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[Exempt from fees pursuant to
Government Code §6103]

F I L E D Superior Court of California
County of Butte
4/2/2021
By Kimberly Flener, Clerk Deputy
Electronically FILED

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 IN AND FOR THE COUNTY OF BUTTE

9
10 SOUTH FEATHER WATER AND)
11 POWER AGENCY,)
12)
Petitioner,)
13 v.)
14 NORTH YUBA WATER DISTRICT,)
NORTH YUBA WATER DISTRICT)
15 BOARD OF DIRECTORS, DOUG)
NEILSON, FRED MITCHELL, GARY)
16 HAWTHORNE, GRETCHEN FLOHR and)
ERIC HANSARD in their official)
17 capacities, and DOES 1 through 20,)
inclusive,)
18)
Respondents.)
19

Case No.: 21CV00815
VERIFIED PETITION FOR WRIT OF
MANDATE

20
21 I. INTRODUCTION

22 1. This is a lawsuit to enforce important rights and protections under the California
23 Environmental Quality Act (“CEQA”). (Pub. Res. Code §§ 21000 *et seq.*; 14 Cal Code Regs.
24 [hereinafter “Guidelines”] §§ 15000 *et seq.*)

25 2. Compliance by public agencies with the procedural and substantive requirements
26 of CEQA is essential to maintenance of CEQA’s important public purpose of providing public
27 agencies and the public with detailed information about the effects which a proposed project is
28 likely to have on the environment.

1 10. Respondents NYWD Board Members Doug Neilson, Fred Mitchell, Gary
2 Hawthorne, Gretchen Flohr, and Eric Hansard are named in their official capacities as board
3 members and decisionmakers of NYWD.

4 11. Petitioner is ignorant of the true names and capacities of Respondents sued herein
5 as Does 1 through 20, inclusive, and therefore sue these parties by such fictitious names.
6 Petitioner will amend this writ to allege their true names and capacities when these are
7 ascertained. Petitioner is informed and believe and thereon alleges that each of the fictitiously
8 named respondents are responsible in some manner for the occurrences herein alleged, and that
9 Petitioner's injuries and damages as herein alleged were proximately caused by the conduct of
10 such fictitiously named respondents.

11 **III. EXHAUSTION OF ADMINISTRATIVE REMEDIES**
12 **AND INADEQUATE REMEDIES AT LAW**

13 12. To the extent NYWD undertook any administrative process allowing the Agency
14 to present the issues raised in this Petition prior to approving and carrying out the Pipeline
15 Project, Petitioner did so. Thus Petitioner has exhausted all available administrative remedies.
16 Additionally, Petitioner contends that, because NYWD failed to comply with CEQA's
17 procedural mandates by providing advance notice of its alleged exemption determination, there
18 was no opportunity to raise objections and thus no obligation to exhaust administrative remedies.

19 13. Petitioner has no plain, speedy or adequate remedy in the course of ordinary law
20 unless this court grants the requested writ of mandate. In the absence of such remedies,
21 Respondents' approval of the Pipeline Project will proceed in violation of state law.

22 **IV. STATUTORY NOTICE**

23 14. Petitioner has complied with Public Resources Code section 21167.7 by filing a
24 copy of this Petition with the California Attorney General. A copy of that notice and a proof of
25 service were filed concurrently with this Petition and as attached as **Exhibit A** and incorporated
26 herein by this reference.

27 15. Petitioner has complied with Public Resources Code section 21167.5 by providing
28 Respondents with a notice of intention to commence this action. A copy of that notice and a

1 proof of service were filed concurrently with this Petition and as attached as **Exhibit B** and
2 incorporated herein by this reference.

3 16. Petitioner has elected to prepare the administrative record for this action. A copy
4 of that election was filed concurrently with this Petition.

5 **V. JURISDICTION AND VENUE**

6 17. This Court has jurisdiction of this proceeding pursuant to Code of Civil Procedure
7 sections 1085 and 1094.5, and Public Resources Code sections 21168 and 21168.5, and article
8 VI, section 10, of the California Constitution.

9 18. Venue is proper in this Court pursuant to Code of Civil Procedure sections 393,
10 394 and 395. The actions challenged herein will have a direct and substantial impact on an area
11 of Butte County where the proposed Oroleve Project is located, as set forth in **Exhibit C**.

12 19. NYWD filed a purported notice of exemption for the Pipeline Project on March 9,
13 2021. This Petition is timely filed within 35 days of filing a notice of exemption for the Pipeline
14 Project pursuant to subdivision (d) of Public Resources Code section 21167.

15 **VI. PRIVATE ATTORNEY GENERAL**

16 20. This proceeding involves enforcement of important rights affecting the public
17 interest. Issuance of the relief requested in this Petition will confer substantial benefit on the
18 public, including citizens, residents, businesses, and taxpayers of the Agency and the State of
19 California, and will result in the enforcement of important public rights by requiring
20 Respondents to comply with CEQA and other legal requirements applicable to the Pipeline
21 Project, by voiding project approval, and by prohibiting Respondents from taking further action
22 with respect to implementation of the Project until they have complied with legal requirements.

23 21. Petitioner brings this action as private attorney general pursuant to Code of Civil
24 Procedure section 1021.5. The necessity and financial burden of enforcement of these public
25 rights entitle Petitioner to an award of reasonable attorneys' fees pursuant to that section.
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VII. FACTUAL BACKGROUND

Forbestown Ditch

22. NYWD and Agency are neighboring water providers that share important water distribution infrastructure known as the Forbestown Ditch. The Forbestown Ditch is an earthen ditch in excess of approximately ten miles in length and that was originally constructed in the 1800s.

23. Pursuant to a 2005 Agreement between Agency and NYWD, the Upper Forbestown Ditch is owned, operated and maintained by NYWD. A component of the Upper Forbestown Ditch, as defined in the 2005 Agreement, is the Oroleve Ditch. The Lower Forbestown Ditch is owned, operated and maintained by Agency. The dividing point between the Upper and Lower Forbestown Ditch is a measuring point known as WD-6. A depiction of the Forbestown Ditch is attached as **Exhibit D** and incorporated herein by this reference.

24. Despite the Upper Forbestown Ditch being owned and operated by NYWD, it remains a vital piece of infrastructure to the Agency. Agency customers continue to be served directly from the Upper Forbestown Ditch and NYWD is required to deliver up to 11 cfs of water at WD-6 for use by Agency and its customers served from the Lower Forbestown Ditch. Any act or omission of NYWD that compromises the supply and delivery of surface water through the Upper Forbestown Ditch has the potential to adversely impact Agency, its customers, and the environment.

25. Oroleve Creek is a tributary to the South Fork of the Feather River, upstream of reservoirs, powerhouses, and other water facilities owned and maintained by Agency.

26. NYWD utilizes Oroleve Creek as a source of water supply to the Upper Forbestown Ditch, and a point of diversion from the Oroleve Creek carries Oroleve water through an earthen ditch that is part of the Upper Forbestown Ditch, but for purposes of this writ is described as the Oroleve Ditch.

1
2 NYWD's Forbestown Ditch Pipeline Project

3 27. Since approximately 2010, NYWD has been exploring efforts to modify the
4 Upper Forbestown Ditch, including the potential of installing a pipeline in the ditch. The project
5 at all times consisted of piping the entire Forbestown Ditch, including the Oroleve Ditch.

6 28. Agency has monitored NYWD's progress and offered to assist NYWD with
7 maintenance activities due to Agency's interest in the Upper Forbestown Ditch and its
8 continuing importance in Agency's ability to deliver water to Agency customers.

9 29. In approximately 2017 and 2020 NYWD received grant funding to study the
10 feasibility of improving water efficiency in the Upper Forbestown Ditch.

11 30. In September 2019 NYWD published in its newsletter to customers that it
12 received a \$500,000.00 planning grant from the State of California to cover the engineering
13 phase of the Forbestown Ditch Pipeline Project and stated "this phase is almost complete" and
14 "Next up is the construction phase."

15 31. Improvements to Oroleve Ditch are a component of the larger Forbestown Project
16 that NYWD represents is intended to convert the entire Forbestown Ditch, which is currently an
17 open earthen ditch, to a closed pipeline.

18 32. On June 26, 2020 NYWD sent a letter to Yuba Water Agency, a true and correct
19 copy of which is attached as **Exhibit E**, incorporated herein by this reference. The letter begins,

20 Over the last three years, the Yuba Water Agency (YWA) POD Committee and
21 the Board of Directions have consistently supported our North Yuba Water
22 District (NYWD) effort to complete the Forbestown Ditch Piping Project (the
23 Project). Thank you for helping us provide a reliable, safe source of drinking
24 water for the approximately 3,100 customers of NYWD.

25 (Underlining Added.)

26 Piping the Upper Forbestown Ditch was always envisioned, pursued, and advocated by NYWD
27 as a single, integrated project that included Oroleve Ditch Pipeline improvements as well. For
28 example, NYWD's request for funding from YWA states,

We are now the next milestone in the Project, construction of approximately one
mile, we are calling the Oroleve Ditch section. During your June 16, 2020, POD
meeting, NorthStar Engineering gave a formal presentation of the project.

1 (Underlining Added.)

2 The Pipeline Project was and is an integral component of the larger project being pursued by
3 NYWD – the piping of the Upper Forbestown Ditch:

4 To recap the need for the Project, moving to a piped Forbestown Ditch will allows
5 us to significantly lower the possibility of catastrophic breaches to the Ditch. In
6 addition, as water moves through the unpiped Ditch up to 60% is lost due to
7 seepage and evaporation, and contamination occurs from dirt, trash, metals and
8 illegal marijuana grows. Piping the Ditch would vastly improve, if not completely
9 resolve, these issues. Piping the Ditch will also help secure our water right by
10 satisfying the State requirements the water is being put to beneficial use and
11 curtailing losses.

12 (Underlining Added.)

13 Agency’s Request for CEQA Notices

14 33. On October 29, 2019 Agency requested that NYWD provide it with CEQA
15 notifications pursuant to Public Resources Code section 21092.2 and Guidelines section 15082.
16 Agency made this request for notice after it appeared NYWD was finally progressing on its
17 Forbestown Ditch Piping Project, which could impact Agency and its customers, as alleged
18 herein. A copy of this request is attached hereto as **Exhibit F** and incorporated herein by
19 reference.

20 34. California Public Resources Code section 21092.2 and Guidelines section 15082
21 require notices of all CEQA documents and determinations, including without limitation CEQA
22 notices of exemption, and these authorities require that notice be given to organizations or
23 individuals who have requested the notices, like the Agency.

24 35. To date, NYWD has not provided Petitioner the notices requested by Petitioner
25 and required by law notwithstanding Petitioner’s requests and despite NYWD having undertaken
26 qualifying CEQA actions.

27 NYWD’s Initial Study/Mitigated Negative Declaration for the Forbestown Ditch Project

28 – Done without Notice to Agency in Violation of CEQA

33 36. On or about August 3, 2020 Agency learned that NYWD prepared an Initial
34 Study/Mitigated Negative Declaration under CEQA for the Upper Forbestown Ditch Project with
35 a comment period ending on or about July 22, 2020.

1 open channel. The project involves the placement of a 36-inch HDPE pipe within
2 the existing ditch alignment and will serve the same purpose as the existing ditch.
3 The existing ditch moves water from the Oroleve Ditch headworks located on
4 Oroleve Creek to the Forbestown Ditch at the Oroleve Siphon, the new piped
5 ditch will serve the exact same purpose.

6 The description is contrary and contradictory to prior statements about the purpose and need for
7 the Pipeline Project, including to increase conveyance capacity due to “up to 60%” water loss
8 due to ditch seepage. (*Compare NYWD Project Description with Exh. E.*)

9 42. NYWD violated CEQA by not timely providing its January 14, 2020 notice of
10 exemption to Agency pursuant to Agency’s prior request for notices.

11 Construction of Oroleve Project

12 43. Petitioner is informed and believes and thereon alleges that construction of the
13 Oroleve Pipeline Project is nearing completion.

