

1 SOMACH SIMMONS & DUNN
A Professional Corporation
2 ANDREW M. HITCHINGS, ESQ. (SBN 154554)
KRISTIAN C. CORBY, ESQ. (SBN 296146)
3 500 Capitol Mall, Suite 1000
Sacramento, CA 95814
4 Telephone: (916) 446-7979
Facsimile: (916) 446-8199
5 ahitchings@somachlaw.com
kcoby@somachlaw.com

6 Attorneys for BIGGS-WEST GRIDLEY WATER
7 DISTRICT

8
9
10 BEFORE THE
11 CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

12
13 HEARING ON THE MATTER OF
CALIFORNIA DEPARTMENT OF WATER
14 RESOURCES AND UNITED STATES
BUREAU OF RECLAMATION REQUEST
15 FOR A CHANGE IN POINT OF DIVERSION
FOR CALIFORNIA WATER FIX.

WRITTEN TESTIMONY OF
EUGENE MASSA JR.

16
17 This testimony is offered on behalf of the Biggs-West Gridley Water District
18 (BWGWD).

19 **I. INTRODUCTION**

20 My name is Eugene Massa Jr., and I currently serve as the General Manager for
21 BWGWD and have been employed by BWGWD since December of 2011. BWGWD is a
22 public agency irrigation district formed and operating pursuant to Division 13 of the
23 California Water Code (Wat. Code § 34000 *et seq.*). For the past nine and one-half
24 years, I also served as the General Manager of the Colusa Basin Drainage District
25 (CBDD), an approximately 650,000 acre, multi-county special district serving portions of
26 Glenn, Colusa, and Yolo Counties. CBDD performs certain flood control duties, and
27 certain ground water and recharge duties within the Colusa Basin.
28

1 In addition to serving as the General Manager for BWGWD and CBDD, I am an
2 attorney licensed by the State Bar of California, and I actively farm rice and olives in
3 Glenn and Colusa Counties. I currently serve as an alternate board member of the Joint
4 Water Districts Board, serve on several Northern California Water Association
5 committees, and am a member of an ad-hoc Fall Water Habitat Operations group that
6 combines irrigation suppliers with non-governmental organizations, and state/federal
7 agencies to work on stabilizing fall water supplies for local species and migrating
8 waterfowl. I am also a Trustee on the Butte-Glenn Community College District's
9 governing Board of Trustees.

10 **II. SUMMARY AND PURPOSE OF TESTIMONY**

11 I am familiar with the scope and extent of BWGWD's water rights and BWGWD's
12 beneficial use of water under its water rights. The purpose of my testimony is to identify,
13 provide a brief description of, and document the water rights held and claimed by
14 BWGWD, and that are subject to injury by the proposed California WaterFix Project.
15 BWGWD holds pre-1914 appropriative water rights to divert water from the Feather
16 River, a tributary to the Sacramento River. BWGWD is also a party to a settlement
17 agreement with the State of California regarding BWGWD's diversions from the Feather
18 River. This agreement and other operative documents are identified, documented, and
19 described below. This testimony is not intended to be an exhaustive description of
20 BWGWD's water rights, but includes the water rights that would be subject to injury by
21 the proposed California WaterFix project that is the subject of this proceeding.

22 **III. BWGWD BACKGROUND**

23 BWGWD was formed in 1942, and is a multi-county special district covering
24 approximately 35,000 acres and serving portions of Butte and Sutter Counties. BWGWD
25 provides agricultural water to approximately 31,300 acres, and provides irrigation water
26 to approximately 3,700 acres in the California Department of Fish and Wildlife's Gray
27 Lodge Wildlife Area (GLWA).
28

1 Since its inception, a majority of the land in BWGWD has been in rice production
2 due to the dominance of heavy clay soils, favorable climate, and availability of water for
3 irrigation. The remaining cropped area includes a combination of orchards, pasture, and
4 row crops. The primary diversion of water into BWGWD is from the Biggs Extension
5 Canal, which branches from the Sutter-Butte Canal and serves both BWGWD and
6 Richvale Irrigation District. There exist turnouts to individual fields and private lateral
7 headings along the extension canal upstream of the BWGWD Main Canal heading that
8 are served by BWGWD staff and the Joint Districts manager. The Main Canal generally
9 runs from north to south and is approximately 10 miles in length; the Branch A Lateral is
10 approximately 2 miles long. A map depicting BWGWD's service area and other key
11 features is included as Exhibit BWGWD-2.

