

Surface Irrigation water use as required by "TRUST" from "DISTRICTS" permissive use of property is critical to halt and prevent the overdraft of ground WATER AQUIFERS IN the Merced County GROUNDWATER BASIN AND hopefully reverse the overdraft if favorable hydrological conditions will exist in the next (50) fifty years.

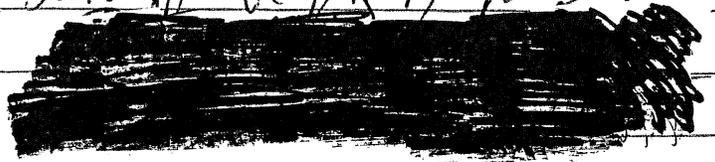
Therefore I'm requesting the CALIFORNIA DEPT. OF WATER RESOURCES to include Recorded Document 2016-006325 in the "DRAFT Emergency Regulations" as "DISTRICTS" compliance with this document would aid in restoring ground water levels in the EL Nido area of the MERCEY GROUND BASIN under favorable hydrological conditions during the next (50) fifty years.

enclosures

1. Document 2016-006325
2. "REF. #1"
3. "REF. #2"
4. "REF. #3"
5. "REF. #4"

DATED MARCH 20, 2016. Very Truly Yours.

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**MERCED IRRIGATION DISTRICT
UNAPPROVED MINUTES
February 2, 2016**

The Board of Directors of the Merced Irrigation District met on the above date, pursuant to notice, at 10:00 A.M. at Merced City Civic Center.

PLEDGE OF ALLEGIANCE

Roll call showed the following Board members present:

Directors:

Scott Koehn	<i>Vice President – Division 2</i>
Dave Long	<i>President – Division 3</i>
Billy Pimentel	<i>Division 5</i>

The following Director had an excused absence:

Jeff Marchini	<i>Division 1</i>
Kevin Gonzalves	<i>Division 4</i>

The following MID Employees were also present:

General Manager	John Sweigard
General Counsel	Phillip McMurray
Deputy General Manager, Water Rights/Supply	Hicham Eltal
Deputy General Manager, Water Resources	Bryan Kelly
Deputy General Manager, Energy Resources	Don Ouchley
Chief Financial Officer	Brian Stubbett
Director of Administrative Services	Jennifer Carter
Director of Parks and Recreation	Bret Theodozio
Public and Government Relations Officer	Mike Jensen
Information Technology Technician	Mike Howells
Executive Assistant to General Manager	Crystal Guintini

CORRECTIONS OR ADDITIONS TO THE AGENDA

General Counsel McMurray requested the Board to add one (1) item of anticipated litigation pursuant to Government Code Section 54956.9(d)(2 and 4). The Board unanimously approved the addition to the agenda.

PUBLIC COMMENT

Mr. Anthony Roggero shared a rock that was found in a well on his property. Mr. Roggero thanked Director Koehn for discussing the canal ownership issue with him; Mr. Roggero indicated his intention to file an amended document with the County recorder's office.

2nd / Amended Document 2016-006325
Executed 2/26/2016
Attached "Ref." 1-4 INCLUDED

Conditions of Permissive Use

1.) In using "Trust" property "District" shall not alter, change nature, character and volume of use, and shall not damage, remove, repair, reconfigure, reconstruct any present or future fixtures, trees, plants, located or placed outside, over, across or under existing 12' wide canal channel belonging exclusively to "Trust". "Trust" and or their tenants shall maintain the 12' wide canal channel to prevent any restriction of water flows under permissive use by "District". "District" shall have permission to maintain approximately 1800' of the existing canal channel from the west property boundary along the almond orchard, without disturbing the roadway on the south boundary of the existing 12' wide canal channel in any manner whatsoever.

2.) "Scenario 1" – "REF. 1, 2, & 3" under the terms of "REF.1" "District" shall provide surface Irrigation water to "Trust" under water year types of wet above normal, below normal, and dry with carryover storage in Lake McClure with measured or recorded daily 24 hr storage from April 10th to April 15th of each calendar year subject to Table "1" "REF. 2 & 3" Lake Storage McClure April 10th – 15th Seasonal Maximum Trust

- TABLE "1"**
- (A) $\geq 450,000$ AC ft. - 700 AC ft. / Season
 - (B) $> 350,000$ AC ft. - 560 AC ft. / Season
 - (C) $> 275,000$ AC ft. - 490 AC ft. / Season

The "District" Board of Directors shall be bound to Scenario "1" under California Law & Oath of Office.

"Scenario 2"

2.) "If And Only If" under dry or critical dry water year types as per "REF. 1" and Lake McClure water daily measured or recorded storage $\leq 275,000$ Acre feet during dates of April 10th – 15th of each calendar year shall "District" provide a reduced supply of surface irrigation water to "Trust" property as a condition of water permissive use. The surface water provided to "Trust" property shall be equal to (50) fifty percent of "District" Board of Directors allocation made available to "District" parcels using surface water before 2004 for each water season under "Scenario 2" conditions.

3.) Mariposa Creek water – "REF. 4" under evidence contained in "REF. 4", "District" shall provide surface irrigation or recharge water to "Trust" property from on or about February 1st to April 20th of each calendar as per water License 6032, and 9129 issued by DWR. As further evidenced and contained in "REF.4", "District" shall not increase the cost of Mariposa Creek water to "Trust" above \$20.00 per acre foot for the next (50) fifty years beginning in 2016.

Right to Modify Adjust

4.) "Trust" reserves the right to modify, adjust, and or clarify conditions or terms contained in paragraph 1-3 of permissive use of "Trust" property by "District". "Trust" shall provide "District" any changes or modifications during the dates of April 15th to May 15th of each calendar year by Certified Mail during the next (50) fifty years.

5.) The conditions of permitted use of "Trust" property by "District" shall only be subject to all conditions contained in the four corners of this recorded document. "District" shall honor and follow ALL conditions of permissions of use under California Law and California Statutes.

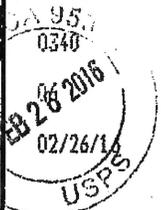
6.) "Trust" is granting consent permissively only and such consent may be revoked at anytime in accordance with the provisions of Civil Code Section 813.

Executed on this 26th day of February, 2016 in the city of Merced, County of Merced, State of California.



RR15383911709

Date Stamp



To Be Completed By Post Office	Reg. Fee	\$1.20	
	Handling Charge	\$12.20	Return Receipt \$0.00
	Postage	\$2.80	Restricted Delivery \$0.00
	Received by	\$0.00	
		\$0.00	\$16.20

Customer Must Declare Full Value \$ **\$0.00**

Domestic Insurance up to \$25,000 is included based upon the declared value. International indemnity is limited. (See Reverse).

OFFICIAL USE

To Be Completed By Customer (Please Print) All Entries Must Be in Ballpoint or Typed	FROM	[Redacted]
	TO	MERCED INVESTIGATION DISTRICT 744 W. 20th Street MERCED, CA 95344-0289

PS Form 3806, Receipt for Registered Mail Copy 1 - Customer
 January 2014 (7530-02-000-9051) (See Information on Reverse)
 For domestic delivery information, visit our website at www.usps.com®

U.S. Postal Service
 Merced, California
 953409998
 0566760340-0099
 02/26/2016 (800)275-8777 04:30:59 PM

Sales Receipt		
Product Description	Sale Unit Qty Price	Final Price
MERCED CA		\$1.20
First-Class mail Large Env 1.40 oz.		
Expected Delivery: Mon 02/29/16		
@@ Registered Mail		\$12.20
Insured Value:	\$0.00	
Article Value:	\$0.00	
USPS Registered Mail #:		
Return Receipt Label #:		\$2.80
Issue Postage:		\$16.20
Total:		\$16.20
Paid by:		
Cash		\$20.00
Change Due:		-\$3.80

@@ Text your tracking number to 28777 (2USPS) to get the latest status. Standard Message and Data rates may apply. You may also visit USPS.com USPS Tracking or call 1-800-222-1811.

