoption of Ordinance No. 90-1 in 1990 in compliance with those procedures was sufficient, and that the subsequent enactments were merely amendments of the original program that need not have been adopted in conformity with those procedures.

The trial court concluded that “the Legislature intended the enhanced ordinance adoption procedures of [sections] 10703-10706 to apply only to the enactment of the ordinance adopting the *initial* water management program, representing the assumption

¹² At oral argument, Gomes’s counsel highlighted his citation to *G. L. Mezzetta, Inc. v. City of American Canyon* (2000) 78 Cal.App.4th 1087, 1092, which stated that “[t]he powers of a general law city include ‘ “only those powers expressly conferred upon it by the Legislature,” ’ ” with certain exceptions, and that such powers “ ‘ “are strictly construed, so that ‘any fair, reasonable doubt concerning the exercise of a power is resolved against the corporation.’ ” ’ ” Assuming that this principle applies to the district, the statute in question does not confer specific powers that allegedly have been exceeded. The Act confers authority on the district to “establish programs for the management of groundwater resources” (§ 10702) and the question is whether a limit on extraction is a component of such a program.

by the Community Service District of power not otherwise within its authority. The court finds that the Legislature did not intend the same enhanced ordinance adoption procedures to apply to the subsequent adoption of ordinances amending that initial ordinance. The court cannot find any stated intent, rationale or public policy to support the argument that the Legislature intended the enhanced ordinance adoption procedures to apply to all ordinances implementing changes in the initially adopted water management plan.” According to the court, “To construe the language to require the enhanced procedures for *any* ordinance subsequently amending and modifying the initial adopted program would render the operation of a management plan unnecessarily and unreasonably unwieldy. A district would have to comply with the enhanced adoption procedure for even the most minor amendment, regardless of how insubstantial. It is extremely unlikely that the Legislature intended any amending ordinance, however inconsequential, to be subject to the majority protest process and the mandatory one year delay.”¹³

The trial court’s interpretation disregards the text of the Act. Nothing in the statute limits its mandatory procedures to the enactment of an “initial” water management program. To the contrary, section 10702 states that the district “may . . . establish programs for the management of groundwater resources,” (emphasis added) and sections 10707 and 10709 repeat that the district may be authorized to establish multiple “programs.” Section 10703, on the other hand, states that, “[p]rior to the adoption of a groundwater management program,” (emphasis added) the agency shall follow the process specified. Similarly, sections 10704, 10705, and 10706 all refer to procedures for

¹³ The court also stated that the district “is not authorized to assume the *additional* authority offered by the Legislature in Stats. 1987, ch. 472, sec. 1, until the voters have agreed to become subject to that *new* authority as expressed in the initial management plan.” However, the court appears to have conflated two provisions. Voter approval is not required for adoption of a groundwater management program; rather, compliance with the “enhanced adoption procedure” specified in sections 10703 through 10706 is required. Voter approval is necessary only to assume the power to levy a water replenishment assessment or to assume the power to fix and collect payment rates under sections 10708 or 10709. (See § 10710.)

consideration and adoption of a “program,” in the singular. The reference to “programs” indicates that the district may establish more than one such program, and that each is not to be considered an amendment of the initial program. The reference to the procedures for adopting “a groundwater-management program ” (rather than “the groundwater-management program”) indicates that each such program must comply with the specified procedures.

Moreover, the obvious policy underlying the Act is to permit the property owners who will be affected by a groundwater management program to participate meaningfully in the development of the program and to reject the program unless more than half approve. Whether or not the hearings before adoption of the water shortage contingency plan provided property owners the same opportunity to comment as the procedures required by the Act, which is questionable, the plan was adopted without giving the majority of the eligible residents the opportunity to reject the plan, as the statute requires.

Even if the trial court is correct that inconsequential amendments may be made to a program without complying with the procedural requirements of the Act, the water shortage contingency plan adopted by the district is hardly such an inconsequential amendment. However minor amendments may be defined, and we need not articulate a universal definition here, the water shortage contingency plan cannot possibly be regarded as a minor amendment of Ordinance No. 90-1. The 1990 ordinance simply required an extraction permit for a new development or change in use of land, or the construction of a new well or modification of an existing well. The 2007 water shortage contingency plan created an entirely new program, involving, among other things, criteria for stages of water shortage, implementation of various water demand reduction methods, prohibitions and penalties depending on the stage of water shortage, the requirement that at stage 4 owners of wells previously operated without permits or water allotments obtain permits and be subject to allotments, and that those owners remain subject to those requirements even after termination of the water shortage. None of these significant and far-reaching measures was considered or approved, explicitly or implicitly, with the adoption of the modest 1990 program. Before enactment of the entirely new water

shortage contingency program, the Act requires what the trial court appropriately termed an “enhanced adoption procedure.” Affected property owners are entitled to prior notice of the proposed program, a public hearing offering the possibility for alteration or further study of the program, a second hearing and consideration of protests to the program, and abandonment of the program if more than 50 percent of the eligible residents oppose the program. Had the district observed these procedures before adopting resolution No. 200 and Ordinance No. 07-04, we cannot say whether changes would have been made in the program or that the program would not have been entirely abandoned. Therefore, the adoption of those measures was invalid, and the measures are void.

Gomes also challenges the validity of Ordinance No. 07-01. Whether this ordinance should be regarded as simply a minor modification of the program adopted by Ordinance No. 90-1, or a new program requiring compliance with the procedures specified in the Act, presents a closer question. Ordinance No. 07-01 added to the requirement that an extraction permit be obtained for new development or a change in use of property, or for construction or modification of a well, the requirement that a permit be obtained “following the sale of real property within the boundaries of the [district].” Because this ordinance for the first time extended the permit process to existing wells that were not being modified, we conclude that the enhanced procedures of the Act should have been observed. Moreover, since our invalidation of resolution No. 200 and Ordinance No. 07-04 presumably will instigate the process specified in the Act for the re-adoption of a water shortage contingency plan, inclusion of the Ordinance No. 07-01 provisions should be easily accomplished.

In view of these determinations, we need not consider additional issues raised by the parties. On remand, however, we do not preclude reconsideration of other rulings made by the trial court on the erroneous premise that resolution No. 200 and Ordinance No. 07-04 had been validly adopted, including Gomes’ motion for attorney fees.

Disposition

The judgment is reversed with directions to issue a declaratory judgment declaring that Ordinance No. 07-01, resolution No. 200, and Ordinance No. 07-04 are void because

they were not adopted in the manner prescribed by Water Code sections 10703 through 10706, and for further proceedings consistent with this opinion. Gomes shall recover his costs incurred on appeal.

POLLAK, P. J.

WE CONCUR:

STREETER, J.
TUCHER, J.

Trial court: Mendocino County Superior Court

Trial judge: Honorable Cindee F. Mayfield

Counsel for plaintiff and appellant: DOWNEY BRAND LLP
Kevin M. O'Brien
David E. Cameron

CARTER MOMSEN PC
Colin W. Morrow

Counsel for defendant and respondent: James A. Jackson

Matthew Emrick

ENDORSED-FILED

APR 28 2020

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MENDOCINO

CLERK OF MENDOCINO COUNTY
SUPERIOR COURT OF CALIFORNIA
YOLANDA NUNEZ

STEVEN L. GOMES,)
Plaintiff,)
)
v.)
)
MENDOCINO CITY COMMUNITY)
SERVICES DISTRICT,)
Defendant.)
_____)

Case No: SCUK-CVPT-15-65985

ORDER RE ATTORNEYS' FEES

PROCEDURAL BACKGROUND

On June 20, 2015, Steven Gomes (hereafter "Gomes") filed a Petition for Writ of Mandate; Complaint for Declaratory Relief and Damages and a Request for Stay against the Mendocino City Community Services District (hereafter, "the District"). The petition sought to enjoin the District from enforcing against Gomes, a property owner within the District, certain requirements set forth in the Water Shortage Contingency Plan. The provisions about which Gomes complained had been adopted pursuant to Water Code § 10700 *et seq.* in 2007 and revised in 2009.

Specifically, the petition asserted the District had failed to make certain findings before declaring a stage four water shortage and had unlawfully applied certain punitive measures against Gomes that were provided for in the 2007 amendments. It also alleged the District had not provided him with adequate notice of the plan's adoption and abused its discretion in establishing and enforcing certain aspects of the Contingency Plan. It sought a "declaration of his [Gomes']" rights that the declaration of a stage four water shortage was done in violation of the Contingency Plan. In the alternative, Gomes alleged the requirement to install a meter, report usage, and restrict his use of the water drawn from the well on his property was a taking without just compensation.

The immediate litigation that ensued concerned whether or not a stay would be granted prohibiting the District from imposing additional penalties or assessments against Gomes and prohibiting it from taking any action to collect or perfect any penalties that had been imposed already against Gomes relating to his failure to comply with the District's requirements concerning metering, reporting and usage restriction. The parties reached an agreement concerning the stay that was effectuated by the court on August 31, 2015.

In late October 2015, the matter proceeded to court trial on the first and second causes of action seeking writ relief. The trial court (Hon. Richard Henderson) issued an order in January of 2016 asking for supplemental briefing on the proper interpretation of Water Code §§ 10703-10706. The issue raised in this request for supplemental briefing, in hindsight, was a turning point in the case. After receipt of the briefing, the trial court issued its final order in February of 2016 (amended on March 14, 2016). As part of its ruling, the trial court's interpretation of these provisions of the Water Code turned out to be a fundamental error as later determined by the Court of Appeal. The Order denying writ relief was filed April 14, 2016.

Before reaching the Court of Appeal, the remaining causes of action in the initial petition had to be addressed. Prior to the commencement of the second trial, Gomes amended his petition in June of 2016 adding a fifth cause of action alleging a denial of due process in the adoption of provisions of the Water Shortage Contingency Plan and a sixth cause of action alleging a violation of the Excessive Fines clause of the California Constitution. The parties also agreed to a bifurcation on the takings claim alleged in the original petition. The trial commenced in July of 2017 before the Hon. Cindee Mayfield.¹

Judge Mayfield issued her statement of decision on September 6, 2017. Judge Mayfield rejected each of Gomes' remaining claims. A major premise of Judge Mayfield's ruling was the earlier interpretation by Judge Henderson of Water Code §§ 10703-10706. Judgment was entered in favor of the District on September 28, 2017. The District sought

¹ Judge Henderson had retired from the bench and the matter had been reassigned to Judge Mayfield.

attorneys' fees and costs pursuant to the District's ordinances (07-1 and 07-4) and underlying legal authority. Judge Mayfield denied that request on December 21, 2017.

Gomes' appeal focused on whether the District had the authority to limit groundwater extraction and if it did have such authority, was the Water Shortage Contingency Plan adopted in compliance with Water Code § 10700 *et seq.* The ruling of the Court of Appeal resulted in a published opinion: *Gomes v. Mendocino City Community Services Dist.* (2019) 35 Cal.App.5th 249. The Court of Appeal concluded that the District had the authority to limit groundwater extraction but it had erred in 2007 by adopting provisions of the Water Shortage Contingency Plan without providing notice, hearings, and protest measures to the users and property owners within the District including Gomes. The Court of Appeal reversed the trial court judgments with instructions to enter declaratory judgment declaring the challenged ordinances and resolution had not been adopted in the manner prescribed by Water Code § 10700 *et seq.* The remittitur issued July 22, 2019.

Gomes now seeks an award of attorneys' fees pursuant to CCP §1021.5. ²

AN AWARD OF ATTORNEYS' FEES IS APPROPRIATE

Section 1021.5 of the Code of Civil Procedure authorizes an award of attorneys' fees to a successful party in any action which has resulted in the enforcement of an important right affecting public interest if (a) a significant benefit, whether pecuniary or nonpecuniary was conferred on the general public or a large class of persons; (b) the necessity and financial burden of private enforcement are such so as to make the award appropriate and (c) such fees should not in the interest of justice be paid out of the recovery, if any. ³

1. Gomes Is the Prevailing Party

A court is authorized by CCP §1021.5 to award attorneys' fees to a successful party. The term as ordinarily understood, means the party to the litigation that achieves its objectives. *Vasques v. State* (2008) 45 Cal.4th 243, 250-51; *LaMirada Avenue Neighborhood Assn. of*

² Costs on appeal in the amount of \$5423.00 are awarded to Gomes pursuant to the order issued by the Court of Appeal.

³ This subsection will not be addressed as there has been no financial recovery to Gomes from this litigation.

Hollywood v. City of Los Angeles (2018) 22 Cal.App.5th 1149, 1157 (*LaMirada*). This definition is both “pragmatic and broad.” *Graham v. Daimler Chrysler Corp.* (2004) 34 Cal.4th 553, 571. To be the successful party, a party need not obtain final judgment in its favor nor succeed on all of its claims. *RiverWatch v. County of San Diego Depart. Of Environmental Health* (2009) 175 Cal.App.4th 768 (*RiverWatch*). A party is successful when its lawsuit directly prompts a “legislative fix.” *LaMirada, supra*, 22 Cal.App.5th at 1157.

