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7
8 **BEFORE THE STATE WATER RESOURCES CONTROL BOARD**
9 **OF THE STATE OF CALIFORNIA**
10

11 In the Matter of

12 **Mendocino County Russian River Flood**
Control and Water Conservation
13 **Improvement District and Redwood Valley**
County Water District, East Fork, Russian
14 **River, Mendocino County**

BRIEF OF REDWOOD VALLEY
COUNTY WATER DISTRICT

Hearing Date: February 9 & 10, 2005
Time: 10:00 am

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18 Redwood Valley County Water District (hereinafter "Redwood") presents its Brief in
19 opposition to the Cease and Desist Order No. 262.31-11 of the State Water Resources Control
20 Board as follows:

21
22 **I. KEY ISSUE NO. 1 OF PROPOSED ORDER:**

23 **DOES PERMIT 17593 RESTRICT THE PLACE OF USE OF REDWOOD TO**
24 **THE BOUNDARIES OF THE DISTRICT AS OF THE DATE OF THE PERMIT**
ISSUANCE IN 1979?

25 **Answer:** No. Permit 17593 (Exhibit 8) specifies in Paragraph 4 as the place of use the
26 following:

27 "Irrigation of a net area of 3,300 acres within a gross area of 5,000 acres and
28 other given uses within the boundaries of the Redwood Valley County Water
District in Township 16 and 17N, Range 12W, M. D. B. & M.."

1 There is no statement that if lands are annexed to the District, the Place of Use of the District
2 must be changed. The Place of Use under Permit 17593 (Exhibit 8) has always been the area
3 adjusted by detachments and annexation. Any suspicion that this is too much flexibility and
4 that it has been or can be utilized to expand irrigation consumption is unjustified.

5 Authority: If the SWRCB had intended to restrict the Place of Use of Permit 17593
6 to a specific geographical area as of a particular date, that requirement would have to have
7 been set forth in regard to the "Place of Use", and it was not (Exhibit 8). The obvious purpose
8 of the Permit language is to allow minor variances in the boundaries of the RVCWD but to
9 restrict irrigation to 3,300 acres net within a gross area of 5,000 acres. The Permit terms
10 provide the definite terms to restrict the amounts of water which may be appropriated and the
11 times at which appropriation may occur and are the principal means of limiting water use.

12 Four (4) annexations have occurred to the District, but as set forth in the Testimony of
13 Don Butow and the Report filed in June of 2002 with the SWRCB, the net irrigated acres
14 within the District as of 2003 is still well below the 3300 acres permitted and is approximately
15 2873 acres. The annexations were to serve domestic water from our treatment plant because
16 wells could not meet DOHS requirements not to irrigate land. Redwood is not serving areas
17 outside of the authorized Place of Use nor for purposes not authorized by the Permit, since
18 Redwood serves land only within the boundaries of the Redwood Valley County Water
19 District and does not serve more than 3,300 irrigated acres net. A Cease and Desist Order is
20 not appropriate.

21 In order to attempt to defuse this issue and hopefully allow us to focus on the real
22 problems in the area, the District prepared and filed a map and a Petition for Change of Place
23 of Use to designate the exterior boundaries of the District in 2004, reserving its position that
24 no such filing was required.

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1 It should be pointed out that in both WR 79-15 in 1979¹, which added the area of the
2 Redwood District to the place of use of the Mendocino District B Permit, and in Decision
3 1610 entered in 1986² which added the area of the Redwood District to the place of use of
4 Sonoma's rights, there was no limiting language such as "Redwood Valley County Water
5 District boundary as of the date of this order" or similar phrasing (see Exhibits 6 and 7). It
6 would be an elevation of form over substance if Redwood is required to petition the SWRCB
7 to amend its orders as to Mendocino and Sonoma's Place of Use each time a parcel is added to
8 the District because its residential well failed and service by Redwood falls under the category
9 of a hardship exception to the Court ordered moratorium. The proper approach is for the
10 SWRCB to condition the quantity and times of water use and to recognize that the exterior
11 boundaries of the District have little to do with enforcing limitations upon water use.
12 On page 5, ¶12.b., the SWRCB described the use as "for approximately 600 acre-feet per
13 annum for domestic and for irrigation eventually of 3,500 acres."

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15 _____
16 ¹Order WR 79-15 did not restrict the Place of Use to the boundaries of the RVCWD on a certain
17 date. At page 3, ¶7, it stated:

18 "The Mendocino District seeks to change its presently authorized Place of Use by adding
19 the area within the Redwood Valley County Water District." (Exhibit 6)

20 The ensuing language on page 4 showed clearly that the SWRCB understood that the Redwood Valley
21 District lay largely outside of the Mendocino District boundaries. At page 4, ¶11, the intention of the
22 Board is clear that the only restrictions are that the water be utilized within the boundaries of the District
23 existing from time to time:

24 "The Mendocino District's petition does not involve annexation of the Redwood Valley
25 District's lands, that is, lands within the Westport drainage. It proposes to supply water to
26 the Redwood Valley District by contract . . ." (Exhibit 6)

27 On page 5, ¶12.b., the SWRCB described the use as "for approximately 600 acre-feet per annum for
28 domestic and for irrigation eventually of 3,500 acres."

29 ²Nor is there any term or condition in Decision 1610 relating to the Sonoma water rights restricting
30 service under Sonoma's water rights to any particular area, not including annexed lands of the Redwood
31 Valley County Water District. Decision 1610 in the Order section at page 55, ¶8, states: "A new term is
32 added to read:

33 "The State Water Resources Control Board reserves jurisdiction over this Permit to
34 modify, delete, or impose additional conditions concerning the withdrawal of storage from
35 Lake Mendocino for use within the service area of the Redwood Valley County Water
36 District . . ." (Exhibit 7)

37 Note that the service area of the Redwood Valley County Water District is not limited to the
38 exterior boundaries of the District in 1979, nor to any particular mapped area in Decision 1610.

1 Issue No. 2 in the Draft Cease and Desist Order calls for a Contingency Plan to be
2 developed in regard to how to serve the areas not within the Place of Use of Permit 17593 of
3 Redwood. Is filing for an amendment of the Place of Use to refer to a map which was
4 completed before this proceeding was commenced, including all annexed land, insufficient?
5 What in fact is already occurring is that Redwood is desperately seeking ways to provide
6 additional water rights through storage development (a) to allow diversion and use during the
7 November through April periods when the conditions of Permit 17593 require curtailment of
8 diversion, and (b) to replace the water from Mendocino and from Sonoma rights being utilized
9 during the period of May through October. We do not enjoy this controversy and uncertainty
10 any more than the SWRCB Staff, but to have a meaningful Contingency Plan, it must deal
11 with substance and realities of water availability. We would suggest different language and
12 content:

13 "A presentation of the alternative plans shall be presented for
14 providing water for domestic, irrigation and frost protection use
15 within Redwood at times when water is not available under the
16 terms of Permit 17593 and to provide water during the periods
17 of May 1 through October 30 for those purposes independent of
18 the Mendocino B water right and the Sonoma A water right
19 assuming that those rights were fully utilized. The alternative
20 plans, including examination of the financial feasibility of
21 financing those alternative plans with the default to the U.S.
22 Bureau of Reclamation, and the likely cost of water if both the
23 Bureau debt and the cost of the new facilities were financed and
24 the obligation payable by domestic and irrigation customers,
25 shall be presented under several sets of variables. An alternative
26 contingency plan shall also examine the financial and
27 environmental impacts upon domestic water customers of
28 Redwood and upon irrigation customers of a plan to curtail all
irrigation deliveries from May 1 to October 30 by the District
while attempting to maintain domestic service from an unknown
right to water within Lake Mendocino. "

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1 **II. KEY ISSUE NO. 2:**

2 **PARAGRAPH 4 OF THE PROPOSED ORDER PROPOSES TO FIND THAT**
3 **THERE HAVE BEEN VIOLATIONS OF TERM 16 THAT DIVERSIONS**
4 **UNDER REDWOOD'S PERMIT 17593 NOT BE MADE AT TIMES THAT THE**
5 **WATER LEVEL IN LAKE MENDOCINO CANNOT BE INCREASED DUE TO**
6 **THE FLOOD STORAGE CAPACITY REQUIREMENT, AND OF**
7 **PARAGRAPH 17 WHICH REQUIRES FLOW IN THE CONFLUENCE OF**
8 **THE EAST AND WEST BRANCH OF AT LEAST 150 CFS. ORDER WR 79-15,**
9 **HOWEVER, PERMITS DIVERSIONS OF MENDOCINO'S 8,000 ACRE-FEET**
10 **DURING THESE PERIODS. THERE ARE NO SUCH VIOLATIONS**
11 **BECAUSE MENDOCINO WATER IS AVAILABLE.**

12 The correct approach and Order is for the SWRCB to require Mendocino to develop
13 the data to accurately show depletion of water legally available to Mendocino under its 8,000
14 acre-foot allowance. Payment of money is not a proper measure of water availability to
15 Redwood from Mendocino's 8,000 acre-foot when more than \$275,000 in a lump sum as well
16 as additional annual amounts have been paid by Redwood under the terms of the 1980
17 Stipulated Judgment, based upon the promise of Mendocino to cooperate with Sonoma and to
18 enter into a pooling agreement to use the Warm Springs Dam storage to make water available
19 to parties in Mendocino, including Redwood, and Mendocino's promise to develop those
20 measurement methodologies to trace the actual consumption of 8,000 acre-foot. Mendocino
21 has not kept its promise and because of these breaches is entitled to no more money until it
22 does. There is questionable value in appointing an arbitrator only to find that Mendocino has
23 no competent water data for the 2002 period to allow resolution of the issues.

24 Answer: On a daily basis, based upon the flow at the confluence being above 150 cfs,
25 and the reservoir storage being at or above the flood control criteria of the Army Corps of
26 Engineers, between the period of November 1 and April 30, the water diverted by Redwood
27 can be charged to Redwood's Permit 17593 (see Exhibit 11 – Sample Reporting Form) or
28 must be charged to RRID or Sonoma's A or B rights. Those reports have been filed with the
SWRCB and Mendocino and will continue to be filed. If the SWRCB can order Mendocino to
provide for a proper methodology to enforce the proper Place of Use for irrigation water to
4,096 acres within the area specified by the Department of Finance in the Assignment of State
Rights (which the SWRCB has no right to change on a permanent basis), and receive proper

1 accountings of the amounts of riparian and appropriative water rights being used by the
2 landowners within the 4,096 acres who also use the Mendocino water, then we will know
3 whether water being diverted by Redwood is Mendocino water or Sonoma water and to whom
4 the proper payment should be made by Redwood. As discussed hereafter, the settlement with
5 Mendocino is unlikely to result in this clarity.

6 The SWRCB suggestion that a lack of proof of payment by Redwood to Mendocino for
7 water diverted when Permit 17593 (Exhibit 8) by its terms may not be utilized during winter
8 and summer periods is in error, is beyond the Board's jurisdiction, and is counterproductive.
9 This is not a chicken and egg argument (i.e., Mendocino has not received payment, therefore it
10 cannot do a proper job of quantifying water use). Since 1979, Mendocino has been paid by
11 Redwood for the water used annually and has been paid in excess of \$275,000 to finance and
12 pay for Mendocino doing two things: (a) properly accounting for water use under Mendocino's
13 8,000 acre-feet depletion allowance, and (b) cooperating with Sonoma to implement the
14 Pooling Agreement so that Redwood can pay and obtain water from Sonoma.

15 Our money has instead gone into Mendocino making war upon Sonoma and
16 obstructing accomplishment of the Pooling Agreement at every turn. This Board should not be
17 a bill collector. Redwood will continue to set the sums aside and hold the money in a separate
18 account until Mendocino properly accounts for water use. The fact that Mendocino has not
19 gone to Court to obtain payment should be instructive to the SWRCB . . . Mendocino knows
20 that it is in violation of the 1980 Stipulated Judgment and that it will be required to return the
21 \$275,000 plus interest and to pay damages to Redwood for this mindless war its members
22 continue to carry on in regard to claims of County of Origin or Area of Origin rights.

23 In the 1980 Stipulated Judgment between Redwood and Mendocino and the previous
24 Agreement entitled a "Memorandum of Guarantees" of February 28, 1972 (Exhibit 1),
25 Mendocino promised to pursue a Pooling Agreement with Sonoma in which water available
26 from Warm Springs Dam would be substituted by payment of a portion of the Warm Spring
27 costs for water from Lake Mendocino. Pursuant to ¶6 of the 1980 Stipulated Judgment,
28 Redwood paid an amount in excess of \$275,000 between July 1, 1980 and July 1, 1989 not for

1 water, but for the promise of Mendocino to participate cooperatively with Sonoma and obtain
2 water from the Pooling Concept Agreement, a joint use of Warm Springs Dam and Lake
3 Mendocino, for a permanent supply to Redwood. This Board should not order payment or
4 coerce payment because without proper accounting of water use, the money may well be owed
5 to Sonoma for water use under Decision 1610 if Mendocino's full 8,000 acre-feet were in fact
6 used, which we believe is highly unlikely.

7
8 **III. KEY ISSUE NO. 3:**

9 **THE SWRCB SHOULD NOT ADOPT A CEASE AND DESIST ORDER**
10 **AGAINST REDWOOD VALLEY COUNTY WATER DISTRICT.**

11 **A. Redwood is entitled to utilize water that Mendocino County Russian River**
12 **Flood Control and Water Conservation Improvement District does not**
13 **lawfully use from its 8,000 acre-feet depletion allowance. The Mendocino**
14 **District refuses to properly account and abide by the State Assignment**
15 **limitations. The SWRCB must enforce the terms of the State Assignment**
16 **and purpose and place of use restrictions before claiming Redwood Valley**
17 **is utilizing water it is not entitled to.**

18 Permit 12947B is a water right entitlement held by Mendocino County Russian River
19 Flood Control and Water Conservation Improvement District ("Mendocino District" or
20 "RRID"). Permit 12947B had its origin in Application 12919 and 12920 filed on January 28,
21 1949 by the State of California pursuant to Water Code §10500, a State filing. The purpose of
22 these so called "State filings" was to use California's water rights system of priority to guide
23 water resources development in a manner consistent with a coordinated Statewide plan. A
24 portion of each of these applications which were eventually designated 12919A and 12920A
25 underwent assignment and reassignment pursuant to the law governing State filings.

26 The completed applications, together with other applications to appropriate from the
27 Russian River system, were considered at a consolidated hearing which led to Decision 1030,
28 adopted August 17, 1961 (Exhibit 4). In 1961, irrigation of water did not include frost
protection because such use was only in the experimental stage.

By Order WR 74-30 adopted October 17, 1974, the SWRCB consolidated all permit
uses into Permit 12947 and revoked Permit 12948. The Board then split Permit 12947 into

1 "A" and "B" permits to reflect the separate entitlements of Sonoma County Water Agency
2 (Permit 12947A) and the Mendocino District (Permit 12947B).

3 The Department of Finance Assignment, which is the only basis upon which the
4 SWRCB could grant the B permit to Mendocino, required, as quoted on page 13 of Decision
5 1030, that the 8,000 acre-feet of yield be utilized on the 4,096 acres ". . . in Mendocino
6 County and the 8,259 acres in Sonoma County referred to in said Corps of Engineers Report".
7 On page 9 of Decision 1030 where the SWRCB defines what it means by the "Russian River
8 Valley", the Order states:

9 "The Russian River Valley as hereinafter referred to includes
10 only those areas designated as Areas B through P, Y, and Z in
11 the U.S. Army Corps of Engineers Survey Report, Appendix V,
12 Table 9 and Plate 1 (Sonoma Dist. Exh. 4D) . . .".

12 We have supplied a copy of that Appendix and Map (Exhibit 5), and you will see that the
13 4,096 acres that are permitted to be served are lands within reservoir bands close to the River,
14 most of which land possess their own riparian and appropriative rights, and, therefore, as
15 mentioned in other places within the Order, the 8,000 acre-feet was only intended to
16 supplement other water rights held by those lands, increasing the probability that large
17 amounts of the 8,000 acre-feet would be available for substantial periods for use within
18 Redwood.

19 It was on this basis and with this understanding that water would be used from the
20 8,000 acre-feet only in these restricted areas and only for irrigation upon 4,096 acres, and that
21 no use would be permitted for frost protection since such use is not permitted under the
22 Mendocino B Permit, that prompted Redwood to pay in excess of \$275,000 and rely upon the
23 availability of some water to supplement its Permit 17593 and its landowners' other water
24 sources.

25 Water Code Section 10504.5 is the current version of the language making clear that no
26 change can be made in a term of assignment of a State Filing without approval of the agency
27 having authority over the assignment. At the time of the hearing in Decision 1030, the
28 Department of Finance was the only entity that could relax the place of use specified in the

1 assignment. The Water Rights Board knew that in 1961, and therefore it was clear that the
2 place of use for the 8,000 acre-feet was limited to the mapped areas shown in the Corps
3 Report. Section 10504.5 carries forth this requirement by stating:

4 “a. The recipient of a . . . assignment under this part shall,
5 before making any changes determined by the State Water
6 Resources Control Board to be substantial in the project in
7 furtherance of which the release or assignment was made,
8 submit such changes to the State Water Resources Control
9 Board for its approval. The board shall approve any such change
10 only if it determines that such change will not conflict with the
11 general or coordinated plan . . .” [emphasis added].

12 See also, for example, 25 Ops. Cal. Atty. Gen. 8, 15-18 (1955) which discusses assignment of
13 a state filing when “for the purpose of development not in conflict with such general or
14 coordinated plans.”

15 Neither the Department of Finance, your predecessor Water Rights Board, or the
16 SWRCB have ever approved a change in the terms of the State Assignment other than your
17 Order WR 79-15 which permits service to Redwood, and which would permit the Mendocino
18 District to serve lands and uses outside of the geographical area set forth in the Corps
19 Appendix maps.

20 The strictness of the manner in which this Board has viewed conditions imposed in
21 connection with State filings was discussed in connection with the petition of Westlands Water
22 District for Reconsideration of Decision Canceling Petition for Partial Assignment and
23 Approval of Application 5638 (SWRCB Letter to Stuart L. Somach, June 6, 2001, attached as
24 Exhibit 13). In its petition and application, Westlands sought to appropriate part of the water
25 that is currently appropriated by the United States Bureau of Reclamation from the San
26 Joaquin River under a permit issued pursuant to Application 5638. This Board found that no
27 water was available under Application 5638 because the State Department of Finance, when it
28 assigned Application 5638 to the Bureau in 1939, did not reserve any water for the County of
Origin and assigned Application 5638 in full to the United States Bureau of Reclamation. Due
to the fact that the Department of Finance had made a finding that its full, unconditional
assignment of Application 5638 would not deprive a County of Origin of water necessary for

1 development in the County, this Board found that there was no water remaining for further
2 appropriation by Westlands.

3 The same strict application of the State Assignment Rule should be made here. The
4 assignment of the State filing pursuant to D-1030 is based on the Comprehensive Plan for the
5 Development of Water Resources for the Russian River Valley described in the Army Corps of
6 Engineers Report. The limitation on the place of use of the 8,000 acre-feet of water to the
7 4,096 acres and to lands which held senior riparian and appropriative rights was part of
8 Decision 1030 and the State Assignment.

9 To permit use of the 8,000 acre-feet outside of this area (Areas B through K shown on
10 Plate 1) and the Redwood boundaries would require a full hearing, full CEQA compliance, and
11 the consideration of whether the Mendocino District, if it seeks such approval, should be
12 required to reimburse with interest the more than \$275,000 paid by Redwood in reliance upon
13 this interim supply and the other promises made by the Mendocino District discussed
14 hereafter.

15 Vineyard developers at higher elevations and outside of the areas shown on the Corps
16 map have to recognize that pursuant to the 1980 Stipulated Judgment and the State
17 Assignment limitations the Mendocino District cannot grandfather in their water use. Those
18 landowners should bring their checkbooks and ally with Redwood to build storage.

19
20 **B. The SWRCB's Purported Settlement with Mendocino.**

21 In a highly unusual development, after notice of and official commencement of the
22 Cease and Desist proceedings jointly in regard to Redwood and Mendocino, the SWRCB has
23 purported to enter into a settlement with Mendocino without any opportunity for any other
24 party to be present, or to submit evidence or present evidence in regard to the merits of the
25 resolution of the proceeding. The erosion of due process, even when some of the contents of
26 the proposed resolution are good, is a slippery slope since without a hearing the SWRCB is
27 attempting to consider lands outside of the Army Corps map and Decision 1030 term as a
28 possible Place of Use and frost protection as part of irrigation. Redwood would register the

1 following for the record:

2 When the prosecutor, the SWRCB and the Judge (the SWRCB) purport to draw
3 imaginary boundaries between persons and divisions to maintain due process requirements,
4 how exactly those boundaries can be disregarded once the proceedings have begun to provide
5 for a “settlement” without allowing all parties to participate, comment and suggest is
6 questionable. Many parties had submitted their Notices to Appear stating their interests. A
7 Judge in a Superior Court could not meet with the prosecutor and one party to order a
8 resolution to the exclusion of all other parties, and the Notice of Proceeding clearly recognized
9 that all other parties had an interest in the proceeding. The Cease and Desist Order is therefore
10 invalid. More important, it is incomplete and is simply wrong.

11 We cite to this Board a number of historic and recent Appellate Court proceedings and
12 decisions that point out the importance of abiding by the Brown Act, of maintaining due
13 process in the role of administrative staff in advising Boards which are purporting to act in a
14 judicial or quasi-judicial capacity and role.³ This Order indicates a violation of that standard.

15 If it is suggested that this is just a stipulated order by the prosecutors, this Board should
16 explain how its staff can “adjudicate” that irrigation use of Mendocino includes frost
17 protection water (Footnote 2, page 4 of Order), and that the 4,096 acres may be anywhere
18 within or outside of the Army Corps plat boundaries (paragraph 21 of Order, 2005-001, Cease
19 and Desist Order No. 262.31-15).

20 We believe this Board and its staff are in violation of all of those principles and are
21 wrong about the proper limits on Mendocino’s use, and a little evidence and open hearing

22

23 ³*Appelbaum v. Board of Directors* (1980) 104 Cal.App.3d 648, 657 (when agency’s initial view of
24 facts based on facts gained from non-adversarial processes forecloses a fair and open hearing at an
adversary hearing leading to the ultimate decision, due process is not granted.)

25 *Clark v. City of Hermosa Beach* (1996) 48 Cal.App.4th 1152, 1160-3, 1171-73 (when agency
26 allows its decision to be affected by persons who work for the agency who have a position on the issues,
due process is threatened)

27 *Golden Day Schools, Inc. v. State Department of Education* (2000) 83 Cal.App.4th 695, 709-710
(agency that allows staff to evaluate correctness of their own investigation, the potential of bias is too high
to be Constitutionally tolerable.)

28 *Haas v. City of San Bernardino* (2002) 27 Cal.App.4th 1017, 1032.

Morgan v. U.S. (1936) 298 U.S.468, 480 (full hearing required before adjudication.)

1 processes would help the Board understand these issues. The Board can simply and
2 expeditiously remedy those violations by withdrawing its Order regarding Mendocino, inviting
3 public and interested parties' comments, and considering those comments in an open and
4 impartial evidentiary hearing rather than a closed process.

5 On page 4 of the Cease and Desist Order issued by the Board in regard to Mendocino,
6 Footnote 2 purports to find that Mendocino may utilize portions of the 8,000 acre-feet for frost
7 protection even though the Permit is limited to "irrigation" use. The purported explanation is
8 that because the Board adopted a regulation in 1979 distinguishing between irrigation and frost
9 protection, Mendocino may use water for frost protection as an assumed part of its irrigation
10 Purpose of Use. Where is the due process, the hearing and the evidentiary record to support
11 "adding a new use to Mendocino's water rights"? The Department of Finance and Decision
12 1030 were each adopted at a time when water was not used for frost protection. This is indeed
13 interesting, but we know of no basis upon which a permit may be "amended" by interpretation.
14 Further, in the troubled Russian River basin it would seem unwise to try to do so. Mendocino
15 promised in 1980 by the Stipulated Judgment and in Order WR 79-15, the SWRCB approved
16 the use of "surplus" water by Redwood. Certainly, if frost protection had been contemplated
17 within the 4,096 acres of Mendocino permitted to be irrigated, Mendocino should have
18 presented evidence, asked for the additional purpose of use, quantified the environmental
19 impacts under CEQA, explained why air fans or helicopters were not a reasonable alternative.

20 The separate regulation providing for frost protection use as a separate type of use from
21 irrigation existed when Mendocino accepted the \$276,992 from Redwood (from 1980 through
22 1989 – Exhibit 3) and induced Redwood and the SWRCB Board to allow unused water under
23 the 8,000 acre-feet to be used in Redwood (1979). The separate use for frost protection, which
24 was not a use permitted by Mendocino, existed in 1979 when the Bureau of Reclamation lent
25 \$7,250,000 to Redwood for its distribution system. Perhaps people would have reached
26 different decisions. Further, most of the lands within the Army Corps service area have rights
27 to Spring flows under riparian or appropriative rights that cover "frost protection" use. If
28 Mendocino is not expanding its use to other lands, we should have a hearing to decide if this is

1 in accordance with law or logic. If this Board is going to permit such a consumptive use,
2 which obviously makes it more likely that water will not be available for Redwood's use,
3 perhaps the Board might want to comply with CEQA since the Department of Finance had no
4 knowledge of that use when it Assigned a State Filing, and there is nothing to show that
5 Decision 1030 or the Army Corps of Engineers Project Report relied upon by the State Board
6 in Decision 1030 made in 1961 which presented such a use as included in the Project
7 approved. There is nothing in the Cease and Desist Order to even explain how the purported
8 53 cfs limitation upon diversions by Mendocino from direct diversion amounts would be
9 enforced and measured during frost protection season. Is Mendocino to have an employee to
10 allocate the maximum frost protection capacity on an instantaneous basis? Only in this
11 manner can Redwood know, when its 26.6 cfs of Frost Protection Water under Permit 17593 is
12 not fully available, how much water is available on a surplus basis from direct diversion
13 sources under Mendocino's rights.

14
15 **C. Order WR 79-15 is a proper order in conformance with Water Code**
16 **Section 10504.5 permitting service of State Assignment water outside of the**
area designated by the Department of Finance.

17 The Petition for Change in Place of Use approved in WR 79-15 was for the purpose of
18 "provid[ing] a firm interim supply for the Redwood Valley District." WR 79-15, ¶12(a). In
19 WR 79-15, the SWRCB expanded the area of use of the State Assignment water to the
20 Mendocino District to permit that the water be placed to beneficial use by Redwood Valley.
21 By 1979, the SWRCB held that authority in the place of the Department of Finance. In so
22 doing, this Board recognized that the expansion to include Redwood Valley was for an
23 indefinite period of time, but until the Mendocino District could place the full 8,000 acre-feet
24 of water to beneficial use within the 4,096 acres place of use described by the Army Corps of
25 Engineers in documents that formed the basis of the State Assignment, the only exception to
26 use outside the 4,096 acres was for use by Redwood Valley.

27 Before considering any cease and desist order as to Redwood, this Board should
28 consider the unfairness of the position that Redwood is placed in. This Board has the primary

1 power to require proper reporting, tracing of riparian use and appropriative water use, and
2 reporting of use under the 8,000 acre-feet allowance; and identification of the users within the
3 4,096 acre area by the Mendocino District. If it does not exercise and enforce this power, is it
4 fair and equitable to criticize Redwood because it cannot prove that there is water available
5 under the 8,000 acre-feet allowance of another party? The 1980 Stipulated Judgment and
6 California water law require that the Mendocino District properly record and account for water
7 use, and only through that means can we determine if Redwood should pay Sonoma County
8 Water Agency or the Mendocino District for water in excess of the amounts available under
9 Permit 17593 to Redwood. Mendocino itself has, through its threats and uncooperative
10 actions, delayed Sonoma's entering into the sale agreement contemplated under Decision 1610
11 with Redwood.

12
13 **D. The 1980 Stipulated Judgment**

14 In order to implement WR 79-15, in 1980, the Mendocino District and Redwood
15 Valley entered into a Stipulated Judgment (Exhibit 2, ¶¶3 and 4) pursuant to which the
16 Mendocino District was required to sell to Redwood Valley up to the full amount of the 8,000
17 acre-feet of water stored by the Mendocino District at Lake Mendocino pursuant to D-1030.

18 The Stipulated Judgment at ¶7 requires that the Mendocino District notify Redwood
19 Valley in writing at such time as no surplus water is available. Moreover, if a disagreement
20 exists as to the existence of surplus water, such disagreement shall be referred to a board of
21 three arbitrators for decision.

22 In 2002, the Mendocino District advised Redwood Valley that no surplus water as
23 available because the Mendocino District wanted to file a new water right to obtain parts of
24 Sonoma's Part A right. When Redwood Valley requested that the Mendocino District account
25 for water used within the 4,096 acre place of use established by the State Assignment, the
26 Mendocino District was unable to do so.

27 The Mendocino District has now taken the position that not only does it not have to
28 account to Redwood Valley for where the 8,000 acre-feet of water was used within the

1 Mendocino District, but that the Mendocino District could use that water anywhere within its
2 District boundaries for any beneficial use, including frost protection which is not permitted
3 under Decision 1030 nor the language of Permit No. 12947B.

4

5 **E. The Staff Report attempts to use the failure to pay, and the failure to insist**
6 **that the Court appoint the arbitrator as evidence that Redwood is violating**
7 **some standard. This problem is not simple, but the SWRCB's use of these**
8 **facts is overly simplistic, not competent evidence, and not likely to lead to**
9 **solutions.**

10 Redwood cannot properly respond to the Draft Cease and Desist Order unless this
11 Board first requires the Mendocino District to properly account for water used and payment of
12 money by Redwood to Mendocino does not constitute competent evidence of anything. This
13 matter cannot be resolved in a vacuum. The fact that the SWRCB staff has concluded that
14 there is a dispute between the Mendocino District and Redwood Valley regarding whether
15 there is surplus water available to Redwood Valley as contemplated in the Stipulated Judgment
16 and WR 79-15, does not support the staff's conclusion that Redwood Valley is diverting water
17 without a right.

18 It appears that any number of legal proceedings, arbitration or SWRCB proceedings,
19 could be held to resolve this issue:

20 A complaint could be filed with the SWRCB by Redwood Valley against the
21 Mendocino District claiming use for purposes such as for frost protection and in the place of
22 use outside of the 4,096 acres State Assignment service area is illegal under their permit. The
23 practical problem with this procedure is that the SWRCB staff by its Cease and Desist Order
24 has already made up the Board's mind. Mendocino has failed, and we are informed, refuses to
25 read meters within the areas of water use that are legal places of use only, and refuses to adopt
26 a formula for differentiating between water used under landowner's water rights as opposed to
27 irrigation with Mendocino water in those areas and at those times when irrigation use is
28 lawful. In short, the SWRCB staff would be required to spend a great deal of time, but
because there is a failure of the Mendocino District to provide for proper monitoring and
control of its use of water, the data would eventually result in a determination by the SWRCB

1 staff that they cannot conclude that there is no surplus water under the terms of the stipulated
2 judgment between the Mendocino District and Redwood Valley, but there would also be no
3 ability to conclude how much is being used.

4 A second procedure would be for the SWRCB in this proceeding to issue a cease and
5 desist order requiring Mendocino District to install meters and read those meters monthly
6 differentiating frost control use within its authorized place of use, and as to each user calculate
7 its riparian, appropriative right use and its use under the 8,000 acre-feet as well as return flows.
8 The Cease and Desist Order falls far short of the precision required to accomplish these studies
9 and methodologies.

10 The third alternative would be for Redwood Valley to pursue arbitration pursuant to the
11 Stipulated Judgment. This would likely be costly and there is no assurance that the SWRCB
12 or Sonoma would abide by the methodology and use if outside of the narrow November-
13 December 2002 period. An arbitrator can determine the proper legal use by the Mendocino
14 District of water that allows for an accounting of water used within the authorized place of use
15 and can assure Redwood Valley as ordered by the Board in WR 79-15 that it continue to
16 receive a firm interim supply of water until the Mendocino District can use the full 8,000 acre-
17 feet within the 4,096 acre service area as provided in the State Assignment. However, unless
18 the SWRCB agrees with the methodology and Sonoma, who is not a party to the litigation,
19 accepts the methodology, the arbitrator has little power to create an ongoing methodology
20 which would be useful in the future. The arbitrator can annually try to get the Court to order
21 Mendocino to do what it is required to do. The SWRCB could intervene in that arbitration
22 proceeding and provide its expertise, but Mendocino may contend the arbitrator can make a
23 determination for 2002 but for no other period declare that water has returned to its 8,000 acre-
24 feet entitlement magically and demand payment to block Sonoma and Redwood. This is in
25 fact what has occurred.

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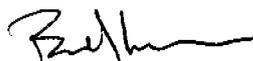
1 **CONCLUSION**

2 It has been the long-standing position of this Board to view the assignment of State
3 filings strictly. Water Code §10500 authorizes the State applications for water for a
4 “coordinated plan.” Applications filed pursuant to §10500 that were transferred to the
5 SWRCB may be released from priority or assigned when the release or assignment is for “the
6 purpose of development not in conflict with such general or coordinated plan or with water
7 quality objectives established pursuant to law.” Water Code §10504; 25 Ops. Cal. Atty. Gen.
8 8, 15-18 (1955). The recipient of a release from priority or assignment cannot make any
9 changes in the use of such water without approval by SWRCB. Water Code §10504.5(a).
10 Requiring Mendocino to properly report the Place of Use on the 4,096 acres within the Army
11 Corps mapped area referred to in Decision 1030 after first subtracting the other water rights
12 used by its customers, and then returning to the issues of Redwood after Mendocino has
13 complied, has a high probability of solving numerous problems. The Cease and Desist Order
14 procedure for Redwood is not appropriate and is not supported by law. The Cease and Desist
15 Order adopted as to Mendocino provided a golden opportunity . . . which opportunity can be
16 recaptured and not lost by rescission or reconsideration of the Order issued.

17 If Mendocino wants to attempt to change its Place of Use by modifying the Assignment
18 as to the Place of Use or include frost protection use, it may petition the SWRCB, file the
19 necessary environmental work and participate in the hearing process, but this may not be done
20 under the cover of a Cease and Desist Order.

21 Dated: 1/10/05

MINASIAN, SPRUANCE, MEITH
SOARES & SEXTON, LLP

22
23 

24 PAUL R. MINASIAN
MICHAEL V. SEXTON
25 Attorneys for Redwood Valley County Water District
26
27
28

1 **PROOF OF SERVICE**

2 **SWRCB hearing to determine whether to impose**
3 **Cease and Desist Order No. 262.31-11 against Redwood Valley County Water District**

4 I, **DENISE FORDE**, declare:

5 I am employed by the law firm of MINASIAN, SPRUANCE, MEITH, SOARES & SEXTON LLP.
6 My business address is 1681 Bird Street, Post Office Box 1679, Oroville, California 95965-1679. I am over
7 the age of 18 years and not a party to this action.

8 On January 12, 2005, I served the following document(s) set forth below in the manner indicated:

9 () **Via Facsimile**: By facsimile machine at the fax number(s) shown below. I caused the machine
10 to print a transmission record of the transmission and no error was reported by the machine.

11 () **Personal Service**: By personally delivering to the person named below, at the address indicate.

12 () **Service by Mail (Deposit)**: By enclosing a copy in an envelope addressed as shown below and
13 depositing the sealed envelope with the United States Postal Service with the postage fully prepaid.

14 (X) **Service by Mail (Collection)**: By enclosing a copy in an envelope addressed as shown below
15 and placing the envelope for collection and mailing on January 12, 2005, at Oroville, California, following
16 our ordinary business practices. I am readily familiar with this firm's practice for collecting and processing
17 correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is
18 deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with
19 postage fully prepaid.

