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ERIC V. KIRK
JASON J. EADS
JOSHUA KAUFMAN
JEFFREY W. MONSELL

JOHN R. STOKES, III *RETIRED

THOMAS D. ROWE (1948-2011)
JOHN R. STOKES (1917-2001)
DOROTHY L. STEEVES (1926-1996)

STOKES, HAMER, KIRK & EADS, LLP
ATTORNEYS AT LAW
A LIMITED LIABILITY PARTNERSHIP

381 BAYSIDE ROAD, STE. A
ARCATA, CALIFORNIA
95521

AREA CODE 707

TELEPHONE
822-1771

FAX 822-1901



March 22, 2021

By hand-delivery

Humboldt County Board of Supervisors
Attn: Kathy Hayes, Clerk of the Board
825 Fifth Street
RM 111
Eureka, CA 95501

Re: Appeal of Planning Commission decision re Rising Goat,
LLC - April 6, 2021

Dear Ms. Hayes:

Enclosed please find documentation for the Board's consideration, mostly consisting of communications between parties of interest and the Department of Planning as well as excerpts from some applicable standards we are calling on the Board to apply in the appeal.

Please call me if you have any questions and thank you for your attention to the matter.

Very truly yours,

STOKES, HAMER, KIRK & EADS, LLP

Eric V. Kirk

EVK/dw
encl.

cc: Paul F. Soares (by facsimile and mail), Clients

To: Humboldt County Board of Supervisors
From: Bonnie Blackberry
For: April 6, 2021 Board of Supervisors Meeting
Date: March 29, 2021

RE: Appeal of Special Permit for Rising Goat Record Number PLN-2020-16188

Dear Supervisors,

First of all, the process where the neighbors don't find out about what is being proposed until the end of the process, instead of the beginning, creates situations such as this where the applicant is surprised and angry to find out about specific concerns with the plan. We have been subjected to threats of being sued and then the applicant proposed using twice as much water for a you-pick beans and berry farm as responses to our concerns.

I am the adjacent property owner that received a notice in December, 7 days before this project was scheduled for the Zoning Administrator meeting. The springs are on my property, though multiple property owners have water rights to them. The county did not send notices to any of the property owners who have appropriative rights and down stream riparian rights. Lack of consideration of possible impacts to other properties is very problematic.

I agree with conditions set forth at the Feb 18th Planning Commission meeting except for the following;

1. Request a condition be added requiring the applicant to participate in the Forbearance Period if the hydro-geologist determines that the well is a non diversionary source. We believe it is connected but want assurance just in case.

QUESTION: What specific criteria did staff use to make the determination that the well was not hydrologically connected to surface waters?

2. Request corrections in the Action Summary, and Operations Plan and any other document to state the estimated water use as 249,600 gallons per year, instead of 366,660 gallons.

3. Request Condition 18 be further clarified by correcting the Staff Project Descriptions, the Action Summary, and Operations Plan by replacing the current language, "The operator proposes at most two cultivation cycles", to the approved condition of no more than a single run of outdoor, light deprivation cannabis annually.

"Condition 18 "The applicant shall allow for and arrange for inspections as necessary for county staff to verify no more than a single run of outdoor, light deprivation cannabis"

4. Request compliance with Energy Source: CCLUO 2.0 "55.4 .6.3.1 Energy Source: Electricity must be exclusively provided by a Renewable Energy Source".

Staff has interpreted this provision as "Solar power will be the main power source and generators will only be used as an emergency power source."

The Notice of Determination says, "Power is supplied by generators, which is limited to 20% and a solar system that will provide 80% of power needs." Within two years, solar power will be the main power source, and generators will only be used as an emergency power source."

The 2.0 Ordinance says "must be exclusively renewable", not mainly renewable. With the staff's interpretation, when solar is the renewable source, generators are being used as a supplemental source when not enough sunshine to keep the batteries charged, not for emergency power when the grid goes down and the power goes out.

100% Solar requires enough battery storage to cover projected needs during cloudy days and stormy no sun periods.

During the Planning Commission meeting when the applicant was asked what he considered back up generator use, he said he'd "only use the generator when he'd burned out all the power in the batteries".

The applicant's consultant, Alicia explained that "solar will be the main source, when the power stored in the solar panels is not enough to get the project owners through a stormy no sun period, that's when the generator would be used to pump the well water up to the tank storage." (The generator described in the Operations Plan is a large diesel generator.)

Is the county classifying stormy no sun periods as an emergency? If so, then need to change the 2.0 Ordinance and remove, "Electricity must be exclusively provided by a Renewable Energy Source," and replace it with renewable energy as the main source.

Please consider that myself and neighbors are relying on you to protect our water rights, as well as the environment and wildlife that depend on the water, recognizing the impacts already from the climate crisis and ongoing drought.

Also please clarify the Board's interpretation of the 2.0 Energy Source regarding generators and must be exclusively renewable provision. And ask staff to correct the inconsistencies with the documents describing the Rising Goat project and conditions.

