

**Proposed Cease and Desist Order Hearing**

Check one of the following:

Gallo Vineyards, Inc.  
 Mark and Valla Dunkel  
 Mussi et al.  
 Yong Pak and Sun Young

scheduled to commence  
 May 5, 2010

**Exhibit Identification Index**

Modesto Irrigation District, State Water Contractors,  
 PARTICIPANT: and San Luis & Delta-Mendota Water Authority

Exhibit Identification Number	Exhibit Description	Status of Evidence		
		Introduced	Accepted	By Official Notice
MSS 1	Testimony of Stephen R. Wee			
MSS 1A	Wee Statement of Qualifications			
MSS 1B	Chain of Title Summary			
MSS 1C	Map #162-090-01-C			
MSS 1D	Map #162-090-01-E			
MSS 1E	Map #162-090-01-F			
MSS 1F	June 8, 1891, Deed			
MSS 1G	Map #162-090-01-G			
MSS 1H	December 14, 1909, Deed			
MSS 1I	Map #162-090-01-H			
MSS 1J	Map #162-090-01-I			
MSS 1K	September 29, 1911, Agreement			
MSS 1L	September 29, 1911, Agreement			
MSS 2A	Sequencing Map 1			
MSS 2B	Sequencing Map 2			
MSS 2C	Sequencing Map 3			
MSS 2D	Sequencing Map 4			

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Exhibit Identification Number	Exhibit Description	Status of Evidence		
		Introduced	Accepted	By Official Notice
MSS 2E	Sequencing Map 5			
MSS 2F	Sequencing Map 6			
MSS 3	Testimony of Philip Johnson			
MSS 3A	Johnson Statement of Qualifications			
MSS 3B	August 1937 aerial photograph			
MSS 3C	May 1940 aerial photograph			
MSS 3D	July 1957 aerial photograph			
MSS 3E	June 1963 aerial photograph			
MSS 3F	August 1963 aerial photograph			
MSS 3G	May 1968 aerial photograph			
MSS 3H	June 1985 aerial photograph			
MSS 3I	June 1987 aerial photograph			
MSS 3J	March 1993 aerial photograph			
MSS 3K	September 2000 aerial photograph			
MSS 4	Testimony of David A. Goldhamer, Ph.D			
MSS 4A	Goldhamer Statement of Qualifications			
MSS 4B	Consumptive Use Chart			

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PROOF OF SERVICE

I Gilberto J. Castro declare as follows:

I am over 18 years of age and not a party to the within action; my business address is 400 Capitol Mall, Suite 1800, Sacramento, California, I am employed in Sacramento County, California.

On April 1, 2010, I served a copy of the following documents:

**EXHIBIT IDENTIFICATION INDEX AND EXHIBITS FOR HEARING  
REGARDING ADOPTION OF DRAFT CEASE AND DESIST ORDER  
AGAINST: MARK AND VALLA DUNKEL (MIDDLE RIVER) - SAN JOAQUIN  
COUNTY - SCHEDULED TO COMMENCE ON MAY 5, 2010**

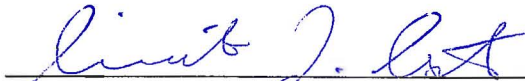
On the following interested parties in the above-referenced case number to the following:

**SEE ATTACHED SERVICE LIST**

BY MAIL

By following ordinary business practice, placing a true copy thereof enclosed in a sealed envelope, for collection and mailing with the United States Postal Service where it would be deposited for first class delivery, postage fully prepaid, in the United States Postal Service that same day in the ordinary course of business.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on April 1, 2010, at Sacramento, California.

  
\_\_\_\_\_  
Gilberto J. Castro

Service List

<p>MARK AND VALLA DUNKEL  c/o John Herrick, Esq.  4255 Pacific Avenue, Suite 2  Stockton, CA 95207  <a href="mailto:jherlaw@aol.com">jherlaw@aol.com</a></p> <p>c/o Dean Ruiz, Esq.  Harris, Perisho &amp; Ruiz  3439 Brookside Road, Suite 210  Stockton, CA 95219  <a href="mailto:dean@hpllp.com">dean@hpllp.com</a></p>	<p>DIVISION OF WATER RIGHTS PROSECUTION TEAM  c/o David Rose  State Water Resources Control Board  1001 I Street  Sacramento, CA 95814  <a href="mailto:DRose@waterboards.ca.gov">DRose@waterboards.ca.gov</a></p>
<p>CENTRAL DELTA WATER AGENCY  c/o Dean Ruiz, Esq.  Harris, Perisho &amp; Ruiz  3439 Brookside Road, Suite 210  Stockton, CA 95219  <a href="mailto:dean@hpllp.com">dean@hpllp.com</a></p>	<p>SOUTH DELTA WATER AGENCY  c/o John Herrick  Attorney at Law  4255 Pacific Avenue, Suite 2  Stockton, CA 95207  <a href="mailto:jherlaw@aol.com">jherlaw@aol.com</a></p> <p>c/o Dean Ruiz, Esq.  Harris, Perisho &amp; Ruiz  3439 Brookside Road, Suite 210  Stockton, CA 95219  <a href="mailto:dean@hpllp.com">dean@hpllp.com</a></p>
<p>SAN JOAQUIN COUNTY AND THE SAN JOAQUIN COUNTY FLOOD CONTROL &amp; WATER CONSERVATION DISTRICT  c/o DeeAnne M. Gillick  Neumiller &amp; Beardslee  P.O. Box 20  Stockton, CA 95201-3020  <a href="mailto:dgillick@neumiller.com">dgillick@neumiller.com</a>  <a href="mailto:tshepard@neumiller.com">tshepard@neumiller.com</a></p>	<p>STATE WATER CONTRACTORS  c/o Stanley C. Powell  Kronick, Moskovitz, Tiedemann &amp; Girard  400 Capitol Mall, 27th Floor  Sacramento, CA 95814  <a href="mailto:spowell@kmtg.com">spowell@kmtg.com</a></p>
<p>MODESTO IRRIGATION DISTRICT  c/o Tim O'Laughlin  Ken Petruzzelli  O'Laughlin &amp; Paris LLP  117 Meyers St., Suite 110  P.O. Box 9259  Chico, CA 95927-9259  <a href="mailto:towater@olaughlinparis.com">towater@olaughlinparis.com</a>  <a href="mailto:kpetruzzelli@olaughlinparis.com">kpetruzzelli@olaughlinparis.com</a></p>	<p>SAN JOAQUIN FARM BUREAU  c/o Bruce Blodgett  3290 North Ad Art Road  Stockton, CA 95215-2296  <a href="mailto:director@sjfb.org">director@sjfb.org</a></p>



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CALIFORNIA DEPARTMENT OF WATER  
RESOURCES  
c/o Erick Soderlund  
1416 Ninth Street, Room 1118  
Sacramento, CA 95814  
[esoderlu@water.ca.gov](mailto:esoderlu@water.ca.gov)

# MSS Exhibit 1

1 Timothy O'Laughlin, State Bar No. 116807  
Kenneth Petruzzelli, State Bar No. 227192  
2 O'LAUGHLIN & PARIS LLP  
P.O. Box 9259  
3 Chico, California 95927  
Telephone: (530) 899-9755  
4 Facsimile: (530) 899-1367

5 Attorneys for MODESTO IRRIGATION DISTRICT

6 Clifford W. Schulz, State Bar No. 039381  
Stanley C. Powell, State Bar No. 254057  
7 KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD  
A Professional Corporation  
8 400 Capitol Mall, 27th Floor  
Sacramento, California 95814  
9 Telephone: (916) 321-4500  
Facsimile: (916) 321-4555

10 Attorneys for STATE WATER CONTRACTORS

11 Jon D. Rubin, State Bar No. 196944  
12 Valerie C. Kincaid, State Bar No. 231815  
DIEPENBROCK HARRISON  
13 A Professional Corporation  
400 Capitol Mall, Suite 1800  
14 Sacramento, CA 95814-4413  
Telephone: (916) 492-5000  
15 Facsimile: (916) 446-4535

16 Attorneys for SAN LUIS & DELTA-MENDOTA  
WATER AUTHORITY

17  
18 BEFORE THE CALIFORNIA

19 STATE WATER RESOURCES CONTROL BOARD

20  
21 In the Matter of Draft Cease and Desist  
22 Order No. 2009-00XX-DWR Against Mark  
and Valla Dunkel  
23

**TESTIMONY OF STEPHEN R. WEE**

24  
25 My name is Stephen R. Wee and I am a principal with JRP Historical Consulting, LLC.  
26 In this position, I have served as a consulting historian for major historical research investigations  
27 covering a wide range of topics, including services as an expert historian in legal cases involving  
28 pre-1914 appropriative water rights, riparian water rights, historic inland navigation, and other

1 environmental issues. My Statement of Qualifications is marked as MSS Exhibit 1A.

2 I, and other historians employed by JRP Historical Consulting, LLC working under my  
3 direct supervision, obtained the chain of title documents for San Joaquin County Assessor's  
4 Parcel Number (APN) 162-090-01 (Parcel) from the San Joaquin County Recorder's office in  
5 Stockton, the San Joaquin County Historical Society Museum in Micke Grove, Lodi, and the  
6 California State Lands Commission, in Sacramento. I reviewed each document for the chain of  
7 title and present a summary of each document in MSS Exhibit 1B. MSS Exhibit 1B includes  
8 information on: (1) instrument date; (2) date recorded; (3) grantor; (4) grantee; (5) document  
9 type; (6) document number; and (7) map number.

10 The documents for the chain of title for the Parcel indicate that on July 26, 1869, the  
11 State of California issued Certificate of Purchase No. 2864 to G. D. Roberts. *See* MSS Exhibit  
12 1C. Certificate of Purchase No. 2864 issued pursuant to the "Swamp and Overflow Land Act of  
13 September 28, 1850" (9 Stats. 519). At the time the State of California issued Certificate of  
14 Purchase No. 2864, the Parcel was part of a larger tract that was contiguous to Burns Cutoff, the  
15 San Joaquin River, Whiskey Slough, and the Middle River. CP 2864 was transferred from  
16 Roberts to Tideland Reclamation Company in 1871 and from Tideland Reclamation Company to  
17 J.P. Whitney in 1875.

18 On November 24, 1876, the United States of America and California issued a patent to  
19 J. P. Whitney. That patent included approximately 40,213 acres, including all of the lands in  
20 Certificate of Purchase No. 2864 on Roberts Island, including the Parcel.

21 In 1877, the Parcel was transferred as part of a larger piece of land, containing 28,115  
22 acres, to Morton C. Fisher ("1877 Tract"). *See* MSS Exhibit 1D. As a result of that transfer, the  
23 1877 Tract remained contiguous to Burns Cutoff, the San Joaquin River, Whiskey Slough, and  
24 the Middle River.

25 On June 8, 1891, the Parcel was transferred as part of a larger piece of land to E. W. S.  
26 Woods ("1891 Tract"). *See* MSS Exhibit 1E. As a result of this transfer, the 1891 Tract  
27 remained contiguous to Middle River, but lost contiguity with Burns Cutoff and the San Joaquin  
28 River. The deed for the transfer of the 1891 Tract contains no language that preserved riparian

1 water rights to Burns Cutoff or the San Joaquin River. MSS Exhibit 1F. The deed for the  
2 transfer of the 1891 Tract states the transfer is made “together with all and singular the tenements,  
3 hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the  
4 reversion and reversions, remainder and remainders, rents, issues and profits thereof.”

5 On December 14, 1909, E.W.S. Woods transferred the Parcel as part of a larger piece of  
6 land to Jessie L. Wilhoit and Mary L. Douglass (“1909 Tract”). As a result of that transfer, the  
7 1909 Tract lost contiguity with Middle River. MSS Exhibit 1G. The deed for the transfer of the  
8 1909 Tract contains no language that preserved riparian water rights. MSS Exhibit 1H.

9 On November 29, 1911, the Parcel was transferred to W. B. and M. F. Walters, as part of  
10 a larger parcel. See MSS Exhibit 1I.

11 The Parcel’s current boundaries resulted from a transaction dated November 9, 1951. See  
12 MSS Exhibit 1J. From 1951 to 1991, the Parcel changed ownership multiple times. According to  
13 records of the San Joaquin County Recorder, Mark and Valla Dunkel are the current owners of  
14 the Parcel.

15 The changes reflected in the chain of title, described above, are depicted graphically in  
16 MSS Exhibits 2A-F.

17 I, and other historians employed by JRP Historical Consulting, LLC working under my  
18 direct supervision, reviewed files of the San Joaquin County Recorder’s office in Stockton, the  
19 San Joaquin County Historical Society Museum in Micke Grove, Lodi, and the California State  
20 Lands Commission, in Sacramento, to determine if there was any evidence of water use on the  
21 Parcel prior to 1914. We found no notices of appropriation for water diversion and use filed  
22 pursuant to the 1872 Civil Code for the Parcel. In 1911, two agreements were executed between  
23 Wilhoit and Douglass and the Woods Irrigation Company. MSS Exhibits 1K and 1L.

# MSS Exhibit 1A



## **STEPHEN R. WEE**

PRESIDENT, JRP HISTORICAL CONSULTING LLC

### **EDUCATION**

M.A., History (United States), University of California, Davis

Emphasis on Environmental History, California and the American West

B.A., History, University of Washington, Seattle

Graduated *Magna Cum Laude*

Emphasis on United States History

### **BUSINESS AND PROFESSIONAL CREDENTIALS**

President, JRP Historical Consulting, LLC, 2006-present

Founding Partner and Principal, JRP Historical Consulting, 1981 – 2006

Superior Accomplishment Award in Recognition of Exceptional Performance, Director, California Department of Transportation, June 2002.

Information Center Procedural Advisory Committee, Standing Committee of the California Historic Resources Commission, 1999-2002

Political Action Committee/CHA Editorial Board (1986-1994), Board of Directors/ Executive Board (1997-1999), California Council for the Promotion of History

Commissioner, City of Davis Historical Resources Management Commission, 1990-1993

Historic Resources Subcommittee, California Heritage Resource Data Management Advisory Committee, California Office of Historic Preservation, 1987

Registered Professional Historian, California Council for the Promotion of History, 1985-present

Founding Partner, California-Pacific Research Associates, 1978-1980

Interagency Research Coordinator (Historical Studies), California State Lands Commission / Land Law Division, California Department of Justice, Office of the Attorney General, Sacramento, 1976-77

### **EXPERT WITNESS TESTIMONY AND REPORTS**

*Robert M. Harding, Plaintiff v. City of Elsinore; Santa Ana Watershed Project Authority*, Case No. RIC 445294, Superior Court, State of California, County of Riverside, Western Division. Expert Historian deposition on behalf of defendants regarding history of public roads and trails and their dedication for public uses in Elsinore township and the townsite of Lake Elsinore, 1840s-1920s (October 21, 2009).

*In Re the General Adjudication of Rights to the Use of Water from the Snake River Drainage Basin Water System, State of Idaho v. United States; State of Idaho; and all unknown claimants to the use of water from the Snake River Drainage Basin Water System*, Subcase Nos. 63-30978 & 63-31973,

District Court of the Fifth Judicial District of the State of Idaho, Twin Falls, ID. Submission of Expert Report regarding the U. S. Forest Service's Claims to groundwater on Idaho National Forests as a Federal Reserved Water Rights under the Organic Act of 1897, Boise: State of Idaho, Office of the Attorney General, 2008-present.

*Summary Report: Roberts Island and Union Island Riparian Water Rights Investigation, San Joaquin County, CA* (June 2008), Appendix C to the San Joaquin River Group Authority, *South Delta Hydrology and Water Rights*, Report to the State Water Rights Control Board, Bay-Delta Strategic Workplan (2008).

State Water Resources Control Board, Division of Water Rights, Lake Arrowhead Administrative Civil Liability Enforcement Hearing (CDO No. 262.31-18; ACL No. 262.5-40). Expert Report and Testimony before the SWRCB regarding pre-1914 consumptive water rights of the Lake Arrowhead Community Services District and Lake Arrowhead Country Club, November 8-9, 2005. Sacramento: Ellison, Schneider & Harris, LLP, Attorneys at Law, 2005.

*In Re the General Adjudication of Rights to the Use of Water from the Snake River Drainage Basin Water System, State of Idaho v. United States; State of Idaho; and all unknown claimants to the use of water from the Snake River Drainage Basin Water System*, Case No. 39576, District Court of the Fifth Judicial District of the State of Idaho, Twin Falls, ID. Submission of Expert report and deposition testimony before US Attorney for Shoshone-Paiute Tribe related to Federal Reserved Water Right Claims for the Duck Valley Indian Reservation, Idaho and Nevada, based upon the purposes for the creation of the Duck Valley Indian Reservation. Boise: State of Idaho, Office of the Attorney General, 2004 - 2006.

*In the Matter of the Determination of the Relative Rights of the Waters the Klamath River a Tributary of the Pacific Ocean. Lead Case No. 003.* Before the Hearing Office Panel for the State of Oregon Water Resources Department. Expert Report on behalf of Klamath Water Users Association and others regarding pre-1909 appropriative water rights claims for certain claimants under the U.S. Bureau of Reclamation's Klamath Irrigation Project, Upper Klamath River Basin, OR and CA. Sacramento: Somach, Simmons & Dunn, Sacramento, Attorneys at Law, 1997-2005.

State Water Resources Control Board, Administrative Civil Liability Complaint Hearings Against Lloyd L. Phelps, Jr., Joey P. Ratto, Jr., and Ronald D. Conn and Ron Silva, et al. (Complaint Nos. 262.5-28 through 30; Water Right Order No. 2004-0004) regarding Riparian Water Right Claims on Roberts Island, San Joaquin County, CA. Testimony for South San Joaquin Water Users Association and O'Laughlin & Paris, Attorneys at Law, February 25, 2003.

California Historic Resources Commission Hearing, Re. Coronado Belt Railroad Eligibility for Listing in the California Register of Historical Resources, Riverside Hearing, November 8, 2002. San Diego: Cities of San Diego, National City, Chula Vista and Imperial Beach, 2002. Provided an expert report and oral testimony before the Commission regarding the eligibility of the Coronado Belt Railroad for listing in the California Register of Historical Resources.

*Orradre v. Monterey County Water Resources Agency.* Water Right Hearing State Water Resources Control Board: Application No. 30532 by Monterey County Water Resources Agency. Submission of declarations on behalf of the applicant relating to pre-1914 water claims for agricultural purposes in the Salinas Valley. Sacramento: Downey Brand Seymour & Rohwer, 2000 – 2001.

*In Re the General Adjudication of Rights to the Use of Water from the Snake River Drainage Basin Water System, State of Idaho v. United States; State of Idaho; and all unknown claimants to the use of water from the Snake River Drainage Basin Water System*, Case No. 63-25243, District Court of the Fifth Judicial District of the State of Idaho, Twin Falls, ID. Submission of Expert Report and deposition testimony before US Attorneys for Department of Justice, Environmental and Natural Resources Division related to the U. S. Forest Service's Claims to Federal Reserved Water Rights under the Organic Act of 1897, Boise: State of Idaho, Office of the Attorney General, 1998.

Putah Creek Water Cases. *Solano Irrigation District v. The Names of All Appropriative Water Rights Holders in Upper Basin, et al.*, Solano Superior Court No. 108552 and *Putah Creek Council v. Solano Irrigation District and Solano County Water Agency*, Sacramento Superior Court No. 515766, 1996. Testimony for Solano Irrigation District and Solano County Water Agency.

*Nickel Enterprises v. State of California*, Kern County Superior Court, 1993. Testimony for California Department of Justice, Office of the Attorney General. Historic navigation on the Kern River.

### **LITIGATION RESEARCH SERVICES**

Historical Water Use on the Coeur D'Alene Indian Reservation, Idaho. Northern Idaho Stream Adjudication: Coeur D'Alene Lake, Idaho. Boise: State of Idaho, Office of the Attorney General, 2010-present.

