SWEETWATER SPRINGS WATER DISTRICT

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

FROM: Steve Mack, General Manager

Meeting Date : April 1, 2010

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

RECOMMENDED ACTION: a. Receive a presentation from Sonoma County Water Agency (SCWA) staff 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:

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 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.

SONOMA COUNTY WATER AGENCY

RECEIVED
MAR 15 2010
SWEETWATER SPRINGS WATER DISTRICT

CF/0-0-25 TECHNICAL ADVISORY COMMITTEE – TAC COUNTY OF SONOMA – WATER ADVISORY COMMITTEE – WAC AND CF/42-0-9.1 SWRCB MODIFYING THE MINIMUM INSTREAM FLOW REQUIREMENTS

March 11, 2010

Mr. Steve Mack
Sweetwater Springs Water District
General Manager
PO Box 48
Guerneville, CA 95446-0048

RE: PETITION FOR TEMPORARY URGENCY CHANGE OF DECISION 1610, PER THE RUSSIAN RIVER BIOLOGICAL OPINION

Dear Mr. Mack:

The Russian River Biological Opinion, issued in September 2008 by the National Marine Fisheries Service, requires the Sonoma County Water Agency (Agency) to file for permanent changes in Decision 1610 (D1610) within a year of issuance of the Biological Opinion. On September 23, 2009, the Agency filed the required petition to change D1610 with the State Water Resources Control Board (State Board). The protest period on this request will close at 4:30 p.m. April 12, 2010.

The Biological Opinion also requires the Agency to request interim changes to D1610 annually, prior to permanent changes to D1610. In compliance with the Biological Opinion, the Agency intends to file a Temporary Urgency Change Petition with the State Board on approximately April 1, 2010.

The Biological Opinion spells out the required permanent and interim changes to D1610 (see pages 243-248 of the document, located at: http://www.scwa.ca.gov/files/docs/projects/rrifr/Signed-RussianRiverFinalBO9-24-08.pdf for details). In essence, in the change petition to be filed in April, the Agency will ask the State Board for the following:

Between May 1, 2010 and October 15, 2010 the minimum bypass flows to be changed as follows:

- 70 cfs at Hacienda Bridge (with an additional 15 cfs for operational purposes for an expected minimum flow of 85 cfs)
- 125 cfs at the Healdsburg gage

The Agency will also ask for expedited approval of this request. This request should not impact the Agency's ability to provide water to its customers. Compared to summer 2009, the requested minimum flows would be slightly higher in the lower river and substantively higher in the upper river. If you have any questions, please call me at (707) 521-1864.

Sincerely,

Renée T. Webber for

Pamela Jeane, P. E.
Deputy Chief Engineer - Operations

jb\\fileserver\data\cl\jablodow\public affairs 2010\wac mailing 3-11-10 re 1610\wac & tac & agency customers re d1610.docx

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Exhibit 1

Requested Changes to the Sonoma County Water Agency Amended Permits 12947A, 12949, 12950, and 16596 (all amended permits issued on August 30, 2006)

Term 13 on pages 4-5 of Amended Permit 16596:

> "For the protection of fish and wildlife in Dry Creek and the Russian River and for the maintenance of recreation in the Russian River, permittee shall pass through or release from storage at Lake Sonoma sufficient water to maintain:
>
> A) The following minimum flows in Dry Creek between Warm Springs Dam and its confluence with the Russian River:
>
> 1) During normal water supply conditions:
>
> 75 cfs* from January 1 through April 30
> ~~80~~40 cfs from May 1 through October 31
> 105 cfs from November 1 through December 30
>
> 2) During dry or critical water supply conditions:
>
> 25 cfs from April 1 through October 31
> 75 cfs from November 1 through March 31
>
> * cubic feet per second
>
> B) The following minimum flows in the Russian River between its confluence with Dry Creek and the Pacific Ocean, unless the water level in Lake Sonoma is below elevation 292.0 feet with reference to the National Geodetic Vertical Datum of 1929, or unless prohibited by the United States Government:
>
> 1) During normal water supply conditions - ~~125~~ 70 cfs
> 2) During dry water supply conditions - ~~85~~ 70 cfs
> 3) During critical water supply conditions - 35 cfs
>
> . . ."

Term 20 on pages 5-6 of Amended Permit 12947A:

> "For the protection of fish and wildlife, and for the maintenance of recreation in the Russian River, permittee shall pass through or release from storage at Lake Mendocino sufficient water to maintain:
>
> A. A continuous streamflow in the EFRR from Coyote Dam to its confluence with the Russian River of 25 cfs at all times.

B. The following minimum flows in the Russian River between the EFRR and Dry Creek:

1. During normal water supply conditions and when the combined water in storage, including dead storage, in Lake Pillsbury and Lake Mendocino on May 31 of any year exceeds 150,000 acre-feet or 90 percent of the estimated water supply storage capacity of the reservoirs, whichever is less:

From June 1 through August 31	~~185~~ 125 cfs
From September 1 through ~~March~~ October 31	~~150~~ 125 cfs
From November 1 through March 31	150 cfs
From April 1 through May 31	185 cfs

2. During normal water supply conditions and when the combined water in storage, including dead storage, in Lake Pillsbury and Lake Mendocino on May 31 of any year is between 150,000 acre-feet or 90 percent of the estimated water supply storage capacity of the reservoirs, whichever is less, and 130,000 acre-feet or 80 percent of the estimated water supply storage capacity of the reservoirs, whichever is less:

From June 1 through ~~March~~ October 31	125~~150~~ cfs
From November 1 through March 31	150 cfs
From April 1 through May 31	185 cfs
If from October 1 through December 31, storage in Lake Mendocino is less than 30,000 acre-feet	75 cfs

3. During normal water supply conditions and when the combined water in storage, including dead storage, in Lake Pillsbury and Lake Mendocino on May 31 of any year is less than 130,000 acre-feet or 80 percent of the estimated water supply storage capacity of the reservoirs, whichever is less:

From June 1 through December 31	75 cfs
From January 1 through March 31	150 cfs
From April 1 through May 31	185 cfs

4. During dry water supply conditions 75 cfs

5. During critical water supply Conditions 25 cfs

C. The following minimum flows in the Russian River

between its confluence with Dry Creek and the Pacific Ocean to the extent that such flows cannot be met by releases from storage at Lake Sonoma under Permit 16596 issued on Application 19351:

1. During normal water supply conditions	~~125~~ 70 cfs
2. During dry water supply conditions	~~85~~ 70 cfs
3. During critical water supply conditions	35 cfs

. . . "

Term 17 on pages 4-5 of Amended Permit 12949:

"For the protection of fish and wildlife, and the maintenance of recreation in the Russian River, permittee shall allow sufficient water to bypass the points of diversion to maintain the following minimum flows to the Pacific Ocean:

(1) During normal water supply conditions	~~125~~ 70 cfs*
(2) During dry water supply conditions	~~85~~ 70 cfs
(3) During critical water supply conditions	35 cfs

*cubic feet per second

. . . "

Term 17 on pages 4-5 of Amended Permit 12950:

"For the protection of fish and wildlife, and the maintenance of recreation in the Russian River, permittee shall allow sufficient water to bypass the points of diversion to maintain the following minimum flows to the Pacific Ocean:

(1) During normal water supply conditions	~~125~~ 70 cfs*
(2) During dry water supply conditions	~~85~~ 70 cfs
(3) During critical water supply conditions	35 cfs

*cubic feet per second

. . . "