



SOUTH FEATHER WATER & POWER

TO: Board of Directors

FROM: Michael Glaze, General Manager

DATE: October 11, 2005

RE: General Information (regarding matters not scheduled on the agenda)
10/25/05 Board of Directors Meeting

LAFCo Municipal Services Review

The administrative draft of LAFCo's Municipal Services Review for water and wastewater agencies in the county has been distributed for review and feedback. The chapter regarding South Feather Water and Power Agency is attached.

The only negative determination expressed in the draft report is that "the Agency is in noncompliance with Government Code Section 53901." That same determination was included in the reports for Lake Oroville Area Public Utility District, Thermalito Irrigation District and Paradise Irrigation District. In nearly 24 years of managing special districts, I have never been advised that an enterprise special district – governed by an elected board of directors and required to provide the public with copies of all financial documents, not just budgets – must "file a copy of its annual budget with the County Auditor." Upon reading this determination I asked legal counsel to review the citation. Attorney Mike Sexton's response is attached.

Now that we are aware of this requirement, we will begin sending copies of our budgets to the County Auditor in conformance with Government Code §53901 (and will probably have to explain to him why they're being sent).

Governor Signs "Local Government Sunshine Bill"

Governor Schwarzenegger has signed Assembly Bill 1234. The bill was introduced to provide reforms in the areas of director compensation and ethics training for local governments – cities, counties and special districts. AB 1234 allegedly will provide more transparency to local governments and accountability to the public. It takes effect on January 1 and contains three key provisions that pertain to special district board members in the following ways: ethics training for local government officials and designated employees; rules for compensation of members of local government legislative bodies; and, guidelines for reimbursing expenses of local government legislative bodies.

Ethics Training – All directors and any board-designated employee will be required to take at least two hours of ethics training every two years (new directors will have one year to complete the training). The

courses can be taken at home, in person or online and must meet the FPPC's and Attorney General's criteria for sufficiency and accuracy (staff will provide information about qualified courses as it becomes available). The courses will cover laws relating to personal financial gain, claiming prerequisites of office (gifts, travel, gifting public funds, etc.), government transparency (financial interest disclosure, Brown Act), and fair process (due process, incompatible offices, competitive bidding, recusion from decisions affecting family, etc.).

SFWPA's director-compensation policy is not impacted by AB 1234. The fixed monthly fee paid Agency directors for attending board and committee meetings, conferences and educational activities (such as ethics training) is accepted under AB 1234. Districts that compensate for occurrences other than these are required to adopt a written policy in an open meeting that specifies other types of occasions that constitute the performance of official duties for which directors can receive payment.

AB 1234 specifies that districts have a written policy that specifies the types of occurrences that qualify a director to receive reimbursement for travel, meals, lodging and other actual and necessary expenses. The district must also provide expense report forms for directors to file. On September 28, 2004 you adopted Policy #432, "Expenditure Reimbursement", that is already in compliance with AB 1234.

Cooperative Environmental Review Agreement

The agenda for your meeting in November will contain an item whereby you can consider approving an agreement between the County, LAFCo, TID, SFWPA and LOAPUD that will specify the process for developments to comply with CEQA.

For some time the County has been refusing to accept development applications when projects involve property that has to be annexed to a special district providing water or sewer service. The County wanted the annexation completed before it would consider the application. Unfortunately, annexations trigger CEQA, and CEQA requires analysis of the entire project (traffic, growth-inducing impacts, etc.), not just the impact on the special district's utility infrastructure.

Although this Agency has never processed an annexation for property on which a large development was proposed prior to development plans being submitted to the County, we now have a development proposal that includes a parcel not presently annexed to the Agency.

The County Counsel's office and LAFCo staff drafted an agreement that would resolve this Catch 22. I met with these folks recently and requested modifications to the agreement that they have incorporated into the draft. If all parties ultimately approve the agreement, it would allow developers to have their projects processed by the County prior to annexing to one of the special districts, with the County being the lead agency for CEQA purposes, and special districts being able to process annexation applications after that work is complete.

Relicensing Update

Attached is Devine, Tarbell & Associates' status report through August 28, 2005. I have not attached the detailed summary referenced therein, but would be happy to provide copies to those who want more information.

