

ATTACHMENT 4

REFERRAL AGENCY COMMENTS AND RECOMMENDATIONS

The project was referred to the following referral agencies for review and comment. Those agencies that provided written comments are checked off.

Referral Agency	Response	Recommendation	Location
Building Inspection Division	✓	Conditional Approval	Attached
Division Environmental Health	✓	Approval	On file
Public Works, Land Use Division	✓	Conditional Approval	Attached
City of Arcata			
California Department of Fish & Wildlife	✓	Conditional Approval	Attached
Northwest Information Center			
Bear River Band			
Blue Lake Rancheria	✓	Conditional Approval	On file and confidential
Wiyot Tribe	✓	Conditional Approval	On file and confidential
Regional Water Quality Control Board			
Humboldt County Aviation Division	✓	Approval	On file
Humboldt County Farm Bureau			
Redwood Coast Energy Authority	✓	Approval	On file
Pacific Gas and Electric			
Arcata Fire District			
Northern Humboldt Union High School District	✓	Approval	On file
Arcata School District			
Pacific Union School District			
US Fish and Wildlife Service			
Humboldt Bay Municipal Water District	✓	Conditional Approval	Attached

PLN-2022-17922

Foster Clean Power A & B solar project
A Conditional Use Permit (CUP) for the pro...

STATUS

> In Review
10/05/2022 by Desmond Johnston

LOCATION

> None Provided

CONTACT

> Renewable America LLC

WORKFLOW

> 18 total Task
● 8 completed ○ 3 active

Summary

Project Description

Workflow

1 Referral Assignments

2 Planning Information

3 GP / Zoning Information

4 CEQA

5 Cannabis

Annual Compliance

Project Tracking

6 Referral Task Log (2)



A notice was added to this record on 2022-09-14.
Condition: Parcel Status : APN 505-151-012 LP 1:M (Legal Parcel one legal parcel with three assessor parcel numbers) Severity: Notice
Total conditions: 3 (Notice: 3)

View notice

Cancel

Help

Task	Due Date	Assigned Date
Building Inspections	09/16/2022	09/14/2022
Assigned to Department	Assigned to	Status
Building Department	Robert Edwards	Note
Action by Department	Action By	Status Date
Building Department	John Backman	09/19/2022
Start Time	End Time	Hours Spent
		1.0
Billable	Overtime	Comments
No	No	9/19/22 JMB Site plan submitted and appears accurate Parts of project are in SMA/Wetlands Project in area of potential liquefaction Recommend approval based on the condition that all required grading, building, plumbing, electrical, and mechanical permits and or Agricultural Exemptions are obtained.
Time Tracking Start Date	Est. Completion Date	In Possession Time (hrs)
Display E-mail Address in ACA	<input checked="" type="checkbox"/> Display Comment in ACA	Comment Display in ACA
No		<input checked="" type="checkbox"/> All ACA Users
		<input checked="" type="checkbox"/> Record Creator



DEPARTMENT OF PUBLIC WORKS
C O U N T Y O F H U M B O L D T

MAILING ADDRESS: 1106 SECOND STREET, EUREKA, CA 95501-0579
AREA CODE 707

PUBLIC WORKS BUILDING
SECOND & L ST., EUREKA
FAX 445-7409

CLARK COMPLEX
HARRIS & H ST., EUREKA
FAX 445-7388

ON-LINE
WEB: CO.HUMBOLDT.CA.US

ADMINISTRATION	445-7491	NATURAL RESOURCES	445-7741
BUSINESS	445-7652	NATURAL RESOURCES PLANNING	267-9540
ENGINEERING	445-7377	PARKS	445-7651
FACILITY MANAGEMENT	445-7493	ROADS	445-7421

LAND USE 445-7205

LAND USE DIVISION INTEROFFICE MEMORANDUM

TO: Desmond Johnston, Senior Planner, Planning & Building Department

FROM: Kenneth Freed, Assistant Engineer *KAF*

DATE: 09/22/2022

RE: RENEWABLE AMERICA LLC, APN 505-151-012, PLN-2022-17922 CUP

ROAD: The subject parcel is located on Foster Avenue (CoRdNo. C3L030), a paved County maintained road.

