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RYAN S. BEZERRA, State Bar No. 178048
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Attorneys for Petitioner Yuba County Water Agency

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF YUBA

215 Fifth Street
Marysville, California 95901

BROWNS VALLEY IRRIGATION DISTRICT,)	Case No. YCSCCVPT 01-0000224
Petitioner,)	DECLARATION OF WILLIAM T.
v.)	MITCHELL IN SUPPORT OF
STATE WATER RESOURCES CONTROL)	PETITIONER'S MOTION TO
BOARD,)	ADMIT NEW EVIDENCE
Respondents.)	Date: April 21, 2003 (nominal)
YUBA COUNTY WATER AGENCY; CORDUA)	Time: 2:30 p.m.
IRRIGATION DISTRICT; HALLWOOD)	Dept: 1
IRRIGATION COMPANY; WESTERN)	Judge: Hon. Robert A. Barclay
AGGREGATES, INC.; WESTERN WATER)	
COMPANY; CALIFORNIA DEPARTMENT)	
OF FISH AND GAME; AND DOES 1)	
THROUGH 100.)	
Real Parties in Interest)	

1 I, William T. Mitchell, declare as follows:

2 1. I am a fisheries biologist at Jones & Stokes ("J&S"), in Sacramento, California, and
3 have been employed by J&S as a fisheries biologist since 1989. As a fisheries biologist for J&S, I
4 have conducted numerous fishery-related field projects, have presented expert testimony before the
5 State Water Resources Control Board (the "State Board") and have participated in many technical
6 working groups and other similar groups with representatives of state and federal regulatory
7 agencies.

8 2. I have personal knowledge of the facts stated in this Declaration and, if called as a
9 witness, would testify to those facts.

10 3. Since about 1990, Yuba County Water Agency ("Yuba") has retained J&S generally,
11 and me specifically, to provide Yuba with field work and other consulting services related to
12 fisheries biology.

13 4. One part of my work for Yuba has been to supervise J&S's fall-run chinook salmon
14 adult escapement survey of the lower Yuba River in every year since 1991. J&S's lower Yuba River
15 fall-run chinook salmon adult escapement survey is an activity in which J&S employees physically
16 survey the portion of the Yuba River between the downstream end of the River's Narrows reach and
17 the Yuba River's confluence with the Feather River during those salmon's spawning period of mid-
18 October through mid-December and locate, count and tag the carcasses of adult salmon that have
19 spawned. We do not survey the Narrows reach, whose upstream end is Englebright Dam, because
20 the Narrows reach contains minimal gravel habitat in which salmon could spawn.

21 5. Between 1953 and 1989, the state Department of Fish and Game ("DFG") conducted
22 a similar annual fall-run chinook salmon adult escapement survey. In 1990, DFG did not conduct
23 such a survey because of budget problems. Yuba did not discover that DFG was not conducting a
24 survey in 1990 until it was too late to conduct such a survey that year. In 1991 and each subsequent
25 year, Yuba has hired J&S to conduct such a survey.

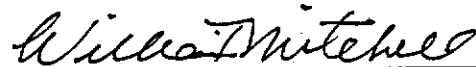
26 6. During the State Board's 1992 and 2000 administrative hearings concerning the lower
27 Yuba River, I testified as an expert witness for Yuba. My testimony during each hearing included
28 reporting the number of fall-run chinook salmon that J&S estimated spawned in each year that J&S