2.11 SOUTH FEATHER WATER AND POWER AGENCY

District Characteristics

The South Feather Water and Power Agency (SFWPA/Agency), formerly known as the Oroville-Wyandotte Irrigation District, provides domestic and irrigation water to portions of southeastern Butte County (see Figure 2.11). Its principle function is as a domestic water retailer and a hydropower generator. SFWPA has begun the process of re-licensing its hydropower project through the Federal Energy Regulatory Commission (FERC).

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| <p>District Size: 28,974 acres 2005 Estimated Population Served: 21,400 Office Location: 2310 Oro Quincy Highway, Oroville, CA 95965 Services: Domestic water Employees: 60 full time, 1 temporary Date of Formation: 1919 Enabling Legislation: California Water Code, Division 11, §20500 <i>et seq.</i></p> |
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Review and Analysis of Service Provision

GROWTH AND INFRASTRUCTURE

Growth and Population

A. Population/Demand Existing and Projected (5, 10 and 20 Year Time Frame)

The Agency currently provides water services to approximately 6,471 customers. These customers include both residential and irrigation customers. The Agency’s average annual consumption is approximately 28,000 AF, with one quarter of that being delivered to residential users and the rest going to agricultural users. Table 2.11-1 below illustrates the expected growth in demand over the next 20 years while Table 2.11-2 offers population projections. The demand projections were provided by the Agency and were derived from historic growth and usage data.

**Table 2.11-1
Projected Demand 2005 - 2025**

| | Existing (2005) | 2010 | 2015 | 2020 | 2025 |
|---------------------------|-----------------|-------|-------|-------|-------|
| Water Service Demand (AF) | 7,000 | 7,250 | 7,510 | 7,780 | 8,060 |

The population projections were made using two values for growth rate. The first value was obtained from the historical growth rate for Butte County. This growth rate was determined from the growth that took place in the County from 1990 to 2000, about 1.1% per year. As the Agency serves parts of the City of Oroville and nearby unincorporated areas of Butte County, the growth rate for the second row has been taken as the mean growth rate for those two areas of Butte County as projected by the Butte County Association of Governments, approximately 2.35%.

**Table 2.11-2
Projected Population 2005 – 2025**

| | Existing (2005) | 2010 | 2015 | 2020 | 2025 |
|-------------------------------|-----------------|--------|--------|--------|--------|
| Historical County Growth Rate | 21,400 | 22,600 | 23,870 | 25,220 | 26,630 |
| Planned Future Growth Rate | 21,400 | 24,040 | 27,000 | 30,320 | 34,050 |

Using the most conservative growth rate, the population within the Agency’s service area could reach approximately 34,000 people by 2025. Using an average consumption of 0.33 AF annually per capita, this would correspond to a demand of approximately 11,000 AF annually in comparison to 8,060 AF annually using the historical County growth rate. The Agency has water rights to distribute 51,000 AF annually.

B. Land Use/Significant Growth Areas

The Agency has significant expansion capability for residential development. Though most of the Agency’s distributed water currently goes to irrigation, agricultural users are a minor portion of the customer base that should not change significantly. The Agency’s service area is bordered

on the north and west by Cal Water Oroville. The topography to the east constricts the Agency's ability to grow in that direction. Because of these constraints, the Agency is expected to experience most of its growth to the south.

Determination SFWPA-1:

The demand for Agency domestic water will continue to grow at a rate of approximately 2.35% annually for the foreseeable future.

Infrastructure

A. Quantity

The Agency's water supply is provided primarily from the South Fork of the Feather River and the upper portion of the Slate Creek watershed. This water is diverted to the Agency's treatment plant through a series of dams, canals, and tunnels.

The Agency has water rights that exceed the actual yield of the watershed. The State Water Resources Control Board currently has a petition pending that will limit the domestic consumption in the Agency's service area to 51,000 AF annually. Although the yield from the watershed declines in dry years, these water rights do not change. The demand in the area is currently approximately 7,000 AF annually for domestic purposes. The irrigators in the area use approximately 21,000 AF annually. The demand from agricultural users is expected to decline significantly in the future as agricultural land is converted to urban uses.

