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11 BEFORE THE CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

12 **In the matter of Application 5634x01**  
13 **(Nevada Irrigation District)**

**PETITION FOR RELEASE FROM**  
**PRIORITY IN FAVOR OF APPLICATION**  
**NO. 10221 (LICENSE NO. 11120)**

**(CAL. WATER CODE SECTION 10504)**

14  
15 **I. INTRODUCTION**

16 1. Pursuant to Cal. Water Code section 10504, South Sutter Water District ("SSWD")  
17 hereby requests a release from priority from state-filed Applications 5633 and 5634 in favor of  
18 SSWD's License 11120 (Application 10221) for the storage of 40,000 acre-feet per year (afy) at  
19 Camp Far West Reservoir, Bear River. Application 10221, which authorizes nearly half of the  
20 available storage at Camp Far West Reservoir, has a priority date of 1941. Application 5634 has  
21 a 1927 priority date. Without a release from priority, Nevada Irrigation District's ("NID")  
22 Petition for Assignment of Application Nos. 5634 to supply water at NID's proposed Centennial  
23 Reservoir would cause significant injury to SSWD, surface water users within SSWD and  
24 groundwater users within the North American Subbasin, Sacramento Valley Basin, DWR  
25 Subbasin No. 5-021.64 ("North American Subbasin").

26 2. The SWRCB's authority to assign state-filed applications pursuant to Water Code  
27 section 10500 *et seq.* was never intended to allow the SWRCB to favor one local water agency  
28 over another agency in the same watershed. The SWRCB is authorized under Water Code

1 section 10504 to grant a release from priority in favor of Application 10221 while still allowing  
2 NID to plan construction of Centennial Reservoir. SWRCB should do so to preserve the  
3 environmental and economic status quo, and to provide for an equitable allocation of water  
4 resources between neighboring water supply agencies. SSWD respectfully requests that this  
5 Request for Release from Priority be processed concurrently with NID's Application/Petition.

6 **II. BACKGROUND**

7 **A. Brief History of SSWD and Conjunctive Groundwater Management in the**  
8 **Sutter Basin**

9 3. SSWD was formed in May 1954 to develop, store, and distribute surface water  
10 supplies for agricultural irrigation uses primarily from the Bear River via an enlarged Camp Far  
11 West Reservoir. Upon formation of SSWD in 1954 and prior to the completion of the enlarged  
12 Camp Far West Reservoir in 1964, SSWD's boundaries encompassed a total gross area of 63,972  
13 acres, of which 8,915 acres were excluded, for a net area of 55,057 acres.

14 4. The development of Camp Far West Reservoir was an effort by SSWD  
15 landowners to augment groundwater supplies within the SSWD service area. Prior to the  
16 construction of Camp Far West Reservoir, groundwater levels in the North American Subbasin  
17 were declining. The formation of SSWD and subsequent development of Camp Far West  
18 Reservoir furnished sufficient supplemental surface water to stabilize groundwater levels on a  
19 long-term basis.

20 5. In most years, Camp Far West Reservoir fills in the spring based on precipitation  
21 runoff (rainfall) and little contribution from snowpack runoff. Water released from the Reservoir  
22 is diverted from the Bear River at a point approximately 1 mile downstream from Camp Far  
23 West Dam into the SSWD Conveyance Canal which runs predominately north to south along the  
24 higher eastern border of SSWD. Through turnouts and head gates, water is directed from this  
25 conveyance canal into improved canals, one pipeline, and natural channels running from east to  
26 west, and distributed to water users within SSWD. During the irrigation season, the natural  
27 channels, some of which have been improved to convey agricultural water, contain negligible  
28 amounts of natural stream flow and convey agricultural irrigation water provided from the main

1 conveyance canal. Water from the Reservoir supplements the native groundwater supply,  
2 resulting in what is, in effect, a significant conjunctive use project.

3 6. The operation of Camp Far West Reservoir has been integral to halting the decline  
4 of groundwater levels in the North American Subbasin. The annual available supply from the  
5 Camp Far West Reservoir is totally allocated to irrigation in most years.

6 **B. History of Water Rights Associated with Camp Far West and Parker**  
7 **Reservoir Projects**

8 7. In 1927, under the authority of Water Code § 10500, the State of California filed  
9 water right applications 5633 and 5634 to appropriate water from the Bear River. Application  
10 5633 was for nonconsumptive power uses. Application 5634 was for consumptive uses. It  
11 sought direct diversion rights on the Bear River at a rate of up to 400 cubic-feet per second ("cfs")  
12 and a right to store up to 110,000 afy. The project described in Applications 5633 and 5634 was a  
13 reservoir project at the so-called Parker Reservoir site. The Parker Reservoir project was never  
14 built.

15 8. In 1941, under the authority of Water Code § 10500, the State of California filed  
16 Application 10221 for the right to store up to 40,000 afy of the Bear River. The project described  
17 in the application was a reservoir project at the Camp Far West Reservoir site.

18 9. In 1952, the County of Sutter filed water right Application 14804. This  
19 Application was assigned to SSWD in 1954. Application 14804 sought to appropriate 360 cfs for  
20 direct diversion and the right to store up to 95,000 afy.

21 10. By letter dated August 27, 1957 (Exhibit A), the president of SSWD, Joseph H.  
22 Dewey, requested the Department of Water Resources to assign to SSWD Applications 5634 and  
23 10221 and to release from priority Application 5633 in favor of SSWD's Application 14804.

24 11. On February 28, 1958, the State Water Rights Board rendered Decision D-887  
25 (Exhibit B) in which it approved Application 14804 and ordered that a permit be issued pursuant  
26 thereto. Permit 11297 was issued by the Board on the same day authorizing SSWD to divert from  
27 the Bear River (i) 360 cfs by direct diversion from about March 1 to about November 1 of each  
28 year for irrigation purposes; and (ii) 95,000 afy storage.

1           12.     By letter dated September 30, 1958, from SSWD's counsel, Harry B. Seymour, to  
2 the California Water Commission (Exhibit C), Mr. Seymour stated that SSWD had revised its  
3 strategy and would confine its application for an assignment to State Application 10221.  
4 Accordingly, Mr. Seymour requested that SSWD's "applications be considered amended so as to  
5 request a waiver from priority only in respect to Applications 5633 and 5634 (Parker)."