Applying this broad definition, Gomes is the prevailing party in this litigation. The petition for writ of mandate, complaint for declaratory relief and damages was filed by Gomes in June of 2015. His amended complaint alleged that the district did not follow the notice, hearing, and publication requirements of the Water Code in adopting the Contingency Plan and related resolution. While initially losing in the trial court on this claim, he prevailed in the Court of Appeal. The published opinion leaves little doubt on this element as the Court voided the operative ordinances and resolution underlying the Contingency Plan. *See Gomes v. Mendocino City Community Services Dist., supra*, 35 Cal.App.5th 249. A legislative and procedural fix is needed if the District intends to enforce the measures adopted in 2007 or similar ones. Even if the District re-adopts the same measures using the proper procedures, which it has not yet done, Gomes’ objective of invalidating the regulation was achieved. The fact that other claims brought by Gomes and rejected by the trial court were not addressed by the Court of Appeal do not change the conclusion that Gomes prevailed in the Court of Appeal, and by virtue of the order mandating a declaratory judgment, the trial court as well.

2. A Significant Benefit Has Been Conferred on a Large Class of Persons

Whether a successful party’s lawsuit confers a “significant benefit” on the general public or a large class of persons is a function of (1) “the significance of the benefit,” and (2) “the size of the class receiving [the] benefit.” *LaMirada, supra*, at 1158, citing, *Woodland Hills Residents Assn., Inc. v. City Council* (1979) 23 Cal.3d 917 at 939-940. In evaluating these factors, courts are to “realistic[ally] assess[]” the lawsuit’s “gains” “in light of all the pertinent circumstances.” (*Ibid.*)

A benefit need not be monetary to be significant. Where, as here, the nonpecuniary benefit to the public is the proper enforcement of the law, the successful party must show that the law being enforced furthers a significant policy. *LaMirada, supra*, at 1158. The “extent of the public benefit” from the lawsuit must be “substantial,” but “need not be great.” *RiverWatch, supra*, 175 Cal.App.4th at p. 781.

Gomes’ lawsuit conferred a significant benefit to a large class of persons. This case is very similar to *LaMirada, supra*, in that the chief benefit from this litigation is the requirement that the District adhere to the law when promulgating programs pursuant to Water Code § 10700 *et seq.* The Court of Appeal in this case concluded that the District, in enacting its groundwater management program in 2007, had not complied with the procedural requirements of the Water Code. The Court also noted that the new contingency plan was hardly an inconsequential change from prior programs. Specifically it stated:

The 2007 water shortage contingency plan created an entirely new program, involving, among other things, criteria for stages of water shortage, implementation of various water demand reduction methods, prohibitions and penalties depending on the stage of water shortage, the requirement that at stage 4 owners of wells previously operated without permits or water allotments obtain permits and be subject to allotments, and that those owners remain subject to those requirements even after termination of the water shortage.

Gomes v. Mendocino City Community Services Dist., supra, 35 Cal.App.5th 259–260.

Gomes’ litigation shed light on the fact that the District had enacted a fundamentally new regulatory scheme without first providing notice to affected users and property owners, or hearings and protest procedures that are specified Water Code §§ 10703-10706. That failure in procedure was not viewed by the Court as a technical flaw in the program or an insignificant omission. In this regard the Court stated:

Moreover, the obvious policy underlying the Act is to permit the property owners who will be affected by a groundwater management program to participate meaningfully in the development of the program and to reject the program unless more than half approve. Whether or not the hearings before adoption of the water shortage contingency plan provided property owners the same opportunity to comment as the procedures required by the Act, which is questionable, the plan was adopted without giving the majority of

the eligible residents the opportunity to reject the plan, as the statute requires.

Gomes v. Mendocino City Community Services Dist., *supra*, 35 Cal.App.5th at 259.

This court declines the invitation to conclude that such due process protections are insignificant when a program of this nature and substance is adopted. Procedural protections such as providing notice, hearing and protest, are important to preserve the integrity of this as well as all public and governmental programs and regulations. This is especially apparent when the time comes for the application of punitive tools enacted as part of the regulatory scheme against those in violation.

As an important aside, while the fact of publication does not constitute a prima facie showing that the right was important, it goes some distance in that direction. *City of Oakland v. Oakland Police & Retirement Sys.* (2018) 29 Cal. App.5th 688, 710. In this case, the Court of Appeal considered its interpretation of these provisions of the Water Code was worthy of publication so it can serve as guidance and precedent for future actions. This action supports this court's conclusion that the rights considered are important.

A large class of persons benefited from the litigation. The parties agree that the program affected approximately 1000 users or 400 parcel owners in the town of Mendocino. These users rely exclusively on groundwater drawn from wells that are regulated by their community water district. This includes homes and businesses and encompasses nearly the entire Mendocino village area. The litigation resulted in a benefit and enforcement of an important right to every parcel owner in the district. The fact that it is by definition a small community services district makes no difference; every parcel owner gets the benefit of notice and opportunity to be heard regarding programs proposed in the future.

Additionally, because the Court of Appeal's interpretation of the relevant provisions is a published decision, the right vindicated here benefits members of other water districts that may be considering implementing programs pursuant to Water Code § 10700 *et seq.*

3. The Financial Burden of Private Enforcement Supports an Award of Fees

This element of CCP § 1021.5 focuses on whether there is a need for a private attorney general for enforcement purposes. When there is no governmental agency available to challenge an official action, the necessity of private enforcement is “obvious” and “readily met”. *San Diego Municipal Employees Ass’n v. City of San Diego* (2016) 244 Cal.App.4th 906, 913. In other words, when the action is brought against the only agency that has responsibility for complying with the asserted constitutional or statutory right, necessity of private enforcement is manifest. *Bui v. Nguyen* (2014) 230 Cal.App.4th 1357, 1366. Here, there is no other governmental agency in existence to enforce against the District the provisions of Water Code § 10700 *et seq.* Therefore, the challenge to the District’s actions necessarily had to be done by a private attorney general; in this case, Gomes.

FIXING THE AMOUNT OF FEES

Fees awarded under this statutory scheme must be reasonable. The Court is to consider the nature of the litigation, its difficulty, the skill required in handling it, the attention given, the success or failure or other circumstances. *Building a Better Redondo Inc. v. City of Redondo Beach* (2012) 203 Cal.App.4th 852, 873.

A reduced fee award is appropriate when the claimant achieves only limited success, i.e., the judge may reduce the claimants’ fees by the hours that were spent on unsuccessful claims. *Rey v. Madera Unified Sch. District* (2012) 203 Cal.App.4th 1223, 1239. In this case, the appellate outcome was mixed: Gomes prevailed on an important claim, did not prevail on an equally important claim, and several claims were left unaddressed. Nevertheless, the judgments entered in the lower court were vacated and a declaratory judgment in Gomes’ favor was entered.

In cases of limited success, the court must engage in a two-step inquiry. *Espejo v. The Copley Press, Inc.* (2017) 13 Cal.App.5th 329, 382. First, the court must determine if the successful and unsuccessful claims are related. In this case, the various theories raised in the court of appeal were based on a common core of facts and are therefore related. The

second step is to determine if the level of success achieved makes the hours reasonably expended a satisfactory basis for making a fee award. (*Ibid.*) In this case, the court concludes that the level of success on the appellate level was significant and substantial and justifies a fee award. The hours spent on the appellate litigation were reasonable but full compensation based on the mixed result and final posture of the case is not warranted.

Gomes seeks appellate fees in the amount of \$108,849. In evaluating this request, the court reviewed the declarations of attorneys O'Brien, Cameron, Cho, and Smith. Their declarations provide relevant detail concerning their respective education, background, and experience. The hourly rates of each are imminently reasonable given their respective backgrounds and the legal community within which they practice.

After scrutinizing the time records for each attorney involved, the Court awards the following appellate fees: O'Brien (\$22,779), Cho (\$12,929), Smith (\$213.00), Cameron (\$44,504). The Court does not credit fees earned for entries associated with administration and when it appeared some efforts were duplicative. The Court reduced the award modestly based on the fact that some appellate work was associated with the one claim addressed by the Court of Appeal upon which Gomes did not prevail and the various claims the Court of Appeal elected not to consider. Based on this review, the total amount of appellate fees awarded is \$80,425.

The fees to be awarded at the trial court level is more difficult to assess. When the plaintiff pursues both a private interest and a public interest, the judge may reduce the claimed amount to account for the time spent pursuing the private interest. *Galante Vineyards v. Monterey Peninsula Water Mgmt. Dist.* (1997) 60 Cal.App.4th 1109, 1125-38. This principle must be applied here. Some of Gomes' claims were personal, to wit, the takings claims and excessive claims causes of action. The court rejects the argument that it should deny fees because Gomes was acting purely out of self-interest.

In evaluating this request the court reviewed the declarations of attorneys Carter, Knight, Momsen, Rich, and Morrow. Their declarations provide relevant detail concerning their

respective education, background, and experience. The hourly rates of each are reasonable given their respective backgrounds and the legal community within which they practice.

A great deal of scrutiny was given to the time records submitted. After evaluating the nature of issues raised in the trial court, the necessary labor that served as the basis for success on appeal, administrative or duplicative work, and the lack of detail in some entries, the court determines the following to be a reasonable award of trial court fees: Knight (\$34,324), Rich (\$3,796), Momsen (\$5,686), and Morrow (\$3,785). The total award of trial court fees to be awarded is \$47,591.

Application of a fee multiplier is not mandatory and is within the sole discretion of the court. Its purpose is to fix a fee at fair market value for the particular action taking into consideration the unique circumstances of each case. *Donovan v. Poway Unified Sch. Dist.* (2008) 167 Cal.App.4th 567, 628. In this case, the success on appeal was on a single issue of statutory interpretation and that issue was not specifically identified by counsel in the initial petition for writ of mandate. It only rose to special significance when Judge Henderson identified the issue and asked for supplemental briefing. The hourly rates charged by the attorneys are reasonable; they are not under-market. The success achieved is significant in that the written opinion clarifies the procedure going forward but in relation to the total number and nature of claims Gomes pursued, that success was limited. For these reasons, the court declines to apply a fee multiplier.

For the foregoing reasons, the Court awards appellate fees in the amount of \$80,425 and trial court fees in the amount of \$47,591.⁴ Gomes also seeks \$13,450 in fees for preparation of the motion addressed herein. The records submitted do not support such a request. For example, there were no attorney time sheets submitted for the month of September 2019. The records do support an award of \$967.

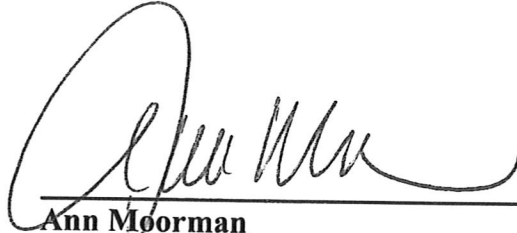
//

⁴ Objections were raised to statements in various declarations submitted in connection with this fee motion. The objection to paragraph 2 of Gomes' declaration signed October 25, 2019 is sustained and the statement is stricken. Objections 3-10 raised by Gomes in his submission of October 25, 2019 are sustained. Objections 1 and 2 are overruled.

CONCLUSION

For the foregoing reasons, Gomes is awarded \$128,983 in fees as the prevailing party in this action.

Dated: April 27, 2020

A handwritten signature in black ink, appearing to read "Ann Moorman", is written over a horizontal line.

**Ann Moorman
Judge of the Superior Court**

**Superior Court of California, County of Mendocino
PROOF OF SERVICE**

Case: **SCUK-CVPT-2015-65985**

Document Served: ORDER RE ATTORNEYS' FEES

I declare that I am employed by the Superior Court of California, in and for the County of Mendocino; I am over the age of eighteen years and not a party to the within action. My business address is:

- Mendocino County Courthouse, 100 North State Street, Ukiah, California 95482.
- Ten Mile Branch, 700 South Franklin Street, Fort Bragg, CA 95437

I am familiar with the Superior Court of Mendocino County's practice whereby each document is placed in the Attorneys' boxes, located in Room 107 of the Mendocino County Courthouse or at the Ten Mile Branch, transmitted by fax or e-mail, and/or placed in an envelope that is sealed with appropriate postage is placed thereon and placed in the appropriate mail receptacle which is deposited in a U.S. mailbox at or before the close of the business day.

On the date of the declaration, I served copies of the attached document(s) on the below listed party(s) by placing or transmitting a true copy thereof to the party(s) in the manner indicated below.

