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NORTH SAN JOAQUIN
WATER CONSERVATION DISTRICT

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

In the Matter of:)
)
HEARING TO DETERMINE WHETHER)
TO RECONSIDER ORDER WR 2006-0018-DWR) **CLOSING BRIEF**
DENYING NORTH SAN JOAQUIN WATER)
CONSERVATION DISTRICT'S PETITION)
FOR EXTENSION OF TIME)
(Application 12842))

I.

INTRODUCTION

North San Joaquin Water Conservation District files this Closing Brief in the hearing to determine whether to reconsider Order WR 2006-0018 – DWR denying North San Joaquin Water Conservation District's Petition for Extension of Time on Permit 10477 (Application 12842). The District appreciates the State Water Resources Control Board (State Water Board) conducting the hearing on the District's Petition for Reconsideration and its consideration of the information provided by the District. The information provides a sufficient basis to grant the District's Petition for Extension of Time.

North San Joaquin filed the Petition for Extension of Time on December 27, 2000. On November 30, 2006, the State Water Board – Division of Water Rights Chief issued Order WR 2006-0018 DWR denying the District's Petition for Extension of Time. An interested party may petition the State Water Board for reconsideration of a decision or order based on the following grounds: (1) irregularity in the proceedings, or any ruling, or abuse of discretion, by which the person was prevented from having a fair hearing; (2) the decision or order is not supported by substantial evidence; (3) there is relevant evidence, which in exercise of reasonable diligence, could not have been produced; and, (4) error in law. Cal. Code Regs., Title 23, § 768.

North San Joaquin filed a timely Petition for Reconsideration on December 29, 2006 asserting that Order WR 2006-0018 denying the District's Petition for Extension of Time:

- (1) is not supported by substantial evidence, and
- (2) the State Water Board committed an error in law in denying District's request for an extension of time to put its water to full beneficial use.

On February 20, 2007, the State Water Board issued an order setting a hearing to receive evidence on the District's Petition for Reconsideration. [Order WR 2007-0005]

Along with the Petition for Reconsideration, the District filed Memorandum of Points and Authorities in Support of the Petition for Reconsideration and Declarations of Edward M. Steffani and Karna E. Harrigfeld containing the legal arguments in support of the Petition for Reconsideration. For the sake of brevity, these documents are hereby incorporated by reference as if fully set forth herein, and explain how North San Joaquin has met the legal requirements for reconsidering Order WR 2006-0018.

Simply put, the District has met the only requirement that must be established pursuant to Water Code §1398 to grant an extension of time: *that good cause exists*. The District presented both written and oral testimony establishing ample good cause.

The District has also met the criteria set forth in California Code of Regulations Title 23 §843, that the time extension is in the public interest, and that it has exercised due diligence. Most important to the State Water Board's consideration is the direction of Title 23 §841:

In determining the period of time to be allowed to build diversion works and apply the water to full beneficial use, the particular conditions surrounding each case will govern. In every case the matter must be pressed with due diligence considering the size of the project and the obstacles to be overcome.

Due diligence requirements are not the same for every permittee; the particular conditions surrounding each case must be evaluated. In this case, the unique and limiting nature of the District's water right permit warrants special consideration.

II.

KEY ISSUES

KEY ISSUE 1: What action, if any, should the State Water Board take with respect to the Division Chief's denial, in Order WR 2006-0018-DWR, of the North San Joaquin Water Conservation District's petition for extension of time? If the State Water Board modifies Order WR 2006-0018-DWR, or takes other action on the order, what modifications or actions are recommended, and what is the basis for such modifications or actions?

The State Water Board should take action to overturn WR 2006-0018-DWR denying the District's requested extension of time, and instead enter an order approving North San Joaquin's request for an extension of time.

The following modifications to Order WR 2006-0018-DWR must also be made:

- ✓ Section 3.6: The issue of unauthorized diversion and use is the subject of a separate proceeding. Assuming the District prevails in the CDO/ACL hearing, we would request that Section 3.6 be deleted and any other references so deleted.
- ✓ Section 4.4: Based on the testimony and exhibits submitted, the District has both the specific plans and funding in place to construct additional projects, Section 4.4 should be revised to grant the District's petition for extension of time to complete construction of other facilities.
- ✓ Section 4.5: Based on the testimony and exhibits submitted, Section 4.5 should be revised to identify the facts supporting the District exercise of due diligence,

list the obstacles that could not reasonably be avoided and recite the facts that satisfactory progress will be made if the petition for extension of time is granted.