14 44. Petitioner is informed and believes and thereon alleges that NYWD’s violation of
15 California Public Resources Code section 21092.2 and Guidelines, section 15082 by failing to
16 provide Agency notice of its CEQA actions and determinations notwithstanding Agency’s prior
17 requests bars the application of any limitations period to an action of Agency challenging the
18 Oroleve Pipeline Project or NYWD’s determinations or actions relating to the Pipeline Project,
19 including without limitation the one hundred and eighty (180) day limitations period of Public
20 Resources Code section 21167, subs (a),(d) and CEQA Guidelines section 15112, subd. (c)(5),
21 or the thirty-five (35) day limitations period of Public Resources Code section 21167, subd. (d)
22 and CEQA Guidelines 15112, subd. (c)(2).

23 45. Agency submitted a request to NYWD for notice of all CEQA determinations and
24 notifications pursuant to California Public Resources Code section 21092.2 and Guidelines
25 section 15082, and Agency reasonably relied on this submission and NYWD’s legal obligation to
26 comply with the request and legal authorities and to provide Agency with copies of all CEQA
27 determinations and notices. Agency reasonably concluded that NYWD had not undertaken any
28 CEQA actions or determinations because Agency was not notified of any such actions or
determinations notwithstanding Agency’s request to NYWD for notice of such actions and
NYWD’s legal obligation to provide such notice. NYWD’s failure to provide Agency notice as

1 required by law has prejudiced Agency who reasonably concluded that NYWD had not made or
2 undertaken any CEQA actions or determinations.

3 46. This action was prepared and commenced promptly by Agency after learning that
4 NYWD had disregarded Agency's request for notices and was proceeding with a component of
5 the larger Forbestown Ditch Project, the Oroleve Pipeline Project, without complying with
6 CEQA.

7 47. CEQA does not authorize public agencies to disregard requests for notices
8 pursuant to California Public Resources Code section 21092.2 and Guidelines section 15082 and
9 to proceed with CEQA actions or determinations without providing notice as required by law,
10 and to then assert CEQA limitations periods as a defense to claims brought by those parties who
11 requested but did not receive the notice required by law, as has occurred in this case.

12 48. On March 9, 2021, a Notice of Exemption by NYWD for the Oroleve Project was
13 posted on the State Clearinghouse website. A copy of the March 9, 2021 posting is attached
14 hereto as **Exhibit I**. This action is timely brought within thirty-five (35) days of that filing.

15 49. Given the procedural violations of CEQA by NYWD and NYWD's continuing
16 failure to provide Agency notice of its actions and determinations in relation to CEQA, Agency
17 was not afforded the opportunity to submit pre-adoption comments to NYWD's Notice of
18 Exemption for the Oroleve Project contesting NYWD's reliance on the use of a CEQA
19 exemption to convert approximately one mile of open ditch to a pipeline.

20 50. Petitioner is informed and believes and thereon alleges that NYWD's reliance on
21 a notice of exemption for the Oroleve Pipeline Project is contrary to law and violates CEQA. The
22 Oroleve Project is proposed to convert approximately one mile of open ditch to a pipeline, and
23 Petitioner is informed and believes and thereon alleges this will proximately cause significant
24 impacts to the environment which require full analysis in an environmental impact report
25 pursuant to CEQA. The Oroleve Project's conversion of earthen ditch to pipeline will likely
26 eliminate a substantial source of seepage and groundwater recharge in the areas of the Pipeline
27 Project, and the Pipeline Project has the potential to interrupt and adversely impact the water
28 supply of Agency's customers who rely on the Forbestown Ditch for the delivery and supply of

1 their water. The elimination of seepage and groundwater recharge resulting from the conversion
2 of earthen ditch to a pipeline also has the potential to adversely impact species that rely on such
3 water for survival, and on groundwater wells in the area that pump water from aquifers that the
4 seepage and groundwater recharge from the unlined canal contribute to. Moreover, the
5 installation of a pipeline may exacerbate wildfire risk in an area already very highly susceptible
6 to wildfire due to the flammable nature of the HDPE pipe that NYWD is proposing to install as
7 part of the Oroleve Pipeline Project.

8 A. NYWD has violated the holding and CEQA case of *Protect the Historic*
9 *Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1106-1112 which
10 established that dewatering impacts of changing from earthen canal to pipeline may not be
11 dismissed as insignificant and that such a project requires thorough environmental analysis under
12 CEQA and that such analysis must contain a thorough and comprehensive discussion of
13 dewatering impacts. In this case, NYWD proceeded without any analysis given its erroneous
14 conclusion that the Oroleve Pipeline Project is exempt from CEQA.

15 B. NYWD has represented that the Oroleve Pipeline Project will increase
16 capacity of water deliveries by up to 60% because water losses from the existing earthen ditch
17 are up to 60%. Petitioner is informed and believes and thereon alleges that the project is likely to
18 have growth inducing impacts by generating a new water supply through the elimination of
19 losses from the current earthen ditch and that CEQA requires that the growth inducing impacts of
20 the project be analyzed.

21 C. Petitioner is informed and believes and thereon alleges that dewatering of
22 the slope adjacent to the existing earthen ditch will have a significant impact on riparian
23 vegetation, and that dewatering resulting from installation of the pipeline will have a substantial
24 impact on intermittent and perennial streams that cross the alignment of the existing earthen
25 ditch which will have a downstream reduction in accretions to the Agency's waterways and
26 facilities.

27 D. Petitioner is informed and believes and thereon alleges that NYWD has
28 violated CEQA by proceeding without a description of the baseline environmental conditions for

1 the Oroleve Pipeline Project, and that NYWD has violated CEQA by proceeding without an
2 analysis of how the Project will modify and impact the baseline conditions.

3 E. The Oroleve Pipeline Project has the potential to cause substantial change
4 in water diversions and water operations, and the Oroleve Pipeline Project has the potential to
5 cause substantial change in maintenance requirements and activities as well as substantial
6 changes and impacts for Agency customers and Agency's downstream facilities. NYWD has
7 violated CEQA by proceeding without analysis of these potential impacts and conditions.

8 F. Petitioner is informed and believes and thereon alleges that NYWD has
9 violated CEQA by proceeding without sufficient analysis of the potential environmental impacts
10 from soil disturbances and canal realignment that will occur as part of the Oroleve Pipeline
11 Project including without limitation impacts to endangered and threatened species such as the
12 foothill yellow legged frog which Petitioner is informed and believes and thereon alleges lives
13 and has habitat within the project area. Attached as **Exhibit J** are true and correct copies of
14 photos taken showing significant dirt work, excavation, canal realignment, removal or
15 vegetation, etc. to undertake the Oroleve Pipeline Project.

16 G. NYWD has violated CEQA by proceeding without analysis of impacts
17 from the Oroleve Pipeline Project to groundwater recharge and the underlying aquifer that exists
18 in fractured rock and which is highly susceptible to changes in seepage and percolation from
19 sources such as the existing earthen ditch that is to be replaced with a pipeline that will not allow
20 for the existing seepage and groundwater recharge.

21 H. Petitioner is also informed and believes and thereon alleges that the
22 Oroleve Pipeline Project is likely to have adverse impacts on wildlife habitat, soil stability,
23 cultural and scenic resources, and other biological resources in the project area.

24 I. NYWD has also violated CEQA by proceeding without analysis of
25 potential hazardous materials and greenhouse gas emissions generated by the project or impacts
26 to aesthetics resulting from the project.

27 51. Petitioner is informed and believes and thereon alleges that NYWD has violated
28 Government Code sections 65401 and 65402 which collectively require that NYWD submit

1 notice of the Oroleve Pipeline Project to the Butte County Planning Agency for a determination
2 as to the project's consistency with the General Plan of Butte County. Petitioner is informed and
3 believes and thereon alleges that the Oroleve Project is not consistent with the Butte County
4 General Plan and that the project violates the general plan objectives including without limitation
5 objectives for the improvement of streambank stability and protection of riparian resources (Goal
6 W-6); effective management of groundwater resources to ensure a long term water supply for
7 Butte County (Goal W-3); maintenance and enhancement of water quality (Goal W-1);
8 engagement in cooperative planning efforts to protect biological resources (Goal COS-6);
9 conservation and enhancement of habitat for protected species and sensitive biological
10 communities (Goal COS-7); reduction of risks from erosion (Goal HS-8); maintenance and
11 promotion of native vegetation (Goal COS-8), and protection of special-status plant and animal
12 species (Goal COS-9). Petitioner is informed and believes and thereon alleges that the
13 Forbestown Ditch project has a number of components within Yuba County and that NYWD has
14 also violated Government Code sections 65401 and 65402 by failing to submit notice of the
15 broader Forbestown Ditch Project to the Yuba County Planning Agency for a determination of
16 the project's consistency with the General Plan of Yuba County. Petitioner is informed and
17 believes and thereon alleges that the Forbestown Ditch Project is not consistent with the Yuba
18 County General Plan and that the project violates the general plan objectives including without
19 limitation objective for protecting and restoring habitat for special species and with General Plan
20 Action NR5.1 which states that "Private and public projects will be required to comply with
21 provisions of the California Environmental Quality Act (CEQA), including documentation and
22 mitigation of potentially significant impacts." The Forbestown Ditch Project also violates the
23 General Plan directive that buffering occur to protect wetland and riparian areas from projects
24 including setbacks expected to range from 33 to 150 feet.

25 52. Petitioner is informed and believes and thereon alleges that NYWD has violated
26 CEQA by proceeding without mitigation measures to reduce or avoid significant environmental
27 impacts including without limitation measures to control slope stability and to control erosion
28 caused by the Oroleve Pipeline Project, or mitigation measures to reduce or avoid significant

1 environmental impacts to species, vegetation, and habitat that rely on seepage and runoff from
2 the existing earthen ditch that will be eliminated by the conversion of the existing earthen ditch
3 to a pipeline.

4 53. Petitioner is informed and believes and thereon alleges that NYWD has violated
5 CEQA by failing to provide the public with necessary and appropriate documents
6 necessary to aid in responsible decisionmaking and necessary to perform the legally required
7 analysis of project impacts to the environment, including without limitation studies regarding
8 pipe structure and flammability, biological resources that could be impacted by the project, soil
9 stability impacts, the need for additional water supplies to NYWD, and the project's impact on
10 groundwater resources and the water supplies and deliveries of Agency and NYWD.

11 54. Petitioner is informed and believes and thereon alleges that the Oroleve Pipeline
12 Project and the potential environmental impacts exceed the scope of the exemptions relied on by
13 NYWD under Guidelines sections 15301(b) and 15302 (c) for existing facilities and replacement
14 and reconstruction.

15 55. In 2020 the North Complex Fire devastated the Middle Fork and South Fork
16 Feather River Watersheds in which Agency has facilities, and Agency has a continuing interest
17 in mitigating debris flows from the burn area. Petitioner is informed and believes and thereon
18 alleges that the Oroleve Pipeline Project has the potential to exacerbate or worsen the debris
19 flows and soil destabilization caused by the North Complex Fire and which poses a continuing
20 threat to the supply and quality of water delivered to Agency customers and debris flow into
21 Agency facilities. This fact is exacerbated by NYWD's failure to comply with the Clean Water
22 Act in a related but separate legal proceeding. The Agency has provided NYWD with 60 days'
23 notice of this violation as required by the Clean Water Act, a true and correct copy of which is
24 attached as **Exhibit K**, incorporated herein by this reference.

25 56. Petitioner is informed and believes and thereon alleges that NYWD is proceeding
26 with the Oroleve Pipeline Project without required permits and regulatory approvals including
27 without limitation discharge permits pursuant to the Clean Water Act and Porter Cologne Water
28 Quality Control Act from the United States Army Corps of Engineers and Central Valley

1 Regional Water Quality Control Board. Petitioner is informed and believes and thereon alleges
2 that NYWD is proceeding with the Oroleve Pipeline Project in violation of CEQA.

3
4 **FIRST CAUSE OF ACTION**

5 **WRIT OF MANDATE – FAILURE TO PROVIDE NOTICES REQUIRED BY CEQA**

6 57. Petitioners hereby incorporate by reference the allegations set forth above as
7 though fully set forth herein.

8 58. California Public Resources Code section 21092.2 and Guidelines section 15082
9 require that notices of all CEQA documents and determinations, including without limitation
10 CEQA notices of exemption, be given to organizations or individuals who have requested the
11 notices.

12 59. On October 29, 2019 Agency requested that NYWD provide it with CEQA
13 notifications pursuant to California Public Resources Code section 21092.2 and Guidelines
14 section 15082.

