

Resolution No.
County Administration
Building
Santa Rosa, California
Date

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA AND THE BOARD OF DIRECTORS OF THE SONOMA COUNTY WATER AGENCY (A) AUTHORIZING AND DIRECTING THE GENERAL MANAGER/CHIEF ENGINEER, WITH THE INPUT OF THE WATER CONTRACTORS AND OTHER INTERESTED STAKEHOLDERS, TO COMMENCE AND CONTINUE THE DEVELOPMENT OF NEW WATER SUPPLY PROJECTS, PLANS, AND STRATEGIES TO MEET THE REASONABLE EXPECTED FUTURE WATER DEMANDS OF THE AGENCY'S WATER CONTRACTORS, TAKING INTO ACCOUNT THE NATIONAL MARINE FISHERIES SERVICE RUSSIAN RIVER BIOLOGICAL OPINION CONSTRAINTS AND REDUCED POTTER VALLEY PROJECT FLOWS, AND INCORPORATING THE WATER SUPPLY STRATEGIES ATTACHED AS EXHIBIT A, CLIMATE CHANGE ANALYSIS, MAXIMUM LEVELS OF WATER CONSERVATION AND EFFICIENCY MEASURES, RECYCLED WATER, CONJUNCTIVE USE, AND LOW IMPACT DEVELOPMENT STRATEGIES; (B) DECLARING THAT THE AGENCY WILL REDIRECT ITS EFFORTS TOWARDS PURSUIT OF SUCH NEW WATER SUPPLY STRATEGIES AND WILL NO LONGER PURSUE DEVELOPMENT AND IMPLEMENTATION OF THE WATER PROJECT DESCRIBED IN THE DRAFT ENVIRONMENTAL IMPACT REPORT DATED JUNE 2008, DUE TO CHANGES IN CIRCUMSTANCES GIVING RISE TO ENVIRONMENTAL, REGULATORY, AND FINANCIAL CONSTRAINTS THAT RENDER DEVELOPMENT AND IMPLEMENTATION OF THE WATER PROJECT IMPRACTICAL OR INFEASIBLE, AND AUTHORIZING AND DIRECTING THE GENERAL MANAGER/CHIEF ENGINEER TO CEASE WORK ON THE WATER PROJECT EIR; (C) AUTHORIZING AND DIRECTING THE GENERAL MANAGER/CHIEF ENGINEER AND COUNTY COUNSEL TO NEGOTIATE A NEW AGREEMENT FOR WATER SUPPLY REFLECTING THE BOARD'S DIRECTION ABOVE; (D) AUTHORIZING AND DIRECTING THE GENERAL MANAGER/CHIEF ENGINEER TO COMMENCE PREPARATION OF THE AGENCY'S 2010 URBAN WATER MANAGEMENT PLAN BASED UPON THE ASSUMPTION THAT THE AGENCY WILL REDIRECT ITS EFFORTS TOWARDS PURSUIT OF NEW WATER SUPPLY STRATEGIES AS DESCRIBED ABOVE AND WILL NOT IMPLEMENT THE WATER PROJECT; (E) AUTHORIZING AND DIRECTING COUNTY COUNSEL AND THE GENERAL MANAGER/CHIEFENGINEER, FOLLOWING CONSULTATION WITH THE AGENCY'S WATER RIGHTS COUNSEL, TO TAKE APPROPRIATE STEPS TO WITHDRAW OR MODIFY THE AGENCY'S PENDING APPLICATION AND PETITIONS WITH THE STATE WATER RESOURCES CONTROL BOARD TO INCREASE THE LIMIT ON THE AGENCY'S AUTHORIZED RUSSIAN RIVER DIVERSIONS TO 101,000 ACRE-FEET PER YEAR, WHILE PRESERVING THE AGENCY'S RIGHTS TO STORE, DIVERT, AND REDIVERT WATER NOW AND IN THE FUTURE UNDER ITS EXISTING WATER-RIGHT PERMITS TO THE MAXIMUM EXTENT POSSIBLE.