- ✓ Section 4.6 should also be amended to reflect that the State Water Board has considered the public trust resources and found that there is no evidence in the record that the granting of this Petition for Extension of Time will have any adverse impacts on public trust resources, similar to the finding in Section 3.5.
- ✓ Finally, based on the outcome of the CDO/ACL on the issue of bypass flows and the fact that a subsequent order of the Board has been entered regarding the public trust resources on the Mokelumne River, the District requests that Permit 10477 be amended to delete Term 23.
- ✓ As noted in the hearing, the District hereby reiterates its objection to the introduction of California Department of Fish and Game (CDFG) Exhibits (1 – 2) to this proceeding. The request of Mr. Heise's testimony is to revise Paragraph 3 on page 11 of Order. This paragraph deals with the District's conjunctive use project. The District did not petition to reconsider any issues dealing with the approvals related to our conjunctive use project (petition for change in point of diversion and place of storage). This was specifically recognized in the Order Granting Reconsideration – WR Order 2007-0005: Footnote 1 states: "In its order, the Division also conditionally approved changes in the place of use and place of storage sought by the District. The District has not petitioned for reconsideration of the Division's conditional approval of those changes and those changes will not be considered in this proceeding." Therefore, Mr. Heise's testimony is completely irrelevant. [R.T. 124-127]
- ✓ On the same basis, the District moves to strike CDFG Exhibit 3 and 4 on the basis that this testimony is irrelevant to the proceeding. Exhibits 3 – 4 deal with the status of aquatic species which is not at issue in this proceeding. The revisions suggested in paragraph 9 address the District's conjunctive use project approvals which are not at issue here. Finally, the last several paragraphs deal with installation of measuring device, we currently have a permit term that addresses that issues, and in fact measuring devices are installed on all of our diversions. As such, this testimony should be stricken from the record. In this proceeding we are dealing with whether or not a Petition for Extension of Time should be granted, not these unrelated matters. [R.T. 124-127]

KEY ISSUE 2: What evidence is available to support a finding regarding:

- a. **The District has demonstrated good cause for an extension of time.**

The District has demonstrated "good cause" for the extension of time. Through written and oral testimony, the District has demonstrated that it has used its best efforts to utilize its undependable water supply – water that it is projected to only receive 50% of the

time. [NSJ-4, pgs. 2-3; NSJ-5, pgs. 5-6; NSJ-20, NSJ-59, R.T. pgs. 77-79, 81-84] Given the unique limitations of and the particular conditions surrounding its permit, and the obstacles it has had to overcome, the District has nevertheless worked collaboratively with other agencies, such as the Northeastern San Joaquin County Groundwater Banking Authority, the Eastern Water Alliance and through the Mokelumne River Forum process to develop and implement conjunctive use projects to utilize the permit water. [NSJ-1, para. 21-23; NSJ-2, pgs. 5-12, NSJ-10, pgs. 1-6; NSJ-11, pgs. 4-6; NSJ-17; NSJ-18; NJS-19; NSJ-30; NSJ-35; NSJ-40; NSJ-41; NSJ-47; R.T. pgs. 59-61, 67, 70-71]

Most importantly, the District has demonstrated that since 1992, when the last extension of time for its permit was issued, it has met the Water Code requirements for an additional extension of time. As explained below, from 1992 through 2001 the District was unable to place additional water to use because of circumstances beyond its control. Since 2001 the District has undertaken extraordinary efforts to place water to use under its permit, it has sought legislation, imposed a new acreage charge; over the past six years the District has developed a 10 year plan detailing projects to utilize the entire 20,000 acre feet of water and it has established an additional financing mechanism, a new groundwater charge, necessary to construct the projects identified in the 10 year plan to ensure full utilization the 20,000 acre feet during the extension term. [NSJ-1, para. 11-16, 24-28; NSJ-6, para. 6; NSJ-7, para. 5-7; NSJ-26; NSJ-27; NSJ-28; NSJ-29; NSJ-30; NSJ-31, NSJ-36; NSJ-37; NSJ-38; R.T. pgs. 78-80, 88-89, 92-94]

b. The District has demonstrated that the time extension is in the public interest.