15 60. To date, NYWD has not provided Petitioner the notices requested by Petitioner
16 and required by law notwithstanding Petitioner's October 29, 2019 request for such notices and
17 despite having undertaken the actions alleged herein including without limitation having
18 executed the January 14, 2020 notice of exemption attached hereto as **Exhibit C** and after having
19 submitted the March 9, 2021 notice of exemption attached hereto as **Exhibit I**.

20 61. NYWD has acted unlawfully and in violation of CEQA by failing to provide
21 required notice to Agency, and such conduct of NYWD violates Public Resources Code section
22 21092.2 and Guidelines section 15082.

23 WHEREFORE, Petitioner prays for judgment and issuance of a Writ of Mandate as set
24 forth hereafter.

25 **SECOND CAUSE OF ACTION**

26 **WRIT OF MANDATE- IMPROPER USE OF CEQA EXEMPTION**

27 62. Petitioner hereby incorporates by reference the allegations set forth above as
28 though fully set forth herein.

1 63. Petitioner is informed and believe and thereon alleges that NYWD has violated
2 CEQA and acted unlawfully by relying on a notice of exemption for the Oroleve Pipeline Project
3 and by proceeding with the Oroleve Pipeline Project without an environmental impact report as
4 required by CEQA. Petitioner is informed and believe and thereon alleges that the Oroleve
5 Pipeline Project, like the broader Forbestown Ditch Project, does not qualify for an exemption
6 under CEQA and that NYWD has acted unlawfully by relying on exemptions to proceed with the
7 project without having compiled and certified an environmental impact report.

8 64. NYWD has asserted Guidelines sections 15301(b) and 15302(c) in support of the
9 notice of exemption for the Oroleve Pipeline Project; however Petitioner is informed and
10 believes and thereon alleges that the Oroleve Pipeline Project exceeds the scope of the
11 exemptions relied on by NYWD under sections 15301(b) and 15302(c) for existing facilities and
12 replacement and reconstruction.

13 65. Guidelines section 15302 subdivision (c) is limited to the “Replacement or
14 reconstruction of existing utility systems and/or facilities involving negligible or no expansion of
15 capacity.” and section 15301 applies to “the operation, repair, maintenance ... or minor alteration
16 of existing public or private structures involving negligible or no expansion of existing or
17 former use” and subdivision (b) applies the exemption to “Existing facilities of both investor and
18 publicly-owned utilities used to provide electric power, natural gas, sewerage, or other public
19 utility services”

20 66. Petitioner is informed and believes and thereon alleges that the exemptions
21 asserted by NYWD do not apply to the Oroleve Pipeline Project and that the Oroleve Pipeline
22 Project exceeds the scope of the asserted exemptions. Petitioner is informed and believes and
23 thereon alleges that NYWD has acted in violation of CEQA by improperly relying on CEQA
24 exemptions in relation to the Oroleve Pipeline Project. The pipeline project is a CEQA project
25 requiring analysis as such pursuant to CEQA.

26 WHEREFORE, Petitioner prays for judgment and issuance of a Writ of Mandate as set
27 forth hereafter.

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1 THIRD CAUSE OF ACTION

2 WRIT OF MANDATE- IMPROPER PIECEMEALING OF A SINGLE PROJECT

3 67. Petitioner hereby incorporate by reference the allegations set forth above as
4 though fully set forth herein.

5 68. "A project under CEQA is the whole of an action which has a potential for
6 resulting in a physical change in the environment, directly or ultimately, and includes the activity
7 which is being approved and which may be subject to several discretionary approvals by
8 governmental agencies." (*Glendale-Pasadena Airport Authority v. Hensler* (1991) 233
9 Cal.App.3d 577, 592.) CEQA prohibits piecemealing of projects and requires that a lead agency
10 analyze the entire project in a single environmental document.

11 69. CEQA prohibits piecemealing and segmenting a single project by splitting it into
12 two or more segments in order to ensure that "that environmental considerations do not become
13 submerged by chopping a large project into many little ones, each with a potential impact on the
14 environment, which cumulatively may have disastrous consequences." (*Glendale-Pasadena*
15 *Airport Authority v. Hensler* (1991) 233 Cal.App.3d 577, 592.)

16 70. NYWD has violated CEQA by unlawfully segmenting the Forbestown Ditch
17 Project for CEQA purposes and that the Oroleve Pipeline Project is only a component part of a
18 single, broader Forbestown Ditch Project in which the entire Forbestown Ditch is planned to be
19 converted from an open earthen ditch to a closed pipeline. Petitioner is informed and believes
20 and thereon alleges that NYWD has violated CEQA by proceeding with the Forbestown Ditch
21 Project on a piecemeal basis and and without having complied with CEQA for the entire
22 Forbestown Ditch Project and without having compiled and certified a full environmental impact
23 report for the Forbestown Ditch Project.

24 WHEREFORE, Petitioner prays for judgment and issuance of a Writ of Mandate as set
25 forth hereafter.

26 ///
27 ///
28 ///

PRAYER FOR RELIEF

WHEREFORE, Petitioners pray for judgment as set forth hereafter:

Under the First Cause of Action:

1. For an alternative writ and peremptory writ of mandate directing:

A. NYWD to rescind all actions and CEQA determinations made after October 29, 2019 in which NYWD failed to notify Agency of in accordance with Agency's request for notice.

B. NYWD to comply with Agency's October 29, 2019 request for notices and to provide NYWD notice of all NYWD actions and determinations subject to and relating to CEQA.

2. For its costs of suit;

3. For an award of attorney fees, pursuant to CCP 1021.5 and CEQA case law (see *City of Carmel-By-The-Sea v. Board of Supervisors* (1986) 183 Cal.App.3d 229, 254; *San Bernardino Valley Audubon Society, Inc. v. County of San Bernardino* (1984) 155 Cal.App.3d 738, 754; *Rich v. City of Venicia* (1979) 98 Cal. App. 3d 428.); and

4. For other equitable or legal relief that the court considers just and proper.

Under the Second Cause of Action:

1. For an alternative writ and peremptory writ of mandate directing:

A. NYWD to vacate and set aside its certification of the Notices of Exemption for the Oroleve Project and to prepare an environmental impact report under CEQA.

B. NYWD and all persons or entities working or acting in concert with NYWD to suspend all activity under the Notices of Exemption until NYWD has taken actions necessary to bring the Forbestown Ditch Project into compliance with CEQA and all other laws alleged in this Petitioner's Complaint;

2. For its costs of suit;

3. For an award of attorney fees, pursuant to CCP 1021.5; and CEQA case law (see *City of Carmel-By-The-Sea v. Board of Supervisors* (1986) 183 Cal.App.3d 229, 254; *San*

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Oroville, CA 95965
(530) 533-2885

1 *Bernardino Valley Audubon Society, Inc. v. County of San Bernardino* (1984) 155 Cal.App.3d
2 738, 754; *Rich v. City of Venicia* (1979) 98 Cal. App. 3d 428.); and

3 4. For other equitable or legal relief that the court considers just and proper.

4 **Under the Third Cause of Action:**

5 1. For an alternative writ and peremptory writ of mandate directing:

6 A. NYWD to prepare and certify an environmental impact report for the
7 entire Forbestown Ditch Project including all sub-components like the Oroleve Pipeline Project
8 that complies with the substantive and procedural requirements of CEQA.

9 B. NYWD refrain from segmenting the Forbestown Ditch Project into
10 segmented and piecemeal projects under CEQA.

11 2. For its costs of suit;

12 3. For an award of attorney fees, pursuant to CCP 1021.5 and CEQA case law (see
13 *City of Carmel-By-The-Sea v. Board of Supervisors* (1986) 183 Cal.App.3d 229, 254; *San*
14 *Bernardino Valley Audubon Society, Inc. v. County of San Bernardino* (1984) 155 Cal.App.3d
15 738, 754; *Rich v. City of Venicia* (1979) 98 Cal. App. 3d 428.); and

16 4. For other equitable or legal relief that the court considers just and proper.

17
18 DATED: April 2, 2021

Respectfully submitted,

MINASIAN, MEITH, SOARES,
SEXTON & COOPER, LLP

21
22 By: 

DUSTIN COOPER

Attorney for South Feather Water & Power
Agency

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VERIFICATION

I, Rath Moseley, certify under penalty of perjury under the laws of the State of California that the foregoing **VERIFIED PETITION FOR WRIT OF MANDATE** are true and correct based on such information as is available to me at this time and that I believe to be true.

Dated this, 2nd, day of April, 2021 at Oroville, California.

By: *Rath T Moseley*
RATH MOSELEY
General Manager, South Feather Water and Power Agency

EXHIBIT A

MINASIAN, MEITH, SOARES, SEXTON & COOPER, LLP
1681 Bird Street
P.O. Box 1679
Oroville, CA 95965
(530) 533-2885

1 DUSTIN C. COOPER (SBN 245774)
JACKSON A. MINASIAN (SBN 311031)
2 AIDAN P. WALLACE (SBN 333994)
MINASIAN, MEITH, SOARES,
3 SEXTON & COOPER, LLP
1681 Bird Street, P.O. Box 1679
4 Oroville, California 95965
Telephone: (530) 533-2885
5 Fax: (530) 533-0197

[Exempt from fees pursuant to
Government Code §6103]

6 Attorneys for Petitioner

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF BUTTE

10 SOUTH FEATHER WATER AND)
POWER AGENCY,)

11)
12) Petitioner,)

13 v.)

14 NORTH YUBA WATER DISTRICT,)
NORTH YUBA WATER DISTRICT)
15 BOARD OF DIRECTORS, DOUG)
NEILSON, FRED MITCHELL, GARY)
16 HAWTHORNE, GRETCHEN FLOHR)
and ERIC HANSARD in their official)
17 capacities, and DOES 1 through 20,)
inclusive,)

18) Respondents.)
19)

Case No.:

NOTICE OF INTENT TO FILE CEQA
ACTION

(Pub. Res. Code § 21167.7, Code Civ. Proc. §
388)

20
21 TO THE ATTORNEY GENERAL OF THE STATE OF CALIFORNIA:

22 PLEASE TAKE NOTICE that under California Public Resources Code section 21167.7
23 and California Code of Civil Procedure section 388, Petitioner SOUTH FEATHER WATER
24 AND POWER AGENCY, will file the attached verified petition for writ of mandate under the
25 provisions of the California Environmental Quality Act, California Public Resources Code
26 section 21000, et seq. ("CEQA") against Respondents NORTH YUBA WATER DISTRICT,
27 NORTH YUBA WATER DISTRICT BOARD OF DIRECTORS, DOUG NEILSON, FRED
28 MITCHELL, GARY HAWTHORNE, GRETCHEN FLOHR and ERIC HANSARD in their

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official capacities, and DOES 1 through 20, inclusive in Butte County Superior Court. The
Petition will challenge North Yuba Water District's failure to comply with the procedural and
substantive requirements of the California Environmental Quality Act ("CEQA") in connection
with the Oroleve Ditch Pipeline Project, and will seek equitable and legal relief to remedy
NYWD's illegal actions. The Petition will be filed in the above-entitled court on or about April
2, 2021.

DATED: April 2, 2021

Respectfully submitted,

MINASIAN, MEITH, SOARES,
SEXTON & COOPER, LLP



By: DUSTIN C. COOPER
Attorney for South Feather Water & Power
Agency

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PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen (18) years old, and not a party to the within action. My business address is 1681 Bird Street, Oroville, California 95965. On April 2, 2021, I served the within documents:

- 1. Notice of Intent to File CEQA Action**
- 2. Verified Petition for Writ of Mandate**

- XX BY MAIL: by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail in Oroville, California, addressed as set forth below.
- _____ BY OVERNIGHT MAIL: by causing document(s) to be picked up by overnight delivery service company for delivery to the address(es) on the next business day.
- _____ BY PERSONAL DELIVERY: by causing personal delivery by _____ of the document(s) listed above to the person(s) at the address(es) set forth below.
- _____ BY ELECTRONIC TRANSMISSION ON SERVICE DATE: by electronically mailing to the person named below, at the email address indicated.