SITE PLAN: No separate site plan was provided in the referral package, although a small picture was provided in the operations plan. It is unclear if the applicant will be utilizing the existing entrance on Foster Avenue, preferred, or creating a new entrance location further to the west.



Photo of existing entrance onto Foster Avenue (Courtesy of Google Maps)

The following conditions are recommended: Our review of this project is limited to what is shown on the submitted plot plan. If other facilities not shown on the plot plan will be constructed, contact this Department immediately for approval **before** construction. This Department has regulations regarding facilities such as retaining walls, fence site visibility, drainage culverts, and parking lanes within the County right of way. This Department has included general statements for facilities that may not be included on the plot plan.

1. Applicant must apply for and obtain an encroachment permit for commercial driveway on Foster Avenue. The permit will require the applicant to construct a driveway entrance surfaced with asphalt concrete or as approved by the Department of Public Works. [reference: County Code § 411-11 (a)(b)]
2. The permit will require the driveway entrance to be surfaced with asphalt concrete or portland cement concrete. The paved area shall extend a minimum of 50 feet back from the edge of the existing roadway pavement and be flared a minimum of 30 feet at the intersection with the County road. The driveway shall intersect the County road at a 90° angle. The driveway grade shall not exceed 2% in the first 20 feet. [reference: County Code sections 314-109.1.2.2.5 and 411-51 (b)(3)]
3. The County road is not constructed to allow on-street parking. All parking must be developed on-site, or applicant must construct a parking lane along the county road in a manner approved by this Department. All parking required by Code must be constructed prior to occupancy of building or “final” issued for building permit. [reference: County Code section 314-109.1 et seq.]
4. Site visibility must be maintained at the driveway approach in conformance with County Code. [reference: County Code section 341-1 et seq.]
5. Applicant shall be responsible to correct any involved drainage problems to the satisfaction of the Department.

Informational Notes (not a requirement):

1. **FENCES/GATES:** Pursuant to County Code Section 411-11 (j) and California Streets & Highways Code Sections 1481 & 1482, fences are not allowed within the public right of way of County maintained roads. Prior to constructing any fences along (or near) the right of way line, the applicant is advised to consult with the Department of Public Works Encroachment Permit Office at 707.445.7205.

It is important to note that fences constructed outside of the public right of way are still subject to the County's visibility Ordinance (County Code Section 341-1). Fences and gates on private property may need to be setback further to comply with the County Visibility Ordinance.

Fences and gates taller than 6 feet may require a building permit. The applicant is advised to consult with the Planning and Building Department – Building Division at 707.445.7245 prior to constructing any fences or gates.

// END //

From: [McDonald, Kelsey@Wildlife](mailto:McDonald_Kelsey@Wildlife)
To: [Johnston, Desmond](mailto:Johnston_Desmond)
Cc: [Van Hattem, Michael@Wildlife](mailto:Van_Hattem_Michael@Wildlife)
Subject: RE: 17922 CUP - Foster Clean Power A &B Solar Project
Date: Thursday, October 06, 2022 3:44:56 PM
Attachments: [image001.png](#)
[image002.png](#)

Caution: This email was sent from an EXTERNAL source. Please take care when clicking links or opening attachments.

Hi, Des.

I have reviewed the Biological Resources Assessment and I agree with the findings, recommended avoidance of waters of the state, and recommended surveys if the nesting bird season and red-legged frog breeding season cannot be avoided. However, we would like to be consulted if nesting birds or red-legged frogs are detected to determine a suitable buffer distance or other protective measures. Exclusion fencing around the wetland is not an appropriate mitigation measure in this case because it could trap wildlife in a relatively small area or impede movement of wildlife to a limited fresh water source. CDFW would instead like to be consulted in determining a suitable buffer distance or other protective measures if red-legged frogs are detected during the breeding season. I recommend incorporating the avoidance and minimization measures as written in the Biological Resources Assessment with these small changes to measures BR-1 and BR-2.

Thank you for reaching out to us for comment.