Respectfully,
Bonnie Blackberry

*see page 3 attachment with CCLUO provisions

The following excerpts from the 2.0 Ordinance # 2599 CCLUO (inland) are the relevant provisions showing that the Performance Standards for Energy Use is intended for Pre-

Existing operations where generators are allowed. and not for the New 2.0 Ordinance which requires energy source must be exclusively 100% renewable.

1. CCLUO 2.0 "55.4 .6.3.1 Energy Source (pg 15)

Electricity must be exclusively provided by a Renewable Energy Source, meeting the performance Standard for Energy Use."

2. CCLUO 55.4.12.5 Performance Standard for Energy Use (Pg 38)

"All electricity sources utilized by Commercial Cannabis Cultivation Manufacturing, or Processing activities shall conform to one or more of the following standards:"

55.4.12.5.1 grid power supplied from 100% renewable

55.4.12.5.2 on-site renewable energy system with twenty percent net non-renewable energy use

55.4.12.5.3 grid power supplied by partial or wholly non renewable source with purchase of carbon offset credits.

3. "55.4.6.5.6 Energy Source for Ancillary Propagation Facility or Mixed Light Cultivation", (pg 19)

"In TPZ zones and U zones (with a Land Use Designation of Timberland) the use of generators and Mixed-Light cultivation is prohibited. Where grid power is not available, Pre-Existing cultivation sites located within other eligible zoning districts may utilize on-site generators to supply energy for mixed light and propagation activities.."

"a) use of on-site generators to supply up to 20 percent of cannabis cultivation related energy demand may occur as a principally permitted use."

Margro Advisors

From: Margro Advisors
2306 Albee St Eureka, CA 95501

To: Humboldt County Board of Supervisors
825 5th St, Eureka, CA 95501



RE: Rising Goat Limited, Special Permit Record Number PLN-2020-16188

Dear Members of the Board of Supervisors,

The Cannabis community has spent the past several years helping educate the public about the benefits of responsible Cannabis farming. They have been subjected to heavy environmental requirements from Fish & Wildlife, Water Quality Board, CAL-FIRE, Division of Water Rights and others to ensure that the environmental impact doesn't harm even the ears of a Marbled Murrelet or Northern Spotted Owl. Yet this project has the potential to significantly diminish the domestic water availability from a number of long-standing homestead neighbors. The potential impact of a single Cannabis farm, unwilling to pursue sustainable and responsible methods for water sourcing, is unsettling. Especially, when considering the fact that a significant majority of his fellow farmers have been required to do so already.

We want to be clear that there is also a significant risk to the Artisanal Cannabis Community and Humboldt County's overall permitting process should a single farm cause the loss of domestic water for so many of their neighbors. This has the potential to become a catastrophic public relations nightmare for our industry. All it would take would be one article from the San Francisco Chronicle, the LA Times, or the Washington Post, highlighting the loss of a rural community's basic human need for household water due to a neighboring Cannabis farm, to undo so much of our progress. The outcome of this project has the potential to set very negative wheels in motion. Suddenly, the harshest critics of Cannabis cultivation would have new ammunition for driving out our hard earned sustainable sun grown Cannabis farms in favor of unsustainable urban indoor grows.

Please take great care into how you proceed with this decision, because the warning flags have been flown, and should these residents' fear come to fruition, the ramifications will be much larger and more costly than the price of one proper rain catchment system, and a collection of water storage tanks. The future of these neighbors and our local industry is in your hands. Please decide wisely.

Thank you,

 
Kelly Flores & Suzanne Maese

Rising Goat Limited

Well Water Use Considerations

— Potential Risk to Local
— Domestic Water Source

SWRCB Drought Warning Issued March 22, 2021



State Water Resources Control Board

March 22, 2021

ONGOING DRY CONDITIONS IN MOST CALIFORNIA WATERSHEDS – PREPARE FOR DROUGHT IMPACTS STATEWIDE

After two years of low precipitation, the U.S. Drought Monitor now reports that 95 percent of California is experiencing Moderate to Exceptional Drought. Reservoir and groundwater levels are significantly below average, and despite recent storms, snowpack is only 58 percent of average as of March 10, 2021. Continued dry conditions can threaten water supplies, impair critical habitat, reduce recreational opportunities, and create uncertainty for all water users. Hydrologic conditions since 2020 have been very similar to the drought years of 2014 and 2015.

Your early efforts can help minimize the potential impact of water management actions on businesses, homes, farms, and California's public trust resources. Start planning now for potential water supply shortages later this year and identify practical actions you can take to increase drought resilience, such as increasing water conservation measures, reducing irrigated acreage, managing herd size, using innovative irrigation and monitoring technologies, or diversifying your water supply portfolio.

The Division of Water Rights (Division) relies on accurate and timely water use data from you and other diverters to help manage California's water. All diverters must report their annual water use, and many diverters must report diversion metering or measuring data. By accurately reporting your water diversion and use data on time, you fulfill your legal reporting obligation and provide critically important information for managing the state's water resources.