Xavier Becerra
 Attorney General of California
 Office of Attorney General
 455 Golden Gate Avenue, Suite 11000
 San Francisco, CA 94102-7004
 Telephone: 415.510.3524
 Fax: 415.703.5480

I am readily familiar with the firm’s practice of collection and processing documents for mailing. Under that practice, it would be deposited with the United States Postal Service on that same day with postage thereon fully prepared in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that I am employed in the office of a member of the bar of this court at whose direction the service was made and that the foregoing is true and correct.

Executed on April 2, 2021, in the City of Oroville, County of Butte, State of California.

/s/ Alicia Toohey
 ALICIA TOOHEY

EXHIBIT B

MINASIAN, MEITH, SOARES, SEXTON & COOPER, LLP
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1 DUSTIN C. COOPER (SBN 245774)
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4 Oroville, California 95965
Telephone: (530) 533-2885
5 Fax: (530) 533-0197

[Exempt from fees pursuant to
Government Code §6103]

6 Attorneys for Petitioner

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF BUTTE

10 SOUTH FEATHER WATER AND)
11 POWER AGENCY,)
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Case No.:
NOTICE OF INTENT TO FILE CEQA
ACTION
(Pub. Res. Code § 21167.5)

TO RESPONDENTS NORTH YUBA WATER DISTRICT and the NORTH YUBA WATER
DISTRICT BOARD OF DIRECTORS:

PLEASE TAKE NOTICE THAT, pursuant to Public Resources Code § 21000 et seq.,
Petitioner intends on filing a writ of mandate under the California Environmental Quality Act
("CEQA") against Respondents challenging (1) your failure to provide notices under CEQA to
Petitioner; (2) your decision to adopt the Oroleve Ditch Pipeline Project under a purported
exemption to CEQA; (3) your decision to proceed with the Oroleve Ditch Pipeline Project
without preparing an environmental impact report under CEQA; and (4) other claims and

1 allegations that Respondents violated CEQA and applicable law as will be set forth in the writ of
2 mandate. The petition for writ of mandate will seek the following:
3

4 1. An alternative writ and peremptory writ of mandate directing:

5 A. NYWD to rescind all actions and CEQA determinations made after
6 October 29, 2019 in which NYWD failed to notify Agency of in accordance with Agency's
7 request for notice.

8 B. NYWD to comply with Agency's October 29, 2019 request for notices
9 and to provide NYWD notice of all NYWD actions and determinations subject to and relating to
10 CEQA.

11 2. An alternative writ and peremptory writ of mandate directing:

12 A. NYWD to vacate and set aside its certification of the Notices of
13 Exemption for the Oroleve Project and to prepare an environmental impact report under CEQA.

14 B. NYWD and all persons or entities working or acting in concert with
15 NYWD to suspend all activity under the Notices of Exemption until NYWD has taken actions
16 necessary to bring the Forbestown Ditch Project into compliance with CEQA and all other laws
17 alleged in this Petitioner's Complaint;

18 3. An alternative writ and peremptory writ of mandate directing:

19 A. NYWD to prepare and certify an environmental impact report for the
20 entire Forbestown Ditch Project including all sub-components like the Oroleve Pipeline Project
21 that complies with the substantive and procedural requirements of CEQA.

22 B. NYWD refrain from segmenting the Forbestown Ditch Project into
23 segmented and piecemeal projects under CEQA.

24 4. Costs of suit;

25 5. An award of attorney fees, pursuant to CCP 1021.5 and CEQA case law

26 6. Other equitable or legal relief that the court considers just and proper.
27
28

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DATED: April 2, 2021

Respectfully submitted,

MINASIAN, MEITH, SOARES,
SEXTON & COOPER, LLP

By: 

DUSTIN C. COOPER
Attorney for South Feather Water & Power
Agency

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PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen (18) years old, and not a party to the within action. My business address is 1681 Bird Street, Oroville, California 95965. On April 2, 2021, I served the within documents:

1. Notice of Intent to File CEQA Action

- XX BY MAIL: by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail in Oroville, California, addressed as set forth below.
- _____ BY OVERNIGHT MAIL: by causing document(s) to be picked up by overnight delivery service company for delivery to the address(es) on the next business day.
- _____ BY PERSONAL DELIVERY: by causing personal delivery by _____ of the document(s) listed above to the person(s) at the address(es) set forth below.
- _____ BY ELECTRONIC TRANSMISSION ON SERVICE DATE: by electronically mailing to the person named below, at the email address indicated.

North Yuba Water District
North Yuba Water District Board of Directors
Doug Neilson, Division 1
Fred Mitchell, Division 2
Gary Hawthorne, Division 3
Gretchen Flohr, Division 4
Eric Handsard, Division 5
P.O. Box 299
Brownsville, CA 95919

I am readily familiar with the firm’s practice of collection and processing documents for mailing. Under that practice, it would be deposited with the United States Postal Service on that same day with postage thereon fully prepared in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that I am employed in the office of a member of the bar of this court at whose direction the service was made and that the foregoing is true and correct.

Executed on April 2, 2021, in the City of Oroville, County of Butte, State of California.

/s/ Alicia Toohey
ALICIA TOOHEY

EXHIBIT C

FEB 28 2020

NOTICE OF EXEMPTION

TEBBY A. HANSEN, Clerk
BY MANDY LUIS
Deputy Clerk

To: Office of Planning and Research
P.O. Box 3044
Sacramento, CA 95812-3044

From: North Yuba Water District
8691 La Porte Road
Brownsville, CA 95919

County Clerk
County of Butte
155 Nelson Avenue
Oroville, CA 95965



Project Title: Oroleve Ditch Line Pipe Project

Project Location - Specific:

Refer to Figure 1: Location Map. The project is located approximately 4.60 miles northeast of the community of Forbestown, California. More specifically, the project is located adjacent to Oroleve Creek just north of La Porte Road with the headworks at approximately 39°31'14.5"N 121°10'47.9"W and the terminus of the Oroleve Ditch at approximately 39°32'34.4"N 121°11'8.2"W. Additionally, Woodleaf Tunnel Road bisects the Oroleve Ditch at approximately the half way point along the ditch.

Project Location - City: near Woodleaf, CA Project Location - County: Butte

Description of Nature, Purpose, and Beneficiaries of Project:

Purpose and Need

The purpose of the project is to improve the existing water conveyance system and increase its efficiency by reducing raw water loss and minimize environmental contamination. The open unlined conveyance system is susceptible to both natural and man-made pollutants, vandalism, damage due to fire, unauthorized withdrawals, and significant water losses. The current conveyance does not reliably deliver raw water capacities due to losses.

In addition to storm related emergencies that can overwhelm the water delivery system, another risk associated with the open and unlined channel are significant water losses due to surge flows that cannot be utilized during storm events, leakage, evaporation, evapotranspiration, and unpermitted water diversion. It is estimated that between 50-70% of flows are lost to leakage and evaporation respectively.

The open and unlined ditches are causing water quality concerns at NYWD's Forbestown Water Treatment Plant. The treatment plant's Waste Discharge Requirements from the NYWD's permit renewal requires significantly reduced aluminum concentrations from overflows at the treatment plant's on-site storage reservoir.

The project provides the following benefits: 1) Improves existing water supply reliability in all years and especially during dry and extended drought years and; 2) Removes the potential for contamination.

End point water users within the North Yuba Water District would benefit from the piping of Oroleve Ditch with a more reliable drinking water supply. Additionally, the water district will benefit with lowered water losses during the use of the Oroleve Ditch.

Pipeline Overview

The project involves the piping of the Oroleve Ditch from its origination at the headworks from Oroleve Creek to the Forbestown Ditch near the Oroleve Siphon. The project will involve the placement of 36-inch high density polyethylene (HDPE) pipe within the current ditch alignment. The pipe utilized will be HDPE ADS N-12, this pipe provides a smooth interior wall and corrugated exterior wall providing durability and hydraulic efficiency. This type of pipe was selected because of its ease of installation and flexibility which

allows for minor sagging and deformation. Additionally, the integrated bell and gasket makes it a cost-effective option as it does not require an extra coupler, grout, or special equipment for installation.

The pipe would be stabilized with anchor blocks and pipe straps approximately every 10 feet. The anchor block would be precast concrete with a saddle that the pipe would seat within. The blocks are approximately 6 inches tall, 12 inches deep, and 48 inches long with an insert on each end for pipe straps. The insert would be a 3/8" by 8" galvanized bolt and washer that would provide an attachment point for the straps. The straps would be a 2" galvanized metal strap. Minor excavations within the existing ditch may be necessary to remove organic material and sediment to a competent subgrade material that will allow for the level placement of the anchor blocks.

Access into the pipe for maintenance and observation will be achieved through the placement of two pipe access ports. The access ports will be constructed utilizing an ADS HDPE pipe tee fitting pointing upward to provide continuity within the conveyance system. The top of the tee fitting will have a cast-in-place or pre-fabricated concrete frame around the pipe with a lockable diamond plate cover or equivalent.

One open channel to pipe transition occurs along the alignment near the Oroleve ditch headworks. To facilitate water flows into the piped ditch from the open channel, the construction of headwalls to direct water into the pipe will be necessary. The headwalls will utilize quickcrete bags anchored into the toe of the ditch for stabilization to direct flows. The 36-inch HDPE pipe would be mitered to provide a smooth transition from the headwall into the pipe. The mitered section will be approximately 97 inches in length. A trash rack will be constructed to prevent large debris and trash from entering the pipe from the open channel section. The trash rack will be constructed utilizing 1.5-inch galvanized pipe where four vertical bars spaced approximately six inches apart would cover the opening of the pipe. The rack would be attached to a 12-inch by 12-inch metal plate and through the HDPE pipe which would be sealed to prevent leakage.

At the terminus of the Oroleve Ditch the pipe transitions back to an open channel. A rock lined ditch would be placed just upstream of the end point to turn out overland sheet flow from the trough and backfill material would be added near the end of the pipe to cover the pipe to a minimum depth of 12 inches. The backfill material would have side slopes of 1:1 and would tie into the existing top of the ditch berm. The outfall at the end of the pipe would be protected with rock slope protection to prevent scour of the outfall.

An equipment and supply staging area is proposed approximately half way along the Oroleve Ditch in an clearing that occurs adjacent to Woodleaf Tunnel Road.

Turnouts

Overland sheet flow and excess water within the ditch alignment will be channeled into a small trough that is approximately two feet wide at the top with side slopes of 1:1 with a bottom width of one foot, it would be approximately six inches deep. The trough would be located on the opposite side of the pipe from the ditch berm adjacent to the toe of ditch. A downstream ditch flow barrier would be constructed to ensure accumulated flow could exit the trough. Accumulated over land sheet flow within the trough would exit via a rock lined ditch that travels beneath the pipe. The rock lined ditch would be approximately five feet wide and have a slope of approximately three percent. The existing berm would need to be excavated to accommodate the rock lined ditch. The side slopes of the excavation would be 3:1 to create a smooth transition from the top of the berm into the bottom of the rock lined ditch and would continue to allow maintenance vehicles to travel along the ditch berm if necessary. These rock lined ditches will be located just upstream of the pipe turnouts.

Once the pipeline is installed, surface water may enter the ditch. In the event any portion of the pipeline requires surface water flows to be diverted and released out of the ditch system, one turnout structure will be installed. The turnout structure will be a 60-inch by 60-inch precast concrete box with two Waterman C-10 canal gates installed at each outlet. The structure will be within the pipe alignment and will have a 36-inch HDPE outlet pipe. The outlet of the pipe will be protected with rock slope protection and geotextile fabric.

The outlet pipe will be installed at approximately 2% slope to facilitate water flow from the turnout. The existing ditch berm will have to be excavated to accommodate the new outlet pipe, backfill from the berm will be placed on top of the outlet pipe to a depth of one foot.

Wooden Flume Section

A wooden flume is present within the ditch alignment, this wooden flume will need to be modified for the piping of the ditch. To facilitate placement of the 36-inch HDPE pipe in this structure the existing supports on the flume will be removed and replaced. New top supports will be approximately 2 inches by 4 inches by 80 inches while side supports will be approximately 2 inches by 4 inches by 55 inches. New wood supports for the bottom of the pipe will be approximately 2 inches by 4 inches by 34 inches and will connect to the side supports to stabilize the pipe within the flume. Additionally, wood shims may be installed below the pipe to maintain a positive slope facilitating flow. New supports for the pipe will be installed approximately every 10 feet within the wooden flume section.

