

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

ORDER WR 2017-0036-EXEC

**In the Matter of License 5625B and Permits 7847, 8594, and 11039
(Applications 14050B, 13217, 14068, and 17121)**

City of Healdsburg

**ORDER APPROVING PETITIONS FOR EXTENSION OF TIME, CHANGE IN
POINT OF DIVERSION, PLACE OF USE, AND PURPOSE OF USE, AND
ISSUING AN AMENDED LICENSE AND AMENDED PERMITS**

SOURCES: (1) Dry Creek tributary to Russian River
(2) Russian River Subterranean flow thence the Pacific Ocean

COUNTY: Sonoma County

BY THE EXECUTIVE DIRECTOR:

1.0 INTRODUCTION

The City of Healdsburg (City), which holds water right License 5625B and Permits 7847, 8594, and 11039 (Applications 14050B, 13217, 14068, and 17121 respectively), has petitioned the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) for extensions of time under Permits 7847, 8594, and 11039 to December 31, 2030, to complete the beneficial use of water. The City also seeks permission to change the points of diversion (POD), place of use, and purpose of use authorized under License 5625B and Permits 7847 and 8594. This order will address the following requests to change License 5625B and Permits 7847, 8594, and 11039:

- June 3, 1992 petition for extension of time for Permit 8594;
- June 3, 1992 petition for change in place of use for Permit 8594;
- February 10, 1997 petition for change in POD for Permit 8594;
- November 7, 2002 petition for extension of time for Permit 7847;
- November 7, 2002 petition for extension of time for Permit 11039;
- December 12, 2014 petition for change in purpose of use for License 5625B; and
- December 12, 2014 petition for change in POD for Permit 7847.

This order approves an extension of time to complete the beneficial use of water until December 31, 2030, under Permits 7847, 8594, and 11039. This order additionally approves the following: (1) addition of POD 2 (Gauntlett Well Field), POD 3 (Wells #3 and #4), POD 4 (Well #5), and POD 5 (Well #6) under Permit 7847; (2) elimination of the POD currently authorized under Permit 8594; (3) addition of POD 1 (Dry Creek Well Field) under Permit 8594; (4) expansion of the place of use to include lands annexed to the City's current and ultimate service area boundaries (Sphere of Influence) and areas outside the Sphere of Influence under Permit 8594; (5) elimination of irrigation as a purpose of use under License 5625B; and (6) addition of municipal and industrial uses under License 5625B. This order also corrects the: (1) season of diversion under Permit 11039; (2) description of the Fitch Mountain and Gauntlett Well Fields under Permits 7847 and 11039; and (3) description of the location of POD 1 under License 5625B. This order amends the annual cap under Permits 7847, 8594, and 11039. Finally, this order cancels the pending protests to the petition for change in POD under Permit 8594.

2.0 BACKGROUND

2.1 WATER RIGHTS

The petitions for change and extension of time involve the following water rights held by the City:

- License 5625B, issued on July 21, 2003, authorizes direct diversion of 0.09 cubic foot per second (cfs), not to exceed 32.8 acre-feet (af) per year. Water is diverted from Russian River subterranean flow from May 1 through October 31 of each year. The purpose of use is for irrigation on 16.5 acres.
- Permit 7847, issued on April 17, 1950, authorizes direct diversion of 3 cfs from Russian River subterranean flow at the Fitch Mountain Well Field (POD 1) from January 1 to December 31 of each year for municipal use. The total amount of water diverted under Permit 7847, in combination with Permit 11039, is limited to 3,250 af per year. The place of use includes 5,760 acres. Complete application of the water to the proposed use was to be made by December 31, 2002.
- Permit 11039, issued on November 20, 1957, authorizes direct diversion of 4 cfs from Russian River subterranean flow at the Gauntlett Well Field (POD 1) from January 1 to December 31¹ of each year for municipal use. The total amount of water diverted under Permit 11039, in combination with Permit 7847, is limited to 3,250 af per year. The place of use is the same 5,760 acres identified in Permit 7847. Complete application of the water to the proposed use was to be made by December 31, 2002.
- Permit 8594, issued on May 31, 1951, authorizes direct diversion of 1 cfs from Dry Creek subterranean flow tributary to the Russian River from April 1 to November 1 of each year for municipal use. The total amount of water diverted under Permit 8594, in combination with Permits 7847, and 11039, is limited to 2,840 af per year. The place of use includes 4,800 acres within the 5,760 acres identified in Permits 7847 and 11039. Complete application of the water to the proposed use was to be made by December 1, 1992.

2.2 PREVIOUS MODIFICATIONS TO PERMITS 7847, 8594, AND 11039

2.2.1 *PERMIT 7847: FITCH MOUNTAIN*

Prior to 2002, the City filed eight consecutive petitions for extension of time for Permit 7847 that were approved by the State Water Board² and allowed a total of 48 years for the City to put water diverted under the permit to full beneficial use. Several of these orders included other modifications to the permit as follows:

- The order issued by the State Water Board on September 28, 1970, imposed a cumulative annual limit on diversion of 2,840 af under Permits 7847, 8594, and 11039. By order dated July 29, 1988, the State Water Board revised the cumulative annual diversion limit under Permits 7847 and 11039 to 3,250 af per year.
- The order issued by the State Water Board on August 17, 1982, approved petitions for change to move the POD 1,000 feet south and expand the place of use to include 4,800 acres.
- The order issued by the State Water Board on July 27, 1998, approved a petition to expand the place of use to include 5,760 acres.

¹ Permit 11039 contains an error in the description of the season of diversion, which states January 1 to December 1. As described in section 8.2, this is a typographical error that is corrected in the amended permit.

² See orders located in the application file (A013217) dated: November 5, 1953, December 22, 1959, March 6, 1963, March 16, 1965, August 1, 1966, September 28, 1970, August 17, 1982, and July 27, 1998.

2.2.2 PERMIT 11039: GAUNTLETT WELL FIELD

Prior to 2002, the City filed five consecutive petitions for extension of time under Permit 11039. The State Water Board issued orders³ approving the petitions to allow the City a total of 41 years to put water to full beneficial use. Several of these orders included other modifications to the permit as follows:

- The order issued by the State Water Board on September 28, 1970, imposed a cumulative annual limit on diversion of 2,840 af under Permits 7847, 8594, and 11039. By order dated July 29, 1988, the State Water Board revised the cumulative annual diversion limit under Permits 7847 and 11039 to 3,250 af per year.
- The order issued by the State Water Board on August 17, 1982, approved the petition to expand the place of use to include 4,800 acres.
- The order issued by the State Water Board on July 27, 1998, approved a petition to expand the place of use to include 5,760 acres.

