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May 25, 2021

Via Electronic Mail

Kelley M. Taber, Esq.
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Re: South Feather Water & Power Agency's (Agency) Public Records Act Request

Dear Ms. Taber:

This letter is in response to your May 10, 2021 correspondence concerning the Agency's April 26, 2021 request under the California Public Records Act (Request) to North Yuba Water District. We assume, since it is not stated, that your letter is intended to suffice as NYWD's initial 10-day response under Government Code section 6253(c).

The Agency will not modify its Request to narrow its scope to end on February 27, 2020, the date you assert NYWD approved under CEQA a component of its Upper Forbestown Ditch Piping Project, known as the Oroleve Ditch Piping Project. The Agency is, however, willing to fix the end date for records responsive to its Request as of April 26, 2021.

NYWD has stated that the Agency's Request is overly broad but has not offered any detail or supporting analysis of the statement. Nor can it because the Agency's Request is clearly framed and is neither unduly burdensome nor overly broad. The Request does not require NYWD to search an enormous volume of data or for a "needle in a haystack".

As noted in the Agency's Request, if NYWD does not believe the Request is focused or effective, Government Code section 6253.1(a) requires NYWD to (1) assist the Agency in identifying the records and information that are responsive to the request or to the purpose of the request; (2) describe the information technology and physical location in which the records exist; and (3) provide the Agency with suggestions for overcoming any practical basis for denying access to the records or information it is seeking. If NYWD doubts that the Agency's Request is focused or effective, then it has not fulfilled its obligations under the Public Records Act.

Finally, we will remind NYWD that it received over 10 years of accounting records and financial data from the Agency within mere days of NYWD abruptly backing out of discussions

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concerning a memorandum of understanding for reciprocal rights of access to each district's disclosable public records by threatening litigation to be filed within seven days of January 22, 2021. In contrast, this Request seeks only a fraction of NYWD's otherwise disclosable public records and the Agency has not placed any unreasonable demands on the timing of NYWD's production.

The Agency denies NYWD's offer to stipulate concerning its desire to prepare the record. However, once NYWD complies with the Request and produces responsive public records, the Agency will compile a proposed index. If, at that time, NYWD proposes additional records or the deletion of records, the Agency will meet and confer in good faith to attempt to resolve any such disputes. Assuming dispute at this point would be premature.

Sincerely,

Minasian, Meith, Soares,
Sexton & Cooper, LLP


By _____
DUSTIN C. COOPER

DCC/ast
cc : Rath Moseley
General Manager, SFWPA



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May 20, 2021

Via Electronic Mail

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Re. April 26, 2021 Public Records Act Request

Dear Dustin:

This letter provides North Yuba Water District's (District) further response to South Feather Water and Power Agency's (Agency) April 26, 2021 request for documents under the Public Records Act (PRA Request). The Agency's PRA Request was made in connection with its notice of election to prepare the administrative record in *South Feather Water and Power Agency v. North Yuba Water District, et al.*, Butte County Superior Court Case No. 21CV00815, which challenges the District's approval of the Oroleve Ditch Pipeline Project under the California Environmental Quality Act (CEQA). The request primarily seeks categories of documents defined in Public Resources Code section 21176.6, subdivision (e), as comprising the administrative record in a CEQA action.

The District has considered the PRA Request, including the Agency's request for an index of documents that the District has determined are exempt from disclosure under the Public Records Act. The District has determined that due to the scope of the request, which will require collecting and examining a large volume of documents, and the District's limited staff resources, it will require at least 90 days to identify responsive documents and prepare the requested index. The current deadline to certify the administrative record is June 25, 2021. Therefore, an extension of the record preparation deadline will be required.

Moreover, the Agency's request seeks documents related to the Oroleve Ditch Piping Project from 2010 through "the present." With the exception of any Notice of Exemption or Notice of Determination filed after project approval, the administrative record in a CEQA action is limited to documents that were before the public agency at the time it made its decision to approve the project that is the subject of the litigation. (Code Civ. Proc., § 1094.5; *Sierra Club v. California Coastal Comm'n* (2005) 35 Cal.4th 839, 863; *Sacramento Old City*

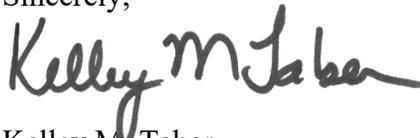
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Assn v. City Council (1991) 229 Cal.App.3d 1011, 1032 n. 13). The District approved the Oroleve Ditch Piping Project on February 27, 2020. To the extent the Agency seeks documents dated after February 27, 2020 (other than the District's Notice of Exemption) to prepare the administrative record for its CEQA lawsuit, the PRA Request is overly broad.

In order to more efficiently complete the CEQA administrative record, the District proposes to prepare the administrative record at no cost to the Agency, according to a stipulation and proposed order to be developed by the parties. The District would agree to fund the actual and necessary costs of such record preparation and waive any right to recover costs or expenses of any kind from the Agency for the cost of such record preparation. In exchange, the District proposes that the Agency agree to consider its April 26, 2021 PRA Request stayed, and further agree that its PRA Request will be deemed closed upon the lodging of the CEQA record. If the Agency is willing to stipulate to the District's preparation of the record, the District will provide a proposed stipulation and order for the Agency's consideration.

The District suggests that the parties confer at the June 4, 2021 settlement conference to resolve any outstanding questions or concerns about the District's proposal that cannot be resolved through the exchange of a draft stipulation and order or discussions between counsel. In the meantime, the District will continue to identify the documents comprising the administrative record. The District looks forward to the Agency's response to its proposal. Should you wish to discuss this proposal, please feel free to contact me at (916) 212-2862.

Sincerely,



Kelley M. Taber
Attorney for Respondents
North Yuba Water District, et al.

cc: Jeff Maupin (*Via Electronic Mail*)