



Redway Community Services District
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September 25, 2025

Sent Via Email

Department of Fish and Wildlife
Northern Region
Attn: Tina Bartlett, Regional Manager
619 Second Street
Eureka, CA 95501

Subject: PROTEST OF PETITION FOR CHANGE TO THE PLACE OF USE FOR WATER APPLICATIONS A011876 (LICENSE 003791) AND A023017 (PERMIT 015665) AND THE PETITION FOR TIME EXTENSION FOR A023017 TO APPROPRIATE WATER FROM THE SOUTH FORK EEL RIVER

Dear Ms. Bartlett;

The Redway Community Services District (RCSD or District) is in receipt of the protest to the subject project dated August 22, 2025. The District has reviewed each of the concerns and provides the following as additional information relating to each of the protest dismissal terms. The District would like to set up an in-person meeting with the California Department of Fish and Wildlife (CDFW) staff to discuss each of the protest dismissal terms and possible verbiage to satisfy the concerns while meeting the District's operational limitations.

Background Information on the Water Rights

RCSD holds three water rights. Two of the water rights are for the infiltration gallery in the South Fork of the Eel River (SF Eel River; one license and one permit) and the third is a permit for an Unnamed Spring. The basic information for each water right is shown in the Table 1 below.

Table 1. RCSD Water Rights Summary

App. #	App Date	Permit #	Permit Date	License #	Water Source	Max Diversion (cfs)	Max Diversion (acre-ft/year)
11876	05/12/47	7489	09/16/49	3791	SF Eel River	0.223	161.5
23017	04/05/68	15665	07/25/68	- - -	SF Eel River	1.050	441
23018	04/05/68	15666	07/25/68	- - -	Unnamed Spring	0.123	52

With each of these water rights, a Place of Use has been approved by the State Water Resources Control Board - Division of Water Rights (SWRCB DWR). For RCSD, the water diverted from the SF Eel River under Applications 23017 and 11876 is diverted at a single infiltration gallery, treated at the

Surface Water Treatment Plant, then distributed to the customers and stored in the various water storage tanks. **The combined spontaneous diversion rate for the river infiltration gallery is 1.273 cfs and the maximum annual diversion face-value total is 602.5 acre-ft/year.** The permit for the river has a development period that ended on December 1, 1995.

While the RCSD application date for the Unnamed Spring is in 1968, the previous Redway Water Company used this spring along with the water lines and water storage tank because the infrastructure is shown on the 1933 as-builts for Highway 101, so the use of the Unnamed Spring dates back much farther than the application. Water has not been diverted from the Unnamed Spring under Application 23018 since June 2008. In 1984 and 1988, the District asked for this permit to be converted to a license.

During numerous years in the 1990s, RCSD reported to SWRCB-DWR that they could not divert water from the river for one or more months in a given year because the river had migrated to the other side of the channel where there were not any infiltration gallery pipes. Eventually they found that there was a sandstone divider between the two sides that protruded above the top of the gallery pipes, thus creating a barrier at low-flow river conditions that prohibited the water from reaching the existing pipes. From the diversion records it appears that during those years they diverted additional water from the Unnamed Spring to offset their inability to use the river diversion.

On December 7, 2000, the SWRCB-DWR wrote to RCSD stating that they were violating the terms of their permit by diverting more than 52-acre-feet of water per year. RCSD responded on January 17, 2001, that they would monitor the diversion amounts more closely to make sure they stayed in compliance. The diversion amounts from 2000 and beyond stayed within the allocated amount (see Attachment #1). In the February 2, 2001 letter, SWRCB-DWR stated they have completed the change to the Place of Use and they are "...ready to continue the licensing process of your water right. The license will be issued based on the signed Request for License received on March 7, 1995." In a letter dated November 26, 2003, SWRCB-DWR stated they have a shortage of technical staff and a backlog of petitions, so they are implementing a new policy of requiring the petitioner to perform CEQA. This letter can be found in Attachment #7.

RCSD applies for funding to remedy the problems. In May 2007, the District was informed that their pre-application for upgrades to the surface water treatment plant at the SF Eel River and construction of a second treated water storage tank (600,000-gallon planned but 400,000-gallon built) at the Rusk site is eligible for funding. The District returned the Statement of Intent and completed the application. In the Sept 19, 2007, RCSD Board meeting minutes report for the State Revolving Fund Loan Application that "...The District will discontinue using the spring as a storage and water source. The funds from the State Revolving Fund Loan (SRF) will be used to purchase additional storage and increase the capacity at the water treatment plant." RCSD hired Waterworks Engineering to complete the final application package, which was due January 5, 2008. On May 8, 2008, the California Department of Public Health (CDPH) notified RCSD that the application had been reviewed and was considered complete. CDPH directed RCSD to begin the detailed technical, environmental, and financial review of the project.

