

## McCue, Jean@Waterboards

---

**From:** pjmlaw@gmail.com on behalf of PJM Law <pjmlaw@pacbell.net>  
**Sent:** Wednesday, July 17, 2013 12:41 PM  
**To:** Unit, Wr\_Hearing@Waterboards  
**Cc:** David Aladjem; Rose, David@Waterboards; Kevin M. O'Brien; Kevin Piearcy; Nancy Isakson; Norman C. Groot; Masuda, Roger@CALWATERLAW; Patrick Maloney  
**Subject:** MCWRA Proposed Revocation Hearing  
**Attachments:** Orradre settlement comment 7-17-13.pdf; DeMaggio Statement 7-17-13.pdf; Judgment of Dismissal - Settlement Nov 18 2004.pdf

Ms. McCue:

Attached please find protestant Mary Orradre et al. comments to the proposed Settlement Agreement between Division of Water Rights Prosecution Team and Monterey County Water Resources Agency.

Thomas Virsik

--

Law Office of Patrick J. Maloney  
2425 Webb Avenue, Suite 100  
Alameda, CA 94501  
[510-521-4575](tel:510-521-4575)

This e-mail message is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

LAW OFFICES OF  
**PATRICK J. MALONEY**

2425 WEBB AVENUE, SUITE 100  
ALAMEDA ISLAND, CALIFORNIA 94501-2922

PATRICK J. "MIKE" MALONEY

(510) 521-4575  
FAX (510) 521-4623  
e-mail: [PJMLAW@pacbell.net](mailto:PJMLAW@pacbell.net)

THOMAS S. VIRSIK

VIA EMAIL AND POST

July 17, 2013

Division of Water Rights  
State Water Resources Control Board  
Attention: Jean McCue  
P.O. Box 2000, Sacramento, CA 95812-2000  
[wrhearing@waterboards.ca.gov](mailto:wrhearing@waterboards.ca.gov)

Re: Proposed settlement -- Monterey County Water Resources Agency Proposed Revocation  
Hearing Permit 11043 (Application 13225)

Dear Ms. McCue:

The Notice of Public Hearing dated November 21, 2012 specifically referenced (and included) an enclosure entitled "Information Concerning Appearance at Water Right Hearings at Board Meetings" along with various deadlines and threshold requirements. This "Information" portion explained that a potentially interested person or entity who timely chooses to notice one's appearance and intent to submit evidence becomes a de facto "party" to the hearing. Page 9 at 3 (second sentence). Only the party known as Orradre et al. did so (twice, actually) and voluntarily transmitted certain evidence (i.e., a proposed exhibit) to parties and non-parties well ahead of the deadlines in the interest of procedural efficiency. Orradre is submitting these comments to the Proposed Settlement Agreement (Settlement) between the Monterey County Water Resources Agency (MCWRA) and SWRCB staff pursuant to the emailed notice by Mr. Buckman on July 11, 2103. Also enclosed is a statement from Joe DeMaggio, an engineer at Stetson Engineers, Inc., with attachments thereto as well as a separate 2004 Judgment of Dismissal Pursuant to Stipulation involving Orradre and the MCWRA.

Procedural Comments

The SWRCB has not given sufficient time for Orradre or others to properly evaluate the potential effect of the Settlement. The Notice of Public Hearing allowed substantial time to for those wishing to become parties to elect to participate and then to proffer evidence, if any so chose. The Notice of Petition itself provided factual findings and certain procedural history, the balance of which one could gather from the pubic records (the file) at the SWRCB. The Settlement is lacking all such Due Process protections. No staff report by either the MCWRA or the SWRCB accompanies the Settlement explaining any rationale or purpose of the various terms. Given that the Public Records Act is based on a minimum statutory 10 day response time, the SWRCB has

facially provided insufficient time for a member of the public to make even a cursory request to seek public materials bearing on the settlement in MCWRA's or the SWRCB's possession. The enclosed statement from Mr. DeMaggio provides an estimate of the length of time needed to properly analyze the new terms and conditions of the Settlement. Moreover, given that the Settlement is specifically structured as a settlement, it is likely that the MCWRA and the SWRCB would claim an exemption from the Public Records Act and would not provide any internal analyses of the relative merits and rationale of the various new terms and conditions. Thus, any party or member of the public would have to create any analysis without either party's cooperation.

#### Substantive Comments

Due to the lack of time and information as identified above, Orradre is not yet in a position to identify with specificity how the proposed changed flows and conditions may affect the subject lands. The statement of Mr. DeMaggio sets out how the lands are "sandwiched" between competing water challenges and projects.

Further complicating matters are the inconsistent definitions and especially applications of "groundwater," "underflow," and "surface" flow in the Salinas Valley found in various hearings and other matters addressed by SWRCB and/or its staff over the years. The eWRIMS database of statements of water diversions reflects that filers in the Salinas Valley commonly point out this historic confusion. See e.g., the statements filed by the Tanimura & Antle related interests. Hydrologically water does not readily conform to clean legal definitions, but the SWRCB still relies (at times) on the legal distinctions.

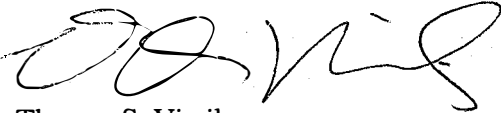
In addition and no less critically, Orradre objects on the basis of a key term lacking in the Settlement. Orradre provided to the parties well ahead of the deadline to identify and transmit exhibits for the hearing a certain separate 2004 Judgment of Dismissal Pursuant to Stipulation among Orradre (and others) and the MCWRA. It should be available in the SWRCB file; another copy is enclosed herewith. Paragraph 3 thereof obligated the MCWRA to acknowledge Orradre's water rights claims in an administrative proceeding in which they may be at issue. This is facially such a proceeding. The Settlement appears to lack this key MCWRA obligation. See ¶ 4 of the Settlement, which disclaims any MCWRA position as to any third party claims of water rights. At a minimum, the Settlement should not be considered until Orradre and the MCWRA have had a genuine opportunity to confer in good faith on how to effect the obligations of the 2004 Judgment of Dismissal Pursuant to Stipulation in this administrative proceeding. If a resolution is reached between the MCWRA and Orradre, it may then be added as a term in a three party settlement or as part of a separate settlement in this proceeding between the MCWRA and Orradre. If no resolution is reached, then a Hearing is necessary to force the MCWRA to fulfill its 2004 obligation in this proceeding, irrespective of any other settlement terms between it and the SWRCB.

Since 2004 the Paso Robles Groundwater Basin has deteriorated and is in or approaching overdraft. See the DeMaggio statement. That is an additional reason that the MCWRA, Orradre and others in the Paso Robles Groundwater Basin who may be impacted by modifications in the flows in the Salinas River should be notified of the potential Settlement and allowed to participate.

Conclusion

Orradre contends that the Settlement should be presently rejected and sufficient time allowed for a proper analysis of the terms and in which Orradre and the MCWRA may be able to negotiate substantive terms.

Very truly yours,



Thomas S. Virsik

Encl. DeMaggio statement with exhibits  
2004 Judgment of Dismissal Pursuant to Stipulation

c. Via e-mail only

<p>MONTEREY COUNTY WATER RESOURCES AGENCY Kevin M. O'Brien 621 Capitol Mall, 18<sup>th</sup> Floor Sacramento, CA 95814 (916) 444-1000 <a href="mailto:kobrien@downeybrand.com">kobrien@downeybrand.com</a> <a href="mailto:daladjem@downeybrand.com">daladjem@downeybrand.com</a></p>	<p>DIVISION OF WATER RIGHTS PROSECUTION TEAM David Rose State Water Resources Control Board 1001 I Street Sacramento, CA 95814 (916) 341-5196 <a href="mailto:DRose@waterboards.ca.gov">DRose@waterboards.ca.gov</a></p>
<p>MARY ORRADRE, ET AL. Thomas Virsik Law Offices of Patrick Maloney 2425 Webb Avenue, Suite 100 Alameda, CA 94501 (510) 521-4575 <a href="mailto:pjmlaw@pacbell.net">pjmlaw@pacbell.net</a></p>	<p>MARINA COAST WATER DISTRICT Roger K. Masuda Griffith &amp; Masuda, A Professional Law Corporation P.O. Box 510 Turlock, CA 95381 (209) 667-5501 <a href="mailto:rmasuda@calwaterlaw.com">rmasuda@calwaterlaw.com</a></p>
<p>SALINAS VALLEY WATER COALITION Nancy Isakson 3203 Playa Court Marina, CA 93933 (831) 224-2879 <a href="mailto:nisakson@mbay.net">nisakson@mbay.net</a></p>	<p>MONTEREY COUNTY FARM BUREAU Norman C. Groot P.O. Box 1449 Salinas, CA 93902-1449 (831) 751-3100 <a href="mailto:norm@montereycfb.com">norm@montereycfb.com</a></p>
<p>Kevin Piearcy P.O. Box 1355 Gonzales, CA 93926 (831) 679-2525 <a href="mailto:Pumph20101@hotmail.com">Pumph20101@hotmail.com</a></p>	

1                                   **Proposed Revocation of Permit 11043 (Application 13225)**  
2                                   **of Monterey County Water Resources Agency**  
3                                   **Salinas River, Monterey County**

4                                   Proposed Testimony of Joe DeMaggio  
5                                   (Orradre protestant)

6 1. I am a licensed professional engineer (civil and agricultural) in California and New  
7 Mexico and am currently employed as a supervising engineer at Stetson Engineers Inc.  
8 located at 2171 E. Francisco Blvd, Suite K, San Rafael, CA 94901. A copy of my curriculum  
9 vitae is attached hereto.