Well is Adjacent to an Interconnected System

RECEIVED
MAY 23 2021
NORTH DAKOTA COUNTY
WISCONSIN

The screenshot displays the USGS StreamStats web application interface. At the top left, the USGS logo and 'StreamStats' are visible. Below this is a navigation bar with 'SELECT A STATE / REGION' set to 'California'. A search bar contains the text 'Map Only'. A red box highlights the search bar with the text: 'Step 1: Use the map or the search tool to identify an area of interest. At zoom level 8 or greater State/Region selection will be enabled.' Below the search bar are buttons for 'IDENTIFY A STUDY AREA', 'SELECT SCENARIO', and 'BUILD A REPORT'. The main map area shows a satellite view of a watershed with blue stream lines. A red dot labeled 'WELL' is located in the center of the watershed. A 'Layers' panel is open on the right side of the map, showing various map layers with radio buttons: Streets, World Topographic, Gray, Dark Gray, Imagery (selected), and Shaded Relief. Below these are dropdown menus for Application Layers, National Layers, CA Map Layers, and Prosper Layer. In the bottom right corner of the map, a box displays: 'Zoom Level: 15', 'Map Scale: 1:18,055', and 'Lat: 40.1371, Lon: -123.6997'. A scale bar shows 100 m and 1000 ft. At the bottom of the page, it says 'POWERED BY WIM' and 'USGS Home Contact USGS Search USGS Accessibility FOIA Privacy Policy & Notices'. A small copyright notice is visible at the very bottom right of the map area.

Source: USGS StreamStats

Well Water is 50' Below the Surface



State of California
Well Completion Report
 Form DWR 188 Complete 12/20/2016
 WCR2016-007753

Owner's Well Number 1 Date Work Began 10/13/2016 Date Work Ended 10/21/2016
 Local Permit Agency Humboldt County Department of Health & Human Services - Land Use Program
 Secondary Permit Agency _____ Permit Number 16/17 123 Permit Date 08/22/2016

Well Owner (must remain confidential pursuant to Water Code 13752)

Name XXXXXXXXXXXXXXXXXXXX
 Mailing Address XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX
 City XXXXXXXXXXXXXXXXXXXX State XX Zip XXXXX

Planned Use and Activity

Activity New Well
 Planned Use Water Supply Domestic

Well Location

Address APN 223-101-004
 City Garberville Zip 95560 County Humboldt Township D4 S
 Latitude N Longitude W Range 04 E Section 11
 Deg. Min. Sec. Baseline Meridian Humboldt
 Dec. Lat. 40.1284666 Dec. Long. -123.7086637 Ground Surface Elevation _____
 Vertical Datum WGS84 Elevation Accuracy _____
 Location Accuracy _____ Location Determination Method _____

Borehole Information

Orientation Vertical Specify _____
 Drilling Method Direct Rotary Drilling Fluid Air
 Total Depth of Boring 200 Feet
 Total Depth of Completed Well 200 Feet

