STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

ORDER WR 2000 - 01

In the Matter of Licenses 1050, 2814, 3109, 3110, 9794, and 9989
(Applications 534, 1056, 1203, 1413, 15572, and 22309, Respectively),
NATOMAS CENTRAL MUTUAL WATER COMPANY,
Petitioner

SOURCE: Sacramento River

COUNTIES: Sacramento and Sutter Counties

ORDER DENYING RECONSIDERATION OF AND MODIFYING ORDER WR 99-012

1.0 INTRODUCTION

This order takes action on a petition for reconsideration of Order WR 99-012 that was filed by Natomas Central Mutual Water Company (Natomas) and Western Water Company (Western). Order WR 99-012, adopted by the State Water Resources Control Board (SWRCB) on December 28, 1999, approved in part and denied in part Natomas's petition for a temporary change pursuant to Water Code section 1725 in order to transfer 8,860-14,000 acre-feet (ac-ft) of water to Santa Margarita Water District. Natomas proposed to transfer water it was not using as a result of conservation measures that it had employed since the mid-1980s that reduced its diversion and use of water from the Sacramento River. Natomas claimed that its reduction in diversion and use of water constituted water conservation pursuant to Water Code section 1011. Natomas proposed to sell the water to Western, which would in turn sell the water to Santa Margarita Water District.

In Order WR 99-012, the SWRCB concluded that a conserved water transfer pursuant to Water Code section 1725 is limited to the amount of water that the transferor would consumptively use during the transfer period, but for the transferor's water conservation efforts. This interpretation of Water Code sections 1011 and 1725 encourages water conservation and promotes water

transfers, while ensuring that transfers do not injure third party water right holders, or unreasonably affect fish, wildlife, or other instream beneficial uses.

In Order 99-012, the SWRCB clarified that a reduction in consumptive use due to ongoing, long-term water conservation efforts may be the subject of a short-term transfer pursuant to section 1725. In doing so, the SWRCB removed a potential impediment to short-term transfers based on conservation efforts that are already in place before the transfer is proposed. The SWRCB also avoided creating a disincentive to conservation of water in years prior to the year of a proposed temporary transfer, or to investment in water conservation efforts that take more than a year to implement.

At the same time, the SWRCB's interpretation of Water Code sections 1011 and 1725 ensures that short-term transfers do not injure third party water right holders or the environment. The SWRCB's interpretation recognizes the important distinction between water conservation efforts that reduce diversions and water conservation efforts that reduce consumptive use. For example, water conservation efforts may reduce diversions from a stream and return flows to a stream by equal amounts. In such a case, no reduction in consumptive use occurs. Therefore, no water is transferable pursuant to section 1725. In Order WR 99-012, the SWRCB explained that other transfer provisions in the Water Code are not limited to reductions in consumptive use, but it might be necessary to limit the amount of water transferred in order to ensure that the transfer will not injure any third party water right holder, or unreasonably affect fish, wildlife, or other instream beneficial uses.

The SWRCB also noted that the expedited review procedure available under Water Code section 1725, including exemption from California Environmental Quality Act requirements, is justified because the transfer of water that otherwise would be consumptively used is unlikely to injure third party water right holders or the environment.

In Natomas's case, the SWRCB found that, as a result of its water conservation efforts, Natomas had reduced its diversions by approximately 0.77 ac-ft per acre. The SWRCB also found, however, that Natomas's water conservation efforts had not reduced its consumptive use, with the

exception of its efforts to control weed growth along its canals. The SWRCB determined that due to its weed control efforts Natomas had reduced its consumptive use by 1,995 ac-ft. Accordingly, the SWRCB approved Natomas's petition to the extent of 1,995 ac-ft, subject to certain conditions. The SWRCB denied Natomas's petition to transfer the remaining amount. Natomas and Western timely filed a joint petition for reconsideration.

By this order, the SWRCB denies reconsideration of and modifies Order WR 99-012, for the reasons set forth below.

2.0 GROUNDS FOR RECONSIDERATION

The SWRCB may order reconsideration of all or part of a decision or order adopted by the SWRCB upon petition by any interested person. (Wat. Code, § 1122.) A petition for reconsideration may be filed on the grounds, *inter alia*, that the decision or order is not supported by the evidence, or on the grounds that the decision or order contains an error in law. (Cal. Code Regs., tit. 23, § 768, subds. (b), (d).) In response to a petition for reconsideration, the SWRCB may, *inter alia*, deny the petition if the SWRCB finds that the decision or order in question was appropriate and proper, set aside or modify the decision or order, or take other appropriate action. (Cal. Code Regs., tit. 23, § 770, subd. (a)(2)(A-C).)

