



NOTICE OF SPECIAL MEETING
BOARD OF DIRECTORS
SAN LORENZO VALLEY WATER
DISTRICT
AGENDA
March 11, 2021

MISSION STATEMENT: Our Mission is to provide our customers and future generations with reliable, safe and high quality water at an equitable price; to create and maintain outstanding service and community relations; to manage and protect the environmental health of the aquifers and watersheds; and to ensure the fiscal vitality of the San Lorenzo Valley Water District.

Notice is hereby given that a special meeting of the Board of Directors of the San Lorenzo Valley Water District will be held on Thursday, March 11, 2021, at 6:30 p.m.

There will not be any physical location for this meeting. Pursuant to the Governor's Executive Order N-29-20 this meeting will be conducted by video/teleconference. The meeting access information is as follows:

To join the meeting click the link below, or type it into your web browser:

<https://us02web.zoom.us/j/88605189813>

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+1 346 248 7799
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Webinar ID: 886 0518 9813

Agenda documents are available on the District website at www.slvwd.com subject to staff's ability to post the documents before the meeting.

AGENDA

1. Convene Meeting/Roll Call

2. Additions and Deletions:

Additions to the Agenda, if any, may only be made in accordance with California Government Code Section 54954.2 (Ralph M. Brown Act) which includes, but is not limited to, additions for which the need to take action is declared to have arisen after the agenda was posted, as determined by a two-thirds vote of the Board of Directors (or if less than two-thirds of the members are present, a unanimous vote of those members present).

3. Oral Communications:

This portion of the agenda is reserved for Oral Communications by the public on any subject that lies within the jurisdiction of the District and is not on the agenda. Any person may address the Board of Directors at this time. Normally, presentations must not exceed five (5) minutes in length, and individuals may only speak once. Please state your name and town/city of residence for the record at the beginning of your statement. Please understand that the Brown Act limits what the Board can do regarding issues not on the agenda. No action or discussion may occur on issues outside of those already listed on today's agenda. Any Director may request that a matter raised during Oral Communication be placed on a future agenda.

4. New Business:

Members of the public will be given the opportunity to address each agenda item prior to Board action. Normally, presentations must not exceed five (5) minutes in length, and individuals may only speak once during Oral Communications. Please state your name and town/city of residence at the beginning of your statement for the record.

a. CITY OF SANTA CRUZ WATER RIGHTS PETITIONS

Review and discuss the Notice of Petitions filed by the City of Santa Cruz for Change and Time Extension for Water Right Permits 16123 and 16601 and Petitions for Change for Licenses 1553, 7200 and 9847, and the District's proposed response.

5. Adjournment

Certification of Posting

I hereby certify that on March 9, 2021, I posted a copy of the foregoing special agenda in the outside display case at the District Office, 13060 Highway 9, Boulder Creek, California, said time being at least 24 hours in advance of the special meeting of the Board of Directors of the San Lorenzo Valley Water District (Government Code Section 54954.2).

Executed at Boulder Creek, California on March 9, 2021.

Holly B. Hossack, District Secretary

MEMORANDUM

TO: Board of Directors
From: District Manager
Subject: City of Santa Cruz Water Rights Petitions
DATE: March 11, 2021

Recommendation:

It is recommended that the Board of Directors review and discuss attached information regarding proposed changes to the water rights of the City of Santa Cruz (City). The proposed changes would affect the City's rights to divert water at Felton and along Newell Creek at the Loch Lomond Reservoir. The District has drafted a letter of protest to certain of the proposed changes and shared it with the City. The District's deadline to file the protest is March 12, 2021. This is an informational item only.

Background:

On or about February 10, 2021, the District received a copy of Attachment A, the Notice of Petitions filed by the City. The District also requested and obtained backup information in connection with the underlying petitions, including proposed tables setting forth hydrologic conditions and agreed flows and mapping (see Attachments B & C). The District promptly reviewed the City's petitions with its fisheries biology consultant and legal counsel.

The District's review identified certain changes proposed by the City that appear likely to affect the District and the public it serves. First, the District's right to obtain water from the City's Loch Lomond Reservoir requires protection so that it can be called upon when it is most needed to deliver stored water to the public. Second, the public served by the District has an interest in ensuring that new proposed streamflow requirements for the San Lorenzo River are not ultimately imposed on upstream water rights in a manner that unreasonably interferes with the District's rights, or with conjunctive use. The District is concerned that the establishment of new minimum streamflows for the City at the River's at Big Trees Gage may not be the best approach to protect fisheries in connection with the exercise of smaller upstream water rights such as the District's.

Attachments:

Attachment A - Notice of Petitions filed by the City of Santa Cruz for Change and Time Extension for Water Right Permits 16123 and 16601 and Petitions for Change for Licenses 1553, 7200 and 9847

Attachment B - Tables showing proposed hydrologic conditions and agreed flows (from the City's Petitions)

Attachment C - Map to Accompany Petitions

Attachment D - Draft Protest Letter by the District (w/ enclosures)

Attachment A

State Water Resources Control Board

NOTICE OF PETITIONS FOR CHANGE AND TIME EXTENSION FOR WATER RIGHT PERMITS 16123 AND 16601 (APPLICATIONS 22318 AND 23710) AND PETITIONS FOR CHANGE FOR LICENSES 1553, 7200 AND 9847 (APPLICATIONS 4017, 5215, AND 17913) OF CITY OF SANTA CRUZ

COUNTY: Santa Cruz

STREAM SYSTEMS: San Lorenzo River

City of Santa Cruz (City or Petitioner) filed petitions on January 29, 2019 (amended on August 5, 2020 and then on January 6, 2021), to change their collective water right Permits 16123 and 16601 (Applications 22318 and 23710) and water right Licenses 1553, 7200, and 9847 (Applications 4017, 5215, and 17913) with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division). Following is a summary of the Permits and Licenses and the changes requested with the petitions.