1 conducted a fall-run chinook salmon spawning escapement survey in the lower Yuba River. During
2 the 2000 hearing, I testified that: (a) the estimate of the number of fall-run chinook salmon in the
3 Yuba River varied depending on what methodology one used; (b) in conducting its pre-1990 surveys,
4 DFG had assumed that 15.5% of the salmon spawned in the "Rose Bar reach" of the lower Yuba
5 River; (c) Yuba and J&S used a similar methodology until 1994, when J&S began physically
6 surveying the Rose Bar reach to actually count the salmon carcasses there; and (d) J&S used that
7 methodology in every year after 1994, except 1995. I participated in the preparation of, among other
8 items introduced in the State Board's 2000 hearing, Table 2 of exhibit S-YCWA-19. Table 2 of that
9 exhibit was a table containing the best estimate of the total number of fall-run chinook salmon that
10 spawned in the lower Yuba River in each year from 1953 through 1999 for which data was available.
11 A copy of Table 2 is attached to this Declaration as exhibit A. I also participated in the preparation
12 of exhibit S-YCWA-43, which graphically presented the information in Table 2 and also presented
13 the post-New Bullards Bar average of spawning fall-run chinook salmon if one consistently used
14 DFG's pre-1990 methodology. A copy of S-YCWA-43 is attached to this Declaration as exhibit B.

15 7. Since May 2000, I have continued to oversee J&S's lower Yuba River fall-run
16 chinook salmon spawning escapement surveys during the fall-run chinook salmon spawning period
17 in 2000, 2001 and 2002. In doing so, we used the same "actual count" methodology that we have
18 employed since 1994, with the exception of 1995. Based on those 2000-2002 surveys, I updated
19 Table 2 from exhibit S-YCWA-19 and exhibit S-YCWA-43 to include entries for these last three
20 years. My updated table and figures are attached to this Declaration as exhibits C and D,
21 respectively.

22 I declare under penalty of perjury that the foregoing is true and correct.

23 Executed March 11, 2003, at Sacramento, California.

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25 

26 William T. Mitchell
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EXHIBIT A



Table 2. Annual Fall-Run Chinook Salmon Spawning Escapement in the Yuba River during pre-(1953-1971) and post-(1972-1999) New Bullards Bar Reservoir Periods

Year	Pre-Reservoir Escapement	Year	Post-Reservoir Escapement
53	6,000	72	9,258
54	5,000	73	24,119
55	2,000	74	17,809
56	5,000	75	5,641
57	1,000	76	3,779
58	8,000	77	8,722
59	10,000	78	7,416
60	20,000	79	12,430
61	9,000	80	12,406
62	34,000	81	14,025
63	37,000	82	39,367
64	35,000	83	14,256
65	10,000	84	9,965
66	8,000	85	13,066
67	23,500	86	19,406
68	7,000	87	18,510
69	5,230	88	8,501
70	13,830	89	9,837
71	5,650	90	--
		91	14,413
		92	6,361
		93	6,516
		94	10,691
		95	14,561
		96	27,520
		97	25,778
		98	30,802
		99	23,067
Average	12,906	Average	15,119

Notes:

