



State Water Resources Control Board



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CLOSING BRIEF OF DIVISION OF WATER RIGHTS PROSECUTION TEAM IN THE MATTER OF HEARING ON ADMINISTRATIVE CIVIL LIABILITY NO. 262.5-46 AND DRAFT CEASE AND DESIST ORDER NO. 262.31-XX AGAINST NORTH SAN JOAQUIN WATER CONSERVATION DISTRICT

I. INTRODUCTION

This matter comes before the State Water Resources Control Board (State Water Board) based on Administrative Liability Complaint (ACL) No. 262.5-46 and proposed Cease and Desist Order (CDO) 262.31-XX against North San Joaquin Water Conservation District (District).

The Division of Water Rights Prosecution Team (Prosecution Team) presented evidence at the hearing on June 21, 2007. This evidence showed that the District was diverting water while in violation of terms 15¹ and 23² of its permit and that the ACL amounts were calculated in a reasonable manner.

II. FACTS

The State Water Board issued Permit 10477 to the District on July 3, 1956. The State Water Board amended the permit in 1992. Among other changes, the Board added terms 15 and 23. These terms were the result of a stipulated agreement between the District, the Department of Fish and Game (DFG), California Sportfishing Protection Alliance, and East Bay Municipal Utility District (EBMUD). (DFG-8.) The agreement resolved protests against the District's 1991 petition for extension of time.

On February 2, 2006, staff from the Division of Water Rights conducted an inspection of the District's facilities. During that inspection, staff discovered that the District was diverting water, but did not have fish screens installed and did not have a bypass flow agreement with

¹ Permit term 15. No water shall be diverted under this permit during the 1992 or subsequent water years, until the permittee has constructed screening facilities adequate to protect fishlife and/or has entered into an operating agreement with the Department of Fish and Game that will protect fishlife.

² Permit term 23. No diversion shall be made under this permit until an agreement has been reached between the permittee and the State Department of Fish and Game with respect to flows to be bypassed for aquatic life; or failing to reach such agreement, until a further order is entered by the State Water Resources Control Board or its successor with respect to said flows.