



COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES

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PLANNING POLICY NO. 1

Discretionary Development within the Service Boundaries of North Gualala Water Company

Applicability: This policy applies to parcels subject to Division II of Title 20 of Mendocino County Code (MCC) that are located within the service boundaries of the North Gualala Water Company. This policy applies to all discretionary development, meaning development subject to a Coastal Development Permit, Categorical Exclusion, Coastal Development Use Permit, Coastal Development Minor Subdivision, etc.

Background: The principal water source for the North Gualala Water Company (NGWC) is the North Fork of the Gualala River. On October 24, 2008, the State Water Resources Control Board (SWRCB) issued an Administrative Civil Liability Complaint and a draft Cease and Desist Order to the NGWC; a Settlement Agreement was subsequently reached and NGWC has been working to fulfill the requirements of that Settlement Agreement. The terms of the Cease and Desist Order include, in part, submission of a revised Water Supply Contingency Plan, a moratorium on new service connections (unless such connections were subject to an intent-to-serve letter prior to October 28, 2008), and submission of revised streamflow measurement plan. The moratorium on new service connections will continue until NGWC can demonstrate that new connections can be served by water supplies other than the North Fork of the Gualala River.

On January 7, 2015, the Mendocino County Department of Planning and Building Services (PBS) received comments from the California Department of Fish and Wildlife (CDFW) on a Coastal Development Permit where water service was provided by North Gualala Water Company (NGWC) to an existing meter. The comments stated concerns related to an increase in water demand on the parcel and the impacts the increase would have on resources in the North Fork of the Gualala River (the primary water source for NGWC). PBS Staff did not proceed with the Coastal Development Permit as originally proposed due to the comments provided by CDFW and the property owner ultimately proposed the drilling of a well to allow the permit to move forward. PBS Staff asked for further documentation from CDFW on their concerns related to projects with water service from NGWC.

On April 14, 2015, PBS received correspondence from the firm of Bartkiewicz, Kronick and Shanahan representing NGWC. The letter disputed the comments received from CDFW on January 7, 2015 stating that CDFW's arguments about NGWC's compliance with Fish and Game Code Section 1602 are incorrect and CDFW's proposed permit terms are inappropriate.

On July 15, 2015, PBS received communication from CDFW regarding the regulatory context of the NGWC water diversions and documented impacts of that diversion on the North Fork Gualala River. In the letter CDFW states that water diversion from the North Fork of the Gualala River, as currently conducted by NGWC, is likely to result in impacts to State-listed coho salmon and may be in violation of the Federal Endangered Species Act through direct impacts to steelhead trout and/or its critical habitat. CDFW maintains that when flows in the North Fork Gualala River are below the levels required by Permit Term No. 9 of the State Water Resources Control Board permit, water diversion by NGWC is in violation of Fish and Game Code Section 1602 and has potential to result in impacts and/or take of listed salmonids. Further, CDFW has stated that the North Fork Gualala River supports listed salmonids with declining populations, due in part to impaired conditions in the watershed, and that NGWC diversion is contributing to cumulative impacts under the California Environmental Quality Act (CEQA) to the stream and the aquatic life dependent upon it. CDFW believes that approval of any project that will increase water demand from the North Fork Gualala River would contribute to cumulative impacts to this regionally-important river. CDFW has recommended that Mendocino County not approve any additional Coastal Development Permits, projects, or other development with the potential to increase water demand in NGWC's service area, including on sites that may have an existing meter or a valid intent-to-serve letter.

As of the writing of this Policy, CDFW continues to remain concerned about the potential impacts to the North Fork of the Gualala River as a result of the water diversions by NGWC.

Determination:

Applicants for discretionary permits will be required to submit with their application a letter from NGWC stating that NGWC has the ability and capacity to serve the proposed project (a "will-serve" letter).

PBS advises members of the public, owners, applicants, agents, and other interested parties that CDFW may raise the concerns noted above about the water source for NGWC during the processing of a discretionary entitlement.

PBS cannot guarantee that a discretionary entitlement will be issued.

Adopted: March 3, 2023



Julia Krog, Director of Planning & Building Services