10 2. I am familiar with the Orradre family of the southern Salinas Valley and in particular  
11 Mary Orradre through various engineering efforts in which I have been involved in the past  
12 five years. I am offering testimony on behalf of my client in this matter, Mary Orradre et al.  
13 (hereafter "Orradre").

14 3. I am familiar with agricultural and undeveloped lands Orradre owns in the southern  
15 Salinas Valley. Two maps reflecting the approximate location of those lands with respect to  
16 the southern part of Monterey and northern part of San Luis Obispo counties overlying the  
17 Salinas River watershed have been submitted as Exhibits A and B. Orradre owns  
18 approximately 23,513 acres of land in the southern Salinas Valley, the majority of which are  
19 undeveloped. It is my opinion that a substantial amount of such lands are capable of  
20 development based on, among other factors, suitable soil and climate. I base my opinion in  
21 part on testimony provided by expert witnesses who testified in 2000 during the Water Rights  
22 Hearing on Application 30532, i.e., pages 312-314 and 486-488. (testimony on July 24 and  
23 25).

24 4. I am aware that Orradre files statements of water diversion with respect to claims of  
25 various water rights including underflow, surface waters and pre-1914 appropriative claims  
26 for the lands reflected in the map, which statements are catalogued and made publically  
27 available through the SWRCB's eWrims system.  
28

1 5. I am aware that the watershed that feeds the Salinas River and is also diverted and  
2 stored in two reservoirs permitted by this Board for use by the Monterey County Water  
3 Resources Agency (MCWRA). Nacimiento Reservoir lies in great part in San Luis Obispo  
4 County, while San Antonio is in Monterey County.

5 6. I am also aware that the MCWRA faces seawater intrusion and water quality  
6 degradation challenges in especially the northern parts of Monterey County near Castroville.  
7 I am also aware that within the last decade or so the MCWRA planned and built the Salinas  
8 Valley Water Project (SVWP), which includes among its elements a change of reservoir  
9 operations based on modifications to one or more of the dams at its reservoirs, e.g., the  
10 addition of a so-called "rubber dam." I am also aware that according to the Notice dated  
11 January 6, 2010 the MCWRA intends to use water diverted pursuant to Permit 11043  
12 (originally seeking to divert Salinas River water through the so-called East Side Canal)  
13 conjunctively as part of the SVWP. Notice, page 2, No. 7.

14 7. I am aware that the cities in northern San Luis Obispo County are presently facing  
15 groundwater challenges and that authorities in San Luis Obispo County are taking steps to  
16 understand and then propose solutions.

17 <http://www.slocountywater.org/site/Water%20Resources/Water%20Forum/> See e.g., Paso  
18 Robles Groundwater Basin Management Plan, 2011. The study area of such efforts includes  
19 the portion of the watershed that includes the Orradre lands.

20 8. It is my opinion that the Orradre lands are facing potential harm as to their ability to  
21 secure the claims to water represented by the Statement of Diversion from three projects –  
22 existing, planned, and merely conceptual. First, the SVWP is an actual project, the operation  
23 of which may have impacts on the availability of water to the Orradre lands. Second, San  
24 Luis Obispo County is studying how to manage the waters in part of the watershed in which  
25 the Orradre lands lie. Third, according to the Notice provided, the MCWRA is contemplating  
26 that its so-called East Side Canal would divert additional water from the Salinas River for us  
27 in the SVWP, the River on which the Orradre lands' entitlements to water may be reliant.  
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

9. I have participated in contested or other water rights hearing matters before the SWRCB. My experience to date has been that staff provides ample time in which engineers or other experts may formulate professional opinions based on changed quantities or modified conditions. I understand that the deadline set for review and comments to a certain Settlement Agreement dated July 1, 2013 in this matter is approximately one week between public release of the Agreement and the date set for approval by SWRCB staff. In my professional opinion, one week is insufficient time in which to properly analyze a new array of flow numbers (part 1.b) and their potential hydrologic affects on other interest(s). In my opinion, a minimum of 45 days would be needed to properly analyze the newly released proposed flow amounts and associated conditions for such diversion.

