SWEETWATER SPRINGS WATER DISTRICT

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

FROM: Steve Mack, General Manager

Meeting Date : October 6, 2016

SUBJECT: REVIEW OF AND COMMENTS ON THE SONOMA COUNTY WATER AGENCY FISH FLOW PROJECT

RECOMMENDED ACTION: Receive a presentation from General Manager Steve Mack regarding his review of the Sonoma County EIR on its proposal to change Water Rights Decision 1610 with changes proposed by the Fish Flow Project and on the meeting he and Richard Holmer have had to discuss the EIR and provide comments, and provide direction to staff.

FISCAL IMPACT: none

DISCUSSION:

In mid August 2016, the Sonoma County Water Agency (SCWA) released the long-awaited draft Environmental Impact Report (EIR) on the Fish Habitat Flows and Water Rights Project, also called the Fish Flow Project. There was an open house meeting on August 24, 2016, presented by the Sonoma County Water Agency at the Community Center in Monte Rio. This EIR is the environmental document for their proposed changes to Water Rights Decision 1610 which governs how releases from the dams that regulate the Russian River are made and sets a range of required minimum flows at various points in the River. It appears that SCWA wants to achieve two major actions from the proposed changes to Decision 1610:

- Make permanent the flow changes ordered by the Biological Opinion for endangered salmonid species in the Russian River (BO), and

- Change the Decision 1610 hydrologic index so that 1) it is based on Lake Mendocino instead of Lake Pillsbury, has more (from 3 currently to 5) conditions on which to base releases, 3) takes account of the reduced inflows from the Eel River, and 4) has more flexibility seasonally, going from seasonal decisions to monthly decisions.

Based on the schedule released when the EIR was made publicly available, comments on the draft EIR must made by October 17, 2016. On September 13, 2016, SCWA made a public presentation of the draft EIR at the Board of Supervisors meeting. I was in attendance and requested more time to review the document (it's very long - someone stated over 3,000 pages) given its length and the amount of time SCWA took to produce it (years to produce versus weeks to review). There were others that made

the same comment. Supervisor Carrillo made a public statement that he and Supervisor Gore would be asking for an extended time for review and additional public meetings. I understand the Board of Supervisors will consider this request at their October 4, 2016 Board meeting. I will not be able to attend that meeting, but we will know the result for our October 6 Board meeting.

The Board asked for a comment letter to be prepared for this meeting. Because of the likely extension of time for comments, this agenda report is aimed at encouraging discussion of the draft EIR issues and direction for the comment letter.

On September 28 Director Holmer and I met to discuss our ideas about the draft EIR. Director Holmer is most concerned about the impacts of this project on salinity in the River and we don't see any discussion of that in the EIR - it should be there, even if there's no known impact and there should be more in the EIR on water rights, perhaps specifically State permitted and licensed water rights and how this project affects them (see below).

I have additional concerns. The first item that should be settled is to what degree and/or purpose does the District review this EIR? The most immediate concern is whether the Fish Flow Project has an impact on the District's water supply and to what extent is that discussed in the draft EIR. But we are all residents of the lower Russian River, we have knowledge of riverine issues and status as one of the few public agencies with open meetings in the lower River. Perhaps we, as a District, should be taking a broader view of this EIR. The Fish Flow Project has not had much lower River input and residents of this area don't have many venues for professional review (to the extent one can call the District professional regarding reviews of EIRs) of a project that can have a big impact on their enjoyment of the lower River.

To that extent, below are some issues that I believe could be raised with this draft EIR (with the understanding that I haven't read much of the draft EIR yet (most but not all and it's a big document) and much of what I have read has been done quickly, so I may have missed things that are addressed somewhere. Major issues to date, in no particular order:

- Background - the BO is a collaboration between certain fish biologists with a point of view that lower flows for a variety of reasons are better for certain fish in the Russian River and water managers who have a vested interest in having lower flows so they can deliver more water to their water contractors. The people who have a vested interest in keeping flows higher in the River did not participate in these negotiations. The Board of Supervisors represent both interests and arguably should be seeking a balance in making any decisions (see below).

- Piecemealing. That's EIR jargon for splitting a big project into smaller constituents for easier review and perhaps approval. There should have been a more broadly scoped EIR process for the much larger project that has come out of the Biological Opinion process. This draft EIR addresses only a part of this larger project that is bringing and has brought many changes to the Russian River. The overall project is a water supply project for the water contractors of

SCWA that is constrained by a Biological Opinion (BO) which requires lower minimum flows at a number of locations along the mainstem of the River, sand barrier maintenance at the mouth of the River to provide for better maintenance of estuary conditions in the River near the mouth (which is one of the reasons for the lower minimum flows in the lower River), and certain actions in Dry Creek to make that better habitat for coho salmon, and perhaps other things. Higher releases from Lake Sonoma should be included in the possible alternatives. This larger project is an opportunity to change the Decision 1610 hydrologic index to better reflect current and future conditions.

- What decisions are the SCWA directors or the Board of Supervisors (same people) making with or being supported by this EIR? The decision to change the D1610 permits has already been submitted by SCWA. This EIR appears to be actually to provide CEQA clearance for the California State Water Resources Board to make their decisions on the permits. As such, the State Board should be the lead agency and should be providing the direction for this. In practice, that rarely works out well so it may be a good thing that they are not involved. It would be better to make these decisions among ourselves but I don't see where that opportunity is being provided here.