Party Served	Ukiah US Mail	Ten Mile US Mail	Ukiah Attorney Box	Ten Mile Attorney Box	Inter Office Mail	Fax	E-mail
CARTER MOMSEN PC JAMES A. JACKSON JACKSON LAW OFFICES 245 EAST LAUREL STREET FORT BRAGG, CA 95437	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MATTHEW EMRICK, ESQ. A PROFESSIONAL CORPORATION 3881 SCENIC COURT EL DORADO HILLS, CA 95762	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct and that this declaration was executed at:

- Ukiah, California
- Fort Bragg, California

Date: April 28, 2020

KIM TURNER, Clerk of the Court

[Signature]
By: Y. NUNEZ, Deputy Clerk

**Served by Interdepartmental Mail
or Clerk's Office Mailbox:**

Date: 4/28/2020

Time: 11:50 a.m.

Clerk: *[Signature]*

PROOF OF SERVICE

Mendocino City Community Services District

Post Office Box 1029

Mendocino, California 95460

Business Phone (707) 937-5790 Treatment Plant (707) 937-5751 Fax (707) 937-3837

January 4, 2017

Dave Jensen
Mendocino County Environmental Health
860 N Bush Street
Ukiah, Ca 95482

RE: MCCSD Water System Development and Shallow Wells < 20 feet deep in Mendocino

Dear Mr. Jensen:

This correspondence is in response to our January 4, 2016 phone conversation. You asked about unsealed wells < 20 feet deep that are possibly contaminated with coliform in the District and any information available on water system development in Mendocino since 1987.

Unsealed Wells

I suspect that any well <20 feet deep that does not have an annular seal in this County that is sampled will have coliform present. They are perfect conduits from contamination. I am certain that shallow unsealed wells in Mendocino face the same water quality issue.

Construction of the sewer system eliminated most of the fecal contamination from humans in shallow wells in Mendocino, but there are other sources that can degrade shallow unsealed well water quality. The good news for the District is a significant number of the old hand dug wells have been replaced by drilled wells with annular seals. The District has mapped 421 wells in Mendocino, and 258 of those wells were drilled since 1964. A large portion of the 160 plus old dug wells were replaced by those drilled well with annular seals. I have included a map of well locations in the District that also identifies well casing type.

Municipal Water System Development

The District attempted to develop a municipal water system. The last estimate of the cost for the water system in Mendocino was for \$8,392,950. If that water system was constructed today, it would cost \$12,620,957 in today's money. It would be very difficult for a small town with less than 1,000 full-time residents to make the loan repayment for the construction of the system. A modern water system would in all likelihood cost much more than \$12 million now. On top of that, rate payers would be responsible for annual system operation and maintenance expenses,

EXHIBIT 5

new operators and staff that would be needed to run the system, and the purchase of land for a treatment plant, raw water storage, and potable water tanks.

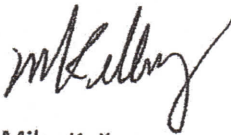
More significant than the high cost of a municipal water system, is that no suitable fresh water source was found for a municipal water system. This is the reason the water system development effort was abandoned in 1997. 404 developed parcels in the District now rely on groundwater extracted from 421 privately owned wells in a one square mile area.

I have attached a short narrative of the District's water system development history.

It is unlikely that today's property owners would approve water system development due to the high cost for construction of the municipal water system. The majority of property owners in Mendocino got through the recent 2012-14 severe drought with water conservation. Parcel owners were required to cut back on their allotments by 40%, and as a result only 10% of property owners purchased water during the drought. Most of the property owners that purchased water in 2014 were located downtown where well density is high and by well owners with wells less than 35 feet deep.

If you need any additional information on water system development in Mendocino, please call.

Sincerely,



Mike Kelley

EXHIBIT 5



Code:

Section:



[Up^](#) [Add To My Favorites](#)

GOVERNMENT CODE - GOV

TITLE 6. DISTRICTS [58000 - 62262] (Title 6 added by Stats. 1951, Ch. 331.)

DIVISION 3. COMMUNITY SERVICES DISTRICTS [61000 - 61250] (Division 3 repealed and added by Stats. 2005, Ch. 249, Sec. 3.)

PART 1. GENERAL PROVISIONS [61000 - 61014.5] (Part 1 repealed and added by Stats. 2005, Ch. 249, Sec. 3.)

CHAPTER 2. Formation [61010 - 61014.5] (Chapter 2 repealed and added by Stats. 2005, Ch. 249, Sec. 3.)

61010. A new district may be formed pursuant to this chapter.

(Repealed and added by Stats. 2005, Ch. 249, Sec. 3. Effective January 1, 2006.)

61011. (a) A proposal to form a new district may be made by petition. The petition shall do all of the things required by Section 56700. In addition, the petition shall do all of the following:

(1) State which of the services listed in Section 61100 it is proposed that the district be authorized to provide upon formation.

(2) Set forth the proposed methods, including, but not limited to, special taxes, benefit assessments, and fees, by which the district will finance those services.

(3) Propose a name for the district.

(4) Specify the method of selecting the initial board of directors, as provided in Chapter 1 (commencing with Section 61020) of Part 2.

(b) The petitions, the proponents, and the procedures for certifying the sufficiency of the petitions shall comply with Chapter 2 (commencing with Section 56700) of Part 3 of Division 5. In the case of any conflict between that chapter and this chapter, the provisions of this chapter shall prevail.

(c) The petition shall be signed by not less than 25 percent of the registered voters residing in the area to be included in the district, as determined by the local agency formation commission.

(Repealed and added by Stats. 2005, Ch. 249, Sec. 3. Effective January 1, 2006.)

61012. (a) Before circulating any petition, the proponents shall publish a notice of intention which shall include a written statement not to exceed 500 words in length, setting forth the reasons for forming the district, the proposed services that the district will provide, and the proposed methods by which the district will be financed. The notice shall be published pursuant to Section 6061 in one or more newspapers of general circulation within the territory proposed to be included in the district. If the territory proposed to be included in the district is located in more than one county, publication of the notice shall be made in at least one newspaper of general circulation in each of the counties.

(b) The notice shall be signed by one or more of the proponents, and shall be in substantially the following form:

"Notice of Intent to Circulate Petition

"Notice is hereby given of the intention to circulate a petition proposing to form the _____ [name of the district]. The reasons for forming the proposed district are: _____. The proposed service(s) that the district will provide are: _____. The proposed method(s) by which the district will finance those services are: _____."

(c) Within five days after the date of publication, the proponents shall file with the executive officer of the local agency formation commission of the principal county a copy of the notice together with an affidavit made by a representative of the newspaper or newspapers in which the notice was published certifying to the fact of the publication.

(d) After the filing required by subdivision (c), the petition may be circulated for signatures.

(Repealed and added by Stats. 2005, Ch. 249, Sec. 3. Effective January 1, 2006.)

61013. (a) A proposal to form a new district may also be made by the adoption of a resolution of application by the legislative body of any county, city, or special district that contains any of the territory proposed to be included in the district. Except for the provisions regarding the signers, the signatures, and the proponents, a resolution of application shall contain all of the matters specified for a petition in Section 61011.

(b) Before adopting a resolution of application, the legislative body shall hold a public hearing on the resolution. Notice of the hearing shall be published pursuant to Section 6061 in one or more newspapers of general circulation within the county, city, or special district. At least 20 days before the hearing, the legislative body shall give mailed notice of its hearing to the executive officer of the local agency formation commission of the principal county. The notice shall generally describe the proposed formation of the district and the territory proposed to be included in the district.

(c) The clerk of the legislative body shall file a certified copy of the resolution of application with the executive officer of the local agency formation commission of the principal county.

(Repealed and added by Stats. 2005, Ch. 249, Sec. 3. Effective January 1, 2006.)

61014. (a) Once the proponents have filed a sufficient petition or a legislative body has filed a resolution of application, the local agency formation commission shall proceed pursuant to Part 3 (commencing with Section 56650) of Division 3 of Title 5.

(b) Notwithstanding any other provision of law, a local agency formation commission shall not approve a proposal that includes the formation of a district unless the commission determines that the proposed district will have sufficient revenues to carry out its purposes.

(c) Notwithstanding subdivision (b), a local agency formation commission may approve a proposal that includes the formation of a district where the commission has determined that the proposed district will not have sufficient revenue provided that the commission conditions its approval on the concurrent approval of special taxes or benefit assessments that will generate those sufficient revenues. In approving the proposal, the commission shall provide that, if the voters or property owners do not approve the special taxes or benefit assessments, the proposed district shall not be formed.

(d) If the local agency formation commission approves the proposal for the formation of a district, then the commission shall proceed pursuant to Part 4 (commencing with Section 57000) of Division 3 of Title 5.

(e) Notwithstanding Section 57075, the local agency formation commission shall take one of the following actions:

(1) If a majority protest exists in accordance with Section 57078, the commission shall terminate proceedings.

(2) If no majority protest exists, the commission shall do either of the following:

(A) Order the formation subject to the approval by the voters.

(B) Order the formation subject to the approval by the voters of a special tax or the approval by the property owners of a special benefit assessment, pursuant to subdivision (c).

(f) If the local agency formation commission orders the formation of a district pursuant to paragraph (2) of subdivision (e), the commission shall direct the board of supervisors to direct county officials to conduct the necessary elections on behalf of the proposed district.

(Repealed and added by Stats. 2005, Ch. 249, Sec. 3. Effective January 1, 2006.)

61014.5. Notwithstanding Section 61014, in the case of the proposed formation of the East Garrison Community Services District, if the Local Agency Formation Commission of Monterey County finds that the affected territory contains no registered voters and no landowners that are not public agencies, the Local Agency Formation Commission of Monterey County may, as a term and condition of approving the formation, dispense with an election, complete the proceedings for the formation of the East Garrison Community Services District, and order the Board of Supervisors of the County of Monterey to designate the members of the initial board of directors pursuant to Section 61029.5.

(Added by Stats. 2005, Ch. 108, Sec. 1. Effective July 21, 2005. Operative January 1, 2006, by Sec. 5 (subd. (a)) of Ch. 108.)



[Up^](#) [Add To My Favorites](#)

GOVERNMENT CODE - GOV

TITLE 5. LOCAL AGENCIES [50001 - 57607] (Title 5 added by Stats. 1949, Ch. 81.)

DIVISION 3. CORTESE-KNOX-HERTZBERG LOCAL GOVERNMENT REORGANIZATION ACT OF 2000 [56000 - 57550] (Heading of Division 3 amended by Stats. 2001, Ch. 388, Sec. 1.)

PART 3. COMMISSION PROCEEDINGS FOR A CHANGE OF ORGANIZATION OR REORGANIZATION [56650 - 56898] (Heading of Part 3 amended by Stats. 1985, Ch. 1599, Sec. 8.)

CHAPTER 5. Proceedings for Special Districts [56821 - 56879.5] (Heading of Chapter 5 repealed (by Sec. 127) and added by Stats. 2000, Ch. 761, Sec. 125.)

ARTICLE 1.5. New or Different Services [56824.10 - 56824.14] (Article 1.5 added by Stats. 2001, Ch. 667, Sec. 13.5.)

56824.10. Commission proceedings for the exercise of new or different functions or classes of services or divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district, pursuant to subdivision (b) of Section 56654, may be initiated by a resolution of application in accordance with this article.

(Amended by Stats. 2008, Ch. 196, Sec. 3. Effective January 1, 2009.)

56824.12. (a) A proposal by a special district to provide a new or different function or class of services or divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district, pursuant to subdivision (b) of Section 56654, shall be made by the adoption of a resolution of application by the legislative body of the special district and shall include all of the matters specified for a petition in Section 56700, except paragraph (6) of subdivision (a) of Section 56700, and be submitted with a plan for services prepared pursuant to Section 56653. The plan for services for purposes of this article shall also include all of the following information:

- (1) The total estimated cost to provide the new or different function or class of services within the special district's jurisdictional boundaries.
 - (2) The estimated cost of the new or different function or class of services to customers within the special district's jurisdictional boundaries. The estimated costs may be identified by customer class.
 - (3) An identification of existing providers, if any, of the new or different function or class of services proposed to be provided and the potential fiscal impact to the customers of those existing providers.
 - (4) A written summary of whether the new or different function or class of services or divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district, pursuant to subdivision (b) of Section 56654, will involve the activation or divestiture of the power to provide a particular service or services, service function or functions, or class of service or services.
 - (5) A plan for financing the establishment of the new or different function or class of services within the special district's jurisdictional boundaries.
 - (6) Alternatives for the establishment of the new or different functions or class of services within the special district's jurisdictional boundaries.
- (b) The clerk of the legislative body adopting a resolution of application shall file a certified copy of that resolution with the executive officer. Except as provided in subdivision (c), the commission shall process resolutions of application adopted pursuant to this article in accordance with Section 56824.14.
- (c) (1) Prior to submitting a resolution of application pursuant to this article to the commission, the legislative body of the special district shall conduct a public hearing on the resolution. Notice of the hearing shall be published pursuant to Sections 56153 and 56154.