The Agency has water storage available for both raw and treated water. The Agency has six raw water storage reservoirs with a combined capacity of 171,500 AF. Four treated water storage tanks have a combined capacity of 5.2 MG.

**Table 2.11-3
South Feather Water and Power Agency Water Entitlements**

| Application ID | Filing Date | Diversion Rate (ft ³ /sec) | Storage (AF) | County |
|----------------|---------------|---------------------------------------|--------------|---------------|
| A001651 | FEB 02, 1920 | 200 | 109,012 | PLUMAS |
| A002142 | DEC 17, 1920 | 0 | 45,000 | BUTTE |
| A002778 | MAR 06, 1922 | 50 | 25,000 | BUTTE |
| A002979 | AUG 12, 1922 | 185 | 0 | BUTTE |
| A013676 | APR 07, 1950 | 200 | 77,300 | BUTTE, PLUMAS |
| A013956 | SEPT 20, 1950 | 300 | 34,200 | BUTTE, PLUMAS |
| A013957 | SEPT 20, 1950 | 300 | 35,000 | PLUMAS, YUBA |
| A014112 | DEC 28, 1950 | 100 | 0 | BUTTE, PLUMAS |
| A014113 | DEC 28, 1950 | 350 | 77,300 | BUTTE, PLUMAS |

Determination SFWPA-2:

The Agency has a water supply that will not be exceeded in the foreseeable future. The Agency can provide more than adequate supplies of water during normal years of precipitation and has the supply capability to deliver water during periods of drought with significant storage of treated and untreated water. Coordination with planning agencies and development of water distribution infrastructure will be the primary issues facing expansion of the Agency's service area.

B. Quality

The Agency operates a water treatment plant at the Miner's Ranch Reservoir. The treatment consists of rapid mix, flocculation, sedimentation, gravity filtration, and pre/post chlorination.

The Agency collects a minimum of five samples a week for bacteriological monitoring. These samples are taken from sample taps that are located within the required five service connections of the routine sample location. There have been no MCL violations from December 1993 to present. The Agency is also on track for monitoring chemicals, trihalomethanes, and other organics.

Determination SFWPA-3:

The Agency meets all state and federal regulations for water quality.

C. Facilities

A Capital Improvement Plan was developed in the mid-1990's to plan the replacement of the aging steel pipeline infrastructure. Since this plan was implemented, 35.4 miles of main lines have been replaced. Including these improvements, the Agency has replaced 64 miles of steel pipe since 1983. As a result of the proactive nature of the Agency's maintenance program, the number of leaks in the distribution system has been dramatically reduced.

The canal that provides irrigation water to the Agency's agricultural customers is currently undergoing a substantial rehabilitation. Historically the ditch was open-bottom, and thus as much as 80% of the water delivered did not ever reach a paying customer. The ditch is now being sealed, which will dramatically reduce the amount of water lost during distribution.

Determination SFWPA-4:

The Agency has well maintained infrastructure that will provide adequate service to the consumers in the area.

FINANCING AND RATE RESTRUCTURING

Annual audit reports and financial statements from FYs 2001-03 for the Agency were reviewed in accordance with LAFCo's 2003 MSR Guidelines to determine fiscal viability, suitability of current funding practices, and potential fiscal impacts resulting from new legislation.

In accordance with Government Code Section 53901, every local agency shall file a copy of its annual budget with the County Auditor of the County in which it conducts its principal operations 60 days after the beginning of its fiscal year. The Agency does not submit its annual budgets to the County; the Agency is subject to annual State Controller audits in July of every fiscal year. Agency officials have expressed the opinion that since the Agency is operated as an autonomous decision making body with its own elected Board of Directors, it is not subject to County fiscal oversight.

Proposition 218 restricts local government's ability to impose assessment and property related fees, and requires elections to approve many local governmental revenue raising methods. Agency officials noted that Proposition 218 simply imposed restrictions on the levy of charges for "property related services," which the Agency interprets as not including commodity-based charges, such as SFWPA's rate of use. However, the Agency recently added \$4.10 per account each month (the "State Budget Bailout Charge") in order to offset the loss of revenue resulting from a legislated Educational Revenue Augmentation Fund shift.

