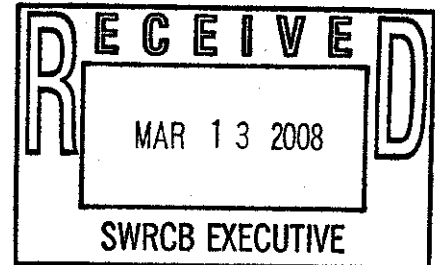


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March 13, 2008

Chair Tam Doduc and Members of the State Water Board  
State Water Resources Control Board  
P.O. Box 2000  
Sacramento, CA 95814-2828



Re: Comments for March 18, 2008 Board Meeting Item: NSJWCD Time Extension Order

Dear Chair Doduc and Members of the State Water Board:

Stockton East Water District ("Stockton East") submits the following comments on the Draft Order Partially Setting Aside WR 2008-0018-DWR and Conditionally Approving an Extension of Time.

Stockton East would like to thank the State Water Resources Control Board for holding these hearings and for judiciously reviewing all facts in this matter. As a member agency of the Northeastern San Joaquin Groundwater Banking Authority, and partner of North San Joaquin in efforts to correct the critical overdraft of the groundwater basin, Stockton East remains interested in the outcome of this matter.

Stockton East believes that the Board's opinion made a number of correct findings, including:

- 1) The Board correctly finds, and Stockton East maintains, that North San Joaquin has exercised due diligence in taking actions to develop and use the water under Permit 10477, including passing an acreage charge and, most recently, adopting a groundwater charge on all groundwater users within its jurisdiction;
- 2) The Board correctly finds, and Stockton East maintains, that the District has committed to actions that will help to avoid in the future those practical obstacles it has faced in the past, such as lack of finances, lack of surface water customers and reliability of water supply;
- 3) The Board correctly finds, and Stockton East maintains, that an extension of time will allow the District to make satisfactory progress towards effective groundwater management in the Eastern San Joaquin Groundwater Basin;

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4) The Board correctly finds, and Stockton East maintains, that an extension of time is within the public interest;

5) The Board correctly finds, and Stockton East agrees, that an extension of time will not have any adverse impacts on public trust resources.

Stockton East applauds the Board's findings supporting its decision to approve North San Joaquin's petition for extension of time until December 31, 2010 to put its water under Permit 10477 to beneficial use. However, Stockton East has concerns related to the terms of the Draft Order.

**1) The District lacks statutory authority to directly monitor and manage individual groundwater users**

The Draft Order asks that the District to "identify the restrictions on groundwater pumping, pump charges or other measures necessary to address the problem of users relying on groundwater pumping instead of deliveries from the District and identify how those requirements will be put into place." Draft Order p. 14. Like Stockton East, North San Joaquin Water Conservation District, is organized under the Water Conservation District Law of 1931, Water Code sections 74000 *et seq.* Nothing in the principal act permits a water conservation district to manage individual groundwater users, except by assessing a groundwater charge, which North San Joaquin has done. The only other alternative available to a water district is to pursue an action to adjudicate the groundwater basin, which is an alternative that is neither affordable nor ideal for regulating groundwater pumping.

Without statutory authority to manage individual well users, the District would be precluded from complying with this aspect of the Draft Order. The Draft Order should be modified to, either: 1) explain what authority the Board has identified to permit the District to place restrictions on groundwater pumping; or 2) eliminate this requirement.

**2) As a practical matter it is impossible for the District to determine within 180 days if it will be able to put all of its water under permit to beneficial use by December 31, 2010**

The Draft Order requires that the District provide the Board, within 180 days of its Order, a petition for an extension of time if the District cannot put to beneficial use the full amount of its water under Permit 10477 by December 31, 2010. Draft Order pp. 14-15. The Draft Order is not sensitive to the fact that the District's groundwater charge is subject to renewal each year under the Water Code, and if increased, is also subject to the procedures delineated in Article XIII D of the California Constitution. The groundwater charge is an instrumental component of the District's plan to put its water under permit to

beneficial use. Additionally, the charge is subject to renewal from year to year, and its lifespan is limited to the ensuing year.

Further complicating this matter is that an initiative petition has been circulated in the District seeking support for an initiative, which, if placed on the ballot, would ask voters to repeal the District's current groundwater charge. This initiative could potentially be placed on the November 2008 ballot and it is impossible for the District to project what the outcome of that election will be.

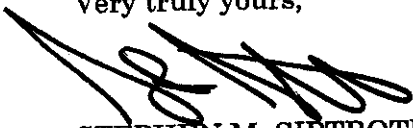
In short, the District cannot determine in 180 days whether or not it will put to use its water under permit by 2010 when one of the major components of its plan requires annual renewal and may be the subject of an initiative election in November. Practical impediments make it nearly impossible to comply with this aspect of the Board's Draft Order. The Draft Order should be modified to permit the District to request an extension of time through December 31, 2010.

**3) Stockton East agrees with the additional concerns raised by the District and County of San Joaquin**

Stockton East agrees with other concerns raised by the County of San Joaquin in their comments at this hearing. Further, Stockton East supports concerns raised by the North San Joaquin Water Conservation District at this hearing. The North San Joaquin Water Conservation District, the County of San Joaquin and Stockton East Water District are all beneficially interested in the outcome of this hearing and individually ask that the Board judiciously amend the Order with an eye toward what is realistically feasible under current circumstances.

While Stockton East applauds the Board's findings supporting an extension of time, Stockton East respectfully requests that the Board consider the items of concern it raises when it finalizes its Order in this matter. We would ask that the Board not allow North San Joaquin an extension of time burdened with conditions that make it impossible to succeed. Thank you for allowing Stockton East to provide these comments and for your attention to this matter. If you have any questions prior to the hearing, please do not hesitate to contact me.

Very truly yours,



STEPHEN M. SIPTROTH  
Attorney at Law

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