



SHANDON-SAN JUAN WATER DISTRICT

SHANDON-SAN JUAN GSA

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July 24, 2024

Mr. Greg Brown
Mr. Mike Conway
State Water Resources Control Board
Division of Water Rights
P.O. Box 2000, Sacramento, CA 95812-2000
(Sent electronically)

SUBJECT: Application A033189 and Application A033190

Dear Mr. Brown and Mr. Conway:

The Shandon San Juan Water District (District) provides the following information and updates in response to your review of the District's above referenced application wherein you stated that our District needs to provide written documentation regarding steps the District is taking to show we are working on obtaining access to the facilities where we are proposing to divert water to underground storage. The District has identified the following agencies associated with the Salinas Dam: United States Army Corps of Engineers (Corps), the City of San Luis Obispo (City) and the San Luis Obispo County Flood Control and Water Conservation District (County). Representative Board Members from the District have been conducting outreach to these agencies with the goal of reaching formal agreements granting access to the facilities. A list of steps the District has undertaken is outlined below.

1. District Resolution in Support of Underground Storage Project and Water Right Applications

On July 24, 2024 Shandon San Juan Water District approved a formal resolution in support of taking all necessary steps to secure access to facilities needed to support and complete its recharge projects in the Paso Robles Subbasin in an effort to meet the goals and objectives of the Groundwater Sustainability Plan.

2. District outreach with Public Agencies

a. July 9, 2024 meeting with City of San Luis Obispo

At a July 9 meeting with two District Board members and staff from the City of San Luis Obispo regarding the District's application for water from the Salinas at the Salinas Dam, City staff expressed appreciation for the clarification provided on the project. City Staff emphasized that their primary concern is that the District's

project not impair the City's prior water rights in any way, such as reducing late season surface flows in the Salinas between the dam and the confluence with the Nacimiento. While none of us could identify how this might be possible, we agreed this issue could probably only be resolved to the satisfaction of the City through a study. It was also discussed that if the District's application resulted in more water in the Paso Basin, the draw of water away from the Salinas surface flow might be reduced, thereby extending the period of time when the City could store water. This possibility would logically be addressed in the same study, which the District will pursue.

The Corps has leased operation of the dam to the County for the benefit of the City. The City has existing water rights for 45,000 acre-feet of storage (the Salinas Dam currently only stores under 24,000 acre-feet). The Salinas Dam is not a designated flood control facility and the Corps is currently investigating the feasibility of transferring ownership to the City or County, both of which are investigating the installation of spillway gates to increase the capacity of the dam to about 45,000 acre-feet and a dam retrofit to meet seismic safety requirements.

At the July 9th meeting, the City staff specifically expressed their desire to be collaborative with regard to water management throughout the County, recognizing its significant role in the Paso Basin's efforts to achieve sustainability. However, City staff stated that they were not comfortable with the legal risks associated with making any public statements in the near future regarding the District's application.

b. July 18, 2024 meeting with San Luis Obispo County Supervisors and Staff

On July 18, 2024, two board members of the Shandon-San Juan Water District (District) met with two County Supervisors and six County staff members invited by those supervisors to review and discuss the District's two water rights applications. After the District representatives explained the history of making the applications and the intent that the supplemental water help address the need to bring the Paso Basin into sustainability under SGMA, there were questions for clarification. Following that, County staff expressed its feeling that the City of San Luis Obispo was a key interested party and that the County would need to include the City in all its decision making. Notwithstanding that, County staff also expressed the opinion that supplemental water from the District's applications would benefit the Paso Basin and help meet the requirements of SGMA.

One Supervisor expressed the opinion that these applications were consistent with the blended treated wastewater reuse projects of the cities of Paso Robles and San Luis Obispo that were to help meet the local Groundwater Sustainability Plans and "needed to happen". Both the Supervisors and staff expressed a desire that the County, City and District schedule a joint meeting with the State Water Resources Control Board staff to explain concerns and make sure State staff thoroughly understood what each party's issues were in order for the District's applications to ultimately be approved.

County staff reported at the July 18th meeting that the Corps has repeatedly expressed a strong desire for the Salinas Dam to be transferred to a local governmental entity, presumably the County or the County Flood Control and Water Conservation District (governed by the Supervisors). The County met with the Corps in March of 2024 and described the meeting as "positive" and "fruitful" for the transfer of ownership but following that the Corps was unresponsive to further County inquiries. Staff changes at the Corps were believed to be a major reason for the lack of responses, but County staff remain confident that the transfer will eventually go through.