 BRIGHTEN SOMEONE'S MAILBOX. Greeting cards available for purchase at select Post Offices.

** Save this receipt as evidence of insurance. For information on filing an insurance claim go to <https://www.usps.com/help/claims.htm>.

Order stamps at usps.com/shop or call 1-800-Stamp24. Go to usps.com/clicknship to print shipping labels with postage. For

DRAFT LICENSE ARTICLES

I. ADMINISTRATIVE ARTICLES

Article 2XX. Administrative Annual Charges. The licensee must pay the United States annual charges, effective the first day of the month in which the license is issued, and as determined in accordance with provisions of the Commission's regulations in effect from time to time, for the purposes of:

(a) reimbursing the United States for the cost of administration of Part I of the Federal Power Act. The authorized installed capacity for that purpose is 101.25 megawatts.

(b) recompensing the United States for the use, occupancy, and enjoyment of 3,154.9 acres of its lands (other than for transmission line right-of-way).

Article 2XX. Exhibit Drawings. Within 45 days of the date of issuance of this license, as directed below, the licensee must file two sets of the approved exhibit drawings, form FERC-587, and GIS data in electronic file format on compact disks with the Secretary of the Commission, ATTN: OEP/DHAC.

(1) Digital images of the approved exhibit drawings must be prepared in electronic format. Prior to preparing each digital image, the FERC Project-Drawing Number (i.e., P-2179-1001 through P-2179-####) must be shown in the margin below the title block of the approved drawing. Exhibit F drawings must be segregated from other project exhibits, and identified as **(CEID) material under 18 CFR §388.113(c)**. Each drawing must be a separate electronic file, and the file name must include: FERC Project-Drawing Number, FERC Exhibit, Drawing Title, date of this license, and file extension in the following format [P-2179-####, G-1, Project Boundary, MM-DD-YYYY.TIF].

Each Exhibit G drawing that includes the project boundary must contain a minimum of three known reference points (i.e., latitude and longitude coordinates, or state plane coordinates). The points must be arranged in a triangular format for GIS georeferencing the project boundary drawing to the polygon data, and must be based on a standard map coordinate system. The spatial reference for the drawing (i.e., map projection, map datum, and units of measurement) must be identified on the drawing and each reference point must be labeled. In addition, each project boundary drawing must be stamped by a registered land surveyor. All digital images of the exhibit drawings must meet the following format specification:

"Ref. #1" 3 pages

each plan with the Commission. If the licensee does not adopt a recommendation, the filing must include the licensee's reasons, based on site-specific information.

The Commission reserves the right to require changes to each plan. Upon Commission approval, the licensee must implement each plan, including any changes required by the Commission.

Article 4XX. Ramping Rates. For all controllable flows above 200 cubic feet per second, the licensee must restrict the rate of change of releases from McSwain dam during any 1-hour period to not more than double the release from the reservoir at the start of the 1-hour period for upramping and not less than one-half the amount of controlled release from the reservoir at the start of the 1-hour period for downramping.

Article 4XX. Water Year Determination. Within 90 days of license issuance, the licensee must implement the process for determining water year type for instream flow allocations described in this license article. Water year determinations shall be based on the Merced 60-20-20 Index (Index). This method relies on published forecasts of unregulated runoff in the Merced River below Merced Falls in February, March, April, and May from the California Department of Water Resources (California DWR) in the San Joaquin River Water Year Forecast Breakdown and in Bulletin 120, Report of Water Conditions in California. The Index is calculated, in units of thousands of acre-feet, using monthly observed and forecasted unregulated runoff in the Merced River as:

Index = 0.6 X current water year April through July unimpaired runoff + 0.2 X current water year October through March unimpaired runoff + 0.2 X minimum of: (1) previous water year Index or (2) 675 (thousands of acre-feet)

The Index is used to determine the resulting water year based on the following numerical breakpoints, in thousands of acre-feet.

- Wet \geq 650
- Above Normal > 530
- Below Normal > 420
- Dry > 360
- Critically Dry \leq 360

California DWR's forecast for the first of February, March, and April will apply from the 15th day of each forecast month through the 14th day of the next month. In February, March, and April, a 75 percent exceedance forecast shall be used for the current water year April through July and current year October through March unimpaired runoff.

California DWR's forecast for the first of May will apply from the 15th of May through the 14th of February of the following water year. In May, a 50 percent exceedance forecast shall be used for the current water year April through July unimpaired runoff. Observed unimpaired runoff shall be used for the current water year October through March unimpaired runoff.

Article 4XX. Minimum Flow Releases from New Exchequer Dam. The licensee must maintain a minimum flow of 25 cubic feet per second at all times downstream of New Exchequer dam through the existing fixed orifice pipe used to deliver such flows in the past.

Article 4XX. Minimum Flow Releases from Crocker-Huffman Diversion Dam. The licensee must release flows from McSwain dam such that the minimum flows in table 1 are maintained at the U.S. Geological Survey gage 11271290 at Shaffer Bridge.

Article 4XX. Fall Pulse Flow Releases. The licensee must provide for a fall pulse flow release of 1,000 cubic feet per second during October or November until a total volume of 12,500 acre-feet is released. This total volume must not include the volume of water associated with the minimum flow specified in Article 4XX. The exact timing of the beginning of the release must be determined by the technical advisory committee specified in California State Water Resources Control Board condition no. 1 and Bureau of Land Management condition no. 1.

Article 4XX. Spring Pulse Flow Releases. The licensee must provide a spring pulse flow release of a total volume of 30,000 acre-feet during wet water years, 20,000 acre-feet in above normal water years, 15,000 acre-feet in below normal water years, 10,000 acre-feet in dry water years, and 5,000 acre-feet during critically dry water years, as determined in accordance with Article 4XX. This total volume must not include the volume of water associated with the minimum flow specified in Article 4XX. The releases during wet, above normal, and below normal water years must be configured to consist of flows equal to or above 1,000 cubic feet per second (cfs) for up to a total of 9 days in wet water years, 7 days in above normal water years, and 6 days in below normal water years, and peak flows holding for 2 days, with a gradually descending hydrograph. The time needed to reach the 1,000 cfs threshold at the beginning of the pulse flow and to downramp from 1,000 cfs to the required minimum flow must not be included in the designated days over 1,000 cfs. The total volume attributed to the pulse flow must take into account flows from the onset of upramping to the return to the designated minimum flow and must not include the volume attributed to minimum flows that would have been in place in the absence of the pulse flow. The configuration of all releases (i.e., the targeted flows to be released on each day) and the exact timing of the beginning of the release must be determined by the technical advisory committee specified in California State Water Resources Control Board condition no. 1 and Bureau

[REDACTED]

JULY 10, 2012

TO - Brian Kelly P.E. Director of Regulatory Affairs
Subject - M.I.D. Ferc Relicensing Process # 2179

- 1) Through direct conversation with you and personal observation of the Ferc meeting on June 28, 2012, I'm concerned regarding M.I.D.'s ability to continue to supply surface irrigation water in the same manner as in the last (9) nine years (2004 - 2012) to [REDACTED] TRUST Property in the EL NIDO DISTRICT OF M.I.D.
- 2) ATTACHED hereto as "Exhibit 1" is a copy of "ORDER WR 2007-0024 - DWR with comments from ANTHONY M. ROBBERO, or on page 4 & 5 of this document. It should be noted that this document provides the specific usage in acre feet of surface water utilized by [REDACTED] TRUST as per "Implied Agreement" made by M.I.D. DISTRICT Representatives and EL NIDO Shareholders LANDLORDS AT TOWN HALL MEETING IN MARCH of 2004 before accepting consolidation by Prop 218 vote in April of 2009, by (YES or NO) ballot procedure.