6           13.     On September 17, 1959, the Department of Water Resources approved SSWD's  
7 request for release from priority of Applications Nos. 5633 and 5634 in favor of Application  
8 14804 (Exhibit D). The "Release from Priority" document reflects the fact that, at the time of the  
9 approval of the Release, the rights conferred under Application 14804 (Permit 11297) gave  
10 SSWD the right to store 95,000 afy at Camp Far West Reservoir. When Application 14804 went  
11 to license, however, the licensed storage amount under License No. 11120 was only 58,370 afy.

12           14.     In a separate decision issued on the same day, the Department of Water Resources  
13 also assigned all rights under Application 10221 to SSWD (Exhibit E). Application 10221 is now  
14 confirmed by License 11120 and entitles SSWD to store up to 40,000 afy at Camp Far West  
15 Reservoir. On July 20, 2000, SWRCB issued Order 2000-10, amending SSWD's water right  
16 licenses 11120 and 11118 to incorporate the terms of the Bay Delta Settlement Agreement  
17 ("BDSA"). SSWD, the Department of Water Resources, and the Camp Far West Irrigation  
18 District ("CFWID") entered into the BDSA in February of the year 2000 to settle the  
19 responsibilities of SSWD, CFWID, and all other Bear River water rights, and implement the  
20 objectives in the Water Quality Control Plan for the San Francisco Bay/ Sacramento-San Joaquin  
21 Delta Estuary, adopted May 22, 1995 (1995 Bay-Delta Plan). No release from priority of  
22 Applications 5633 and 5644 was ever granted in favor of Application 10221.

23           15.     In 2014, the Nevada Irrigation District ("NID") filed with the SWRCB a petition  
24 for assignment of Applications 5633 and 5634. NID intends to use water under Applications  
25 5633 and 5634 to construct and operate Centennial Reservoir upstream from Camp Far West  
26 Reservoir. SWRCB has accepted and noticed NID's Petition for Partial Assignment of State-  
27 Filed Application 5634 ("Application 5634x01").

1     **III.     JURISDICTION**

2             16.     In 1927, the California Legislature passed the Feigenbaum Act, which was later  
3     codified in the California Water Code at sections 10500-10507. The Feigenbaum Act authorized  
4     the State to obtain the rights to unappropriated water which might later be needed for the  
5     development or completion of a general or coordinated plan for the state's water resources. Cal.  
6     Water Code § 10500.

7             17.     The Feigenbaum Act also permits SWRCB to release from priority any state-filed  
8     application when the release "is for the purpose of development not in conflict with such general  
9     or coordinated plan or with water quality objectives established pursuant to law." Cal. Water  
10    Code § 10504.

11    **IV.     REQUEST FOR RELEASE OF PRIORITY**

12             A.     **A Release From Priority Would Not Conflict With A General Or**  
13                    **Coordinated Plan**

14             18.     A release from priority in favor of Application 10221 would not conflict with a  
15    general or coordinated water plan. *See* Cal. Water Code § 10504. In fact, the only action that  
16    SWRCB could take that *would* conflict with a general or coordinated plan would be to assign  
17    Application 5634 to NID *without* a corresponding Release from Priority in favor of Application  
18    10221.

19             19.     SWRCB has previously recognized that the Camp Far West Reservoir is part of a  
20    general or coordinated plan for the development and utilization of the water resources of the state  
21    within the meaning of Water Code section 10504. For example, in its decision approving  
22    Application 14804, the SWRCB expressly examined the question of whether Camp Far West  
23    Reservoir conflicted with the California Water Plan of 1957. Exhibit B at 9. It determined that  
24    although the specific project proposed by the District for Camp Far West Reservoir was  
25    "somewhat at variance" with the California Water Plan in that the storage capacity of the  
26    reservoir was smaller than the plan called for, the reservoir project was "susceptible of integration  
27    with the plan." *Id.* at 10. The Board accordingly approved Application 14804 with a condition  
28    on the permit requiring continued cooperation with the Department of Water Resources for

1 coordination of the project with respect to the comprehensive development of the water resources  
2 of the Bear River. *Id.* at 16.

3 20. Furthermore, in granting SSWD's request for a release from the priority of state-  
4 filed applications 5633 and 5634 in favor of Application 14804, DWR expressly noted that the  
5 Camp Far West Project was part of a coordinated plan for the utilization of the state's water  
6 resources. Exhibit D at 2. Importantly, DWR made the same finding in regards to SSWD's  
7 petition for assignment of state-filed Application 10221. Exhibit E at 1.

8 21. Since the SWRCB issued that order in 1958, there has been no indication that  
9 operation of Camp Far West Reservoir conflicts with anything in the California Water Plan. Full  
10 operation continues to allow for sustainable groundwater management, provide recreational uses,  
11 and supply necessary water for environmental purposes.

12 22. If a release from priority is denied and NID's Petition for Assignment is granted,  
13 however, there will not be enough water for SSWD to satisfy its water needs. An assignment of  
14 Application 5634 without a concomitant release from priority in favor of SSWD would allow  
15 NID to take the full amount of its entitlement under Application 5634 before Camp Far West  
16 Reservoir fills, leaving nearly half of SSWD's storage rights at risk.

17 23. Moreover, denial of this request for release from priority would undermine  
18 SSWD's ability to meet its obligations under a settlement agreement between SSWD and the  
19 California Department of Water Resources under which SSWD provides water in certain years to  
20 assist in meeting Bay-Delta water quality objectives as established by the SWRCB. See State of  
21 California, State Water Resources Control Board, *In the Matter of Implementation of Water*  
22 *Quality Objectives for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary; A Petition*  
23 *to Change Place of Use, Point of Diversion, and Purpose of Use of Water Right Licenses 11120*  
24 *and 11118 of South Sutter Water District (issued on Water Right Applications 10221 and 14804)*  
25 (Order WR 2000-10).

26 B. SWRCB Should Not Use Its Authority Under The Feigenbaum Act To Favor  
27 One Agency Over Its Neighbor In The Same Watershed

28 24. If SWRCB assigns Application 5634 without a corresponding release from priority

1 in favor of Application 10221, SWRCB will have used its authority to assign state-filed  
2 applications to grant a preference to NID over SSWD for Bear River water.