2.2.3 PERMIT 8594: DRY CREEK WELL FIELD

Prior to 1992, the City filed six consecutive petitions for extension of time under Permit 8594. The State Water Board issued orders⁴ approving the petitions to allow the City a total of 38 years to put water to full beneficial use. Several of these orders included other modifications to the permit as follows:

- The order issued by the State Water Board on September 28, 1970, imposed a cumulative annual limit on diversion of 2,840 af under Permits 7847, 8594, and 11039.
- The order issued by the State Water Board on August 17, 1982, approved the petition to expand the place of use to include 4,800 acres.

3.0 SUBSTANCE OF PETITIONS

The City's project consists of seven petitions to amend existing water rights: three petitions for extension of time and four petitions for change. The petitions are discussed in detail below. The State Water Board provided notice by mail to interested parties and known downstream users, and posted notice of petitions received on or after November 7, 2002, to the State Water Board's public website.⁵ The City notified the Department of Fish and Wildlife in writing of the proposed changes.

3.1 LICENSE 5625B: RUSSIAN RIVER WELL

The City requested the following changes to License 5625B:

Petition for Change in Purpose of Use (filed December 12, 2014) - The City requested to remove irrigation and add municipal and industrial as purposes of use authorized under the license. The new purposes of use would allow employees at the wastewater treatment plant, located within the authorized place of use, to use diverted water for hand-washing, showers, and toilets. In connection with the change of use, the City requested to reduce the maximum annual use under the license from 32.8 af to 1 af; a reduction of 31.8 af.

³ See orders located in the application file (A017121) dated: February 20, 1962, December 23, 1965, September 28, 1970, August 17, 1982, and July 27, 1998.

⁴ See orders located in the application file (A014068) dated: December 17, 1954, December 22, 1959, April 2, 1964, August 1, 1966, September 28, 1970, and August 17, 1982.

⁵ The public notice of the August 31, 2016 amendment to change the POD for Permit 7847 was not posted on the State Water Board's public website.

3.2 PERMIT 7847: FITCH MOUNTAIN

The City requested the following changes to Permit 7847:

Petition for Extension of Time (filed November 7, 2002) - The City was unable to achieve full beneficial use of water under Permit 7847 prior to December 31, 2002, due to seasonal restrictions imposed by the California Department of Public Health, Division of Drinking Water.⁶ The City initially requested a ten-year extension of time to allow the City to use its new microfiltration water treatment facility (treatment facility) located near the Gauntlett Well Field to make full beneficial use of the water. The City later amended its petition to allow the City until December 31, 2030, to achieve full beneficial use.⁷ The requested extension is consistent with the development timeline in the Healdsburg 2030 General Plan Update Final Environmental Impact Report (EIR) (2030 General Plan EIR).

Petition for Change in POD (filed December 12, 2014) - The City requested to add the Gauntlett Well Field as POD 2 under Permit 7847. The addition of POD 2 would allow the City to use the treatment facility to treat diverted water and thereby eliminate the seasonal restrictions imposed by the Division of Drinking Water. The City later amended its petition for change to include PODs 3 through 5 as authorized PODs. POD 3 includes Wells #3 and #4 and is used for incidental irrigation of city parks. Water diverted from POD 3 is not permitted by the Division of Drinking Water for potable use. POD 4 (Well #5) and POD 5 (Well #6) are used for municipal purposes and are connected to the City's potable water distribution system.

3.3 PERMIT 11039: GAUNTLETT WELL FIELD

The City requested the following change to Permit 11039:

Petition for Extension of Time (filed November 7, 2002) - The City was unable to achieve full beneficial use of water under Permit 11039 prior to December 31, 2002, due to seasonal restrictions imposed by the Division of Drinking Water. The City initially requested a ten-year extension of time to allow the City to use its new treatment facility located near the Gauntlett Well Field to make full beneficial use of the water. The City later amended its petition to allow the City until December 31, 2030, to achieve full beneficial use.⁸ The requested extension is consistent with the development timeline in the 2030 General Plan EIR.

3.4 PERMIT 8594: DRY CREEK WELL FIELD

The City requested the following changes to Permit 8594:

Petition for Extension of Time (filed June 3, 1992) - The City was unable to achieve full beneficial use of water under Permit 8594 by December 1, 1992, due to poor water quality. The Division of Drinking Water permanently shut down the original well field in 1984. The City initially requested a ten-year extension of time to allow the City to locate and construct a new well field. The Dry Creek Well Field was constructed in 1999 approximately 0.45 river mile downstream of the original well field. The City later amended its petition to allow the City until December 31, 2030, to achieve full beneficial use.⁹ The requested extension is consistent with the development timeline in the 2030 General Plan EIR.

Petition for Change in Place of Use (filed June 3, 1992) - The City filed a petition for change in place of use to expand the authorized place of use by 960 acres to include a total of 5,760 acres, as depicted on the map attached to the amended permit. The requested place of use is the same place of use described in Permits 7847 and 11039.

Petition for Change in POD (filed February 10, 1997) - The City requested to eliminate the original well field and add the Dry Creek Well Field as an approved POD under Permit 8594.

⁶ Division of Drinking water is no longer within the California Department of Public Health. The Division of Drinking Water is now part of the State Water Board.

⁷ The amendment was filed with the State Water Board on April 29, 2016.

⁸ Ibid.

⁹ Ibid.

4.0 PROTESTS

The Division received a protest from Sonoma County Water Agency (SCWA) to the December 12, 2014 petitions for change in purpose of use and POD under License 5625B and Permit 7847, respectively. The protest was based on the following concerns: (1) potential injury as a result of reducing supplies available to SCWA if the petitions are approved; (2) water availability; (3) monitoring and reporting; and (4) public interest. By letter dated April 5, 2016, the State Water Board notified SCWA that the protest appeared to challenge the underlying water rights and not the subject petitions. SCWA was allowed 30 days to correct the identified deficiencies of the protest. SCWA did not provide the requested information and the protest was therefore rejected by the State Water Board on August 10, 2016.

The Division received protests from April Lance and the Dry Creek Valley Association to the February 10, 1997 petition for change in POD under Permit 8594. A summary of the protests follows:

- The protest filed by April Lance was based on the following allegations: (1) unresponsiveness of the City to the State Water Board; (2) non-use of water under the right; (3) lack of or inadequate studies to determine project impacts on other legal users; (4) construction of unauthorized wells; (5) inappropriate location for the proposed well field within the footprint of an old sewage pond; (6) poor water quality; (7) noise and light impacts; and (8) potential chemical spills.
- The protest filed by Dry Creek Valley Association was based on the following allegations: (1) potential direct and indirect impacts to nearby agricultural wells and water quality; (2) the diversions are outside the State Water Board's permitting authority as diversions of percolating groundwater; and (3) abandonment of the water right.