WHEREAS, in May 1992, this Board authorized and directed the General Manager of the Sonoma County Water Agency to prepare an Environmental Impact Report for an expansion of the Agency's transmission system to provide a safe, economical, and reliable water supply to meet the defined future needs in the Agency's service area; and

WHEREAS, in October 1998, the Agency released a final Environmental Impact Report for the Water Supply and Transmission System Project (WSTSP), which contemplated an increase in the Agency's diversions and rediversions from the Russian River to 101,000 acre feet per year; and

WHEREAS, the WSTSP EIR was certified in November 1998, and the WSTSP was approved in December 1998; and

WHEREAS, in October 1999, the Agency submitted an application and petitions to the State Water Resources Control Board to obtain the rights to make such diversions and rediversions as necessary to serve the 101,000 acre feet per year; and

WHEREAS, after approval of the WSTSP, a lawsuit was filed challenging the adequacy of the WSTSP EIR, which resulted in a decision by the First Appellate District Court of Appeal in Friends of the Eel River v. Sonoma County Water Agency, which identified specific deficiencies in the WSTSP EIR; and

WHEREAS, in April 2004, the Agency's Board approved Resolution No. 04-0285, which vacated certain portions of the previous resolutions that certified the WSTSP EIR and approved the WSTSP, and which authorized and directed the Agency's General Manager/Chief Engineer to prepare a Supplemental EIR to the WSTSP EIR to address the deficiencies identified by the Court of Appeal; and

WHEREAS, based on comments received in response to the NOP of Supplemental EIR and other events that occurred since the WSTSP was approved in 1998, in November 2004, the Agency's Board approved Resolution 04-1089, which directed the preparation of

an EIR for the a new project, the "Water Supply, Transmission, and Reliability Project," referred to as the "Water Project"; and

WHEREAS, as a result of Pacific Gas & Electric Company's implementation of the 2004 Federal Energy Regulatory Commission license amendment for the Potter Valley Project, diversions into the Russian River watershed from the Potter Valley Project are now significantly less (and significantly more variable) than those expected, assumed, or within the contemplation of the parties when the Agency developed the Water Project and entered into the Restructured Agreement for Water Supply; and

WHEREAS, in September 2008, the National Marine Fisheries Service issued its NMFS Russian River Biological Opinion, analyzing the impact of the Agency's existing water supply activities on three fish species listed under the federal Endangered Species Act, and containing a "Reasonable and Prudent Alternative" describing measures that the Agency must take in order to obtain an incidental take statement under the federal ESA; and

WHEREAS, one element of the NMFS Russian River Biological Opinion requires the Agency to apply to the State Water Resources Control Board for changes to the Agency's water right permits in order to reduce minimum instream summertime flows in the Russian River; and

WHEREAS, the NMFS Russian River Biological Opinion also limits the amount of water that the Agency can release from Lake Sonoma into Dry Creek, thus constraining the Agency's ability to use Dry Creek to deliver water to the water contractors, to an extent that was not expected, assumed, or within the contemplation of the parties when the Agency developed the Water Project and entered into the Eleventh Amended Agreement and the Restructured Agreement for Water Supply; and

WHEREAS, securing the Agency's ability to fully use its existing water rights is a high priority and compliance with the terms of the NMFS Russian River Biological Opinion will allow the Agency to protect its right to divert and redivert up to 75,000 acre feet per year under these rights; and

WHEREAS, accumulating evidence suggests that accelerated warming of the Earth's atmosphere is occurring and may continue to occur due to increased emissions of greenhouse gases related to human activities, but the possible impacts of such warming on water supply within the Agency's service area are only now beginning to be evaluated; and

WHEREAS, water supply and water treatment activities within the Agency's service area consume large amounts of electrical energy, thus contributing to greenhouse gas emissions; and

WHEREAS, the Agency, together with all Sonoma County cities, has committed to reduce greenhouse gas emissions to 25% below 1990 levels by 2015 and the Agency is confident that other parts of Agency's service area share in the goal to reduce these emissions; and

WHEREAS, water conservation measures contribute not only to a reduction in potable water use, but also to a reduction in greenhouse gas emissions; and

WHEREAS, advances in water conservation devices and techniques can result in significant potable water savings at reasonable costs, particularly when incorporated into new building standards and low impact development standards, and when installed in existing structures through retrofit programs and, where appropriate, upon the sale of properties; and

WHEREAS, additional potable water supply benefits may be obtained through innovative methods and strategies currently under investigation by the Agency; and

WHEREAS, financial constraints upon the Agency and its water contractors have made it more difficult to finance large, costly capital projects; and