3 25. In establishing a preference in favor of NID, SWRCB would harm not just SSWD  
4 itself, but also its constituent landholders and water users and the public interest. SSWD has  
5 operated Camp Far West Reservoir since 1964. Camp Far West Reservoir provides numerous  
6 public benefits, including power generation, recreation, and domestic and agricultural water  
7 supplies. SSWD landowners have made investment decisions and agreements in reliance on the  
8 continued vitality of Application 10221 and Camp Far West Reservoir. Construction of a new  
9 reservoir with higher priority state-filed water rights immediately upstream of Camp Far West  
10 would harm legal users of water by depriving Camp Far West Reservoir of half of its water.

11 26. Nothing in Water Code sections 10500 *et seq.* indicates the State's power to file  
12 and assign applications was ever intended to be used to inequitably favor a new (and presently  
13 unapproved) use over a long-established right within the same watershed. *See* 25 Op. Atty. Gen.  
14 8, 14 (explaining that Section 10505 was meant to prevent water necessary for future  
15 development from being exported to the San Joaquin Valley). A release from priority in favor of  
16 Application 10221 will allow the SWRCB to remain neutral in this disagreement between  
17 neighboring water supply agencies.

18 C. **Maintaining The Status Quo By Granting A Release From Priority Would**  
19 **Promote Sustainable Groundwater Management**

20 27. Maintaining the status quo by granting a Release from Priority will prevent  
21 environmental harm (including, but not limited to, harm to groundwater resources) from  
22 occurring as a result of the proposed construction of Centennial Reservoir.

23 28. Camp Far West Reservoir provides numerous public benefits, including power  
24 generation, recreation, and domestic and agricultural water supplies. But if Application 5634 is  
25 assigned without a corresponding release from Priority, the District stands to lose up 40,000 af  
26 to satisfy the higher priority rights under Applications 5633 and 5634. Those 40,000 af constitute  
27 nearly half the capacity of Camp Far West Reservoir.

28 29. A 40,000 af reduction in surface water supplies available to SSWD may threaten

1 the sustainability of the North American Subbasin.

2 **D. A Release From Priority Would Promote The Continued Viability Of The**  
 3 **BDSA**

4 30. The District has obligations under the terms of the BDSA to release thousands of  
 5 acre-feet of instream flows to protect fish habitat.

6 31. These releases will be significantly more burdensome if the district is deprived of  
 7 40,000 acre-feet of storage under Application 10221 in order to satisfy NID's belated  
 8 construction of storage upstream.

9 **E. SWRCB Has Previously Granted A Release From Priority To Promote**  
 10 **Storage Of SSWD Water At Camp Far West Reservoir**

11 32. SWRCB not only possesses the authority to grant the release from priority  
 12 necessary to ensure the continued vitality of Camp Far West Reservoir—it has already granted  
 13 such a release in the past. Specifically, SWRCB's predecessor agency recognized the importance  
 14 of Camp Far West Reservoir when it released Application 5634 from priority in favor of SSWD's  
 15 Application 14804. Exhibit D.

16 33. It is not clear from the record why the California Water Commission  
 17 ("Commission") did not grant a release in favor of Application 10221 at the same time, but the  
 18 Commission never specifically rejected a release from priority in favor of Application 10221.

19 34. Regardless of the reason for the Commission's silence on SSWD's request nearly  
 20 fifty years ago, SWRCB has good reason to grant this request today. The continued vitality of  
 21 Camp Far West Reservoir should not be threatened by a new reservoir upstream. SWRCB's  
 22 predecessor agency recognized the importance of Camp Far West Reservoir in granting a release  
 23 from priority in favor of Application 14804. SWRCB can and should reaffirm Camp Far West  
 24 Reservoir's importance by releasing Application 5634 from priority in favor of Application  
 25 10221.

26 **V. CONCLUSION**

27 35. SWRCB can protect established uses, preserve critical environmental agreements,  
 28 maintain important public and economic benefits on the Bear River, and comply with the




1 California Water Plan by granting this request to release Application 5634 from priority in favor  
2 of Application 10221. In exercising its clear statutory authority to grant this request, SWRCB  
3 will not prevent NID from constructing Centennial Reservoir, but will instead simply preserve  
4 and recognize the utility of Camp Far West Reservoir just as it has in the past, ensuring the  
5 sustainable management of the Subbasin for future generations.

6 36. Accordingly, South Sutter Water District respectfully requests a Release from  
7 Priority of the state-filed applications in favor of Application 10221.

8 DATED: October 25 2016

DOWNEY BRAND LLP

9  
10 By: 

11 KEVIN M. O'BRIEN  
12 Attorney for Protestants

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DOWNEY BRAND LLP

## Exhibit A

**SOUTH SUTTER WATER DISTRICT**

P. O. BOX 62  
EAST NICOLAUS, CALIFORNIA

August 27, 1957

Hon. Harvey O. Banks,  
Director of the Department of  
Water Resources,  
Public Works Building,  
Sacramento, California.

WR  
5633  
5634  
WR 10221

Re: State Applications Nos. 5633, 5634 and 10221;  
also South Sutter Water District Application  
No. 14804.

Dear Sir:

South Sutter Water District hereby respectfully requests a release of priority covering State Application No. 5633 and Assignments of State Applications Nos. 5634 and 10221 to appropriate waters of the Bear River. The Applications specified cover quantities of water which if devoted to use under a first priority will prevent construction of the Water District's project on Bear River and covered by the District's pending Application No. 14804.

The District's project contemplates the enlargement of the existing Camp Far West Dam and reservoir on the Bear River and utilizing the increased storage after filling Camp Far West Irrigation District requirements, as a supplemental supply for the lands within the boundaries of the Water District. The contemplated project is set forth in some detail in the Division of Water Resources Bulletins 6 and 10 published in 1952 and 1955.

The enlarged dam and reservoir will be constructed under an Agreement which has been negotiated between the two Districts, a copy of which is submitted with this Application.

Hon. Harvey O. Banks,

-2-

8-27-57

This Application is made pursuant to Resolution of  
the Board of Directors of South Sutter Water District adopted at  
a regular meeting of the Board held August 26, 1957.

By Order of the Board of Directors.