Name of Public Agency Approving Project: North Yuba Water District
Name of Person or Agency Carrying Out Project: North Yuba Water District

Exempt Status:

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3) 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption (type and section number): Section 15301(b): Existing Facilities and Section 15302 (c): Replacement or Reconstruction
- Statutory Exemption (state code number): _____

Reason why project is exempt:

The project involves an existing facility that is used to deliver water to the Forbestown Treatment Plant where it is treated and utilized as drinking water by residents within the water district's service area. Additionally, the project involves the replacement of an existing utility system with one that involves negligible or no expansion of capacity. The piping of the Oroleve Ditch will not expand the existing capacity of the ditch, it will instead reduce water loss from the existing open channel. The project involves the placement of a 36-inch HDPE pipe within the existing ditch alignment and will serve the same purpose as the existing ditch. The existing ditch moves water from the Oroleve Ditch headworks located on Oroleve Creek to the Forbestown Ditch at the Oroleve Siphon, the new piped ditch will serve the exact same purpose.

Lead Agency

Contact: Jeff Maupin Phone: (530) 675-2567

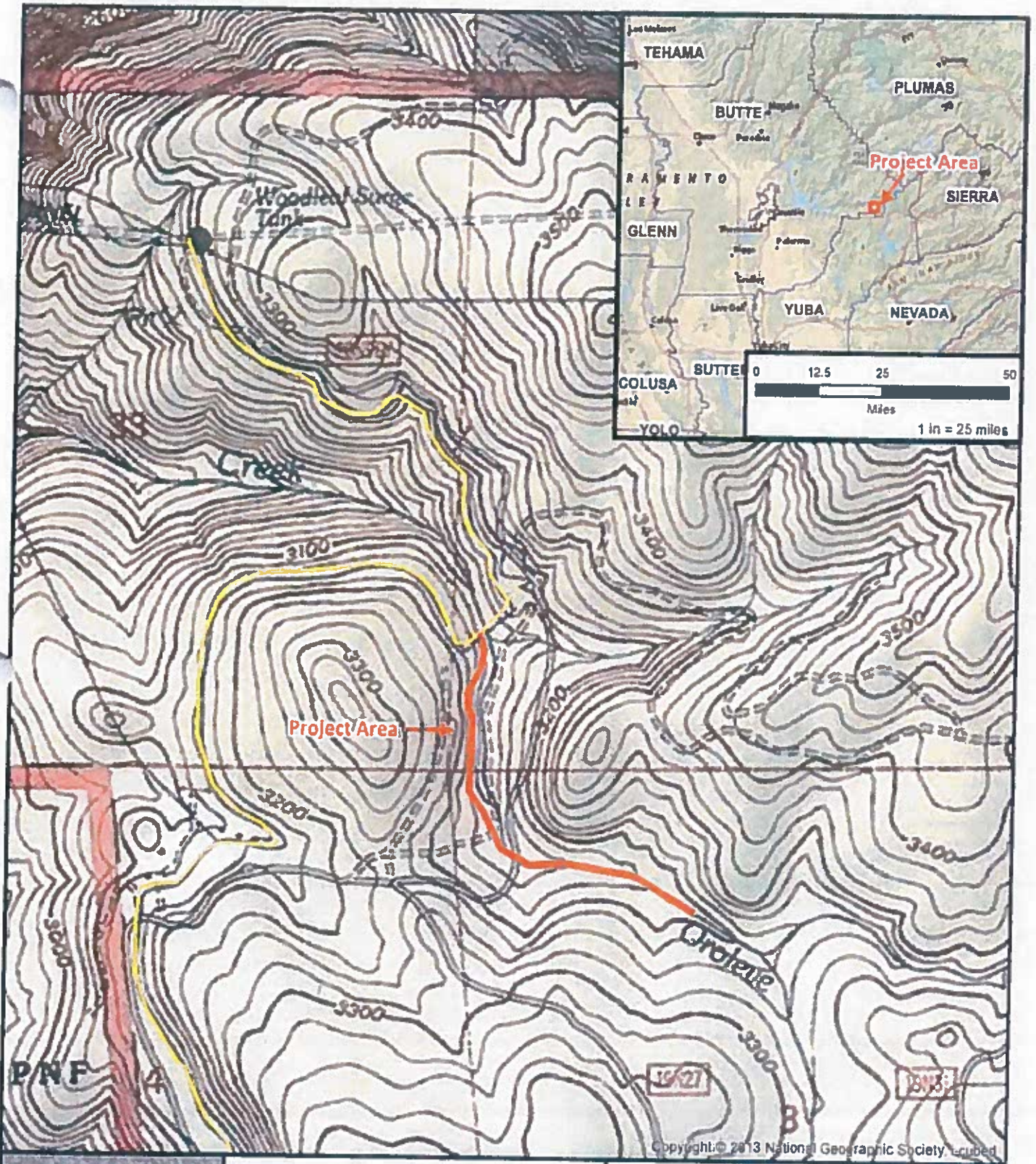
If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature:  Title: GENERAL MANAGER Date: 01/14/2020

- Signed by Lead Agency
- Signed by Applicant

Date received for filing at OPR: _____



Legend
 Oroleve Ditch
 Forbestown Ditch

Within:
 Sections 33 & 34, T20N, R07E,
 Sections 3 & 4, T19N, R07E,
 CLIPPER MILLS USGS 7.5' QUAD

Location Map
Oroleve Ditch Project
North Yuba Water District
-Butte County, CA -

0 0.15 0.3
 Miles
 1 in = 0.19 miles (printed at 8.5 x 11)

NORTHSTAR
 ... Designing Solutions

111 MISSION RANCH BLVD., SUITE 100 CHICO, CA 95926
 PHONE: (530) 893-1600 - www.NorthStarEng.com - © NorthStar

Imagery Source: USGS Topo	Map Date: 11/06/2019	Drawn By: BSA	NSE Project # 18-026
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PHOTO - 1

Headworks of the Oroleve Ditch with inlet from the Oroleve Creek.

-Standing at the southernmost section looking west downstream.

5 NOV 2019



PHOTO - 2

Culvert from the Oroleve Ditch headworks and beginning portion of the ditch.

-Standing between the creek and ditch looking east.

5 NOV 2019

Supporting Documentation:
CEQA Notice of Exemption

Representative
Site Photos

Oroleve Ditch Piping Project- Butte
County, CA

PAGE 1 OF 7

NS No. 18-026

 **NORTHSTAR**
... Designing Solutions



PHOTO - 3

Ditch monitoring station on the left and water turnout on the right (mid-photo) approximately 50 feet down from the beginning inlet.

-Standing on the south side of the ditch looking west.

5 NOV 2019



PHOTO - 4

The open ditch ranged from approximately 2-4 feet in depth and approximately 6-7 feet in width at varying points.

-Standing on the Southern edge of the ditch looking west inline with the direction of flow.

5 NOV 2019

Supporting Documentation:
CEQA Notice of Exemption

Representative
Site Photos

Oroleve Ditch Piping Project- Butte
County, CA

PAGE 2 OF 7

NS No. 18-026

 **NORTHSTAR**
... Designing Solutions



PHOTO - 5

A visqueen lined section of the ditch approximately 200 feet in length downstream from the beginning of the ditch.

-Standing on the southern side of the ditch looking west.

5 NOV 2019



PHOTO - 6

Piped sections of the ditch downstream from the end of the visqueen lined section. The left section of pipe opens around a curve leading into a shorter section on the right (approximately 8-10 feet), which leads into a wooden flume.

-Standing on the southern side of the ditch looking north.

5 NOV 2019

Supporting Documentation:
CEQA Notice of Exemption

Representative
Site Photos

Oroleve Ditch Piping Project- Butte
County, CA

PAGE 3 OF 7

NS No. 18-026

 **NORTHSTAR**
... Designing Solutions



PHOTO - 7
 A wooden flumed section of the ditch.
 -Standing on the southern side of the ditch/flume looking northeast.
 5 NOV 2019



PHOTO - 8
 A second, smaller section of the ditch also lined with visqueen approximately 10-15 feet in length.
 -Standing on the southern side of the ditch looking west.
 5 NOV 2019

Supporting Documentation: CEQA Notice of Exemption	Representative Site Photos	Oroleve Ditch Piping Project- Butte County, CA
PAGE 4 OF 7	NS No. 18-026	 NORTHSTAR <small>... Designing Solutions</small>



PHOTO - 9

A culvert allows flow to cross underneath a dirt road.

-Standing on the southern side of the ditch looking Southeast.

5 NOV 2019

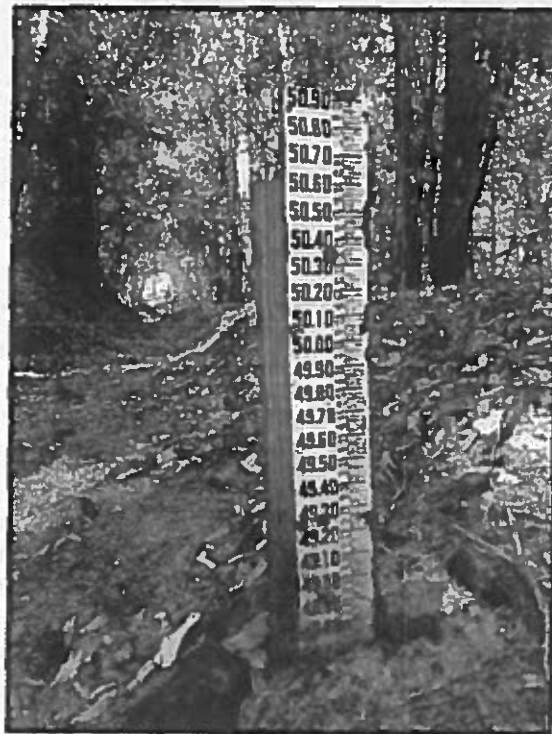


PHOTO - 10

Water staff gage in the Oroleve Ditch immediately downstream of the culvert beneath the dirt road.

-Standing in the ditch looking north downstream.

5 NOV 2019

Supporting Documentation:
CEQA Notice of Exemption

Representative
Site Photos

Oroleve Ditch Piping Project- Butte
County, CA



PHOTO - 11

A cement portion of the ditch with a turnout.

-Standing in the ditch looking north downstream.

5 NOV 2019



PHOTO - 12

Ditch turnout with boards in place.

-Standing in the ditch looking east.

5 NOV 2019

Supporting Documentation:
CEQA Notice of Exemption

Representative
Site Photos

Oroleve Ditch Piping Project- Butte
County, CA



PHOTO - 13

The end of the Oroleve ditch leads into the Forbestown Ditch with a cemented section in conjunction with a syphon.

-Standing on the west side of the ditch looking north.

5 NOV 2019



PHOTO - 14

Junction between the Oroleve Ditch (left), Forbestown Ditch (right), and syphon (foreground).

-Standing on the syphon junction on the east side of the ditch, looking northwest.