Through written and oral testimony, the District confirmed that the Eastern San Joaquin County groundwater basin is critically overdrafted, and every drop of surface water is needed to prevent the permanent destruction of the basin. [NSJ-1, para. 25-26; NSJ- 2,

pgs. 1, 5-13; NSJ-14,; NSJ-15; NSJ-17; NSJ-18, NSJ-19; NSJ-37; R.T. 55-56] Granting the extension will allow thousands of additional acre-feet to be recharged into the basin, and is a crucial component to the long-term solution.

Evidence submitted established that for over ten years San Joaquin County, North San Joaquin and other local agencies have been working together to complete large-scale projects utilizing local surface water supplies. [NSJ-10, pgs. 1-6; NSJ-30, NSJ-40, NSJ 41; R.T. pgs. 63-67] As a region, we have achieved many of our conjunctive management program objectives, and are well on our way to the completion of our project goals. However, conjunctive use is a very complex process that cannot be completed overnight. [R.T. 63] There are many steps – including legislation, financing, land acquisitions, regulatory permits that all must be completed before the water can actually be recharged into the basin. [NSJ-10, pgs. 1-6; R.T. pgs. 63-67] These projects are complex, and have required federal and state legislation, federal and state environmental compliance, feasibility studies, pilot and demonstration project investigations, State Water Board approvals, and more. [NSJ-10, pgs. 1-6; NSJ-30, NSJ-40, NSJ 41; R.T. pgs. 63-67]

Testimony confirmed that as a region we are very near implementing a meaningful conjunctive use program to remedy the critically overdrafted groundwater basin. A key component to the regional solution is for the State Water Board to grant North San Joaquin's Petition for Extension of Time to allow it to complete full beneficial use of its 20,000 acre feet of Mokelumne River water. [NSJ- 2, pgs. 5-13; NSJ-10, pgs. 1-6; NSJ-30, NSJ-40, NSJ 41] As expressed by the Department of Water Resources policy statement dated June 18, 2007:

An additional extension of time would preserve the limited number of opportunities available for conjunctive management of water resources in San Joaquin County and the restoration and sustainable operation of the northeastern San Joaquin County Groundwater Basin.

Finally, agricultural production is San Joaquin County's number one economic driver and must be protected. San Joaquin County's vibrant agricultural industry is the seventh (7th) largest in the State of California and the eighth (8th) largest in the nation, with an estimated value of 1.7 billion last year. [NSJ- 9, pgs. 3-4; R.T. pgs. 5 and 118-119] Surface water supplies are essential to support this agricultural industry, and groundwater resources alone are insufficient to do so.

Balanced against the strong public interest in keeping this surface water available to the Eastern San Joaquin Groundwater basin is the public policy that water appropriation be completed within a reasonable time. This long-standing principle is intended to protect the public interest by preventing the "cold storage" of water rights. Order WR 2006-0015-EXEC. See State Conservation Commission, Report of the Conservation Commission of the State of California to the Governor and Legislature of California (1913) at pp. 21, 39 [concluding that it is not sound public policy to allow an essential natural resource such as water to be kept in cold storage]. However, this important principle of protecting the public interest against the "cold storage" of water rights does not apply here. This is not water that would be made available to the public if taken away from North San Joaquin. Rather, this is water that is *already appropriated* to East Bay Municipal Utility District (EBMUD). The public policy against allowing a natural resource to be kept in cold storage is not at issue here, and does not call for denial of the extension; yet, the public policy supporting the use of this water to recharge the Eastern San Joaquin County groundwater basin is fully at issue here, and cries for the extension to be granted.

c. The District has exercised due diligence.

In determining due diligence, the State Water Board is required to take into consideration the particular conditions surrounding each case. Due diligence differs from

permit to permit considering the size of the project and the obstacles to be overcome. Given the unique circumstances of the District permit, the fact that the supply is temporary and not dependable, the fact that neither the District nor its landowners knows from year to year whether or not water will be available under the permit, the District has overcome tremendous odds to achieve what it has to date. [NSJ-2, pgs. 2-3; NSJ-4, pgs. 2-3; NSJ-5, pgs. 5-6; NSJ-20; NSJ-24; NSJ-59 R.T. pgs. 57, 77-79, 81-84, 86-87]

