TUESDAY, JANUARY 26, 2010
SACRAMENTO, CALIFORNIA
COASTAL HEARING ROOM
1001 I STREET
JOE SERNA JR./CALERA BUILDING

STATE WATER RESOURCES CONTROL BOARD
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE OF CALIFORNIA

LICENSE NUMBER 13196
CERTIFIED SHORTHAND REPORTER
LINDA MAY RIGGS, CSR

9:00 A.M.

DISTRICT
COUNTIES AND MILITARY COUNTY WATER
ORDER AGAINST THOMAS HILL, ET AL.
TO ADOPT A DRAFT CASE AND DISMISS
PUBLIC HEARING TO DETERMINE WHETHER

In the Matter of:
261

25 MC. WHITE: For housekeeping matters, have you taken the
24 first of all, just before you leave your name?
23 BY MR. LITTY:
22 CO-HARVESTING OFFICER MACGILL: Okay.
21 MR. WHITE: Yes, I did.
20 catch?
20 General Manager, Russian River Flood Control District
19 S. WHITE

19 CO-HARVESTING OFFICER MACGILL: Have you taken the
18 Preliminary Examination by Mr. Litty
17 Called by Sonoma County Water Agency
16 General Manager, Russian River Flood Control District
15
14 Contact District for a few questions in rebuttal.
13 Sean White, the general manager of the Mendocino Flood
12 District, the general manager of the Mendocino Flood
11 water district, I would like to call
10 Mendocino County Flood Control District water to
9 question of the allocation of water between -- of
8 MR. LITTY: Mc. Baggert, for a rebuttal on the
7 MR. LITTY?
6 Go by an exhibit based on that.
5 Questions? Okay. Thank you.
4 CO-HARVESTING OFFICER MACGILL: Okay. Any
3 MR. KICH: The best we can do.
2 (laughed)
1 Everyone reports their diversions to us.
CO-HARPERSFORD BAGGET - 25

the party.

24

any better, so when everybody took their oath, I found

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this is my first hearing ever, I didn't know

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what it would be like.

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MR. WHITE: I can answer that question if you

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catch? He wasn't a distinguished witness.

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Long ago? Because the state would be a have taken the

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at the end of the hearing at 4:10 that was anticipated

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so what I'm -- my issue is: is that a surprise

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Russian River Food Control District.

I am certainity the general manager of the

And what is your job?

My name is Gene White, M-H-T-E.

Please state your name and spell your last

I did take the oath this morning, yes.

Catch today?
The majority of our other customers in that they have a water meter, but it's a lot more than the work that we all take to our customers to be sure, that we do now but we do read all the meters that way, even if our main customers, we do not.

Basically, the district reads meters every month. A year, our annual allocation is based on two things:

17. Every year you district allocates water to each of the contractors.

16. You district, and refer to this contract as necessary, how description, and refer to this contract as necessary, you have: all right, and if you could just

15. I have the one you provided earlier today.

14. Montana County Water District. In front of your name, and the agreement between the Idaho County District and

13. Do you have a copy of Exhibit SC-11? -- that's

12. Idaho County Water District.

11. Administrative office, our district's water rights that are held in

10. Sure. In summary, my responsibilities are to


8. Responding parties are as general manager of the Mendocino

7. And just very briefly describe what your

6. Mendocino River, Idaho County District.

5. And you're bringing in a witness, so they took the oath, and it's rebuttal testimony, so they
Could you just explain what mitigation is through data?

There's been some confusion regarding the termination on pages 7 through 8 of exhibit 8A-11. I think maybe you can briefly refer to paragraphs 21 and 22.

Contractions, but we're not chosen to do so.

Would have the ability to reduce the amount of the district in the contract for multiple years, which is and if mitigation basically didn't exist.

For lack of a better term, a use-it-or-lose-it clause.

In certain instances, our district's contract has...

For mitigation from the district in the following years?

District in one year affect the amount that's available and does the amount of water that mitigation contractors.

In essence, we get that number from our contractors.

Gross pumping they would like applied to their district.

