SWEETWATER SPRINGS WATER DISTRICT

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

FROM: Steve Mack, General Manager

Meeting Date : May 6, 2010

SUBJECT: SONOMA COUNTY WATER AGENCY (SCWA) PETITION TO CHANGE WATER RIGHTS DECISION 1610

RECOMMENDED ACTION: a. Receive a presentation from Brenda Adelman, Russian River Watershed Protection Committee, regarding the SCWA petition to change Water Rights Decision 1610 (D1610).

b. Discuss and consider action on filing a protest to the petition to change D1610.

FISCAL IMPACT: Possible legal and analysis costs.

DISCUSSION:

At the April meeting the Board heard a presentation by Pam Jeane, Operations Manager for SCWA, regarding SCWA's petition to change D1610. At that meeting it was announced that the filing deadline had been moved to May 13, 2010. Since we have the extra time, the Board asked to have this item placed on the May Board meeting agenda. Board President Quigley asked Brenda Adelman, Russian River Watershed Protection Committee, to give a short presentation on her views of the change petition.

The discussion from the April report is copied verbatim below. Some additional thoughts on the change petition:

- Since the change petition is based on Biological Opinion required flows that are experimental, perhaps the flow regime should have a time period, perhaps five or ten years, during which period SCWA does not have to request a Temporary Urgency Change Petition on an annual basis and have some kind of reporting requirement.

- The value of submitting a protest is that it ensures that the District will have standing in the water rights process before the State Board. The District, or any other member of the public will be a part of the environmental review process regardless of submitting a protest.

- The principal point of a protest would be that D1610 needs a complete review based on the changes in the watershed since the last revision of

D1610, and, based on that review, possibly more and different changes than proposed by the current petition.

Discussion from April Agenda Report:

D1610 is the State Water Resources Control Board water rights decision that governs flows in the Russian River. It mandates flows at various locations in the Russian River at various times of the year. The triggers for the various flows are based in part by water levels in Lake Mendocino and Lake Sonoma and on seasonal water needs. Flow in the Russian River has historically been supported by diversions from the Eel River. Those diversions have been decreased in recent years, but the flow requirements for the River and triggers for those flows haven not changed.

Another recent change is the flow requirements required by the Biological Opinion (BO) on the endangered and threatened fish species in the Russian River. The BO mandates that summer flows in the lower River be reduced below the D1610 requirements to provide summer habitat for the endangered and threatened fish species. My understanding is that these lower flows are expected to allow the sand barrier at the mouth of the Russian River at the ocean to remain intact which would provide for fresher water in the estuary behind the sand barrier and this would be better for oversummering salmonids (the fish species of concern). The petition to change D1610 requests that D1610 be changed to allow the minimum flows required by the BO and nothing else (Exhibit 1). The public notice for the petition states that the deadline for protests to the petition is April 12, 2010 (since changed to May 13, 2010, ed).

Since the BO was issued, SCWA has been requesting Temporary Urgency Changes (TUC) to D1610 on an annual basis to allow for these lower summer flows. This past summer the TUC requested lower flows associated with extremely dry conditions based on the water levels in Lake Mendocino. These lower flows were not based on BO flow requirements and interestingly, the sand barrier, once opened by SCWA (work done by another arm of that agency), did not close up again until mid September. Water users in the Russian River were required by the State Board to take extraordinary water conservation measures for an event that was not that unusual.

The events of last year demonstrated that D1610 no longer works for the Russian River. It was a low rainfall year, but not so low that emergency measures should have been necessary. The Lake Mendocino water levels called out as triggers by D1610 no longer work. The entire flow, monitoring, and triggering system needs a examination to determine what works best for the entire watershed, but that is not happening with this change petition. Nothing in this petition will prevent a reoccurrence of last summer's events given similar weather.

There are many issues with the Russian River. Changing D1610 to solve all the flow-related issues would be a monumental task, but it needs to be done. SCWA

may have made a decision to request this relatively small change because the larger, needed task is too difficult, too expensive, and too uncertain (Eel River diversions may be further reduced in the future).

Entering a protest to the petition means the District can participate in this quasi-judicial water rights process. It means the District would bear responsibility to present a counter position to the petition. It would also take to Sacramento, before the State Water Resources Control Board, a discussion that perhaps could better be done here in Sonoma County.

SCWA staff will be at the April 1 meeting to give a presentation on their petition and to answer questions. The Board can consider the SCWA staff presentation and responses to questions as part of the decision of whether to protest the petition.