

**TULE LAKE RESERVOIR
SYSTEM ADJUDICATION**

ORDER OF DETERMINATION

In the Matter of the Determination of the Rights
of the Various Claimants to the Waters of
Tule Lake Reservoir System in
Lassen County
California

1985



CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

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STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

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TULE LAKE RESERVOIR SYSTEM)

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JULY 1985

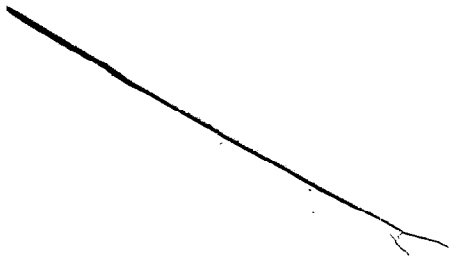
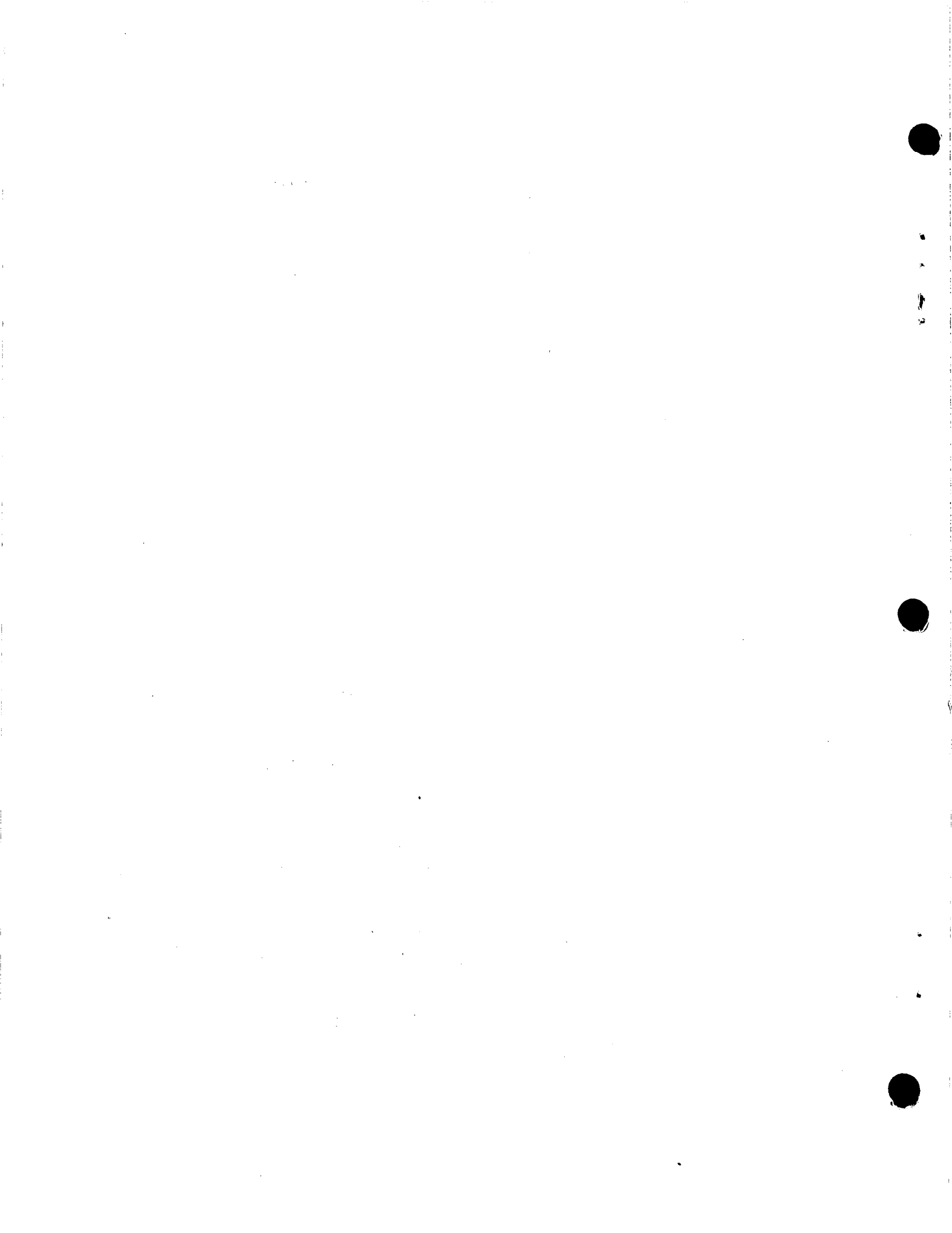


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BY THE BOARD:

1.0 BACKGROUND

The State Water Resources Control Board (hereinafter referred to as Board) having on April 12, 1983 adopted its Report (Water Code §2600) on Tule Lake Reservoir System Adjudication (hereinafter referred to as Report); objections to said Report having been received; the Board having held a hearing on November 5, 1983 and on March 20, 1985; several of the claimants having appeared and presented evidence; the Board having considered all evidence in the record; the Board finds as follows:

2.0 HISTORY OF THE PROCEEDING

This proceeding was initiated in accordance with the provisions of Section 2525 of the California Water Code pursuant to a petition duly filed with the Board on May 31, 1977, requesting a determination of the rights of the various claimants in and to the use of the water of Tule Lake Reservoir System in Lassen County, California.

Upon investigation, the Board found the facts and conditions to be such that the public interest and necessity would be served by granting the petition. On March 6, 1978, the Board granted the petition and thereafter, as required by law, gave notice of its action by publication of a notice of pendency which set forth these facts and specified that on March 16, 1978, the Board would begin its examination of the stream system. All claimants of rights in and to the use of water of Tule Lake Reservoir System were put on notice that they would be required to prove their claims in the manner provided by law and that they should notify the Board of intention to file proofs of claim.

In accordance with Section 2551 of the Water Code, the Board gave written notice to each person who expressed an intent to file proof of claim to the use of water involved in the proceeding that a detailed field investigation of such person's use of water would be conducted.

At the conclusion of the detailed field investigation each claimant or a representative was provided, by registered mail, a copy of the factual findings of the investigation and forms for use in preparing a proof of claim.

An investigation was also conducted of the water supply in the system. Information gathered during the investigation regarding the water supply and use of water is on file with the Board.

The Board's observations, data, information, and measurements are set forth in Section I, "Water Supply and Use of Water in the Tule Lake

Reservoir System", of its Report on the Tule Lake Reservoir System Adjudication. The Board also prepared maps from the surveys made during the investigation. These surveys and maps show the reservoir system, the location of the major canals, ditches or conduits distributing water from the reservoir system and the land irrigated by the diverted water. These maps were prepared by the Board as the surveys and observations progressed.

All proofs of claim which had been filed were assembled and an abstract, set forth in Section II of the Board's report, was prepared and printed in accordance with provision of the Water Code. Notations of material differences between the claims and the factual determinations contained in the report were also included as findings of the Board in Section II of the report.

The Board sent a copy of the report by certified mail to each claimant and each person not filing a proof of claim who appears in the report. With each copy of the report, the Board enclosed a notice setting a time and place where, for a period of five days, proofs of claims, measurements and other data collected by the Board during the proceeding would be open and available for inspection by all interested persons. The notice also set a date, which was at least 60 days following the date of mailing, prior to which objections to any portion of the Board's report might be filed.

Objections were received from three parties. Copies of each objection filed were mailed to all parties against whom the objection was directed or whose rights might be significantly affected.

Subsequently, the Board notified by certified mail all claimants of the time and place for the Board's hearing on the objections.

3.0 DECREE ENTERED IN 1953

On May 6, 1953, the Lassen County Superior Court entered a decree in Case No. 7360, George E. Williams, Jr., and Myrtle F. Williams, et al. v. Chris Laras, et al., based on its Memorandum of Decision filed February 24, 1953. (The decree is hereinafter referred to as the 1953 decree.) In the 1953 decree the court determined the rights to the water annually stored or impounded in Tule Lake Reservoir and in Madeline Reservoir (then known as Bayley Reservoir) between the various claimants thereto.

The court allotted a total of 3190 acre-feet per annum which is released from Tule Lake Reservoir and up to 400 acre-feet per annum from Madeline Reservoir. The Tule Lake Reservoir water was allotted as follows: Williams, 1200 acre-feet per annum; Dickey, et al., 1200 acre-feet per annum; Talbot, 30 acre-feet per annum; Swigert, 600 acre-feet per annum; Rex Olsen, 125 acre-feet per annum; Carl Olsen, 35 acre-feet per annum. Williams was allotted all of the water from Madeline Reservoir.

The Tule Lake Reservoir allotments were made subject to the annual holdback of 3190 acre-feet per annum provided for in an agreement between George E. Williams, Jr. and Myrtle F. Williams, his wife; Ethel M. Plasil and Albert Plasil, her husband, parties of the first part; and State of California, party of the second part, entered into on July 9, 1945 (hereinafter referred to as the 1945 agreement). Based on the 1953 decree, the Report provided for the same amount of

holdback. A purpose of the holdback apparently is to ensure that sufficient water is carried over to the following year to supply the needs of the water users if no water is stored in the interim.

The controversy herein largely concerns the disposition after the 1953 decree of the 1200 acre-feet per annum allotted to Williams from Tule Lake Reservoir and the 1200 acre-feet per annum allotted to Dickey, et al. A schematic on page I-22 of the Report shows how the water may have been transferred. No party disputes that 130 acre-feet per annum of the 2400 acre-feet per annum in dispute were transferred to the predecessor of claimant Novy. The balance eventually was transferred, with land to which it was appurtenant, to Monarch Investment Company (hereinafter referred to as Monarch) and then to Occidental Land, Inc. (hereinafter referred to as Occidental). In or about 1969 Monarch sold numerous 20-acre parcels in the Madeline Plains to individual buyers. In 1975 Occidental sold numerous remaining parcels to claimant Mann. Together with the parcel upon which Tule Lake Reservoir (then known as Moon Lake Reservoir) is located, Occidental expressly transferred to Mann 400 acre-feet per annum from Madeline Reservoir and 600 acre-feet per annum from Tule Lake Reservoir. Subsequently, Occidental sold substantial landholdings to Rogers. The Rogers landholdings eventually came to be owned by John Hancock Mutual Life Insurance Company (hereinafter referred to as Hancock), claimant herein.

4.0 ALLOCATION OF ONE ACRE-FOOT PER ACRE

In its reply brief, Hancock challenged the allocation in the Report of one acre-foot per annum per acre, alleging that it is not justified.

Hancock asserts that no evidence, including the 1953 decree and the 1945 agreement, supports the Board's allocation of one acre-foot per annum per acre.

This allocation is based in part on an allocation set forth in the 1945 agreement. The agreement reserves to the parties of the first part 3190 acre-feet per annum. This water, pursuant to the third "WHEREAS", is to be used on a total of 3190 acres. It states:

"WHEREAS, said reservation of water is for irrigation and stock watering needs on the lands of first parties comprising approximately three thousand (3,000) acres and on the lands of three (3) other parties, namely GLENN TALBOTT, REX OLSON, and CARL OLSON, comprising thirty (30), one hundred twenty-five (125) and thirty-five (35) acres of land respectively;"

The allocation of one acre-foot per annum per acre was applied to the waters stored in Tule Lake Reservoir and Madeline Reservoir as early as 1912. An agreement between Madeline Meadows Land and Water Company and J. Noble Jones, dated July 8, 1912 recites an allocation of one acre-foot per annum per acre during each irrigation season. Jones bought 600 acre-feet to irrigate 600 acres.

The court in 1953 showed by its actions that it intended to continue the allocation of one acre-foot per annum per acre. The court allocated 3190 acre-feet per annum from Tule Lake Reservoir for use as follows: Williams, 1200 acre-feet per annum; C. B. Dickey et al., 1200 acre-feet per annum; Talbott, 30 acre-feet per annum; Swigert, 600 acre-feet per annum; Rex Olsen, 125 acre-feet per annum; Carl Olsen, 35 acre-feet per annum. The Swigert, Dickey, and Williams allotments add up to the 3,000 acre-feet per annum held in 1945 by Williams and Plasil. The others are the same as in the 1945 agreement.