By letter dated January 5, 2017, the State Water Board notified April Lance and Dry Creek Valley Association that both the California Environmental Quality Act (CEQA) and public trust review had been conducted for the February 10, 1997 petition for change under Permit 8594. The State Water Board allowed the protestants 30 days to identify specific allegations raised in their protests that were not adequately resolved by the CEQA or public trust analysis, and to provide a statement of facts supporting the allegations. The letter advised the parties that if the requested information was not received within 30 days, their protests may be canceled pursuant to Water Code section 1703.6.

No response was received from the Dry Creek Valley Association. April Lance filed a response on January 13, 2017, that raised concerns related to: (1) the operation of Lake Sonoma and the fish hatchery; (2) impacts from creek restoration projects; (3) impacts from homeless camps located on Dry Creek; and (4) impacts from winery runoff. None of these concerns appear to be related to the changes proposed in the subject petitions, nor does the response identify any specific allegations raised in the initial protest that were not adequately resolved through mitigation measures or conditions identified in the CEQA and the public trust analyses.

There is not substantial evidence in light of the whole record to support the allegations in the protests that are relevant to and within the scope of this petition for change in POD. With respect to the issue of forfeiture which was raised by both protestants, absent a noticed expansion of the proceeding to encompass the question of forfeiture, that issue is not properly before the board. However, nonuse of water due to circumstances beyond the control of the appropriator does not result in forfeiture of the right, and we have concluded that the City's nonuse was due to circumstances of water quality that were beyond their control. The City's use of water under the right and the reasons for nonuse are more thoroughly addressed below in our analysis of the petition for extension of time. (Infra, Section 5.0.)

For all of these reasons, the protests filed by Ms. Lance and Deer Creek Valley Association in opposition to the petition for change in POD under Permit 8594, are cancelled. The State Water Board has delegated the authority to cancel protests to the Deputy Director of Water Rights pursuant to Resolution No. 2012-0029. The Deputy Director has redelegated this authority to the Assistant Deputy Director, pursuant to the redelegation memorandum dated July 6, 2012.

5.0 ANALYSIS OF PETITIONS FOR EXTENSION OF TIME

Water Code section 1396 requires a right holder to prosecute project construction and beneficial use of water with due diligence, in accordance with the Water Code, the State Water Board's regulations, and the terms specified in the permit. The State Water Board may approve a request for an extension of time if the Board finds that there is good cause for the requested extension. (Wat. Code, § 1398, subd. (a).) The State Water Board's regulations allow an extension of time to be granted only on such conditions as the Board determines to be in the public interest, and on a showing to the Board's satisfaction that: (1) due diligence has been exercised; (2) failure to comply with previous time requirements has been occasioned by obstacles which could not reasonably be avoided; and (3) satisfactory progress will be made if an extension of time is granted. (Cal. Code Regs., title 23, § 844.) The State Water Board generally will not accept conditions incident to the person and not the enterprise as good cause for delay. (Ibid.) In the case of diversions for municipal use, municipalities are afforded some latitude in putting water to beneficial use, because they must be able to plan for, and meet, the needs of their existing and future citizens. (Wat. Code, § 106.5.)

5.1 DUE DILIGENCE

In determining whether to approve a petition for extension of time, the State Water Board must consider whether there is information supporting a finding that the City has exercised diligence in putting water to beneficial use. Due diligence requires a demonstrable effort to put the water to beneficial use within the time period specified in the permit. The question of due diligence ultimately must be determined on the facts of each case.

As discussed in the *Staff Evaluation of Petitions for Extensions of Time and Petitions for Change for Water Right License 5625B and Permits 7847, 8594, and 11039 (Applications 14050B, 13217, 14068, and 17121) of the City of Healdsburg*, dated January 5, 2017 (2017 Staff Evaluation),¹⁰ since approval of the previous petitions for extension of time, the City has: (1) completed construction of the treatment facility near the Gauntlett Well Field to satisfy requirements set by the Division of Drinking Water; (2) completed the enlargement of the water mains connecting the Gauntlett Well Field to the treatment facility; (3) developed a project to treat water diverted from the Fitch Mountain PODs; and (4) completed construction of wells within the Dry Creek Well Field and associated water mains. These actions will allow the City to divert and beneficially use the full amount of water authorized under the permits. Accordingly, the State Water Board finds that the City has exercised due diligence in developing the use of water under Permits 7847, 8594, and 11039. A summary of the historical maximum use made under Permits 7847, 8594 and 11039 is provided below.

5.1.1 HISTORICAL MAXIMUM USE UNDER PERMIT 7847: FITCH MOUNTAIN

The City did not maximize the diversion and beneficial use of water authorized by Permit 7847 prior to the deadline of December 31, 2002. At the time of the deadline, the maximum quantity of water diverted by the City under the permit was 1,578.9 af per year. This quantity was reported by the City on the 1995 Progress Report by Permittee located in the application file. The maximum rate of diversion reported by the City was 2.9 cfs, recorded on August 13, 1995.

5.1.2 HISTORICAL MAXIMUM USE UNDER PERMIT 11039: GAUNTLETT WELL FIELD

The City did not maximize the diversion and beneficial use of water authorized by Permit 11039 prior to the deadline of December 31, 2002. At the time of the deadline, the maximum quantity of water diverted by the City under the permit was 1,679.9 af per year. This quantity was reported by the City on the 1991 Progress Report by Permittee located in the application file. The maximum rate of diversion reported by the City was 4 cfs, recorded on July 9, 2000.

¹⁰ The Staff Evaluation is available on file with the State Water Board public files associated with Applications 14050B, 13217, 14068, and 17121.

5.1.3 HISTORICAL MAXIMUM USE UNDER PERMIT 8594: DRY CREEK WELL FIELD

The City did not maximize the diversion and beneficial use of water authorized by Permit 8594 prior to the deadline of December 31, 1992. At the time of the deadline, the maximum quantity and rate of diversion of water by the City was approximately 94.3 af per year and 0.6 cfs. The maximum quantity and maximum rate of diversion were reported by the City in the 1958 Progress Report by Permittee, which is located in the application file.

5.2 OBSTACLES TO COMPLETION COULD NOT REASONABLY BE AVOIDED

The State Water Board considers whether a right holder's failure to comply with previous time requirements was occasioned by obstacles that could not reasonably be avoided. Lack of finances and other conditions incident to the person and not the enterprise are not generally accepted as good cause for delay. (Cal. Code Regs., tit. 23, § 844.) Delays in full use of water under Permits 7847, 8594, and 11039 have been occasioned by a number of obstacles that could not reasonably be avoided by the City.

The Division of Drinking Water imposed seasonal limitations on the City's diversions from the Fitch Mountain and Gauntlett Well Fields in 1999. These seasonal limitations were due to increased water turbidity levels during the winter months. To address the seasonal restrictions, the City approved and completed construction of a treatment facility that provides microfiltration for water produced from the Gauntlett Well Field, allowing the wells to be used year-round. The second phase of the project would tie in the Fitch Mountain wells and is pending completion, although it has been postponed for reconsideration of alternative treatment options.