Sincerely,

Kelsey McDonald
Environmental Scientist
Coastal Conservation Humboldt/Del Norte – Eureka Field Office
California Department of Fish and Wildlife
619 2nd Street | Eureka, CA
Work Cell: 707-672-9488

From: Johnston, Desmond <djohnston@co.humboldt.ca.us>
Sent: Thursday, October 6, 2022 2:49 PM
To: McDonald, Kelsey@Wildlife <Kelsey.Mcdonald@Wildlife.ca.gov>
Cc: Van Hattem, Michael@Wildlife <Michael.VanHattem@wildlife.ca.gov>
Subject: RE: 17922 CUP - Foster Clean Power A &B Solar Project

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Thank you, Kelsey.

Will CDFW be providing comments on the Biological Assessment Report?

Regards,

Des

From: McDonald, Kelsey@Wildlife <Kelsey.Mcdonald@Wildlife.ca.gov>
Sent: Thursday, October 06, 2022 11:51 AM
To: Johnston, Desmond <djohnston@co.humboldt.ca.us>
Cc: Van Hattem, Michael@Wildlife <Michael.VanHattem@wildlife.ca.gov>
Subject: RE: 17922 CUP - Foster Clean Power A & B Solar Project

Caution: This email was sent from an EXTERNAL source. Please take care when clicking links or opening attachments.

Hi, Des.

Thank you for providing that revised version of the Wetland Delineation Report for the Foster Clean Power A & B Solar Project, which provides the updated Streamside Management Area (SMA) Ordinance information and clarifies the SMA buffer distance. We appreciate you referring this application to the California Department of Fish and Wildlife (CDFW) for review. We also have the following comments on the Project in our role as a Trustee and Responsible Agency pursuant to the California Environmental Quality Act (CEQA; California Public Resource Code Section 21000 et seq.).

Project Background

The Renewable America, LLC Foster Clean Power A & B Solar Project is proposed as the construction and operation of community-scale solar energy and storage, divided into two phases on parcel APN 505-151-012-000. Foster Clean Power A (Phase 1) would include the construction of a 3-megawatt alternating current photovoltaic solar energy facility with associated inverters, fencing, a 5000 square-foot equipment pad, a 1.25 megawatt battery, and a 164-foot access road. Phase 1 would encompass a 12-acre fenced-in project footprint. Foster Clean Power B (Phase 2) would consist of an 18-acre fenced-in project footprint with an additional 4-megawatt photovoltaic energy facility, 3.75 megawatt battery storage system, and extending the access road by approximately 1,045 feet.

Wetland Habitat

A wetland delineation conducted on the parcel in July-August of 2022 concluded that 2.44 acres of palustrine emergent wetlands occur within the study area. Additionally, an environmental avoidance area, which was not delineated, was mapped on the parcel. Although these areas appear to have been affected by previous land use, they provide ecosystem services and habitat for birds, amphibians, and invertebrates. If high-impact development were planned within 150 feet of undelineated potential wetland areas, CDFW would like to see a delineation encompassing the environmental avoidance area and careful adherence to setback buffer distances according to the county's Streamside Management Area Ordinance. However, the current delineation and environmental avoidance area are acceptable to CDFW based on current site conditions and because

installation of solar arrays with habitat incorporated into the spacing between panels is understood to be low-impact development consistent with maintaining wetland habitat value onsite. We recommend that no development, mowing, or removal of native vegetation occurs within the setback buffers surrounding the wetlands or environmental avoidance area as depicted in the site plans dated September 9, 2022 (Recommendation 1).

Pollinator Habitat

Pollinator Partnership has prepared a document for Renewable America on the compatibility of solar arrays with pollinator habitat and the many benefits of integrating native habitat into solar projects. CDFW agrees that integrating pollinator habitat into solar arrays is a positive step toward a sustainable future for wildlife and humanity. With locally sourced native seed and appropriate management, solar energy production may allow for maintenance or even enhancement of degraded grasslands for pollinators, other invertebrates, and the food web that depends on them. The use of locally native plants is critical to maintaining native diversity. We recommend that the applicant broadcast seeds throughout at least 10 acres with a locally native seed mix sourced from the North Coast Ecoregion, such as the following plants listed in Table 1 (Recommendation 2). Seeding should target areas with bare ground and be timed to occur during the fall to early spring rainy season after construction-associated ground disturbance has been concluded in the seeding area.