5 NOV 2019

Supporting Documentation:
CEQA Notice of Exemption

Representative
Site Photos

Oroleve Ditch Piping Project- Butte
County, CA

PAGE 7 OF 7

NS No. 18-026



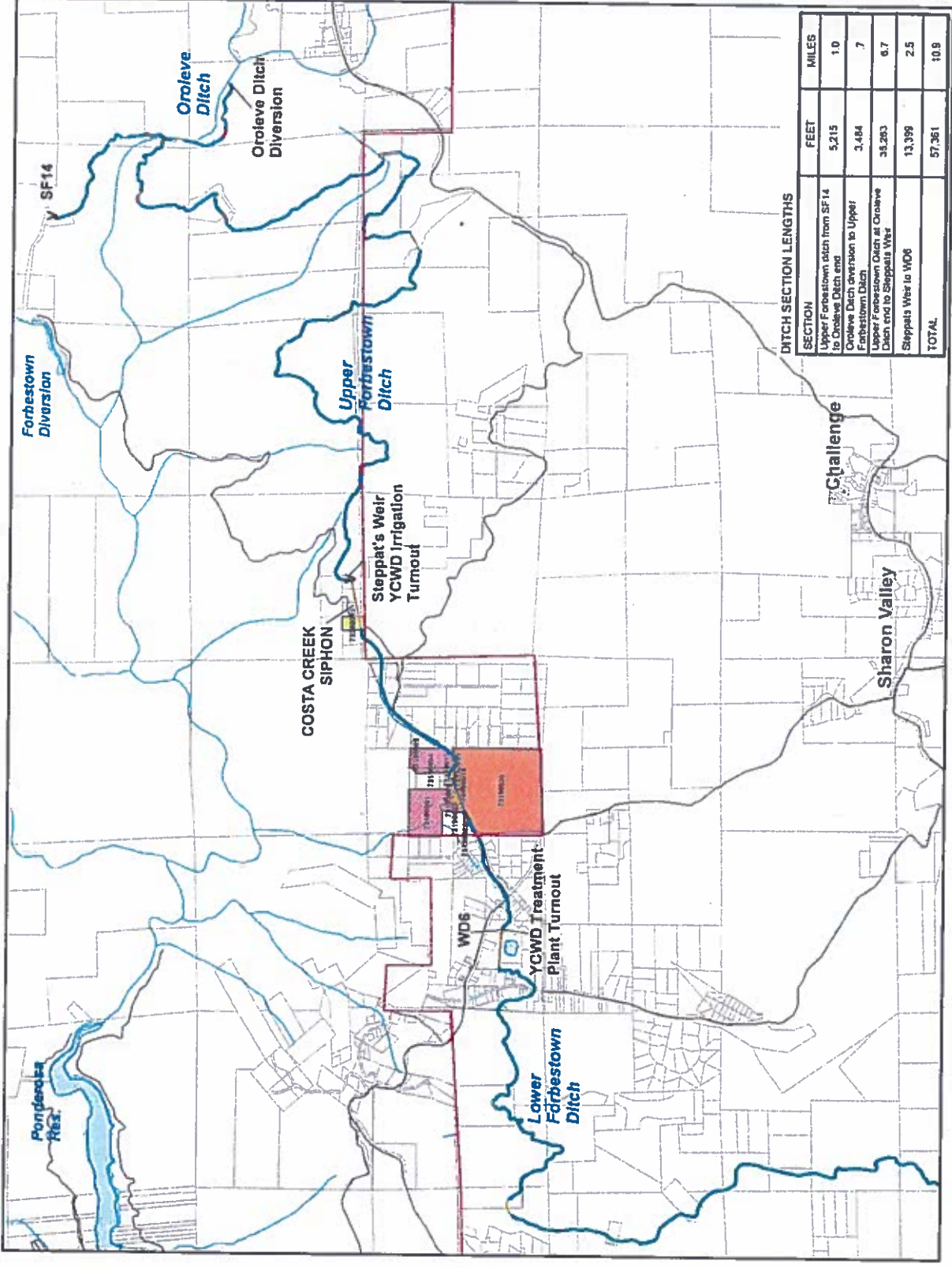
EXHIBIT D



- Forbestown Ditch
- Open Ditch
- New concrete
- Old concrete
- Flume
- Pipe
- Diversion
- Siphon
- Spit
- Culvert
- Other ditches
- SWRCB
- Yuba County Water District Boundary
- Annexed Parcels
- Annexed Parcels - Customers 2004
- Irrigation Customers 2004
- Railroad Commission Parcels Customers 2004
- Railroad Commission Parcels
- Parcels



Class Sources: Parcels - SCAGS Nov 2004
Ditches SF/WPA, Rough - Phocas National Forest, U.S. Census Bureau
Disclaimer: Areas depicted by this map are not guaranteed to be accurate. The map is provided for informational purposes only and is not suitable for legal proceedings. 5/2/05
Original map scale 1:1137



DITCH SECTION LENGTHS

SECTION	FEET	MILES
Upper Forbestown ditch from SF 14 to Oroleve Ditch end	5,215	1.0
Oroleve Ditch diversion to Upper Forbestown Ditch	3,484	.7
Upper Forbestown Ditch at Oroleve Ditch end to Steppat's Weir	38,283	6.7
Steppat's Weir to WD6	13,399	2.5
TOTAL	57,381	10.9

EXHIBIT E

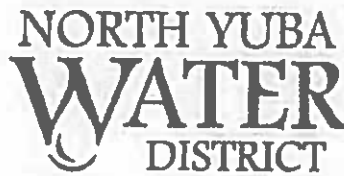


EXHIBIT A

June 26, 2020

Yuba Water Agency
POD Committee
Willie Whittlesey
1220 F Street
Marysville, CA 95901

Dear POD Chairman Director Fletcher, Director Lofton, Director Hastey and Mr. Whittlesey,

Over the last three years, the Yuba Water Agency (YWA) POD committee and Board of Directors have consistently supported our North Yuba Water District (NYWD) effort to complete the Forbestown Ditch Piping Project (the Project.) Thank you for helping us provide a reliable, safe source of drinking water for the approximately 3,100 customers of NYWD.

We are now at the next milestone in the Project, construction of approximately one mile, we are calling the Oroleve Ditch section. During your June 16, 2020, POD meeting, NorthStar Engineering gave a formal presentation of the project.

For consideration at your July 2, 2020, POD meeting, please see the attached Oroleve Creek Project Cost documents, which represents the lowest bid, totalling \$683,444 (\$588,054 construction and \$95,390 construction management). NYWD is designated as a Severely Disadvantaged Community (SDAC), with our residents median household income (MHI) being less than 60% of the statewide annual MHI. Please accept this letter as a formal request for YWA funding of 70% for this project, an amount totalling \$478,410. This will allow NYWD to fund the remaining 30%, in the amount of \$205,034.

To recap the need for the Project, moving to a piped Forbestown Ditch will allow us to significantly lower the possibility of catastrophic breaches to the Ditch. In addition, as water moves through the unlined Ditch up to 60% is lost due to seepage and evaporation, and contamination occurs from dirt, trash, metals and illegal marijuana grows. Piping the Ditch would vastly improve, if not completely resolve, these issues. Piping the Ditch will also help to secure our water right by satisfying the State requirements the water is being put to beneficial use and curtailing losses.

Should you have any questions, please feel free to contact me at (530) 675-2567. Thank you for your consideration of our request.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Maupin", is written over a faint, larger version of the same signature.

Jeff Maupin
General Manager
North Yuba Water District

ATTACHMENT

EXHIBIT F

SOUTH FEATHER WATER & POWER AGENCY

RATH MOSELEY, GENERAL MANAGER

2310 ORO-QUINCY HIGHWAY
OROVILLE, CALIFORNIA 95966
530-533-4578, EXT. 109
RMOSELEY@SOUTHFEATHER.COM



October 29, 2019

Jeff Maupin
North Yuba Water District

Re: CEQA Notification Upper Forbestown Ditch Pipeline Project

Dear Mr. Maupin:

South Feather Water and Power Agency requests that you keep us on both your mailing and e-mail lists for all CEQA notices and documents pertaining to North Yuba Water District's Upper Forbestown Ditch Piping Project as well as notifications of ministerial and categorically exempt actions pursuant to the California Environmental Quality Act (State CEQA Guidelines Section 15082; Public Resources Code 21092.2).

Notices and documents should be sent to the following physical address:

South Feather Water and Power Agency
2310 Oro Quincy Hwy.
Oroville, CA 95966

In lieu of mailing documents, e-mail notices and documents can be sent to rmooseley@southfeather.com.

Sincerely,
South Feather Water and Power Agency

A handwritten signature in black ink that reads "Rath T. Moseley".

Rath Moseley, General Manager

EXHIBIT G

Alicia Toohey

From: Barbara Brenner <barbara@churchwellwhite.com>
Sent: Monday, August 03, 2020 4:06 PM
To: Dustin Cooper
Cc: Rath Moseley
Subject: Re: Upper Forbstown Ditch Pipeline Project

Dustin,

The District did not finalize that CEQA document and was told to not go forward with filing a notice with OPR. The District is working on a full EIR for the forbwestown ditch project. SFWPA will have ample opportunity to review the document and provide comments.

Please do not waste resources reviewing the mitigated neg dec.

Sorry for the confusion.

Barbara

Barbara A. Brenner | Partner
T 916.468.0625 | barbara@churchwellwhite.com

Churchwell White LLP
[1414 K Street, 3rd Floor, Sacramento, CA 95814](https://www.churchwellwhite.com)
M 916.995.7314 | F 916.468.0951
[churchwellwhite.com](https://www.churchwellwhite.com)

On Aug 3, 2020, at 9:58 AM, Dustin Cooper <dcooper@minasianlaw.com> wrote:

[EXTERNAL MESSAGE]

Good morning Barb – we discovered this morning that North Yuba Water District (NYWD) prepared an initial study/mitigated negative declaration for the above referenced project with a review period ending July 22, 2020. See this link: <https://ceqanet.opr.ca.gov/2020069035/2>

South Feather Water & Power Agency (SFWPA) requested all of NYWD's CEQA notices, including those specific to this project. See attached October 2019 letter from SFWPA to NYWD.

Despite this request, SFWPA was not notified of NYWD's IS/MND or provided a copy of the CEQA notice of completion. SFWPA was not afforded an opportunity to review and offer comments on the environmental analysis or adequacy of the mitigation measures. As you know, the Upper Forbstown Ditch, while now owned by NYWD, was formerly owned by SFWPA. It remains vital to delivery of water to SFWPA customers. SFWPA maintains customers that are directly served from the Upper Forbstown Ditch and pursuant to the SFWPA/NYWD 2005 Agreement a certain volume of water is

delivered/guaranteed to SFWPA through the Upper Forbstown Ditch. In short, SFWPA requested CEQA notices because it is vitally interested in ensuring no injury to SFWPA or its customers as a result of NYWD's proposed project. SFWPA may even be a responsible or trustee agency under CEQA for the proposed project, yet SFWPA is not listed at the clearinghouse as a reviewing agency.

We will begin reviewing the IS/MND immediately and will begin preparing comments. We wanted to make you aware that SFWPA was not provided notice, despite its October request. We also wanted to hear from you on whether NYWD will even receive and consider comments, given that the clearinghouse states that the notice period ended July 22, 2020. Finally, we want to know whether NYWD has conducted a public hearing on the proposed project, certified the IS/MND, and approved a project through the issuance of a notice of determination?

We look forward to your response. Thank you. Dustin
<NYWD CEQA October 2019.pdf>

EXHIBIT H



**MINASIAN, MEITH,
SOARES, SEXTON &
COOPER, LLP**

ATTORNEYS AT LAW
A Partnership Including Professional Corporations

1681 Bird Street
Post Office Box 1679
Oroville, California 95965-1679

Writer's E-MAIL: dcooper@minasianlaw.com

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JEFFREY A. MEITH
M. ANTHONY SOARES
DUSTIN C. COOPER
EMILY E. LaMOE
ANDREW J. McCLURE
JACKSON A. MINASIAN

TELEPHONE
(530) 533-2885

FACSIMILE
(530) 533-0197

WILLIAM H. SPRUANCE,
Retired

MICHAEL V. SEXTON,
Retired

February 10, 2021

Barbara A. Brenner
WHITE BRENNER LLP
1414 "K" Street, 3rd Floor
Sacramento, CA 95814

Re: NYWD's Oroleve Ditch Pipe Project

Dear Ms. Brenner:

We understand from North Yuba Water District's (NYWD) Resolution No. 20-744 that NYWD adopted the Oroleve Ditch Pipe Project. NYWD's Summer 2020 newsletter describes the Oroleve Project as "the first step in the larger Forbestown Ditch Piping Project."

As you know, South Feather Water & Power Agency has a standing request for all NYWD's CEQA notices and documents associated with NYWD's projects as well as notifications of ministerial and categorically exempt actions pursuant to CEQA Guidelines section 15082 and California Public Resources Code section 21092.2.

NYWD's Resolution states that the Oroleve project is categorically exempt under CEQA. However, we are not able to locate a notice of exemption on the State Clearinghouse's website. South Feather Water & Power Agency was not provided a copy.

We request confirmation regarding whether a notice of exemption was filed. If so, please provide a copy.