*Joseph H. Dewey.*  
\_\_\_\_\_  
Joseph H. Dewey, President

DEPARTMENT OF  
WATER RESOURCES  
SACRAMENTO

1957 SEP 11 PM 3 10

Exhibit B



## DECISION

### Substance of the Application

Application 14804, filed May 12, 1952, by the County of Sutter and subsequently assigned to South Sutter Water District is for a permit to appropriate 360 cubic feet per second by direct diversion, year-round, and 95,000 acre-feet per annum by storage in Camp Far West Reservoir to be collected between October 1 of each year and July 1 of the succeeding year from Bear River for irrigation and domestic purposes. The existing Camp Far West Dam (now owned and operated by Camp Far West Irrigation District) located within the NE $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 21, T14N, R6E, MDB&M\*, is to be enlarged into a concrete structure 151 feet high by 2800 feet long. Water impounded by the enlarged dam will form a reservoir of 95,000 acre-feet capacity and will have a surface area of 1910 acres. The conduit system is to include a canal 15 miles in length, having a capacity of 360 cubic feet per second. The place of use consists of 59,000 acres within a gross acreage of 73,984 acres within the boundaries of the South Sutter Water District.

### Protests and Answers

Protests against the subject application were received from the following:

Camp Far West Irrigation District  
Nevada Irrigation District  
State Department of Fish and Game  
California Packing Corporation

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\* All township references herein are to Mount Diablo Base and Meridian (MDB&M). Further designation of base and meridian is therefore unnecessary and will be omitted.



The protests in general are based upon apprehensions that the diversions and/or impoundments that applicant proposes will interfere with the exercise of the protestants' alleged rights to divert surface flows and/or to pump from wells that are fed therefrom. The Camp Far West Irrigation District represents that the proposed enlargement of the Camp Far West Dam will interfere with effective use of the existing works in that the existing dam is so constructed as to control silting while the proposed dam is not; it also contends that the proponents of dam enlargement lack necessary rights of access. The State Department of Fish and Game contends that since the amounts the applicant seeks to appropriate exceed minimum flows in Bear River, game fish which are present and spawn therein will be destroyed unless, in the event of approval of the application, the permit is suitably conditioned.

Among the statements contained in answers to the protests are those by applicant South Sutter Water District to the effect that it will recognize and respect all prior water rights, that unappropriated water exists in amounts that are adequate for the uses contemplated in its application, that such water may be utilized in the manner proposed without injury to any protestant and that the development that it proposes will result in larger flows in Bear River below Camp Far West Dam, in seasons of low flow, than presently exist, and that the appropriation which it (the district) proposes will not adversely affect fish life.

Hearing Held in Accordance with the Water Code

Application 14804 was completed in accordance with the Water Code and applicable administrative rules and regulations and was set for public hearing under the provisions of the California Administrative Code, Title 23, Waters, before the State Water Rights Board, on Tuesday, September 3, 1957, at 10 o'clock a.m., in the Board hearing room, 1401 21st Street, Sacramento, California. Of the hearing the applicant and protestants were duly notified. The hearing extended through later sessions, convened on October 2, 14, 15, and 17, 1957. The application was consolidated for hearing with Applications 14599, 14704, 14705, and Permit 5803.

Watershed

Bear River originates near Emigrant Gap in Nevada County on the western slope of the Sierra Nevada in T17N, R12E, at an elevation of about 5,000 feet and flows southwesterly to its junction with Feather River about 15 miles south of the City of Marysville. It forms a boundary line between Nevada and Placer Counties and Yuba and Placer Counties and closely parallels the Bear River-American River divide, which is one to two miles south.

Some 284 square miles of Bear River watershed are tributary to the Camp Far West Dam. The principal tributaries-- Steep Hollow, Greenhorn and Wolf Creeks--enter Bear River from the north.

Mean annual precipitation within the drainage basin varies from about 18 inches at Feather River to about 65 inches near Lake Spaulding where much of it falls as snow. The climate

of the area, like its topography, is varied. At lower elevations the summers are warm and dry with long growing seasons. At higher elevations the growing season is short and nights are cold. Approximately 80 per cent of the seasonal precipitation occurs during the five-month period, November through March.

#### Water Supply

Bear River is a perennial stream with wide seasonal and annual variations in flow. Regulation of the flow of Bear River is mainly at Combie (within Section 2, T13N, R8E) and Camp Far West Reservoirs. However, Parker Reservoir, a project proposed by Nevada Irrigation District, is to be located a short distance upstream from Combie Reservoir within Section 30, T14N, R9E. Above the Parker Dam site imports to the Bear River from the Yuba River watershed are made by Pacific Gas and Electric Company through the "Drum System". The imported water is normally re-diverted at several points and used for power generation before it reaches Parker Dam site. According to the water supply papers of United States Geological Survey (Staff Exh. 10), there are two gaging stations maintained on Bear River below the Parker Dam site. The "Bear River near Auburn" gage is located eight miles north of the city of Auburn 300 feet upstream from the bridges on State Highway 49, and the "Bear River near Wheatland" gage is located at the bridge on US Highway 99E one mile south-east of the town of Wheatland. Flow measured at the "near Auburn" gage includes the natural runoff of Bear River and spillage, if any, from Nevada Irrigation District's Combie Reservoir-Gold Hill Canal and from Pacific Gas and Electric Company's "Drum System".

This gage is located about five miles downstream from Parker Dam site and has a catchment basin of 140 square miles (NID Exh. 12).

The "near Wheatland" gage is located about six miles downstream from Camp Far West Dam and has a catchment basin of 295 square miles, 11 square miles of which contribute to the river below the dam. The runoff at this gage is the flow passing the "near Auburn" gage plus that which originates from natural drainage on the 155 square miles between the gages. Table I sets forth by months the runoff of the area between the two gages for the period of published record (Staff Exh. 10).

#### Camp Far West Project

The Camp Far West Project, the project envisioned in Application 14804 by South Sutter Water District (hereinafter referred to as South Sutter), proposes enlargement of the existing Camp Far West Reservoir to store waters of the Bear River which are urgently needed for irrigation and domestic purposes within the boundaries of South Sutter. The principal feature of the project is an earth-fill dam across Bear River superimposed on the existing concrete gravity dam. The enlarged reservoir is to have a capacity of 104,000 acre-feet and will be located within both Yuba and Placer Counties. Water released from the reservoir is to flow down the natural river channel for rediversion at the existing diversion reservoir of Camp Far West Irrigation District. This water is to be used for irrigation of approximately 55,000 acres (SSWD Exh. 4).

