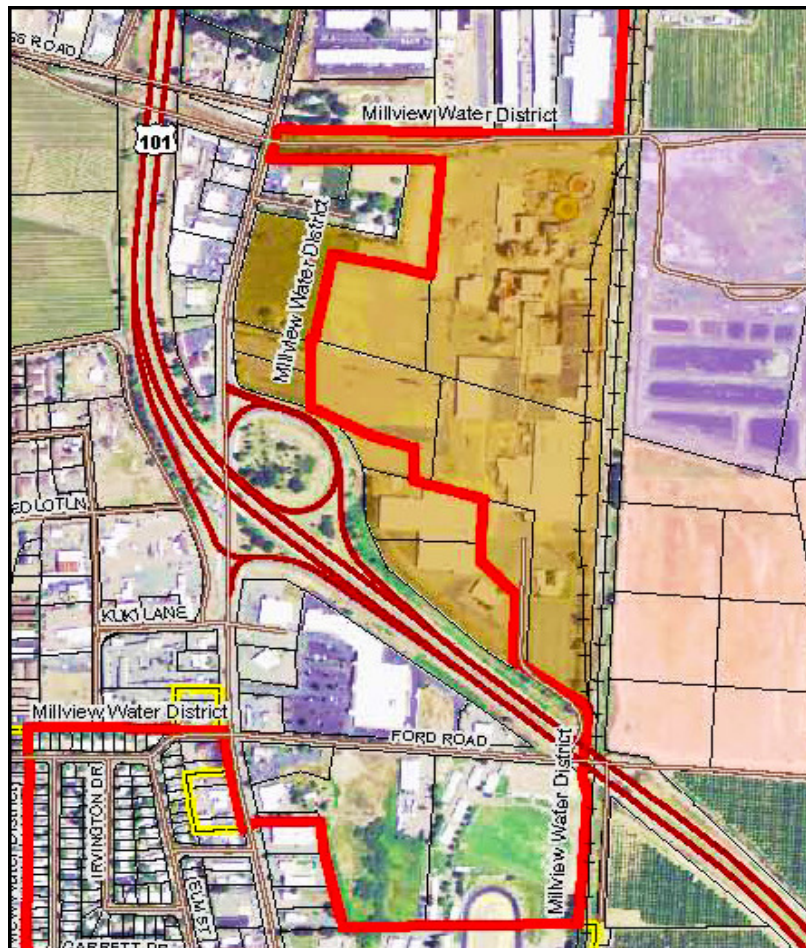


LAFCO

SERVICE IMPACT REPORT



DDR Specific Plan

August 2009

Foreword

This Report is an extension and enlargement of the LAFCO report previously provided to the Board of Supervisors. The previous Service Impact Report prepared by the Executive Officer, this report and the report prepared in conjunction with the County's 9111 study have been authorized by the LAFCO Board to identify the impacts to LAFCO of the proposed initiative entitled "General Plan and Zoning Code Amendment and Mixed-Use Specific Plan for the Former Site of the Masonite Facility. This report is intended to provide the best available information to the public regarding the impacts of the proposed initiative and is not intended to be utilized for express advocacy for or against the proposed initiative by the LAFCO Board.

Table of Contents

Foreword	Page 1
CHAPTER ONE: LAFCO EXPLAINED	
Introduction	Page 3
Brief Explanation of LAFCO	Page 3
Sphere of Influence Studies [G.C. 56425]	Page 4
Municipal Service Reviews [G.C. 56430]	Page 5
Boundary Change Applications	Page 6
Applications [G.C. 56652]	
Plan For Services [G.C. 56653]	
Executive Officer Report [G.C. 56665]	
Report Components—Factors to be Considered [G.C. 56668 & 56668.3]	
Timely Water Supplies] G.C. 65652.5]	Page 8
CHAPTER TWO: ENVIRONMENTAL REVIEW AND WATER STUDIES	
California Environmental Quality Act (P.R.C. 21000 et seq.)	Page 10
Water and Normal Development Planning (SB 610 & SB 221)	Page 11
Groundwater	Page 12
Verification of Water Availability by Tentative Map State	Page 13
CHAPTER THREE: SERVICE AGENCIES	
Affected Agencies [G.C. 56014]	Page 15
Ukiah Valley Fire Protection District	Page 15
Ukiah Valley Sanitation District	Page 16
Water and Millview County Water District	Page 19
Specific Plan and Well 6	Page 22
Department of Public Health	Page 25
Backup Water Supply	Page 25
Source Capacity Study	Page 26
County Water Agency Comments Regarding Well 6	Page 27
Greystone Report	Page 27
Masonite Water License	Page 30
Masonite Well Location Map	Page 31

CHAPTER ONE: LAFCO EXPLAINED

Specific Plan Service Agencies

The Specific Plan (pages B-73 and following) as proposed by DDR for the ballot Initiative indicates that it will receive fire services from the Ukiah Valley Fire Protection District, sewer services from Ukiah Valley Sanitation District and water services from Millview County Water District. According to maps and other information received from County Geographical Information Services, the DDR Specific Plan site is wholly within the Ukiah Valley Sanitation District and the Ukiah Valley Fire Protection District boundaries and partially within the territory of Millview County Water District.

The service capacity and service provision ability of these districts will be impacted by the proposed Specific Plan development; one district (Millview CWD) will require an annexation in order to provide services to the Specific Plan area. LAFCO is mandated by law to review the service provision capability of these districts and to review any requests for changes of boundaries; thus this Service Impact Report.

For Millview CWD to legally provide water to portions of the Specific Plan site the property must be annexed into the District. Annexation requires a review and approval from LAFCO at a noticed public hearing; part of that review includes completion of a Service Review and Sphere of Influence determination.

Therefore, the following background information about LAFCO and those processes are being provided.

Brief Explanation of LAFCO

The Local Agency Formation Commission is a state mandated independent agency with quasi-legislative authority whose decisions have a planning affect. Each county has a LAFCO and LAFCOs have county wide jurisdiction in carrying out their responsibilities. LAFCO is not a part of the County government nor is it part of State government. While LAFCO is an independent agency, commissioners are appointed by and from the county, cities and special districts with jurisdiction in Mendocino County. Commissioners, who sit as independent members, are required by law to exercise their independent judgment on behalf of the interests of residents, property owners and the public of Mendocino County as a whole, in furthering the requirements of LAFCO. While serving on LAFCO, commissioners exercise responsibility with a regional or countywide perspective in decision making while relying on their own expertise and experience. [G.C. 56325.1]

LAFCOs are responsible for determining incorporations of cities, formation of special districts and logical and timely changes in existing local government boundaries including annexations and detachments of territory to or from cities and special districts and consolidation, mergers and dissolutions of districts, as well as reviewing ways to reorganize, simplify, and streamline local government structure

Under LAFCO law, LAFCO has three primary responsibilities: One, is to function as a boundary commission for cities and districts, which is the historical role for LAFCO; two, is to provide review of cities and districts primarily through meeting the requirements of Government Code Section 56430 (Municipal Service Reviews); and three, is to control growth, protect open space, agricultural and resource lands and assure the efficient extension of government services, primarily through its decisions as to annexations and through conduction of special studies such as the mandated Sphere of Influence Update Studies (G.C. Section 56425), Maximum Service Area studies (G.C.56378), reorganization studies or other studies needed or required by LAFCO to meet its mandates.

Sphere of Influence Studies [G.C. 56425]

As indicated above LAFCO is required to conduct a number of studies. The most common ones are Sphere of Influence Studies, Municipal Service Review Studies and the Executive Officer's study/report for a change of boundary proposal.

Government Code Section 56425 states: *“In order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local agencies to advantageously provide for the present and future needs of the county and its communities, the commission shall develop and determine the sphere of influence of each local government agency.”* G.C. 56425 requires LAFCO to determine and update Spheres of Influence (SOI) once every five years. Sphere of Influence determinations occur at a 21 day noticed public hearing.