History of Groundwater Development and Use in Antelope Valley to fulfill the changing military missions of Edwards Air Force Base, Kern, San Bernardino and Los Angeles Counties, CA. Historical research related to federal reserved water right claims for military purposes at Edwards AFB. Washington, D.C.: U. S. Department of Justice, 2008 to present.

History of Fontana Union Water Company's Lytle Creek Diversion on the San Bernardino National Forest. Research and prepare a report documenting water diversion and intake facilities on Lytle Creek prior to the establishment of the national forest reserve in 1893. Prepared for Fontana Union Water Company, Cucamonga Valley Water District and San Gabriel Water District for submission to the Chief Counsel for Natural Resources, U. S. Department of Agriculture, 2009.

Historical Research regarding history of public roads and trails and their dedication for public uses in Elsinore township and the townsite of Lake Elsinore, San Diego and Riverside Counties, CA, 1840s-1920s Riverside: Aklufi & Wysoki, Attorneys at Law, 2006-2009.

Groundwater and Federal Reserved Water Rights Under the Organic Act of 1897. *In Re the General Adjudication of Rights to the Use of Water from the Snake River Drainage Basin Water System, State of Idaho v. United States; State of Idaho; and all unknown claimants to the use of water from the Snake River Drainage Basin Water System*. District Court of the Fifth Judicial District of the State of Idaho, Twin Falls, ID. Boise: State of Idaho, Office of the Attorney General, 2008-present.

Due Diligence Research on Appropriative and Riparian Water Rights Associated with a large historic ranch in Madera County, CA, 2009 - Present.

Pre-1914 Water Rights Investigation: Merced County, CA, 2008 - Present.

Historic Meandering of the Blackfoot River within a U. S Army Corps of Engineers Flood Control Project Area involving Shoshone-Bannock Indian Lands within the Fort Hall Reservation, Idaho. Boise: Idaho Attorney General's Office, 2008.

Historic Meandering of the River Bend Section of the Russian River, Sonoma County, CA. Sacramento: Lennihan Law, APC, 2008.

Pre-1914 Water Rights Investigation, for a historic ditch on Sheridan Creek, near Inwood, Shasta County, CA. Sacramento: Lennihan Law, APC, 2007-2008.

Historical Water Rights Investigation related to Federal Reserved Water Rights Claim to the Fort Boise Military Reservation, Boise, Idaho. *In Re the General Adjudication of Rights to the Use of Water from the Snake River Drainage Basin Water System, State of Idaho v. United States; State of Idaho; and all unknown claimants to the use of water from the Snake River Drainage Basin Water System.* District Court of the Fifth Judicial District of the State of Idaho, Twin Falls, ID. Boise: State of Idaho, Office of the Attorney General, 2007 - 2008.

Riparian Lands and Agricultural Land Uses Investigation for Roberts and Union Islands, southern San Joaquin Delta, San Joaquin County, CA. Chico: O'Laughlin & Paris LLP, 2007 – 2009.

Pre-1914 Water Rights Investigation for Idyllwild Water District regarding Strawberry Creek, a tributary to the San Jacinto River. SWRCB Complaint No. 33-05-01 In Re. Strawberry Creek, Riverside County, CA. Sacramento: Ellison, Schneider & Harris, Attorneys at Law, LLP, 2007 – 2008.

Historical Water Rights Investigation: Upper and Middle Snake River Basin Water Development for Agriculture vs. Hydroelectric Power Uses, Idaho. *In Re the General Adjudication of Rights to the Use of Water from the Snake River Drainage Basin Water System, State of Idaho v. United States; State of Idaho; and all unknown claimants to the use of water from the Snake River Drainage Basin Water System,* Idaho Power Company Sub-cases. District Court of the Fifth Judicial District of the State of Idaho, Twin Falls, ID. Boise: State of Idaho, Office of the Attorney General, 2006 - Present.

Pre-1914 Water Rights Investigation: White Mallard Duck Club Property, Butte Creek, Colusa, Sutter and Butte Counties, CA. Sacramento: Lennihan Law, APC, 2006-2007.

Historical Investigation of Pre-1914 and Riparian Water Rights to Big Springs (aka, Bass Springs), a Tributary of Montgomery Creek, Shasta County, CA. Chico: O'Laughlin & Paris, Attorneys at Law, 2005-2007.

Historical Investigation and Expert Testimony on Pre-1914 Water Rights of the Lake Arrowhead Community Services District and Lake Arrowhead Country Club, Lake Arrowhead, San Bernardino County, CA. Sacramento: Ellison, Schneider & Harris, LLP, Attorneys at Law, 2004 – 2005.

Historical Investigations on Water Quality of Upper Klamath Lake, Klamath County, Oregon, California. Sacramento: Ellison, Schneider & Harris, LLP, Attorneys at Law, 2004 – 2005.

Historic Research related to the Federal Reserved Water Right Claims for the Duck Valley Indian Reservation, Idaho and Nevada, *In Re the General Adjudication of Rights to the Use of Water from the Snake River Drainage Basin Water System, State of Idaho v. United States; State of Idaho; and all unknown claimants to the use of water from the Snake River Drainage Basin*

- Water System*, Case No. 39576, District Court of the Fifth Judicial District of the State of Idaho, Twin Falls, ID. Boise: State of Idaho, Office of the Attorney General, 2004 - 2007.
- Historical Investigations on the Klamath River Fishery, Klamath County, Oregon, and Siskiyou and Humboldt Counties, California. Sacramento: Ellison, Schneider & Harris, LLP, Attorneys at Law, 2004 – 2005.
- Riparian Water Rights Investigation, City of Santa Cruz, Santa Cruz County, CA. Sacramento: Lennihan Law, APC and City of Santa Cruz, 2004 - 2006.
- Research Related to Santa Clara Valley Water District's Water Rights Under the Central Valley Project and State Water Project and Related Matters, Duane, Morris & Heckscher, LLP, Attorneys at Law, 2004 – 2005.
- Historic Research related to the Federal Reserved Water Right Claims of the City of Pocatello (Claim No. 29-11609), *In Re the General Adjudication of Rights to the Use of Water from the Snake River Drainage Basin Water System, State of Idaho v. United States; State of Idaho; and all unknown claimants to the use of water from the Snake River Drainage Basin Water System*, Case No. 39576, District Court of the Fifth Judicial District of the State of Idaho, Twin Falls, ID. Boise: State of Idaho, Office of the Attorney General, 2004.
- Pre-1914 Water Rights Investigation for a Tract of Agricultural Land located on the Sacramento River above Knights Landing, Yolo County, CA. Downey Brand Seymour & Rohwer, Attorneys at Law, 2004-2005.
- Historical Investigation regarding Oroville Dam, Hydroelectric Power Production, and the California State Water Project. Metropolitan Water District of Los Angeles, 2003 – 2004.
- Pre-1914 Water Rights Investigation and Jurisdictional Water Rights History of Mathews Reservoir on Cajalco Creek, Riverside County, CA. Sacramento: Ellison, Schneider & Harris, LLP, Attorneys at Law for Metropolitan Water District of Los Angeles, 2003 – 2004.
- Pre-1914 Water Rights Investigation, Santa Cruz County, CA. Sacramento: Lennihan Law, APC and City of Santa Cruz, 2003 - 2004.
- Pre-1914 Water Rights Investigation: El Dorado Canal, South Fork of the American River Canyon, El Dorado County. Sacramento: Ellison, Schneider & Harris, LLP, Attorneys at Law, 2003 – 2004.
- Pre-1914 and Riparian Water Rights Investigation on 1,000 acres near Tracy, San Joaquin County. Sacramento: Lennihan Law, APC, and the City of Tracy, Public Works Department, 2003.
- Riparian Water Rights Investigation for Hearing before State Water Resources Control Board regarding Water Claims on Roberts Island, San Joaquin County, CA. Chico: O'Laughlin & Paris, Attorneys at Law, 2003.
- Water Rights Investigation for a Coastal Ranch in Monterey County, CA. Sacramento: Kronick, Moskovitz, Tiedemann & Girard, Attorneys at Law August 2002 – 2007.
- Legislative History of Selected Provisions of the California Water Code relating to Areas of Origin. Sacramento: Somach, Simmons & Dunn, Attorneys at Law, 2002-2003.
- Pre-1914 Water Right Investigation for Water Appropriations on the North Fork of the American River, Sacramento County. Sacramento: Ellison, Schneider & Harris, LLP, Attorneys at Law, 2002.



Historical Occurrences of Salmon and Steelhead Migrations in Solano County Streams. Fairfield: Solano County Water Agency. September 2000 – April 2001.

Legislative History of Selected Provisions of the 1914 Water Code. Sacramento: Ellison & Schneider, LLP, Attorneys at Law, 2000-2001.

*Orradre v. Monterey County Water Resources Agency*. Monterey County, CA. Research regarding pre-1914 and riparian water rights claims in the Salinas Valley. Sacramento: Downey Brand Seymour & Rohwer, Attorneys at Law, 2000 – 2001.

*State of California v. Schoendorf*. Monterey County, CA. Research on land ownership, water rights and domestic water uses of springs located on a section of the Big Sur Coast. Sacramento: Downey Brand Seymour & Rohwer, Attorneys at Law, 2000 – 2001.

Bovin Trust Claim – Klamath River Adjudication. Research on pre-1909 water rights claim on the Link River, Klamath Falls, Oregon. Portland, OR: Davis Wright Tremaine, LLP, Attorneys at Law, 2000.

Historical Research and expert witness services re. claims by the United States for Federal Reserved Water Rights under the Organic Act of 1897 for National Forests within the Snake River Basin. *In Re the General Adjudication of Rights to the Use of Water from the Snake River Drainage Basin Water System, State of Idaho v. United States; State of Idaho; and all unknown claimants to the use of water from the Snake River Drainage Basin Water System*, District Court of the Fifth Judicial District of the State of Idaho. Boise, ID: State Of Idaho, Office of the Attorney General, 1997-2000.

Klamath River Basin Adjudication. Research services for a water rights adjudication on the Klamath River in Oregon. Historical research and expert witness services regarding land and water use, reclamation project development, and the California Oregon Interstate Compact. Sacramento: DeCuir & Somach (Somach, Simmons & Dunn), Sacramento, Attorneys at Law, 1997 - 2005.

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#### **MEMBERSHIPS**

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# MSS Exhibit 1B

TRACT 162-090-01

INSTRUMENT DATE	DATE RECORDED	GRANTOR	GRANTEE	DOCUMENT TYPE	DOCUMENT #	MAP #
			APN162-090-01; currently 38.00 acres; in SE 1/4 of NE 1/4, Section 1, T1S/R5E			162-090-01-A 162-090-01-B
7/26/1869		State of California	G.D. Roberts	Certificate of Purchase	CP #2864	162-090-01-C
7/26/1869	11/7/1871	State of California	George D. Roberts	Certificate of Purchase	A:24:57	162-090-01-D
7/30/1869	11/7/1871	G.D. Roberts	Tideland Reclamation Company	Assignment of Certificate of Purchase #2864	A:24:57	
2/25/1875	3/27/1875	Tideland Reclamation Company	Joel P. Whitney	Quitclaim Deed	A:29:576	

TRACT 162-090-01

INSTRUMENT DATE	DATE RECORDED	GRANTOR	GRANTEE	DOCUMENT TYPE	DOCUMENT #	MAP #
11/24/1876	1/17/1877	State of California	J.P. Whitney	Patent	P:3:444	
1/15/1877	1/17/1877	Joel P. Whitney	Morton C. Fisher	Deed	A:33:289	162-090-01-J
3/15/1877	9/11/1878	Morton C. Fisher, of London, England	James R. Stewart, James Bunten, James King, all of Glasgow, United Kingdom of Great Britain	Deed	A:37:529	162-090-01-E

TRACT 162-090-01

INSTRUMENT DATE	DATE RECORDED	GRANTOR	GRANTEE	DOCUMENT TYPE	DOCUMENT #	MAP #
05/14/1877	08/06/1887	John W. Ferris, Receiver, Morton C. Fisher, et al. Defendants	J.R. Stewart, Sir James King, James Bunten, Plaintiffs	Deed	A:62:350	
06/08/1891	06/17/1891	Jas. Reid Stewart, Jas. Clark Bunten, and Jas. King	John N. Woods and E.W.S. Woods	Deed	A:74:289	162-090-01-F

TRACT 162-090-01

INSTRUMENT DATE	DATE RECORDED	GRANTOR	GRANTEE	DOCUMENT TYPE	DOCUMENT #	MAP #
12/14/1909	12/14/1909	E.W.S. and Alice Woods	Jessie L. Wilhoit and Mary L. Douglass	Deed	A:182:400	162-090-01-G
12/28/1909	12/28/1909	Estate of John N. Woods	John N. Woods & E.W.S. Woods, Jessie L. Wilhoit, and Mary L. Douglass	Decree of Distribution	A:181:131	

INSTRUMENT DATE	DATE RECORDED	GRANTOR	GRANTEE	DOCUMENT TYPE	DOCUMENT #	MAP #
09/29/1911	09/30/1911	Jessie L. Wilhoit and Mary L. Douglass	Woods Irrigation Co.	Agreement	G:27:25	
09/29/1911	09/30/1911	Woods Irrigation Co.	Jessie L. Wilhoit and Mary L. Douglass	Agreement to furnish water	G:27:28	



TRACT 162-090-01

INSTRUMENT DATE	DATE RECORDED	GRANTOR	GRANTEE	DOCUMENT TYPE	DOCUMENT #	MAP #
09/30/1911	09/30/1911	Jessie L. Wilhoit and Mary L. Douglass	E.L. Wilhoit, M.D. Eaton, and W.D. Buckley	Deed	A:205:415	
11/29/1911	11/29/1911	E.L. Wilhoit, M.D. Eaton, and W.D. Buckley	W.B. and M.F. Walters	Deed	A:206:434	162-090-01-H

INSTRUMENT DATE	DATE RECORDED	GRANTOR	GRANTEE	DOCUMENT TYPE	DOCUMENT #	MAP #
10/01/1913	10/02/1913	W.B. and M.F. Walters	M. Pardini	Deed	A:231:111	
08/07/1941	08/27/1941	M. Pardini and Giovanna Pardini, his wife	E.W. Avila and Bernice M. Avila, joint tenants	Agreement	OR:753:124	



INSTRUMENT DATE	DATE RECORDED	GRANTOR	GRANTEE	DOCUMENT TYPE	DOCUMENT #	MAP #
11/09/1951	11/13/1951	Giovanna Pardini, a widow	E.W. Avila and Bernice M. Avila	Deed	OR:1373:369	162-090-01-I
04/26/1985	05/29/1990	State of California, County of Sacramento	La Verne Helene Avila and Manuel Mendonca	Court Appointment	90052530	
05/24/1990	05/29/1990	Estate of Edward Walter Avila, deceased; La Verne Helene Avila and Manuel Mondonca, Co- Executors	Donald R. Silveira and Mary Silveira, his wife	Quitclaim Deed	90052531	
10/17/1991	12/31/1991	Donald R. Silveira and Mary Silveira, Husband and Wife	Mark and Valla- Marie Dunkel, Husband and Wife	Grant Deed	91117374	

TRACT 162-090-01

INSTRUMENT DATE	DATE RECORDED	GRANTOR	GRANTEE	DOCUMENT TYPE	DOCUMENT #	MAP #
		Current Owner	Mark and Valla Dunkel			

# MSS Exhibit 1C

**MAP #162-090-01-C**

-  Lands adjacent to waterway at time of Certificate of Purchase
-  Lands not adjacent to waterway at time of Certificate of Purchase