While, as Hancock notes, the place of use specified for each of these parties included more acres of land than the specified number of acre-feet per annum, there is no reason to assume that every acre within the specified places of use would be irrigated. The specified places of use were not precise delineations of the exact lands to be irrigated but were general descriptions specifying the parts of sections within which water was being used.

The reasonable conclusion to be reached from an examination of the 1945 agreement is that the Williamses and Plasils meant to irrigate 3000 of their acres, Carl Olsen would irrigate 35 of his acres, Rex Olsen would irrigate 125 of his acres, and Talbott would irrigate 30 of his acres with water from Tule Lake Reservoir, notwithstanding that each of them apparently owned more land than was to be irrigated from Tule Lake Reservoir.

Based on the foregoing historical allocation of water, we conclude that where no instrument of title has specified an allocation different from one acre-foot per annum per acre or has conveyed water rights separately from the land to which they are appurtenant, lands which were under irrigation with Tule Lake Reservoir water or with Madeline Reservoir water at the time when they were conveyed carried with them as an appurtenance a right to one acre-foot of water per annum. A smaller allocation would be inadequate to maintain a crop during the irrigation season, and so is unreasonable. A larger allocation, given the history of water use from the two reservoirs and

the number of acres within their places of use, would lack basis except where water has been conveyed separately from the land.

5.0 OBJECTION OF ORION L. THOMSON

Mr. Thomson objected to the Report because it did not contain an allotment of water for Lots 184, 189 and 196 of Unit Number 1 of Moon Valley Ranch. He had filed a proof of claim for 60 acre-feet per annum for use on all three lots. The three lots are contiguous.

In the hearing Mr. Thomson testified that he had purchased the lots from Monarch Investment Co. in 1969. He testified without contradiction that when he purchased the lots, Monarch's representatives had told him that water was available to his lots from Tule Lake Reservoir. Monarch had adequate water rights to meet this assurance. By conveyances after the 1953 decree, Monarch acquired rights to 2270 acre-feet per annum of water from Tule Lake Reservoir. Monarch could dispose of such rights with or without the land with which they had been acquired. (Rights to the use of this water were held at the time of the decree by Williams (1200 afa) and by Dickey, et al. (1200 afa).)

Lots 184, 189 and 196 are not within the place of use set forth in the 1953 decree for these water rights. However, in accordance with Water Code Section 1706 we find that the place of use was changed at the time of the sale to Thomson in 1969, so that a portion of the water could be used on Thomson's land.

While no written provision conveying water rights was included in Monarch's conveyance to Thomson of Lots 184, 189, and 196, the oral

assurances of Monarch's representatives, together with Thomson's subsequent actions to clear the land of sagebrush, install a diversion valve, install dikes, and use water, together constitute the execution of a parol contract to transfer a water right to Thomson. See Churchill v. Russell, 148 Cal. 1, 82 Pac. 440 (1905); Stepp v. Williams, 52 Cal.App. 237, 198 Pac. 661 (1921). Consequently the Thomsons received a water right from Monarch when they bought Lots 184, 189, and 196. This water right is quantified at one acre-foot per acre in accordance with the discussion set forth above in part 4.0.

6.0 OBJECTION OF BARBARA DEAN JONES

Ms. Jones objected to the Report on the basis that she should be allocated water in addition to the 35 acre-feet per annum allotment. She alleged that her father and predecessor in interest, Carl Olsen, had been told by George Williams that he could use as much water as was needed on his ranch. The alleged right was obtained pursuant to an oral agreement between Carl Olsen and George Williams sometime after the court issued the 1953 decree. Carl Olsen testified at the hearing, but could not recall when the agreement was made or what were its terms. We are unable to determine whether the agreement was intended as a revocable permission to use surplus water or as a transfer of ownership of the water right. Ms. Jones irrigates 98 acres, using more than 350 acre-feet per annum.

An appropriative water right is an interest in real property. When it is conveyed separately from the land to which it is appurtenant, an

appropriative water right generally must be conveyed in writing.

Stepp v. Williams, 52 Cal.App. 237, 198 Pac. 661 (1921).

Absent clear evidence that George Williams irrevocably transferred ownership of part of his water right to Carl Olsen, and absent any details of the agreement, we must conclude that Ms. Jones' water right from Tule Lake Reservoir is limited to 35 acre-feet per annum. To increase her water rights, she may apply to appropriate additional water. If no unappropriated water is available, she may purchase water or water rights.

7.0 RIGHTS OF THE NOTTINGHAMS

The Nottinghams' water right was not specifically challenged in any of the objections. However, their right was questioned, apparently without notice to them,* in the Reply Brief on Behalf of John Hancock Mutual Life Insurance Company. Hancock's challenge is based on the theory that since Nottinghams' place of use is not within the lands described in the 1953 decree, no water should be allocated to it herein. As we observed above in section 5.0 (Objection of Orion L. Thomson), however, and as Hancock has argued, the place of use of water appropriated from Tule Lake Reservoir under pre-1914 rights can be changed. Water Code §1706. Since Hancock did not come forward at the hearing with evidence that Nottinghams lack a water right from Tule Lake Reservoir, and has not given them an adequate opportunity to

* Hancock's declaration of service by mail of their reply brief does not list the Nottinghams as having been served.

respond to this challenge to their rights, we will not change our allocation to Nottinghams set forth in the report.

8.0 OBJECTION OF JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY

Hancock in its objection to the Report alleged that it should be allocated at least 1270 acre-feet per annum from Tule Lake Reservoir. Hancock's claim is based on the theory that its predecessor in interest, Monarch Investment Company, acquired 2270 acre-feet per annum of the water from Tule Lake Reservoir allocated to Williams and to Dickey in the 1953 decree. It also acquired up to 400 acre-feet per annum from Madeline Reservoir. Of this quantity, Monarch sold to Mann 1000 acre-feet per annum, 400 of which is to be derived from Madeline Reservoir to the extent available. Hancock asserts that the sale to Mann is the only transfer of water rights in its chain of title after Monarch acquired the water rights. Consequently, Hancock claims a right to at least 1270 acre-feet per annum from Tule Lake Reservoir and, if Mann's 400 acre-foot per annum right is satisfied from Madeline Reservoir, claims an additional right to 400 acre-feet per annum from Tule Lake Reservoir, for a total claim of 1670 acre-feet per annum.

8.1 Sales of 20-Acre Lots by Monarch

It is generally accepted that when Monarch bought large landholdings in the Madeline Plains it succeeded to 2270 acre-feet per annum of the 2400 acre-feet per annum of water allocated to Williams and to Dickey in the 1953 decree. The question herein is what happened to the right to the water after Monarch acquired it.

In or before 1969 Monarch divided much of the land it had acquired into 20-acre parcels. Monarch sold many of the parcels, known as Moon Valley Ranches Unit No. 1, around 1969 or 1970. In 1969 and 1970 many parcels offered for sale were being irrigated during the irrigation season from Tule Lake Reservoir. Many of the purchasers were told that water was available from Tule Lake Reservoir for use on their parcels. However, water rights were not mentioned in the papers conveying the parcels. In 1969 Monarch sold 43 of the 55 lots in Unit 1 found to be irrigated during the Board's investigation, and Monarch's successor Occidental sold the balance to Mann in 1975. The irrigated land in Unit 1 covers about 1026 acres. Unit 1 is within the place of use of water in the 1953 decree.

Water rights pass with the ownership of the land to which they are appurtenant unless they are expressly reserved to the seller. Cave v. Crafts, 53 Cal. 135 (1878); Senior v. Anderson, 138 Cal. 716, 72 Pac. 349 (1903); Taylor v. Avila, 175 Cal. 203, 165 Pac. 533 (1917). Since about 1026 acres of Moon Valley Unit 1 are now irrigated, and were represented as irrigated when sold, the water rights were appurtenant to this much acreage. See Re Estate of Thomas, 147 Cal. 236, 81 Pac. 539. In accordance with part 4, supra, the water right for Moon Valley Unit 1 passing from Monarch to its buyers is one acre-foot per annum per irrigated acre.

Based on the foregoing, Monarch in 1969 and 1975 sold lots 1 through 55 (as set forth on the Board's map) of Moon Valley Ranch Unit No. 1 and 1026 acre-feet of water per annum. Absent evidence to the contrary, we find that this water has since passed to the current owners of parcels 1 through 55 of Moon Valley Ranch Unit No. 1.

8.2 Occidental's Sale to Mann in 1975

In addition to the remaining irrigated parcels of Moon Valley Unit No. 1, Occidental, as successor to Monarch, sold Mann land in Moon Valley Ranch Units No. 2, 3, and 4, and the Williams Place, the South Ranch House, and the land upon which Tule Lake Reservoir is situated. The Williams Place includes 180 acres of irrigated land which is within the place of use of the 1953 decree. Since this land is within the place of use of the 1953 decree, and appears to have been irrigated for many years, we find that Mann acquired an appurtenant water right with it. This right is quantified at 180 acre-feet per annum. The Moon Valley Ranch units include 160 acres in Section 1, T36N, R12E, MDB&M which was irrigated at the time of the investigation herein. This land was not in the place of use of the 1953 decree. We lack evidence that the place of use of water had been shifted to this land in 1975 when Mann purchased it. Consequently, we do not find that an appurtenant water right passed with it to Mann.

Mann acquired from Occidental the maximum yield from Madeline Reservoir. (This was estimated as 400 acre-feet per annum in the deeds in the chain of title. However, the actual maximum yield of Madeline Reservoir is 300 acre-feet per annum.) Occidental also conveyed to Mann from Tule Lake Reservoir 180 acre-feet per annum appurtenant to the 180 irrigated acres on the Williams Place, 160 acre-feet per annum appurtenant to 8 irrigated lots (160 irrigated acres of land) in Moon Valley Ranch Unit No. 1, and 600 acre-feet per annum with Tule Lake Reservoir. Of these acquisitions, Mann sold Mendiboure the 8 lots with their appurtenant 160 acre-feet per annum and 400 of

the 600 acre-feet per annum that he received with the Tule Lake Reservoir land. Thus, Mann has remaining 380 acre-feet per annum from Tule Lake Reservoir and 300 acre-feet per annum from Madeline Reservoir, for a total of 680 acre-feet per annum.

8.3 Sales to Rogers and to Akers

On June 24, 1976, Occidental conveyed certain parcels in the Madeline area to William H. and Judith A. Rogers. The Rogers' conveyed these parcels on June 28, 1976 to Robert W. Akers. The deeds are recorded, respectively, at Book 302, page 694 and at Book 303, page 31 of Official Records of Lassen County. Fourteen parcels were conveyed. Only one of these parcels includes land located within the place of use set forth in the 1953 decree. This is parcel 7 in the deeds, located in Section 13, T37N, R12E. Because of its location west of the west side canal, however, it likely was never irrigated.

The deeds convey with the land all water rights appurtenant to the property. However, there is no reason to conclude that water rights from Tule Lake Reservoir System were appurtenant to the land that was conveyed to Akers. For a water right to be appurtenant, the water used under that right must have been used on the land being conveyed. Of the conveyed lands, our 1978 investigation showed that only the land in Parcel 8, within Section 3, T37N, R13E had been irrigated with water from the Tule Lake Reservoir System. Since under Water Code §1706 the place of use of water appropriated before 1914 can be changed if others are not injured by the change, and such change appears to have occurred without injury to others, this parcel is allotted 30 acre-feet of water per annum. We take official notice

that ownership of this parcel has been conveyed by Hancock to Ratliff and Wool. Additionally, stockwatering from Tule Lake Reservoir System was taking place in 1978 on Parcel 14, south of Brockman Road. Twenty-five acre-feet per annum of water is allotted to Hancock for this purpose. All other lands conveyed to Akers are not irrigable from the present Tule Lake Reservoir System and have never received water from it.

Instead of Tule Lake Reservoir System water rights, several of the fourteen parcels conveyed to Akers in 1976 appear to have appurtenant water rights from other sources. These water rights apparently are the ones which the deed attempts to convey by its reference in Exhibit B to appurtenant water rights.