Ask the contractor to let us know how much of the contract, and then essentially we'll execute as well.

They also have that on water rights; that they can contractual relationship with the district, and then that contract.
25

questions.

MR. LITZ: Thank you. I have no further

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they need.

23

Based on their reporting to us as to the amount

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Year?

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to fill, or how much water to fill the reservoir for each

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and now does your district determine how much

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above.

18

one sees anything they remeasure automatically.

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But essentially, it says in there that if no

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resistance process.

15

basically, district wise we could do that through the

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there was something that needed to be corrected

13

and they put a termination date in there so if

12

resolutions the district had ever issued.

11

introducing mistake, was the first round of contractors,

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day. That was basically done as these contractors,

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concrete is detectable. They all expire on the same

8

sure, and this particular aspect of all of our

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are to continue to receive water from the district in

6

years in 2010 and subsequent years?
Various factors.

What about the solicitation of assistance to

Ford.

Amounts have always been done by our meter reader, part

so basically, the solicitation of reported

practice.

addressed to our meter reader, so I continue with that

was not done by the general manager and has been

interestingly, that was actually a duty that

 predecessor how this is done.

took the job over. So the anything else, you ask your

well, I do, only because I had to ask when I

July 2008.

Any personal knowledge of how that was done prior to

the respective factors used by contractors, do you have

and the practice concerning the solicitation of

I started on July 2008.

Russian River District.

Mr. White, how long have you been with the

By Mr. Geyer:

FOR MILITARY COUNTY WATER DISTRICT

CROSS-EXAMINATION BY MR. GEYER

CO-HEARING OFFICER BAGSETT: MAY I.

MR. ROSE: NO.

CO-HEARING OFFICER BAGSETT: PROSECUTION?
A: You know, I haven't, and I'll talk you why.

Reagan: (to the General Manager of Wichita)

Have you responded in writing to the written agreement and I don't have one.

I have a certified copy of document to execute that have a certified copy of document to execute that.

Agreement but to honor their request, I would have to have the board members to let them know that we do have the water.

I have spoken personally to a number of their

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or of the termination of December 31st, 2010.

Requested in writing confirmation of automatic --

and just one last question. Has Wichita

Would you like to apply to your contact?

agree and say, you know, our example you had a

reader, will read, will contact each and every one of our

So basically what will happen at the end of any

Exactly, the same person does that.

20

21

22

23

24

25

26
that correct?

25 and that application has not been provided to

24 us.

23 And a pending application for an additional 6,000
acre

22 area currently have a right to 8,000 acres.

21 acres. I'm not sure if that's true?

20 project water. Your district has a right to 8,000 acres

19 My questions have to do with your right to

18 represent masses, H11 and others.

17 Mr. White, my name is Jared Carter. I

16 am.

15 FOR THOMAS H11 AND STRAY COWS

14 CROSS-EXAMINATION BY JARED CARTER

13 MR. JARED CARTER: Thank you, Mr. Chairman.

12 CO-HEARING OFFICER BAGGETT: Mr. Carter?

11 MR. BAGGETT: That's all I have.

10 MR. WHITE.

9 That I was trying to secure additional supply for

8 board meeting about six months ago. Letting them know

7 A mostly H111 Carson, but I did come to a full

6 for.

5 And what directors of H111 have you spoken

4 have actually had to reduce their amount.

3 extracting their contract to the fullest extent I would

2 expansion of their use, because they have not been

1 formal review of their use and their request for an
CO-HEARING OFFICER BAGGETT: And also add, the

statement -- that -- Mr. Carter, in question

statement -- Mr. Carter, not totally, but that

NR: I have to object. That totally
diversion.

does the Russian River diversion have any point of

does the Russian River diversion have any -- I mean

water to beneficial use.

part of, you create a point of diversion, and you put the

appropriation, you slice an appropriation, you get a

order to appropriate water and complete an

Okay. Now, we heard Mr. Dittry state that in

unsure.

I would deefine to say yes or no on that. I'm

1961; isn't that correct?

And then D 1030 formatted that right issued in

as partial reassessment on February 14, 1958.