Water Level and Yield of Completed Well

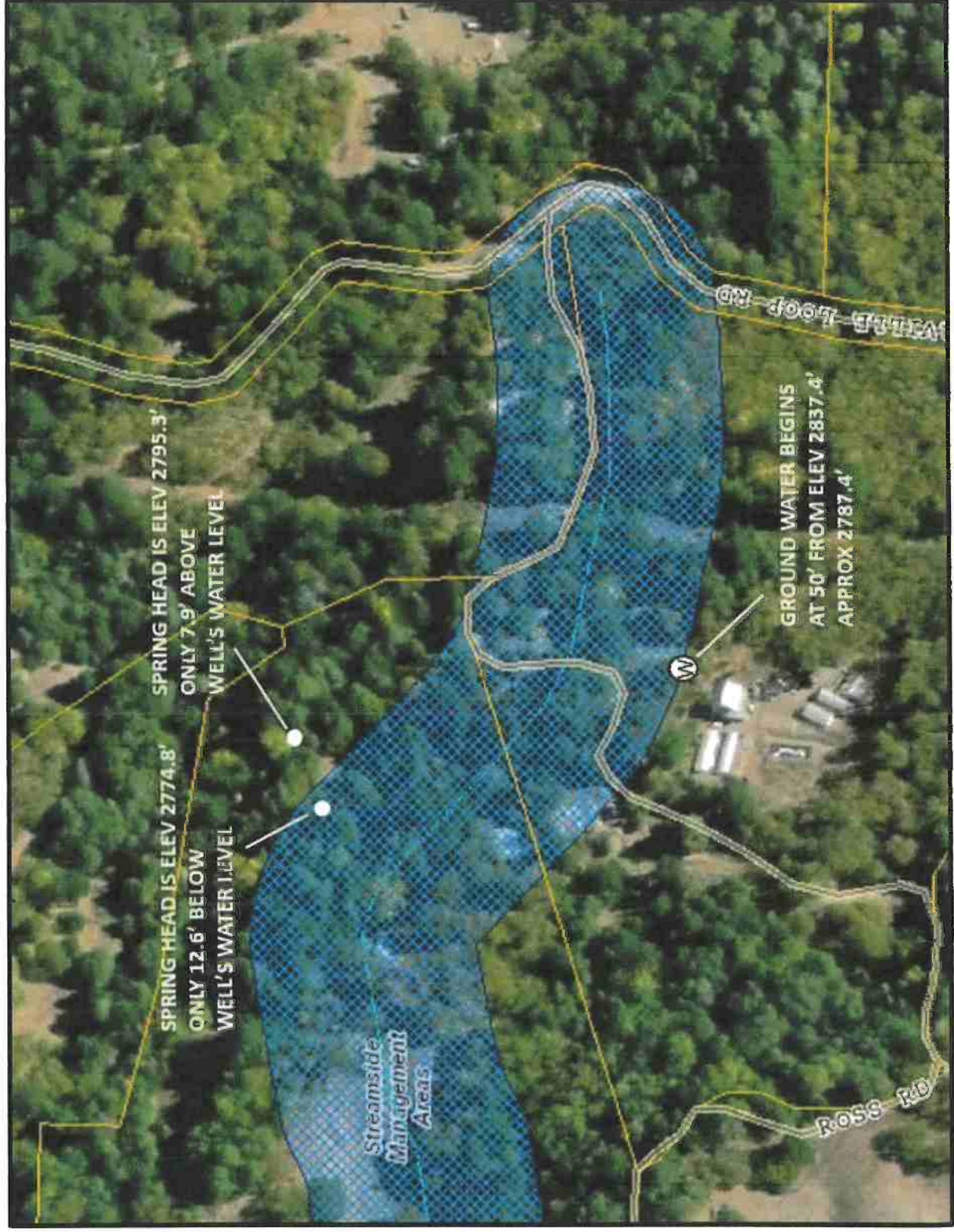
Depth to first water 50 (Feet below surface)
 Depth to Stage _____
 Water Level _____ (Feet) Date Measured _____
 Estimated Yield* 25 (GPM) Test Type Air Lift
 Test Length 2 (Hours) Total Drawdown _____ (feet)
 *May not be representative of a well's long term yield

Geologic Log - Free Form

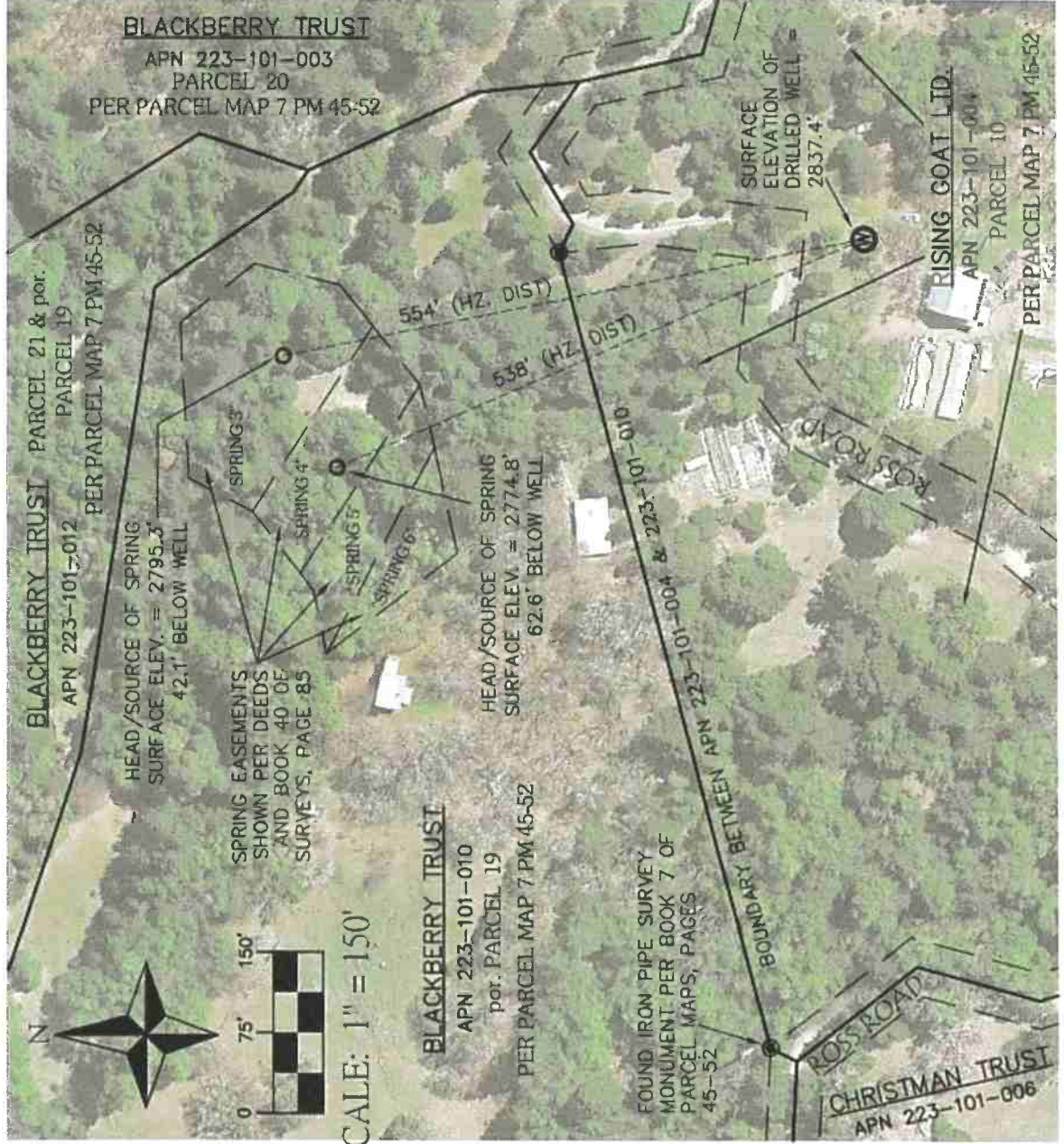
Depth from Surface Feet to Feet	Description
0	5 Top Soil
5	25 Sand & Gravel w/Clay
25	75 Brown Sorptionline Gravel
75	80 Blue Clay
80	200 Fractured/Broken Franciscan Sandstone