All of the parcels conveyed to Akers in the 1976 deed were subsequently conveyed to Pit River Ranches on March 13, 1980, and recorded at Volume 369, page 46 of Official Records, Lassen County. Thereafter, Hancock acquired them under a trustee's deed dated November 19, 1982 and recorded on November 24, 1982 in Volume 410, page 580 of Official Records, Lassen County, California.

8.4 Minimum Pool Size in Tule Lake Reservoir

Hancock objects to the reservation of 3190 acre-feet per annum as holdover for the succeeding year. Removal of this restriction would make 3190 acre-feet of water available for appropriation from Tule Lake Reservoir in one year. This reservation appears to have been established in 1945 by an agreement between the State of California as owner of the land under Tule Lake Reservoir and two holders of water rights from Tule Lake Reservoir. The two water right holders claimed

3000 acre-feet per annum between them. Three other claimants, with rights to 190 acre-feet per annum, were not parties to the agreement.

Regarding the minimum holdover, the agreement provides:

"(4) It is further agreed that the waters of the Tule Lake Reservoir shall never during any year be drawn off to such an extent that there is insufficient water remaining on storage to fulfill the requirements of the parties of the first part, as herein provided, for the following year. Except that when the party of the second part shall have fulfilled this obligation in any year and the natural increment of water in Tule Lake Reservoir, less evaporation and other natural losses, in the following year shall be less than three thousand one hundred ninety (3,190) acre feet, the second party shall not be obligated to deliver to the first parties any water over and above that which may be residual in Tule Lake Reservoir."

Clearly, the parties by their agreement intended to ensure that at the beginning of the irrigation season each year there would be 3190 acre-feet available to withdraw from Tule Lake Reservoir. This storage would be in addition to the 3000 acre-feet of dead storage therein. Under the agreement, this would be accomplished by drawing off no more water in each year than would leave sufficient water for use in the following year. The quantity to remain as holdover is not specified.

The Superior Court in the 1953 decree, paragraph 1, decreed that the water rights from Tule Lake Reservoir and Madeline Reservoir, including the rights of the State of California, are subject to the annual holdback provided in Paragraph 4 of the 1945 agreement. In the Report on Tule Lake Reservoir System Adjudication, the Board interpreted the

1945 agreement and the 1953 decree as requiring a holdover of approximately 3190 acre-feet in addition to the dead storage pool of 3000 acre-feet.

In the proceeding leading to the 1953 decree, the size of the required holdover apparently was not questioned. It is reasonable to assume the parties to the agreement meant to leave 3190 acre-feet in storage at the end of each irrigation season. First, it is clear that a purpose in specifying this amount was to ensure a full irrigation supply for the following year. Second, it apparently was meant to be used for fish and wildlife maintenance and enhancement as well.

Based on our engineering analysis of the reservoir's annual average safe yield and on the analysis and testimony of Hancock's engineer, it appears, based on historical records, to be unnecessary to hold over 3190 acre-feet per annum in order to ensure that this quantity is available for use during the following water year. Thus, in every instance where, absent a minimum pool, the reservoir would have been drawn below 6190 acre-feet, the next year would have yielded enough water to supply the 3190 acre-feet for irrigation needs without holdover storage. This is notwithstanding that in five of the 49 recorded years the reservoir's yield was less than 3190 acre-feet, based on the Board staff's hydrological study.

However, there may be other reasons to maintain a holdback of 3190 acre-feet plus the 3000 acre-feet of dead storage, for a total minimum pool of 6190 acre-feet. These reasons are explored below. First, in the 1953 decree, the pre-1914 water rights for consumptive use of Tule

Lake Reservoir water were quantified at 3190 acre-feet per annum. The court recognized that the State of California had a right to use the 3190 acre-feet of stored water held over each year for maintenance of fish and wildlife, subject to the senior rights of the other users of water. The State managed the reservoir for fish and wildlife use for several years after the 1953 decree. As the water level dropped because of increased irrigation, however, the State ceased to manage the reservoir and merely kept a caretaker there until it sold the reservoir lands in 1960. The evidence shows that no attempt was made to again manage the Tule Lake Reservoir fishery or its wildlife until early in the 1970s.

Santa Mann indicated while examining a witness during the first day of hearing that he might have some use of water on the bed of Tule Lake Reservoir for agricultural uses. However, the evidence in the record shows that no agricultural use exists on the bed of the reservoir, and that any crop use would carry a substantial risk of failure because of fluctuating water levels. Even if there were such a use, however, it appears that any right passed down from the State of California to use water consumptively on the bed of Tule Lake Reservoir was forfeited because the State ceased to manage Tule Lake Reservoir for fish and wildlife uses late in the 1950s. Thus, no prior right in the owner of the reservoir land requires maintenance of a 6190 acre-foot minimum pool.

Second, maintenance of a minimum pool above the 3000 acre-foot level may be appropriate because of public interest and public trust considerations. The representatives of the Department of Fish and

Game and of the Bureau of Land Management gave testimony that supports the need for a minimum pool of at least 6190 acre-feet. We find, based on their testimony, that maintenance of a consistently lower minimum pool would cause substantial hardship and habitat reduction to fish and wildlife which use the reservoir and would reduce the population of both.

Additionally, we find that while Tule Lake Reservoir is remote and somewhat difficult to reach, it enjoys significant visitation by anglers and hunters. A minimum pool of approximately 6190 acre-feet in Tule Lake Reservoir is important not only to hunters and anglers, but also to maintenance of the populations of migratory and resident waterfowl, shore birds, and predatory birds (including bald and golden eagles which prey on fish and waterfowl) that use Tule Lake Reservoir as a nesting and resting site and feeding area. Also, diverse populations of terrestrial wildlife use the reservoir. Because of these uses, it is in the public interest to require maintenance of a minimum pool of at least 6190 acre-feet in Tule Lake Reservoir subject to the irrigation allocation provided in the 1945 agreement. Additionally, since Tule Lake Reservoir is a navigable waterway, these uses are protected by the public trust. National Audubon Society v. City of Los Angeles, 33 Cal.3d 419, 189 Cal.Rptr. 346 (1983).

We find that the requirement of a minimum pool in Tule Lake Reservoir at 6190 acre-feet is supported by the evidence and is a reasonable use of water under Cal. Const. Article X, Section 2.

Further, the use of water for recreation and for preservation and enhancement of fish and wildlife resources are beneficial uses of water. Water Code §1243. Likewise, there is authority that the use of water for aesthetic pleasure is a beneficial use. City of Los Angeles v. Aitken, 10 Cal.App.2d 460, 52 P.2d 585. Consequently, these uses for the retained water in Tule Lake Reservoir are reasonable and beneficial.

Regardless whether the minimum pool is at the dead storage level of 3000 acre-feet or at 6190 acre-feet, the average annual safe yield of Tule Lake Reservoir is 5500 acre-feet per annum, and the amount of deliverable water in excess of the allocated 2820 acre-feet per annum for consumptive uses is on the average 2680 acre-feet per annum. Thus, the level of the minimum pool does not impair the present or future annual irrigation uses of Tule Lake Reservoir in normal or wet years. Nor does it affect the amount of water available each year for appropriation from Tule Lake Reservoir. Thus, establishment of a minimum pool does not, as Hancock suggests in its brief dated April 19, 1985, prejudge future applications to appropriate water. Even if the minimum pool had an effect on future water right applications, however, it would not differ from the effect of any other adjudication of a source of water. It would, in other words, merely delineate the water which is already allocated and leave the balance for future appropriations.

The holders of water rights from Tule Lake Reservoir, if the reservoir had not been replenished enough to supply 3190 acre-feet of irrigation water per annum without reducing the minimum pool, historically have had the right to take up to 3190 acre-feet from the minimum pool. We recommend that the court continue the right of the current water right

holders to take collectively up to the total amount of their current rights in such a year.

Hancock argues in its brief dated April 19, 1985 that it is unnecessary to "establish" a minimum pool in this adjudication, since under current water rights the reservoir would not be drawn down to the minimum pool except in one year out of 50. However, the minimum pool has already been established. It was established by the 1945 agreement, and was confirmed in the 1953 decree. Our opinion is that while the primary reason why the water right holders in 1945 established the minimum pool (for carryover storage) may not be supported by the forty-nine years of data collected before the hearing, the public interest and the protection of the public trust uses of the reservoir are valid reasons to maintain the minimum pool at the established level. Thus we recommend maintenance of the minimum pool at 6190 acre-feet subject to withdrawal for irrigation allocation as provided in the 1945 agreement.

8.5 Conveyance Losses

Above, in paragraph 8.3, we found that Hancock continues to have a right to 25 acre-feet per annum of Tule Lake Reservoir water. Hancock may wish to change the place of use of this water, or may already have changed its place of use, to Hancock's property near Alturas. There may be substantial conveyance losses in transporting the water to the Alturas area. Consequently, Hancock's right to 25 acre-feet per annum should be measured at the point of diversion from Tule Lake Reservoir, and Hancock's rediversion from the Pit River should be reduced by the amount of conveyance loss calculated by the watermaster for the South

Fork Pit River Watermaster Service Area as attributable to the 25 acre-feet per annum.

8.6 Mendiboure's Allocation

Hancock objects to the allocation to Mendiboure set forth in the report of adjudication. Consequently, we have reviewed the basis for the Mendiboure allocation. As described above in paragraph 8.2, Mendiboures acquired from Santa Mann 160 acre-feet per annum with eight lots within the place of use of the 1953 decree, and 400 acre-feet per annum from Tule Lake Reservoir of the 600 acre-feet per annum originally acquired from Occidental by Mann. We take official notice that the Mendiboures also own an additional 191 irrigated acres within the place of use of the 1953 decree. Appurtenant to this land they have rights to use 191 acre-feet per annum of water. Some of this land was purchased from other claimants during the course of this adjudication. Thus, Mendiboures have a total right to 751 acre-feet per annum from Tule Lake Reservoir.

8.7 Conclusions

Based on the foregoing, we conclude as follows:

- a. Existing pre-1914 rights to water from Tule Lake Reservoir total 2820 acre-feet per annum. Water in excess of this amount within the annual average safe yield of the reservoir is unappropriated.
- b. The minimum pool of Tule Lake Reservoir should be maintained at 6190 acre-feet subject to depletion if necessary to satisfy the irrigation allocations set forth in the 1945 agreement.

- c. The duty of water on lands within the place of use of the 1953 decree, where no changes in place of use have increased or decreased it, should remain at one acre-foot per annum per acre.
- d. Orion L. Thomson has, as the result of a change in place of use made at the time he purchased Lots 184, 185 and 196 of Unit Number 1 of Moon Valley Ranch, a right to use 60 acre-feet per annum on the three lots.
- e. Barbara Dean Jones has a right to 35 acre-feet per annum of water from Tule Lake Reservoir.
- f. John Hancock Mutual Life Insurance Company has a right to 25 acre-feet per annum of water from Tule Lake Reservoir. Hancock's predecessors Occidental and Monarch conveyed all other water rights in Tule Lake Reservoir they once had to purchasers of land or water.
- g. In any change of place of use conveying water to a location away from the Madeline Plains area, conveyance losses should be measured and rediversion at the place of use should be reduced from the amount diverted at Tule Lake Reservoir by the amount of the loss.
- h. The Mendiboure interests have a right to 751 acre-feet per annum from Tule Lake Reservoir.
- i. The Manns have a right to 380 acre-feet per annum from Tule Lake Reservoir and to the maximum yield (300 acre-feet per annum) from Madeline Reservoir.

- j. Any yield of Tule Lake Reservoir not allocated herein is not subject to any existing water rights.

ORDER

NOW, THEREFORE, IT IS ORDERED that the several rights in and to the use of water of Tule Lake Reservoir System, in Lassen County, California are determined and established as hereinafter set forth.