We originally became through the process known

issued when you get your 8,000 acre feet?

So your -- this is a part of that was initially

No, we just went through the process.
MR. BREDY: You had your chance, but I'll allow you.

MR. CHARTER: Okay. With that, then we can consider the testimony.

MR. BREDY: Before we address the record, so no issue there.

MR. CHARTER: I have no other rebuttal questions.

MR. BREDY: Thank you.

MR. CHARTER: I have no other questions.

MR. BREDY: I wasn't trying to accomplish.

MR. CHARTER: The testimony wasn't just a mechanical.

MR. BREDY: Yeah, I didn't.

MR. CHARTER: And I thought that's what he

MR. BREDY: Okay.

MR. CHARTER: I understand.

MR. CHARTER: I understand.

and meter readings between the two districts, so.

MR. BREDY: All right. I'm trying to get at, Mr. Charterman, the

MR. BREDY: Repeatedly.

the Russian River district to trying to

what I was trying to get at, Mr. Charterman, is

one of the letters had拆写 to water.

came to testify about is why they were counting and how

they were counting how much water they had rights to water.

And I was trying to examine into the mitigation for

And I was trying to examine into the mitigation for

I still as much of the water to mitigate.
RECEIVED NO 2 209

UNIFORM WATER SUPPLY AGREEMENT

RECEIVED

SCM-11
Customer who wish to utilize a specific amount of Project Water, to enter into Water District finds that, in the particular interest to accept written applications for purposes of boundaries and designated pieces of use, in order to implement these purposes, the amount of water necessary to grow within the District's jurisdictional boundaries and designated pieces of use, to meet current and expected costs and to enhance collection of additional water supply to meet current and
conserve the amount of water Project Water is used by each of its customers, cannot measure the amount of water Project Water is used by each of its customers, and can sell excess water to the customer for their sole purposes or services. The
F. The purpose of said Ordinance and said Resolution are to provide a method by which Project Water is used by each of its customers, and can sell excess water to the customer for their sole purposes or services. The

Ordinance No. 00-1 provides for new or expanded uses or uses. Consequently, the District has adopted
supplies for new or expanded uses. Consequently, the District has adopted

D. Within the past several years, and due, in part, to diminishing of threatened
resources, the wellheads, the health and safety, the jobs, and the community and moral
continue to be maintained and sustained. The economy, the environment and environmental
residential, commercial, and industrial uses that have gradually benefited and will
appropriately governmental and regulatory agencies. These beneficial uses include the
supply have been beneficially used by the District's customers and reported to the

The purpose of this Agreement is to set forth the terms and conditions under which water is supplied to Project Water upon agreement to use water rights by which Project Water is located. The Project Water delivered by Project Water to Customer Pursuant to the terms of this Agreement is water that has historically been used under the terms and conditions set forth in the Agreement.

Customer is willing to purchase and consume a specific quantity of Project Water as specified in the Agreement. Customer agrees to pay for Project Water consumed under the Agreement. Customer is willing to pay for Project Water consumed under the terms of this Agreement.

The purpose of this Agreement is to set forth the terms and conditions under which water is supplied to Project Water upon agreement to use water rights by which Project Water is located. Project Water is delivered by Project Water to Customer Pursuant to the terms of this Agreement. The Project Water delivered by Project Water to Customer Pursuant to the terms of this Agreement is water that has historically been used under the terms and conditions set forth in the Agreement.

Customer is willing to purchase and consume a specific quantity of Project Water as specified in the Agreement. Customer agrees to pay for Project Water consumed under the terms of this Agreement. Customer is willing to pay for Project Water consumed under the terms of this Agreement.

