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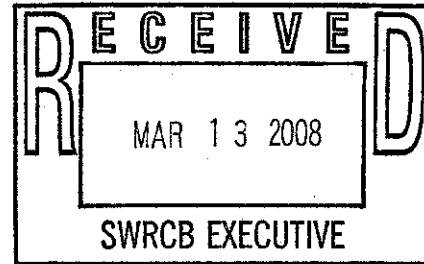
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March 12, 2008

Via E-Mail and Overnight Mail
OnTrac Tracking No. D10010164744736

State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95814-2828



**Re: COMMENT LETTER - 03/18/08 BOARD MEETING ITEM:
NSJWCD CDO-ACL ORDER**

Dear Chair Doduc and Members of the State Water Board:

On behalf of the County of San Joaquin, San Joaquin County Flood Control and Water Conservation District and Mokelumne River Water and Power Authority (collectively hereinafter the "County of San Joaquin" or "County") we submit the following comments on Cease and Desist and Administrative Civil Liability Draft Order regarding the North San Joaquin Water Conservation District ("District").

The County appreciates that the Draft Order suspends \$46,400 of the proposed administrative civil liability against the District and only requires \$20,000 to be paid by the District immediately. However, the County requests that the amount of the administrative civil liability be further reduced. As the State Water Board is aware this is a District of extremely limited financial resources. In an effort to obtain the funds necessary to put the water allocated under permit 10477 to beneficial use. The District recently imposed a groundwater charge on its users, which is now subject to ongoing litigation. As the Board is aware, the district overlies a portion of the Eastern San Joaquin Groundwater Basin, which is in critical overdraft.

The District intends to diligently pursue its plan to put its 20,000 acre feet of water to beneficial use within the District to alleviate some of the basin overdraft.

Therefore, it is in the public interest to suspend the District's obligation to pay the entire fine. By suspending the current fine of \$20,000, the District will be able to utilize all of its financial resources in putting its water to beneficial use.

Condition 2 of the Draft Order addresses bypass flows required by the District's Permit Term 23. The County respectfully requests the State Water Board reconsider the requirement in Condition 2 to have an agreement with DFG or submit a proposal to the State Water Board within 90 days of the date of this Order. The County contends that the District is not subject to additional bypass flow requirements due to past actions and orders of the State Water Board. Permit 10477 allows the District to utilize East Bay Municipal Utility District ("EBMUD") water on a temporary basis in years in which EBMUD does not need its water. D 1641 approved the settlement agreement by EBMUD to satisfy the bypass flow requirements for the water under EBMUD's water rights. As the "District's water" is technically EBMUD's water, which EBMUD is not using in a given year, the bypass flow requirements associated with the use of the District's water have already been satisfied pursuant to the EBMUD bypass flow requirements which were approved by the State Board in D 1641. As a result, the District's existing Permit Term 23 is already satisfied.

In addition, the State Water Board decided not to impose fish flow requirements on the District after the 1992 Mokelumne River hearings. The State Water Board's 2001 letter resolving the 1992 Mokelumne River Hearing indicated that the primary purpose of the 1992 hearing was to "protect fishery resources of the lower Mokelumne River" (NSJ-109, p.1.) and concluded that "further action on the Lower Mokelumne hearings is not required." (NSJ- 110, p.2.) The only logical way to read this statement is that further fish flow requirements by the District are not required. This also satisfies the requirements of the District's existing Permit Term 23.

In summary, the County respectfully requests that the Draft Order on the Cease and Desist Order and Administrative Civil Liability be amended as follows: (1) to eliminate all fines payable by the District in order to allow the District to devote all of its precious financial resources to putting surface water to beneficial use in addressing the critically overdrafted groundwater basin; and (2) to eliminate the bypass flow requirements in order to be consistent with prior State Water Board decisions, including D 1641 and the 2001 letter resolving the Mokelumne River hearing issues.

Very truly yours,



DeeAnne Gillick
Attorney at Law

DMG/cmp

PROOF OF SERVICE BY E-MAIL

I declare as follows:

I am over eighteen years of age and not a party to the within entitled action. My business address is 509 W. Weber Avenue, Stockton, California 95203. I am employed in San Joaquin County, California. Based on an agreement of the parties to accept service by e-mail or electronic transmission, on March 13, 2008, at approximately 4:45 p.m., I caused the COMMENT LETTER REGARDING THE MARCH 18, 2008 BOARD MEETING ITEM: NSJWCD CDO-ADL ORDER to be sent to the persons at the e-mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

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Jeanine Townsend, Clerk of the Board
Karna Harrigfeld, NSJWCD
Nancee Murray, DF&G
Dante J. Nomellini, CDWA
John Herrick, Esq., SDWA
SWRCB/DWR
City of Stockton, c/o Arthur F. Godwin

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed this 13th day of March, 2008, at Stockton, California.


CINDY PIASECKI