In June 2008, the District ceased diverting from the Unnamed Spring. In a July 30, 2008, memo from the Operations Manager, Ken Dean, to the RCSD Board, he lays out the details of the events that have led to the pumps running out of water. Emergency measures were implemented. They suspended bulk water sales completely. Based upon the information within the monthly reports from

the Operations Manager, RCSD experienced extreme issues with being able to divert enough water with only the river diversion because the river was once again on the opposite side of the channel and the sandstone barrier was keeping the water from reaching the infiltration gallery pipes. In the August 13, 2008, memo Mr. Dean indicates that he contacted then CDFG about the situation and that “diverting the river to the intake area may be required.” Subsequently, the District submits an addendum to the SRF application to include the modification of the infiltration gallery. Jane Arnold of CDFG received photos of the problem and visited the site on September 10, 2008. RCSD was informed of the need for notifications to CDFG for all three of the water rights, if active. During the site visit, CDFG informed RCSD that they would “allow the District to install a screened electric well pump, that during an emergency, could be used to draft water into the wet well at the water treatment plant.” In October 2008, it rained early and began to alleviate the emergency conditions for that year.

The next year had similar issues. On July 8, 2009, RCSD’s Board adopted Resolution 09-10-1 declaring a local water emergency due to drought conditions (see Attachment #8). At the July 15, 2009, meeting, the Board adopted a Water Shortage Emergency Contingency Plan that contained several levels of specific conservation measures to be adhered to by the customers. The Board implements Level 2 of the mandatory conservation measures. On July 22, 2009, representatives from CDFG, United States Army Corp of Engineers (USACE), National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Waterworks Engineers, and Humboldt County (County) met onsite to discuss the environmental permits required before the District can disturb the riverbed. The declaration of the water emergency is extended through September. RCSD submitted the Lake and Streambed Alteration (LSA) Notification for the emergency work at the infiltration gallery and the LSA Agreement (LSAA) was issued July 23, 2009. The Notice of Exemption for the “temporary pump” was sent to the County Clerk’s Office on July 20, 2009. The Notice of Exemption for the permanent Repair of the Infiltration Gallery was subsequently sent on July 27th. Jane Arnold attended the August 5, 2009, Board meeting to answer questions about the LSAA process. On July 29, 2009, RCSD is informed by CDPH that the funding for the project has been reserved in the amount of \$3,046,200 and they must execute the Notice of Acceptance of Application by meeting specific terms and conditions. That same day the Notice to CDFG for the permanent repairs to the infiltration gallery were submitted. A second visit occurred with CDFG on August 17, 2009, to review work proposed for the permanent repair of the infiltration gallery. NMFS also visits site to review for permit. In October 2009, the Operations Manager reports that the performance of the emergency pump just maintains adequate storage levels and they are pumping at 143 gallons per minute (gpm). Rain started in mid-October and by the beginning of December production finally exceeds demand.

In January 2010, the District reports having received all the required permits to perform the permanent repairs to the infiltration gallery, however, work cannot begin until July 1, 2010. Construction plans and environmental review of the larger SRF project are underway. The project is bid August 2010. In July 2010 the river levels drop and the District began using the temporary pump again. Mandatory conservation measures were implemented. It takes a number of months to get the funding agreement fully executed and the construction contractor underway. By 2011, enough project is complete that there isn’t a water shortage at the river diversion anymore.

Diversion Reporting to SWRCB-DWR

The reporting by RCSD over the time period 1971 - current has been completed by many different operators and managers at the District. The various personnel reported inconsistently as to method and units of measure. Some years were reported in gallons/year, some in millions of gallons/year, and some in acre-ft/year. Because the river diversion for two water rights is accomplished and recorded from a single diversion through a single treatment plant, the way that this total diverted amount has been reported for the two water rights has varied. For many of the years, the total amount was reported on BOTH the river permit and the river license. From 2014 to present the total diverted from the river was reported only on the river permit. In 2012 & 2013, it was split between the license and permit. However, RCSD has treatment plant production records that reflect the total diverted from the river, and those have been used to verify the amounts reported to SWRCB-DWR to determine, by reporting year, which way the report was completed.