Written Statement of Determinations

In order to determine the SOI, LAFCO must conduct a study so as to have information for the record to assist in making the SOI determination and other required determinations. After this study is completed, LAFCO is required to prepare a written statement of its determinations with respect to each of the below categories.

1. The present and planned land uses in the area, including agricultural and open-space lands.
2. The present and probable need for public facilities and services in the area.
3. The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.
4. The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

In addition, when adopting, amending or updating a sphere for a district the commission is required to:

1. Require existing districts to file written statements with the commission specifying the function or classes of services provided by those districts.
2. Establish the nature, location, and extent of any functions or classes of services provided by existing districts.
- 3.

Reorganizations

LAFCO may recommend governmental reorganizations to particular agencies using the Spheres of Influence as a basis for those recommendations.

Municipal Service Reviews (MSR) [G.C. 56430]

In order to prepare and update spheres of influence in accordance with the requirements of Section 56425, LAFCO is required by Section 56430 to “*conduct a service review of the municipal services*” provided by the district. The service review can incorporate more than one agency or the whole county. The commission is required to conduct a service review “*before or in conjunction with, but no later than the time it is considering an action to establish a sphere of influence.*”

Written Statement of Determinations

After this study is completed, LAFCO is required to prepare a written statement of its determinations with respect to each of the below categories. These determinations must be supported by information of record documented in the MSR.

1. Growth and population projections for the affected area.
2. Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies.
3. Financial ability of agency to provide services
4. Status of and opportunities for shared facilities.
5. Accountability for community service needs, including governmental structure and operational efficiencies.
6. Any other matter related to effective or efficient service delivery

Municipal Service Review Objectives

The primary reason for LAFCO to conduct a Municipal Service Review is because the law says that this study must be completed so as to provide information to support the development and determination of the Sphere of Influence for an agency. It therefore is a support study that has multiple objectives:

1. It is an evaluation of the agency’s present and future ability to provide services within the agency’s existing jurisdiction and within its proposed Sphere of Influence.
2. It is an informational document for the public to understand the provision of services, and the performance of the District’s Board of Directors and the District’s management.
3. It is a performance review of the agency. At its most extensive form, it can be thought of as a performance audit of the District.
4. It is a study of regional influences on the agency and the services it provides within its boundaries and within its Sphere of Influence.
5. It will be used as an informational document for determining the Sphere of Influence of each agency.

By adopted policy, LAFCO will not allow a change of boundary until the required SOI/MSR studies have been completed and/or updated.

Boundary Change Applications

Another type of study that LAFCO is required to make is associated with an application by an agency for a change of boundaries (e.g. annexations) The Executive Officer is required by law to develop a report and recommendation to the commission for each proposal.

Application [G.C. 56652]

When a district wants to change its boundaries or a landowner wants to be included in the boundaries of the district they must make application to LAFCO. Each application shall be in the form that the Commission prescribes and shall contain the following:

1. A petition or resolution of application initiating the proposal.
2. A statement of the nature of each proposal (e.g. annexation, detachment, reorganization, etc.)
3. A map and description, acceptable to the Executive Officer, of the boundaries of the subject territory for each proposed change of boundaries.
4. Any data and information as may be required by any regulation of the commission.
5. Any additional data and information, as may be required by the executive officer, pertaining to any of the matters or factors which may be considered by the commission.
6. The names of the officers or persons, not to exceed three in number, who are to be furnished with copies of the report by the executive officer.

Plan for Services [G.C. 56653]

When a district submits a resolution of application for a change of boundaries they are required to provide a plan for providing services within the affected territory. The plan for services is required to include all of the following

1. An enumeration and description of the services to be extended to the affected territory.
2. The level and range of those services.
3. An indication when those services can feasibly be extended to the affected territory.
4. An indication of any improvement or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would require within the affected territory.
5. Any additional information required by the Commission
6. Any additional information required by the executive officer.

Executive Officer Report [G.C. 56665]

The executive officer is required to review each application and to prepare a report on the application. The report is to be completed not less than five days prior to the date specified in the notice of the public hearing and shall be made available to:

1. The officers or persons designated in the application.
2. Each local agency whose boundaries or sphere of influence would be changed by the proposal or recommendation.

3. Each affected local agency which has filed a request for a report with the executive officer.
 4. The executive officer of another county when a district is or will be located in that other county.
 5. Each affected city.
- Note: Chapter Two for definition of “affected” agencies.

Report Components—Factors to be Considered [G.C. 56668 & 56668.3]

Factors to be considered in the review of the proposal shall include, but not be limited, to all of the following:

- Population and population density;
- Land area and land use;
- Per capita assessed valuation;
- Topography, natural boundaries, and drainage basins;
- Proximity to other populated areas;
- The likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.
- The need for organized community services;
- The present cost and adequacy of governmental services and controls in the area;
- Probable future needs for those services and controls;
- Probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.
- The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.
- The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities set forth in Section 56377.
- The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.
- The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.
- Consistency with city or county general and specific plans.
- The sphere of influence of any local agency which may be applicable to the proposal being reviewed.
- The comments of any affected local agency or other public agency.
- The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.
- **Timely availability of water supplies adequate for projected needs as specified in Section 65352.5.(See below)**

- The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7.
- Any information or comments from the landowner or owners, voters, or residents of the affected territory.
- Any information relating to existing land use designations.
- The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.
- Whether the proposed annexation will be for the interest of landowners or present or future inhabitants within the district and within the territory proposed to be annexed to the district.
- Any resolution raising objections to the action that may be filed by an affected agency. The commission is required to give great weight to any resolution raising objections to the action that is filed by a city or district. The commission's consideration is to be based only on financial or service related concerns expressed in the protest.
- Any other matters which the commission deems material.

Note: Section 56857 defines "financial concerns" to mean that the proposed uses within the territory proposed to be annexed do not have the capacity to provide sufficient taxes, fees and charges, including connection fees, if any, to pay for the full cost of providing services, including capital costs. "Service concerns" means that a district will not have the ability to provide the services that are the subject of the application to the territory proposed to be annexed without imposing level of service reductions on existing and planned future uses in the district's services.

Timely Water Supplies [G.C. 65652.5]

Subdivision (a) of Government Code Section 65652.5 indicates: "*The Legislature finds and declares that it is vital that there be close coordination and consultation between California's water supply agencies and California's land use approval agencies to ensure that proper water supply planning occurs in order to accommodate projects that will result in increased demands on water supplies.*" Subdivision (k) of G.C. 56668 requires the Commission to review the timely availability of water supplies adequate for projected needs as specified in G.C. 65652.5. This section requires a public water agency as defined by H & S Section 116275 to provide the following information:

1. The current version of its urban water management plan, adopted pursuant to Part 2.6 (commencing with Section 10610) of Division 6 of the Water Code.
2. The current version of its capital improvement program or plan, as reported pursuant to Section 31144.73 of the Water Code.
3. A description of the source or sources of the total water supply currently available to the water supplier by water right or contract, taking into account historical data concerning wet, normal, and dry runoff years.

4. A description of the quantity of surface water that was purveyed by the water supplier in each of the previous five years.
5. A description of the quantity of groundwater that was purveyed by the water supplier in each of the previous five years.
6. A description of all proposed additional sources of water supplies for the water supplier, including the estimated dates by which these additional sources should be available and the quantities of additional water supplies that are being proposed.
7. A description of the total number of customers currently served by the water supplier, as identified by the following categories and by the amount of water served to each category: (A) Agricultural users. (B) Commercial users. (C) Industrial users. (D) Residential users.
8. Quantification of the expected reduction in total water demand, identified by each customer category set forth in paragraph associated with future implementation of water use reduction measures identified in the water supplier's urban water management plan.
9. Any additional information that is relevant to determining the adequacy of existing and planned future water supplies to meet existing and planned future demands on these water supplies.

By adopted policy, LAFCO uses this requirement for all applications where water is an issue. See also SB 610 and SB 221 in Chapter Two.

CHAPTER TWO: ENVIRONMENTAL REVIEW AND WATER STUDIES

California Environmental Quality Act (CEQA) [P.R.C. 21000 et seq.]

