



## Attachment D HUMBOLDT BAY MUNICIPAL WATER DISTRICT

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

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### GENERAL MANAGER

JOHN FRIEDENBACH

June 11, 2018

Saskia Burnett  
City of Arcata  
Community Development Department  
736 F Street  
Arcata, CA 95521

### RE: Oppose

**Project: 178-067-DR Axel (Phase 4)**

**Assessor Parcel Number: 507-251-020**

**Address: 5550 West End Road**

Dear Ms. Burnett,

Our District respectfully submits the following information for consideration in regards to the above referenced project. Our District has a major water transmission line with corresponding easements across the parcel 507-251-020. Our District has a right of way over the subject parcel. We have previously communicated to the City of Arcata our concerns with development on this property.

Our District is not opposed to development, but would like to raise some issues for your consideration when developments are proposed in the vicinity of major transmission size water lines. Our interest generally in this area involves access to our pipeline for maintenance and repairs and concerns for structures and/or landscaping that could inhibit our existing rights in these regards. As such we are concerned with encroached development that may either inhibit our operations or be in the area of an emergency repair response. A break in the 51 inch large water transmission line would likely result in a large area of flooding and severe soil erosion in and around the vicinity of a break. Therefore, any development that could be impacted by such should be given thorough and prudent consideration.

We plan to continue to access our pipeline through this property.

Kindly refer to our letter of December 2, 2016 for our previous comments which continue to apply to the most recent development plan modifications. In addition, we are concerned about the proposed drainage improvements (improve swale, lid swale) located on the east property line in the vicinity of our pipeline right of way. The drainage swale must not impede access of vehicles and equipment to our pipeline Right-of-Way. We oppose the removal of any cover material within our right of way as this could compromise our pipelines. Moreover, we oppose the use of heavy equipment in this vicinity of our right of way and pipelines for similar reasons.

The following items are of extreme concern to our District and its rights under our existing easements and are the major reasons for our opposition to this Phase 4 development.

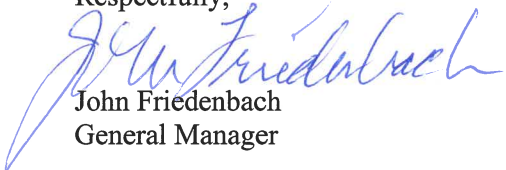
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1. Sheet A-1.1 shows Building 4 built right up to the edge of our ROW. This is a proposed two story, steel framed building. If the District is required to dig up the 51-inch Industrial Waterline in our right-of-way, we may have a vertical cut right up to the edge of our ROW. There are no design details on the proposed foundation for this building or indications that the foundation/building would support such an excavation immediately adjacent to it. It is also difficult to believe that the footings for such a foundation would not extend into the District's ROW.
2. Sheet A-1.2 shows Parking Lot 4 is extending into our right of way. This is unacceptable in the design without even so much as a discussion between the Applicant and our District. Furthermore, the District does not desire to be digging into asphalt as well as concrete curb and gutter while accessing our pipe, particularly in an emergency situation.
3. Sheet LA-2 shows 3-4" of #3 cobble over weed cloth covering most of the District's ROW. The District does not desire to be digging through weed cloth and #3 cobble while accessing our pipeline for repairs or maintenance.
4. Sheet LA-2 shows 3 trees (BJST) and 5 shrubs (VO) planted in our ROW. We will not allow any trees or shrubbery planted in our ROW. These plantings could compromise our pipelines.
5. Sheet LA-3 shows 4 trees and 4 shrubs planted in our ROW and 4 additional trees and 4 additional shrubs planted immediately adjacent to our ROW. We will not allow trees or shrubs to be planted in our ROW. Furthermore, any trees or shrubs planted on the edges which have roots or branches extending into our ROW which are damaged during the execution of work within our ROW will not be our responsibility.

Based on the above items, our District is opposed to this development as proposed. We respectfully request that you keep us informed of any public hearings on this project.