The permitted Dry Creek Well Field was permanently shut down by the Division of Drinking Water in 1984 due to inadequate water quality. Since that time, the City has diligently pursued a new location for the well field. The City located a new site and began the CEQA review process in 1991. The City circulated a draft EIR evaluating the project in 1996 and subsequently adopted a mitigated negative declaration (MND) and EIR approving the project. The petition for change was filed with the State Water Board in 1997 and project construction was completed in 1999.

Based on the foregoing, the State Water Board finds that the City's failure to comply with the previous time requirement under Permits 7847, 8594, and 11039 has been occasioned by obstacles that could not reasonably be avoided.

5.3 SATISFACTORY PROGRESS ANTICIPATED

The City has indicated that satisfactory progress will be made if the State Water Board grants the extensions of time to put water to full beneficial use under the permits.

Several evaluations were conducted by the City to determine the City's projected water supply and demand. As described in the 2030 General Plan EIR, as of 2009, the City served a population of approximately 12,200 within the Sphere of Influence. At full buildout in the year 2030, the City's population is estimated by the 2030 General Plan EIR to increase to 14,468 within the Sphere of Influence. The City evaluated projected water demand through the year 2030 using an urban service area analysis. The analysis estimated demands on a per-connection basis and added the estimated demand from projected development to the City's water demand in 2005. The City's analysis determined the projected demand for the year 2030 to be 3,562 af. In the 2005 Urban Water Management Plan, the City determined that the total projected water demand for 2025 would be 3,372 af, based on a projected population of 14,900. Both estimates support the conclusion that the maximum amount of water authorized to be diverted annually under Permits 7847, 8594, and 11039 of 3,250 af is less than the projected demand for 2030.

The growth projections through 2030 will require full beneficial use of the water available under Permits 7847, 8594, and 11039 to meet a substantial portion of projected demand.¹¹ The City expects to complete full beneficial use of the water appropriated under its permits in 2030. The State Water Board finds that the City's continuing use of water pursuant to Permits 7847, 8594, and 11039 to support future

¹¹ The City filed Application 30663 in 1997 for an additional 880 af per year, which, if approved, is forecasted to provide enough water to meet total demand.

population growth is beneficial and provides good cause for granting the extensions of time through December 31, 2030.

In addition to the projected water supply and demand evaluations, the City has worked diligently with SCWA¹² and the State Water Board in securing water rights and contracts to ensure water is available for the City's residents.

5.4 PUBLIC INTEREST

As discussed above, the population within the City's Sphere of Influence is expected to increase, resulting in increased water demands. The public has an interest in extending Permits 7847, 8594, and 11039 to secure a reliable water supply for the City's service area and to support future population and economic growth. In addition, as discussed in Section 8, the State Water Board finds that granting the proposed changes and extensions of time will not have an unreasonable effect on public trust resources. The State Water Board finds that the City's continued development of beneficial use under Permits 7847, 8594, and 11039 is in the interest of the public and supports good cause for granting the extensions of time through December 31, 2030.

6.0 ANALYSIS OF PETITIONS FOR CHANGE

Water Code sections 1700 through 1705 govern changes in the place of use, purpose of use, and POD of water appropriated under the Water Code. Such changes must be approved by the State Water Board and "[b]efore permission to make such a change is granted the petitioner shall establish, to the satisfaction of the board, and it shall find, that the changes will not operate to the injury of any legal user of the water involved." (Wat. Code, § 1702.) The petitioner must also establish that the proposed change will not effectively initiate a new right. (Cal. Code Regs., tit. 23, § 791, subd. (a).)

As described below, the evidence in the record supports a finding that the City's proposed changes will not result in injury to any legal user of water and will not result in the initiation of a new right. The State Water Board finds that the addition of PODs to Permit 7847; the addition of a POD and 960 acres to the place of use under Permit 8594; and the addition of municipal and industrial uses to License 5625B, will not constitute the initiation of new rights nor operate to the injury of any other lawful user of water.

6.1 INJURY TO ANY LEGAL USER OF WATER

6.1.1 LICENSE 5625B: RUSSIAN RIVER DIVERSION

The City seeks to add municipal and industrial uses under the license and eliminate irrigation as a purpose of use, in conjunction with a reduction of 31.8 af in the total annual diversion volume authorized by the license. Because of the reduction in total annual diversion, the change will not result in injury to other legal users of water.

6.1.2 PERMIT 7847: FITCH MOUNTAIN

The City seeks to add PODs 2 through 5 as authorized PODs to Permit 7847. According to the Division's records, there are thirteen water rights (four senior water rights and nine junior water rights) located between the uppermost requested POD (Gauntlett Well Field) and the furthest downstream POD (POD 3) that could be impacted by the change. POD 2 (Gauntlett Well Field) is located approximately 3.75 river miles upstream of the original POD and PODs 4 and 5 are located approximately 1,000 to 1,500 feet upstream of the original POD, as depicted on the map attached to the amended permit. POD 3 is located approximately 475 feet downstream of the original POD.

On January 25, 2015, the Division issued a public notice of the request to add POD 2 (Gauntlett Well Field) and sent the notice to the twelve water right holders between the Fitch Mountain and Gauntlett Well Fields by U.S. Mail. No protests were received in response to the notice. On October 14, 2016, the Division mailed

¹² On November 17, 1992, the City entered into a Water Supply Agreement with SCWA, authorizing the City to divert water under SCWA's permits. The contract was renewed on December 15, 2015, and authorizes the City to divert up to 425 af per year from the Russian River and Dry Creek under SCWA's permits.

the notice to the water right holder located between the Fitch Mountain Well Field (original POD) and POD 3. No protests were filed by the water right holder. Based on the lack of protests, the lack of return flows from the City's use, the obligation of SCWA to maintain instream flows and provide for the release of up to 10,000 af of reservation water to junior appropriators, and the lack of other evidence of injury after review of available information in the files of the State Water Board, the Board finds that there would be no injury to other legal users of water due to the change in authorized PODs for Permit 7847.

6.1.3 PERMIT 8594: DRY CREEK WELL FIELD

The City seeks permission to relocate the authorized POD for Permit 8594 to a location 0.45 miles downstream of the permitted POD. The City has abandoned the permitted POD and has located a new site for the well field at the Corporation Yard. According to the Division's records, there is one water right holder located between the original POD and the proposed POD located downstream. As the City will be diverting at a location downstream of a water right holder that is senior in priority to the City's rights, there will be no injury as a result of the change. The senior water right holder may divert water allowed under its license prior to water reaching the City's diversions.

In addition to the relocation of the POD, the City seeks approval to expand the place of use by 960 acres to match the place of use authorized under Permits 7847 and 11039. The diversion rate and annual diversion limit for the water right will not change. Because the use remains municipal and the additional areas are already within the places of use of the City's other water rights, the addition to the place of use is unlikely to affect return flows. As such, approval of the petition for change in place of use will not cause injury to any other legal user of water.