Very truly yours,

MINASIAN, MEITH,
SOARES, SEXTON & COOPER, LLP

By:


DUSTIN C. COOPER

DCC:lmj

EXHIBIT I

Oroleve Ditch Line Project

Summary

SCH Number 2021030205
Public Agency North Yuba Water District
Document Title Oroleve Ditch Line Project
Document Type NOE - Notice of Exemption
Received 3/9/2021
Posted 3/9/2021

Document Description The project involves an existing facility that is used to deliver water to the Forbestown Treatment Plant where it is treated and utilized as drinking water by residents within the water district's service area. Additionally, the project involves the replacement of an existing utility system with one that involves negligible or no expansion of capacity. The piping of the Oroleve Ditch will not expand the existing capacity of the ditch, it will instead reduce water loss from the existing open channel. The project involves the placement of a 36-inch HOPE pipe within the existing ditch alignment and will serve the same purpose as the existing ditch. The existing ditch moves water from the Oroleve Ditch headworks located on Oroleve Creek to the Forbestown Ditch at the Oroleve Siphon, the new piped ditch will serve the exact same purpose.

Contact Information Leona Harris
Submitter
Lead/Public Agency
PO Box 299
Brownsville, CA 95919
Phone : (530) 675-2567
jmaupin@nywd.org

Location

Coordinates 39°32'34.4"N 121°10'47.9"W
Cities
Cross Streets La Porte Rd
Waterways Oroleve Creek

Notice of Exemption

Exempt Status Categorical Exemption
Type, Section or Code 15301(b) , 15302(c)
Reasons for Exemption Existing facility
County Clerk

Attachments

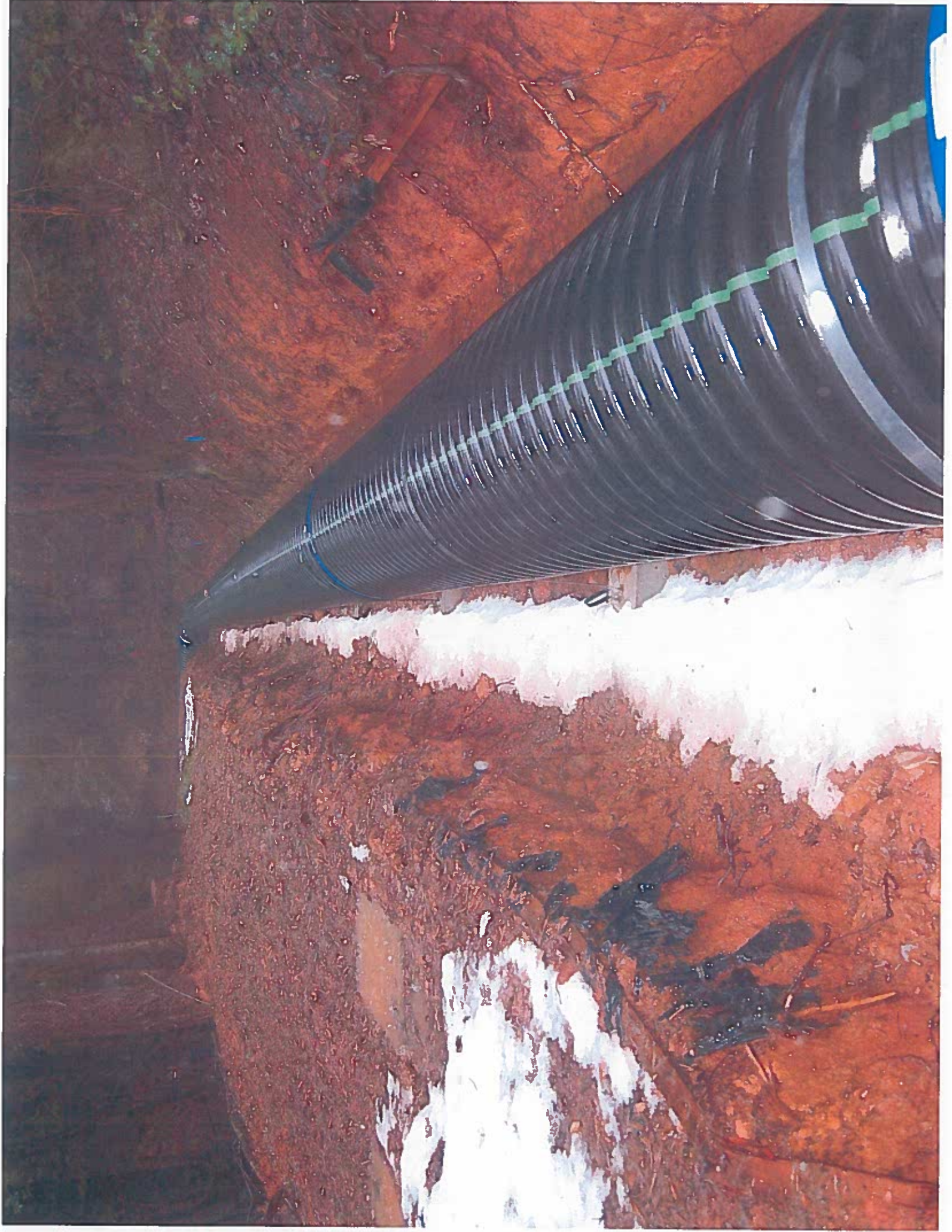
Notice of Exemption

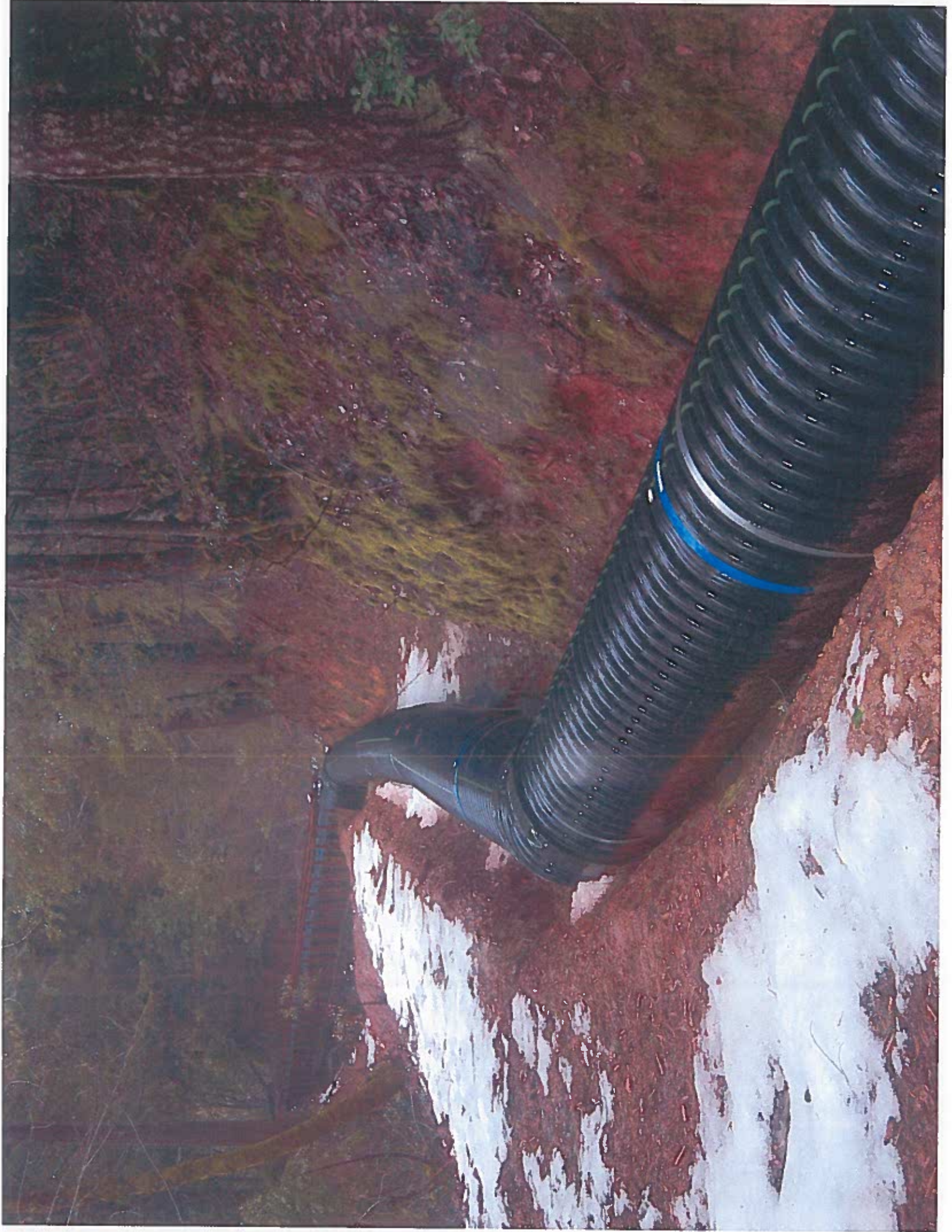
NOE- Oroleve Ditch Line Pipe Project -OCR **PDF** **2028 K**

Disclaimer: The Governor's Office of Planning and Research (OPR) accepts no responsibility for the content or accessibility of these documents. To obtain an attachment in a different format, please contact the lead agency at the contact information listed above. You may also contact the OPR via email at state.clearinghouse@opr.ca.gov or via phone at (916) 445-0613. For more information, please visit OPR's Accessibility Site.