The California Environmental Quality Act (CEQA) applies to all discretionary activities proposed to be carried out or approved by California public agencies, unless an exemption applies. CEQA defines a project “*as the whole of an action which has the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect change in the environment.*” As used in CEQA, the term “project” is very broad. A project under CEQA is considered to be an activity directly undertaken through public agency contracts, grants, subsidies, loans, or other assistance from a public agency or an activity involving the public agency issuance of a lease, permit, license, certificate or other discretionary entitlement for use, unless exempted. In *Bozung v. Local Agency Formation Commission (1975)*, CEQA was judged to apply to changes of boundaries or reorganizations.

Sphere of Influence Determination

Sphere of Influence determinations/updates are required for the three districts that can serve the Specific Plan site. A Sphere of Influence determination is a discretionary decision of the Commission that will affect future growth and development. Because a Sphere of Influence determination requires a discretionary decision of the Commission as to the size and circumstance of the Sphere, Sphere of Influence determinations are a project under CEQA which requires an environmental review. The environmental review will occur at the time that the Commission undertakes the Sphere of Influence determination for any agency. The level of the review will be determined by the size and circumstances of the proposed SOI and its potential environmental impact.

Boundary Changes

As previously indicated, in order for Millview CWD to legally provide water to portions of the Specific Plan site they must seek annexation approval from LAFCO. A decision to approve a change to the boundaries of a district or city is a quasi-legislative decision of the commission; it is discretionary to their judgment as to whether to allow the change to occur. Therefore, a proposal for a change of boundaries requires an environmental review. The level of the review will be determined by the circumstances of the proposal and its potential environmental impacts.

Environmental reviews for changes of boundaries for districts for already developed land occur at the time of the application to LAFCO and are conducted by LAFCO. Normally, for a proposal that requires County review and approval (e.g. General Plan Amendment or subdivision approval) as well as annexation to a service district, the County would be the Lead Agency and LAFCO would be a Responsible Agency. Provided that the County conducted environmental review includes LAFCO issues, LAFCO would normally use the environmental review document developed by the County for its decision making as to allowing the change of boundaries.

Because the proposed amendments to the General Plan and Zoning Code and adoption of the Mixed-Use Specific plan are subject to adoption by the initiative process and not by a discretionary decision of the County, the amendments and plan are exempt from environmental review; no EIR or other study of the potential environmental impacts will be conducted by the County. Therefore, the Specific Plan will not be subject to the County's normal environmental review process for this type of development.

LAFCO therefore will need to conduct an environmental review as the Lead Agency if an application is received for annexation of the Specific Plan site to Millview water district.
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Water and Normal Development Planning (SB 610 & SB 221)

Because availability of water is a significant issue in the Ukiah Valley, additional information about two laws that require review and study of water availability for large projects is being provided. These studies would normally be conducted by the County for its review process and LAFCO would normally rely on those studies for assistance in making its decision about the timely availability of water as required by G.C. 56668. Those studies by the County will not occur because the Initiative by-passes County review.

SB 610 and SB 221

For development projects of 500 dwelling units or projects of more than 500,000 square feet, SB610 (Water Code Sections 10910-10915) and SB 221 (G.C. Section 66473.7) would normally apply and would normally be conducted by the County for a proposal such as the Masonite proposal. Both laws require detailed information regarding water availability to be provided to county decision makers prior to approval of any development of 500 dwelling units or commercial development of more than 500,000 square feet.

Under SB 610, water assessments must be furnished to the county for **inclusion in any environmental documentation**. Under SB 221, approval by the county of a project of this size requires an **affirmative written verification of sufficient water supply by the tentative map stage of approval**.

For projects in the unincorporated area of the county, if the supplier of the water for the development is not a "public water system" as defined by Water Code Section 10912 (i.e. serving 3,000 connections or 3,000 AFY), **the County as the Lead Agency for CEQA must perform the SB 610 assessment and the SB 221 verification**. The County is required to prepare the SB 610 and SB221 assessment in consultation with the proposed water supplier to the project, with LAFCO and with any public water systems adjacent to the project site. Adjacent water systems would be all the other water agencies in the Valley.

Primary Question

The primary question to be answered by the SB 610 assessment is: Will the water supplier's total projected water supplies available during normal, single dry and multiple dry years meet the projected water demand of the proposed project, in addition to the water supplier's existing and planned future uses, including agriculture and manufacturing for the next 20 years?

To answer that question the Lead Agency must:

1. Assess the quantity of water received by the water supplier in prior years from (1) existing water entitlements; (2) water rights; and (3) water service contracts.
2. Demonstrate they have written contracts for water if water is obtained from a wholesaler.
3. Provide information about any capital outlay/financing programs for delivery of water adopted by the water supplier.
4. Obtain the necessary federal, State or local permits for the delivery infrastructure.
5. Obtain regulatory approvals required to convey or deliver water.
6. Identify other water suppliers or water service contract holders that receive, supply or have rights to the same source identified in the assessment described above

New or Additional Sources

If the water supplier is acquiring new or additional sources for the project then the water supplier must set forth the measures or plans that are being undertaken to acquire and develop those water supplies. Plans are required to include:

- 1) Estimated total costs of acquisition
- 2) Federal, State or local permits required
- 3) Estimated timeframes to acquire additional supplies

The above required information would normally be provided under a County review process, This information would be critical to understanding the impacts of this project on water availability and impacts on existing service recipients as well as impacts on other agencies.

As previously indicated, this assessment is normally done through the environmental review process; however as stated above this project is exempt from an environmental review because of the nature of the initiative process. Therefore, the answers to the questions described above will remain unknown unless a SB 610 assessment or equivalent is conducted.

Groundwater

As indicated in Chapter Three more and more groundwater is being used. The Specific Plan indicates that water will be obtained from the old Masonite Well 6 and provided to Millview; in return Millview is to provide water to the Specific Plan site. There is disagreement as to whether this water is "percolating groundwater" or "underflow" water to the Russian River. There is no disagreement that water is from the aquifer.

In any case, whether the water is underflow or percolated groundwater, drafting water from this well will affect the aquifer. SB 610 indicates that if the source for the project includes groundwater, factors and specifications related to groundwater sources must be included as required by Water Code Section 10910(f). This would include:

- 1) A review of any information contained in the Urban Water Management Plan relevant to the identified water supply for the proposed project. Millview does not have a UWMP.
- 2) A description of any ground water basin or basins from which the proposed project will be supplied.
- 3) A detailed description and analysis of the amount and location of groundwater pumped by the water supplier or the county for the past five years from any groundwater basin from which the proposed project will be supplied.
- 4) A detailed description and analysis of the amount and location of groundwater that is projected to be pumped by the water supplier from any basin from which the proposed project will be supplied.
- 5) An analysis of the sufficiency of the groundwater from the basin or basins from which the proposed project will be supplied to meet the projected water demand associated with the proposed project.

A groundwater analysis is critically needed before additional drafting or loading occurs to this resource. The affect on groundwater needs to be studied as would occur under a normal review.

The proposed project will not be subject to the level of review required under the California Environmental Quality Act (CEQA) because it is being proposed by initiative. Therefore, a groundwater analysis is not required to occur and thus any potential impacts to the groundwater will not be fully investigated and reviewed by the County prior to approval of the project.

Verification of Water Availability by Tentative Map Stage (SB 221)

Before the tentative map for a development is approved by the county, written verification of sufficient water supply based on substantial evidence must be provided. Verification must demonstrate supply sufficiency by showing that water supplies available during normal, single dry, and multiple dry years will meet a 20 year projection of need associated with the development in addition to existing and planned future uses within the district, including but not limited to agriculture and industrial uses. All of the following must be considered:

1. Historical records.
2. Urban Water Shortage Contingency Analysis prepared for the Urban Water Management Plan.
3. Supply reduction for “specific water use sector” per water supplier’s resolution, ordinance, or contracts.
4. Amount of water expected from specified supply sources or projects.