3.0 NATOMAS'S PETITION

Natomas petitions for reconsideration on the grounds that Order WR 99-012 contains several errors in law, and is not supported by substantial evidence. Contrary to Natomas's allegations, the SWRCB finds that Order WR 99-012 was appropriate and proper, and therefore Natomas's petition should be denied. Although it does not change the outcome of this case, one of Natomas's arguments has merit, and Order 99-012 should be modified accordingly.

3.1 Natomas's Argument that the SWRCB Misinterpreted Water Code Section 1011 Has Merit, But Does Not Change the Outcome of this Case

Natomas's first argument is that the SWRCB's interpretation of Water Code section 1011 constitutes an error in law. Natomas faults the SWRCB for its determination that a claim to have conserved water pursuant to section 1011 must be supported by "some evidence of a deliberate effort to save water." (Order WR 99-012, p. 19.) Natomas argues that it is improper to require a

water user to show that the reason why a given effort was made was to save water. Natomas assumes that if the SWRCB were to interpret section 1011 differently, then Natomas would get credit for the consumptive use savings associated with a reduction in its irrigated acreage between the periods before and after Natomas implemented its conservation efforts.

The SWRCB agrees with Natomas that a water user's intent does not necessarily have to be to save water, so long as the water user makes a water conservation effort that results in a water savings. By this order, the SWRCB amends Order WR 99-012 accordingly. This distinction does not change the outcome of this case, however, because, with the exception of its weed control program, Natomas presented no evidence that its water conservation efforts have resulted in a consumptive use savings, or that the apparent reduction in irrigated acreage constituted temporary fallowing within the meaning of section 1011.

As the SWRCB noted in Order WR 99-012, section 1011, subdivision (a) protects a right to use water to the extent of a reduction in use "because of water conservation efforts." Section 1011, subdivision (b) provides for the transfer of a right to the extent of a reduction in use "as the result of water conservation efforts." The express language of these provisions requires that a deliberate effort be made or program implemented that results in a water savings. The SWRCB agrees with Natomas that it makes little sense to require a water user to establish the reason why a given water conservation effort was made, so long as the effort results in a water savings.[1] The

[1] In support of its previous interpretation that an effort must be made in order to save water, the SWRCB reasoned that the phrase "water conservation effort" must mean an effort to conserve water. But the phrase could also be interpreted to mean an effort that does in fact result in water conservation.

In support of its previous interpretation, the SWRCB also reasoned that to extend the protection of section 1011 to persons who reduced their water use for reasons other than saving water would not further the purpose of section 1011, which was to encourage water conservation. The precise purpose of section 1011, however, was not to create an *incentive* to conserve water, but to eliminate a *disincentive* to conserve water. Section 1011 eliminated the disincentive by protecting a reduction in use due to water conservation efforts from forfeiture for non-use. This purpose is furthered by extending the protections of section 1011 to any water conservation effort that results in a water savings, regardless of the reason why the effort is made.

The SWRCB also stated that to treat any activity that happens to reduce water use as a "water conservation effort" would effectively repeal the forfeiture doctrine. This is true, but to avoid implied repeal it is not necessary to interpret "water conservation efforts" to be limited to efforts specifically intended to save water. As Natomas notes in its petition for reconsideration, section 1011 applies only to those reductions in water use that also meet the definition of "water conservation" that is contained in section 1011. A water right remains subject to forfeiture to the extent a reduction is not the result of water conservation efforts. The forfeiture doctrine effectively would be *(footnote continued next page)*

water user must at least be aware that the effort results in a water savings, however, in order to fulfill reporting requirements. (See Order WR 99-012, at pp. 9-11 [describing the requirement that permittees and licensees file periodic reports with the SWRCB that describe any water conservation efforts undertaken, and quantify the associated savings].)