6.2 INITIATION OF A NEW WATER RIGHT

6.2.1 LICENSE 5625B: RUSSIAN RIVER DIVERSION

To support a finding that a proposed change to a license will not initiate a new right, the State Water Board must determine that: (1) the right was properly established in accordance with the law; (2) recent beneficial use of the water subject to the right has occurred; and (3) there is evidence that continuous beneficial use of the water has occurred since the right was established. License 5625B was properly established in accordance with the law. The City submitted annual reports of water used under the license that equal or exceed the rate and volume of diversion requested. The reports provide evidence that recent beneficial use of water has occurred and continuous use of water has occurred since the license was granted.

6.2.2 PERMITS 7847 AND 8594: FITCH MOUNTAIN AND DRY CREEK WELL FIELDS

A change in a permit cannot enlarge the petitioner's entitlement for diversion or use of water, nor alter the source of water appropriated. The diversion rate and annual amount of water authorized to be diverted, as well as the season of diversion under Permits 7847 and 8594 would not increase nor would there be any change to the source of water appropriated upon approval of the requested changes.

7.0 CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City is the lead agency for the preparation of environmental documents developed pursuant to CEQA in connection with the project. The State Water Board is a responsible agency for the purposes of considering whether to approve the City's petitions for change and extensions of time. As a responsible agency, the State Water Board may condition the water right to avoid or mitigate impacts to environmental and public trust resources under its authority. The State Water Board must review and consider the environmental effects of the project identified in any CEQA document prepared by the City, and reach its own conclusions on whether and how to approve the project involved. (Cal. Code Regs., title 14, § 15096, subd. (a).) When one or more significant environmental effects are identified in an environmental document, the responsible agency must make one or more of the findings listed below pursuant to California Code of Regulations section 15091(a). The findings must be supported by substantial evidence in the record. (Cal. Code Regs., title 14, § 15091, subd. (b).)

- (1) Changes have been incorporated in the project to avoid or substantially lessen the identified significant environmental effect;

- (2) The changes are within the jurisdiction of another agency and the changes have been or should be adopted by that other agency; or
- (3) Specific considerations make infeasible the alternatives identified in the final environmental document.

The City prepared the following environmental documents pursuant to CEQA that evaluated and disclosed the potential impacts of the petitions on the environment and identified measures to avoid or minimize impacts.

- 2030 General Plan EIR
- City of Healdsburg General Plan Assessment Report 1987 EIR
- Sonoma County General Plan 2020 EIR
- City of Healdsburg Treatment Plant Upgrade Project EIR (Treatment Plant EIR)
- Fitch and Gauntlett Well Water Treatment Project, Healdsburg, CA Initial Study and MND (Fitch and Gauntlett MND)
- Proposed Municipal Water Wells on Dry Creek, Healdsburg, CA EIR (Dry Creek EIR)
- Saggio Hills Project EIR (Saggio Hills EIR)
- Specific Plan Area A EIR (Planning Area A EIR)

In summary, the CEQA evaluations identified impacts to streams, wetlands, and riparian habitat in connection with expansion of the place of use under Permit 8594 and pipeline construction related to relocations of PODs under Permits 7847 and 8594. The CEQA evaluations identified mitigation measures to reduce these impacts to less than significant. Accordingly, the State Water Board finds that there are no potentially significant and unavoidable impacts resulting from the project as evaluated by the City. All potentially significant impacts will be mitigated to less than significant levels through implementation of the mitigation measures identified by the City in the environmental documents as well as terms identified in the 2017 Staff Evaluation.

7.1 PROJECT COMPONENTS EVALUATED PURSUANT TO AN EIR OR MND

7.1.1 PETITIONS FOR EXTENSION OF TIME FOR PERMITS 7847, 8594, AND 11039

On July 6, 2009, the City certified the 2030 General Plan EIR, which evaluated City development through the year 2030. The 2030 General Plan EIR evaluated, among other matters, the water demand and supply of the City and concluded that supplying future demands by diversions under the City's water rights as the City continues to grow, would not result in any significant adverse impacts on the environment. Therefore, no mitigation measures would be required. To reach this finding, the City evaluated growth assumptions and adopted policies and implementation measures that pertain to water services. In order to ensure that approval of the petitions for extension of time are consistent with the implementation measures and policies described in the CEQA document, a condition is included in Permits 7847, 8594, and 11039 that limits diversion of water to areas within the City's Sphere of Influence except under extraordinary circumstances or upon modification of the City's Sphere of Influence.

7.1.2 PETITION TO ADD PODS UNDER PERMIT 7847

The City adopted the Fitch and Gauntlett MND, which evaluated potential impacts from the proposed treatment facility project, on April 21, 2003. The Fitch and Gauntlett MND addressed the enlargement of the water main connecting POD 2 (Gauntlett Well Field) to the treatment facility during Phase 1 and water main construction connecting PODs 1, 4, and 5 to the treatment facility during Phase 2. No impacts to riparian corridors or streams were identified related to Phase 1. Potential impacts to riparian woodland habitat were identified related to Phase 2, specifically the removal of four coast live oaks (*Quercus agrifolia*) within the riparian zone. In order to avoid and minimize impacts to native trees, the City developed a mitigation measure requiring the development and implementation of a tree preservation and protection plan. To ensure compliance with the mitigation measure identified by the City, the permit includes a term that requires verification of compliance with the identified measure. (Cal. Code Regs., title 14, § 15091, subd. (a)(1).)

While the Fitch and Gauntlett MND evaluated the construction of the facilities associated with the project, it did not specifically evaluate the changes in location of the diversion of water to include the additional PODs located upstream and downstream of the original POD. Because the Russian River is subject to minimum instream flows that are maintained by SCWA, adding new PODs to the permit does not have the potential to cause a significant effect on the environment. The 2030 General Plan EIR concluded that full beneficial use of the City's water rights would not result in a significant adverse impact on the environment. To reach its finding, the City adopted policies and implementation measures that pertain to water services. In order to ensure that approval of the petition for change is consistent with the implementation measures and policies described in the 2030 General Plan EIR, a condition is included in Permit 7847 limiting the delivery of water to areas identified in the 2030 General Plan.

7.1.3 PETITION TO ADD POD 1 UNDER PERMIT 8594

In 1996, the City circulated the Dry Creek EIR evaluating the construction of five PODs and the associated transmission mains. The Dry Creek EIR was approved and a Mitigation Monitoring and Reporting Program (MMRP) was adopted by the City on April 1, 1996. Construction was completed in 1999.