20 () **Service by Overnight Delivery**: By enclosing a copy in an envelope addressed as shown
21 below and depositing the sealed envelope with the United States Postal Service *for Express Mail* (overnight
22 service) with the postage fully prepaid.

23 **Document(s) Served**

- 24 1. BRIEF OF REDWOOD VALLEY COUNTY WATER DISTRICT
25 2. EXHIBITS OF REDWOOD VALLEY COUNTY WATER DISTRICT
26 3. DECLARATION OF KEITH TIEMANN
27 4. DECLARATION OF DON BUTOW

28 **Person(s) Served:**

SEE ATTACHED SERVICE LIST

I declare under penalty of perjury under the laws of the State of California that the foregoing is true
and correct, and that this Declaration of Service was executed on January 12, 2005, at Oroville, California.


DENISE FORDE

1 **SERVICE LIST**

2 **SWRCB hearing to determine whether to impose**
3 **Cease and Desist Order No. 262.31-11 against Redwood Valley County Water District**

4 Electronic Copies (CD) served by mail upon the following parties:

5 Gary D. Weatherford, Esq.
6 WEATHERFORD & TAAFFE, LLP
7 255 California Street, 10th Floor
8 San Francisco, California 94111
9 h20gary@aol.com

10 Samantha K. Olson
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12 Sacramento, California 95812-0100
13 *Rep: Division of Water Rights, State Water Resources Control Board*
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22 1011 22nd Street
23 Sacramento, California 95816-4907
24 abl@bkslawfirm.com

25
26
27
28

FROM: The Board of Trustees
Mendocino County Russian River Flood
Control and Water Conservation
Improvement District.

TO: The Board of Directors
Redwood Valley County Water District
Redwood Valley
California 95470

MEMORANDUM OF GUARANTEES OF
RUSSIAN RIVER WATER FOR REDWOOD
VALLEY WATER PROJECT.

The Board of Directors of the Mendocino County Russian River Flood Control and Water Conservation Improvement District has given thorough consideration to your request for a commitment of a guaranteed supply of water for your planned project of furnishing Russian River water for your District.

The Board has, by resolution, authorized me to direct this Memorandum to you setting forth guarantees which, we trust, will be satisfactory for your needs.

Such guarantees are, of necessity, based on alternatives for the reasons, and in the manner, hereinafter set forth.

A short summary of the position of our District with respect to the overall Russian River project will be helpful in clarifying the guarantees:

The Mendocino County Russian River Flood Control and Water Conservation Improvement District was formed in 1955 pursuant to Water Code-Appendix Section 54-36 et seq., for the purpose of participating in the construction and sharing in the benefits of the Coyote Valley Dam and Reservoir.

Concurrently with formation of the District, the inhabitants of the District voted a bond issue in the amount of \$650,000.00 which, together with the \$5,598,000.00 contributed by the Sonoma County District, constituted the required local funds for participation with the U. S. Corps of Engineers in the Coyote project.

For this sum, the Mendocino District was entitled to approximately 8,000 acre-feet from the yield of the dam.

Subsequently, after hearings before the State Water Rights Board in Decision D-1030, confirmed this right in the following language:

" The right to export water from the Russian River Valley under these permits is subject to depletion by consumptive use of project water appropriated under these permits of 8,000 acre-feet per annum for beneficial use in the service area of Mendocino County Russian River Flood Control and Water Conservation Improvement District. "

Thus, this District has 8,000 acre-feet from the yield of the dam which it must put to beneficial use within the District.

A portion of this, of course, has already been put to use, and it is anticipated that the full amount will be required for use within the District prior to 1990.

In 1969 the Sonoma County Water Agency, in cooperation with Marin Municipal Water District, North Marin County Water District, and this District, prepared a report entitled "The Russian River Water Plan, 1969". Under this report, the 8,000 acre-feet of the firm yield of Lake Mendocino to this District is acknowledged.

Other units of the proposed plan are projected as follows:

The Warm Springs project is scheduled for completion in 1978. This District is allocated 12,000 acre-feet in the event it wishes to commit itself to purchase the same. The District also, under this report, is allocated 2,000 acre-feet in the enlargement of Lake Mendocino, scheduled in 1994. Additional water supplies which may be needed after the year 2004 may be obtained from the authorized Knights Valley project, from the Eel River, or from other proposed reservoirs in the Russian River basin.

It should be noted here also that in the State Water Rights Decision, referred to above, D-1030, provided that this District would have its first option to participate to the extent it deems necessary and desirable in the enlargement of the Coyote Valley project.

The District is presently engaging in a series of meetings with the Sonoma District, and other interested agencies looking to the formation of a tri-county Pool Concept wherein all

parties will join in revenue sharing as well as debt retirement and operation and maintenance of all segments of the Russian River project to assure all participants of water as needed at minimum expense.

There are legal, engineering, and practical problems in the formation of such a pool which must be overcome before this concept becomes a reality, but it is the present belief of the Board of Directors of this District that the same would be feasible, and to the best interests of all participants.

Redwood Valley, so far as this District is concerned, will be invited to participate in the proposed Pool Concept.

Thus, from the foregoing it appears to this District that there is a source of water available, first, from Lake Mendocino (the reservoir of the Coyote project), so long as the same is not required in this District, and, thereafter, from the Warm Springs project, or other sources of the overall Russian River project.

Hence, this District is in a position to, and does, give your District the following assurances:

1. In the event the Pool Concept becomes a reality, this District shall take all reasonable steps to ensure your District becoming a participant. This plan assures sufficient water for all participants subject, of course, to prorated deficiency in the dry year of record.

This proposal contemplates your payment of a lump sum to this District, or as determined by Sonoma and other pool participants, to equalize your position, and you, thereafter, would share water revenues and costs in the entire pool with provisions for a prorata reduction of use, based on assessed valuation, in the event of a dry year. This lump sum shall not be due until your District commences utilizing the water on behalf of its consumers.

2. In the event the Pool Concept does not become a reality, this District shall exercise its preferred right under the aforesaid Russian River Water Plan, 1969, to the extent necessary to fulfill the requirements of your District and an additional supply of water for this District, if needed.

3. In the meantime, this District shall contract with your District for your District to use the unused portion of the 3,000 acre-feet to the extent of your requirement until and as the same is required for consumptive use in this District, after which time this District shall provide to your District the additional water you need from Warm Springs. Provided, further, that your District will bear the expense of replacement water at the Warm Springs project cost.

We trust this meets with your approval and gives you adequate assurances for you to proceed with your project application.

Dated: February 28, 1972.



Charles Shimmin, President
Board of Trustees

AGREEMENT BETWEEN MENDOCINO COUNTY RUSSIAN
RIVER FLOOD CONTROL AND WATER CONSERVATION
IMPROVEMENT DISTRICT TO FURNISH WATER TO
REDWOOD VALLEY COUNTY WATER DISTRICT.

(INTERIM AGREEMENT)

THIS AGREEMENT made and entered into this 4th
day of October, 1972, by and between MENDOCINO COUNTY
RUSSIAN RIVER FLOOD CONTROL AND WATER CONSERVATION IMPROVEMENT
DISTRICT, hereinafter referred to as "MENDOCINO RUSSIAN RIVER
DISTRICT", and REDWOOD VALLEY COUNTY WATER DISTRICT, hereinafter
referred to as "REDWOOD VALLEY DISTRICT",

W I T N E S S E T H
- - - - -

1.

EXHIBIT I

WHEREAS, the Board of Directors of MENDOCINO RUSSIAN RIVER DISTRICT has heretofore given guarantees to REDWOOD VALLEY DISTRICT for the proposed project of REDWOOD VALLEY DISTRICT, which said guarantees are contained in that certain memorandum dated February 28, 1972, headed Memorandum of Guarantees of Russian River Water for Redwood Valley Water Project, a copy of which said memorandum is attached hereto and made a part hereof, and marked Exhibit "A", and

WHEREAS, since the date of said memorandum, a meeting has been held between the boards of directors of Sonoma County Russian River Flood Control and Water Conservation District, North Marin Water District, Redwood Valley District and Mendocino Russian River District, at which time all parties signified their intent to effectuate the "Pool Concept" referred to in said memorandum, and

WHEREAS, it is to the best interests of both parties hereto that this interim agreement be made to provide a definite commitment to REDWOOD VALLEY DISTRICT until the Pool Concept is finalized,

NOW, THEREFORE, the parties agree as follows:

1. MENDOCINO RUSSIAN RIVER DISTRICT does hereby agree to furnish from Lake Mendocino such amount of unused water of said district's allocation therein as required for the REDWOOD VALLEY DISTRICT project until and as the same is required for consumptive use in the MENDOCINO RUSSIAN RIVER DISTRICT. The cost therefor chargeable to the REDWOOD VALLEY DISTRICT shall be the water cost to MENDOCINO RUSSIAN RIVER DISTRICT, including a pro-rata share of

annual Bond Interest and Redemption and administrative costs determined by applying the ratio of the assessed valuation of REDWOOD VALLEY DISTRICT to the combined total valuation of the two Districts.

At such time as it is determined that the full MENDOCINO RUSSIAN RIVER DISTRICT allocation is required in said MENDOCINO RUSSIAN RIVER DISTRICT, said district will provide additional water from Warm Springs project at the cost and expense of REDWOOD VALLEY DISTRICT.

The cost of Warm Springs project water to REDWOOD VALLEY DISTRICT will be the same cost as if MENDOCINO RUSSIAN RIVER DISTRICT were purchasing water for its own use, and such price will be determined by Sonoma County when all costs of constructing Warm Springs dam are known.

2. PAYMENT: REDWOOD VALLEY DISTRICT shall pay the annual cost of water on or before the 1st day of July in the year following the first summer during which REDWOOD VALLEY DISTRICT takes delivery of water, and on or before July 1st of each year thereafter, during the life of this agreement.

3. REDWOOD VALLEY DISTRICT shall bear all expenses of taking the water from Lake Mendocino, including, but not limited to, the furnishing and maintenance of intake facilities at the lake, and shall abide by the rules and regulations of the Corps of Engineers in the installation and maintenance thereof. Provided, further, that REDWOOD VALLEY DISTRICT shall hold MENDOCINO RUSSIAN RIVER DISTRICT harmless from any and all liability for personal injury or property damage arising out of taking delivery of water hereunder, and arising out of the operation of the REDWOOD VALLEY DISTRICT, unless such injury or damage is caused by the fault of MENDOCINO RUSSIAN RIVER DISTRICT, its employees or agents.

4. It is understood that this is an interim agreement pending the completion of the Pool Concept arrangement with Sonoma County Flood Control and Water Conservation District and/or other interested parties. In the event MENDOCINO RUSSIAN RIVER DISTRICT enters into such Pool Concept agreement, REDWOOD VALLEY DISTRICT agrees that it shall also join in such agreement, and the obligations and responsibilities hereunder shall cease, except for the obligation of REDWOOD VALLEY DISTRICT to make payment as set forth in paragraph 5 hereof.

5. It is understood and agreed that at such time as the districts enter into the Pool Concept as set forth in Exhibit "A". the lump sum payment referred to therein shall be payable to MENDOCINO RUSSIAN RIVER DISTRICT in accordance with the schedule of payments provided in Exhibit "B" hereof, as the same may be updated on the due date.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hand the day and year first above written.

MENDOCINO COUNTY RUSSIAN RIVER FLOOD CONTROL
AND WATER CONSERVATION IMPROVEMENT DISTRICT.

By _____
Charles Shimmin, President
Board of Trustees.

REDWOOD VALLEY COUNTY WATER DISTRICT.

By _____
President, Board of Directors.

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FILED

MAY 30 1980
VIOGA M. RICHARDS, CLERK
MENDOCINO COUNTY CLERK
By _____ Deputy

JUDGMENTS BOOK 75 PAGE 182
ENTERED May 30, 1980

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MENDOCINO

MENDOCINO COUNTY RUSSIAN RIVER)
FLOOD CONTROL AND WATER)
CONSERVATION IMPROVEMENT DISTRICT,)
Plaintiff,)
vs.)
REDWOOD VALLEY COUNTY WATER)
DISTRICT,)
Defendants.)

No. 42059

JUDGMENT

as to Rights and Duties

In the above entitled cause Plaintiff MENDOCINO COUNTY RUSSIAN RIVER FLOOD CONTROL AND WATER CONSERVATION IMPROVEMENT DISTRICT and Defendant REDWOOD VALLEY COUNTY WATER DISTRICT, having stipulated through their respective counsel that judgment be entered herein,

IT IS HEREBY ADJUDGED, ORDERED AND DECREED:

1. In this judgment plaintiff shall be referred to as "MENDOCINO" and defendant shall be referred to as "REDWOOD".

2. The parties hereto are now operating under the terms of a Memorandum of Guarantees of February 28, 1972 a copy of which is marked "Exhibit A" attached to the complaint on file herein, and an Interim Agreement of October

EXHIBIT C

Redwood Valley Exhibit "2", page 1 of 7 pages

1 14, 1972, a copy of which is marked "Exhibit B" attached to
2 the complaint on file herein; that this judgment, upon
3 becoming effective, shall supercede such Memorandum of
4 Guarantees and such Interim Agreement, and they shall there-
5 after be inoperative.

6 3. MENDOCINO is entitled to 8,000 feet of water
7 stored at Lake Mendocino pursuant to State Water Rights
8 Board Decision D-1030. Surplus water referred to herein is
9 that portion, if any, of said 8,000 acre feet which is not
10 put to beneficial use within the lands situated in the
11 MENDOCINO district.

12 4. MENDOCINO shall sell to REDWOOD so much of such
13 surplus water as REDWOOD desires to purchase, up to and
14 including the entire amount of such surplus water, at a
15 price and on terms as herein specified:

16 a. The purchase price of surplus water drawn by
17 REDWOOD in the 1979-1980 fiscal year is Seven Dollars
18 (\$7.00) per acre foot;

19 b. The purchase price of surplus water drawn in
20 subsequent years shall be determined as follows: The
21 cost of operation of MENDOCINO shall be divided by
22 8,000 acre feet (or such other sum as is reserved to
23 MENDOCINO pursuant to State Water Rights Board Decision
24 D-1030, or amendments thereto) to determine the cost of
25 each acre foot. REDWOOD shall pay to MENDOCINO for all
26 surplus water drawn at such cost per acre foot.

27 c. The cost of operation of MENDOCINO shall
28 include annual bond interest and annual bond redemption

1 cost, ordinary administration and maintenance expenses
2 (based upon operations substantially the same in nature
3 and amount as the operations now conducted by MENDOCINO)
4 and such cost of operation shall not include any expenditures
5 for capital improvements or the operation of new capital
6 improvements, unless such capital improvements and
7 their operation provide a direct benefit to REDWOOD
8 proportional to REDWOOD's share of the water drawn.

9 d. REDWOOD shall report to MENDOCINO at least
10 once each month, and at such other reasonable times as
11 MENDOCINO might require, the volume of water drawn by
12 REDWOOD from Lake Mendocino. REDWOOD shall permit
13 MENDOCINO to examine the meters located at the intake
14 pumps upon notice and during normal business hours.
15 REDWOOD consents to Pacific Gas and Electric Company
16 furnishing to MENDOCINO, at MENDOCINO's sole cost and
17 expense, information pertaining to electric power
18 delivered by Pacific Gas and Electric Company to REDWOOD
19 at its Lake Mendocino pumping plant.

20 e. Payments shall be made by REDWOOD to MENDOCINO
21 on August 1, 1980 for all surplus water drawn in the
22 fiscal year 1979-1980; and, thereafter payments shall
23 be made by REDWOOD to MENDOCINO on August 1 for all
24 surplus water drawn in the preceding fiscal year. In
25 the event of any disagreement as to the quantity of
26 water drawn pursuant to this agreement, or as to the
27 amount due, it shall be determined by arbitration as

28 //

1 provided in Paragraph 7 hereof.

2 5. REDWOOD shall have the physical control of the
3 taking of water from Lake Mendocino and shall bear all
4 expenses of such taking, including but not limited to the
5 furnishing and maintenance of intake facilities at the Lake,
6 and shall abide by the rules and regulations of the Corps of
7 Engineers in the installation and maintenance thereof.
8 Provided, further, that REDWOOD shall hold MENDOCINO harm-
9 less from any and all liability for personal injury or
10 property damage arising out of taking delivery of water
11 hereunder and arising out of the operation of REDWOOD,
12 unless such injury or damages caused are by the fault of
13 MENDOCINO, its employees or agents.

- 14 6. REDWOOD promises and agrees to pay to MENDOCINO:
- 15 a. A sum of money calculated pursuant to "Exhibit
 - 16 A" attached hereto, updated to July 1, 1980;
 - 17 b. The sum of money so calculated shall be paid
 - 18 as soon as reasonably possible, but in no event later
 - 19 than July 1, 1983.

20 7. MENDOCINO shall notify REDWOOD in writing, at such
21 time as no surplus water is available. If a disagreement
22 exists as to the existence of surplus water, such disagree-
23 ment within five (5) days after such notification by MENDOCINO
24 to REDWOOD shall be referred to a board of three (3) arbi-
25 trators; one selected by MENDOCINO, one selected by REDWOOD,
26 and a third selected by those two arbitrators, who shall be
27 an engineer. The decision of the board of arbitrators shall
28 be rendered in writing, signed by at least two (2) arbitrators,

1 within two (2) days after the appointment of the third
2 arbitrator. This judgment shall be construed to be an order
3 to arbitrate pursuant to California Code of Civil Procedure,
4 Section 1281.2; and, except as herein otherwise ordered, the
5 arbitration shall be pursuant to the pertinent provisions of
6 the California Code of Civil Procedure. At such time as it
7 is determined by the arbitrators that no surplus water is
8 available, REDWOOD shall cease to draw water which is a part
9 of MENDOCINO's entitlement of 8,000 acre feet stored at Lake
10 Mendocino.

11 8. At any time requested by REDWOOD, MENDOCINO will
12 make application and do all things reasonably necessary to
13 obtain water allocated to MENDOCINO under the 1969 Water
14 Plan, or otherwise obtain water for the benefit of REDWOOD
15 from the Warm Springs Project, or elsewhere, and REDWOOD
16 will cooperate in all such applications and do all things
17 necessary to accomplish the foregoing objectives.

18 a. If water so supplied for and obtained is used
19 solely by REDWOOD, the reasonable cost of such appli-
20 cations, as they are incurred by MENDOCINO, and the
21 cost of such water, shall be paid by REDWOOD to MENDOCINO.
22 MENDOCINO shall make no additional charge to REDWOOD
23 for such water. If the application is unsuccessful,
24 the reasonable cost of such application shall be paid
25 by REDWOOD to MENDOCINO.

26 b. If water so applied for and obtained by
27 MENDOCINO is used by both MENDOCINO and REDWOOD, the
28 cost of application and water shall be divided between

1 them in the same proportions as they shall use such
2 water. If the application is unsuccessful, the reasonable
3 cost of such application shall be equitably divided
4 between them.

5 c. The provisions of this paragraphs shall not
6 apply to payments for surplus water as heretofore
7 defined.

8 9. MENDOCINO and REDWOOD shall each use their best
9 effort to effectuate a joint powers agreement or pool con-
10 cept for the most effective utilization of the available
11 water resources. Such joint powers agreement or pool con-
12 cept may include MENDOCINO, REDWOOD, Marin Municipal Water
13 District, North Marin County Water District, Sonoma County
14 Water Agency, and other suitable agencies or entities.
15 MENDOCINO and REDWOOD shall each extend to the other their
16 full cooperation in creating such joint powers agreement or
17 pool concept.

18 10. Except as to the provisions of Paragraphs 8 and 9,
19 the terms of this agreement and judgment entered thereon
20 shall apply solely to REDWOOD's purchase and withdrawal of
21 surplus waters from MENDOCINO's 8,000 acre foot entitlement.
22 It is recognized by the parties that REDWOOD now has, and
23 may hereafter acquire,, rights to withdraw other water from
24 Lake Mendocino. Should any disagreements arise between the
25 parties as to whether REDWOOD has withdrawn or is with-
26 drawing surplus water, or water under other rights from Lake
27 Mendocino, it shall be determined by arbitration as provided
28 in Paragraph 7.

1 11. This judgment, and any action taken pursuant to
2 this judgment, shall not make REDWOOD a part of MENDOCINO.

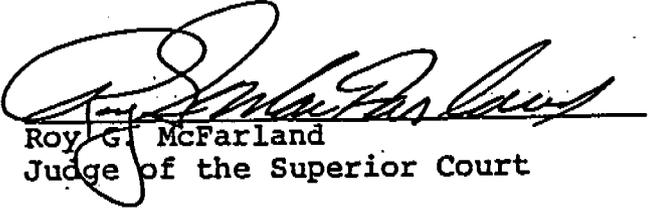
3 12. This judgment shall be effective forthwith and
4 shall remain in full force and effect until either:

5 a. It is altered or amended or terminated by a
6 written agreement between MENDOCINO and REDWOOD, which
7 agreement specifically recites that it is intended to
8 alter, amend or terminate this judgment;

9 b. Either party moves that the Court terminate
10 the judgment insofar as it applies to surplus water on
11 the grounds that no surplus water remains available for
12 purchase and sale and the Court so finds and orders.

13 c. Either party moves that the Court terminate
14 the remaining provisions of the judgment on the grounds
15 that their purpose has been fulfilled and the Court so
16 finds and orders.

17 Presented and signed May 29, 1980.

18
19 
20 Roy G. McFarland
21 Judge of the Superior Court
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MENDOCINO COUNTY

RUSSIAN RIVER FLOOD CONTROL AND WATER CONSERVATION IMPROVEMENT DISTRICT

May 2, 1989

Redwood Valley County Water District
Post Office Box 399
Redwood Valley, California 95470

Gentlemen:

Enclosed please find our calculation for the payment due from the Redwood Valley County Water District under the judgment. As you know, our district has not pressed for payment prior to this time as your district had financial problems. However, now that your problems with the Federal Government have been resolved, we feel it is an appropriate time to wrap this matter up.

If you have any questions about the method of calculation, feel free to contact Gary Akerstrom or Tom Johnson. If not, please make your check payable to the District and forward it to the District office at 425 Talmage Road, Ukiah, within thirty days.

Very truly yours,



LEE HOWARD
Chairman

LH/tl

Enclosure

UNRECORDED
3-12-89
MAY - 1989

425 TALMAGE ROAD • UKIAH, CALIFORNIA 95482 • (707) 462-1961

Assessed Valuation

Year	Mendocino	Redwood (\$1,000,000)	154-116 154-041	Without Calpella	Mendocino Tax Rate (\$/100.)	Tax	Interest Factor	Tax and Interest
57-58	23.02	1.713	.040	1.673	.24	4015	2.887	11591
58-59	21.37	1.590	.037	1.553	.06	932	2.749	2562
59-60	23.42	1.743	.041	1.702	.18	3064	2.618	8022
60-61	24.20	1.801	.042	1.769	.16	2830	2.414	7058
61-62	24.62	1.832	.043	1.789	.16	2862	2.375	6797
62-63	25.83	1.922	.043	1.879	.14	2631	2.262	5951
63-64	25.72	1.914	.045	1.869	.16	2990	2.154	6440
64-65	26.61	1.980	.046	1.834	.13	2384	2.052	4892
65-66	27.74	2.096	.048	2.048	.15	3072	1.954	6003
66-67	28.89	2.220	.073	2.147	.15 5%	3221	1.861	5994
67-68	30.59	2.392	.121	2.271	4 1/2%	2498	1.772	4426
68-69	39.22	2.541	.134	2.407	.11	2648	1.696	4491
69-70	39.61	3.478	.161	3.316	.10	3316	1.623	5382
70-71	41.14	3.530	.162	3.369	.10	3369	1.553	5232
71-72	43.03	3.879	.177	3.702	.10	3702	1.486	5501
72-73	43.49	4.658	.199	4.459	.100	4459	1.422	6341
73-74	47.40	5.467	.261	5.206	.092	4790	1.361	6519
74-75	54.64	7.585	.653	6.932	.103	7140	1.302	9296
75-76	60.41	7.733	.521	7.212	.078	5625	1.246	7009
76-77	64.05	8.785	.516	8.269	.066	5458	1.193	6511
77-78	75.60	9.192	.559	8.633	.059	5093	1.141	5812
78-79	99.55	12.613	.575	12.038	.042	5056	1.092	5521
79-80	114.21	13.698	.661	13.037	.081	10560	1.045	11335

Total Due as of 7/1/80: \$148,386.
 Total Due as of 3/1/89 With Post Judgement Interest: \$276,992.
 Per CC 685.010 & 0.20 10% (\$148,386. x 1.8667):

3/7/89

PAID MAY 15 1989
 # CONN-35
 \$276,992.00

GROWTH OF 1

ANNUAL COMPOUNDING

Description: This table shows what a single \$ 1 deposit will grow to in the future. Example: At 5 % one dollar will grow to \$ 1.28 by the end of the fifth year.

YEAR	0.00 %	1.00 %	2.00 %	3.00 %	4.00 %	4.125 %	4.25 %	4.375 %	4.50 %	4.625 %	4.75 %	4.875 %
1	1.0000	1.0100	1.0200	1.0300	1.0400	1.0413	1.0425	1.0437	1.0450	1.0462	1.0475	1.0488
2	1.0000	1.0201	1.0404	1.0609	1.0816	1.0842	1.0868	1.0894	1.0920	1.0945	1.0973	1.0999
3	1.0000	1.0303	1.0612	1.0927	1.1249	1.1289	1.1330	1.1371	1.1412	1.1453	1.1494	1.1535
4	1.0000	1.0408	1.0824	1.1255	1.1699	1.1755	1.1811	1.1868	1.1925	1.1982	1.2040	1.2097
5	1.0000	1.0510	1.1041	1.1593	1.2167	1.2240	1.2313	1.2387	1.2462	1.2537	1.2612	1.2687
6	1.0000	1.0616	1.1262	1.1941	1.2653	1.2745	1.2837	1.2929	1.3023	1.3116	1.3211	1.3306
7	1.0000	1.0721	1.1487	1.2299	1.3159	1.3270	1.3382	1.3495	1.3609	1.3723	1.3838	1.3954
8	1.0000	1.0829	1.1717	1.2668	1.3668	1.3818	1.3951	1.4085	1.4221	1.4358	1.4495	1.4634
9	1.0000	1.0937	1.1951	1.3048	1.4233	1.4388	1.4544	1.4702	1.4861	1.5022	1.5184	1.5348
10	1.0000	1.1046	1.2190	1.3439	1.4802	1.4981	1.5162	1.5345	1.5530	1.5716	1.5905	1.6096
15	1.0000	1.1610	1.3459	1.5580	1.8009	1.8337	1.8670	1.9008	1.9353	1.9703	2.0059	2.0421
20	1.0000	1.2202	1.4859	1.8081	2.1911	2.2444	2.2989	2.3547	2.4117	2.4701	2.5298	2.5908
25	1.0000	1.2824	1.6406	2.0938	2.6558	2.7471	2.8308	2.9168	3.0054	3.0966	3.1904	3.2870
30	1.0000	1.3478	1.8114	2.4273	3.2434	3.3624	3.4856	3.6132	3.7453	3.8821	4.0237	4.1702

YEAR	5.00 %	5.10 %	5.125 %	5.20 %	5.25 %	5.30 %	5.375 %	5.40 %	5.50 %	5.60 %	5.625 %	5.70 %
1	1.0500	1.0510	1.0513	1.0520	1.0625	1.0630	1.0637	1.0640	1.0650	1.0660	1.0662	1.0670
2	1.1026	1.1048	1.1051	1.1067	1.1078	1.1088	1.1104	1.1109	1.1130	1.1151	1.1157	1.1172
3	1.1576	1.1609	1.1618	1.1643	1.1659	1.1678	1.1701	1.1709	1.1742	1.1776	1.1784	1.1809
4	1.2155	1.2201	1.2213	1.2248	1.2271	1.2295	1.2330	1.2341	1.2388	1.2435	1.2447	1.2482
5	1.2763	1.2824	1.2839	1.2885	1.2915	1.2946	1.2992	1.3008	1.3070	1.3132	1.3147	1.3194
6	1.3401	1.3478	1.3497	1.3555	1.3594	1.3632	1.3691	1.3710	1.3788	1.3867	1.3887	1.3946
7	1.4071	1.4185	1.4189	1.4260	1.4307	1.4355	1.4427	1.4451	1.4547	1.4644	1.4668	1.4741
8	1.4775	1.4887	1.4916	1.5001	1.5058	1.5116	1.5202	1.5231	1.5347	1.5464	1.5493	1.5581
9	1.5513	1.5647	1.5660	1.5781	1.5849	1.5917	1.6019	1.6053	1.6191	1.6330	1.6364	1.6469
10	1.6289	1.6445	1.6484	1.6602	1.6681	1.6760	1.6880	1.6920	1.7081	1.7244	1.7285	1.7408
15	2.0789	2.1088	2.1164	2.1391	2.1544	2.1698	2.1931	2.2009	2.2325	2.2644	2.2725	2.2968
20	2.6533	2.7043	2.7172	2.7562	2.7825	2.8091	2.8494	2.8629	2.9178	2.9738	2.9877	3.0304
25	3.3864	3.4679	3.4988	3.5514	3.5938	3.6367	3.7020	3.7240	3.8134	3.9048	3.9280	3.9983
30	4.3219	4.4471	4.4790	4.5759	4.6416	4.7062	4.8098	4.8442	4.9840	5.1276	5.1642	5.2753

YEAR	5.75 %	5.80 %	5.875 %	5.90 %	6.00 %	6.10 %	6.125 %	6.20 %	6.25 %	6.30 %	6.375 %	6.40 %
1	1.0575	1.0580	1.0588	1.0590	1.0600	1.0610	1.0613	1.0620	1.0625	1.0630	1.0637	1.0640
2	1.1183	1.1194	1.1210	1.1215	1.1236	1.1257	1.1263	1.1278	1.1289	1.1300	1.1316	1.1321
3	1.1826	1.1843	1.1868	1.1876	1.1910	1.1944	1.1962	1.1978	1.1995	1.2012	1.2037	1.2046
4	1.2508	1.2530	1.2565	1.2577	1.2625	1.2672	1.2684	1.2720	1.2744	1.2768	1.2804	1.2816
5	1.3225	1.3256	1.3304	1.3319	1.3382	1.3445	1.3461	1.3509	1.3541	1.3573	1.3621	1.3637
6	1.3988	1.4025	1.4085	1.4105	1.4185	1.4266	1.4286	1.4347	1.4387	1.4428	1.4489	1.4509
7	1.4790	1.4839	1.4913	1.4937	1.5036	1.5136	1.5161	1.5238	1.5286	1.5337	1.5413	1.5438
8	1.5640	1.5699	1.5789	1.5819	1.5938	1.6059	1.6089	1.6181	1.6242	1.6303	1.6395	1.6428
9	1.6540	1.6610	1.6718	1.6752	1.6885	1.7039	1.7075	1.7184	1.7257	1.7330	1.7440	1.7477
10	1.7491	1.7573	1.7698	1.7740	1.7908	1.8078	1.8121	1.8249	1.8335	1.8422	1.8552	1.8596
15	2.3132	2.3296	2.3545	2.3629	2.3966	2.4307	2.4393	2.4653	2.4828	2.5003	2.5269	2.5359
20	3.0692	3.0883	3.1323	3.1472	3.2071	3.2682	3.2836	3.3304	3.3619	3.3936	3.4418	3.4581
25	4.0458	4.0939	4.1671	4.1918	4.2919	4.3942	4.4202	4.4990	4.5522	4.6081	4.6880	4.7156
30	5.3507	5.4271	5.5437	5.5831	5.7435	5.9083	5.9502	6.0778	6.1641	6.2517	6.3854	6.4308

YEAR	6.50 %	6.60 %	6.625 %	6.70 %	6.75 %	6.80 %	6.875 %	6.90 %	7.00 %	7.10 %	7.125 %	7.20 %
1	1.0650	1.0660	1.0662	1.0670	1.0675	1.0680	1.0688	1.0690	1.0700	1.0710	1.0713	1.0720
2	1.1342	1.1364	1.1369	1.1385	1.1396	1.1406	1.1422	1.1428	1.1449	1.1470	1.1478	1.1492
3	1.2079	1.2114	1.2122	1.2148	1.2165	1.2182	1.2208	1.2216	1.2260	1.2285	1.2293	1.2319
4	1.2865	1.2913	1.2925	1.2962	1.2986	1.3010	1.3047	1.3059	1.3108	1.3157	1.3169	1.3208
5	1.3701	1.3765	1.3781	1.3830	1.3862	1.3895	1.3944	1.3980	1.4026	1.4091	1.4108	1.4157
6	1.4591	1.4674	1.4694	1.4757	1.4798	1.4840	1.4902	1.4923	1.5007	1.5092	1.5113	1.5178
7	1.5540	1.5642	1.5668	1.5745	1.5797	1.5849	1.5927	1.5953	1.6058	1.6163	1.6190	1.6269
8	1.6550	1.6675	1.6706	1.6800	1.6883	1.6927	1.7022	1.7054	1.7182	1.7311	1.7343	1.7440
9	1.7626	1.7775	1.7813	1.7925	1.8002	1.8078	1.8192	1.8231	1.8385	1.8540	1.8579	1.8696
10	1.8771	1.8948	1.8993	1.9127	1.9217	1.9307	1.9443	1.9488	1.9672	1.9866	1.9903	2.0042
15	2.5718	2.6083	2.6175	2.6452	2.6539	2.6827	2.7111	2.7206	2.7590	2.7980	2.8078	2.8374
20	3.5236	3.5904	3.6073	3.6584	3.6928	3.7276	3.7803	3.7980	3.8897	3.9427	3.9611	4.0169
25	4.8277	4.9423	4.9714	5.0585	5.1191	5.1784	5.2711	5.3020	5.4274	5.5557	5.5882	5.6868
30	6.6144	6.8032	6.8513	6.9973	7.0964	7.1968	7.3499	7.4017	7.6123	7.8286	7.8836	8.0509

NAME REDWOOD VALLEY 4510 RD. CONN-35
 ACCOUNT NO. COUNTY WATER DISTRICT MAX 15,7989 90-406/1211
 ---MENDOCINO COUNTY RUSSIAN RIVER FLOOD CONTROL
 & WATER CONSERVATION IMPROVEMENT DISTRICT--- \$ 276,992.00
 TWO-HUNDRED-SEVENTY-SIX-THOUSAND-NINE-HUNDRED-NINETY-TWO-6 NO/100
 HEAD OFFICE
 F. A. **Savings Bank** INC. 1855 PAID
 OF MENDOCINO COUNTY
 Assessed Valuation: 57-80
 \$/anno. per yours 5/2/89
 1 7 1 1 0 4 0 6 3 1 0 5 0 2 4 0 0 1 1 0 0 2 7 6 9 9 2 0 0 1

*By: [Signature]
 Secretary
 MCLFC/WCI*

FOR DEPOSIT ONLY
 05/1989
 IRENE LANGE

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Applications 12919A)
12920A, 15704, 15736, 15737, 15738,)
15739, and 15779 to Appropriate Water)
from East Fork Russian River and)
Russian River in Mendocino and Sonoma)
Counties)

Decision D 1030

Substance of the Applications

<u>Applicants</u>	<u>Number</u>
Sonoma County Flood Control and Water Conservation District and Mendocino County Russian River Flood Control and Water Conservation Improvement District, as joint applicants	12919A 12920A
Sonoma County Flood Control and Water Conservation District	15736 15737 15779
Mendocino County Flood Control and Water Conservation District	15738 15739
City of Ukiah	15704

Applications 12919 and 12920 were filed on January 28, 1949, by the State Department of Finance pursuant to Section 10500 of the Water Code.* Each application is for a permit to appropriate 200,000 afa (acre-feet per annum)

*Section 10500 provides in part as follows:

"The department shall make and file applications for any water which in its judgment is or may be required in the development and completion of the whole or any part of a general or co-ordinated plan looking toward the development, utilization, or conservation of the water resources of the State."