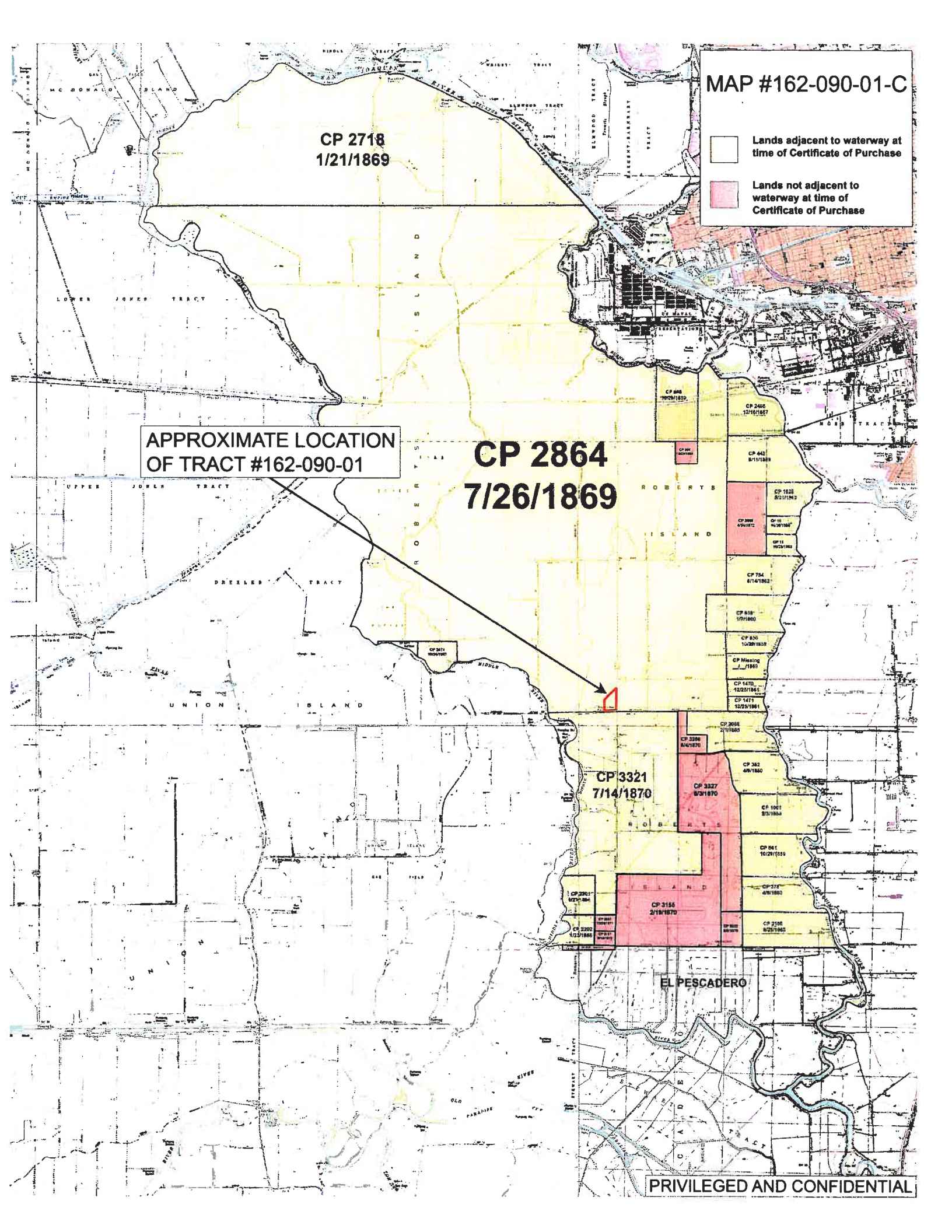
**CP 2718**  
1/21/1869

**APPROXIMATE LOCATION  
OF TRACT #162-090-01**

**CP 2864**  
7/26/1869

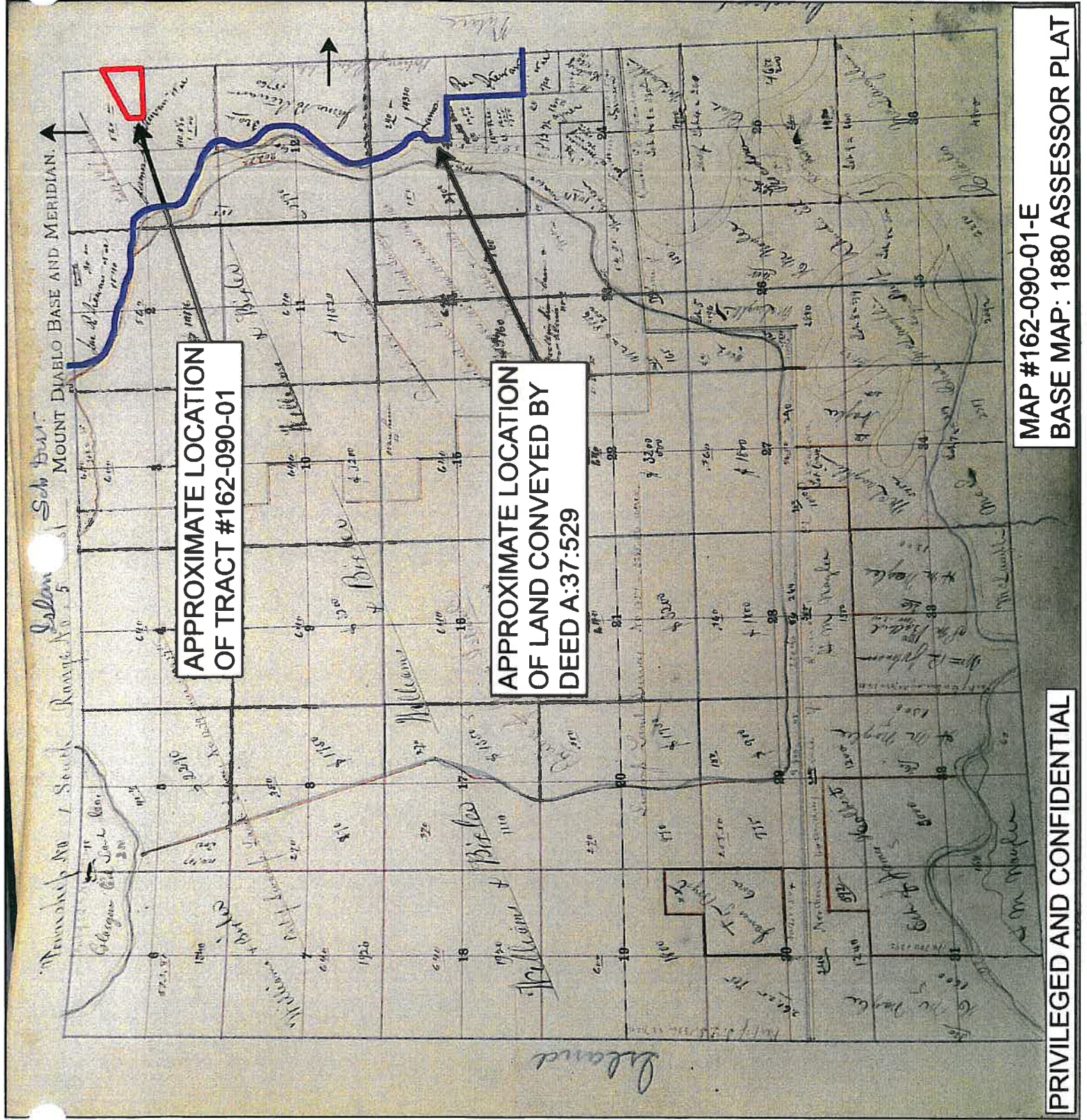
**CP 3321**  
7/14/1870

**EL PESCADERO**



# MSS Exhibit 1D





APPROXIMATE LOCATION  
OF TRACT #162-090-01

APPROXIMATE LOCATION  
OF LAND CONVEYED BY  
DEED A:37:529

MAP #162-090-01-E  
BASE MAP: 1880 ASSESSOR PLAT

PRIVILEGED AND CONFIDENTIAL



# MSS Exhibit 1E

Township No. 1 South

Range 5 East

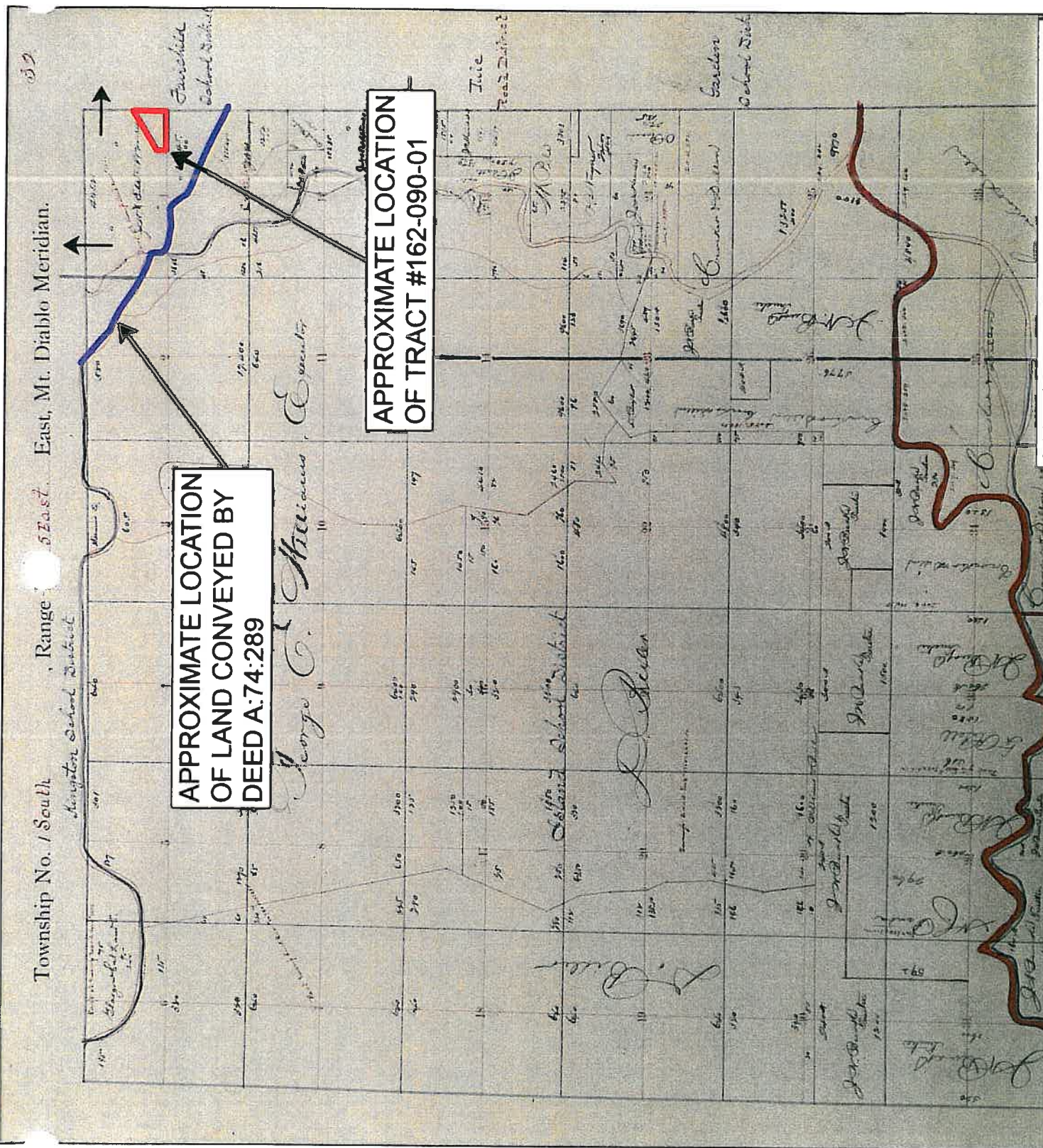
East, Mt. Diablo Meridian.

APPROXIMATE LOCATION OF LAND CONVEYED BY DEED A:74:289

APPROXIMATE LOCATION OF TRACT #162-090-01

PRIVILEGED AND CONFIDENTIAL

MAP #162-090-01-F  
BASE MAP: 1892 ASSESSOR PLAT



MSS Exhibit 1F



200  
Filed for record at the request of L. O. Fish June 16<sup>th</sup>  
1891 at 10. min. past 9 o'clock P. M.

✓ Gas Reid Stewart  
✓ Gas Clark Buntin  
✓ Gas King  
Do  
✓ John N. Woods  
✓ E. W. O. Woods

This Indenture, made, the  
Eighth day of June, in the year  
of our Lord one thousand eight  
hundred and ninety one  
(Witnesses) James Clark Buntin,  
James Reid Stewart and Sir James  
King, all of the Kingdom of

Great Britain - the parties of the first part, and John  
N. Woods, and E. W. O. Woods, of the City of Stockton  
County of San Joaquin and State of California, the parties of  
the second part.

Witnesseth: That the said parties of the first part  
for and in consideration of the sum of Ten (\$1000) Dollars,  
Gold coin of the United States of America, to them in  
hand paid by the said parties of the second part, the  
receipt whereof is hereby acknowledged, do by these  
grant, bargain, sell, convey, and confirm unto the said  
parties of the second part, and to their heirs and  
assigns forever, all those certain lots, pieces, or parcels  
of land, situate, lying, and being in the County of San Joaquin  
State of California, and bounded and particularly described  
as follows, to-wit:

Commencing at the North East corner of Section  
One (1) T. 5 N. 5 E. Mt Diablo Meridian; thence running West  
87 chains to East bank of Middle river, thence running along  
the said East bank in course and distances as follows,  
viz: S 13 1/4° West 1 chain 90 links; S 16 1/2° West 2 chains 25 links  
South 23 3/4° East 2 chains 96 links; S 64 3/4° East 7 chains 93  
links; South 33 3/4° East 6 chains 50 links; South 37 1/4° East 5  
chains 45 links; South 22 1/2° East 6 chains 50 links; South  
6 1/2° East 4 chains 70 links; South 6 chains 50 links; South  
34 3/4° East 3 chains 8 links; South 77° East 8 chains 25 links  
South 80° East 3 chs 35 links North 86 1/4° East 7 chains 13 links  
South 86 1/4° East 1 chain 30 links; South 63 3/4° East 1 chain  
90 chains; South 41 3/4° East 2 chains 50 links; South 24 1/2° East  
1 chain 25 links; South 30 1/2° East 3 chains 15 links; to a  
stake in the centre line of levee; thence along the  
said centre line South 67° East to a stake 45 chains 87 links  
from its intersection with river bank aforesaid thence North  
68 chains 86 links to place of beginning containing 405 7/8 acres.

Second: Commencing at the N. E. cor of Sec. 1 T. 5 N. 5 E.  
M. D. M. thence running S. 88 chs 86 links to a stake in  
centre line of levee; thence along said centre line in  
course and distances as follows, viz: S 66 3/4° E 8 chains 74 links  
South 87° East 4 chains 55 links; South 63 1/2° East 3 chs 4  
links; South 86 1/2° East 3 chains 61 links; East 24 chains 70  
links to a stake; thence North 2 1/2° West 74 chains 11 links to a  
stake; thence West 40 chains to place of beginning corner

305<sup>69</sup>/<sub>100</sub> acres.

Third: -commencing at the N.E. corner of S.E. 1/4 of Sec 12 T. 5. R. 5. E. Mt. S. M. thence running South 39 chains 86 links to a stake; thence West 40 chains 70 links to East bank of Middle river; thence along said bank in courses and distances as follows, viz: North 1 1/4° East 15 chains 60 links N 5 chains 25 links; East 1 chain North 2-70 West 21 chains 30 links to a stake; thence East 1 1/4 chains 51 links to place of beginning, containing 152<sup>85</sup>/<sub>100</sub> acres. All bearings true var. 1/2° East. As per surveys made by Frank E. Brown Civil Engineer

Together with all and singular the tenements, hereditaments and appurtenances thereto belonging in ten anywise appertaining, and the reversion and remainders and remainders, rents, issues and profits thereof

To have and to hold all and singular the said premises, together with the appurtenances, unto the said parties of the second part, and to their heirs and assigns forever

In witness whereof, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and delivered in the presence of  
of Henry M. Mc Gill } as Reid Stewart [Seal]  
James Clark Dunton [Seal]  
James King  
James Wakefield Ferris  
their attorney in fact

State of California, 1891  
City and County of San Francisco.

On this 9th day of June, in the year one thousand eight hundred and ninety one before me, Henry M. Mc Gill, a Notary Public, in and for said City and County, residing therein, duly commissioned and sworn, personally appeared John Wakefield Ferris known to me to be the person described in, and whose name is subscribed to, the within Instrument, as the Attorney in fact of James Reid Stewart, James Clark Dunton and also James King and the said John Wakefield Ferris acknowledged to me that he subscribed the names of James Reid Stewart, James Clark Dunton, and for James King thereunto as principals and his own name as attorney in fact

In witness whereof, I have hereunto set my hand and affixed my official Seal, at my office, in the City and County of San Francisco the day and year in this certificate first above written.

(Seal) Henry M. Mc Gill  
Notary Public.

Recorded at the Request of John N. Woods June 17th 1891 at 15 min. - past 10. h. a. m.

# MSS Exhibit 1G

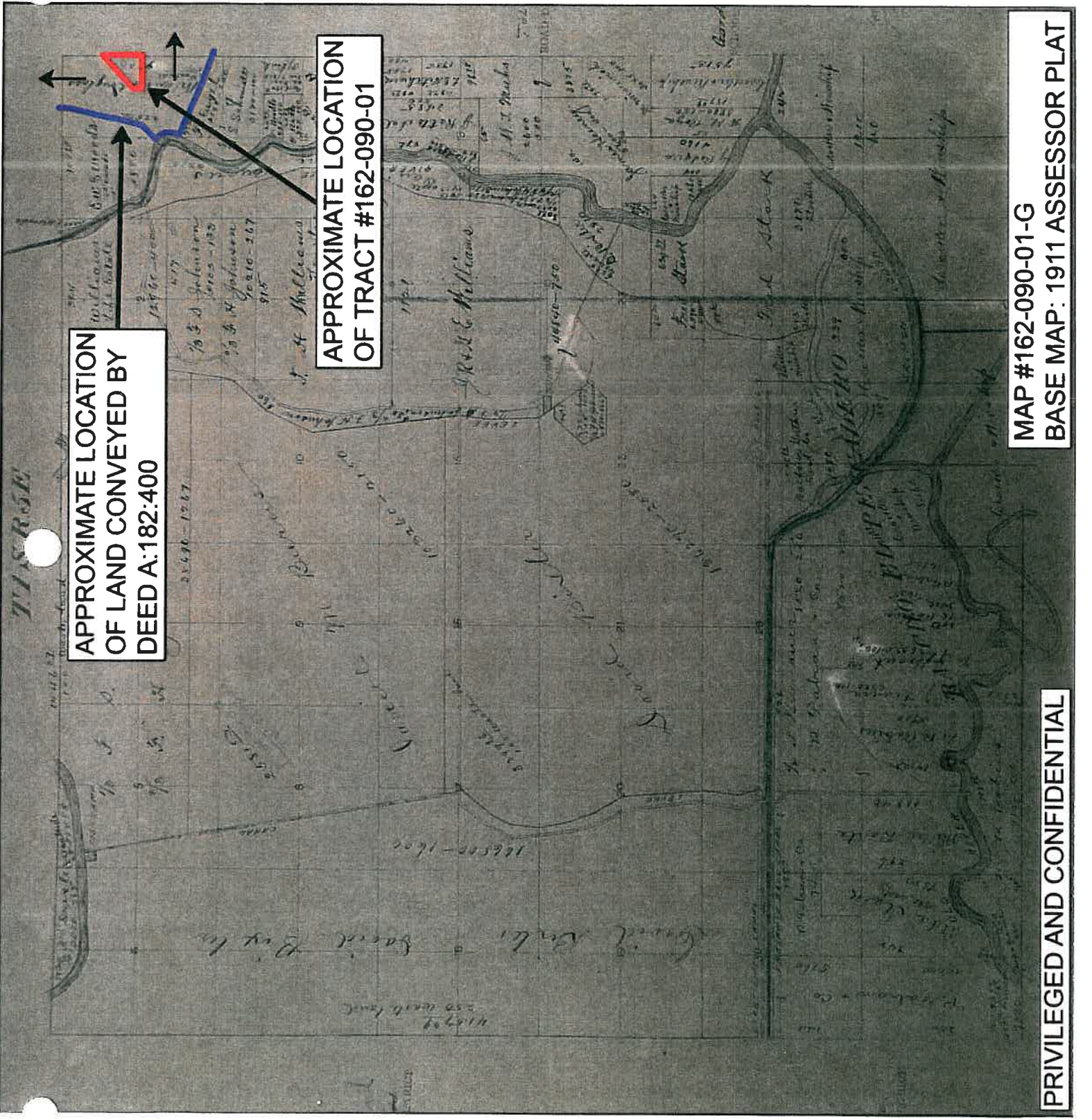


APPROXIMATE LOCATION  
OF LAND CONVEYED BY  
DEED A:182:400

APPROXIMATE LOCATION  
OF TRACT #162-090-01

MAP #162-090-01-G  
BASE MAP: 1911 ASSESSOR PLAT

PRIVILEGED AND CONFIDENTIAL



# MSS Exhibit 1H



said party of the second part and to his heirs and assigns forever.

In Witness Whereof the said parties of the first part have herunto set their hands and seals the day and year first above written.

Signed, sealed and delivered in the presence of  
M. H. Orr.

Jessie Lee Wilhoit (SEAL)  
George E. Wilhoit (SEAL)  
Mary L. Douglass (SEAL)  
Macdonald Douglass (SEAL)

State of California,  
County of San Joaquin.

On this 14<sup>th</sup> day of December in the year of our Lord nineteen hundred and nine before me, Lizzie Doan a Notary Public in and for said County and State, reading there- in, duly commissioned and qualified, personally appeared Jessie Lee Wilhoit, George E. Wilhoit her husband Mary L. Douglass and Macdonald Douglass her husband personally known to me to be the persons described in and whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

In Witness Whereof I have herunto set my hand and affixed my official seal at my office in the County of San Joaquin, State of California on the day and year in this certificate first above written.

(SEAL)

Lizzie Doan,

Notary Public in and for said San Joaquin County, State of California.

Recorded at the request of R.H. Wilhoit & Sons, Dec. 14, 1909 at 21 minutes past 3 o'clock, P.M.

Woods, E. W. S. & Alice

to  
Wilhoit, Jessie L.

Douglass, Mary L.