Well's Water Level is Similar to Nearby Springs

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MAR 29 2021
Humboldt County
Planning Division



Springs are Downhill & Less Than 600' from Well



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 MAR 29 2021
 Humboldt County
 Planning Division

Considerations



- State Water Resource Control Board has issued a drought warning as of March 22, 2021
- The Well's location sits near a Class II stream which is part of an interconnected watershed to Dean Creek
- The nearby waterway sits between the Well and the springs
- Well's water level is at a similar elevation to the nearby springs
- The springs are downhill from the well, increasing the likelihood that the well's source also feeds the springs

RECOMMENDATIONS

Any agricultural irrigation needed for Rising Goat Limited should be collected and stored in the winter period to ensure it is not impacting the local watershed and downstream residents

APPENDIX



State Water Resources Control Board

March 22, 2021



ONGOING DRY CONDITIONS IN MOST CALIFORNIA WATERSHEDS – PREPARE FOR DROUGHT IMPACTS STATEWIDE

After two years of low precipitation, the U.S. Drought Monitor now reports that 95 percent of California is experiencing Moderate to Exceptional Drought. Reservoir and groundwater levels are significantly below average, and despite recent storms, snowpack is only 58 percent of average as of March 10, 2021. Continued dry conditions can threaten water supplies, impair critical habitat, reduce recreational opportunities, and create uncertainty for all water users. Hydrologic conditions since 2020 have been very similar to the drought years of 2014 and 2015.

Your early efforts can help minimize the potential impact of water management actions on businesses, homes, farms, and California's public trust resources. Start planning now for potential water supply shortages later this year and identify practical actions you can take to increase drought resilience, such as increasing water conservation measures, reducing irrigated acreage, managing herd size, using innovative irrigation and monitoring technologies, or diversifying your water supply portfolio.

The Division of Water Rights (Division) relies on accurate and timely water use data from you and other diverters to help manage California's water. All diverters must report their annual water use, and many diverters must report diversion metering or measuring data. By accurately reporting your water diversion and use data on time, you fulfill your legal reporting obligation and provide critically important information for managing the state's water resources.

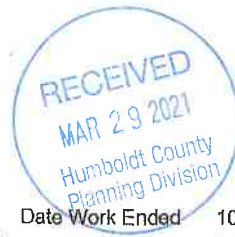
The Division is monitoring the situation closely and plans to engage more frequently with water users if dry conditions continue or worsen. We encourage you to work collaboratively with your community to develop cooperative water management solutions that meet both local and state-level needs.

More information on **Drought Conditions** can be found at: <https://www.drought.gov/drought-status-updates/drought-status-update-california-nevada>

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

More information about the **Division of Water Rights** can be found at: <https://www.waterboards.ca.gov/waterrights/>

State of California
Well Completion Report
 Form DWR 188 Complete 12/20/2016
 WCR2016-007753



Owner's Well Number 1 Date Work Began 10/13/2016 Date Work Ended 10/21/2016
 Local Permit Agency Humboldt County Department of Health & Human Services - Land Use Program
 Secondary Permit Agency _____ Permit Number 16/17 123 Permit Date 08/22/2016