The Dry Creek EIR did not specifically evaluate the change in location of diversion of water to the new well field. Because the new well field is located downstream of the original well field, the change does not have the potential to cause a significant effect on the environment. The 2030 General Plan EIR concluded that full beneficial use of the City's water rights would not result in a significant adverse impact on the environment. To reach a finding of no significant adverse impact on the environment, the City adopted policies and implementation measures that pertain to water services. In order to ensure that approval of the petition for change is consistent with the implementation measures and policies described in the CEQA document, a condition is included in Permit 8594 limiting the delivery of water under the permit to areas identified in the 2030 General Plan EIR.

7.1.4 PETITION TO INCREASE THE PLACE OF USE UNDER PERMIT 8594

The City has requested to add 960 acres to the place of use under Permit 8594 for a total of 5,760 acres. Of the 960 acres, approximately 486 acres are located within Planning Areas A, B, C, and K, all within the Sphere of Influence. The remaining 474 acres are located outside of the Sphere of Influence.

Place of Use Located Within the Sphere of Influence:

As required in the 2030 General Plan EIR, the City has adopted CEQA documents for each planning area within the Sphere of Influence.

Planning Areas A and C - As part of the environmental review of Planning Areas A and C, the City certified the Planning Area A EIR and the Saggio Hills EIR on November 7, 1994 and September 19, 2008, respectively. Both the Planning Area A EIR and the Saggio Hills EIR concluded that the development of the projects will cause impacts to Foss Creek, multiple drainages on site, wetlands, and riparian habitat. The City developed mitigation measures to reduce impacts to less than significant (see Appendices C and D of the 2017 Staff Evaluation). To ensure compliance with the mitigation measures identified by the City to reduce impacts of the development of Planning Areas A and C to less than significant, Permit 8594 includes a term requiring verification of compliance with the mitigation measures identified by the City. (Cal. Code Regs., title 14, § 15091, subd. (a)(1).)

Planning Area B - Planning Area B encompasses a portion of the Healdsburg Open Space Preserve, which the City currently does not supply water to. The 2030 General Plan EIR briefly discusses the operation of the preserve and the pending easements to secure recreational trails. The 2030 General Plan EIR notes that any future development within the preserve will be assessed at a project level at the time of application for such development and/or annexation. Therefore, any future development of the area will be evaluated prior to construction.

Planning Area K - Planning Area K is located within the Sphere of Influence; however, it is outside of the City limits and is owned and operated by the County of Sonoma. The City currently provides water to this area. As described in the 2030 General Plan EIR, no additional development is anticipated within Planning Area K due to infrastructural and environmental constraints (significant utility, slope stability and access constraints). The City does not intend to annex this area and may seek to have it removed from its Sphere

of Influence. The 2030 General Plan EIR did not identify any significant impacts related to the continuation of serving water to Planning Area K. To reach this finding, the City incorporated several policies and implementation measures to ensure that annexation of this area would not cause environmental impacts (see Table 2 of the 2017 Staff Evaluation).

Place of Use Located Outside of the Sphere of Influence:

The City has requested to add approximately 474 acres located outside of the Sphere of Influence to the place of use authorized under Permit 8594. Both the 2030 General Plan EIR and the Sonoma County General Plan 2020 EIR limit the service of water to areas within the Sphere of Influence, except under extraordinary circumstances. In addition, the 2030 General Plan EIR prohibits development of planning areas prior to the development of a CEQA document. To date, the City has not certified a CEQA document that evaluates the potential impacts for developing areas outside of the Sphere of Influence and providing water to the requested areas, other than as identified as extraordinary circumstances in the 2030 General Plan EIR. To ensure that approval of the petition for change is consistent with the implementation measures and policies identified in the CEQA document, a term shall be included in Permit 8594 to prohibit water delivery to areas outside of the Sphere of Influence except under extraordinary circumstances as defined by the City of Healdsburg General Plan Environmental Impact Report, certified on July 6, 2009, or upon modification of the Sphere of Influence. (Cal. Code Regs., title 14, § 15091, subd. (a)(1).)

7.2 OTHER PROJECT COMPONENTS

7.2.1 PETITION TO ADD PURPOSES OF USE UNDER LICENSE 5625B

Water diverted under license 5625B is used at the treatment plant for municipal and industrial purposes, although License 5625B only authorizes use for irrigation. The changes in use occurred prior to the upgrades evaluated in the Treatment Plant EIR. As such, these uses were part of the environmental baseline in the Treatment Plant EIR. The City requested a reduction of 31.8 af in the maximum annual diversion authorized under the license in conjunction with the change in use, which reflects the reduction in diversion because of the change in purpose of use. Because these changes have already occurred, there is no possibility that amendment of the permit to authorize the changes would have a significant effect on the environment and the Board's approval is exempt from CEQA pursuant to California Code of Regulations, title 14, Section 15061(b)(3). Furthermore, the change consists of an amendment to a license associated with an existing facility and involves no expansion of use beyond that currently existing. (Cal. Code Regs., title 14, § 15061, subd. (b)(3) & 15301.)

7.2.2 PETITION TO ADD PODS UNDER PERMIT 7847

The City has requested to add PODs 2, 3, 4, and 5 to Permit 7847. The wells currently located at these PODs were constructed and used for diversion prior to the adoption of the Fitch and Gauntlett MND and were therefore considered in the Initial Study and MND as part of baseline conditions. The offset wells were drilled in previously disturbed areas. The generalized well field defined by POD 2 is also located within a previously disturbed area.

The permit amendment would authorize the City to divert water under Permit 7847 from 0.09 river miles downstream to 3.75 river miles upstream of the currently authorized diversion point. SCWA is required to maintain minimum instream flows in the Russian River pursuant to their water right permits to protect instream beneficial uses and the additional PODs are within the area subject to minimum instream flow requirements. Permitting the change in location of withdrawal does not have the potential to significantly impact instream beneficial use as minimum instream flow will be maintained by SCWA.

Amendment of the permit to authorize the diversions at the existing PODs, or within the generalized well field defined by POD 2, does not have the potential to cause a significant effect on the environment and is exempt from CEQA pursuant to California Code of Regulations, title 14, Section 15061, subdivision (b)(3). In addition, amendment of the permit is a change related to an existing facility that involves no expansion of use beyond that currently occurring. (Cal. Code Regs., title 14, § 15301.) Because the well field defined by POD 2 is within previously disturbed land, the construction of any additional wells in this area would qualify as new construction of a small structure and a minor alteration to land. (Cal. Code Regs., title 14, §§ 15303 & 15304.)

7.2.3 PETITION TO ADD POD 1 UNDER PERMIT 8594

The City requested to add a generalized well field at the City's Corporation Yard as the authorized POD under Permit 8594. The City's Corporation Yard was previously used as a sewage treatment facility, offices, warehouses, and vehicle storage. The wells were drilled in locations devoid of riparian vegetation. The Dry Creek EIR assessed the construction of five PODs within the Corporation Yard but did not assess the construction of additional wells within the well field or impacts from moving the authorized POD approximately 0.45 miles downstream.

