

Humboldt Bay Municipal Water District Overview of District's Water Rights and Implications if not Used

Shortly after the District was formed in the late 1950's, the District applied to the State of California for "appropriative water rights" for the District's new regional water system. The District's original applications envisioned two phases of development of the regional water system. "Phase 1" proposed 50,000 acre-feet of storage at Ruth Reservoir, and a subsequent "Phase 2" expansion was proposed to increase Ruth Reservoir to 120,000 acre-feet.

Two water rights permits were issued to the District by the State for a total of 120,000 afa (acre-feet per annum) of storage and 200 cubic feet per second (cfs) of direct diversion. (Note: 200 cfs = 129 Million Gallons per Day (MGD) the units the District uses for its customer deliveries). The original permits specified that construction work shall be completed by July 1967, and that "complete application" of the water shall be made by July 1970. Complete application meant that all water under permit (the 120,000 acre-feet of storage and 200 cfs diversion) was supposed to be put to what is called "full beneficial use" in California water law.

The District proceeded with and completed "Phase 1" construction. "Phase 1" of the regional water system included Ruth Reservoir at 50,000 acre-feet (later modified to 48,030 AF), and diversion and delivery works in Humboldt County capable of supplying 116 cfs (which equates to 75 MGD).

The District did not achieve "complete application" of water under permit by July 1970 as required in its original permits. The District was not alone in that most Municipalities do not meet the term specified in their original water rights permits. The State understands that it takes time to develop projects and put water to full beneficial use, and they routinely granted 10-year time extensions to permit holders.

Between 1970 and 2000, the District applied for three successive ten-year extensions of its water rights permits, thereby allowing additional time to put the appropriated water to full beneficial use. The State approved three ten-year extensions, the most recent one taking the permit to term to December 2000.

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In 1999, the District submitted an application for another 10-year extension of its original permits (which still assumed Phase 1 and Phase 2 development). The District quickly learned that was no longer a tenable option. By that time, the Simpson Pulp mill was closed and the one remaining mill had reduced their water use. This resulted in a significant reduction in total water deliveries, and associated, beneficial use of water under the District's permits. The second change was that the Division of Water Rights and State Water Resources Control Board were evaluating extension requests much more critically, especially if a permit holder had not demonstrated clear progress toward completing the project and putting water to use.

After much work – involving legal research, projections of future Municipal water supply needs, and negotiations with senior staff at the Division of Water Rights - the District decided to amend its extension request. The District requested a 25-year permit extension (vs. the customary 10 years) for “Phase 1” development only, thereby giving up rights associated with “Phase 2” development. In 2004, the State Water Resources Control Board approved the District's amended extension request for 25 years (to December 31, 2029) and revoked rights associated with “Phase 2” development. The District's current permitted rights are for 48,030 acre-feet of storage at Ruth Reservoir and 116 cfs diversion (75 MGD).

At that time, senior staff at the Division of Water Rights put the District on notice stating they expect to see significant progress toward full beneficial use upon expiration of the next permit term. One senior staff threatened “licensing”, which is the final step in the appropriative water right process. Licensing confirms the amount of water that has been “perfected” (meaning actually used). Any rights to the water above the amount licensed, would be lost by the District.

Since the last permit extension was granted, the second pulp mill ceased operation resulting in another appreciable reduction in water use under the District's water rights permits. Graph 1 shows the amount of permitted diversion (acre-feet/year) compared to the District's actual annual diversions. As shown, there is a significant gap between the permitted use and that which the District is currently using. The District must put this available water to beneficial use during the current permit term or risk losing it at some point in the future.

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Graph 1

Annual Permitted Diversion versus Actual Diversions over Recent Years