Summary of Permit 16123 and Proposed Changes:

Source:

San Lorenzo River

Points of Diversion:

Existing:

Felton Diversion Facility – point of diversion to offstream storage at Loch Lomond Reservoir: within NE1/4 of SW1/4 of Section 22, T10S, R2W, MDB&M

Proposed:

Felton Diversion Facility – point of direct diversion, point of diversion to underground storage, and point of diversion to offstream storage at Loch Lomond Reservoir: within NE1/4 of SW1/4 of Section 22, T10S, R2W, MDB&M

Tait Diversion – points of direct diversion and diversion to underground storage
Diversion Dam: within SE1/4 of NW1/4 of projected Section 12, T11S, R2W, MDB&M
Well No. 1 within NE1/4 of NW1/4 of projected Section 12, T11S, R2W, MDB&M
Well No. 2: within NE1/4 of NW1/4 of projected Section 12, T11 S, R 2 W, MDB&M
Well No. 3: within NE1/4 of NW1/4 of projected Section 12, T11S, R2W, MD13&M
Well No .4: within NE1/4 of NW1/4 of projected Section 12, T11S, R2W, MDB&M

Beltz Injection Wells – points of redirection to underground storage
Well No. 8 within SE1/4 of SE1/4 of projected Section 16, T11S, R1W, MDB&M
Well No. 9 within SW1/4 of NE1/4 of projected Section 21, T11S, R1W, MDB&M
Well No. 10 within SW1/4 of SE1/4 of projected Section 16, T11S, R1W, MDB&M
Well No. 12 within SE1/4 of SE1/4 of projected Section 9, T11S, R1W, MDB&M

Season of Diversion:

September 1 to June 1 of the next year

Methods of Diversion:

Existing: Diversion to offstream storage

Proposed: Addition of direct diversion, diversion to underground storage, and redirection to underground storage

Diversion Rate and Amount:

Existing: Maximum rate of diversion to offstream storage not to exceed 3,500 gallons per minute and an annual total not to exceed 3,000 acre-feet (af)

Proposed: The combined rate of direct diversion, diversion to offstream storage and diversion to underground storage under Permit 16123 at the Felton and Tait diversion facilities may be up to 3,500 gallons per minute. The combined rate of direct diversion, diversion to offstream storage, and diversion to underground storage under Permits 16123 and 16601 at the Felton and Tait diversion facilities may be up to 20 cfs. The combined annual total diversion shall not exceed 3,000 af under Permits 16123 and 16601.

Purposes of Use:

Existing: Municipal

Proposed: Addition of domestic, industrial, recreation, fire protection, and protection of water quality

Places of Use:

Existing: The City of Santa Cruz Water Service Area within Townships 10S, 11S, Range 1W, 2W and 3W, MDB&M

Proposed: At Loch Lomond Reservoir; in the City of Santa Cruz Water Department's service area and its North Coast service area; the service areas of Central Water District, San Lorenzo Valley Water District, Scotts Valley Water District, and Soquel Creek Water District; the Santa Cruz Mid-County Groundwater Basin (DWR Bulletin 118 Basin No. 3-001) and Santa Margarita Groundwater Basin (DWR Bulletin 118 Basin No. 3-027); all as shown on a map filed with State Water Board.

Terms and Conditions:

Existing: Permittee shall bypass 10 cfs or the natural flow, whichever is less, from September 1 through September 30; and bypass 20 cfs or the natural flow, whichever is less from October 1 through May 31 for the preservation of fish and wildlife.

Proposed:

- 1) Petitioner shall bypass water at both the Felton and Tait Street Diversion Facilities according to the minimum streamflow schedule agreed by the City, the National Marine Fisheries Service (NMFS), and the California Department of Fish & Wildlife (CDFW) (attached to the petition, available upon request). To improve fish passage at the Felton Diversion Facility, Petitioner shall complete improvements to that facility consistent with any habitat conservation plan or incidental take permit issued by NMFS or CDFW for the operation of the facility. Petitioner shall complete those improvements in the time provided by that plan or permit.
- 2) No diversions under this right for rediversion to underground storage shall occur during Hydrologic Condition 5, defined in the Exceedance Category Limits Table (attached to the petition, available upon request).
- 3) No delivery of water diverted under this right for use by a water supplier other than the City of Santa Cruz Water Department shall occur during Hydrologic Conditions 4 and 5, as defined in the Exceedance Category Limits Table (attached to the petition, available upon request).

Underground Storage:

Existing: None

Proposed: addition of underground storage at the Santa Cruz Mid-County Groundwater Basin; Injection and subsequent recovery of surface water at the Beltz Injection Wells.

Time to Complete Beneficial Use:

Existing: December 31, 2006

Extension Requested with Petition: December 31, 2043

Summary of Permit 16601 and Proposed Changes:

Source:

San Lorenzo River

Points of Diversion:

Existing: Felton Diversion Facility – point of diversion to offstream storage at Loch Lomond Reservoir: within NE1/4 of SW1/4 of Section 22, T10S, R2W, MDB&M

Proposed:

Felton Diversion Facility – point of direct diversion, point of diversion to underground storage, and point of diversion to offstream storage at Loch Lomond Reservoir: within NE1/4 of SW1/4 of Section 22, T10S, R2W, MDB&M

Tait Diversion – points of direct diversion and diversion to underground storage
Diversion Dam: within SE1/4 of NW1/4 of projected Section 12, T11S, R2W, MDB&M
Well No. 1 within NE1/4 of NW1/4 of projected Section 12, T11S, R2W, MDB&M
Well No. 2: within NE1/4 of NW1/4 of projected Section 12, T11 S, R 2 W, MDB&M
Well No. 3: within NE1/4 of NW1/4 of projected Section 12, T11S, R2W, MD13&M
Well No .4: within NE1/4 of NW1/4 of projected Section 12, T11S, R2W, MDB&M

Beltz Injection Wells – points of redirection to underground storage
Well No. 8 within SE1/4 of SE1/4 of projected Section 16, T11S, R1W, MDB&M
Well No. 9 within SW1/4 of NE1/4 of projected Section 21, T11S, R1W, MDB&M
Well No. 10 within SW1/4 of SE1/4 of projected Section 16, T11S, R1W, MDB&M
Well No. 12 within SE1/4 of SE1/4 of projected Section 9, T11S, R1W, MDB&M

Season of Diversion:

October 1 to June 1 of the next year

Methods of Diversion:

Existing: Diversion to offstream storage

Proposed: Addition of direct diversion, diversion to underground storage, and redirection to underground storage

Diversion Rate and Amount:

Existing: Combined rate of diversion to offstream storage under Permits 16123 and 16601 not to exceed 20 cfs; the total annual diversion under Permit 16123 and 16601 not to exceed 3,000 af.

Proposed: The combined rate of direct diversion, diversion to offstream storage, and diversion to underground storage under Permits 16123 and 16601 at the Felton and Tait diversion facilities may be up to 20 cfs. The combined annual total diversion shall not exceed 3,000 af under Permits 16123 and 16601.

Purposes of Use:

Existing: Municipal

Proposed: Addition of domestic, industrial, recreation, fire protection, and protection of water quality

Places of Use:

Existing: The City of Santa Cruz Water Service Area within Townships 10S, 11S, Range 1W, 2W and 3W, MDB&M

Proposed: Same as listed under Permit 16123

Terms and Conditions:

Existing: For the protection of fish, no diversion shall be made during the month of October which depletes the flow of the stream to less than 25 cfs nor to less than 20 cfs during the period November 1 to the succeeding May 31. No water shall be diverted until permittee has installed in the stream immediately below its point of diversion a staff gage, or other device satisfactory to the State Water Board, showing the water levels which correspond to the above-mentioned flows in cubic feet per second. As a condition of continuing diversion, said measuring device shall be properly maintained.