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Customer is willing to purchase and consume a specific quantity of Project Water as specified in the Agreement. Customer agrees to pay for Project Water consumed under the terms of this Agreement. Customer is willing to pay for Project Water consumed under the terms of this Agreement.
Service connection located on the Russian River, a tributary of Water up to 900 feet above

3. Project Water, subject to this Agreement, shall be delivered to Customer at the

Water delivered, Agreement conforms to any local or equitable right or claim to the Project

2. The Parties hereby agree that all parties to the termination of this Agreement, whether the

Agreement is declared in accordance with the requirements of the Project Water, agreed to pay for, purchase, use, and

and Project Water Project Water is subject to the provisions herein and further agrees to pay for, purchase, use, and

Project Water, as a condition precedent to receiving delivery of the Project Water metered (as defined herein), to accurately measure the usage of Project Water metered, and the Customer agrees to pay for, purchase, use, and

Water shall be a condition precedent to receiving delivery of the Project Water metered, and the Customer agrees to pay for, purchase, use, and

Customer agrees to pay for, purchase, use, and

Project Water, at the rate of 10 cfs, to be delivered to the Customer at the termination of the

Project Water, at the rate of 10 cfs, to be delivered to the Customer at the termination of the

Terms of this Agreement, or the conduct of the Parties and performance of this Agreement, whether the

Termination of this Agreement, or the conduct of the Parties and performance of this Agreement, whether the

Subject to all the terms and conditions hereof, and all other agreements heretofore

SECTION 1 - DELIVERY OF PROJECT WATER

of which the parties are hereby acknowledged, the Parties hereby agree as follows:

Agreement, and for other good and valuable considerations, the receipt and discharge

NOW, THEREFORE, in consideration of the mutual covenants contained in this

Project Water is delivered to Customer.

The Parties acknowledge that the Agreement will not become effective unless

and all other agreements hereof. All agreements, covenants and

requirements and provisions of Permit No. 12947, California law, and D-1030.

Describe in detail Permit No. 12947, the terms, provisions, and conditions of the

Notwithstanding any contrary interpretation of or conflict with any of the Project Water

Customer any reasonable interest or control over the Project Water rights, as part of

Agreement do not in any manner or way hamper, restrict, or grant to

permit or agreement do not in any manner or way hamper, restrict, or grant to

is entitled to 6,000 acre feet per year of water stored in Lake Mendocino pursuant to
By the end of the term of this Agreement, reasonable and adequate upon the request of either party, all such deliveries can legally be made up
impracticable; Project Water not delivered as a result of such prevention, delay or
impracticability may be deemed to constitute on a make-up basis a schedule to be
produced, delayed or made impracticable for the period of prevention, delay or
prevented, delayed or delayed by reason of Project Water, the delivery of which has
been required to accept the portion of Project Water which has been delivered.

Wherefore Event [ sic] hereinafter shall not be required to deliver and Customer shall not be
required to accept the portion of Project Water which has been delivered.

Further, the transaction economic or physically impracticable (colloquially a Force
Board ("SWRCB") or if the cost of complying with any environmental requirements
Board."), and any governmental agency, including without limitation the State Water Resources
control, the inability of District to obtain any approval for compliance of Project Water from
environmental requirements, federal or state regulatory limitations, strike,
unavailability of necessary materials, governmental power of Public Utility, war or military
prevailed, delayed, or made impracticable due to exceeded discharge, force
even the delivery of Project Water under the provisions of this Agreement are
shall cause this Contract to be void and terminated.

Disjointed at all times, falling to install the aforementioned meters by the date specified
accords the obligation to maintain the meter in good working order for the benefit of the
customer to serve said meters if necessary at any time. Customer shall have and
receive the Agreement, is granted and reserved the right to read, inspect, test, and to require
and inspect the meter shall remain the property of District, as part of the meter shall remain
and install meters of appropriate size to the Service Connection at Customer, the cost
Connection) shall be the effective date of this Agreement. Customer agrees to furnish
Districts public water system in the Russian River, as the case may be (the "Service
Water delivered pursuant to this Agreement shall be measured by meters to be
Water delivered pursuant to this Agreement shall be delivered to the
"Service Delivery of Project Water from the District during the Term. The quantity of Project

\[4\] Customer acknowledges and agrees that this Agreement is a contract for the
real property, or with Customer's service area if Customer is a regulated public or

\[5\] Customer, acknowledges and agrees that the Agreement is a contract for the
real property, or with Customer's service area if Customer is a regulated public or
Paragraphs are missing from the document. The text appears to be fragmented and incomplete.
THE TERM

The maximum beneficial use of the District's water resources are limited to other water users at the sole discretion and determination of the District for the purpose of returning water to the District for allocation to other users at the sole discretion and determination of the District for the purpose of returning water to the District for allocation to other users. The unused water will then be made available to other users at the sole discretion and determination of the District for the purpose of returning water to the District for allocation to other users.