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

Respectfully,



John Friedenbach  
General Manager

Cc: Paul Brisso, esq.  
Pat Kaspari, GHD  
Dale Davidsen, HBMWD



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**GENERAL MANAGER**

JOHN FRIEDENBACH

July 6, 2018

Saskia Burnett  
City of Arcata  
Community Development Department  
736 F Street  
Arcata, CA 95521

**RE: Continue to Oppose**

**Project: 178-067-DR Axel (Phase 4)**

**Assessor Parcel Number: 507-251-020**

**Address: 5550 West End Road**

Dear Ms. Burnett,

Our District respectfully submits the following additional information and comments for consideration in regards to the above referenced project. This letter is to follow up and supplement our prior communications, including our letters of December 2, 2016 and our recent June 11, 2018 letter. Our District has a major water transmission line with corresponding easements across the parcel 507-251-020. Our District has a right of way and related easement rights over the subject parcel. We have previously communicated to the City of Arcata our concerns with development on this property.

The District appreciates the Applicant's attempt to modify the project based on our previous comments, however, the modifications do not adequately address the District's concerns with the proposed project. In the interest of time, money and efficiency, perhaps it would be best that the City of Arcata Planning Staff, the Applicant, and the District meet to discuss a mutually agreeable resolution to our conflicts.

Until that time, the District submits the following comments.

1. The setback of the walls of Building 4 by approximately two feet from the edge of the District's 30-foot easement corridor was apparently intended to avoid an actual physical encroachment into the easement area by the footings of the building. However, detailed plans of the footings for the building were not included. Unfortunately, this two foot setback does not adequately address the District's primary concerns. Moreover, as detailed on sheets: A-6, A-14, A-15, A-16, and A-17, it appears that the roof overhang is 4 feet to 4.5 feet wider than the footprint of the building. This would mean that the roof overhangs and encroaches into our easement by approximately 2 feet or more. Encroachment into our pipeline easement by any permanent structure infringes upon our easement rights.
2. As we have documented to the Applicant and the City of Arcata previously, the District's easement rights have two primary components: 1) A 30-foot wide right of way for the actual placement of water lines; **and** 2) Other rights to use portions of the entire parcel for "...free

right of ingress and egress to, over, across and from said lands, together with the right to use such portion of said land **adjacent to and along such right of way as may be reasonably necessary in connection with the installation, repair and replacement of such pipeline or line.**” Emphasis added.

The project as currently proposed violates the District’s easement rights that are in addition to the 30-foot wide right of way itself, including the right to use the property to access the 30-foot right of way and to use land adjacent to the 30-foot right of way for installation, repair and replacement of lines.

Specifically, the location of Building 4--and Building 6--to the western edge of the District’s 30-foot right of way would eliminate or greatly reduce the District’s ability to use land “adjacent to and along” the western edge of the right of way for the purposes of installation, repair and replacement of the District’s facilities located in the right of way.

As mentioned in prior correspondence, the District’s facilities in the right of way include a very large (51 inch) water transmission line. A break in the line in the vicinity of the proposed improvements would likely result in a large area of flooding and severe soil erosion. It is unlikely that such a break could be adequately addressed and repaired with only access from the eastern side of the 30-foot right of way which is owned by a third party.

3. In addition, the location of “Lot 4” includes encroachment into the District’s 30-foot right of way, with a “loading zone” in close proximity. The District is concerned with interference to access of its facilities in the 30-foot right of way and possible overburden and damage to the District facilities. It is unknown from the Applicant’s drawings whether this “loading ramp” has a subsurface gradient or not. Furthermore, the loading ramp structure as proposed intersects the “drainage easement” causing any drainage to flow into our pipeline easement. This flow of drainage water could weaken the fill covering our pipelines and thereby compromise our pipelines. See previous comment in June 11, 2018 letter item 2.
4. Although some of the proposed vegetation has been removed from the District’s 30 pipeline easement, there are several large trees proposed in the landscaping adjacent to the District’s 30-foot pipeline right of way. Any landscaping of the area should include provisions that will not unreasonably reduce or increase the coverage of the District’s facilities and not incorporate trees or plants that may have invasive roots or otherwise threaten the District’s facilities or its access to those facilities. Therefore, the large trees proposed adjacent to our pipeline easement should be eliminated. See previous comment in June 11, 2018 letter item 5.

As indicated in prior communications, the District is not opposed to development. However, any development must adequately recognize and protect the District’s easement rights. Limitations on the District’s ability to adequately access, address and repair facilities—particularly a major transmission line such as that involved in the easement in question—pose a significant threat to the health, safety and welfare of numerous local residents, both those in the immediate area of any break and for those whose water service depends on these transmission facilities.

