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COUNTY
WATER
DISTRICT**

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VIA EMAIL & U.S. MAIL
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

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RE: *Semitropic Water Storage District Petition to Revise the Fully Appropriated Stream Designation of the Kings River*

Dear Chairman Esquivel and Honorable Board Members:

On behalf of the Kings County Water District (District), I submit this letter in **opposition** to Semitropic Water Storage District's (Semitropic) Petition to Revise the Fully Appropriated Stream Status of the Kings River (FAS).

The District is a county water district formed under the County Water District Law at Water Code §§ 30000 et seq. The District's service area encompasses approximately 150,000 acres in the northeast portion of Kings County. The purposes of the District are to conserve the water resources including the groundwater resources available for the farmers within the District's service area. These purposes have been recognized by the California Supreme Court in Atchison etc. Ry. Co. v. Kings County Water District (1956) 47 Cal. 2d 140, 143.

The Kings County Water District was organized February 24, 1954, under the County Water District Law. (Wat. Code, §§ 30000-33901). It comprises approximately 150,000 acres. It was organized primarily to protect the underground water supplies of the area from excessive pumping and to guard against the transportation of the underground water to areas outside the district. Its purposes and functioning generally have been in accordance with the aims and methods approved by law for such an organization. (Coachella Valley County Water Dist. v. Stevens, 206 Cal. 400 [274 P. 538]; Wat. Code, §§ 31020-31033.)

The District is a stockholder in Peoples Ditch Company, Last Chance Water Ditch Company and Lemoore Irrigation and Canal Company who are all pre-1914 surface water right holders on the Kings River. The District also has a long history of developing conjunctive use programs and projects to maximize the beneficial use of surface water in its service area and thereby sustaining the local correlative groundwater resources.

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In addition, the District includes Disadvantaged Communities (DACs) in separate enclaves within its service area, namely the unincorporated communities of Armona, Home Garden and Hardwick. California law recognizes the need to address water supply and water quality issues for DACs and their needs cannot be ignored in evaluating the Semitropic FAS petition.

Semitropic's FAS petition is submitted in an attempt to secure a right to divert Kings River waters for use in Kern County – outside the watershed of origin and outside the existing place of use for Kings River water rights. The Kings River is the primary surface water source to the communities and economy within the three counties that comprise the watershed of origin: Fresno, Kings, and Tulare Counties. Groundwater Sustainability Agencies (GSAs) throughout those counties are now engaged in the process of addressing groundwater sustainability, and the use of Kings River flood flows is a crucial element of those sustainability efforts. The District is a member of the Mid-Kings River GSA (MKR GSA) in the Tulare Lake Subbasin which is a joint powers authority composed of the District and the City of Hanford (and subject to a MOU with Kings County).

Public comments submitted on the Semitropic Project establish that the magnitude of historic Kings River flood flows are unfortunately less than the estimated groundwater overdraft in the portions of Fresno, Kings, and Tulare Counties that are in the Kings River service area. Planning efforts by various levels of regional and local government, including the District and the MKR GSA, are underway to fully utilize Kings River flood flows for addressing Sustainable Groundwater Management Act (SGMA) impacts and anticipated growth. It only makes sense that Kings River water should be available to meet these needs within the watershed of origin.

Both the District and MKR GSA are in the process of developing projects to beneficially use Kings River floodwater in order to avoid SGMA's undesirable results. The District and MKR GSA are contemplating an aggressive 20-year program to develop approximately 40 recharge basins covering roughly 1,500 acres of very sandy property to recharge these flows in wet years in order to achieve sustainability. The District's Board has currently authorized the pursuit and development of the first 500 acres of these projects, and earlier this year the District purchased the first 80 acres of property related to this effort. These projects are being developed to divert and beneficially use wet year flood water through established water rights on the Kings River. If the State Board grants the Semitropic petition and allows Semitropic to acquire a surface water right for its project, the State Board's action will be putting a Kern County agency ahead of the District and all the other local agencies that already have plans to use Kings River flood waters to achieve SGMA compliance. The outcome of that scenario will be that SGMA compliance would have to be accomplished through the retirement of farmland rather than the development of recharge basins. It is foreseeable that taking farmland out of production will cause substantial economic and social dislocation to the communities where the land retirement occurs. This has literally been what the District and the MKR GSA have been working to avoid since the State passed SGMA in late 2014. In short, the impacts of the State Board's decision for the District and its service area are potentially extremely significant.