Proposed: Same as listed under Permit 16123

Underground Storage:

Existing: None

Proposed: Same as listed under Permit 16123

Time to Complete Beneficial Use:

Existing: December 31, 2006

Extension Requested with Petition: December 31, 2043

Summary of License 1553 and Proposed Changes:

Source:

San Lorenzo River

Points of Diversion:

Existing: Points of direct diversion at Tait Diversion

Diversion Dam: within SE1/4 of NW1/4 of projected Section 12, T11S, R2W, MDB&M

Well No. 1 within SE1/4 of NW1/4 of projected Section 12, T11S, R2W, MDB&M

Well No. 2: within NE1/4 of NW1/4 of projected Section 12, T11 S, R 2 W, MDB&M

Well No. 3: within NE1/4 of NW1/4 of projected Section 12, T11S, R2W, MD13&M

Well No .4: within NE1/4 of NW1/4 of projected Section 12, T11S, R2W, MDB&M

Proposed:

Tait Diversion – points of direct diversion and diversion to underground storage

Diversion Dam: within SE1/4 of NW1/4 of projected Section 12, T11S, R2W, MDB&M

Well No. 1 within NE1/4 of NW1/4 of projected Section 12, T11S, R2W, MDB&M

Well No. 2: within NE1/4 of NW1/4 of projected Section 12, T11 S, R 2 W, MDB&M

Well No. 3: within NE1/4 of NW1/4 of projected Section 12, T11S, R2W, MD13&M

Well No. 4: within NE1/4 of NW1/4 of projected Section 12, T11S, R2W, MDB&M

Beltz Injection Wells – points of redirection to underground storage

Well No. 8 within SE1/4 of SE1/4 of projected Section 16, T11S, R1W, MDB&M

Well No. 9 within SW1/4 of NE1/4 of projected Section 21, T11S, R1W, MDB&M

Well No. 10 within SW1/4 of SE1/4 of projected Section 16, T11S, R1W, MDB&M

Well No. 12 within SE1/4 of SE1/4 of projected Section 9, T11S, R1W, MDB&M

Season of Diversion:

January 1 to December 31

Methods of Diversion:

Existing: Direct diversion

Proposed: Addition of diversion to underground storage and redirection to underground storage

Diversion Rate:

Existing: Maximum rate of diversion shall not exceed 6.2 cfs.

Proposed: The maximum combined rate of direct diversion and diversion to underground storage may be up to 6.2 cfs.

Purposes of Use:

Existing: Municipal and domestic

Proposed: Addition of industrial, recreation, fire protection, and protection of water quality

Places of Use:

Existing: The City of Santa Cruz, and that area east of the City of Santa Cruz, bounded on the west by the eastern boundary of the City of Santa Cruz, on the south by the Bay of Monterey, on the east by the eastern line of 41st Avenue and a line from the intersection of the eastern line of 41st Avenue with the southern line of the Santa Cruz-Watsonville Highway at a right angle to said southern line of Santa Cruz-Watsonville Highway extending to the north boundary of Section 9, T11S, R1W, MDB&M; and bounded on the north by the north boundary of Sections 8 and 9, T11S, R1W, MDB&M; as shown on a map filed with State Water Board.

Proposed: Same as listed under Permit 16123

Terms and Conditions:

Existing: None

Proposed:

- 1) Petitioner shall provide bypass at Tait Diversion Facilities according to the minimum streamflow schedule agreed by the City, NMFS, and CDFW (attached to the petition, available upon request).
- 2) No diversions under this right for rediversion to underground storage shall occur during Hydrologic Condition 5, defined in the Exceedance Category Limits Table (attached to the petition, available upon request).
- 3) No delivery of water diverted under this right for use by a water supplier other than the City of Santa Cruz Water Department shall occur during Hydrologic Conditions 4 and 5 of the Exceedance Category Limits Table (attached to the petition, available upon request).

Underground Storage:

Existing: None

Proposed: Same as listed under Permit 16123

Summary of License 7200 and Proposed Changes:

Source:

San Lorenzo River

Points of Diversion:

Existing: Points of direct diversion at Tait Diversion

Diversion Dam: within SE1/4 of NW1/4 of projected Section 12, T11S, R2W, MDB&M

Well No. 2: within NE1/4 of NW1/4 of projected Section 12, T11 S, R 2 W, MDB&M

Well No. 3: within NE1/4 of NW1/4 of projected Section 12, T11S, R2W, MD13&M

Well No .4: within NE1/4 of NW1/4 of projected Section 12, T11S, R2W, MDB&M

Proposed:

Tait Diversion – points of direct diversion and diversion to underground storage

Diversion Dam: within SE1/4 of NW1/4 of projected Section 12, T11S, R2W, MDB&M

Well No. 1 within NE1/4 of NW1/4 of projected Section 12, T11S, R2W, MDB&M

Well No. 2: within NE1/4 of NW1/4 of projected Section 12, T11 S, R 2 W, MDB&M

Well No. 3: within NE1/4 of NW1/4 of projected Section 12, T11S, R2W, MD13&M

Well No .4: within NE1/4 of NW1/4 of projected Section 12, T11S, R2W, MDB&M

Beltz Injection Wells – points of rediversion to underground storage

Well No. 8 within SE1/4 of SE1/4 of projected Section 16, T11S, R1W, MDB&M

Well No. 9 within SW1/4 of NE1/4 of projected Section 21, T11S, R1W, MDB&M

Well No. 10 within SW1/4 of SE1/4 of projected Section 16, T11S, R1W, MDB&M

Well No. 12 within SE1/4 of SE1/4 of projected Section 9, T11S, R1W, MDB&M

Season of Diversion:

January 1 to December 31

Methods of Diversion:

Existing: Direct diversion

Proposed: Addition of diversion to underground storage and redirection to underground storage

Diversion Rate:

Existing: Maximum rate of diversion shall not exceed 6 cfs.

Proposed: The maximum combined rate of direct diversion and diversion to underground storage may be up to 6 cfs.

Purposes of Use:

Existing: Municipal and domestic

Proposed: Addition of industrial, recreation, fire protection and protection of water quality

Places of Use:

Existing: Within the boundaries of the City of Santa Cruz as shown on map filed with State Water Board, being within portions of Sections 29, 31, and 32, T10S, R1W, MDB&M. Sections 5, 6, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, and 21, T11S, R1W, MDB&M. Sections 35 and 36, T10S, R2W, MDB&M. Sections 1, 2, 10, 11, 12, 13, 14, 15, 22, 23, 24, 26, and 27, T11S, R2W, MDB&M.