Table I.

Flow Originating Between USGS Gages "Bear River near Wheatland" and "Bear River near Auburn"

Monthly mean flow in acre-feet

	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Totals
1941-42	2,224	3,140	29,500	34,870	49,240	21,330	38,380	10,330	2,570	280	1,056	1,005	193,925
43	584	7,480	12,320	44,400	23,150	46,860	8,910	4,170	1,990	730	1,623	209	152,426
44	1,140	1,891	4,420	4,950	24,140	23,230	3,620	1,490	950	387	202	61	66,481
1944-45	197	11,070	6,140	1,730	46,880	19,580	3,770	--	120	--	--	442	89,929
46	2,631	7,180	41,100	15,170	9,800	14,410	500	240	100	548	28	--	91,707
47	2,059	5,590	7,790	3,570	14,790	16,970	2,490	--	181	--	--	--	53,440
48	3,103	3,230	1,910	7,340	2,820	10,950	15,280	6,370	2,830	157	--	248	54,238
49	2,604	4,080	9,040	6,620	10,520	49,950	--	2,640	697	--	--	84	86,235
1949-50	420	2,162	2,750	24,720	30,520	22,500	2,280	2,860	--	691	345	700	89,948
51	2,617	45,060	60,870	64,830	26,870	23,750	4,070	6,870	1,110	114	210	873	237,244
52	2,680	5,470	25,500	82,300	65,370	49,460	5,880	--	1,500	1,040	1,018	2,036	242,254
53	804	1,779	10,100	35,370	3,400	11,870	9,720	5,970	--	--	758	1,183	80,954
1953-54	1,990	4,140	3,990	21,760	25,520	29,730	6,840	1,140	276	299	20	8	95,713
Totals	23,053	102,272	215,430	347,630	333,020	340,590	101,740	42,080	12,324	4,246	5,260	6,849	1,534,494
Average	1,773	7,867	16,572	26,741	25,617	26,199	7,826	3,237	948	327	405	527	118,038
Median	2,059	4,140	9,040	21,760	24,140	22,500	5,880	2,640	697	280	202	248	89,948

South Sutter has entered into a contract agreement with Camp Far West Irrigation District (present owners and operators of Camp Far West Reservoir) which in substance makes Camp Far West Irrigation District a partner in the South Sutter project and safeguards the prior rights of the former district. This agreement (SSWD Exh. 3) provides that South Sutter shall make available at a stipulated price all of the water required by Camp Far West Irrigation District for irrigation within its boundaries to the extent of existing licenses and in addition "first" right to 4,000 acre-feet of water after June 1 for the cost of storage.

#### Need for Water

South Sutter comprises about 55,000 acres of land in Sutter and Placer Counties; nearly all of this land is irrigable (R.T. 10/2/57, pp. 61, 62, and 69). It is estimated that the average seasonal application of water is 3.5 acre-feet per acre delivered to the land (Staff Exh. 6). This being the case a need for some 192,500 acre-feet of water would exist. At the present time the requirements for irrigation within the district are served mainly from ground water. A serious problem has arisen in this connection as the water table is dropping at the rate of 10 to 15 feet per year, and official records show extractions in excess of 40,000 acre-feet annually from the underground supply (R.T. 10/2/57 pp. 68-70). With the introduction of supplemental water the overdraft on ground water supply will be eliminated or at least reduced.

Testimony given at the hearing (R.T. 10/2/57, pp. 67-70) indicates that the need for water in the South Sutter area is immediate and the situation is becoming acute, that new wells further deplete the supply currently available, that a supplemental supply of water is necessary and that the Camp Far West Project is the most feasible source.

#### The California Water Plan

The California Water Plan (Bulletin No. 3, Department of Water Resources, May, 1957 - Staff Exh. 4) includes as principal features relating to Bear River the following:

a. Rollins Reservoir, or suitable alternate, on the middle reaches of Bear River, with a gross storage capacity of 100,000 acre-feet.

b. The enlargement of Camp Far West Reservoir, or suitable alternate reservoir, at the foothill line of Bear River, to gross storage capacity of 242,000 acre-feet.

The Legislature appropriated money for the California Water Development Program in 1956 and further indicated its interest in the program by adopting a resolution in 1957 (Senate Concurrent Resolution 130, Chapter 296, California Statutes of 1957), requesting the Department of Water Resources to expedite its feasibility investigation of the Yuba and Bear Rivers. That department is proceeding with the investigation at a pace commensurate with the availability of funds and qualified personnel. It is estimated that the preliminary planning will be completed by December, 1959, with the final

report scheduled for completion by December, 1961 (R.T., 10/2/57, p. 27).

Although the project proposed by the applicant is somewhat at variance with the California Water Plan as set forth in Bulletin No. 3, the Department of Water Resources believes that it is susceptible of integration with the plan. Accordingly, the Department has indicated (R.T., 10/2/57, p. 28) that it has no objection to the project and, in fact, encourages its construction provided there is coordination of planning to insure such integration. The Department of Water Resources therefore suggests that any permit granted contain a clause to the effect that:

"Project planning shall be carried on by the Permittee in cooperation with the Department of Water Resources of the State of California for the coordination of the project with respect to comprehensive development of the water resources concerned." (R.T., 10/2/57, p. 28)

#### Discussion

##### Disposition of Protests

Camp Far West Irrigation District has entered into an agreement (SSWD Exh. 3) with South Sutter which satisfies the protest of the former district by guaranteeing certain amounts of water to it should Camp Far West Reservoir be enlarged (R.T., 10/2/57, p. 40).

Nevada Irrigation District is an upstream diverter and is in a position to take water to which it is entitled before it reaches South Sutter. There is no evidence of injury to Nevada Irrigation District should permit be issued pursuant to Application 14804.



State Department of Fish and Game Exhibit 3 sets forth several conditions and recommendations for by-pass of water at the various points of diversion in the interest of maintaining fish life, which that department suggests be incorporated in any permit issued to the applicant. The applicant has accepted the terms and conditions proposed (R.T., 10/2/57, pp. 7-11).