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The Semitropic Project seeks to divert Kings River flood flows out of the watershed. By exporting water from critically overdrafted groundwater basins, the Semitropic project would significantly impair the ability of the regional GSAs to comply with SGMA without resorting to removing significant lands from production and limiting urban growth. The Semitropic Project would negatively impact the lives and livelihoods of many people in Fresno, Kings, and Tulare Counties who depend on Kings River waters.

An example from history may help explain this. Several years ago, before SGMA was enacted, the Tulare Lake Basin Water Storage District and the Dudley Ridge Water District in southern Kings County had landowners that sold portions of the agencies' State Water Project (SWP) Table A entitlement attributable to their lands. The landowners sold the SWP entitlement to southern California municipal water agencies for significant sums of money. As Kings County is a very rural County that is dominated by agriculture, the area is very susceptible to the efforts of other parties that have much greater financial resources. The lands that historically had been irrigated by the SWP surface water were largely kept in agricultural production and groundwater was used to irrigate the land instead of the SWP surface water. The impact of these SWP sales was that the sustainability of groundwater resources in the region suffered because there was more groundwater pumping and less available surface water. In the case of the Semitropic Project, the Kings River surface water is planned for many irrigation and recharge efforts that are already under development throughout the Kings and Tulare Lake Subbasins. If the Kings River supplies available to existing water right holders are diminished, it will reduce what can be done to offset overdraft and in order to comply with SGMA requirements GSAs will instead have to reduce the amount of groundwater landowners can use (fallow lands that economically support local DACs).

Also, the region has been dealing with reduced surface water supplies in connection with Federal and State water supply projects for some time. As the availability of SWP and Central Valley Project (CVP) supplies have been reduced by others, Kings River supplies have become far more critical to local agencies and communities. Unfortunately, the limited financial resources of the area has only allowed for a slow development of needed projects, but the District has plans for additional projects and efforts over the next two decades for its portion of the surface water that is currently under existing defined rights. As with many local parties that are trying to address the State's SGMA regulations, the District has seen many Kings River water right holders manage available supplies differently and shift to paradigms where flood water will be used to a much greater extent than in previous eras.

California is the first state in the nation to enact a law recognizing that "every human being has the right to safe, clean, affordable and accessible water" – also known as "the human right to water." The Kings River service area includes 51 "Disadvantaged Communities" – areas which most suffer from a combination of economic, health, and environmental burdens – with a population of 646,236. In addition, the area includes 59 "Severely Disadvantaged Communities" with a population of 84,510. In all, 69 percent of the population that relies upon the Kings and Tulare groundwater basins lives in a Disadvantaged Community or Severely Disadvantaged Community.

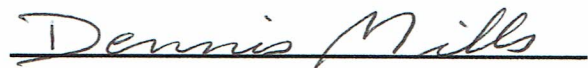
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The Semitropic Project has the potential to deprive DACs access to water and jeopardize long-term regional/local sustainability. DACs already disproportionately suffer from poverty, high unemployment, asthma and heart disease, as well as air and water pollution, and the Semitropic Project will only make already-difficult circumstances worse and threaten “the human right to water.”

Further, contrary to Semitropic’s claims, the Project neither reduces nor eliminates flood risk. Rather, it increases the potential for flooding on the South Fork of the Kings River. Also, the District understands that Semitropic has provided no information to show that they would not have access to flood flows from the Kern River or other unregulated streams in Kern County that could be causing flood damage in their watershed of origin at the same time Semitropic would requesting Kings River supplies.

For these stated reasons and more, the Kings County Water District respectfully requests that the State Water Resources Control Board deny Semitropic’s FAS petition. The Semitropic FAS petition and Project are not in the public interest. Instead, the Project would only harm groundwater sustainability efforts, and threaten access to safe, clean, affordable and accessible water.

Sincerely,



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KINGS COUNTY WATER DISTRICT

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