



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

Department Name: Flood Control  
Department No.: 054  
For Agenda Of: February 5, 2008  
Placement: Administrative  
Estimated Tme:  
Continued Item: No  
If Yes, date from:  
Vote Required: Majority

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**TO:** Board of Directors, Flood Control and Water Conservation District

**FROM:** Department Scott McGolpin, Public Works Director, 568-3010  
Director(s)  
Contact Info: Thomas Fayram, Deputy Public Works Director, 568-3436

**SUBJECT:** State Water Project and Proposed First Amendment to Tolling and Waiver Agreement

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**County Counsel Concurrence**

As to form: Yes

**Other Concurrence:** N/A

As to form: N/A

**Auditor-Controller Concurrence**

As to form: Yes

**Recommended Actions:**

Approve and authorize the Chair to execute the First Amendment to Tolling and Waiver Agreement to set aside certain ongoing disagreements between the State Department of Water Resources (DWR) and the various State Water Contractors about past charges for recreational facilities while a financial settlement is developed.

**Summary Text:**

The Board of Supervisors, acting as the Board of Directors of the Santa Barbara County Flood Control and Water Conservation District is asked to approve and execute the attached First Amendment to Tolling and Waiver Agreement. The original tolling agreement:

- 1) was approved by your Board on June 19, 2007,
- 2) suspended the deadlines for pursuing claims against DWR, and
- 3) waived certain claims to allow DWR to obtain necessary financing.

The First Amendment would extend the terms of the original agreement to cover billing for 2008, effectively extending the agreement for one year.

The responsibility to approve the tolling agreement on behalf of CCWA remains with your Board. Thus, based on the November 1991 agreement, and since the proposed agreement will not adversely

affect the County, staff recommends the Board approve the First Amendment Tolling Agreement and authorize the chair to execute the agreement.

**Background:**

The Santa Barbara County Flood Control and Water Conservation District (District) originally contracted for a share of the State Water Project (SWP), but has transferred its rights and responsibilities for the project to the Central Coast Water Authority (CCWA) and several CCWA members through Water Supply Retention Agreements (executed in the mid 1980’s) and the November 21, 1991 agreement with CCWA. The SWP contract establishes the District and its taxpayers as the ultimate guarantor for financial obligations of the “State” portion of the project. (The distribution facilities south of Casmalia and the water treatment plant, the “local facilities”, were financed with bonds issued by CCWA directly.) The State accepts the transfer of obligations and rights but still regards the District as the contractor in case of default by CCWA in making its payments. Since the District remains the contractor for the project, your Board must approve Amendments to the SWP Contract and certain other agreements such as the Tolling Agreement. CCWA has requested your Board approve the Tolling Agreement (Attachment A).

For many years the State charged contractors for development of recreational facilities on SWP reservoirs as project costs. The various contractors have protested these charges pursuant to established procedures, but the disagreement has not been resolved. In an effort to finally resolve (and refund past charges) the tolling agreement has been developed so that the necessary financial transactions can occur. The First Amendment Tolling Agreement provides a basis for further delaying litigation while these transactions occur. Attachment B provides detailed background information.

This First Amendment Tolling Agreement will not increase cost to either the Flood Control District or any of the CCWA members’ ratepayers, rather it will provide an incremental reduction in costs as past charges are refunded. No firm estimate is available of that benefit to local ratepayers, but the total amount in dispute is approximately \$29 million.

**Fiscal and Facilities Impacts:**

Budgeted: Yes Activities associated with administration of the SWP are included in the Adopted 2007-08 Budget under the Water Agency cost center of the Water Resources Division of the Public Works Department as shown on page D-318 in the budget book. These costs are included every year in the Water Agency budget.

**Fiscal Analysis:**

<u>Funding Sources</u>	<u>Current FY Cost:</u>	<u>Annualized On-going Cost:</u>	<u>Total One-Time Project Cost</u>
General Fund			
State			
Federal			
Fees			
Other:			
Total	\$ -	\$ -	\$ -

**Narrative:**

Since CCWA is responsible for all SWP costs, including costs of the settlement agreement, Board action will have no fiscal impacts on the District.

Approval of the settlement agreement would provide for credits from past charges to be given to CCWA (and thus to its members).

**Special Instructions:**

Direct the Clerk of the Board to return the three originals of the First Amendment to Tolling and Waiver Agreement long with a copy of the minute order to the Flood Control District office, Attn: Christina Lopez. The District will forward this agreement to the State for their approval. Once the State has approved the amendment, the District will return an original to the COB for their files.

**Attachments:**

First Amendment to Tolling and Waiver Agreement  
Letter from CCWA requesting Board Action (Attachment A)  
Overview of the First Amendment Tolling Agreement (Attachment B)

**Authored by:**

Robert Almy, Water Agency Manager, 568-3542