If the verification relies on projected water supplies that are not currently available the written verification must be based on all of the following:

1. Written contracts or other proof of valid rights to the identified water supply that identifies the terms and conditions under which the water will be available.
2. Copies of capital outlay program for financing the delivery of sufficient water supply that has been adopted by the applicable governing body.
3. Securing of applicable federal, state and local permits for construction of necessary infrastructure associated with supplying a sufficient water supply.
4. Any necessary regulatory approvals that are required in order to be able to convey or deliver sufficient water supply to the subdivision.

Written verification of the availability of water will not be provided because the SB 221 studies for determining water availability will not be completed as would normally be required.

Because it is being proposed by initiative, the proposed project will not be subject to the level of County review required by SB 221. Therefore, written verification of water supply demonstrating that water supplies available during normal, single dry, and multiple dry years are sufficient to meet projected needs for 20 years is not required to occur. Thus any potential limits to the availability of water will not be fully investigated and reviewed by the County prior to approval of the project.

CHAPTER THREE: SERVICE AGENCIES

Affected Agencies

The Mendocino Crossings Specific Plan applies to the area covering Assessor Parcels 170-170-04, 170-170-05, 170-17-12 and 170-190-02, 170-190-03, 170-190-04, 170-190-05, 170-190-06, 170-190-09, 170-190-14 and 170-190-15. According to the maps or other information received from County GIS, the territory of the proposal is fully within the boundaries of Ukiah Valley Sanitation District (UVSD) and the Ukiah Valley Fire Protection District (UVFPD) and partially within the territory of Millview CWD (MCWD). Parcels 170-170-12, 170-190-02, 170-190-03, 170-190-05, 170-190-15 and 170-190-14 are in Millview County Water District's present boundaries. These parcels are immediately adjacent to the freeway or State Street and are the smaller acreage of the proposal area. Parcels 170-170-15, 170-170-04, 170-190-04, 170-190-08 and 170-190-09 are not within Millview CWD boundaries. These parcels represent the bulk of the acreage of the proposed development.

All of the parcels are within the boundaries of the proposed SOI for the City, as found in the 1995 General Plan. That proposed SOI has not been approved by LAFCO but it is one of the study considerations for the City's SOI.

Government Code Section 56014 defines an "affected local agency" as "*any local agency which contains or would contain, or whose sphere of influence contains, any territory within any proposal or study to be reviewed by the commission.*" (Underline added) Under this definition, all three districts and the City of Ukiah are affected agencies either by the Specific Plan site being within the territory of an agency, within a SOI or within a "study" of a SOI. Thus, there are four agencies that can be affected by this proposal, either directly or indirectly. All of these agencies are agencies that fall under LAFCO review for boundary changes and the SOI/MSR process

Ukiah Valley Fire Protection District

As indicated, the territory of the old Masonite site is wholly within the boundaries of the Ukiah Valley Fire Protection District. During peak time, this location, if developed, would be one of the higher population density locations within the District. The District is primarily a volunteer organization; it has limited resources. Its fire house is located on the south side of town. Any response to the DDR location would require transecting the City of Ukiah. UVFPD has a parcel tax and a building permit fee of \$0.43/sq.ft.

Under normal review procedures, design issues for fire protection, response ability, access circumstances for fire protection response, the level of resources needed for such a large development, operational costs over time and other potential impacts would be reviewed and assessed. The costs related to these impacts would then be apportioned to the developer. Because the Specific Plan as provided by DDR is exempt from CEQA review there is no requirement to review and assess these potential impacts.

Ukiah Valley Sanitation District (UVSD)

As indicated, the Specific Plan site with its proposed development is completely within the boundaries of the Ukiah Valley Sanitation District.

Potential Development Report

Some months ago, LAFCO had County GIS develop a Potential Development Report for UVSD. This Report is based on the present boundaries and the present zoning of the District. It indicated that there are 6,700 potential demand connections within the present District boundaries.

UVSD has unassigned or unobligated capacity that would be equal to the connections for 860 households or dwelling units that would be available once the Wastewater Treatment Plant upgrade (described below) that is underway is completed. It can therefore be readily seen that the UVSD does not have sufficient connections to fulfill the potential demand as represented by the present zoning.

It was not expected that all of the 6,700 potential demand connections would occur all at once or even over the next 20 years. Given past growth of 1- 4 % a year and past development requests, the available connections were thought to be able to satisfy the needs of the District for the next 20 years. This was assuming no substantial change in zoning; the DDR proposal represents a substantial change in zoning.

Wastewater Treatment Plant Improvement Project

The Wastewater Treatment Plant (WWTP) utilized by UVSD is owned by the City of Ukiah. A major improvement and upgrade is presently underway. The upgrades are required to meet more stringent waste discharge requirements for discharge of treated effluent to the percolation ponds and to the Russian River. In addition to the upgrades to meet regulatory requirements, a capacity expansion is also occurring.

Cost of Upgrade

The WWTP upgrade will have a total cost of 141 million dollars over the length of the loan. Because UVSD shares the use of this facility, the District will share in the cost of the upgrade. UVSD will be responsible for approximately 60% of that cost. In order to meet part of its commitments for the bond payment for the new WWTP, UVSD needs the connection fees from 58 new connections per year. For the past two years, they have had very few connections and thus are becoming financially stressed. Any connection fees from any new development would be of financial value to the District.

Monthly sewer system charges have had to be nearly quadrupled to pay for the WWTP costs. Many older ratepayers on fixed incomes have complained bitterly to past UVSD Board of Directors that they are unable to afford these increases. Clearly, the ratepayers will not be able to afford another substantial increase in fees. It therefore follows that once the connections are consumed, the District will not be able to afford additional upgrades or a new plant.

Impact of the Specific Plan Site

This statement is found on page B-42 of the Specific Plan: *“Three conceptual site plans are provided in this chapter to illustrate the uses that can be accommodated by the Specific Plan. **The exhibits shown are conceptual and do not reflect what may actually be constructed on the site. The actual development of the site is subject to change based on market and regional needs.**”* (bold added)

Because a definitive development site plan is not provided, it is therefore not knowable by the reader of the Specific Plan what will be developed on this site.

There is a 15 inch main that parallels the railroad tracks adjacent to the property. Presumably a connection would be made there. Exhibit 4-2 of the Specific Plan purports to provide information as to the location of water, sewer and storm drain infrastructure. The illustration simply provides lines on paper without providing information as to size, type, connection location or other information normally provided for a review. On the illustration for this Exhibit there is a boxed legend stating the following: *“**Note: the infrastructure improvements illustrated below are conceptual and subject to change.**”*

Because a definitive infrastructure plan is not provided, it is therefore not knowable by the reader of the Specific Plan what the infrastructure demands or impacts could be.

Because of the lack of specificity, it is therefore difficult to ascertain the total number of connections that will be required by the Specific Plan proposal. However, the Specific Plan does indicate that it could be as much as 150 homes and up to 650,000 square feet of commercial space. SB610, which was discussed earlier for water, considers 500 dwelling units or 500,000 square feet as equal in impact for water. Based on that equivalency, the DDR proposal would equal the impact of 800 dwelling units.

Not all of the water that is used on the site will be disposed into the sewer; some will be used for irrigation. Assuming a range of 10 to 25% irrigation use and thus a 75 to 90% disposal to the sewer, this would indicate that the Specific Plan would require the equivalent of 600 to 720 connections; thus this one development would consume nearly 70 to 85 percent of the available 860 sewer connections made possible by the WWTP upgrade, if the development is built to numbers indicated in the Specific Plan.

At this level of consumption, this would therefore mean that in the future many smaller local property owners could be denied an opportunity to connect and therefore to develop their property or those who are having septic system failures could be denied an opportunity to connect.

Collection System Reports

In 1978, a report by Kennedy-Jenks projected that the collection system for the District and the City would be fully utilized by 1998. It is now 11 years later than that projection date. Information provided in the Initial Study for the WWTP upgrade and other anecdotal information suggests that the collection system is near or at full capacity.