Because the change in POD is to a downstream location, no additional reduction in instream flow is expected. SCWA is also required to maintain specific minimum instream flows in Dry Creek under their water right permits to protect instream beneficial uses and the City's diversions are within the area subject to the minimum instream flow requirements. The modification of the project to allow additional wells within the Corporation Yard well field, subject to the total annual diversion limits included within the permit, does not have the potential to cause a significant effect on the environment. Therefore, the changes requested by the City are exempt from CEQA. (Cal. Code Regs., title 14, § 15061, subd. (b)(3).) In addition, the requested change to authorize a well field POD qualifies for CEQA exemptions pursuant to California Code of Regulations, title 14, sections 15303 (Construction of Small Structures) and 15304 (Minor Alterations to Land).

8.0 ADMINISTRATIVE CORRECTIONS

Water Code section 1124 states that the State Water Board "may amend or modify a decision or order to correct any obvious typographical error or oversight without the necessity of notice and a hearing thereon." As described below, this order serves to correct typographical errors and oversight contained in Permits 7847, 8594, and 11039.

8.1 LICENSE 5625B: POD LOCATION

License 5625B describes the POD as located South 2,400 feet and West 2,300 feet from the NE corner of projected Section 33, T9N, R9W, MDB&M, being within the SW¼ of NE¼ of said Section 33. In preparation of the amended license map, the POD was found to be plotted in the incorrect location. Based on current mapping tools, the State Water Board determined that the correct description of the POD location according to California Coordinate System NAD 83 is North 1,975,498 feet and East 6,315,351 feet within the NW¼ of SE¼ of projected Section 33, T9N, R9W, MDB&M. The description of the POD is hereby amended to reflect the correct location. The actual location of the POD has not changed.

8.2 PERMIT 11039: SEASON OF DIVERSION

Permit 11039 contains a typographical error in the identified season of diversion. In its application, the City requested a diversion season of January 1 to December 31 of each year. The public notice issued by the State Water Board on December 10, 1956, also indicated a year-round diversion season. However, a 1957 hand written note included in the file maintained by the Division provides a list of terms to be included in Permit 11039 and incorrectly notes the diversion season of January 1 to December 1 of each year. All other correspondence in the file, including the progress reports provided by the State Water Board, provides for year-round diversion. As such, the State Water Board will amend the permit to reflect the correct diversion season of January 1 to December 31 of each year pursuant to Water Code section 1124.

8.3 PERMITS 7847 AND 11039: DESCRIPTION OF WELL FIELDS

Permits 7847 and 11039 were issued for the diversion of water from generalized well fields. However, the boundaries of each well field were not included in the permits when issued. Historically, the Division described a well field with a single POD location rather than a description of the location of the field area. The amended permits will identify the upstream and downstream boundaries of the authorized POD as Points A through D. A well field identifier will also be included in each permit.

9.0 COMBINED ANNUAL CAP

By order dated September 28, 1970, the State Water Board approved petitions for extension of time for Permits 7847, 8594, and 11039. The order included a term setting a total annual diversion limit of 2,840 af on diversions under Permits 7847, 8594, and 11039. In October 1987, Board staff reviewed the analysis used in setting the combined cap of 2,840 af. On July 29, 1988, the State Water Board issued a correction order to increase the combined cap to 3,250 af per year for diversions under Permits 7847 and 11039. Permit 8594 was not included in the correction order.

On January 6, 2017, the State Water Board issued a notice of the proposed amendment to change the cumulative annual cap in Permits 7847, 8594, and 11039 to limit the total annual diversions under the permits to 3,250 af per year. The notice was issued to all junior appropriators located on Dry Creek downstream of Warm Springs Dam. No protests were received in response to the public notice. Based on the lack of protests, the nature of the City's use, the obligation of SCWA to maintain instream flows, and the lack of other evidence of injury after review of available information in the files of the State Water Board, the Board finds that there would be no injury to other legal users of water from amending the total annual cap included in Permits 7847, 8594, and 11039 to be consistent with one another. The State Water Board amends Permits 7847, 8594, and 11039 to reflect a combined cap on annual diversions of 3,250 af per year.

10.0 PUBLIC TRUST/PUBLIC INTEREST

The State Water Board has an independent obligation to consider the effect of approval of the City's petitions on public trust resources and to protect those resources where feasible. (*National Audubon Society v. Superior Court* (1983) 33 Cal. 3d 419 [189 Cal. Rptr. 346].) Public trust resources may include, but are not limited to, wildlife, fish, aquatic dependent species, streambeds, riparian areas, tidelands, and recreation in navigable waterways, as well as fisheries located in non-navigable waterways. In addition, it is the policy of this state that all state agencies, boards, and commissions shall seek to conserve endangered species and threatened species and shall use their authority in furtherance of the purposes of the California Endangered Species Act. State agencies should not approve projects that would jeopardize the continued existence of any endangered species or threatened species if there are reasonable and prudent alternatives available consistent with conserving the species or its habitat that would prevent jeopardy. (Fish & Game Code, §§ 2053 & 2055.)

Potential impacts associated with the project were evaluated in the environmental documents prepared by the City and in the 2017 Staff Evaluation. With the conditions identified in the City's environmental documents and the conditions identified below, the State Water Board finds that granting the proposed changes and extensions of time will not have an unreasonable effect on public trust resources.

10.1 PETITIONS FOR EXTENSION OF TIME FOR PERMITS 7847, 8594, AND 11039

Although approval of the petitions for extension of time under Permits 7847, 8594, and 11039 will allow the City to increase the amount of diversions over the current rate and volume, this additional use will not impair instream beneficial uses because SCWA is required to maintain minimum instream flows in the Russian River and Dry Creek for the protection of instream beneficial uses and to release from storage at Lake Mendocino up to 10,000 af per year to meet demands of junior appropriators. The potential change in streamflow from an increase in the City's rate and volume of diversion from the Russian River and Dry Creek would be less than 1% and minimum instream flows will continue to be maintained by SCWA. In favor of granting the extensions of time, the public has a substantial interest in securing a reliable water supply for the City's service area and to support future population and economic growth. As such, the approval of the petitions for extension of time will not unreasonably impact public trust resources and is in the public interest.

10.2 PETITION TO ADD PODS UNDER PERMITS 7847 AND 8594

Approval of the petition for change in POD for Permit 7847 will allow the City to divert water from additional PODs (PODs 2 through 5) located 0.09 river miles downstream to 3.75 river miles upstream of the authorized diversion point. Approval of the petition for change in POD for Permit 8594 will allow the City to divert water from the Dry Creek Well Field, located 0.45 miles downstream of the former diversion point.