Well Owner (must remain confidential pursuant to Water Code 13752)	Planned Use and Activity
Name <u>XXXXXXXXXXXXXXXXXXXX</u>	Activity <u>New Well</u>
Mailing Address <u>XXXXXXXXXXXXXXXXXXXX</u> <u>XXXXXXXXXXXXXXXXXXXX</u>	Planned Use <u>Water Supply Domestic</u>
City <u>XXXXXXXXXXXXXXXXXXXX</u> State <u>XX</u> Zip <u>XXXXX</u>	

Well Location	
Address _____	APN <u>223-101-004</u>
City <u>Garberville</u> Zip <u>95560</u> County <u>Humboldt</u>	Township <u>04 S</u>
Latitude _____ N Longitude _____ W	Range <u>04 E</u>
Deg. Min. Sec. Deg. Min. Sec.	Section <u>11</u>
Dec. Lat. <u>40.1294866</u> Dec. Long. <u>-123.7086637</u>	Baseline Meridian <u>Humboldt</u>
Vertical Datum _____ Horizontal Datum <u>WGS84</u>	Ground Surface Elevation _____
Location Accuracy _____ Location Determination Method _____	Elevation Accuracy _____
	Elevation Determination Method _____

Borehole Information	
Orientation <u>Vertical</u> Specify _____	
Drilling Method <u>Direct Rotary</u> Drilling Fluid <u>Air</u>	
Total Depth of Boring <u>200</u> Feet	
Total Depth of Completed Well <u>200</u> Feet	

Water Level and Yield of Completed Well	
Depth to first water <u>50</u> (Feet below surface)	
Depth to Static _____	
Water Level _____ (Feet) Date Measured _____	
Estimated Yield* <u>25</u> (GPM) Test Type <u>Air Lift</u>	
Test Length <u>2</u> (Hours) Total Drawdown _____ (feet)	
*May not be representative of a well's long term yield.	

Geologic Log - Free Form		
Depth from Surface	Feet to Feet	Description
0	5	Top Soil
5	25	Sand & Gravel w/Clay
25	75	Brown Serpentine Gravel
75	80	Blue Clay
80	200	Fractured/Broken Franciscan Sandstone

Casings

Casing #	Depth from Surface Feet to Feet		Casing Type	Material	Casings Specificatons	Wall Thickness (inches)	Outside Diameter (inches)	Screen Type	Slot Size If any (inches)	Description
1	0	21	Blank	Low Carbon Steel	Grade: ASTM A53	0.25	8			
2	0	40	Blank	Low Carbon Steel	Grade: ASTM A53	0.188	6			
2	40	75	Screen	Low Carbon Steel	Grade: ASTM A53	0.188	6	Milled Slots	0.125	Knife Cut
2	75	95	Blank	Low Carbon Steel	Grade: ASTM A53	0.188	6			
2	95	155	Screen	Low Carbon Steel	Grade: ASTM A53	0.188	6	Milled Slots	0.125	
2	155	175	Blank	Low Carbon Steel	Grade: ASTM A53	0.188	6			
2	175	200	Screen	Low Carbon Steel	Grade: ASTM A53	0.25	6	Milled Slots	0.125	

Annular Material

Depth from Surface Feet to Feet		Fill	Fill Type Details	Filter Pack Size	Description
0	21	Bentonite	Non Hydrated Bentonite		
21	200	Other Fill	See description.		no annular fill

Other Observations:

Borehole Specifications

Depth from Surface Feet to Feet		Borehole Diameter (inches)
0	21	12
21	200	7.44

Certification Statement

I, the undersigned, certify that this report is complete and accurate to the best of my knowledge and belief

Name WATSON WELL-DRILLING
Person, Firm or Corporation

500 Summer Street Eureka CA 95501
Address City State Zip

Signed electronic signature received 11/09/2016 1014048
C-57 Licensed Water Well Contractor Date Signed C-57 License Number

DWR Use Only

CSG #	State Well Number	Site Code	Local Well Number
		N	W
Latitude Deg/Min/Sec			Longitude Deg/Min/Sec
TRS:			
APN:			