WHEREAS, in this difficult economic time, the Agency's water contractors, being subject to the provisions of Proposition 218, face increasing hurdles to raising water rates charged to their customers and have become increasingly sensitive to rate increases proposed by the Agency; and

WHEREAS, the Agency's water contractors no longer appear to have the financial capacity to pay for the construction and development of the facilities contemplated by the Water Project given the unforeseen circumstances that have occurred since the Agency developed the Water Project and entered into the Restructured Agreement for Water Supply; and

WHEREAS, Agency is investigating new water supply strategies that will enable the Agency, in coordination with its water contractors, to meet the reasonable future water demands in the Agency's service area in a safe, economical, and reliable manner; and

WHEREAS, the Eleventh Amended Agreement for Water Supply and its successor, the Restructured Agreement for Water Supply, contain entitlement limits and other provisions that were based upon the assumption that the WSTSP would be implemented and constructed; and

WHEREAS, continued pursuit of the Water Project by the Agency is no longer feasible or practical given the foregoing unforeseen and unexpected circumstances that were not within the contemplation of the Agency or the water contractors when the Agency developed the Water Project and entered into the Restructured Agreement for Water Supply; and

WHEREAS, continued pursuit of the Water Project by the Agency is not in the public interest.

NOW, THEREFORE BE IT RESOLVED that, the Board of Directors of the Sonoma County Water Agency hereby finds, declares, and resolves as follows:

1. The foregoing recitals are true and correct.
2. The General Manager/Chief Engineer is authorized and directed, with the input of the water contractors and other interested stakeholders, to commence and continue the development of new water supply projects, plans, and strategies to meet the reasonable expected future water demands of the Agency's water contractors, taking into account the NMFS Russian River Biological Opinion constraints and reduced Potter Valley Project flows, and incorporating the water supply strategies attached as Exhibit A, climate change analysis, maximum levels of water conservation and efficiency measures, recycled water, conjunctive use and low impact development strategies.
3. Due to changes in circumstances arising since 1992, including those described in the recitals, the Board finds that environmental, regulatory, and financial constraints now in existence render development and implementation of the Water Project

infeasible and impractical. The Agency shall redirect its efforts towards pursuit of the new water supply strategies described above, and shall no longer pursue development and implementation of the Water Project as particularly described in the Draft Environmental Impact Report dated June 2008. The General Manager/Chief Engineer is authorized and directed to cease work on the Water Project EIR.

4. The General Manager/Chief Engineer and County Counsel are authorized and directed to negotiate a new Agreement for Water Supply reflecting the Board's direction above.

5. The General Manager/Chief Engineer is authorized and directed to commence preparation of the Agency's 2010 Urban Water Management Plan based upon the assumption that the Agency will redirect its efforts towards pursuit of new water supply strategies as described above and will not develop or implement the Water Project.

6. County Counsel and the General Manager/Chief Engineer are authorized and directed, following consultation with the Agency's water rights counsel, to take appropriate steps to withdraw or modify the Agency's pending application and petitions with the State Water Resources Control Board to increase the limit on the Agency's authorized Russian River diversions to 101,000 acre-feet per year, while preserving the Agency's rights to store, divert, and redivert water now and in the future under its existing water-right permits to the maximum extent possible.

DIRECTORS:

BROWN:

KERNS:

ZANE:

CARRILLO:

KELLEY:

Ayes

Noes

Absent

Abstain

SO ORDERED.

EXHIBIT A

NEW WATER SUPPLY STRATEGIES:

1. Address Dry Creek summer flow constraints in response to the NMFS Russian River Biological Opinion
2. Modify operation of the Russian River system (update Decision 1610)
3. Evaluate impacts of climate change on future water supply
4. Pursue opportunities to coordinate water supply and flood control activities
5. Work with Sonoma County (County) and cities to develop low impact development programs
6. Work with stakeholders to promote sound, fact-based water supply planning
7. Increase the operational reliability of the transmission system
8. Prioritize and fund projects to protect Agency facilities from natural hazards (mainly earthquakes)
9. Reevaluate the way the transmission system operates
10. Take advantage of energy and water synergies
11. Renegotiate the Restructured Agreement for Water Supply
12. Overcome organizational fragmentation to promote efficiency of water system operations and water management planning