Proposed: Same as listed under Permit 16123

Terms and Conditions:

Existing: None

Proposed: Same as listed under License 1553

Underground Storage:

Existing: None

Proposed: Same as listed under Permit 16123

Summary of License 9847 and Proposed Changes:

Source:

Newell Creek tributary to San Lorenzo River

Point of Diversion:

Newell Creek Dam within NW1/4 of SW1/4 of Section 34, T9S, R2W, MDB&M

Season of Diversion:

September 1 to July 1 of the next year

Methods of Diversion:

Existing: Diversion to storage in Loch Lomond Reservoir

Proposed: Addition of direct diversion at Newell Creek Dam

Diversion Rate and Amount:

Existing: 5,600 acre-feet per annum max diversion to storage at Loch Lomond Reservoir; maximum annual withdrawal not to exceed 3,200 acre-feet; maximum amount stored in Loch Lomond Reservoir not to exceed 8,624 acre-feet

Proposed: Addition of maximum rate of direct diversion of up to 31 cfs

Purposes of Use:

Existing: Municipal, domestic, industrial, recreational and fire protection

Proposed: Addition of protection of water quality

Places of Use:

Existing: At Loch Lomond Reservoir and in the San Lorenzo Basin, including Upper San Lorenzo Valley, Scotts Valley, and Santa Cruz, being within portions of Townships 8S, 9S, 10S, and 11S, Ranges 1W, 2W, and 3W, MDB&M, as shown on map filed with the State Water Board

Proposed: Same as listed under Permit 16123

Terms and Conditions:

Existing: None

Proposed:

- 1) The City shall release water from Loch Lomond Reservoir to Newell Creek according to the minimum streamflow schedule agreed by the City, NMFS, and CDFW (attached to the petition, available upon request).
- 2) No delivery of water diverted under this right for use by a water supplier other than the City of Santa Cruz Water Department shall occur during Hydrologic Conditions 4 and 5, as defined in the Exceedance Category Limits Table (attached to the petition, available upon request).

Pursuant to California Water Code section 1703.1, any interested person may file a protest to the proposed changes. Protests filed in response to this notice should be submitted to the persons listed below and must be received by the Division by **4:30 p.m. on March 12, 2021**. Protests may be provided via email prior to the deadline; however, a copy of the original signed letter of protest must be subsequently filed with the Division. [Protest requirements and submittal information](#) can be found here:
https://www.waterboards.ca.gov/waterrights/water_issues/programs/applications/docs/protestsubmittalinfo.pdf

Send protest to both:

Jane Ling
State Water Resources Control Board
Division of Water Rights
P.O. Box 2000
Sacramento, CA 95812-2000
jane.ling@waterboards.ca.gov

Rosemary Menard
City of Santa Cruz
212 Locust Street, STE A
Santa Cruz, CA 95060
RMenard@cityofsantacruz.com

To request copies of the petitions or for more information regarding this matter please contact Jane Ling by email at jane.ling@waterboards.ca.gov.

Date of Notice: **February 10, 2021**

Attachment B

Month	Flow Ranges Used to Determine Monthly Hydrologic Condition Type ¹ (cfs) Using San Lorenzo River End-of-Month Cumulative Daily Flow ²				
	<i>Hydrologic Condition 5 (driest)</i>	<i>Hydrologic Condition 4 (dry)</i>	<i>Hydrologic Condition 3 (normal)</i>	<i>Hydrologic Condition 2 (wet)</i>	<i>Hydrologic Condition 1 (wettest)</i>
Oct	<=459	460-539	540-709	710-875	>875
Nov	<=1186	1187-1497	1498-1827	1828-2485	>2485
Dec	<=2397	2398-3134	3135-5642	5643-10196	>10196
Jan	<=4322	4323-8456	8457-16694	16695-28019	>28019
Feb	<=8442	8443-16368	16369-29140	29141-42995	>42995
Mar	<=13004	13005-22948	22949-35371	35372-57968	>57968
Apr	<=14203	14204-24491	24492-39487	39488-67884	>67884
May	<=15448	15449-25279	25280-41659	41660-71412	>71412
Jun	<=16005	16006-26116	26117-43123	43124-73420	>73420
Jul	<=16364	16365-26819	26820-44073	44074-74718	>74718
Aug	<=16653	16654-27355	27356-44799	44800-75591	>75591
Sep	<=16978	16979-27843	27844-45398	45399-76368	>76368

cfs = cubic feet per second

Notes:

1. The Hydrologic Condition Types are based on the record of cumulative daily average flow by water year (water years 1937–2015) at the Big Trees gage on the San Lorenzo River.
2. To implement the Agreed Flows, the Hydrologic Condition type is determined on the first day of each month based upon the previous month's San Lorenzo River end-of-month cumulative flow for the Water Year. Water Year is defined as the 12-month period from October 1 through September 30.
 - a. The end-of-month cumulative daily flow is calculated by adding the San Lorenzo River daily flows, as measured at the Big Trees Gage, from the first day of the Water Year to the last day of the month.
 - b. The flow ranges for the month are then reviewed to determine within which Hydrologic Condition type this end-of-month cumulative daily flow falls.
 - c. This Hydrologic Condition type is used until the first day of the next month to determine bypass flow conditions under the Agreed Flows across all City of Santa Cruz source waters.

**Agreed Flows for Tait Diversion on the San Lorenzo River,
as Measured at the City Gage immediately downstream of Tait Diversion¹**

	Rearing (Base Flow) (cfs)					Adult Migration ² (cfs)	Spawning ³ (cfs)	Egg Incubation ³ (cfs)	Smolt Outmigration (cfs)
	Hydrologic Condition 5 (driest)	Hydrologic Condition 4 (dry)	Hydrologic Condition 3 (normal)	Hydrologic Condition 2 (wet)	Hydrologic Condition 1 (very wet)				
Jan	8.0	8.0	15.8	16.4	17.5	17.0/25.2			10.0
Feb	8.0	8.0	15.9	16.7	18.0	17.0/25.2			10.0
Mar	8.0	8.0	16.3	17.3	18.2	17.0/25.2			10.0 ⁴
Apr	8.0	8.0	17.2	17.9	18.4	17.0/25.2 ⁵			10.0 ⁴
May	8.0	8.0	17.7	18.2	18.5				10.0 ⁴
Jun	8.0	8.0	16.6	18.1	18.5				
Jul	8.0	8.0	12.4	15.8	18.2				
Aug	8.0	8.0	9.8	11.9	16.4				
Sep	8.0	8.0	9.0	11.1	13.3				
Oct	8.0	8.0	9.8	11.4	13.3				
Nov	8.0	8.0	12.5	14.1	16.4				
Dec	8.0	8.0	15.1	16.2	17.6	17.0/25.2			

cfs = cubic feet per second

Notes:

