



SOUTH FEATHER WATER & POWER

TO: Board of Directors

FROM: Michael Glaze, General Manager

DATE: September 20, 2005

RE: Consulting Services Agreement – Water Rights Permits CEQA Processing
Agenda Item for 9/27/05 Board of Directors Meeting

At the end of 2004, South Feather Water and Power Agency (SFWPA) and Yuba County Water District (YCWD) filed petitions with the State Water Resources Control Board (SWRCB) to extend by 40 years the time to place to beneficial use water available to them under their respective consumptive water rights. Because YCWD, by agreement, uses SFWPA's diversion, storage and conveyance facilities to supply water to YCWD facilities and customers, SFWPA and YCWD further agreed to jointly comply with the SWRCB's order that the two agencies – prior to June 1, 2006 – prepare and submit completed environmental documentation in support of their petitions for extension of time of their respective water rights.

Assuming that a single CEQA document addressing the deliveries of water to the two agencies and for all of the petitions for extension of time would result in savings of time and expense, SFWPA and YCWD agreed to cooperate in the preparation of a single CEQA document for all of these petitions. Because SFWPA is the owner and operator of the storage, diversion and conveyance facilities that are used to provide water under these permits, SFWPA will be the lead agency under CEQA for the preparation of the necessary documents.

A "Request for Qualifications for the Provision of CEQA Consultant Services" was approved by SFWPA's Board of Directors on June 28, 2005, subsequently posted on SFWPA's web site and also sent to six environmental consulting firms known to be qualified as a result of their work on projects of a similar nature. Three firms responded: Jones & Stokes, Analytical Environmental Services (AES) and ESA.

After receiving and reviewing the Statements of Qualifications from the three firms, I prepared an evaluation (copy attached) that resulted in a recommendation to Yuba County Water District as follows:

After reviewing the SOQs (see attached "Initial Evaluation of Statements of Qualifications), I have ranked the respondents as follows (highest to lowest): Jones and Stokes; AES; ESA.

With your concurrence, I would like to commence negotiations with Jones and Stokes for a professional services agreement regarding the work to be performed and the price for that

work. Once negotiated, the tentative agreement would then be submitted to the SFWPA Board of Directors and to you for consideration.

At its August 17 meeting, the YCWD Board concurred with the recommendation and sanctioned negotiations with Jones & Stokes.

My subsequent negotiations with Mike Rushton, Jones & Stokes' project director, resulted in the attached Consulting Services Agreement. Legal counsel Jeff Meith has also reviewed this contract. This agreement was sent to Yuba County Water District for consideration at its meeting on September 21, 2005. The YCWD Board did not approve the agreement, but sent it for review by legal counsel Alan Lilly. They scheduled a special meeting on September 28 to receive his comments and consider approval.

Because CEQA processing for this project (as with most projects) could take a number of different procedural paths (some taking less time than others, i.e., a negative declaration as opposed to a complete EIR), the consultant cannot provide a fixed bid for doing the work. However, based on their experience on more than ten water rights application projects, Mr. Rushton estimates that "the costs for carrying [our] project through an Initial Study and a Negative Declaration could range between \$30,000 and \$60,000, depending on the scope of work ultimately required by the SWRCB."

Jones & Stokes estimates the project completion time to be 12 weeks if a Negative Declaration is the final scope of work. However, if an EIR is required, the project time could be as long as 28 weeks. Given SWRCB's June 1, 2006 deadline for completion of this project, it is imperative that we proceed as soon as possible, notwithstanding the uncertainty of YCWD's support. You may want to consider the option of proceeding with the project independently of YCWD and let that agency find its own consultant.

The following action is requested:

"I move that the Consulting Services Agreement with Jones & Stokes Associates be approved and the CEQA processing described therein authorized."

INITIAL EVALUATION OF STATEMENTS OF QUALIFICATIONS

QUALIFICATIONS AND EXPERIENCE

Firm

All three respondents are well qualified and experienced for the subject project. Jones & Stokes is the most robust in terms of providing multidisciplinary environmental services and are proposing to provide all necessary resources for the project from within their firm. AES is proposing to subcontract with another firm if fisheries issues related to the project need analysis. ESA is also proposing a subcontractor for fisheries issues and another for developing water use needs.

Principal, Key Personnel and Lead Personnel

All three respondents would utilize personnel with significant qualifications and expertise in CEQA and environmental documentation.

Similar Water Rights Related Projects Undertaken

Jones & Stokes and AES listed projects they've undertaken that more closely match our petition-for-time-extension project. Jones & Stokes has actually worked for the SWRCB on approximately 20 water-rights projects to provide CEQA compliance. Therefore, they probably have the best understanding of the expectations of the SWRCB staff.