Page 1 of (2) "Rel. #2" 10 pages Total
ORDER WR 2007-0024 DWR - 8 pages

3.) I'm requesting a "Written Response" by you within (15) fifteen days of receipt of this letter by "HAND DELIVERY" to MAIN office of M.F.D. Addressing my following concerns.

4) Will the proposed "Amended License" mentioned in the FERC meeting of June 28th 2012, restrict limit or impact the surface supply to [REDACTED] TRUST Property as described in "Exhibit 1" in YEARS other than the "critical (dry^{YEAR} of 2008) i.e. low storage carryover and below normal snow pack conditions following the 2007 YEAR. PLEASE NOTE 2007 supply was NOT restricted limited or impacted to [REDACTED] TRUST Property.

5) I'm of the opinion that specific historical surface water use ~~should be~~ of [REDACTED] Property should be included in the records of FERC Proceedings - PLEASE ADVISE OF THE proper procedure to present my concerns on the records. My belief is that Agricultural surface water interests in "specific numbers" should be right alongside present environmental concerns and interests to increase releases in the Merced River before FERC Relinquishing proceeds further.

6) FAILURE TO Respond to my concerns within (15) fifteen days of receipt of this letter MAY cause me to write directly to Honorable Sec. BOESE or Jewellers WATTS to request assistance in Addressing my issues in future FERC Proceedings before an "Amended License" is submitted by M.F.D.

PAGE 2 of (2) / COPY TO DIRECTOR Pedretti

Yours Very Truly,

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER WR 2007-0024-DWR

IN THE MATTER OF LICENSE 2685 (APPLICATION 1224)
MERCED IRRIGATION DISTRICT
ORDER APPROVING TEMPORARY CHANGE
IN PLACE OF USE AND TRANSFER OF 5,000 ACRE-FEET OF WATER

SOURCE: Merced River
COUNTY: Mariposa and Merced

ORDER APPROVING TEMPORARY CHANGE IN PLACE OF USE AND TRANSFER OF 5,000
ACRE-FEET OF WATER BY THE CHIEF OF THE DIVISION OF WATER RIGHTS

1.0 SUBSTANCE OF PETITION

On March 27, 2007,

Merced Irrigation District
744 West 20th Street
Merced, CA 95344-0288

filed with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) a Petition for Temporary Change pursuant to Water Code Sections 1725 through 1732. If approved, the Merced Irrigation District (District) would temporarily increase their licensed place of use. Temporary changes under Water Code section 1725 may be effective for a period of up to one year.

1.1 Description of the Transfer The District proposes to transfer up to 5,000 acre-feet (af) of stored water under its License 2685 to irrigate land that is currently not included as a place of use under the license.

The District is petitioning to add to the place of use covered by License 2685 (Application 1224) in order to supply previously stored surface water to agricultural lands located near the District's boundaries. The lands participating in this temporary transfer include those involved in the new organization known as the Merced County Sphere of Influence Water Users Association (SOI Water Users), which are all located within Merced County. The majority of the SOI Water Users have historically received surface water from the District during years that the District's Board of Directors determine water is available under the District's pre-1914 appropriative right claims provided that adequate natural flow is available from the Merced River. During months when surface water is not available under the pre-1914 appropriative right claims for delivery to the SOI Water Users, the individual landowners meet their demands through alternate supplies, such as groundwater.

REF. 2"
See pgs. 4 & 5

~~Exhibit~~

In the absence of the proposed temporary change, the water would be used on land within the District boundaries.

1.2 Place of Use Under the Proposed Transfer SOI Water User lands (as shown on a map submitted with the petition titled *Proposed Addition to Place of Use*, dated March 27, 2007) will be temporarily added to the place of use of License 2885. The SOI Water User lands include a net area of 39,066 acres within a gross area of 71,130 acres.

1.3 Groundwater Substitution The District has proposed a groundwater exchange pumping program to ensure that the proposed transfer will not cause an increase in consumptive use of water from the Merced River. The groundwater exchange pumping program involves the delivery of water pumped from the District's groundwater wells into the District's adjacent conveyance facilities and exchanging a like amount of surface water for delivery to SOI Water Users, up to 5,000 af.

Water Code section 1732

Water Code section 1732 requires that petitioners for temporary transfers shall not initiate or increase the use of groundwater to replace surface water transferred except in compliance with Water Code section 1745.10 or 1745.11. Water Code section 1745.10 requires that petitioners may only use groundwater for surface water replacement when the groundwater use is consistent with a groundwater management plan adopted pursuant to any state law for the affected area.

The District adopted a Groundwater Management Plan (GWMP) dated January 7, 1997. In addition, the District adopted a Memorandum of Understanding with other local agencies to create an association known as the Merced Area Groundwater Pool Interests (MAGPI), in order to develop a groundwater management plan for the Merced groundwater basin. The Groundwater Management Plan for the Merced Groundwater Basin was approved in December 1997.

According to the GWMP, to ensure that local and regional water needs are reliably met, the District utilizes conjunctive use management practices. To that end, the GWMP contains information specific to conjunctive use measures for the SOI Water Users. The conjunctive use operation proposed with this transfer will allow the District to pump groundwater at a lower pumping head as compared with the groundwater wells utilized by the majority of the SOI landowners. Providing 5,000 af of surface water to the SOI Water Users will result in a net 5,000 af reduction in groundwater pumped from the SOI aquifers. This transfer implements the conjunctive use proposals included in the GWMP, and therefore complies with Water Code section 1732.

Potential impacts to surface water

The District wells proposed for groundwater exchange pumping in this temporary transfer are located throughout its service area. The Department of Water Resources (DWR) previously approved use of the wells for groundwater substitution related to the District's 2001 transfer of 25,000 af to the CalFed Environmental Water Account. DWR's approval was based on the fact that pumping from these wells would not impact the surface water system. Under this transfer, the District will only be using wells previously approved by DWR for groundwater substitution.

2.0 BACKGROUND

2.1 Substance of the District's License

Original Water Rights under License 2685

License 2685 was issued to the District on August 11, 1944, pursuant to Application 1224. License 2685 allows the direct diversion of 1,500 cubic feet per second (cfs) of water from the Merced River from about March 1 through about October 31 of each year. License 2685 also allows the diversion from the Merced River to storage of 266,400 af per annum (afa) from about October 1 of each year to about July 1 of the succeeding year.

The point of diversion is at the New Exchequer Dam on Lake McClure. There are also two points of diversion downstream of New Exchequer Dam – Merced Falls Diversion Dam for the North Side Canal and Crocker-Huffman Diversion Dam for the Main Canal. Water diverted through the North Side Canal and the Main Canal is used for irrigation and domestic purposes on 164,395 gross acres within the boundaries of the District.

Modified Water Rights under License 2685

Effective February 16, 1995, License 2685 was modified from its original conditions to allow the direct diversion of 5,000 afa of water from the Merced River at a rate not to exceed 7 cfs from November 1 of each year to February 29 of the following year for municipal use in the Mariposa Town Planning Area. Storage under License 2685 is reduced in the amount of water diverted to the Mariposa Town Planning Area, up to 1,687 afa. Combined maximum direct diversion and storage under License 2685 cannot exceed 345,440 afa. The point of diversion for the water delivered to the Mariposa Town Planning Area is located approximately 40 miles upstream of New Exchequer Dam.

License 2685 was further amended effective June 20, 2003 to include an additional point of diversion and modify the place of use resulting from the District's consolidation with the El Nido Irrigation District. The new point of diversion downstream of New Exchequer Dam is on Duck Slough. Water diverted through Duck Slough is used for irrigation purposes on 9,418.6 acres within the boundaries of El Nido Irrigation District.

3.0 PUBLIC NOTICE AND COMMENT TO THE PROPOSED TRANSFER

Public notice of the petition for temporary change was provided April 2, 2007 on the Division's internet site and via regular mail and email to interested parties and by publication in the Merced Sun-Star on April 9, 2007 and the Mariposa Gazette on April 12, 2007. Timely comments regarding the proposed temporary change were submitted by the following: [redacted] U.S. Bureau of Reclamation (USBR), Angiers Committee, and the California Department of Water Resources (DWR).