Definitions

1. "Water Code" means the State of California Water Code.
2. "Reservoir System" means the Tule Lake Reservoir System. It includes Tule Lake Reservoir, Madeline Reservoir and the distribution system which supplies water to the lands of the various claimants.
3. "Claimant" means a party who has filed a proof of claim of water right in and to the use of water of the Tule Lake Reservoir System, or who, having failed or refused to file such a proof of claim properly, has had his right determined pursuant to provisions of Water Code Section 2577.
4. "Directly apply to beneficial use" means the direct conveyance and application of water diverted to beneficial use without intermediate storage, except reasonable regulatory storage used to create a convenient head for irrigation or other beneficial use allowed herein.
5. "Seasonal storage" is defined as the collection of natural flow in a reservoir during a time of high stream flow, such as the winter and spring months, where such water is held and used during a time of deficient stream flow, such as the summer and fall months.

6. "Regulatory storage" is the collection of a direct diversion allotment in a reservoir in which water is held in storage for the purpose of creating a convenient head for irrigation or other beneficial use allowed herein, for less than 30 days before being withdrawn.
7. "Natural flow" means flow which occurs at the point in a stream from the runoff of the watershed which it drains, from springs and seepage which naturally contribute to the stream, and from waste and return flow from dams, conduits, and irrigated land. Natural flow is distinguished from water released directly from storage for rediversion and use, or water imported from another watershed which is released directly to the natural channel for conveyance to the place of beneficial use.
8. "Watershed" means the drainage area or region which contributes to the water supply of a stream or lake.
9. "1945 agreement" means the agreement between George E. Williams, Jr. and Myrtle F. Williams, his wife; Ethel M. Plasil and Albert Plasil, her husband, parties of the first part; and State of California, party of the second part, entered into on July 9, 1945.

State Water Resources Control Board Map

10. The State Water Resources Control Board map (SWRCB map) is prepared by the Board from investigations made in 1978, 1979 and 1980. It is entitled "Tule Lake Reservoir Diversion System, Showing Tributaries, Reservoirs, Diversions and Irrigated Lands, Lassen County, dated 1983" and is on file in this proceeding. The SWRCB map comprises four sheets which are incorporated and included in this order.

General Entitlement

11. The claimants found in this proceeding to possess water rights are entitled to the use of water of the Tule Lake Reservoir System on their lands described under their respective names in Schedule 1, and shown on the SWRCB map, from points of diversion and redirection described in Schedule 2, during the periods of time specified in Paragraph 13 entitled "Seasons of Use" and in the amounts allotted and for the uses set forth after their respective names in Schedule 3 and 4. The amount of water allotted to each claimant shall be measured at the nearest point of redirection as described in Schedule 2. Nothing contained herein shall be construed to allocate to any claimant a right to divert at any time from Tule Lake Reservoir System more water than reasonably necessary for that claimant's beneficial use, nor to permit that claimant a right to unreasonably impair the quality of the water.

Season of Storage

12. The season for diversion to storage of water in Tule Lake Reservoir and Madeline Reservoir under appropriative right initiated prior to December 19, 1914 shall be from January 1 to December 31 of each year.

Seasons of Use

13. Allotments for irrigation shall be for use as required from April 1 to November 1 of each year. Allotments for domestic and stockwatering purposes shall be for use as required throughout the year.

Domestic Use

14. Domestic use is limited to water applied exclusively for household purposes, watering of domestic animals and irrigation of up to one-half acre of yard, garden and/or family orchard.

Stockwatering Use

15. Stockwatering use is limited to water required by commercial livestock.

Irrigation Use

16. Irrigation use is limited to the application of water for the purpose of meeting moisture requirements of growing crops.
17. Claimants diverting water under allotments for irrigation use are entitled to use water for domestic and stockwatering purposes incidental to irrigation.

Domestic and Stockwatering Uses During the Non-Irrigation Season

18. To provide water at the various places of use in the Madeline Plains area for domestic and stockwatering purposes during the non-irrigation season from November 1 to about April 1, all claimants in Schedule 3 are entitled to divert a sufficient amount of water to offset reasonable conveyance losses and to deliver 0.01 cfs at the place of use.

Minimum Pool

19. A dead storage pool of 3000 acre-feet has been historically maintained in Tule Lake Reservoir. In addition, annual carry over of 3190 acre-feet is required for orderly year-to-year management of the storage facility and to assure an irrigation supply during the following year if runoff is deficient. For these and the additional purposes of wildlife maintenance and enhancement and recreational purposes, a minimum pool of 6190 acre-feet (dead storage plus annual carry over) shall be maintained in Tule

Lake Reservoir subject to irrigation allocations as provided in the 1945 agreement. No modification of the outlet facilities shall be made which would infringe or encroach on the minimum pool.

Right to Water from Madeline Reservoir

20. Santa S. Mann and Balbir K. Mann have the right to use the maximum yield of Madeline Reservoir. The maximum yield is quantified at 300 acre-feet per annum.

Reserved Jurisdiction

21. The court should reserve continuing jurisdiction, upon application of any party hereto, or successor in interest thereto, or upon its own motion or the motion of the State Water Resources Control Board to review its decree and to change or modify the same as the interests of justice may require.

Changes in Exercise of Rights

22. The court should provide in the decree that any party who wishes to change or modify the exercise of his rights set forth in the decree may request the Board to investigate said change or modification. The Board shall notify affected parties of its investigation and provide an opportunity to object to the proposed change. If any affected party objects to the proposed change or modification, the Board shall hold a hearing or other proceeding in lieu of hearing. Following its investigation, the Board shall file its report which determines whether the proposed change or modification is in accordance with applicable law and which makes a recommendation regarding changes or modifications of the decree. Any changes or modifications of the decree recommended by the Board shall be entered, subject to court review and approval, as a supplemental decree.

The Board shall be entitled to receive reimbursement for its expenses of such investigation. Proceedings on the apportionment of the expense shall closely conform to the provisions of Article 13, Chapter 3, Part 3, Division 2 of the Water Code, commencing with Section 2850. Nothing in this paragraph shall restrict any right which any person may have under any statute or common law to change or modify the exercise of his rights set forth in the decree.

Water Right Disputes in Watermaster Service Area

23. The court should provide in the decree that if a watermaster service area is created in accordance with applicable law, the watermaster shall distribute the water in accordance with the decree. If a water right dispute arises between users, the watermaster shall regulate those diversions as set forth in the decree as necessary to settle the dispute. Any party who alleges that the watermaster is not regulating his water right in accordance with the decree may apply to the Board to investigate said allegations. The Board shall notify all affected parties of its investigation and give them an opportunity to respond to the allegations. If any affected party requests a hearing or other proceedings in lieu of hearing, the Board shall duly notice and schedule a hearing or other proceedings in lieu of hearing. Following its investigation, the Board shall file its report which determines whether the watermaster has regulated the water right in accordance with the decree and which makes its recommendation to the court for any change, modification, or clarification of the decree. Any change, modification, or clarification of the decree recommended by the Board shall be entered, subject to court review and approval, as a supplemental decree. The Board shall be

entitled to receive reimbursement for its expense of such investigation. Proceedings on the apportionment of expenses shall closely conform to the provisions of Article 13, Chapter 3, Part 3, Division 2 of the Water Code, commencing with Section 2850. Nothing in this paragraph shall restrict any right which any person may have under statute or common law to seek enforcement of this decree or to seek any other relief.

Effects of the Decree

24. The court decree which will be entered in this action should include the following paragraph:

"Each and every claimant, his or her agents, successors, grantees and assigns, shall be and hereby are perpetually enjoined and restrained from doing anything in violation of the terms or provisions of the judgment and decree, and from diverting any water from said Tule Lake Reservoir System as defined in this decree at any time in excess of a quantity reasonably necessary for, and actually applied to, reasonable beneficial use by reasonable methods of diversion and use, and from doing anything, directly and indirectly, that will obstruct or interfere with any right of another adjudged and decreed in this action."

25. The court should provide that when the decree is entered, it is conclusive as to the rights of all existing claimants in the Tule Lake Reservoir System as defined herein.
26. The court should provide that when the decree is entered in this matter, the judgment supersedes and modifies all inconsistent former judgments and decrees as to the rights to the water of the Tule Lake Reservoir System. However, the judgment does not supersede rotation or ditch agreements consistent herewith.

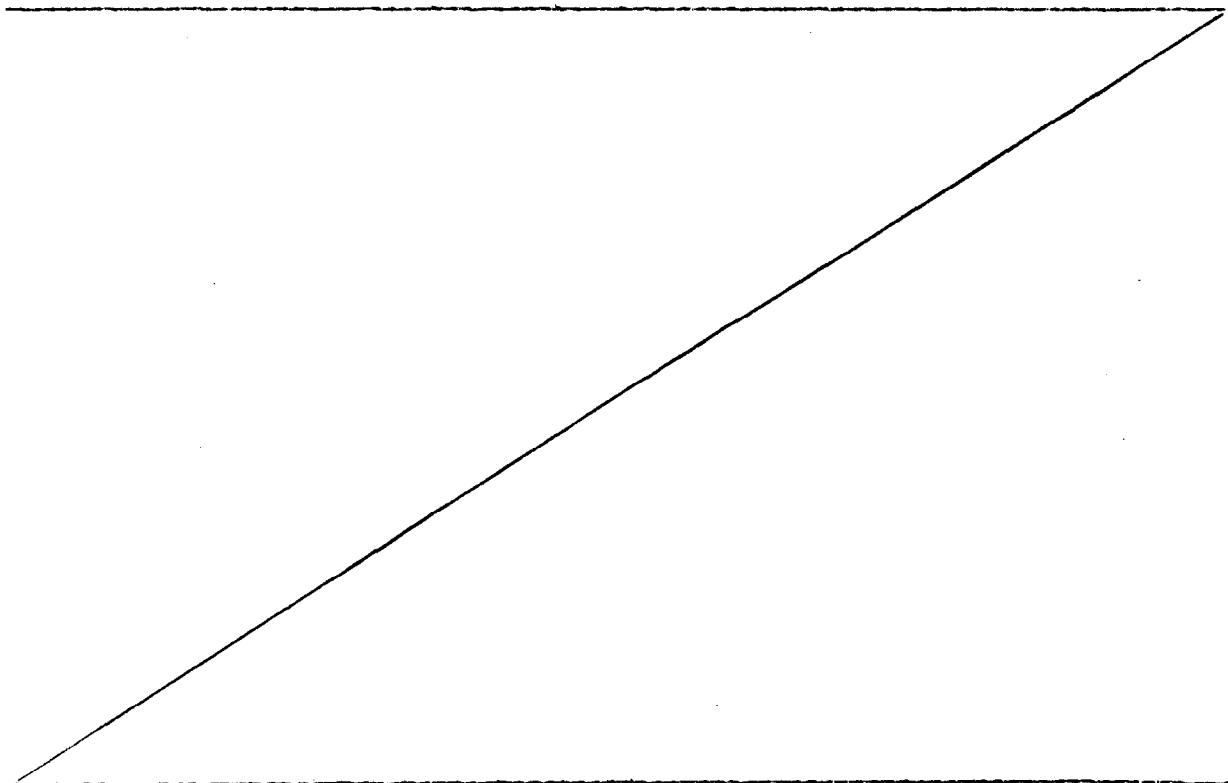
27. The court should include the following paragraph in the decree:

"Any claimant who has failed to appear and submit proof of his claim as provided in Chapter 3, Part 3 of Division 2 of the Water Code, shall be barred and estopped from subsequently asserting any rights heretofore acquired upon the Tule Lake Reservoir System as defined herein. Such claimants forfeit all rights to water heretofore claimed by him on said stream system, other than as provided in the decree, unless entitled to relief under the laws of this state."

Statements of Diversion and Use

28. The court should include the following paragraph in the decree:

"All persons diverting water under water rights other than appropriative water rights initiated after December 19, 1914, are required to file Statements of Water Diversion and Use with the Board in accordance with Part 5.1 of Division 2 of the Water Code commencing with Section 5100."



Conveyance Loss

29. The court should include the following paragraph in the decree:

"In any change of place of use in which water is conveyed to a location farther than the Madeline Plains from Tule Lake Reservoir, conveyance loss shall be measured and redirection at the place of use shall be reduced from the amount diverted at Tule Lake Reservoir by the amount of the loss."