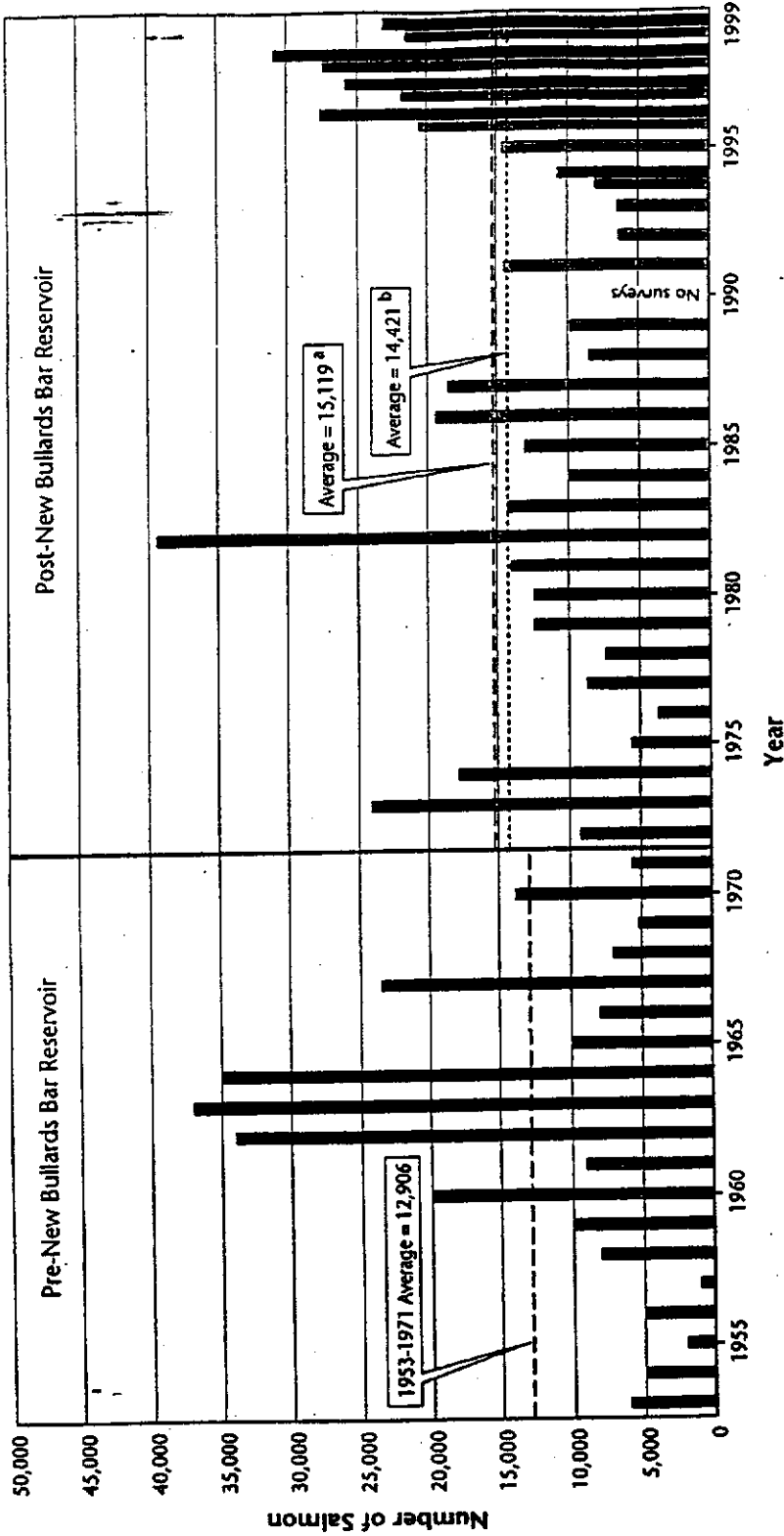
-- No surveys conducted.

Sources:

1953-1966: Hallock n.d.

1967-1989: Mills and Fisher 1994.

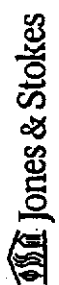
1991-1999: Jones & Stokes Associates (1992-1999).



SOURCES:
 1953-1966: Hallock (n.d.)
 1967-1989: Mills and Fisher (1994)
 1991-1999: Jones & Stokes Associates (1992-2000).

^a Average post-NBB spawning escapement based on actual estimates of spawning escapement in Rose Bar reach in 1994 and 1995-1999 (dark bars).
^b Average post-NBB spawning escapement based on assumptions that 15.5% of spawning escapement spawned in Rose Bar reach in 1994 and 1995-1999.

Annual Fall-Run Chinook Salmon Spawning Escapement
 in the Lower Yuba River during Pre- (1953-1971) and
 Post- (1972-1999) New Bullards Bar (NBB) Reservoir Periods



Annual Fall-Run Chinook Salmon Spawning Escapement in the Yuba River during
Pre- (1953-1971) and Post- (1972-2002) New Bullards Bar Reservoir Periods