No appearance was made by California Packing Corporation at the hearing, and no evidence was presented in support of its protest. A notice of withdrawal of its appearance in the proceedings was filed with the Board on September 6, 1957 (R.T., 10/2/57, p.2).

#### Unappropriated Water

The water supply available for appropriation under Application 14804 at Camp Far West Dam is (1) the flow passing the "near Auburn" gage after upstream future development under riparian rights or filings of earlier priority plus (2) the natural runoff of the watershed between that gage and Camp Far West Dam minus (3) the requirements of downstream prior rights. Should the Parker Project, as proposed by Nevada Irrigation District, be constructed, the flow available from source (1) will be of little value to South Sutter. The only time flow of any consequence will occur from that source is during the extremely wet years when the runoff from source (2) will probably be adequate for the needs of the district. Table 1 shows that for the period of published record--October, 1941 through September, 1954--considerable water naturally occurs from source (2) which to a large extent is available for development. The only rights

of record on Bear River downstream from the "near Wheatland" gage are Licenses 2496 and 2497 (Applications 5016 and 5904) of California Packing Corporation which confirm a right to a total of 13.6 cubic feet per second between February 15 and October 15 of each year for irrigation purposes. Table II indicates the estimated requirements for these downstream rights, assuming that the monthly demand is as set forth in Table 117 of Bulletin No. 2, State Water Resources Board, "Water Utilization and Requirements of California", dated June, 1955 (Staff Exh. 3), for the Yuba River diversions, and the requirements for maintenance of fish life as set forth in Fish and Game Exhibit 3.

Application 14804 seeks, in addition to seasonal storage, a direct diversion, year-round, of 360 cubic feet per second. It is apparent from Table II that unappropriated water during the summer months occurs very seldom and ordinarily the Board would feel inclined to limit the period of direct diversion. However, in view of the agreed by-pass for fish life as evidenced by Fish and Game Exhibit 3 and in view of an amendment to the application that diversion will be made during the spring months only when it is determined by the U. S. Bureau of Reclamation, in cooperation with the State of California, that a surplus exists in the Sacramento-San Joaquin delta, and that any diversion during the April through October period will be replaced by a like quantity, in the same month, into the Bear or Feather River systems through the applicant's facilities or at such other times as may be determined by mutual agreement between the applicant and the Bureau (R.T. 10/2/56, p. 76), allowance of a year-round direct diversion season will create no problem in this instance.

Table II.

Flow Originating Between USGS Gages "Bear River near Wheatland" and "Bear River near Auburn"

Monthly mean flow in acre-feet

	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.
Minimum	197	1,779	1,910	1,730	2,820	11,870	500	0	0	0	0	0
Median	2,059	4,140	9,040	21,760	24,140	22,500	5,880	2,640	697	280	202	248
Maximum	3,103	45,060	60,870	82,300	65,370	49,950	38,380	10,330	2,830	1,040	1,623	2,036

Estimated Requirements for Downstream Diverters with Rights of Record with Priority Earlier than Application 14804 below "Bear River near Wheatland" gage\*

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Requirements for Fish and Game Interests\*\*

615	1,490	1,530	1,410	1,530	1,490	1,530	698	792	834	814	702
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\* Table I, Staff Exh. 13  
 \*\* Fish & Game Exh. 3

### Conclusions

The evidence indicates and the Board finds that unappropriated water exists at times in substantial quantities in the source from which the applicant seeks to appropriate, that such water may be taken and used in substantially the manner proposed by the applicant without interference with the exercise of any prior right, that the uses to which the water is to be applied are beneficial and that the application may be approved and permit issued, if appropriately conditioned, without injury to any lawful user of water.

### ORDER

Application 14804 for a permit to appropriate unappropriated water having been filed, protests having been submitted, a hearing having been held by the Board and said Board now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 14804 be, and the same is, hereby approved, and that a permit be issued to the applicant subject to vested rights and to the following terms and conditions, to wit:

1. The amount of water appropriated shall be limited to to the amount which can be beneficially used and shall not exceed, A. 360 cubic feet per second by direct diversion to be diverted as follows: (a) from about March 1 to about November 1 for irrigation purposes and (b) throughout the year as required for domestic purposes and B. 95,000 acre-feet per annum by storage to be collected from about October 1 of each year to about July 1 of the succeeding year; all as more explicitly set forth in paragraph 2 of this approved application.

The equivalent of such continuous flow allowance for any 30-day period may be diverted in a shorter time if there be no interference with vested rights.

2. The maximum amount herein stated may be reduced in the license if investigation so warrants.

3. Actual construction work shall begin on or before September 1, 1959, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

4. Said construction work shall be completed on or before December 1, 1962.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1965.

6. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Rights Board until license is issued.

7. All rights and privileges under this permit including method of diversion, method of use, and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

8. Permittee shall release water into Bear River channel past Camp Far West Dam in such amounts and at such times and rates as will be sufficient, together with inflow from downstream tributary sources, to supply downstream diversions

of the surface flow under prior vested rights to the extent water would have been available for such diversions from unregulated flow.

9. Project planning shall be carried on by the permittee in cooperation with the Department of Water Resources of the State of California for the coordination of the project with respect to comprehensive development of the water resources of Bear River.

10. The permit shall be subject to the terms and conditions of the agreement between Camp Far West Irrigation District and South Sutter Water District dated August 31, 1957.

11. The Permittee, to the extent it directly or indirectly controls the operation of the structures involved, shall not divert and shall at all times by-pass the waters available to it for appropriation to the extent such water is required to provide and maintain minimum flows in the natural bed of Bear River, for the purpose of maintaining fish life, measured at a point approximately 1/4 mile below the existing Camp Far West Diversion Dam within the NE $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 29, T14N, R6E, as follows:

25 cubic feet per second from April 1 to June 30  
of each year.

10 cubic feet per second from July 1 of each year  
to March 31 of the succeeding year.

Permittee is not required by this condition to provide or maintain flows in excess of the inflows to its works or to release water it has developed by storage.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California, on this 28th day of February, 1958.