A May 1993 Kennedy-Jenks Report entitled Wastewater Treatment Plant Upgrade Facilities Plan indicates: “*Projected wastewater flows are expected to increase to 3.4 MGD by the year 2005, with a maximum dry period monthly flow of 3.8 MGD. The average wet weather flow will be 4.8 MGD with the maximum monthly flow of 8.6 MGD, a maximum daily flow of 16MGD and a peak flow of 20 MGD.*” (MGD—Million Gallons a Day)

The May 2004 Initial Study and Mitigated Negative Declaration conducted by Scheidegger & Associates for the WWTP upgrade/improvement project indicated that in 1997 a “*daily peak influent flow rate of 19.3 mgd was recorded, very close to the plant hydraulic capacity of 20 mgd.*”

The 1993 Kennedy-Jenks report also indicates that the proposed improvement project and capacity expansion for the treatment plant was meant to assist in expanding the wastewater collection service area to include already developed areas such as Deerwood, Rogina Heights, Talmage and other areas such as the development south of the WWTP location along Boonville Road (Fireside Village). These areas were developed using septic tanks; most are not within the boundaries of the District. Some of these developed areas are in failure or near failure and have no additional property for development of new septic systems that meet today’s regulatory requirements. It will therefore be crucial that sufficient capacity be available to these areas if the private septic systems fail. **If major unplanned development occurs that consumes the available connections, sufficient capacity may not be available for these circumstances.**

Infiltration and Inflow

Much of the impact on capacity comes from infiltration and inflow. Where there is infiltration, there is exfiltration. When a collection system is at or near full capacity the system becomes excessively pressurized and the opportunity for leakage (exfiltration) or overflow is greatly increased. Any new loading on a system in this condition, especially of a very large project, will necessarily increase the possibility of sewer system overflows or leakage. An overflow of 50 gallons or more is considered a haz-mat event by the State and severe penalties can be attached to such an event. As owners of the collection system, the penalties would accrue to UVSD, not to DDR. As UVSD receives its income from fees for sewer service, the cost of the penalty could become a cost to the ratepayers. The District is pursuing federal funds for reduction projects for infiltration and inflow.

Before a large amount of new loading is provided to the collection system, a system wide review is needed to provide information to confirm or dispute the above possibilities or circumstances.
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During a normal review process this kind of information would be gathered and the costs for the impacts for this development for updating the system to accommodate the development demands would be assessed. Because no review is required under CEQA there is no requirement to review and assess potential impacts and costs to the District and no requirement that the developer pay for the costs.

Water and Millview County Water District (MCWD)

The Ukiah Valley is presently overbuilt to its available water resources. Any new growth will severely impact our existing circumstances. Even in non-drought years we have a water availability problem and are barely able to provide water services to existing development. Drought years therefore cause the requirement of extreme measures such as reduction by 50 percent or more of water consumption. Consider the following:

1. Drought is common to the climate of California. According to paleo-climate studies of the past thousand years, three to seven year droughts occurred frequently over this time period; on the order of once every 20 to 30 years. Much longer droughts of 20 to 30 years were recorded. The dust bowl drought of the 1930s lasted seven years; it included most of the western U.S. It nearly destroyed this country.
2. As population and development increases the affect of drought is magnified. At the time of the dust bowl, California's population was less than six million people; today it is pushing toward 40 million. The 1930 population of Mendocino County was 23,505; perhaps 5,000 people lived in the Ukiah Valley area. Today in the Valley, we have 7 to 8 times that amount. Every time we increase development, we decrease our ability to survive a drought.
3. Water agencies are required to plan and develop capacity that will allow them to continue to provide service during drought times. This capacity, if developed, is meant to carry the agency during at least three dry years. This means that during normal rain years, it may appear that the agency has excess capacity that can be used for new development but in reality this is not the case. This three year drought that we are presently enduring demonstrates that our local reserves are at our limits. Any new development will therefore cause present water users to be further harmed.
4. California water use ranges between 8,000 to 15,000 gallons per month per household. Increased per capita use of water has occurred along with population increases; these twin engines of increased consumption means that more and more storage water is needed and the natural reserves of our groundwater are being depleted.
5. We have been more and more turning to groundwater for our water needs. There was a time in this Valley that digging a post hole would find water, wells were 15 to 20 feet deep and sloughs and wetlands were on eastside Talmage. Now most new wells have to be drilled to far greater depths; the most recent well drilled by the City of Ukiah was well over 100 feet deep.

Note: Groundwater is defined here as any water taken from the ground via wells. This is the general definition that the Department of Public Health uses for its health and environmental regulations. Percolated ground water is not regulated by the State Water Resources Control Board but underflow or subterranean flow is regulated and therefore requires a permit. Whether it is classified as percolated or underflow, the water comes from the aquifer; as far as impacts on the aquifer it is a distinction without a difference.

6. A 1986 report by Sari Sommarstrom, Ph.D. recommended that a "specific groundwater study of the Ukiah Valley" be conducted so that the demand impacts and recharge ability of the aquifer could be understood. Nothing happened except that we have continued to drill and drain the aquifer. The groundwater basin that

- underlies the Russian River is shared by Redwood Valley and Ukiah Valley (California Groundwater Bulletin 118). Redwood Valley is up-gradient from the Ukiah Valley (approximately 1000 feet in the upper portions of Redwood Valley to approximately 500 feet in the lower portions of Ukiah Valley); the Ukiah Valley may soon see the same depletion conditions that are presently found in Redwood Valley.
7. The State Water Resources Control Board has declared that the Russian River is fully appropriated from July 1 to October 31 of each year. (Order #91-07) This means that during this time of peak demand all of the available surface water is being used and there is no more water to be appropriated for any purpose; this includes underflow water. This was before recent federal decisions regarding maintaining water flow for endangered fish. Mandatory fish flow water cannot be consumed except by the ocean.
 8. For about a hundred years, water has been diverted from the Eel River to the Russian River via the Potter Valley Tunnel. This diversion has provided great benefit to Potter Valley and other downstream communities such as Ukiah. It has often provided the safety net between our consumption and locally available water. A few years ago, a Federal agency required that the amount of water being diverted be reduced by 30%. There are continuing negotiations over that required reduction. There are people within the Eel River watershed who want the diversion to be eliminated and are pursuing legal or regulatory means to see that happen. Continuing drought may well provide the linchpin to see that desire fulfilled.
 9. We have not built a new storage reservoir for capturing winter runoff for almost 50 years. Lake Mendocino was designed in the late 1940s and completed in the mid to late 1950s. Raising the dam and other measures are in the early stages of review; it will likely take decades and hundreds of millions of dollars to complete the raising of the dam, if it occurs at all. This is not a short term fix for our water problems.
 10. Only 8,000 acre-feet of the water normally stored in Lake Mendocino is owned locally; the rest is owned by Sonoma County. Russian River Flood Control District, as the owner of this water, wholesales water under contract to local agencies and others. In 2007, they were fully contracted for their water; all of their water was being used. This year because of the drought this amount has been reduced by the State by 50 percent thus all contracts have had their amount reduced by 50%.
 11. Redwood Valley County Water District is under court imposed moratorium for new connections because of the lack of available water. Previously it obtained surplus water (i.e. water not under contract) from Russian River District; surplus water is no longer available. Redwood Valley is under a 50% reduction requirement.
 12. Calpella County Water District contracts to Russian River District for water. Under a wheeling agreement, Millview provides finished water to Calpella. The amount that Millview is capable of providing is limited thus Calpella is under a de facto moratorium and is also under the 50% reduction requirement.

