

**MID-KINGS RIVER
GROUNDWATER
SUSTAINABILITY
AGENCY**

County of Kings
City of Hanford
Kings County
Water District

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VIA EMAIL & U.S. MAIL
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

Attn: Mitchell Moody
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RE: ***Semitropic Water Storage District Petition to Revise the Fully Appropriated Stream Designation of the Kings River***

Dear Chairman Esquivel and Honorable Board Members:

The Mid-Kings River Groundwater Sustainability Agency (MKR GSA)] hereby submits its **opposition** to Semitropic Water Storage District’s (“Semitropic”) Petition to revoke and/or revise the Kings River Fully Appropriated Stream Declaration (FAS). No reasonable cause exists to conduct a hearing on the question whether the fully appropriated status of the stream system should be revoked or revised. As a result, MKR GSA respectfully requests the Chief, Division of Water Rights, deny a hearing on the matter.

MKR GSA is a joint powers authority formed by Kings County Water District and the City of Hanford (and subject to an MOU with Kings County) for purposes of fulfilling the mandates of the Sustainable Groundwater Management Act (SGMA). The MKR GSA is located within the Tulare Lake Subbasin (5-22.12) of the San Joaquin Valley Basin pursuant to Bulletin 118. The Tulare Lake Subbasin is ranked as a “high” priority basin by the Department of Water Resources and is designated as being in a critical condition of overdraft. The Kings River is the main source of surface water supply to the territory of the MKR GSA and other Tulare Lake subbasin GSAs. The Kings River Service Area encompasses portions of three counties, Kings, Fresno and Tulare, and two subbasins pursuant to Bulletin 118 (Kings and Tulare Lake), both of which are critically overdrafted and ranked “high” priority in Bulletin 118.

Semitropic’s FAS petition is submitted to secure a right to divert Kings River waters for use in Kern County, outside the watershed of origin, to another critically overdrafted subbasin, the Kern County Subbasin (5-22.14). By exporting water from two critically overdrafted groundwater subbasins to a foreign subbasin, the **Semitropic project would significantly exacerbate overdraft conditions in the Kings River Service Area making it more challenging if not nearly impossible to reach sustainability goals and avoid undesirable results.**

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Public comments submitted on the Semitropic Project establish that the magnitude of historic Kings River flood flows are unfortunately less than the estimated groundwater overdraft in the portions of Fresno, Kings, and Tulare Counties that are in the Kings River service area. Planning efforts at various levels of regional and local government, including the MKR GSA, are underway to fully utilize Kings River flood flows for addressing SGMA impacts and anticipated growth. It only makes sense that Kings River water should be available to meet these needs within the watershed of origin.

MKR GSA is in the process of developing projects to beneficially use Kings River floodwater in order to avoid SGMA's undesirable results. The MKR GSA has planned an aggressive 20-year program to develop approximately 40 recharge basins covering roughly 1,500 acres of very sandy property to recharge these flows in wet years in order to achieve sustainability. The MKR GSA's partner, Kings County Water District, has currently authorized the pursuit and development of the first 500 acres of these projects, and earlier this year Kings CWD purchased the first 80 acres of property related to this effort. These projects are being developed to divert and beneficially use wet year flood water through established water rights on the Kings River. If the State Board grants the Semitropic petition and allows Semitropic to acquire a surface water right for its project, the State Board's action will be putting a Kern County agency ahead of the MKR GSA and all the other local agencies that already have plans to use Kings River flood waters to achieve SGMA compliance. The outcome of that scenario will be that SGMA compliance would have to be accomplished through the retirement of farmland rather than the development of recharge basins. It is foreseeable that taking farmland out of production will cause substantial economic and social dislocation to the communities where the land retirement occurs. This has literally been what the MKR GSA has been working to avoid since the agency was formed. In short, the impacts of the State Board's decision for the MKR GSA and its service area are potentially extremely significant.