CEQA Knowledge and Experience

All three respondents have considerable knowledge and experience in CEQA compliance and documentation.

Water Rights Knowledge and Experience

Based on the information provided, I ranked the respondents' water rights knowledge and experience (from most to least) as: Jones & Stokes, AES, and ESA.

UNDERSTANDING OF THE PROJECT

All three respondents have an acceptable level of understanding of the project. However, in attempting to demonstrate its understanding of the project, ESA incorrectly stated that it would need to address past environmental impacts of having put water to use between 1975 and 2004, revealing that they failed to note adoption of a Negative Declaration by SFWPA and YCWD in compliance with CEQA for that historical usage.

PROJECT-MANAGEMENT STRATEGY

All three respondents proposed a completion strategy that is workable and that would meet the specified deadline. Jones & Stokes, however, estimated a more streamlined timeline that the other two (approximately 10 weeks shorter).

BILLING RATES AND PROBABLE COST

Rates for the three respondents were relatively comparable. However, Jones & Stokes only adds 9.5% to direct costs, and AES and ESA both add 15%. Given that Jones & Stokes is not proposing the use of subcontractors, as well as a shorter project timeline, their cost, therefore, would probably be less overall.

CONSULTING SERVICES AGREEMENT

THIS AGREEMENT is entered into effective as of September 27, 2005 by Jones & Stokes Associates ("Consultant") and South Feather Water and Power Agency ("Client").

ARTICLE 1 SCOPE

Consultant shall perform the services (the "Services") described generally in the Consultant's Technical Proposal (Statement of Qualifications) attached hereto as Appendix A. This Agreement shall become effective as of the date shown above and shall remain in effect unless amended in writing or terminated pursuant to Article 8 herein. Consultant and Client will meet to discuss the tasks to be performed under this agreement prior to initiating work. No work will proceed without Client's written authorization. Client's authorization shall be issued by Client in its sole and unlimited discretion.

ARTICLE 2 COMPENSATION

For performance of the Services, Client shall pay Consultant compensation on a time and materials basis for task orders as approved by Client's district managers at hourly rates specified in Appendix B, which is also attached hereto. This compensation shall be billed to Client at monthly intervals and shall be due and payable upon receipt of the bill. If for any reason Client fails to pay Consultant in full within 45 days from the date of a bill, Client shall pay Consultant a late payment charge each month equal to one percent of unpaid balance or the highest rate permitted by law, whichever is the lesser. If Client fails to pay Consultant in full within 60 days from receipt of a bill, Consultant may suspend its performance of the Services until all outstanding bills have been paid in full by Client.

All reimbursable expenses shall be reasonable and shall be billed at cost. All reimbursable expenses are subject to the restrictions noted below:

- Miscellaneous costs, such as routine telephone communications, routine copying, e-mail, facsimile, non-specialized computer time and use of non-specialized technical software are considered to be part of Consultant's overhead and will not be reimbursed. Examples of specialized computer applications would include, but not be limited to, GIS, CADD, HEC, and 2-D or 3-D models.
- All air travel costs shall be reimbursed only on a coach fare basis.
- Consultant's use of personal vehicle shall be billed at the IRS approved reimbursement rate and shall not include commutation between home and Consultant's office.
- Consultant shall retain detailed expense reports for the term of the audit period.
- Standard labor rates are provided in Appendix B.

Consultant's accounts shall be kept in accordance with generally accepted accounting principles in the industry and shall be kept in such a manner and in sufficient detail to clearly disclose the nature and amounts of the different items of service and cost pertaining to this Agreement and the basis of charges or allocations to it.

ARTICLE 3 REPRESENTATIVES

Consultant will function in cooperation with and subject always to the direction and control of Client's authorized officers or designated representatives. Consultant shall also designate a representative for the execution of the Services. Consultant's and Client's representatives are:

Consultant: Client: South Feather Water and Power Agency
Kathy Petersen, Power Division Manager
P.O. Box 581
Oroville, CA 95965
Telephone: (530) 534-1221, ext. 202
Fax: (530) 675-0361

Additional contact information can be found under Article 15.