13. The proposed development at the old Masonite site could include 150 new residential units and various commercial developments that would use water equivalent to hundreds of new residential units. The Specific Plan associated with the ballot Initiative is unclear as to the exact amount of housing development versus commercial development. In any case, the Specific Plan provides that “*The actual development of the site is subject to change based on market and regional demands.*” The true numbers are therefore unknown.
14. According to the Specific Plan that is being placed before the voters, Millview Water District is to be the provider of water to this proposed development (page B-73—see additional discussion about Well #6).
15. Millview Water District is under a State imposed moratorium for new connections for the lack of available water. Millview purchases Lake Mendocino water from the Russian River Flood Control District. As indicated, Russian River District in 2007 was fully contracted; unless others give up their water contracts there is no additional water for Millview that would allow lifting of the moratorium. As are other agencies, Millview is under a 50% reduction requirement.
16. Millview presently has a backlog of applications wanting water service that it has been unable to fulfill. People already within the District cannot obtain water service because of the lack of water. It is my understanding that the backlog is in excess of 300 applications.
17. Millview recently received a Cease and Desist Order from the State Water Resources Control Board that reduced a supposed 1500 acre-feet lease/purchase of water to 15 acre-feet. In normal times, an acre-foot of water will provide enough water for 2 to 3 households for a year; in drought times more. So, this reduction represents water for 3,000 to 4,500 homes in normal times. If this decision stands (the District is appealing), it will have a critical impact on future water availability for present District customers.
18. On page 73 of the Specific Plan is found this statement: “*The Millview Water District (MCWD) is a water supply company serving the area surrounding Ukiah, including the properties within the Specific Plan area.*” That is an inaccurate statement at three levels: (1) Millview is not a “company”; it is a public agency formed under Water Code Sections 30000-33900. It is therefore subject to all of the requirements of law for public agencies; (2) The District does not surround Ukiah; it is located to the north of Ukiah. (3) The District does not serve the properties within the Specific Plan area; most of the Specific Plan site is outside the boundaries of Millview CWD.
19. Most of the old Masonite site is not within the boundaries of Millview. Annexation will be required before Millview can legally provide water services to this development. For annexation to occur, Millview would have to demonstrate that it has an uncontested new water source that would fulfill all of its obligations for service provision for present and future needs within its present boundaries before new territory could be added. The proposed water source is a contested water source; until the State Water Resources Control Board gives unequivocal approval for use of this water by Millview and the State Department of Public Health lifts the moratorium, annexation could not be considered by LAFCO.
Note: The State Water Resources Control Board (SWRCB) makes a distinction between “percolated groundwater” and “underflow or subterranean flow” of water. Water Code Section

- 1200 provides that water right permitting authority extends to surface water and to “subterranean streams flowing through known and definite channels.” The SWRCB established a four part test, known as the Garrapata test, for determining whether groundwater falls within its permitting authority. The four parts are: (1) A subsurface channel must be present; (2) The channel must have relatively impermeable bed and banks; (3) The course of the channel must be known or capable of being determined by reasonable inference. (4) Groundwater must be flowing in the channel. Willow Water District and Hopland PUD have for decades used water wells that they considered percolated groundwater. Recently, the State determined that this water was underflow water to the Russian River that required a permit. These two agencies were ordered to apply for permits. Given this decision by the State for these agency’s wells, it is not unreasonable to conclude that the same decision could occur for Well #6. If ordered to seek a permit, given the water circumstances and condition of the Russian River, it will take years before the permit process is completed. (See also Greystone Report on the following pages.)
20. A few years ago, LAFCO unanimously adopted an Interim Water Report from the Executive Officer that categorized the water circumstance in this valley as a “train wreck”. That report was circulated to all water agencies, the City of Ukiah and City Manager, the Board of Supervisors and CEO, the Farm Bureau and the Employers Council plus various individuals. At the LAFCO meeting to review this report no one from any of these agencies disputed the information and categorization as provided in the report. The minutes reflect the following: “*After additional discussion that reflected the Commission’s concern regarding the various issues and circumstances for water as outlined in the Interim Report, a motion was entered by Commissioner Orth, seconded by Commissioner Wattenburger, directing Executive Officer McMichael to proceed with the Ukiah Valley/Russian River Watershed MSR as outlined in Option Three of Section Three in the Interim Report. The motion was adopted unanimously by a roll call vote as follows: Ayes: Melo, Smith, Oslund, Kisslinger, Orth, and Wattenburger; Nays: None; Abstentions: None; Absent: Delbar, O’Brien and Ranker.*” (Option three included adoption of the Interim Report by the Commission.)
- Note: Supervisor Delbar was absent that day so his vote was not recorded. At no time before the meeting for this agenda item did he offer any written comments or objections to this report nor did he offer any verbal objections to the Executive Officer.
21. Other than the drought circumstances, there has been little substantive changes in the water circumstances in the Ukiah Valley since that report was adopted; except that we keep allowing new growth without having any concept as to where we will get the water to support that growth.

Specific Plan and Well 6

Specific Plan Statement

The Specific Plan makes the following statement as found on page B-73: “*In planning for development of the Specific Plan an off-site water supply facility, designated **Well 6, has been identified as a water supply source for the Specific Plan area.** Well 6 previously serviced the Specific Plan area during the time when the former Masonite facility was operating on the property. An **agreement with the MCWD** will allow Well 6 to be dedicated to the MCWD, and a new pump station will be constructed. According to MCWD, the Department of Public Health indicated it would approve the addition of Well 6 into the MCWD water supply system and consequently allow the MCWD to supply the*

water necessary to the Specific Plan area.” (bold added) (See Department of Public Health comments below)

Well 6 Location

Well 6 (P6 on map) is located on Masonite owned property located east of the railroad tracks; this property also contains the wastewater holding ponds that were used by the Masonite operations. The well site is approximately 1,250 feet west of the Russian River, approximately 850 feet south of Ackerman Creek and approximately 880 feet northeast of the holding ponds. (See Masonite Well Location Map)

Percolated Groundwater or Underflow

The distances to the streams are of interest because of the question of whether Well 6 is percolated groundwater or underflow to the Russian River or its tributaries. Generally, it would seem that the closer the wells are to the present stream channels and river terrace or past geological stream channels and geological under strata, the more difficult it is to argue that the water from these wells is not underflow water. And, of course, the further away from these type of locations the greater the opportunity to make the percolated groundwater argument. The Greystone Report reviewed on the following pages indicates that Well 6 is in the alluvial aquifer and the alluvial aquifer is in direct hydraulic connection to the Russian River.

Depth of Well 6

Also, the depth of the well may have some affect on the determination as to whether it is underflow water or percolated groundwater. Generally, well depth information is proprietary so it is difficult to obtain from existing records; however, in our meeting on the 28th, Jeff Adams of Developers Diversified Realty claimed that the well was over 300 feet deep. Tim Bradley, General Manager of Millview CWD, indicated via phone interview that the well was about 225 feet deep with the first perforation in the casing occurring at 80 feet. The Greystone Report indicates that Well 6 is 230 feet deep.

Capacity of Well 6

Millview has indicated that the Specific Plan site will require a Maximum Day Demand of 410 gpm. (see below). The Specific Plan states that “*Well 6 previously serviced the Specific Plan area during the time when the former Masonite facility was operating on the property*”; the implication being that this well provided for the water needs for Masonite.

It appears that Well 6 only partially serviced the Masonite facility. According to the above cited Millview letter the existing pump for Well 6 has a capacity of 75 gpm; thus the installed pump can provide some indication as to past use of the well. According to the Greystone Report, the well was reported to pump 60 to 80 gallons per minute.

At one time, Masonite had water rights for 6,000 gpm and multiple wells; a number of which were connected together to provide water for their production requirements. Well 6 was just one of those wells. According to Tim Bradley, Millview General Manager, at some point in time, Masonite de-coupled Well 6 from production use; they then primarily

used this well for drinking water or similar uses. This appears to be the reason that a 75 gpm pump exists in this well.

Millview has indicated that they had Weeks Drilling conduct a drawdown test for Well 6; based on that test they determined that the Well was capable of reliably producing 750 gpm. This is 10 times the apparent maximum historical use volume as indicated by the installed pump capacity. Production records for this well are not available to LAFCO. It is unknown if Masonite logs for Well 6 indicate that a sustained use of 750 gpm is possible or occurred during Masonite operations.