Redwood Valley Exhibit "4", page 1 of 3 pages

Coyote Valley Dam and Reservoir are located on the East Fork Russian River about one mile above its junction with the Russian River (Sonoma Dist. Exh. 2). The Russian River Valley as hereinafter referred to includes only those areas designated as Areas B through P, Y, and Z in the U. S. Army Corps of Engineers Survey Report, Appendix V, Table 9 and Plate 1 (Sonoma Dist. Exh. 4D), as Ukiah Valley, Hopland Valley, Alexander Valley, portions of Dry Creek Area, and "Russian River Below Healdsburg East Side."

Development of Russian River Valley

The first agricultural development in the Russian River Valley began about 1860, grain and hay being produced for local use. Construction of the Northern Pacific Railroad to Ukiah in 1889 provided access to markets, and by the turn of the century, most of the better agricultural land close to the river had been developed.

In 1906 or 1907, the Snow Mountain Water and Power Company started to divert water from the South Eel River at Van Arsdale diversion dam through a transmountain tunnel to a powerhouse in Potter Valley. After its use to generate power, the water was discharged into the East Fork Russian River. The Pacific Gas and Electric Company acquired the system and, in 1922, constructed Scott Dam on the South Eel River. Diversion of stored water from Lake Pillsbury formed by the dam greatly stabilized and increased the flow of East Fork Russian River. The power company entered into a contract with Potter Valley Irrigation District whereby it agreed to supply 50 cfs to the District at the tailrace of the power plant. In 1950, the

Redwood Valley Exhibit "4" page 2 of 3 pages

The assignment provides, in part, as follows:

"WHEREAS, said Corps of Engineers' report contemplates the serving of irrigation water to Mendocino County to irrigate an additional area of 4,096 acres and to Sonoma County to irrigate an additional area of 8,259 acres under the initial stage of the Coyote Valley Project, which with the estimated average annual irrigation yield of the initial stage of Coyote Valley Project of 24,000 acre-feet would make approximately 8,000 acre-feet per annum available to Mendocino County and approximately 16,000 acre-feet per annum available to Sonoma County; and (Emphasis added.)

"* * *

"WHEREAS, the amounts of 8,000 acre-feet per annum and 16,000 acre-feet per annum are ample to supply the water requirements of the 4,096 acres in Mendocino County and the 8,259 acres in Sonoma County referred to in said Corps of Engineers' report, and the increased amount of water yield from the project due to any reduction in the recreation flow can only be used for beneficial purposes on other lands; and

"WHEREAS, any increase in yield in the initial stage of the Coyote Valley Project over and above that envisioned in the original Corps of Engineers' report should be made available to serve additional land in Sonoma County and for export to Marin County; and

"* * *

"The Department of Finance in consideration of the foregoing and of the general benefits to accrue to the State of California from the construction of the Coyote Valley Project DOES HEREBY TRANSFER, ASSIGN AND SET OVER to the Sonoma County Flood Control and Water Conservation District for the use and benefit of said Coyote Valley Project, that portion of the aforesaid Applications 12919 and 12920 and of such rights and interests in and to the waters of the East Fork Russian River as were acquired thereby and initiated thereunder to the extent of 335 cubic feet of water per second by direct diversion and

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS

SAN FRANCISCO DISTRICT

SURVEY REPORT

FOR

FLOOD CONTROL AND ALLIED PURPOSES

ON

RUSSIAN RIVER

CALIFORNIA

— APPENDIXES V-X —

19

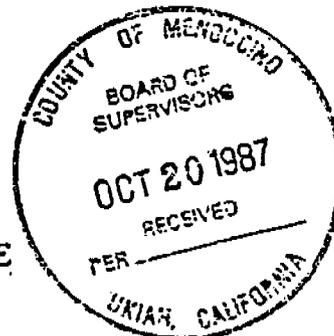
TABLE 9

Russian River Basin
Land Classification
Gross Area of Irrigable Land
Under Plan of Improvement

Location	Water Service: Areas	Land Classes in Acres			
		1	2	3A	Total
Ukiah Valley	B-E Incl.	7,000	1,351	30	8,381
Hopland Valley	F-I Incl.	2,440	1,258	30	3,728
Alexander Valley	J-O Incl.	8,280	1,403	400	10,083
Subtotals		17,720	4,012	460	22,192
Dry Creek Areas	W	1,903	400	0	2,303
	X	1,350	10	0	1,360
	Y / Z	2,220	515	37	2,772
Subtotals (Dry Creek Areas)		5,473	925	37	6,435
Santa Rosa Plains					
Area Above Main Canal	R-V Incl.	1,728	6,792	21	8,541
Area Below Main Canal	Q	3,554	27,761	9,270	40,585
Subtotals (Santa Rosa Plains)		5,282	34,553	9,291	49,126
Russian River Below Healdsburg East Side	P	1,580	889	140	2,609
Total		30,055	40,379	9,928	80,362
Per cent of total		37.4	50.3	12.3	100.0

In the Matter of Permit 12947B,
Issued on Application 12919A,
MENDOCINO COUNTY RUSSIAN RIVER
FLOOD CONTROL AND WATER CONSERVATION
IMPROVEMENT DISTRICT,
Permittee,
SONOMA COUNTY WATER AGENCY, ET AL.,
Protestants.

ORDER: WR 79-15
COUNTY: Mendocino
SOURCE: Russian River



ORDER APPROVING CHANGE IN PLACE OF USE

BY BOARD MEMBER MITCHELL:

Mendocino County Russian River Flood Control and Water Conservation Improvement District (Mendocino District) having petitioned the State Water Resources Control Board for a change in place of use under Permit 12947B; protests having been received; a public hearing having been held before the Board on February 26, 1979, permittee and Protestant Sonoma County Water Agency (Sonoma Agency) having appeared and presented evidence; the evidence received at the hearing having been considered, the Board finds as follow:

PAST PROCEEDINGS

1. Permit 12947B is a water right entitlement held by the Mendocino District. An understanding of certain background factors is necessary to dispose of the change petition. The nature of the entitlement will appear as this background is developed.
2. Permit 12947B has its origin in Application 12919 and 12920 filed on January 28, 1949, by the State of California,

pursuant to Water Code Section 10500. Like the so-called "state filings" the purpose of these applications was to use California's water right system of priority by date of application to guide water resources development in a manner consistent with a coordinated statewide plan. A portion of each of these applications (which portions were eventually designated 12919A and 12920A) underwent assignment and reassignment, pursuant to the law governing state filings. The applications were amended and completed in 1958 and held jointly by the predecessor of the Sonoma Agency and by the Mendocino District.

3. The applications, as finally amended and completed, both proposed appropriation of 335 cubic feet per second (cfs) by direct diversion from various points on the Russian River system and 122,500 acre-feet per annum (afa) by storage at Coyote Dam (Lake Mendocino) on East Fork Russian River. One application was for municipal, industrial, domestic, and recreational uses. The other was for irrigation and domestic uses. Both applications covered the same water; their only significant difference was in the uses proposed.

4. The completed applications, together with other applications to appropriate from the Russian River system, were considered at a consolidated hearing, which led to Decision 1030 adopted August 17, 1961. Decision 1030 approved the applications and ordered issuance of permits (Permits 12947 and 12948), subject to certain conditions.

5. By its Order WR 74-30, adopted October 17, 1974, the Board took the following actions relevant here:

(a) Since Permits 12947 and 12948 cover the same project and the same water, the Board in effect consolidated all permitted uses into Permit 12947, and revoked Permit 12948;

(b) The Board then split Permit 12947 into "A" and "B" permits to reflect the separate entitlements of the Sonoma Agency (Permit 12947A) and the Mendocino District (Permit 12947B).

6. Relevant permit details are the following:

(a) The existing place of use specified in the Mendocino District's "B" permit, which is the subject of the instant petition, is within the District's boundaries. All of the area is within Mendocino County. The permit allows direct diversion of 53 cfs and shared storage of 122,500 afa; however, combined direct diversion and redirection of stored water is limited to 8,000 afa.

(b) Protestant Sonoma Agency, holder of the "A" permit, is authorized direct diversion of 92 cfs and shared storage of 122,500 afa. The Sonoma Agency's permit contemplates and authorizes use of project water both within the Russian River Valley in Sonoma County and -- unlike the Mendocino District permit -- export of water from that Valley. However, Sonoma Agency's right to export is subject to 8,000 afa depletion by consumptive use within the Mendocino District, under the District's "B" permit, for uses initiated after January 28,

OBJECTIVE OF THE PETITION

7. The Mendocino District seeks to change its presently authorized place of use by adding the area within the Redwood

Valley County Water District (Redwood Valley District). The Redwood Valley District lies generally north of the Mendocino District. A small portion of the southernmost lands of the Redwood Valley District is within the boundaries of the Mendocino District; most of such lands are outside the Mendocino District's boundaries.

8. Lands of the Redwood Valley District are within the drainage of West Fork Russian River, and within Mendocino County. West Fork and East Fork Russian River have their confluence within Mendocino County a few miles south of the Redwood Valley District's southern boundary.

9. Lands of the Mendocino District are within the drainage of East Fork Russian River and of the Russian River system below the confluence of the West Fork and the East Fork. The main stem of the Russian River flows in a generally southerly direction below that confluence, crosses the Mendocino County-Sonoma County line near Preston, turns westerly below Healdsburg, and flows to the Ocean near Jenner.

10. The Mendocino District thus encompasses most of the Russian River drainage lying within Mendocino County. However, as we have seen, its boundaries do not include the West Fork drainage.

11. The Mendocino District's petition does not involve annexation of the Redwood Valley District's lands, that is, lands within the West Fork drainage. It proposes to supply water to the Redwood Valley District by contract. Under the terms of the contract, the Redwood Valley District would be supplied up to 4,000 afa of permit water, to the extent such water is surplus to the needs of the Mendocino District. (Mendocino District

Exhibit 4.) In other words, the Mendocino District proposes to divert the unused portion of its 8,000 afa depletion allowance to the Redwood Valley District, whose lands are drained by the West Fork Russian River, until such time as it is needed within the original Mendocino District place of use. Average use by the Mendocino District during a normal year has been about 4,000 afa, leaving a like quantity available for Redwood.

12. The purpose of the proposed change and uses that would be made of the water are as follows:

(a) The purpose of the change is to provide a firm interim supply for the Redwood Valley District. That district has recently been issued a permit on Application 24955, which allows direct diversion and storage of water from Lake Mendocino when the Corps of Engineers is making flood control releases, usually January through April. Alternate surface supplies have been explored and found unfeasible. The groundwater supply is also inadequate. The Redwood Valley District has entered into an agreement with the Mendocino District concerning a pooling agreement for the Warm Springs Project for the long-term firm supply.

(RT 46, Mendocino Exhibits 3 and 4.)

(b) The water will be used for domestic and irrigation purposes. Domestic use is estimated to be approximately 600 afa and irrigation would use the remainder. Irrigation water would be available to some 2,000 acres initially and 3,500 acres ultimately. The prevalent crop is grapes which, for the most part, have been dry farmed in the past. Development for full use of the water is estimated to be seven years, when the conduit system is completed and the whole 3,500 acres could be served.

THE PROTESTS

13. Five protests were accepted against the petition for change; three were resolved prior to the hearing.

(a) The three resolved protests were from users within the Mendocino District, namely, Millview County Water District, Parducci Winery and Hugo and Beatrice Oswald. They all expressed concern that they would not be able to purchase additional portions of the 8,000 afa reservation in the future. They also protested on grounds that the change would be contrary to law, be adverse to the public interest and have adverse environmental impacts. These protests were withdrawn through stipulations whereby the Mendocino District agreed to the inclusion in any order approving the change in the following condition:

"Water to be utilized in this additional place of use shall be available only until the same is necessary to supply water for any existing or future use of water within the Mendocino County Russian River Flood Control and Water Conservation Improvement District. Neither the Redwood Valley County Water District nor any user within that district will acquire a vested right to water available under Permit 12947B as a result of this change in place of beneficial use."

(b) An unresolved protest was submitted by Sonoma County Tomorrow. The basis of its protest was that the change would have adverse environmental effects and would not be in the public interest. Sonoma County Tomorrow did not appear at the hearing nor did it make a showing of good cause within the five-day period following the hearing. In accordance with Section 731, Title 23, California Administrative Code, protestant's failure to appear, or to show good cause for its nonappearance, is interpreted as an abandonment of interest in the subject matter of the petition.

14. The remaining unresolved protest was submitted by the Sonoma Agency, holder of Permit 12947A. The Sonoma Agency also holds several other filings on the Russian River, including two permits authorizing export diversion from the Russian River Valley.

THE ISSUE

15. Protestant Sonoma Agency concedes that the proposed interim use of water in the Redwood Valley District under Permit 12947B is in the public interest (RT 48); and the record amply supports the finding that such use is in the public interest.

16. The Sonoma Agency's protest is best summarized by the condition on approval of the petition proposed by protestant at hearing.

(a) The proposed condition is that, first, any use within the Redwood Valley District be subordinated to uses under Permit 12947B within the Mendocino District. This part of the proposed condition has been agreed to by petitioner by stipulation with other protestants. (See Finding 13, above.)

(b) The second part of the condition is that any use within the Redwood Valley District be further subordinated to the Sonoma Agency's appropriation under Permit 12947A. It is this proposal which presents the issue which must be decided.

17. Water Code Section 1702 provides the statutory standard for Board action on the proposed change. Under that section, the Board must find that such change will not operate to the injury of any legal user of the water involved. Past Board decisions have concluded that "any legal user" includes junior as well as senior rightful users. Accordingly, the relative priorities of Petitioner and Protestant are not in issue. The question is whether approval of the proposed change -- without the condition proposed -- would operate to the injury of the Sonoma Agency, a lawful user of the water involved.

18. Protestant Sonoma Agency draws our attention to the fact that the 8,000 afa and 10,000 afa reserved by Decision 1030 for future use in Mendocino and Sonoma Counties, respectively, were for uses within the Russian River Valley and that Decision 1030 specially defined "Russian River Valley" in a manner that would exclude West Fork Russian River, in the drainage of which lie most of the lands of the Redwood Valley District. (Decision 1030, p. 9.) Therefore, according to the protestant, the Mendocino District's petition proposes an export of water from the Russian River Valley, as that term is defined. Thus, reasons the protestant, water service by the Mendocino District to the Redwood Valley District should be junior to use under the appropriation authorized by the Sonoma Agency's Permit 12947A. In support of this conclusion, the Sonoma Agency, while recognizing that the two permits are of the same priority, suggests application by analogy of the "first in time, first in right" principle. The Sonoma Agency's position is reflected

All the second part of the proposed change (as defined above), subordinate water use in Redwood Valley under Permit 12947B to protestant's use under Permit 12947A.

19. We do not find it necessary to condition our approval of the requested change in the manner proposed by the Sonoma Agency. The West Fork Russian River drainage is hydrologically a part of the Russian River basin; and its confluence with the East Fork is above the County line. Therefore, from the Sonoma Agency's perspective, it should make no difference whether water available under Mendocino's 8,000 afa reservation is used wholly within the Russian River Valley (as specifically defined) in Mendocino County or is used partially within the Russian River Valley and partially within Redwood Valley in the West Fork drainage in Mendocino County -- so long as total use within Mendocino County does not exceed the permitted 8,000 afa depletion.

20. We recognize that approval of the proposed change, given the contractual relationships between the Mendocino District and the Redwood Valley District, will encourage full use of the 8,000 afa reservation for Mendocino County under Permit 12947B faster than if the change were not approved. However, so long as Mendocino's use, including use in Redwood Valley, does not exceed the permitted 8,000 afa depletion, we conclude that reaching full authorized use ahead of the time at which full use would otherwise occur does not, in and of itself, operate to the injury of other users of the water involved, within the meaning of Water Code Section 1702.

21. The change in place of use proposed by the Mendocino District's petition is found not to be a substantial project change, within the meaning of Water Code Section 13504.5.

22. The Redwood Valley District has prepared a final Environmental impact report in accordance with the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) and the State Guidelines.

23. The project as approved by the Redwood Valley District will have the following significant effect on the environment:

- (a) Reduction of vegetation and wildlife habitat;
- (b) Changes in water quality;
- (c) Changes in land use and population growth.

24. The following economic, social or other conditions make it infeasible to mitigate or avoid one or more significant effects of a project on the environment:

(a) Significant impacts relating to removal of vegetation will be partially mitigated by replanting areas disturbed by pipeline construction. About 10 acres of grassland type vegetation will be lost to the storage reservoir, treatment plant and corporation yard and an unknown amount of vegetation will be converted to intensive agriculture and urban. No mitigation measures are available for vegetation lost to development. There will probably be some enhancement of riparian vegetation along the Russian River and tributary streams because of increased agricultural return flow.

(b) Water quality in the Russian River may be degraded by increased agricultural return water; however, there is a

trade-off between obtaining extra flow and potential degradation. No mitigation measures are available.

(c) Improving the water supply will result in increased urban and industrial growth which will result in secondary impacts at some later date when the growth is realized. Water quality degradation, increased vehicular traffic, air pollution, and solid waste disposal will result with increased growth. At the present time, these impacts are problematical and mitigation can only be accomplished when specific projects are proposed.

25. The State Board has reviewed and considered the information contained in the EIR prior to the approval of the project.

DETERMINATION OF ISSUES

26. The proposed change is in the public interest.

27. The proposed change will not operate to the injury of any legal user of the water involved.

ORDER

IT IS HEREBY ORDERED that:

1. The protest of Sonoma County Tomorrow is dismissed.
2. The change proposed by the Mendocino District is approved.
3. Approval is conditioned upon the stipulated condition set forth in Finding 13.

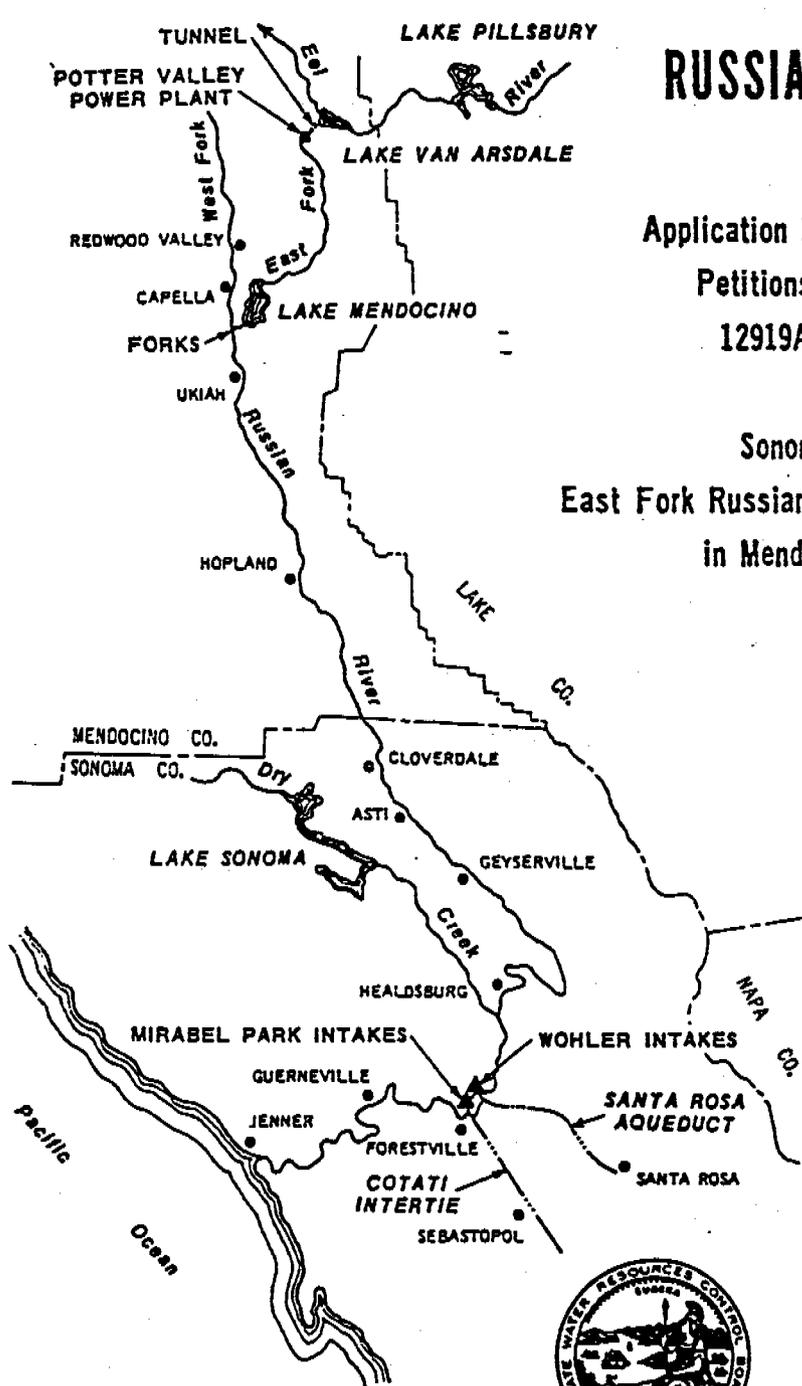
Dated: JUNE 21, 1979

/S/ L. L. MITCHELL
L. L. Mitchell, Member

/S/ W. DON MAUGHAN
W. Don Maughan, Chairman

/S/ WILLIAM J. MILLER
William J. Miller, Member

/S/ CARLA M. BARD
Carla M. Bard, Member



RUSSIAN RIVER PROJECT

Staff Analysis for
 Application 19351 (Unapproved Portion) and
 Petitions on Permitted Applications
 12919A, 15736, 15737, and 19351
 of
 Sonoma County Water Agency
 East Fork Russian River, Russian River, and Dry Creek
 in Mendocino and Sonoma Counties

VOLUME II

Background
 and
 Technical Data

February 1981



File # 12919A
 Folder 10
 Item 2

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 19351
and Permits 12947A, 12949, 12950, and
16596 Issued on Applications 12919A,
15736, 15737, and 19351,

SONOMA COUNTY WATER AGENCY,

Applicant, Permittee,
and Petitioner,

DEPARTMENT OF FISH AND GAME,
MENDOCINO COUNTY AND MENDOCINO COUNTY
FLOOD CONTROL AND WATER CONSERVATION
DISTRICT, MENDOCINO COUNTY RUSSIAN
RIVER FLOOD CONTROL AND WATER
CONSERVATION IMPROVEMENT DISTRICT,
MASONITE CORPORATION, FITCH
MOUNTAIN WATER CO., INC., FITCH
MOUNTAIN ASSOCIATION, INC., TOOMEY
PUMP, INC., CHRIS J. AND CONSTANCE E.
MILLER, RESIDENTS OF REDWOOD DRIVE,
TROWBRIDGE RECREATION, INC., AND CITY
OF CLOVERDALE,

Protestants,

UNITED ANGLERS OF CALIFORNIA,
ALEXANDER VALLEY ASSOCIATION,
RUSSIAN RIVER WATER RIGHTS PROTECTIVE
ASSOCIATION, CITY OF HEALDSBURG,
HEALDSBURG CHAMBER OF COMMERCE,
RIO LINDO ADVENTIST ACADEMY, and
JORDAN VINEYARDS AND WINERY,

Interested Parties.

DECISION 1610

SOURCES: East Fork Russian
River, Russian
River, and Dry
Creek

COUNTIES: Sonoma and
Mendocino

DECISION APPROVING APPLICATION IN PART
AND APPROVING PETITIONS IN PART

its use, assuming it has an authorized point of diversion and place of use for the water.

Assuming that the requested withdrawal of 7,500 afa is available from Lake Mendocino without increasing the amount of water authorized for storage therein -- i.e., without storing more than 122,500 afa -- and without impairing any of the uses to which SCWA's right is subject, the change can be approved under SCWA's existing rights. This is because the right is to store water, and an authorization of an additional withdrawal from storage will not increase the amount that may be stored. Consequently, the decision whether to approve the requested change depends upon the availability of water and whether the change will injure any legal user of the water.

10.2 Availability of Water for the Proposed Change

With less than 30,000 acre-feet of carry-over storage, Lake Mendocino's reliability as a storage facility is impaired, since it could go dry if the winter and spring following a lower carry-over were extremely dry. Under the minimum flow requirements discussed in → paragraph 13, there would be nine years out of fifty-six when there would be inadequate water to both maintain Lake Mendocino's reliability as a storage facility and serve Redwood Valley.

In years when inadequate water is available, the withdrawal of 7500 afa from Lake Mendocino could deprive other legal users of water. Under term 20 of Permit 12947A, deliveries to Redwood Valley, which is outside the Russian River Valley, are junior to all uses of water

within the Russian River Valley. Consequently, any diversion to Redwood Valley under Permit 12947A should be conditioned to ensure that it does not impair other legal uses of water.

The following constraints should be placed on any withdrawal from storage for use in Redwood Valley: (1) During critical and very dry years SCWA should make no withdrawals from storage for Redwood Valley under Permit 12947A; (2) at other times, whenever storage in Lake Mendocino is less than 30,000 acre-feet, Redwood Valley should be delivered from Lake Mendocino no more than 50 percent of its average monthly use; (3) withdrawals from storage for Redwood Valley should be limited to 7500 afa; (4) if withdrawals from storage are ceased pursuant to point (1), they should not be resumed until after October 31 of that year and after storage in Lake Mendocino has risen to above 30,000 acre-feet or until SCWA has demonstrated, to the satisfaction of the Chief of the Division of Water Rights, that storage will not fall below 30,000 acre-feet that year; (5) a conservation program should be developed for Redwood Valley, to ensure that water delivered under this decision is not used wastefully or unreasonably; (6) any agreement between Redwood Valley and SCWA should be made subject to permit provisions for ceasing or reducing withdrawals from storage, and such contract should be provided to the Board; and (7) jurisdiction should be reserved to modify the above requirements or to impose different requirements.

5. A new term is added to read:

"The total rate and quantity of direct diversion and rediversion of stored water at the Wohler and Mirabel Park pumping facilities under this permit, together with that directly diverted and rediverted from storage under Permits 12949, 12950, and 16596, issued on Applications 15736, 15737, and 19351, shall not exceed 180 cfs and 75,000 acre-feet per water year of October 1 to September 30."

6. A new term is added to read:

"Withdrawals from storage under this permit for use within the service area of the Redwood Valley County Water District shall be subject to the following restrictions:

- (a) Said withdrawals shall be discontinued whenever cumulative inflow to Lake Pillsbury during the current water year is less than 50,000 acre-feet on April 1, or less than 90,000 acre-feet on May 1. Withdrawals shall not resume until storage in Lake Mendocino rises to more than 30,000 acre-feet subsequent to October 31 after having fallen below that level, or until permittee has projected, to the satisfaction of the Chief, Division of Water Rights, that storage at Lake Mendocino will not fall below 30,000 acre-feet.
- (b) Said withdrawals, if not already discontinued under condition (a) above, shall be restricted to a monthly quantity no greater than fifty percent of the average monthly use in the service area of the Redwood Valley County Water District during the same month of the previous three years, whenever storage in Lake Mendocino is below 30,000 acre-feet."

7. A new term is added to read:

"Any agreement between permittee and the Redwood Valley County Water District for withdrawals from storage at Lake Mendocino under this permit shall be subject to discontinuation, curtailment, or special conditions placed on said withdrawals pursuant to this permit, as this permit is now or may be amended in the future. A copy of any such contract shall be submitted to the State Water Resources Control Board."

8. A new term is added to read:

"The State Water Resources Control Board reserves jurisdiction over this permit to modify, delete, or impose additional conditions concerning the withdrawal of storage from Lake Mendocino for use within the service area of the Redwood Valley County Water District. Action by the Board will be taken only after notice to interested parties and opportunity for hearing."

9. A new term is added to read:

"Permittee shall collect and maintain average daily flow data for the following U.S. Geological Survey streamflow gaging stations:

Potter Valley Powerhouse Tailrace
East Fork Russian River near Ukiah
Russian River near Ukiah
The summation of the above two (flow at the Forks)
Russian River near Hopland
Russian River near Cloverdale
Russian River near Healdsburg
Russian River near Guerneville

"In addition, permittee shall collect and maintain daily data on the quantity of water pumped at its Wohler and Mirabel Park facilities, including water pumped to offstream settling ponds, and on the operation of Lake Mendocino including the calculated quantities of inflow, discharge, change in lake volume, lake evaporation, precipitation on the lake if not included in inflow, direct diversion by Redwood Valley County Water District, and withdrawals from storage for use in Redwood Valley.

"Requirements for collection and maintenance of streamflow and operational data under this permit are subject to modification, deletion, or replacement by other requirements as ordered by the Chief, Division of Water Rights."

10. A new term is added to read:

"Permittee shall consult with the Division of Water Rights and, within one year from the date of this amended permit, develop a plan, satisfactory to the Chief, Division of Water Rights, for submittal of data to the State Water Resources Control Board on the

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 24955 PERMIT 17593 LICENSE _____

**ORDER APPROVING A NEW DEVELOPMENT SCHEDULE,
ADDING A WATER MANAGEMENT PLAN,
A LICENSING CONDITION AND AMENDING THE PERMIT**

WHEREAS:

1. Permit 17593 was issued to Redwood Valley County Water District, on April 9, 1979 pursuant to Application 24955.
2. A petition for an extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board (Board).
3. The permittee has proceeded with diligence and good cause has been shown for said extension of time.
4. Permittee, under the Board's Water Conservation Program, is considered an Urban water supplier and is therefore required to develop and implement an urban water conservation plan or actions. Therefore, Standard Permit Term 29B should be added to the permit.
5. Permittee under permit Condition 24, is required to provide data concerning storage facilities, and under permit Condition 26 is required to maintain daily records of the amounts and rates of diversions from Lake Mendocino. To facilitate licensing the project, in a timely manner, a condition should be added to this order directing permittee to consult with Division of Water Rights staff regarding these requirements.
6. Permit Condition 12 pertaining to the continuing authority of the Board should be updated to conform to Section 780(a), Title 23 of the California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 8 of the permit be amended to read:

CONSTRUCTION WORK SHALL BE
COMPLETED ON OR BEFORE December 31, 1993 (0000008)

2. Condition 9 of the permit be amended to read:

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE December 31, 2002 (0000009)

3. Condition 12 of the permit be amended to read:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the 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.

17593

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittees without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

4. Condition 31 is added to this permit as follows:

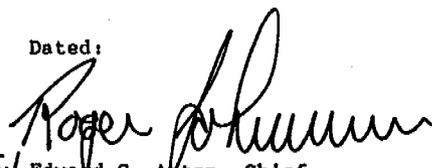
Permittee shall consult with the Division of Water Rights and develop and implement a water conservation plan or actions. The proposed plan or actions shall be presented to the State Water Resources Control Board for approval within one year from the date of this order or such further time as, for good cause shown, may be allowed by the Board. A progress report on the development of a water conservation program may be required by the Board at any time within this period.

All cost-effective measures identified in the water conservation program shall be implemented in accordance with the schedule for implementation found therein. (000029B)

5. Condition 32 is added to the permit as follows:

Permittee shall, within one year from the date of this order, consult with the Division of Water Rights and develop a plan, satisfactory to the Chief of the Division of Water Rights, for submittal of data and maps on the quantities of water directly diverted and diverted to storage under this permit. (0100700)

Dated:


Edward C. Axton, Chief
Division of Water Rights

17593

STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 17593

Application 24955 of Redwood Valley County Water District
P. O. Box 412, Redwood Valley, California 95470

filed on December 10, 1975, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

<p>1. Source:</p> <p>1. <u>East Fork Russian River</u></p> <p>2. <u>Lake Mendocino</u></p> <p>3. <u>(unknown at this time)</u></p>	<p style="text-align: right;">Tributary to:</p> <p><u>Russian River</u></p> <p><u>East Fork Russian River</u></p>
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2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
<u>Coyote Dam</u> <u>1. N45°10'E, 2590 ft from SW Corner</u> <u>of Projected Section 34</u>	<u>NE¼ of SW¼</u>	<u>34</u>	<u>16N</u>	<u>12W</u>	<u>MD</u>
<u>Direct Diversion and Diversion to Storage</u> <u>2. N568,300 and E1,666,600, California</u> <u>Coordinate System, Zone 2</u>	<u>NW¼ of NE¼</u>	<u>27</u>	<u>16N</u>	<u>12W</u>	<u>MD</u>
<u>Storage and Rediversion</u> <u>3. Various reservoirs, as yet unspecified,</u> <u>within the boundaries of the Redwood</u> <u>Valley County Water District</u>					

County of Mendocino

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
<u>Domestic</u>						
<u>Frost Protection</u>						
<u>Irrigation</u>	<u>Irrigation of a net area of</u> <u>3,300 acres within a gross</u> <u>area of 5,000 acres and other</u> <u>given uses within the bound-</u> <u>aries of the Redwood Valley</u> <u>County Water District in T16</u> <u>and 17N, R12W, MDB&M</u>					

The place of use is shown on map filed with the State Water Resources Control Board.

17593

5. THE WATER APPROPRIATED SHALL BE LIMITED TO THE QUANTITY WHICH CAN BE BENEFICIALLY USED AND SHALL NOT EXCEED (A) BY DIRECT DIVERSION: (1) 26.6 CUBIC FEET PER SECOND FROM MARCH 1 TO APRIL 30 OF EACH YEAR FOR FROST PROTECTION PURPOSES, (2) 1.9 CUBIC FEET PER SECOND FROM NOVEMBER 1 TO APRIL 30 OF EACH YEAR FOR DOMESTIC PURPOSES; (B) BY STORAGE 2800 ACRE-FEET PER ANNUM TO BE COLLECTED FROM NOVEMBER 1 OF EACH YEAR TO APRIL 30 OF THE SUCCEEDING YEAR. THE TOTAL AMOUNT OF WATER TO BE TAKEN FROM THE SOURCE FOR ALL USES SHALL NOT EXCEED 4900 ACRE-FEET PER WATER YEAR OF OCTOBER 1 TO SEPTEMBER 30.

THIS PERMIT DOES NOT AUTHORIZE COLLECTION OF WATER TO STORAGE OUTSIDE OF THE SPECIFIED SEASON TO OFFSET EVAPORATION AND SEEPAGE LOSSES OR FOR ANY OTHER PURPOSE.

THE MAXIMUM RATE OF DIVERSION TO OFFSTREAM STORAGE SHALL NOT EXCEED 26.6 CUBIC FEET PER SECOND.

(0000005)

6. THE AMOUNT AUTHORIZED FOR APPROPRIATION MAY BE REDUCED IN THE LICENSE IF INVESTIGATION WARRANTS.

(0000006)

7. ACTUAL CONSTRUCTION WORK SHALL BEGIN ON OR BEFORE TWO YEARS FROM DATE OF PERMIT AND SHALL THEREAFTER BE PROSECUTED WITH REASONABLE DILIGENCE, AND IF NOT SO COMMENCED AND PROSECUTED, THIS PERMIT MAY BE REVOKED.

(0000007)

8. SAID CONSTRUCTION WORK SHALL BE COMPLETED ON OR BEFORE DECEMBER 1, 1982.

(0000008)

9. COMPLETE APPLICATION OF THE WATER TO THE PROPOSED USE SHALL BE MADE ON OR BEFORE DECEMBER 1, 1986.

(0000009)

10. PROGRESS REPORTS SHALL BE SUBMITTED PROMPTLY BY PERMITTEE WHEN REQUESTED BY THE STATE WATER RESOURCES CONTROL BOARD UNTIL LICENSE IS ISSUED.

(0000010)

11. PERMITTEE SHALL ALLOW REPRESENTATIVES OF THE STATE WATER RESOURCES CONTROL BOARD AND OTHER PARTIES AS MAY BE AUTHORIZED FROM TIME TO TIME BY SAID BOARD, REASONABLE ACCESS TO PROJECT WORKS TO DETERMINE COMPLIANCE WITH THE TERMS OF THIS PERMIT.