In Attachment 1, the first table is a tabulation of exactly the numbers that were on each of the diversion reports as submitted to SWRCB-DWR and are in a variety of units of measure. The second table takes those numbers and converts them all to acre-ft/year but leaves them as reported in the first three columns. Notice that for each year one number is in red for the river and one for the spring. Those are the numbers that most closely match the production records and are being used as the actual diversion amount that should have been reported. Please note that the river permit report and the Unnamed Spring reports for 2006 were not available from SWRCB-DWR staff, so we have used the production report amounts for those years (River = 65,661,000 gallons/ Spring = 15,510,000 gallons).

The way that the river diversion was reported for virtually all years is incorrect. The correct way to report is that all the water available under the license is diverted (161.5 acre-ft per year) and then the remainder of the total diverted is shown on the permit. Both water rights can be diverted simultaneously at a combined rate of 1.273 cfs but the agency always has to show they used the entire face value of the license before they show use on the permit. Three columns have been added to this second table showing how the diversion amounts should have been reported for each of the three water rights. The last column on the right sums the amount diverted under all three water rights. **Three years; 1989, 1995, and 2011 are most critical to the discussion on how to license the river permit and what that face value should be.** The SWRCB-DWR provided scans of these nine diversion reports, and they are provided in Attachment #3.

A graph showing the diversion amounts each year by water right and the total diverted each year from the SF Eel River watershed overall is provided in Attachment 2. Readily evident is overall downward trend of diversion amounts (red line) as the community of Redway has worked together to minimize water consumption, especially during drought years.

Dedication of the Unnamed Spring

Diversion at the Unnamed Spring for the town of Redway was occurring prior to 1933 when the State built what is now the old Hwy 101. The Unnamed Spring is diverted from a valuable cold-water source that enters the SF Eel River shortly beyond the diversion point at a beautiful waterfall. RCSD invested considerable funds (over \$3M) to upgrade the Surface Water Treatment Plant in 2010 so that they could cease diverting water from the Unnamed Spring and divert solely from the river. The last time RCSD diverted water at the Unnamed Spring was June 2008. At that time, CDFG staff (Jane Arnold

and her supervisor) were intimately involved in the approval of the temporary pumps in the SF Eel River and the permanent modifications to the infiltration gallery in the river. RCSD has a number of emails, letters, a LSA Notification, and LSAA related to this transition from two sources to a single source.

RCSD desires, and current CDFW staff supports, the dedication of the instream flow for the beneficial uses of fish, wildlife, and recreation in the Eel River watershed. RCSD adopted Resolution 2025-2026-01 titled “RESOLUTION OF THE REDWAY COMMUNITY SERVICES DISTRICT BOARD OF DIRECTORS AMENDING THE PREVIOUS RESOLUTION APPROVING THE WATER RIGHTS PETITION FOR CHANGE IN PLACE OF USE AND AN EXTENTION OF TIME APPLICATION, AND ADDING A 1707 IN STREAM DEDICATION PETITION FOR THE UNNAMED SPRING.” This resolution is in Attachment #5. The Division of Water Rights’ California Water Accounting, Tracking, and Reporting System (CalWATRS) will replace eWRIMS and will not be available for acceptance of the 1707 petition until after October 1, 2025. Once the SWRCB-DWR online application and reporting system opens, RCSD will submit to SWRCB-DWR a 1707 petition to dedicate the instream flow for the Unnamed Spring diversion’s permit (A23018) utilizing a Change in Place of Use to encompass the unnamed stream’s course from the spring to the confluence with the SF Eel River, and add recreation and “Fish and Wildlife Preservation and Enhancement” to the Beneficial Uses to protect the spring in perpetuity.

RCSD also desires to pursue funding to remove the spring diversion, pumping, transmission, and storage infrastructure from the stream channel. We will be coordinating with the Cannabis Watershed Restoration Program to determine if grant funds are available to deconstruct this facility. A letter of support from CDFW for this restoration project would be appreciated along with a fee waiver for the 1707 Petition. RCSD’s Board is enthusiastic about deconstructing the diversion infrastructure and is merely awaiting funding to implement the project.