COMPARED

THIS INSTRUMENT, made the 14<sup>th</sup> day of December 1909 and said nine hundred and nine between E. W. S. Woods & Alice M. Woods (his wife) of the City of Stockton, County of San Joaquin, State of California, parties of the first part and Jessie Lee Wilhoit and Mary L. Douglass of the City of Stockton, County of San Joaquin, State of California the parties of the second part,

WITNESSETH: That the said parties of the first part for and in consideration of the sum of Ten Dollars Gold coin of the United States of America and other valuable and sufficient considerations to them in hand paid by the said parties of the second part, the receipt whereof is hereby acknowledged, do by these presents grant, bargain, sell, and give and confirm unto the said parties of the second part, and to their heirs and assigns forever, all of the right, title interest and estate of the said parties of the first part of, in and to a certain parcel, pieces and parcels of land situate lying and being in the County of San Joaquin, State of California and bounded and more particularly described as follows, to-wit:

Beginning at the common corner of sections thirteen (13) and nineteen (19) Township One (1) North Range six (6) East, Mount Diablo Base and Meridian, and sections thirteen (13) and twenty four (24) Township One (1) North Range five (5) East, Mount Diablo Base and Meridian, and running thence due west along the section line 2396 feet to the center of a main irrigation canal; thence along the center line of said canal the following courses and distances, to-wit: South 0° 45' East 2531-8/10 feet; thence south 3° 55' West 515 feet to the right section line corner; and south through section twenty four (24) Township One (1) North Range Five (5) East, Mount Diablo Base and Meridian; thence south 9014.3 feet along the half section line north and south through sections twenty four (24) twenty five (25) and thirty six (36); thence south 13° 42' East 78-2/10 feet; thence south 26° 11' East 61-1/10 feet; thence south 48° 15' East 1232-2/10 feet; thence south 32° 20' East 143-5/10 feet; thence south 6° 49' East 426-3/10 feet; thence south 15° 59' West 4661-5/10 feet; thence south 43° 50' West 600-4/10 feet to the right bank of Middle River; thence meandering the right bank of said Middle River up stream to the center of the cross levee, between the Middle and Upper Divisions of Robert's Island; thence along the center of said cross levee in a southeasterly and easterly direction to the southwest corner of a certain tract of land as conveyed by H. E. Williamson and Saleni Williamson, dated April 29th 1899 and recorded in Book "A" of Deeds,

Vol. 99 page 576, San Joaquin County Records; thence northerly along the west line of said tract to the center of section six (6) Township One (1) South, Range six (6) East, Mount Diablo Base and Meridian; thence east along the half section line through said section six (6) to the southwest corner of that certain 202.07 acre tract of land heretofore conveyed by John N. Woods widower and E.W.S.Woods and Alice M. Woods his wife, to Constance M. Dixon a widow by deed dated November 14th 1900 and recorded in Book "A" of Deeds, Vol. 102 page 433 San Joaquin County Records thence northerly along the west line of said tract of land to the northwest corner thereof (said northwest corner of said tract being on the north line of the south half of the southeast quarter of section thirty one (31) Township One (1) North, Range six (6) East, Mount Diablo Base and Meridian); thence east to the southwest corner of that certain tract of land heretofore conveyed by John N. Woods a widower E.W.S.Woods and Alice M. Woods his wife, to M. D. Epton and W.D. Buckley by deed dated December 13th 1902 and recorded in Book "A" of deeds, Vol. 120 page 263, San Joaquin County Records; thence north along the west line of said tract of land to the north west corner thereof; thence east along the north line of said tract of land to the section line between sections twenty nine (29) and thirty (30) township One (1) North Range six (6) East Mount Diablo Base and Meridian; thence north on said section line to the common corner of sections nineteen (19) Twenty (20) Twenty nine (29) and thirty (30) Township One (1) North Range six (6) East Mount Diablo Base and Meridian thence east along the section line between sections twenty (20) and twenty nine (29) township One (1) North Range six (6) East, Mount Diablo Base and Meridian, 1980' thence north 2540 feet to the half section line east and west through said section twenty (20) thence west along the half section line through sections nineteen (19) and twenty (20) Township One (1) North Range six (6) East, Mount Diablo Base and Meridian, to the southeast corner of the west half of the northwest quarter of said section ~~ix~~ nineteen (19) township One (1) North Range aforesaid; thence north to the section line east and west between sections eighteen (18) and nineteen (19) Township One (1) North Range six (6) East, Mount Diablo Base and Meridian; thence west along said section line to the point of beginning, and being portion of sections nineteen (19) twenty (20) Thirty (30) and thirty one (31) in Township One (1) North Range six (6) East Mount Diablo Base and Meridian, and Sections twenty four (24) Twenty five (25) and thirty six (36) Township One (1) North Range five (5) East, Mount Diablo Base and Meridian, and section One (1) Township One (1) South, Range five (5) East and Sections Six (6) and Seven (7) Township One (1) South Range six (6) East, Mount Diablo Base and Meridian as delineated upon that certain map entitled "Map of Woods Wilcox and Douglass' Lands on Middle Division of Roberts Island in the County of San Joaquin, State of California" filed in the office of the County Recorder of the County of San Joaquin, State of California, November 4th 1909 at 3:15 o'clock P.M.

Also commencing at the point of intersection of the west line of the west one half of section eighteen (18) Township One (1) North Range six (6) East, Mount Diablo Base and Meridian, with the center line of the right of way of the Atchinson Topeka and Santa Fe Railway Company as located by that certain deed dated May 21, 1898 and recorded in Book "A" of Deeds Vol. 96 page 340 et seq. San Joaquin County Records made and executed by John N. Woods and E.W.S.Woods to The San Francisco and San Joaquin Valley Railway Company and running thence west along the center line of the right of way of said railway to the center of the levee known as the "High Ridge Levee"; thence northeasterly along the meanderings of the center line of said levee to the southwest corner of that certain 17.26 acre tract of land as conveyed by Jas. Reid Stewart Jas Clark Bunten and Jas King to Joseph and Louis Hunsel by deed dated April 13th 1889 and recorded in Book "A" of Deeds, Vol. 65 page 389, San Joaquin County Records; thence east along the southerly line of said tract of land to the southeast corner thereof; thence northerly along the east line of said tract of land to the left bank of Burn's Cutt off; thence meandering the left bank of Burn's Cutt Off up stream to the east line of the northwest one quarter of the northwest one quarter of section eighteen (18) Township One (1) North Range six (6) East, Mount Diablo Base and Meridian; thence south 7.39 chains to the center of the

...the northwest one quarter of said section eighteen (18);thence east 10 chains;  
thence south 10 chains;thence east 10 chains;thence south 10 chains;thence east 10 chains  
to the east line of the west half of said section eighteen (18);thence south to the point of  
beginning, and being portions of sections twelve (12) and thirteen (13) Township One (1) North  
Range five (5) East Mount Diablo Base and Meridian, and a portion of section eighteen (18)  
Township One (1) North Range six (6) East Mount Diablo Base and Meridian, as delineated upon the  
map entitled "Map of Woods, Wilhoit & Douglass' Lands on Middle Division of Robert's Island in the  
County of San Joaquin, State of California" filed in the office of the County Recorder of the  
County of San Joaquin, State of California, November 4th, 1899 at 3:15 o'clock, P.M.

Also that certain perpetual right of way for the purpose of digging, excavating, constructing,  
repairing and using either as a canal or a flume or pipes or a canal flume and pipes for the  
purpose of conducting and carrying water from Barn's Cutt Off over and across certain parcels or  
parcel of land and the levee thereon described as follows, to-wit: The fractional North east  
quarter of the northwest quarter of the northeast quarter of section thirteen (13) Township  
One (1) North Range six (6) East, Mount Diablo Base and Meridian, containing 7.35 acres, to the  
lands of John M. Woods and E.W.S. Woods as conveyed by James A. Bennett and Lillie D. Bennett,  
his wife, to John M. Woods and E.W.S. Woods by deed dated November 18th 1897, and recorded in  
Book "A" of Deeds, Vol. 58 page 559 et seq., San Joaquin County Records.

Also all that portion of Swamp and Overflowed Land Survey No. 1192 lying north of the cen-  
ter line of the right of way of the Atchafalaya Tokopa & Santa Fe Railway Company, as located by  
that certain deed dated May 21, 1898 and recorded in Book "A" of Deeds, Vol. 96 page 730 et seq.,  
San Joaquin County Records, made and executed by John M. Woods and E. W. S. Woods to The San  
Francisco and San Joaquin Valley Railway Company. Said Swamp and Overflowed Land Survey No.  
1192 being particularly described as follows, to-wit:

Beginning at the corner of sections sixteen (16) South Range (17) Township (1) and Range One  
(21) Township One (1) North Range six (6) East Mount Diablo Base and Meridian, run west 30  
chains, thence north 61.88 chains to left bank of San Joaquin River; thence westerly the bank  
up stream North 54 3/4° East 8 chains; south 84-3/4° East 7 chains; south 62-3/4° East 5 chains  
South 47 3/4° East 5 chains; south 28°00' East 12 chains; south 51° 00' East 3 chains; north  
65 3/4° East 9 chains; south 68 1/2° East 6 chains; south 58 1/2° East 4 chains; south 29°00' East 5  
chains; south 19 3/4° East 8 chains; south 13°00' East 7 chains; south 6 3/4° East 6 chains;  
south 9°00' East 9 chains; south 67 1/2° East 2.50 chains; thence north 100°00' East to the  
place of beginning, containing 280.80 acres, as delineated upon the certain map entitled  
"Map of Woods Wilhoit & Douglass Lands on Middle Division of Robert's Island in the County of San  
Joaquin, State of California" filed in the office of the County Recorder of the County of San  
Joaquin, State of California, November 4th, 1899 at 3:15 o'clock, P. M.

Also all the right, title, interest and estate of the said parties at the first part of, in  
and to those certain lots, <sup>and</sup> parcels of land in the City of Stockton, County of San Joaquin, State  
of California, and more particularly described as follows, to-wit:

All of Lots numbered two (2) Four (4) and six (6) and all of Lot number fourteen (14)  
lying south of Miner Channel; all in Block seventy four (74) East of Center Street, in said City  
of Stockton, according to the official map or plat of said City of Stockton, according to  
the official map or plat of said City on file in the office of the County Recorder of the  
County of San Joaquin, State of California;

Also all the right, title, claim and interest of Mary Henderson of, in and to all that portion  
of Lot Fourteen (14) in Block Seventy four (74) East of Center Street, in the City of Stockton,  
which lies in the North of Miner's Channel, as adopted by the City Council February 3, 1879, all  
conveyed with deed by Mary Henderson to J. M. and E.W.S. Woods of record in Book "A"  
of Deeds, page 555 San Joaquin County Records;

Regular the tenements, hereditaments and appurtenances therunto

rights and reversions, remainder and remainders,



rents, use and profits thereof.

To have and to hold all and singular the said premises, together with the appurtenances unto the said parties of the second part and to their heirs and assigns forever.

In Witness Whereof the said parties of the first part have hereunto set their hands and seals the day and year first above written.

Signed, sealed and delivered in the presence of E.H. Orr E. S. Woods (SEAL)  
State of California ss Alice M. Woods (SEAL)  
County of San Joaquin.

On this 14<sup>th</sup> day of December in the year of our Lord nineteen hundred and nine before me Lizzie Loan a Notary Public in and for said County and State residing therein duly commissioned and qualified, personally appeared E.S. Woods and Alice M. Woods his wife, personally known to me to be the persons described in and whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

In Witness Whereof I have hereunto set my hand, and affixed my official seal at my office in the County of San Joaquin, State of California, the day and year in this certificate first above written.

(SEAL) Lizzie Loan,

Notary Public in and for said San Joaquin County, State of California.

Recorded at the request of E.H. Wilcox & Sons, Dec. 14, 1909 at 23 min. past 2 P.M.

Pacific Improvement Co. & Feed No. 19087.

THIS INSTRUMENT made the sixth (6th) day of December in the year of our Lord nineteen hundred and nine (1909) between the Pacific Improvement Company, a corporation under the laws of the State of California, party of the first part and H. A. Banta and M. A. Banta of the County of San Joaquin and State of California, parties of the second part,

WITNESSETH: That the said parties of the first part, for and in consideration of the sum of Ten (\$10.00) Dollars to it paid, the receipt of which is hereby acknowledged doth by these presents grant and convey unto the said parties of the second part all of that real property situated in the town of Tracy, County of San Joaquin, State of California, known and described on the official map of said town filed in the office of the County Recorder June 29th 1897 as Lots numbers One (1) Two (2) and Three (3) in Block number sixty five (65).

And the said party of the first part covenants to warrant and defend the said premises against all persons claiming by, through or under said company.

In Witness Whereof the said Pacific Improvement Company has caused these presents to be signed by its President pro tem. and Secretary, duly authorized and empowered thereto by its by-laws and sealed with its corporate seal, the day and year first above written.

(CORP) Pacific Improvement Company,  
By H. G. Platt President pro tem.  
State of California, And A. D. Shepard Secretary.  
City and County of San Francisco.

On this eleventh (11th) day of December in the year one thousand nine hundred and nine (1909) before me E. E. Ryan a Notary Public in and for the City and County of San Francisco, residing therein, duly commissioned and sworn, personally appeared H.G. Platt known to me to be the President pro tem. and A.D. Shepard known to me to be the Secretary of the corporation that executed the within instrument and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

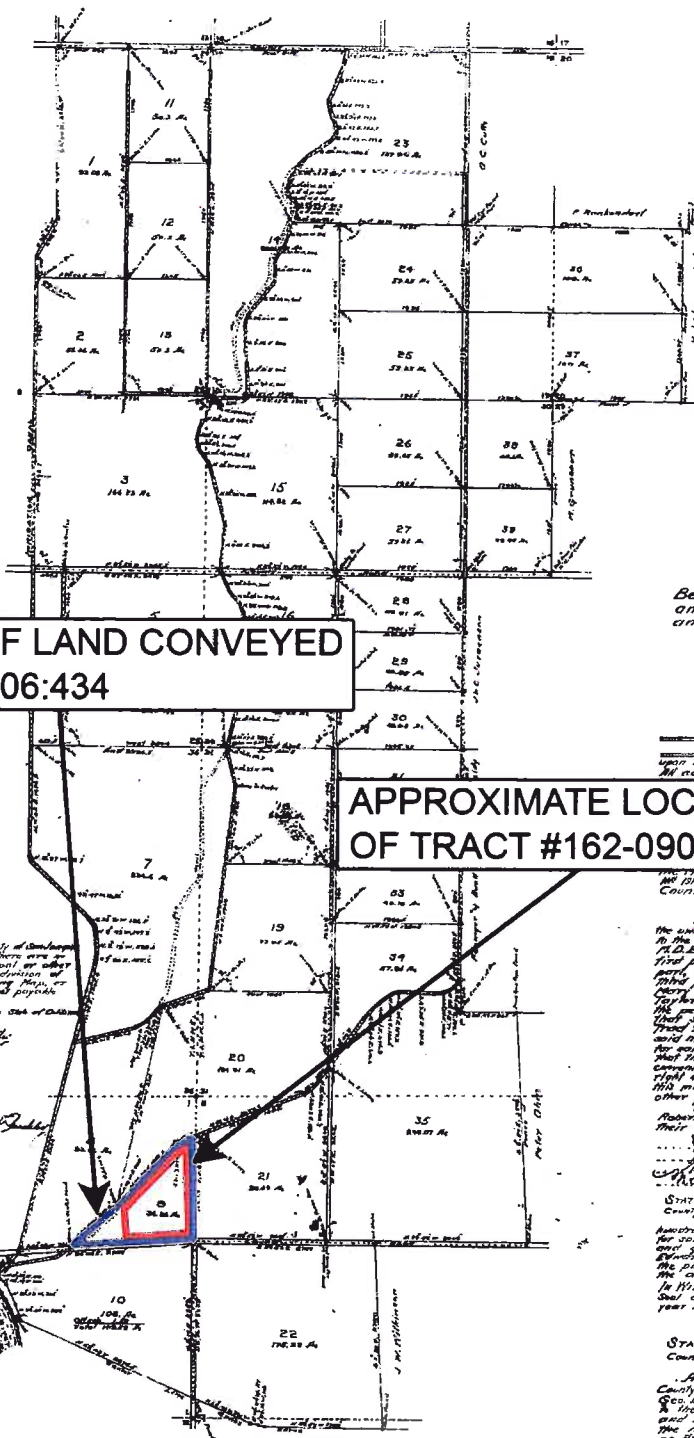
(SEAL) E. E. Ryan,

Notary Public in and for the City and County of San Francisco,

Recorded at the request of H. E. Youngblood, Dec. 15, 1909 at 22 minutes

# MSS Exhibit 1I

San Joaquin County Recorder	
RECORDS REQUEST	
Requester's/Viewer's/Section	Section No.
Location/Address	Section No.
Requested by	Signature
Date of Request	Date/Time Requested
Record Title and Date of Material	Ref./Location No.
Special Instructions	For Sec. Clk. Use Only
Distribution Status - Ref. - Selling & Copy - Record Change Form - Enclosed in Record CD 10	Date Checked Out



LOCATION OF LAND CONVEYED BY DEED A:206:434

APPROXIMATE LOCATION OF TRACT #162-090-01

### SUBDIVISION OF THE WILHOIT-DOUGLASS TRACT.

Being portions of Sections 24-25 & 36 in T.1.N.R.5.E. M.D.B.M. and of Sections 19, 20, 30 & 31 in T.1.N.R.6.E. M.D.B.M. and of Section 1 T.1.S.R.5.E. and of Sections 6 & 7 T.1.S.R.6.E. Surveyed by J. H. Andrews, C.E.

#### REFERENCE.

..... Indicates Ditch Reservations.  
 Reservations for right of ingress and egress upon this Subdivision in areas shown where not marked County Road. All acreages, areas and distances include all Reservations.  
 See a meter contract dated September 23rd 1911 between J. H. Andrews, C.E. and J. L. Wilhoit, M.D. Eaton and W. D. Buckley, the owners of the said land, portions of the first part of Edward D. Taylor and Robert H. Reid parties of the second part as Trustees of Jesse Lee Wilhoit and Mary L. Douglas parties of the third part to secure an easement in the said Jesse Lee Wilhoit and Taylor, Robert H. Reid, Jesse Lee Wilhoit and Mary L. Douglas are, all the persons the contract is necessary to pass a clear title to said land that said J. L. Wilhoit, M.D. Eaton and W. D. Buckley have caused said tract to be surveyed, subdivided and laid out into lots as indicated on the said map, and he hereby consents to the making thereof, that any intended easement or other claim shall be obtained by notice and such notice shall be the responsibility of the party claiming same and that the easement of the owners of the tract indicated upon this subdivision for the right of ingress and egress upon said Subdivision, that said Reservations upon this map shall be used for the purposes of the easements or for any other public use.

In Witness Whereof, said J. L. Wilhoit, M.D. Eaton, W. D. Buckley, Edward D. Taylor, Robert H. Reid, Jesse Lee Wilhoit and Mary L. Douglas have hereunto set their names and seal this 23rd day of September, A.D. 1911.  
 J. L. Wilhoit (Seal), Edward D. Taylor (Seal)  
 M.D. Eaton (Seal), Robert H. Reid (Seal)  
 Jesse Lee Wilhoit (Seal), Mary L. Douglas (Seal)  
 STATE OF CALIFORNIA ) ss.  
 County of San Joaquin ) ss.  
 On this 30th day of September, in the year one thousand nine hundred and eleven, before me, J. H. Andrews, C.E., a Notary Public in and for said San Joaquin County, residing therein duly commissioned and sworn, personally appeared J. L. Wilhoit, M.D. Eaton, W. D. Buckley, Edward D. Taylor, Robert H. Reid and Jesse Lee Wilhoit, known to me to be the persons described in whose names are subscribed and who agreed to the contract instrument, and acknowledged to me that they executed the same in the presence of me, and in full view of my official Seal of my office in the County of San Joaquin, State of California, the day and year in this Certificate first above written.

In Witness Whereof, I have hereunto set my hand and affixed my Official Seal of my office in the County of San Joaquin, the day and year in this Certificate first above written.  
 J. H. Andrews, C.E.  
 Notary Public in and for said San Joaquin County, State of California.

STATE OF CALIFORNIA ) ss.  
 County of San Joaquin ) ss.  
 On this 30th day of September, A.D. 1911, before me, J. H. Andrews, C.E., a Notary Public in and for said San Joaquin County, residing therein duly commissioned and sworn, personally appeared J. L. Wilhoit, M.D. Eaton, W. D. Buckley, Edward D. Taylor, Robert H. Reid and Jesse Lee Wilhoit, known to me to be the persons described in whose names are subscribed and who agreed to the contract instrument, and acknowledged to me that they executed the same in the presence of me, and in full view of my official Seal of my office in the County of San Joaquin, State of California, the day and year in this Certificate first above written.

State of California )  
 County of San Joaquin )  
 I, James H. Arnold, Auditor of the County of San Joaquin, State of California, hereby certify that there are no liens for unpaid State County, Municipal or other taxes, levied upon the Tract or Subdivision of land conveyed in the accompanying Map, or any part thereof, unpaid taxes not yet payable. Witness my hand and seal of office this 1st day of January, 1912.  
 J. H. Arnold, Auditor of the County of San Joaquin, State of California.  
 7458  
 Filed at Request of  
 L. O. ...  
 1911  
 J. H. Andrews, C.E., Notary Public in and for said San Joaquin County, State of California.