(2) Any affected local agency, affected county, or any interested person who wishes to appear at the hearing shall be given an opportunity to provide oral or written testimony on the resolution.

(Amended by Stats. 2008, Ch. 196, Sec. 4. Effective January 1, 2009.)

56824.14. (a) The commission shall review and approve with or without amendments, wholly, partially, or conditionally, or disapprove proposals for the establishment of new or different functions or class of services, or the divestiture of the power to provide particular functions or class of services, within all or part of the jurisdictional boundaries of a special district, after a public hearing called and held for that purpose. The commission shall not approve a proposal for the establishment of new or different functions or class of services within the jurisdictional boundaries of a special district unless the commission determines that the special district will have sufficient revenues to carry out the proposed new or different functions or class of services except as specified in paragraph (1).

(1) The commission may approve a proposal for the establishment of new or different functions or class of services within the jurisdictional boundaries of a special district where the commission has determined that the special district will not have sufficient revenue to provide the proposed new or different functions or class of services, if the commission conditions its approval on the concurrent approval of sufficient revenue sources pursuant to Section 56886. In approving a proposal, the commission shall provide that if the revenue sources pursuant to Section 56886 are not approved, the authority of the special district to provide new or different functions or class of services shall not be established.

(2) Unless otherwise required by the principal act of the subject special district, or unless otherwise required by Section 57075 or 57076, the approval by the commission for establishment of new or different functions or class of services, or the divestiture of the power to provide particular functions or class of services, shall not be subject to an election.

(b) At least 21 days prior to the date of that hearing, the executive officer shall give mailed notice of the hearing to each affected local agency or affected county, and to any interested party who has filed a written request for notice with the executive officer. In addition, at least 21 days prior to the date of that hearing, the executive officer shall cause notice of the hearing to be published in accordance with Section 56153 in a newspaper of general circulation that is circulated within the territory affected by the proposal proposed to be adopted.

(c) The commission may continue from time to time any hearing called pursuant to this section. The commission shall hear and consider oral or written testimony presented by any affected local agency, affected county, or any interested person who appears at any hearing called and held pursuant to this section.

(Amended by Stats. 2011, Ch. 300, Sec. 71. (AB 1430) Effective January 1, 2012.)

Code: Section: [Up^](#) [Add To My Favorites](#)**WATER CODE - WAT****DIVISION 18. WATER REPLENISHMENT DISTRICTS [60000 - 60622]** (Division 18 added by Stats. 1955, Ch. 1514.)**PART 4. POWERS [60220 - 60233]** (Part 4 added by Stats. 1955, Ch. 1514.)**CHAPTER 1. Purposes and Powers [60220 - 60226]** (Chapter 1 added by Stats. 1955, Ch. 1514.)

60220. A district may do any act necessary to replenish the ground water of said district.

(Added by Stats. 1955, Ch. 1514.)

60221. Without being limited to the following enumerations, a district may, among other things but only for the purposes of replenishing the groundwater supplies within the district:

- (a) Buy and sell water;
- (b) Exchange water;
- (c) Distribute water to persons in exchange for ceasing or reducing ground water extractions;
- (d) Spread, sink and inject water into the underground;
- (e) Store, transport, recapture, recycle, purify, treat or otherwise manage and control water for the beneficial use of persons or property within the district.
- (f) Build the necessary works to achieve ground water replenishment.

(Amended by Stats. 1995, Ch. 28, Sec. 51. Effective January 1, 1996.)

60222. A district may take any action necessary to protect or prevent interference with water, the quality thereof, or water rights of persons or property within the district, subject to the limitations contained in Section 60230.

(Added by Stats. 1955, Ch. 1514.)

60223. For the purposes of replenishing the ground water supplies within the district, a district may do any act in order to put to beneficial use any water under its control or management.

(Added by Stats. 1955, Ch. 1514.)

60224. For the purpose of protecting and preserving the groundwater supplies within the district for beneficial uses, a district may take any action, within the district, including, but not limited to, capital expenditures and legal actions, which in the discretion of the board is necessary or desirable to accomplish any of the following:

- (a) Prevent contaminants from entering the groundwater supplies of the district, whether or not the threat is immediate.
- (b) Remove contaminants from the groundwater supplies of the district.
- (c) Determine the existence, extent, and location of contaminants in, or which may enter, the groundwater supplies of the district.
- (d) Determine persons, whether natural persons or public entities, responsible for those contaminants.
- (e) Perform or obtain engineering, hydrologic, and scientific studies for any of the foregoing purposes.

(Added by Stats. 1990, Ch. 389, Sec. 3.)

60225. A district may take any action outside the district, including, but not limited to, those set forth in Section 60224, provided the board finds both of the following:

- (a) The action is reasonably necessary to protect groundwater supplies within the district.

(b) There is a direct, material relationship between the groundwater supply where the action is to be taken and the groundwater supply within the district.

(Added by Stats. 1990, Ch. 389, Sec. 4.)

60226. A district may sue and recover the amount of any district expenditures under Section 60224 from the person or persons responsible for the contaminants causing the expenditures. In proceeding under any state or federal law, a district may recover those expenses from responsible persons and governmental insurance funds. In any action the district, if successful, may recover reasonable attorney's fees and court costs, as determined by the court. The right or power to recover damages shall not be deemed an adequate remedy at law precluding use of injunctive relief under this section or any other provision of this division or any other statute. In any action for injunctive relief relating to contaminants, no bond shall be required of a district as a condition to granting a preliminary injunction.

(Added by Stats. 1990, Ch. 389, Sec. 4.5.)



[Up^](#) [Add To My Favorites](#)

WATER CODE - WAT

DIVISION 18. WATER REPLENISHMENT DISTRICTS [60000 - 60622] (*Division 18 added by Stats. 1955, Ch. 1514.*)

PART 4. POWERS [60220 - 60233] (*Part 4 added by Stats. 1955, Ch. 1514.*)

CHAPTER 2. Powers [60230 - 60232] (*Chapter 2 added by Stats. 1955, Ch. 1514.*)

60230. For the purposes of replenishing the groundwater supplies within the district, a district shall have power:

- (a) To have perpetual succession.
- (b) To sue and be sued, except as otherwise provided in this division or by law, in all actions and proceedings in all courts and tribunals.
- (c) To adopt a seal and alter it at pleasure.
- (d) To take by grant, purchase, gift, devise, or lease, to hold, use and enjoy, and to lease, convey or dispose of, real and personal property of every kind, within or without the district, necessary or convenient to the full exercise of its power.
- (e) Within or outside of the district to construct, purchase, lease, or otherwise acquire, and to operate and maintain necessary waterworks and other works, machinery and facilities, canals, conduits, waters, water rights, spreading grounds, lands, rights and privileges useful or necessary to replenish the underground water basin within the district, or to augment the common water supplies of the district, including, but not limited to, the exercise of any power under Section 60224.
- (f) For the common benefit of the district, to store water in underground water basins or reservoirs within or outside of the district, to appropriate and acquire water and water rights within or outside of the district, to import water into the district, and to conserve water within or outside of the district.
- (g) To carry out the purposes of this division, to commence, maintain, intervene in, defend and compromise, in the name of the district, or otherwise, and to assume the costs and expenses of any and all actions and proceedings now or hereafter begun to determine or adjudicate all or a portion of the rights to divert, extract, or use waters within the district, or within any segments thereof or subbasins therein, as between owners of or claimants to those rights, to prevent any interference with water or water rights used or useful to the lands, inhabitants, owners, operators, or producers within the district, or to prevent the diminution of the quantity or quality of the water supply of the district, or to prevent unlawful exportation of water from the district.
- (h) To exercise the right of eminent domain to take any property necessary to supply the district or any portion thereof with replenishment water, including, but not limited to, the exercise of any power under Section 60224, except that the right of eminent domain may not be exercised with respect to (1) water and water rights already devoted to beneficial use, and (2) property (other than water and water rights) already appropriated to public use unless the taking be for a more necessary public use than that to which the property is already appropriated; provided that the district in exercising that power shall in addition to the damage for taking, injuring, or destruction of property also pay the cost of removal, reconstruction, or relocation of any structure, including, but not limited to, railways, mains, pipes, conduits, wires, cables, towers, or poles of any public utility which is required to be removed to a new location. No use by a district of property owned, at the time the action to condemn is brought, by an existing agency having powers to provide for the replenishment of groundwater, shall constitute a more necessary public use than the use to which the property is already appropriated.

A district shall not exercise the right of eminent domain to acquire property outside the boundaries of the principal county in which the district is situated unless it first obtains the consent thereto of the board of supervisors of the county in which the property is located.

(i) To act jointly with or cooperate with the United States or any agency thereof, and cooperate and act jointly with the state, or any county or agency thereof, or any political subdivision or district therein, including flood control



[Up^](#) [Add To My Favorites](#)

WATER CODE - WAT

DIVISION 18. WATER REPLENISHMENT DISTRICTS [60000 - 60622] (*Division 18 added by Stats. 1955, Ch. 1514.*)

PART 1. INTRODUCTORY PROVISIONS [60000 - 60061] (*Part 1 added by Stats. 1955, Ch. 1514.*)

CHAPTER 3. General Provisions [60040 - 60051] (*Chapter 3 added by Stats. 1955, Ch. 1514.*)

60040. Districts, regardless of the date of formation, are subject to the provisions of this division.
(*Added by Stats. 1955, Ch. 1514.*)

60041. The inclusion in or annexation or addition to a replenishment district, of the corporate area of any existing agency, shall not destroy the identity or legal existence or impair the powers of any such existing agency, notwithstanding the identity of purpose, or substantial identity of purpose, of such replenishment district.
(*Added by Stats. 1955, Ch. 1514.*)

60042. Whenever by this division a notice is required to be published for a designated number of weeks or once a week for a designated number of weeks, the notice need be published on only one day of each week, and for only the same number of times as the number of weeks designated.
(*Added by Stats. 1955, Ch. 1514.*)

60043. Whenever any act is required to be done or proceeding taken on or set for a particular day or day of the week in any month, the act may be done or proceeding set for and acted upon on a day of the month otherwise specified for a regular meeting of the board.
(*Amended by Stats. 1985, Ch. 536, Sec. 1.*)

60044. A district may be organized entirely within unincorporated territory, or partly within unincorporated territory and partly within incorporated territory, and within one or more counties in this State.
(*Added by Stats. 1955, Ch. 1514.*)

60045. No area included within any existing agency or annexations thereto, one of the purposes of which is replenishing the ground water supplies within such existing agency and which agency is empowered to levy assessments or charges upon the production of water from such ground water supplies, shall be included within any replenishment district or annexations thereto created or annexed under this division.
(*Added by Stats. 1955, Ch. 1514.*)

60046. Unless the context otherwise requires, the provisions of this chapter shall govern the construction of this division.
(*Added by Stats. 1955, Ch. 1514.*)

60047. The provisions of this division apply to the replenishment of ground water within all areas in this state, except those areas therein now or hereafter included within the Orange County Water District as provided by the Orange County Water District Act. The Legislature finds and declares that the problems of providing replenishment of the underground basin in the area of the Orange County Water District are peculiar to that area and for that reason it is necessary to deal specially with such area, and that this fact was recognized by the Legislature when it enacted the Orange County Water District Act and the amendments thereto to provide for such problems in that area.
(*Amended by Stats. 1965, Ch. 389.*)

60048.

No informality in any proceeding or informality in the conduct of any election, not substantially affecting adversely the legal rights of any citizen, shall be held to invalidate any incorporation, annexation, exclusion, or other action under this act. Any action or proceeding wherein the validity of any such incorporation, annexation, exclusion or disincorporation is denied or questioned, shall be commenced within three (3) months from the date of the certificate of incorporation, annexation or exclusion issued by the Secretary of State, or from the date of the order of the board of supervisors declaring the disincorporation, as the case may be; otherwise, said actions and/or proceedings in respect thereto shall be held to be valid, and in every respect legal and incontestable.

(Added by Stats. 1955, Ch. 1514.)

60050. If any section, subsection, subdivision, sentence, clause or phrase of this act, or of the act or acts of which this act is amendatory or supplemental, is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, subsection, subdivision, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses or phrases of the act or acts of which this act is amendatory or supplemental, be declared unconstitutional. If any section, subsection, subdivision, sentence, clause or phrase of this act for any reason be held to be unconstitutional and such unconstitutional provision shall have purported to repeal or amend any provision of the acts or acts of which this act is amendatory or supplemental, the provision existing and in force at the time of the enactment of this act shall remain and be in full force and effect notwithstanding such purported repeal or amendment.