While this extension requires review of the District's due diligence from 1991 through the present, it is nevertheless helpful to review the District's due diligence in the context of the entire permit period *based upon the conditions it was faced with and the obstacles it had to overcome*. The conditions that North San Joaquin has had to face begin with the restricted nature of the permit itself. In 1948 despite the fact that the district had filed an application *senior* to that held by EBMUD the State nevertheless issued granted a permit to EBMUD over the District's application on July 3, 1956. [NSJ-2, pgs. 2-3; NSJ-5, pg. 1-2; R.T. pg. 57] The District received a permit only for the "temporary" appropriation of water that was surplus to EBMUD's needs pursuant to Water Code §1462. [NSJ-2, pgs. 2-3; NSJ-5, pg. 1-2; NSJ-24; R.T. pg. 57].

During the first seven years after the permit was issued the District successfully negotiated an agreement with EBMUD defining how water would be taken under the District's permit and allowing storage of water in EBMUD's facilities. [NSJ-5, pg. 4; NSJ-20] This was a critical first step, as without such an agreement, North San Joaquin would not know if or when water surplus to EBMUD's needs was available. For the next fifteen years the District constructed and expanded its pumping system. [NSJ-5, pg. 6] The State Water Board staff documented that North San Joaquin's use under its permit had reached 9,487 acre feet in the 1972-1973 water year. [WR Order 2006-0018, pg. 2, Sec. 2.2] **In less**

than sixteen years the District had used nearly 50% of the water available under the permit.

Unfortunately, the District could not build on this success because of the limitations inherent in Permit 10477. During the drought period in the late 1970s the District received no water under its permit. [NSJ-59] After the District's initial build-up its landowners now realized the District's water supply was not reliable, and many of them returned to pumping groundwater. [NSJ-4, pgs. 2-3] This fact illustrates the particular conditions surrounding this case; these are the obstacles that had to be overcome by North San Joaquin in its exercise of due diligence. These are the unique issues to be considered by this Board.

Just a few years later water was once again unavailable to the District under its permit for the six-year period from 1987 through 1992. [NSJ-59] This lack of supply forced more customers to revert to groundwater, and in many instances, construct new groundwater wells. [NSJ-8, pg. 1; NSJ-9, pg. 2] PG&E charges customers to provide power to their wells whether or not they are used – a tremendous disincentive to intermittent surface water use. [NSJ-2, pgs. 2-3; NSJ-8, pgs. 1-2; NSJ-9, pg. 2] Once a landowner drills a well and pays PG&E its standby charges that landowner has a tremendous incentive to continue to use his or her well.

When the drought ended in 1993 the District should have been able to aggressively recruit new surface water users; however, another obstacle was thrown in its way. In November 1992, State Water Board held a hearing to determine whether or not the District's permit should be conditioned to protect fishery resources on the lower Mokelumne River. [NSJ-11, pgs. 1-3; NSJ-42] The District knew, and the State Water Board confirmed that its water right was at risk. [NSJ-42] Until a decision was issued on that hearing, the District could not represent to landowners that they abandon their wells and begin using

surface water again because its surface water right was at risk before the State Water Board.

For nine years following the Mokelumne River hearings the District waited for the State Water Board to render a decision. It did not. Instead, in 2001 the State Water Board notified North San Joaquin that Decision 1641 (Bay-Delta Decision) has resolved all issues surrounding the 1992 Mokelumne River hearings. [NSJ-43; NSJ-44; NSJ-45] Since that notification in 2001, the District has taken substantial steps to implement projects, as well as a financing mechanism to guarantee completion of those projects.

As mentioned, however, to determine due diligence here the State Water Board must review the District's actions from 1991 through the present. From 1992 through 2001 the District's water right was expressly under reconsideration by the State Water Board. Certainly the District's circumstances in these nine years presented obstacles beyond its control, identified as excusable pursuant to California law. Even prior to complete resolution of the issues surrounding the District's permit, the District began undertaking actions required to place water under its Permit to full beneficial use, and clearly exercised due diligence during the time period from 2000 through 2007.

