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October 8, 2024

VIA E-MAIL AND U.S. MAIL

State Water Resources Control Board
Division of Water Rights
Attn: Erik Ekdahl, Deputy Director
P.O. Box 2000
Sacramento, CA 95812-2000
Erik.Ekdahl@waterboards.ca.gov

Re: Opposition to Shandon-San Juan Water District Amended Applications to Appropriate Water A033189 and A033190

Dear Mr. Ekdahl,

It has come to the attention of the County of Monterey ("County") and the Monterey County Water Resources Agency ("MCWRA") that the Shandon-San Juan Water District/Shandon-San Juan Groundwater Sustainability Agency ("Shandon") recently filed with the State Water Resources Control Board ("SWRCB") amended water rights applications A033189 and A033190 to appropriate water from the Nacimiento and Salinas Rivers. Materials submitted with the two applications indicate that Shandon may be contemplating the commencement of an action against MCWRA to condemn rights of access to Nacimiento Reservoir.

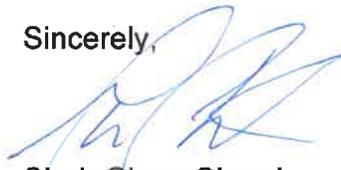
On behalf of the County and MCWRA, I am submitting this letter to reiterate the County and MCWRA's opposition to Shandon's applications, as expressed in our letter of May 25, 2021. The County and MCWRA have serious concerns with the two applications, and do not believe Shandon adequately addresses the applications' deficiencies. Importantly, MCWRA owns and operates Nacimiento Reservoir and does not consent to Shandon's proposed use of Nacimiento Reservoir. Also, MCWRA fully utilizes its water rights (License 7543 and Permit 21089) for Nacimiento Reservoir and intends to continue this use for the benefit of more than a quarter-million people living in communities downstream of the confluence of the Salinas River. Lastly, portions of the Salinas Valley Groundwater Basin are in critical overdraft and increased diversions on the Nacimiento and the Salinas River will impact senior water right holders and riparian users.

Additionally, it is the County and MCWRA's firm position that Shandon has no ability to condemn rights to use the land and facilities described above. Nacimiento Reservoir and its associated water diversion and conveyance facilities, and related public works, are critically important to the citizens of Monterey County. The subject land and facilities provide essential flood control benefits and beneficial uses of water for irrigation, environmental and domestic use. Under the present facts and circumstances Shandon simply cannot satisfy the legal requirements for condemnation of facilities already dedicated to a public use. (See Code Civ. Proc. §§ 1240.510, 1240.610; *San Bernardino County Flood Control Dist. v. Superior Court* (1969) 269 Cal.App.2d 514, 520, 523-525 [court finds water district could not condemn beds and banks of watercourses for spreading and storing waters of the watercourses because the use was incompatible with and not "more necessary" than a flood control district's flood control project to line the watercourses with concrete].) Therefore, Shandon cannot satisfy the requirements of Cal. Code Regs., tit. 23, § 775 regarding the establishment of access rights in relation to a water right application.

The unlikelihood of legal success and the fact that the entirety of storage space available in Nacimiento Reservoir and use of its associated public works is utilized by a quarter-million people living in communities downstream of the confluence of the Salinas River who have paid for its construction, maintenance, and operation for over 65 years, makes the applications by Shandon more than a mere distraction, but a potentially significant waste of public resources. While we appreciate the challenges the Sustainable Groundwater Management Act has presented to many regions throughout California, including in Monterey County, it is inappropriate for Shandon to place new burdens on others that have in no way contributed to the problems it now faces.

In light of the foregoing, the County and MCWRA respectfully request that the Division of Water Rights decline to process amended applications A033189 and A033190. Please contact the undersigned if you wish to discuss this matter or if I can provide any additional information.

Sincerely,



Chair Glenn Church
Board of Supervisors of the County of Monterey
Board of Supervisors of the Monterey County
Water Resources Agency

cc: Ara Azhderian, Monterey County Water Resources Agency
Kelly Donlon, Monterey County Water Resources Agency
Kevin O'Brien, Downey Brand LLP
Willy Cunha, Shandon-San Juan Water District Board President
Greg Brown, State Water Resources Control Board
Mike Conway, State Water Resources Control Board