# MSS Exhibit 1J

162-09

THIS MAP FOR  
ASSESSMENT USE ONLY



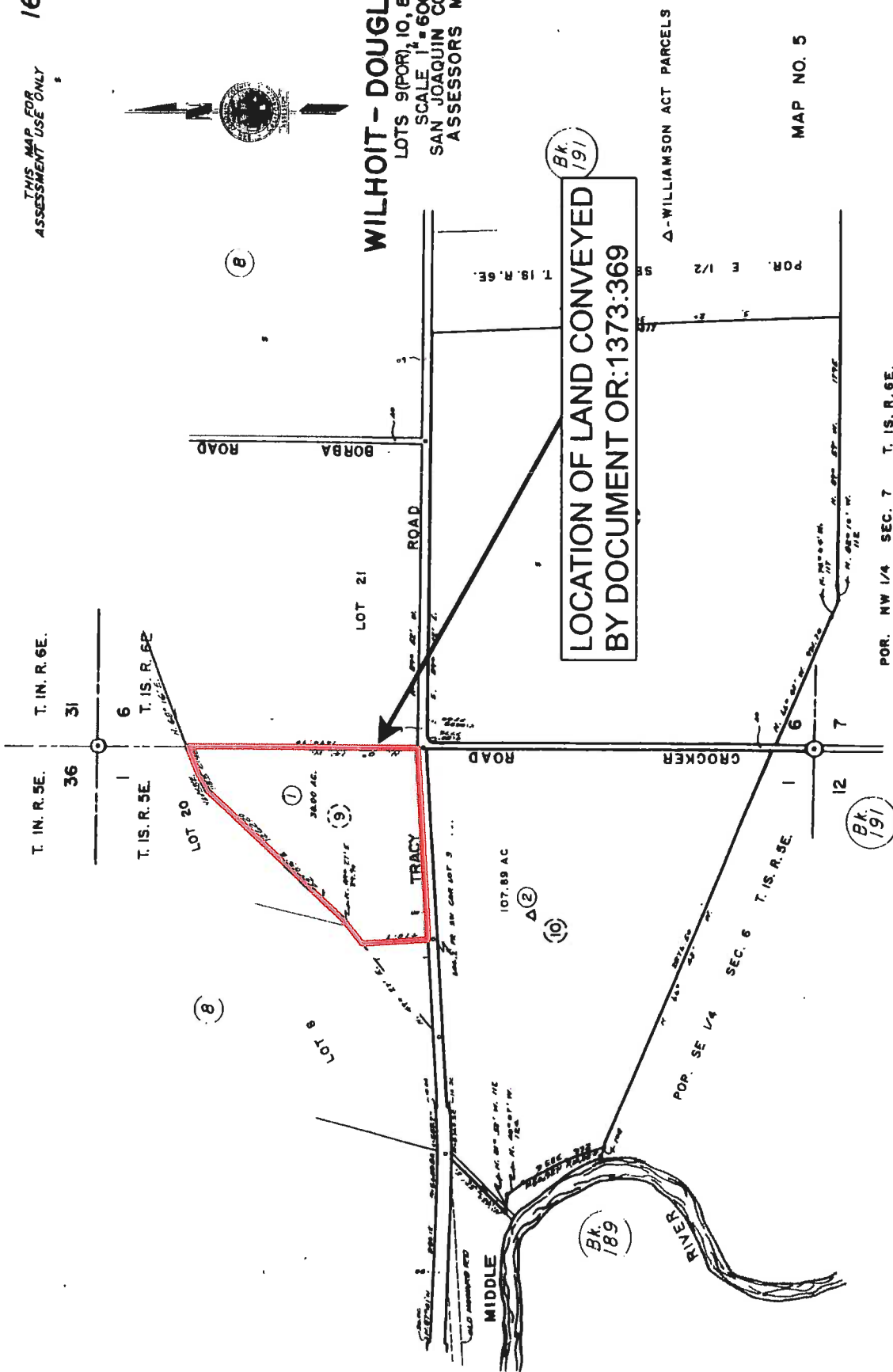
# WILHOIT - DOUGLASS TR

LOTS 9 (POR), 10, & 22  
SCALE 1" = 600'  
SAN JOAQUIN COUNTY  
ASSESSORS MAPS

LOCATION OF LAND CONVEYED  
BY DOCUMENT OR:1373:369

Bk. 191

MAP NO. 5



PRIVILEGED AND CONFIDENTIAL

MAP #162-090-01-1



# MSS Exhibit 1K

parties hereto, their heirs and assigns.

At the expiration, or sooner determination of this agreement, the parties of the second part agree to quit and surrender and leave said premises in a peaceable and proper manner.

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

State of California, )  
County of Alameda, ) SS:

Robert Albertson, Seal.  
E.G. Allington, Seal.  
A.E. Allington, Seal.

On this 31st day of October, in the year of our Lord One Thousand Nine Hundred and Ten, before me, J.W. Clarke, a Notary Public in and for the County of Alameda, State of California, residing therein, duly commissioned and sworn, personally appeared Robert Albertson, E.G. Allington, and A.E. Allington, known to me to be the persons described in and whose names are subscribed to the within instrument, and they acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year in this certificate first above written.

(Seal.) J.W. Clarke,

Notary public in and

for said county of Alameda, State of California.

Recorded at Request of D.V. Marceau, Sep. 27 1911 at 45 min past 11 o'clock A.M. in Book G. Vol. 27 of Miscellaneous, page 23. San Joaquin County Records.

Fees \$2.00.

James H. Kroh, Recorder.  
John J. Ambro, Deputy.

BERTHEAU MAX. A.

to

BROWN N.L.

"Completion of contract."

KNOW ALL MEN BY THESE PRESENTS: That I, the undersigned,

Max A. Bertheau, of the City of Stockton, County of San

Joaquin, State of California, the owner in fee simple in

the two One story frame buildings, situated on the West

line of South American Street on Lots 9 and 11, Block

33, East of Center Street, as the said lots and block are designated on the official map of the City of Stockton, California.

That on the 6<sup>th</sup> day of June, 1911, I entered into a contract with N.L. Brown, of the City of Stockton, County of San Joaquin, State of California, for the building of two frame buildings on the lots above described.

That on the 27<sup>th</sup> day of September, 1911, the said buildings were actually completed and accepted by me as completed.

Dated at Stockton, San Joaquin County, California, this 29<sup>th</sup> September, 1911.

Max A. Bertheau

Subscribed and sworn to before me, this 29<sup>th</sup> day of September, 1911.

(Seal) John D. Maxey, Notary Public in and for the County of San Joaquin,

State of California.

Recorded at Request of Max A Bertheau, Sep. 29 1911 at 58 min past 3 o'clock P.M. in Book G. Vol 27 of Miscellaneous, page 25 San Joaquin County Records.

Fees \$1.00.

James H. Kroh, Recorder.  
John J. Ambro, Deputy.

WILHOIT JESSIE LEE.

DOUGLASS MARY L.

to

WOODS IRRIGATION CO.

"Agreement."

THIS AGREEMENT, Made and entered into the 29th, day of September,

1911, between Jessie Lee Wilhoit and Mary L. Douglass, of the

City of Stockton, County of San Joaquin, State of California, the

parties of the first part, and Woods Irrigation Co. a

Corporation organized and existing under the laws of the State of California, with its principal place of business in the City of Stockton, County of San Joaquin, State of California, the party of the second part,

WITNESSETH: That the said parties of the first and second part for their mutual benefit and in consideration of the covenants and agreements herein contained do hereby agree as follows:

First: That in consideration that the party of the second part will operate and maintain a canal system and a drainage system through which the parties of the first part may receive



water for irrigation, and may dispose of drainage or waste waters, the parties of the first part do hereby grant in perpetuity the right to the party of the second part, to construct, maintain, police, patrol, operate, extend, widen and repair a series of canals for the purpose of irrigation and drainage, through, over and across that certain land situated in the County of San Joaquin, State of California, and described as follows, to-wit:

Beginning at the common corner of Sections Eighteen (18) and Nineteen (19) Township One (1) North Range Six (6) East, Mount Diablo Base and Meridian, and Sections Thirteen (13) and Twentyfour (24) Township One (1) North Range Five (5) East, Mount Diablo Base and Meridian, and running thence due West along the Section line 2396 feet to the center of a main irrigation canal; thence along the center line of said canal, the following courses and distances, to-wit: South  $0^{\circ} 45'$  East 2631- $\frac{8}{10}$  feet; thence South  $30^{\circ} 55'$  West 615 feet to the the half section line North and South through Section Twenty four (24) Township one (1) North, Range Five (5) East, Mount Diablo Base and Meridian; thence South 9014.3 feet along the half section line North and South through Sections Twenty-four (24) Twenty-five (25) and Thirty-six (36) thence South  $13^{\circ} 41'$  East 78- $\frac{2}{10}$  feet; thence South  $26^{\circ} 11'$  East 61- $\frac{1}{10}$  feet; thence South  $48^{\circ} 16'$  East 1232- $\frac{2}{10}$  feet; thence South  $32^{\circ} 20'$  East 143- $\frac{9}{10}$  feet; thence South  $0^{\circ} 49'$  East 426- $\frac{3}{10}$  feet; thence South  $13^{\circ} 59'$  West 4661- $\frac{8}{10}$  feet; thence South  $43^{\circ} 59'$  West 600- $\frac{4}{10}$  feet to the right bank of Middle River; thence meandering the right bank of said Middle River, up stream, to the center of the Cross Levee, between the Middle and Upper Divisions of Robert's Island; thence along the center line of said Cross levee in a South Easterly and Easterly direction to the South west corner of a certain 42-819/1000 acre tract of land, as conveyed by H.E. Williamson and Helenie Williamson, his wife, to J.W. Wilkinson, by Deed dated April 29th, 1899, and recorded in Book "A" of Deeds, Vol. 99 page 575 San Joaquin County Records; thence Northerly along the West line of said tract to the center of Section Six (6) Township One (1) South, Range Six (6) East, Mount Diablo Base and Meridian; thence East along the half section line through said Section Six (6) to the South West corner of that certain 202.07 acre tract of land heretofore conveyed by John N. Woods, widower, and E.W.S. Woods, and Alice M. Woods, his wife, to Constance M. Dixon, a widow, by Deed dated November 14th, 1900, and recorded in Book "A" of Deeds, Vol. 102 page 433 San Joaquin County Records; thence Northerly along the West line of said tract of land to the North West corner thereof; said North West corner of said tract being on the North line of the South half of the South East quarter of Section Thirty-one (31) Township One (1) North, Range Six (6) East, Mount Diablo Base and Meridian; thence West to the South West corner of that certain tract of land heretofore conveyed to John N. Woods, a widower, E.W.S. Woods, and Alice M. Woods, his wife, to M.D. Eaton and W.D. Buckley, by Deed dated December, 15th, 1902, and recorded in Book "A" of Deeds, Vol 120 page 263 San Joaquin County Records; thence North along the West line of said tract of land to the North West corner thereof; thence East along the North line of said tract of land to the section line between Sections Twenty-nine (29) and Thirty (30) Township One (1) North, Range Six (6) East, Mount Diablo Base and Meridian; thence North on said Section line to the common corner of Sections Nineteen (19), Twenty (20) Twenty-nine (29) and Thirty (30) Township One (1) North, Range Six (6) East, Mount Diablo Base and Meridian; thence East along the Section line between Sections Twenty (20) and Twenty-nine (29) Township One (1) North, Range Six (6) East, Mount Diablo Base and Meridian, 1980 feet; thence North 2640 feet to the half section line East and West through said Section Twenty (20); thence West along the half Section line through Sections Nineteen (19) and Twenty (20) Township One (1) North, Range Six (6) East, Mount Diablo Base and Meridian to the South East corner of the West half of the North East quarter of said Section Nineteen (19) Township and Range aforesaid; thence North to the section line East and West between Sections Eighteen (18) and Nineteen (19) Township One (1) North, Range Six (6) East, Mount Diablo Base and Meridian; thence West along said section line to the point of beginning, and being portion of Sections Nineteen (19) Twenty



(29) Thirty (30) and Thirty-one (31) in township One (1) North, Range Six (6) East, Mount Diablo Base and Meridian, and Sections Twenty-four (24) Twenty-five (25) and Thirty-six (36) Township One (1) North, Range Five (5) East, Mount Diablo Base and Meridian, ~~and Sections 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36~~, and Section One (1) Township One (1) South, Range Five (5) East, and Section Six (6) and Seven (7) Township One (1) South Range Six (6) East, Mount Diablo Base and Meridian; as delineated upon that certain Map entitled "Map of Woods Wilhoit & Douglass' Lands on Middle Division of Robert's Island in the County of San Joaquin, State of California," filed in the office of the County Recorder of of the County of San Joaquin, State of California, November 4th, 1909, at 3.15 o'clock P.M. Containing 3,286.37 acres, more or less.

Second: The party of the second part does covenant and agree that the parties of the first part may secure the delivery of water through the canals and ditches of the party of the second part, and that the parties of the first part may drain the excess or waste waters created by irrigation waters from the canal system of the party of the second part, into the drainage system of the party of the second part by contract, the cost and conditions to be set forth in the contract.

Third: The parties of the first part further agree that the party of the second part may have the right of ingress and egress upon, over and across the above described land for all the purposes appurtenant to the management and care of its irrigation and drainage system.

IN WITNESS WHEREOF, the said parties have hereunto set their hands and seals, and the said second party has hereunto caused its corporate name to be hereunto subscribed and its corporate seal to be hereunto affixed by its President and Secretary thereunto duly authorized the day and year first above written.

Jessie Lee Wilhoit, Seal.  
 Mary L. Douglass, Seal.  
 By Geo. E. Wilhoit,  
 Her Attorney in Fact.

(Corp. Seal.)

Woods Irrigation Co.  
 By E.W.S. Woods, President.  
 By Geo. E. Wilhoit, Secretary.

*Copy Seal*

State of California, )  
 County of San Joaquin, ) SS:

On this 29th day of September, A.D. 1911, before me, Avis G. McCloud, a Notary Public in and for the said San Joaquin County, residing therein, duly commissioned and sworn, personally appeared Geo. E. Wilhoit, known to me to be the person whose name is subscribed to the within instrument as the Attorney in fact of Mary L. Douglass, and the said Geo. E. Wilhoit, acknowledged to me that he subscribed the name of Mary L. Douglass, thereto as principal and his own name as Attorney in fact.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal, at my office in the County of San Joaquin, the day and year in this Certificate first above written.

(Seal.) Avis G. McCloud,

Notary Public in and for

said San Joaquin County, State of California.

State of California, ) SS.  
 County of San Joaquin, )

On this 29th day of September, in the year one thousand nine hundred and eleven, before me, Avis G. McCloud, a Notary Public in and for said County and State, residing therein, duly commissioned and qualified, personally appeared E.W. S. Woods, known to me to be the President and Geo. E. Wilhoit, known to me to be the Secretary of the Corporation that executed the within instrument, and acknowledged to me that such Corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal at my office in the County of San Joaquin, State of California, the day and year in this certificate first above written.

(Seal.)

Avis G. McCloud, Notary Public in and for said

San Joaquin County, State of California.

State of California, )  
 County of San Joaquin, ) SS:

On this 29th day of September, in the year one thousand nine hundred and eleven, before

me, Avis G. McCloud, a Notary Public in and for said County of San Joaquin, State of California, residing therein, duly commissioned and qualified, personally appeared Jessie Lee Wilhoit, known to me to be the person described in, whose name is subscribed to, and who executed the annexed instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal at my office in the City of Stockton, County of San Joaquin, the day and year in this certificate first above written. (Seal.)

Avis G. McCloud, Notary Public in and

for the county of San Joaquin, State of California.

Recorded at Request of Woods Irrigation Co. Sept. 30 1911 at 16 min past 9 o'clock A.M. in Book G. Vol 27 of Miscellaneous, page 25 San Joaquin County Records.

James H. Kroh, Recorder.  
John J. Ambrose, Deputy.

Fee \$2.20.

WOODS IRRIGATION CO.

Contract to furnish water between the Woods Irrigation Co. and

WILHOIT JESSIE LEE.  
DOUGLASS MARY L.

CONFIRMED

Jessie Lee Wilhoit and Mary L. Douglass,

"Agent. to furnish water."

THIS AGREEMENT, made the 20th day of September, 1911,

between the Woods Irrigation Co. a corporation, organized and existing under the laws of the State of California, the party of the first part, and hereinafter termed the Company and Jessie Lee Wilhoit and Mary L. Douglass, of the County of San Joaquin, State of California; the second parties and hereinafter termed the consumer.

WITNESSETH: First: That in consideration of the sum of \$10.00 gold coin of the United States paid by the second parties to the first party, the receipt whereof is acknowledged, and in consideration of further sums of money hereinafter promised to be paid by the second parties, and in consideration of the reciprocal covenants herein contained, the first party agrees under the terms, conditions, limitations, and restrictions herein stated, to furnish the second parties water, not exceeding at any one time 32.86 cubic feet per second.

The quantity of water herein agreed to be furnished by the first party to the second parties shall not exceed such quantity of water as may be required, when economically used, for irrigating that certain land situated in the County of San Joaquin, State of California, and described as follows; and which is delineated upon a map hereunto attached. Said map sets forth said lands in sub-divisions which are numbered, and which may be hereinafter referred to in part by such numbers.

Beginning at the common corner of Sections Eighteen (18) and Nineteen (19) Township One (1) North, Range Six (6) East, Mount Diablo Base and Meridian, and Sections Thirteen (13) and Twenty-four (24) Township One (1) North, Range Five (5) East, Mount Diablo Base and Meridian, and running thence due West along the Section line 2396 feet to the center of a main irrigation canal; thence along the center line of said canal, the following courses and distances. to-wit:-



# MSS Exhibit 1L

28  
I, Avi G. McCloud, a Notary Public in and for said County of San Joaquin, State of California, residing therein, duly commissioned and qualified, personally appeared Jessie Lee Wilhoit, know to me to be the person described in, whose name is subscribed to, and who executed the amended instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal at my office in the City of Stockton, County of San Joaquin, the day and year in this certificate first above written. (Seal.)

Avi G. McCloud,  
Notary Public in and

for the County of San Joaquin, State of California.

Recorded at Request of Woods Irrigation Co. Sept. 30 1911 at 16 min past 9 o'clock A.M. in Book C. Vol 27 of Miscellaneous, page 25 San Joaquin County Records.

James H. Kroh, Recorder.  
John J. Ambros, Deputy.

Fee \$2.20.

WOODS IRRIGATION CO.  
to  
WILHOIT JESSIE LEE.  
DOUGLASS MARY L.

Contract to furnish water  
between the  
Woods Irrigation Co.  
and

Jessie Lee Wilhoit and Mary L. Douglass,

"Agmt. to furnish water."

THIS AGREEMENT, made the 20th day of September, 1911,

between the Woods Irrigation Co. a corporation, organized and existing under the laws of the State of California, the party of the first part, and hereinafter termed the Company and Jessie Lee Wilhoit and Mary L. Douglass, of the County of San Joaquin, State of California; the second parties and hereinafter termed the consumer.

WITNESSETH: First: That in consideration of the sum of \$10.00 gold coin of the United States paid by the second parties to the first party, the receipt whereof is acknowledged, and in consideration of further sums of money hereinafter promised to be paid by the second parties, and in consideration of the reciprocal covenants herein contained, the first party agrees under the terms, conditions, limitations, and restrictions herein stated, to furnish the second parties water, not exceeding at any one time 32.86 cubic feet per second.

The quantity of water herein agreed to be furnished by the first party to the second parties shall not exceed such quantity of water as may be required, when economically used, or irrigating that certain land situated in the County of San Joaquin, State of California, and described as follows; and which is delineated upon a map herunto attached. Said map sets forth said lands in sub-divisions which are numbered, and which may be hereinafter referred to in part by such numbers.