The FY 2002-03 annual audit noted no material weaknesses in financial reporting or operations. A material weakness is a condition in which one or more of the internal control components does not ensure accuracy in financial statements or provide adequate internal oversight.

The Agency audits and budgets present information related to both the overall fiscal viability of SFWPA as a whole, and separately analyze the Water and Power Divisions. In FY 2002-03, assets of the Agency exceeded liabilities by \$32,955,854; of this amount \$3,714,351 (unrestricted net assets) may be used to meet the Agency's ongoing operational needs. Water Division operating revenues increased by 4% (\$168,928) from FY ending 2002; Power Division operating revenues declined by 12% (\$969,135). Water Division operating expenses increased by 9.8% (\$403,982); Power Division operating expenses increased by 16.8% (\$949,355). Total long-term debt increased by \$2,607,503 and was reduced by \$2,369,470 in principal repayments.

In FY 2002-03, Water Division expenses totaled \$4,863,904, which included salaries and wages, bond interest payable, contractor bonds payable, deferred revenues, serial bonds payable, installment payment agreements, and contracts payable. Program revenues included charges for services (\$4,352,218), operating grants and contributions (\$695,617), and capital grants and contributions (\$50,336). Revenues exceeded expenditures by \$234,267. Water Division assets consist of current assets (cash, accounts receivable, inventory, and prepaid expenses); non current assets (restricted cash, investments, and interest receivable); capital assets (land, construction, and FERC re-licensing); loans receivable and deferred expenses. Total assets equaled \$31,550,782, 66% of which were capital assets.

Liabilities include current liabilities such as accounts payable, salaries payable, bond interest payable; and long term liabilities such as serial bonds payable, installments payable, and contracts payable. FY 2002-03 liabilities totaled \$9,311,909. Net assets for the Water Division totaled \$22,238,873.

The Agency charges \$0.64 per unit (100 cubic feet) for the first 100 units of water, and \$0.25 for every unit thereafter, together with a fixed \$15.00/month service charge. Rates charged by the Agency are significantly cheaper than those charged by Cal Water Chico.

Determination SFWPA-5:

Revenues exceed expenditures; current rates charged for services are appropriate. The Agency is in noncompliance with Government Code Section 53901.

COST AVOIDANCE AND FACILITIES SHARING

The Agency utilizes several cost avoidance measures in its operations. The Agency is a member of the Association of California Water Agencies Joint Powers Insurance Authority that provides SFWPA's property, liability, auto, worker's compensation, and employee crime policies. The Agency also invests funds with the Local Agency Investment Fund, which is a California State Treasury fund through which local governments may pool investments.

The Agency has developed agreements with the Pacific Gas and Electric Company (PG&E) to facilitate development, acquisition, construction and operation of several hydroelectric powerhouses operated by SFWPA. In one agreement, the Agency constructed and operated a series of dams, reservoirs, and powerhouses called the South Fork Power Project. According to the South Fork Power Purchase Contract, all electric power generated by the facilities must be sold to PG&E, which has agreed to pay all debt service on the revenue bonds used to finance the project, plus a stipend of \$12,500 each month.

Historically, the Agency has applied for grants and issued revenue bonds to finance construction and replacement of infrastructure. In 2001, the Agency applied for and received a grant from the Department of Water Resources for partial funding for a canal-lining project. In 2003, the Agency issued certificates of participation in the amount of \$2,695,000 to finance a solar photovoltaic electricity generation system for the Miner's Ranch Treatment Plant.

Other cost avoidance measures include agreements with Yuba County in which the County maintains 10.5 miles of SFWPA ditch; replacing leaking infrastructure, thus saving on repair costs; and installing solar panels which help pay for the operation of the treatment plant. Additionally, Agency crews participate in new service installations (other than subdivisions); their time is compensated by the customer.

There appear to be limited opportunities for facilities sharing.

Determination SFWPA-6:

The Agency utilizes a sufficient range of cost avoidance practices in its operations. No facilities or equipment sharing arrangements exist; this deficiency has not resulted in increased costs or a reduction in the level of service provided to customers.