12 IV. WATER RIGHTS OF BWGWD

13 BWGWD holds pre-1914 appropriative water rights to divert water from the
14 natural flow of the Feather River. BWGWD, in conjunction with other districts, owns and
15 operates a water distribution system that delivers water for agricultural and other
16 beneficial uses to an area located within Butte and Sutter Counties (BWGWD System).
17 The water supply for the BWGWD System is derived from rights to divert from the
18 Feather River and other sources. Certain of those rights and entitlements are reported
19 in State Water Resources Control Board (SWRCB) Statement of Diversion and Use
20 No. S000480, which relates to diversions made in conjunction with BWGWD's status as
21 one of the four "Joint Districts" (Butte Water District, Richvale Irrigation District, Sutter
22 Extension Water District, and BWGWD) exercising pre-1914 rights to divert water from
23 the Feather River. Copies of Statement No. S000480 and the Supplemental Statements
24 of Diversion and Use for No. S000480, as filed with the SWRCB and reflecting use under
25 these rights for years 2011 through 2015, are included as Exhibits MLF-44 - 48 to the
26 Testimony of Donnie Stinnett submitted on behalf of the Joint Districts.¹

27 _____
28 ¹ In addition to the water use within BWGWD under its pre-1914 water rights in 2011 through 2015 as reported to the SWRCB, BWGWD transferred (considered as use) the following quantities of surface water

1 As explained in BWGWD’s protest, BWGWD’s pre-1914 appropriative water rights
2 from the Feather River originated in 1902 through 1909 with appropriations made by five
3 predecessor diverters. Following various conveyances, the rights of the original five
4 diverters were ultimately consolidated through a 1911 instrument vesting all such rights
5 in the Sutter Butte Canal Company.

6 Sutter Butte Canal Company was a party to the 1924 Sutter County Superior
7 Court proceeding (*Sutter Butte Canal Co. v. Great Western Power Co., et al.*, Case
8 No. 2360), which decreed various Feather River water rights as between the Sutter Butte
9 Canal Company and the other parties in the proceeding (1924 Decree). The
10 1924 Decree memorialized the rights of the Sutter Butte Canal Company to divert water
11 in the amounts, and at the times and locations designated therein.

12 In several deeds and conveyances during the 1940’s and 1950’s, Sutter Butte
13 Canal Company conveyed to BWGWD an undivided 29 percent interest in and to all the
14 water rights and facilities of the Company, and a percentage of certain excess flows in
15 accordance with the 1924 Decree. Copies of the aforementioned underlying pre-1914
16 filings, conveyances, and Decree are included as Exhibit MLF-43 to the Testimony of
17 Donnie Stinnett.

18 In 1969, BWGWD, together with the other Joint Districts, entered into an
19 “Agreement on Diversion of Water from the Feather River” with the State of California,
20 acting by and through the Department of Water Resources (1969 Feather River
21 Settlement Agreement). A copy of the 1969 Feather River Settlement Agreement is
22 included as Exhibit MLF-42 to the Testimony of Donnie Stinnett. The 1969 Feather
23 River Settlement Agreement memorialized the Joint Districts’ collective rights to divert
24 water in the quantities, and at the locations and times set forth therein. The
25 1969 Feather River Settlement Agreement further provides that water diverted under the
26 Agreement shall be deemed diverted under the Joint Districts’ water rights, which

27 _____
28 made available from land idling during that time period: 15,238 acre-feet in 2012, and 18,902 acre-feet in 2014.

1 includes BWGWD's water rights. Under the 1969 Feather River Settlement Agreement,
2 BWGWD is entitled to divert up to 160,950 acre-feet annually from the Feather River for
3 irrigation between April 1 and October 31. During the period November 1 of each year
4 through March 31 of the next year, BWGWD is also entitled to divert such amount of
5 water as BWGWD determines it requires for reasonable beneficial use, which includes
6 rice straw decomposition, fish and wildlife habitat, and winter / early spring irrigation
7 needs. BWGWD's diversions are subject to reduction based on certain conditions in the
8 Agreement.

9 In 1970, the Joint Water Districts (including BWGWD) entered into a "Joint
10 Operating Agreement" for the purpose of internally designating each district's respective
11 rights and obligations concerning the undivided interests each district had acquired in
12 the water rights and facilities of the Sutter Butte Canal Company ("Operating
13 Agreement"). A copy of the Operating Agreement is included as Exhibit MLF-41 to the
14 Testimony of Donnie Stinnett.

15 **V. INJURY TO BWGWD'S WATER RIGHTS AND SUPPLIES**

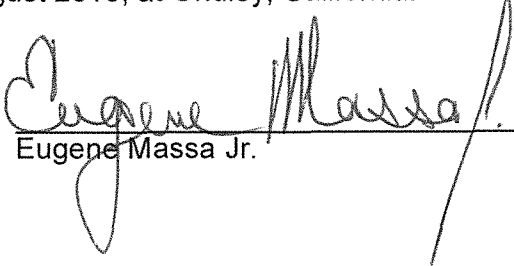
16 As explained above, BWGWD holds the 1969 Feather River Settlement
17 Agreement with the State of California regarding BWGWD's diversions from the Feather
18 River. BWGWD also holds pre-1914 appropriative water rights for diversions from the
19 Feather River, which were the basis for the quantities of water agreed to for diversion by
20 BWGWD under the 1969 Feather River Settlement Agreement. Based upon the expert
21 work of and testimony by MBK Engineers that has been submitted on behalf of the
22 Sacramento Valley Water Users (which includes BWGWD), it is my understanding that
23 with the WaterFix Project constructed and operating, there would be injury to BWGWD
24 and other legal users of water.

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

27
28

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

Executed on this 30th day of August 2016, at Gridley, California.


Eugene Massa Jr.