Year	Pre-Reservoir Escapement	Year	Post-Reservoir Escapement
1953	6,000	1972	9,258
1954	5,000	1973	24,119
1955	2,000	1974	17,809
1956	5,000	1975	5,641
1957	1,000	1976	3,779
1958	8,000	1977	8,722
1959	10,000	1978	7,416
1960	20,000	1979	12,430
1961	9,000	1980	12,406
1962	34,000	1981	14,025
1963	37,000	1982	39,367
1964	35,000	1983	14,256
1965	10,000	1984	9,965
1966	8,000	1985	13,066
1967	23,500	1986	19,406
1968	7,000	1987	18,510
1969	5,230	1988	8,501
1970	13,830	1989	9,837
1971	5,650	1990	no survey
		1991	14,413
		1992	6,361
		1993	6,516
		1994	10,691
		1995	14,561
		1996	27,520
		1997	25,778
		1998	30,802
		1999	23,067
		2000	14,852
		2001	22,384
		2002	23,202
Average	12,906		15,622

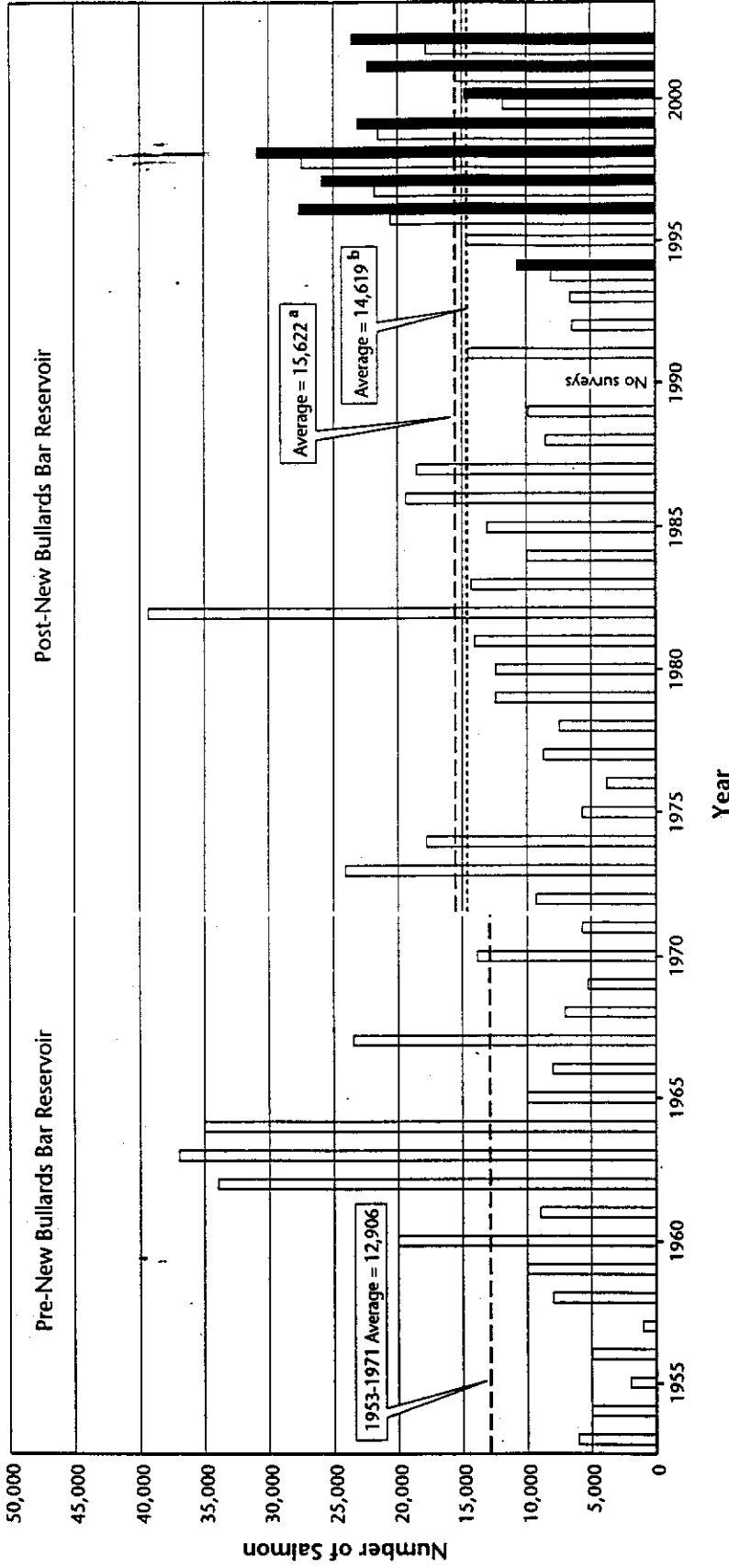
Sources:

