SWEETWATER SPRINGS WATER DISTRICT

TO: Board of Directors **AGENDA NO. V-A**

FROM: Steve Mack, General Manager

Meeting Date : November 4, 2010

SUBJECT: DISCUSSION/ACTION RE: SONOMA COUNTY WATER AGENCY NOTICE OF PREPARATION (NOP) OF AN ENVIRONMENTAL IMPACT REPORT (EIR) ON THE PROPOSED FISH HABITAT FLOWS AND WATER RIGHTS PROJECT (FISH FLOW PROJECT)

RECOMMENDED ACTION: Discuss and give direction on District comments on a Sonoma County Water Agency (SCWA) Notice of Preparation (NOP) of an Environmental Impact Report (EIR) on the proposed Fish Habitat Flows and Water Rights Project (Fish Flow Project).

FISCAL IMPACT: No direct impact

DISCUSSION:

On November 4, the night of the regularly scheduled District Board Meeting, SCWA is hosting several open houses regarding the NOP of an EIR being prepared on the proposed Fish Habitat Flows and Water Rights Project (Fish Flow Project). The purpose of the EIR is to analyze the impacts of proposed changes to flows in the Russian River and Dry Creek, as mandated by the National Marine Fisheries Service (NMFS). It is appropriate that the District follow this EIR closely and comment on the NOP.

Comments on the NOP are due by November 15, 2010. Attached as Exhibit 1 is a draft comment letter on the NOP. Board Members may have additional comments to make and/or may want to make changes to the attached letter. Also, we may learn information at the Open House that will cause the District comments to change. The major points of the comments could include:

- SCWA is the wrong lead agency on this EIR. The California Water Resources Control Board is the agency that will be making the decision. SCWA has a vested interest in the outcome and should not be the lead agency for this EIR.
- Changes to the Russian River flow regime should take into account more than just NMFS Biological Opinion (BO) requirements. In particular, the reduction in diversions from the Eel River, appropriate downstream recreation needs, and realistic diversion needs of water rights holders need to be incorporated into flow requirements.
- The current Russian River flow regime does not fit current water supply needs and other uses of the River. The events of the 2009 summer are evidence for that.

- The BO is an experiment and no permanent changes to the Russian River flows should be made until the experiment is further along. This summer's flows are evidence for that.
- The EIR should evaluate all contemplated actions on the Russian River including the actions noted in the NOP, such as anticipated future requests to change D1610.

The draft comment letter has also been shared with the District's water rights attorney, Matt Emrick. He may also have some suggestions for our final comment letter.

Draft NOP Comments

November 4, 2010

Sonoma County Water Agency
Attn: Jessica Martini-Lamb, Principal Environmental Specialist
404 Aviation Boulevard
Santa Rosa, CA 95403

Ms Martini-Lamb:

Thank you for the opportunity to comment on the Notice of Preparation (NOP) for the Environmental Impact Report (EIR) for the proposed Fish Habitat Flows and Water Rights Project (Fish Flow Project). This is an important proposal that, if approved as outlined in the NOP, will have lasting effects on the many users of the Russian River. Comments that Sweetwater Springs Water District wishes to have considered in the preparation of this EIR include:

- The California State Water Resources Board (State Board) should be the lead agency and responsible for the preparation of this EIR. The proposed lead agency, Sonoma County Water Agency (SCWA) has made its decision in regards to the Fish Flow Project – it negotiated certain flows with the National Marine Fisheries Service (NMFS) in agreeing to a Biological Opinion (BO) of No Jeopardy for the endangered and threatened salmonid species covered by the BO. The State Board has to make a decision on the petition to change D1610 and other requests by SCWA. In the past the State Board has aggressively defended its responsibility to be lead agency for its decisions. For example, the State Board is the lead agency for the EIR for the Cachuma Project permits in Santa Barbara County. These seem to be very similar situations, the State Board is clearly the agency making decisions in this situation, and should be lead agency and responsible for EIR preparation.

- The EIR should include alternatives that fix all current issues with D1610, not just deal with the minimum flows negotiated between SCWA and NMFS for the BO. As recognized by the NOP, D1610 is broken because diversions from the Eel River have been reduced and diversions from the Russian River have increased. Change in D1610 does not happen often and, if done, must be done correctly and the time used to evaluate changes used efficiently. A comprehensive analysis of Russian River flow requirements and possibilities is necessary.

- If the action on changing flows in the Russian River is limited to just the BO flows, a permanent change at this time is not appropriate. The BO flows negotiated between SCWA and NMFS are experimental. Such a

change as contemplated in this NOP should not be done for flow regimes that experience may show are inappropriate for the purposes of the BO. A better approach would be to set a time period, say 5 or 10 years, to evaluate the BO flows.

- The flow analysis (and EIR) should evaluate the impacts of drought – regional standards at various points on the Russian River need to be developed for minimum flows during drought conditions. The current Russian River flow regime does not fit current water supply needs and other uses of the River. The events of the 2009 summer are evidence for that. The Russian River reservoirs should be operated so that a repeat of 2009 does not happen. The flow standard analysis needs to include all participants in the Russian River system – public meetings, access to flow models and model results.

- As stated in the prior comment, the EIR process should include regional meetings so that there is opportunity for all those affected by the changes in Russian River flows have an opportunity to understand the impacts and effects of the flow regimes evaluated during this EIR process.

- EIR needs to evaluate a range of flow regimes to determine best approach to meeting all needs of the river. These flow regimes could include varying timings of minimum flows (earlier, later, longer, etc.).

- EIR needs full disclosure on likely flow regimes. For example it was widely advertised that the minimum flows in the 2010 summer would be in the 80 cfs range, however in actual practice, summer flows at Hacienda Bridge ranged between 120 and 180 cfs.

- The EIR needs to evaluate the effects of the various flow regimes on regional water supply, river water quality, and recreation at all locations in the river.

- The NOP states that SCWA anticipates other D1610 change requests and these comments have requested a much broader analysis and evaluation of Russian River flows. EIR's are expensive affairs. It only makes financial sense to save public money by consolidating the various actions described in this NOP and requested by these comments into one EIR. It is also important that EIR analyses and evaluations include all contemplated projects and actions so that the total impacts of all actions can be understood.

- The EIR should evaluate the claims and assumptions of the BO flows: e.g., high water velocities in summer flows (page 4) – where is this happening? One can paddle upstream in the lower Russian River. The NOP claims a disruption of lagoon formation but summer 2010 flows did not conform to proposed minimum flows even though a Temporary

Urgency Change flow reduction was requested and granted by the State Board.

Thank you for the opportunity to comment.

Stephen F. Mack
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