DATED: 7/17/2013

  
\_\_\_\_\_  
Joe DeMaggio

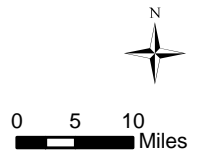


Document Path: J:\jnp2316\OrradreProperty\SalinasRiver\_overview.mxd



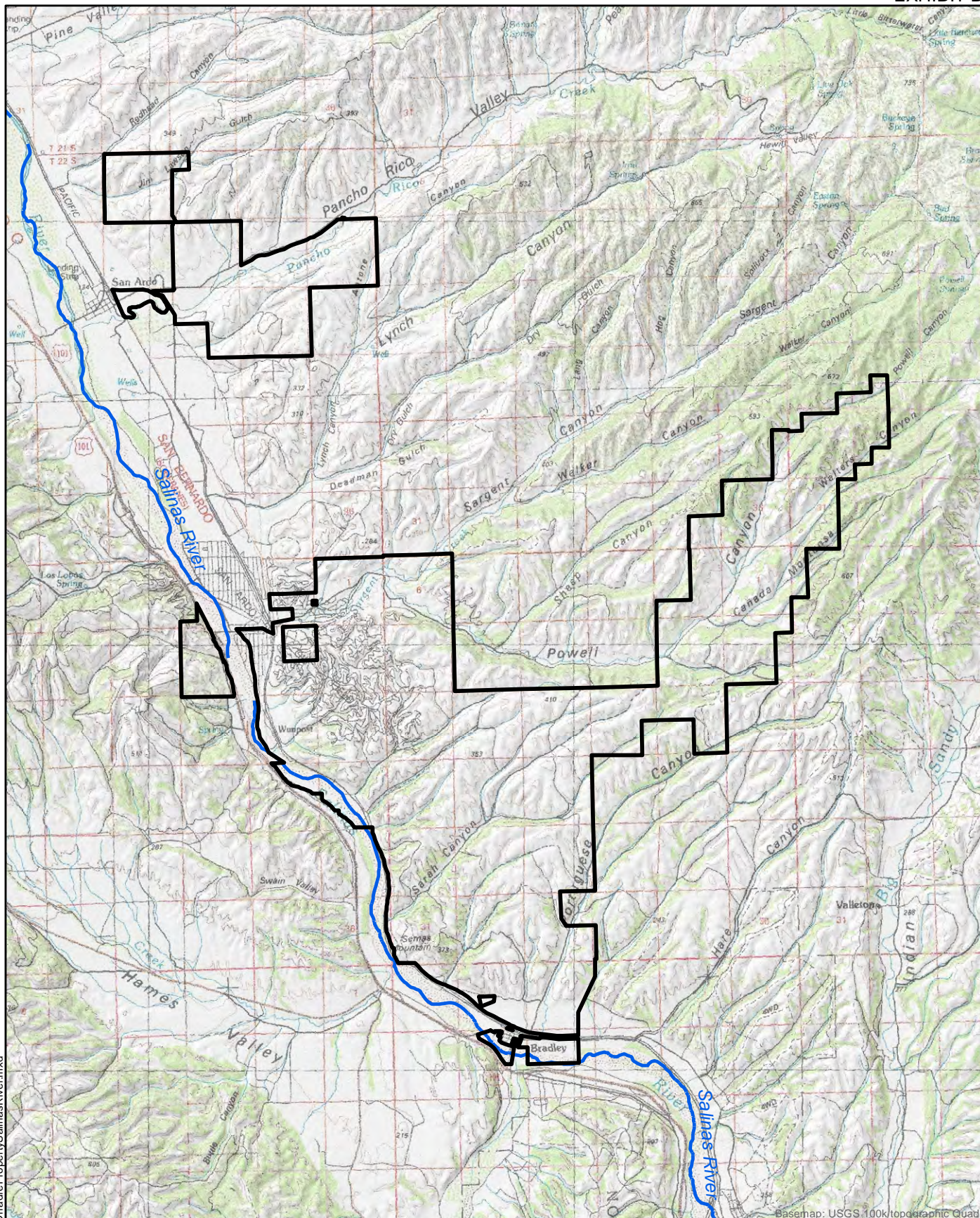
### ORRADRE PROPERTY AND SALINAS RIVER BASIN

DRAFT



Topographic basemap provided by ESRI





Document Path: J:\p2316\OrradreProperty\SalinasRiver.mxd



**ORRADRE PROPERTY BOUNDARY  
LOCATED IN SOUTHERN MONTEREY COUNTY**

**DRAFT**



Base map: USGS 100k topographic Quad

# **JOE DEMAGGIO, P.E.**

---

*Supervising Agricultural / Civil Engineer*

Mr. DeMaggio has been employed by Stetson Engineers Inc. since 1979. His professional expertise lies in the area of water supply and hydrology, municipal engineering and facilities design, water system and irrigation system facilities design and cost estimation, municipal and agricultural water requirements, dam design, environmental engineering, flood control and river restoration, surface water and groundwater resource studies, and water rights investigations. Mr. DeMaggio is responsible for directing civil and agricultural engineering projects as well as providing expert witness testimony.

**EDUCATION:** B.S. Agricultural Engineering  
California Polytechnical State University, San Luis Obispo, 1978

**CREDENTIALS:** Professional Civil Engineer No. 32954, California, 1981  
Agricultural Engineer No. 440, California, 1982  
Professional Engineer No. 20140, New Mexico, 2010

**PROFESSIONAL EXPERIENCE:** 34 years

## **SELECTED PROJECTS:**

### **Agricultural Engineering and Facilities Design**

- Irrigation system design and cost estimation for a Practicably Irrigable Acreage (PIA) study. Including wells, pipe network, pumps, crop water requirements and drip and micro sprinkler system for the San Luis Rey River basin five reservations. *(Pala Tribe, 2011 to present)*
- Quantification of reserved water rights including determination of Practicably Irrigable Acreage (PIA), irrigation facilities design and cost estimation, water supply studies, and HYDROSS modeling for the Flathead Indian Reservation, Montana. *(Bureau of Indian Affairs, 1989 to present)*
- Mayacamas Vineyard Water Requirements and Availability Report, Napa California *(Brownstein Hyatt Farber Schreck, 2011)*
- Irrigation system design and cost estimation for a Practicably Irrigable Acreage (PIA) study. Including wells, pipe network, pumps, and sprinkler system for the Smoke Creek basin on the Pyramid Lake Indian Reservation, Nevada. *(Bureau of Indian Affairs, 2010 to 2011)*
- Irrigation system design for re-vegetation plan for the Havasu National Wildlife Refuge, Topock, Arizona. *(Parametrix, 2010)*
- Irrigation system design and storage reservoir design for the Orradre property, Salinas River basin, California. *(Law Office of Patrick J. Maloney, 2009 to present)*

## **JOE DEMAGGIO, P.E.**

---

*Supervising Agricultural / Civil Engineer*

- Nutria Irrigation Project facilities design and cost estimation including canals and three alternative dam sizes for the Zuni Indian Reservation, New Mexico.  
*(Zuni Tribe, 2009 to 2010)*
- Irrigation system and dam design and cost estimation for a Practicably Irrigable Acreage (PIA) study. Including dams, canals, pump, sprinkler system and water supply modeling on the Fort Belknap Indian Reservation, Montana. *(White Shield International, 1999 to Present)*
- Irrigation system and dam design and cost estimation for a Practicably Irrigable Acreage (PIA) study. Determined on-farm irrigation system efficiency for presently irrigated lands on the Crow Indian Reservation, Montana. *(White Shield International, 1996 to 2010)*
- Crop water requirements calculation for water rights litigation purposes for the Zuni Tribe, Zuni, New Mexico. *(Zuni Tribe, 2008 to 2009)*
- Irrigation system design for re-vegetation plan for the Cibola National Wildlife Refuge, Blythe, California. *(Parametrix, 2008 to 2009)*
- Nutria Irrigation Project feasibility assessment for the Zuni Indian Reservation, New Mexico. *(Zuni Tribe, 2007 to 2009)*
- Calculate natural flow of Peoples Creek and Milk River, Montana.  
*(U.S. Bureau of Indian Affairs, 2005 to 2007)*
- Determine irrigation demand, length of irrigation season for alfalfa, and participate in water rights issues for the Pueblo of Isleta, New Mexico. *(Pueblo of Isleta, 2004 to 2006)*
- Prepare comprehensive water rights claim for the Confederated Tribes of the Umatilla Indian Reservation, Oregon. *(Confederated Tribes of the Umatilla Indian Reservation, 2005)*
- Evaluate water availability for Group 5 lands located on the Uinta Indian Reservation.  
*(Northern Ute Indian Tribe, 2005)*
- Irrigation system, wells, and dam design and cost estimation including economic analysis for 2,600 acres for determination of the reserved water rights for the Capitan Grande Indian Reservation, California. *(Barona Tribe, 2003 to 2004)*
- PIA study for Round Valley Indian Reservation, California.  
*(Round Valley Tribe, 2001 to 2004)*
- Design of irrigation system and pipelines for a 50-acre wetlands development at Zuni Heaven in Arizona. *(Zuni Tribe, 2001 to 2003)*
- Agricultural water use efficiency study for 9,000 acres for four of the Cachuma Project Member Units in connection with the State of California Water Resources Control Board hearings. *(Cachuma Conservation District, 2003)*
- Irrigation system design and cost estimation for a PIA study and determination of presently and historically irrigated acreage on the Gila River Indian Reservation, Arizona.  
*(U.S. Department of Justice, 1996 to 2003)*

## ***JOE DEMAGGIO, P.E.***

---

*Supervising Agricultural / Civil Engineer*

- Review of land classification and PIA study for Fort Yuma Indian Reservation, Arizona.  
*(U.S. Department of Justice, 2001 to 2003)*
- Appraisal-level design and cost estimation of 31 irrigation projects including dams, canals, pump stations, wells, pipelines, tunnels and diversion dams.  
*(San Carlos Apache Tribe, 2001 to 2002)*
- PIA study for an off-reservation allotment located in the Yakima River Basin, Washington.  
*(U.S. Department of Justice, 1997 to 2001)*
- Crop water requirement determination for various crops grown in the Pauma Valley, California.  
*(Pauma Mutual Water Company, 2000)*
- Irrigation system design and cost estimation and crop water requirements for the Pechanga, Cahuilla and Ramona Indian Reservations, California.  
*(U.S. Department of Justice, 1993 to 2000)*
- PIA study for 2,000 acres for the Lower Peoples Creek area of the Fort Belknap Indian Reservation, Montana, using a storage reservoir.  
*(U.S. Bureau for Indian Affairs, 1995 to 1999)*
- PIA study for 500 acres for the Upper Peoples Creek area of the Fort Belknap Indian Reservation, Montana.  
*(U.S. Bureau of Indian Affairs, 1995 to 1998)*
- PIA study and review of technical basis supporting the Fort Peck-Montana Compact, Fort Peck Indian Reservation, Montana.  
*(U.S. Department of Justice, 1997)*
- PIA study for 1,800 acres including appraisal-level RCC dam design and cost estimation for the Shivwits Indian Reservation, Utah.  
*(U.S. Department of Justice, 1997)*
- Center Pivot, micro sprinkler and drip irrigation system design and cost estimation for 6,000 acres located on the Navajo Indian Reservation, Arizona.  
*(Natural Resources Consulting Engineers, 1994 to 1996)*
- Crop water requirement and presently/historically irrigated acreage determination for the Owyhee River basin located upstream of the Duck Valley Indian Reservation, Nevada.  
*(Shoshone-Paiute Tribes, 1994 to 1995)*
- Design and cost estimation for four dams/reservoirs and water delivery system operation model for about 130,000 irrigated acres as part of the Uinta Basin Replacement Project, Utah.  
*(Northern Ute Indian Tribe, 1994 to 1995)*
- Sprinkler and drip irrigation system and pump station design and cost estimation for 32,700 acres located in the Toppenish, Simcoe and Satus Creek basins on the Yakama Indian Reservation, Washington. *(HKM Associates and U.S. Department of Justice, 1994 to 1995)*
- Quantification of the water resources and irrigation system design and cost estimation for a PIA study for 18,000 acres, Fort Belknap Indian Reservation, Montana.  
*(U.S. Bureau of Indian Affairs, 1987 to 1994)*