Parcels Being Added to the SF Eel River License & Permit

A list of the parcels being added to the river’s license and permit Place of Use (POU) is included as Attachment 4. They are listed by APN and the status of their current water service is included. The Eel River Conservation Camp (Assessor’s Parcel Number (APN): 222-161-002) is no longer a part of the proposed project. The Board removed it in Resolution 2025-2026-01 (see Attachment 5).

In the CDFW protest letter, Table 1 summarizes the parcels that CDFW considered to be undeveloped or underdeveloped that are of concern for the CEQA assessment and low-flow river impacts. RCSD provides the following comments about each based upon our knowledge of their status (see Table 2 below). It appears most of the parcels CDFW listed are being included in the petition because they were included in the 1993 annexation. While RCSD desires to have a consistent POU with SWRCB and Jurisdictional Boundary with Humboldt County Local Area Formation Commission (LAFCo), most are also undevelopable. If removing them is essential to CDFW dismissing their protest, RCSD will coordinate with the property owners and determine if removing them is viable.

Table 2. List of Undeveloped/underdeveloped Assessor Parcel Numbers proposed to be added to the Redway Community Service District Service Area in the Petition to change A011876 and A023017 (from CDFW Protest)

APN	Acres	Zone/Developments	RCSD Comments/Notes
222-151-005	61.6	AG-B-5/none*	Does not have water service. Annexed into Jurisdictional Boundary in 1993.
222-151-004	13	FP/none	Does not have water service. River bar and steep. Would have riparian water right. Annexed into Jurisdictional Boundary in 1993.
223-171-020	1	FP/none*	Does not have water service. All river bar. Would have riparian water right. Annexed into Jurisdictional Boundary in 1993.
223-171-018	17.21	FP;U/none	Does not have water service. River bar and steep. Would have riparian water right. Annexed into Jurisdictional Boundary in 1993.
223-171-019	4.06	FP/none	Does not have water service. River bar and steep. Would have riparian water right. Annexed into Jurisdictional Boundary in 1993.
223-171-021	40.73	AG-B-5/none	Does not have water service. Annexed into Jurisdictional Boundary in 1993.
223-311-041	24.41	AG-B-5/none	Bluffs & Bluff Creek. Not developable. Annexed into Jurisdictional Boundary in 1993.
222-222-014	20.78	None/none**	Not a part of the project. Not being added to the POU.
222-222-004	16.48	FR-B-5/Multiple	YMCA Camp. Fully developed and already in river permit's POU. Adding to river license POU for consistency.
222-161-002	175.3	AG-B-5/CalFire Conservation Center	No longer part of this project.

*Structure apparent in aerial imagery **Parcel appears undevelopable.

Specific Responses to Protest Dismissal Terms

1. The Applicant shall assess the environmental impacts of the expansion of the Place of Use including impacts to streamflow in the South Fork Eel River, especially dry season baseflows during drought years.

At the April 23, 2025, Board meeting, the Board approved entering into a contract with LACO Associates for professional services related to preparing an environmental review pursuant to CEQA (see Attachment 6). The District will provide a Notice of Availability of the draft IS/MND for public review. A separate notice will also be sent prior to the hearing for consideration in January 2026. The District will add you to the noticing list.

2. To minimize cumulative impacts from reduced streamflow to listed fish and wildlife, the Applicants total face value of both A011876 and A023017 shall be reduced to the maximum amount diverted by the Applicant during the development period for A023017 (up to December 1, 1995).

In your letter you state, “the CDFW recommends the total face value of both A011876 and A023017 be reduced to the maximum total amount of water diverted from the Applicants three water sources during the development period.” However, the maximum total amount of water diverted from the three water sources through December 1995 is significantly higher than the amount RCSD is requesting in the Extension of Time for the river permit with the inclusion of the 1707 Dedication of the Unnamed Spring. The following table summarized the diversion amounts for each of the three water rights in the three years that would impact this calculation: 1989, 1995, and 2011. The scanned diversion reports for each of these three years for each of the three water rights is provided in Attachment #3.

Table 3. Diversions (in acre-ft/year) by Water Right for Critical Diversion Amounts (taken from Attachment #1)

Year	River License	River Permit	Unnamed Spring	Total
1989	161.500	63.178	65.685	290.362
1995	161.500	57.039	81.645	300.184
2011	161.500	90.730	0.000	252.230
Request Amount	161.500	90.730	0.000	252.230

If RCSD were to use the 1995 diversion, the total would be 300.184 acre-ft/year. However, RCSD is requesting that the river permit be licensed at 90.730 acre-ft/year, in addition to the 161.5 acre-ft/year for the river license, for a total diversion of 252.230 acre-ft per year. Using the 2011 diversion results in **47.953 acre-ft/year less** than what would be requested if 1995 diversion amounts were used. If the 1989 diversions were used, then the 2011 request would be 38.132 acre-ft/year less. RCSD did not request the larger total from 1995 because we believe that the 252.230 acre-ft per year from 2011 is sufficient for the existing development within the proposed Place of Use (POU) plus any minor development amongst the few undeveloped or underdeveloped parcels.