GOVERNMENT STRUCTURE AND LOCAL ACCOUNTABILITY

The Agency is governed by an elected five member Board of Directors, which serves as the decision-making authority for SFWPA. Board members' respective divisions and term expirations are listed below:

| Member | Division | Term Expires |
|---------------|-----------------|---------------------|
| Dee Hunter | Division 1 | 12/2006 |
| Vivian Meyer | Division 2 | 12/2008 |
| Jean Brown | Division 3 | 12/2006 |
| Jim Edwards | Division 4 | 12/2008 |
| Lou Cecchi | Division 5 | 12/2006 |

Board meetings are held on the fourth Tuesday of every month at 2:00 pm. Meeting schedules and agendas for 2005 are posted on the Agency's website.

The Agency's Environmental and Safety Compliance Officer is responsible for ensuring compliance with rules and regulations regarding environmental and safety issues. The Agency's Water Treatment Superintendent is responsible for compliance with rules and regulations regarding water treatment. The Agency's Water Division Manager is responsible for rules and regulations regarding water distribution.

Determination SFWPA-7:

The Agency is governed by an elected Board of Directors and holds meetings which are open and accessible to the public. The Agency posts meeting schedules and agendas on its website; noticing is consistent with the provisions of the Brown Act.

MANAGEMENT EFFICIENCIES

The Board of Directors is responsible for appointing a General Manager to oversee the Finance Division, the Water Division, and the Power Division. The Water Division is run by the Water Division Manager who oversees 32 employees. These employees are responsible for maintenance and operations related to the treatment plant, system maintenance and service installation, construction and fabrication, irrigation, meters, and the shop.

The Agency appears to be meeting its mission statement which is as follows: "The mission statement of the SFWPA is both to deliver a dependable supply of safe, quality drinking water to its customers, and a dependable supply of water for agricultural users, in an economical, efficient and publicly responsible manner. Hydroelectric generation facilities shall be utilized to optimize revenue from power generation, consistent with providing adequate and dependable water supplies to customers. SFWPA is also committed to providing its employees a safe work environment and encouraging personal growth and attainment of goals."

With good financial and operational health, there does not appear to be any necessary governmental structure changes to ensure an efficient, long-term continuation of service provision by the Agency.

Determination SFWPA-8:

The overall management structure of the Agency is sufficient to account for necessary services and to maintain operations in an efficient and effective manner.

Summary of Determinations

Determination SFWPA-1:

The demand for Agency domestic water will continue to grow at a rate of approximately 2.35% annually for the foreseeable future.

Determination SFWPA-2:

The Agency has a water supply that will not be exceeded in the foreseeable future. The Agency can provide more than adequate supplies of water during normal years of precipitation and has the supply capability to deliver water during periods of drought with significant storage of treated and untreated water. Coordination with planning agencies and development of water distribution infrastructure will be the primary issues facing expansion of the Agency's service area.

Determination SFWPA-3:

The Agency meets all state and federal regulations for water quality.

Determination SFWPA-4:

The Agency has well maintained infrastructure that will provide adequate service to the consumers in the area.

Determination SFWPA-5:

Revenues exceed expenditures; current rates charged for services are appropriate. The Agency is in noncompliance with Government Code Section 53901.

Determination SFWPA-6:

The Agency utilizes a sufficient range of cost avoidance practices in its operations. No facilities or equipment sharing arrangements exist; this deficiency has not resulted in increased costs or a reduction in the level of service provided to customers.

Determination SFWPA-7:

The Agency is governed by an elected Board of Directors and holds meetings which are open and accessible to the public. The Agency posts meeting schedules and agendas on its website; noticing is consistent with the provisions of the Brown Act.

Determination SFWPA-8:

The overall management structure of the Agency is sufficient to account for necessary services and to maintain operations in an efficient and effective manner.

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October 18, 2005

MEMORANDUM

FROM: Michael Sexton 
TO: Mike Glaze
SUBJECT: Filing of Budget with County Auditor

You asked whether South Feather Water and Power Agency is required to file a copy of its annual budget with the County Auditor per Government Code Section 53901. If such a filing is required, you asked if it applied to water and power division budgets or to both of them.