To maintain habitat value for pollinators, mowing should not be permitted during the blooming period (March-August) (Recommendation 3). Weed eaters and hand tools may be used to clear vegetation as needed throughout the year. Removal of problematic non-native invasive plants is acceptable and encouraged throughout the year. Mowing should be minimal and restricted to the fall and winter season (September-February) and should occur only outside of wetland and environmental setback buffers. Bumblebees and other pollinators need undisturbed areas where thatch and litter may accumulate to overwinter and complete their lifecycles. Unmowed and undisturbed wetlands and buffer areas may provide critical overwintering sites with access to nearby floral resources.

Table 1. Recommended locally native pollinator plants for seed mix, compiled based on California Native Plant Society Calscape and Planting Guide tools.

Common Name	Scientific Name	Pollinator Value
Blue wild rye	<i>Elymus glaucus</i>	Butterfly/moth host
Baby blue eyes	<i>Nemophila menziesii</i>	Butterfly/moth host
Miner's lettuce	<i>Claytonia perfoliata</i>	Butterfly/moth host
Miniature lupine	<i>Lupinus bicolor</i>	Bee pollen/nectar resource, Butterfly/moth host
Tomcat clover	<i>Trifolium wildenovii</i>	Bee pollen/nectar resource, Butterfly/moth host
Western columbine	<i>Aquilegia formosa</i>	Hummingbird nectar resource, Butterfly/moth host
Yarrow	<i>Achillea millefolium</i>	Butterfly/moth host
Ithuriel's spear	<i>Triteleia laxa</i>	Bee pollen/nectar resource
California poppy	<i>Eschscholzia californica</i> var.	Bee pollen/nectar resource,

	<i>maritima</i>	Butterfly/moth host
Rigid hedgenettle	<i>Stachys rigida</i>	Bee pollen/nectar source
California aster	<i>Symphotrichum chilense</i>	Butterfly/moth host

In summary, CDFW requests the following recommendations be incorporated as conditions of Project approval:

1. No development, mowing, or removal of native vegetation should occur within the setback buffers surrounding the wetlands or environmental avoidance area as depicted in the site plans dated September 9, 2022.
2. The applicant should seed at least 10 acres with an appropriate local native seed mix sourced from the North Coast Ecoregion.
3. Mowing the project area should not be permitted during the blooming period (March-August).

Thank you for the opportunity to comment on this Project. We strongly support the integration of pollinator and other wildlife habitat into renewable energy development, and we commend the applicant for their forward-thinking vision to benefit our environment. We are happy to provide further guidance or feedback on plans to incorporate pollinator habitat into the Project. If you have any questions or concerns, please contact CEQAcommentletters@wildlife.ca.gov.

Sincerely,

Kelsey McDonald
Environmental Scientist
Coastal Conservation Humboldt/Del Norte – Eureka Field Office
California Department of Fish and Wildlife
619 2nd Street | Eureka, CA
Work Cell: 707-672-9488

References

California Native Plant Society. Calscape. Advanced Search: Native to: 40.8838, -124.1150 (VVMP G2 Pacific, Arcata, CA, USA). Type: Annual herb, Grass, Perennial herb. Common uses: Bee Gardens, Butterfly Host Plants, Hummingbird Gardens <https://calscape.org/search/?srchcr=sc633b00a98d7cd>
California Native Plant Society. Planting Guide. Advanced Search within 10 miles. <https://www.calflora.org/entry/palette.html#y=40.883&x=-124.1150&z=14&lpcli=t&water=X&soil=f&edge=t&nearby=t&eco=f>

From: Johnston, Desmond <djohnston@co.humboldt.ca.us>
Sent: Thursday, October 6, 2022 9:24 AM
To: McDonald, Kelsey@Wildlife <Kelsey.Mcdonald@Wildlife.ca.gov>
Subject: FW: 17922 CUP - Foster Clean Power A &B Solar Project

You don't often get email from djohnston@co.humboldt.ca.us. [Learn why this is important](#)

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opening attachments.

Kelsey,

Please see below.