The purpose for the river permit’s Extension of Time petition was to document the maximum diversion from the SF Eel River once the diversion from the Unnamed Spring had ceased. This is the procedural process available from DWR to accomplish documenting the transfer of the diversion from the spring to the river in 2009.

3. To minimize cumulative impacts to listed fish and wildlife the Applicant shall not divert more than 5% of streamflow as measured at the USGS gaging station at Miranda.

This same condition was proposed by CDFW in the Draft LSAA for the diversion. RCSD would like to modify how this diversion amount is implemented. RCSD proposes to calculate the maximum diversion amount on a 24-hour basis instead of instantaneous basis, due to the operational limitations of the pumps at the treatment plant.

RCSD's water treatment plant contains numerous stages of treatment, each of which is sized to perform at a set range of flows. This infrastructure cannot be operated at flow rates that are outside of their designed ranges. The details of these capacities were included in the RCSD Water Capacity Analysis report by Waterworks Engineers, which was included in the LSAA notice to CDFW. RCSD upgraded the water plant in 2009 with new raw water pumps, among many other items. The pumps that were installed are a duplex pumping system instead of the previous triplex system. The raw water pumps have a maximum capacity of 450 gpm. For normal operations they are run at 350 gpm and the number of minutes they run each day varies based upon the consumption for that day. Under unusual circumstance, such as the river water having high turbidity or when water conservation stages have been declared, the plant can be recalibrated to run at a slightly slower speed. The lowest that the plant has ever run at for more than a few minutes is 250 gpm. We can decrease the instantaneous simultaneous pumping rate for the river license and permit to match the 5% on an instantaneous basis until the river flow reaches 11.15 cfs, but when the river falls below that flow rate we would like to set our pumping rate at 250 gpm and monitor the number of minutes pumped in a 24-hour period to make sure we stayed under 5% of the river's flow during that same 24-hour period.

For example, if the Miranda gauge reads 5 cubic feet per second (cfs), then the maximum daily diversion amount at 5% would be 21,600 cubic feet per day (or 323,158 gallons per day (gpd)) based upon 0.25 cfs x 24 hours. We would like to be allowed to divert this amount at a rate of 250 gallons per minute (gpm) for a total of 646 minutes (10.76 hours) per day. This results in the same amount of water being diverted from the river over a 24-hour period. While 250 gpm is more than 5% of the instantaneous river flow rate, by pumping for less than the entire 24 hours, we would still divert less than the requested 5% maximum on a 24-hour basis. This difference has a significant effect on the viability of operating the treatment plant at a lower diversion amount while not destroying the pumps without sacrificing the protection of the fish and aquatic species.

Because the USGS gaging station at Miranda provides real-time numbers that are provisional, and sometime change when the station master recalibrates the gauge, RCSD will keep records of what USGS was reporting each day which informed the operator on how to calculate the total amount that can be diverted that day. These records will also show the pumping rate, amount of time pumps ran, and the total amount diverted each day. Records each year will begin to be created when the river flow is at or below 30 cfs.

Once you have had a chance to review the additional information, please let me know your availability to meet with Jennie Short and me at your Eureka office. You can reach me at (707) 923-3101 or via email at cody@redwaycsd.org.

Respectfully,



Cody Cox
General Manager

jms

Cc via email:

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Attachments:

1. Tabulation of Historical Diversion Reports to SWRCB-DWR AND Tabulation of Corrected Diversions by Water Right
2. Graph of Corrected Diversions by Water Right
3. Filed Diversion Reports for each of 3 Water Rights for Years 1989, 1995, 2011
4. List of Parcels Being added to POU With Water Service Status
5. 1707 Dedication of the Unnamed Spring & Resolution 2025-2026-01
6. Contract with LACO Associates for CEQA Services
7. Documents Related to the Unnamed Spring
8. Resolution 09-10-1 Declaring a local water Emergency due to Drought Conditions