You advised us that in the administrative draft municipal services review report by LAFCO's consultant, SFWPA, TID and PID were shown as being "in noncompliance with Government Code Section 53901."

Unless exempted by the County Auditor 60 days after commencement of its fiscal year, SFWPA must file a copy of its annual budget with the County Auditor. The trigger for this requirement is in the definition of "local agency" found in Government Code section 53900. That section requires a district that has been notified by the state Controller to furnish financial reports pursuant to Government Code section 12463.1, to file its budget with the County Auditor unless the district is exempted by the county from doing so.

Government Code section 53901 states that: "Unless exempted by the county auditor 60 days after the beginning of its fiscal year, every **local agency**, including every special purpose assessing or taxing district with[in] (sp) the county shall file with the county auditor of the county in which it conducts its principal operations, a copy of its annual budget."

Government Code sections 53890 and 53900 define "**local agency**" as a . . . "city and any district other than school districts required by the Advisory Committee and the Controller to furnish financial reports pursuant to Section 12463.1."

Government Code section 12463.1 contains the requirement that a local agency furnish financial

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reports to the state Controller when the Controller, on advice of the advisory committee appointed pursuant to section 12463.1, advises the district to furnish the Controller with the district's reports of its financial transactions. If the Controller advises a district to furnish reports of its financial transactions, the Controller is required to publish these reports pursuant to section 12463. Section 12463 requires that the Controller annually compile and publish reports of the financial transactions of each county, city, and **special district**. . . within the state, together with such other matter as he or she deems of public interest.

The district has been advised to furnish financial information to the state Controller pursuant to Government Code section 53891. It does not matter that the requirement to furnish reports to the state Controller is section 53891 rather than 12463.1 as section 53891 is only triggered where the section 12463.1 requirement has been met.

I'm really serious—I couldn't make this stuff up.

As SFWPA has been required by the Controller to furnish financial reports pursuant to Government Code section 53891, the district is required to file its annual budget with the county auditor unless the county auditor exempts the district from doing so.



Principals:
John J. Devine, P.E., President
John C. Tarbell, P.E.
James M. Lynch
Edwin C. Luttrell, P.E.

October 18, 2005

TO: Mike Glaze
General Manager

FROM: James Lynch
Project Manager

SUBJECT: South Feather Water and Power Agency
South Feather Power Project Relicensing
Status Report for Period from August 29 to September 25, 2005

This memorandum provides a status of work performed since my last report on September 17, 2005, under the January 2002 Consulting Services Agreement (Agreement) between the South Feather Water and Power Agency (SFWPA) and Devine Tarbell & Associates, Inc. (DTA). This cover memo provides an overall summary. The attachment to this memo provides a detailed summary by task and subtask.

Overall, the work is on schedule. A third version of the Revised Draft Exhibit E is scheduled for distribution in early 2006. The Draft License Application (DLA) is scheduled for distribution in July 2006, and the License Application (LA) is scheduled to be filed with FERC in March 2007. All fieldwork, including that specifically requested by resource agencies (coliform and mercury bioaccumulation sampling in Little Grass Valley and Sly Creek reservoirs, continuous water temperature monitoring in the lower Project area, and whitewater boating flow studies), is scheduled to be completed on time by the end of October 2005. No fieldwork is planned for 2006, with the exception of possibly a whitewater boating flow study in Slate Creek and Lost Creek diversion dam reaches and monitoring some water temperature recorders. We expect the Revised Draft Exhibit E to be complete with a few exceptions, most notably the instream flow report that is delayed due to collecting data in the Forbestown Reach. We also anticipate that discussion regarding resource management measures will begin this November.

The work is within budget. As of DTA's October 18, 2005 invoice, a total of \$3,389,712.14 of the total budget (77%) had been expended. The most recent invoice is for \$114,637.88. All tasks and subtasks are within budget. While some out-of-scope work has been requested by agencies and approved by SFWPA as described above, we have not requested a budget change order since the work may be absorbed within the existing budget. If not, we will submit a change order request.