(0000011)

12. PURSUANT TO CALIFORNIA WATER CODE SECTIONS 100 AND 275, ALL RIGHTS AND PRIVILEGES UNDER THIS PERMIT AND UNDER ANY LICENSE ISSUED PURSUANT THERETO, INCLUDING METHOD OF DIVERSION, METHOD OF USE, AND QUANTITY OF WATER DIVERTED, ARE SUBJECT TO THE CONTINUING AUTHORITY OF THE STATE WATER RESOURCES CONTROL 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.

THE CONTINUING AUTHORITY OF THE BOARD MAY BE EXERCISED BY IMPOSING SPECIFIC REQUIREMENTS OVER AND ABOVE THOSE CONTAINED IN THIS PERMIT WITH A VIEW TO MINIMIZING WASTE OF WATER AND TO MEETING THE REASONABLE WATER REQUIREMENTS OF PERMITTEE WITHOUT UNREASONABLE DRAFT ON THE SOURCE. PERMITTEE MAY BE REQUIRED TO IMPLEMENT SUCH PROGRAMS AS (1) REUSING OR RECLAIMING THE WATER ALLOCATED; (2) USING WATER RECLAIMED BY ANOTHER ENTITY INSTEAD OF ALL OR PART OF THE WATER ALLOCATED; (3) RESTRICTING DIVERSIONS SO AS TO ELIMINATE AGRICULTURAL TAILWATER OR TO REDUCE RETURN FLOW; (4) SUPPRESSING EVAPORATION LOSSES FROM WATER SURFACES; (5) CONTROLLING PHREATOPHYTIC GROWTH; AND (6) INSTALLING, MAINTAINING, AND OPERATING EFFICIENT WATER MEASURING DEVICES TO ASSURE COMPLIANCE WITH THE QUANTITY LIMITATIONS OF THIS PERMIT AND TO DETERMINE ACCURATELY WATER USE AS AGAINST REASONABLE WATER REQUIREMENTS FOR THE AUTHORIZED PROJECT. NO ACTION WILL BE TAKEN PURSUANT TO THIS PARAGRAPH UNLESS THE BOARD DETERMINES, AFTER NOTICE TO AFFECTED PARTIES AND OPPORTUNITY FOR HEARING, THAT SUCH SPECIFIC REQUIREMENTS ARE PHYSICALLY AND FINANCIALLY FEASIBLE AND ARE APPROPRIATE TO THE PARTICULAR SITUATION.

(0000012)

13. THE QUANTITY OF WATER DIVERTED UNDER THIS PERMIT AND UNDER ANY LICENSE ISSUED PURSUANT THERETO IS SUBJECT TO MODIFICATION BY THE STATE WATER RESOURCES CONTROL BOARD IF, AFTER NOTICE TO THE PERMITTEE AND AN OPPORTUNITY FOR HEARING, THE BOARD FINDS THAT SUCH MODIFICATION IS NECESSARY TO MEET WATER QUALITY OBJECTIVES IN WATER QUALITY CONTROL PLANS WHICH HAVE BEEN OR HEREAFTER MAY BE ESTABLISHED OR MODIFIED PURSUANT TO DIVISION 7 OF THE WATER CODE. NO ACTION WILL BE TAKEN PURSUANT TO THIS PARAGRAPH UNLESS THE BOARD FINDS THAT (1) ADEQUATE WASTE DISCHARGE REQUIREMENTS HAVE BEEN PRESCRIBED AND ARE IN EFFECT WITH RESPECT TO ALL WASTE DISCHARGES WHICH HAVE ANY SUBSTANTIAL EFFECT UPON WATER QUALITY IN THE AREA INVOLVED, AND (2) THE WATER QUALITY OBJECTIVES CANNOT BE ACHIEVED SOLELY THROUGH THE CONTROL OF WASTE DISCHARGES.

(0000013)

17593

14. THE STATE WATER RESOURCES CONTROL BOARD RESERVES JURISDICTION OVER THIS PERMIT TO IMPOSE ANY APPROPRIATE CONDITIONS AT SOME FUTURE DATE TO CONFORM THE PERMIT TO BOARD POLICY ON USE OF WATER FOR FROST PROTECTION. ACTION BY THE BOARD WILL BE TAKEN ONLY AFTER NOTICE TO INTERESTED PARTIES AND OPPORTUNITY FOR HEARING. (0000020)

15. THIS PERMIT SHALL NOT BE CONSTRUED AS CONFERRING UPON THE PERMITTEE RIGHT OF ACCESS TO THE POINT OF DIVERSION. (0000022)

16. THIS PERMIT IS SUBJECT TO THE AGREEMENT DATED MARCH 17, 1978 BETWEEN PERMITTEE AND SONOMA COUNTY WATER AGENCY, TO THE EXTENT SUCH AGREEMENT COVERS MATTERS WITHIN THE BOARD'S JURISDICTION. THE AGREEMENT IS ESSENTIALLY AS FOLLOWS:

THIS PERMIT AND ANY LICENSE ISSUED THEREUNDER IS AND SHALL BE SUBJECT TO THE FOLLOWING CONDITION:

"DIVERSION BY REDWOOD VALLEY COUNTY WATER DISTRICT UNDER THIS PERMIT MAY BE MADE ONLY DURING THOSE TIMES WHEN THE WATER LEVEL IN LAKE MENDOCINO CANNOT BE INCREASED DUE TO THE REQUIREMENTS OF PRESERVING STORAGE CAPACITY FOR FLOOD CONTROL AS DETERMINED BY U S ARMY CORPS OF ENGINEERS." (0430024)

17. THIS PERMIT IS SUBJECT TO THE AGREEMENT DATED JANUARY 10, 1978 BETWEEN PERMITTEE AND CALIFORNIA DEPARTMENT OF FISH AND GAME, TO THE EXTENT SUCH AGREEMENT COVERS MATTERS WITHIN THE BOARD'S JURISDICTION. THE AGREEMENT IS ESSENTIALLY AS FOLLOWS:

A. PERMITTEE WILL NOT DIVERT WATER FOR USE OR STORAGE UNDER THIS PERMIT OR ANY LICENSE ISSUED PURSUANT TO THIS PERMIT EXCEPT UNDER THE FOLLOWING CIRCUMSTANCES:

1. WHEN, DURING THE PERIOD FROM OCTOBER 1 THROUGH APRIL 30, THE SURFACE LEVEL OF THE WATER IN LAKE MENDOCINO IS ABOVE THE CONSERVATION POOL AS ESTABLISHED BY THE U S CORPS OF ENGINEERS.

2. WHEN THE FLOW IN THE RUSSIAN RIVER AT THE CONFLUENCE WITH THE EAST BRANCH, EXCEEDS 150 CUBIC FEET PER SECOND, AND ONLY THEN AT A RATE NOT EXCEEDING SAID EXCESS, CEASING ALL DIVERSION WHEN THE FLOW IN THE RIVER IS 150 CUBIC FEET PER SECOND OR LESS. RIVER FLOWS SHALL BE MEASURED AT THE NEAREST U S GEOLOGICAL SURVEY GAGING STATION ON THE RIVER.

B. THE DIVERSION WORKS MAY BE USED TO DIVERT WATER UNDER AGREEMENTS WITH OTHER LICENSEES.

C. NO WATER SHALL BE DIVERTED UNDER THIS PERMIT FROM MAY 1 TO SEPTEMBER 30 OF EACH YEAR.

D. IN ACCORDANCE WITH PROVISIONS OF SECTION 1603 OF THE FISH AND GAME CODE, NO WATER SHALL BE DIVERTED UNDER THIS PERMIT UNTIL THE DIVERSION INLET PIPE IS ADEQUATELY SCREENED TO PROTECT FISHLIFE. IT IS UNDERSTOOD THAT AN INLET SCREEN WITH OPENINGS OF 3/8 INCH DIAMETER, PROVIDING A TOTAL OF 1.5 SQUARE FEET OF OPEN AREA PER CFS OF FLOW WOULD ADEQUATELY PROTECT FISHLIFE. THE CONSTRUCTION, OPERATION, OR MAINTENANCE COST OF ANY FACILITY REQUIRED PURSUANT TO THIS PROVISION SHALL BE BORNE BY THE PERMITTEE. (0430024)

18. TO THE EXTENT THAT WATER AVAILABLE FOR USE UNDER THIS PERMIT IS RETURN FLOW, IMPORTED WATER, OR WASTEWATER, THIS PERMIT SHALL NOT BE CONSTRUED AS GIVING ANY ASSURANCE THAT SUCH SUPPLY WILL CONTINUE. (0000025)

19. THE STATE WATER RESOURCES CONTROL BOARD WILL MAINTAIN JURISDICTION OVER THIS PERMIT UNTIL RESULTS OF THE COOPERATIVE FEDERAL-STATE, RUSSIAN-EEL RIVER FLOW AUGMENTATION STUDY ARE MADE KNOWN AND UNTIL THE FEDERAL POWER COMMISSION HAS MADE A DETERMINATION ON THE RELICENSING OF PACIFIC GAS AND ELECTRIC COMPANY'S TRANS-BASIN POWER GENERATION PROJECT. (0000083)

20. WATER DIVERTED UNDER THIS PERMIT MAY BE RESTRICTED TO THAT RELEASED BY UPSTREAM APPROPRIATORS IN POTTER VALLEY AND DOES NOT CONSTITUTE AN ADDITIONAL APPROPRIATION OF EEL RIVER WATER. (0000084)

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21. IN ORDER TO PREVENT DEGRADATION OF THE QUALITY OF WATER DURING AND AFTER CONSTRUCTION OF THE PROJECT, PRIOR TO COMMENCEMENT OF CONSTRUCTION PERMITTEE SHALL FILE A REPORT PURSUANT TO WATER CODE SECTION 13260 AND SHALL COMPLY WITH ANY WASTE DISCHARGE REQUIREMENTS IMPOSED BY THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, NORTH COASTAL REGION, OR BY THE STATE WATER RESOURCES CONTROL BOARD. (0000100)

22. NO WATER SHALL BE USED FOR DOMESTIC PURPOSES UNDER THIS PERMIT UNTIL THE PERMITTEE HAS FILED A REPORT OF WASTE DISCHARGE WITH THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, NORTH COASTAL REGION, PURSUANT TO WATER CODE SECTION 13260, AND THE REGIONAL BOARD OR STATE WATER RESOURCES CONTROL BOARD HAS PRESCRIBED WASTE DISCHARGE REQUIREMENTS OR HAS INDICATED THAT WASTE DISCHARGE REQUIREMENTS ARE NOT REQUIRED. THEREAFTER, WATER MAY BE DIVERTED ONLY DURING SUCH TIMES AS ALL REQUIREMENTS PRESCRIBED BY THE REGIONAL BOARD OR STATE BOARD ARE BEING MET. NO DISCHARGES OF WASTE TO SURFACE WATER SHALL BE MADE UNLESS WASTE DISCHARGE REQUIREMENTS ARE ISSUED BY A REGIONAL BOARD OR THE STATE BOARD. A DISCHARGE TO GROUND WATER WITHOUT ISSUANCE OF A WASTE DISCHARGE REQUIREMENT MAY BE ALLOWED IF AFTER FILING THE REPORT PURSUANT TO SECTION 13260:

- (1) THE REGIONAL BOARD ISSUES A WAIVER PURSUANT TO SECTION 13269, OR
- (2) THE REGIONAL BOARD FAILS TO ACT WITHIN 120 DAYS OF THE FILING OF THE REPORT.

NO REPORT OF WASTE DISCHARGE PURSUANT TO SECTION 13260 OF THE WATER CODE SHALL BE REQUIRED FOR PERCOLATION TO THE GROUND WATER OF WATER RESULTING FROM THE IRRIGATION OF CROPS. (0290101)

23. STORAGE OF WATER SHALL NOT BE COMMENCED UNTIL PERMITTEE HAS FURNISHED THE BOARD WITH CERTIFIED ENGINEERING MAPS WHICH SHOW THE LOCATION OF ALL CONDUITS WHICH TRANSFER WATER FROM LAKE MENDOCINO TO EACH OF THE RESERVOIRS THAT WILL CONTAIN A PORTION OF THE 2,800 ACRE-Feet OF STORAGE AUTHORIZED BY THIS PERMIT. (0360999)

24. PERMITTEE SHALL NOT STORE WATER IN ANY RESERVOIR UNTIL ONE OR MORE OF THE FOLLOWING HAVE BEEN COMPLIED WITH:

- A. LANDOWNER HAS RECEIVED A PERMIT OR LICENSE FROM THE BOARD TO STORE LOCAL RUNOFF WATER IN THE RESERVOIR(S) AND THE DISTRICT HAS FURNISHED THE BOARD WITH A COPY OF AN AGREEMENT BETWEEN THE LANDOWNER AND THE DISTRICT FOR STORAGE OF PROJECT WATER IN SAID RESERVOIR UNDER THIS PERMIT.
- B. THE DISTRICT AND THE LANDOWNER SHALL JOINTLY RECEIVE A PERMIT FOR STORAGE OF LOCAL RUNOFF IN ANY RESERVOIR WHICH MAY BE JOINTLY BUILT AND ADMINISTERED.
- C. THE DISTRICT SHALL RECEIVE A PERMIT FROM THE BOARD FOR ANY RESERVOIR BUILT AND ADMINISTERED BY THE DISTRICT WHICH MAY CAPTURE LOCAL RUNOFF.
- D. PIT TYPE RESERVOIRS WHICH ARE NOT BUILT ON A DRAINAGE OR WATERCOURSE AND DO NOT COLLECT RUNOFF AND ARE NOT USED AS OFFSTREAM STORAGE RESERVOIRS FOR LOCAL RUNOFF SHALL BE EXEMPT FROM THE ABOVE LISTED PERMIT PROCEDURES BUT DISTRICT SHALL FURNISH THE BOARD WITH ENGINEERING MAPS AND OTHER DATA, INCLUDING SIZE AND CAPACITY AS REQUIRED BY ITS REGULATIONS. (0360999)

25. STORAGE OF WATER UNDER THIS PERMIT MUST CONFORM TO ANY SPECIAL TERMS IN OTHER PERMITS OR LICENSES APPLICABLE TO THE OPERATION OF THE JOINTLY USED DIVERSION FACILITIES. (0000999)

26. PERMITTEE SHALL MAINTAIN DAILY RECORDS WHICH ARE SATISFACTORY TO THE BOARD OF THE AMOUNT AND RATE OF ALL DIVERSIONS FROM LAKE MENDOCINO UNDER THIS PERMIT, INCLUDING AMOUNTS OF WATER DIVERTED DIRECTLY TO BENEFICIAL USE, THE WATER SURFACE ELEVATION OF LAKE MENDOCINO AT THE TIME OF DIVERSION, AND THE ELEVATION OF MINIMUM FLOOD STORAGE. AN ANNUAL REPORT OF SUCH RECORDS SHALL BE SUBMITTED TO THE BOARD ON OR BEFORE THE END OF EACH CALENDAR YEAR. (0110999)

27. PERMITTEE SHALL SUBMIT TO THE BOARD COPIES OF ALL STORAGE AGREEMENTS WITH INDIVIDUAL RESERVOIR OWNERS AS SOON AS PRACTICABLE AFTER SUCH AGREEMENTS ARE EXECUTED. (0270300)

1. PERMITTEE SHALL INSTALL AND MAINTAIN SUITABLE MEASURING DEVICES SATISFACTORY TO THE BOARD SO THAT ACCURATE MEASUREMENTS CAN BE MADE OF THE QUANTITY OF PROJECT WATER STORED IN EACH RESERVOIR. AN ANNUAL REPORT OF THE AMOUNT DIVERTED SHALL BE SUBMITTED TO THE BOARD ON OR BEFORE THE END OF EACH CALENDAR YEAR. (0070999)

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29. IF ANY OF THE STORAGE DAMS THAT HAVE BEEN OR ARE TO BE CONSTRUCTED IN CONJUNCTION WITH THIS PROJECT ARE OR WILL BE OF SUCH SIZE AS TO BE WITHIN THE JURISDICTION OF THE DEPARTMENT OF WATER RESOURCES AS TO SAFETY, CONSTRUCTION OR STORAGE OF WATER SHALL NOT BE COMMENCED UNTIL THE DEPARTMENT HAS APPROVED PLANS AND SPECIFICATIONS. (0360049)

30. ALL PROJECT RESERVOIRS, REGARDLESS OF TYPE, SIZE, OR OWNERSHIP, SHALL COMPLY WITH ALL PERTINENT SECTIONS OF THE BOARD'S REGULATIONS. AUTHORITY IS RESERVED BY THE BOARD TO ADD ADDITIONAL TERMS TO THIS PERMIT OR SUBSEQUENT LICENSE AS CONDITIONS REQUIRE. (0000999)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: APRIL 9 1979

STATE WATER RESOURCES CONTROL BOARD

Walter A. Peltet
for Chief, Division of Water Rights

17593

REDWOOD VALLEY COUNTY WATER DISTRICT

**PRELIMINARY REVIEW
OF
WATER STORAGE ALTERNATIVES**

APRIL 1990

**BRELJE & RACE
CONSULTING CIVIL ENGINEERS
Santa Rosa, California**

BRELJE & RACE

CONSULTING CIVIL ENGINEERS
5341 SKYLANE BLVD. P.O. BOX 1895 SANTA ROSA CA 95402 707/576-1322

April 3, 1990

Board of Directors
Redwood Valley County Water District
P.O. Box 399
Redwood Valley, CA 95470

**Subject: Preliminary Review of Water
Storage Alternatives**

Dear Directors:

You asked that a preliminary study be prepared which would identify possible water storage sites in the Redwood Valley area. Rough cost estimates were requested for those alternatives showing the greatest promise. The information would be used to determine if additional storage might represent a feasible approach to satisfying the District's long range water needs during critical summer months. More detailed investigations would be undertaken if the results from the preliminary studies indicated that the concept was worth pursuing further.

In response to your requests, this brief letter report has been prepared to present the findings of the preliminary work completed to date.

SCOPE

The scope of the preliminary work has been limited to the following:

1. Determination of the approximate volume of storage which could be created on District owned property adjacent to the existing terminal storage reservoir and preparation of a preliminary estimate of costs.
2. Identification of potential storage sites in the vicinity of Redwood Valley.
3. Preparation of a preliminary cost estimate for a storage project which would provide 2,000-3,000 acre feet of capacity and which would be connected directly to the District's existing water distribution system.
4. Consideration of a hypothetical downstream storage project which could be operated to release waters to the Russian

River at times and in quantities sufficient to offset
District withdrawals from Lake Mendocino.

Topographic data was obtained from USGS Quad Maps. None of the reservoir sites were checked in the field to determine ownership, accessibility or geotechnical constraints. The preliminary results and conclusions which follow should be judged accordingly.

DISTRICT SITE

Figure 1 shows a preliminary layout for a storage pond which could be located immediately west of the existing raw water storage ponds. Approximately 4½ acres would be available for construction. A pond with a capacity of 50 acre-feet could be developed on the site. The existing ponds hold approximately 68 AF. The addition of a third pond would bring the total raw water storage capacity on the site to 118 AF or 38 MG.

The new pond would have a maximum water surface elevation of approximately 960 feet. A small recirculation pump would be needed to return water to the upper ponds where there would be sufficient head available to operate the gravity units of the treatment plant.

Construction would also require the relocation of approximately 600 L.F. of 12" water main which delivers water from the treatment plant to the 500,000 gallon storage tank. Estimated costs for the project are shown in Table 1.

TABLE 1
PRELIMINARY COST ESTIMATE
50 AF CAPACITY STORAGE POND

<u>Quantity</u>	<u>Unit</u>	<u>Description</u>	<u>Cost</u>
4.5	Ac	Site Preparation	\$ 18,000
50,000	Cy	Excavation	100,000
20,000	Cy	Embankment	60,000
600	LF	Water Main Relocation	24,000
1	Lot	Site Piping	25,000
1	Ea	Recirculation Pump	15,000
1	Lot	Erosion Control	<u>10,000</u>
		Subtotal	\$252,000
		Contingencies & Incidentals	<u>63,000</u>
		TOTAL	\$315,000

Capital costs would be equivalent to \$6,300 per acre foot.
Additional operating costs would be minimal.

POTENTIAL STORAGE RESERVOIRS

Eight possible sites for storage reservoirs are shown on Exhibit A. All are located in the hills lying easterly of the valley. Two sites drain to the West Fork of the Russian River. The remaining six are tributary to the East Fork. Pertinent data for each site is summarized in Table 2.

TABLE 2
POTENTIAL RESERVOIR SITES

<u>Site</u>	<u>WS Elev (Ft)</u>	<u>WS Area (Ac)</u>	<u>Tributary Area (Ac)</u>	<u>Dam Height (Ft)</u>	<u>Storage Capacity (Ac Ft)</u>
A	1,200	190	800	280	32,000
B	1,200	140	1,150	250	14,000
C	1,600	200	940	380	33,000
D	1,200	250	3,000	200	22,000
E	1,400	380	2,000	300	51,000
F	1,200	65	1,300	140	3,000
G	1,800	72	385	300	9,000
H	1,520	100	760	320	12,000

The ridgeline between the West Fork and the East Fork ranges from 1,800 to 2,000 feet in elevation. The District's raw water ponds are at elevation 980 feet. Water surface elevations at Lake Mendocino normally range between 730 and 765 feet. Based upon current pumping costs of \$15/AF per 100 feet of head, it is apparent that it would be infeasible to transfer water from the District's system to any of the reservoirs in the East Fork watershed. Those reservoirs would only merit consideration in an "exchange" arrangement whereby water would be released to Lake Mendocino in direct proportion to deliveries into the District's system.

Based upon their tributary areas, Sites D, E and F would offer the greatest potential for generating runoff which could be captured and stored. Under normal rainfall conditions approximately 1.5 acre feet of runoff per acre of watershed might be expected. Corresponding storage volumes would range from 2,000 to 4,500 AF for the three sites. Under dry year

conditions, however, the values would be considerably less. Moreover, storage limitations resulting from superior water rights could further diminish the volumes of water actually available for impoundment. It is unlikely that arrangements which involved pumping from the East Fork to any of the storage sites during periods of high streamflows would be feasible.

Sites A and B are located in the Redwood Valley drainage basin. Site A, on Fisher Creek, has a tributary area of approximately 800 Ac. Normal runoff would approximate 1,200 AF per year. The situation with respect to water rights has not been investigated at this point but presumably some type of exchange arrangement would be possible. The District could release water from its irrigation system at a number of points along the West Fork of the Russian River.

Site B has a tributary area of 1,150 acres with a potential runoff of 1,700 acre feet under normal rainfall conditions. However, development of Site B would require an additional two miles of transmission main to connect to the District's irrigation system. Site A would appear to represent a more feasible alternative on that basis.

RESERVOIR SITE "A"

A schematic plan for a storage project at Site A is shown on Figure 2. The project would involve the construction of a 3,000 AF capacity reservoir on Fisher Creek at an elevation of 1,000 feet. The reservoir would be created by a dam approximately 100 feet high. The project would cover an area of 70 acres.

Under the most critical weather conditions, it is assumed that the reservoir would be filled by means of deliveries through the District's irrigation system. The transfer of 2,000 AF over a period of five winter months would entail an average rate of delivery of 4.4 mgd.

Approximately 19,000 LF of 18-inch diameter pipeline would be required. One, and possibly two, low head pumping stations would be needed to fill and empty the reservoir.

Estimated costs for the project are shown in Table 3. The dam and associated work would cost approximately \$5.7 million. The connecting pipeline and pumping station(s) would add \$2.0 million to the estimate. The total cost of \$7.7 million would be equivalent to \$3,850 per acre foot based upon a safe yield of 2,000 AF. Power costs could add \$30,000 per year to the operating expenses.

Again, it should be noted that all estimates are based upon numerous assumptions which might be altered significantly following more detailed investigations.

TABLE 3
PRELIMINARY COST ESTIMATE
3,000 AF RESERVOIR PROJECT
AT SITE A

A. RESERVOIR

<u>Quantity</u>	<u>Unit</u>	<u>Description</u>	<u>Cost</u>
70	Ac	Land Acquisition	\$350,000
60	Ac	Site Preparation	240,000
500,000	Cy	Earthwork	3,000,000
1,000	Cy	Spillway	400,000
1	Lot	Site Piping	200,000
1	Lot	Erosion Control	200,000
		Subtotal	\$4,390,000
		Contingencies & Incidentals	1,310,000
		TOTAL	\$5,700,000

B. PIPELINE AND PUMPING STATION

19,000	LF	18" Transmission Main	\$1,045,000
2	Ea	Pumping Stations	350,000
11,000	LF	Access Road	132,000
1	Lot	Easements	<u>33,000</u>
		Subtotal	\$1,560,000
		Contingencies & Incidentals	440,000
		TOTAL	\$2,000,000
		<u>TOTAL PROJECT</u>	<u>\$7,700,000</u>

DOWNSTREAM STORAGE PROJECT

It has been suggested that consideration be given to developing a storage facility along the Russian River downstream from Coyote Dam. Presumably, such a facility would be filled during the winter months. Water would be released during low flow periods

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at rates corresponding to the District's rates of diversion from Lake Mendocino.

Based upon USGS Maps, there does not appear to be any "natural" dam sites close to the Russian River between Ukiah and Hopland. Sites far removed from the river would offer little or no advantage over sites in the upper valley.

It might be possible to develop a 2,500 AF capacity pond on a level site near the river if soil conditions were satisfactory. Such a facility would require approximately 100 acres of land. Storage would be created by constructing a dike around the perimeter of the property. The dike would average approximately 30 feet in height.

The storage pond would be filled by means of low head pumps located adjacent to the river. Water would be released to the river by gravity.

Estimated costs for a hypothetical project are set forth in Table 4.

TABLE 4
PRELIMINARY COST ESTIMATE
2,500 AF CAPACITY POND

100	Ac	Land Acquisition	\$1,000,000
100	Ac	Site Preparation	200,000
800,000	Cy	Earthwork	2,400,000
20,000	Sy	Rock Lining	100,000
8,000	LF	Fence	60,000
1	Lot	Piping	150,000
1	Ea	Pumping Station	<u>250,000</u>
		Subtotal	\$4,160,000
		Contingencies & Incidentals	1,240,000
		TOTAL	\$5,400,000

Based upon a usable capacity of 2,000 AF, the project would cost \$2,700 per acre foot. Power costs would be approximately \$30,000 per year.

SUMMARY

The District is reviewing all possibilities for developing a permanent, reliable supply of water to serve the long term needs of Redwood Valley. Additional storage represents one possibility

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being considered. This study has been prepared to present an overview of possible storage alternatives together with rough estimates of costs.

A small project which would provide 50 AF of storage capacity could be developed on District owned property at a cost of approximately \$300,000. It would be of value for short term emergencies. It would add little to the District's long-term supply capabilities.

Projects providing 2,000 AF of usable capacity are estimated to cost between \$5.4 and \$7.7 million. Aside from the financial ramifications, the feasibility of the larger projects would also depend upon resolution of a number of water rights issues.

We look forward to future discussions on this matter. In the meantime, please advise if there are any questions.

Very truly yours,

BRELJE & RACE

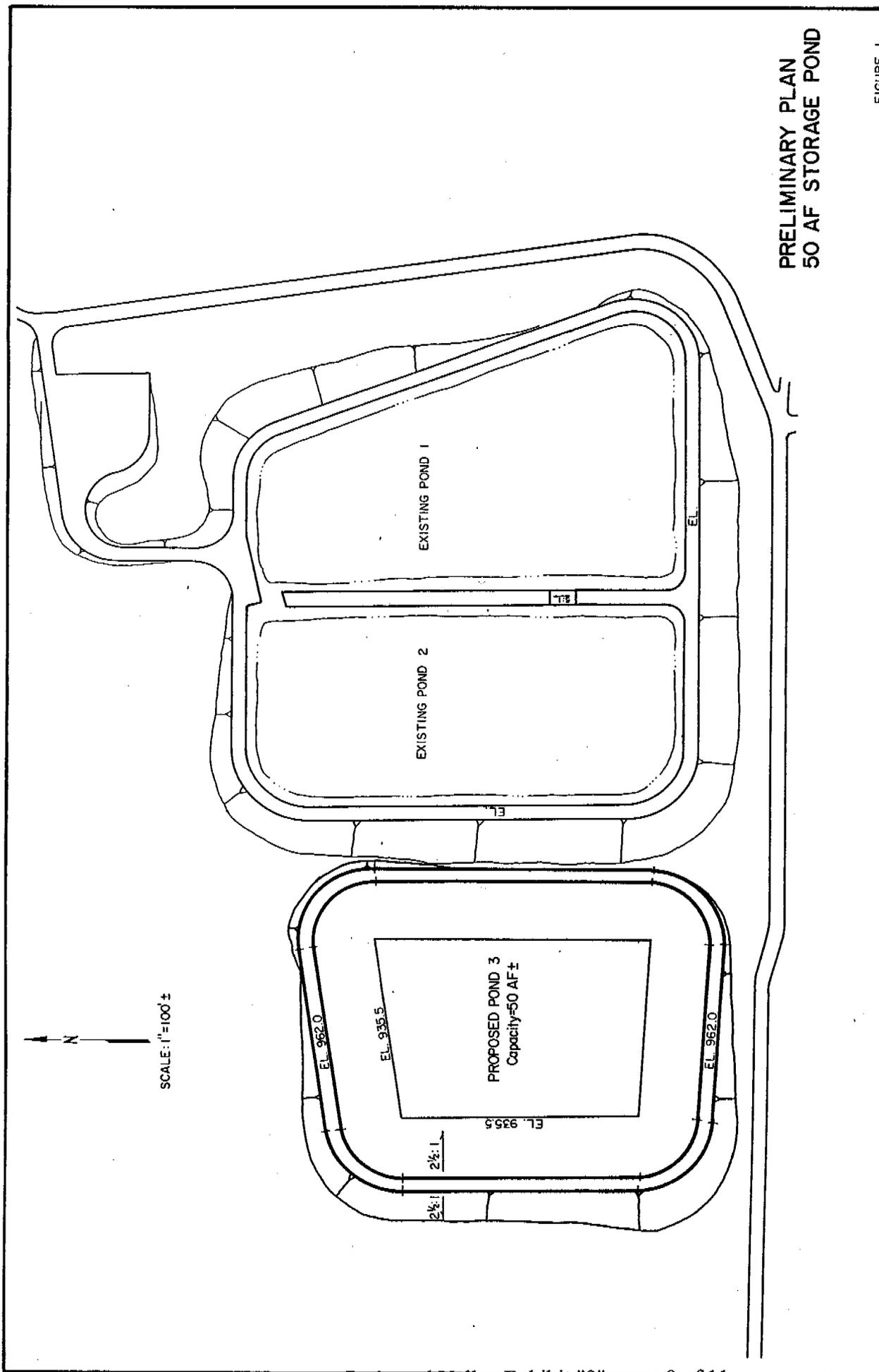


JAMES V. DAUGHERTY

mkd

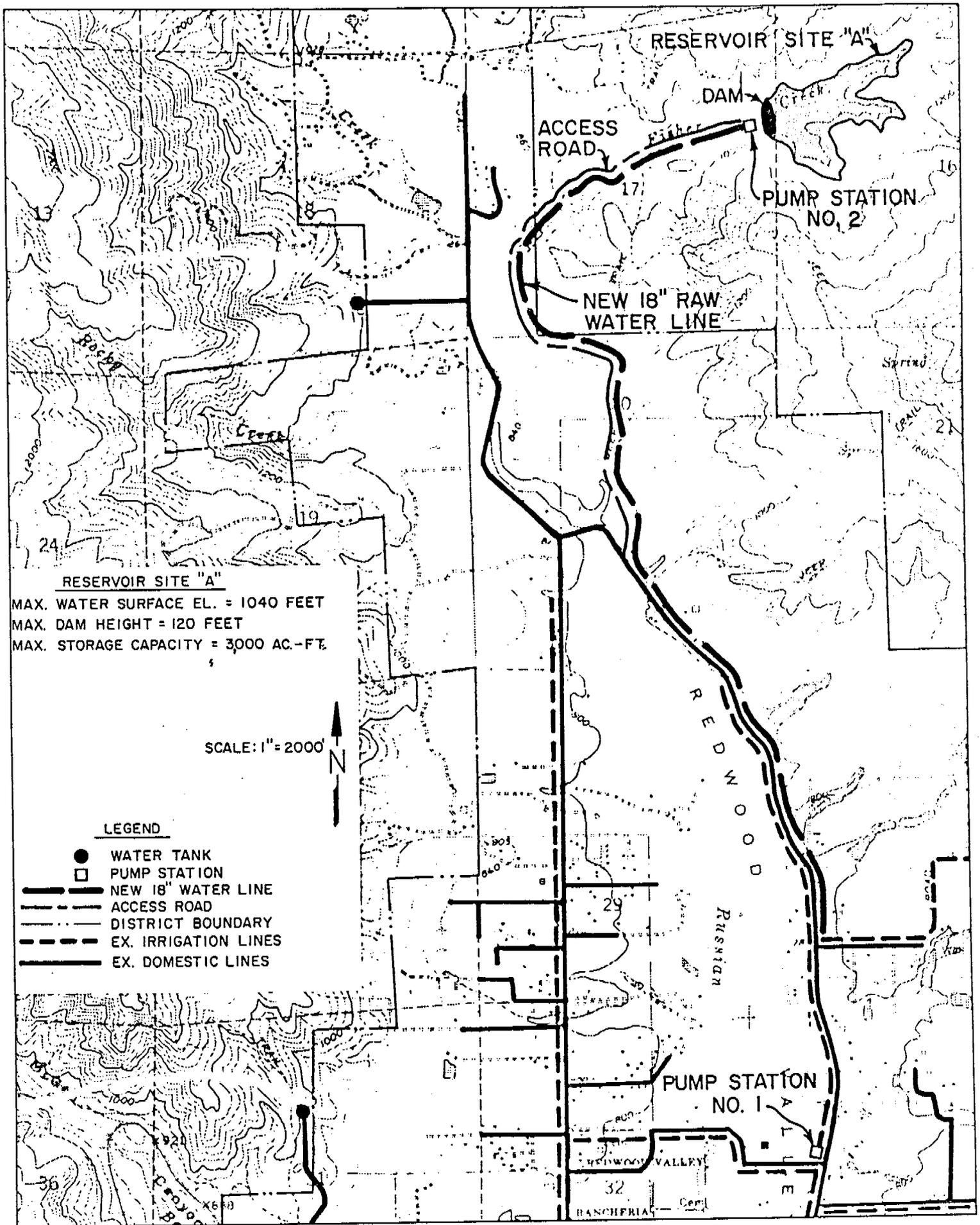
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APR - 4 1990



PRELIMINARY PLAN
50 AF STORAGE POND

FIGURE 1



Redwood Hill, California, 1959, page 9 of 11 pages
SCHEMATIC PLAN
RESERVOIR SITE "A"

POTENTIAL RESERVOIR SITES

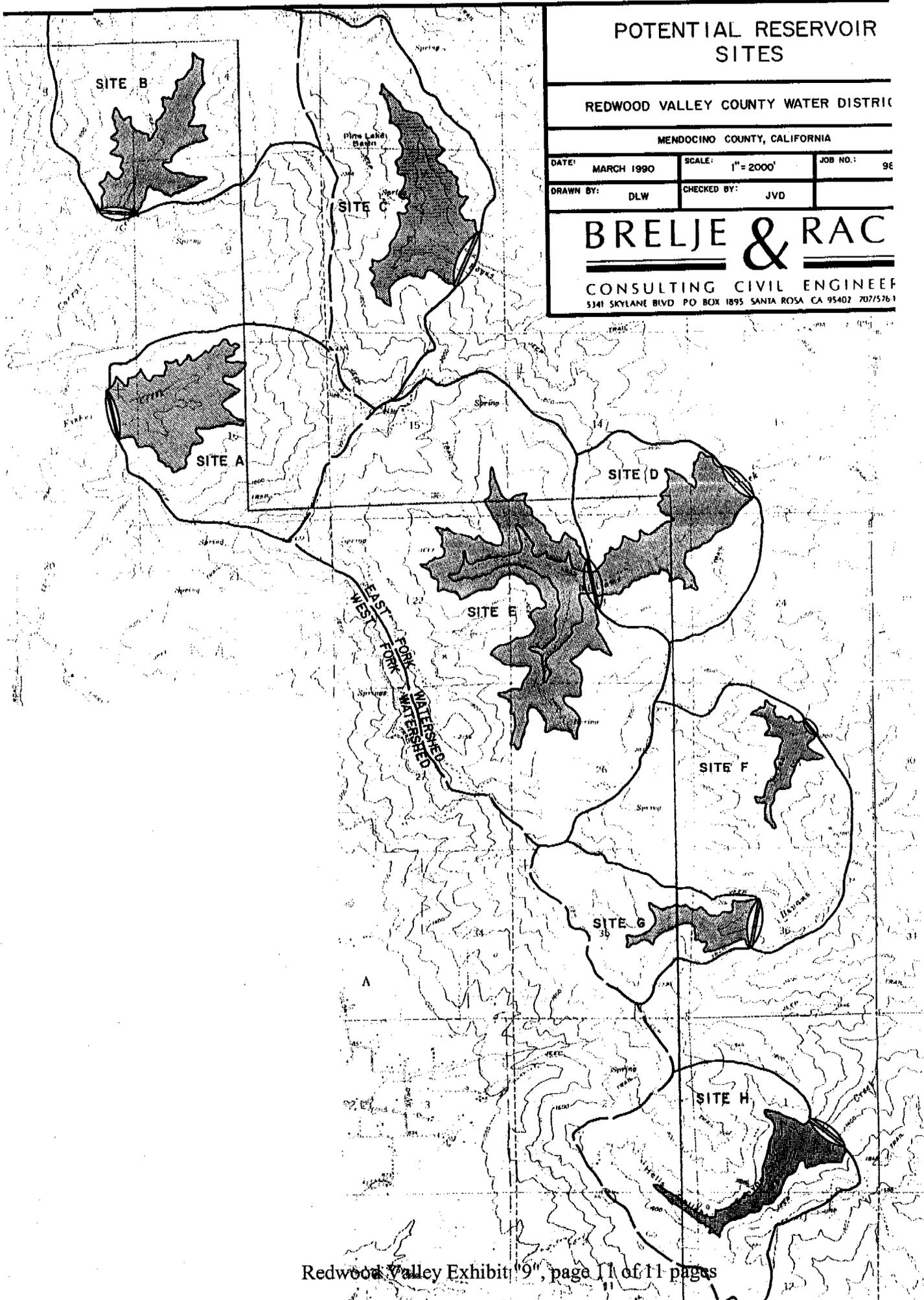
REDWOOD VALLEY COUNTY WATER DISTRICT

MENDOCINO COUNTY, CALIFORNIA

DATE:	MARCH 1990	SCALE:	1" = 2000'	JOB NO.:	9E
DRAWN BY:	DLW	CHECKED BY:	JVD		

BRELJE & RAC

CONSULTING CIVIL ENGINEERS
5341 SKYLANE BLVD PO BOX 1895 SANTA ROSA CA 95402 707/576-1



DRAFT -- SUBJECT TO REVIEW & MODIFICATION

**U.S. BUREAU OF RECLAMATION
MID-PACIFIC REGION**

**REDWOOD VALLEY CWD
ABILITY TO PAY ANALYSIS**

AUGUST 2000

**United States Department of the Interior
Bureau of Reclamation
Mid-Pacific Region
Sacramento, California**

FOREWARD

Purpose and Intent of this Ability-to-Pay study is to define the ability of Redwood Valley CWD (District) **to repay the irrigation portion** of their existing P.L. 84-984 (Small Reclamation Projects Act) loan obligation. Reclamation's "Technical Standards for Irrigation Payment Capacity, November 30, 1998" have been followed in preparing this analysis. While Reclamation recognizes that the repayment of the M&I portion of the loan obligation must be handled in any restructured repayment schedule, **a Reclamation payment capacity study is based on methodology that is only appropriate to be applied to the irrigation portion of the loan obligation.**

In order for Reclamation to restructure the repayment schedule it must first have an approved "Basis of Negotiation" from the Commissioner's Office. A requirement of getting an "approved" Basis of Negotiation is to have a current approved Payment Capacity Study. With the type of agriculture in Redwood Valley CWD, mostly small operators with off-farm jobs providing a significant portion of the families' income, Reclamation's requirement to prepare farm budgets representing "full time commercial operations" seems to be unrepresentative of the local conditions. However, small part-time farms are not included in the payment capacity analysis based, in part, on subsection D of the 1994 Fact Finder's Act which requires the Secretary of Interior to determine the ability of project land to "support a family and pay water charges".

