

1 JANET K. GOLDSMITH, State Bar No. 065959
jgoldsmith@kmtg.com
2 DANIELLE R. TEETERS, State Bar No. 210056
dteeters@kmtg.com
3 KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD
A Law Corporation
4 400 Capitol Mall, 27th Floor
Sacramento, California 95814
5 Telephone: (916) 321-4500
Facsimile: (916) 321-4555
6

7 Attorneys for Applicant James J. Hill III
8

9 BEFORE THE
10 STATE WATER RESOURCES CONTROL BOARD
11

12 **In the Matter of Water Right**
13 **Application No. 30166 of James J.**
14 **Hill, III**

NOTICE OF DEPOSITION OF KIT
CUSTIS AND REQUEST FOR
PRODUCTION OF DOCUMENTS

15
16 TO PROTESTANT DEPARTMENT OF FISH AND GAME AND ITS ATTORNEY(S) OF
17 RECORD:

18 PLEASE TAKE NOTICE that pursuant to Water Code section 1100, Government
19 Code sections 11450.10 and 11450.20, California Code of Civil Procedure section 2025.010 et
20 seq., and the procedures and practices of the State Water Resources Control Board, the deposition
21 of **KIT CUSTIS** will be taken by the Applicant James J. Hill III (“Applicant”) in the above
22 entitled matter, upon oral examination before a certified shorthand reporter of the State of
23 California as follows:
24

25 DATE: May 25, 2011
26 TIME: 10:00 a.m.
27 LOCATION: Kronick Moskowitz Tiedemann & Girard
400 Capitol Mall, 27th Floor
28 Sacramento, CA 95814
916/321-4500

1 Said deposition will commence at the above date and time, and continue from day to day
2 thereafter, Sundays and holidays excepted, until completed. The Applicant reserves the right to
3 record this deposition by videotape.

4 DOCUMENT REQUEST

5 NOTICE IS FURTHER GIVEN that the above-described deponent shall bring and
6 produce at the deposition, at the time and place set out above, the following listed writings and
7 other things identified below.

8 DEFINITIONS

9 As used herein, the following terms have the meaning and significance set forth
10 below, unless otherwise specifically indicated:

11 1. **DOCUMENT.** The terms “**DOCUMENT**” or “**DOCUMENTS**” shall
12 mean and include all written, recorded, or graphic materials, however produced or reproduced,
13 whether or not privileged, pertaining in any way to the subject matter of this action, including, but
14 not limited to, any and all originals, copies or drafts or any and all of the following: records;
15 notes; summaries; schedules; drawings; sketches; diaries; reports; memoranda of telephone or in-
16 person conversations by or with any person, or other memoranda; letters; facsimiles, or cables
17 received; electronic mail and voice mail messages, drafts, originals or copies of letters, tapes,
18 transcripts or recordings; photographs, pictures of films; or other graphic, recorded written
19 material of whatever nature and other “writings” of any kind.

20 2. **POSSESSION, CUSTODY OR CONTROL.** Each request extends to
21 any documents in the **POSSESSION, CUSTODY OR CONTROL** of the Protestant,
22 Department of Fish and Game. The document is deemed to be in Protestant’s **POSSESSION,**
23 **CUSTODY OR CONTROL**, if it is in the Protestant’s physical custody., or if it is in the
24 physical custody of any other person and Protestant (a) owns such document in whole or in part;
25 (b) has a right by contract, statute or otherwise to use, inspect, examine or copy such document on
26 any terms; (c) has an understanding, express or implied, that Protestant may use, inspect, examine
27 or copy such document on any terms; or (d) has, as a practical matter, been able to use, inspect,
28 examine or copy such document when Protestant has sought to do so. Such document shall

1 include, without limitation, documents that are in the custody of Protestant's agents, employees or
2 representatives.

3 3. **YOU, YOUR.** The terms "**YOU**" and "**YOUR**" refer to Protestant
4 Department of Fish and Game employee/contractor/retired annuitant Kit Custis.

5 4. If any requested **DOCUMENT** or thing cannot be produced in full, it shall
6 be produced to the extent possible, indicating what **DOCUMENT** or portion of **DOCUMENTS**
7 are being withheld and the reason such **DOCUMENTS** are being withheld.

8 5. **DOCUMENTS** attached to each other should not be separated.

9 6. **DOCUMENTS** not otherwise responsive to this Request shall be produced
10 if such **DOCUMENTS** support, refer to, relate to, or explain the **DOCUMENTS** which are
11 called for by this Request, or if such **DOCUMENTS** are attached to **DOCUMENTS** called for
12 by this Request.

13 **DOCUMENTS TO BE PRODUCED**

14 1. All **DOCUMENTS** utilized or relied on to create, formulate or prepare
15 your written testimony, conclusions, reports and/or opinions in this matter.

16 Dated: May 11, 2011

17 KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD
18 A Law Corporation

19 By: 

20 Janet K. Goldsmith
21 Danielle R. Teeters
22 Attorneys for James J. Hill

1 **PROOF OF SERVICE**

2 I, Sherry Ramirez, declare:

3 I am a citizen of the United States and employed in Sacramento County, California. I am
4 over the age of eighteen years and not a party to the within-entitled action. My business address
5 is 400 Capitol Mall, 27th Floor, Sacramento, California 95814. On May 11, 2011, I served a
6 copy of the within document(s):

7 **NOTICE OF DEPOSITION OF KIT CUSTIS AND REQUEST FOR**
8 **PRODUCTION OF DOCUMENTS**

- 9 by transmitting via facsimile the document(s) listed above to the fax number(s) set
10 forth below on this date before 5:00 p.m.
- 11 by placing the document(s) listed above in a sealed envelope with postage thereon
12 fully prepaid, the United States mail at Sacramento, California addressed as set
13 forth below.
- 14 by placing the document(s) listed above in a sealed Delivery Service envelope and
15 affixing a pre-paid air bill, and causing the envelope to be delivered to a Delivery
16 Service agent for delivery.
- 17 by transmitting via e-mail or electronic transmission the document(s) listed above
18 to the person(s) at the e-mail address(es) set forth below.

19 *SEE ATTACHED*

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

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

27 Executed on May 11, 2011, at Sacramento, California.

28 
Sherry Ramirez

SERVICE LIST

<p>PAPER COPIES Division of Water Rights State Water Resources Control Board Attention: Paul Murphy P.O. Box 2000 Sacramento, CA 95812-2000</p> <p>ELECTRONIC COPIES Email: wrhearing@waterboards.ca.gov</p>	<p>CALIFORNIA DEPARTMENT OF FISH & GAME c/o Kevin Takei & Chandra Ferrari 1416 Ninth Street, 12th Floor Sacramento, CA 95814 KTakei@DFG.ca.gov CFerrari@DFG.ca.gov (916) 653-3715</p>
<p>TROUT UNLIMITED c/o Brian Johnson 2239 5th Street Berkeley, CA 94710 bjohnson@tu.org (510) 528-4772</p>	<p>CENTER FOR BIOLOGICAL DIVERSITY & VENTANTA WILDERNESS ALLIANCE c/o Adam Lazar 351 California Street, #600 San Francisco, CA 94104 alazar@biologicaldiversity.org (415) 436-9683</p>
<p>WALTER MOTZEL c/o Alexander Hubbard Hubbard & Hubbard, LLP 400 Camino Aguajito Monterey, CA 93940 AFHUBB@aol.com (831) 372-7571</p>	<p>LORI LOCKWOOD P.O. Box 264 Big Sur, CA 93920 loribigsure@aol.com (831) 667-2564</p>

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28