## **JOE DEMAGGIO, P.E.**

---

*Supervising Agricultural / Civil Engineer*

- U.S. Whiterocks Canal water distribution and operation study for 4,000 acres of irrigated land located on the Uintah and Ouray Indian Reservation, Utah.  
*(Northern Ute Indian Tribe, Uintah and Ouray Reservation, Utah, 1993 to 1994)*
- Quantification of the water resources and irrigation system design and cost estimation for a PIA study for 30,000 acres, Flathead Indian Reservation, Montana.  
*(U.S. Bureau of Indian Affairs, 1986 to 1994)*
- Sprinkler and drip irrigation system and pump station design and cost estimation for 3,600 acres located in the Ahtanum Creek basin on the Yakama Indian Reservation, Washington.  
*(U.S. Department of Justice, 1993)*
- On-farm irrigation system design and cost estimation for 33,000 acres using center pivots, drip, micro sprinklers and level furrow irrigation systems for the proposed Leupp Irrigation Project located on the Navajo and Hopi Indian Reservations, Arizona.  
*(U.S. Department of Justice 1991 to 1992)*
- Outlet Creek Waterfowl Production Area review of impacts on Tribal water supply, Fort Peck Indian Reservation, Montana. *(Sonosky, Chambers, Sachse & Endreson, 1992)*
- Surface water depletion study and agricultural development plan including irrigation system design and cost estimation for a PIA study for 100,000 acres, Yakama Indian Reservation, Washington. *(U.S. Department of Justice, 1984 to 1991)*
- Irrigation development plan for the south slope of Ahtanum Ridge, consisting of about 9,000 acres, Yakama Indian Reservation, Washington.  
*(Confederated Tribes and Bands of the Yakama Indian Nation, 1990)*
- Conceptual irrigation system design for the Duck Valley Indian Reservation, Idaho.  
*(U.S. Bureau of Indian Affairs, 1988)*
- Feasibility study of using drainage runoff water to irrigate 3,000 acres of land located on the Fallon Naval Air Station, Nevada. *(Pyramid Lake Paiute Tribe, 1987)*
- Center pivot and wheelline sprinkler irrigation system design for 2,400 acres using water pumped from Truckee River, Nevada. *(Pyramid Lake Paiute Tribe, 1987)*
- Studies in connection with the “President’s Water Policy Implementation 10-Year Plan for Review of Indian Water Claims” including water supply, irrigation water requirements, irrigation system design and cost estimation and related studies, Fort Hall Indian Reservation, Idaho. *(Shoshone and Bannock Tribes, 1984 to 1987)*
- Drip irrigation system evaluation for five acres of specialty crops, Hollister, California.  
*(Cienega Valley Farms, 1986)*
- Irrigation system design and cost estimation for 1,100 acres and water resources and water requirement evaluation, Warm Springs Indian Reservation, Oregon.  
*(Confederated Tribes of the Warm Springs Reservation, 1984)*

## **JOE DEMAGGIO, P.E.**

---

*Supervising Agricultural / Civil Engineer*

- Quantification of water resources and potential water requirements of the Fort Belknap and Rocky Boys Indian Reservations, Montana. (*U.S. Bureau of Indian Affairs, 1982 to 1984*)
- Design and construction supervision of a drip irrigation system, including well and filtration system, for 140 acres of wine grapes located in Hollister, California.  
(*Almaden Vineyards, 1984*)
- Preliminary water and land resource inventory and design and cost estimation of center pivot irrigation system for 1,500 acres, Standing Rock Sioux Indian Reservation, North Dakota.  
(*Standing Rock Sioux Tribe, 1983*)
- Water resource and agricultural development investigations for a PIA study for the San Carlos Indian Reservation, Arizona. (*San Carlos Apache Tribe, 1981*)
- Preparation of comprehensive water development plan including an agricultural engineering study of potential irrigation water demand, Northern Cheyenne Indian Reservation, Montana.  
(*U.S. Bureau of Indian Affairs, 1979 to 1983*)
- Agricultural system development plan including irrigation system design and cost estimation for a PIA study for 60,000 acres, and determination of future and historic irrigation water requirements, Wind River Indian Reservation, adjudication of the Big Horn River System, Wyoming. (*U.S. Bureau of Indian Affairs and U.S. Department of Justice, 1979 to 1982*)

### **Flood Control and River Restoration Projects**

- Concrete fish ladder design, cost estimate and construction inspection at the Lansdale sites on San Anselmo Creek, California. (*Friends of Corte Madera Creek, 2010 to present*)
- Watershed Flood Damage reduction and creek management study and detention basin design for Corte Madera Creek/ San Anselmo Creek, California.  
(*Marin County Flood Control & Water Conservation District, 2009 to present*)
- Fish ladder design and cost estimate at Pastori, Saunders and Lansdale sites on San Anselmo Creek, California. (*Friends of Corte Madera Creek, 2005 to present*)
- Hydrology and hydrologic analysis for the design of the Lagunitas Road bridge located in Ross, California. (*URS Corporation, 2007 to 2008*)
- Provide construction design plans, specifications and cost estimates for creek channel design and culvert replacement to improve fish passage at five sites located in Woodacre, California.  
(*Marin County Department of Public Works, 2005 to 2010*)
- Prepare design plans for creek bank erosion control on Fairfax Creek, California.  
(*John Legnitto, 2007*)
- Prepare design plans for creek bank erosion control on Fairfax Creek, California.  
(*Scot Lance, 2006 to 2007*)

## **JOE DEMAGGIO, P.E.**

---

### *Supervising Agricultural / Civil Engineer*

- Analysis of fish passage and bank stability on Corte Madera Creek below Lagunitas Bridge, Fairfax, California. (*Friends of Corte Madera Creek Watershed, 2005 to 2006*)
- Prepare design plans for creek bank erosion control on Novato Creek, California. (*Art Olsen, 2006*)
- Prepare design plans for creek bank erosion control on Fairfax Creek, California. (*Laury Croter, 2006*)
- Prepare design plans for creek bank erosion control on Fairfax Creek, California. (*Gary Leo, 2006*)
- Review of 100-year flood hydrology and hydraulics in connection with the environmental study of Corte Madera Pond, California. (*Town of Corte Madera, 2004 to 2005*)
- Prepare design plans for creek bank stabilization on San Anselmo Creek, California. (*Kunst Family Trust, 2003 to 2004*)
- Determine 100-year flood flow and water surface elevation for HUD housing on the Duck Valley Indian Reservation, Nevada. (*Shoshone-Paiute Tribes, 2004*)
- Appian Creek channel improvements design and construction, El Sobrante, California. (*Salvation Army, 1993*)

### **Municipal Engineering and Facilities Design**

- Water System Master Plan update and hydraulic modeling for the City of Glendora, California. (*City of Glendora, 2011 to present*)
- Water system facilities design and cost estimate for the City of Perris, California. (*City of Perris, 2012 to present*)
- Green Valley Creek culvert design and fish passage improvement project, Sonoma County, California (*USFWS, 2012 to present*)
- Jewell Creek culvert design and fish passage improvement project, Marin County, California (*Marin Municipal Water District, 2012 to present*)
- Landslide investigation for 10 Tera View Drive, Tiburon, California (*Todd Master, 2012*)
- Pipe network modeling for the city of Glendora, California (*City of Glendora, 2011*)
- Dog Creek culvert design, Marin County, California (*Marin Municipal Water District, 2011*)
- Angles Camp water audit, Angles Camp, California (*City of Angles Camp, 2011*)
- Debris flow investigation for city of Mill Valley, California (*Herb Rowland, 2010*)
- Landslide investigation for 130 Allyn Ave, San Anselmo, California (*Herb Rowland, 2010*)