/s/ Henry Holsinger  
Henry Holsinger, Chairman

/s/ W. P. Rowe  
W. P. Rowe, Member

## Exhibit C



*Opinion*  
*Downey*

CLYDE H. BRAND  
HARRY B. SEYMOUR  
OTTO ROHWER  
JOHN F. DOWNEY  
ROBERT R. HARLAN  
GARTH L. SCALLON  
  
GEORGE BASYE  
MALCOLM S. WEINTRAUB  
ROBERT W. BAKER

LAW OFFICES OF  
DOWNEY, BRAND, SEYMOUR & ROHWER ✓  
CROCKER-ANGLO BANK BUILDING ✓  
SACRAMENTO 14 ✓

STEPHEN W. DOWNEY  
OF COUNSEL

September 30, 1958

California Water Commission  
P. O. Box 388  
Sacramento 2, California

W/R 5633  
X 5634 P<sub>pa</sub>  
X 10221 P<sub>pa</sub>

Attention: Mr. William M. Carah  
Executive Secretary

Re: South Sutter Water District  
State Applications 5633, 5634  
and 10221

Gentlemen:

We refer to the meeting with Messrs. Carah and Greiner concerning the application of South Sutter Water District for the assignment to the District of State Applications 10221 and 5634 and for a release from priority of State Application 5633.

At a meeting of the Directors of the District held September 29, 1958, we were authorized by the Board to say it will be agreeable to the District that its application for an assignment be confined to State Application 10221 (Camp Far West) and that its applications be considered amended so as to request a waiver from priority only in respect to Applications 5633 and 5634 (Parker).

Yours truly,

DOWNEY, BRAND, SEYMOUR & ROHWER

By *W. Seymour* [Signature]

Attorneys for South Sutter Water District

HBS:F

cc: Mr. Edward C. Greiner *Rec'd*  
Mr. Joseph H. Dewey

*for*

DEPARTMENT OF  
WATER RESOURCES  
SACRAMENTO

1958 OCT 1 AM 9 37

## Exhibit D

RELEASE FROM PRIORITY  
 By the Department of Water Resources  
 to the South Sutter Water District  
 of Applications Nos. 5633 and 5634  
 in Favor of Application No. 14804

WHEREAS, Under Division 6, Part 2, of the Water Code of the State of California, the State is directed and authorized to make and file applications for any water which in its judgment is required in the development and completion of the whole or any part of a general or coordinated plan looking toward the development, utilization, or conservation of the water resources of the State of California, and the authority and the powers of the State under this part are now in the Department of Water Resources; and

WHEREAS, Pursuant to such authorization the State filed on July 30, 1927, the applications for permits to appropriate unappropriated water of the Bear River and its tributaries in Nevada and Placer Counties designated in the records of the State Water Rights Board as Applications Nos. 5633 and 5634, the pertinent provisions of which are summarized as follows:

Appli- cation	Source	Point of Diversion	Amounts		Purpose of Use
			Direct Diversion (cfs)	Storage (afa)	
5633	Bear River	Parker Site	120	110,000	Power
5634	Bear River	Parker Site	400	110,000	Domestic, Irriga- tion, Salinity Control, Flood Control, and Navigation

; and

WHEREAS, Section 10504 of the Water Code authorizes the Department of Water Resources to release from priority any portion of any application filed under Division 6, Part 2, of the Water Code when the release from priority

is for the purpose of development not in conflict with such general or coordinated plan, and Section 10505 of the Water Code prohibits any release from priority that will, in the judgment of the Department of Water Resources, deprive the county in which the water applied for originates of any such water necessary for the development of the county; and

WHEREAS, The South Sutter Water District now holds Application No. 14804 on which a permit has been issued for the appropriation of unappropriated water of the Bear River within the Bear River Watershed, the pertinent features of which are summarized as follows:

Application	Date Filed	Permit No.	Source	Amounts		Purpose of Use
				Direct (cfs)	Storage (afa)	
14804	5-12-52	11297	Bear River	360	95,000	Irrigation and Domestic

; and

WHEREAS, The South Sutter Water District proposes to construct the Camp Far West Project for the Utilization of water of the Bear River for irrigation and domestic purposes, which project is a part of a general or coordinated plan for the development, utilization, or conservation of the water resources of the State of California, and has requested a release from priority of Applications Nos. 5633 and 5634 in favor of its Application No. 14804 for this project; and

WHEREAS, On August 31, 1957, the South Sutter Water District and the Camp Far West Irrigation District entered into an agreement establishing the rights of the two districts to use water from the proposed Camp Far West Project; and

WHEREAS, The Director of Water Resources requested the California Water Commission to make recommendations concerning the request for release from priority of Applications Nos. 5633 and 5634; and

WHEREAS, Pursuant to a notice dated July 16, 1958, a joint hearing by the California Water Commission and the Department of Water Resources was held on August 15, 1958, at which all interested parties were afforded an opportunity to present their views with respect to the disposition of Applications Nos. 5633 and 5634; and

WHEREAS, The California Water Commission on October 3, 1958, adopted Resolution No. 46 recommending the release from priority herein contained:

NOW, THEREFORE, It is determined by the Department of Water Resources, in exercise of the discretion and judgment vested in the Department by Division 6, Part 2, of the Water Code of California and upon recommendation of the California Water Commission that:

(a) The release from priority to the South Sutter Water District of Applications Nos. 5633 and 5634 in favor of its Application No. 14804 is for a purpose of development not in conflict with a general or coordinated plan looking toward the development, utilization, or conservation of the water resources of the State, but is in furtherance thereof;

(b) The release from priority herein contained will not, in the judgment of the Department of Water Resources, deprive any county in which the water applied for originates of any water necessary for the development of such county; and

(c) A release from priority of Applications Nos. 5633 and 5634 in favor of Application No. 14804, as herein provided, is in the best interest of the people of the State of California.

WITNESSETH, THAT: The Department of Water Resources under the authority of Section 10504 of the Water Code and in consideration of the general benefits to accrue to the State of California does hereby release from priority to the South Sutter Water District all prior rights under Applications Nos. 5633 and 5634 on file in the records of the State Water Rights Board in favor of Application No. 14804 held by the South Sutter Water District, subject, however, to the following rights, reservations, and conditions:

(1) Prior rights of any county in which the water sought to be appropriated originates to use such water as may be necessary for the development of the county, as provided in Section 10505 of the Water Code of California;

(2) the terms of the agreement between Camp Far West Irrigation District and South Sutter Water District dated August 31, 1957;

(3) this release from priority shall not become effective until the South Sutter Water District has submitted to the California Water Commission evidence that means are available to finance its proposed project and the Commission has certified that this evidence is satisfactory;

(4) all rights under this release from priority shall cease if construction is not commenced within ten years of its execution; and

(5) no changes that are determined by the California Water Commission to be substantial shall be made in the Camp Far West Project as set forth in the report entitled "Camp Far West Project, California, Feasibility Report, April, 1958," prepared by T. H. McGuire and Son, Consulting Engineers,

without the prior approval of the California Water Commission; and no amendment to Application No. 14804 shall be filed with the State Water Rights Board without the prior approval of the California Water Commission.