Based on Bulletin 118 alone, the demand for all the waters of the Kings River is objectively proven. Bulletin 118 demonstrates that not enough waters exist in the Kings and Tulare Lake Subbasins. It is therefore patently false to suggest there are unappropriated waters available on the Kings River. Every ounce of water is needed in the Kings River Service Area to ensure sustainability goals are met and to ensure the avoidance of undesirable results.

The Semitropic Project seeks to divert Kings River flood flows out of the watershed. By exporting water from critically overdrafted groundwater basins. The Semitropic project would significantly impair the ability of the regional GSAs, including MKR GSA, to comply with SGMA without resorting to removing significant lands from production and limiting urban growth. The Semitropic Project would negatively impact the lives and livelihoods of many people in Fresno, Kings, and Tulare Counties who depend on Kings River waters.

An example from history may help explain this. Several years ago, before SGMA was enacted, the Tulare Lake Basin Water Storage District and the Dudley Ridge Water District in southern Kings County had landowners that sold portions of the agencies' State Water Project (SWP) Table A entitlement attributable to their lands. The landowners sold the SWP entitlement

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to southern California municipal water agencies for significant sums of money. As Kings County is a very rural County that is dominated by agriculture, the area is very susceptible to the efforts of other parties that have much greater financial resources. The lands that historically had been irrigated by the SWP surface water were largely kept in agricultural production and groundwater was used to irrigate the land instead of the SWP surface water. The impact of these SWP sales was that the sustainability of groundwater resources in the region suffered because there was more groundwater pumping and less available surface water. In the case of the Semitropic Project, the Kings River surface water is planned for many irrigation and recharge efforts that are already under development throughout the Kings and Tulare Lake Subbasins. If the Kings River supplies available to existing water right holders are diminished, it will reduce what can be done to offset overdraft and in order to comply with SGMA requirements GSAs will instead have to reduce the amount of groundwater landowners can use (fallow lands that economically support local DACs).

Also, the region has been dealing with reduced surface water supplies in connection with Federal and State water supply projects for some time. As the availability of SWP and Central Valley Project (CVP) supplies have been reduced by others, Kings River supplies have become far more critical to local agencies and communities. Unfortunately, the limited financial resources of the area has only allowed for a slow development of needed projects, but the MKR GSA has plans for additional projects and efforts over the next two decades for the accessible portion of the surface water that is currently under existing defined rights. As with many local parties that are trying to address the State's SGMA regulations, the MKR GSA has seen many Kings River water right holders manage available supplies differently and shift to paradigms where flood water will be used to a much greater extent than in previous eras.

California is the first state in the nation to enact a law recognizing that "every human being has the right to safe, clean, affordable and accessible water" – also known as "the human right to water." The Kings River service area includes 51 "Disadvantaged Communities" – areas which most suffer from a combination of economic, health, and environmental burdens – with a population of 646,236. In addition, the area includes 59 "Severely Disadvantaged Communities" with a population of 84,510. In all, 69 percent of the population that relies upon the Kings and Tulare groundwater basins lives in a Disadvantaged Community or Severely Disadvantaged Community.

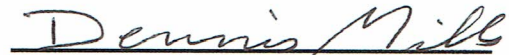
The Semitropic Project has the potential to deprive DACs access to water and jeopardize long-term regional/local sustainability. DACs already disproportionately suffer from poverty, high unemployment, asthma and heart disease, as well as air and water pollution, and the Semitropic Project will only make already-difficult circumstances worse and threaten "the human right to water."

In conclusion, Semitropic has failed to set forth any facts to show changed circumstances or that reasonable cause exists to hold a hearing on the Kings River FAS Declaration. Based on the status of the subbasins overlying the Kings River Service Area as "high" priority and critically overdrafted, it is clear no unappropriated waters exist. Also, MKR GSA understands that Semitropic has provided no information to show that they would not have access to flood flows

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from the Kern River or other unregulated streams in Kern County that could be causing flood damage in their watershed of origin at the same time Semitropic would requesting Kings River supplies. As a result of the foregoing, MKR GSA respectfully requests the Board to deny a hearing on the Semitropic Petition.

Sincerely,


Dennis Mills, General Manager
MID-KINGS RIVER GSA

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