## **JOE DEMAGGIO, P.E.**

---

*Supervising Agricultural / Civil Engineer*

- Design plans and specifications for pipelines and well for the town of Wadsworth, Nevada.  
*(Pyramid Lake Paiute Tribe, 2010 to present)*
- Water treatment plant design including design of building and foundation on steep slope for Stinson Beach Water District, Stinson Beach, California.  
*(Stinson Beach Water District, 2008 to 2011)*
- Water System Master Plan update for the town of Wadsworth, Nevada.  
*(Pyramid Lake Paiute Tribe, 2009 to 2010)*
- Conceptual design of 5 cfs well field and evaluate combining Solvang and Santa Ynez River Water Conservation District, Improvement District No. 1, water systems, Santa Ynez, California.  
*(Santa Ynez River Water Conservation District, Improvement District No. 1, 2009 to 2010)*
- Feasibility design for relocating 24-inch diameter sewer pipeline crossing San Anselmo Creek, California.  
*(Friends of Corte Madera Creek, 2009 to 2010)*
- Design plans and specifications for 60 foot span bridge crossing Pala Creek on the Pala Indian Reservation, Pala, California.  
*(Pala Tribe, 2008 to 2009)*
- Water distribution system evaluation, City of Solvang, California.  
*(Santa Ynez River Water Conservation District, Improvement District No. 1, 2008)*
- Design plans for capital improvement projects, Santa Ynez, California.  
*(Santa Ynez River Water Conservation District, Improvement District No. 1, 2006 to 2009)*
- Water delivery system hydraulic capability baseline evaluation, Santa Ynez, California.  
*(Santa Ynez River Water Conservation District, Improvement District No. 1, 2007 to 2008)*
- Water delivery system hydraulic capability with new wells, Santa Ynez, California.  
*(Santa Ynez River Water Conservation District, Improvement District No. 1, 2008)*
- Water delivery system hydraulic capability evaluation, Santa Ynez, California.  
*(Santa Ynez River Water Conservation District, Improvement District No. 1, 2006 to 2007)*
- Pump station design for Hollywood Hills Memorial Park, California.  
*(Forest Lawn, 2005 to 2007)*
- Structural analysis for single family residence located in Bear Valley, California.  
*(Steve Evanko, 2006)*
- Preparation of a reconnaissance level plan for relocating the Hoh Indian Tribe's Housing and Municipal facilities, Washington.  
*(Entrix, 2005 to 2006)*
- Prepare improvement plans and management plan for Lake H and I and Cope Lake groundwater recharge facilities located in Pleasanton, California.  
*(Zone 7 Water Agency, 2002 to 2006)*
- Arroyo Mocho turnout and fish screen design for a 100 cfs capacity for diversion of state water project water, California.  
*(Hanson Aggregates, 2002 to 2006)*



## ***JOE DEMAGGIO, P.E.***

---

*Supervising Agricultural / Civil Engineer*

- Design three creek crossings for rural driveway access across Arroyo Mocho located in Livermore, California. *(Zone 7 Water Agency, 2003 to 2005)*
- Prepare design plans and specifications for a temporary 35 cfs pumping plant. *(Zone 7 Water Agency, 2003 to 2004)*
- Prepare water supply study for Marin Country Club. *(Marin Country Club, 2004)*
- Well pump specification for six municipal wells located in the San Gabriel Valley Water District, California. *(San Gabriel Water Company, 2003 to 2004)*
- Prepare construction design plans and specifications for two 6-inch diameter outlet works for two dams. *(Wetlands Research Associates, 2001)*
- Water System Master Plan for the town of Wadsworth, Nevada. *(Pyramid Lake Paiute Tribe, 2000 to 2001)*
- Gallery well water delivery system evaluation located in Santa Ynez, California. *(Santa Ynez River Water Conservation District, Improvement District No. 1, 1998 to 2000)*
- Conformance review and report for a 3,800 gpm capacity booster pump station located in Santa Ynez, California. *(Santa Ynez River Water Conservation District, Improvement District No. 1, 1998 to 1999)*
- Design and construction of a booster pump station with 1,100 gpm capacity located in Santa Ynez, California. *(Santa Ynez River Water Conservation District, Improvement District No. 1, 1998)*
- Design and specifications for a booster pump station with 6,000 gpm capacity costing \$300,000 for delivering water from the State Water Project to Santa Ynez Water Conservation District, California. *(Santa Ynez River Water Conservation District, Improvement District No. 1, 1995 to 1996)*
- Conjunctive water use study including irrigation system survey, water use investigation and irrigation economics study for the Lower Mokelumne River area, California. *(East Bay Municipal Utility District, 1994)*
- Design of pipeline connection from State Water Project to existing Santa Ynez Water Conservation Districts system, Santa Ynez, California. *(Santa Ynez River Water Conservation District Improvement District No. 1, 1991)*
- Design the pipeline connection from the State Water Project to the City of Buellton's existing system, Buellton, California. *(Buellton Community Services District, 1991)*
- Water tank design and water treatment plant modifications for the City of Buellton, California. *(Buellton Community Services District, 1990)*
- Evaluate the water supply and present demand, and estimate the future water demand for the City of Buellton. Determined future system improvements needed for development based on computerized Hardy Cross pipe network analysis for the City of Buellton, California. *(Buellton Community Services District, 1987)*

## **JOE DEMAGGIO, P.E.**

---

*Supervising Agricultural / Civil Engineer*

- Assessment of the probable cause of foundation movement of a house located in Moraga, California. *(Action Adjusters and Appraisers, 1986)*
- Appraisal-level design and cost estimate for an inverted siphon under the Missouri River, Fort Peck Indian Reservation, Montana. *(U.S. Bureau of Indian Affairs, 1984)*

### **Water Rights Investigations**

- Participate in reserved water rights claim quantification for the Coeur d'Alene Indian Reservation, Idaho. *(Coeur d'Alene Tribe, 2008 to present)*
- Participation in the Flathead Indian Reservation Federal Negotiation Technical Team water rights negotiations, Montana. *(U.S. Bureau of Indian Affairs, 1998 to present)*
- Water rights investigations for the Newlands Project, Nevada. *(Pyramid Lake Paiute Tribe, 1999 to 2010)*
- Consultant for Imperial Irrigation District equitable distribution of water group, Imperial California. *(Law Office of Patrick J. Maloney, 2006 to 2008)*
- Participation in the Fort Belknap Indian Reservation water rights negotiations with the Montana Reserved Water Rights Compact Commission. *(U.S. Bureau of Indian Affairs, 1998 to 2006)*
- Quantification of the reserved water rights for the Umatilla Indian Reservation, Oregon. *(Confederated Tribes of the Umatilla Indian Reservation, 2005 to 2010)*
- Quantification of DCMI water rights claim for the Pascua Yaqui Indian Reservation, Arizona. *(Pascua Yaqui Tribe, 2004)*
- Determine crop water requirements for Safford Valley lands in connection with Globe Equity decree, Arizona. *(U.S. Department of Justice, 2001 to 2003)*
- Water rights negotiation for the Shoshone-Paiute Tribes of the Duck Valley Indian Reservation with the State of Idaho and Riddle Ranch. *(Shoshone-Paiute Tribes, 1999 to 2003)*
- Water rights negotiation for the Shoshone-Paiute Tribes with the State of Nevada and the Owyhee River upstream water users. *(Shoshone Paiute Tribes, 1995 to 2003)*
- Technical analysis supporting the Fort Peck-Montana compact, Montana. *(U.S. Department of Justice, 1997)*
- Surface water resources investigation, Little Colorado River basin, determination of present and future water use and preparation of preliminary water rights claims, Navajo and Hopi Indian Reservations, Arizona. *(U.S. Department of Justice, 1985 to 1991)*
- Determination of available water supply, present and future water requirements and preparation of preliminary water rights claims, Camp Verde, Prescott and Fort McDowell Indian Reservations, Arizona. *(U.S. Bureau of Indian Affairs, 1985)*