Comments of [redacted]

[redacted] opposed the proposed temporary change based on the following claims:

1. Downstream fisheries have been negatively impacted due, in part, to the District's historical diversions under License 2685, and this transfer may increase diversions on the Merced River and thereby further impact downstream fisheries.
2. The District has obtained other temporary transfers in the past several years. Therefore, these transfers could represent a permanent transfer that would circumvent the normal environmental analyses necessary for permanent changes to water rights.
3. The temporary transfer should comply with California Fish and Game Code sections 5935 and 5937.

State Water Board response:

1. When considering a petition for temporary transfer, the State Water Board does not re-evaluate previously issued permits and licenses. This transfer does not include any new points of diversion or any increase in the District's historical diversions under License 2685. There will be no net increase in diversion from the Merced River because the District must offset the 5,000 afa of transfer on a one-for-one basis with additional groundwater pumping. Therefore, there will be no downstream effects from the proposed temporary transfer relative to water quality or instream flows. No further action is needed on this issue.
2. Although the District has recently engaged in other transfers, this is the first time the District has filed a petition to temporarily include the SOI Water Users lands in the place of use of

License 2685. Under Water Code section 1732, if the State Water Board concludes that the petitioner has not exercised due diligence in petitioning for a long-term change, the State Water Board must disapprove a temporary change. Should the District determine that it will need to regularly supply water to the SOI Water Users, the District will need to file a petition for a long-term change to License 2685.

3. The transfer involves the exchange of groundwater and surface water supplies not a new mode of operating a dam. No further action is needed.

Comments from Stevinson Water District, et al.

Stevinson Water District, the James J. Stevinson Corporation, and the East Side Canal and Irrigation Company (collectively referred to as Stevinson) have numerous water rights and contracts for water on various watercourses including the Merced River. Stevinson is concerned that the proposed transfer could have an adverse impact on its various water rights, including changes in the timing and nature of return flows.

State Water Board response:

The District proposes that the quantity of water proposed for transfer will be made available by groundwater exchange pumping. Therefore, reservoir operations and surface water flows downstream of the District will be unchanged.

Comments from Anglers Committee

1. Anglers Committee believes that diversions of water from the San Joaquin River watershed, including diversions by the District, have adversely affected the San Joaquin River anadromous fisheries. The transfer of water proposed by the District will negatively impact the anadromous fisheries of the Merced River.
2. The District should formally consult with NOAA Fisheries, U.S. Fish and Wildlife Service, and California Department of Fish and Game (DFG) regarding the proposed transfer.
3. The District should have fish screens installed on all points of diversion

State Water Board response:

1. In considering a petition for temporary transfer, the State Water Board does not re-evaluate the previous issuance of a water right license or permit. This transfer does not propose to increase diversions from the Merced River over current historical diversions for consumptive use. The surface water use will be offset on a one-for-one basis with groundwater diversion. Absent a change in surface water flow, there is no unreasonable impact on fish, wildlife, or other instream beneficial uses. No further action is needed on this issue.
2. A public notice of the temporary transfer petition was sent to NOAA Fisheries, U.S. Fish and Wildlife Service and DFG. No comments were received.
3. No new diversion facilities will be used for this transfer. Therefore, there are no changes to historic operations of the diversion works.

Comments from [REDACTED]

[REDACTED] property lies within the El Nido Irrigation District, and he indicates that his property received 520 af of District water for irrigation from late April to October of 2006. In order to remain in the same condition as last year, he will need an estimated 680 af of surface water for the 2007 irrigation season because this is a dry water year. Edward Selb, Deputy General Manager of the District, indicated to [REDACTED] on April 17, 2007 that the District has adequate storage (carry-over) to serve its customers including the transfer service area. The District will not impact,

"Exhibit 1"

restrict, and/or limit supplies to growers in the El Nido District and specifically to the [REDACTED] Trust Property.

State Water Board response:

[REDACTED] Indicated that his concerns regarding the proposed transfer have been addressed by Mr. Seib's assurances that he will receive the estimated 680 af of water supply. No further action will be taken on this issue.

Comments from USBR and DWR

USBR and DWR determined that refill criteria language needed to be included in any order approving the District's proposed transfer in order to avoid impacting USBR's and DWR's downstream water rights.

State Water Board response:

Originally, the District proposed use of stored water or groundwater exchange for this transfer. Currently, the District proposes that the quantity of water proposed for transfer will be made available by groundwater exchange pumping, not water made available from storage. Reservoir operations will be unchanged. Therefore, refill criteria language is not necessary for this transfer. The State Water Board will, however, require that a like quantity of water from groundwater exchange pumping be discharged into the District's conveyance system to compensate for the water transferred under this Order.

4.0 REQUIRED FINDINGS OF FACT

4.1 No Injury to Other Legal Users of Water USBR, DWR and Stevinson Water District, et al., all commented regarding the potential impacts to their downstream water rights based on the proposed transfer. USBR and DWR requested reservoir refill criteria be included in any order approving the transfer. However, due to the fact that the District has chosen to conduct groundwater exchange pumping, it is not necessary to include reservoir refill criteria. This Order will require the use of wells previously approved for groundwater pumping exchange to ensure that the pumping does not affect the surface water system and therefore impact any other downstream water rights.

In light of the above, I find in accordance with Water Code section 1727(b)(1) that the proposed temporary transfer will not injure any legal user of the water.

4.2 No Unreasonable Effect on Fish, Wildlife, or Other Instream Beneficial Uses
In accordance with Water Code section 1729, temporary changes involving transfer of water are exempt from the requirements of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.). However, the State Water Board must consider potential impacts on fish, wildlife, and other instream beneficial uses in accordance with Water Code section 1727(b)(2).

The water available for transfer is either currently stored or will be stored in Lake McClure under the provisions of License 2685. Surface water use will be offset by groundwater exchange pumping. The District states that the SOI Water User lands currently and historically have received surface water from the District during years the Board of Directors of the District determines water is available under its pre-1914 claims, provided adequate natural flow is available from the Merced River. The SOI Water User lands historically received surface water from the District (the project) prior to the effective date of CEQA, and the project has not changed since the effective date of CEQA. On March 20, 2007 the District adopted Resolution No. 2007-11, which determined that this project is an existing facility and categorically exempt from CEQA under Title 14, California Code of Regulations section 15301, Class 1. According to the District, since the public project approval in 1929 there has been negligible, if any, expansion of place of use.

The District is required to maintain specified instream flows pursuant to State Water Board Water Right Decision 1641 and Federal Energy Regulatory Commission License No. 2179 for the Exchequer

"Exhibit 1"

Merced River Project. The flow requirements are set forth in License 2685. The District will be required to comply with the License 2685 instream flow requirements at all times while transferring water pursuant to this Order.

In light of the above, I find in accordance with Water Code section 1727(b)(2) that the proposed transfer will have no unreasonable effects on fish, wildlife or other instream beneficial uses.

4.3 Availability of Water for Transfer The water proposed for transfer in the 2007 irrigation season will be collected to storage in Lake McClure from October 1 to July 31. Under License 2685, the District can both directly divert and collect water to storage. The District will not provide water by direct diversion under License 2685 to the SOI Water User lands.

The transfer of up to 5,000 af to the SOI Water Users will be of released stored water offset by the same quantity of water discharged into the District's system via groundwater exchange pumping. The transfer will only utilize groundwater wells previously approved by DWR because use of these wells does not impact surface water systems. This will ensure there will be no net change in surface water diversion and use as a result of the transfer.

In light of the above, I find in accordance with Water Code section 1727(b)(1) that the proposed transfer involves only an amount of water that would have been consumptively used or stored in the absence of the temporary change.