Project Demand For Water

LAFCO has been advised by Jeff Adams, Senior Development Director for DDR, in a meeting with the LAFCO Executive Director on May 28th 2009 that the project would require 250 gpm. A January 15, 2009 letter sent by Millview to Mr. Adams indicates that Millview estimates the Maximum Day Demand to be 407 gpm and the Average Day Demand to be 290,600 gpd and an additional 620,000 gallons of storage would be needed for the project. In referring to the above indicated amount of water needed for the development the following statement is found on page 2 of that letter: *“For practical purposes, Millview considers the preceding to indicate that, in order to comply with the State Waterworks Standards, a new source(s) of water supply with a capacity of at least 410 gpm will have to be secured, and approved by DPH, to meet the estimated maximum day demand associated with your request.”*

Others With Rights to Well 6

Mr. Adams also indicated that Developers Diversified, Masonite and the Thomas ownership have usage rights to the water from that well. LAFCO has no record of any legal instrument conveying ownership or water usage rights for that well. The Millview CWD reply to questions for the Board of Supervisor’s 9111 Report indicated that it was their *“understanding that Masonite deeded well #6 to DDR but placed a reservation upon all water in excess of DDR’s project.”*

Water Service Agreement With Millview

As indicated by the bold highlight from the Specific Plan Statement quoted above, the Specific Plan indicates that there is or will be an agreement with Millview to provide water to the site. According to Tim Bradley, General Manager for Millview CWD, there is presently no water service agreement between DDR and Millview. He did indicate that there has been discussion at the staff level but no proposed agreement has been presented to the District Board of Directors. A January 15, 2009 letter from Tim Bradley to Jeff Adams, Senior Development Director for Developers Diversified Realty (DDR) does discuss a Request for Service from DDR and some of the issues that would need to be addressed for service to be provided.

It is not a given that Millview will be able to provide service. For Millview to provide service to the full location will require confirmation from SWRCB as to the nature of water from Well 6 (see above), a lifting of the moratorium from DPH, a backup water source and approval by LAFCO of an annexation.

Department of Public Health

A few days after my meeting with Mr. Adams, I spoke to Bruce Burton at the Department of Public Health (DPH). He generally indicated that if Millview CWD obtained rights to water from Well 6 and sufficient water could be demonstrated as being available, Millview's permit could be adjusted. On page 3 of the above cited Millview letter is this statement: *"As noted above, the addition of new water sources must be approved by the California DPH for inclusion in Millview's Water Supply Permit. Informally, DPH has previously indicated that it would approve the addition of Well 6 to the Millview system; however, there has been some confusion whether treatment would also be required (because Well 6 has a substandard sanitary seal); DPH's last indication to Millview was that treatment would not be required."*

In reference to the above statement about the "**substandard sanitary seal**", an obvious question would be: *"Why would DPH allow the water supply for potentially thousands of people be supplied from a well with an admitted substandard sanitary seal without treatment, especially if that well is down gradient from an industrial location?"* With that question in mind the State Department of Public Health office in Santa Rosa was contacted. Bruce Burton was out of the office for the week, so Amy Little, Associate Sanitation Engineer provided a response. She indicated that if (she was not presently aware of the circumstances of the well) Well 6 did not meet present day requirements for domestic use, the Department would examine three possible processes for use of the water from that location: (1) Properly destroy the existing well and re-drill a new well meeting today's standards for domestic use or; (2) Develop a Water Treatment Plant that would normally be required for the use of surface water; (3) If the existing well was to be used or if wells were to be used in potential contamination areas, extensive monitoring would be required for a year or more before the water could be used.

Removal of the Moratorium?

Also in reference to the above, an obvious observation would be that if only the amount of water needed for the proposed development is obtained from Well 6, that doesn't remove the moratorium, in that the moratorium is in place for the whole district. It would seem that if the moratorium is to be lifted for the District, sufficient new water would have to be obtained that would provide for the needs of the whole District not just one customer. Perhaps what is meant is that the permit could be adjusted to only include a connection for the Masonite development.

Backup Water Supply

If the permit is adjusted to allow only this connection, this begs the question of having sufficient backup for that development should Well 6 fail for any reason. In March of 2008, the California Department of Public Health adopted new drinking water regulations, referred to as the Waterworks Standards. **One of the new requirements was that new community water systems using only groundwater must have at least two wells and the water system must be able to meet maximum day demand with the highest capacity well being offline.** The Millview response to the Board of Supervisors 9111

Report indicates: *“To prevent a net deficit should well 6 fail, a condition of water service for the project will require the development of a plan for a backup water supply.”* This statement seems consistent with the new regulations, however no information is provided as to how a backup water supply would occur or from what source the backup water supply would be obtained. (See also County Water Agency comments below.)

DDR does not appear to have a second water source that could be used as backup or if so, this information has not been provided to LAFCO. Given Millview’s present lack of water capacity, existing water supplies could not be committed as backup without negatively affecting existing customers.

Source Capacity Planning Study (22 CCR §64558)

Millview has an existing source capacity problem; that is why the District has been placed in moratorium for new connections by DPH. The new Waterworks Standards indicate that a Source Capacity Planning Study **will be required to be performed by a public water system that has an existing or potential problem with the system’s source capacity. A proposed expansion of the existing service area by 20% or more of the number of service connections may require this same Study.**

At full development, the Specific Plan site would represent a 20% or more expansion for Millview. It therefore appears that this type of study will be required before the permit could be adjusted for Millview. The Source Capacity Planning Study is required to provide:

- Information about the anticipated growth of the water system over a projected period of at least ten years in terms of the population and number and type of residential, commercial, and industrial service connections to be served by the water system.
- Estimates of the amount of water needed to meet the total annual demand and the Maximum Daily Demand over the projected ten-year growth period (projected system demand). Methods, assumptions, and calculations used to estimate the projected system demand are required to be included.
- A map and description of the entire existing and proposed service area, showing the location of each water source, including wells that are abandoned, out-of-service, destroyed, standby, or inactive;
- Information about any valid water rights owned by the system for surface water sources, including information on any limitations or restrictions of those rights;
- For a groundwater aquifer— information about groundwater sources including the calculated sustained well yields of existing wells, drawdown patterns and permits or approvals for groundwater extraction if pumping from an adjudicated groundwater basin
- Information about existing and planned source pumping capability and distribution storage capacity for the system as a whole and for each pressure zone;
- Permits, if required, for any waters proposed for use to offset potable water demand;
- A Source Water Assessment for each potable water source.

- Information about the distribution system piping, pressure zones, reservoirs, valves, sample taps, and other system appurtenances and conveyance facilities;
- Any flood plains in the projected service area and the 100 year flood or highest recorded flood level, whichever is higher.

County Water Agency Comments Regarding Well 6

In an email dated 5/28/2009 to Patrick Ford at County Planning, Roland Sanford, General Manager of the Mendocino County Water Agency’s response to questions for the 9111 Report indicates the following:

*“As discussed earlier today - **I don’t believe there is enough publicly available information to say much about the adequacy of the proposed Masonite development water supply – or if there is sufficient information, I haven’t seen it. In my opinion the key issues are: (1) is Well 6 drawing percolating groundwater or underflow, and (2) what is the backup water supply, in the event that it is determined that Well 6 is underflow.***

*From what little I have seen and heard it seems to be fairly well established that Well 6 can produce a significant water supply but – will the State Water Resources Control Board staff concede that it is percolating groundwater? **At least for now the SWRCB is holding to their argument that all “groundwater” in the Ukiah Valley is underflow. I don’t agree with them but its not the Water Agency’s call. If it is underflow then DDR/Millview will most likely need to file an appropriative water right, which could theoretically be granted for a portion of the year, but probably not for year round diversions. During the summer and fall the Russian River is fully appropriated. One solution would be to pump underflow during the winter, when you would most likely be authorized to do so, and store a portion of that water for use in the summer and fall. The other solution is to find an alternative water supply for the summer and fall. As we discussed, the likely source would be an existing Ag operation that has a contract with RRFC.***

***Given the uncertainty surrounding the Masonite water supply it would seem to be at least prudent if not essential that DDR/Millview either receive written assurance from SWRCB that well 6 is drawing percolating groundwater, or come up with an alternative/backup source. As we discussed, there are a number of options but nearly all involving redirection of an existing supply from an existing user.”** (bold added)*