ARTICLE 4 PERSONNEL

All Consultant's staff assigned to these Services shall be approved by the Client prior to their assignment to task activities. Consultant shall confirm that the technical qualifications of all personnel assigned to these tasks meet the applicable industry standards. In the event that the individuals who are initially assigned by Consultant to perform Services under this Agreement are removed, replaced or reassigned by Consultant, such removal, replacement or reassignment may result in harm and costs to Client. Consultant agrees not to remove, replace or reassign any such individuals without the approval of Client. Such approval shall not be unreasonably withheld or delayed. Consultant shall make reasonable efforts to maintain continuity in its staffing and will provide Client ample notification if any such changes are made.

ARTICLE 5 RECORDS

To the extent Client does not otherwise specifically request delivery of records or results, Consultant agrees to retain all records and results of Services performed under this Agreement for a period of not less than two years after completion of the Services. At Client's request Consultant will deliver a copy of any or all original field notes, investigative notes, tests, photographs, records, calculations, summaries and reports produced and collected in the course of Services performed under this Agreement.

ARTICLE 6 OWNERSHIP OF DOCUMENTS

Client shall own all data, reports, information, manuals, drawings, or other written, recorded, photographic or visual materials, or other deliverables produced in the performance of this Agreement for use by Client. Consultant shall retain no ownership interest in any of the foregoing described deliverables except as may be described herein, and such deliverables, including those retained by Consultant in the normal course of Consultant's business, may not be reused, sold, transferred or conveyed without Client's permission. Any reuse of Consultant prepared documents, except for the specific purpose intended hereunder, will be at Client's sole risk and without liability or legal exposure to Consultant.

ARTICLE 7 CONFLICT OF INTEREST/BUSINESS ETHICS

Consultant shall exercise reasonable care and diligence to prevent any actions or conditions that would result in a conflict with Client's interest. During the term of this Agreement, neither Consultant nor its subcontractors shall accept employment or engage in any work that creates a conflict of interest between Consultant and Client, or in any way compromises the interest of Client for which Contractor's services are being retained. Consultant shall immediately notify Client of any and all such violations of this clause, by Consultant, its agents or subcontractors, immediately upon becoming aware of such violations. Failure of such notification or lack of knowledge of a violation by Consultant or its subcontractors shall not excuse the performance hereunder.

ARTICLE 8 TERMINATION

Client may suspend or terminate this Agreement by giving thirty days prior written notice to Consultant, but such termination shall not relieve Client of its obligation to pay Consultant for expenses incurred and Services performed up to the date of termination and all reasonable expenses that Consultant incurs by reason of such termination. Any reports, drawings or other documents prepared for Client prior to the effective date of such termination shall be delivered to Client by Consultant prior to Client's release of its final payment to Consultant.

ARTICLE 9 WARRANTY

Consultant warrants that its Services are performed with the degree of skill and care that is required by current, good and sound professional procedures and practices, and in conformance with generally accepted professional standards prevailing at the time the Services are performed so as to ensure that the Services performed are correct and appropriate for the purposes contemplated in this Agreement.

ARTICLE 10 LIMITATION OF LIABILITY

Consultant's total cumulative liability for any claims of any kind, whether based on contract, tort (including negligence and strict liability), under any warranty or otherwise, for any loss or damage relating to this Agreement or the performance of the Services, shall not exceed the insurance coverage specified in this Agreement, and Client hereby releases Consultant from any liability in excess of such amount. This monetary limitation shall survive the failure of any exclusive remedy.

ARTICLE 14 DISPUTES

Any dispute, controversy or claim arising out of or relating to this Agreement or the breach thereof, shall be subject to mediation under the guidelines of the American Arbitration Association in Sacramento, California, as a condition precedent to the institution of arbitration. If any dispute, controversy or claim cannot be resolved through mediation, it shall be resolved through binding arbitration under the commercial arbitration rules of the American Arbitration Association in Sacramento, California. The Arbitrator shall give full effect to Articles 8 and 9 and shall not deviate therefrom.

ARTICLE 15 NOTICES

Any notice related to this Agreement shall be in writing and shall be considered duly made if delivered to the other party at the following addresses:

Consultant:	Client: South Feather Water and Power Agency Michael Glaze, General Manager P.O. Box 581 Oroville, CA 95965 Telephone: (530) 533-4578 Fax: (530) 533-9700
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Either party may change its address or numbers for receiving notices by giving written notice of such change to the other party.

ARTICLE 16 SURVIVAL

The provisions of this Agreement which by their nature should survive expiration, cancellation or termination of this Agreement, including but not limited to provisions regarding warranty and liability, shall survive such expiration, cancellation or other termination.

ARTICLE 17 LAW

This Agreement shall be governed by and interpreted in accordance with the laws of the State of California, excluding its conflicts of law principles.

