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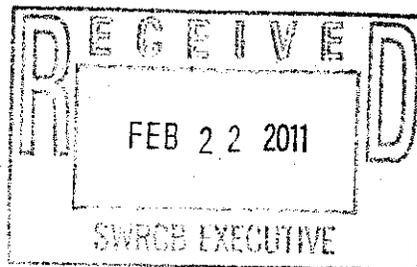
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3/1/11 Bd Mtg Item 10
Woodland-Davis
Deadline: 2/22/11 by 12 noon

8814-8

February 22, 2011



Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
P. O. Box 100
Sacramento, California 95812-0100

Re: Comment letter - 03/01/11 Board Meeting: WDCWA Draft Decision

Dear Ms. Townsend:

Enclosed are the Woodland-Davis Clean Water Agency's comments on the February 15 draft decision on water-right Applications 30358A and 30358B.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Alan B. Lilly".

ALAN B. LILLY

ABL:tmo

Encl.

8814\WR App. 30358\SWRCB Hearing\L022011abl.wpd

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**WOODLAND-DAVIS CLEAN WATER AGENCY'S COMMENTS ON
DRAFT SWRCB DECISION ON
WATER-RIGHT APPLICATIONS 30358A and 30358B
February 22, 2011**

The Woodland-Davis Clean Water Agency ("WDCWA") supports the State Water Resources Control Board's adoption of the February 15, 2011 draft decision on water-right Applications 30358A and 30358B.

The draft decision accurately describes WDCWA's water-right applications and WDCWA's proposed project and its benefits, particularly its benefits in improving the reliability and quality of the water supplies of Cities of Davis and Woodland and UC Davis and in reducing the concentrations of salts in these entities' wastewater discharges. The draft decision correctly concludes that unappropriated water is available for appropriation by WDCWA for this project under present regulatory requirements and that including Term 91 in the water-right permit that will be issued to WDCWA following the SWRCB's final decision will ensure that the times when diversions will be authorized under this permit will automatically and correctly adjust whenever the applicable regulatory requirements change. For these reasons, approving these applications as proposed in the draft decision is in the public interest.

The Cities of Davis and Woodland and UC Davis need to proceed with this project now so that they can expeditiously address their drinking water and wastewater water-quality issues. Also, the cities' ratepayers will benefit if this project may proceed now, because both interest rates and construction costs are favorable now, and may increase significantly in the near future.

As Mr. Yost testified during the January 18-19 hearing, for WDCWA to be able to proceed with the proposed project now, the SWRCB needs to promptly adopt the proposed decision for several reasons. WDCWA needs the water-right permit so that it can obtain project financing. The Cities of Davis and Woodland need WDCWA to receive this permit so that they can justify the substantial water-rate increases that they need to adopt for this project. WDCWA needs this permit so that responsible bidders will be willing to make the considerable investments of time and resources that will be necessary for them to prepare their bids for the proposed design-build-operate contract for the project. WDCWA also needs this permit to support the processes that it must follow to obtain other permits for project. For these reasons, WDCWA urges the SWRCB to adopt its final decision in this matter during its March 1 meeting.

Before the SWRCB adopts its final decision on these applications, WDCWA requests that the SWRCB make the following changes to the draft decision. The reason for each requested change is stated after the requested change.

1. Draft Decision, p. 1, ¶ 1: In the last line on this page, "December 14, 2010" should be changed to "December 14 and 22, 2010."

Reason for requested change: Davis and Woodland filed their notices of assignment on December 14, 2010. (Exhs. WDCWA-13 & WDCWA-14.) UC Davis filed its notice of assignment on December 22, 2010. (Exh. WDCWA-300.)

2. Draft Decision, p. 5, ¶ 19: In the second line of this paragraph, "Board Decision 1630" should be changed to "Board Draft Decision 1630."

Reason for requested change: The State Water Resources Control Board never adopted draft Decision 1630 as a final SWRCB decision.

3. Draft Decision, p. 10, ¶ 35: This paragraph should be edited as follows:

35. The CalSimII model was also used to calculate the maximum monthly upstream movement of the X-2⁷ location with the proposed Project. ~~The movement was calculated to~~ Results of hydrological modeling for the Water Supply EIR indicate that the maximum upstream movement of X-2 under the cumulative condition scenario would be approximately 1.1 km (3,609 ft), and that this maximum would occur during ~~10 months~~ one month (August 1945) over the 73 year period of record. During each of these ~~10 months~~, change of only 0.1 km or less would result directly from the operation of the proposed project. However, the (SWRCB 2, vol. 2, App. B, p. 5-32). The Water Supply EIR concluded that an upstream movement of 1.1 that would occur from other foreseeable projects km under the cumulative condition scenario would constitute a significant change in X-2 position. Because no mitigation measures are available to avoid this impact, this would therefore change may result in a cumulatively significant and unavoidable impact to water quality within the Delta (SWRCB 2, p.6-25).

[No change to footnote 7.]

Reason for requested changes: Although page 6-25 of the Water Project Draft EIR was not entirely clear on how often the modeled upstream movement of 1.1 km would occur, Table 5-18 on page 5-32 of the Draft EIR's modeling technical appendix (in volume 2 of the Draft EIR) indicates that this modeled movement would occur during only one month of the 73-year period of record. The recommended edits to this paragraph 35 are so that it will more-accurately describe the results of the CalSimII modeling that was conducted for the Water Project EIR.

4. Draft Decision, p. 17, ¶ 66: We are not asking for any changes in this proposed term. Nevertheless, we note that WDCWA filed an engineer's map on November 11, 2010. This map is referenced in paragraph 5 on page 2 of the draft decision. While some minor corrections to this map (like changing the references to Applications 30358A and 30358B to a reference to Application 30358) may be necessary, this map otherwise already complies with the regulations that are cited in paragraph 66 of the draft decision.

5. Draft Decision, p. 18, ¶ 70: In the first line, insert "Permittee shall" at the beginning of the line.

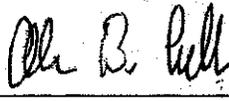
Reason for requested change: This addition is necessary to make it clear that the permittee will be responsible for the actions described in this paragraph.

6. Draft Decision, p. 18, ¶ 72: At the end of the first sentence of this paragraph, insert "that are in effect when permits for the diversion structure are issued."

Reason for requested change: Consistent with the applicants' protest-dismissal agreement, term 17 of each draft permit that was attached to the SWRCB's November 5, 2010 hearing notice contained text providing that the permittee would be subject to the DFG, FWS and NMFS fish-screen specifications that were in effect when this agreement was executed on November 4, 2009. WDCWA is willing to accept an amendment of this text so that it provides that WDCWA will be subject to the fish-screen specifications that are in effect when permits for the diversion structure are issued. On the other hand, it would not be reasonable for the SWRCB to include a permit term that arguably could make WDCWA be subject to changes in these specifications that occur after the diversion structure is permitted and constructed.

Respectfully submitted

BARTKIEWICZ, KRONICK & SHANAHAN
A Professional Corporation

By 

Alan B. Lilly

Attorneys for Woodland-Davis Clean Water Agency

ABL:tmo