CERTIFICATION

The undersigned, Executive Director of the State Water Resources Control Board, does hereby certify that the foregoing is a full, true, and correct copy of an Order duly and regularly adopted at a meeting of the State Water Resources Control Board held on July 18, 1985

AYE: Raymond V. Stone, Chairman
Kenneth W. Willis, Vice Chairman
E. H. Finster, Member
Eliseo M. Samaniego, Member

NO: None

ABSENT: Darlene E. Ruiz, Member

ABSTAIN: None

Walt Pettit
for Michael A. Campos
Executive Director

SCHEDULE 1

DESCRIPTION OF PLACES OF USE OF WATER FROM TULE LAKE RESERVOIR SYSTEM

Name	Acres	Subdivision	Section	Township:Range	
				MDB	&M
Bell, H. L.	20	W $\frac{1}{2}$ of SE $\frac{1}{4}$ of NE $\frac{1}{4}$	24	37N	12E
Boepple, W. S. & V. M.	20	E $\frac{1}{2}$ of SW $\frac{1}{4}$ of SW $\frac{1}{4}$	18	37N	13E
Bradford, J. & W.	5	S $\frac{1}{2}$ of NE $\frac{1}{4}$ of SW $\frac{1}{4}$	19	37N	13E
Childers, C. D. & D. H.	20	N $\frac{1}{2}$ of SE $\frac{1}{4}$ of NW $\frac{1}{4}$	19	37N	13E
Christian, G. & C.	20	W $\frac{1}{2}$ of NW $\frac{1}{4}$ of NE $\frac{1}{4}$	24	37N	12E
Cordero, G. & C. and Roberts, J. P.	20	W $\frac{1}{2}$ of NE $\frac{1}{4}$ of SE $\frac{1}{4}$	13	37N	12E
Costa, J. & M.	10	E $\frac{1}{2}$ of NE $\frac{1}{4}$ of NW $\frac{1}{4}$	18	37N	13E
Crosthwaite, R. P. and J.	20	S $\frac{1}{2}$ of SE $\frac{1}{4}$ of SW $\frac{1}{4}$	18	37N	13E
Croushore, A. F. & M. L.	20	S $\frac{1}{2}$ of SE $\frac{1}{4}$ of NW $\frac{1}{4}$	18	37N	13E
Davis, J. J. and Davis, J. J. Jr.	20	S $\frac{1}{2}$ of SE $\frac{1}{4}$ of NW $\frac{1}{4}$	19	37N	13E
Day, C & R. F.	5	E $\frac{1}{2}$ of SW $\frac{1}{4}$ of SW $\frac{1}{4}$	19	37N	13E
Fredette, B. & M	20	S $\frac{1}{2}$ of NE $\frac{1}{4}$ of SW $\frac{1}{4}$	18	37N	13E
Frierson, R. & Cogburn O.	20	E $\frac{1}{2}$ of NW $\frac{1}{4}$ of NE $\frac{1}{4}$	24	37N	12E
Gafford, C. & M.	20	E $\frac{1}{2}$ of NW $\frac{1}{4}$ of SE $\frac{1}{4}$	13	37N	12E
Gilmore, F. & E.	20	N $\frac{1}{2}$ of SE $\frac{1}{4}$ of SW $\frac{1}{4}$	18	37N	13E
Gutierrez, C.	20	W $\frac{1}{2}$ of NW $\frac{1}{4}$ of SW $\frac{1}{4}$	18	37N	13E
Hackney, C. D. & V. M.	20	N $\frac{1}{2}$ of NE $\frac{1}{4}$ of NW $\frac{1}{4}$	19	37N	13E
Hooper, R. et al.	20	W $\frac{1}{2}$ of NE $\frac{1}{4}$ of NE $\frac{1}{4}$	24	37N	12E
Illing, I. & K.	20	E $\frac{1}{2}$ of NE $\frac{1}{4}$ of NE $\frac{1}{4}$	24	37N	12E
Jackson, J. & R.	20	E $\frac{1}{2}$ of NE $\frac{1}{4}$ of SE $\frac{1}{4}$	13	37N	12E
Jones, Barbara Dean	38	NE $\frac{1}{4}$ of NW $\frac{1}{4}$	22	37N	13E
	25	NW $\frac{1}{4}$ of NE $\frac{1}{4}$	22	37N	13E
	25	NE $\frac{1}{4}$ of NE $\frac{1}{4}$	22	37N	13E
	10	NW $\frac{1}{4}$ of NW $\frac{1}{4}$	23	37N	13E
	<u>98</u>				
Jones, David	20	E $\frac{1}{2}$ of NW $\frac{1}{4}$ of NW $\frac{1}{4}$	19	37N	13E

SCHEDULE 1 (continued)

DESCRIPTION OF PLACES OF USE OF WATER FROM TULE LAKE RESERVOIR SYSTEM

Name	Acres	Subdivision	Section	Township:Range	
				MDB&M	
Mann, Santa	25	NE ¹ / ₄ of NW ¹ / ₄	13	37N	12E
	30	SE ¹ / ₄ of NW ¹ / ₄	13	37N	12E
	35	NE ¹ / ₄ of SW ¹ / ₄	13	37N	12E
	10	NW ¹ / ₄ of SW ¹ / ₄	13	37N	12E
	40	SW ¹ / ₄ of SW ¹ / ₄	13	37N	12E
	40	SE ¹ / ₄ of SW ¹ / ₄	13	37N	12E
	<u>160</u>	NE ¹ / ₄	1	36N	12E
	340				
Matteson, D. M. & D. F.	20	W ¹ / ₂ of SW ¹ / ₄ of NW ¹ / ₄	18	37N	13E
	<u>20</u>	E ¹ / ₂ of SE ¹ / ₄ of NE ¹ / ₄	13	37N	12E
	40				
McGarva, Anita	15	SE ¹ / ₄ of NE ¹ / ₄	15	37N	13E
McKee, F. & I.	20	W ¹ / ₂ of NW ¹ / ₄ of NW ¹ / ₄	19	37N	13E
Meeks, A. & T.	20	E ¹ / ₂ of SW ¹ / ₄ of SE ¹ / ₄	13	37N	12E
Mendiboure, P. & E. M. & Mendiboure Ranches Inc.	7	NE ¹ / ₄ of SE ¹ / ₄	31	37N	13E
	15	SE ¹ / ₄ of SE ¹ / ₄	31	37N	13E
	7	SW ¹ / ₄ of NW ¹ / ₄	32	37N	13E
	12	SE ¹ / ₄ of NW ¹ / ₄	32	37N	13E
	12	SW ¹ / ₄ of NE ¹ / ₄	32	37N	13E
	10	SE ¹ / ₄ of NE ¹ / ₄	32	37N	13E
	27	NE ¹ / ₄ of SE ¹ / ₄	32	37N	13E
	40	NW ¹ / ₄ of SE ¹ / ₄	32	37N	13E
	40	NE ¹ / ₄ of SW ¹ / ₄	32	37N	13E
	40	NW ¹ / ₄ of SW ¹ / ₄	32	37N	13E
	40	SW ¹ / ₄ of SW ¹ / ₄	32	37N	13E
	40	SE ¹ / ₄ of SW ¹ / ₄	32	37N	13E
	40	SW ¹ / ₄ of SE ¹ / ₄	32	37N	13E
	25	SE ¹ / ₄ of SE ¹ / ₄	32	37N	13E
	14	SW ¹ / ₄ of NW ¹ / ₄	33	37N	13E
	40	NW ¹ / ₄ of SW ¹ / ₄	33	37N	13E
	11	NE ¹ / ₄ of SW ¹ / ₄	33	37N	13E
	40	SW ¹ / ₄ of SW ¹ / ₄	33	37N	13E
	11	SE ¹ / ₄ of SW ¹ / ₄	33	37N	13E
	8	NW ¹ / ₄ of NW ¹ / ₄	4	37N	13E
1	NE ¹ / ₄ of NW ¹ / ₄	4	36N	13E	
20	W ¹ / ₂ of SW ¹ / ₄ of SW ¹ / ₄	18	37N	13E	
20	N ¹ / ₂ of SE ¹ / ₄ of NW ¹ / ₄	18	37N	13E	
20	E ¹ / ₂ of SW ¹ / ₄ of NW ¹ / ₄	18	37N	13E	
15	W ¹ / ₂ of NE ¹ / ₄ of NW ¹ / ₄	18	37N	13E	
20	N ¹ / ₂ of NE ¹ / ₄ of SW ¹ / ₄	18	37N	13E	

SCHEDULE 1 (continued)

DESCRIPTION OF PLACES OF USE OF WATER FROM TULE LAKE RESERVOIR SYSTEM

Name	Acres	Subdivision	Section	Township:Range	
				MDB	&M
Mendiboure (Cont.)	36	NW $\frac{1}{2}$ of NW $\frac{1}{2}$	18	37N	13E
	40	SW $\frac{1}{2}$ of NW $\frac{1}{2}$	19	37N	13E
	20	E $\frac{1}{2}$ of NE $\frac{1}{2}$ of NE $\frac{1}{2}$	13	37N	12E
	20	E $\frac{1}{2}$ of NW $\frac{1}{2}$ of NE $\frac{1}{2}$	13	37N	12E
	20	W $\frac{1}{2}$ of SE $\frac{1}{2}$ of NE $\frac{1}{2}$	13	37N	12E
	20	E $\frac{1}{2}$ of SW $\frac{1}{2}$ of NE $\frac{1}{2}$	13	37N	12E
	20	W $\frac{1}{2}$ of SW $\frac{1}{2}$ of NE $\frac{1}{2}$	13	37N	12E
	20	W $\frac{1}{2}$ of NE $\frac{1}{2}$ of NE $\frac{1}{2}$	13	37N	12E
	40	SW $\frac{1}{2}$ of NE $\frac{1}{2}$	24	37N	12E
	<u>20</u>	E $\frac{1}{2}$ of SE $\frac{1}{2}$ of NE $\frac{1}{2}$	24	37N	12E
	831				
Mortby, A. & L.	20	E $\frac{1}{2}$ of NW $\frac{1}{2}$ of SW $\frac{1}{2}$	18	37N	13E
Nottingham	7	SE $\frac{1}{2}$ of SE $\frac{1}{2}$	9	37N	13E
Novy, Lowell	340		26	37N	12E
	437		35	37N	12E
	405		2	36N	12E
	450		11	36N	12E
	538		12	36N	12E
	<u>320</u>		7	36N	13E
		2,490			
Olsen, Rex	30	SW $\frac{1}{2}$ of SW $\frac{1}{2}$	15	37N	13E
	30	SE $\frac{1}{2}$ of SW $\frac{1}{2}$	15	37N	13E
	30	SW $\frac{1}{2}$ of SE $\frac{1}{2}$	15	37N	13E
	35	SE $\frac{1}{2}$ of SE $\frac{1}{2}$	15	37N	13E
	13	NE $\frac{1}{2}$ of SE $\frac{1}{2}$	15	37N	13E
	<u>5</u>	SW $\frac{1}{2}$ of SW $\frac{1}{2}$	14	37N	13E
	143				
Peterson, J. & E.	20	W $\frac{1}{2}$ of SE $\frac{1}{2}$ of SE $\frac{1}{2}$	13	37N	12E
John Hancock Mutual Life Insurance Co.		Stockwatering within all or portions of Sections 3, 4, 9, 10, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 36;		36N	12E
		and Sections 17, 18, 19, 20, 29, 30, 31, 32		36N	13E
Rathke, R. & J. E.	20	E $\frac{1}{2}$ of SW $\frac{1}{2}$ of SE $\frac{1}{2}$	24	37N	12E
Ratliff-Wool	3	SW $\frac{1}{2}$ of NE $\frac{1}{2}$	3	37N	13E
	18	SW $\frac{1}{2}$ of NE $\frac{1}{2}$	3	37N	13E
	35	NW $\frac{1}{2}$ of SE $\frac{1}{2}$	3	37N	13E
	3	NE $\frac{1}{2}$ of SE $\frac{1}{2}$	3	37N	13E

SCHEDULE 1 (continued)

