

**PLUMAS COUNTY FLOOD CONTROL & CONSERVATION DISTRICT***1834 East Main Street, Quincy, CA 95971**Telephone: (530) 283-6268*

February 21, 2014

Mr. Carl Torgersen, Deputy Director, State Water Project and  
Lead DWR Negotiator for the Contract Extension Project  
Department of Water Resources  
PO Box 942836  
Sacramento, CA 94236

Subject: Objective 4 – Contract Extension Project – State Water Project

Dear Mr. Torgersen:

On February 18, 2014, the Governing Board of the Plumas County Flood Control & Water Conservation District (“Plumas County”) received a status report from its staff lead negotiator in the current process to negotiate a Contract Extension in the subject project. The last minute change in the process that was unilaterally imposed – not suggested – by your agency during the February 12, 2014 Public Negotiating Meeting (No. 20) is the subject of this letter. This letter is also submitted as a last ditch attempt to prevent the disruption of an existing process that was initiated by the California Department of Water Resources (“DWR”) on April 13, 2013.

At issue is the consideration of four (4) separate “Objectives” that have formed the basis of the present contract extension negotiations. As you know, those four (4) Objectives were identified and proposed early in the process, circa May 2013, and have been considered as a group until earlier this month when DWR negotiators stated their intention to split Objective 4 into a separate, second public negotiation process as well as to expand the scope of the second public negotiation process to include final commitments of all 29 state water contractors in regard to BDCP and DHCCP cost allocations. While such a goal may ultimately be necessary, there does not appear a compelling basis for such a significant change in the scope of the existing negotiation process. This is particularly true in that DWR appears to be the only party making statements during the Public Negotiation Meetings seeking such a re-arrangement of scope that was established ten (10) months ago.

Of immediate focus is the DWR’s response to a letter authored by several members of SWC, Inc. – a letter not drafted through the extension project’s established caucus procedure. In fact, that letter does not contain the signature of a single designated lead negotiator. It is addressed to the Director of DWR, not any of its negotiators. To be clear on this matter, Plumas County representatives did not receive a draft copy until it was authored in its final form. There was no opportunity for input by Butte County or Plumas County other than Plumas noting during a SWC Caucus that the letter does not specifically suggest a “separate” second public process for the

BDCP and DHCCP cost allocations that are recognized to be a part of the future contract extension that is now 10 months old – and still actively and productively in progress. The January 28, 2014 letter is a product of SWC, Inc., but not a document representative of the 29 State Water Contractors.

During the February 12<sup>th</sup> Public Negotiation Meeting, DWR negotiators finally responded with some substance to the long-advanced established Objective 4. The February 12<sup>th</sup> response of DWR consisted of a statement of intention by DWR to split Objective 4 from the current group of existing Objectives, expand the Objective 4 scope to include all cost allocation issues of interest to all 29 state water contractors, and replace the existing project Facilitator with a different facilitator that is more experienced in financial matters, a consultant selection process that DWR states will take at least two (2) months.

As stated by the Butte County negotiator, and reaffirmed by the Plumas County negotiator, the simple issue set forth in Objective 4 proposes to establish that:

***“ ... Each contractor’s participation in the implementation and financing of the BDCP and DHCCP should be voluntary. The Agreement in Principle and subsequent contract amendments should limit each contractor’s obligation to fund any implementing and related BDCP and DHCCP projects to only those contractors that agree to participate in those projects. Butte and Plumas shall not be responsible for any costs incurred by the Department for the BDCP and DHCCP unless each of them agrees to pay for such costs in the Agreement in Principle and subsequent contract amendments to the Statement of Charges.”***

There is no reason why that limited concept contained within Objective 4 cannot be fully vetted along with Objectives 1, 2 and 3 that are now under Public Meeting negotiations. This assertion is further reinforced by the above referenced SWC, Inc. letter of January 28<sup>th</sup>, which states:

***“ ... there is general agreement on an assumption that North of Delta SWP contractors will be largely excluded from repayment obligations for the costs of BDCP CMI, although they would continue to be responsible for past obligations for existing facilities and Endangered Species Act compliance that are existing obligations of SWP contractors. ...”***

One would reasonably conclude that the above two (2) citations have more in common than not, which further justify the current consideration of Objective 4 in the existing Public Negotiating Meetings.

Plumas County officials respectfully contend that it is time for all parties to give deference to a full consideration of Objective 4 in the transparent atmosphere of the *existing* Public Negotiating Meetings. Furthermore, it is respectfully asserted that if DWR believes that involvement of a specialty financial consultant is necessary, then such a consultant can be immediately retained by

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DWR as a resource participant to the existing process without the disruption of replacing the existing Moderator. This approach, by the way, would be entirely consistent with the Rules and Procedures that have been in place for the existing Public Negotiating Meetings since its inception.

Plumas County officials recognize that the above approach could enable the existing four (4) Objectives to be substantially finalized and quickly proceed to the "Agreements in Principle" phase, while the more encompassing cost allocation issues could then be addressed at its own pace. This approach, by the way, would enable DWR to avoid violation of the ground rules of the current negotiations (Rules and Procedures No. 2), which states, "Abide by the 'no surprises' rule ..." which has been in place for the existing Public Negotiating Meetings since its inception.

Sincerely,

A handwritten signature in blue ink that reads "Robert A. Perreault, Jr." with a stylized flourish at the end.

Robert A. Perreault, Jr.

PC Lead Negotiator, Contract Extension Project