Section 1 of this Agreement, the District will receive Customer's reserved water, at least equal to the amount of water reserved for Customer, as referred to in Paragraph 1, delivered at the first full calendar year of the Agreement. The District will be responsible for District water resources generally except the District's supplies and other demands for District water resources necessary to serve the District's supplies and other demands for District water resources. Because of these factors, the District is not subject to deduction or reduction of any Project water in excess of the amount reserved for the Project.

The maximum amount directed by Customer as specified in Section 1, hereof, Pursuant to Section 1, hereof, Customer to use, store or retain Project Water after delivery and direction by Customer. Customer is not subject to deduction or reduction of any Project water in excess of the amount reserved for the Project.

The per acre foot purchase price to be charged is due and payable monthly by the District and is not subject to deduction or reduction of any Project water in excess of the amount reserved for the Project.

Customer is not subject to deduction or reduction of any Project water in excess of the amount reserved for the Project.

The per acre foot purchase price to be charged is due and payable monthly by the District and is not subject to deduction or reduction of any Project water in excess of the amount reserved for the Project.

Customer is not subject to deduction or reduction of any Project water in excess of the amount reserved for the Project.

The per acre foot purchase price to be charged is due and payable monthly by the District and is not subject to deduction or reduction of any Project water in excess of the amount reserved for the Project.

Customer is not subject to deduction or reduction of any Project water in excess of the amount reserved for the Project.

The per acre foot purchase price to be charged is due and payable monthly by the District and is not subject to deduction or reduction of any Project water in excess of the amount reserved for the Project.

Customer is not subject to deduction or reduction of any Project water in excess of the amount reserved for the Project.
nullify Customer to the date of completion of the aforementioned process. Said
District office shall have the right to determine the effective date of the option and shall
Project Water, considered upon providing written notice of such desire to the District.
shall have the right to have the additional application for Purchase and Delivery of
process for other customers to purchase Project Water from the District. Customer
process at such time as the District completes the application and approved
accepting and processing applications from other customers to purchase Project Water
District has completed new rate studies, water demand studies, and has completed
wether is available. The option shall not become effective (effective date) until after the
District, Customer shall have the option to purchase additional Project Water. If such
in consideration for entitling into the Water Supply Agreement with the

17.

SECTION 4 - FIRST OPTION TO PURCHASE PROJECT WATER

Revised Effective Date.

If have occurred, the Parties shall execute a supplement to this Agreement specifying a
have occurred. At such time as all of said conditions precedent have been satisfied or
which all of the conditions precedent set forth in Section 5 below have been satisfied or
A 10. As used in this Agreement, the term effective date shall mean the date on

effect on the aforementioned July 30th of December.

On the 30th of December, 5 years prior to the Termination date in
terminate this Agreement to the other party not later than 5 P.M. (PST)
terms, shall be personally delivered by the party which seeks to
in the Termination Date in effect on the aforementioned July 30th of December.
the other party to terminate this Agreement, except for those of its
in effect on the aforementioned July 30th of December. Any notice to terminate this Agreement shall be

additional 12 months (1 year) beyond the prior 12 months this Agreement and all of its terms shall be
submitted to the other party a Notice to terminate this Agreement in the

Effective Date of this Agreement, if notice of said termination has
the 31st of December of each calendar year after the

Renewal provisions provided for herein. Either party to this Agreement may provide to
When this Agreement will be void and all rights granted by this Agreement will be permanently and forever terminated.

14. If the conditions precedent specified herein are not timely satisfied or waived, the proceeds may be subject to the date by which any of those conditions are satisfied.