5.0 STATE WATER BOARD DELEGATION OF AUTHORITY

On May 16, 2002, the State Water Board adopted Resolution 2002-0106, granting the authority to act on petitions for temporary change to the Chief of the Division of Water Rights, except where the State Water Board conducts a hearing to accept additional evidence. The State Water Board did not conduct a hearing on the petition subject to this order, and this order is adopted pursuant to the delegation of authority in Resolution 2002-0106.

6.0 CONCLUSIONS

The State Water Board has adequate information in its files to make the evaluation required by Water Code section 1727; and therefore I find as follows:

1. The proposed temporary change will not injure any legal user of the water.
2. The proposed temporary change will not unreasonably affect fish, wildlife, or other instream beneficial uses.
3. The proposed transfer involves only an amount of water that would have been consumptively used or stored in the absence of the temporary change.

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"Exhibit 1"

ORDER

NOW, THEREFORE, IT IS ORDERED that the petition filed for temporary change in the place of use under the District's License 2685 (Application 1224) to facilitate the transfer of 5,000 af of water to the SOI Water User lands is approved subject to the provisions of this Order.

All existing terms and conditions of License 2685 remain in effect, except as temporarily amended by the following provisions:

1. The transfer is limited to the period commencing on the date of this Order and continuing for one year. Only water stored in Lake McClure may be transferred. Water shall not be provided to the SOI Water User lands by direct diversion.
2. The District shall discharge an equivalent amount of water from the groundwater exchange pumping program into their conveyance system as is transferred to the SOI Water User lands. The groundwater pumping shall be in addition to the previously established level of pumping.
3. For the groundwater exchange pumping program, the District shall utilize only those wells approved by the *Agreement for the Temporary Transfer of Water from Merced Irrigation District to the Department of Water Resources*, dated July 25, 2001.
4. The place of use shall be modified to include the following area: Irrigation of 39,066 acres within a gross area of 71,130 acres as shown on a map entitled "Merced Irrigation District - Proposed Addition to Place of Use" dated March 27, 2007, filed with the Division.
5. Within 60 days of completion of the transfer, but not later than August 20, 2008, the Licensee shall provide to the Chief of the Division a report describing the use of water transferred pursuant to this Order. The report shall include a summary showing the monthly amounts of water actually transferred under this Order and the quantities pumped from groundwater to offset the transfer. The report should include the following information:
 - a. The monthly amounts of water released from Lake McClure;
 - b. The monthly amounts of water delivered to the SOI Water User lands;
 - c. The locations of the groundwater wells used for groundwater substitution as a result of this transfer and the monthly amounts of water pumped from each well;
 - d. The beginning and end of season groundwater elevations in each of the wells used for the transfer;
 - e. The District shall provide documentation showing that it has complied with item 2 above; and,
 - f. The general locations where water transferred under this Order was put to use.
6. The District shall comply with the License 2685 instream flow requirements at all times while transferring water pursuant to this Order.
7. Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this transfer and temporary change Order, including method of diversion, method of use, and quantity of water diverted are subject to the continuing authority of the State Water Board in accordance with law and in the interest of public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water. The continuing authority of the State Water Board also may be exercised by imposing specific requirements over and above those contained in the Order to minimize waste of water and to meet reasonable water requirements without unreasonable draft on the source.
8. This Order does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the

Exhibit 11

California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this temporary transfer, the licensee shall obtain authorization for any incidental take prior to commencing transfer of water. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the temporary transfer authorized under this Order.

9. I reserve jurisdiction to supervise the transfer, exchange and use of water under this Order, and to coordinate or modify terms and conditions, for the protection of vested rights, fish, wildlife, instream beneficial uses and the public interest as future conditions may warrant.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY STEVEN HERRERA for

*Victoria A. Whitney, Chief
Division of Water Rights*

Dated: June 21, 2007

WATER USAGE STATEMENT



Date: 5/13/2013
 Customer Id: [REDACTED]

WATER & POWER
 744 W. 20th Street
 P.O. Box 2288
 Merced, CA 95344-0288
 (209) 722-5761

[REDACTED]

Water Usage Report Only - Please Do Not Pay
 Contact DSO with Questions

Summary to 2012 Irrigation Season

Master Id		Allocation	2,820.00
Total Irrigated Acres	282.00	Y.T.D Ac.Ft. Used	949.28
Allocation Factor (Ac.Ft./Ac.)	10.00	Allocation Balance	1,870.74

Account Information

Account #	Field Size	Water Supply Factor	Water Supply Total	Year-To-Date Acre Feet Used	Allocation Balance
EL47-00	41.000 acres	10.00 acre feet/acre	410.00 acre feet	125.90000	284.10
EL48-00	42.000 acres	10.00 acre feet/acre	420.00 acre feet	111.20900	308.79
EL54-01	42.000 acres	10.00 acre feet/acre	420.00 acre feet	114.59000	305.41
EL54A-07	157.000 acres	10.00 acre feet/acre	1570.00 acre feet	+ 597.58000 712,150 ac.ft.	972.44

Irrigation Events for Customer ID: [REDACTED] 712,150 ac.ft

Water Events

Confirmation #	Account #	Crop	On Date	Off Date	Hours	Avg Flow (CFS)	Acre Feet
140350	EL48	Grain/Oats/Rye	03/08/12 06:00AM	03/09/12 08:00PM	38.00	2.00	5.950
155422	EL48	Corn - Silage	06/14/12 09:00PM	06/18/12 02:00AM	77.00	2.00	12.728
157998	EL48	Corn - Silage	06/24/12 08:00AM	06/26/12 11:00AM	51.00	2.00	8.430
160199	EL48	Corn - Silage	07/03/12 07:00AM	07/04/12 11:00PM	40.00	2.00	8.812
162248	EL48	Corn - Silage	07/12/12 12:30AM	07/13/12 07:00AM	30.60	2.25	5.872
163800	EL48	Corn - Silage	07/17/12 08:30AM	07/19/12 08:00AM	46.60	2.00	7.521
165602	EL48	Corn - Silage	07/24/12 12:00PM	07/26/12 02:00PM	50.00	2.00	8.264
167774	EL48	Corn - Silage	07/31/12 11:30AM	08/02/12 04:00AM	40.60	2.00	6.694
169482	EL48	Corn - Silage	08/06/12 06:00PM	08/08/12 06:00PM	48.00	2.00	7.934
171547	EL48	Corn - Silage	08/14/12 06:00AM	08/16/12 07:00AM	49.00	2.00	8.099
173264	EL48	Corn - Silage	08/20/12 06:00PM	08/22/12 12:00PM	42.00	2.00	6.942
177155	EL48	Corn - Silage	09/05/12 12:30AM	09/07/12 10:00PM	69.50	2.00	11.487
180509	EL48	Sudan	09/23/12 12:30PM	09/25/12 12:30PM	48.00	2.00	7.934
182646	EL48	Sudan	10/10/12 06:00PM	10/12/12 12:00PM	42.00	2.00	6.942
Sub Total							111.209
Water Events Total							111.209

2012
 712,150 ac.ft
 111.209

Flow Meter Water Events

Confirmation #	Account #	Crop	Read Date	Initial Read	Final Read	Acre Feet
137872	EL54	Grain/Oats/Rye	03/12/12 10:00AM	920.5100	938.1800	17.670

u Ref. #3 - 2pgs

3.58 ac.ft/acre "2012"
 IRRIGATION SEASON - 712,150 ac ft

ID	Code	Crop	Date/Time	Value 1	Value 2	Value 3
147237	EL54	Corn - Silage	05/13/12 05:00PM	938.1800		
155424	EL54	Corn - Silage	06/20/12 02:00AM	957.0800		
158339	EL54	Corn - Silage	06/29/12 06:00PM	970.1300		
160612	EL54	Corn - Silage	07/09/12 06:00PM	979.7000	988.2800	9.570
163309	EL54	Corn - Silage	07/17/12 08:00AM	988.2800	996.7200	8.440
164989	EL54	Corn - Silage	07/24/12 10:30AM	996.7200	1,004.4000	7.680
167518	EL54	Corn - Silage	07/31/12 11:00AM	1,004.4000	1,011.7200	7.320
169474	EL54	Corn - Silage	08/07/12 06:00AM	1,011.7200	1,019.0200	7.300
170977	EL54	Corn - Silage	08/14/12 06:00AM	1,019.0200	1,026.8900	7.870
172832	EL54	Corn - Silage	08/21/12 06:00AM	1,026.8900	1,035.1000	8.210

