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BEFORE THE

CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

In the Matter of ENFORCEMENT ACTION
ENF01951 – ADMINISTRATIVE CIVIL
LIABILITY COMPLAINT REGARDING
UNAUTHORIZED DIVERSION OF WATER
FROM THE INTAKE CHANNEL TO THE
BANKS PUMPING PLANT (FORMERLY
ITALIAN SLOUGH) IN CONTRA COSTA
COUNTY

SWRCB Enforcement Action ENF01951

WRITTEN DIRECT TESTIMONY
OF EDWIN ROSS PATTISON

I, Edwin (“Ed”) Ross Pattison, declare:

1. If called as a witness, I can and would competently testify to the following facts,
all of which are within my own personal knowledge.

2. I presently serve as the General Manager of Mountain House Community Services
District (MHCS D). I have served as the General Manager of MHCS D for a little over one year.
As the General Manager, I serve as MHCS D’s chief administrative officer and implement
policies set by the MHCS D Board of Directors. I enforce laws, ordinances, and master
restrictions and provide day-to-day executive oversight and management of all MHCS D
departments. I am authorized to negotiate contracts for services on behalf of MHCS D. I report
directly to MHCS D’s Board of Directors.

3. MHCS D is a Community Services District duly formed on April 16, 1996
pursuant to Division 3 (commencing at Section 61000) of Title 6 of the Government Code.

WRITTEN TESTIMONY OF EDWIN ROSS PATTISON

1 MHCSD was created to provide infrastructure and municipal services to Mountain House, a
2 master planned community within an unincorporated area in San Joaquin County consisting of
3 approximately 4,784 acres (7.5 square miles), as designated on the San Joaquin County General
4 Plan Land Use Map. Interstate 205 forms the southern boundary, Old River forms the northern
5 boundary, and the Alameda County line runs along the western boundary. Along the eastern edge
6 is Mountain House Parkway and the Wicklund Cut. The city limits of Tracy are about 3.5 miles
7 to the east, and the city of Livermore is located about 9 miles to the west.

8 4. MHCSD currently serves a population of approximately 15,000 residents.

9 5. Pursuant to its formation act, the MHCSD is responsible for providing 18 services
10 to the Mountain House community: water service, sewer service, garbage service, fire protection,
11 public recreation, street lighting, library buildings and services, convert utilities to underground,
12 police protection, road maintenance, transportation services, graffiti abatement, CC&Rs
13 enforcement, flood control protection, pest and weed abatement, wildlife habitat mitigation,
14 telecommunication services, and dissemination of information.

15 6. MHCSD owns and operates a Water Treatment Plant (WTP) with a structure
16 designed for 20 million gallons per day (mgd), mechanical features designed for 15 mgd and a
17 permitted treatment capacity of 12.5 mgd. The WTP uses state-of-the-art technology to treat
18 surface water diverted from Old River to drinking water standards. The WTP contains two 9-
19 million gallon water storage tanks on-site, a pressure distribution system consisting of
20 approximately 45 miles, along with an onsite pump station and an offsite booster pump station
21 presently in operation and two offsite storage reservoirs at 3.7 million gallons each. MHCSD uses
22 the latest technology to treat and deliver fresh, clean water for its residents.

23 7. MHCSD owns and operates a 3 million gallon per day state-of-the-art technology
24 Wastewater Treatment Plant (WWTP). The WWTP treats wastewater to permit requirements
25 prior to discharging the water back to Old River. With the severe drought upon the State,
26 discussions have begun on how to cost-effectively recycle this Title 22 reclaimed water. The
27 WWTP utilizes a two-tank SBR process for biological oxidation of organics and secondary
28 clarification. Tertiary treatment is accomplished through the SBR, Aquadisk cloth media

1 filtration, and advanced UV disinfection. The Mountain House Water Reclamation Facility is
2 among the first facilities in the United States to utilize a UV Disinfection System certified under
3 NWRI to meet California Title 22 requirements.

4 8. Fire hydrants within the Mountain House community are spaced at 500-foot
5 intervals and serve as a critical firefighting resource to combat urban residential,
6 commercial/retail, and industrial, and wildland fires in and around the community, and within the
7 region. Currently, the MHCSO contains about 500-fire hydrants that it must maintain and
8 operate. In light of the drought and the dry conditions, fire suppression has been a priority.