DESCRIPTION OF PLACES OF USE OF WATER FROM TULE LAKE RESERVOIR SYSTEM

Name	Acres	Subdivision	Section	Township:Range	
				MDB&M	
Ratliff-Wool (cont).	13	SW $\frac{1}{2}$ of SE $\frac{1}{2}$	3	37N	13E
	2	NW $\frac{1}{2}$ of SW $\frac{1}{2}$	10	37N	13E
	6	NE $\frac{1}{2}$ of SW $\frac{1}{2}$	10	37N	13E
	35	SW $\frac{1}{2}$ of SW $\frac{1}{2}$	10	37N	13E
	35	SE $\frac{1}{2}$ of SW $\frac{1}{2}$	10	37N	13E
	40	NW $\frac{1}{2}$ of NW $\frac{1}{2}$	15	37N	13E
	40	NE $\frac{1}{2}$ of NW $\frac{1}{2}$	15	37N	13E
	22	NW $\frac{1}{2}$ of NE $\frac{1}{2}$	15	37N	13E
	40	SW $\frac{1}{2}$ of NW $\frac{1}{2}$	15	37N	13E
	40	SE $\frac{1}{2}$ of NW $\frac{1}{2}$	15	37N	13E
	40	SW $\frac{1}{2}$ of NE $\frac{1}{2}$	15	37N	13E
	40	NW $\frac{1}{2}$ of SW $\frac{1}{2}$	15	37N	13E
	40	NE $\frac{1}{2}$ of SW $\frac{1}{2}$	15	37N	13E
	40	NW $\frac{1}{2}$ of SE $\frac{1}{2}$	15	37N	13E
	<u>35</u>	(leased)	16	37N	13E
	527				
Reaney, N. W. & V. M.	10	W $\frac{1}{2}$ of SW $\frac{1}{2}$ of SW $\frac{1}{2}$	19	37N	13E
	<u>2</u>	SE $\frac{1}{2}$ of SE $\frac{1}{2}$	9	37N	13E
	12				
Rosenthal, J. E. & M. E.	20	E $\frac{1}{2}$ of SE $\frac{1}{2}$ of SE $\frac{1}{2}$	13	37N	12E
Smith, W. W.	20	S $\frac{1}{2}$ of NE $\frac{1}{2}$ of NW $\frac{1}{2}$	19	37N	13E
Souza, P. G. & Mary E.	20	W $\frac{1}{2}$ of NW $\frac{1}{2}$ of SE $\frac{1}{2}$	13	37N	12E
Thomas, R. L. & E.	15	E $\frac{1}{2}$ of NW $\frac{1}{2}$ of SW $\frac{1}{2}$	19	37N	13E
Thomas, J. M. & R. L.	20	W $\frac{1}{2}$ of NW $\frac{1}{2}$ of SW $\frac{1}{2}$	19	37N	13E
Thomson, O. L.	40	NE $\frac{1}{2}$ of SE $\frac{1}{2}$	25	37N	12E
	20	N $\frac{1}{2}$ of SE $\frac{1}{2}$ of SE $\frac{1}{2}$	25	37N	12E
	<u>60</u>				
Zeits, K. & J.	10	N $\frac{1}{2}$ of NE $\frac{1}{2}$ of SW $\frac{1}{2}$	19	37N	13E
Unknown Party A	20	W $\frac{1}{2}$ of SW $\frac{1}{2}$ of SE $\frac{1}{2}$	13	37N	12E
Unknown Party B	20	E $\frac{1}{2}$ of NE $\frac{1}{2}$ of SE $\frac{1}{2}$	24	37N	12E

SCHEDULE 2

LOCATION OF POINTS OF DIVERSION AND REDIVERSION

<u>Name of Diversion or Rediversion System</u>	<u>Diversion or Rediversion Number on SWRCB Maps</u>	<u>Legal Subdivision in Which Diversion Occurs MDB&M</u>	<u>Reference Corner for Distances MDB&M</u>	<u>Distance From Reference Corner North or South</u>	<u>Distance From Reference Corner East or West</u>
Point of Diversion - Cedar Creek	--	NW $\frac{1}{4}$ of SE $\frac{1}{4}$, Sec. 33 T38N, R14E	Southeast Corner, Section 33	2,000 ft. North	2,200 ft. West
Pt. of Rediversion - Ratliff-Wool	1	SW $\frac{1}{4}$ of NW $\frac{1}{4}$, Sec. 2 T37N, R13E	Southeast Corner, Section 3	2,700 ft. North	500 ft. East
Pt. of Rediversion - East-Side Ditch from Madeline Reservoir	2	NE $\frac{1}{4}$ of SW $\frac{1}{4}$, Sec. 10 T37N, R13E	Southwest Corner, Section 10	2,450 ft. North	1,500 ft. East
Pt. of Rediversion - West-Side Ditch from Madeline Reservoir	3	NE $\frac{1}{4}$ of SW $\frac{1}{4}$, Sec. 10 T37N, R13E	Southwest Corner, Section 10	2,375 ft. North	1,420 ft. East
Pt. of Rediversion - Fish and Game	4	On section line between Secs. 8 & 9 T37N, R13E	Southeast Corner, Section 8	825 ft. North	0
Pt. of Rediversion - Williams Rd. crossing West Side Ditch	5	NE $\frac{1}{4}$ of NW $\frac{1}{4}$, Sec. 18 T37N, R13E	North $\frac{1}{4}$ Corner, Section 18	300 ft. South	200 ft. West

SCHEDULE 3

ALLOTMENTS TO VARIOUS CLAIMANTS
FROM TULE LAKE RESERVOIR*

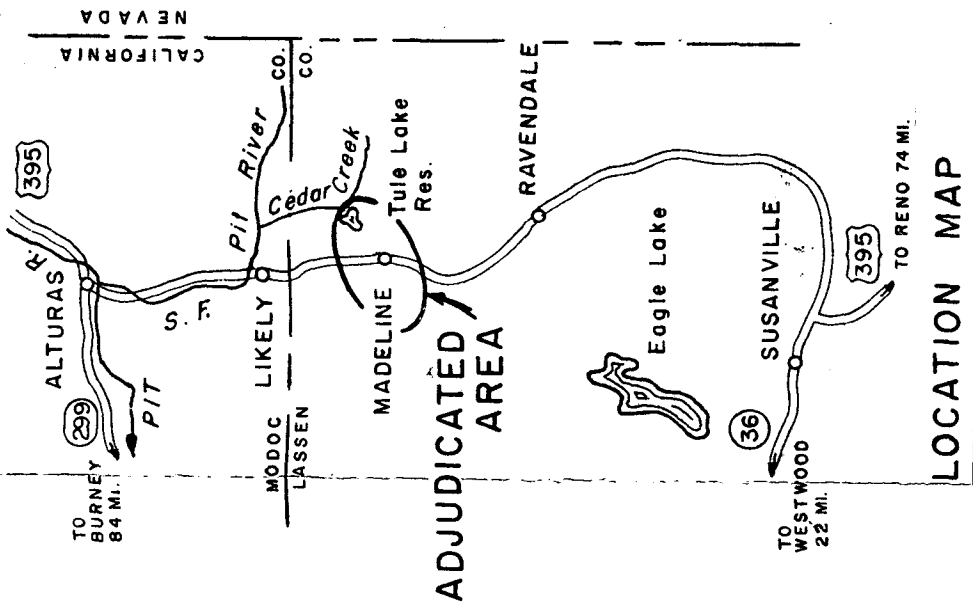
<u>Claimant</u>	<u>Amount/Annum (Acre-feet)</u>
Bell, H. and L.	20
Boepple, W. S. and V. M.	20
Bradford, J. and W.	5
Childers, C. D. and D. H.	20
Christian, G. and C.	20
Cordero, G. C., and Roberts, J. P.	20
Costa, J. and M.	10
Crosthwaite, R. P. and J.	20
Croushore, A. F. and M. L.	20
Davis, J. J., and Davis, J. J. Jr.	20
Day, C. L. and R. F.	5
Fredette, B. and M.	20
Frierson, Retha G., and Cogburn, O.	20
Gafford, C. D. and J. R.	20
Gilmore, F. and E.	20
Gutierrez, C.	20
Hackney, C. D. and V. M.	20
Hooper, R.	20
Illing, I. and K.	20
Jackson, J. and R.	20
Jones, Barbara Dean	35

*For irrigation unless otherwise noted.

SCHEDULE 3 (Continued)

<u>Claimant</u>	<u>Amount/Annum (Acre-feet)</u>
Jones, David	20
Mann, Santa	380
Matteson, D. M. and D. F.	40
McGarva, Anita	2
McKee, F. and I.	20
Meeks, A. and T.	20
Mendiboure, P. & E. M. & Mendiboure Ranches Inc.	751
Mortby, A. and I.	20
Nottingham, K. and I.	7
Novy, Lowell	130
Olsen, Rex	123
Peterson, John E. and Ethyl I.	20
John Hancock Mutual Life Insurance Co.	25
Rathke, R. and J. E.	20
Ratliff-Wool	630
Reaney, H. W. and V. M.	12
Rosenthal, J. E. and M. E.	20
Smith, W. W.	20
Souza, P. G. and Mary E.	20
Thomas, R. I. and E.	15
Thomas, J. M. and R. I.	20
Thomson, O. I.	60
Zeits, K. J. and J. I.	10
Unknown Party A	20
Unknown Party B	20
	<u>2,820</u>