A claim to have conserved water under section 1011 also must meet the definition of "water conservation," that is contained in that section, including the definitions of "land fallowing" and "crop rotation." Section 1011, subdivision (a) provides in pertinent part:

> "For purposes of this section, the term 'water conservation' shall mean the use of less water to accomplish the same purpose or purposes of use allowed under the existing appropriative right. Where water appropriated for irrigation purposes is not used as a result of temporary land fallowing or crop rotation, the reduced usage shall be deemed water conservation for purposes of this section. For the purpose of this section, 'land fallowing' and 'crop rotation' mean those respective land practices, involving the non-use of water, used in the course of normal and customary agricultural production to maintain or promote the productivity of agricultural land."[2]

In this case, Natomas presented no evidence that it has made any efforts that have resulted in a consumptive use savings, or that it has fallowed land within the meaning of section 1011. Natomas identified a number of efforts that Natomas claimed had resulted in a reduction in its consumptive use, including implementation of a water recirculation system, changing rice varieties and other crop shifts, laser leveling of fields, canal lining, and weed control. (See Order WR 99-012, at pp. 22-27.) With the exception of its weed control efforts, Natomas did not

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repealed only if one were to eliminate entirely the requirement of a water conservation effort and interpret "water conservation" to include any reduction in use.

[2] The definitions of crop rotation and fallowing were added to section 1011 by SB 970 (Costa), effective January 1, 2000. (Stats. 1999, ch. 938, § 11.) The SWRCB agrees with Natomas that this amendment did not substantively change section 1011, but merely clarified that "crop rotation" and "land fallowing" do not mean permanent fallowing or land retirement. The SWRCB takes official notice of the legislative materials that support this interpretation, and that were submitted as Exhibits A-C to Natomas's petition for reconsideration. Official notice is taken pursuant to California Code of Regulations, title 23, section 648.2, and Evidence Code section 452, subdivision (c).

In its petition for reconsideration, Natomas argues that the statutory amendment made by SB 970 supports its position that a water conservation effort need not be intended to save water. Natomas alleges further that the SWRCB applied the wrong law to the facts of this case because it did not apply the statutory amendment made by SB 970. This argument is rendered moot by the SWRCB's modification of Order WR 99-012.

quantify what savings, if any, resulted from each individual effort. Instead, Natomas measured its claimed consumptive use savings using total, annual consumptive use figures derived from a water balance.

Natomas's water balance did not demonstrate, however, that Natomas's efforts lead to a reduction in consumptive use. The water balance indicated that Natomas's average, annual consumptive use for the period following implementation of its water conservation efforts (1986 to 1998) dropped by 7,456 ac-ft compared to the period prior to implementation of water conservation efforts (1979 to 1985). (See Order WR 99-012, at p. 18.) But the 7,456 acre-foot reduction in consumptive use was attributable to a corresponding drop in total irrigated acreage of 2,500 acres.

In its petition for reconsideration, Natomas asserts that the 2,500 acre reduction in irrigated acreage falls within the definition of "land fallowing" contained in section 1011. There are two problems with this assertion. First, when viewed over a longer period of time, Natomas's total irrigated acreage did not go down. (Order WR 99-012, at p. 20, fn. 13 [noting that when recent years are compared to the period 1965-1982, as opposed to the period 1979-1985, irrigated acreage within Natomas's service area has not changed].) Second, contrary to Natomas's assertion, the record contains no evidence that the land was fallowed. Natomas adamantly denied that it had ever made a conscious effort or implemented any program to encourage the farmers within its service area to fallow land (R.T. 204:21-25; 205:1-16), and the record contains no evidence that the farmers themselves had fallowed land. Natomas's General Manager, Peter J. Hughes, explained that Natomas does not take part in the farmers' decisions concerning the number of acres to farm, and the types of crops to plant. (R.T. 206:5-13.) Consistent with this testimony, Natomas probably does not know whether or to what extent the farmers have fallowed land. In any event, the record is silent on this point.

Natomas relies on evidence that the total number of potentially irrigable acres within its service area has remained constant. But the fact that the land is potentially irrigable does not mean that the land has been temporarily fallowed "in the course of normal and customary agricultural production to maintain or promote the productivity of agricultural land." The fact that the land

remains irrigable means only that it has not been developed. For example, the land could have been taken out of production in anticipation of development that has been approved or requested, permanently retired, taken out of production for economic reasons unrelated to maintaining the productivity of the land, or even set aside for habitat conservation purposes. Natomas argues that the record contains no evidence that the land has been permanently retired. That may be, but the record contains no evidence that the land has *not* been permanently retired or otherwise taken out of production for reasons other than fallowing. The burden was on Natomas to establish that the land was in fact temporarily fallowed, as defined in section 1011, and Natomas has not met its burden of proof.[3]

Finally, the record contains no evidence that any acreage will be temporarily fallowed in the year of the proposed transfer. As the SWRCB recognized in Order WR 99-012, water conservation efforts such as fallowing or crop rotation present unique difficulties in the context of a conserved water transfer because, unlike a physical improvement such as canal lining, these efforts and the associated savings may fluctuate from year to year. In Order WR 99-012, the SWRCB reasoned that requiring evidence that land had been fallowed as part of a deliberate effort to save water would provide some assurance that the effort would be made and the savings realized in the year of the transfer. Even absent the requirement of an intent to save water, a transfer based on water saved due to a water conservation effort such as fallowing must be supported with evidence sufficient to provide some assurance that the effort will be carried out and the water conservation will actually be realized in the year of the transfer.