9 9. The MHCSO currently services over 4,500 water and sewer connections.
10 Approximately 300-400 new homes are built in Mountain House every year. The community of
11 Mountain House is in its early stages of growth, at approximately 20-percent build out.

12 10. During 2015, the Average Residential Gallon Per Day (R-GPCD) water
13 consumption was estimated at 99 R-GPCD. This is the lowest R-GPCD in the northern San
14 Joaquin Valley despite being located in a geographic area with high summer evapotranspiration
15 rates. All water use connections in Mountain House are 100-percent metered.

16 11. Mountain House was designed to use low water use landscaping and irrigation
17 technology. Low water use landscaping design and vegetation is always evaluated to achieve
18 higher water use savings, including irrigation technology. Irrigation technology now includes
19 state-of-the-art technology, such as climate-based irrigation controllers, Ecomat sub-surface
20 irrigation for turf, and fix-based water meter transmitters that enable water users to view real-time
21 water usage, send alerts of high water use, and setup rules to communicate with the water user via
22 e-mail and text. This added level of sophistication assists water users in Mountain House to
23 better manage water use and help conserve water for the overall community and the State.

24 12. While certain lands within MHCSO possess riparian water rights to water from
25 Old River, MHCSO has historically relied solely on BBID for its municipal water supply.
26 MHCSO annually contracts with BBID to deliver approximately 9,813 acre-feet of raw water per
27 year. A true and correct copy of the contract by BBID and MHCSO in 1994 is Exhibit BBID243.

28 13. BBID is a wholesaler of water to MHCSO and does not provide water directly to

1 Mountain House residents. BBID is under no obligation to deliver water to Mountain House or to
2 locate an alternate source of water for Mountain House.

3 14. MHCSD was responsible for the design and construction of the MHCSD diversion
4 facility, but ownership was turned over to BBID for operations and maintenance. Water
5 diversions are metered at the diversion facility, the influent meter to the WTP, and at all
6 connections throughout the community.

7 15. I am informed and believe that, on or around June 4, 2014, BBID's General
8 Counsel contacted the SWRCB to set up a meeting to discuss potential enforcement issues
9 relating to BBID's continued supply of water to Mountain House with for health and safety and
10 fire protection.

11 16. I am informed and believe that, on or around June 24, 2014, BBID's General
12 Counsel emailed Michael Lauffer, Andy Sawyer, and John O'Hagan regarding, in part, BBID's
13 efforts to locate an alternate source of water supply for Mountain House.

14 17. MHCSD began meeting with BBID in 2014 to discuss contingency plans for
15 Mountain House's water supply in case of curtailment. Due to the ongoing drought conditions in
16 California, the identification and negotiation of alternative water supplies was complicated by
17 worsening statewide drought conditions, reservoir water storage levels, and instream flow and
18 temperature maintenance requirements. As curtailments issued and litigation ensued, water
19 supplies tightened and locating alternative water supplies became nearly impossible.

20 18. MHCSD continued to meet with BBID early in 2015 to discuss contingency plan
21 progress as MHCSD initiated short-, mid-, and long-term water supply and diversion discussions
22 with neighboring San Joaquin County agencies, including San Joaquin County, and upstream
23 entities within the Sacramento and San Joaquin River watersheds with senior water and storage
24 rights, along with access to conjunctive use operations, to ensure a reliable water supply to the
25 community in case of (1) an emergency disaster, such as an earthquake, or (2) a prolonged
26 drought, such as the current four-year drought.

27 19. MHCSD continued to identify and negotiate alternative water supplies as a
28 contingency plan without knowledge and prior to the SWRCB curtailment action.

1 20. In early June 2015, MHCSD further explored steps to pursue a temporary permit
2 for Mountain House to capture treated wastewater under Water Code section 1485. Water Code
3 section 1485 allows municipalities to obtain a permit for diversions from the San Joaquin River in
4 the same amount as their permitted discharges into the river. This option was not viable because
5 Water Code section 1485 applies only to discharges into the San Joaquin River, and MHCSD's
6 wastewater discharges into Old River, which is a tributary to, but not itself, the San Joaquin
7 River. A legislative amendment to correct this oversight is an option MHCSD is considering to
8 help ensure water supply reliability to the community.