1953-1966: Hallock (n.d.)

1967-1989: Mills and Fisher (1994)

1991-2001: Jones & Stokes Associates (1992-2002)





^a Average post-NBB spawning escapement based on actual estimates of spawning escapement in Rose Bar reach in 1994 and 1995-2002 (dark bars).

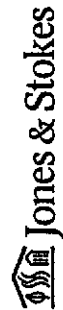
^b Average post-NBB spawning escapement based on assumptions that 15.5% of spawning escapement spawned in Rose Bar reach in 1994 and 1995-2002.

LEGEND

- Estimated Count
- Actual Count

SOURCES:

- 1953-1966: Hallock (n.d.)
- 1967-1989: Mills and Fisher (1994)
- 1991-2002: Jones & Stokes Associates (1992-2002).



Annual Fall-Run Chinook Salmon Spawning Escapement in the Lower Yuba River during Pre- (1953-1971) and Post- (1972-2002) New Bullards Bar (NBB) Reservoir Periods

1 **PROOF OF SERVICE**

2 I, Terry M. Olson, declare:

3 ~~I am~~ over the age of eighteen and not a party to this action and work in Sacramento
4 County at Bartkiewicz, Kronick & Shanahan 1011 Twenty-Second Street, Sacramento,
5 California 95816. On March 17, 2003, I served the within document: **Declaration of William
6 T. Mitchell in Support of Petitioner's Motion to Admit New Evidence.**

7 **BY FAX:** by transmitting via facsimile the document(s) listed above to the fax number(s) set forth
8 below on this date before 5:00 p.m. A copy of the transmission report, which was properly issued by
9 the facsimile machine, showing no errors in transmission to those fax numbers is attached.

10 **BY HAND:** by causing to be delivered via hand delivery a copy of the document(s) listed above to the
11 person(s) at the address(es) set forth below.

12 **BY MAIL:** by placing for collection and mailing at the offices of Bartkiewicz, Kronick & Shanahan,
13 located at 1011 Twenty-Second Street, Sacramento, California 95816 a copy of the document(s) listed
14 above to the person(s) at the address(es) set forth below. I am readily familiar with the business'
15 practice for collection and processing of correspondence for mailing with the United States Postal
16 Service and, in the ordinary course of business, the correspondence would be deposited with the United States
17 Postal Service on the day on which it is collected at the business.

18 **BY OVERNIGHT MAIL:** by placing for overnight delivery by Federal Express a copy of the
19 document(s) listed above enclosed in a sealed mailer to the person(s) at the address(es) set forth below.
20 I am readily familiar with the business' practice for processing of correspondence for delivery by
21 Federal Express and, in the ordinary course of business, the correspondence would be entrusted to
22 Federal Express for overnight delivery on the day on which it is deposited at a Federal Express office.

23 **BY PERSONAL DELIVERY:** by personally delivering a copy of the document(s)
24 listed above to the person(s) at the address(es) set forth below.

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2 Tiffany Yee
Deputy Attorneys General
3 455 Golden Gate Avenue, Suite 11000
4 San Francisco, CA 94102-3664

5
6 I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct.

7 Executed on March 17, 2003 at Sacramento, California.

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Terry M. Olson

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