Regards,

Des

From: Housh Louyeh | Renewable America <housh@renewam.com>

Sent: Wednesday, October 05, 2022 7:13 PM

To: Johnston, Desmond <djohnston@co.humboldt.ca.us>

Cc: Ardi Arian | Renewable America <ardi@renewam.com>

Subject: RE: 17922 CUP - Foster Clean Power A &B Solar Project

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Hi Des,

Panorama Environmental has revised the same documents and updated version was sent to us on 10/3. The corrections and edits have been done in page 10 of the report under **Humboldt County Streamside Management Area Ordinance**. Please see the attached file and make sure you are sharing this one and have them refer to page 10 to see the updates and corrections that has been done.

Here is what Panorama Environmental has commented before and then they provided us with the revised version which I have attached here to this email.

“We reviewed CDFW's comments regarding the County's SMA policies. It looks like the report summary of the policies was unclear but the mapping and seasonal wetland setback was implemented correctly, [as described in 61.1.7.6.6](#), including a 50-foot setback buffer measured for the edge of the delineated features. No mapped or qualifying unmapped SMA streams or riparian vegetation are located within the study area. We can update the JD report description of the policies for clarity, but this would not affect the conclusions, mapping, or current site plan which avoids the 50-foot setback.”

Please have them review this again and let me know if this is sufficient or not.

Best Regards,

Housh Louyeh
Project Manager



RENEWABLE AMERICA

o: (408) 663-6647 x706
m: (408) 479-1540
e: housh@renewam.com

4675 Stevens Creek Blvd, Ste 250
Santa Clara, CA 95051
www.renewam.com



From: Johnston, Desmond <djohnston@co.humboldt.ca.us>
Sent: Wednesday, October 5, 2022 5:00 PM
To: Housh Louyeh | Renewable America <housh@renewam.com>
Subject: FW: 17922 CUP - Foster Clean Power A &B Solar Project

Housh,

Can you look into this?

Regards,

Des

From: McDonald, Kelsey@Wildlife <Kelsey.Mcdonald@Wildlife.ca.gov>
Sent: Wednesday, October 05, 2022 4:58 PM
To: Johnston, Desmond <djohnston@co.humboldt.ca.us>
Subject: RE: 17922 CUP - Foster Clean Power A &B Solar Project

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Hi, Des.

I think this might be the same version of the Wetland Delineation Report we were sent previously. Is there a version that was edited more recently than 9/14/2022?

Thank you!

Kelsey McDonald
Environmental Scientist
Coastal Conservation Humboldt/Del Norte – Eureka Field Office
California Department of Fish and Wildlife
619 2nd Street | Eureka, CA
Work Cell: 707-672-9488

From: Johnston, Desmond <djohnston@co.humboldt.ca.us>
Sent: Wednesday, October 5, 2022 4:37 PM
To: McDonald, Kelsey@Wildlife <Kelsey.Mcdonald@Wildlife.ca.gov>
Subject: RE: 17922 CUP - Foster Clean Power A &B Solar Project

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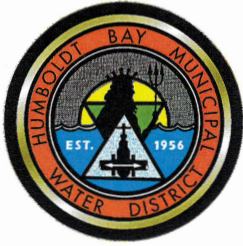
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Hi Kelsey,

The applicant provided the attached Revised Wetland Delineation based on CDFW comments.

Regards,

Des



HUMBOLDT BAY MUNICIPAL WATER DISTRICT

828 SEVENTH STREET, PO BOX 95 • EUREKA, CALIFORNIA 95502-0095

OFFICE 707-443-5018 ESSEX 707-822-2918

FAX 707-443-5731 707-822-8245

EMAIL OFFICE@HBMWD.COM

Website: www.hbmwd.com

BOARD OF DIRECTORS

SHERI WOO, PRESIDENT

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DAVID LINDBERG, DIRECTOR

Received 1/9/2022 HCP&B

GENERAL MANAGER

JOHN FRIEDENBACH

January 9, 2023

Planning Clerk

Via Email: PlanningClerk@co.humboldt.ca.us

County of Humboldt Planning and Building Department

3015 H Street

Eureka, CA 95501

Re: Case Number PLN 2022-17922, Renewable America LLC

Dear Planning Clerk,

Humboldt Bay Municipal Water District (District or HBMWD) submits this letter regarding the above reference solar project named: Foster Clean Power A & B. HBMWD has two water transmission pipelines that are located on the parcel that is proposed for development. One is 42 inches in diameter and the other is 27 inches in diameter. These are very large water transmission lines.