# **JOE DEMAGGIO, P.E.**

---

*Supervising Agricultural / Civil Engineer*

## **Surface Water Resource Studies**

- HYDROSS model review and calibration for the Flathead Indian Irrigation Project (120,000 acres) for the Flathead Indian Reservation, Montana.  
*(U.S. Bureau of Indian Affairs, 1998 to 2009)*
- Prefeasibility Analysis of the Valsetz Reservoir for the Siletz Indians, Oregon. *(Entrix, 2008)*
- Evaluate El Vado Reservoir operation model for the storage of their prior and paramount water rights for the Pueblo of Isleta, New Mexico.  
*(Pueblo of Isleta, 2004 to 2006)*
- HYDROSS model documentation report for the Milk River Basin, Montana.  
*(U.S. Bureau of Indian Affairs, 1998 to 1999)*
- Design and cost estimation for Little Bighorn Dam, located on the Crow Indian Reservation, Montana.  
*(U.S. Bureau of Indian Affairs, 1996 to 2000)*
- Fresno Reservoir enlargement, conceptual irrigation development plan, and wildlife habitat, design and cost estimation for the Fort Belknap Indian Reservation, Montana.  
*(U.S. Bureau of Indian Affairs, 1995 to 1998)*
- Inventory of surface water supplies potentially available to the Round Valley Tribe; developed model to determine unregulated and natural flow from gaged data for the upper Eel River basin to evaluate the Potter Valley Project (FERC relicense) transbasin diversion impacts; use the model to evaluate the Potter Valley Projects transbasin diversions and reservoir operation scenarios impact on the fishery; develop fisheries flow regimes.  
*(Round Valley Indian Tribe, 1997 to 1999)*
- RCC dam design and cost estimation for the Shivwits Indian Reservation, Utah.  
*(U.S. Dept. of Justice, 1997)*
- Design and cost estimation for four dams/reservoirs located on the Uintah and Ouray Reservation, Utah.  
*(Northern Ute Indian Tribe, 1994 to 1995)*
- Reservoir operation model for three proposed reservoirs located on the Fort Belknap Indian Reservation, Montana.  
*(U.S. Bureau of Indian Affairs, 1994)*
- Appraisal-level dam and spillway design and cost estimation for three dams located on the Fort Belknap Indian Reservation, Montana. *(U.S. Bureau of Indian Affairs, 1990 to 1991)*

## **Ground Water Resource Studies**

- Groundwater modeling for upper San Luis Rey River basin, California *(Pala Tribe, 2011)*
- Groundwater recharge pond design plans and specifications for Camp Pendleton, California.  
*(United States Marine Corps, 2008 to 2010)*

## **JOE DEMAGGIO, P.E.**

---

*Supervising Agricultural / Civil Engineer*

- Groundwater modeling for Pryor Creek, Crow Indian Reservation, Montana.  
*(White Shield International, 1996 to 2010)*
- Value engineering construction cost evaluation of estimates made by USBR and Bookman-Edmonston for the Madera Ranch Groundwater Banking Project.  
*(U.S. Bureau of Reclamation, 1998)*
- Analysis of benefits and costs of the seepage reduction options available to the San Luis Drainage Unit located in the Central Valley of California. *(U.S. Bureau of Reclamation, 1990)*

### **Environmental Engineering Studies**

- Lake O'Neill dredging design plans and specifications for Camp Pendleton, California.  
*(United States Marine Corps, 2008 to 2010)*
- Evaluation and design of water system facilities for Zuni Heaven Wetlands, Arizona.  
*(Zuni Tribe, 2005 to 2010)*
- Evaluation of Boadle Tract Duck Ponds located near Great Falls, Montana.  
*(Montana Department of Justice 2008 to 2009)*
- Prepare construction plan edits for the N-1 Channel filling for a 160-acre wetland development located in Fremont, California. *(Prologis, 2006 to 2007)*
- Review of hydrology and hydraulics in connection with environmental study of Corte Madera pond located in Corte Madera, California. *(Town of Corte Madera, 2004)*
- Lake O'Neill rehabilitation feasibility study for a 1,500 acre-foot lake located on Camp Pendleton, California. *(United States Marine Corps, 2004)*
- Prepare construction plans and specifications for a 45-acre wetland development located in Fremont, California. *(Wetlands Research Associates, 2002)*
- Santa Margarita River Recharge and Recovery Enhancement Program, Permit 15000 Feasibility Study for Marine Corps Base, Camp Pendleton.  
*(United States Marine Corps, 2000 to 2001)*
- Programmatic Environmental Assessment on Section 504 of Title V, Public Law 102-575 for the Uintah and Ouray Indian Reservation, Utah. *(Northern Ute Tribe, 1999 to 2001)*
- Prepare construction plans for wetlands as part of a mitigation plan for a housing development in Rohnert Park, California. *(Brookfield Homes, 2001)*
- Prepare construction plans and specifications for 160 acres of wetlands including design of a temporary steel bridge for a 100-ton scraper. *(Wetlands Research Associates, 2001)*
- Review and comment on Water Quality Standards submitted by the Shoshone-Paiute Tribes to the EPA. *(Shoshone-Paiute Tribes, 2000)*

## ***JOE DEMAGGIO, P.E.***

---

*Supervising Agricultural / Civil Engineer*

### **Expert Witness Testimony**

- United States v. Alpine Land & Reservoir Company (Civil No.D-184-HDM). Water right transfer hearings for the Newlands Project, Nevada.  
*(Pyramid Lake Paiute Tribe, 2000 to 2008)*
- Testify at the State of California Water Resources Control Board hearings regarding agriculture water use efficiency for 9,000 acres served by the Cachuma Project located near Santa Barbara, California.  
*(Cachuma Conservation District, 2003)*
- State of Washington, Department of Ecology v. Acquavella, et al., ( Civil No. 77-2-01484-5), Superior Court, Yakima County, Washington. Off-Reservation Allotment Number HA-355 Conceptual Irrigation Development Plan and Irrigation Water Requirements, Yakima Indian Nation, Washington.  
*(U.S. Department of Justice, 2001)*
- State of Washington, Department of Ecology v. Acquavella, et al., ( Civil No. 77-2-01484-5), Superior Court, Yakima County, Washington. Irrigation system design and cost for the Yakama Indian Nation, Washington.  
*(U.S. Department of Justice, 1991)*
- Collins v. City of Mill Valley, et. al., (Case No. CV086185), Superior Court, Marin County, California. Hydrology in connection with debris flow at 100 Summit Avenue, Mill Valley, California.  
*(Herb Rowland, Attorney for City of Mill Valley, 2010)*

### **PROFESSIONAL AFFILIATIONS**

- American Society of Agricultural Engineers

1 Cressey H. Nakagawa, 043006  
 LAW OFFICES OF CRESSEY H. NAKAGAWA  
 2 Patrick J. Maloney, 042963  
 Thomas S. Virsik, 188945  
 3 LAW OFFICES OF PATRICK J. MALONEY  
 2425 Webb Avenue, Suite 100  
 4 Alameda, CA 94501-2922  
 Telephone: (510) 521-4575  
 5 Telefax: (510) 521-4623  
 Attorneys for cross-complainants

**FILED**

**NOV 18 2004**

LISA M. GALDOS  
 CLERK OF THE SUPERIOR COURT  
 DEPUTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 COUNTY OF MONTEREY**

8	TANIMURA & ANTLE, INC. and	)	Case No. M 46013
9	CHRIS BUNN, Trustee of the Thomas	)	
10	M. Bunn Living Trust Agreement dated	)	JUDGMENT OF DISMISSAL
	August 22, 1984,	)	PURSUANT TO STIPULATION
11	Plaintiffs,	)	
12	vs.	)	CCP § 664.6
13	MONTEREY COUNTY WATER	)	
14	RESOURCES AGENCY et al.,	)	
15	Defendants.	)	
16	AND RELATED CROSS-ACTION.	)	

17 Cross-complainants Orradre et al. and defendant Monterey County Water Resources  
 18 Agency (Agency or MCWRA) have reached a settlement of the present action. Initial  
 19 party Tanimura & Antle, Inc. has, as part of the settlement, agreed to waive any claim for  
 20 costs and fees and cross-complainants agreed to dismiss this action with prejudice.  
 21 Accordingly, IT IS ORDERED AND ADJUDGED AS FOLLOWS

22 The plaintiffs' cross-action is hereby dismissed with prejudice and final judgment is  
 23 hereby entered accepting said dismissals on the basis of the settlement agreement attached  
 24 hereto.

26 Date: NOV 18 2004, ~~2004~~ ROBERT O'FARRELL

Judge of the Superior Court

## SETTLEMENT AND RELEASE AGREEMENT

This Settlement Agreement is made as of February 26, 2003 by and between Monterey County Water Resources Agency ("Agency"), and the entire group of Salinas Valley landowners listed as plaintiffs in the lawsuits filed against Agency and others ("the Litigation") set forth in Exhibit "A" attached and incorporated by reference ("Orradre Plaintiffs" or "Plaintiffs").