(Added by Stats. 1955, Ch. 1514.)

60051. No language or provision in this division shall be interpreted or construed so as to limit, abridge or otherwise affect the water or water rights of any existing agency or person or affect the rights of existing agencies or persons with respect to any legal proceeding pending on May 1, 1955, wherein any water or water right or the protection thereof is involved; provided, however, that nothing in this section shall be construed to limit the provisions of subdivision (7) of Section 60230 of this division.

(Added by Stats. 1955, Ch. 1514.)

May 6, 2020

To Municipal Service Review LAFCO,

We live at 44692 Crestwood Dr Mendocino. We are not in Mendocino's Sewer District and only recently were put into Mendocino Community Service District which has no wells and no tanks. We never challenged any of this including taking our deeded water rights from our 1 acre and at the expense of our constitutional rights for pursuit of happiness, we've allowed landscaping to die and have not gardened or grown vegetables.

Last week we became aware that the Mendocino water authority has known for many years that our well's water is not connected to dry shallow surface wells in the Village. Our Big River Vista Water Company, directed by Harold Hauck, has not represented our interest to the Mendocino City Water; but been misleading us with false information, namely our water use hurts their water wells, he is also a key officer of that board too. This has to be a conflict of interest, but he says it is not, when someone challenges him.

A recent water survey of groundwater flows by Kennedy/Jenks Consultants, clearly shows the Big River Vista subdivision water flows to Big River and not to Mendocino Village. Also, BRVWC's water is so acidic it will rot metal pipes, so we inject liquid caustic soda into the drinking water to balance the water. None of the Mendocino Village wells have acidic water.

The districts own expert hydrologist stated that less than 1% of the ground water, they are taking with out compensation, is connected to the critical town area. He suggested drilling better wells up Big River as the solution, because if Big River Vista and Hills Ranch subdivisions used no tap water for 2 years it would do nothing to replenish shallow wells in the Village.

We believe this is an overreach of local government, provides no useful purpose and does not solve the Village water issues, only causes us hardships.

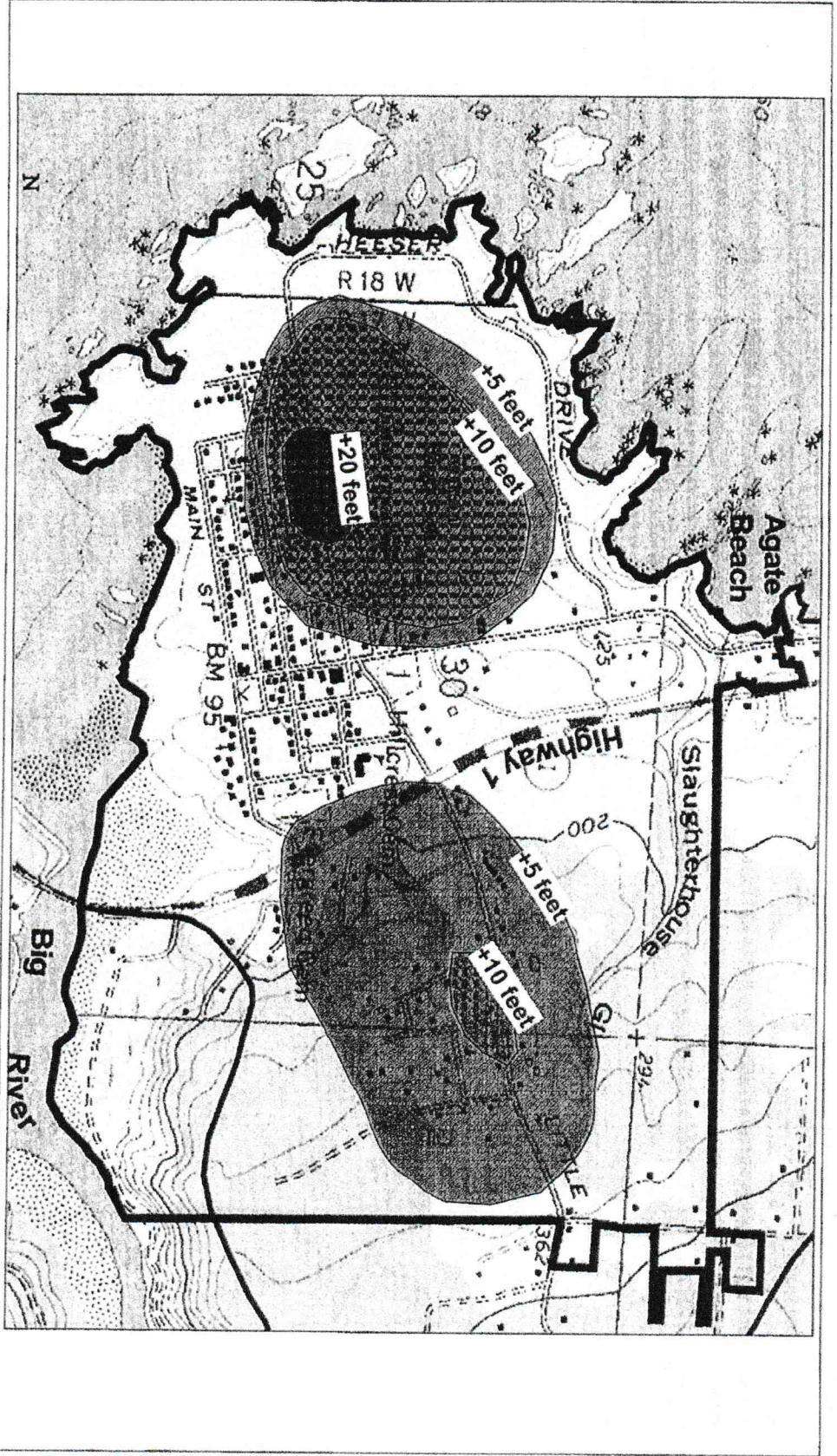
Any assistance in either setting it right or clarifying, why, they are doing this, to us would be greatly appreciated.

James B. Miller

Groundwater Flows towards the Cliffs

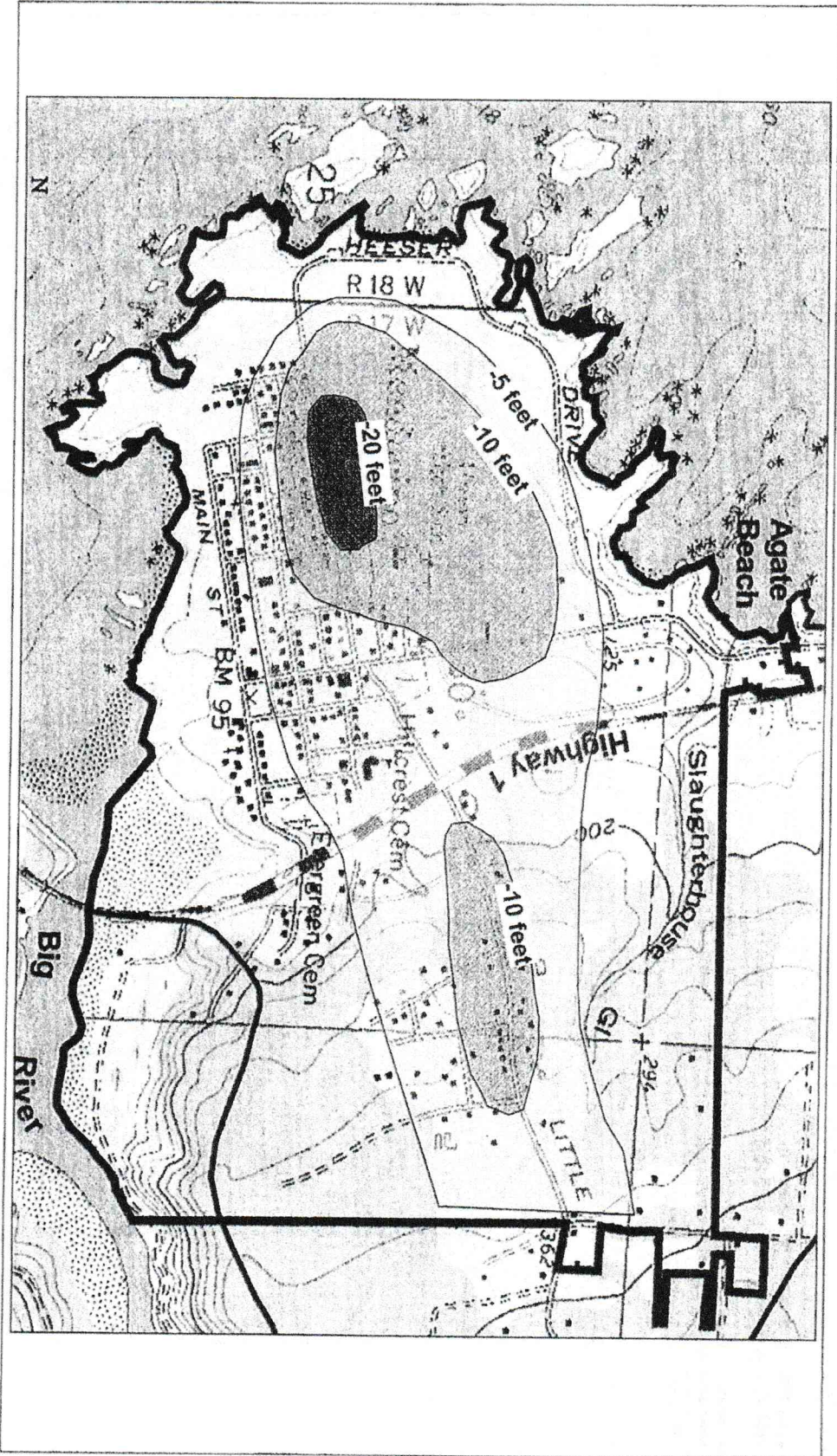


Kennedy/Jenks Consultants
Engineers & Scientists



Note: Contours represent the difference in feet between the April 2014 groundwater elevation relative to the January 2014 groundwater elevation on a well-by-well basis.

Kennedy/Jenks Consultants
 Mendocino City Community Services District
 2014 Drought Assessment
**Recovery of Groundwater Levels
 between January and April 2014**
 K/J 1465003'00
 April 2014
Figure 7



Note: Contours represent the difference in feet between the January 2014 groundwater elevation relative to the long-term average January 2014 groundwater elevation on a well-by-well basis.

Kennedy/Jenks Consultants
 Mendocino City Community Services District
 2014 Drought Assessment
Variation of January 2014 Groundwater Levels to Long-Term Average January Groundwater Levels
 K/J 1465003-00
 April 2014
Figure 5

May 16, 2020

Ms. Uma Hinman, E.O.
Mendocino LAFCo
200 South School St.
Ukiah, CA 95482

Hello Ms. Hinman,

I write today as a concerned citizen living within, and owning property within, Mendocino County, specifically both of those within the confines of the area served by the Mendocino City Community Services District (MCCSD). I provide this letter in response to the Workshop Draft document entitled “Municipal Service Review and Sphere of Influence Update,” which has been prepared by MCCSD, and originally intended for discussion at a workshop planned for May 4, 2020 (now continued to June 1, 2020). The Mendocino LAFCo had requested public comment, and I submit this message as a public comment, which I understand LAFCo will accept up until the date when the workshop actually takes place (June 1, 2020, unless further postponed due to the COVID-19 pandemic).

My comment pertains to the “sphere of influence” (SOI) that the MCCSD alleges that it now has, and the SOI that it should have when one considers the reality of the current situation. I submit that the MCCSD groundwater extraction ordinance, and the groundwater rationing plan implementing that ordinance, that were recently adopted in spite of multiple objections from the community, are at odds with geological and hydrological reality. In other words, the system they have adopted is not feasible and cannot work.

As a result, I request that MCCSD not be granted local agency powers related to water rationing because water rationing does not actually make a difference in terms of the amount of water available to the people who live within the confines of the MCCSD. My argument is based on the geology and hydrology of the local area, and the water flows and stores in the local area, and is not simply my own opinion, but is instead based on multiple reports by engineers and water system experts. I suggest that MCCSD’s claim that it is protecting a “local aquifer” is inaccurate and misleading, because no such shared local aquifer actually exists. Instead, the relevant local geology, and the relevant local water flow and storage situation, is characterized by multiple unknown small pools of water reached by a large number of individual wells. It is not known what amounts of water is held in these distributed pools, nor is it known which of these small pools of water may be connected, which wells are accessing which pools of water, just as it is unknown how and whether these small pools are connected, what times of year they might be connected, and the means by which they are connected.