In the year of the transfer, Natomas pledged to meet a performance standard by continuing to implement the conservation efforts that it had identified, which did not include fallowing. (Order WR 99-012, at p. 21.) At the time of the hearing, Natomas's staff also were considering a price incentive program to encourage farmers to switch to less water-intensive crops. (*Ibid*.) The

[3] In order to conclude that a reduction in irrigated acreage is due to "land fallowing," as defined in section 1011, it is necessary to determine both that the reduction in irrigated acreage is temporary and that the reduction was done to maintain and promote the productivity of agricultural land. (Wat. Code, § 1011, subd. (b).) The evidence in the record does not provide a basis for making either determination.

record contains absolutely no evidence that would support a finding that any acreage will be temporarily fallowed during the transfer period.

In summary, the SWRCB agrees that a claim to have conserved water pursuant to section 1011 does not require evidence that a water conservation effort was undertaken in order to save water, so long as the effort undertaken does in fact result in a water savings. Irrespective of the question of intent, however, with the exception of Natomas's weed control program, the record does not show that Natomas's water conservation efforts resulted in a reduction in consumptive use, or that consumptive use has been reduced due to fallowing.

3.2 Natomas's Argument that the SWRCB Used the Wrong Baseline in Measuring Natomas's Consumptive Use Savings Is Inconsistent with Water Code Section 1725

Natomas's second argument is that the SWRCB's method of measuring Natomas's consumptive use savings constituted legal error. The SWRCB determined whether Natomas's conservation efforts resulted in a reduction in Natomas's consumptive use by comparing Natomas's average consumptive use prior to undertaking its conservation efforts to Natomas's average consumptive use following implementation of its efforts. Natomas argues that its pre-conservation average consumptive use was not the proper baseline for measuring its consumptive use savings. Natomas takes the position that it should be allowed to transfer the difference between its year of highest consumptive use and the consumptive use performance standard that it has identified for the year of the transfer.

Natomas fails to recognize the critical distinction between determining the amount of water that is potentially transferable under its rights pursuant to a different transfer provision, and measuring the effectiveness of a water conservation effort in creating a consumptive use savings that it may transfer pursuant to Water Code section 1725. A conserved water transfer pursuant to sections 1011 and 1725 is limited to the amount of water that would be consumptively used *in the absence of the proposed transfer*, but for the transferor's conservation efforts. Under section 1725, the baseline against which a transferable consumptive use savings is measured is the amount of water that otherwise would be used in the year of the transfer, not the highest amount of water that has been consumptively used historically, or might theoretically be

consumptively used consistent with the face value of the transferor's permit or license. Section 1725 preserves the status quo during the transfer period by limiting the transfer to the amount of water that otherwise would have been consumptively used, but for conservation efforts. As the SWRCB noted in Order WR 99-012, this limitation justifies the expedited review procedures, including an exemption from California Environmental Quality Act requirements, that are available for transfers pursuant to section 1725.

The amount of water that Natomas would use, but for its water conservation efforts, in the year of the proposed transfer, probably will be less than its historic high. Accordingly, the difference between Natomas's highest year of consumptive use and its performance standard does not necessarily reflect the actual consumptive use savings that will be realized in the year of the proposed transfer.[4]

As the SWRCB explained in Order WR 99-012, there are two ways to establish a consumptive use savings that is transferable pursuant to section 1725. One approach is to identify the conservation efforts that will be implemented in the year of the transfer, and calculate the associated consumptive use savings. (*Ibid.*)

Another approach is to establish a historic savings due to water conservation efforts implemented in years prior to the year of the transfer that will continue to be implemented in the year of the transfer. In order to obtain an accurate measurement of any consumptive use savings that may have resulted from water conservation efforts, average consumptive use per acre prior to implementation of the efforts should be compared to average consumptive use per acre following implementation of the efforts. This is precisely what the SWRCB did in order to determine whether Natomas's historic conservation efforts resulted in a consumptive use savings that would be realized in the year of Natomas's proposed transfer. The purpose of this exercise was to measure the consumptive use savings that Natomas may transfer pursuant to section 1725, not to limit the amount of water that Natomas could potentially transfer pursuant to a different transfer

[4] In addition, Natomas did not give adequate assurance that its performance standard will be met. (Order WR 99-012, at pp. 20-21.)

provision. (See Order WR 99-012, at p. 28 [listing various transfer provisions that do not limit the transfer to water that otherwise would be consumptively used during the transfer period].)