HUMBOLDT CO. DIVISION
OF ENVIRONMENTAL HEALTH

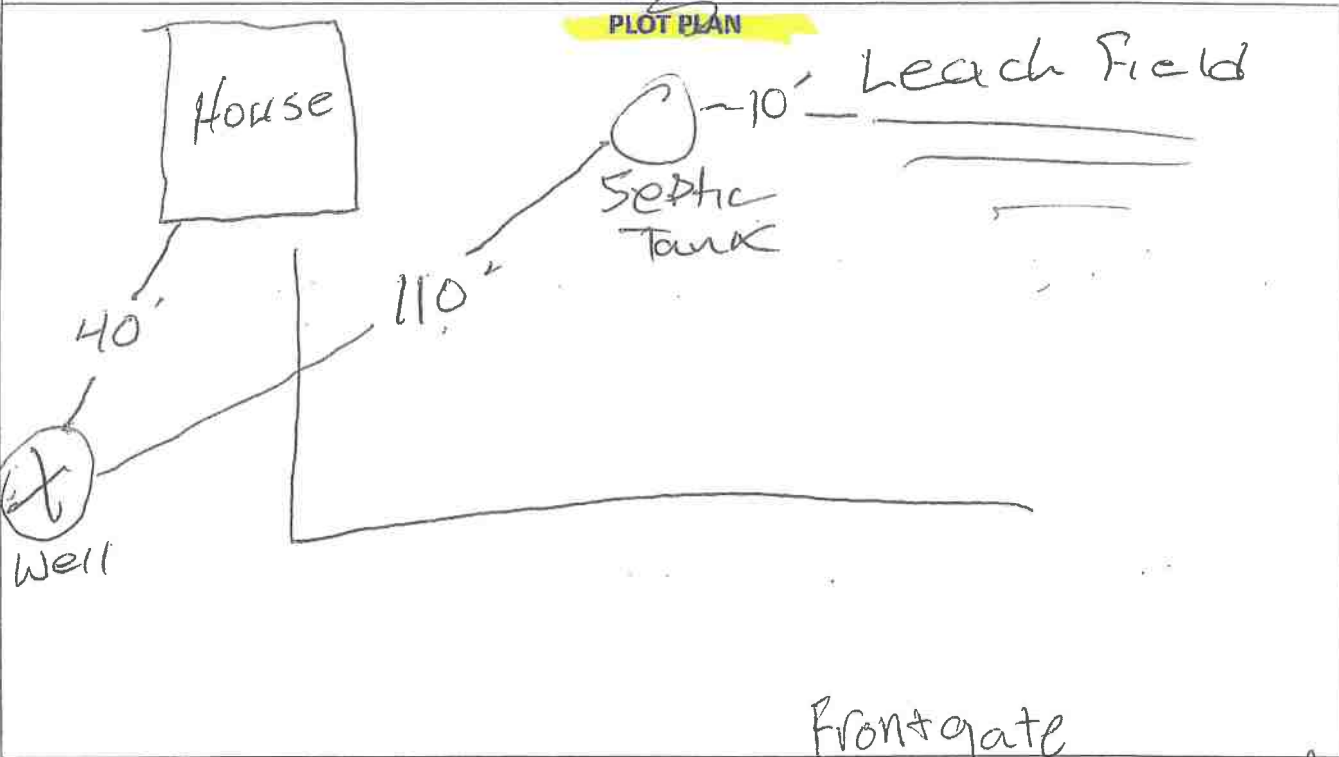
MAR 11 2020

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AUG 8 2016

<u>Estimated Work Dates:</u>	<u>Casing:</u>	<u>Type of Sewage System:</u>
Start _____	Diameter (in.) _____	<input type="checkbox"/> Community Sewer
Completion _____	Material _____	<input type="checkbox"/> OWTS (Septic)
		Distance from well site to OWTS _____

Special Requirements/Comments:



N
1103 FOR OFFICE USE ONLY

Fee: <u>373.-</u>	Site Approved by: <u>[Signature]</u>
Date: <u>8/8/16</u>	Site Approved Date: <u>8/22/16</u>
Receipt: <u>917118</u>	Sealed to Depth of: <u>21"</u>
Project #: _____	Seal observed: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Final Approved Date: <u>3/23/21 JW</u>

paid for by Watson Well Drilling



ARCISIS Web Map

Humboldt County Planning and Building Department

Printed: March 28, 2021 Web AppBuilder 2.0 for ArcGIS

Map Disclaimer: While every effort has been made to assure the accuracy of this information, it should be understood that it does not have the force & effect of law, rule, or regulation. Should any difference or error occur, the law will take precedence.

Highways and Roads

- Principal Arterials
- Minor Arterials
- Major Collectors
- Minor Collectors
- Local Roads