With all these and other unknowns, it is impossible to be able to reasonably estimate the amount of water underground in the MCCSD district at different times of year, and this means that any reduction in consumption mandated by a rationing scheme (40% less consumption per household for example) will be arbitrary, not based on facts, unreasonable, and causing unknown consequences. Furthermore, the lack of any reliable and reasonable mechanism that could be used to estimate the total amount of water underground in the area covered by the MCCSD, at

different times of year, means not only that the need for reductions in consumption cannot be reasonably estimated, but also that the effectiveness of a water rationing scheme cannot be reasonably measured.

Until MCCSD can scientifically demonstrate that water rationing is going to be a viable approach to continue to provide water to those properties which have experienced dry wells in the summer and fall, it should not be granted local agency powers related to water rationing. While I am in general in support of water conservation, I have no objection to MCCSD monitoring water usage, or even using that monitoring information to alert people to the possible existence of broken water pipes, or other problematic local conditions that need to be promptly fixed, in an effort to conserve water. I suggest that there are other more promising methods for those property owners in the village of Mendocino who are experiencing dry wells to obtain the water they need. Those other methods include rainwater catchment, delivery of water by truck, or piping-in water from a known and reliable high-volume source.

Accordingly, I request that Mendocino LAFCo refrain from granting MCCSD powers for water rationing unless MCCSD has first scientifically demonstrated that water rationing will actually have a positive impact on the dry wells mentioned above, and will help to ensure that a larger number of properties will continue to have water in drought years. Given the expert opinions and reports mentioned below, I sincerely doubt that MCCSD will be able to scientifically demonstrate that water rationing is a viable strategy for providing these properties with water and assuring the community with a continuous supply of water. Since the opinions of geological and hydrological experts about this local area indicate that water rationing does not appear to be a strategy that will work, I suggest that MCCSD be legally blocked from enacting or adopting any water rationing scheme whatsoever.

If MCCSD is permitted to adopt or enact a water rationing scheme, this is likely to cause undue hardship and expense for the local residents and also the local property owners. Specifically, if MCCSD does adopt a water rationing scheme, residents and property owners living within the limits of the MCCSD will: (1) be required to pay unnecessary fees to MCCSD associated with the paperwork and the record-keeping necessary to support water rationing that cannot be shown to be effective, (2) suffer unwarranted restrictions on their access to, and rights to take water, from their own wells or their water companies, and (3) witness undue and significant reductions in the market prices for their properties (because the properties are unnecessarily burdened by ineffective and superfluous water rationing regulations). It is not a coincidence that there has been vocal and multi-party objections the recent actions taken by MCCSD on the topic of water rationing (including one lawsuit). These multi-party objections are an indication that the water rationing strategy pushed by MCCSD is not an appropriate way to handle the problem of providing water to the properties within the confines of the MCCSD.

Sincerely,

/s/ Charles
Charles Cresson Wood, Esq.
PO Box 708
Mendocino, CA 95460

=====

The specifics about why water rationing will not be effective follow. I submit that water rationing (as distinct from water usage monitoring and conservation notices) cannot be effective in terms of providing water to those properties which have wells that periodically go dry, nor can it be effective when it comes to providing the people within the limits of the MCCSD with a continuous supply of water. I suggest that the allegation found in the MCCSD document entitled “Mendocino Water Resources and Water Conservation” (page 4), specifically that there exists a “local aquifer” is both false and misleading, and that this allegation leads the involved public to unduly believe that water rationing will be an effective means to deal with the situations encountered where certain wells go dry in the summer and fall. To the contrary, the geology, as well as the water flows and stores found underground in the MCCSD area, indicate that there are many little pools of water, which may or may not be connected, and that there not a single “local aquifer” (a shared resource) from which reduced taking by some will lead to increased ability to take by others. See the USGS “National Water Census: Regional Groundwater Availability Studies Map” dated October 22, 2018, for a visual picture about the aquifers in the area north of San Francisco. There are no sizeable aquifers noted in that map anywhere near the village of Mendocino.

There are five specific reasons, each appearing in a separate paragraph below, which I believe show that a water rationing scheme cannot work within the limits of the MCCSD.

- (a) **Frequent Earthquakes:** According to a map entitled “Mendocino County Earthquake Fault Zones,” which was prepared by the State of California Special Studies Official Maps, and which was effective on July 1, 1983, there are two major faults in Mendocino County. The Maacama Fault Zone is on the east side of the County, running roughly through Laytonville, Willits, Redwood Valley, Ukiah and Hopland. The San Andreas Fault Zone runs underground about 10 miles west of the village of Mendocino, and continues through Manchester, and then east of Point Arena, Anchor Bay, and Gualala. It is the second of these two major faults that historically caused many earthquakes including some quite large earthquakes. It is the San Andreas Fault Zone which causes significant earth movements in the vicinity of the village of Mendocino, and the area served by the MCCSD. These earthquakes can change the location of water, the places where the water pools, and the movement between terraces where water is stored (discussed below). Thus, since the area served by MCCSD is a highly geologically active area, it is hard to determine what is going on underground, and since water is stored in multiple small pools (discussed below), a single water rationing scheme uniformly imposed on all living in the area is likely to unnecessarily cause hardship for some persons but not others, but just which people fit into each category cannot be known in advance. The allocation of this relative burden imposed by a rationing scheme is also likely to change frequently and dramatically due to earthquakes and other shifts in local conditions (such as droughts).
- (b) **Multiple Terraces Present:** The 1982 California Department of Water Resources report entitled “Mendocino County Coastal Groundwater Study,” on page 37, states that there are “five terrace levels,” and in some places more terrace levels, along the Mendocino

County coast where water may be temporarily held and not further percolate into the earth. Since the water reaching these terraces may not further percolate into the earth, these terraces may be tapped by local wells. But the many different wells within the MCCSD area are of dramatically different depths, and they access water trapped by these terraces from many different physical locations. It is unknown which of these terraces are connected underground, and this means that one property may have sufficient water drawn by a well situated on the same property, whereas the property immediately next door to it may not have sufficient water reachable by a well. Since the many different wells used in the MCCSD are of significantly different depths, it is unknown (except by the trial and error of a driller) whether there will be adequate water at a particular depth on a particular property. The pools of water sitting on top of these terraces may or may not flow to other pools, and that too is unknown. Since the specific locations where these small isolated pools of water exist is unknown, and since the amount of water in these pools is unknown, and since the degree to which these pools of water are connected is unknown, it is not feasible to have a water rationing system that will work successfully (conservation of course is advisable, especially in years with very low levels of rainfall). In fact, decentralized management of each well is a much more workable approach, and that is the historical approach as well (without water rationing).

- (c) **Groundwater Flows North and South to Cliffs:** Those of us familiar with the above-ground geography of the area served by the MCCSD know that the area east of Highway 1 (Zone 2 in MCCSD plans) is characterized by a significant number of hills, valleys, gulches, surface streams, cliffs, and irregular non-horizontal earth surfaces. Groundwater stored on the underground terraces mentioned above is thus likely to be drawn off, and exit into a local stream, moved into a local gorge, or flow over a cliff, before it ever flows into the older historical district where most wells have been going dry (Zone 1 in MCCSD plans, west of Highway 1). The Kennedy/Jenks report (2006/2009) entitled "Groundwater Flows Toward the Cliffs" contains multiple white arrows (at least they are white in the photocopy sent by MCCSD to the persons served by the MCCSD) which indicate underground water flows. These white arrows show movement of underground water going to the north or to the south, and this movement is similar to the aboveground observed terrain (multiple streams, multiple gulches, and the like moving water either to the north or to the south). This map shows that a significant amount of the water in Zone 2 served by the MCCSD is lost to the Slaughterhouse Slough to the north, and also lost to the Big River in the south -- it does not flow underground into Zone 1 (the older historical district where it is needed most). This map is consistent with the above-ground observations of any person who walks the land: there are multiple surface streams, multiple deep gorges, and multiple cliff seeps, all indicative that the map accurately represents the prevailing flows of water (which is for the most part to the north and to the south, not to the west as the MCCSD rationing scheme assumes). Thus, very little of the underground water flow from Zone 2 (east of Highway 1) reaches the historical district Zone 1 (west of Highway 1), the latter being the area where a significant number of wells have gone dry. Accordingly, the across-the-board restrictions on consumption, that would be occasioned via any rationing scheme, would not appreciably increase water availability in the older historical district (Zone 1), where water is most needed. That water would instead be lost over the cliffs to the north and to the south. So any type of a rationing plan will not only cause an unnecessary burden on the people living within the

confines of the MCCSD, but the water that they could have used will be largely lost and unused. Thus, the geology and water flows assumed by MCCSD, and used in the proposed rationing scheme, do not exist in reality.

- (d) **Annual Rainfall Replenishment:** Questa Engineering Corporation, acting on behalf of the MCCSD, prepared a report entitled “Water Shortage Contingency Plan,” dated May 25, 2009. In page 3 of that report they state that groundwater comes from annual rainfall, and that would mean that there is no significant year-to-year storage of groundwater, water that was stored in years of ample rainfall, water that could be relied upon to draw from in later years of drought. Since groundwater comes from annual rainfall, there can be no shared “local aquifer” as the MCCSD alleges (discussed above), and if there is no shared local aquifer, then a uniform system, using the same criteria for all properties, in support of water rationing, cannot work. This conclusion is supported by USGS, in their report entitled “Continuing Progress Toward a National Assessment of Water Availability and Use,” page 29, which states that the “California Coastal Basins [have] composite hydrographs [which] appear to be strongly related to the wet and dry conditions in California as indicated by the PDSI (National Oceanic and Atmospheric Association National Centers for Environmental Information, 2017). The median composite water level in those wells falls during times of drought and recovers during wet periods.” This dependence on annual rainfall of course indicates that conservation measures are called for in times of drought, but it does not indicate that there exists a shared large pool of water that can be tapped by all those in the MCCSD area, nor does it indicate that there is a large pool that lends itself to a rationing approach (the latter being found for example by people in Nebraska who access the Ogallala Aquifer).
- (e) **No Coastal Basin Aquifer:** The California Department of Water Resources, in 1980, prepared a map entitled “Groundwater Basins in California,” and that was published in the California Department of Water Resources Bulletin (pp. 118-80). That map shows that there are multiple coastal basin aquifers along the coast of California, but there is no such coastal basin aquifer shown in the Village of Mendocino area (see Figure 102). Any allegation that such a “local aquifer” exists, and should be managed through water rationing, should be rephrased to indicate that there are many small local pools of water underground within the limits of the MCCSD, but these small pools of water are at unknown locations, of unknown volume, at unknown depths, and are accessible at unknown times of year, and are connected to other such small pools by unknown rock fissures and underground streams. These widely-varying geological conditions found in the area served by MCCSD are further described by the USGS, in a publication called “Ground Water Atlas of the United States – California, Nevada, HA 739-B” (1995). That publication says that the “California coastal region has been subjected to intense tectonic forces for millions of years. Folding, faulting of marine sediments, and associated volcanism resulted in the formation of the Klamath and the Salmon Mountains in northern California and the Coast Ranges that extend along most of the California coast.” These long-standing geological movements have created a fractured rock substrate that cannot hold a significant “local aquifer” that could be managed via a rationing scheme like the one that MCCSD seeks to adopt. This conclusion is further supported by a Mendocino County report prepared by the Planning Department entitled “Harris Quarry Expansion Draft EIR: 3.1 Geology and Soils” (undated). That report indicates that “The geology and soils in the Mendocino County area are mainly a consequence of the long

history of active tectonic forces near the margin between the Pacific and North American Tectonic Plates, patterns of climate change, and changing land use and vegetation patterns. Typical geological and soils related impacts on quarry activities within Mendocino County include strong seismic shaking, slope instability that may cause landslides, debris flows, and other types of slope failure; and basic soil instability, including settlement, shrinking and swelling of expansive soil, and fissuring or cracking of the ground.” Thus, the rocks and soils in the MCCSD area are not formed in such a way that there could exist a shared “local aquifer” suitable for managing via any type of rationing scheme.

Beyond there being no common resource that could be managed (an alleged-to-exist “local aquifer”), the practical administrative and management side of water rationing for the MCCSD makes any effort in the domain of water rationing impractical. Since there are so many unknowns (described in the above five paragraphs), MCCSD cannot know whether water rationing is necessary, it cannot know when water rationing should start and when it should stop, it cannot know the percentage of the consumption reductions that should be imposed via water rationing, and it cannot know whether water rationing is actually making any difference in terms of the stated objectives.