Another issue raised by one Supervisor at the July 18th meeting was the concern about who might retain ownership of the supplemental water. The District explained that the applications intend that the water diverted would be the first water extracted, so there would be no water from the applications remaining in the Paso Basin at the end of a year. This appeared to satisfy the Supervisor, subject to confirmation at a later date.

At the end of the July 18th meeting with the County, it was agreed that the County would next work to set up a meeting with the District and City officials to continue this dialog. That would then be followed by a request to meet with SWRCB staff. The Supervisors appeared willing to revisit the County's letter of opposition to the District's applications in the near future, as the Board membership has changed since the letter was adopted. One Supervisor stated that the District's applications needed "to go through" at this point in order to provide adequate time for the key parties, including all the GSAs, to collaboratively work through the applications and other opportunities for supplemental water, included treated wastewater, State Water Project water and expanding the Salinas Dam.

3. District Outreach with Landowners

The District has conducted some outreach with local landowners and received a letter of support from a local landowner whose property is adjacent to one of the sites that has been identified for groundwater recharge associated with Application A033190. The owner has provided a letter of support as well as stated he is willing to enter into an agreement with the District granting access to his right-of-way as well as his property for purposes of constructing necessary facilities to divert storm flows for recharge. While this agreement is specific to A033190 the District is committed to reaching similar agreements with landowners and other interested parties to seek consensus and cooperation with its efforts to secure supplemental water for the Paso Robles Subbasin.

4. Legal Options to Obtain Access

If cooperation does not eventually result in permissive access, our Board will rely upon the letter dated July 2, 2024 from our legal counsel Alan Doud regarding authority to access to Nacimiento Reservoir and Pipeline, including Regulation § 775 (Right of Access Over Lands Not Owned by Applicant) provides that, "When the owner will not consent, the board may require satisfactory evidence of the applicant's ability through condemnation proceedings or otherwise to secure the necessary right of access before the application will be approved."

Since the Corps does not operate the Salinas Dam and does not have retained flood control authority, and since the authority over the dam is reasonably expected to be transferred to local authority, the District does not need to exercise powers of condemnation against the Corps.

The Shandon-San Juan Water District is a California Water District (Water Code Sections 34000 *et seq.*) and as such has the ability through condemnation proceedings to secure the necessary right of access. Under section 35407, a District may commence and maintain any actions and proceedings to carry out its purposes or protect its interests and may defend any action or proceeding brought against it. That includes, under sections 35600 and 35627, actions to condemn interest in real property using the

District's power of eminent domain. The District has the authority to condemn property even if it is already dedicated to a public use. (CCP § 1240.510).

Furthermore, under California Water Code section 1810 et seq., commonly referred to as the Wheeling Statutes, public agencies are prohibited from making unused capacity within their conveyance systems unavailable to others, subject to payment of fair compensation of such use. Conveyance systems include facilities that provide for temporary storage of the water to be conveyed. Therefore, pursuant to the Wheeling Statutes, the County and City would be required by California law to accommodate the District's need to move water through Salinas Dam facilities to transfer the water that is the subject of the District's permit.

Based on the foregoing the District has the ability to secure the necessary right of access as required by Regulation §775. Notwithstanding the legal authorities outlined above that would compel access to the Salinas Dam facilities, the District is committed to acquiring access through outreach and negotiations. Also, notwithstanding the County's letter of opposition, the District believes that changes in the members of the Board of Supervisors will eventually result in the withdrawal of that opposition. That opinion is based on earlier meetings of District Board members with each of the current Supervisors. The District believes that there will be opportunities for the District, County and City to work together to improve facilities and share expenses to their mutual benefit. In that same spirit of cooperation, both the City and County have expressed interest in the District eventually participating financially in the installation of the Salinas Dam gates and sharing in the increased availability of stored water.

While the deadline for acceptance of the District's applications is less than a week away, we conclude that all parties are now committed to continue working together on a variety of solutions to the Paso Robles Groundwater Basin sustainability issues, including our efforts to secure unappropriated water from the Salinas and Nacimiento watersheds.

Sincerely,

Willy Cunha
Chairman

Attachments: July 24, 2024 Shandon-San Juan Water District Resolution
July 2, 2024 Letter from Alan Doud
July 9, 2024 Letter from Jon & Samantha Cagliero
Cagliero map – property – easement- Welsona Road

Cc: Diane Wagner