Background of Redwood Valley CWD P.L. 84-984 Loan and Loan Repayment

In the 1970's, the District completed two P.L. 84-984 loan applications: the original loan application, resulting in execution of a repayment contract in 1976, and an escalation loan application, resulting in a contract amendment in 1980.

The existing repayment schedule provides for increasing annual payments over a 35-year period. The District's loan repayment period commenced in 1982 with the first principal payment due on January 1, 1982. To date the District has paid only its first principal payment (\$58,000) and an additional \$44,000, which has been credited toward payment of outstanding penalty interest and M&I interest charges incurred during the earliest portion of the repayment period.

The District has been unable to meet its financial obligation under the existing repayment contract due to:

1) Lack of buildup in demand for both M&I and agricultural water service as initially projected in the loan application reports.

(2) The District relies on Lake Mendocino for its water supply. The Lake is shared by the Sonoma County Water Agency (Sonoma) and the Mendocino County Russian Flood Control and Water Conservation Improvement District (Improvement District). Redwood Valley CWD has an agreement with the Improvement District which allows them to use water from the Lake but they are last in line behind Sonoma and the Improvement District. Because of

DRAFT-- SUBJECT TO REVIEW & MODIFICATION

REDWOOD VALLEY CWD ABILITY-TO-PAY ANALYSIS

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1.	Supporting Data
2.	Enterprise Cost Studies
3.	Complete Farm Budgets

DRAFT - SUBJECT TO REVIEW & MODIFICATION**REDWOOD VALLEY CWD ABILITY-TO-PAY ANALYSIS****TABLE OF CONTENTS****Addendum 1**

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Addendum 2

- a. Wine Grape Cost Study
- b. Irrigated Pasture Cost Study

Addendum 3

- a. Wine Grape Farm Budget
- b. Irrigated Pasture Farm budget
- c. Alfalfa Hay Farm Budget

DRAFT - SUBJECT TO REVIEW & MODIFICATION

Table 1. SUMMARY OF REDWOOD VALLEY -- PAYMENT CAPACITY, COST OF WATER AND REPAYMENT PERIOD

Input Item	Units	IRRIGATED PASTURE			WINE GRAPES	Weighted of Total
		Irrigated Pasture	Establish Irrigated Pasture	IRRIGATED PASTURE		
Irrigable Acres in District						
Cropped Acres	acres	--	--	--	--	4,740
% Weight (Cropped Acres)	acres	--	--	1,374	2,323	3,897
Farm Size Budgeted	%	--	--	37.17%	62.83%	100.00%
Cropped Acres in Budget	acres	--	--	320	40	--
Farmstead	acres	--	--	300	36	--
Budget Number	#	--	--	20	4	--
Yield	ton/a	--	--	0121	0122	--
Price Received a/	aum/a	8.7	5.7	--	4.6	--
	\$/ton	--	--	--	1,113.00	--
	\$/aum	--	--	28.69	--	--
Irrigation Systems (Total)						
Pump	\$/acre	--	--	300	4,430	--
Flood Irrigation	\$/acre	--	--	--	--	--
Drip Irrigation	\$/acre	--	--	--	--	--
Gated Pipe	\$/acre	--	--	--	--	--
Sprinkler Pipe	\$/acre	--	--	--	880	--
Overhead Solid Set, Pump & Reservoir	\$/acre	--	--	300	--	--
Return Flow System	\$/acre	--	--	--	3,550	--
Soil Amendments - Gypsum	\$/acre	--	--	--	--	--
On-Farm Drainage	\$/acre	--	--	0	0	--
Ripping	\$/acre	--	--	0	0	--
Land Leveling	\$/acre	--	--	0	0	--
Land Value (under Williamson Land Act)	\$/acre	--	--	0	0	--
Total - Land Value	\$/acre	--	--	1,000	1,700	--
Permanent Planting Value	\$/acre	--	--	1,000	1,700	--
Return Flow Pumping Energy	\$/acre	--	--	--	12,400	--
Workmen's Compensation	\$/S100	--	--	--	--	--
Net Farm Income	\$/farm	--	--	0.2409	0.0804	--
Family Living Allowance	\$/farm	--	--	37,807	73,142	60,010 d/
Return - Owners Equity	\$/farm	--	--	36,583	51,356	45,866 d/
Return - Operator Mgt	\$/farm	--	--	10,988	10,767	10,853 d/
Return - Operator & Family Labor	\$/farm	--	--	3,781	7,314	6,001 d/
Payment Capacity	\$/acre	--	--	21,823	33,275	28,019 d/
Water Requirement (FDR)	a/acre	--	--	3.76	544.63	343.61 d/
				1.80	1.50	1.61 d/

COMPARISON OF PAYMENT CAPACITY & ESTIMATED COST OF IRRIGATION WATER

		Water Rate @ \$120/a/		Water Rate @ \$190/a/		Water Rate @ \$200/a/	
		Weighted \$/Acre	Total District \$	Weighted \$/Acre	Total District \$	Weighted \$/Acre	Total District \$
Payment Capacity	\$/acre	\$343.61	\$1,628,711	\$343.61	\$1,628,711	\$343.61	\$1,628,711
Cost of Irrigation Water	\$/acre	216.00	--	342.00	--	360.00	--
Irrigated Pasture	\$/acre	180.00	--	285.00	--	300.00	--
Wine Grapes	\$/acre	193.38	816,619	306.18	1,451,313	322.30	1,527,898
Weighted District O&M (irrigation water rate) b/ d/	\$/acre	150.23	712,093	37.43	177,398	21.31	101,013
Residual Pmt Cap Available for P.L. 984 Loan Rpmnt c/	\$/acre	\$343.61	1,628,711	\$343.01	1,628,711	\$343.61	1,628,711
Total Cost of District Water to Farmer with Loan Rpmnt:	\$/acre						
Irrigation Share of \$7,255,000 Loan Obligation	\$	\$942	\$4,463,276	\$942	\$4,463,276	\$942	\$4,463,276
REPAYMENT PERIOD (based on Pmt Cap): e/	Years	--	7	--	26	--	45

a/ Prices received 1994-98 5 year average from Mendocino County Agricultural Commissioner's Annual Reports. Alfalfa hay price is not reported by Mendocino County. The alfalfa hay price has been taken from adjacent Tehama County and used to derive the value for irrigated pasture.
 b/ This cost is based on the water rate Redwood Valley CWD charges the farmer. The minimum charge is for 5 acre-feet at \$70 per acre-foot. All additional water is sold for \$20 per acre-foot. (See computation in Table A-9; m=summary6; fn=analsum6.wk4).
 c/ Based on the December 1988 memorandum "Basis Of Negotiation" the outstanding P.L. 984 loan obligation is estimated at \$7,255,000. The prorated share for irrigation using the projected water deliveries for the remaining 32 years of Redwood Valley's repayment period (2001-2032) is \$1.52% or \$4,463,276. The annual payment required to repay the irrigation obligation in 32 years is \$139,477 or \$29.43 per irrigable acre.
 d/ % weight based on cropping pattern.
 e/ Repayment period computed e.g. by dividing the irrigation obligation (\$942) by the residual payment capacity (\$21.31 per acre per year) = 45 years. Updated accounting may change the outstanding loan obligation and therefore require a recomputation of the repayment period.

REDWOOD VALLEY COUNTY WATER DISTRICT PAYMENT CAPACITY AUGUST 2000

Purpose of Study: This payment capacity analysis was undertaken to define the ability of Redwood Valley CWD (District) to repay the irrigation portion of their existing P.L. 84-984 Small Reclamation Projects Act loan obligation. The study has been documented in one volume containing summaries of the study results, background, explanation of the methodology and key data items used in preparing the analysis, cost of water, and including the complete farm budgets and farm advisors "Enterprise Cost Studies".

Summary of Results: Farm budgets have been prepared representing the major crops grown within the District. The results of these budgets have been weighted by the cropping pattern portions they represent to derive a weighted payment capacity per acre representing the entire district. The district's weighted payment capacity of \$343.62 per acre less the weighted cost of water to the farmers of \$322.30 per acre-foot (based on the \$200 per acre-foot rate scenario) leaves a residual payment capacity of \$21.32 per acre to apply to the repayment of irrigation's share of the P.L. 984 loan obligation. **When the residual payment capacity of \$21.32 per acre is applied to the irrigation portion of the loan obligation (\$4,463,276), it shows that repayment can be completed in 45 years.** Table 1, summarizes the data, derivation of the residual payment capacity, and repayment period based on the ability-to-pay for the District's proposed \$120, \$190 and \$200 per acre-foot irrigation water rates.

The District is presently taking action to increase their irrigation water rate. The scenarios being looking at include water rates of \$120, \$190 and \$200 per acre-foot. It will be several months before a new irrigation rate becomes available. The District's water rate committee must report their findings to the board of directors and a public hearing must be conducted before new rates can be implemented. Since the "new" irrigation rate is not available, **the 3 rectangles (outlined in bold) at the bottom of Table 1, summarize and compare the impact of each proposed rate on the repayment period when utilizing the District's "ability-to-pay" to repay the portion of the P.L. 84-984 loan obligation allocated to irrigation.**

The addendum (located at the back of the report) provides additional detail about computations prepared for this study for the reader's convenience. The addendum also contains the complete farm budgets and a copy of the Cooperative Extension Farm Advisor's "Enterprise Cost Studies" utilized in preparing this study.

Setting and Background: Redwood Valley CWD is in Mendocino County about 5 miles north of Ukiah in the northern coast range of mountains. The district contains approximately 4,700 acres of which 4,100 are irrigable and about 4,000 acres are used for growing crops. Annual rainfall averages 35 inches of which nearly 97% falls between October 1 and April 30. The average length of the frost-free growing season is about 208 days.

Through discussions with the District Manager and County Farm Advisor, the general makeup of the Redwood Valley CWD farm operations have been determined. All lands suitable for growing crops are being utilized so no additional cropped acres are expected in the future. The operators usually grow irrigated pasture or grapes, not both. There are no commercial size irrigated pasture operations within the district. Most irrigated pasture operations are 20 to 25 acres or less in size. Pasture is used for grazing horses, cattle or sheep. There are several 100 acre wine grape operations and some 40+ acre operations but usually are 20 acres or less. Most farm operators have off-farm jobs and care for their crops after work and on weekends.

Most operations have been in the family for many years. A few new operators have come into the area but have had adequate income from other sources so that purchasing a vineyard has not been a financial strain. The level of farm debt (real estate and non-real estate) in the district was estimated by the District Manager and the County Farm Advisor to be about state average.

In the 1970's, the District completed two P.L. 84-984 loan applications: (1) the original loan application, resulted in execution of a repayment contract in 1976 and (2) an escalation loan application, resulted in a contract amendment in 1980. The District's loan repayment period commenced in 1982 with the first principal payment due on January 1, 1983. To date the District has paid only its first principal payment (\$58,000) and an additional \$44,000, which was credited toward payment of M&I interest charges. In Subsection 15 of P.L. 100-516, Congress suspended repayment of this loan and directed Reclamation to renegotiate the schedule of payments.

The District relies on Lake Mendocino for its water supply. The Lake is shared by the Sonoma County Water Agency (Sonoma) and the Mendocino County Russian Flood Control and Water Conservation Improvement District (Improvement District). Redwood Valley CWD has an agreement with the Improvement District which allows them to use water from the Lake but they are last in line behind Sonoma and the Improvement District, therefore Redwood Valley CWD's water supply is not considered a dependable firm supply.

The District is underlain with glacial deposits and only small pockets of groundwater have been found. The District does not have groundwater or pumping data and cannot quantifying the amount of groundwater that is pumped within the district. When groundwater can be found it is usually a cheaper source of water than district water.

Some of the District's customers filed a lawsuit in California Superior Court, for a writ of mandate which prohibits the District from increasing its number of M&I customers. Over the years a few additional M&I customers have been allowed to be served on an "emergency basis" such as when a well goes dry etc. The district has been working towards firming up their water supply and meet the requirements necessary to get the writ of mandate lifted, however, at present the District is still prohibited from adding new M&I customers. This

severely limits the District's ability to increase the M&I revenue to make repayment on the P.L. 84-984 loan obligation.

Summary of Significant Farm Budget Inputs: Table A-2. provides a summary of the prices received, yields, irrigation system costs, interest rates, debt/asset ratios, land value, development cost of permanent plantings, rates for pumping energy, insurance, social security, wages, taxes, and the cost of utilities for each farm budget.

Method of Analysis: Farm budget analysis is the process through which farm operations are budgeted to determine the costs, revenues, net income, and payment capacity of farm units considered representative of the study area. The farm budgets are prepared to represent the general type of agriculture that exists in the study area as a whole rather than any single farming operation.

The farm budgets were prepared in accordance with the standards, criteria, and procedures as provided by Reclamation's November 30, 1998 "Technical Standards for Irrigation Payment Capacity". These instructions specifically define the procedures to be used in preparing payment capacity analyses and determines many of the inputs used in developing the farm budgets (interest charges, depreciation, prices, etc.)

The following provides a general demonstration of how payment capacity is determined:

	Gross Farm Income (GFI)	
GFI Less:	Variable Production Expenses	
Less:	<u>Fixed Production Expenses</u>	
Equals:	Net Farm Income (NFI)	
NFI Less:	Return to Owner's Equity)	
	Return to Management)	Return to Operator's Factors of Production
	<u>Return to Operator's Labor</u>)	
Equals:	Payment Capacity	

From gross farm income, deductions are made for all variable and fixed farm expenses except the off-farm cost of water. From the resulting estimate of net farm income, deductions are made for (1) return to the owner's equity [3.0% on equity], (2) return to the operator's management [10% of NFI], and (3) return to the family labor [valued at \$13.45 per hour for operator and \$7.19 per hour for family labor]. In total these three items comprise what is referred to as the "Return to the Operator's Factors of Production". The remaining net farm income is the farm's payment capacity. It is assumed that 100% of this residual is available to pay for distribution and drainage systems, district operation and maintenance costs, repayment of Reclamation water supply facilities (capital and O&M), and Restoration Fund charges (if

applicable). Only "with" project conditions are analyzed, i.e., payment capacity does not consider conditions that would exist in absence of a relevant federal water project. Non-farm revenues of individual irrigators are not included when estimating payment capacity.

Cost of Water: Redwood Valley CWD's distribution system provides adequate pressure for farmers to irrigate with sprinkler or drip irrigation systems. The cost of frost protection and irrigation has been included in the farm budgets.

The district provides only a partial supply of irrigation water, does not keep groundwater pumping records or the amount of water that is delivered to grapes or irrigated pasture. In the absence of this data the following is provided: The District's total "farm delivery requirement" (FDR) is approximately 6,000 acre-feet of water. The 1995-99 5 year average of irrigation water delivered by the District is 1,440 acre-feet. This leaves 4,560 acre-feet to be pumped from groundwater or "rain-run-off" captured in the on-farm reservoirs.

Rainfall and the water applied during "sprinkler frost protection" provides a significant portion of Redwood Valley CWD's crop water requirement. For this analysis it is assumed that the remaining water requirement comes from groundwater pumping and/or captured run-off in the on-farm reservoirs. ~~A groundwater pumping cost has been included in the wine grape budget to represent the cost farmers have for groundwater pumping. This assumes irrigated pasture receives water only from the "effective precipitation" derived from the 35 inches of average annual rainfall.~~

Since 1988 the District has required the purchase of a minimum of 6 acre-feet of irrigation water at \$70 per acre-foot and \$60 per acre-foot for all additional water. The district's consulting engineers have prepared several scenarios for increasing the irrigation water rates. The present proposals are to charge (1) \$120 per acre-foot for a minimum of 6 acre-feet with a 4 inch service connection and \$120 per acre-foot for a 3 acre-foot minimum with a 2 inch service connection, (2) charge \$190 per acre-foot for a minimum of 6 acre-feet with a 4 inch service connection and \$190 per acre-foot for a minimum of 3 acre-feet with a 2 inch service connection, (3) charge \$200 per acre-foot for a minimum of 6 acre-feet with a 4 inch service connection and \$200 per acre-foot for a minimum of 3 acre-feet with a 2 inch service connection. The number of 4 inch and 2 inch service connections are approximately equal [50/50].

Farm Size: Farm size should reflect the actual size of typical farm operations subject to the minimum size. The minimum farm size should be at least large enough to provide reasonably full employment (may include hired on-farm or custom work) for the farm operator based on the amount of investment and management expected for the type of farm represented. In areas where a significant number of smaller, part-time farm operators exist, full employment should still determine minimum farm size for the purpose of the analysis. Where small farms produce high value specialty crops, the farm may not provide full employment for the farm operator

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Table 2. REDWOOD VALLEY COUNTY WD -- CROPPING PATTERN 1992-96.

Budget/ Crop Name	1992	1993	1994	1995	1996	1992-96 5 Year Average	Non Bearing Acres a/	1992-96 5 Year Avg Bearing Acres	Percent Bearing Acres
GRAPES							16.61%		
Grapes, wine	2,548	2,569	2,569	2,569	2,618	2,575	-	-	-
Pears	175	175	175	175	175	175	-	-	-
Walnuts	36	36	36	36	36	36	-	-	-
Subtotal - Grapes									
							463	2,323	55.3%
IRRIGATED PASTURE									
Alfalfa Hay	74	74	74	74	74	74	-	74	1.8%
Irrigated Pasture	1,298	1,298	1,298	1,303	1,303	1,300	-	1,300	30.9%
Subtotal - Irrigated Pasture									
								1,374	32.7%
FALLOW									
Fallow or idle	20	20	20	20	20	20	-	20	0.5%
Dry cropped, idle, fallow or grazed	443	370	405	488	321	405	-	405	9.6%
Farmsteads, roads, ditches, drains	80	80	80	80	80	80	-	80	1.9%
Subtotal - Fallow									
								505	12.0%
TOTAL -- ACRES IN CROP ROTATION									
							463	4,202	100.0%

Based on data non-bearing / bearing acreages for Mendocino County from 1998 California Grape Acreage Report

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for the entire year. In such cases, the farm analyzed should be at least large enough to provide full-time employment for the operator through the primary cropping season.

Cropping Pattern: The cropping pattern data is from the district's annual crop reports to Reclamation. Farm budgets have been prepared for only the most significant crops. The acreage of all other crops has been grouped with a budgeted crop that is similar and representative. The total acreage of all crops grouped with the crop being budgeted are used in the weight given to that budget. The 1992-96 crop data was the most recent available at the time this study was initiated. The cropping pattern for Redwood Valley CWD is provided in Table 2.

The Mendocino County Agricultural Commissioner indicates that about 15% of the County's grape acreage is (in non-bearing status) replanted in any one year. The California Grape Acreage Report for 1998 (most recent available) shows that 16.6% of the grape acreage in Mendocino County is non-bearing. Applying this to Redwood Valley CWD suggests that 16.6% or 463 acres of the district's 2,786 acres of grapes are non-bearing. The District's wine grape acreage in this payment capacity study has been reduced by 463 acres to adjust for the loss of farm income during the replanting and developing of new vineyards on the non-bearing acreage. The cost of removing the old vineyard, replanting and development are included in the "vineyard development cost" used in the farm budget.

Irrigation and Frost Protection Systems: The cost of irrigation systems are included in the farm budgets. The capital and OMR&E cost of each system includes the appropriate cost for pipelines, head ditches, portable mainlines, pumps, power panels, risers, sprinkler heads, filters, emitters, pumping energy and other items needed for a complete system. Current irrigation practices are represented by using sprinkler irrigation for irrigated pasture and both drip and overhead sprinkler irrigation systems for the wine grapes. The District's distribution system provides adequate pressure so that on-farm pumping is not required for irrigation. The capital cost of each irrigation system used in the farm budgets is summarized in Table 3. with additional data in Tables A-4 through A-7.

Wine grapes in Redwood Valley require frost protection. The most common and effective frost protection is provided by using overhead sprinklers. When frost protection is needed it is required for the entire grape acreage all at the same time. The District's distribution system could not be economically sized to meet the frost protection requirements during these periods. To meet the grape frost protection requirements each grape grower must have an on-farm pond and pump capable of meeting their own frost protection needs. The on-farm reservoirs are filled with water during off-peak times and then reserved for frost protection. The cost of the reservoir, pump, necessary overhead sprinkler system and pumping energy are included in the grape budget.

The on-farm sprinkler frost protection system, is designed to provide 60 hours (10 nights at 6 hours protection per night) protection and has the capacity to applying 50 GPM (gallons per minute) per acre.

On-farm pumping uses both diesel and electric pumps. To simplify the computation electrical power has been used for all on-farm frost protection pumping needs. The on-farm pumping energy costs are computed in the farm budgets using PG&E's "time of use" (TOU) AG-4C Agricultural Power Rate Schedule effective May 1999 for pumping 24 hours per day.

Land Value: The current fair market value is based on the agricultural income produced on the land and represents the dry land value with all development costs except on-farm irrigation systems and the value of permanent crops.

The land value has been established through discussions with the County Assessor's office in 2000 and utilizes the methodology the assessor uses in establishing land value based on income produced by the land under the Williamson Land Act. This act establishes an "agricultural land preserve" and allows agricultural lands to be taxed based on the income they produce, rather than the market and/or speculative value. The land value used for each crop is summarized in Table A-2.

Development Cost For Vineyards: The land values, interest rates, and depreciation as used in the Enterprise Cost Studies by the Cooperative Extension Service are not consistent with Reclamation criteria. The cost of establishing an orchard or vineyard has been recomputed using data from the Enterprise Studies and applying the appropriate Reclamation criteria and interest rates. These development costs are accounted for separately in the analysis and are not included in the land value to avoid double counting. The computation of the development cost for wine grapes is included in addendum Table A-3.

Yields: The most current published yields available have been utilized in this analysis. Yields from 1987 through 1999 have been compiled so that historical yields for each crop are available for comparison. The yields used in the study are 5 year (1994-98) average yields and reflect the level of technology currently being used to achieve the crop production in the service area. The yield for alfalfa hay (used in deriving a value for irrigated pasture) is from adjacent Tehama County since Mendocino County Agricultural Commissioner does not include alfalfa in the annual report. The wine grape yield is based on the Mendocino County 1994-98 5 year average. The yield data and 5 year average yields are summarized in Table 4.

Price Level, Prices Received and Paid: Preparation of farm budget studies are dependent upon a large amount of data. The data is published annually, but does not become available until mid-year or early fall. Data for 1994-98 are the most current cost data published and available for use in this analysis.

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Table 3.
COST OF GRAPE FROST PROTECTION AND IRRIGATION SYSTEM

	Cost Based On:	\$ Per Acre	\$ Farm
Farm Size			
Acres of Grapes	40		
Farmstead (Inc 2 acre Reservoir)	36		
	4		
Reservoir Cost			
Pipeline	36	850	30,600
	36	1,910	68,760
Sub-total		2,760	99,360
Pump & Motor	36	790	28,440
Drip irrigation System	36	880	31,680
Total Irrigation Investment		\$4,430	\$159,480
Hand Move Sprinkler System		\$300	--

NOTE: See Tables A-4 through A-7 for additional detail.

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Table 4. PRICES RECEIVED AND YIELDS
REDWOOD VALLEY CWD - ABILITY TO PAY STUDY

County Data From:	Prices Received			Yields		
	Tehama	Mendocino		Tehama	Mendocino	
	Alfalfa Hay \$/Ton	Irrigated Pasture \$/Aum	All Wine Grapes b/ \$/Ton	Alfalfa Hay Ton/A	Irrigated Pasture Aum/A	All Wine Grapes b/ Ton/A
3 Year Avg 1996-98	100	--	1,317	6.3	9.0	4.8
5 Year Avg 1994-98	95	28.69 a/	1,113	5.9	8.7	4.6
5 Yr Norm 1994-98	93	--	1,146	5.8	8.8	4.6
10 Year Avg 1989-98	89	--	916	6.3	8.3	4.7
1999	na	--	na	na	na	na
1998 *	95	--	1,394	5.5	9.0	4.90
1997 *	110	--	1,381	7.0	9.0	5.30
1996 *	95	--	1,175	6.5	9.0	4.30
1995 *	90	--	883	5.5	8.3	4.70
1994 *	86	--	731	5.2	8.0	3.60
1993	84	--	679	7.2	8.0	5.20
1992	71	--	724	7.0	8.0	5.50
1991	82	--	707	6.8	8.0	4.60
1990	93	--	713	6.5	8.0	3.50
1989	85	--	771	5.8	8.0	5.30
1988	86	--	646	6.5	7.0	3.10
1987	75	--	469	6.3	7.0	3.70

a/ Computed in fn=alfhar8t.wk4 (See Table A-11.) as price of alfalfa hay less the harvest cost (alfalfa hay converted to AUM's based on 2.5 AUM per ton of hay).

b/ Major wine grape varieties include Cabernet Sauvignon, Carignane, Zinfandel, Chardonnay, French Columbard and Sauvignon Blanc.

Tehama County Ag Commissioner 530/527-4504; Mendocino County Ag Commissioner 707/463-4208.

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Prices received for 1987 through 1997 have been compiled for this study so that historical prices for each crop are available for comparison. The five year 1994-98 average from the County Agricultural Commissioner's Annual Report has been used to best represent the income received from the crops to be grown during the next 5 year period. Table 4. summarizes the prices received information used in the farm budgets.

The usual method for harvesting irrigated pasture is grazing it with livestock. The "proxy" value (price received) used for irrigated pasture in this analysis represents the rental value of pasture and the "value added" (weight gain) to livestock while grazing the pasture. This "proxy" value has been established by computing an "alfalfa hay equivalent" price for pasture. The "alfalfa hay equivalent" price has been computed as follows: (1) the price of alfalfa hay has been reduced by the harvesting costs (swathing, baling and hauling); (2) this reduced price has been converted to an AUM basis by dividing it by 2.5 (conversion factor of alfalfa hay provides 1,000 pounds of TDN [total digestive nutrients]; and 1 AUM is defined as 400 pounds of TDN; $1,000 / 400 = 2.5$) to derive a value of an AUM based on the alfalfa hay price; (3) this "alfalfa hay equivalent" price has been used in the farm budget as the value for each AUM of grazing provided by the irrigated pastures.

Prices paid are those paid by the farmer during 1998. Prices paid taken from the Cooperative Extension Service cost studies have been indexed to the 1998 price level using indices published in USDA's "Agricultural Prices".

Repairs: Repair costs were computed for all building, improvements, and equipment included in the budgets. The cost was based on a percentage of the purchase price of each item. The repair factors reflect the actual hours of use of each machinery item in the farm budgets.

Taxes and Social Security: Property taxes were computed on the full assessed value of land and on the current depreciated value (assumed to be one-half of the original cost to represent the average value over the useful life) of all equipment and improvements included on the farm. The County Assessor's office was contacted for the method of taxation and tax rates effective for the county. Proposition 13 tax rate of 1 percent of market value plus any approved tax district levies applicable were applied in the study. This tax rate is shown in Table A-2.

Social security taxes computed for all hired labor is based on the 1998 maximum limit of \$72,200. Workmen's compensation insurance has been computed for all hired labor. These items are summarized in Table A-2.

Wages: The Technical Standards for payment capacity specify that the family labor should have the same value as hired labor. A rate for hired labor of \$7.19 per hour was used in this analysis. Social security and workmen's compensation for the hired labor are charged as a farm expense and are in addition to the hired wage rate. The Technical Standards also indicate that the operator's labor should be valued at the current supervisory farm labor rate. A rate of

\$13.45 per hour has been used for the operator's labor in all of the farm budgets. The operator's self-employment tax is paid from the return to labor, management and equity and is not included in the farm budget as an expense.

The above labor rates are from USDA and obtained over the Internet at address <http://www.usda.gov/nass/> and are for labor during July 1999.

Farm Equipment: The machinery items included in each farm budget were formulated to provide the proper type and amount of equipment for each crop. The machinery and equipment costs published in "Farm Machinery Costs" by the University of California Agricultural Extension Service were updated to a 1998 price level using data obtained directly from farm machinery dealers, enterprise cost studies prepared by County Farm Advisors, and indices published by USDA in Agricultural Prices.

Interest Costs, Debt/Asset Ratios, Interest Rates, and Return to Equity: Land Value -- used for computing interest should reflect the "current fair market value based solely on agricultural production" rather than a speculative or suburban residential value. Depreciable improvements (such as buildings and irrigation systems) -- should be valued at market value. Since market value is difficult to determine for these items, a value of one-half the current cost was used to approximate the market value. Machinery and Equipment -- the standard is "market value". Since market value data is usually unavailable, it is reasonable to assume that on average, machinery and equipment are at their mid-point in useful life and value. Consequently, for the interest computation, they have been valued at the midpoint between purchase price and salvage value $[(\text{purchase price} + \text{salvage value})/2]$.

Investment capital values were split into debt/asset portions using the most recent (1994-98) state of California 5-year average debt/asset relationships for real estate farm investment. [California State average debt = 13.36%, assets = 86.64%]. See Table A-2. for a summary of interest rates and debt/equity ratios used in the farm budgets. The California 5-year state average interest rate used in computing interest expense on real estate debt for this study was 6.93%. See Table A-8.

The most recent (1994-98) 5-year average state of California non-real estate debt/asset portions used in the study for debt equals 55.19% and assets equals 44.81% used for the computations of all non-real estate interest for all farm budgets. The most recent (1994-98) California 5-year average non-real estate debt interest rate of 9.48% was used in computing interest expense on non-real estate debt for this study.

The interest expense for operating capital was computed using the above non-real estate debt/asset portions and interest rate. The operating capital requirements for vineyards are incurred in December through February while planting costs of irrigated pasture usually occurs after February. This difference has been represented in the farm budgets by including

the cost of interest for operating capital for 9 months for vineyards and 6 months for irrigated pasture.

The return to equity for all capital investment in the farm budgets was computed using a rate of 3.0% which represents the long-term opportunity cost (rate of return) of agricultural investment in the West.

Return to Labor and Management: A return to the labor of the farm operator and family is deducted from the net farm income. The farm operator's labor is valued at the current wage rate for supervisory farm labor (\$13.45/hour). Labor for the farm operator's family is valued at the same wage rate as hired farm labor (\$7.19/hour).

An allowance to management of 10% of the net farm income is made for the farm operator's management ability over and above the supervisory labor rate. The return to management represents an opportunity cost to the farm operator. In other words, the return to management represents the farm operator's ability to earn income by applying his/her management skills in another management operation.

Depreciation: Depreciation charges are based on recovering new purchase prices using a sinking fund factor determined by the useful life of the capital investment and the market rate of interest a representative farm operator could actually obtain. Although there are a variety of investment options available, the Reclamation standard for the depreciation fund is the 5-year average yield of monthly U.S. Treasury marketable securities with maturities of 5 years. The average yield for the years 1994-1998 is 5.9%, rounded to the nearest tenth of a percent.

Farm Production Costs: Costs of farm production items such as fertilizer, seed, custom operations, and pest and weed control were based on enterprise cost studies published by the University of California Agricultural Extension Service. When cost studies were not based on a 1998 price level, index factors from "Agricultural Prices" published by USDA were used to adjust the data to 1998 level.