1. The required flow is determined by the life stage requiring the highest flow in any given month.
2. For adult migration, a lower threshold of 17.0 cfs and an upper threshold of 25.2 cfs when flow would be at this level without City diversion during December through April. May be reduced to 3 consecutive days a week if storage levels in Loch Lomond fall below the following levels in million gallons (mg): Dec-1900 mg; Jan-2000 mg; Feb-2100 mg; Mar-2200 mg. Further, adult migration flows may be reduced to 5 consecutive days after each storm event that exceeds 17 cfs if storage levels in Loch Lomond fall below the following levels: Dec-1600 mg; Jan-1700 mg; Feb-1800 mg; Mar-1900 mg.
3. No spawning or incubation occurs in this reach.
4. During Hydrologic Condition 5, provided at least 3 days per week.
5. April adult migration flows provided only in Hydrologic Conditions 1-3.

**Agreed Flows for Felton Diversion on the San Lorenzo River,
as Measured at the Big Trees Gage¹**

	Rearing (Base Flow) (cfs)					Adult Migration ² (cfs)	Spawning ³ (cfs)
	<i>Hydrologic Condition 5 (driest)</i>	<i>Hydrologic Condition 4 (dry)</i>	<i>Hydrologic Condition 3 (normal)</i>	<i>Hydrologic Condition 2 (wet)</i>	<i>Hydrologic Condition 1 (very wet)</i>		
Jan	20.0	20.0	20.0	20.0	20.0	40.0	40.0
Feb	20.0	20.0	20.0	20.0	20.0	40.0	40.0
Mar	20.0	20.0	20.0	20.0	20.0	40.0	40.0
Apr	20.0	20.0	20.0	20.0	20.0	40.0	40.0
May	20.0	20.0	20.0	20.0	20.0		40.0
Jun	No Diversion						
Jul							
Aug							
Sep	10.0	10.0	10.0	10.0	10.0		
Oct	25.0	25.0	25.0	25.0	25.0		
Nov	20.0	20.0	20.0	20.0	20.0		
Dec	20.0	20.0	20.0	20.0	20.0	40.0	40.0

cfs = cubic feet per second

Notes:

1. The required flow is determined by the life stage requiring the highest flow in any given month.
2. Provided when river mouth is open and natural flow would occur at this level without diversion.
3. Provided for 14 days following any potential migration event defined in Note 2.

**Agreed Flows for the Newell Creek Dam,
as Measured at the City Gage immediately downstream of Newell Creek Dam**

	Exception Minimum (cfs) ¹	Base Flow (cfs)				
		<i>Hydrologic Condition 5 (driest)</i>	<i>Hydrologic Condition 4 (dry)</i>	<i>Hydrologic Condition 3 (normal)</i>	<i>Hydrologic Condition 2 (wet)</i>	<i>Hydrologic Condition 1 (very wet)</i>
Jan	0.25	1.0	1.0	1.0	1.0	1.0
Feb	0.25	1.0	1.0	1.0	1.0	1.0
Mar	0.25	1.0	1.0	1.0	1.0	1.0
Apr	0.25	1.0	1.0	1.0	1.0	1.0
May	0.25	1.0	1.0	1.0	1.0	1.0
Jun	0.25	1.0	1.0	1.0	1.0	1.0
Jul	0.25	1.0	1.0	1.0	1.0	1.0
Aug	0.25	1.0	1.0	1.0	1.0	1.0
Sep	0.25	1.0	1.0	1.0	1.0	1.0
Oct	0.25	1.0	1.0	1.0	1.0	1.0
Nov	0.25	1.0	1.0	1.0	1.0	1.0
Dec	0.25	1.0	1.0	1.0	1.0	1.0

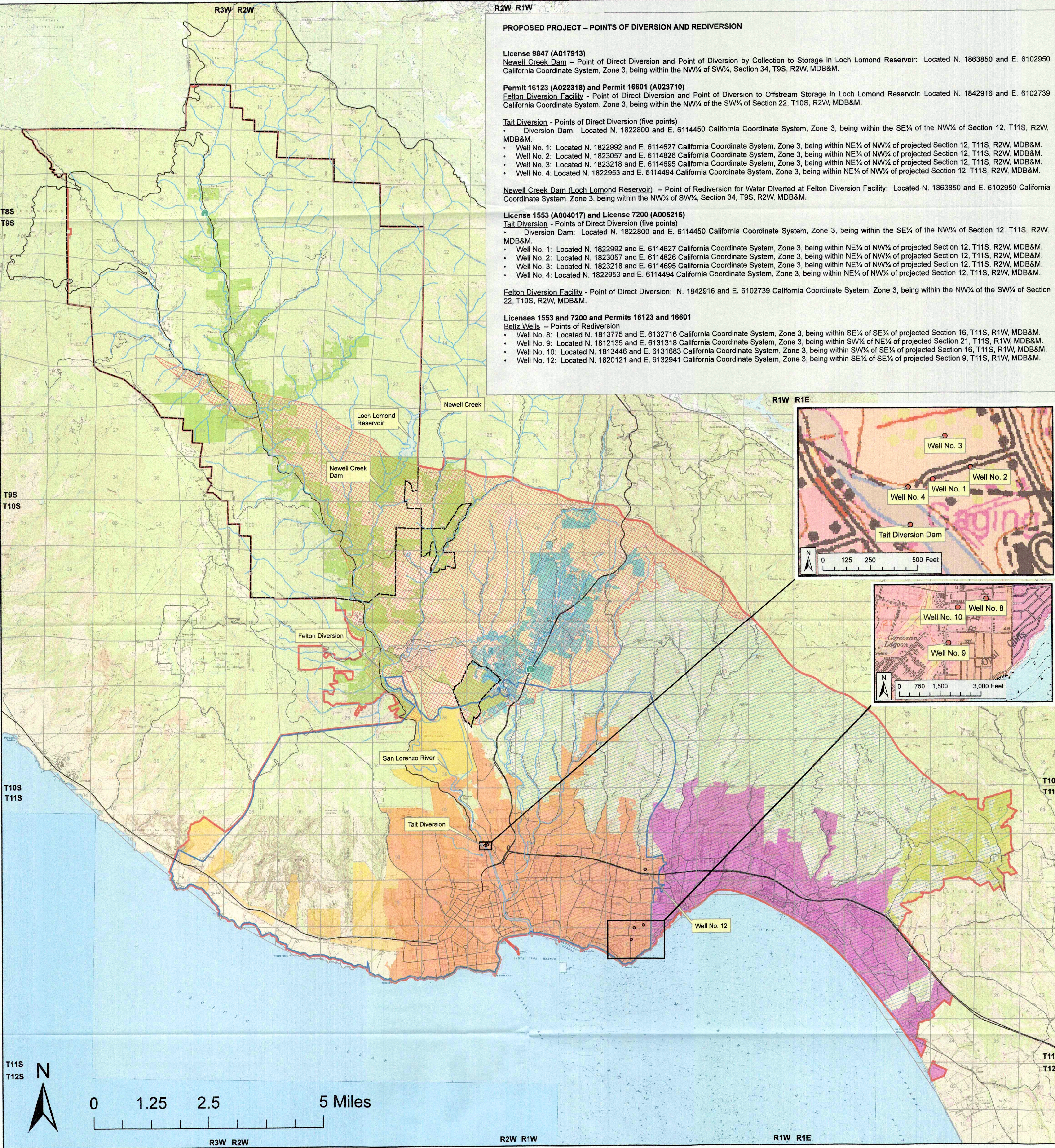
cfs = cubic feet per second.

