

December 30, 1987

BACKGROUND PAPER ON RECREATION
FACILITIES AT PLACER COUNTY WATER AGENCY'S
MIDDLE FORK AMERICAN RIVER PROJECT

The construction, operation and maintenance of recreation facilities at the Placer County Water Agency's Middle Fork American River Project has become a somewhat tangled web as a result of a number of changes that have occurred since the 1960's. The parties that are principally involved in this web, in addition to the Agency, are the Federal Energy Regulatory Commission (FERC), the United States Forests Service (USFS), and the California Department of Water Resources (DWR). The Agency is interested in convening a meeting of representatives of each of these entities to see what can be done to unravel this web and provide adequate recreation facilities at Middle Fork Project for the 1990's.

The Federal Power Commission license for the Middle Fork American River Project (Project No. 2079) issued on March 13, 1963, contains as one of its conditions the requirement that the Agency file with the Commission within one year from that date a recreational use plan for the Project. This was done. On July 29, 1965, the Agency entered into a contract with the DWR for recreation grants under the Davis-Grunsky Act. This contract

as amended, required the Agency to install certain specified first stage recreation facilities by May 1, 1967. This was done. The contract also required the Agency to install second stage facilities by May 1, 1981, and to install third stage facilities by May 1, 1991, and fourth stage facilities by May 1, 2001. The facilities to be installed at the second, third and fourth stages are spelled out in great detail in the contract. The second stage facilities were not completed for reasons discussed more fully below.

In 1965, the Agency entered into a contract with the USFS wherein the Agency agreed to turn all of the recreation facilities over to the USFS and in turn the USFS agreed to operate and maintain them. The first stage facilities were turned over to the USFS and have been operated and maintained by the Forest Service since they were completed.

The Davis-Grunsky contract requires the Agency to have certain monies on deposit prior to the construction of the second, third and fourth stage facilities. The contract required the Agency to begin making these deposits on December 31, 1977, and to have on deposit by December 31, 1979, for the second stage facilities the sum of \$315,990. The Agency made those deposits and continues to hold that amount in a special account. The contract requires the Agency to begin making deposits for the third stage facilities on December 31, 1987.

When the Agency began approaching the time to begin action on the second stage facilities, it not only made the necessary deposits required under the contract, but held a series of meetings with representatives of the DWR and the USFS to try to work out a mutually acceptable plan for the installation of second stage facilities. Between the time the Davis-Grunsky contract was executed in 1965 and the late 1970's, the needs for recreation facilities at the Project had changed substantially and all three parties generally agreed that the precise facilities called for in the 1965 contract were not those that would best serve the needs in the 1980's. Also, in the interim, inflation had taken its toll and the cost for installing facilities far exceeded that contemplated in 1965 when the contract was signed. An additional factor complicating the situation was the passage by the California voters of Proposition 13 in 1978. This proposition, which added Article XIII A to California's Constitution, eliminated the Agency's ability to levy taxes for the purpose of constructing second, third or fourth stage facilities. This left the Agency with no practical means of obtaining funds for that purpose.

In 1987 the FERC made an environmental and public use inspection of the Middle Fork Project and as a result of that inspection sent a letter to the Agency on October 9, 1987, wherein it noted that the second stage facilities had not been built and said that based upon information gathered from the USFS "additional facilities are not needed at this time." The letter

went on to state that the conditions in 1987, "make revision of the recreation plan appropriate" and suggested that the Agency develop a revised plan and submit it to the Commission no later than April 30, 1988, for approval. The letter said the revised plan should delete the schedule for future phases of development. This letter was submitted to the Agency by the FERC Regional Director in San Francisco and does not appear to be an order directly from the Commission, nor was the Agency given any opportunity for a hearing, if it was intended to be an order.

The Agency is not interested at this time in challenging the FERC's authority to issue such an order, but would rather spend its time constructively, cooperating with the FERC, the USFS and the DWR in resolving the dilemmas facing the Agency as a result of the provisions in the Davis-Grunsky contract, the effects of Proposition 13, the USFS authority and responsibility in operating and maintaining the recreation facilities, and the FERC's desire for a revised recreation plan. Unless something can be achieved cooperatively among all groups, the Agency is faced with this situation:

1. It is obligated by the Davis-Grunsky contract to install rather precisely designated second, third and fourth stage facilities, which everyone appears to agree are not really needed at this time.

2. The Agency has no means to obtain funds to comply with the dictates of the Davis-Grunsky contract because its taxing power was eliminated by the passage of Proposition 13.

3. The FERC has implied, if not directly ordered, that the Agency should prepare a revised recreation plan and submit it to the FERC for its approval, but unless the Davis-Grunsky and the USFS contracts are amended or terminated, the Agency cannot carry out the requirements of any such revised plan without probably being in breach of those two contracts.

What appears to be needed is a new recreation plan agreed to by all parties which can be incorporated in new agreements to supersede the present contractual relationships. Any such new plan has to take into account the present usage of recreation facilities at the Middle Fork Project, the condition of the present facilities and their need for rehabilitation, the need for any additional facilities and the financial resources of all of the entities involved. The Agency hopes that through everyone's joint effort a new up-to-date, achievable recreation plan can be developed and implemented.