For these reasons, any effort by the MCCSD to impose a water rationing scheme will be arbitrary, unsuccessful, and not rationally related to the purpose of providing water to the people of the village of Mendocino served by the MCCSD. As they have been doing, the people living within the limits of the MCCSD should be permitted to continue to use their wells, or use the wells of their local water companies, without MCCSD intervention or restriction. The MCCSD should accordingly be limited in its powers (its “sphere of influence” in LAFCo terms) to providing sewer system related services within its district. MCCSD’s legal powers in the water rationing area should be non-existent, and those powers should instead be held exclusively by water companies and owners of local properties within the MCCSD area. In other words, to use LAFCo terminology, the “boundaries” for the MCCSD water rationing powers should not exist (there should be no powers granted to MCCSD in the water rationing domain); instead, all those powers should instead be held by water companies and owners of local properties within the MCCSD area.

Since a water rationing scheme adopted by MCCSD cannot be rationally justified as a way to provide water to those who have wells going dry, the MCCSD runs the risk of facing a Fourteenth Amendment constitutional challenge if it proceeds with any type of a water rationing system. The Fourteenth Amendment guarantees that “due process of law” will be employed when ordinances like a water rationing scheme are adopted. Within that guarantee, the courts have referred to “substantive due process,” which is a guarantee to citizens against undue government interference. Substantive due process is the way the courts make the distinction between what is subject to government legislation and regulation, and what is beyond government legislation and regulation. “Rational basis review” is the way that courts generally make this distinction, and this type of review involves an investigation into whether the government’s actions are “rationally related” to a “legitimate” government interest. *United States v. Carolene Products Co.*, 304 U.S. 144 (1938).

The rational basis test requires that “legislative action be rationally related to the accomplishment of a legitimate state purpose.” The test requires that legislation constitute a means that is “reasonable, not arbitrary and rests upon some ground of difference having a fair and substantial relation to the object of the legislation.” *Texas Woman’s University v. Chaykintaste*, 530 S.W. 2d 927, 928 (1975). In the context of water rationing within the limits of the MCCSD, it cannot be shown that a rationing scheme is rational when the geology, water flows, and water stores, do not support the existence of a common resource (a so-called “local aquifer”), nor do they support any means by which a water rationing system might be rationally managed and administered, and this means that no legitimate state purpose can be shown for water rationing within the limits of the MCCSD.

In this case, there is no common shared resource, so MCCSD should not be given local agency powers to adopt any water rationing scheme. It would not be rational, or consistent with the facts, to grant MCCSD legal powers to institute any type of water rationing. For further details about the rational basis test, see *Olsen v. J.A. Freeman Co.*, 117 Idaho 706 (1990) (defining the rational basis test, under the Fourteenth Amendment to the United States Constitution, which states that a statute or regulation must be reasonably conceived to advance the stated purpose). Also see *Williamson v. Lee Optical of Oklahoma, Inc.*, 348 U.S. 483 (1955) (discussing how, under the Fourteen Amendment, statutes and regulations must be reasonably and rationally related to the health and welfare of the people affected).

May 18, 2020

Hello Mendocino LAFCo staff,

Please consider the following to be an addendum to my prior submission for the workshop to take place on June 1, 2020, regarding the sphere of influence (SOI) of the Mendocino City Community Services District (MCCSD). This addendum provides a common-sense summary of my prior submission, which was largely technical in nature.

I am not an expert in mathematical modeling, but I do have three degrees in applied mathematics (accounting, finance, and computer science). I am an attorney, but I do not work in this particular area of the law (mathematical modeling). My specialty is information security and privacy. I am just a concerned neighbor, who is waving a flag and saying: "This doesn't make sense." My argument is not actually complicated, and although I am not an expert in this area, my argument is supported by experts in the area of mathematical modeling. Basically, my argument revolves around the limits of mathematical models. It is, for example, consistent with a YouTube video by a professor of mathematics, and the link is provided below:

<https://www.youtube.com/watch?v=qX69Gudlbws>

January 5, 2014 "Understanding the Limitations of Mathematics to Predict the Future"

In that video, Ronald Meester, Professor of Mathematics, at VU University in Amsterdam says: "Not everything in the world can be described via models in a meaningful way." He gives several examples of situations where it does not make sense to use mathematical models including a nurse who was wrongly convicted for murdering her patients, and a misleading computation about the likelihood that the dikes in the Netherlands would be breached by the sea at some time in the future. He says it is necessary to have reasonable inputs to a model, and that models must be used with wisdom.

I claim that, in the case of the MCCSD, it is not possible to have reasonable inputs, and to impose a one-size-fits-all water rationing model on the widely disparate circumstances throughout the MCCSD is not using the numbers with wisdom. Meester also talks about models with many factors, where each of which play an unknown role, and how those situations are not properly analyzed via mathematical models. I claim that the MCCSD faces such a situation since there are many unknown factors, that cannot be measured, and that are related to each other in unknown ways. Specifically, the MCCSD does not know the paths taken by underground streams, does not know the volume of water held in a large number of different underground storage locations, does not know the duration in time that these underground storage locations have available water during the summer and fall before the water flows off over the cliffs, does not how these underground storage locations of water are connected to other locations, etc.

To use only rainfall to predict what is happening underground within the MCCSD is arbitrary and conveys a sense of certainty that does not exist. The MCCSD model to predict water rationing cannot be shown to work, or not work. In the absence of any way to determine whether it works or does not work, it should not be used. Without this type of feedback, the adjustments to a model, like calibration and validation, are also not possible. Thus, the approach used by the

MCCSD cannot be improved upon, shown to be working or not, or corrected so as to conform to the reality of the situation. Thus, the phenomenon of water storage and movement within the MCCSD is not amenable to mathematical modeling. And to use a model for this purpose creates a political certainty when no such certainty is possible.

My position is also supported by another math professor in the following article:

<https://serc.carleton.edu/introgeo/models/limits.html>

(undated) "Model Limitations" by Paul Quay, University of Washington

Further support for my position is provided by a group of ecology professors in the following article (notably Figure 1):

<http://hahana.soest.hawaii.edu/agouroninstitute/course/TheLimits.pdf>

(undated) "The Limits to Models in Ecology" by Carlos M. Duarte et al., University of Hawaii

The water rationing model used by the MCCSD is a very simple model which uses only rainfall as the input. It doesn't even have a measurable output that can be verified. The real-world complexity of the underground water situation within the MCCSD cannot be accurately modeled by such a simple model, and if this type of a model is used, great error will be involved. Accordingly, I suggest that MCCSD should not be granted legal powers to ration water.

/s/ Charles

Charles Cresson Wood

Mendocino, California

**MENDOCINO
Local Agency Formation Commission**

Staff Report

DATE: June 1, 2020
TO: Mendocino Local Agency Formation Commission
FROM: Uma Hinman, Executive Officer
SUBJECT: Legal Counsel Services Report

RECOMMENDATION

Direct staff to prepare an amendment to the Legal Services Agreement to increase the average number of hours under contract, clarify regular project billing for legal services, and updates to the LAFCo Fee Schedule and Fee Agreement for Commission consideration.

BACKGROUND

At its May 4, 2020 meeting, the Commission requested a report on Legal Services Agreement (Agreement) for LAFCo. LAFCo's current contract with Scott Browne was approved on August 4, 2014, after a solicitation process that resulted in his selection. The Agreement has since been amended twice to include clarifications on billable expenses and to add a provision for special projects.

DISCUSSION

The Fiscal Year 2020-21 Final Budget includes an increase to Legal Services to include an average of four hours per month covered under the contract and an increase in attorney rates.

Legal Staff Rate Increase

The current Agreement provides for increases in legal staff rates at the "consent of the Client, such consent being evidenced by use of the new rates in determining the provisions for legal services included in our annual adopted budget." The proposed increase in billing rate is to \$225/hour for attorney fees, which would go into effect on July 1, 2020. The last rate increase was in 2017.

Increase in Annual Need for Legal Services

The current Agreement provides for an annual average of three hours per month. Due to increasingly complex issues that are anticipated to continue into the foreseeable future, an increase in budget for Legal Services was included in the budget proposal for Fiscal Year 2020-21. The proposed increase will allow for an average of four hours of consultation per month, which is consistent with FY 2019-20 actual monthly legal services to date.

In particular we anticipate the need for Counsel's remote participation in Commission meetings, consultations regarding Municipal Service Reviews and Sphere of Influence updates, and increasingly complex service-related issues arising in the Ukiah Valley.

Special Projects

An amendment to the Agreement (Amendment No. 2) was approved by the Commission on February 3, 2020, which added a clause providing for reimbursement at cost for Commission designated "special projects." The hourly reimbursement rate is \$250 for attorney fees. The intent of the clause is to provide

a means for a greater degree of Legal Counsel involvement in complex projects without impacting the routine legal operating budget, which consists of general legal representation not to exceed the agreed upon average hours per month. Such special project billing can only be applied to projects that the Commission has designated as “Special Projects.”

The purpose of the Commission’s adoption of the “Special Projects” clause in the staff contracts was to provide for both the contract EO and counsel to charge and be reimbursed for work on those special projects outside the normal contractual limits. Special projects are separate from applications and would require signed agreement and indemnification by the identified agency.

Charging Applicants for Legal Services

Pursuant to Mendocino LAFCo’s standard Fee Agreement and Indemnification. LAFCo staff processing costs are charged and reimbursed on a time and expenses basis. The current Fee Schedule states the following:

Legal Counsel Fees: Applicants will be charged the actual costs of fees associated with legal consultation or review. While most applications do not require legal review, occasionally a proposal will develop significant legal issues that require considerable legal counsel involvement. Legal fees must be paid in full prior the final processing of an application.

Generally, LAFCo has only recently needed to bill an applicant for legal advice. However, the complexity of recent applications have required legal advice that exceeded the typical contractual limits. Routinely charging out legal counsel time spent on applications would help ensure that the general monthly contractual for general legal advice would not be exceeded.

Examples of need for legal counsel include but are not limited to the need for counsel attendance at meetings or public hearings for the proposal, response to requests from the Executive Officer or the Commission for legal opinion regarding an application proceeding, response to letters from other attorneys, lawsuit defense, etc.

If the Commission desires to regularly charge for LAFCo counsel time spent on projects, the legal services contract with Mr. Browne will need to be amended, our Fee Schedule updated, and a review conducted of our standard Fee Agreement to insure consistency and clarity.

**MENDOCINO
Local Agency Formation Commission**

Staff Report

MEETING June 1, 2020
TO Mendocino Local Agency Formation Commission
FROM Uma Hinman, Executive Officer
SUBJECT **Cancelation of July 6, 2020 Regular Meeting of the Commission**

RECOMMENDATION

Direct staff to cancel the July 6, 2020 Regular Meeting of the Commission and provide notification to interested parties.

DISCUSSION

The next Regular Meeting of the Commission is scheduled for July 6, 2020.

With approval of the May 2020 Claims (Agenda Item 3c), a balance of \$605 for Basic Services (Account 5300) remains for staffing through the end of Fiscal Year 2019-20. Per Mendocino LAFCo Policy 5.1.6 *Budget Adjustments*, the Executive Officer may approve expenditures exceeding an individual account by up to five percent, not to exceed \$3,000.

As a cost savings measure and in order not to exceed the allowable overage, staff will need to reduce basic services for the month of June, which will necessitate canceling the July 6th meeting. Even so, minimum office operations and response to public inquiries will result in exceeding the account budget as provided for in Policy 5.1.6.

Staff will continue to work on the Work Plan and application processing as budget allows.

MENDOCINO Local Agency Formation Commission

Staff Report

MEETING June 1, 2020
TO Mendocino Local Agency Formation Commission
FROM Uma Hinman, Executive Officer
SUBJECT **Status of Applications, Proposals, and Work Plan**

RECOMMENDATION

Informational report.

BACKGROUND

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 delegates Local Agency Formation Commissions (LAFCo) with regulatory and planning duties to coordinate the logical formation and development of local government agencies. This includes approving or disapproving proposals for reorganizations (i.e., annexations, detachments, dissolutions, etc.), activation of latent powers, sphere of influence amendments, and outside service agreements.

APPLICATIONS

Following is a summary of active and future proposals.

Active Proposals

There are currently three (3) active proposals.

Weger Mendocino Coast Health Care District Detachment Application Review

The application was approved by the Commission at its regular meeting on March 2, 2020. Staff is working with the applicant and coordinating with the County Surveyor to finalize the mapping requirements for a submittal to the State Board of Equalization.

Moore's Annexation to Irish Beach Water District (IBWD)

The application to annex a parcel of approximately 16.8 acres directly north of the IBWD into the District has been on-hold since 2015 pending completion of a concurrent processing of a Local Coastal Plan (LCP) amendment and rezone. The applicant has submitted a deposit and requested the application be processed. Staff has reviewed the application materials on file and has sent correspondence to Mr. Moore's and IBWD regarding requirements and next steps for processing the application.