15. The Parties may agree to extend the date.
of the date the Agreement is fully executed.

Dispute Resolution: Parties agree to resolve all disputes arising out of this Agreement by binding arbitration in accordance with the American Arbitration Association’s Commercial Arbitration Rules. The prevailing party in any such arbitration shall be entitled to recover its reasonable attorney’s fees and costs incurred in connection with such arbitration.

SECTION 7 - REPRESENTATIONS AND WARRANTIES

The Parties represent and warrant to the other Party that, to the best of their knowledge, the information provided to the other Party is accurate and complete. The Parties further warrant that they have the authority to execute and deliver this Agreement and that the execution and delivery of this Agreement by them does not violate any existing agreement or any law or regulation.

SECTION 8 - PERMITS AND AUTHORIZATIONS

The Parties agree to cooperate with each other in obtaining any necessary permits or authorizations required to implement the terms of this Agreement. The Parties shall use reasonable efforts to coordinate their activities to minimize any delays or disruptions to the implementation of this Agreement.

16. Customer agrees to support District in obtaining any permits, authorizations, and other regulatory approvals necessary to implement the terms of this Agreement.
23. Customer acknowledges that as a condition and essential consideration of this Agreement, Customer shall not deliver, use, allow to be used, store, or resell District water beyond or in excess of the permitted use set forth herein. Customer further acknowledges the right of the District, its employees, agents, and representatives to enter the Customer’s premises, facilities, and land at any time to verify Customer’s use of the District water.

24. Notwithstanding any contrary provision in this Agreement, water delivered by the District shall not be used, or re-used, for other than its designated purpose.

Section 8 - Representations and Warranties of Customer

By which District or any of its property may be bound or affected.

21. The execution and performance of this Agreement by District does not breach any enforcement agreements, agreements, or contracts.

20. This Agreement constitutes a legal, valid, and binding obligation of District.

19. District shall have the right, power, and authority to enter into this Agreement and to Agency Acts.

18. District is an improvement district formed within the Mendocino County Water
SECTION 9 - REDUCTIONS IN SUPPLY OF WATER AS A RESULT OF SHORTAGE

28. In the event that a drought, reduction of supply, or shortage condition is

27. The execution, delivery and performance of this Agreement by Customer will not

26. This Agreement, and all of its provisions, terms, and obligations hereunder;

25. Customer has the right, power, interest, and authority under this Agreement to

24. Customer is a public water agency duly organized, valid and existing, and in good

23. Customer is a legal, valid and binding obligation of Customer, enforceable against

22. Customer is in accordance with the terms,

21. The execution, delivery and performance of this Agreement by Customer will not

20. The execution, delivery and performance of this Agreement by Customer will not

19. Customer is in accordance with the terms,

18. The execution, delivery and performance of this Agreement by Customer will not

17. The execution, delivery and performance of this Agreement by Customer will not

16. Customer is in accordance with the terms,

15. The execution, delivery and performance of this Agreement by Customer will not

14. Customer is in accordance with the terms,

13. The execution, delivery and performance of this Agreement by Customer will not

12. The execution, delivery and performance of this Agreement by Customer will not

11. Customer is in accordance with the terms,

10. The execution, delivery and performance of this Agreement by Customer will not

9. Customer is in accordance with the terms,

8. The execution, delivery and performance of this Agreement by Customer will not

7. The execution, delivery and performance of this Agreement by Customer will not

6. Customer is in accordance with the terms,

5. The execution, delivery and performance of this Agreement by Customer will not

4. Customer is in accordance with the terms,

3. The execution, delivery and performance of this Agreement by Customer will not

2. Customer is in accordance with the terms,

1. The execution, delivery and performance of this Agreement by Customer will not

0. Customer is in accordance with the terms,
SECTION 10 - CONSERVATION PLAN

When Project Water Agreement for the Agreement Customer shall, within 90 days of the
program and enforcement plan adopted by Customer and approved by District as
Agreement shall comply with the requirements of a comprehensive water conservation
shall allow to the Agreement Districts water budget pursuant to the provisions of this
Customer and each and any third parties to whom Customer may sell, give, or