3.3 Natomas's Argument that the SWRCB Set an Unattainable Standard of Proof Is Misplaced

Natomas argues that Order WR 99-012 sets an unreasonable and unattainable standard of proof. Natomas takes issue with the SWRCB's conclusion that, with the exception of its weed control efforts, Natomas did not present sufficient evidence that its various conservation efforts had reduced its consumptive use. Natomas asserts that this conclusion is inconsistent with testimony in the record that Natomas had submitted an impressive amount of flow and cropping data.

In Order WR 99-012, the SWRCB did not hold that the type of data that Natomas submitted is unreliable or inadequate *per se*. Rather, the SWRCB found that the data did not support Natomas's contention that its conservation efforts had reduced its consumptive use. Natomas submitted flow and cropping data in support of its attempt to show, using a water balance, a historic reduction in total consumptive use.

Order WR 99-012 explained that, rather than attempting to show a historic reduction in total consumptive use, Natomas could have focused on the specific conservation efforts that it had undertaken, and calculated the consumptive use savings associated with each effort. Because Natomas did not take this approach, however, the record contains little or no evidence concerning whether or to what extent Natomas's various efforts resulted in a consumptive use savings. (See, e.g., R.T. 148:1-10 [Natomas's expert witness did not attempt to quantify what savings may have resulted from canal lining and bank compaction because he ran out of time before the hearing].) The flow and cropping data did not bear upon the savings that may have resulted from specific efforts, such as laser leveling of fields or canal lining.[5]

[5] The cropping data might have been expected to show whether Natomas had saved water as a result of changing rice varieties and other crop shifts. The data did not distinguish, however, between different varieties of rice, and the data indicated that cropping patterns had remained relatively stable. (Order WR 99-012, at pp. 23-24.)

With respect to the amount of evidence required to support a finding that each of Natomas's conservation efforts resulted in a quantifiable consumptive use savings, Order WR 99-012 hardly sets the evidentiary bar too high. With the exception of Natomas's weed control efforts, there is a lack of evidence in the record on the savings associated with each of Natomas's conservation efforts.

3.4 Order WR 99-012 is Supported by Substantial Evidence

Natomas contends that Order WR 99-012 is not based on substantial evidence because the SWRCB made conflicting findings on the question whether Natomas had conserved water as a result of conservation efforts. Natomas's argument on this point misses the distinction between a reduction in diversions and a reduction in consumptive use. The SWRCB found that Natomas had reduced its diversions as a result of its conservation efforts, but that, with the exception of its weed control efforts, Natomas had not reduced its consumptive use as a result of its efforts. These are entirely consistent findings. Some conservation efforts, a prime example of which is Natomas's recirculation system, will reduce diversions, but may not reduce consumptive use.

4.0 CONCLUSION

In conclusion, the SWRCB agrees with Natomas that Water Code section 1011 does not require evidence that a water conservation effort was made in order to save water, so long as a deliberate water conservation effort was made or water conservation program implemented that resulted in a water savings. Irrespective of the question of intent, however, with the exception of its weed control program Natomas did not establish that its conservation efforts resulted in a consumptive use savings, or that it had fallowed land. The SWRCB's treatment of Natomas's transfer petition in Order WR 99-012 was appropriate and proper, and Natomas's petition for reconsideration should be denied.