Note:

1. Exception minimum flows are triggered and would supersede base flow requirements when storage in Loch Lomond Reservoir falls below the following level: 2000 million gallons (mg) during January through June, 1800 mg during July, 1500 mg during August through November, or 1700 mg during December.

Attachment C

MAP TO ACCOMPANY PETITIONS FOR CHANGE
LICENSES 1553, 7200, 9847 (A004017, A005215, AND A017913, RESPECTIVELY) AND
PERMITS 16123 AND 16601 (A022318 AND A023710, RESPECTIVELY)
CITY OF SANTA CRUZ
SANTA CRUZ COUNTY, CA



San Lorenzo River and Tributaries

Water Service Areas

- Central Water District
- San Lorenzo Valley Water District
- Scotts Valley Water District
- Soquel Creek Water District
- City of Santa Cruz' Service Area
- City of Santa Cruz' North Coast Service Area

State Highways

Places of Use

- License # 9847
- License #'s 1553, 7200; Permit #'s 16601, 16123
- Proposed Place of Use Expanded

Groundwater Basins

- Santa Cruz Mid-County
- Santa Margarita

CERTIFICATE OF ENGINEER

I, NICHOLAS F. BONSIGNORE OF 2151 RIVER PLAZA DR., SUITE 100, SACRAMENTO, CALIFORNIA, DO HEREBY CERTIFY THAT THIS MAP WAS PREPARED UNDER MY DIRECT SUPERVISION BASED U.S.G.S. 7.5-MINUTE QUADRANGLES FOR BIG BASIN, CASTLE ROCK RIDGE, DAVENPORT, FELTON, LAUREL, SANTA CRUZ, SOQUEL, AND WATSONVILLE WEST, FROM PUBLISHED SERVICE AREA MAPS FOR CENTRAL WATER DISTRICT, SAN LORENZO VALLEY WATER DISTRICT, SCOTT'S VALLEY WATER DISTRICT, SOQUEL CREEK WATER DISTRICT, MAPS ON FILE WITH SANTA CRUZ WATER DEPARTMENT AND SANTA CRUZ WATER DEPARTMENT LIMITED, AND OTHER INFORMATION PROVIDED BY CITY OF SANTA CRUZ, AND THAT IT CORRECTLY REPRESENTS THE PROJECT DESCRIBED IN THE ACCOMPANYING PETITIONS, AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Nicholas F. Bonsignore

NICHOLAS F. BONSIGNORE
R.C.E. NO. 39422
EXPIRES 12-31-2021

7/23/2020

DATE

Attachment D



ATTORNEYS AT LAW

777 South Figueroa Street
34th Floor
Los Angeles, CA 90017
T 213.612.7800
F 213.612.7801

Gina R. Nicholls
D 213.612.7815
gnicholls@nossaman.com

Refer To File # 502665-0001

VIA EMAIL AND FIRST CLASS MAIL

March 12, 2021

Jane Ling
Senior Water Resources Control Engineer
State Water Resources Control Board
Division of Water Rights
P.O. Box 2000
Sacramento, CA 95812-2000
Email: jane.ling@waterboards.ca.gov

With a copy to:

Rosemary Menard
Water Director
City of Santa Cruz
212 Locust Street, Ste. A
Santa Cruz, CA 95060
Email: RMenard@cityofsantacruz.com

**Re: Notice of Petitions for Change and Time Extension for Water Rights Permits
16123 and 16601 and Petitions for Change for Licenses 1553, 7200 and 9847
(Notice of Petitions)**

Dear Ms. Ling:

In accordance with California Water Code sections 1703.1, 1703.2 and 1702,¹ and Code of Regulations Title 23, sections 745, 747 and 796, the San Lorenzo Valley Water District (District) respectfully submits these comments and the enclosed protest form (Enclosure A) in response to the above-referenced Notice of Petitions filed by the City of Santa Cruz (City).

The District is a public entity water supplier serving the communities of Boulder Creek, Brookdale, Ben Lomond, Zayante, Felton, Lompico, and portions of Scotts Valley. In order to serve these communities, the District holds pre- and post-1914 surface water rights within the San Lorenzo River (River) watershed and groundwater water rights in the Santa Margarita Groundwater Basin

¹ Water Code section 1702 requires the petitioner seeking the change to establish that the proposed change “will not operate to the injury of any legal user of the water involved.” *See also* Code of Regulations Title 23, section 791, subdivision (a).

(Basin).² The District also holds contractual rights to obtain water from the Loch Lomond Reservoir operated by the City.

The District prides itself on its track record of environmental stewardship within the San Lorenzo Valley and its watershed, and the District is committed to working with the State Water Resources Control Board (SWRCB), the City, and fish and wildlife protection agencies. The District has appreciated the open communication with you and other SWRCB staff, and the staff of the other resource agencies, in addressing many environmental and water supply challenges.

The District recognizes the importance of re-operating water systems (including the City's) to maximize the reasonable and beneficial use of limited water resources, especially in light of challenges posed by a changing climate and increasing risks of drought and wildfire. To this end the District has been actively working to enhance the ability to provide a safe, clean and reliable water supply to the public. Among other things, over the past decade, the District has constructed interties throughout its water system and in cooperation with neighbors to enhance water system resilience and reliability. Such improvements have been critical for continuing to provide water to the public following the recent CZU Wildfire emergency.

In collaboration with partner agencies including the County of Santa Cruz (County), among others, the District is presently engaged in developing a conjunctive use enhancement plan to improve water resource efficiency. The plan will provide guidance for diverting excess winter surface flow in the River's tributaries to meet water supply needs, rest groundwater wells, and provide for groundwater recharge within the Basin. The plan will facilitate the selection of optimal management alternatives including a list of recommended infrastructure upgrades. The plan is currently undergoing CEQA review, and it is anticipated to prompt water rights change petition filings by the District, likely to be forthcoming by the end of June this year.

