



State Water Resources Control Board



Linda S. Adams
Secretary for
Environmental Protection

Division of Water Rights

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Arnold Schwarzenegger
Governor

DEC 24 2010

In Reply Refer to:
BRC:S016194

Juan Navarro
c/o John Herrick
4255 Pacific Avenue, Suite 2
Stockton, CA 95207

Dear Mr. Herrick:

WITHDRAWAL OF JUAN NAVARRO DRAFT CEASE AND DESIST ORDER, PARCEL 191-030-02

The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) has received and reviewed your March 9, 2010 letter requesting the draft Cease and Desist Order (CDO) be revoked and the hearing cancelled.

To withdraw the draft CDO and support cancellation of the pending hearing, the Division's Prosecution Team needs sufficient evidence supporting a valid basis of right. Sufficient evidence was not available when the Division's Prosecution Team issued the draft CDO. Your letter included the February 19, 1947 indentures from Anna Schmidt to Frank Schmidt and Otto Schmidt, the former owners of the property currently defined as San Joaquin County Parcel Nos. 191-030-01 and 02, now owned by Mr. Navarro.

The Division's Prosecution Team now finds that the original Anna Schmidt property was inclusive of the current San Joaquin County Assessor's Parcel Nos. 191-030-01 and 02, and contained 77.94 acres that was contiguous to Middle River. Therefore, that 77.94-acre property would have valid claim to a riparian right to the natural flow of Middle River. By the indentures dated February 19, 1947, Anna Schmidt deeded to Otto Schmidt a share of current Parcel 191-030-01 which is contiguous to the Middle River and sole interest in the 15 acres comprising current Parcel No. 191-030-02. The indenture to Otto Schmidt reserved "*a proportional interest to riparian rights or any appurtenants rights to the water of the Middle River, and the right to transport water of said river by means of the right of way for irrigation purposes herein reserved.*" Subsequent deeds, including the Grant Deed to Mr. Navarro dated May 20, 2008, expressly identified the right-of-way for irrigation purposes over the north 10 feet of the south 28 feet of the said 62.94 acres of the 77.94 acre tract.

Based on this new information, the Division's Prosecution Team concludes that a riparian right to the natural flow of Middle River exists for Parcel 191-030-02 owned by Mr. Navarro. The Delta Watermaster has reviewed the documents for this matter and concurs with this finding. As a result, the Division accepts Navarro's Statement of Water Diversion and Use and the Division's Prosecution Team hereby withdraws the draft CDO dated January 13, 2010. By copy of this letter, the hearing team is advised that the draft CDO is withdrawn and that the Division's Prosecution Team does not intend to go forward with any prosecution of this action. The Prosecution Team has not made a finding as to any pre-1914 right claimed by Mr. Navarro, or the availability of natural flow in Middle River.

California Environmental Protection Agency



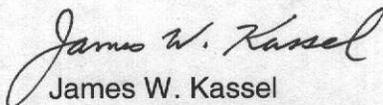
Mr. Juan Navarro

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If you have any questions regarding the matter, please call John O'Hagan at (916) 341-5368.

Sincerely,



James W. Kassel
Assistant Deputy Director for Water Rights

cc: Juan Navarro
10325 Crocker Road
Stockton, CA 95206