ORDER

IT IS HEREBY ORDERED:

1. Natomas's petition for reconsideration is denied.

2. The last sentence of the first full paragraph on page 18 of Order WR 99-012 is amended as follows:

The 7,456 acre-foot reduction is attributable to a corresponding reduction in irrigated acreage, however, and as discussed below, the record contains no evidence that the reduction in irrigated acreage constituted fallowing within the meaning of section 1011 ~~Natomas did not claim to have reduced its irrigated acreage in order to conserve water.~~

3. The second, third, fourth and fifth paragraphs of Section 7.3, beginning on page 19, are deleted and replaced with the following text (excluding footnotes 13 and 14, which are to be retained and renumbered as footnotes 14 and 15):

Any reduction in Natomas's water use attributable to a reduction in irrigated acreage, however, did not constitute fallowing, and therefore cannot be counted as part of Natomas's consumptive use savings. Preliminarily, it bears emphasis that any activity that happens to reduce water use does not necessarily constitute water conservation. Section 1011, subdivision (a) protects a right to use water to the extent of a reduction in use "because of water conservation efforts." Section 1011, subdivision (b) provides further that water conserved "as a result of water conservation efforts" may be transferred. The express language of these provisions requires that a water conservation effort be made or water conservation program implemented that results in a water savings. A claim to have conserved water under section 1011 also must meet the definition of "water conservation," that is contained in that section, including the definitions of "crop rotation" and "land fallowing." Section 1011, subdivision (a) provides in pertinent part:

> "For purposes of this section, the term 'water conservation' shall mean the use of less water to accomplish the same purpose or purposes of use allowed under the existing appropriative right. Where water appropriated for irrigation purposes is not used as a result of temporary land fallowing or crop rotation, the reduced usage shall be deemed water conservation for purposes of this section. For the purpose of this section, 'land fallowing' and 'crop rotation' mean those respective land practices, involving the non-use of water, used in the course of normal and customary

agricultural production to maintain or promote the productivity of agricultural land."[13]

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[13] As discussed, *supra*, in footnote 8, the definitions of crop rotation and fallowing were added to section 1011 by SB 970. This amendment did not substantively change section 1011, but merely clarified that crop rotation and fallowing do not mean permanent land retirement.

In this case, Natomas has presented no evidence that it has fallowed land within the meaning of section 1011. Natomas adamantly denied that it had any kind of program to encourage the farmers within its service area to fallow land (R.T. 204:21-25; 205:1-16), and the record contains no evidence that the farmers themselves had fallowed land. Natomas's General Manager, Peter J. Hughes, explained that Natomas does not take part in the farmers' decisions concerning the number of acres to farm, and the types of crops to plant. (R.T. 206:5-13.) Consistent with this testimony, Natomas probably does not know whether or to what extent the farmers have fallowed land. In any event, the record is silent on this point.

The record contains evidence that the total number of potentially irrigable acres within Natomas's service area has remained constant. But the fact that the land is potentially irrigable does not mean that the land has been temporarily fallowed "in the course of normal and customary agricultural production to maintain or promote the productivity of agricultural land." The fact that the land remains irrigable means only that it has not been developed. For example, the land could have been taken out of production in anticipation of development that has been approved or requested, permanently retired, taken out of production for economic reasons unrelated to maintaining the productivity of the land, or even set aside for habitat conservation purposes.

Finally, the record contains no evidence that any acreage will be temporarily fallowed, and as a result that consumptive use will be reduced, in the year of the proposed transfer. In the context of a conserved water

transfer, water conservation efforts such as fallowing or crop rotation present unique difficulties because, unlike a physical improvement such as canal lining, these efforts and the associated savings may fluctuate from year to year. Accordingly, a transfer based on water saved due to water conservation efforts such as fallowing or crop changes must be supported with evidence sufficient to provide some assurance that the effort will be carried out and the savings will be realized in the year of the transfer.

In summary, absent any evidence that land was fallowed in Natomas's service area, the SWRCB cannot find that any savings associated with a reduction in irrigated acreage constitutes conservation within the meaning of Water Code section 1011. *[Renumbered footnotes 14 & 15 to be inserted here.]*

4. The third sentence in the last paragraph on page 21 is amended as follows:

A savings due to crop shifts could have been calculated by specifying what changes in the anticipated cropping pattern would be made that would result in a water savings ~~in order to save water.~~

5. On page 21, footnote 15 is renumbered footnote 16.

6. On page 24, the third paragraph is deleted and replaced with the following text:

Finally, as was the case with the reduction in irrigated acreage, Natomas did not submit any evidence that any past changes in rice varieties or other crops will take place in the year of the transfer.

7. On page 25, footnote 16 is deleted.

CERTIFICATION

The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on March 15, 2000.

AYE: James M. Stubchaer
Arthur Guy Baggett, Jr.
John W. Brown
Mary Jane Forster

NO: None

ABSENT: None

ABSTAIN: None

ORIGINAL SIGNED BY

Maureen Marché
Administrative Assistant to the Board