  The Proposed Project includes the following components (from the draft EIR):

  - amendments of the Water Agency's water right permits to replace the existing hydrologic index (which is based primarily on Lake Pillsbury inflows) with the new Russian River Hydrologic Index; **State Board makes this decision**

  - changes to the minimum instream flow requirements in these permits to improve rearing habitat conditions for juvenile steelhead and coho salmon; **State Board**

  - changes to these minimum instream flow requirements to improve conditions for fall-run Chinook salmon migration; **State Board**

  - extending the deadlines for completing full beneficial use in these permits to December 31, 2040, and **State Board**

  - adding the Occidental Community Services District and Town of Windsor existing points of diversion and re-diversion to the authorized points of diversion in these permits. **State Board**

- Contractor Diversions - there's (at least) two issues here: total amount of 75,000 AFY and taking the total amount in all years in the modeling of alternatives. In the modeling contractor diversions are a given - 75,000 for all alternatives in all years except when Lake Sonoma goes below 100,000 AF of storage which I don't know happens. In actual practice, whenever there's a drought we all urge our customers to conserve water. Contractor diversions should be tied to the Hydro Index -when it goes to schedule 3 or lower, contractor diversions should be

lowered and that should be included in the modeling. This also goes contrary to current State practices whereby we all had to go through a process to reduce our water use by 20% by 2020 compared to a baseline from the early 2000's. Related to this is SCWA's 2015 diversion of 44,000 AF and the draft EIR Baseline of 55,000 - can and should diversions increase that much? I understand SCWA's desire to preserve their 75,000 AFY diversion amount but it may not be a realistic number. And if it is a realistic number (or whatever that number is) reductions in drought years do not conflict with having a higher number on the permit or license.

- Hydro Index - why not alternatives in EIR? The EIR states that in the technical committee analyses that came up with the new Hydro Index, consideration was given to an Index that upper and lower River components with the lower River component based on Lake Sonoma. There's no discussion of why the preferred HI was chosen and no analysis given in the EIR on the differences. It makes sense that the lower River should be governed by Lake Sonoma water levels as that's where the summer releases are coming from.

- Minimum Flows - the BO has minimum flow for normal years but stipulates nothing for drier years, yet the alternatives presented and the proposed project have lower minimum flows than required by NMFS.

- Eel River Diversions. These are likely getting cut off in the future and the EIR should properly discuss this. It's mentioned in the Cumulative Chapter (which is poorly organized and written) but not give the prominence it deserves.

- Alternatives - lack of, much can be written about this. The Baseline is not the real baseline; it's a situation that existed for maybe two years but it's claimed for much longer. Perhaps there should be a Baseline 1 and 2 like there is a No Project 1 and 2. Table 7-1 list of alternatives flow scenarios is not clear - what do these alternative names mean? For examples BO, NP1, NP2 can be guessed, but what are F1-18? How are they different? Why are these flow alternatives not part of bigger list of alternatives considered by this EIR?

- The measure of a water supply is its performance during a drought - again contractor diversion are a given and minimum flows are a result of the modeling. It should be reversed - minimum flows are a given and lets see what can be diverted.

- Climate Change should be included in cumulative impacts analyses. We are told climate change will result in longer droughts for this area; it might even be mentioned. However, if droughts are longer some of their analyses will be off and that should be examined by this EIR

- 4.0.6 Effects Determined Not to be Significant and Not Discussed Further - This project is going to increase diversions to 75,000 AFY yet there are no

population and housing, traffic, and land use and planning (and maybe agricultural resources) effects? Who is going to use the extra 20,000 AFY, where are they going to live, and how are they going to get to work? The end project results in a 40% increase in water use. In a era of better and better water conservation, why would more water be needed if there weren't at least 40% more people to use that water?

- Experimental Program - alternatives should be provided that ties this decision to BO schedule. The lower flows in the lower River are required by the BO only because NMFS biologists thought these lower flows were needed to keep the sand barrier which is needed to keep ocean water out of the lagoon (or estuary, I'm confused by these terms in the EIR). However, the sand barrier maintenance program is experimental and its not clear what level of lower flows are needed to establish or keep the sand barrier, or even if within a certain range any level of flow makes any difference. And we have no evidence (that I am aware of) that indicates this experimental program is improving the fish stocks.

- Cumulative impacts chapter should analyze climate change plus no Eel River. SCWA is asking for an extension of time to 2040, yet the FERC license for the Potter Valley Project will be reviewed will before that deadline. Climate change effects are said to be happening now. They need to be fully discussed in the EIR.

- Lower River water quality appears to be impacted by the cumulative impacts; this is an issue that needs more examination. The EIR says no mitigation possible but only because it's not considering all alternatives - releases from Lake Sonoma.

- The EIR should have a better examination of water rights. The EIR states that the Water Agency does not make decisions on water rights but the State Board does and the State Board will use this EIR to make decisions regarding the water rights associated with D1610. Some of the water rights mentioned in the EIR have minimum bypass flows but those bypass flows were likely established with the minimum flows established by D1610. The EIR should examine this issue in more detail and also examine whether other water rights associated with the Russian River will be impacted by anything associated with this Project.

There are other issues as well, but most of the above do not directly impact District water supplies. I haven't read all of the EIR yet and perhaps there are other issues - haven't touched the recreation section. How far do we want District comments to go?

If the comment period is extended, we can discuss this again at a future meeting, depending on the comment period extension. If it is not extended, we need to consider what kind of comments are needed and whether we need a special meeting to approve those comments.