HBMWD owns a water line easement and additional rights over the parcel for the proposed project. Although our easement is called out on the Figure A-1, the dimensions of our easement are not clearly identified. Furthermore, our easement contains additional development restrictions that need to be conditioned on the project. Finally, our easement also contains broad egress and ingress rights to access our easement, maintain or relocate our pipelines, etc.

Section III. A. Description of Right of Way describes a 30 foot pipeline easement. In addition, Section IV. B. , C., D., and E. provide additional rights including:

B)“... with ingress to and egress from the premises, for the purposes of constructing, inspecting, repairing, maintaining and replacing the property of Grantee and the removal of such at will, in whole or in part.

C) Grantee’s right to the use of said easement and right of way is not exclusive and Grantor may use and enjoy the premises except for the purposes herein granted to the Grantee, and may pave the surface of said easement strip, use the same for storage, may cross and recross the same with roads, electric lines, powerlines, water lines, gas lines and other utility service lines, provided the grantor shall not erect or construct any permanent building or other structure in, on, upon, under or over said easement and right of way, or construct any other permanent structure or obstruction which would substantially interfere with Grantee’s use of the easement. For the purposes herein set forth or with the maintenance or repair by Grantee of its pipe line or pipe lines.

D) For purposes of ingress to or egress from said easement Grantee shall use such roadways as now exist or which may hereafter be constructed by Grantor. Or in the event such ingress and egress be inadequate, to reasonably install and service said easement and pipeline or pipelines as hereinabove provided Grantee shall use such other roads or accessways across Grantor’s property as may be designated and approved in advance by Grantor.

E. The Grantee shall cover all pipelines with a minimum depth of four (4) feet of fill material; all pavement to be replaced and the land returned to original state as of time of commencement of construction.

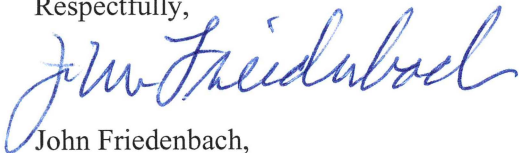
Attached for the record and your reference is a copy of our recorded easement.

In order to utilize the maintenance rights granted within the easement, HBMWD requires an additional 15 foot buffer on either side of the 30 foot pipeline easement for a total of 60 feet. Common construction equipment such as excavators and dump trucks require a 15 foot wide access. In addition, multiple access point locations need to be identified.

Therefore, we respectfully request that the Planning Commission condition the project such that we are able to utilize our rights conveyed under the easement.

If you have any questions, please do not hesitate to contact us.

Respectfully,



John Friedenbach,
General Manager

Cc: Cliff Johnson, Humboldt County Planning Department
Rodney Yandell, Humboldt County Planning Department

GRANT OF RIGHT OF WAY AND AGREEMENT

I. PREAMBLE

THIS EASEMENT AND RIGHT OF WAY AGREEMENT, made and entered into this 13rd day of August, 1961, by and between SIMPSON REDWOOD COMPANY, a Washington Corporation, 2000 Washington Building, Seattle 1, Washington, hereinafter referred to as "Grantor", and HUMBOLDT BAY MUNICIPAL WATER DISTRICT, a Political subdivision of the State of California, duly organized, existing and acting pursuant to the laws thereof, P.O. Box 95, Eureka, California, hereinafter referred to as "Grantee"

W I T N E S S E T H :

II. CONVEYANCE CLAUSE

A. Grantor does hereby grant and convey to Grantee, subject to the reservations, restrictions, and to full compliance with each and all of the terms and conditions herein contained, a permanent easement and right of way along and across the following described real property situated in the County of Humboldt, State of California, to wit:

Portions of the SE $\frac{1}{4}$ Section 19, the W $\frac{1}{2}$ SW $\frac{1}{4}$ Section 20, and the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 30
All in T6N - R1E - E.M.