Since 2000 the District has taken substantial steps to implement projects, and has confirmed a financing mechanism to guarantee completion of those projects. In 2001, the District sought legislative authority to impose an acreage charge, the legislation became effective in 2003 and the District imposed the charge in 2003. [NSJ-1, para. 11-14; NSJ-26; NSJ-27; NSJ-28; NSJ-29; R.T. pgs. 88-89] Over the past 15 years the District has implemented four pilot conjunctive use projects, and in 2007 the District imposed a groundwater charge and adopted a ten year plan to fully utilize the water available to it under its permit, with an accompanying budget. [NSJ-1, para. 15-16, 24-28; NSJ-30; NSJ-31; NSJ-36; NSJ-37; and NSJ-38; R.T. pgs. 79-80] As evidence of the District's

determination in implementing its 10-year plan, four additional projects were ready to be implemented in 2007, but are now on hold since the District received no water allocation this year. [NSJ-1, para. 15; R.T. 89-90]

d. The District's failure to comply with previous time requirements has been occasioned by obstacles that could not be reasonably avoided.

The very nature of the water right held by North San Joaquin presents obstacles to development and full usage. The District right is temporary, and the water supply is available only 50% of the time. [NSJ-2, pgs. 2-3; NSJ-4, pgs. 2-3; NSJ-5, pg. 1-2; NSJ-24; NSJ-59; R.T. pg. 57, 87] However, since 1991 obstacles that the District could not avoid have prevented full use of water under its permit.

The nine-year period during which the District's water right permit was at risk prevented it from aggressively pursuing projects and encouraging its landowners to spend money in reliance upon the future availability of water. Given the fact that in 1992 the State Water Board held hearing subjecting the District's water right permit to the imposition of terms and conditions for fishery flows, and that the State Water Board did not issue a decision on those hearing but held the hearings in abeyance, no reasonable person would have undertaken the expenditures require to aggressively pursue full beneficial use of its water when that water was at risk. [NSJ-11, pgs 1-3; NSJ 42; NSJ-43]

After resolution of the Mokelumne River hearings in 2001, the District took substantial steps to implement projects, seeking and obtaining additional funding sources, implementing conjunctive use projects, and adopting a 10 year plan to put the entire 20,000 acre feet to beneficial use. [NSJ-1, para. 11-14; 15-16, 24-28, NSJ-26; NSJ-27; NSJ-28; NSJ-29; NSJ-30; NSJ-31; NSJ-36; NSJ-37; and NSJ-38; R.T. pgs. 79-80] The obstacles that the District has faced and overcome: a permit limited to surplus water, unavailability of

water, PG&E imposed stand-by charges of groundwater wells and a nine-year State Water Board cloud over its permit, were beyond its control.

- e. **The District has demonstrated that satisfactory progress will be made if the time extension is granted.**

The District has established through written and oral testimony that it will implement both the pilot and full scale recharge projects it has identified in its engineering report, and has the financial means to fund those projects. [NSJ-1, para. 11-14; 15-16, 24-28, NSJ-26; NSJ-27; NSJ-28; NSJ-29; NSJ-30; NSJ-31; NSJ-36; NSJ-37; and NSJ-38; R.T. pgs. 79-80] The District has expanded its boundaries by an additional 100,000 acres to the District to allow irrigation and groundwater recharge with surface water pumped from the Mokelumne River into Coyote Creek on the north side of the river and into Bear Creek on the south side of the river. [NSJ-1, para. 20; R.T. 90] The two creeks would serve as distribution facilities to thousands of acres adjoining the creeks with infinite possibilities for recharge and full use of the District's permit water. [NSJ-1, para. 20, 30-33] The District recognizes that in order to implement this project, additional State Water Board approvals will be required, and has filed the required petitions with the State Water Board that they will pursue in the coming months. [NSJ-60] However, satisfactory progress will be made as the District has put specific plans in place and provided the required financing to allow implementation of projects proposed in its 10 year plan which will ensure completion of putting the 20,000 acre feet to beneficial use.

Finally, farmers in the District have indicated their desire to return to surface water with the assistance of the incentives of dual water systems; and both the cities of Stockton and Lodi have expressed interest in temporarily utilizing any supplies not placed to use by the District. [NSJ-8, pgs. 1.3; NSJ-9, pgs. 1-2; NSJ-12, pg. 5; NSJ-13, pg 3; R.T. pgs. 101, 108-109, 111-113, 113-115, 117-118] As such, the District has demonstrated it has

specific plans in place to ensure complete placement of the permit water to beneficial use with approval of the Petition of Extension of Time.

KEY ISSUE 3. If the State Water Board grants an extension of time, what evidence is available to support a finding regarding:

a. What period of time extension is appropriate given that Permit 10477 is for the temporary appropriation of excess water?

