

RESOLUTION NO. 2006-28

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE YUBA COUNTY WATER AGENCY
ADOPTING CEQA MITIGATED NEGATIVE DECLARATION
AND CEQA NOTICE OF EXEMPTION FOR
ONE-YEAR WATER TRANSFER AND RELATED
STATE WATER RESOURCES CONTROL BOARD PETITIONS,
AND APPROVING WATER TRANSFER
(SCH #2006102026)**

WHEREAS, the Agency has proposed a modification of the terms of its consumptive water-right permits to change the effective date of the long-term instream-flow requirements stated by the State Water Resources Control Board (the "SWRCB") in its Revised Water Right Decision 1644 ("RD-1644") from March 1, 2007 to April 1, 2008;

WHEREAS, the Agency also has proposed, pursuant to Water Code section 1725, a one-year water transfer in 2007 in which the Agency would transfer up to 125,000 acre-feet of water to the Department of Water Resources ("DWR");

WHEREAS, the proposed water transfer from the Agency to DWR would provide the Agency a source of revenue to be used for, among other purposes, promoting flood control in Yuba County and paying costs to conduct environmental review for the proposed Yuba River Accord, and would assist DWR in meeting a substantial portion of the Environmental Water Account Program's water supply acquisition goal for 2007;

WHEREAS, one-year water transfers under Water Code section 1725 are accomplished by means of petitions for temporary changes in water-right permits filed with the SWRCB;

WHEREAS, Water Code section 1725 is contained in Division 2, Chapter 10.5, Article 1 of the Water Code, and Water Code section 1729 states, "A proposed temporary change under this article shall be exempt from the requirements of Division 13 (commencing with Section 21000) of the Public Resources Code," which is the California Environmental Quality Act;

WHEREAS, changes to water-right permits other than temporary water transfers generally are accomplished by means of petitions filed under legal authorities besides Article 1 of Chapter 10.5 of Division 2 of the Water Code;

WHEREAS, the staff of the SWRCB has informed the Agency that, in order to accomplish both the extension of the effective date of RD-1644's long-term instream-flow requirements and the proposed water transfer from the Agency to DWR, it would be necessary for the Agency to file two petitions with the SWRCB;

WHEREAS, the Agency's petition for the 2007 water transfer to DWR (the "Transfer Petition") is pursuant to Water Code section 1725, and the Agency's petition for the extension of the effective date of RD-1644's long-term instream-flow requirements (the "Extension Petition") is pursuant to legal authorities besides Article 1 of Chapter 10.5 of Division 2 of the Water Code;

WHEREAS, the Agency has prepared the *Initial Study/Proposed Mitigated Negative Declaration for the Yuba County Water Agency Proposed Extension Petition for the Interim Instream Flow Requirements Under State Water Resources Control Board Revised Water Right Decision 1644* (SCH #2006102026, the "Initial Study") for the project as described in the Initial Study (the "Project") pursuant to the California Environmental Quality Act and the CEQA Guidelines (collectively "CEQA");

WHEREAS, the Initial Study concluded that the Project, with the mitigation measures recommended in the Initial Study and described in the proposed Mitigation Monitoring Plan, will not have a significant effect on the environment;

WHEREAS, the Agency is considering adopting a CEQA Mitigated Negative Declaration for the Project, and a notice of intent to adopt a negative declaration was circulated for public review and comment in accordance with CEQA requirements;

WHEREAS, the Agency received, considered and responded to written comments submitted in response to the notice of intent; and

WHEREAS, the Agency's General Manager recommends that the Board of Directors adopt the Mitigated Negative Declaration, adopt the Mitigation Monitoring Plan in the form presented at this meeting, approve the Project and authorize the filing of CEQA Notices of Determination and of Exemption;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Yuba County as follows:

1. The Board hereby adopts the Mitigated Negative Declaration in the form presented at this meeting pursuant to CEQA. The Board has reviewed the proposed Project, Initial Study, Modifications to the Public Draft and Response to Comments, Mitigation Monitoring Plan, and other documents and information from Agency staff. On the basis of this information and the whole record before the Agency, the Board hereby finds and determines as follows:

- a. The Initial Study, Modifications to the Public Draft and Response to Comments, and Mitigated Negative Declaration reflect the Agency's independent judgment and analysis;
- b. Although the proposed Project could have significant effects on the environment, mitigation measures described in the Initial Study have been incorporated into the Project that avoid the potential of significant effects or mitigate the effects to a point where clearly no significant effects would occur; and
- c. There is no substantial evidence, in light of the whole record before the Agency, that the Project, as revised with the incorporation of mitigation measures, may have a significant effect on the environment.

2. The Initial Study, documents referenced in the Initial Study, notice of intent to adopt mitigated negative declaration, Modifications to the Public Draft and Response to Comments, Mitigated Negative Declaration, Mitigation Monitoring Plan and other documents concerning the Project are on file and available for public review at the Agency's office at 1402 D Street, Marysville, CA 95901. The Agency's General

Manager at this address is the custodian of the documents that constitute the record of proceedings upon which the decision in this matter is based.

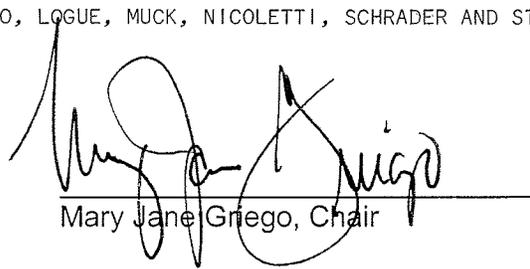
3. The Board hereby: (a) approves the mitigation measures as described in the Initial Study; (b) directs staff to implement the mitigation measures in the design, construction and operation of the Project; and (c) adopts the Mitigation Monitoring Plan for the Project.

4. The Board hereby approves the Project for purposes of CEQA, and authorizes the Agency's General Manager to proceed with Project implementation.

5. The Board hereby authorizes and directs the Agency's General Manager to prepare, sign and file a CEQA Notice of Determination for the Project, including the Extension Petition, and a CEQA Notice of Exemption for the Transfer Petition, with the Yuba County Clerk, other county clerks as listed in the Notices of Determination and Exemption, and State Clearinghouse within five days from the date of the adoption of this resolution, and to pay any applicable California Department of Fish and Game CEQA fees.

PASSED AND ADOPTED by the Board of Directors of the Yuba County Water Agency on the 14th day of November 2006 by the following vote:

AYES: DIRECTORS BELZA, GRIEGO, LOGUE, MUCK, NICOLETTI, SCHRADER AND STOCKER
NOES: NONE
ABSTAIN: NONE
ABSENT: NONE



Mary Jane Griego, Chair

Attest: Jeanene Upton
Assistant Secretary