SCWA is required to maintain minimum instream flows in the Russian River and Dry Creek pursuant to their water right permits to protect instream beneficial uses. The additional PODs are within the area subject to minimum instream flow requirements. Permitting the change in location of diversion is unlikely to have any effect on public trust resources as minimum instream flow will be maintained by SCWA.

Approval of the petitions to add well fields at POD 2 under Permit 7847 and at POD 1 under Permit 8594 will be conditioned upon the maintenance of minimum setbacks along the streambanks and establishment of well field boundaries. Permit 7847 includes a condition that requires a 100-foot setback along the Russian River at the Gauntlett Well Field (POD 2) within the well field boundary and Permit 8594 includes a condition that requires a 75-foot setback along Dry Creek at the Dry Creek Well Field (POD 1) within the well field boundary. These setbacks will minimize disturbance and allow for the continued growth of riparian vegetation and protection of special-status aquatic, riparian, and wetland species, and limit the drilling of wells to areas outside of the setback and within the well field boundary. The width of the setback requirements are based on the 2030 General Plan EIR (Permit 7847) and scientific guidance referenced in the 2017 Staff Evaluation (Permit 8594).

With the inclusion of the conditions discussed above, approval of the petitions for change in POD will not unreasonably impact public trust resources and is in the public interest..

10.3 PETITION TO INCREASE THE PLACE OF USE UNDER PERMIT 8594

Approval of the petition for change in place of use will add 960 acres to the authorized place of use under Permit 8594. As discussed in Section 7.1.4, impacts to Foss Creek, and other drainages, wetlands, and riparian habitat may occur as a result of the development of Planning Areas A and C. The City identified mitigation measures to reduce potential impacts as a result of development of Planning Areas A and C. Approval of the addition of Planning Areas B and K to the authorized place of use would not result in impacts to streambeds, riparian habitat, wildlife, fish, and aquatic dependent species as no development is proposed. A term is included in the permit that prohibits water delivery to areas outside of the Sphere of Influence except under extraordinary circumstances or upon modification of the Sphere of Influence. With the inclusion of the terms identified in Section 7.1.4, the Board finds that any impacts to public trust resources will be minimized.

10.4 PETITION TO ADD PURPOSES OF USE UNDER LICENSE 5625B

Approval of the petition filed under License 5625B would authorize diverted water to be used for municipal and industrial use and remove irrigation use. In conjunction with the change in use, the maximum annual volume of diversion by the City under the license is reduced by 31.8 af. Because the volume of diversion will be reduced, the changes will not unreasonably impact public trust resources and is in the public interest.

10.5 CORRECTION TO FITCH MOUNTAIN AND GAUNTLETT WELL FIELDS UNDER PERMITS 7847 AND 11039

As discussed in Section 8.3, amended Permits 7847 and 11039 will identify the upstream and downstream boundaries of the Fitch Mountain and Gauntlett Well Fields. The amendments will be conditioned upon the maintenance of minimum setbacks along the streambanks for the protection of the public interest in riparian areas. Permits 7847 and 11039 include a condition that requires a 100-foot setback along the Russian River at the Fitch Mountain Well Field (POD 1 under Permit 7847) and the Gauntlett Well Field (POD 1 under Permit 11039) within the well field boundaries. The setback will minimize disturbance and allow for the continued growth of riparian vegetation and protection of special-status aquatic, riparian, and wetland species, by limiting the drilling of wells to areas outside of the setback and within the well field boundary. The width of the setback requirement is based on the 2030 General Plan EIR. With the inclusion of the conditions discussed above, amendment to the descriptions of the well field boundaries will not unreasonably impact public trust resources and is in the public interest.

11.0 POLICY FOR MAINTAINING INSTREAM FLOWS

The Policy for Maintaining Instream Flows in Northern California Coastal Streams (Policy) was adopted by the State Water Board on October 22, 2013, and became effective February 4, 2014. The Policy establishes principles and guidelines for maintaining instream flows for the protection of fishery resources. The Policy applies to the subject changes and time extension petitions.

The Deputy Director for the Division of Water Rights has determined that the proposed changes do not have the potential to impair instream beneficial uses due to a decrease in flow. Approval of the petitions will allow the City to increase the amount of diversions over the current rate and volume. This additional use will not impair instream beneficial uses because SCWA is required to maintain minimum instream flows in the Russian River and Dry Creek. The potential change in streamflow as a result of an increase in the City's rate and volume of diversion from the Russian River and Dry Creek would be less than 1%, and minimum flows will be maintained by SCWA.

Policy section 10.1 requires continuous monitoring of diversion at each POD, which means monitoring at time intervals of one hour or less. The City's permits and license have been amended to require monitoring that meets the requirements of the Policy.

Policy section 6.0 requires that fish screens be installed at diversions on Class 1 streams that include direct diversions. Fish screens are not required on offset wells. The City's diversions points are located on Class 1 streams; however, each diversion point is an offset well. Therefore, pursuant to the Policy, fish screens are not required.

12.0 CONCLUSION

The State Water Board finds that: (1) the right holder has prosecuted project construction and beneficial use of water under Permits 7847, 8594, and 11039 with due diligence, in accordance with the Water Code, the State Water Board's regulations, and the terms specified in the permits (Wat. Code, § 1396); and (2) good cause for the requested extension of time has been shown (Wat. Code, § 1398, subd. (a)). The State Water Board therefore finds that there is good cause and it is in the public interest to approve the City's petitions for extension of time.

The State Water Board finds that the petitions for change will not operate to the injury of any legal user of the water involved and that it is in the public interest to approve the requested changes. (Wat. Code, § 1702.)

ORDER

NOW, THEREFORE, IT IS ORDERED THAT the State Water Board:

1. Corrects the description of the location of POD 1 under License 5625B; the diversion season under Permit 11039; and the description of the well fields under Permits 7847 and 11039 as described in sections 8.1, 8.2, and 8.3;
2. Amends the annual cap under Permits 7847, 8594, and 11039 to 3,250 af per year;
3. Approves the extension of time until December 31, 2030, for Permits 7847, 8594, and 11039;
4. Approves the addition of PODs 2, 3, 4, and 5 under Permit 7847 as those PODs are described in the attached amended permits;
5. Approves elimination of the current POD and addition of a POD (Dry Creek Well Field) under Permit 8594 as described in the attached amended permit;
6. Approves expansion of the place of use by 960 acres under Permit 8594 as depicted on the map attached to the amended permit;
7. Approves elimination of irrigation and addition of municipal and industrial uses under License 5625B and reduction in the total annual diversion to 1.0 af;
8. Approves addition or amendment of special and standard permit terms as those additions or amendments appear in the attached amended permits and license; and
9. Cancels the protests filed on petition for change of Permit 8594.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:

Eileen Sobeck
Executive Director

Dated: SEP 29 2017

Attachments: 1) License 5625B,
2) Permit 7847,
3) Permit 8594
4) Permit 11039