The District should be granted a minimum 10-year extension as requested in its Petition for Extension of Time, which will allow it to fully implement its 10 year plan for full utilization of the permit water. [NSJ-36] The effective date should be the date of this revised Water Right Order and ten years begins running from date. Alternatively, if EBMUD is granted its requested 40-year Extension of Time, the State Water Board could condition Permit 10477 to co-exist with the term of EBMUD's permit.

b. What conditions, if any, would be in the public interest?

There are no additional conditions required for the "public interest."

c. What actions should the State Water Board take as a responsible agency to review the District's petition consistent with the requirements of the California Environmental Quality Act (CEQA)?

The District adopted a Negative Declaration on December 7, 2004. No action of the State Water Board is required as a responsible agency, as the lead agency determination is conclusively presumed to comply with CEQA for purposes of use by a responsible agency. [See CEQA Guideline 15231] [Sent Proposed Negative Declaration to Clearinghouse and SWRCB on October 15, 2004, Kate Gaffney commented to Ed Steffani on 10/22/04 – See State Water Board files]

d. Whether approval of the time extension petition will result in adverse environmental impacts, including adverse water quality impacts or harm to public trust resources? What conditions, if any, should the State Water Board impose to avoid or mitigate any adverse impacts on water quality, fish, wildlife, or other public trust resources that would otherwise occur as a result of approval of the petition?

There is no evidence in the record that granting the time extension petition will result in any adverse environmental impact, including adverse water quality or harm to public trust resources. Therefore no additional conditions are necessary.

e. Whether approval of the time extension petition will result in injury to legal users of water? What conditions, if any, should the State Water Board impose to avoid or mitigate injury to legal users of water?

There is no evidence in the record that approval of the time extension petition will result in injury to legal users of water. In fact, there were no protests filed by any entity alleging injury to a legal user of water. As such, no additional conditions are necessary.

III.

CONCLUSION

North San Joaquin has met the legal requirements needed for this Board to grant its requested extension of time for Permit 10477. In all its considerations, the Board is charged with taking action in the public interest. The public interest cries out for an extension of Permit 10477:

- Allowing North San Joaquin the time to place additional surface water to use is essential to improve the condition of the local groundwater basin. As DWR has stated: *"denial of an additional extension at this juncture could be untimely given the substantial State-assisted regional water supply planning efforts underway and the unprecedented amount of progress now being made for the region, including the service area of North San Joaquin Water Conservation District."*
- Granting North San Joaquin an extension of time will not deprive other parties of the water. There were no protests filed on the Petition for Extension of time. The next party in line with an application for Mokelumne River water is San Joaquin County, and they are here supporting the Extension of Time.
- Areas of origin and other protected areas are given time to place their water to beneficial use. While Water Code §1216 does not apply to the water that EBMUD has already used under its permit, it is nevertheless the legislature's declaration that the public interest requires that appropriators, like North San Joaquin, within the protected area of the Mokelumne River system be protected and granted a special priority. This public interest can be met by allowing North San Joaquin additional time to complete its water use.
- There is no adverse precedent here for other water right permits. We understand that the concept of due diligence is important for the Board to keep control of California's water rights. However, a party's ability to

exercise due diligence depends upon the obstacles in its way. The State Water Board itself was the cause of several obstacles placed in North San Joaquin's way. The fact that North San Joaquin is trying to make valuable use of a water right permit issued pursuant to Water Code Section 1462, one of the only if not *the only* such permit in the state, makes its circumstances unique enough that it should obtain deference in determining due diligence.

- Due diligence is the measure of activity to be expected from a reasonable and prudent person under the particular circumstances; not measured by any absolute standard, but depending on the relative facts of the special case. *Blacks Law Dictionary*. We have to look at the facts and circumstances facing North San Joaquin, look at the constraints imposed by its permits, and then determine how any reasonable permit holder would have acted under the circumstances.

The due diligence pursued by North San Joaquin over the past seven years, the debilitating restrictions of its water right permits, and the extreme need for surface water in San Joaquin County all support granting the requested extension of time. Good cause exists, and the public interest weighs heavily in favor of the extension. Substantial evidence has been presented in this hearing to make the required findings pursuant to the Water Code and regulations. We ask the State Water Board to do the right thing here.

DATED: August 6, 2007

Respectfully submitted,

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By: 

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