The fertilizer cost contained in the Extension Service Enterprise Cost Studies represent the cost of nutrients necessary to grow the crop (replacement cost of nutrients). When comparing various Enterprise Studies it often appears that significantly different prices for the same nutrient (e.g. nitrogen) are being used. This is actually the case. By comparing the cost of nitrogen from nitrogen fertilizer compounds on a "per pound of nitrogen" basis, it is readily apparent that the cost of nitrogen varies significantly depending on the compound it is combined with. Based on US fertilizer prices published in Agricultural Prices by USDA, the cost of nitrogen compounds vary from 12 cents per pound to 43 cents per pound depending on the compound that is contained in (see fertilizer price comparison in Table A-11).

Even though the price of nitrogen varies significantly from compound to compound, farmers continue to utilize nitrogen compounds that are not the "least cost" nitrogen material. The

reasons for this vary. There may be a need for sulfur which can be obtained from the higher priced Ammonium Sulfate but not from the lower priced Anhydrous Ammonia. Through testing of the soil the operator may identify the need for the slower release of nitrogen from Ammonium Sulfate to feed the crop in its latter growth stages rather than a quicker release of nitrogen from Ammonium Nitrate. The operator may have purchased application equipment for one kind of material and not for another kind. They may fertilize in the fall for a crop planted in the spring. By applying Anhydrous Ammonia in the fall, much of the nitrogen may dissipate during the winter while nitrogen from Ammonium Nitrate or Ammonium Sulfate would remain and be available to the plant.

The fertilizer needs of a crop can be met in various ways. As an example, on some soils alfalfa does not require the application of additional phosphorus. When soils do require additional phosphorus, it can be done several ways. Since phosphate fertilizer is slow to move through the soil, one application while the soil is being prepared for planting is usually adequate for the 3 or 4 year life of an alfalfa stand, however some operators make annual applications.

The inputs contained in the Extension Service Cost Studies are localized to be representative of the local costs and cultural practices. In view of the above, the fertilizer compounds and prices contained in the enterprise studies have generally been utilized in the farm budgets as being the most representative available.

Farm Labor and Machinery Requirements: Labor and machinery requirements were taken from the enterprise cost studies. They were adjusted as necessary to reflect the size of equipment necessary for use in the farm budgets. It should be noted that 10 percent has been added to both labor and machine hours to cover miscellaneous costs. If miscellaneous labor and machine hours have been specified in the enterprise studies they have been removed to avoid double counting.

Insurance: Liability, pickup and truck, and fire insurance costs are all estimated and included as part of the farm costs. The insurance rates were obtained from Cal-Farm Insurance Company of California.

Miscellaneous Costs: A cost equal to 2 percent of the total variable costs are included in each farm budget to cover any miscellaneous costs that the analysis may not have specifically accounted for.

Documentation: Published data has been used to the maximum extent possible in preparing this analysis. Prices received and yields have been taken from the County Agricultural Commissioner's Annual Reports. Cultural practices and their costs are based on cost studies prepared by the UC Cooperative Extension Service and the Farm Advisors.

**Bureau of Reclamation - Mid-Pacific Region
Business Resource Center -- Financial Resource Group
2800 Cottage Way, E-2803
Sacramento, CA 95825-1898**

Facsimile No. (916) 978-5392

*1-6-05
3 pages*

From: Lynn Hansen

Phone: (916) 978-5370

MP Code: 3400

Date: October 25, 2000 Time: 3:05pm

**Send To:
Keith Tiemann
Manager, Rewood Valley CWD**

*Paul -
all I have
so far.
Note that Tiemann's
handwritten note to T. Wright's
on lower area indicates
a 1" thick, bound
document.
- Linda*

**Phone: (707) 485-0679
FAX #: (707) 485-5148**

Subject: Revised Table 1. and Table A-10. in preliminary Payment Capacity Report dated August 2000

Total Pages Including Cover Sheet: 3

Remarks:

I have reviewed your District's "Results and Alternatives" dated July 2000. From the data it contains I have been able to more accurately compute the cost of irrigation water for use in the payment capacity report. The amount of irrigation revenue available for loan repayment is "overstated" in the payment capacity report I provided. The water rate of \$200 per acre-foot (that I utilized in Table 1) includes a substantial amount for loan repayment. The "Results and Alternatives" data allows me to compute better numbers. I have modified the rectangle at the bottom of Table 1 in the payment capacity report by subtracting out the "loan repayment" included in the \$200 per acre-foot irrigation rate. This increases the "Residual Payment Capacity to \$63.96 per acre which in turn reduces the computed repayment period to 15 years.

I felt I should make you aware of this impact as soon as possible. The revised Table 1 and a revised Table A-10. are attached for your information. You may want to provide a copy of this fax to those that are reviewing the payment capacity report.

If you have any questions or comments give me a call at (916) 978-5370.

*NICK -
THE ANALYSIS
IS A 1" THICK
BOUND DOCUMENT.
LET ME KNOW!
HOW YOU WANT TO
GET A COPY.
PARKER WOULD
HAVE ONE.*

\\1370\LR\DIR\PROJECT\REDWOOD\FAX2_00.WK4

DRAFT - SUBJECT TO REVIEW & MODIFICATION

Table 1. SUMMARY OF REDWOOD VALLEY - PAYMENT CAPACITY, COST OF WATER AND REPAYMENT PERIOD

	Units	IRRIGATED PASTURE			WINE GRAPES	Weighted or Total
		Irrigated Pasture	Establish Irrigated Pasture	IRRIGATED PASTURE		
Irrigable Acres in District	acres	-	-	-	-	4,740
Cropped Acres	acres	-	-	1,374	2,323	3,697
% Weight (Cropped Acres)	%	-	-	37.17%	62.83%	100.00%
Farm Size Budgeted	acres	-	-	320	40	-
Cropped Acres in Budget	acres	-	-	300	36	-
Farmland	acres	-	-	20	4	-
Budget Number	#	-	-	0121	0122	-
Yield	tons/acre	-	-	-	4.8	-
	acres	6.7	5.7	-	-	-
Price Received	\$/ton	-	-	-	1,113.00	-
	\$/acre	-	-	28.50	-	-
Irrigation Systems (Total)	\$/acre	-	-	300	4,430	-
Pump	\$/acre	-	-	-	-	-
Flood Irrigation	\$/acre	-	-	-	-	-
Drip Irrigation	\$/acre	-	-	-	830	-
Gravel Pipe	\$/acre	-	-	-	-	-
Sprinkler Pipe	\$/acre	-	-	300	-	-
Overhead Solid Sur. Pump & Reservoir	\$/acre	-	-	-	3,600	-
Return Flow System	\$/acre	-	-	-	-	-
Soil Amendments - Gypsum	\$/acre	-	-	0	0	-
On-Farm Drainage	\$/acre	-	-	0	0	-
Ripping	\$/acre	-	-	0	0	-
Land Leveling	\$/acre	-	-	0	0	-
Land Value (under Williamson Land Act)	\$/acre	-	-	1,000	1,700	-
Total - Land Value	\$/acre	-	-	1,000	1,700	-
Permanent Planning Value	\$/acre	-	-	-	12,400	-
Return Flow Pumping Energy	\$/acre	-	-	-	-	-
Workmen's Compensation	\$/100	-	-	0.2400	0.0804	-
Net Farm Income	\$/farm	-	-	37,607	73,142	60,010 B
Family Living Allowance	\$/farm	-	-	36,265	51,356	45,866 B
Return - Owners Equity	\$/farm	-	-	10,888	10,787	10,863 B
Return - Operator Mgt	\$/farm	-	-	2,781	7,314	6,001 B
Return - Operator & Family Labor	\$/farm	-	-	21,823	33,275	29,019 B
Payment Capacity	\$/acre	-	-	3.76	544.63	345.04 B
Water Requirement (FDR)	\$/acre	-	-	1.80	1.80	1.61 B

COMPARISON OF PAYMENT CAPACITY & ESTIMATED COST OF IRRIGATION WATER

	Units	Water Rate @ \$200/acre-foot	Total District
		\$/Acres	\$
Payment Capacity	\$/acre	\$343.81	\$1,628,711
Cost of Irrigation Water (based on \$200 / \$180 per acre-foot rate) [See Table A-10, for derivation] d/	\$/acre	\$306.83	
Less: Loan Repayment Included in Cost of Water [See Table A-10, for derivation]	\$/acre	\$27.28	
Adjusted Cost of Irrigation Water	\$/acre	\$279.55	\$1,326,841
Residual Payment Capacity Available for P.L. 984 Loan Repayment	\$/acre	63.98	303,170
Total Cost of District Water to Farmer with Loan Rptmt:	\$/acre	\$343.81	\$1,628,711
Irrigation Share of \$7,255,000 Loan Obligation d/	\$	1942	\$4,463,278
REPAYMENT PERIOD (based on Pmt Cap) e/	Years	-	15

- a/ Prices received 1999-98 5 year average from Mendocino County Agricultural Commissioner's Annual Reports. Alfalfa Hay price is not reported by Mendocino County. The alfalfa hay price has been taken from adjacent Tehama County and used to derive the value for irrigated pasture.
- b/ % weight based on cropping pattern.
- c/ This cost is based on the water rate Redwood Valley CWD charges the farmer. The proposed minimum charge is for 6 acre-feet at \$200 per af. All additional water is sold for \$180 per acre-foot. (See computation in Table A-10; m=summary6; fr=irrigation, us4).
- d/ Based on the December 1998 memorandum "Basis Of Negotiation" the outstanding P.L. 984 loan obligation is estimated at \$7,255,000. The prorated share for irrigation using the projected water deliveries for the remaining 32 years of Redwood Valley's repayment period (2001-2032) is 61.62% or \$4,463,278. The annual payment required to repay the irrigation obligation in 32 years is \$139,477 or \$29.43 per irrigable acre.
- e/ Repayment period computed a.p. by dividing the irrigation obligation (\$442) by the residual payment capacity (293.96 per acre per year) = 15 years. Updated accounting may change the outstanding loan obligation and therefore require a recomputation of the repayment period.

DRAFT - SUBJECT TO REVIEW & MODIFICATION

Table A-10. -- REDWOOD VALLEY WD - WEIGHTED COST OF WATER

	Irrigated Pasture	Wine Grapes	Wt'd of Total
Cropping Pattern Acres	1,374	2,323	3,697
%	37.17%	62.83%	100.00%
MINIMUM COMMERCIAL FARM SIZE (Proposed Rate @ \$200/\$190/af)			
Farm Size (Irrigable Acres)	320	40	--
Reservoir Size (Acres)	0	2	--
Farmstead (Acres)	20	4	--
Acres Irrigated (Productive) [Cropped]	300	36	--
FDR (AF/Acre)	1.80	1.50	1.81
Total AF of Water per year	540.0	54.0	--
Water Rate -- 4 Inch connection			
Minimum of 6 AF @ \$200	1,200	1,200	--
All other @ \$190	101,460	9,120	--
Water Rate -- 2 Inch connection			
Minimum of 2 AF @ \$200	400	400	--
All other @ \$190	102,220	9,880	--
Average of 4 inch & 2 inch rates	\$	\$102,640	\$10,300
Cost of Water Per Cropped Acre	\$	\$342.13	\$288.11
Portion of Water Rate Applied to Repayment Obligation	(\$100,860 / 3,697 cropped acres) =		27.28
Cost of Water Per Cropped Acre without Repayment Obligation:			\$278.65

I:\370\LRHDIR\PROJECT\REDWOOD\ANALS\SUM7.WK4

m=summary8

10/25/2000



*Paul -
2 more
pages F.Y.I.
- Linda*

Redwood Valley County Water District

Post Office Box 399 • Redwood Valley, CA 95470 • (707) 485-0679

November 27, 2000

U. S. Department of the Interior
Bureau of Reclamation
Water Rights & Contracts Branch, MP-440
Attention: Charles Marshall
2800 Cottage Way
Sacramento CA 95825

REF: "The Redwood Valley County Water District
Ability to Pay Analysis"

Dear Mr. Marshall,

The Board of Directors has reviewed your report and proposals you intend to submit to your Denver Office regarding our ability to repay our loan through agriculture water sales.

We would comment that as the loan in question also covered the domestic water processing and delivery portion of the total system, we cannot adequately respond to or negotiate with you on the question of repayment without considering this interest-bearing portion of the loan.

Without a "water right" or firm water supply our ability to sell and supply water has many severe constraints:

1. In the event of a water shortage (drought), agricultural water deliveries would be restricted or cease, therefore affecting the District's income.
2. We currently purchase approximately 1,300± surplus acre-feet out of Lake Mendocino from the Mendocino County Russian River Flood Control & Water Conservation Improvement District. They have proposed an annexation to firm up this purchase as a water right but now the proposal appears to be stalled for several years as the Flood Control District has to quantify the use of their 8,000 acre-foot-allotment before continuing the annexation discussions (see Minasian's letter to us dated October 25, 2000). It is true that they have a Court Order to find us water but their failure to negotiate a Surplus Water Agree-

BOARD OF DIRECTORS

Derek G. Ross
Sanford A. Dwight
Donald E. Butow
William L. Howe
Robert F. Parker

MANAGER

Paul W. T...

Redwood Valley Exhibit "10", page 22 of 23 pages

U.S.D.I. Bureau of Reclamation
Water Rights & Contracts Branch, MP-440
Attention: Charles Marshall

November 27, 2000
Page 2

ment with Sonoma County Water Agency leaves this Order (other than annexation) in doubt.

As you are aware, we are in the process of a water rate increase. This will roughly triple the costs of agricultural water which will definitely stimulate the use of non-District water. It will take at least two years to determine what the new agricultural water consumption rate will be.

Grape prices are now softening. Spot market chardonnay went from \$1,900 per ton in 1999 to \$900-\$1,000 per ton this year. Other overproduced varieties such as merlot are suffering as well. Wineries in the north coast region and Mendocino particularly are looking toward a 30%-40% drop in prices across the board on all varieties. How this will affect our agricultural water use remains to be seen.

In conclusion, we wish to stress our current water supply and ability to sell and deliver that water is precarious at best. We would again point out that without an in-depth study of the domestic system, of the type and quality you did on the agricultural water portion of the system, we have little to base any negotiations upon.

We thank you for your interest and efforts in the matter.

Sincerely,

REDWOOD VALLEY COUNTY WATER DISTRICT

Donald E. Butow, Chairman
Board of Directors

DEB:lg

Enclosures

P.S. - We enclose items of reference pertinent to this matter:

1. Mendocino Cty. Russian Riv. Flood Control & Water Conservation Improvement District letters of August 29, 2000 and November 12, 2000.
2. State of California, Department of Health Services inspection of October 13, 2000.
3. Press Democrat articles of November 14, 2000 and November 25, 2000.

Redwood Valley Exhibit "10", page 23 of 23 pages

Monthly Data Record Sheet for RVCWD Water Usage										
Day	Month: December			Year: 2000			7	8	9	
	1	2	3.00	4	5	6				
	Lake Mendocino Conservation Storage Level (Ac-ft)	Current Storage in Lake Mendocino (Ac-ft)	Amount pumped by RVCWD (Ac-ft)	Flow in Russian River near Ukiah 11462000	Flow in Russian River west fork 11461000	Flow in Russian River @ the confluence	Water under RVCWD water right. If #4 is >= 150 cfs, pumping is pursuant to RVCWD. If not, enter in #6 as water	If #5 is > 1.9 cfs (3.8 AF/day)/Nov. 1 to March 1, Charge excess to	If #5 is > 57 AF/day March 1 to April 30, Charge excess to	Add #7 and #8 Total Excess use of
1	72300	52373	0.00	162	17	179	0.00	0.00	0.00	0.00
2	72300	52373	0.00	160	12	172	0.00	0.00	0.00	0.00
3	72300	52373	0.00	160	10	170	0.00	0.00	0.00	0.00
4	72300	52373	11.88	160	8	168	0.00	11.88	0.00	0.00
5	72300	52373	0.00	160	7	167	0.00	0.00	0.00	0.00
6	72300	52373	0.89	164	7	171	0.00	0.89	0.00	0.00
7	72300	52373	0.00	162	6	168	0.00	0.00	0.00	0.00
8	72300	52373	0.00	161	6	167	0.00	0.00	0.00	0.00
9	72300	52373	0.00	163	6	169	0.00	0.00	0.00	0.00
10	72300	52373	0.00	163	6	169	0.00	0.00	0.00	0.00
11	72300	52373	7.42	163	9	172	0.00	7.42	0.00	0.00
12	72300	52373	0.00	163	13	176	0.00	0.00	0.00	0.00
13	72300	52373	7.46	163	15	178	0.00	7.46	0.00	0.00
14	72300	52373	0.00	163	122	285	0.00	0.00	0.00	0.00
15	72300	52373	0.00	163	116	279	0.00	0.00	0.00	0.00
16	72300	52373	0.00	163	46	209	0.00	0.00	0.00	0.00
17	72300	52373	0.00	163	27	190	0.00	0.00	0.00	0.00
18	72300	52373	0.00	163	20	183	0.00	0.00	0.00	0.00
19	72300	52373	7.34	163	16	179	0.00	7.34	0.00	0.00
20	72300	52373	0.00	163	14	177	0.00	0.00	0.00	0.00
21	72300	52373	0.00	163	14	177	0.00	0.00	0.00	0.00
22	72300	52373	0.00	163	17	180	0.00	0.00	0.00	0.00
23	72300	52373	0.00	161	17	178	0.00	0.00	0.00	0.00
24	72300	52373	0.00	160	18	178	0.00	0.00	0.00	0.00
25	72300	52373	11.57	163	17	180	0.00	11.57	0.00	0.00
26	72300	52373	0.00	163	15	178	0.00	0.00	0.00	0.00
27	72300	52373	0.00	163	13	176	0.00	0.00	0.00	0.00
28	72300	52373	0.00	163	12	175	0.00	0.00	0.00	0.00
29	72300	52373	0.00	163	11	174	0.00	0.00	0.00	0.00
30	72300	52373	0.00	163	10	173	0.00	0.00	0.00	0.00
31	72300	46784	7.45	163	10	173	0.00	7.45	0.00	0.00
										Totals

10	11	
Subtotal #9		
from #5 = Net	Add #9 and #6 =	
RVCWD right	Total use	
diversion		
0.00	0.00	0.00
0.00	0.00	0.00
0.00	0.00	0.00
0.00	11.88	11.88
0.00	0.00	0.00
0.00	0.89	0.89
0.00	0.00	0.00
0.00	0.00	0.00
0.00	0.00	0.00
0.00	0.00	0.00
0.00	7.42	7.42
0.00	0.00	0.00
0.00	7.46	7.46
0.00	0.00	0.00
0.00	0.00	0.00
0.00	0.00	0.00
0.00	0.00	0.00
0.00	7.34	7.34
0.00	0.00	0.00
0.00	0.00	0.00
0.00	0.00	0.00
0.00	0.00	0.00
0.00	0.00	0.00
0.00	11.57	11.57
0.00	0.00	0.00
0.00	0.00	0.00
0.00	0.00	0.00
0.00	0.00	0.00
0.00	7.45	7.45
0.00	54.01	54.01
Total		54.01

BARTKIEWICZ, KRONICK & SHANAHAN

A PROFESSIONAL CORPORATION
 1011 TWENTY-SECOND STREET
 SACRAMENTO, CALIFORNIA 95816-4907
 (916) 446-4254

PAUL M. BARTKIEWICZ
 STEPHEN A. KRONICK
 RICHARD P. SHANAHAN
 ALAN B. LILLY
 RYAN S. BEZERRA
 JOSHUA M. HOROWITZ
 YVONNE M. WEST

E-MAIL abl@bkslawfirm.com

JAMES M. BOYD, JR., Of Counsel

FACSIMILE TRANSMITTAL SHEET

DATE: January 7, 2005
TO: Mr. Paul R. Minasian
FAX NO.: 530-533-0197
FROM: Alan B. Lilly

29 Page(s) should follow this cover sheet.

The original document will be mailed.

The original document will not be mailed.

SUBJECT: Proposed Agreement For Sale Of Surplus Water

MESSAGE: Please review and comment.

Pursuant to your request.

For your information.

See attached letter or memorandum.

Other:

Please notify Terry Olson at (916) 446-4254 if there is any problem with this transmission. Our FAX number is (916) 446-4018.

THE INFORMATION IN THIS FACSIMILE IS CONFIDENTIAL, AND MAY CONTAIN PRIVILEGED ATTORNEY/CLIENT INFORMATION OR ATTORNEY WORK PRODUCT. THE INFORMATION IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHOM IT IS ADDRESSED. IF YOU ARE NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY USE, DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ADDRESS ABOVE VIA THE REGULAR U.S. MAIL. THANK YOU.

COPY TO CLIENT PER _____

MAILED 1/7/05 BY dl

BARTKIEWICZ, KRONICK & SHANAHAN

PAUL M. BARTKIEWICZ
STEPHEN A. KRONICK
RICHARD P. SHANAHAN
ALAN B. LILLY
RYAN S. BEZERRA
JOSHUA M. HOROWITZ
YVONNE M. WEST

A PROFESSIONAL CORPORATION
1011 TWENTY-SECOND STREET
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(916) 446-4254
FAX (916) 446-4018
E-MAIL bks@hkslawfirm.com

8534-6-2

JAMES M. BOYD, JR., Of Counsel

January 7, 2005

VIA FACSIMILE (530-533-0197) AND U.S. MAIL

Mr. Paul R. Minasian
Minasian, Spruance, Meith, Soares & Sexton
P. O. Box 1679
Oroville, California 95965-1679

Re: Proposed Agreement For Sale Of Surplus Water

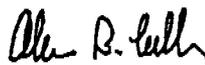
Dear Mr. Minasian:

Enclosed are copies of my new drafts of the proposed Agreement For Sale Of Surplus Water from the Sonoma County Water Agency to the Redwood Valley County Water District (which the parties would consider executing after the necessary CEQA document was prepared) and the Memorandum of Understanding for this proposed agreement (which the parties would execute before the CEQA document was prepared).

These new drafts reflect the comments that I received from you and others since I circulated the last draft last May.

Please let me know if these new drafts are acceptable to Redwood Valley CWD. After I hear back from you, I will present these drafts to the Water Agency's Board of Directors for their consideration. (The Water Agency's Board of Directors has not approved these drafts yet.)

Very truly yours,



ALAN B. LILLY

ABL:tmo

Encls.

cc w/encls.: Roland A. Sanford, General Manager
Mendocino County Water Agency
890 North Bush Street, Room 20
Ukiah, CA 95482

Mr. Paul Minasian
January 7, 2005
Page 2

H. Peter Klein, County Counsel
Mendocino County Administration Center
501 Low Gap Road, Room 1030
Ukiah, CA 95482

Randy Poole, General Manager/Chief Engineer
Sonoma County Water Agency
P. O. Box 11628
Santa Rosa, CA 95406

Pamela Jeane, Deputy Chief Engineer
Sonoma County Water Agency
P. O. Box 11628
Santa Rosa, CA 95406

Jill D. Golis, Deputy County Counsel
Office of the County Counsel
575 Administration Drive, Room 116A
Santa Rosa, CA 95403

8534/L010605abl

DRAFT
January 7, 2005
MEMORANDUM OF UNDERSTANDING

This memorandum of understanding is made this ____ day of _____, 2005, among the Sonoma County Water Agency (the "Sonoma Agency"), the Redwood County Water District ("Redwood Valley"), the County of Mendocino (the "County") and the Mendocino County Water Agency (the "Mendocino Agency"). These parties collectively are referred to in this memorandum as the "Parties."

1. The Parties have negotiated a proposed Agreement For Sale Of Surplus Water (the "Proposed Agreement"), a copy of which is attached to this memorandum.
2. Redwood Valley, as lead agency under the California Environmental Quality Act ("CEQA"), is going to take the necessary actions, at its sole cost, under CEQA to prepare and certify an environmental impact report or a negative declaration for the approval and implementation of the Proposed Agreement (the "EIR or Negative Declaration").
3. Each Party's approval of the Proposed Agreement is contingent upon the certification of the EIR or Negative Declaration, the Party's review of the Proposed Agreement in light of the information in the EIR or Negative Declaration, and the Party's findings and determinations as lead or responsible agency under CEQA. Each Party reserves its discretion regarding whether and how to approve the Proposed Agreement based on the results of the EIR or Negative Declaration. After the EIR or Negative Declaration is certified, each Party will independently review the EIR or Negative Declaration, and, based on that review and any other relevant considerations, will decide whether or not to execute

the Proposed Agreement.

4. If there ever is any legal challenge to the EIR or Negative Declaration or to the Proposed Agreement by any person or entity that is not a Party to this memorandum, and such challenge is against any Party besides Redwood Valley, then such Party may tender to Redwood Valley the defense of any liability, claim, demand, damage, loss, disability or expense that is related to such challenge, and, if such tender is made, then Redwood Valley shall indemnify, hold harmless, protect and defend such Party against any and all liabilities, claims, demands, damages, losses, disabilities and expenses (including claims for attorney fees) that arise as a result of the EIR or Negative Declaration or any Party's approval of the Proposed Agreement.

5. Each person executing this memorandum is authorized to execute it on behalf of the Party that that person represents.

Dated: SONOMA COUNTY WATER AGENCY

By _____

Dated: REDWOOD VALLEY COUNTY WATER DISTRICT

By _____

Dated: COUNTY OF MENDOCINO

By _____

Dated:

MENDOCINO COUNTY WATER AGENCY

By _____

DRAFT
January 7, 2005

AGREEMENT FOR SALE OF SURPLUS WATER

This Agreement is made this ___ day of _____, 2005, among the Sonoma County Water Agency, hereinafter called the "Sonoma Agency," the Redwood Valley County Water District, hereinafter called "Redwood Valley," the County of Mendocino, hereinafter called the "County," and the Mendocino County Water Agency, hereinafter called the "Mendocino Agency." As provided in section 17 of this Agreement, any or all of the Mendocino County Inland Water and Power Commission, the Millview County Water District, the Willow County Water District, the Hopland Public Utilities District, the Potter Valley Irrigation District and the City of Ukiah, hereinafter collectively called the "Other Parties," may become parties to this Agreement.

RECITALS

A. In 1959, the United States Army Corps of Engineers completed its construction of Coyote Valley Dam and Lake Mendocino. These facilities are operated for flood-control, water-conservation and related purposes.

B. The Sonoma Agency holds water-right Permit 12947A, which authorizes the Sonoma Agency to store water in Lake Mendocino and to apply such water to beneficial uses, subject to the terms and conditions in the permit. Redwood Valley is included in the authorized place of use in Permit 12947A. Term 23 of Permit 12947A provides that withdrawals of water from storage in Lake Mendocino for use within Redwood Valley's

service area are subject to the following conditions:

- (a) Said withdrawals shall be discontinued whenever cumulative inflow to Lake Pillsbury during the current water year is less than 50,000 acre-feet on April 1, or less than 90,000 acre-feet on May 1. Withdrawals shall not resume until storage in Lake Mendocino rises to more than 30,000 acre-feet subsequent to October 31 after having fallen below that level, or until permittee has projected, to the satisfaction of the Chief, Division of Water Rights, that storage at Lake Mendocino will not fall below 30,000 acre-feet.
- (b) Said withdrawals, if not already discontinued under condition (a) above, shall be restricted to a monthly quantity no greater than fifty percent of the average monthly use in the service area of the Redwood Valley County Water District during the same month of the previous three years, whenever storage in Lake Mendocino is below 30,000 acre-feet.

Term 24 of Permit 12947A provides:

Any agreement between permittee and the Redwood Valley County Water District for withdrawals from storage at Lake Mendocino under this permit shall be subject to discontinuation, curtailment, or special conditions placed on said withdrawals pursuant to this permit, as this permit is now or may be amended in the future. A copy of any such contract shall be submitted to the State Water Resources Control Board.

Term 28 of Permit 12947A provides:

Permittee shall consult with the Division of Water Rights and develop and implement a water conservation plan or actions for the service area of the Redwood Valley County Water District. The proposed plan or actions shall be presented to the State Water Resources Control Board for approval within one year from the execution of an agreement to deliver water to the service area of the Redwood Valley County Water District or such further time as may, for good cause shown, be allowed by the Board. A progress report on the development of a water conservation program may be required by the Board at any time within this period.

C. The Mendocino County Russian River Flood Control and Water Conservation Improvement District, hereinafter called the "Improvement District," holds water-right

Permit 12947B, which authorizes the Improvement District to store water in Lake Mendocino and to apply such water to beneficial uses, subject to the terms and conditions in the permit. Redwood Valley's service area is in the authorized place of use in Permit 12947B.

D. Redwood Valley holds water-right Permit 17593, which authorizes Redwood Valley to pump water from Lake Mendocino and to apply such water to beneficial uses within Redwood Valley, subject to the terms and conditions in the permit.

E. Redwood Valley has facilities through which it can pump water from Lake Mendocino, convey the pumped water, deliver some of the conveyed water to its agricultural customers, and treat and deliver some of the conveyed water to its domestic customers.

F. Under the criteria for the coordinated operation of the Coyote Valley Dam and Warm Springs Dam Projects, water may, at certain times, be available pursuant to Permit 12947A in quantities that exceed the amounts necessary to satisfy the needs of the Sonoma Agency's Other Customers and Contractors and the minimum streamflow requirements established by Decision 1610 or any successor decision or order of the State Water Resources Control Board.

G. Water is a scarce and precious resource and it is essential for the proper management of that resource that there be an accounting of all water pumped from Lake Mendocino by Redwood Valley.

H. The Sonoma Agency is willing to sell to Redwood Valley water that is available for pumping under section 4 of this Agreement, and Redwood Valley is willing to purchase such water under the terms and conditions of this Agreement.

I. The Mendocino Agency is willing to receive, hold and manage the money that is paid by Redwood Valley under this Agreement, and to disburse this money according to the terms of this Agreement.

J. The parties to this Agreement now desire to enter into this Agreement, which will: (i) authorize Redwood Valley to pump water from Lake Mendocino pursuant to Permit 12947A, subject to the terms and conditions specified in this Agreement; (ii) provide a mechanism for funding new projects for water conservation, the use of recycled water and the protection, maintenance and enhancement of Russian River fisheries; and (iii) improve the exchange of hydrological data and provide for further cooperation and communication among the parties to this Agreement.

NOW, THEREFORE, in consideration of these recitals and the mutual promises made herein, the Sonoma Agency, Redwood Valley, the County and the Mendocino Agency agree as follows:

Section 1. Recitals. The preceding recitals are true.

Section 2. Definitions. When used in this Agreement, the following terms shall have the following meanings:

a. "Other Customers and Contractors" means all present and future Sonoma Agency customers within Sonoma County, including all entities within Sonoma County that divert or re-divert, or will divert or re-divert, water directly from the Russian River or Dry Creek under any of the Sonoma Agency's water rights, and all entities that receive or will receive water from the Transmission System operated by the Sonoma Agency pursuant to the

Eleventh Amended Agreement for Water Supply dated January 26, 2001 (or any amended or successor agreement), including the North Marin County Water District and the Marin Municipal Water District.

b. "Permit 12947A" means water-right Permit 12947A, which the State Water Resources Control Board issued to the Sonoma Agency pursuant to Applications 12919A and 12920A and Order WR 74-30, as such permit now exists or in the future may exist (including any license that may be issued to replace this permit).

c. "Permit 12947B" means water-right Permit 12947B, which the State Water Resources Control Board issued to the Improvement District pursuant to Applications 12919A and 12920A and Order 74-30, as such permit now exists or in the future may exist (including any license that may be issued to replace this permit).

d. "Permit 17593" means water-right Permit 17593, which the State Water Resources Control Board issued to Redwood Valley pursuant to Application 24955, as such permit now exists or in the future may exist (including any license that may be issued to replace this permit).

Section 3. Accounting Of Water Pumped By Redwood Valley From Lake Mendocino Under Permits 17593 and 12947B. To the extent authorized by Permit 17593, Redwood Valley shall account for the water that it pumps from Lake Mendocino as being diverted and used under Permit 17593. To the extent authorized by Permit 12947B and May 29, 1980 Stipulated Judgment in *Mendocino County Russian River Flood Control and Water Conservation Improvement District v. Redwood Valley County Water District*, Mendocino

County Superior Court No. 42059 (the "1980 Stipulated Judgment"), Redwood Valley shall account for the water that it pumps from Lake Mendocino and that may not be diverted and used under Permit 17593 as being diverted and used under Permit 12947B.

Section 4. Authorization To Pump Water Under Permit 12947A. This Agreement authorizes Redwood Valley to pump up to 3,000 acre-feet of water from Lake Mendocino pursuant to Permit 12947A during each October 1 through September 30 water year when: (a) such pumping is not authorized by either (i) Permit 17593 or (ii) Permit 12947B and the 1980 Stipulated Judgment; (b) such pumping is authorized by Permit 12947A; and (c) the Sonoma Agency determines that water is available for pumping by Redwood Valley pursuant to Permit 12947A and this Agreement. This Agreement does not authorize, and this Agreement shall not be construed as authorizing, any pumping other than that authorized by the preceding sentence.

Section 5. Determinations Of Availability Of Water. Water shall be available for pumping by Redwood Valley pursuant to Permit 12947A and this Agreement if the Sonoma Agency determines, in its sole discretion, that it has water in excess of the amounts that it needs to supply its Other Customers and Contractors, to meet its obligations to holders of senior appropriative rights, to meet instream flow requirements, and to maintain a prudent storage reserve, considering hydrologic conditions and other relevant factors.

On or before April 1 of each year, the Sonoma Agency shall estimate the amount of water that will be available that year for pumping by Redwood Valley pursuant to Permit 12947A and this Agreement during the following May 1 through October 31 period, and

shall advise Redwood Valley of this estimate. On or before May 1 of each year, the Sonoma Agency shall update this estimate and advise Redwood Valley of this update. On or before June 1 of each year, the Sonoma Agency shall make a final determination of the amount of water that will be available for pumping by Redwood Valley pursuant to Permit 12947A and this Agreement during the May 1 through October 31 period, and shall advise Redwood Valley of this amount.

The Sonoma Agency shall advise Redwood Valley as soon as is practical under any particular hydrological conditions if water will not be available for pumping by Redwood Valley pursuant to Permit 12947A and this Agreement during any November 1 through April 30 period, or during any portion of any such period.

Section 6. Reductions In Pumping. During any drought or other low water-supply condition in which the Agency reduces its pumping of water from the Russian River at its Wohler Road/Mirabel Park facilities, Redwood Valley shall reduce its pumping of water from Lake Mendocino by the same percentage as the Agency reduces its pumping at these facilities. For any month, such percentage reductions shall be measured from baselines of the average pumping during the corresponding months of the preceding three years. The provisions of this section shall be in addition to any other legal requirements on Redwood Valley to reduce its pumping of water from Lake Mendocino.

Section 7. Redwood Valley Subject To All Terms And Conditions Of Permit 12947A. The pumping of water by Redwood Valley pursuant to this Agreement shall be subject to all of the applicable terms and conditions of Permit 12947A. Among other things, Redwood

Valley shall not deliver any water pumped pursuant to Permit 12947A and this Agreement for any uses outside of the portion of Redwood Valley's service area that is within the authorized place of use in Permit 12947A.

Section 8. Reporting Of Amounts Of Water Pumped From Lake Mendocino. On or before October 31 of each year, Redwood Valley shall provide the Sonoma Agency and the Mendocino Agency with copies of the daily logs of the meter or meters that measure how much water Redwood Valley pumps from Lake Mendocino and an annual report that contains the following information for the preceding October 1 through September 30 water year (in acre-feet): (a) the amount of water that Redwood Valley pumped from Lake Mendocino on each day of the water year; (b) the total amount of water that Redwood Valley pumped from Lake Mendocino during the water year; (c) the amount of water that Redwood Valley pumped from Lake Mendocino during the water year pursuant to Permit 17593; (d) the amount of water that Redwood Valley pumped from Lake Mendocino during the water year pursuant to Permit 12947B; and (e) the amount of water that Redwood Valley pumped from Lake Mendocino during the water year pursuant to Permit 12947A. Each annual report shall contain explanations, supported by adequate analyses and data, of the process that Redwood Valley used to determine how much water was pumped under each of these three water-right permits.