9 21. After the SWRCB issued its curtailment notice relating to BBID's pre-1914
10 appropriative water right on June 12, 2015, BBID informed MHCSD of its intent to shut down
11 the MHCSD diversion facility on June 23, 2015. Because BBID has been the sole supplier of
12 municipal water to Mountain House, MHCSD had to scramble to purchase emergency water from
13 another supplier. A true and correct copy of the letter MHCSD received from BBID is Exhibit
14 BBID244.

15 22. MHCSD was unable to pursue a temporary permit under Water Code section 1202,
16 which allows temporary permits for unappropriated water, to replace the municipal water supply
17 generally provided by BBID because the watershed was curtailed.

18 23. After receiving BBID's letter, I approached South San Joaquin Irrigation District
19 (SSJID) to purchase 1,800 acre-feet of water. On June 19, 2015, I spoke with John O'Hagan,
20 Assistant Deputy Director for Water Rights at the SWRCB, and Jeff Shields, General Manager of
21 SSJID, regarding a potential water transfer from SSJID to Mountain House in a volume of 1,800
22 acre-feet.

23 24. On June 22, 2015, John O'Hagan emailed Kelley Geyer (Director of
24 Administration at BBID) and me to inform us that, because BBID was the sole provider of
25 Mountain House's water supply, the SWRCB "would expect BBID to pump water to Mountain
26 House for minimal health and safety needs of the community." In this regard, Mr. O'Hagan
27 stated the SWRCB estimates this amount to be "50 gallons per person per day" for health and
28 safety, including fire suppression. Mr. O'Hagan further stated that BBID would need to complete

1 a compliance certification form to document its diversion of water for Mountain House's health
2 and safety needs. A true and correct copy of the e-mail is Exhibit BBID245.

3 25. MHCSD receives water from BBID via a pump in one of BBID's pump houses on
4 the intake channel to the State Water Project. Generally, MHCSD controls those pumps,
5 according to demands, via SCADA. So, while BBID can view the operation of the pump that
6 delivers water to MHCSD via SCADA, MHCSD actually operates the pump. BBID can,
7 however, override MHCSD's operation of the pump. In this regard, MHCSD asked BBID that it
8 not take any action to restrict the operation of the pump that provides water to MHCSD. MHCSD
9 did not want BBID to approximate what "50 gallons per person per day" would be for the
10 Mountain House community and then restrict the pumps accordingly. MHCSD made the
11 decision to ask BBID not to override MHCSD's operation of the pump because the very existence
12 of the community of Mountain House was dependent on that that water supply.

13 26. On June 23, 2015, SSJID's board voted to approve the sale of 1,800 acre-feet of
14 water to MHCSD. SSJID started releasing water to Mountain House under the agreement dated
15 June 30, 2015. A true and correct copy of the Water Transfer Agreement is Exhibit BBID246.

16 27. On July 28, 2015, the SWRCB's Division of Drinking Water issued Compliance
17 Order No. 01-10-15R-005 to MHCSD. The compliance order was issued because MHCSD
18 allegedly violated Health and Safety Code section 116555, subdivision (a)(3), which requires
19 public water systems to provide "a reliable and adequate supply of pure, wholesome, healthful,
20 and potable water." The SWRCB's Division of Drinking Water determined that, because of the
21 uncertain state of water supply due to curtailments and MHCSD's temporary agreements to
22 secure an alternate source of water, MHCSD was at risk of failing to provide its customers with a
23 reliable and adequate supply of water. The compliance order required MHCSD to produce a plan
24 for complying with the conservation regulation, a Source Capacity Planning Study including a
25 plan for meeting projected demand and an implementation schedule, and quarterly reports on the
26 status of compliance with the Source Capacity Planning Study. A true and correct copy of the
27 Compliance Order is Exhibit BBID247.

28 28. In response to the Compliance Order, MHCSD submitted two responsive reports

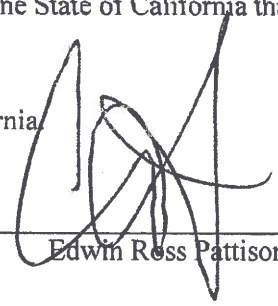
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in fulfillment of its requirements: (1) water conservation compliance and (2) water supply options analysis.

29. MHCSD continues to diligently pursue alternative water supplies; however, given the drought, statewide regulatory mandates, such as the Sustainable Groundwater Management Act, as well as other existing mandates, this endeavor continues to prove difficult, costly, and challenging.

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

Executed on this 17 day of 2016, at Modesto, California



Edwin Ross Pattison