30. Other events which will trigger a proration reduction in any amount of Project

For the period during which the shortages occur, Customer is to deliver Project Water to
the terms and provisions under which District will deliver Project Water to the
Supplemental Agreement shall deliver by District of Project Water to Customer. The Supplemental Agreement shall deliver a mutually acceptable "Supplemental Agreement" for the
purpose of negotiations. A mutually acceptable "Supplemental Agreement" for the

In the event of such shortage, District shall deliver a written notice of
"Permanent

If the Project Water Agreement is expired or terminated, the Project Water
nullified by the amount of reduction in Project Water available to District under this
The agreement. Any use of the District water by the Customer which exceeds the
and water allocated to the Customer, has been agreed to pursuant to the terms of
not be limited to, customer's excessive use of water which exceeds that water
default has been sent by the District to Customer. This provision shall include, but
observe, and such default continues for ten (10) days after written notice of
appropriate action or undertaking in this Agreement that it is to perform or
is to observe any term; Customer fails to perform, comply with, or observe any term,
until paid in full.

Deficiency payment will bear interest at the rate of ten percent (10%) per annum
said failure to pay shall constitute a default in this Agreement and any such
and such other amount due and payable pursuant to this Agreement by the due date,
be charged when due and payable pursuant to the provisions of Section 2 of this

Section 11. Default

Directs water, for the benefit of District, shall constitute a breach of this Agreement
and against third parties (to whom it may sell, give, or how the transference of
importance and ensures the conservation plan and the provisions within it continue,
Customer shall fully implement and enforce, in favor of the District, the plan and the
breach of the terms of this Agreement. Failure to implement the provisions of this Agreement shall
Customer, or, in the case of the failure of Customer to submit the required plan, to
Executive Director shall approve the submitted plan. The Executive Director, the
agriculture as appropriate. Within 120 days of the execution of this Agreement, the
directs a complete water conservation program and enforcement plan. Such

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Second Page

WSR1878
SECTION 12 - REMEDIES

3. No remedy hereinafter contained upon or reserved to Distriet is intended to be

exclusive of any other remedy, and each such remedy shall be cumulative and shall be

6. A waiver of any default or breach of duty or contract by Distriet shall not affect

the rights of Distriet to the terms of this agreement.

important to the terms of this agreement.

of any such default or breach of duty or contract by Distriet. No delay or

Any subsequent default of breach of duty or contract by Customer. No delay or

Any subsequent delay of breach of duty or contract by Customer shall be excused or

Any default as a result of any such default or breach of duty or contract by Distriet, shall be excused or

Any default as a result of any such default or breach of duty or contract by Distriet, shall be excused or

By law, all such remedies are cumulative and may be exercised concurrently or

By law, all such remedies are cumulative and may be exercised concurrently or

or unique in any material respect.

or unique in any material respect.

or unique in any material respect.

or unique in any material respect.

or unique in any material respect.
employees, officers, employees, or agents. 37. Indemnification

Remedies

In addition to every other remedy or method of recovery expressly granted by law or in equity or by statute or otherwise and may be exercised without regard to any other remedy or method of recovery expressly granted by law or in equity or by statute or otherwise, the customer shall indemnify, defend, and hold harmless the district, its officers, employees, and agents from and against any and all actions, lawsuits, demands, claims, suits, proceedings, judgments, and expenses of every description that in any manner may be imposed or required of or arising out of or relating to (1) any breach or alleged breach of any express agreement, warranty, covenant, or other express or implied representation or other agreement or arrangement of customer in connection with or pursuant to the agreement or to or in any manner relating to the district's services or to the customer's use thereof, (2) any loss, injury, death, disease, or damage of any kind or nature, or in any manner relating to the district's services, its employees, or agents and which may or may not be caused thereby, or in any manner relating to the customer's use of the district's services, or any employee, or agent of the customer, or any other person. 38. Section 13 - Indemnification