METER READINGS
 957.0800 → 13.90 Acre
 970.1300 → 21.00 Acre
 18.900
 13.050

Sub Total 114.590

137910	EL47	Grain/Oats/Rye	03/08/12 10:00AM	735.7200	743.4700	7.750
146840	EL47	Corn - Silage	05/17/12 07:00AM	743.4700	784.6500	41.180
155420	EL47	Corn - Silage	06/16/12 07:00PM	784.6500	794.9200	10.270
157998	EL47	Corn - Silage	06/25/12 10:30AM	794.9200	801.1100	6.190
160201	EL47	Corn - Silage	07/05/12 12:00PM	801.1100	807.5000	6.390
162252	EL47	Corn - Silage	07/12/12 06:00AM	807.5000	813.5800	6.080
163798	EL47	Corn - Silage	07/18/12 05:00PM	813.5800	819.0800	5.500
165604	EL47	Corn - Silage	07/26/12 06:00AM	819.0800	824.7300	5.650
167772	EL47	Corn - Silage	08/02/12 05:00AM	824.7300	828.1200	3.390
169480	EL47	Corn - Silage	08/08/12 03:30AM	828.1200	832.5200	4.400
170983	EL47	Corn - Silage	08/16/12 06:00AM	832.5200	838.5900	6.070
173266	EL47	Corn - Silage	08/22/12 10:00PM	838.5900	842.7500	4.160
176699	EL47	Corn - Silage	09/06/12 06:30AM	842.7500	851.6900	8.940
180507	EL47	Sudan	09/24/12 11:00AM	851.6900	857.1900	5.500
182648	EL47	Sudan	10/11/12 10:00AM	857.1900	861.6200	4.430

METER READINGS
 Sub Total 125.900
 3,690.5300
 3,724.0400
 34.12 Acre

137886	EL54A	Corn	03/12/12 07:30AM	3,639.9200		
140243	EL54A	Corn	03/24/12 07:00AM	3,690.5300	3,690.5300	50.610
146834	EL54A	Corn	05/23/12 11:00AM	3,724.0400	3,823.0700	99.030
155426	EL54A	Corn	06/25/12 03:00PM	3,823.0700	3,880.7400	57.670
158755	EL54A	Corn	07/01/12 02:00PM	3,880.7400	3,908.2500	27.510
160614	EL54A	Corn	07/11/12 11:30PM	3,908.2500	3,938.9400	30.690
163311	EL54A	Corn	07/18/12 10:00AM	3,938.9400	3,968.7300	29.790
165048	EL54A	Corn	07/25/12 11:00AM	3,968.7300	3,991.9100	23.180
167516	EL54A	Corn	08/01/12 01:30PM	3,991.9100	4,016.8100	24.900
169476	EL54A	Corn	08/08/12 07:00AM	4,016.8100	4,039.5600	22.750
170979	EL54A	Corn	08/15/12 07:00AM	4,039.5600	4,061.9000	22.340
172834	EL54A	Corn	08/23/12 10:00AM	4,061.9000	4,085.5800	23.680
178354	EL54A	Corn	09/19/12 10:00AM	4,085.5800	4,154.4100	68.830
180609	EL54A	Corn	09/30/12 05:00PM	4,154.4100	4,193.2200	38.810
182802	EL54A	Corn	10/15/12 03:30PM	4,193.2200	4,225.2700	32.050
184182	EL54A	Corn	10/29/12 06:00AM	4,225.2700	4,237.4800	12.210

Sub Total 597.560

Flow Meter Water Events Total 838.050

Total Irrigation Events for Customer: 949.259 Acre Feet

TRUSI
 103.02 AC FT before
 April 1st 2012
 AC FT
 712.150 TOTAL SEASON
 - 103.020 before April 1st 2012
 609.13 AC FT after April 1st
 2012

[REDACTED]

Plaintiffs,

vs.

Case No. [REDACTED]

MERCED IRRIGATION DISTRICT
(M.I.D.), M.I.D. BOARD OF
DIRECTORS, (BOARD); BILLY
FIMENTEL, INDIVIDUALLY, and AS
BOARD PRESIDENT; and TIM
PELLISSIER, INDIVIDUALLY, and AS
BOARD SECRETARY, DOES 1 through
10,

Defendants.

Merced, California

[REDACTED]

DEPOSITION OF [REDACTED]

--oOo--

Reported by: Christine H. Credit, CSR No. 3805

ASSOCIATED REPORTERS
Certified Shorthand Reporters
728 West 19th Street
Merced, California 95340
Phone: (209) 384-0165; Fax: (209) 384-8842
e-mail: armerced@sbcglobal.net
www.associatedreportersmerced.com

INDEX OF EXHIBITS

Exhibit:	Page
1 Engineer's Report For the Consolidation of Merced and El Hido Irrigation Districts	34
2 Three-page letter dated February 20th, 2009 prepared by Central California Irrigation District	44
3 Notice of public hearing	119
4 Written protest	119

--oOo--

Condensed Copy

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--oOo--

APPEARANCES OF COUNSEL

IN PROPRIA PERSONA:

FOR THE DEFENDANTS:

MASON, ROBBINS, BROWNING & GODWIN
BY: MICHAEL L. MASON
700 Loughborough Drive, Suite D
Merced, California 95340
(209) 383-9334

--oOo--

Partial of "Ref. #4"
pgs 21-24, pgs. 25-28
pgs 61-64 pgs 69-72

INCLUDING
Index would use
for Manifesta Creek, mentioned
from pg 24 LAST pg. 116
referred over 100 TIMES

1 A. I believe in 1992.
 2 Q. What was your father's name?
 3 A. [REDACTED]
 4 [REDACTED]
 5
 6 Q. And your mother's name?
 7 A. [REDACTED]
 8 Q. When was it she died approximately?
 9 A. It's been two years ago. It was in the fall.
 10 Q. That's all.
 11 A. 2006 or 2007. I'm not sure. I think it's
 12 2007.
 13 Q. Under the trust, at the time of your
 14 mother's -- your mother's death was the last of the
 15 original trustees, correct?
 16 A. That's correct.
 17 Q. And so under the terms of the trust, did you
 18 become the sole trustee at your mom's death?
 19 A. No.
 20 Q. Who was the trustee at that time?
 21 A. Well, it's a joint trustee between my sister
 22 and I, [REDACTED] Do you need her name?
 23 Q. Yeah. [REDACTED] and what's her -- is her last
 24 name different?
 25 A. [REDACTED]

21

1 southwest corner, [REDACTED]
 2 [REDACTED]
 3 [REDACTED]
 4 [REDACTED] Did that answer your
 5 question?
 6 Q. Yes. Now, that property is presumably located
 7 in the El Nido Irrigation District, correct?
 8 A. Both parcels, two different parcels.
 9 Q. And your authority as the trustor or as the
 10 trustee comes from the trust instrument itself, correct?
 11 A. That's correct.
 12 Q. And the property is currently titled in whose
 13 name?
 14 A. It's still in the trust, [REDACTED]
 15 Q. Do you own any other property other than or
 16 have an interest in any other property other than the
 17 [REDACTED] acres that you've described?
 18 A. Well, I have a mining claim in [REDACTED] I
 19 guess that's an interest in property. They discovered
 20 pegmatite formation that I've formally filed a claim on
 21 with the federal government, so I guess that would be
 22 interest in other property.
 23 Q. Anything else, any other properties?
 24 A. That will do it. Oh, and then [REDACTED]
 25 the house. I live there, which is part of the estate,
 [REDACTED]