Beginning at the common corner of Sections Eighteen (18) and Nineteen (19) Township One (1) North, Range Six (6) East, Mount Diablo Base and Meridian, and Sections Thirteen (13) and Twenty-four (24) Township One (1) North, Range Five (5) East, Mount Diablo Base and Meridian, and running thence due West along the Section line 2396 feet to the center of a main irrigation canal; thence along the center line of said canal, the following courses and distances, to-wit: South 45° East 2631-8/10 feet; thence South 30° 55' West 615 feet to the half section line North and South through Section Twenty-four (24) Township One (1) North, Range Five (5) East, Mount Diablo Base and Meridian; thence South 9014.3 feet along the half section line North and South through Sections Twenty-four (24) Twenty-five (25) and Thirty-six (36) thence South 13° 41' East 78-2/10 feet; thence South 26° 11' East 51-1/10 feet; thence South 48° 15' East 1232-2/10 feet; thence South 32° 20' East 143-9/10 feet; thence South 6° 49' East, 426 3/10 feet; thence South 13° 59' West 4661-8/10 feet; thence South 45° 59' West 600-4/10 feet to the right bank of Middle River; thence meandering the right bank of said Middle River, up stream, to the center of the Cross Levee, between the Middle and Upper Divisions of Robert's Island; thence along the center line of said cross Levee in a South Easterly and Easterly direction to the South West corner of a certain 42-619/1000 acre tract of land, as conveyed by H. E. Williamson and Selena Williamson, his wife, to J. W. Wilkinson, by Deed dated April 29th, 1899, and recorded in Book "A" of Deeds Vol. 99, page 575 San Joaquin County Records; thence



Northward along the West line of said tract to the northeast corner of Section Six (6) Township One (1) South Range Six (6) East, Mount Diablo Base and Meridian; thence East along the half section line through said Section Six (6) to the North West corner of that certain 808.77 acre tract of land heretofore conveyed by John E. Woods, widower, and E. W. B. Woods and Alice M. Woods, his wife, to Constance K. Dixon, a widow, by Deed dated November, 14th, 1900, and recorded in Book "A" of Deeds, Vol 102 page 433 San Joaquin County Records; thence Northward along the West line of said tract of land to the North West corner thereof (said North West corner of said tract being on the North line of the South half of the South East quarter of Section Thirty-one (31) Township One (1) North Range Six (6) East, Mount Diablo Base and Meridian); thence West to the South West corner of that certain tract of land heretofore conveyed by John E. Woods, a widower, E. W. B. Woods, and Alice M. Woods, his wife, to H. D. Eaton and W. D. Buckley, by Deed dated December 13th, 1902, and recorded in Book "A" of Deeds Vol 120 page 263 San Joaquin County Records; thence North along the West line of said tract of land to the North West corner thereof; thence East along the North line of said tract of land to the section line between sections Twenty-nine (29) and Thirty (30) Township One (1) North, Range Six (6) East, Mount Diablo Base and Meridian; thence North on said Section line to the common corner of sections Nineteen (19), Twenty (20) Twenty-one (21) and Thirty (30) Township One (1) North, Range Six (6) East, Mount Diablo Base and Meridian; thence East along the Section line between Sections Twenty (20) and Twenty-nine (29) Township One (1) North, Range Six (6) East, Mount Diablo Base and Meridian, 1980 feet; thence North 4540 feet to the half section line East and West through said Section Twenty (20); thence West along the half section line through Sections Nineteen (19) and Twenty (20) Township One (1) North, Range Six (6) East, Mount Diablo Base and Meridian to the South East corner of the West Half of the North East quarter of said Section Nineteen (19) Township and Range aforesaid; thence North to the section line East and West between Sections Eighteen (18) and Nineteen (19) Township One (1) North, Range Six (6) East, Mount Diablo Base and Meridian; thence West along said section line to the point of beginning, and being portion of Sections Nineteen (19) Twenty (20) Thirty (30) and Thirty-one (31) in Township One (1) North, Range Six (6) East, Mount Diablo Base and Meridian, and sections Twenty four (24) Twenty-five (25) and Thirty six (36) Township One (1) North, Range Five (5) East, Mount Diablo Base and Meridian, and Section One (1) Township One (1) South Range Five (5) East, and sections Six (6) and Seven (7) Township One (1) South Range Six (6) East, Mount Diablo Base and Meridian; as delineated upon that certain map entitled "Map of Woods, Withoit & Douglass' Lands on Middle Division of Fabert's Island in the county of San Joaquin, State of California." filed in the office of the County Recorder of the County of San Joaquin, State of California, November 4th, 1904, at 3:15 o'clock P.M. Containing 3,286.37 acres, more or less.

The agreement of the first part to furnish water to the second parties hereby expressly limited to such water as may be used to irrigate the said lands above described, or any subdivision thereof. The said water shall be so furnished by the first party to the second party from the 29th day of September, 1911, until the 14th day of December, 1959, and thereafter in perpetuity.

It is understood and agreed between the parties hereto that this contract is not intended to and does not create or convey any lien, estate, easement, or servitude, legal or equitable, in any manner upon or in the canal or ditch of the first party, or in or to the water flowing therein or which may hereafter flow therein, nor does this contract create any equitable covenant encumbering the said canals, and disposition thereof by the first party.

The rights of the second parties herein contracted for are to have the water furnished in perpetuity as provided in this contract by the first party, and in case of default of the Company to furnish water as herein agreed, where the same is caused by accident, hostile diversion, legal interference, or any act of God, the Company shall not in any way be held responsible for the damage caused by such default.



Second:- For the water herein agreed to be furnished, the consumer in consideration of the premises, hereby promised, promises and covenants to pay in gold coin of the United States to the Company or its agents as may hereafter be provided, at its or their office as follows:

On the first Monday, in each September, after the first Monday in September, 1911, until the year of 1959, and on the first Monday of each September thereafter, so long as said water shall be furnished under said contract, the sum of \$1.00 together with that sum of money, the amount of which shall be determined as follows:

The total expense for the maintenance and replacement of the canal and structures, and the expense of the delivery of water, and of extension, and of the removal of seepage waters, after the same has reached the common out-let, or out-lets, as may be provided by the Company, and of the operation of the Company's affairs, all cost of litigation, and all other expense incidental to the operation of the canal system shall be pro-rated according to the acreage served with water by said Company and each and every acre herein above described shall contribute and pay that amount to the Company on the day as hereinabove set forth. The item of replacement shall be fixed by the Company, based upon the depreciation of the structures, and shall be kept by the Company and used for that purpose only. Should the fund created thereby, at any time, exceed the sum of the probable cost of the replacement, that particular part of the sum of money to be paid the Company shall be omitted until such a time as it would become necessary to replenish the fund. The net revenue derived from the sale of water to any other lands not described in this agreement shall be applied to the maintenance of the canal system and each and every acre shall receive its proportional decrease on account of such revenue.

Third: Should the consumer default in the payment of any sum or sums herein promised to be paid at the time and in the manner as above specified, a suit may be commenced to enforce collection of the same by foreclosure and sale of the premises described above, or any subdivision thereof that may become delinquent.

The Company and the Consumer do hereby agree that the delivery of water and the maintenance and operation of the canal system shall be conducted according to a certain set of rules and regulations, as adopted by the Company on the 29th day of September, 1911, and for a greater certainty a copy of the same are herein inserted and made a part of this agreement and are as follows:

There shall be an office of superintendent of canals and the holder shall serve at the pleasure of the Board of Directors, and shall receive such compensation as they may fix for his services. A part of the duties of the superintendent of canals shall be as follows:-

The duties of the superintendent of canals shall be to maintain the canal system; to supervise the delivery of the water in accordance with the Company's rules and regulations; to make such replacements and extensions, which may include plans and specifications, as furnished by the Board of Directors. He shall furnish and deliver monthly to the secretary of the Company, a full statement of all expenditures which shall include all labor and material used. He shall report monthly to the Company the delivery of water to the several Consumers, giving date and place of consumption. He shall report the necessity of drainage, repair and replacement to the Board of Directors whenever it becomes evident of the necessity.

There shall be an officer of engineer, who shall serve at the pleasure of the Board of Directors and shall receive such compensation as the Board of Directors may agree upon. The duties of the engineer shall be to plan the construction of ditches, gates, etc. to report <sup>upon</sup> all engineering matters as the Board of Directors may direct, and to direct the Superintendent of canals in such work as the Board of Directors may instruct him.

GENERAL CONSTRUCTION:

The Company shall construct, maintain, and replace all main canals, laterals, stream diversion gates, checks, drops and the side-gates as hereinafter provided, and all drainage gates, siphons, and structures necessary to suffice the complete drainage of the lands, after the water has been conveyed to the banks of the canals constructed by the Company for that purpose.



31  
The main canal and laterals, as constructed by the Company, shall be such as to furnish water to all of the land at such places as may be necessary to allow the subdivision of the land in tracts of 40 acres, being of the general dimensions of 10 by 20 chains, the lesser dimension bordering along the canal.

#### GATES, CHECKS AND STRUCTURES:

The Company shall construct all structures necessary to convey the waters through its canals and laterals and to maintain the water at such reasonable levels as to supply the land as hereinabove described, excepting therefrom such acres as are hereafter provided for, and all other tracts so situated as not to allow the placing of water upon them.

The side-gates shall be constructed by the Company and paid for by the consumer in the manner and at the time and place as hereinabove provided for the payment for the delivery of water. The Company shall have full charge and control of all side-gates and shall maintain them thereafter.

#### DRAINAGE.

The Company shall construct and maintain drainage canals, pumps and appliances, sufficient to relieve the irrigated land of waste or surplus waters.

The cost of the construction of any drainage system, which suffices the drainage of any certain tract, under contract, shall be borne by that tract. The cost shall be pro-rated according to acreage, and the payment for such drainage systems shall become due and payable as provided above for the payment of the delivery of water, and shall be subject to all of the terms and conditions thereof.

The Company shall construct that part, or parts, of the drainage system in which more than one tract participates and the cost shall be charges to the drainage account and shall be borne proportionately by all land under this contract and all other lands coming under subsequent contracts. The Company shall have full charge of such drainage system and its maintenance thereafter shall be borne by the Company.

The Consumer shall convey the water to the drainage canal as constructed by the Company. Should it become evident that a consumer should be neglectful of the use of the water and create unnecessary seepage, the Company, at its election, may direct his method of irrigation and fix the amount of water he shall receive.

#### APPLICATION FOR WATER.

The Consumer shall make a written application for the delivery of water; said application shall be made at least five days prior to the time set forth in the application as the date of delivery.

Should it be impossible or unreasonable for the Company to deliver the water in accordance with the application, it will deliver the water as soon thereafter as it is practical for the Company so to do. The Consumer must receive the water in rotation with other Consumers, should it be deemed the most practical method by the Company.

#### HANDLING THE GATES.

The Consumer shall not open the side-gates which furnishes water upon his or any other land or in any manner interfere or adjust the gates in the main canal or branches thereof, unless he be given written permission by the Company's superintendent to do so. Should the Consumer violate this rule the company shall have the right to charge him for all trouble and expense incurred, and that charge shall become a part of the charge for water and collectable at the date and in the manner as specified in the contracts for water. The Company shall be the sole judge of such trouble and expense.

#### USE OF WATER:

The Consumer shall use the water in a most economical manner and shall not waste the water either by neglect or excessive use. Should the Consumer allow the water to damage any other property he shall be responsible for such damages and in no case shall the Company be held for such neglect.

The Consumer shall not sell or dispose of any of the water, furnished under this contract,



in any other land or person or allow the water to flow off his land upon the lands of others.

Should the supply of water be diminished so that the quantity available would not furnish all of the lands with the amount desired, then in that event the quantity available shall be

pro-rated according to the acreage of each Consumer. IN OTHERS AND WORKS. The authorized agent of the Company and his employes shall have free access at all times to the lands irrigated from the Company's Canal, to make surveys and measurements as deemed necessary, to examine the flow of water, to patrol, police, repair, maintain and replace all canals and structures appurtenant thereto, both from the supply of irrigating waters and drainage and to use necessary earth to make such repairs.

FOURTH: That the Consumer agrees that the Company may have the right to take charge of any canal which has been constructed by the Consumer for the purpose of supplying water to a part of his premises, provided that the said premises have been so subdivided as to leave a tract of land not adjacent to any canal. Then in the case of subdivision of a tract and the sale of a part thereof, the grantor shall provide means for the supplying of irrigating waters and the drainage of the tract so subdivided. The Company may at its election take possession of said supply branch and drainage way as hereinabove provided. FIFTH: Included in the description of the land hereinabove described are 835.29 acres of land situated in the lot as delineated upon the map hereinabove included which are described as follows, to-wit: The East 60 acres of Lot Thirty-six (36) the East 60 acres of Lot Thirty-seven (37); all of Lot Thirty-five (35); and all of Lot Twenty-two (22) which are above the reasonable elevation of the water in the Company's canals, and which are hereinafter termed "high lands". It is mutually understood that the water cannot reach the surface of said 835.29 acres of land from the present or any contemplated canal of the Company's. The same will, however, sub-irrigate for many purposes, and the water may be pumped from the Company's canal upon these "high lands". It is hereby understood and agreed by the Company and the Consumer that the Consumer may place water upon these "high lands" at his election, conditioned that should the Consumer avail himself of this privilege, he shall give written notice to the Company of his intention; then and thereafter the said "high lands" shall become a Consumer in perpetuity, and the lands shall be subject to all of the conditions of this contract. Should it become evident to the Company that the said "high lands" or any part thereof, were sub-irrigated, regardless of any act of the Consumer, the Company may, at its election, place the land so sub-irrigated under the full conditions of this contract by serving written notice upon the owner of the tract. SIXTH: This agreement is to run with the land and become a part thereof, and shall be a lien upon the tract or any sub-division thereof; which lien may be foreclosed to secure the payments as provided for in the agreement, and the sub-division and sale of any or all of the hereinabove described tract shall in no way effect this agreement, and the agreement shall run with each and every sub-division thereof as though it were the whole.

IN WITNESS WHEREOF, the said first party, termed the "Company" has caused the corporate name to be herein subscribed and its corporate seal to be hereunto affixed by its president and secretary thereunto duly authorized, and the second parties have hereunto set their hands and seals.

(Corp. Seal.) WOODS TRIBUTION CO.  
By E. W. B. Woods, President.  
And Geo. E. Wilhoit, Secretary.  
Jessie Lee Wilhoit, Seal.  
May L. Douglass, Seal.  
By E. L. Wilhoit Her attorney in fact.

State of California, )  
County of San Joaquin, ) SS.

On this 20th day of September, A.D. 1911, before me, Avis G. McCloud, a Notary Public in and for said San Joaquin County, residing therein, duly commissioned and sworn, personally appeared Geo. E. Wilhoit, known to me to be the person whose name is subscribed to the within instrument as the Attorney in fact of Mary L. Douglass, and the said Geo. E. Wilhoit, acknowledged to me that he subscribed the name of Mary L. Douglass, thereto as principal and his own name as Attorney in fact. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in the county of San Joaquin, the day and year in this Certificate first above written. (Notary Seal.) Avis G. McCloud, Notary Public in and for said San Joaquin County, State of California.

State of California, )  
County of San Joaquin, ) SS: On this 20th day of September, in the year one thousand nine hundred and eleven, before me, Avis G. McCloud, a Notary Public in and for said County and State, residing therein, duly commissioned and qualified, personally appeared E. W. B. Woods, known to me to be the president and Geo. E. Wilhoit, known to me to be the Secretary of the Corporation, that executed the within instrument, and acknowledged to me that such Corporation executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal, at my office in the County of San Joaquin, State of California, the day and year first above written. (Seal.) Avis G. McCloud, Notary Public in and for said San Joaquin County, State of California.

State of California, )  
County of San Joaquin, ) SS

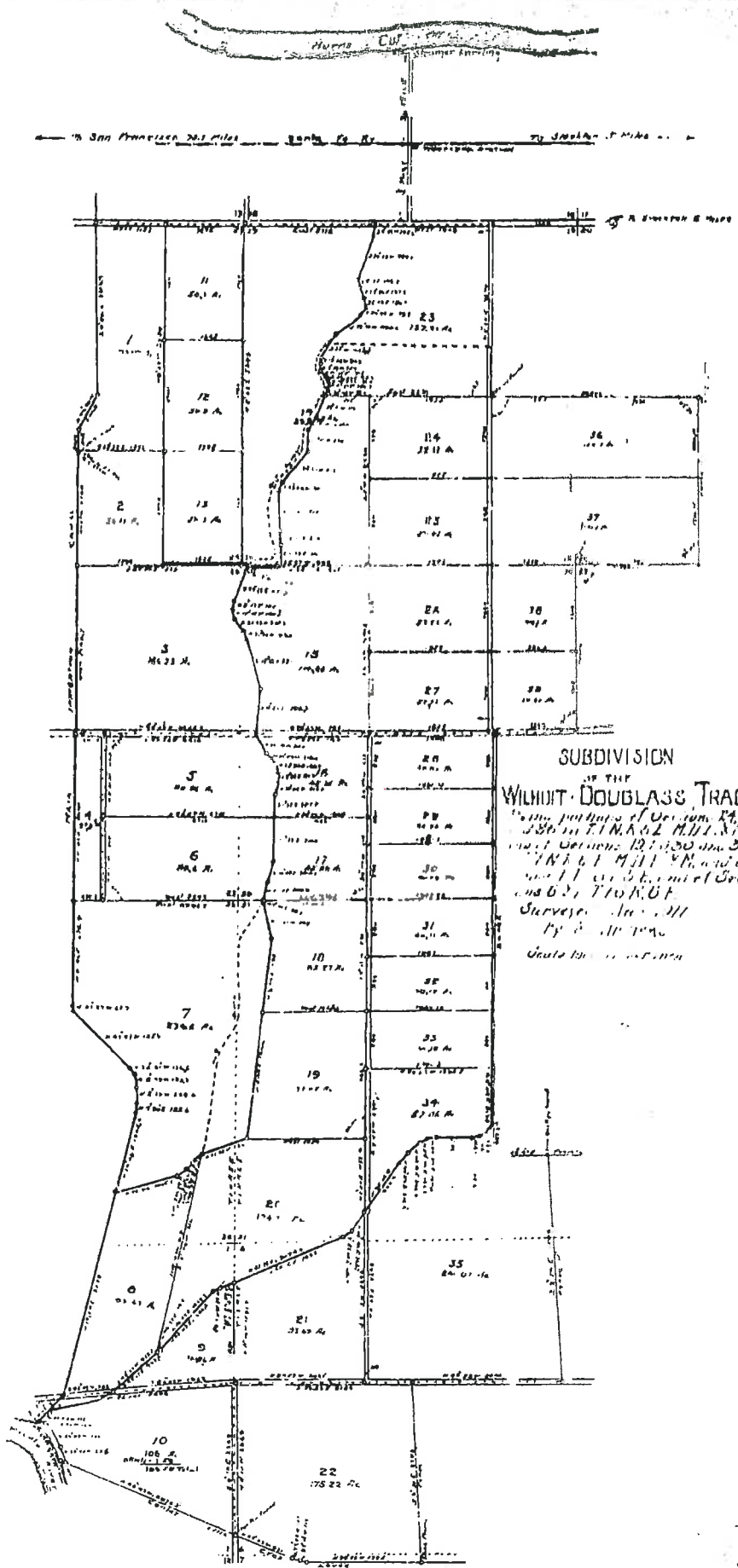
On this 20th day of September, in the year one thousand nine hundred and eleven, before me, Avis G. McCloud, Notary Public in and for said County of San Joaquin, State of California, residing therein, duly commissioned and qualified, personally appeared, Jessie Lee Wilhoit, known to me to be the person described in, whose name is subscribed to, and who executed the annexed instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal, at my office in the City of Stockton, County of San Joaquin, the day and year in this certificate first above written.

(Notary Seal.) Avis G. McCloud, Notary Public

in and for the County of San Joaquin, State of California.





64

Recorded: at request of Wilhoit & Douglass, Sep. 30 1911 at 22 min past 9 o'clock A.M. in  
Book G. Vol 27 of Miscellaneous, page 28 San Joaquin County, Recorder,

James H. Ketch, Recorder.  
John J. Lindero, Deputy.