ARTICLE 18 INTEGRATION

These terms and conditions are intended by Consultant and Client to constitute the final and complete statement of their agreement, and all prior proposals, communications and understandings related to the subject matter of this Agreement are hereby superseded. No modification or amendment of this Agreement shall be effective unless the same is in writing and signed by both parties.

CONSULTANT: JONES & STOKES ASSOCIATES

SOUTH FEATHER WATER AND POWER AGENCY

By: Michael J. Runton

By: _____

(Typed) MICHAEL J. RUNTON

(Typed) _____

Title: PROJECT DIRECTOR

Title: _____

Date: 9/14/05

Date: _____

Project Understanding, Scope of Work, and Management

Jones & Stokes' understanding of the proposed project has been developed from review of the information contained in the South Feather Water & Power Agency's (SFWPA's) Request for Qualifications (RFQ) and telephone conversations with Michael Glaze, SFWPA General Manager. The proposed scope of work is our recommendation for proceeding through the CEQA process. The management information contained at the end of this section identifies the tools and processes Jones & Stokes uses to insure products are technically accurate and are completed within the allotted schedule and budget.

Project Understanding

SFWPA and the Yuba County Water District (YCWD) are petitioning the SWRCB for 40-year extensions of time for several of their water rights permits on the South Fork of the Feather River. These extensions would allow the two districts more time to place into beneficial use all of the water available to them under their respective consumptive water rights. The petitions for extension constitute the proposed project for purposes of complying with CEQA. CEQA is an element of this extension process because granting the extensions is a discretionary action by the SWRCB. Subsequent adoption of the permit extensions is a discretionary action for SFPWA and YCWD; these agencies are the lead agencies for this action under CEQA.

While this is our current understanding of what constitutes the project, the physical changes to the environment that are related to the project will only be defined during the early stages of the CEQA process. This definition is the key element to ultimately determining the full scope of the CEQA services needed by SFPWA and YCWD and the content of the CEQA document.

Proposed Scope of Services

Jones & Stokes is proposing a general scope of services that should lead to the most cost-effective and expedient course for CEQA compliance. The scope provides for several early check points to insure that the work effort does not include activities or elements that are ultimately unnecessary to fully document the potential effects of extending the time periods for the subject water rights permits. The work plan, schedule and budget will be developed in stages to reflect decisions made by the water districts and the SWRCB in the early stages of the effort. The proposed sequence of tasks is as follows:

- **Develop a Common Understanding of the Project and Its Elements.** If selected for this effort, Jones & Stokes will prepare a brief budget, schedule, and work plan for the first four steps in this scope of services. The key to determining the ultimate scope of services, and therefore the cost and schedule, will lie in achieving a common understanding of the project, its physical elements and the associated potential environmental effects. This understanding must be shared ultimately by the consultant, the two water districts, and the SWRCB

regulatory staff. A series of meetings and working papers will be used to achieve agreement on these elements. The first meeting between Jones & Stokes and the two water districts will be used to agree on the project and its elements. We currently believe that the project elements will include diversion of new amounts of water to fully utilize consumptive water rights, and modification and construction of facilities needed to deliver that water to SFPWA and YCWD customers. The list of project elements may be modified through consultation with the two water districts and the SWRCB.

- ❑ **Develop a CEQA Strategy and Initial List of Environmental Issues.** Once Jones & Stokes and the two water districts achieve a common understanding of the project, Jones & Stokes will prepare a draft CEQA strategy and list of likely environmental issues. The strategy will include all actions necessary to make a decision as to whether the appropriate CEQA documentation is a Negative Declaration or an EIR. We anticipate that the major environmental issues with the time extension will be subsequent changes in flows in the South Fork of the Feather River and the effects of these flow changes on the biological and recreational resources in and along the river. In addition, construction-related impacts associated with extension of facilities to distribute the additional water within the districts will be important. Finally, the relationship between additional water deliveries and the growth planned in the County General Plans will undoubtedly be a concern to state and local agencies and residents of the service areas. It is possible that the environmental effects of added growth in the two counties have already been evaluated in CEQA documents for the two county general plans.
- ❑ **Verify Project, CEQA Strategy, and Issues List with SWRCB Water Rights Staff.** Following a review of the CEQA strategy and list of issues with the two water districts, Jones & Stokes staff will coordinate and attend a meeting with SWRCB staff to verify this information. This meeting will set the course for subsequent CEQA evaluation.
- ❑ **Prepare a Work Plan, Schedule and Budget for SFPWA and YCWD Approval.** Based on the input received from the SWRCB, Jones & Stokes will prepare a new work plan, schedule and budget to complete the CEQA process. The decision will be made at this time as to whether the appropriate CEQA document is a negative declaration or an EIR. A significant difference in level of effort and public involvement exists between the two CEQA directions. The work plan, schedule and budget will be submitted to SFPWA and YCWD for consideration. Jones & Stokes staff will meet with water district staff to answer questions on the proposal and make adjustments as necessary. This task will culminate in an action for approval by the water district Boards.
- ❑ **Prepare a Thorough Written Description of the Proposed Project for Use in the CEQA Document.** The first step in preparing the CEQA document will be to consolidate the project description information developed in earlier tasks into a project description chapter for an IS. This description will contain enough detail to allow for a thorough consideration of potential environmental effects from project implementation.

