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February 23, 2010

Mr. Russ Kanz
State Water Resources Control Board
Division of Water Rights
1001 I Street, 24th Floor
Sacramento, California 98514

RE: WATER QUALITY CERTIFICATION FOR THE RELICENSING OF THE OROVILLE FACILITIES, FERC PROJECT NO. 2100

Dear Mr. Kanz:

On July 22, 2008, the Department of Water Resources (DWR) submitted to the State Water Resources Control Board a certified and final Environmental Impact Report (FEIR) in support of its request for a Section 401 Water Quality Certification (WQC) for relicensing of the Oroville Facilities, Federal Energy Regulatory Commission Project No. 2100. Subsequent to that date, DWR resubmitted its application for a WQC in order to provide State Water Resources Control Board staff sufficient time to analyze the FEIR. On January 21, 2010, staff of the State Water Resources Control Board posted a staff-generated draft WQC it intends to use to fulfill its responsibilities under Section 401 of the Clean Water Act (CWA) for the relicensing of the Oroville Facilities. On February 23, 2010, DWR and State Water Contractors (SWC) submitted comments noting concerns with the draft WQC and inconsistencies between the draft WQC and the FEIR.

The project analyzed in the FEIR is the continuing operation of the Oroville Facilities as proposed in the March 2006 **Settlement Agreement for Licensing of the Oroville Facilities**. The Settlement Agreement was the result of six years of extensive collaboration and negotiation among DWR, stakeholders, tribes, water agencies, and state, federal, and local agencies. It represents a tremendous effort on the part of many entities to jointly recommend to FERC a series of license measures that adequately addresses the many interests impacted by the ongoing operation of the Oroville Facilities. Fifty-one organizations and two individuals ultimately signed the Settlement Agreement.



As stated in the Settlement Agreement, an important intent of the document was that it "...resolves all issues that may arise in the issuance of all permits and approvals associated with the issuance of the New Project License, including but not limited to ESA Section 7 Biological Opinions, CWA Section 401 Certification, NEPA and CEQA."

As the Authorized Representative of my organization under the Settlement Agreement, I respectfully request that the State Water Resources Control Board accept and incorporate, without material modifications, as conditions to the WQC for the Oroville Facilities, all of the protection, mitigation, and enhancement measures set forth in the Settlement Agreement that are within Board's jurisdiction pursuant to Section 401 of the Clean Water Act, and pursuant to the Porter Cologne Water Quality Control Act. Similarly, I also request that the State Water Resources Control Board not include as conditions in the WQC for the project any additional conditions that are inconsistent with the Settlement Agreement. Please refer to the February 23, 2010 letters submitted by DWR and SWC for a precise discussion of the modifications to the draft WQC that my organization agrees are required to be consistent with the Settlement Agreement and FEIR.

Thank you for your consideration of this request and I hope this letter will be useful in the State Water Resources Control Board's timely issuance of a final WQC for the Oroville Facilities.

Respectfully Submitted,

DESERT WATER AGENCY

A handwritten signature in black ink, appearing to read "David K. Luker". The signature is fluid and cursive, with a large initial "D" and "L".

David K. Luker
General Manager-Chief Engineer

DKL/jlt

cc: Victoria Whitney, Chief
Division of Water Rights
State Water Resources Control Board
1001 I Street
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Rick Ramirez, Manager
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