At this point in time, no written assurance from SWRCB that Well 6 is drawing percolating groundwater has been publicly provided. (See Greystone Report below)

Greystone Report

In 2002, the Board of Supervisors reviewed the possibility of purchasing the water rights or water usage rights to the Masonite owned wells. To assist in understanding the issues associated with these water rights, the Board hired a consultant (Tim O’Laughlin,

O’Laughlin & Paris of Chico, California) who in turn hired Greystone Environmental Consultants, Inc. of Sacramento, California. In November of 2002, Greystone issued a Report entitled Final Aquifer Characterization of the Masonite Plant Property Ukiah, California. According to the Report; the purpose of the investigation by Greystone was to “*determine the relationship between the shallow alluvial aquifer and its hydraulic continuity to the Russian River.*”

There is significant information in this Report that indicates that all of the Masonite wells including Well 6 are hydraulically connected to the Russian River. If this the case, the water from Well 6 is not percolated groundwater but underflow to the River which requires an appropriative water rights permit; such permit is unlikely to be provided for year round use because the River is fully appropriated during peak demand times. (See County Water Agency comments above)

After receiving this Report, the Board of Supervisors decided to not pursue purchase of the water rights. Because the decision was made in closed session, the record is therefore not available to indicate the reason(s) for their decision. Presumably, the appropriative rights permit issue was one of the reasons why they discontinued their efforts to purchase.

Here are selected quotes from that Report: (bold added)

*“The Masonite Plant (Plant) is located in Ukiah, California, **in the Russian River Valley** near the northern coastal mountains. The Plant was constructed in the 1950’s and **used water pumped from the shallow alluvial aquifer as its principal water supply** over the years. Since 1958, Masonite has drilled five wells capable of yielding a total of approximately 6000 gallons per minute (gpm). The wells presently exist under various conditions with some dilapidation due to sanding and well encrustation, resulting in reduced production capacity and poor well efficiency. Well number six (P6) was drill in 1975 and was tested at 1,080 gpm. This well is used as a water supply for the water treatment at the site. Presently it is the sole source of water supply and reportedly pumps at approximately 60 to 80 gpm. There is no flow meter on the well.*

*Topographic conditions at the plant site are relatively flat and exist **within the river terrace in the Russian River valley**. The area where the wells are located was surveyed as part of this investigation. Land surface elevations vary from about 600 to 615 feet above mean sea level (msl). The geology at the eastern part of the plant site consists of Recent and Quaternary sediments overlying bedrock. The alluvial material ranges from clay and silt to sand, cobbles and boulders. The depth of the alluvial material is not known but nearby wells have been reported to be as deep as 400 feet.”*

According to a map provided in the Greystone Report, three production wells and three monitoring wells are clustered near each other within a thousand feet of the River: they are labeled in the Report as P1, P2, P3 & M1, M2, & M3. Well number 6 (P6) is to the north and further west of the location of these wells. The Report made the following observation for these six wells (P1, P2, P3, M1, M2, & M3).

*“The purpose of this investigation was to **determine the relationship between the shallow alluvial aquifer and its hydraulic continuity to the Russian River.** The six existing wells are generally located within 1,000 feet of the river except wells P3, P4, and P5, which are located on the river bank about 20 feet from the river. To determine the hydraulic continuity, water levels in the site wells were monitored continuously and compared with flow variations in the Russian River that were recorded at two nearby gaging stations. The Coyote Gage at Lake Mendocino and the Hopland Gage located about 12 miles south of Ukiah were used to obtain values of the amount of flow in the river and the stage (depth) of the water. During the monitoring period (October 4 through November 1, 2002), the stream flow in the river varied from 135 to 302 cubic feet per second (cfs) resulting in aquifer water level changes of up to six inches and **demonstrating a direct connection between the river and the aquifer.**”*

Because Well number 6 (P6 on map) was being used, water level monitoring did not occur at this well site. However, water quality data was collected from wells P3 and P6. The Report makes the following observations.

*“Water quality is generally excellent and **constituent concentrations between the wells are generally similar.** The water sample collected from well P6 is thought to most representative of the groundwater chemistry in the alluvial aquifer because the well pumps continuously on a daily basis. The other wells are presently unused and the chemistry tends to be “stagnant” and not representative of the aquifer. The other water sample was collected from the Russian River near well P3. In Table 1, the constituents that are most prevalent are alkalinity, hardness and calcium. Although, the concentrations are considered low, the water is classified as moderately hard because the concentration of both the well water and the river water is greater than 75 mg/l. The groundwater from well P6 is 140 mg/l and the river water is 86 mg/l meaning that the groundwater is slightly harder than the river water. The primary constituent in the hardness is the calcium concentration, which is 30 mg/l for the groundwater and 21 mg/l for the river.” (page 3—bold and underline added)*

*“Figure 6 shows the continuous, five-minute recordings for the pH and specific conductivity of the groundwater in wells P 6 and P3. **Again, well P6 is considered representative of the water in the aquifer** because the pump runs daily and cycles about 12 times per day. **The well is reported to pump about 60 to 80 gpm.**”*

*The pH value reflects the acidity of the water. Throughout the test, the pH of the groundwater (well P6) varied from 6.8 to 7.0 and averaged 6.95 from 7,791 readings. This is neutral water. The pH of the river water (Well P3) varied from 6.9 to 7.0 and averaged 6.99 from 7,795 readings. **An average groundwater pH of 6.95 and an average surface water pH of 6.99 provides further evidence that the source is the same.***

*The specific conductivity value reflects the general salt concentration of the water. In this case, the values are slightly different and are attributed to the depth of the aquifer. **Well P6 is 230-feet deep and is screened for most of the aquifer section. The pump is set at a***

*depth of 60 feet and the water is derived from the aquifer at a depth of 60 to 230 feet. The specific conductivity was very constant during the month of October for Well P6. The conductivity value averaged 372 μ S/cm for well P6 and 292 μ S/cm for well P3. This is considered very good water quality, **and again, probably the same source water.**” (page 4—bold added)*

Two of the conclusions of the Greystone Report were that the alluvial aquifer located on the Masonite property is in direct hydraulic connection with the Russian River and water quality data confirms that the Russian River water and the shallow alluvial groundwater had similar water chemistry. This Report provides significant information that suggests that Well 6 is connected to the alluvial aquifer of the Russian River. If true, this means that this well does not pump percolated groundwater as claimed by DDR. It also means that for this well to be used an appropriative water rights permit is required.

It would be of significant value if a decision could be obtained from SWRCB as to the actual circumstances of Well #6 as to it being groundwater or underflow and the need for a permit.

Additionally, it would be of significant value to have a clear understanding of the possible volume from Well 6 and the actual usage rights for the various landholders.

Masonite Water License

On July 7, 2006 Masonite submitted a Petition of Long Term Transfer of the use of License 5763 to Millview CWD. License 5763 which was issued to Masonite Corporation in June of 1959. License 5763 authorizes the use of Well numbers 3, 4 and 5. On April 5, 2007, the Division of Water Rights re-assigned the license to Millview.

On May 09, 2008, the State Water Resources Control Board issued a Notice of Proposed Revocation for the following reasons:

1. Licensee has failed to observe the terms and conditions of License 5763 to a useful or beneficial purpose.
2. Licensee has not, or has ceased to, put the water granted under License 5763 to a useful or beneficial purpose.
3. Licensee has not applied the water to beneficial use for at least five consecutive years. Licensee's water right should, therefore, be revoked pursuant to Water Code section 1675. The unused water should revert to the public and be regarded as unappropriated public water. (Water. Code 1241)

Millview has requested a hearing to appeal this decision. A hearing date has not been set at this time.

At the same time that Masonite requested that License 5763 be transferred they also requested that the right to use Well 6 be transferred. Well six is not part of License 5673. It is presently unknown if SWRCB has reviewed the transfer of Well 6.

Masonite Well Location Map

A map that depicts the Specific Plan site and the well locations as indicated in the Greystone Report is being provided for the reader. It can be downloaded from the same location that this Report was obtained.