We reiterate our previous comments that continue to be relevant.

We plan to continue to access our pipeline through this property.

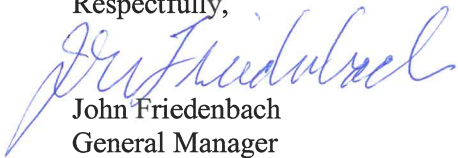
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Kindly refer to our letter of December 2, 2016 and June 11, 2018 for our previous comments which continue to apply to the most recent development plan modifications. In addition, we are concerned about the proposed drainage improvements (improve swale, LID swale) located on the east property line in the vicinity of our pipeline right of way. The drainage swale must not impede access of vehicles and equipment to our pipeline Right-of-Way. We oppose the removal of any cover material within our right of way as this could compromise our pipelines. Moreover, we oppose the use of heavy equipment in this vicinity of our right of way and pipelines for similar reasons.

Based on the above items and contents of our previous comments, our District continues to be opposed to this development as proposed. We respectfully request that you keep us informed of any public hearings on this project.

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

Respectfully,

A handwritten signature in blue ink, appearing to read "John Friedenbach".

John Friedenbach  
General Manager

Cc: Paul Brisso, esq.  
Pat Kaspari, GHD  
Dale Davidsen, HBMWD



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### GENERAL MANAGER

JOHN FRIEDENBACH

August 24, 2018

Saskia Burnett  
City of Arcata  
Community Development Department  
736 F Street  
Arcata, CA 95521

### **RE: Continue to Oppose or Approve with Conditions**

**Project: 178-067-DR Axel (Phase 4)**

**Assessor Parcel Number: 507-251-020**

**Address: 5550 West End Road**

Dear Ms. Burnett,

It is our information that the Arcata Planning Commission will be considering this project at its meeting on September 11, 2018. Our District respectfully submits the following additional comments for consideration in regards to the above referenced project. This letter is to follow up and supplement our prior communications, including our letters of December 2, 2016, June 11, 2018 and July 6, 2018 and our meeting with city staff and the property owners and their representatives on July 27, 2018.

We have reviewed the proposed additional revisions to the site plans submitted by the owners following the July 27, 2018 meeting. Although our District appreciates the developer's continued efforts to modify the proposed development to meet our concerns, our District still has significant concerns that the location of the improvements and development of the property as currently proposed will seriously inhibit the District's ability to access and repair its major transmission line in the event of a failure or need to repair or replace. This may pose significant risk to the improvements proposed in the development and potentially pose a threat to the property of third parties.

We understand and appreciate that the developer has expended significant effort and expense to prepare the current design proposal. However, our easement rights in the property in question are a matter of record on the title to the property. In addition, in response to a similar situation relating to a development in the same area, in recent years our District took the extraordinary measure of sending a letter to all property owners affected by the District's easements for the line in question (including owners of the current property), reminding owners of the District's easement rights in the properties in addition to the right to a 30-foot corridor for the line itself, and encouraging early consultation with our District so that our easement interests could be addressed early in any development process. We regret the developer did not do so in this instance.



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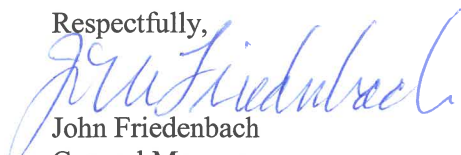
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Based on the above and our previous communications, our District continues to be opposed to this development as proposed. However, at our meeting on July 27, 2018 it is our understanding that the developer and the City both suggested that the risk of a major failure in a location that would require full use of our District's access rights is slight, and the benefits of the development outweighed that risk.

If that understanding is correct, our District is willing to withdraw our objections to the project as currently proposed if the City agrees to hold our District harmless for any damage or loss arising out of the development's restriction of full access by our District to our line, and the developer's agreement to hold the District harmless for such damage or loss and an agreement to also defend and indemnify the District in any third part claims arising from such damage or loss.

Copies of proposed agreements for these are enclosed. If you have any questions about this matter, please do not hesitate to contact us.

Respectfully,



John Friedenbach  
General Manager

Cc: Paul Brisso, esq.  
Pat Kaspari, GHD  
Dale Davidsen, HBMWD