III. DESCRIPTION OF RIGHT OF WAY

- A. A strip of land over and across portions of the SE $\frac{1}{4}$ Section 19, W $\frac{1}{2}$ SW $\frac{1}{4}$ Section 20, and the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 30, all in T6N - R1E - E.M., such strip being 15 feet in width on each side of the center line described as follows:
- Beginning at an angle point in the above mentioned centerline, said angle point being found 1056.6 feet north and 643.9 feet east of the Section corner common to Sections 19, 20, 29 and 30 as located and described in Book 12 of Surveys of the public records of Humboldt County, Page 13;
- thence S 69 degrees 37 minutes 30 seconds W 1314.8 feet;
- thence S 28 degrees 24 minutes W 479.4 feet;

thence S 63 degrees 21 minutes 40 seconds W
624.4 feet to the northerly line of the Arcata
and Mad River Rail Road Property

Containing 1.67 acres, more or less.

IV. PURPOSE AND USES

- A. Said easement and right of way shall be used for the sole purpose of water transmission and/or distribution system utilizing 42" minimum diameter pipe, to be constructed or installed, and for purposes reasonably incidental thereto, but for no other purpose; PROVIDED, however, that Grantee shall have the right to enlarge its pipe or pipes to any size Grantee shall deem necessary or desirable, and after the initial installation of pipe or pipes, to lay, construct, maintain, operate, repair, and renew additional lines of pipe.
- B. The Grantee to have and to hold said easement so long as such line or lines and appurtenances thereto shall be maintained as herein provided, with ingress to and egress from the premises, for the purpose of constructing, inspecting, repairing, maintaining and replacing the property of Grantee and the removal of such at will, in whole or in part.
- C. Grantee's right to the use of said easement and right of way is not exclusive and Grantor may use and enjoy the premises except for the purposes herein granted to the Grantee, and may pave the surface of said easement strip, use the same for storage, may cross and recross the same with roads, electric lines, power lines, water lines, gas lines and other utility service lines; provided the Grantor shall not erect or construct any permanent building or other structure in, on, upon, under or over said easement and right of way, or construct any other permanent structure or obstruction which would substantially interfere with Grantee's use of the easement for the purposes herein set forth or with the maintenance or repair by Grantee of its pipe line or pipe lines.
- D. For purposes of ingress to or egress from said easement Grantee shall use such roadways as now exist or which may hereafter be constructed by Grantor, or in the event such ingress and egress be

inadequate, to reasonably install and service said easement and pipeline or pipelines as hereinabove provided Grantee shall use such other roads or accessways across Grantor's property as may be designated and approved in advance by Grantor.

R. The Grantee shall cover all pipelines with a minimum depth of four (4) feet of fill material; all pavement to be replaced and the land returned to original state as of time of commencement of construction.

V. TERM OF EASEMENT

This grant of easement and right of way shall continue as long as used for the purposes granted, but if for a period of five years Grantee shall cease to use the rights, privileges and authorities for the purposes granted, or shall abandon the use of the easement and right of way herein granted, then, in any of such events, said easement and right of way and all rights hereunder shall automatically cease and terminate, and said easement and right of way shall revert to the then holder of the fee title to the real property; and Grantee, for itself and for its successors and assigns, agrees to execute and deliver such documents as may be required to extinguish of record said easement and right of way.

VI. CONSIDERATION CLAUSES

A. Payment of Taxes

Grantee agrees to pay all taxes that may be imposed in connection with said right of way improvements; and all taxes imposed on said right of way itself in the event it should be segregated on the tax rolls.

B. In consideration for the rights and privileges herein granted, Grantee has paid Grantor the sum of One Hundred Dollars (\$100.00), the receipt of which is hereby acknowledged.

VII. MAINTENANCE

Grantee agrees at all times to keep said right of way and the facilities constructed or installed thereon in a reasonable state of repair.

VIII. RESERVATIONS AND RESTRICTIONS

A. Matters of Record

Subject to matters relating to water and water rights and all

reservations, easements, and restrictions of record.