Page 68.66

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# MSS Exhibit 2A

**Dunkel - MSS  
Exhibit 2A**

**San Joaquin River**

**Lands provide  
riparian right to  
Parcel**

**CP 2718  
1/21/1869**

**Whiskey Slough**

**Burns Cutoff**

**San Joaquin River**

**APPROXIMATE LOCATION  
OF TRACT #162-090-01**

**CP 2864  
7/26/1869**

**Middle River**

**APN 162-090-01 was part of CP  
2864, issued by the State of  
California in 1869. CP 2864 is  
contiguous to Burns Cutoff, San  
Joaquin River, Middle River and  
Whiskey Slough.**

**CP 3321  
7/14/1870**

# MSS Exhibit 2B



Dunkel - MSS  
Exhibit 2B

San Joaquin River

Lands provide riparian right to Parcel

Lands do NOT provide riparian rights to Parcel

CP 2718  
1/21/1869

Whiskey Slough

Burns Cutoff

San Joaquin River

APPROXIMATE LOCATION  
OF TRACT #162-090-01

CP 2864  
7/26/1869

Middle River

CP 3321  
7/14/1870

In 1877, APN 162-090-01 was conveyed in a larger parcel that included parts of CP 2864 and CP 3321. The parcel remained contiguous to Middle River, San Joaquin River, and Burns Cutoff, but was no longer contiguous to Whiskey Slough.

MSS Exhibit 2C



Dunkel - MSS  
Exhibit 2C

San Joaquin River

Lands provide  
riparian right to  
Parcel

Lands do NOT  
provide riparian  
rights to Parcel

CP 2718  
1/21/1869

Whiskey Slough

Burns Cutoff

San Joaquin River

APPROXIMATE LOCATION  
OF TRACT #162-090-01

CP 2864  
7/26/1869

Middle River

CP 3321  
7/14/1870

In 1891, APN 162-090-01 was  
conveyed as part of a large parcel.  
This parcel severed contiguity with the  
San Joaquin River and Burns Cutoff,  
but remained contiguous to Middle  
River.

# MSS Exhibit 2D

Dunkel - MSS  
Exhibit 2D

San Joaquin River

Lands do NOT  
provide riparian  
rights to Parcel

CP 2718  
1/21/1869

Whiskey Slough

Burns Cutoff

San Joaquin River

APPROXIMATE LOCATION  
OF TRACT #162-090-01

CP 2864  
7/26/1869

Middle River

In 1909, APN 162-090-01 was conveyed as part of a larger parcel. Although a portion of the parcel remained contiguous to Middle River, this land cannot provide riparian rights to APN 162-090-01. Therefore, this conveyance severs the riparian rights of APN 162-090-01.

CP 3321  
7/14/1870

# MSS Exhibit 2E



Dukel - MSS  
Exhibit 2E

San Joaquin River

Lands do NOT  
provide riparian  
rights to Parcel

CP 2718  
1/21/1869

Whiskey Slough

Burns Cutoff

San Joaquin River

APPROXIMATE LOCATION  
OF TRACT #162-090-01

CP 2864  
7/26/1869

Middle River

CP 3321  
7/14/1870

In 1911, APN 162-090-01 was conveyed  
as part of a larger parcel.



# MSS Exhibit 2F

Dunkel - MSS  
Exhibit 2F

San Joaquin River

Lands do NOT  
provide riparian  
rights to Parcel

CP 2718  
1/21/1869

Whiskey Slough

Burns Cutoff

San Joaquin River

APPROXIMATE LOCATION  
OF TRACT #162-090-01

CP 2864  
7/26/1869

Middle River

In 1951, a conveyance formed what is  
currently APN 162-090-01.

CP 3321  
7/14/1870

EL PESCADERO

# MSS Exhibit 3

1 Timothy O'Laughlin, State Bar No. 116807  
Kenneth Petruzzelli, State Bar No. 227192  
2 O'LAUGHLIN & PARIS LLP  
P.O. Box 9259  
3 Chico, California 95927  
Telephone: (530) 899-9755  
4 Facsimile: (530) 899-1367

5 Attorneys for MODESTO IRRIGATION DISTRICT

6 Clifford W. Schulz, State Bar No. 039381  
Stanley C. Powell, State Bar No. 254057  
7 KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD  
A Professional Corporation  
8 400 Capitol Mall, 27th Floor  
Sacramento, California 95814  
9 Telephone: (916) 321-4500  
Facsimile: (916) 321-4555

10 Attorneys for STATE WATER CONTRACTORS

11 Jon D. Rubin, State Bar No. 196944  
12 Valerie C. Kincaid, State Bar No. 231815  
DIEPENBROCK HARRISON  
13 A Professional Corporation  
400 Capitol Mall, Suite 1800  
14 Sacramento, CA 95814-4413  
Telephone: (916) 492-5000  
15 Facsimile: (916) 446-4535

16 Attorneys for SAN LUIS & DELTA-MENDOTA  
WATER AUTHORITY

17  
18 BEFORE THE CALIFORNIA

19 STATE WATER RESOURCES CONTROL BOARD

20  
21 In the Matter of Draft Cease and Desist  
22 Order No. 2009-00XX-DWR Against Mark  
and Valla Dunkel  
23

**TESTIMONY OF PHILIP JOHNSON**

24  
25 My name is Philip Johnson, I am a supervising engineering geologist at Cotton, Shires and  
26 Associates. I have over 19 years experience in the field of engineering geology, working on  
27 projects throughout California, including geologic investigations involving slope stability,  
28 seismic hazards, sea bluff retreat, groundwater, sedimentary geology, and other geotechnical

1 issues. A component of this work includes field mapping and aerial photograph interpretation.  
2 My statement of qualifications is marked as MSS Exhibit 3A.

3 I reviewed ten historical, single-framed aerial photographs of APN No. 162-090-01, on  
4 Roberts Island in San Joaquin County, California ("Parcel") taken from 1937 to 2000.

5 The August 1937 aerial photograph shows that, at that time, the Parcel contained row  
6 crops that had been recently burned. MSS Exhibit 3B.

7 The May 1940 aerial photograph shows that, at that time, 84 percent of the Parcel was  
8 under cultivation as row crops and irrigated; the remaining 16 percent was fallow. MSS Exhibit  
9 3C.

10 The July 1957, June 1963, August 1963, and May 1968 aerial photographs show that, at  
11 those times, the entire Parcel was irrigated and planted with row crops. MSS Exhibits 3D, 3E,  
12 3F, and 3G.

13 The June 1985 aerial photograph shows that, at that time, the Parcel was fallow, with dry  
14 fields. MSS Exhibit 3H.

15 The June 1987 and March 1993 aerial photographs show that at those times, the entire  
16 Parcel was planted with row crops and irrigated. MSS Exhibits 3I and 3J.

17 The September 2000 aerial photograph shows that, at that time, the Parcel had been  
18 planted with row crops which were recently harvested. MSS Exhibit 3K.

19  
20  
21  
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MSS Exhibit 3A

## **Philip L. Johnson**

Supervising Engineering Geologist

### **Registration**

Registered Geologist in California, RG 6196  
Certified Engineering Geologist in California, CEG 2019

### **Education**

M.S., Geology: San Jose State University, San Jose, California, 1990  
B.A., Geology: San Francisco State University, San Francisco, California, 1987

### **Areas of Specialty**

Investigation and repair of landslides; landslide mapping and aerial photograph interpretation; subsurface investigation of landslides; geotechnical construction defect litigation support; dam site investigations; seismic hazard assessment; and sedimentary geology

### **Representative Experience**

Mr. Johnson has over 19 years of experience in the field of engineering geology, working on projects throughout California. He has been involved with numerous geologic investigations involving slope stability, seismic hazards, sea bluff retreat, groundwater, and other geotechnical issues. He also regularly participates in peer review for communities in the San Francisco bay area. He has a variety of areas of expertise including:

- Geologic characterization of landslides for design of mitigation measures. He has investigated numerous landslides ranging from large, deep-seated landslide complexes to shallow colluvial landslides and debris flows.
- Landslide mapping and aerial photograph interpretation. He has mapped landslides in a wide variety of terrain utilizing both field mapping and aerial photograph interpretation.
- Subsurface investigation utilizing downhole logging of large-diameter boreholes, core logging, and trench logging methods.
- Engineering geologic aspects of surface mine reclamation with emphasis on stability of former mine slopes.
- Assessment of seismic ground shaking and fault rupture hazards for large engineered structures as well as light construction. Projects include fault rupture hazard and paleoseismic investigations on the San Andreas, Las Positas, and Valley Side faults.
- Investigation of geotechnical construction defect and building distress related to expansive soils, fill settlement, incipient slope deformation, and landsliding.
- Engineering geologic investigation of dam sites. He was Project Geologist for two potential dam sites for East Bay Municipal Utility District. He also participated in a seismic hazard investigation of

the Foothills fault system for the New Hogan Dam in the Sierra Nevada foothills. He also mapped the geology exposed during construction of a soft ground tunnel at Crystal Springs Reservoir. Recently, he conducted subsurface investigation, field mapping, and permeability testing at an existing dam on the Stanislaus River.

- Fluvial sedimentology with particular emphasis on the use of detailed fluvial architecture to evaluate tectonic basin subsidence and basin history.
- Hydrostratigraphic investigations utilizing core samples, borehole geophysical, and hydrogeologic data.

Recent projects include photogeologic and field mapping of landslides in the Ridge Basin in Los Angeles County; photogeologic mapping of fluvial geomorphic features in the San Joaquin River delta; downhole logging of large-diameter borings during investigation of landslides in the City of Richmond; inspection and evaluation of quarry slopes in Santa Clara County; investigation of an incipient landslide in Clayton; evaluation of fault rupture hazards on the east side of the Coast Ranges; investigation of debris flows in Pacifica, Lafayette, and Orinda; photogeologic evaluation of landslide and fault rupture hazards in Santa Rosa; subsurface investigation of a large, deep-seated landslide in Santa Barbara; a fault rupture hazard investigation along the San Andreas fault in Pacifica; investigation of a large, deep-seated coastal bluff failure in Daly City; subsurface investigation of a gravel quarry slope failure in alluvial and lacustrine sediments in Livermore; photogeologic and field mapping to evaluate geologic constraints to a proposed bicycle trail alignment adjacent to a large landslide complex in San Jose.

As a graduate student, Mr. Johnson studied Tertiary fluvial rocks exposed on the flanks of the Rock Springs Uplift in southwest Wyoming. Based on the spacing of fluvial channels within overbank deposits and thickening of synorogenic sedimentary packages, he was able to evaluate the timing and pattern of Paleocene to early Eocene subsidence across the southern Greater Green River Basin and relate this to thrust faulting within the Uinta and Rock Springs uplifts.

### **Professional History**

Supervising Engineering Geologist, 1995-Present; Cotton, Shires and Associates, Los Gatos, California  
Staff Geologist, 1992-1995; Dames & Moore, San Francisco, California  
Staff Geologist, 1990-1992; Earth Sciences Associates, Palo Alto, California

### **Professional Affiliations**

American Geophysical Union  
Association of Engineering Geologists  
Geological Society of America  
International Association of Sedimentologists  
Society for Sedimentary Geology (SEPM)

### **Publications**

Johnson, Philip L. 2009, Landslides and geomorphic mapping along the Rodgers Creek - Healdsburg fault, Sonoma County, California: in *Proceedings of the 52nd Annual Meeting of the Association of Engineering and Environmental Geologists*, Lake Tahoe, California, p. 81

Johnson, Philip L. and David W. Andersen, 2009, Concurrent growth of uplifts with dissimilar orientations in the southern Green River Basin, Wyoming: implications for Paleocene-Eocene patterns of foreland shortening: *Rocky Mountain Geology*, v. 44, p. 1-16

Johnson, Philip L., Marcum, Dale R. 2007, The Northridge Bluff Landslide: rapid bluff retreat associated with a major coastal landslide in Daly City, California: in Schaefer, V. R., Schuster, R. L., and Turner, A. K., eds., *Conference Presentations, First North American Landslide Conference*, Association of Environmental and Engineering Geologists Special Publication No. 23, p. 1694-1706

Johnson, Philip L., Shires, Patrick, O., 2007, Engineering geologic evaluation of quarry slopes and compliance with California's Surface Mining and Reclamation Act: in *Proceedings of the 50th Annual Meeting of the Association of Engineering Geologists*, Los Angeles, California p. 94

Johnson, Philip L., 2005, The Glen Creek Landslide: a case study in the misuse of the Jahnsian steps during hillslope development: in Ehlen, J., Haneberg, W.C., and Larson, R. (eds.) *Humans as Geologic Agents*, Geological Society of America, Reviews in Engineering Geology, v.11, no. 1, p. 111-121.

Johnson, Philip L., and Cotton, William L., 2005, The Santiago landslide and associated ridge-top graben: implications for paleoseismic landslide studies: *Environmental and Engineering Geoscience* v. 11, no. 1, p. 5-16

Johnson, Philip L. and Cotton, William R., 2003, An alluvium-buttressed landslide complex and the impact of late Quaternary sea level change on landslide topography [abs.]: in *Proceedings of the 46st Annual Meeting of the Association of Engineering Geologists*, Vail, Colorado, p. 62.

Johnson, Philip L. and Cotton, William R., 2002, The Santiago Landslide and associated ridge-top graben: implications for paleoseismic landslide studies [abs.]: in *Proceedings of the 45nd Annual Meeting of the Association of Engineering Geologists*, Reno, Nevada, p. 70-71.

Johnson, Philip L. and Cole, William F., 2001, The use of large-diameter boreholes and downhole logging in landslide investigations: in Horacio Ferriz (ed.) *Engineering Geology in Northern California*, California Department of Conservation, Division of Mines and Geology, Bulletin 210, p. 95-106.

Wallace, J.M. and Johnson, Philip L., 1999, The use of large-diameter boreholes and downhole logging techniques in landslide investigations [abs.]: in *Proceedings of the 42nd Annual Meeting of the Association of Engineering Geologists*, Salt Lake City, Utah, p. 88.

Johnson, P.L., 1990, Laramide basin subsidence and fluvial architecture of the Fort Union and Wasatch Formations in the southern greater Green River basin [abs.]: *American Association of Petroleum Geologists Bulletin*, v. 74, p. 687.