Blue Line Streams

- Major River or Stream
- Perennial 1-3
- Perennial >4

Streamside Management Areas

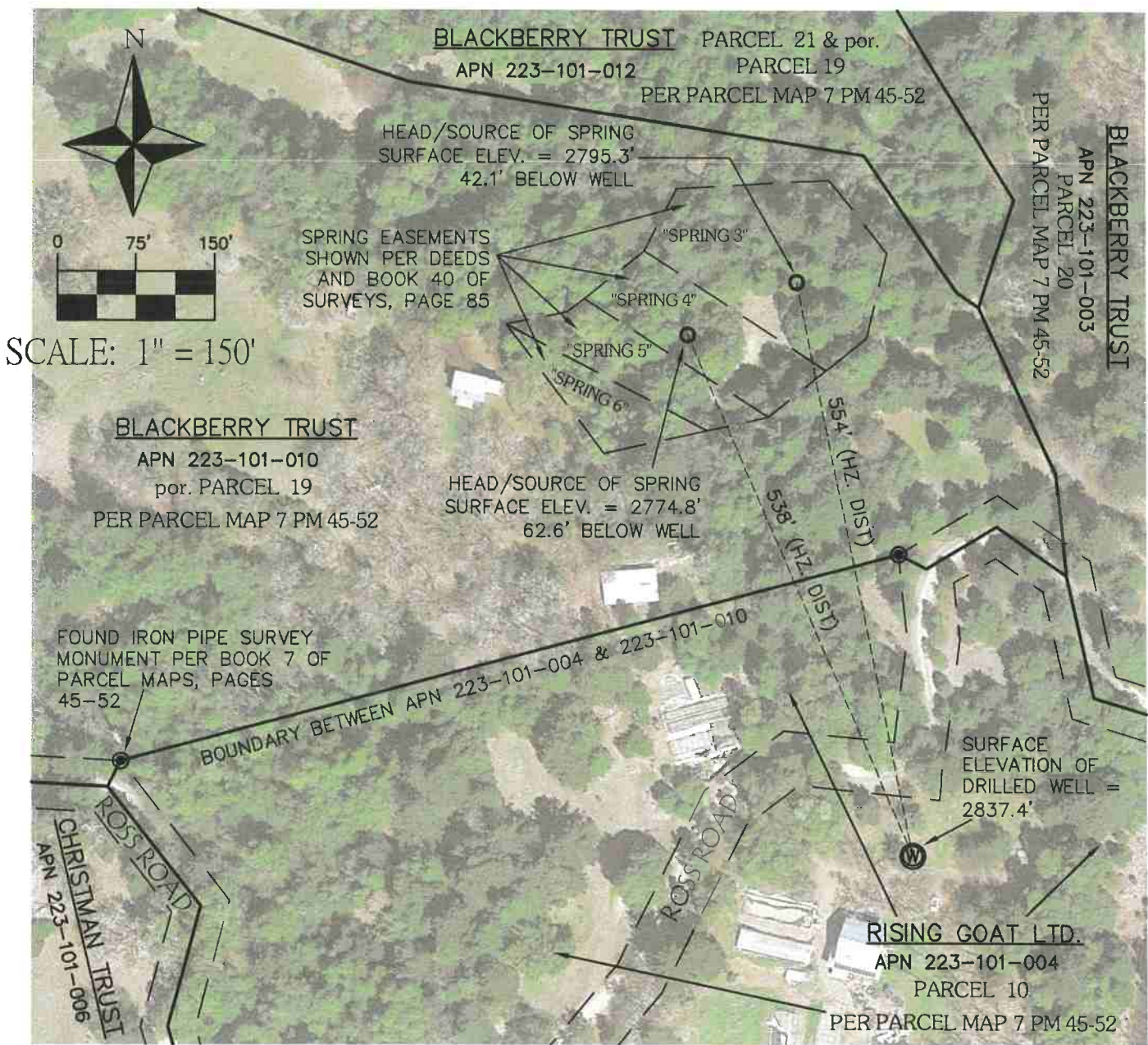
- Private or Unclassified
- Intermittent
- Subsurface

Other Features

- City Boundary
- Counties
- Parcels (no APN labels)
- Streamside Management Areas

Sources: Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community
 NRCS
 Humboldt County GIS
 Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community

RECEIVED
 Humboldt County
 MAR 29 2021
 Planning Services



NOTE

THIS EXHIBIT WAS PREPARED AT THE REQUEST OF SUSAN AND PAUL JACOBSEN TO DOCUMENT PROXIMITY OF A DRILLED WATER WELL ON LANDS OF RISING GOAT LIMITED, TO EXISTING NEARBY COMMUNITY SPRINGS. EXHIBIT PREPARED BY DYLAN KOLSTAD, PLS 8152, MARCH 26, 2021 BASED ON FIELD SURVEY ON MARCH 23, 2021. BOUNDARY LINES SHOWN BASED ON FOUND SURVEY MONUMENTS SET BY BOOK 7 OF PARCEL MAPS, PAGES 45-52. ELEVATIONS SHOWN ARE DERIVED BY GPS OBSERVATIONS AND MAY NOT BE DIRECTLY COMPARABLE WITH ELEVATIONS SHOWN BY OTHER DOCUMENTS. HUMBOLDT COUNTY RECORDS. BACKGROUND IMAGE IS FROM GOOGLE EARTH, DATED APRIL 21, 2019, ALIGNED APPROXIMATELY TO FIELD SURVEY.



LEGEND

- BOUNDARY LINES OF BLACKBERRY OR RISING GOAT PROPERTIES
- - - ADJACENT BOUNDARY LINES
- FOUND SURVEY MONUMENT FROM BOOK 7 OF PARCEL MAPS, PAGES 45-52
- APN ASSESSOR'S PARCEL NUMBER

BOUNDARY EXHIBIT

SHEET 1 OF 1

KOLSTAD LAND SURVEYORS

PO BOX 594 BAYSIDE, CA 95524 VOICE (707) 822-2718 FAX (707) 822-5636