

STATE WATER RESOURCES CONTROL BOARD

In re: Draft Order WR 2009-0079-DWR     )  
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RUDY MUSSI, et al.,                            )  
\_\_\_\_\_                                          )     DECLARATION OF MICHAEL  
                                                          )     ROBINSON  
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                                                          )     APN 131-170-03

I Michael Robinson declare as follows:

1. I am currently, and have been involved in Delta farming for the past 50 years. In that capacity, I am familiar with the current and past practices of irrigation and drainage in the southern Delta.

2. My grandfather I. N. Robinson purchased San Joaquin County Assessor's Parcel No. 131-310-02 (the "Parcel") in 1891. Thereafter, the parcel passed to my father, I. N. Robinson, Jr. The parcel has remained in the family under various names and/or entities and/or trusts until now. The current owner is my daughter Heather Tanaka.

3. I worked with my father in the family farming and related businesses for 42 years until he died, and had numerous discussions with him regarding farming in the area and the various properties owned or controlled by him.

4. The Parcel abuts what was previously a larger parcel owned by the Vasquez family ("Vasquez Parcel"). That neighboring parcel is now two parcels, including APN 131-170-03, which is currently owned by the Mussis.

5. The Parcel and the Vasquez Parcel were created in the same year (1890) pursuant to sales from Stewart, Buntin and King to I. N. Robinson (my grandfather) and Robert Vasquez, respectively.

6. From these various discussions with my father, I understand the following and believe to be true:

a. Both the Parcel and the Vasquez Parcel have been farmed since at or immediately after purchase in 1890.

b. Since around 1900, each parcel has been irrigated as part of the farming practices on the land.

c. Water was originally available to these lands from Duck Slough, which abutted each.

d. Prior to the official creation of the Woods Robinson Vasquez district in 1925 (which currently provides water to these and other parcels), these lands received water from the Woods Irrigation Company (Woods IC"). That company was officially created (documents recorded) in 1911, but delivery of water to various lands now within the company's service area began before 1911.

e. The Parcel and Vasquez Parcel were at the end of the Woods IC irrigation canals. As a result, the delivery of water was unreliable in the sense that it was inconsistent in the amounts of water being delivered and the timing of those deliveries. This meant that these parcel were regularly "flooded" out by too much water being delivered by and through the Woods IC system.

f. To address this problem, my father and others switched the point of diversion and began delivering water to the Parcel and the Vasquez parcel via a dirt, or unlined ditch. Thereafter, my father, Mr. Vasquez, and E.W.S. Woods (and others) decided to create what is now known as the Woods Robinson Vasquez irrigation district to better supply water to their lands. In this process they acquired a strip of land and installed a cement lined ditch to

replace the earlier unlined ditch. I note that E.W.S. Woods was already a member of, and receiving water from Woods IC, yet also joined in forming this new district. I believe this helps confirm and supports my statements about the Parcel and the Vasquez Parcel receiving water from Woods IC.

g. I am informed by counsel that the last map indicating Duck Slough is dated 1911. Based on the above I conclude that irrigation of the Parcel and the Vasquez Parcel occurred each year since before 1911, continuing through the creation of the Woods Robinson Vasquez irrigation district, and to the present, excepting any years when flooding may have interrupted normal farming operations. I also believe it is unreasonable to conclude that a gap of time exists wherein these parcels were without the ability to irrigate or did irrigate. I am certain that neither my grandfather nor father purchased and/or held this land without having the ability to irrigate, and actually irrigating it for increased agriculture production.

h. The purpose for owning these lands was to farm them. From the very beginning, water was available and was used for irrigation purposes. Everyone who could, applied irrigation water for improved production, and to control salt build up in the soils as may have been necessary.

The above is true and correct to the best of my knowledge, and if called to testify I would confirm the same.

Dated: March 26, 2010

  
MICHAEL S. ROBINSON