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Fax

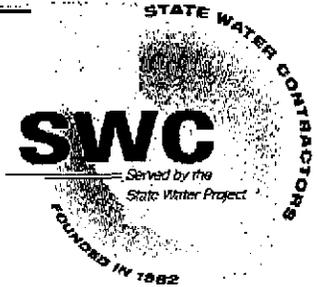
To: Greg Wilson	From: Linda Standlee
Fax: 916/341-5400	Pages: 4
Phone: 916/341-5427	Date: February 19, 2009
Re: SWC comments on Application Nos. 1651 and 2492	cc: South Feather Water and Power Agency c/o Kathryn Petersen 2310 Oro-Quincy Highway Oroville, CA 95966 FAX: (530) 533-9700

- Urgent
 For Review
 Please Comment
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● **Comments:** Attached are comments of the State Water Contractors regarding the Notice of Petition for Temporary Change for Application Nos. 1651 and 2492 (South Feather Water and Power Authority/San Diego County Water Authority).

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 SOUTH FEATHER WATER AND POWER AGENCY
 KATHRYN PETERSEN

February 19, 2009



California State Water Resources Control Board
 Division of Water Rights
 c/o Greg Wilson, P.E.
 P.O. Box 2000
 Sacramento, CA 95812-2000
 FAX: (916) 341-5400

Re: Notice of Petition for Temporary Change -- Applications 1651 and 2492 (South Feather Water and Power Authority/San Diego County Water Authority) -- Comments of the State Water Contractors

Dear Mr. Wilson:

Pursuant to the State Water Resources Control Board's January 13, 2009, Notice concerning the above referenced Petition, the State Water Contractors (SWC) provides the following comments and objections to the Petition for Temporary Change as currently proposed.¹

While the proposed transfer is contrary to various 2008 agreements among Petitioner, SWC members, and DWR, the SWC can support the transfer if reasonable conditions are included.

The transfer involves reservoir reoperations upstream of Oroville Dam. A similar transfer was carried out in 2008. As part of the 2008 transfer, Petitioner, DWR, and participating SWP contractors entered into agreements establishing, among other things, reservoir refill criteria that, if followed, would ensure that there was no impact from the transfer on Oroville storage.

Section 7 of the 2008 agreements state, in part, "Seller [Petitioner in this matter] will repay Reservoir refill impacts prior to making any future sales unless DWR and Seller agree otherwise." Notwithstanding this provision, and the fact that refill impacts have not been repaid, this 2009 transfer request was noticed prior to seeking or receiving DWR agreement. In addition, section 8(c) of the water transfer agreement between Petitioner and the San Diego County Water Authority ("SDCWA") includes the following provision:

¹ The SWC is California nonprofit corporation that represents 28 public agencies throughout the State of California that contract with the Department of Water Resources for water from the State Water Project. Those contractors rely on water from the Sacramento-San Joaquin Delta to meet the water needs for millions of Californians and thousands of acres of prime farmland. As such, it is vital to the SWC its members that water transfers be limited to real water and structured in a manner that ensures that other legal users of water are not negatively impacted.

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 Authority

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February 19, 2009

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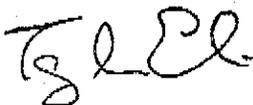
SDCWA and SFWPA, jointly, shall seek an exemption from, or acceptable modification of, reservoir refill requirements as were imposed by DWR as a condition of the 2008 transfer by SFWPA to the State Water Contractors Authority buyers group, it being understood that the criteria imposed by DWR on SFWPA in 2008 are not acceptable. SDCWA understands and acknowledges that SFWPA, in its sole and absolute discretion, may find DWR's reservoir refill requirements unacceptable and, in such an event, this Agreement shall have no right to delivery or receipt of water under this Agreement, nor shall SDCWA have any further obligation in connection therewith.

The existence of this provision was not disclosed in the Petition, which merely stated: "DWR and SFWPA will agree to establish refill criteria that mitigate any potential impact to the State Water Project as a result of SFWPA refilling its reservoirs following the transfer."

The SWC now understands that the Petitioner is willing to accept the 2008 refill requirements, and the SWC can support the transfer only if the refill criteria are identical to the 2008 provisions. Based on the current failure of the Petition or the SFWPA/SDCWA water purchase agreement to clearly state the parties intention to protect Oroville storage in the manner agreed to in prior years, the SWC requests that the State Board obtain written documentation from the Petitioner, prior to approving the transfer, that Petitioner has entered into an agreement with DWR that includes the 2008 refill provisions.

The SWC appreciates the opportunity to comment on this Petition and is willing to work with State Board staff and the Petitioner and transferee to develop a transfer that can be approved in a manner that does not further threaten the water supply of the State Water Project and the Central Valley Project in this year of already dangerously low allocations.

Sincerely,



Terry Erlewine
General Manager
State Water Contractors

PROOF OF SERVICE BY PERSONAL DELIVERY

I am a citizen of the United States and employed in Sacramento County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 1121 L Street, Suite 1050, Sacramento, California 95814. On February 19, 2009, I personally served:

Letter Re: Notice of Petition for Temporary Change -- Applications 1651 and 2492 (South Feather Water and Power Authority/San Diego County Water Authority) -- Comments of the State Water Contractors

by delivering copies thereof to

Division of Water Rights
c/o Greg Wilson
P.O. Box 2000
Sacramento, CA 95812-2000
FAX: (916) 341-5400

South Feather Water and Power Agency
c/o Kathryn Petersen
2310 Oro-Quincy Highway
Oroville, CA 95966
FAX: (530) 533-9700

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on February 19, 2009, at Sacramento, California.