23

1 Q. And is she still a joint trustee?
 2 A. Still is. We made an agreement.
 3 Q. The agreement by which you are buying her out?
 4 A. Buying her out. She took the cash, and based
 5 on our evaluation, I'm \$65,000 short, and at such time I
 6 come up with that \$65,000, I get the house and the ranch
 7 property --
 8 Q. Now, describe for me --
 9 A. -- which I have a long-term arrangement to do
 10 that, okay.
 11 Q. Describe for me where the ranch property is
 12 located.
 13 A. It's -- there's actually two parcels [REDACTED]
 14 [REDACTED]
 15 [REDACTED]
 16 Q. Excuse me. [REDACTED]
 17 A. [REDACTED] That would be the -- that would be
 18 the northeast corner of the property. [REDACTED]
 19 [REDACTED]
 20 [REDACTED]
 21 [REDACTED]
 22 [REDACTED] am I going too fast for you?
 23 Q. No.
 24 A. [REDACTED]
 25 That would be southwest of the corner, southwest of the
 [REDACTED]

22

1 so I live in that residence.
 2 Q. Well, I'd like to talk to you a little bit if I
 3 can about the actual, for want of a better term,
 4 plumbing in the El Nido Irrigation District as it
 5 affects your property.
 6 A. When you say plumbing, I don't understand.
 7 Q. Well, I'm talking about the facilities through
 8 which water makes its way to your property.
 9 A. Okay.
 10 Q. And I want to get as accurate a picture as I
 11 can of what that looks like because I don't have any
 12 firsthand knowledge of it.
 13 A. Okay.
 14 Q. What is the origin of Mariposa Creek?
 15 A. Oh, the water itself that goes into Mariposa
 16 Creek, I would say it's the foothills. It's the water
 17 shed in the foothills. There's a dam. There's the
 18 Mariposa Creek retention reservoir, which was built by
 19 the Army Corps of Engineers, I guess, in the '30s. It's
 20 a flood control, and it captures -- maybe this will help
 21 answer your question. It captures the runoff from the
 22 foothills, and it might go all the way up, Mike, to
 23 Mariposa. There's quite a watershed in there, you know.
 24 But it only captures the rain and, of course, it's
 25 spring. Normally it has to rain like almost four or
 [REDACTED]

24

1 five inches in the valley to start runoff, and normally
2 that starts mid January. Can start in December on a wet
3 year, and it's dependent on the rainfall. So that's the
4 origin. And it can be a lot. It can be. Even in these
5 drought years, it was good, still good even this year.
6 We got quite a bit from February to March.

7 Q. Other than the dam operated by the Corps of
8 Engineers, the retention dam, are there any other
9 facilities located in Mariposa Creek between the time it
10 leaves the Corps of Engineers' facility and the time it
11 reaches your property?

12 A. Okay. Yeah. You're correct. There's what we
13 call the El Nido Reservoir, which is -- now it's Merced
14 Irrigation after consolidation. And I've always been
15 confused. There's Mariposa and Duck Slough, and one
16 comes into the other, and it's called Mariposa Creek at
17 59. Past that, that's -- whether it's a diversion area
18 or reservoir or a dam to put boards in, it diverts the
19 water south, and they're all M.I.D. facilities now and
20 canal that services El Nido area.

21 Q. Do you know who built those, who built that
22 diversion structure?

23 A. I believe El Nido did. No. No. I'm -- unless
24 I'm sure, and you asked me that. I'm not sure, but this
25 is a --

25

1 question?

2 Q. Yes, it does.

3 A. Okay.

4 Q. Any other structures between the diversion
5 point operated by the Corps of Engineers in the
6 foothills and your property?

7 A. The El Nido Dam.

8 Q. That's the one we just talked about.

9 A. No. No. No. No. We talked about the
10 diversion. As it comes from the diversion out of Duck
11 Slough or Mariposa Creek, whichever one you want to call
12 it, then travels south, I'd say seven miles, it goes
13 into what's called El Nido Reservoir, and M.I.D. has put
14 a special gate on that, satellite operated. But then
15 from that point, it's diverted into the canals to
16 service the El Nido area, so I don't know. I'm guessing
17 it holds 50 acre feet, is it? It's a nice dam. And
18 that's just before it goes out of that dam into
19 El Nido canals.

20 Q. So the water -- let me see if I have this
21 straight then. The water that reaches your property
22 from Mariposa Creek first comes from the retention
23 reservoir in the foothills, makes its way to the El Nido
24 Reservoir --

25 A. No. No. El Nido Dam.

27

1 Q. I don't want you to guess.

2 A. I can't guess then.

3 Q. If you have an estimate, that's fine.

4 A. I'm just thinking. Looking at the records, but
5 I don't want to say that and not be that, but my --

6 Q. What's your understanding of that facility?

7 A. My understanding, El Nido built that dam
8 because they call it the El Nido Dam. I'd have to
9 review that, Mike, but I would say 80 percent certain
10 that that's who built it.

11 Q. Do you know when that was built?

12 A. That was built in the '30s, the early 1930s.

13 Q. And was it maintained by El Nido Irrigation
14 District?

15 A. That's correct.

16 Q. And do you know what the purpose of that
17 diversion structure was?

18 A. Well, El Nido received or obtained water rights
19 to the Mariposa Creek, and the purpose of that, of
20 course, was to divert the water to El Nido.

21 In fact, if I go back in the history, if I may,
22 that was originally for El Nido for underground
23 recharge, and I think the license still states that.
24 Now the license is part of M.I.D., but it still services
25 the area of El Nido. Does that help answer your

26

1 Q. The El Nido Dam.

2 A. Then it's diverted by putting boards in. Mike,
3 the best I could swing it, when there's a lot of water
4 coming down, it can flow big time, even flood 59 from
5 the runoff on the wet years or even on years when it
6 gets the really substantial thunderstorms, it can be
7 raised -- well, there's one more structure too. There's
8 a -- just south of that, there's electronic structures
9 that allows the water. So we have a dam, the water
10 comes down, and then there's an electronic -- I left
11 that out -- that raises it. On wet years, Mike, when
12 there's a lot of water, they don't have to put boards
13 in. There will be enough flow. All they have to do is
14 raise the boards electronically or the gate and allow
15 water to come through. So there's two structures. I
16 think I got that right, two structures.

17 Q. So there are two structures between the time
18 that the water leaves the retention facility --

19 A. Yeah.

20 Q. -- operated by the Corps of Engineers and the
21 time that it reaches your property?

22 A. Right. One is a dam. They can lift the rails
23 in and put boards, and that's done if there's not a lot
24 of water coming down or, if there's a big flow, you have
25 to let that down and you can just raise the gates just

28

1 years. How much did M.I.D. pay to bring the Mariposa
2 water in, capital expenditures? I'm asking you a
3 question.

4 Q. And I'm not answering.

5 A. No, I know you aren't because the answer is
6 nothing.

7 Q. The answer is -- I'm asking the questions here.

8 A. Okay.

9 Q. All right. I don't know and, frankly, I don't
10 care. The important part is you acknowledge that it
11 took some expenditure of effort by the district in order
12 to make these deliveries of Mariposa Creek water.

13 A. I acknowledge that, Mike, but I don't know if
14 it was additional to what they'd been doing anyway. Let
15 me show you something. I started this for the record
16 because you start -- in 2006 -- read this, please.

17 Q. No. This is my deposition. I'll take the
18 deposition.

19 A. All right. We did Mariposa issue in 2006
20 because I didn't get any in 2006, and this was December.
21 So right here -- and it refers to your -- because in the
22 2008, it refers to the December 19th, 2006 policy, which
23 I want to show for the record right here. Up above, if
24 you read --

25 Q. Hold on, [redacted] I'm asking the questions
[redacted]

1 El Nido growers. Can I have that back for a minute,
2 Mike, please. Thank you. Because if you notice up here
3 on the top, we were talking about what you explained,
4 the six points or seven. Right, yes, I was there for
5 \$10, you know, and I also stated from -- I found five
6 growers -- let me add this to this. Five growers, six.
7 I found six. But they could take a Tiger Woods drive
8 and a three iron -- this is what I stated at the
9 board -- and hit these adjoining landowners. I didn't
10 have to go anywhere. I found five adjoining landowners
11 or six that wanted the water, so I would assume there
12 was a lot that wanted the water. There was more than
13 five.