Against this cooperative backdrop, the District has identified certain legal issues concerning some of the proposed conditions in the City's Petition. In short, the District's right to obtain water from Loch Lomond requires protection so that it can be used when it is most needed to deliver stored water to the public. Also, the public served by the District has an interest in ensuring that River bypass flow requirements established for the City's Petition are not ultimately imposed on upstream water rights in a manner that unreasonably interferes with the rights, or with conjunctive use. These concerns are explained in detail below.

1. Loch Lomond Reservoir Allotment Requires Protection

As stated above, the District has a contract with the City, pursuant to which the District holds the right to procure water at cost from the Loch Lomond Reservoir. This right constitutes a legally protected interest of the District under the "no injury" rule. *State Water Resources Control Board Cases* (2006) 136 Cal.App.4th 674, cert. denied 549 U.S. 889 (The "no injury" rule bars a change that would reduce deliveries to a party that contracts for water deliveries if the reduction would constitute a breach of contract.).

² The District is one of the three member agencies of the groundwater sustainability agency formed to bring the Basin into compliance with the Sustainable Groundwater Management Act.

The District may call upon its Loch Lomond allotment at any time of year and any hydrologic condition under the terms of its Water Service Agreement with the City, dated September 26, 1962 (Agreement), a copy of which is enclosed (Enclosure B). The absence of any seasonal or hydrologic restriction is an important and material feature of the Agreement, because stored water is most likely to be needed by the District and the public when other sources of supply are restricted or unavailable.

The District's Loch Lomond right potentially is injured by the following proposed condition set forth in the Notice of Petitions as to Permits 16123, 16601 and License 9847:³

"No delivery of water diverted under this right for use by a water supplier other than the City of Santa Cruz Water Department shall occur during Hydrologic Conditions 4 and 5, as defined in the Exceedance Category Limits Table (attached to the petition, available upon request)." Emphasis added.

The Notice of Petition as to License 9847 includes the following additional proposed condition that potentially injures the District's Loch Lomond right:

"The City shall release water from the Loch Lomond Reservoir to Newell Creek according to the minimum streamflow schedule agreed by the City, NMFS, and CDFW (attached to the petition, available upon request)."

These proposed conditions, as presently stated, may be interpreted as impairments to the District's Loch Lomond allotment. The "no delivery" condition appears to prohibit the City from fulfilling calls by the District upon its Loch Lomond rights during dry conditions—the very time when the public need for stored water is greatest. The "release" condition could be interpreted to require the City to release water to Newell Creek that is needed to fulfill a call by the District upon its allotment. Such prohibitions would cause breach of contract and unreasonable injury to the District's rights and public water service.

To avoid this injury, the District respectfully requests that SWRCB impose an additional condition as to Permits 16123, 16601 and License 9847, as follows:

"Nothing herein shall impair contract rights held pursuant to that certain Water Service Agreement between the City of Santa Cruz and the San Lorenzo Valley County Water District, dated September 26, 1962 (Agreement). The City shall be permitted to deliver water from the Loch Lomond Reservoir pursuant to the Agreement during any hydrologic condition and notwithstanding minimum streamflow schedules herein."

The District believes that this additional condition would adequately protect the District's Loch Lomond allotment for the benefit of the public, and thereby permit the District to withdraw its protest as to this issue.

³ Permits 16123 and 16601 allow the City to divert water from the River at Felton to offstream storage at Loch Lomond. License 9847 allows the City to divert water from a tributary of the River (Newell Creek) to storage at Loch Lomond. These Permits and the License collectively provide water rights necessary for the City to fill Loch Lomond Reservoir.

2. New Bypass Flow Requirements for the River

The District holds upstream water rights in the watershed above the City's Felton diversion and the Big Trees Gage. The District's water rights include, without limitation, Permits 20123 and licensed applications 5297, 5299, 8843, 8844, and 8845 affecting Fall Creek and other tributaries to the River. As described above, these water rights are currently being evaluated in connection with a conjunctive use planning effort in partnership with the County and other agencies. As part of the process, it is anticipated that change petitions will be forthcoming for the purpose of maximizing the reasonable and beneficial uses of the District's rights. Also, the District is preparing a Temporary Urgency Change Petition (TUCP) for change of place of use on a temporary basis during recovery from the recent CZU Wildfire emergency.

The District is concerned about new bypass flow requirements being established for the River. The new requirements are set forth as the following proposed condition to Permits 16123, 16601 (the permits allowing the City to divert from the River at Felton):

"Petitioner shall bypass water at both the Felton and Tait Street Diversion Facilities according to the minimum streamflow schedule agreed by the City, the National Marine Fisheries Service (NMFS), and the California Department of Fish & Wildlife (CDFW) (attached to the petition, available upon request). ..." Emphasis added.

The proposed minimum streamflow schedule attached to the Petitions, entitled "Agreed Flows for Felton Diversion on the San Lorenzo River, as Measured at the Big Trees Gage," would approximately *double* the required minimum streamflow in the River. According to the Notice of Petitions, under the City's existing Permit 16123, the minimum streamflow is 10 cfs during the month of September and "20 cfs ... from October 1 through May 31." The City's existing Permit 16601 requires, "[f]or the protection of fish, ... during the month of October ... 25 cfs [and not] less than 20 cfs during the period November 1 to the succeeding May 31." Under the proposed new schedule, no diversion whatsoever would be allowed during the summer months of June, July and August, and the required minimum streamflow would be as high as 40 cfs for six of the remaining nine months (December through May) during conditions of fish spawning or adult migration.

The District's permitted water rights are subject to lower minimum streamflow requirements measured at the Big Trees Gage than those agreed to by the City. Were the new streamflow schedule imposed in connection with anticipated forthcoming change petitions to the District's water rights, as discussed above, it would impair significantly the District's ability to meet the needs of the public. Therefore, the District respectfully requests that SWRCB defer further consideration of the City's pending Petitions until the District submits its own petitions. Filing of the District's change petitions is anticipated upon completion of environmental review of the draft conjunctive use plan, likely by the end of June this year.

Alternatively, the District respectfully requests that SWRCB find good cause exists to extend the time allowed for the filing of protests or that it accept supplemental information,⁴ so that the District may present information pertaining to the exercise of smaller upstream water rights and fisheries protection, and how best to conserve the public interest.

⁴ Code of Regulations, Title 23, Sections 747, 748, 753, and 843, subdivision (c).