- **Prepare an IS Checklist.** With a complete project description in hand, Jones & Stokes technical specialists will prepare an IS checklist. This checklist will identify what potential environmental effects should be evaluated in the CEQA process and which do not need analysis. The technical specialists will visit the project site and collect sufficient baseline information to clearly understand potential effects. The checklist and supporting narrative are especially valuable in narrowing the range of issues that must be addressed, whether in an EIR or a negative declaration. The IS checklist will be submitted to SFWPA and YCWD for their review and comment.

- **Complete All Remaining CEQA Compliance Steps.** With an approved IS in hand, Jones & Stokes will proceed to complete the remaining steps in the CEQA process. If an IS and negative declaration are appropriate, this subsequent effort will be brief. The major issues of concern identified in the IS will be addressed in sufficient detail to come to a conclusion regarding the significance of the issue. If needed, mitigation measures will be developed. If an EIR is needed, Jones & Stokes will use the IS as a basis for preparing a Notice of Preparation and initiating an official agency scoping process. The EIR effort will proceed through Draft and Final EIRs and development of CEQA findings. A Mitigation Monitoring and Reporting Plan will also be developed to support agency action on the EIR.

Schedule

The schedule to complete the CEQA process for the SFWPA and YCWD petitions for extension of water rights permits will be dictated by a number of factors. First, the definition of what constitutes the project and what is included in its physical elements will determine the range of environmental effects that must be addressed in the CEQA document. If the physical elements of the project are limited to future water diversions and not the supporting infrastructure, the range of issues to be addressed will be small. This will shorten the time needed to complete technical work. The second major factor in the schedule will be the length of time needed to complete draft product reviews by the water districts and the SWRCB staff. Finally, if an EIR is needed to address potentially significant environmental effects, a considerable time for public review will be added to the schedule.

Because the factors described above are unknown at this time, we have developed the following general schedule using our best professional judgment. Once the project is fully defined and the environmental issues are identified, a detailed and specific schedule can be developed.

TASK	WEEKS TO COMPLETE
Initiate project, develop understanding of project and its elements	1
Develop CEQA strategy and list of issues	1
Verify project, CEQA strategy and issues with SWRCB	1
Develop work plan, schedule and budget	1
Receive work plan and budget approval from SFWPA and YCWD	2
Prepare project description	1
Prepare IS checklist	2
Make decision on Negative Declaration or EIR	1
Complete remaining CEQA steps	
☒ Negative Declaration	12
☒ EIR	28

Jones & Stokes Associates Standard Billing Rates

Northern California - Effective January 1, 2005

Labor Classifications	Per Hour
Project Director	158.00-195.00
Project Manager	116.00-150.00
Senior Environmental Scientist/Engineer/Planner	137.00-150.00
Environmental Scientist/Engineer/Planner	124.00
Environmental Specialist IV	114.00
Contracts Manager	103.00
Environmental Specialist III	103.00
Environmental Specialist II	88.00
Environmental Specialist I	73.00
Technical Writer	83.00
Technical Editor	73.00
Graphic Artist	73.00
Librarian	67.00
Communications Specialist	62.00
Technician	57.00
Administrative Assistant	52.00
Intern	47.00
Other Direct Expenses	
Blueprints/Color prints	\$0.30/square foot
Report reproduction, photocopying	0.08/page
Automobile mileage at current IRS rate or	0.405/mile
Laptop computer (field projects only)	10.00/day
Cellular telephone (field project only)	10.00/day
A general and administrative charge of 9.5% will be applied to all other direct costs, inclusive of subcontractor charges.	
Per diem is charged at \$160.00/day. A lodging surcharge will apply in high rate areas.	
Prompt Payment	
Jones & Stokes Associates clients may reduce any current invoice by (1%) of the billed amount if payment is made within 10 business days of receipt of said invoice.	
Billing rates are subject to revision effective January 1 of each year	