14 If you look up here, Mike, El Nido, M.I.D. with
15 Mariposa Creek on the policy established December 19th,
16 2006; authorizing diversions. This is what I'm talking
17 about. It's reflected here. And this is a 2006 policy
18 if you'd like to look at it. And this is where I stated
19 that I was supportive of El Nido because in 2005 --
20 2006, this was in December, they disregarded my request.
21 That was the issue. Let me finish. Let me finish.
22 That's right here, okay.

23 Q. [redacted] I'm referring you to page 13 of
24 the minutes of the board's meeting of February 5th,
25 2008, in which you appeared in front of all five board
[redacted]

1 here.

2 A. Okay.

3 Q. Page 13 of the minutes of the Merced Irrigation
4 District meeting of February 5th, 2008, I have read to
5 you in the entirety all of those parts relating to a
6 conversation that you had with the board of directors
7 concerning your desire to obtain water from Mariposa
8 Creek, correct, in 2008?

9 A. That's correct, before March 1st.

10 Q. Before March 1st.

11 A. That was an issue.

12 Q. And the irrigation season that year for Merced
13 Irrigation District began when, March 24th, 25th?

14 A. I believe you're correct.

15 Q. So you were asking them to make a diversion
16 that was not within the season, correct?

17 A. Not within their season. It was in our season
18 originally.

19 Q. But according to you, you were no longer part
20 of El Nido; you had been annexed into Merced Irrigation
21 District.

22 A. Oh, absolutely.

23 Q. And you were subject to the rules and
24 regulations of Merced Irrigation District.

25 A. In fact, I stated here I am supportive of the
[redacted]

1 members, and Mr. Eltal made these representations in
2 your presence and you acknowledged that this accurately
3 reflects what was presented at that meeting, correct?

4 A. Yes.

5 Q. Including, including your offer to pay \$10,
6 correct?

7 A. That's right.

8 Q. Per acre foot for the water delivered.

9 A. That's right.

10 Q. Out of Mariposa Creek.

11 A. You're absolutely correct. And there --

12 Q. Wait. I've got the question on the table.

13 A. Okay.

14 Q. When you left the meeting that day, you
15 understood that the district's position was \$20 per acre
16 foot is the price for us to deliver Mariposa Creek
17 water, correct?

18 A. Well, we had no choice. We either had to take
19 that or leave it.

20 Q. Exactly.

21 A. Right.

22 Q. This is the price we're charging you for those
23 deliveries, right?

24 A. In violation of Article 13 D of the
25 California --
[redacted]

1 A. I got it two years. I got it this year too.

2 Q. But it's your contention you shouldn't pay
3 anything for it?

4 A. No. No. I didn't say that. Pay the stand-by.
5 Because that's what we paid. It's not my contention,
6 Mike. It's what happened.

7 Q. I assume that the district would therefore feel
8 comfortable hereafter not delivering any water from
9 Mariposa Creek to you.

10 A. If that's what they want to do, that's their
11 business, Mike. What I'm saying is, I received it for
12 \$24 an acre foot in 2005. I requested it in 2006, and
13 they ignored it, let it all go out to the river. We had
14 an issue in 2000 -- December, it's right there, right
15 there, that I appeared before the board to say let's do
16 something because their contention was, well, if we got
17 this, if we got that, let's give up our water rights,
18 and we're going to do this project on the canal. I said
19 let's do this earlier, my only suggestion to the board,
20 so we don't lose these water rights, because we were on
21 the verge of losing them. In 2006, if they had
22 continued with that water and letting it go, we'd lose
23 them, so I turned them around and said, well, February,
24 yeah, let's take it, let's do our project so we're not
25 interfering. That was the issue.

1 I'm already sworn in. That was not discussed. That was
2 added in after, and we've had an issue with M.I.D.
3 editing minutes, putting stuff in minutes, and I can
4 prove that. That was not discussed. That came after
5 because I asked Micham, what are you talking about, 30,
6 it was never discussed. He said, well, that's the out
7 of season, but it was never discussed at that meeting,
8 even though it's in the minutes.

9 Q. You agree that it is --

10 A. I agree it's in the minutes, but it was never
11 discussed, the \$30. I can tell you straight out, Mike,
12 the \$30 acre foot charge was never discussed. I said
13 10. He said, well, maybe 20 because of this and that.
14 That was the figure. It had nothing to do with 30. The
15 \$30 figure was never discussed in that meeting, Mike.

16 Q. Do you agree --

17 A. No. Wait a minute. I'm talking.

18 Q. I've heard your answer.

19 A. Okay.

20 Q. Do you agree that the board decided in your
21 presence that day that the charge for water for 2008
22 delivered at your request through Mariposa Creek was
23 going to be \$20?

24 A. I'll agree to that.

25 Q. And do you agree that you asked -- thereafter

1 My contention is, it's \$20 more than I got it
2 in 2005. It's \$20 more than I received it for \$10
3 stand-by for 60 years with my [redacted]
4 Trust since 1935, more, and I'll stand by that. It's
5 \$20 more.

6 Q. Let me get back to the question. I'm asking
7 you a question that only requires a yes or no answer.

8 A. Okay.

9 Q. Did you or did you not attend this meeting on
10 February 5th, 2008, and hear the discussion described in
11 the minutes of the meeting?

12 A. Yes.

13 Q. And did you or did you not hear them, the
14 board, decide there by motion that the fee for provision
15 of this water was going to be at lower than the
16 out-of-season rate which the staff had suggested was the
17 appropriate rate?

18 A. No. Because the out-of-season rate was not
19 discussed. 30 -- I'm going to tell you right now
20 straight on the record, the \$30 acre foot that's put in
21 there was not discussed.

22 I stood up with Micham Eltal saying it should
23 be 10, this, and then they settled on 20, and it had no
24 relationship, Mike -- even though it's in there, it was
25 not discussed, and I'll stand up, you want to swear me,

1 left the meeting and sometime thereafter asked for the
2 diversion of those waters from Mariposa Creek?

3 A. Absolutely.

4 Q. And in doing so, you didn't say, but only if I
5 can do it for \$10?

6 A. You're correct. And if I'd have said that, I'd
7 have got no water.

8 Q. Absolutely. The district would not have
9 provided you water --

10 A. No, absolutely not, so why would I ask that,
11 Mike? No, I didn't ask that.

12 Q. I'm just asking you.

13 A. No.

14 Q. I'm just asking you. You didn't tell them that
15 you weren't going to pay the bill.

16 A. No.

17 Q. And you didn't tell them you weren't going to
18 pay \$20 for it?

19 A. No.

20 Q. And you knew that the board had set the rate of
21 \$20, and you asked for delivery of the water, correct?

22 A. Yes.

23 Q. All those are true.

24 A. Absolutely, all those are true.

25 Q. And you received the water?

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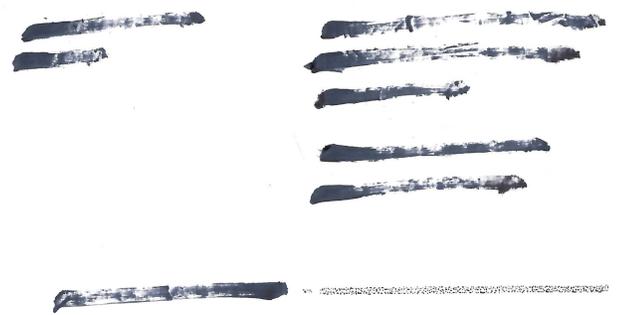
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