### RECITALS

- A. Agency is a duly organized water resources agency under the Monterey County Water Resources Agency Act, West Water Code App. § 52-1 *et seq.*, with the responsibility for, among other things, managing water resources in the Salinas Valley. Plaintiffs are Salinas Valley landowners whose lands are situated primarily in the southern Salinas Valley, south of Gloria Road.
- B. Plaintiffs have instituted numerous legal actions against Agency, certain of which remain pending, as set forth in Exhibit "A." Plaintiffs have challenged the validity of certain Agency ordinances which have authorized the assessment and collection of fees and charges for the provision and availability of water to lands within the Agency. Plaintiffs have also challenged a settlement agreement between Agency and Tanimura & Antle, Inc. ("TAP") on the basis of its alleged effect on the Agency's administration of Ordinance 3790, which concerns the implementation of the Castroville Seawater Intrusion Project. The parties to this Agreement wish to end the Litigation, to resolve their differences and to cooperate in the manner described in this Agreement in order to best serve their mutual and respective interests in the management and conservation of Salinas Valley water resources, including without limitation the following:

X Agency wishes to obtain the necessary approvals for the Salinas Valley Water Project, and to implement this and other water management initiatives, such as the Castroville Seawater Intrusion Project and the Salinas Valley Reclamation Project, so as to secure equitably and in an environmentally sound manner, in compliance with all applicable laws, ordinances and regulations, the benefits of these and all Agency projects and activities to the greatest number of lands which the Salinas Valley Groundwater Basin can reasonably support;

X Plaintiffs seek to assure that the costs of Agency's activities are distributed fairly to foster the recognition of their water rights claims, and to secure the benefits of the Agency's activities and programs to the maximum possible number of their lands.

In order to settle completely all pending litigation and related claims and causes of action, and to enter into the present Settlement Agreement according to the terms and conditions below, the parties, therefore, in consideration of the mutual promises, covenants and agreements contained herein, hereby agree as follows:

### **AGREEMENT**

1. Conserved Water. With respect to lands owned by Plaintiffs south of Gloria Road, to the extent that Plaintiffs reduce consumptive use of water through Water Conservation implemented before or after execution of the Settlement Agreement, Agency will not sell or otherwise transfer the water conserved by Plaintiffs. "Water Conservation" shall be defined in accordance with California Water Code Section 1011(a). Nothing in this Settlement Agreement will affect Plaintiffs' obligation to obtain



approval from the State Water Resources Control Board in connection with the transfer of conserved water. Plaintiffs will have no right whatsoever, under this Agreement, to dictate Agency's operation of any water project including but not limited to Nacimiento Reservoir, San Antonio Reservoir or the Salinas Valley Water Project. Plaintiffs retain the right, however, under California water law, to seek relief from the State Water Resources Control Board and/or a court of law in connection with any alleged infringement of Plaintiffs' claimed water rights by Agency.

2. Good Faith Effort to Annex Plaintiffs' Additional Lands. In response to a duly presented petition from Plaintiffs, Agency will in good faith conduct proceedings for the annexation to Agency Zone 2C of a portion of the parcels of land identified in Exhibit "B" attached hereto and incorporated herein, in accordance with this paragraph 2. Agency waives all annexation fees for lands proposed for annexation under this Agreement, and any lands approved for annexation shall have an initial land classification that is consistent with Agency's land classification policies. In connection with the annexation proceeding Agency, will comply with all applicable law, will apply state and Agency established criteria in determining the eligibility of lands for annexation, and to the extent consistent with applicable law, Agency will utilize existing data and analyses in connection with the annexation proceeding. The total acreage eligible for annexation shall not exceed 12,000 irrigable acres of the lands identified in Exhibit "B," and Agency will utilize its best efforts to process in good faith the annexation of at least 9,000 irrigable acres of the lands identified in Exhibit "B." The annexations contemplated in this paragraph 2 shall be completed, if at all, within five years of the date of this Agreement, provided that Plaintiffs shall take all necessary

actions in a timely manner so as to enable completion of the annexation process within five years. In the event that annexation of the lands described in Exhibit "B" does not occur, in whole or in part, this Settlement Agreement shall remain in full force and effect.

3. Plaintiffs' Water Rights Claims. Agency acknowledges that Plaintiffs claim riparian, appropriative (including pre-1914 appropriative) and other water rights for lands owned by Plaintiffs in the Salinas Valley, and that Plaintiffs assert that their claimed water rights are superior in priority to appropriative water rights held by Agency. Agency's acknowledgment of Plaintiffs' water right claims as described in the first sentence of this paragraph 3 shall not constitute an acknowledgment or admission by Agency, express or implied, as to the validity of Plaintiffs' water right claims. In the event that Agency becomes a party to any administrative or judicial proceeding or environmental review process in which the existence of water right claims held by Plaintiffs is in issue, Agency will acknowledge Plaintiffs' water right claims as described in this paragraph 3, without acknowledging or admitting the validity of Plaintiffs' claims.

4. Limit on Assessments to Finance CSIP. Agency will not increase the assessments in Zones 2Y or 2Z to finance the implementation of any portion of Ordinance 3790. Agency will limit the contribution of lands south of Gloria Road for funding the operation and maintenance of Castroville Seawater Intrusion Project and the Salinas Valley Reclamation Project to assessments under Ordinances 3635 and 3636.

5. Plaintiffs' Support for SVWP Permitting. Plaintiffs will support the Agency with respect to all applications or petitions filed with the State Water Resources Control Board relating to implementation of the Salinas Valley Water Project. Agency will not object to the inclusion in any permits or licenses issued by the SWRCB of a term

providing that Agency's water rights are subject to prior vested water rights. Agency will not oppose Plaintiffs' use of surface water reservoirs used in connection with Plaintiffs' farming operations.

6. Adoption of Sanitary Seal Regulations. In connection with the adoption of sanitary seal regulations for groundwater well drilling, Agency will in good faith consider the hydrologic and water quality conditions existing within the area south of Gloria Road, including but not limited to the shallower depth from which water is drawn in this area, consistent with Water Well Standards, State of California, DWR Bulletins 74-81 and 74-90.

7. Assessment of Vineyard Lands. For the determination of acreage to be assessed in connection with lands within the Salinas Valley containing vineyards, Agency will rely on the California State Board of Equalization Assessor's handbook Section 521, as interpreted by the Monterey County Assessor.

8. No Opposition to Zone 2C Assessment. Plaintiffs will not oppose the Agency's proposed Zone 2C assessment. Plaintiffs will deliver their unexecuted ballots from the Proposition 218 landowner approval process to Agency upon execution of this Settlement Agreement.

9. Dismissal of Lawsuits; Waiver of Costs and Fees; Court Approval. Plaintiffs will dismiss with prejudice the Litigation listed in Exhibit "A". As a condition of settlement, Castroville Agricultural Water Coalition and Tanimura & Antle, Inc. will execute a written waiver as to all claims to costs or attorneys fees arising from the Litigation. This Settlement Agreement shall be submitted to the Monterey County Superior Court for approval as a condition precedent to the dismissals. Plaintiffs warrant

that no other civil actions are currently pending between Plaintiffs, or any individual members of Plaintiffs, and the Agency. The dismissals contemplated in this paragraph will be executed and filed within 10 days following the Court's approval of this Settlement Agreement.

10. No Modification of Plaintiffs' Claimed Water Rights. This Settlement Agreement will not modify Plaintiffs' claimed water rights.

11. Release. Plaintiffs, on behalf of themselves individually, and for their respective officers, directors employees, shareholders, heirs, executors, administrators, successors, and assigns, hereby release, acquit, and discharge Agency from all claims and causes of action arising out of or in any way connected to the allegations set forth in the complaints and cross-complaint set forth in Exhibit "A," including any known or unknown, foreseen or unforeseen injury or damage arising out of or pertaining to the events, circumstances and conduct alleged in the Litigation. Plaintiffs expressly waive any benefits they may have under Section 1542 of the Civil Code of the State of California which provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

Plaintiffs hereby acknowledge they may hereafter discover facts in addition to or different from those which they now know or believe to be true with respect to the subject matter of this release, but it is their intention to and they do hereby fully, finally, and forever settle any and all claims encompassed by this release, known or unknown,

suspected or unsuspected, claimed or concealed, asserted or unasserted, contingent or noncontingent. Plaintiffs expressly warrant and represent that the effect and import of the provisions of Section 1542 have been fully explained to them by their respective attorneys.

12. Other Documents. The Parties hereby agree to execute such other documents and to take such other action as may reasonably be necessary to implement the terms of this Agreement.

13. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

14. No Admissions. This Agreement is entered in settlement of disputed claims and to avoid the expense and inconvenience of further litigation. Neither this Agreement nor any action taken to carry out this Agreement may be construed or used as an admission of any issue, fact, wrongdoing, liability, or violation of any law, rule, or regulation whatsoever.

15. Not Evidentiary. Evidence of the existence, terms and negotiations of this Agreement shall not be admissible in any litigation as evidence of the respective rights, duties, or obligations of any of the parties hereto; provided, however, that such evidence may be offered in seeking to enforce the terms of this Agreement.

16. Construction. Each party to this Agreement has participated in the drafting of this Agreement. The language of this Agreement, therefore, shall not be construed either in favor of or against any of the Parties hereto.

17. Agreement Binding on Successors. This Agreement shall bind and inure to the benefit of the respective successors, assigns and representatives of each Party to this Agreement.

18. Integration; Amendments. This Agreement contains the entire agreement between the Parties, and all previous statements or understandings, whether express or implied, oral or written, relating to the subject matter of this Agreement are superseded by this Agreement. This Agreement may not be modified or amended except by written agreement signed by the Parties.

19. Captions. The Captions appearing in this Agreement are for convenience of reference only, and shall be disregarded in determining the meaning and effect of the provisions of this Agreement.

20. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

21. Authority to Enter Into Agreement. All Parties represent and warrant that each has the capacity and legal authority to execute the Settlement Agreement on behalf of the entity involved, and to effectuate the purposes of the settlement.

22. Advice of Counsel. The Parties agree that the settlement expressed herein has been arrived at following bargaining and negotiation and represents a final, mutually agreeable settlement agreement, and that signing this Agreement is their own free act. Each Party has carefully read and understood the contents hereof.

23. Severability. In the event any provision of this Agreement shall be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be impaired or affected thereby.

Dated: \_\_\_\_\_ MONTEREY COUNTY WATER RESOURCES AGENCY

By: \_\_\_\_\_

Title: \_\_\_\_\_

Approved as to Form:

By: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: 2-17-03 Orradre Ranch, Michelé Orradre et al

By: Mary Orradre

Title: \_\_\_\_\_  
Mary Orradre

Dated: 5/17/03 Margaret R. Duflock, et al.

By: Margaret R Duflock

Title: \_\_\_\_\_  
Margaret R. Duflock

Dated: 2-17-03 San Bernabe Vineyards, Trivintners

By: Chris Indelicato

Title: OWNER  
Chris Indelicato

Dated: \_\_\_\_\_ California Orchard Company  
Salinas Land Company  
Barbara Barnard Smith  
Barbara Barnard Smith Living Trust  
Helen Margaret Smith Living Trust

By: \_\_\_\_\_

Title: \_\_\_\_\_  
Greg Smith

Dated: \_\_\_\_\_ Scheid Vineyards

By: \_\_\_\_\_

Title: \_\_\_\_\_  
Scott Scheid



Dated: \_\_\_\_\_ San Bernabe Vineyards, Trivintners

By: \_\_\_\_\_

Title: \_\_\_\_\_

Chris Indelicato

Dated: 2/18/03

California Orchard Company  
Salinas Land Company  
Barbara Barnard Smith  
Barbara Barnard Smith Living Trust  
Helen Margaret Smith Living Trust

By: Gregory H. Smith

Title: Secretary / Manager  
Greg Smith

Dated: \_\_\_\_\_ Scheid Vineyards

By: \_\_\_\_\_

Title: \_\_\_\_\_

Scott Scheid

**EXHIBIT A**

**CASES PENDING IN MONTEREY COUNTY SUPERIOR COURT**

- Case No. 115777**      Orradre Ranch, et al. v. Monterey County Water Resources Agency and All Persons Interested in the Validity of the establishment of Fiscal Year 1998-99 assessments for Zones 2, 2A, 2y and 2Z of the Monterey County Water Resources Agency.  
Entry of Judgment 10/23/02 - **Appeal No. H024696 Dismissed - Appeal No. H025282 filed 11/22/02.**
- Case No. M 55891**      Orradre Ranch, et al. v. Monterey County Water Resources Agency and all Persons Interested in the Validity of the Establishment of Fiscal Year 2001-2002 Assessments for Zone 2 and 2A of the Monterey County Water Resources Agency.
- Case No. M 46013**      **Consolidated with M54484.** Tanimura & Antle, Inc. and Chris Bunn, Trustee of the Thomas M. Bunn Living Trust Agreement dated August 22, 1984 v. Monterey County Water Resources Agency and All Persons Interested in the Matter of the Validity of Increases to Zone 2b Assessments and the Board of Supervisors of the Monterey County Water Resources Agency in Resolutions 99-288 and 299-289.
- Case No. 45589**      Orradre Ranch, et al. v. Monterey County Water Resources Agency and All Persons Interested in the Validity of the establishment of Fiscal Year 1999-2000 assessments for Zones 2, 2A, 2Y, and 2Z of the Monterey County Water Resources Agency.

## EXHIBIT B

## SETTLEMENT

DUFLOCK MARGARET ROSENBERG TR E	237031010	467.69
DUFLOCK MARGARET ROSENBERG TR E	237032007	10.8
DUFLOCK MARGARET ROSENBERG TR E	422121041	34
DUFLOCK MARGARET ROSENBERG TR E	422121042	43.1
Orradre Ranch	423081010	47
Margaret Rosenberg Duflock	423081015	57
Michel J & Mary F Orradre	423081016	594.8
Michel J Orradre	423081017	38.36
Orradre Ranch	423081018	640
Orradre Ranch	423081020	254
Orradre Ranch	423081025	320
ORRADRE RANCH	423081044	125.96
Orradre Ranch	423081045	313.2
Orradre Ranch	423081046	640
Orradre Ranch	423081052	176.6
ORRADRE RANCH	423091011	50
ORRADRE RANCH	423091012	47.81
Orradre Ranch	423091013	280
ORRADRE RANCH	423091014	149.33
ORRADRE RANCH	423091015	120
Orradre Ranch	423091016	40
ORRADRE RANCH	423091017	97.21
ORRADRE RANCH	423091046	30.08
Orradre Ranch	423101001	616.9
Orradre Ranch	423101010	397.45
Orradre Ranch	423101011	557.6
Orradre Ranch	423101012	160
Orradre Ranch	423101014	480
Orradre Ranch	423101015	320
Orradre Ranch	423101016	320
Orradre Ranch	423101023	33.46
Orradre Ranch	423101024	46.5
Orradre Ranch	423101025	540
Orradre Ranch	423101026	619.4
Orradre Ranch	423101027	425.6
Orradre Ranch & Five ""O"" Land	423101028	254.4
Orradre Ranch & Five ""O"" Land	423101029	600
Orradre Ranch & Five ""O"" Land	423101030	560
Orradre Ranch	423101032	480
Orradre Ranch	423111001	618.1
Orradre Ranch	423111002	425.6
Orradre Ranch & Five ""O"" Land	423111003	214.4
Orradre Ranch & Five ""O"" Land	423111004	480
Orradre Ranch & Five ""O"" Land	423111005	160
Orradre Ranch & Five ""O"" Land	423111017	638.8
Orradre Ranch & Five ""O"" Land	423111018	640
Orradre Ranch	423111019	618.4
Orradre Ranch	423111021	613.4
Orradre Ranch	423111022	640

## EXHIBIT B

## SETTLEMENT

Orradre Ranch & Five ""O"" Land	423111023	481.75
Orradre Ranch	423121001	118.3
Orradre Ranch	424101028	36.88
Orradre Ranch	424351001	2.75
DUFLOCK MARGARET ROSENBERG TR E	421141005	200
Margaret Rosenberg Duflock	421161033	80
Margaret Rosenberg Duflock	421161036	240
Margaret Rosenberg Duflock	422111002	14
DUFLOCK RANCHES	422111018	400
Margaret Rosenberg Duflock	422121016	40
Margaret Rosenberg Duflock	422121017	40
Margaret Rosenberg Duflock	422121046	40
Margaret Rosenberg Duflock	422121047	160
Margaret Rosenberg Duflock	422121048	640
Margaret Rosenberg Duflock	422141031	160
Margaret Rosenberg Duflock	422141034	75.57
Margaret Rosenberg Duflock	422141035	463.36
Margaret Rosenberg Duflock	423081053	152.5
Edwin A Bergersen	421111011	316
Edwin A Bergersen	422081055	160
Edwin A Bergersen	422081059	160
<b>TOTAL</b>		<b>20018.06</b>