City of Ukiah Detachment of Ukiah Valley Sanitation District (UVSD) Served Areas

On April 29, 2020 the City submitted additional application materials and a request to initiate processing the 2014 application by the City to detach UVSD served areas. The application was deemed incomplete in December 2014 and was placed on hold in 2015 at the City's request. A remaining deposit of application fees totaling \$1,532.75 has been held in LAFCo's account since 2015 and will be applied to reviewing the new submittal and request.

Applications On-Hold

There are currently no applications on hold.

Future Proposals

Following is a summary of potential future proposals to the Commission:

Anderson Valley CSD Proposed Activation of Latent Powers to Provide Water/Sewer Services

The Anderson Valley CSD has obtained two state planning grants to prepare a feasibility study and CEQA review for wastewater and water treatment plants and infrastructure to serve the community area of Boonville. Public workshops and a CEQA document are in process. No updates have been received in some time.

WORK PLAN

Local policy directs the Commission to annually adopt a Work Plan for purposes of providing a comprehensive overview of municipal service reviews and sphere of influence reports over the course of the fiscal year. This report provides an update on progress made in terms of accomplishing the activities scheduled in the Work Plan. This report also serves to inform the Commission of any changes in circumstances or priorities.

County Service Area (CSA) No. 3

The Administrative Draft MSR/SOI is in process. This will be the first MSR/SOI report for the CSA. Due to the COVID-19 emergency, there have been delays in receiving a response to requests for information from the County.

Mendocino City Community Services District

The first workshop on the Draft MSR/SOI was held on May 4, 2020. In response to public comments received prior to and during the public workshop, the Commission directed staff to schedule a second workshop for June 1, 2020.

Ukiah Valley Sanitation District (UVSD)

The UVSD has provided a response to the Request for Information (RFI) and staff has been collecting available documentation for the MSR/SOI report.

Covelo Community Services District

Due to delays in collecting information from other agencies scheduled for FY 2019-20, staff initiated the data collection efforts for the Covelo CSD. The District has responded to the RFI and the Administrative Draft MSR/SOI is in process.



HURST+BROOKS+ESPINOSA

This Week in Sacramento

INFORMATION & INSIGHTS FROM HURST BROOKS ESPINOSA ■ SPECIAL UPDATE: MAY 18, 2020

Governor and CDPH Announce Changes to Regional Variance Criteria

The Governor held a noon press briefing today to unveil revised county variance criteria that will permit all but a handful of counties to move more quickly through Stage 2 of the [Resiliency Roadmap](#). The California Department of Public Health (CDPH) subsequently issued additional information detailing the changes, and the county variance [webpage](#) has already been updated to reflect the second variance process. In order to qualify, counties must attest to all of the following:

Case Metrics	
Stable or down trending hospitalizations, cases per population count and test positivity rate	<ul style="list-style-type: none"> ▪ Stable hospitalizations on a 7-day average of daily percent change of less than 5%; or no more than 20 hospitalizations on any single day over the past 14 days. ▪ 14-day cumulative positive incidence of less than 25 per 100,000; or testing positivity over the past 7 days of less than 8%.
Adequate Preparedness Planning	
A significant level of preparedness with testing, contact tracing, PPE and hospital surge, and planning for long-term care facility disease outbreak prevention and containment	<ul style="list-style-type: none"> ▪ Testing capacity. Minimum daily testing capacity to test 1.5 per 1,000 residents <ul style="list-style-type: none"> - Testing availability for at least 75% of residents ▪ Contact tracing <ul style="list-style-type: none"> - At least 15 staff per 100,000 county population trained and available for contact tracing ▪ Hospital surge <ul style="list-style-type: none"> - Hospital capacity to accommodate a minimum surge of 35% of their baseline average daily census. ▪ Skilled Nursing Facilities (SNF) disease outbreak prevention and containment <ul style="list-style-type: none"> - Plans to prevent and mitigate infections in skilled nursing facilities - SNFs have more than 14-day supply of PPE on hand for staff, with established process for ongoing procurement.
Response Planning	
Producing plans related to county-wide containment, including testing, contact tracing, vulnerable populations, congregate settings, acute care surge, and essential workforce.	

The Governor cited the state’s increased response capacity, including stabilization in the number of hospitalizations, better preparedness, and increased ability to ensure essential workers have PPEs as factors that permitted the additional steps announced today. The new attestation criteria should assist higher-population counties that can demonstrate stable or declining hospitalization as well as

positive test rates, among other factors. CDPH will begin accepting second variance attestations **starting today**.

LAO Suggests Legislature Guard Its Authority in Budgeting

Over the weekend, the Legislative Analyst's Office (LAO) released its [initial thoughts](#) on the Governor's proposed May Revision. Overall, the LAO indicates that the proposal is well-balanced in terms on a mix of solutions, but suggests that the Legislature may wish to evaluate the proposals and make different choices. While the LAO believes the proposed revenue solutions are a reasonable starting point for conversations, the LAO is concerned that the Administration's estimates of revenue generated by these approaches are on the high side. Finally, the LAO notes that the Administration's proposed spending reductions in many instances are appropriately targeted and, in others, are more blunt (10 percent reductions to universities, judicial branch, and state employee compensation). On these, the LAO suggests the Legislature may wish to be more surgical in its approach.

The LAO also points out the Administration's continued use of Section 36 control language for expenditure of \$2.9 billion for a COVID response bypasses – from its perspective – appropriate legislative authority. Recall that Section 36 control language was included in [SB 89](#), passed by the Legislature prior to its mid-March adjournment due to the stay-at-home order, authorized the Administration to expend funds up to \$1 billion with a 72-hour notice to the Joint Legislative Budget Committee. Of course, the Legislature has been critical of some of the Administration's expenditures and remains concerned about having adequate information about the plans for expenditure. (During the Senate's overview hearing today, Senate Budget and Fiscal Review Committee Chair Holly Mitchell reiterated her concerns about expanding the control section language while the Legislature is in session.)

Some of the proposals that the Administration is maintaining from the January budget may need to be put off, according to the LAO, as the Legislature hasn't had sufficient time to evaluate them and must do so while managing a complex budget crisis. Some proposals of a policy nature – like proposals to create new or reorganizing existing departments – remain in the May Revision and have not yet been vetted by subcommittees and likely will not, given the time constraints of budget subcommittee hearings occurring over the next two weeks.

Assembly Health Committee Considers 30+ Measures

Assembly Health Committee held its only spring policy committee today to hear Assembly bills introduced in 2020, hearing approximately 20 bills for discussion, with another estimated dozen on consent. All bills on today's agenda passed out of Committee; Assembly Members asked very few questions on the bills discussed today, likely a function of the length of the agenda and the compressed process. The following provides a summary of some of bills and issues of note before the Committee.

[AB 2830 \(Wood\)](#) — Health Care Payments Data Program

This measure would create the Health Care Payments Data Program at the Office of Statewide Health Planning and Development. The author took amendments in Committee to change the date of implementation to 2023, which had been a concern for hospitals and health plans.

[AB 2037 \(Wicks\)](#) — Health Facilities: Obligations before Changes in Service

This measure would change the notification requirements for hospital closure or reductions or elimination of services. The author took amendments in committee to attempt to address the concerns raised by the hospital industry. The bill passed out of committee.

[AB 2164 \(Rivas\)](#) — Telehealth

This bill would expand the use of telehealth at health care clinics by establishing the E-Consult Services and Telehealth Assistance Program within the State Department of Health Care Services (DHCS) to award grants to eligible specified health clinics to conduct projects to implement and test the effectiveness of e-consult services and related telehealth services; it passed out of committee on consent.

[AB 1994 \(Holden\)](#) — Eligibility

AB 1994 would extend the duration during which Medi-Cal benefits are suspended when an individual is an inmate of a public institution for three years or until the individual is no longer an inmate or is no longer eligible, whichever occurs sooner, instead of the shorter time-limited suspension of benefits under existing law. The bill also permits the county welfare department to suspend Medi-Cal benefits to an eligible juvenile, defined as an individual under 21 years of age or a former foster youth under 26 years of age. AB 1994 also prohibits, during the period that the eligible juvenile is an inmate of a public institution, their Medi-Cal eligibility from being terminated. The measure passed out of Assembly Health Committee on consent.

The Committee also had 10 behavioral health related bills on its agenda today, including:

[AB 1976 \(Eggman\)](#) — Mental Health Services: Assisted Outpatient Treatment

AB 1976 makes a number of changes to Assisted Outpatient Treatment (AOT), or Laura's Law. Under existing law, counties can opt to provide AOT. Under the provisions of AB 1976, counties would be required to implement AOT or to opt out via a resolution passed by the Board of Supervisors. The measure would also allow a county, in combination with one or more counties, to implement an AOT program. Finally, AB 1976 would repeal the January 1, 2022 sunset date of Laura's Law. The California State Association of Counties and County Behavioral Health Directors have a support if amended position on the bill. The California Behavioral Health Planning Council, Cal Voices, and California Association of Mental Health Peer Run Organizations oppose the bill. Disability Rights California raised concerns and asked for amendments ensuring additional protections for AOT participants.

[AB 2015 \(Eggman\)](#) — Certification for Intensive Treatment: Review Hearing

This measure would address evidence presented at Lanterman-Petris Short Act hearings. Specifically, AB 2015 would authorize the evidence presented in support of certification of an individual for involuntary detention under a 5250 hold to include information regarding the person's medical condition and how that condition bears on the certification. The measure is sponsored by the California Psychiatric Association and is supported by the California Psychological Association. The California Behavioral Health Planning Council and Cal Voices also oppose this measure.

Amendments were taken in committee to address issues around medical treatment only for the duration of the mental health hold and the need for ongoing medical care.

[AB 2025 \(Gipson\)](#) — Mental Health and Substance Use Disorder Restorative Care Program: Pilot Projects

This Los Angeles County specific bill would allow the county to establish a pilot project for up to six years to develop a Restorative Care Program for the provision of community-based care and treatment that addresses the interrelated and complex needs of those individuals suffering from mental illness and substance use disorder (SUD), along with other medical comorbidities, and homelessness. This measure passed out of committee on consent.

[AB 2112 \(Ramos\)](#) — Suicide Prevention

This bill would establish the Office of Suicide Prevention within the Department of Public Health (DPH) to address suicide and suicide prevention. The bill has a long list of supporters, but was opposed by the California Right to Life Committee. The bill passed out of committee with amendments.

[AB 2265 \(Quirk-Silva\)](#) — Mental Health Services Act (MHSA): Use of Funds for Substance Use Disorder Treatment

AB 2265 also passed out of Committee today on consent. The bills would authorize expenditure of MHSA funds to be used to treat a person with co-occurring mental health and substance use disorders when the person would be eligible for treatment of a mental health disorder under MHSA.

[AB 2360 \(Maienschein\)](#) — Maternal and Child Mental Health: Telepsychiatry Pilot Project

This bill would require health plans and health insurers, by January 1, 2021, to establish a telehealth consultation program for maternal and child mental health. The California Association of Health Plans and the California Chamber of Commerce oppose the bill.

[AB 2464 \(Aguilar-Curry\)](#) — Project ECHO Grant Program

AB 2464 would require the California's Health and Human Services Agency to establish the Project ECHO™ Grant Program, upon appropriation by the Legislature. The grants would be used by primary care clinicians, other health care clinicians, and educators to meet the health care needs of children and adolescents stemming from the COVID-19 pandemic at a teleECHO clinic. The ECHO model is not traditional "telemedicine" where the specialist assumes care of the patient, but is instead telementoring, a guided practice model where the participating clinician retains responsibility for managing the patient. The measure passed out of committee.

[AB 2576 \(Gloria\)](#) — MHSA Reversion

AB 2576 passed out of Assembly Health Committee on consent. The measure would change the MHSA reversion provisions to require the reverted funds to be reallocated to other counties for the purposes of providing services to individuals with mental illness who are also experiencing homelessness, or who are involved in the criminal justice system, and providing early intervention services to youth.

[AB 2876 \(Waldron\)](#) — Narcotic Treatment Medication Assisted Treatment

AB 2876 was also on the consent calendar today. The bill would require DHCS to report to the Legislature on or before January 10, 2022, specified information regarding the California Medication Assisted Treatment Program Expansion Project, including the number of patients, by county, treated through the program.

[AB 3242 \(Irwin\)](#) — Mental Health: Involuntary Commitment

AB 3242 also met the criteria for consent in Assembly Health Committee. The measure would authorize an examination, assessment, or evaluation that relates to the involuntary commitment and treatment of individuals under the Lanterman-Petris-Short Act, to be conducted using telehealth or other audio-visual technology.

Please feel free to contact any one of us at Hurst Brooks Espinosa with questions ...

JEAN HURST
916-272-0010 | jkh@hbeadvocacy.com

KELLY BROOKS
916-272-0011 | kbl@hbeadvocacy.com

ELIZABETH ESPINOSA
916-272-0012 | ehe@hbeadvocacy.com