IN WITNESS WHEREOF, the Department of Water Resources of the State of California, acting through the Director of Water Resources, has caused this release from priority to be executed in triplicate this 17th day of September, 1959.

State of California  
Department of Water Resources

/s/ HARVEY O. BANKS

HARVEY O. BANKS  
DIRECTOR



Exhibit E

## ASSIGNMENT

By the Department of Water Resources  
to the South Sutter Water District  
of Application No. 10221

WHEREAS, Under Division 6, Part 2, of the Water Code of the State of California, the State is directed and authorized to make and file applications for any water which in its judgment is required in the development and completion of the whole or any part of a general or coordinated plan looking toward the development, utilization, or conservation of the water resources of the State of California, and the authority and the powers of the State under this part are now in the Department of Water Resources; and

WHEREAS, Pursuant to such authorization, the State filed on June 13, 1941, the application for a permit to appropriate 250 cubic feet per second by direct diversion and 40,000 acre-feet per annum by storage of the unappropriated water of the Bear River at the Camp Far West Dam site, designated in the records of the State Water Rights Board as Application No. 10221; and

WHEREAS, Section 10504 of the Water Code authorizes the Department of Water Resources to assign an appropriation filed under Division 6, Part 2, of the Water Code, when the assignment is for the purpose of development not in conflict with such general or coordinated plan, and Section 10505 of the Water Code prohibits any assignment that will, in the judgment of the Department of Water Resources, deprive the county in which the appropriated water originates of any such water necessary for the development of the county; and

WHEREAS, The South Sutter Water District proposes to construct the Camp Far West Project for the utilization of water of the Bear River for irrigation and domestic purposes, which project is a part of a general or coordinated plan for the development, utilization, or conservation of the water resources of the State of California, and has requested an assignment of Application No. 10221 for this project; and

WHEREAS, On August 31, 1957, the South Sutter Water District and the Camp Far West Irrigation District entered into an agreement establishing the rights of the two districts to use water from the proposed Camp Far West Project; and

WHEREAS, On August 15, 1958, the California Water Commission and the Department of Water Resources held a joint hearing at which all interested parties were afforded an opportunity to present their views with respect to the disposition of Application No. 10221; and

WHEREAS, The California Water Commission on October 3, 1958, adopted Resolution No. 46 recommending the assignment herein contained:

NOW, THEREFORE, It is determined by the Department of Water Resources, in exercise of the discretion and judgment vested in the Department by Division 6, Part 2, of the Water Code of California and upon the recommendation of the California Water Commission, that:

(a) The assignment to the South Sutter Water District of Application No. 10221 is for a purpose of development not in conflict with a general or coordinated plan looking toward the development, utilization, or conservation of the water resources of the State, but is in furtherance thereof;

(b) The assignment herein contained will not, in the judgment of the Department of Water Resources, deprive any County in which such appropriated water originates of any water necessary for the development of such county; and

(c) The assignment herein contained is in the best interest of the people of the State of California.

WITNESSETH THAT: The Department of Water Resources under the authority of Section 10504 of the Water Code and in consideration of the general

benefits to accrue to the State of California from the construction of the Camp Far West Project does hereby assign to the South Sutter Water District all rights to appropriate water of the Bear River acquired or initiated under Application No. 10221, subject, however, to the following reservations and conditions:

- (1) Prior rights of any county in which the water sought to be appropriated originates to use such water as may be necessary for the development of such county;
- (2) The terms of the agreement between Camp Far West Irrigation District and South Sutter Water District dated August 31, 1957;
- (3) This assignment shall not become effective until the South Sutter Water District has submitted to the California Water Commission evidence that means are available to finance its proposed project and the Commission has certified that this evidence is satisfactory;
- (4) That the rights herein assigned shall revert to the State of California if the assignee shall fail to commence construction within ten years from the date of this assignment; and
- (5) No changes that are determined by the California Water Commission to be substantial shall be made in the Camp Far West Project as set forth in the report entitled "Camp Far West Project, California, Feasibility Report, April, 1958," prepared by T. H. McGuire and Son, Consulting Engineers, without the prior approval of the California Water Commission;

and no amendment to Application No. 10221 herein assigned shall be filed with the State Water Rights Board without the prior approval of the California Water Commission.

IN WITNESS WHEREOF, The Department of Water Resources of the State of California, acting through the Director of Water Resources, has caused this assignment to be executed in triplicate this 17th day of September, 1959.

State of California  
Department of Water Resources

/s/ HARVEY O. BANKS

HARVEY O. BANKS  
DIRECTOR

PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is Downey Brand LLP, 621 Capitol Mall, 18th Floor, Sacramento, California, 95814-4731. On October 25, 2016, I served the within document(s):

**PETITION FOR RELEASE FROM PRIORITY IN FAVOR  
OF APPLICATION NO. 10221 (LICENSE NO. 11120)**

- BY FAX:** by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- BY E-MAIL:** by transmitting via e-mail or electronic transmission the document(s) listed above to the person(s) at the e-mail address(es) set forth below.
- BY MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Sacramento, California addressed as set forth below.
- BY OVERNIGHT MAIL:** by causing document(s) to be picked up by an overnight delivery service company for delivery to the addressee(s) on the next business day.
- BY PERSONAL DELIVERY:** by causing personal delivery by \_\_\_\_\_ of the document(s) listed above to the person(s) at the address(es) set forth below.

Remleh Scherzinger  
General Manager  
NEVADA IRRIGATION DISTRICT  
1036 W. Main Street  
Grass Valley, CA 95945

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 25, 2016, at Sacramento, California.

Catharine F. Irvine

DOWNEY BRAND LLP