Redwood Valley shall maintain in good and accurate working order the meter or meters that measure the amounts of water that Redwood Valley pumps from Lake Mendocino and shall record and maintain daily readings of this meter or these meters.

Redwood Valley shall allow the Sonoma Agency and the Mendocino Agency to inspect this meter or these meters and to inspect and copy the records of these meter readings during normal business hours.

Section 9. Payments. On or before December 31 of each year, Redwood Valley shall pay to the Mendocino Agency an amount of money equal to the product of the number of acre-feet that Redwood Valley pumped from Lake Mendocino during the preceding October 1 through September 30 water year under Permit 12947A times the Russian River Conservation Charge that was in effect on April 30 of that water year. The Russian River Conservation Charge is the per-acre-foot charge that is described in section 4.17(a) of the Eleventh Amended Agreement For Water Supply, dated January 26, 2001, or any amended or successor agreement. The Sonoma Agency calculates the Russian River Conservation Charge by multiplying the tax rate levied by the Sonoma Agency in the then current fiscal year to pay the costs associated with the Warm Springs Dam Project times the total assessed value of secured and unsecured property situated within the Cities of Cotati, Petaluma, Rohnert Park, Santa Rosa, Sonoma, the Forestville County Water District, and the Valley of the Moon Water District, and dividing the product by the total number of acre-feet of water delivered during the twelve-month period ending on the preceding March 31 to those public agencies pursuant to Section 3.1 and 3.3 of the Eleventh Amended Agreement for Water Supply. On April 30, 2004, the Russian River Conservation Charge was \$42.25 per acre-foot.

Redwood Valley shall not make any payments under this Agreement except for the

water that Redwood Valley is authorized to pump, and actually does pump, under section 4.

Section 10. Temporary Supply Only. Redwood Valley acknowledges that the water that the Sonoma Agency is authorizing Redwood Valley to pump pursuant to Permit 12947A and this Agreement is just a temporary supply of surplus water that will not be available in the future, as demands for water under Permit 12947A in places of use outside of Redwood Valley increase, or if imports of water by the Pacific Gas and Electric Company's Potter Valley Project into the Russian River Basin decrease. Because this supply is just a temporary supply of surplus water, the following provisions apply:

a. The only rights to pump water from Lake Mendocino that are granted by this Agreement are those expressly stated in this Agreement. Neither this Agreement nor the pumping of water under this Agreement confers any water right to Redwood Valley or any right to pump water under Permit 12947A after this Agreement terminates, and neither this Agreement nor the pumping of water under this Agreement establishes or will establish any precedent for future pumping of water under Permit 12947A. Nothing in this Agreement is intended to, or shall be construed to, act as a forfeiture, diminution or impairment of any water right of any party to this Agreement. Consistent with sections 109, 475, 1011, 1014-1017, 1244 and 11961 of the California Water Code, the Sonoma Agency's authorizing Redwood Valley to pump water pursuant to Permit 12947A and this Agreement shall not be evidence of, or used to demonstrate, either the existence of any surplus water associated with Permit 12947A after this Agreement expires or terminates, or the lack of beneficial use of the water that Redwood Valley is authorized to pump under this Agreement, and no party to

this Agreement shall contend otherwise. In accordance with section 1016 of the California Water Code and all other applicable provisions of California law, after this Agreement expires or terminates all rights under Permit 12947A and any other water-right permits held by the Sonoma Agency shall revert back to the Sonoma Agency, and Redwood Valley shall not: (i) bring any claim for continuation of the water supply made available by this Agreement; or (ii) claim any right to the continued supply of the water that is made available by this Agreement, because of reliance, estoppel, intervening public use, prescription, water shortage emergency, unforeseen or unforeseeable increases in demand, or any other cause.

b. While this Agreement is in effect, Redwood Valley shall maintain and enforce: (i) the moratorium on new connections to Redwood Valley's domestic water system that is specified in the January 24, 1989 Judgment and Peremptory Writ of Mandate in *Residents For Adequate Water, et al. v. State of California Department of Health Services, et al.*, Mendocino County Superior Court No. 55595; (ii) the moratorium on new connections to Redwood Valley's agricultural water system that is specified in Redwood Valley's December 6, 2001 Resolution No. 2-01; and (iii) Redwood Valley's existing restrictions on the rates of deliveries of agricultural water to existing customers. Redwood Valley shall not use this Agreement to attempt to justify any termination or modification of these moratoria or these restrictions, or to attempt to justify any increases in the amounts of its water deliveries to any of its customers.

c. Redwood Valley acknowledges that the list of Redwood Valley's present domestic customers attached to this Agreement as Exhibit A is complete and accurate.

Redwood Valley shall not allow any new domestic customers that are not listed in Exhibit A to receive water from Redwood Valley's domestic water system, except for new customers that replace existing customers because of their purchases or other conveyances of existing customers' properties, and except for new customers that the Department of Health Services authorizes to receive hardship domestic service, based on domestic water use from a well or wells that existed in 1986. Redwood Valley shall provide annual written notices to the Sonoma Agency and the Mendocino Agency of any changes in the list of Redwood Valley's domestic customers that occur because of a conveyance of any customer's property or any hardship domestic service connection authorized by the Department of Health Services.

d. Redwood Valley acknowledges that the list of Redwood Valley's present agricultural customers attached to this Agreement as Exhibit B is complete and accurate. Redwood Valley shall not allow any new agricultural customers that are not listed in Exhibit B to receive water from Redwood Valley's agricultural water system, except for new customers that replace existing customers because of their purchases or other conveyances of existing customers' properties. However, this paragraph does not prohibit Redwood Valley from reconfiguring deliveries of agricultural water to a group of adjacent parcels that are owned or farmed by the same agricultural water user, so long as the reconfiguration does not increase the total deliveries of agricultural water to the group of parcels. Redwood Valley shall not allow any agricultural water customer to increase the annual average amounts of water that he, she or it receives from Redwood Valley over the amounts that were delivered to the same parcel or group of adjacent parcels before this Agreement was

executed. Redwood Valley shall provide annual written notices to the Sonoma Agency and the Mendocino Agency of any changes in the list of Redwood Valley's agricultural customers that occur because of a conveyance of any customer's property or because of any reconfiguration of deliveries of agricultural water to a group of adjacent parcels.

e. Whenever the County, in connection with the County's actions on an application for any permit for a building, construction or other project or activity that would require any increases in Redwood Valley's deliveries of water or any new connections to Redwood Valley's agricultural or domestic water systems, asks Redwood Valley for any information regarding Redwood Valley's water supplies, Redwood Valley shall: (i) notify the County that the water supply under this Agreement is temporary and is not a reliable or continuing supply of water; (ii) notify the County that no additional amounts of water are available for domestic or agricultural use within Redwood Valley's service area; and (iii) ask the County to include in any such permits appropriate restrictions, limitations and conservation measures to ensure that the water use from Redwood Valley's domestic and agricultural water systems will not increase if the permit is issued. Whenever the County acts on any such application, the County shall take into consideration Redwood Valley's comments and the fact that any water supply under this Agreement is temporary and is not a reliable or continuing supply of water.

f. Redwood Valley shall diligently pursue developing new water supplies for its present and potential future agricultural and domestic customers.

g. Redwood Valley shall not oppose the Sonoma Agency's Notice Group I and

Notice Group II petitions to change its water-right Permits 12947A, 12949, 12950 and 16596, or the Agency's water-right Application 30981, all of which are described in the State Water Resources Control Board's July 14, 2000 public notices.

Section 11. Water Conservation and Management.

- a. Each party to this Agreement that provides water for domestic or municipal purposes shall: (i) become a member of the California Urban Water Conservation Council within six months after the effective date of this Agreement and remain a member in good standing while this Agreement is in effect; and (ii) sign the California Urban Water Conservation Council's December 11, 2002 Memorandum of Understanding for Urban Water Conservation (available on the World Wide Web at www.cuwcc.org/home.html), and any updated version of this Memorandum.
- b. Each party to this Agreement that provides water for agricultural purposes shall sign the California Department of Water Resources Agricultural Water Management Planning Program's January 1, 1999 Memorandum of Understanding Regarding Efficient Water Management Practices By Agricultural Water Suppliers In California (available on the World Wide Web at www.owuc.water.ca.gov/agmanage/index.cfm), and any updated version of this Memorandum.
- c. If a party to this Agreement supplies water for both domestic or municipal and agricultural purposes, then that party shall sign both of these memoranda of understanding and any updated versions of them.
- d. Each party to this Agreement shall, as a minimum, implement or use its best

efforts to secure the implementation of, all appropriate water management practices specified in these memoranda of understanding within its service area. In the alternative, any party to this Agreement may implement alternative water conservation measures that obtain at least the same level of water savings as the applicable water management practices. Each party to this Agreement shall complete and file all annual reports required by these memoranda.

e. Pursuant to term 28 of Permit 12947A, Redwood Valley shall: (i) consult with the Sonoma Agency and the Division of Water Rights and develop and implement a water conservation plan or actions for Redwood Valley's service area; and (ii) present the proposed plan or actions to the State Water Resources Control Board for approval within one year from the execution of this Agreement.

f. Redwood Valley shall implement any water conservation measures applicable to it that may be imposed on the Sonoma Agency by the State Water Resources Control Board or any other governmental agency through Permit 12947A.

g. Whenever any party to this Agreement files any urban or agricultural water conservation or management plan, or any amendment or change to such a plan, with the Department of Water Resources or any other state agency, the party shall at the same time send copies of the plan, amendment or change to the Sonoma and Mendocino Agencies.

Section 12. California Environmental Quality Act. Pursuant to section 15051(d) of the California Environmental Quality Act (CEQA) Guidelines, Redwood Valley is designated as the lead agency under the California Environmental Quality Act for this Agreement and has prepared the [insert title and date of certified EIR or negative

declaration]. In compliance with CEQA, each party that is executing this Agreement has reviewed this CEQA document.

Any Party to this Agreement that will be involved in any activity that is to be funded by expenditures from the RVCWD Contract Fund that is described in section 19 shall take all actions required by CEQA in connection with such activities and expenditures.

Section 13. Effective Date, Term and Termination. This Agreement shall become effective when it is signed by authorized representatives of the Sonoma Agency, Redwood Valley, the County and the Mendocino Agency. Any of the preceding four parties may terminate this Agreement at any time, with or without cause, by providing 30 days' written notice of its election to terminate this Agreement to all of the other parties to this Agreement. If not terminated earlier, this Agreement then shall remain in effect through October 31, 2009. This Agreement may be renewed for additional five-year periods with the written consent of these four parties.

Section 14. Amendments Of Agreement. Although some or all of the Other Parties may become parties to this Agreement, this Agreement nevertheless may be amended by a writing signed only by authorized representatives of the Sonoma Agency, Redwood Valley, the County and the Mendocino Agency. If these four entities amend this Agreement, then any Other Party may become a party to the amended agreement by providing the notice described in section 17 of this Agreement. Until an Other Party provides such notice, it shall not be a party to the amended agreement.

Section 15. The RVCWD Contract Fund. The Mendocino Agency shall place all

funds received from Redwood Valley under this Agreement in a separate account entitled the "RVCWD Contract Fund." The Mendocino Agency may spend money from this fund only according to the provisions of, and procedures described in, this Agreement.

Section 16. The Mendocino Water Conservation and Fishery Advisory Board. This Agreement creates the Mendocino Water Conservation and Fishery Advisory Board (the "Advisory Board"). The purpose of the Advisory Board is to review and approve projects that will be totally or partially funded from the RVCWD Contract Fund. When this Agreement becomes effective, Redwood Valley, the County and the Mendocino Agency shall be members of the Advisory Board.

Section 17. Joinder In Agreement. Any or all of the Other Parties may become parties to this Agreement and members of the Advisory Board by having an authorized representative of the Other Party sign the "Joinder in Agreement" form that is attached to this Agreement as Exhibit C, and by delivering the signed notice to the General Manager of the Mendocino Agency. The General Manager of the Mendocino Agency shall deliver copies of any such notice to all other parties to this Agreement.

Section 18. Mendocino Water Conservation and Fishery Advisory Board Composition, Voting and Meetings.

a. The Advisory Board shall be composed of one representative appointed by each party to this Agreement, except that the Sonoma Agency shall not have a representative on the Advisory Board. Each such party may appoint an alternate to participate in the Advisory Board when its normal representative is absent. Each Board member and each

alternate shall serve at the pleasure of his or her appointing public entity. A person may serve simultaneously as a Board member or alternate and as a member of the governing board of the appointing public entity. Board members and alternates shall serve without any compensation or reimbursement of expenses from the RVCWD Contract Fund.

b. A majority of the members of the Advisory Board shall constitute a quorum for purposes of transacting business, except that less than a quorum may vote to adjourn a meeting. An affirmative vote of a majority of the members of the Advisory Board in attendance at any meeting shall be required to approve any expenditure from the RVCWD Contract Fund.

c. All meetings of the Advisory Board shall be called, noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act (California Government Code, sections 54950-54963). The Mendocino Agency shall provide a meeting room in Ukiah, California for Advisory Board meetings, and shall provide public notices and agendas for, and maintain minutes of, Board meetings.

d. The Advisory Board shall meet at least twice during each calendar year.

Section 19. Criteria and Procedures For Expenditures From RVCWD Contract Fund.

a. Expenditures from the RVCWD Contract Fund may be made for all or part of the costs of: (i) cost-effective water conservation projects that will reduce the diversions of water from the Russian River; (ii) projects for the use of recycled water that will reduce diversions of water from the Russian River; or (iii) projects that will protect, maintain or enhance the populations or habitats of anadromous fish species in the Russian River that are

listed as threatened or endangered species under the Federal Endangered Species Act. Expenditures from the RVCWD Contract Fund to entities that are water users or water purveyors shall be made only if the water user or water purveyor that will receive the money from the fund is a signatory to this Agreement and has satisfied all of the applicable requirements of section 11 of this Agreement.

b. Expenditures from the RVCWD Contract Fund may be made only after: (i) the Advisory Board has adopted a resolution approving the proposed expenditure; and (ii) the Sonoma Agency's General Manager/Chief Engineer has made a written approval of the proposed expenditure and delivered the written approval to the Mendocino Agency.

Section 20. Merger. This writing is intended both as the final expression of the agreement between the parties hereto with respect to the included terms and conditions and as a complete and exclusive statement of the terms of the agreement. Pursuant to Code of Civil Procedure section 1856, no modification of the Agreement shall be effective unless and until such modification is evidenced by a writing that satisfies the requirements of section 14.

Section 21. Waiver. Redwood Valley waives, releases and forever discharges the Sonoma Agency, its officers, agents and employees from any and all liabilities, claims, demands, losses and costs relating to any of the following: (a) any property damage or personal injury arising from any reduction or elimination of the water that is available for pumping of water from Lake Mendocino by Redwood Valley pursuant to this Agreement, or from any Sonoma Agency action to limit or eliminate Redwood Valley's right to pump

water from Lake Mendocino under this Agreement; (b) any property damage or personal injury arising from the quality of water pumped from Lake Mendocino pursuant to this Agreement; and (c) any property damage or personal injury arising from any decision of the Sonoma Agency regarding the repair (or non-repair) of the Pacific Gas and Electric Company's Potter Valley Project, Coyote Valley Dam or Warm Springs Dam. Redwood Valley's waiver, release and discharge described in this paragraph shall apply to all of the property damages or personal injuries described in this paragraph, whether or not such property damages or personal injuries were caused by the Sonoma Agency's negligence, unless such property damages or personal injuries resulted from the Sonoma Agency's sole negligence, willful misconduct or violation of law.

Section 22. Indemnification. Redwood Valley shall indemnify, hold harmless, protect and defend the Sonoma Agency, its officers, agents and employees from and against any and all liabilities, claims, demands, damages, losses, disabilities or expenses (including attorney fees and litigation costs) of every nature arising out of, or in connection with: (a) the quality or quantity (or lack thereof) of water that has been made available by the Sonoma Agency to Redwood Valley pursuant to this Agreement; (b) the control, conveyance and disposition of water that has been pumped by Redwood Valley pursuant to this Agreement; or (c) any expenditures of money from the RVCWD Contract Fund. Redwood Valley shall provide such indemnification, holding harmless, protection and defense whether or not such liabilities, claims, demands, damages, losses, disabilities or expenses are based on the Sonoma Agency's negligence, unless such liabilities, claims, demands, damages losses,

disabilities or expenses are based on the Sonoma Agency's sole negligence, willful misconduct or violation of law.

The provisions in this section regarding attorney fees shall not apply to any other section of this Agreement.

Section 23. Method and Place of Giving Notice and Making Payments. All notices shall be in writing and notice and payments may be given by personal delivery or by mail. Notices and payments sent by mail shall be addressed as follows:

Sonoma Agency: Sonoma County Water Agency
2150 West College Avenue
Santa Rosa, CA 95401
Attention: General Manager/Chief Engineer

Redwood Valley: Redwood Valley County Water District
P. O. Box 399
Redwood Valley, CA 95470
Attention: General Manager

County: County of Mendocino
501 Low Gap Road, Room 1010
Ukiah, CA 95482
Attention: County Administrator

Mendocino Agency: Mendocino County Water Agency
890 North Bush Street, Room 20
Ukiah, CA 95482
Attention: General Manager

Notices to each Other Party shall be addressed to the address listed on the Other Party's "Joinder In Agreement" form filed pursuant to section 17. When so addressed, a notice shall be deemed given upon deposit in the United States Mail, postage prepaid. In all other instances, notices and payments shall be deemed given at the time of actual delivery.

Changes may be made in the names and addresses of the person to whom notices and payments are to be given by giving notice pursuant to this section.

Section 24. No Third Party Beneficiaries. No third party beneficiaries are intended or established by this Agreement.

Section 25. No Waiver Of Rights. The waiver at any time by any party to this Agreement of any of its rights with respect to a default, breach or other matter by any other party arising in connection with this Agreement shall not be deemed to be a waiver with respect to any subsequent default, breach or other matter.

Section 26. Representation by Counsel. Each party to this Agreement was represented by independent counsel in the negotiation and execution of this Agreement. For the purposes of interpretation of this Agreement, no party shall be deemed to have been the drafter of this Agreement.

Dated: SONOMA COUNTY WATER AGENCY

By: _____

Dated: REDWOOD VALLEY WATER DISTRICT

By: _____

Dated:

COUNTY OF MENDOCINO

By: _____

Dated:

MENDOCINO COUNTY WATER AGENCY

By: _____

REVIEWED AS TO SUBSTANCE BY
SONOMA COUNTY WATER AGENCY:

REVIEWED AS TO FORM BY
SONOMA COUNTY COUNSEL:

EXHIBIT A
LIST OF REDWOOD VALLEY'S DOMESTIC CUSTOMERS

[to be provided by RVCWD]

EXHIBIT B
LIST OF REDWOOD VALLEY'S AGRICULTURAL CUSTOMERS

[to be provided by RVCWD]

**EXHIBIT C
JOINDER IN AGREEMENT**

Pursuant to section 17 of the _____, 2005 Agreement For Sale Of Surplus Water among the Sonoma County Water Agency, the Redwood Valley County Water District, Mendocino County and the Mendocino County Water Agency, the undersigned public agency agrees to become a party to this Agreement. By becoming a party, the undersigned agency will be subject to the water conservation and management requirements in section 11 of the Agreement and have the rights to participate in the Mendocino Water Conservation and Fishery Advisory Board that are described in sections 16-19 of the Agreement.

Name of public agency: _____

Address of public agency: _____

The undersigned represents that he or she is authorized to sign this document on behalf of the listed public agency.

Dated:

[sign name]

[print name and title]



State Water Resources Control Board



Winston H. Hickox
Secretary for
Environmental
Protection

Executive Office
1001 I Street, Sacramento, California 95814
P.O. Box 100, Sacramento, California 95812-0100
(916) 341-5615 ♦ FAX (916) 341-5621 ♦ www.swrcb.ca.gov

Gray Davis
Governor

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JUN 06 2001

CERTIFIED MAIL

Mr. Stuart L. Somach
Somach, Simmons, & Dunn
400 Capitol Mall, Suite 1900
Sacramento, CA 95814-4407

COPY TO CLIENT PER MA
MAILED 6/8/01 BY St
Exchange Contractors
Paul Minicini

Dear Mr. Somach:

PETITION OF WESTLANDS WATER DISTRICT FOR RECONSIDERATION OF DECISION CANCELING PETITION FOR PARTIAL ASSIGNMENT AND APPROVAL OF APPLICATION 5638

By letter dated March 8, 2001, the Chief, Division of Water Rights, canceled the petition of Westlands Water District (WWD), filed August 3, 2000, for partial assignment and approval of Water Right Application 5638. In the same letter, the Chief, Division of Water Rights, said he would accept Application 31153 of WWD for processing.

On April 9, 2001, WWD filed a timely petition for reconsideration of the decision canceling the petition under Application 5638. The petition for reconsideration makes available a higher level of review of the action canceling the petition. (See Wat. Code § 1126(b).) After careful consideration, it is concluded that the petition for reconsideration fails to raise substantial issues that are appropriate for or require review by the State Water Resources Control Board (SWRCB). Accordingly, the petition is dismissed as of this date. (See Cal. Code Regs., tit.23, § 770, subd. (a)(1); *People v. Barry* (1987) 194 Cal.App.3d 158 [239 Cal.Rptr. 349].)

BASIS FOR CANCELLATION OF PETITION FOR ASSIGNMENT

The Chief, Division of Water Rights, provided the following explanation for his action canceling the petition for assignment.

Under the petition and application, WWD seeks to appropriate for its use part of the water that currently is appropriated by the United States Bureau of Reclamation (USBR) from the San Joaquin River under a permit issued pursuant to Application 5638. Under the county of origin statutes, at Water Code sections 10500, et seq., a new appropriator can appropriate water that is being used outside the county of origin and use the water within the protected area under a senior water right, in preference to the export uses. WWD filed its petition under Water Code section 10505. Nevertheless, no water is available under Application

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California Environmental Protection Agency

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5638 because the State Department of Finance, when it assigned Application 5638 to the USBR in 1939, did not reserve any water for the county of origin and assigned Application 5638 in full to the USBR. The Department of Finance made a finding that its full, unconditional assignment of Application 5638 would not deprive a county of origin of water necessary for development of the county. This finding meets the requirement in Water Code section 10505, which was in effect at the time of the assignment, and which provides:

“No priority under this part shall be released nor assignment made of any application that will, in the judgment of the board,¹ deprive the county in which the water covered by the application originates of any such water necessary for the development of the county.”
(Wat. Code § 10505.)

When the SWRCB's predecessor approved the application in 1959 pursuant to SWRCB Decision 935, it did not disturb the assignment. In light of this history, so long as the USBR holds the permit for the full amount of Application 5638, no water is available under this application for appropriation by another entity.²

Water Code section 10505.5,³ which on its face would make water available even in the absence of a reservation of water in the assignment, is not applicable to the assignment and approval of Application 5638, because section 10505.5 was not enacted until 1969, thirty years after the assignment and ten years after the SWRCB adopted Decision 935. Section 10505.5 applies to state-filed applications that are held by the SWRCB. By 1969, Application 5638 had not been held by the State for approximately thirty years.

¹ When Application 5638 was assigned, state-filed applications were held by the Department of Finance. Under the current version of Water Code section 10504, the SWRCB holds the state-filed applications and has responsibility to make the necessary findings when a party seeks assignment of a state-filed application.

² In your letter dated December 11, 2000, you raised an argument that the assignment of Application 5638 should be rescinded for failure of the USBR to provide replacement water to the counties of origin. Rescission of the assignment and water right permit would make water available under Application 5638. You have not, however, filed a complaint with the SWRCB seeking to establish that the USBR is violating its permit. I do not know whether an investigation would support pursuing a complaint if it were filed.

³ Section 10505.5 provides: “Every application heretofore or hereafter made and filed pursuant to Section 10500, and held by the State Water Resources Control Board, shall be amended to provide, and any permit hereafter issued pursuant to such an application, and any license issued pursuant to such a permit, shall provide, that the application, permit, or license shall not authorize the use of any water outside of the county of origin which is necessary for the development of the county.”

WWD'S PETITION FOR RECONSIDERATION

The SWRCB may order reconsideration on all or a part of a decision adopted by the SWRCB or by an officer or employee of the SWRCB upon petition by any interested person. (Wat. Code § 1122.) The causes for reconsideration of a decision or order are set forth in the regulations of the SWRCB at California Code of Regulations, title 23, section 768. WWD has not specified the causes for reconsideration upon which it is relying. Nor did WWD submit a statement of points and authorities in support of the legal issues raised in the petition, as is required by SWRCB regulations. (Cal. Code Regs., tit. 23, § 769, subd. (c).) The petition makes the following arguments in support of reconsideration, which are paraphrased below:

1. The Department of Finance, when it assigned Application 5638 to the USBR, erroneously found that its full, unconditional, assignment of Application 5638 would not deprive a county of origin of water necessary for development of the county. The Department of Finance finding impliedly was based on promises by the USBR that it would substitute imported water for the water that otherwise would be available to Fresno County. The SWRCB's predecessor made this finding expressly in D-935. The USBR has not kept its promises. Therefore, the SWRCB should rescind the assignment. WWD is prepared to file a complaint against the USBR seeking rescission of the permit issued on Application 5638, but prefers not to do so because of the potential controversy it would cause. WWD prefers that the SWRCB review the USBR compliance with the permit under Application 5638 on the SWRCB's own motion.
2. The SWRCB should deal with the protections afforded by Water Code sections 10505 and 11460-11463 together, as was done in D-935. This would avoid the need for WWD to file a complaint against the USBR to rescind the permit on Application 5638 and would give the SWRCB more flexibility in dealing with the factual and legal issues after an evidentiary hearing.

DISCUSSION

The USBR acquired its water right permit on Application 5638 pursuant to a two-step, two-agency process. The first step was to obtain an assignment of Application 5638 from the State Department of Finance. The Department of Finance filed Application 5638 on July 30, 1927, pursuant to a newly-enacted state statute. (Stats. 1927, c. 286, p. 508, § 1.) The statute was codified in 1943 as Water Code sections 10500, 10501, 10502, 10503, 10504, and 10505. The Department of Finance filed Application 5638 to appropriate water in the amounts of 5,000 cubic feet per second (cfs) by direct diversion year round, and up to 1,210,000 acre-feet per annum (afa) by storage with a season of diversion of October 1 to August 1, from the San Joaquin River. (D-935, p. 3.) On September 30, 1939, the Director of the Department of

Finance assigned Application 5638 to the United States. The assignment contains no condition protecting the counties of origin of the water. The assignment does, however, contain the required finding (thereafter codified in section 10505) that this full, unconditional assignment will not, in the judgment of the State Department of Finance, deprive any county in which such appropriated water originates, of any such water necessary for the development of the county. (D-935, p.67.)

In 1959, the State Water Rights Board noted the above facts in D-935 when it approved Application 5638 subject to terms and conditions. The State Water Rights Board, in discussing the assignment, suggested that the Department of Finance may have believed that the parties requesting county of origin protections, the City of Fresno and the Fresno Irrigation District, would be better protected under Water Code sections 11460-11463, and that it was therefore unnecessary to impose conditions on the assignment of Application 5638 pursuant to the provision that became Water Code section 10505. The State Water Rights Board found that the assignment was unconditional. (D-935, p. 67.) The State Water Rights Board conditioned the water right permit to require the USBR to provide water to certain parties under water supply contracts, and recognized the priority of other parties who had existing water rights. The result is that D-935 ensured that all of the parties who claimed a water supply under section 10505 in the proceeding on Application 5638 received water on other grounds. The State Water Rights Board, in D-935, did not attempt to disturb the assignment made in 1939.⁴ The State Water Rights Board approved Application 5638 for the full rate of diversion and quantity of storage specified in the assignment, albeit with a shorter diversion season.

1. No Persuasive Reason Has Been Provided for Finding That the 1939 Assignment is Invalid

WWD argues that the SWRCB should revoke the permit held by the USBR on Application 5638 due to an alleged failure of the USBR to live up to the representations it made in obtaining the assignment of Application 5638. WWD contends that the Department of Finance was induced to make the unconditional assignment of Application 5638 by the USBR's promises to substitute water lost to Fresno County with water imported from the Sacramento-San Joaquin Delta. This contention, that the USBR obtained the assignment by promising to import water, is not supported by either the 1939 assignment or D-935. The assignment does not expressly rely on any promises.⁵ More importantly, the time for challenging the Department of Finance's action in

⁴ In 1959 when D-935 was adopted, the Department of Finance was the agency responsible for the actions specified under Water Code sections 10504 and 10505. Accordingly, it does not appear that the State Water Rights Board had the authority to change the assignment. The SWRCB currently holds the responsibility for taking any actions under sections 10504 and 10505.

⁵ Contrary to the assertion in WWD's petition, D-935 does not find that the Department of Finance assigned Application 5638 based on USBR promises, express or implied, to import water. Rather, D-935 states that the Department of Finance's assignment of Application 5638 without imposing any conditions reserving water for the county of origin may have been based on the conclusion that such conditions were unnecessary due to the independent applicability of Water Code sections 11460-11463. (D-935, pp. 67-68.)

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Mr. Stuart L. Somach

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making the assignment is long past. I will not speculate on whether there were promises that induced the assignment or whether any such promises have been broken. WWD has submitted no evidence in support of its contention.

D-935 bases the approval of the water right permit on terms and conditions in D-935 that require that the USBR provide water under contract to specified entities in Fresno County, including the City of Fresno and the Fresno Irrigation District, but D-935 does not require the water for these entities to come from the Delta as claimed by WWD. It appears that the water for these entities was to be provided from the Friant Project. There is no indication that the USBR has failed to provide the water to these entities as required under permitted Application 5638. D-935 also finds that certain existing water right holders in Fresno County who had been taking water from the San Joaquin River before the USBR built the Friant Project would receive substitute water supplies from the Delta. There is no indication that the USBR has failed to supply substitute water supplies to the senior water right holders involved. Based on the list of participants set forth in D-935 at pages 9 through 11, WWD did not participate in the proceeding leading to D-935. There is no indication in D-935 that any representations were made regarding the provision of water supplies to WWD.

In summary, the SWRCB cannot now make a partial assignment of Application 5638 to WWD because the application has long since been assigned, in full and unconditionally, to USBR. WWD argues that the SWRCB should initiate proceedings, on the SWRCB's own motion, to consider revocation of either the permit on Application 5638 or the assignment of Application 5638 to the USBR. The SWRCB has discretion as to whether to initiate such a proceeding, but WWD has not provided any persuasive reason why the SWRCB should do so. WWD may file a complaint against the USBR. If it does so, the Division of Water Rights will review the complaint.

2. The Issues under Application 5638 and Application 31153 Need Not be Considered Together

WWD argues that the SWRCB should delay acting on the petition of WWD for partial assignment and approval of Application 5638 until it has completed proceedings on Application 31153, and should include both applications in its proceedings. WWD argues that considering both applications together would allow the SWRCB more flexibility. As WWD points out, both applications are based on statutory provisions that may give the WWD seniority over uses of San Joaquin River water in areas outside of a protected area, if the SWRCB issues WWD a permit to appropriate water from the San Joaquin River. WWD argues that it can obtain a senior water right under Water Code section 10505 in connection with Application 5638, and can obtain a senior water right under Water Code section 11460, et seq., in connection with Application 31153.

Although both of the statutes involved provide a degree of protection for new water uses within protected areas, they differ in their requirements. As the Chief, Division of Water Rights,

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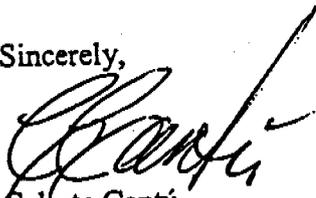
determined, no water is available for appropriation under Application 5638. Further, the legal and factual issues that the SWRCB would have to consider to make water available under Application 5638 and to then decide whether to allocate it to WWD would differ significantly from the issues presented under Application 31153 in conjunction with Water Code section 11460, et seq. Accordingly, there is no reason to delay acting in order to accommodate simultaneous consideration of both applications.

CONCLUSION

The Chief, Division of Water Rights, properly determined that the petition for partial assignment and approval of Application 5638 should be canceled. The petition for reconsideration fails to raise substantial issues related to the causes for reconsideration set forth in SWRCB regulations. Accordingly, the petition for reconsideration is dismissed.

If you have any questions about this matter, please contact Barbara J. Leidigh, Senior Staff Counsel, in the Office of Chief Counsel at (916) 341-5190.

Sincerely,



Celeste Cantú
Executive Director

cc: Westlands Service List

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6 Attorneys for Redwood Valley County Water District

7
8 **BEFORE THE STATE WATER RESOURCES CONTROL BOARD**
9 **OF THE STATE OF CALIFORNIA**

10
11 In the Matter of
12 **Mendocino County Russian River Flood**
Control and Water Conservation
13 **Improvement District and Redwood Valley**
County Water District, East Fork, Russian
14 **River, Mendocino County**

TESTIMONY OF DONALD
BUTOW

Hearing Date: February 9 & 10, 2005
Time: 10:00 am

15
16 I, Donald Butow, submit the following testimony:

17 I am currently the Chairman of the Board of Directors of Redwood Valley County
18 Water District (hereinafter "Redwood"). I have served on the Board of Directors since
19 1997 and was active in the District as a citizen in the affairs of Redwood since
20 approximately 1992 before joining the Board. My family owns and farms approximately 28
21 acres of vineyard within the District.

22
23 **I. Amount of Acreage Irrigated Within the District**

24 1.0 In 2003 and 2004 at the request of the State Water Resources Control Board
25 ("SWRCB")investigators I participated with the then District Manager David Wallen in
26 providing for a detailed inventory of the land irrigated within the District at the request of
27 the SWRCB. We performed that inventory by sending a questionnaire to all of our
28 irrigation customers asking specifically the amount of acreage irrigated out of their gross

1 acreage. As to those persons who did not respond, Mr. Wallen or I physically went to the
2 site and provided for physical measurements and estimates of the amount of land irrigated.
3 The prevailing crops, approximately 90% of irrigated acreage in the District, are vineyards.
4 Vineyardists know how many vines they planted per acre and their spacing, and thus there is
5 little room for error or variance in their acreage estimates. We concluded and reported to
6 the SWRCB that 2,832 acres were being irrigated in 2002. I believe that this estimate is
7 accurate and that there is no way that in the past the irrigated acreage could approach 3500
8 acres specified in the Permit 17593 or the 3300 acres specified in Order 79-15. The
9 reference in the Report of the Cease and Desist Order Paragraph 11, "but failed to include
10 evidence to support this," is unfair. No request was made to examine our files, the returns
11 on the questionnaires or the aerial photographs that we used to verify the acreage by the
12 SWRCB staff.

13

14 **II. Conservation Within Redwood**

15 2.0 Water is extremely expensive and capacity is scarce within Redwood and
16 therefore the utmost conservation is already utilized. The typical irrigation use within the
17 District for pasture or for vineyards is no more than one acre foot per year including frost
18 protection use. We reported to the SWRCB and I have observed that almost all vineyards
19 have installed misters for frost protection and utilized drip irrigation for irrigation. The
20 water costs payable to District are in excess of \$120.00 per acre foot for irrigation use
21 within the District, and because of the constraints in our delivery system, landowners are
22 encouraged to conserve both by cost and uncertainty that delivery capacity exists during
23 peak use periods. They have quickly installed the most efficient drip and frost systems and
24 developed their own on-site reservoirs to store rainfall. John O'Hagan of the SWRCB
25 showed I and Director Bob Parker a map identifying all ponds in Redwood.