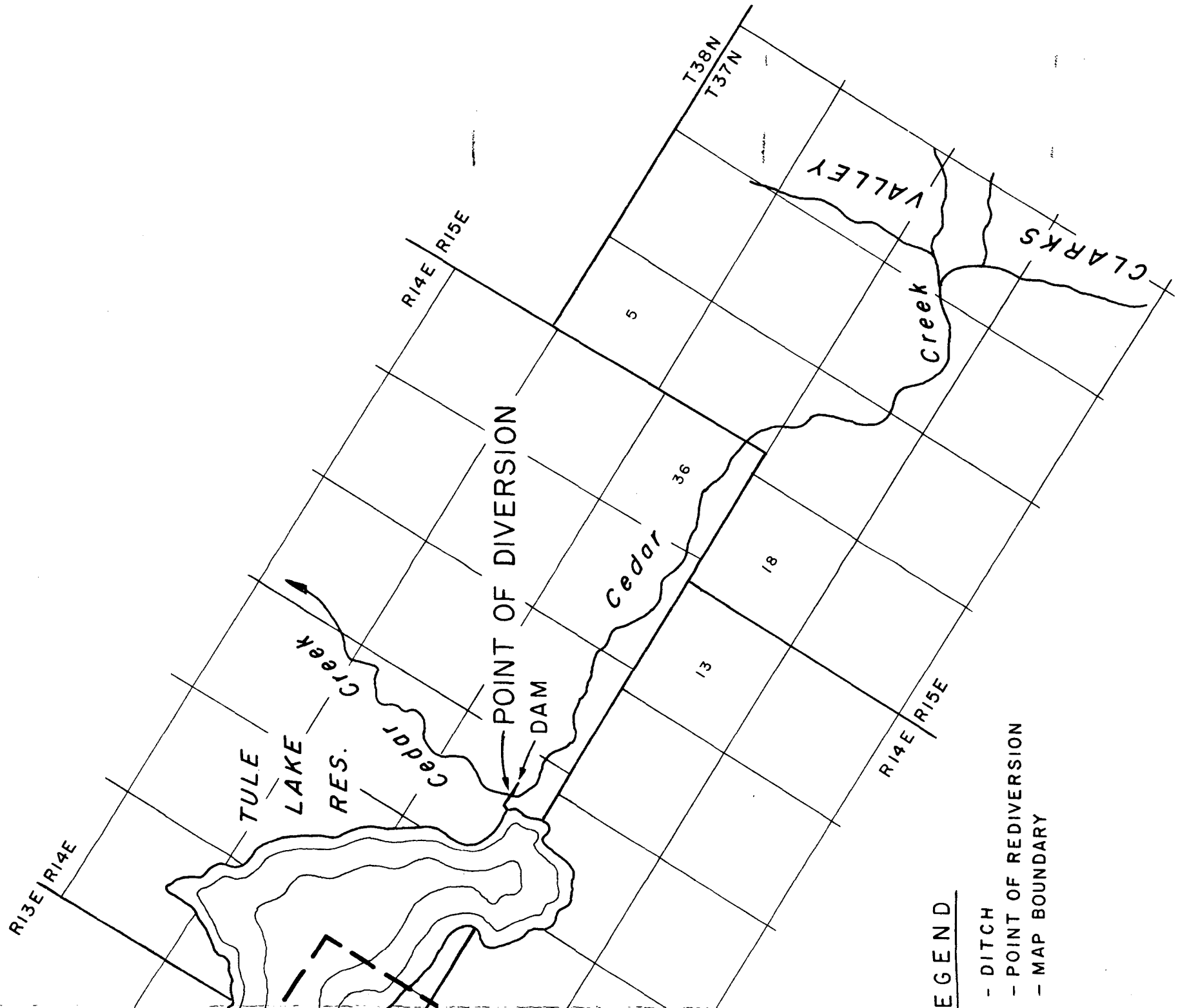
LOCATION MAP

State of California
 THE RESOURCES AGENCY
 STATE WATER RESOURCES CONTROL BOARD

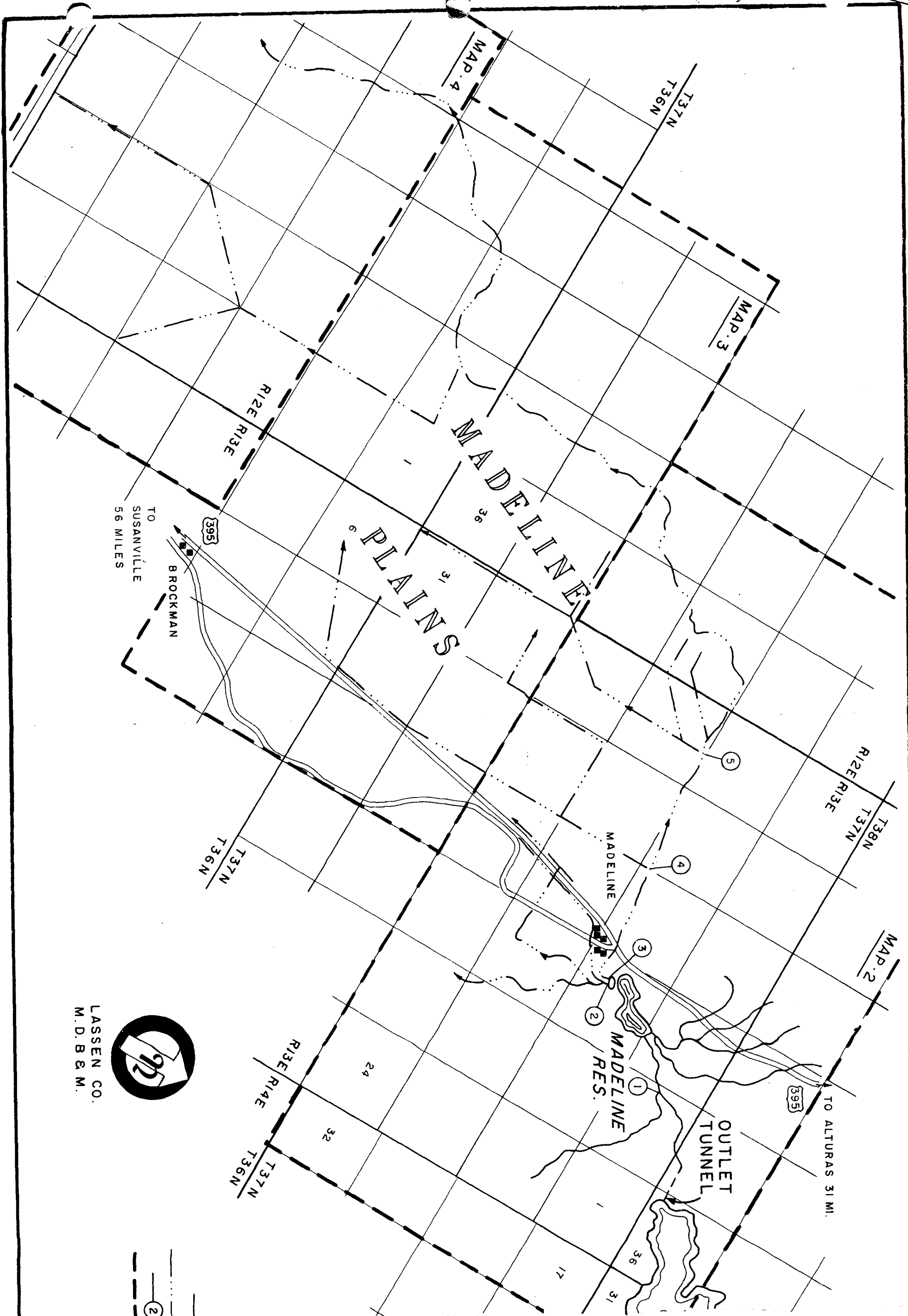
TULE LAKE RESERVOIR & MADELINE RESERVOIR AREA

SHOWING
 MAJOR DIVERSION DITCHES
 and INDEX OF MAPS
 LASSEN COUNTY

1983



LEGEND
 - DITCH
 - POINT OF REDIVERSION
 - MAP BOUNDARY

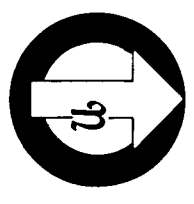


LASSEN CO.
M. D. B. & M.

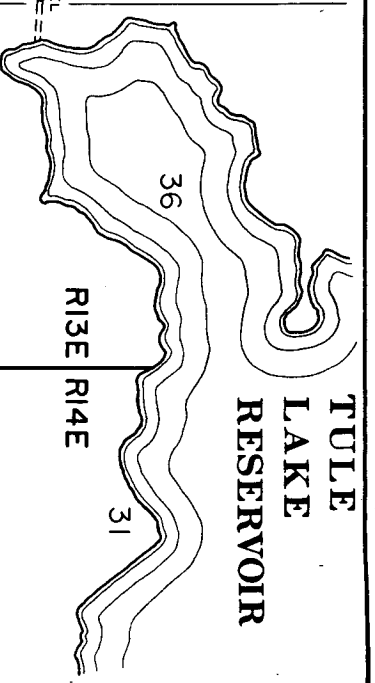
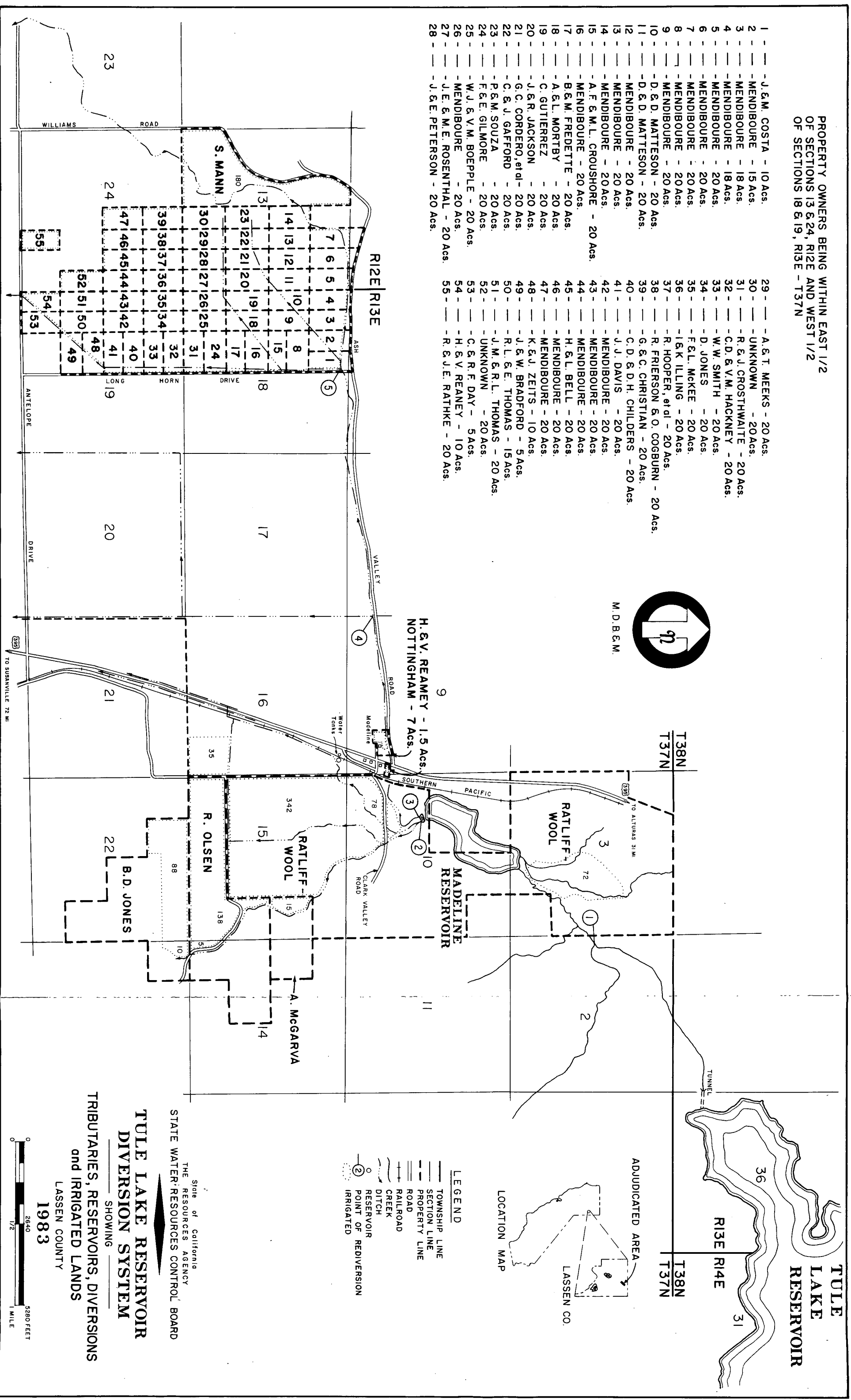


PROPERTY OWNERS BEING WITHIN EAST 1/2
OF SECTIONS 13 & 24, RIZE AND WEST 1/2
OF SECTIONS 18 & 19, RIZE - T37N

- | | |
|--|---|
| 1 - J. & M. COSTA - 10 Acs. | 29 - A. & T. MEEKS - 20 Acs. |
| 2 - MENDIBOURE - 15 Acs. | 30 - UNKNOWN - 20 Acs. |
| 3 - MENDIBOURE - 18 Acs. | 31 - R. E. J. CROSTHWAITTE - 20 Acs. |
| 4 - MENDIBOURE - 18 Acs. | 32 - C. D. & V. M. HACKNEY - 20 Acs. |
| 5 - MENDIBOURE - 20 Acs. | 33 - W. W. SMITH - 20 Acs. |
| 6 - MENDIBOURE - 20 Acs. | 34 - D. JONES - 20 Acs. |
| 7 - MENDIBOURE - 20 Acs. | 35 - F. & L. MCKEE - 20 Acs. |
| 8 - MENDIBOURE - 20 Acs. | 36 - I. & K. ILLING - 20 Acs. |
| 9 - MENDIBOURE - 20 Acs. | 37 - R. HOOPER, et al - 20 Acs. |
| 10 - D. & D. MATTESSON - 20 Acs. | 38 - R. FRIERSON & O. COGBURN - 20 Acs. |
| 11 - D. & D. MATTESSON - 20 Acs. | 39 - G. & C. CHRISTIAN - 20 Acs. |
| 12 - MENDIBOURE - 20 Acs. | 40 - C. D. & D. H. CHILDERS - 20 Acs. |
| 13 - MENDIBOURE - 20 Acs. | 41 - J. J. DAVIS - 20 Acs. |
| 14 - MENDIBOURE - 20 Acs. | 42 - MENDIBOURE - 20 Acs. |
| 15 - A. F. & M. L. CROUSHORE - 20 Acs. | 43 - MENDIBOURE - 20 Acs. |
| 16 - MENDIBOURE - 20 Acs. | 44 - MENDIBOURE - 20 Acs. |
| 17 - B. & M. FREDETTE - 20 Acs. | 45 - H. & L. BELL - 20 Acs. |
| 18 - A. & L. MORTBY - 20 Acs. | 46 - MENDIBOURE - 20 Acs. |
| 19 - C. GUTIERREZ - 20 Acs. | 47 - MENDIBOURE - 20 Acs. |
| 20 - J. & R. JACKSON - 20 Acs. | 48 - K. & J. ZEITS - 10 Acs. |
| 21 - G. C. CORDERO, et al - 20 Acs. | 49 - J. & W. BRADFORD - 5 Acs. |
| 22 - C. & J. GAFFORD - 20 Acs. | 50 - R. L. & E. THOMAS - 15 Acs. |
| 23 - P. & M. SOUZA - 20 Acs. | 51 - J. M. & R. L. THOMAS - 20 Acs. |
| 24 - F. & E. GILMORE - 20 Acs. | 52 - UNKNOWN - 20 Acs. |
| 25 - W. J. & V. M. BOEPPLE - 20 Acs. | 53 - C. & R. F. DAY - 5 Acs. |
| 26 - MENDIBOURE - 20 Acs. | 54 - H. & V. REANEY - 10 Acs. |
| 27 - J. E. & M. E. ROSENTHAL - 20 Acs. | 55 - R. & J. E. RATHKE - 20 Acs. |
| 28 - J. & E. PETERSON - 20 Acs. | |