Remedies

In addition to every other remedy or method of recovery expressly granted by law or in equity or by statute or otherwise and may be exercised without regard to any other remedy or method of recovery expressly granted by law or in equity or by statute or otherwise, the customer shall indemnify, defend, and hold harmless the district, its officers, employees, and agents from and against any and all actions, lawsuits, demands, claims, suits, proceedings, judgments, and expenses of every description that in any manner may be imposed or required of or arising out of or relating to (1) any breach or alleged breach of any express agreement, warranty, covenant, or other express or implied representation or other agreement or arrangement of customer in connection with or pursuant to the agreement or to or in any manner relating to the district's services or to the customer's use thereof, (2) any loss, injury, death, disease, or damage of any kind or nature, or in any manner relating to the district's services, its employees, or agents and which may or may not be caused thereby, or in any manner relating to the customer's use of the district's services, or any employee, or agent of the customer, or any other person.
Following the provisions of Section 10 hereof, company with this provision shall constitute an immediate default of this agreement, and no provision of said policy shall be provided to the Executive Director of District Policy to effect the policy in full. The purpose of said provision is to ensure that the Executive Director has the authority to provide for delivery to any person or entity in accordance with the boundaries of the district under the provisions of any other agreement. Any provision of this agreement shall be a condition and consideration of the instrument of agreement executed and delivered by District in connection herewith, willful breach or alleged breach of any express representation, warranty, covenant, description to which shall be subject to in any document, or any provision of agreement or District, contained in the agreement, shall, if not satisfied, be subject to any other agreement. Customer, its officers, directors, employees, agents, or consultants, acknowledged and agree that, as a condition and consideration of the instrument of agreement executed and delivered by District, in connection herewith, any provision of agreement or District, contained in the agreement, willful breach or alleged breach of any express representation, warranty, covenant, description to which shall be subject to in any document, or any provision of agreement or District, contained in the agreement, shall, if not satisfied, be subject to any other agreement.
Section 15 - General Provisions

The agreement is made solely for the benefit of the

[Currency] - [ID] 1882

...
Agreement, or to recover damages if otherwise available, hereunder, or to obtain
the information in the possession of any other of possession to enforce any provision of this
contract for the purpose of learning any provision of the Agreement, including without
limitation any of the provisions hereof. Should either party to the Agreement reasonably rely
on documents and other evidence incorporated hereinafter, agreed that time is of the
essence of each and every provision of the Agreement, including all contracts

implied or inferred in any way notwithstanding such invalidity, whenever or thereinto shall be null and void.

Agreement, or in the other contract documents and evidences of
the delivery of Project Water to Customer by Defendant and contains all the covenants and
agreements between the Parties with respect thereto. Each Party to the Agreement
acknowledges that no representations or promises have been made by any Party
expressly or impliedly. The construction of the Agreement, together with all contract documents and
shall be subject to the Agreement,

authorized representatives of both Customer and Defendant. Such a written extension
extension of Term. The duration of the Term of this Agreement may be

null and void.

Agreement. Any amendment made in violation of this section shall be
null and void.

Agreement. Any amendment made in violation of this section shall be
null and void.

Agreement. The term of this Agreement may be modified only by writing by
intended to serve as an advertisement to the District's agreement to the assignment of this
Agreement by Customer.
II. To Contractor

Mendocino County Russian River Flood Control and Improvement District

If for any reason Contractor or any of its subcontractors or agents fail to complete work in accordance with the terms of this Agreement within the time provided, Contractor shall be liable for any costs, fees, and expenses incurred by the District in connection with the completion of work, including without limitation all attorneys' fees and court costs. The District may terminate this Agreement at its sole discretion, and all rights and obligations under this Agreement are assigned to the District or its successors at no cost to the District.
Execution and Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF the Parties hereto have executed this Agreement as of the last date below written.

MENDOCINO COUNTY RUSSIAN RIVER FLOOD CONTROL AND WATER IMPROVEMENT DISTRICT

By: [Signature]
Title: [Title]

By: [Signature]
Title: [Title]

Date: 12/30/04

Date: 11/01/04

[Water Purchase Agreement]

[Signature]

[Signature]