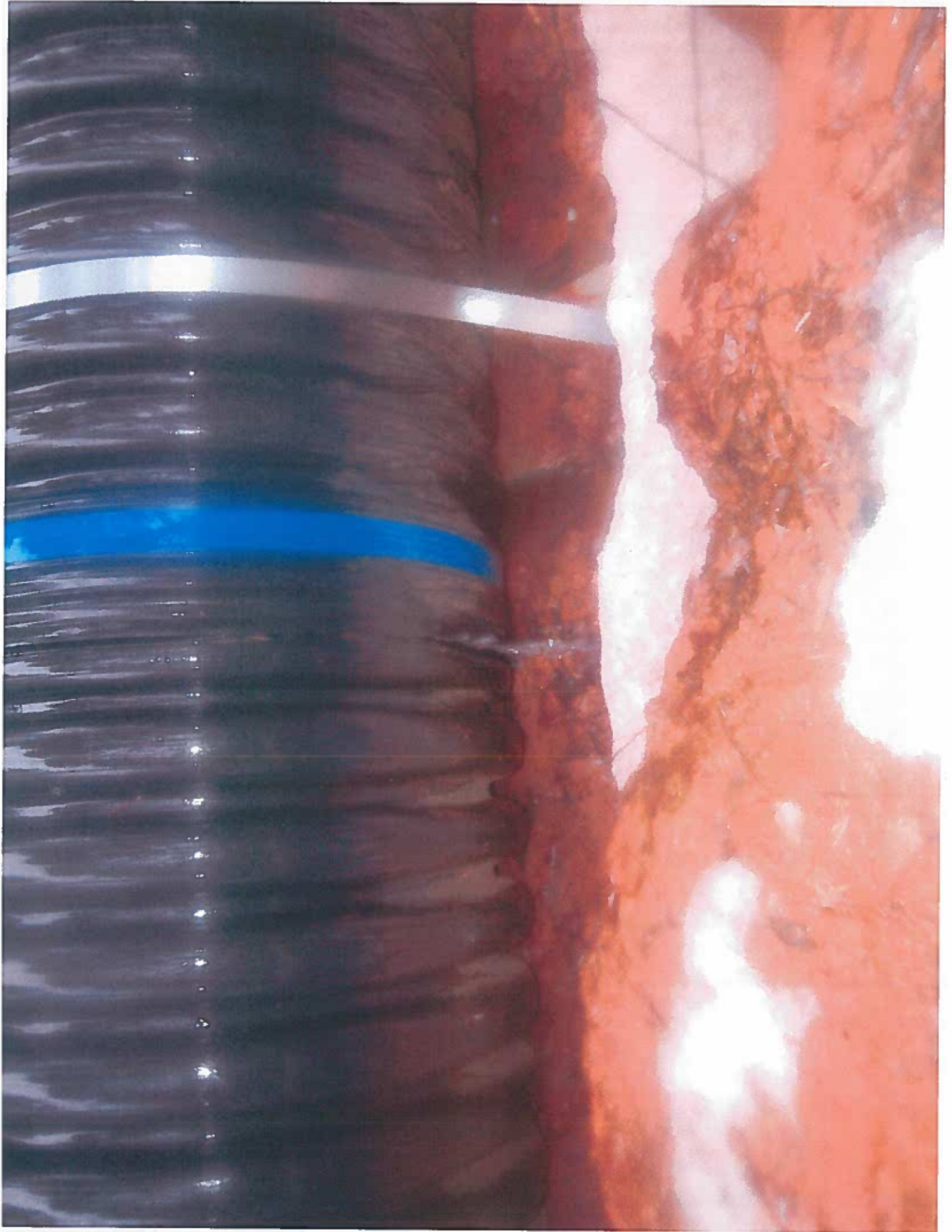
EXHIBIT J











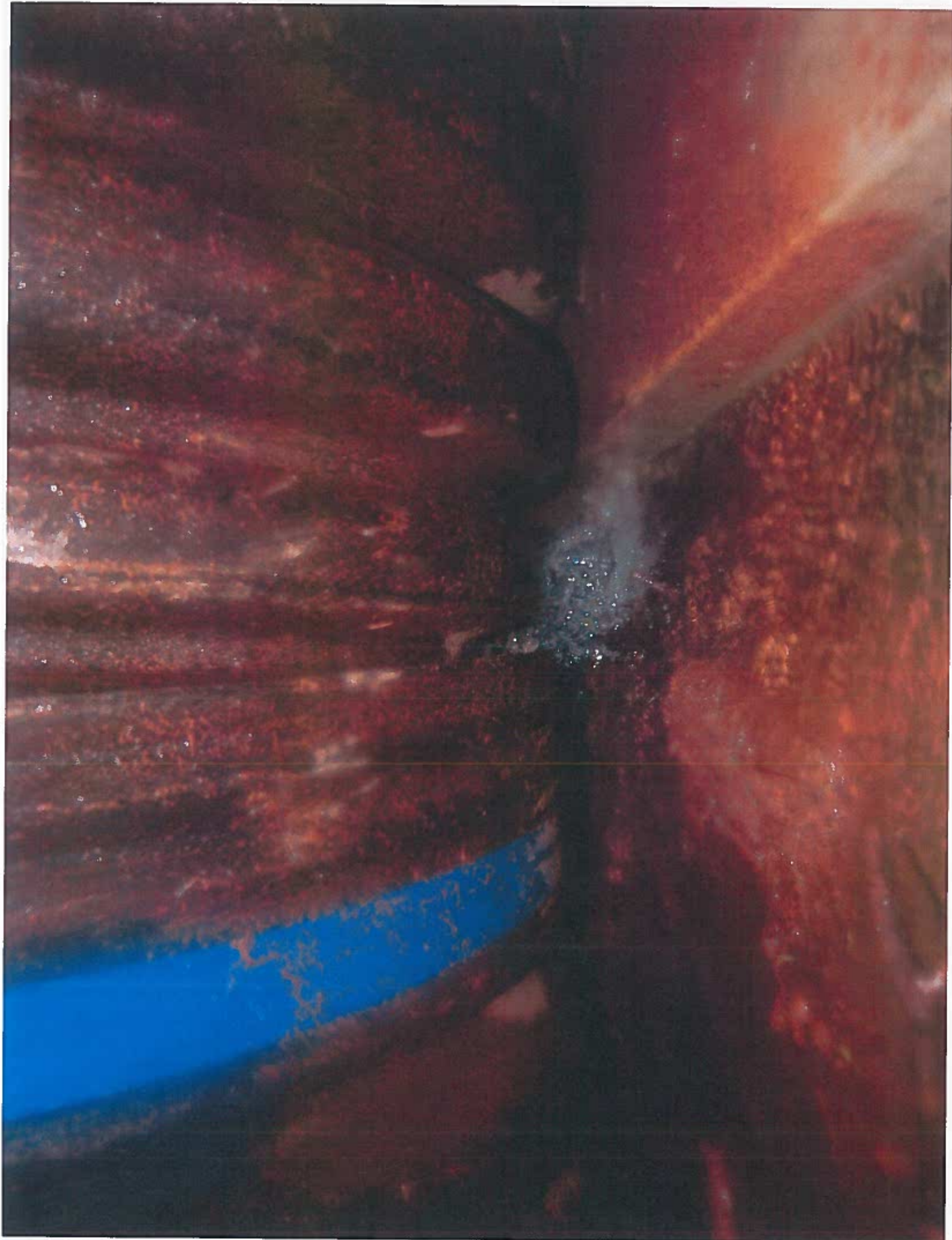






EXHIBIT K

**MINASIAN, MEITH,
SOARES, SEXTON &
COOPER, LLP**

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WILLIAM H. SPRUANCE,
Retired
MICHAEL V. SEXTON,
Retired

March 11, 2021

BY CERTIFIED MAIL AND EMAIL

North Yuba Water District
PO Box 299
Brownsville, CA 95919
email@nywd.org

Barbara Brenner, General Counsel
North Yuba Water District
White Brenner
1414 K Street, 3rd Floor
Sacramento, CA 95814
Barbara@whitebrennerllp.com

Jeff Maupin, General Manager, NYWD
jmaupin@nywd.org

Central Valley Regional Water Quality
Control Board
364 Knollcrest Drive, Suite 205
Redding, CA 96002

Environmental Protection Agency
Office of the Administrator, 1101A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Re: 60 Day Notice of Intent to File Suit under the Clean Water Act

Dear North Yuba Water District,

This notice letter is to provide you with sixty days' notice of South Feather Water & Power Agency's (the "Agency") intent to file suit against North Yuba Water District (NYWD) for violation of the Clean Water Act in connection with NYWD's Oroleve Ditch Line Project in and around Oroleve Creek ("Oroleve Project"). The violations upon which this notice letter is based are set forth more fully below.

I. Authority to File Suit under the Clean Water Act

Section 505 of the Clean Water Act authorizes citizens to bring suit for violation of an effluent standard or limitation, or for violation of an order issued by the Administrator of the EPA or a state with respect to such a standard or limitation. 33 U.S.C. § 1365. This 60 day notice is being provided to NYWD, the Administrator of the United States Environmental Protection Agency (EPA), and the Central Valley Regional Water Quality Control Board ("CVRWQCB") in accordance with Clean Water Act § 505(b), 33 U.S.C. § 1365(b).

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II. The Clean Water Act Prohibits Discharges of Stormwater from Construction Sites Except in Compliance with an NPDES or Construction Stormwater General Permit

The Clean Water Act and regulations promulgated by the United States Environmental Protection Agency (Title 40 Code of Federal Regulations (C.F.R.) Parts 122, 123, and 124) prohibit discharges of storm water containing pollutants from construction sites larger than or equal to one acre of land disturbance, except in compliance with a National Pollutant Discharge Elimination System (NPDES) permit. State Water Resources Control Board Order 2009-0009-DWQ (As amended by 2010-0014-DWQ and 2012-0006-DWQ) (“the Order”) established a General Permit for Storm Water Discharges Associated With Construction And Land Disturbance Activities (“General Permit”), as a general NPDES permit for construction projects in California. Prior to undertaking construction activity in California that disturbs one acre or more of land, the Legally Responsible Person (LRP) must obtain coverage under the General Permit. Without coverage under the General Permit, any amount of storm water discharge from the project site is prohibited by the Clean Water Act and regulations promulgated pursuant to the Clean Water Act. See 40 C.F.R. § 122.26; 33 U.S.C. § 1311.

III. The Oroleve Project Proceeded Without the Required Stormwater General Permit, in Violation of the Order

As a project disturbing one or more acres of soil, NYWD was and is required to obtain coverage under the General Permit for the Oroleve Project. NYWD, an LRP as defined in Appendix 5 to the Order, failed to submit the required Permit Registration Documents (PRDs). Only a Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) were submitted. “To obtain coverage, the LRP must electronically file Permit Registration Documents (PRDs) prior to the commencement of construction activity. Failure to obtain coverage under this General Permit for storm water discharges to waters of the United States is a violation of the CWA and the California Water Code.” Order, Section II.B.2 at p. 15. PRDs consist of a Notice of Intent (NOI), a Risk Assessment, a Site Map, a Storm Water Pollution Prevention Plan, an Annual Fee, and a Signed Certification Statement. Order, Section II.B.3 at p. 15.

According to the Stormwater Unit of the CVRWQCB, and based upon information publicly indexed under SMARTS Application ID 528273, NYWD has failed to submit a number of these PRDs, including a Signed Certification Statement. The SWPPP indexed in the SMARTS database identifies North Yuba Water District as the LRP for the Oroleve Project, estimates construction taking place between July 6, 2020 and December 3, 2020, and identifies the project area to be over one acre, at 1.5 acres of land disturbance.

Construction activity at the Oroleve Project proceeded, or is in progress, without approval or coverage under the General Permit. According to the SMARTS database, the SWPPP and NOI were resubmitted on February 26, 2021, but the application remains pending and deficient

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for lack of certification. Additionally, a Waste Discharger Identification (WDID) has not been issued for the project, indicating the application has not been approved.

IV. Discharges of Storm Water and Pollutants Are Identified in the SWPPP

The Oroleve Project directly discharges storm water to Oroleve Creek and eventually to the South Fork of the Feather River. See SWPPP, Section 2.1.3. This constitutes a discharge to Waters of the United States, including sediment from the project.

Additionally, the SWPPP identifies non-Stormwater discharges purported to be authorized for the Oroleve Project, and pollutants anticipated to be used or discharged in connection with the project. See SWPPP, Section 2.5, Section 2.6, and Appendix D. As NYWD has not obtained coverage under the General Permit, these discharges are not authorized.

The Agency owns and operates water facilities downstream of Oroleve Creek, and is the recipient and injured party due to NYWD's failure to comply with the Clean Water Act (See VI, infra).

V. NYWD Has Committed Additional Violations of the Clean Water Act, including Failure to Obtain a 404 Permit and Failure to Obtain a 401 Water Quality Certification

Based upon information publicly available, the Agency cannot locate, and on that basis does not believe exists, a Section 404 permit for the discharge of dredged or fill material into Waters of the United States. Any discharge of dredged or fill material into Waters of the United States, without a Section 404 permit, is a violation of the Clean Water Act.

In response to a Public Records Act request to the CVRWQCB from the Agency for documents relating to NYWD's Oroleve Project, a staff representative of the CVRWQCB stated that no records were found for any applications received for a Section 401 Water Quality Certification.

The Agency cannot locate a Section 401 water quality certification for the Oroleve Project, and believes that such a certification does not exist. The absence of a 401 Water Quality Certification for a project discharging dredged or fill material to Waters of the United States is a violation of the Clean Water Act.

The State of California similarly requires a 401 water quality certification issued by the Water Boards for the discharge of dredged or fill material to waters of the state. See Water Code § 13160; California Code of Regulations, title 23, sections 3830-3869. Waters of the state include Waters of the United States and non-federal waters of the state. See Water Code Section 13050(e); California Code of Regulations, title 23, section 3831(w). As stated above, the

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Agency cannot locate a water quality certification for the project, which is additionally a violation of the Porter Cologne Water Quality Control Act.

VI. The Agency Is Negatively Affected by NYWD's Violations of the Clean Water Act

The Oroleve Project discharges to Oroleve Creek and eventually to the South Fork of the Feather River. See SWPPP, Section 2.1.3. Oroleve is also a tributary to the Forbestown Ditch. the Agency operates diversion facilities and hydroelectric powerplants on the South Fork of the Feather River, and additionally receives water from the Forbestown Ditch. the Agency is directly affected by illegal discharge to these waters affecting water quality.

As a result of NYWD's failure to obtain the necessary permits and submit the necessary documents for the project, the Agency lacked 1) notice of the Oroleve Project; 2) the opportunity to provide input and comment on the Oroleve Project; and 3) the opportunity to protect its interests affected by the Oroleve Project.

In conclusion, this letter provides notice of the Agency's intent to file suit against NYWD to enforce the Clean Water Act, under the Act's citizen-suit provision. This notice letter is based on publicly available information available at the time of the letter. The Agency continues to investigate these violations, and additional information may reveal additional violations of the Clean Water Act.

Should you or your attorney wish to discuss this matter, please feel free to contact me.

Regards,

MINASIAN, MEITH, SOARES
SEXTON & COOPER, LLP

By: 
Aidan P. Wallace

CC: Rath Moseley, General Manager
South Feather Water and Power Agency