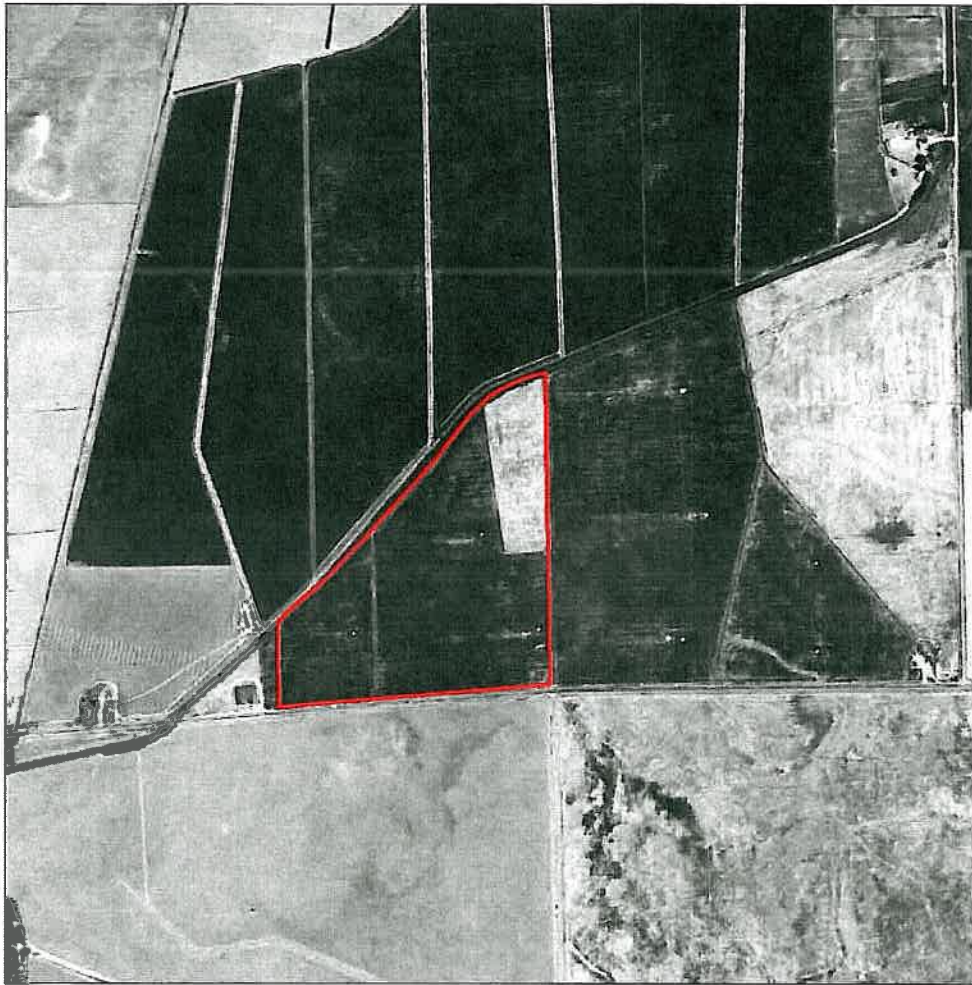


**MSS Exhibit 3B**



Dunkel  
APN 162-090-01  
August 1937

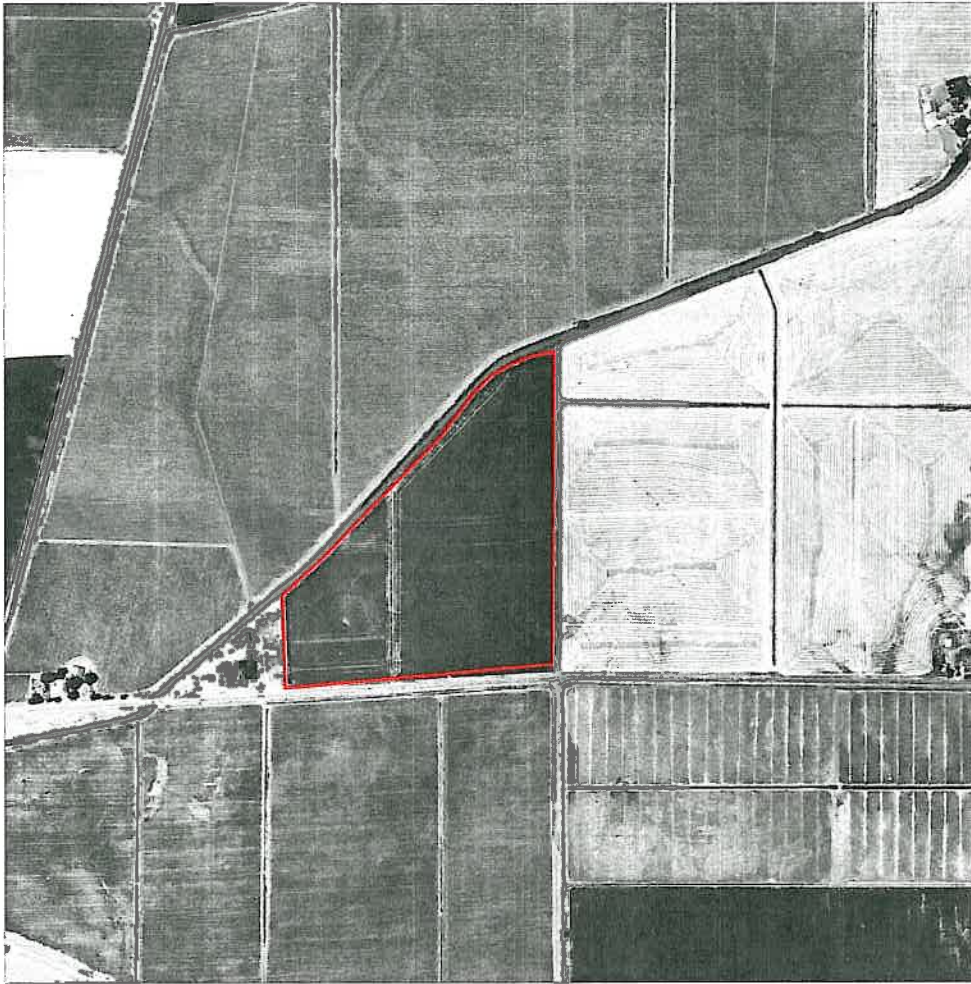
MSS Exhibit 3C



Dunkel  
APN 162-090-01  
May 1940



# MSS Exhibit 3D



Dunkel  
APN 162-090-01  
July 1957

MSS Exhibit 3E



Dunkel  
APN 162-090-01  
June 1963

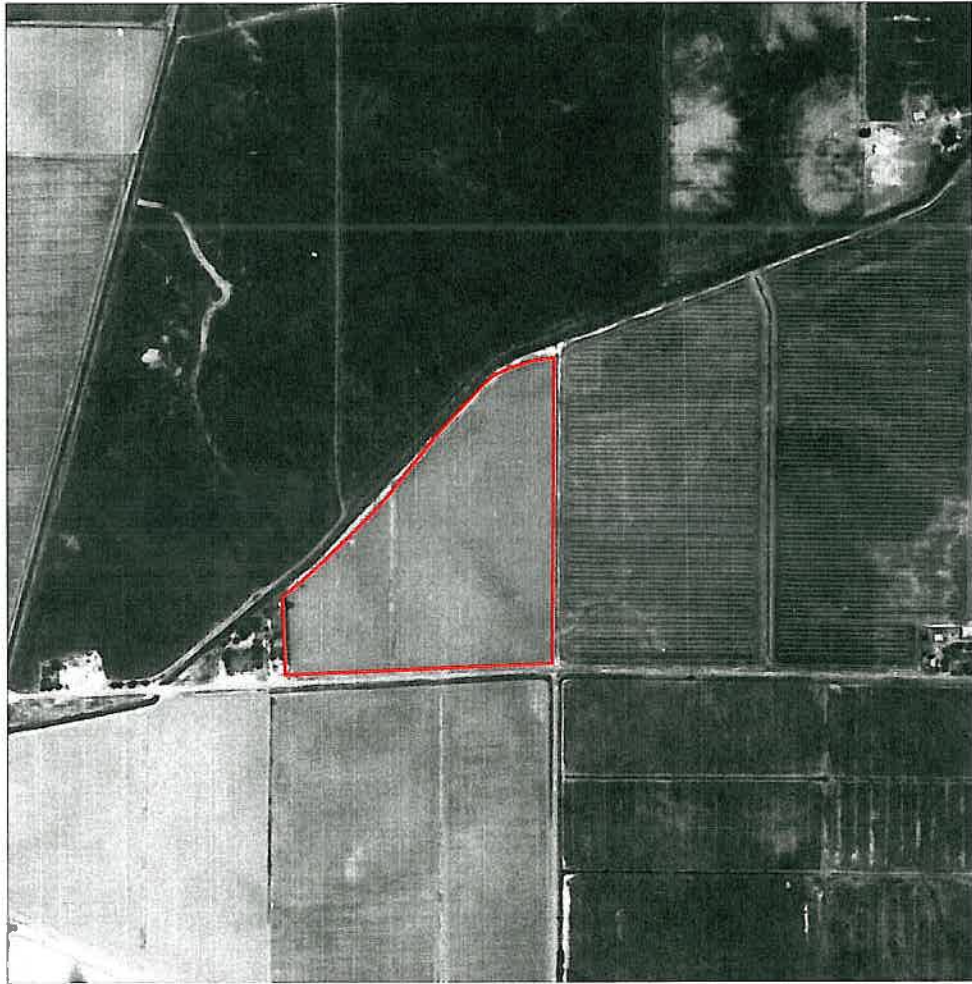


MSS Exhibit 3F



Dunkel  
APN 162-090-01  
August 1963

# MSS Exhibit 3G



Dunkel  
APN 162-090-01  
May 1968

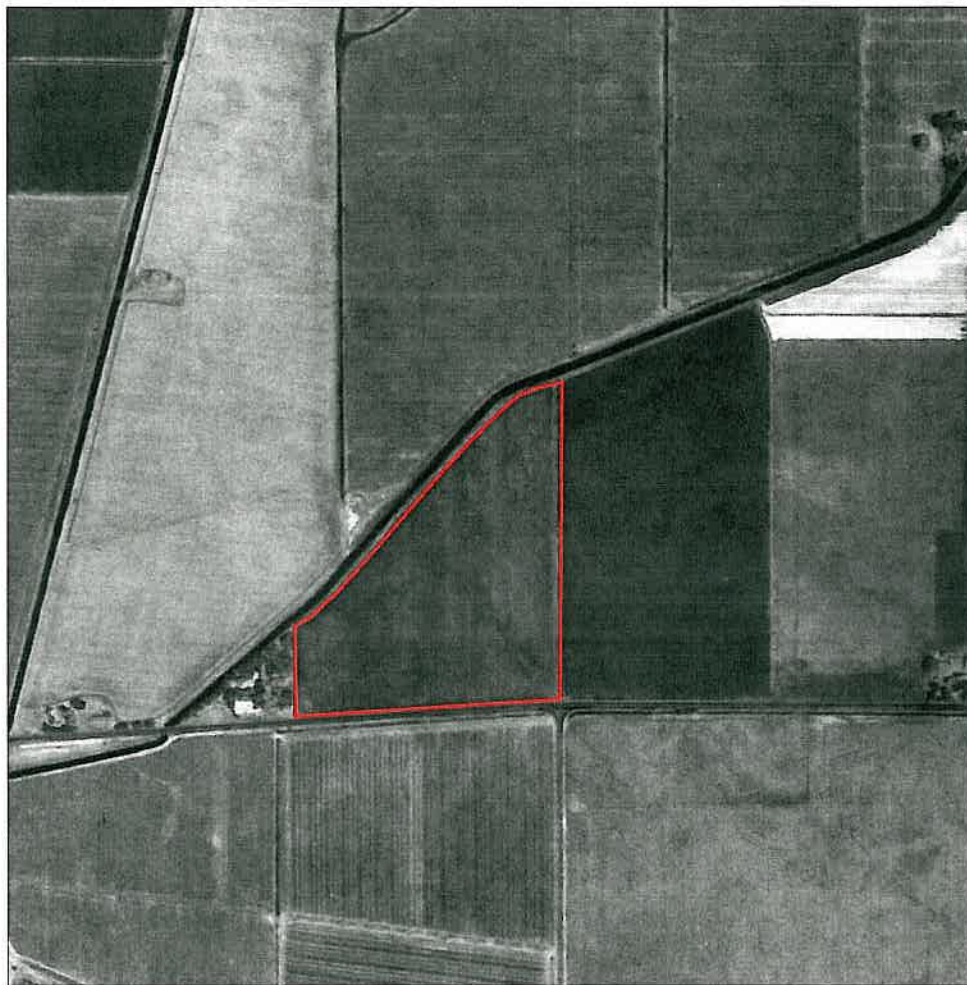


# MSS Exhibit 3H



Dunkel  
APN 162-090-01  
June 1985

# MSS Exhibit 3I



Dunkel  
APN 162-090-01  
June 1987



# MSS Exhibit 3J



**Dunkel**  
**APN 162-090-01**  
**March 1993**

# MSS Exhibit 3K



**Dunkel**  
**APN 162-090-01**  
**September 2000**

# MSS Exhibit 4



1 Timothy O'Laughlin, State Bar No. 116807  
Kenneth Petruzzelli, State Bar No. 227192  
2 O'LAUGHLIN & PARIS LLP  
P.O. Box 9259  
3 Chico, California 95927  
Telephone: (530) 899-9755  
4 Facsimile: (530) 899-1367

5 Attorneys for MODESTO IRRIGATION DISTRICT

6 Clifford W. Schulz, State Bar No. 039381  
Stanley C. Powell, State Bar No. 254057  
7 KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD  
A Professional Corporation  
8 400 Capitol Mall, 27th Floor  
Sacramento, California 95814  
9 Telephone: (916) 321-4500  
Facsimile: (916) 321-4555

10 Attorneys for STATE WATER CONTRACTORS

11 Jon D. Rubin, State Bar No. 196944  
12 Valerie C. Kincaid, State Bar No. 231815  
DIEPENBROCK HARRISON  
13 A Professional Corporation  
400 Capitol Mall, Suite 1800  
14 Sacramento, California 95814-4413  
Telephone: (916) 492-5000  
15 Facsimile: (916) 446-4535

16 Attorneys for SAN LUIS & DELTA-MENDOTA  
17 WATER AUTHORITY

18 BEFORE THE CALIFORNIA

19 STATE WATER RESOURCES CONTROL BOARD

20  
21 In the Matter of Draft Cease and Desist  
22 Order No. 2009-00XX-DWR Against Mark  
and Valla Dunkel

**TESTIMONY OF DAVID A.  
GOLDHAMER, Ph.D**

23  
24 My name is David Goldhamer, I am a retired Water Management Specialist and  
25 previously worked in the Department of Land, Air, and Water Resources at the University of  
26 California at Davis. I have over 30 years experience in the fields of soil and water science. My  
27 work includes investigating water management for crops, plant-water relations, regulated deficit  
28 irrigation in California, water use requirements in response to sustained water deficits, and

1 irrigation scheduling. My curriculum vitae is marked as MSS Exhibit 4A.

2 My testimony calculates the net irrigation requirements for Assessor Parcel Number 131-  
3 180-07, in San Joaquin County, California (Parcel) in the three years for which crop information  
4 was provided in the December 14, 2009, Draft Cease and Desist Order No. 2009-00XX-DWR  
5 Against Yong Pak and Sun Young (Draft CDO) – 2007. My calculations are summarized in MSS  
6 Exhibit 4B.

7 I calculated the net irrigation requirements to be 48 acre-feet of water in 2007.

8 The net irrigation requirements are based on estimates of total crop consumptive uses plus  
9 the leaching requirements, minus the total contribution of perched water and effective rainfall.

10 My calculation of net irrigation requirements are based on the following:

11 The Crops: In the Draft CDO, it states the Parcel was planted with corn in 2007.

12 Total Crop Consumptive Uses: Total crop consumptive uses are based upon (1) the 10-  
13 year mean reference crop water use values from the Manteca weather station available through  
14 the California Irrigation Management Information System (“CIMIS) program<sup>1</sup>, and (2) crop  
15 coefficient values.

16 Effective Rainfall: Effective rainfall is 50 percent of the 10 year mean (2000-2009) of  
17 total seasonal rainfall provided by the Manteca CIMIS weather station.

18 Perched Water: Contribution of perched water is based upon an assumed depth of 4 feet  
19 and root zones depths published by the United States Bureau of Reclamation’s Pacific Northwest  
20 Cooperative Agricultural Weather Network,<sup>2</sup> and information on root zone depth published by the  
21 University of Tennessee Agricultural Extension Service.<sup>3</sup>

22 Leaching Requirements: The leaching requirement was estimated assuming a desired  
23 leaching fraction of 20 percent, based on *Salt Tolerance of Crops in the Southern Sacramento-  
24 San Joaquin Delta*, by Glenn Hoffman.<sup>4</sup>

25 <sup>1</sup> CIMIS data is available online at: <http://www.cimis.water.ca.gov/cimis/welcome.jsp>.

26 <sup>2</sup> Data available from the United States Bureau of Reclamation, Pacific Northwest Cooperative  
27 Agricultural Weather Network, at <http://www.usbr.gov/pn/agrimet/irrigation.html#Root>.

28 <sup>3</sup> Rutledge, Alvin D., James B. Will, Steve Bost. *Commercial Tomato Production*. Agricultural  
Production Service, University of Tennessee PB737 (available at  
<http://www.utextension.utk.edu/publications/pbfiles/pb737.pdf>).

<sup>4</sup> Hoffman, Glenn. J. 2010. *Salt Tolerance of Crops in the Southern Sacramento-San Joaquin  
Delta*. Pp. 51-56.

# MSS Exhibit 4A

## Curriculum vitae

**Name:** David Goldhamer

**Title:** Water Management Specialist  
Department of Land, Air, and Water Resources  
University of California, Davis

**Contact Information:** Kearney Agricultural Center  
9240 South Riverbend Avenue  
Parlier, CA 93648  
Phone: 559-903-3355  
Fax 559-646-6593  
Email: dagoldhamer@ucdavis.edu

**Degrees:** B.S., Soil and Water Science, UC Davis, 1971  
M.S., Water Science, UC Davis, 1974  
Ph.D., Soil Science, UC Davis, 1980

**Institution/Location:** Kearney Ag. Center, 9240 S. Riverbend Ave. Parlier, CA 93648

### Research Statement:

There continues to be high demand for information on optimizing irrigation for California's horticultural and agronomic crops. It's clear that while weather-induced droughts will continue to be a periodic problem, institutional-related restrictions in water supply due to demand from municipal and environmental interests must also be addressed. My applied research program deals with developing information on regulated deficit irrigation (RDI). This technique purposely stresses plants at stress-tolerant periods of the season in order to both reduce the consumptive use of water and not lessen but rather possibly enhance grower profit by improved fruit quality. It is a true savings of water. Additionally, I've developed information on using plant-based electronic sensors and thermal data from aerial images to detect water stress in order that RDI be more precisely imposed.

### International Experience:

#### TURKMENISTAN

1998 Flood Irrigation/Water Control/Water Users Groups. Charchow, Turkmenistan, USAID/ACDI.

#### MACEDONIA

1994 Potential of Drip Irrigation in Macedonia. Skopje, Macedonia, USAID/ACDI.  
1996 Adoption of Drip Irrigation in Macedonia. Bitola, Macedonia, USAID/ACDI.

## **International Invited Presentations**

- 1995 Curso Internacional de Riego. Chillan, Chile.
- 1995 Curso Internacional de Suelo, Riego, y Nutricion. General Roca, Argentina.
- 1996 Agritech. Tel Aviv, Israel
- 1997 El Gran Debat de L'Augua. Lleida, Spain
- 1998 Olives Australia Expo. Hunter Valley, NSW, Australia.
- 1999 El Cultivo del Olivo in el Norte de Mexico. Caborca, Mexico.
- 1999 3<sup>rd</sup> International Symposium on Irrigation of Horticultural Crops. Lisbon, Portugal
- 1999 International Olive Congress. Sevilla, Spain.
- 2003 Australia Fresh Fruit Growing Company Workshop, Melbourne, Australia
- 2005 5<sup>th</sup> International Symposium on Irrigation of Horticultural Crops. Mildura, Australia

## **PUBLICATIONS RELEVANT TO IRRIGATION AND WATER MANAGEMENT**

- Goldhamer, D.A. and B. Faber. Irrigation in UC Citrus Production Manual. L. Ferguson (ed.). (In Press)
- Goldhamer, D.A. 2008. Irrigation management in UC Pistachio Production Manual. L. Ferguson (ed.). 5<sup>th</sup> edition. Chapter 13 pages 108-123.
- Iniesta, F., L. Testi, D.A. Goldhamer and E. Fereres. 2008. Quantifying reductions in consumptive water use under regulated deficit irrigation in pistachio (*Pistacia vera* L.). *Agricultural Water Management* 95(7) : 877-886
- Testi, L., D. A. Goldhamer, F. Iniesta and M. Salinas. 2008. Crop water stress index is a sensitive water stress indicator in pistachio trees. *Irrigation Science* 26(5) : 395-405.
- Goldhamer, D.A., M. Viveros, and M. Salinas. 2006. Regulated deficit irrigation in almonds: effects of variations in applied water and stress timing on yield and yield components. *Irrigation Science* 24:101-114.
- Goldhamer, D.A. and Beede, R.H. 2005. Effects of water stress on olive tree performance in Olive Production Manual. (2<sup>nd</sup> edition). S. Sibbett and L. Ferguson (eds.). UC-DANR Publication 3353, pp. 71-74.
- Beede, R.H. and D.A. Goldhamer. 2005. Olive Irrigation Management in Olive Production Manual (2<sup>nd</sup> edition). S. Sibbett and L. Ferguson (eds.). UC-DANR Publication 3353, pp. 61-69.
- Goldhamer, D.A. 2005. Irrigation management in Pistachio Production Manual. L. Ferguson (ed.). 4<sup>th</sup> edition. Pages 103-128.
- Goldhamer, D.A. and E. Fereres. 2004. Irrigation scheduling of almond trees with trunk diameter sensors. *Irrigation Science* 23:11-19.



- Goldhamer, D. A. and R.H. Beede. 2004. Regulated deficit irrigation effects on yield, nut quality and water-use efficiency of mature pistachio trees. *J. Hort. Sci. and Biotech.* 79(4):538-545.
- Fereres, E. and D.A. Goldhamer, D. A. 2003. Suitability of stem diameter variations and water potential as indicators for irrigation scheduling of almond trees. *J. Hort Sci and Biotech.* 78(2):139-144.
- Goldhamer, D.A., E. Fereres, and M. Salinas. 2003. Can almond trees directly dictate their irrigation needs? *California Agriculture* 57(4):138-144.
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**MSS Exhibit 4B**

| Grower, Parcel<br>Acresage SJC | Crop        | Planting<br>Date | Harvest<br>Date | Seasonal<br>Potential<br>Consumptive<br>Use* | Yearly<br>Effective<br>Rainfall<br>Corr**<br>(inches) | Contribution<br>of<br>Perched<br>Water***<br>(inches) | Suggested<br>Leaching<br>Requirement<br>Corr****<br>(inches) | Net<br>Irrigation<br>Requirement*****<br>(inches) | Acreage<br>in Crop<br>Estimated<br>from DWR<br>(acres) | Seasonal<br>Potential<br>Consumptive<br>Use*<br>(acre ft) | Assuming                                                   |                                                    | Assuming<br>May 1 to<br>Sep 2<br>Irrigation<br>Requirement<br>(acre ft) |
|--------------------------------|-------------|------------------|-----------------|----------------------------------------------|-------------------------------------------------------|-------------------------------------------------------|--------------------------------------------------------------|---------------------------------------------------|--------------------------------------------------------|-----------------------------------------------------------|------------------------------------------------------------|----------------------------------------------------|-------------------------------------------------------------------------|
|                                |             |                  |                 |                                              |                                                       |                                                       |                                                              |                                                   |                                                        |                                                           | May 1 to<br>Sep 2<br>Total<br>Potential<br>CU<br>(acre ft) | Net<br>Irrigation<br>Requirement*****<br>(acre ft) |                                                                         |
| Dunkel                         | Silage Corn | Apr 15           | Jul 13          | 16.6                                         | 6.0                                                   | 1.7                                                   | 3.3                                                          | 12.3                                              | 30.5                                                   | 42.2                                                      | 31.3                                                       | 49.7                                               |                                                                         |
|                                | Silage Corn | Apr 15           | Aug 17          | 23.2                                         | 6.0                                                   | 2.3                                                   | 4.6                                                          | 19.5                                              | 30.5                                                   | 58.9                                                      | 48.8                                                       | 48.8                                               |                                                                         |
| 38 ac                          | Silage Corn | May 1            | Sep 2           | 22.9                                         | 6.0                                                   | 2.3                                                   | 4.6                                                          | 19.2                                              | 30.5                                                   | 58.1                                                      | 56.1                                                       | 56.1                                               |                                                                         |
|                                | Grain Corn  | May 1            | Sep 30          | 25.5                                         | 6.0                                                   | 2.6                                                   | 5.1                                                          | 22.1                                              | 30.5                                                   | 64.8                                                      | 56.1                                                       | 56.1                                               |                                                                         |

\* Based on the daily 10 year mean (2000-2009) of reference crop water use (ETo) provided by the Manteca (No. 70) automated CIMIS weather station and published crop coefficient values (Kc). See individual crop sheets.

\*\*Based on the 10 year mean (2000-2009) of total seasonal rainfall provided by the Manteca (No. 70) automated CIMIS weather station and then assuming that effective rainfall is 50% of total.

\*\*\*Estimated from published root zone depths for different crops and assuming perched water located at about 4 ft depth.

\*\*\*\*Estimated assuming a desired leaching fraction of 20%.

\*\*\*\*\*Sum of potential consumptive use minus effective rainfall minus the contribution of perched water plus the leaching requirement.