B. Vegetation Growth and Timber

Grantor reserves unto itself, its successors and assigns, the right to obtain any vegetation growing upon said area pertinent to this easement, PROVIDED, however, that Grantee shall have the right from time to time to cut and remove all trees, all undergrowth, and any other obstructions that may injure, endanger, or interfere with the construction and use of said pipeline or lines, or fittings and appliances appurtenant to any of said lines.

C. Reservation of Right to Relocate

Grantor, at its sole cost and expense, shall have the right to realign or relocate said easement, right of way, and Grantee's pipeline or pipelines if, in Grantor's judgment the same shall be necessary or economically advisable for Grantor's use of easement lands or of contiguous lands and if such realignment or relocation can be accomplished by Grantor without interruption of water service to Grantor's other water users. In such event, Grantor shall obtain and grant, without further consideration to Grantee, such additional rights of way and easements as may be required for such realignment or relocation and Grantee shall, by instrument in recordable form, deed back to the then-holder of the fee estate the portion of said easement and right of way replaced by such realigned or relocated easement and right of way.

D. Non-Assignable

This easement and right of way is personal to Grantee and the same may not be assigned by operation of law or otherwise without the written consent of Grantor, its successors and assigns.

IX. COVENANTS

A. Grantee does hereby agree to comply with all laws, rules, regulations and ordinances of Humboldt County, State of California and the United States of America now in effect or hereinafter promulgated relating to the construction, inspection, repairing

maintaining, replacing and removal of the aforesaid pipe lines and appurtenances.

B. Installation of Gates

If the Grantor requests installation of gates in writing, the Grantee agrees to install a gate or gates at the entrance or entrances to said right of way and at all times to maintain properly the same to the end that the public shall be denied the use of the right of way or the adjacent lands of Grantor, its successors and assigns, as much as is reasonably possible.

C. Indemnity

Grantee assumes all risk of injury to persons or damage to property in any manner resulting from or arising out of, or connected with Grantee's construction, maintenance and operations, and agrees to indemnify, defend, and save harmless Grantor from any and all loss, cost, damage charge or expense caused by, or resulting from, any such injury or damage. Grantee agrees to save and hold harmless the Grantor from all liens, costs, charges, claims or damages, and all expenses of any kind or nature whatsoever arising or growing out of this easement.

D. Indemnity Insurance

During the term of this easement and right of way, Grantee shall pay for insurance against liability imposed by law arising from Grantee's operation, including the operation of vehicles and contractual obligations, in form and substance acceptable to Grantor, and in amounts of not less than One Hundred Thousand Dollars (\$100,000.00) for any one bodily injury, sickness, disease or death, and not less than Three Hundred Thousand Dollars (\$300,000) for any one occurrence and Three Hundred Thousand Dollars (\$300,000) property damage. Such policy or policies shall not contain a humidity warranty clause nor shall Grantor be a named insured under these policies. Grantee shall immediately provide Grantor with

proper evidence of such insurance coverage. Grantor shall be given ten (10) days notice of any cancellation, expiration or modification of any such policy or policies.

X. DEFAULT

In the event the Grantee shall become in default in the performance or failure to perform all of the agreements, covenants and conditions on its part to be performed hereunder and such default shall continue and not be remedied within thirty (30) days after notice of default is given by Grantor to Grantee, the Grantor shall be entitled to seek and collect such damages as may result thereby, however Grantor reserves the right to exercise any and all other relief or remedies for such breach and default as may be provided from time to time by the laws of the State of California.

XI. NOTICES

All notices to be given by either party hereto to the other, as required herein, shall be in writing and shall be deemed to have been properly given when deposited in the United States mail in certified form, postage prepaid, addressed to such party at its address hereinabove set forth, or at such other address as shall theretofore have been designated by such party by written notice to the other.

XII. TERMINOLOGY

Wherever reference is made herein to "Grantor" the same shall be deemed to include the successors and assigns of Grantor.

IN WITNESS WHEREOF, the Grantor and Grantee have hereunto

set their hands this 23rd day of August, 1961.

SIMPSON REDWOOD COMPANY

HUMBOLDT BAY MUNICIPAL WATER DISTRICT

Handwritten scribble

BY [Signature]
President
CHAIRMAN

BY _____
President

Attest:

Attest:

[Signature]
Secretary

Secretary

Grantor.

Grantee.