M. D. B. C. M.



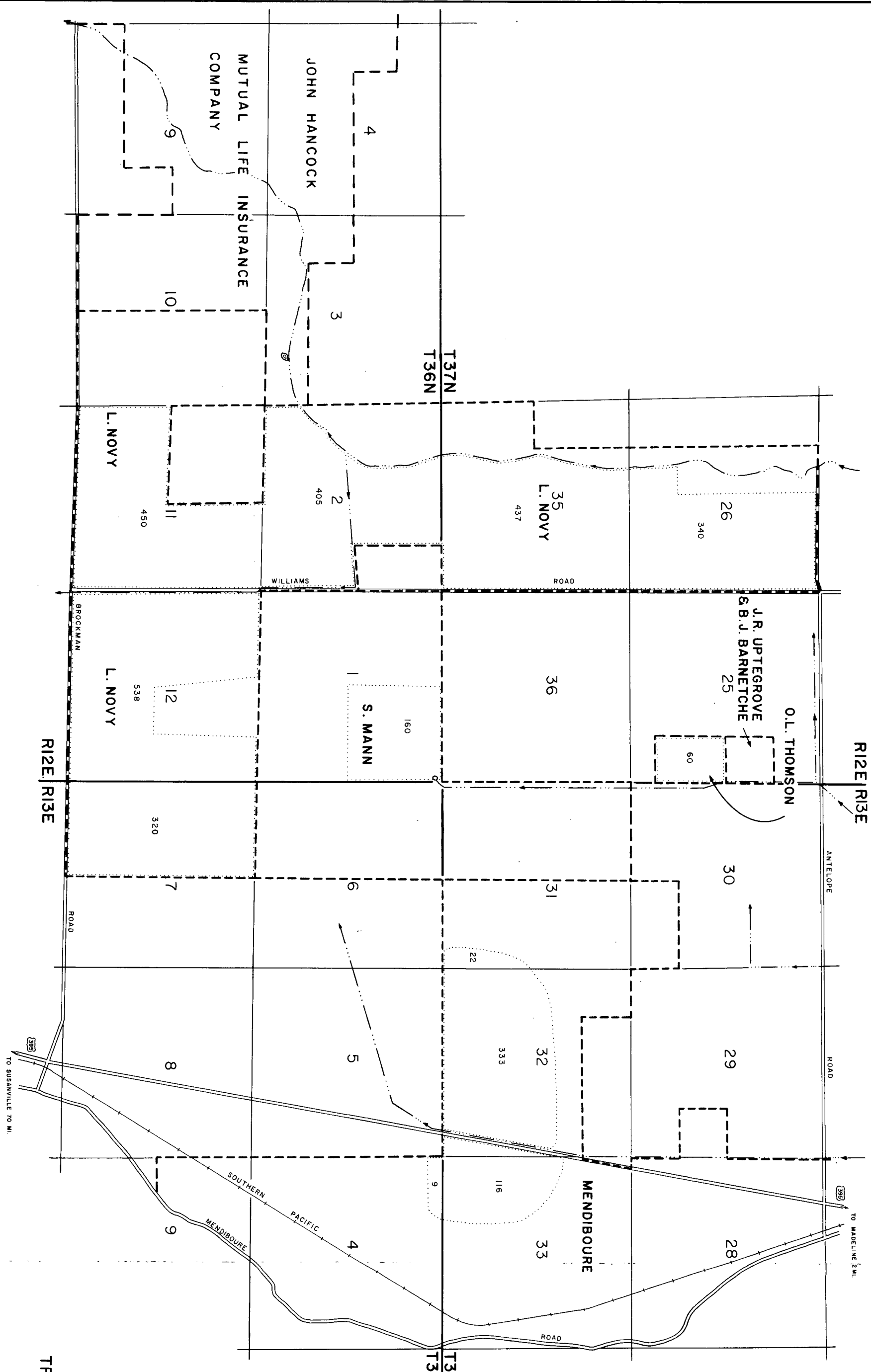
LOCATION MAP

- LEGEND**
- TOWNSHIP LINE
 - SECTION LINE
 - - - PROPERTY LINE
 - == ROAD
 - == RAILROAD
 - CREEK
 - DITCH
 - RESERVOIR
 - POINT OF REDIVERSION
 - IRRIGATED

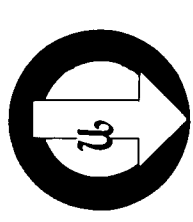
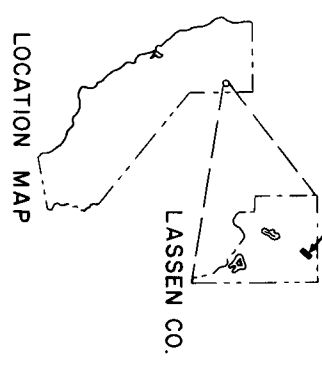
State of California
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD

**TULE LAKE RESERVOIR
DIVERSION SYSTEM**
SHOWING
TRIBUTARIES, RESERVOIRS, DIVERSIONS
and IRRIGATED LANDS
LASSEN COUNTY
1983





ADJUDICATED AREA



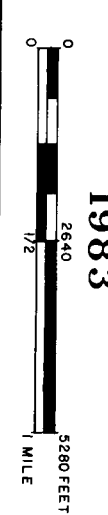
M. D. B. C. M.

- LEGEND**
- TOWNSHIP LINE
 - SECTION LINE
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State of California
 THE RESOURCES AGENCY
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**TULE LAKE RESERVOIR
 DIVERSION SYSTEM**

SHOWING
 TRIBUTARIES, RESERVOIRS, DIVERSIONS
 and IRRIGATED LANDS
 LASSEN COUNTY
1983



BROCKMAN

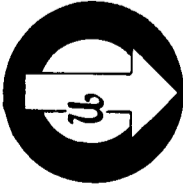
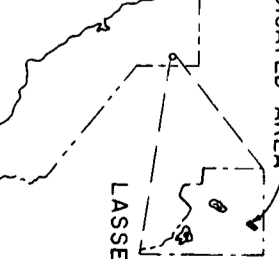
RIZE RIZE

ROAD

ADJUDICATED AREA

LASSEN CO.

LOCATION MAP

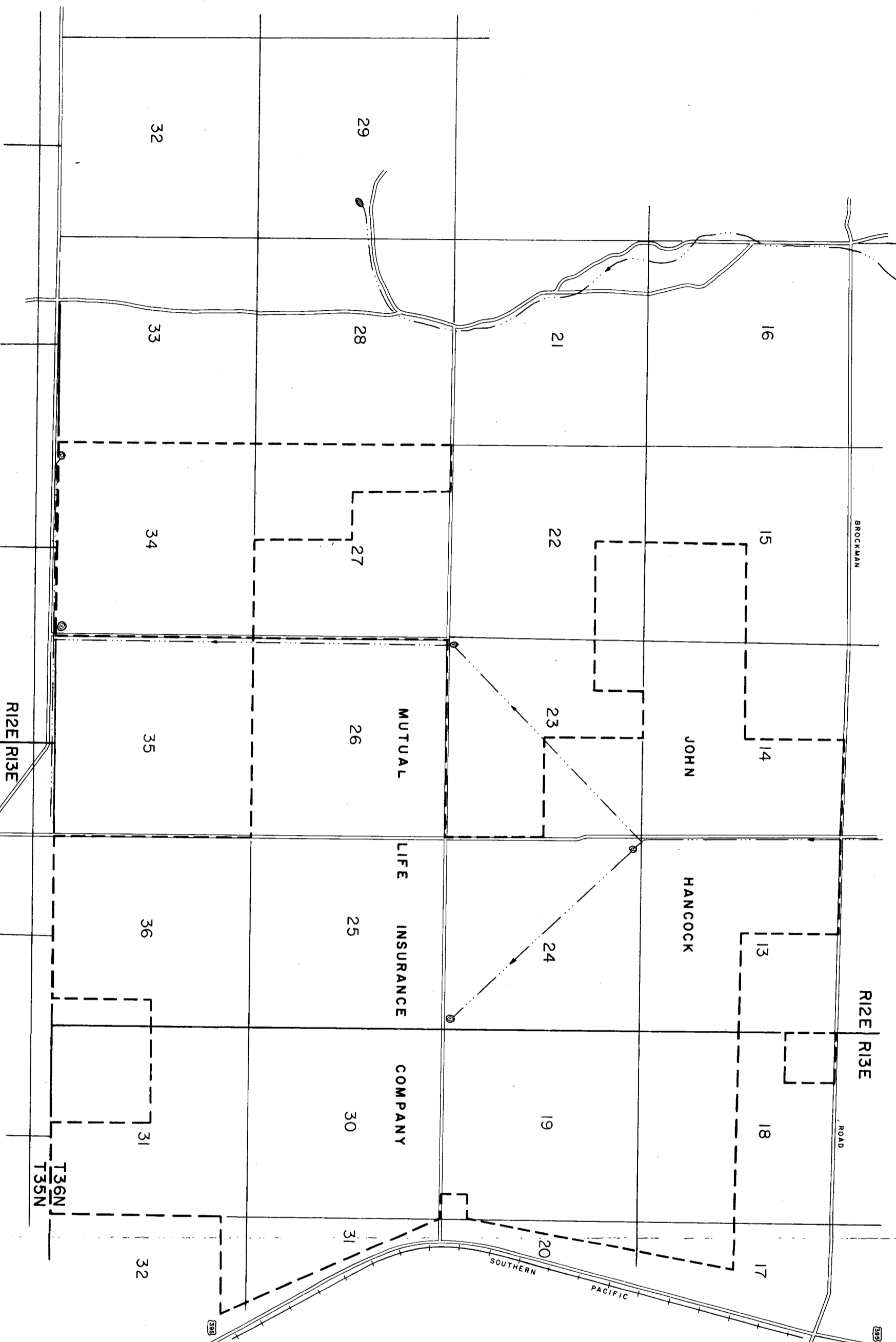


M.D.B. & M.

- LEGEND**
- TOWNSHIP LINE
 - - - SECTION LINE
 - - - PROPERTY LINE
 - ROAD
 - RAILROAD
 - CREEK
 - - - DITCH
 - RESERVOIR
 - ② POINT OF REDIVERSION
 - ③ IRRIGATED

TO NAVENBLE II MI.

TO MADRLINE 8 MI.



State of California
 THE RESOURCES AGENCY
 STATE WATER RESOURCES CONTROL BOARD

**TULE LAKE RESERVOIR
 DIVERSION SYSTEM**

SHOWING
**TRIBUTARIES, RESERVOIRS, DIVERSIONS
 and IRRIGATED LANDS**
 LASSEN COUNTY
1983