26 2.1 I will discuss hereafter the concept of the SWRCB staff that in some
27 way Redwood has been deficient in that it has not developed 2,800 acre feet of off-stream
28 storage to be supplied from Lake Mendocino by pumping during periods in which the flood

1 conservation storage during winter months of November through May is above the flood
2 control levels. At this point in my testimony it should be sufficient to point out that when
3 there are rainy conditions that would allow reservoir storage to exceed the Army Corps
4 flood control level in Lake Mendocino, those rainy conditions exist in the area of Redwood
5 to the west of the mountains bounding Lake Mendocino. Trying to fill or refill a reservoir
6 by pumping from Lake Mendocino before the Army Corps can reduce the flood control level
7 back to the operational curve compared to using the runoff already existing on the west side
8 of the mountain is a questionable proposition.

9

10 **III. The Moratorium:**

11 3.0 In 1988, the Superior Court of Mendocino County was petitioned to order the
12 Department of Health Services to prohibit any further connections for domestic use to the
13 Redwood system on the basis that the water supply was not reliable. The Court granted the
14 Writ of Mandate. We have abided by the terms of that Order as has the Department of
15 Health Services except in hardship conditions made subject to a special act of the
16 Legislature applicable only to Redwood in which domestic customers who were served prior
17 to 1998 from wells which have failed. New irrigation connections are also not allowed and
18 have been prevented since 12/6/01 and limiting orifices have been installed on irrigation
19 connections where users seemed to be able to take more than their fair share of water and
20 capacity.

21

22 **IV. The Financial Condition of the District:**

23 4.0 The District borrowed from the Bureau of Reclamation under two P.L.984
24 loans in approximately 1979 - 1982 and constructed its system. That debt is now at a level
25 of approximately \$7.250 million. The financial repayment of that loan was largely based
26 upon anticipated increased municipal and industrial connections. With the moratorium and
27 with increased power costs and reduced operation and maintenance efficiency because of the
28 lack of new connections, the District has been unable to pay the Bureau loans since the mid

1 1980's. The Bureau understands this predicament and periodically does studies in regard to
2 the ability to pay. Special legislation by Congress froze the interest and payment
3 responsibilities after the moratorium was adopted by the Court. The most recent study
4 performed in 2000 by the Bureau is filed as Redwood Exhibit 10 and concludes that the
5 District has increased its water rates to the extent it is economically feasible to maintain the
6 District's operation, and that in the foreseeable future, the District may only be able to pay
7 small portions of the debt since vineyardists were shown by the Report to be driven out of
8 business if water costs were raised into the \$200/AF range in order to repay the debt.

9
10 **V. The Russian River Improvement District:**

11 5.0 The Pool Concept referred to in our 1972 Agreement with RRID
12 contemplated that RRID would cooperate with Sonoma County, that Sonoma County would
13 develop Warm Springs Dam and perhaps an enlarged Lake Mendocino Dam and that a
14 permanent non-surplus contract would be entered into whereby Sonoma would accept
15 Redwood paying for a portion of these facilities but taking water from Sonoma's water
16 right out of Lake Mendocino. During the 1980's and 1990's, disputes arose between RRID
17 and Sonoma in which RRID claimed that Sonoma had taken advantage of Mendocino County
18 interests and that "some form of water compensation" should be paid without charge by
19 Sonoma to Mendocino because of the large share of Lake Mendocino water which Sonoma
20 had received. In 1980, litigation arose leading to the Stipulated Judgment because this was
21 not the agreement that Redwood had entered into with RRID. RRID had promised to
22 cooperate with Sonoma and contract for a reliable water supply for Redwood. The
23 Stipulated Judgment in 1980 resulted in Redwood agreeing to pay in excess of \$275,000,
24 which has been paid (Redwood Exhibit 3) in consideration of RRID moving forward with a
25 permanent Agreement with Sonoma. Promptly upon our making the payments, RRID Board
26 members and staff recommenced a war of accusations against Sonoma and refused to pursue
27 the Pool Concept agreements. Redwood continued to pay RRID for water from RRID's
28 right. The money payable was always to be paid upon the condition that the Pool Concept

1 would be implemented. In the early 1990's RRID in fact was induced to finally enter into
2 negotiations for contractual use of Warm Springs water on an exchange basis which would
3 benefit both RRID landowners outside the 4,096 acre place of use along the litoral shores of
4 the river as well as Redwood and potentially remove the Writ of Mandate and moratorium
5 on domestic connections. However, RRID refused to enter into any agreement with Sonoma
6 that prevented RRID from making claims based upon Area of Origin, County of Origin or
7 some other novel theory that Sonoma should give up water from its entitlements from Lake
8 Mendocino in favor of Mendocino County interests from approximately 1995 to the current
9 date.

10 5.1 Redwood has attempted through Bob Beach, Manager of Sonoma and
11 now through Randy Poole, Manager of Sonoma to induce the Sonoma Board to deal directly
12 with Redwood because of the intransigence of RRID and its breach of its obligation to
13 Redwood to complete the Pool Concept for the benefit of Redwood. Decision 1610 of the
14 SWRCB showed the good faith of Sonoma. They obtained authority to serve Redwood from
15 their Lake Mendocino supply albeit the SWRCB staff recommended and the Board adopted
16 substantial constraints upon that service during periods of low flows upon the Russian River.
17 We accept those conditions. So that the Board will understand it, the approximate cost of
18 water from Sonoma on this Pool Concept basis is today approximately \$48.00 per acre foot,
19 the same cost payable by landowners within Sonoma County for the overall costs of their
20 water investment in Lake Mendocino and Warm Springs. We believe we can pay such costs
21 for a reliable supply.

22 5.2 In 2001-2002, we are informed that the SWRCB Board informed
23 RRID that it could not file for water on a priority basis due to County of Origin principles to
24 attempt to take water from Sonoma County's rights in Lake Mendocino unless RRID had
25 gone to license and had fully utilized the 8,000 acre feet of depletion allowed under its B
26 Permit. As a result, RRID commenced to enter into contracts with parties all over
27 Mendocino County without regard to the 4,096 Place of Use limitation and without regard to
28 the fact that frost protection water is not an included purpose of use of RRID's water. The

1 announced purpose was to use up the "surplus water," stop serving Redwood and take water
2 from Sonoma. Redwood pointed out to RRID, its staff, Board members and attorneys that
3 the 1980 Stipulated Agreement, the annual payments and the payment in excess of \$275,000,
4 and the commitment to the Pool Concept all required that RRID cooperate with Sonoma,
5 provide water from its 8,000 acre foot entitlement to Redwood; and that the Stipulated
6 Judgment to Redwood were being violated. Redwood and I personally pointed out in
7 conversations with the RRID Board Members, in attendance and with comments at their
8 Board meetings, and written communications that Sonoma would enter into a contract for its
9 available water with Redwood provided RRID cooperated. RRID persists and refuses to this
10 day to implement the Pool Concept.

11 5.3 In 2004 Mendocino County Water Agency (Mendocino) hired a new
12 and energetic Manager, Roland Sanford, from Solano County. Sonoma's staff, seeing the
13 continued predicament of Redwood and seeing that Redwood had continued to attempt to
14 develop storage and was in fact moving forward in a cooperative fashion despite the
15 obstructionism of RRID, finally agreed that although Sonoma did not want to enter into
16 piecemeal contracts directly with the numerous water entities within Mendocino County, it
17 would enter into an agreement centralized and administered by Mendocino for the benefit of
18 Redwood. That contract and its drafts commenced to be circulated in August of 2004 and
19 we believe it can be consummated shortly.

20 5.4 Among the terms of that agreement are (1) covenants that no new
21 irrigation or domestic demands will be accepted by the District by Redwood, mechanisms
22 for reporting and enforcement of that requirement, recognition by Sonoma that because the
23 1980 Stipulated Agreement required Redwood first use and pay water from the water
24 available to RRID's 8,000 acre feet that Sonoma will receive compensation only after
25 Redwood has first used RRID water available and an agreement by Sonoma that the monies
26 payable to Sonoma may initially be utilized for development of conservation and storage
27 projects within Mendocino County. We consider Sonoma's position on this matter to be
28 extremely fair and generous, and although it will not relieve the moratorium upon new

1 connections or solve the financing payment capacity problem with the Bureau, in some
2 circumstances, substantial reductions in water use with Redwood will be required and may
3 well start a cooperative spirit toward development of additional storage projects. RRID has
4 threatened to challenge the agreement and the CEQA process underlying this agreement.
5 The progress toward execution of this agreement appeared to be on a faster track before the
6 recent SWRCB hearings regarding Sonoma's conservation efforts and the SWRCB
7 commencement of these Cease and Desist proceedings.

8

9 **VI. Arbitration Under the 1980 Stipulation.**

10 6.0 Promptly upon declaration by RRID that it has "used all the 8,000 AF of the
11 yield" in December 2002, Redwood demanded Arbitration. The 1980 Stipulated Judgment
12 calls for the appointment of a Central Arbitrator who shall be a civil engineer. Because the
13 underlying problem has always been that RRID refuses to properly account for the water
14 used under its 8,000 AF depletion allowance, refused to credit or recognize that meter
15 readings are not equivalent to beneficial use, and that return flow must be subtracted from
16 the meter readings of the customer, Redwood envisioned the appointment of an arbitrator
17 who could lead all parties, including Sonoma and the SWRCB, toward a methodology of
18 accounting for water use within the Russian River Valley of Mendocino that would be
19 widely accepted and would provide for the basis for cooperation in both the operations of the
20 existing projects and future projects. Redwood submitted as the Central Arbitrator the
21 names of B. J. Miller, Joseph Summers, Jim Hanson and Bill Denby. RRID has refused to
22 agree to any such party and takes the position that no matter what the Arbitrator's
23 determination is, the determination and the work of the Arbitrator cannot be used as a basis
24 for determining a methodology for tracing water use by RRID in the future. RRID also
25 objected to the concept that a quasi-watermaster could be established through the Arbitration
26 proceedings. Because we estimate that the Arbitrator could work for several years and incur
27 costs which might be in the range of several hundred thousand dollars, if the work could not
28 be beneficial and utilized by all parties in the future, including Sonoma, and the Arbitrator

1 could only resolve the issue of whether in 2002 there was 8,000 AF fully utilized, we have
2 continued to demand our rights to Arbitration but have not sought that a Court order
3 arbitration. Our representatives have informally asked the SWRCB whether the
4 Arbitrator's work could be adopted as a requirement placed by the SWRCB on RRID.

5 6.1 There is the further problem that unless the Arbitrator's work can be
6 receptively accepted by the SWRCB and utilized as the basis for its procedures in processing
7 of complaints and similar proceedings, the money could be invested and simply lost. The
8 processing of the complaint and field investigation by the SWRCB staff in 2002 and 2003
9 did not provide that such a unified approach could grow out of the Arbitration. The Report
10 as a basis for the Cease and Desist Order does not address this potential. I am informed that
11 to have value the Arbitrator would at least have to know whether the SWRCB agreed that
12 the 4,096 acres upon which RRID may irrigate are located within the Army Corps of
13 Engineers plat areas as specified by the State Assignment, or whether or not there is a legal
14 basis for the SWRCB to ignore the requirements of the Department of Finance, and whether
15 frost protection use is prohibited under RRID's rights. RRID claims it may utilize water
16 for frost protection. There is no such purpose of use in RRID's rights. These issues need
17 to be resolved by the SWRCB.

18 6.2 Redwood has paid more than \$275,000 under the 1980 Stipulated
19 Judgment for implementation of that Judgment and a large amount annually for water use.
20 The promise of agreement to the Pool Concept with Sonoma has been breached. It is at least
21 arguable that if Redwood is utilizing any RRID water, we have prepaid for that water, and
22 that if RRID is going to breach its obligations to enter into an Agreement with Sonoma for
23 the benefit of Redwood, may apply portions of the \$275,000 together with interest toward
24 any water of RRID actually used. It should also be pointed out that the 1980 Stipulated
25 Judgment calls for Redwood to pay a rate based upon the normal operation and maintenance
26 costs of the District. There is nothing in the 1980 Stipulated Judgment which would allow
27 the collection of the legal costs and expenses of RRID pursuing a war upon Sonoma County.
28 We believe the most recent billings for water to Redwood have included our payment of a

1 portion of those costs, in violation of the terms if the 1972 Agreement and the 1980
2 Stipulated Judgment and therefore a substantial credit exists. .

3 6.3 When the Superior Court of Mendocino County asks the SWRCB if it
4 should refer the matter to the SWRCB for appointment of the Arbitrator, I am informed that
5 the most progress will be made if the SWRCB declines the reference, and, instead
6 recommends candidates to the Court for the Central Arbitrator who the SWRCB feels will
7 bring credibility to establishing a quasi-watermaster process and whose determinations the
8 SWRCB can accept. This arbitration can be effective only if Mendocino has the raw data to
9 show water use. The reason is that the experience with references to the SWRCB has
10 resulted in extreme cost, has developed little progress, and has caused a bureaucratic
11 morass, whereas this process needs immediate attention. In short, participate but don't
12 dominate. The SWRCB could also help in the County of Origin law issues. These are
13 interesting principles. RRID has been dominated for more than twenty years by the concept
14 that somehow it got taken advantage of when Lake Mendocino was developed, and that it
15 should get a portion of the Lake Mendocino supply in excess of the 8,000 AF at almost no
16 cost.

17 6.4 The Arbitrator appointed under the 1980 Stipulation would be forced
18 to conclude that Mendocino has no credible evidence of water use because of the absence of
19 record keeping. After the Cease and Desist hearing, nevertheless, the Redwood Board will
20 determine whether to go forward with the Arbitration on the basis of whether the SWRCB
21 seems willing to adopt the measurement criteria that the Arbitrator would develop. This
22 process has been set back by the Cease and Desist Order. We hoped that the SWRCB would
23 agree that the Arbitrator may have sufficient credentials to establish a meaningful quasi-
24 watermaster system in the Mendocino County portions of the Russian River and with
25 confirmation that the Army Corps' map limited the service area, allow that process to lead.
26 If the SWRCB had utilized the Cease and Desist against RRID to properly determine if the
27 RRID water rights are limited to non-frost protection use and may be used only upon the
28 4,096 acres within the area contemplated by the Department of Finance, this Arbitration

1 procedure as to future water use might have been helpful. The methodology for Redwood
2 tracing the source of water from Lake Mendocino on a daily basis exists, has been submitted
3 to the SWRCB by Redwood (Redwood Exhibit 11), and on a daily basis can be used but the
4 Cease and Desist Order issued without hearing against Mendocino actually makes it doubtful
5 that a proper data and water use tracing system will be kept by Mendocino. The notification
6 procedure to RRID and Sonoma as to which respective source is being used can be
7 implemented on a daily or a monthly basis based upon the availability of data.

8

9 **VII. What Is Redwood's Plan?:**

10 7.0 Redwood's plan which we are implementing is to develop storage at discrete
11 locations using Mill Creek flows and West Branch flows to store water in retired gravel
12 mining areas for off stream reservoir storage. The number of days between November and
13 April in which water can be extracted from Lake Mendocino, which water is above the flood
14 control curve, are extremely limited, and when it is wet enough in the East Fork, including
15 the Eel River, to provide for flows to store, it is generally wet enough to fill discrete
16 reservoirs. Our plan is to provide for the financing of those reservoirs by cooperation and
17 implementation with Mendocino County and Sonoma County. We have filed Applications
18 for four (4) reservoir sites and the protest period has commenced. Even with the limitations
19 of periods of available water supply to December and March, initial feasibility studies would
20 indicate that storage at a water cost of approximately \$100 to \$200 per AF/year above our
21 current rates of \$912/AF for domestic use and \$120/AF for irrigation water may be
22 achievable. In 1990, the engineering firm of Brelje & Race did a feasibility study in regard
23 to eight reservoir sites. That feasibility study indicated a cost range of \$300 to \$500 per AF
24 for 25 years, plus increases in operation and maintenance costs, and is submitted as
25 Redwood Exhibit 9. As a vineyardist, I believed those costs to be out of the range of
26 feasibility for the crop and domestic users within the District and a large project would
27 require solving the delinquencies to the Bureau. Smaller projects may be financially
28 possible, leaving the Bureau debt to be retired at a later date. The Bureau has been quite

1 understanding.

2 7.1 We believe if storage can be developed by Redwood, the moratoriums
3 can be lifted and we can recommence to make the payments required to the Bureau of
4 Reclamation as well as the debt service upon the storage, and progressively lead all parties
5 to a resolution. The key role the SWRCB can play is stop (a) claims that a Place of Use has
6 been violated by Redwood because annexation of lands occurred to the boundaries of the
7 District in the 1980's for public health reasons the place of use is the District boundaries; (b)
8 stop claiming that the area of Calpella should be added to the Place of Use of Redwood
9 because an emergency interconnection exists between the systems. (To the credit of your
10 staff, that demand has been dropped recently and is not included in the Cease and Desist
11 proceeding.); and (c) recognize that without resolution after a due process hearing of the
12 place of use and purpose of use restrictions on Mendocino no proper data system can be
13 developed. By allowing Mendocino to avoid a hearing in a closed door settlement, although
14 some progress may be possible through the weaknesses in the Order greater progress has
15 been delayed.

16 7.2 Because of the chaos caused by Mendocino's refusal to properly account
17 for its water use, it may be that the Board Staff interpret the annexation of these four areas as a
18 sign that Redwood, despite the surplus nature of the principal nature of its water supplies, was
19 not paying attention to conservation and simply expanding its irrigation uses. A careful
20 understanding of the four annexations will demonstrate that all Redwood was doing was
21 protecting public health and providing for the replacement of damaged or failed well supplies
22 for existing domestic uses on adjacent land. No real estate development or expansion of
23 domestic use and no irrigation use was encouraged or permitted by the annexations. The
24 acreage included in each of the parcels being annexed was only included because the District
25 cannot serve domestic water to lands located outside of the District boundaries and annexation
26 can only occur of whole Assessor Parcels. I will describe for you, on the basis that I am
27 informed and believe, the condition of the annexed parcels water demands and service from
28 the District:

1 7.3 The District has no irrigation water service pipelines in the Weibel,
2 Fetzer and Garzini property areas. Therefore annexation does not equate with greatly
3 increased water use.

4 7.3.1. Weibel Annexation, 1984. The Weibel property had a winery.
5 The well water quality was deemed not sufficient by local public health officials for the
6 visitors to the winery. Connection was requested to the District treated water supply. The
7 consumption has been approximately 440,000 gallons per month during the summer and fall.
8 Agricultural irrigation is done from wells and reservoirs they have.

9 7.3.2 Fetzer Annexation, 1984. Part of the Fetzer property was
10 already in the District. The Fetzer property was like Weibel already a developed winery with
11 visitor programs. Again, the well supply was deemed by the local public health officials to be
12 questionable or at least that the costs of constantly monitoring its quality would be so great that
13 it would be safer for the public to connect to our constantly monitored source. Again no
14 increased irrigated agriculture is served by Redwood on the Fetzer property annexed.

15 7.3.3 Garzini Property. Garzini was a property annexed to provide
16 water for one home and acquisition of a water tank site. No new homes were added. His well
17 was going bad. I am informed that the water supply to the home, a well, prior to the
18 annexation had failed.

19 7.3.4 Redwood Valley Rancheria, annexed in 1993. The Redwood
20 Valley Rancheria has homes for its Indian residents. The well was deemed by the Rancheria
21 and Department of Interior to be public health risk. We were asked to connect the service
22 through a 2 inch line. We are informed that the Rancheria has added some homes since the
23 Annexation we pointed out that despite native sovereignty, additional connections were not
24 permitted. We are alarmed by the increases in domestic water use showing up on the water
25 meter connecting the Rancheria and the SWRCB may be correct that we should curtail the
26 quantity of domestic water supplied. The DOHS of the State of California has been made
27 aware of this problem and of the question of whether a violation of the spirit of the Writ of
28 Mandate is violated by permitting increases in the quantity of water passing through this valve

1 to the Reservoirs.

2 7.4 In our response to James Kassel of June 4, 2002, we pointed out
3 that the domestic use per household during the peak use periods within the District is
4 approximately 280 gallons per day, well below the 400 to 450 gallons per day experienced by
5 other domestic systems. Our domestic water rate of \$2.80 per 1,000 gallons works out to
6 \$912.00 per acre foot and encourages conservation. Well water of poor quality is often used
7 for gardens and landscaping around homes, thus reducing use from Lake Mendocino.

8 7.5 In that response we also pointed out that in general, the vineyards within
9 Redwood are outfitted with drip tape or emitter systems for irrigation and a separate mister or
10 sprinkler system for frost protection. The average costs of those installations are \$1,000 to
11 \$2,000 per acre, and generally all of the vineyardists have gone quickly to these most modern
12 and efficient systems of water application because of the scarcity of water and capacity in
13 Redwood's system and the high cost of water. The typical full season irrigation use in
14 Redwood for both vineyards and pasture is about 1 AF per acre, including frost protection
15 water.

16 7.6 I worked with Dave Wallen after Keith Tiemann left as General Manager
17 to perform an inventory of the irrigation reservoirs within the District boundaries. We inquired
18 of the landowners whether if they were diverting from swales or channels whether they were
19 aware that a water right must be obtained from the SWRCB. We also inquired as to whether
20 reservoirs which were above ground (there are very few that do not divert surface flows to
21 storage) or pit type, and whether they would be interested in having the District own the
22 reservoirs and using the District's 2,800 AF storage right to store Lake Mendocino water.
23 Because there are severe limits on capacity during irrigation and frost protection season, almost
24 all reservoir owners want to control their own reservoir. Some reservoirs receive well water.
25 We can find nothing in the District records to indicate that the 2,800 acre feet of storage
26 permitted in Permit 17593 was to be in the form of taking over many of these private, pre-
27 existing reservoirs which already existed in 1979 when the water right of the District was
28 granted. Instead, the 2,800 AF permit was for Reservoir sites not directly serving

1 properties to be developed, which have been proven beyond our economic means.

2

3 **VIII. Conclusion:**

4 **8.0 A Cease and Desist Order against Redwood does not address the fundamental**
5 **problems. Mendocino wants to fight not cooperate with Sonoma and it does not wish to**
6 **comply with the promises made to Redwood. I am informed that the concept that a local area**
7 **can come back and obtain water for development which occurs in that local area after a**
8 **stronger entity from outside the area has developed water sources is a reasonable and good**
9 **concept. However, it does not apply when a party is provided a right to participate, a right**
10 **to contract, a right to pay a portion of the project costs, does so and receives 8,000 feet, and**
11 **now wishes to simply take a substantial amount of the yield from Sonoma. Redwood has**
12 **fully complied with all terms of Permit 17593 and no Cease and Desist Order can improve**
13 **its performance. If you were able to specifically direct RRID to stop fighting and to**
14 **cooperate in the further development of storage, the costs of which must be borne in**
15 **proportion to the benefits, and that the County of Origin and Area of Origin laws do not**
16 **provide a free ride for Mendocino, it would be extremely helpful in this instance. We fear**
17 **your settlement with Mendocino will only result in further obfuscation and disruption by**
18 **Mendocino.**

19 If called to testify in this matter, I could and would testify to each of the above matters,
20 except as to those matters stated upon information and belief, and as to those matters I believe
21 them to be true and correct.

22 Executed on this 12th day of January 2005 at Redwood Valley, California.

23

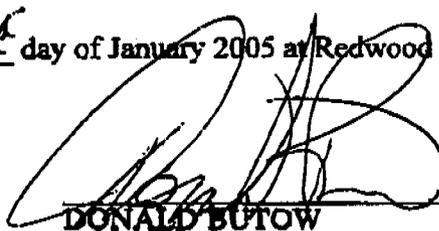
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**BEFORE THE STATE WATER RESOURCES CONTROL BOARD
OF THE STATE OF CALIFORNIA**

In the Matter of
**Mendocino County Russian River Flood
Control and Water Conservation
Improvement District and Redwood Valley
County Water District, East Fork, Russian
River, Mendocino County**

TESTIMONY OF KEITH TIEMANN

Hearing Date: February 9, 2005
Time: 10:00 am

I, Keith Tiemann, submit the following testimony:

My name is Keith Tiemann. My home address is 2350 Webb Ranch Road, Redwood Valley, California 95470 and my business address is 1400 Neotomas Avenue, Santa Rosa, California 95405, (707) 571-8005. I was employed by the Redwood Valley County Water District ("Redwood Valley") from October 1977 until December 2002. I occupied the position of General Manager for the period of 1979 - 2002, and was in charge of the water transmission, treatment, distribution and operations of the District during that period of time. I was elected as a Board Member in 2003.

1.0 I was not employed by the Redwood Valley County Water District at the time the original plan was submitted to the Bureau of Reclamation for funding pursuant to a P.L.984 35-year loan. That work was done primarily by Tudor Engineering and by members of the Board of Directors of Redwood Valley. However, in the course of my work with the District I have become acquainted with the project plans and proceedings that led up to the

1 approval by the Bureau of the financing plan. The District system consists of a pumping
2 station located on the banks of Lake Mendocino. Water is lifted approximately 300 vertical
3 feet through a pipeline which has an instantaneous capacity of approximately 13,200
4 gallons/minute through a bank of pumps, and delivered over the crest into the service area of
5 Redwood Valley County Water District. The water initially flows into an approximate 68
6 acre-foot terminal reservoir, from which reservoir water can be withdrawn for chlorination and
7 filtration treatment to be delivered through the domestic water distribution system, which is a
8 discrete series of pipelines serving today approximately 1,100 households or number of
9 services. Water pumped to the system can also be diverted around the 68 acre-foot reservoir
10 and directly into the irrigation system, or diverted from this raw water reservoir into the
11 irrigation system. This irrigation system delivers water largely to vineyard lands with most of
12 the vineyards having re-regulation or surface water storage reservoirs located upon their
13 property. Those water reservoir storage facilities are in some cases aboveground and do not
14 receive sheetflow or surface water flows from swales or channels. In those cases where water
15 is stored within the reservoir from sheet flow from defined channels, in general the private
16 landowners hold appropriate water right permits and licenses.

17 2.0 Except as to the 68 acre-foot reservoir of the District, the District does not store
18 water within these private reservoirs under its Permit, and the reservoirs are utilized only for
19 regulatory storage of District water purchased by the landowner.

20 4.0 I am informed and believe, and on that basis testify, that the original system
21 plan submitted by Tudor Engineering to the Bureau of Reclamation and funded as a P.L. 984
22 project, called for the obtaining of a permit to pump water from the East Fork pool of Lake
23 Mendocino at such times as there was unappropriated water. The only records regarding plans
24 to construct District reservoirs that I became acquainted with are references to several sites that
25 might store 500 ± acre-feet and the study in 1990 by Brelje & Race (Redwood Exhibit 9) that I
26 encouraged be done which identified sites both within and outside of the Redwood District.

27 5.0 The allocation of 2800 acre-feet for storage in Permit 17593 is not
28 accompanied by any document citing a point of diversion to storage or even a rate of

1 pumping for storage. Further, the fact that if it is wet enough to have water flows in Lake
2 Mendocino exceed the Army Corps flood storage elevation curve, then there are during such a
3 period abundant flows on the West side of the mountain lying between Redwood and Lake
4 Mendocino and it is probably not necessary to pump from Lake Mendocino. These facts and
5 the fact that the Pool Concept with Sonoma County had been committed to in a 1972
6 Agreement (Redwood Exhibit 1) between Redwood and RRID and was reiterated in the 1980
7 Stipulated Judgment (Redwood Exhibit 2) lead to my belief that the 2800 acre-feet of storage
8 designated in the Redwood Permit was designed to be located offstream, not necessarily in
9 Redwood, and stored water exchanged for the right to pump water from Lake Mendocino
10 permanently and reliably

11 “. . . exchanging the stored water for use by RRID or Sonoma for
12 water under their Lake Mendocino rights both in the summer
13 months and during periods when Permit 17593 [Redwood
14 Exhibit 8] could not be utilized”.

14 Redwood is again trying as it did in 1990 to locate a feasible and economic site for storage.

15 6.0 I am informed from the records of Redwood Valley that through a 1972
16 Principles of Agreement (Redwood Exhibit 1), the RRID committed to provide water from
17 its 8,000 acre-feet with payment to be made by Redwood Valley County Water District, and
18 RRID further committed, because Sonoma County Water Agency wished to deal with the
19 water agencies representing the County of Mendocino rather than an individual District
20 within the boundaries, to enter into agreements with Sonoma County to provide a water
21 supply to Redwood on a permanent basis through a Pooling Agreement.

22 7.0 I am informed that in 1979 the SWRCB adopted its Order WR 79-15
23 (Redwood Exhibit 6) which authorized the use of RRID water from Lake Mendocino within
24 Redwood Valley. A dispute arose in the period of 1979 to 1980 in which a lawsuit was filed
25 by the RRID against Redwood Valley. In 1980, that litigation was settled by a Stipulated
26 Judgment. The terms of the 1980 Stipulated Judgment (Redwood Exhibit 2) include a
27 requirement that RVCWD pay approximately \$275,000 to the RRID, which we understood
28 represented the amount of property tax assessment that Mendocino would have collected

1 from RVCWD lands had they been included in Mendocino from its inception, and in return,
2 RRID covenanted to provide the water not consumed by it under its 8,000 acre-feet
3 appropriative right to Redwood Valley annually, and further covenanted to enter into on behalf
4 of Redwood Valley a Contract with Sonoma County Water Agency providing for the pooled
5 use of water from Warm Springs Dam and Lake Mendocino rights of Sonoma County.

6 8.0 Pursuant to the Pool Plan to obtain water from Sonoma County Water Agency,
7 Sonoma petitioned the SWRCB, and pursuant to Decision 1610, I am informed and believe
8 that legal authority was provided to Sonoma to serve water to Redwood Valley by Sonoma
9 under certain circumstances (Redwood Exhibit 7). I am informed from the records of the
10 District that consistently since 1972 and even more strenuously since 1980 Redwood Valley
11 has requested that RRID, as it promised in its agreements with Redwood, enter into the
12 Pooling Agreement to provide water from Sonoma's rights to Redwood Valley and to
13 cooperate to share water resources that can be developed in new storage, including increases in
14 Lake Mendocino. From approximately 1988 until the current date, Redwood Valley has been
15 provided various explanations why RRID cannot and will not enter into a Pooling Agreement
16 with Sonoma as required under the 1980 Stipulated Judgment. Its objections have varied
17 between "it is first necessary to do an environmental impact report," to "Sonoma is demanding
18 an agreement that if water is provided from Sonoma rights, RRID will not pursue independent
19 water rights that would impact Sonoma's water rights use or yield," to claims that RRID is
20 entitled to part of Sonoma's Lake Mendocino water under a "County of Origin" claim, to
21 claims that Redwood Valley should pay RRID, not Sonoma, and an unwillingness to provide
22 for an accounting system of the amounts of water consumed under RRID's water right to 8,000
23 AF, or to identify the places and persons of use so that the amount of Sonoma water used, if
24 any, can be determined. The whole time since 1980, Redwood has paid for water to RRID and
25 paid a lump sum of \$276,992 in addition. In 2003 Redwood stopped paying until RRID
26 complied with the 1980 Stipulated Judgment requirements regarding the Pool Concept and the
27 water accounting requirements (Redwood Exhibit 3).

28 9.0 In 1989, the Mendocino County Superior Court entered an Order after an

1 interested landowner sued the Department of Health Services and the Redwood Valley,
2 claiming that the District did not have a dependable water supply under the regulations of
3 DOHS. The Court entered a Writ of Mandate, despite the testimony of Robert Beach,
4 Manager of Sonoma that Sonoma was willing to enter into a contract but from a policy point
5 of view would not contract directly with Redwood Valley, insisting upon contracting with the
6 RRID or Mendocino County Water Agency, who refused to enter into an agreement with
7 Sonoma County. That Writ of Mandate compelling Redwood Valley not to supply additional
8 domestic services within the boundaries of the District except under specific hardship
9 conditions remains in effect today. The District has been unable to continue its payments to
10 the Bureau of Reclamation and defaulted on its P.L. 984 loan. The balance owed upon the
11 loan is estimated by the Bureau at approximately \$7,250,000. A partial reason for this default
12 is the inability to make further domestic connections to maximize the efficiency of the system
13 as contemplated in the original Project Plan.

14 10.0 The Bureau of Reclamation Finance Department has periodically reviewed the
15 financial condition of the District and renders reports to the Bureau as to the ability of the
16 District to pay. The latest of these reports dated 2000 is attached as Redwood Exhibit 10 and
17 demonstrates that the current rate structure of the District is only sufficient to pay operation
18 and maintenance, repair and reconstruction costs of the District, and it is not feasible to service
19 the principle or interest (interest is owed on a percentage of the loan utilized for municipal or
20 domestic purposes only).

21 11.0 In approximately 1990, the District commissioned a study by the engineering
22 firm of Brelje & Race of potential reservoir sites to be constructed (Redwood Exhibit 9). That
23 Report identified approximately eight storage sites varying in size from 3000 acre-feet to
24 50,000 acre-feet which could be built and filled by local runoff. None of those alternatives
25 identified a reservoir site which was financially feasible for a combination of irrigation and
26 domestic use. The least cost per acre-feet on an amortized 25- or 30-year basis was
27 approximately \$300 per acre-feet. The Report utilizes a figure of construction costs per acre-
28 feet, and I was informed if these construction costs were amortized over 25 years with a typical

1 operation and maintenance cost, if the construction costs exceeded \$1,000 acre-feet, the
2 Redwood District could not afford the storage. Each of the sites exceeded that cost.

3 13.0 The determination of whether water is utilized from Redwood Valley's Permit
4 during the period of November through April of each year is made on a daily basis based upon
5 satisfaction of the conditions allowing diversion. During winter the demand is very low and
6 primarily domestic, and thus the pumps are operated only for short periods to fill the terminal
7 reservoir. Redwood Exhibit 11 is a copy of a tabulation form developed after I left the District
8 showing the ability to attribute the water either to Redwood Valley's water right or RRID's
9 water right or theoretically to Sonoma's right if RRID truthfully has used its full 8,000 AF.
10 Between November and May 1, if the conditions of flood reservation storage at or above the
11 Corps curve and flow at the confluence of 150 cfs is met, diversion under Permit 17593 is
12 permissible. However, if the water pumped out of Lake Mendocino by Redwood is not under
13 Redwoods Permit 17593, Redwood is essentially helpless in determining whether RRID or
14 Sonoma should be paid. Because RRID refuses or has failed to report its water use in a
15 scientific manner, it is impossible for Redwood Valley to know whether or not RRID has in
16 fact a depletion or consumption of 8,000 AF.

17 14.0 In 2003 and 2004, through the good offices of Mendocino Water Agency and
18 Roland Sanford, another attempt was made to work directly and to induce Sonoma to enter
19 into a contract directly with Redwood Valley for surplus water available from Sonoma's water
20 right pursuant to the terms of Decision 1610. After years of intransigence of RRID, Sonoma
21 indicated that it was willing to enter into a Surplus Water Contract, the latest draft of which is
22 attached as Redwood Exhibit 12, through Mendocino County Water Agency because RRID
23 would not cooperate with Sonoma and Redwood, and that agreement is in the course of
24 finalization with Sonoma. If this Sonoma Contract can be consummated and completed, a
25 right to use water can be provided if in fact RRID has lawfully consumed its 8,000 acre-feet in
26 a year until Sonoma growth overtakes its water supplies.

27 15.0 It should be noted that the proposed Contract of Sonoma contains a condition
28 that for a period of years, any money otherwise payable to Sonoma may be utilized for

1 conservation measures within Redwood Valley and other areas of Mendocino County
2 participating in the Contract with Sonoma County. In the opinion of the Redwood Board, the
3 Sonoma offer demonstrates their cooperative spirit and fairness in attempting to resolve the
4 serious problems that exist.

5 If called to testify in this matter, I could and would testify to each of the above matters
6 of my own personal knowledge and would do so, except as to those matters stated upon
7 information and belief, and as to those matters I believe them to be true and correct. Executed
8 on this _____ day of January 2005 at Redwood Valley, California.

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10 
11 KEITH TIEMANN

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