In furtherance of cooperation among the affected agencies, the District provided a draft of this letter and discussed it with representatives of the City prior to its submission. Based on that conversation, the District is optimistic that prompt resolution of its protest regarding the Loch Lomond allotment is possible. Also, the District is committed to seeking a prompt cooperative resolution of the more complicated issue of how new bypass flows and minimum streamflows may affect smaller upstream water users.

The District welcomes the opportunity to discuss these issues with SWRCB and the City, and to provide further information as SWRCB may require.

Respectfully submitted,

NOSSAMAN LLP

By _____
Gina R. Nicholls
District Counsel
San Lorenzo Valley Water District

cc: Rick Rogers, District Manager, San Lorenzo Valley Water District

Enclosures:

Enclosure A – Protest Petition Form

Enclosure B – Loch Lomond Water Service Agreement, dated September 26, 1962

Enclosure A

PROTEST- PETITION

This form may also be used for objections

PETITION FOR TIME EXTENSION, CHANGE, TEMPORARY URGENT CHANGE OR TRANSFER ON

22318, 23710,
APPLICATION 4017, 5215, 17912 **PERMIT** 16123, 16601 **LICENSE** 1553, 7200, 9847
OF City of Santa Cruz

I (We) have carefully read the notice (state name): Rick Rogers, District Manager, San Lorenzo Valley Water District ("SLVWD" or "District"); Gina Nicholls, District Counsel

Address, email address and phone number of protestant or authorized agent: Gina Nicholls, Nossaman LLP, 777 South Figueroa Street, 34th Floor, Los Angeles, CA, 90017; gnicholls@nossaman.com; 213-612-7815

Attach supplemental sheets as needed. To simplify this form, all references herein are to protests and protestants although the form may be used to file comments on temporary urgent changes and transfers.

Protest based on ENVIRONMENTAL OR PUBLIC INTEREST CONSIDERATIONS (Prior right protests should be completed in the section below):

- the proposed action will not be within the State Water Resources Control Board's jurisdiction ☐
- not best serve the public interest ☒
- be contrary to law ☒
- have an adverse environmental impact ☐

State facts which support the foregoing allegations SLVWD has a contract with the City of Santa Cruz ("City"), pursuant to which the District holds the right to procure water at cost from the Loch Lomond Reservoir. Additionally, the District holds upstream water rights in the watershed above the City's Felton diversion and the Big Trees Gage. The proposed conditions would impair significantly the District's ability to meet the needs of the public by restricting the District's ability to procure water from Loch Lomond and divert upstream of the City's Felton diversion and the Big Trees Gage. See letter enclosed herewith for further discussion of facts supporting this protest.

Under what conditions may this protest be disregarded and dismissed? (Conditions should be of a nature that the petitioner can address and may include mitigation measures.) _____

See letter enclosed herewith for explanation of conditions under which this protest may be disregarded and dismissed.

Protest based on INJURY TO PRIOR RIGHTS:

To the best of my (our) information and belief the proposed change or transfer will result in injury as follows: _____

Protestant claims a right to the use of water from the source from which petitioner is diverting, or proposes to divert, which right is based on (identify type of right protestant claims, such as permit, license, pre-1914 appropriative or riparian right):: _____

List permit or license or statement of diversion and use numbers, which cover your use of water (if adjudicated right, list decree).

Where is your diversion point located? ___ ¼ of ___ ¼ of Section _____, T ____, R____, ___ B&M

If new point of diversion is being requested, is your point of diversion downstream from petitioner's proposed point of diversion? _____

The extent of present and past use of water by protestant or his predecessors in interest is as follows:

- a. Source _____
- b. Approximate date first use made _____
- c. Amount used (list units) _____
- d. Diversion season _____
- e. Purpose(s) of use _____

Under what conditions may this protest be disregarded and dismissed? _____

All protests must be signed by the protestant or authorized representative:

Signed: _____ Date: March 12, 2021

All protests must be served on the petitioner. Provide the date served and method of service used:

March 12, 2021, email and mail

Enclosure B

WATER SERVICE AGREEMENT
CITY OF SANTA CRUZ WITH
SAN LORENZO VALLEY COUNTY
WATER DISTRICT

THIS AGREEMENT made in the County of Santa Cruz, State of California, on the date hereinafter specified, by and between the CITY OF SANTA CRUZ, a municipal corporation, hereinafter called SELLER and the SAN LORENZO VALLEY COUNTY WATER DISTRICT, a political subdivision of the State of California, hereinafter called PURCHASER,

WITNESSETH:

By way of recital SELLER and PURCHASER acknowledge:

- (a) As a condition to the sale by PURCHASER to SELLER of real properties presently utilized for the Newell Creek Dam and Newell Creek Dam Water Shed it was covenanted and agreed by and between SELLER and PURCHASER that SELLER, upon demand of PURCHASER, would sell up to 500 acre feet of water per year to PURCHASER at a price to be determined by SELLER as the actual cost of production and transmission of said water along SELLER'S Newell Creek pipeline to the point of diversion of PURCHASER.
- (b) That PURCHASER desires to acquire water from SELLER pursuant to said contract and the following is a memorial setting forth the terms thereof.

NOW, THEREFORE, IN ACCORDANCE WITH THE FOREGOING TERMS AND CONDITIONS, SELLER agrees to sell and PURCHASER agrees to buy water from SELLER at PURCHASER'S point of diversion from said Newell Creek pipeline in amount not to exceed 500 acre feet per year as PURCHASER may require at the actual cost of production and transmission thereof by SELLER.

PURCHASER agrees to pay currently, during each year of this agreement, the sum of ten cents (\$0.10) per hundred cubic feet of water delivered by SELLER to PURCHASER subject to audit and adjustment at the close of each year of this agreement upon the determination of the actual cost of production and transmission thereof to PURCHASER'S diversion and PURCHASER agrees to pay such additional charge as may be and SELLER agrees to remit or

allow as credit for the succeeding year's purchase any sums which PURCHASER may have overpaid for the year in question.

IT IS AGREED by and between the parties hereto that this agreement shall become effective and PURCHASER shall be entitled to receive such water at existing points of diversion upon ten days written notice of intention to receive water delivered by PURCHASER to SELLER and that PURCHASER may terminate this agreement and supply of water at will at which time SELLER agrees to determine the actual cost of production of water furnished under the contract at the end of the fiscal year and remit at that time any credit and be entitled to payment of any balance that may be due therefor.

WITNESS OUR HANDS in the County of Santa Cruz the 26th day of September, 1962.

CITY OF SANTA CRUZ

By

[Signature]
City Manager Pro Tem

SAN LORENZO VALLEY COUNTY
WATER DISTRICT

By

[Signature]
Chairman

[Signature]
Secretary

Approved as to form this

2 day of August, 1962.

[Signature]
City Attorney