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Superior Court of California
County of Fresno
By: I. Herrera, Deputy

7 Attorneys for FRESNO SLOUGH WATER DISTRICT

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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF FRESNO, CENTRAL DIVISION

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12 FRESNO SLOUGH WATER DISTRICT, a
California water district
13
Plaintiff,
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v.
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ALL PERSONS INTERESTED IN THE
16 MATTER of the Authorization of the Contract
Between the United States and Fresno Slough
17 Water District Providing for Project Water
Service From Delta Division and Facilities
18 Repayment, Contract No. 14-06-200-4019A-
LTR1-P and the Proceedings Related Thereto,
19
Defendants.
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Case No. [20CECG03314](#)
**FRESNO SLOUGH WATER DISTRICT’S
COMPLAINT FOR VALIDATION**
[Code Civ. Proc. §§ 860 *et seq.*]

[Calendar Preference per Code of Civil
Procedure § 867]

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22 Plaintiff FRESNO SLOUGH WATER DISTRICT (the “District”) alleges as
23 follows:

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Nature of the Action

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1. The District brings this *in rem* validation again against all interested persons pursuant to California Code of Civil Procedure Sections 860 *et seq.* (the “Validation Statutes”), and Water Code Section 35855. The District seeks the Court’s judgment confirming the validity of that certain “Contract Between the United States and Fresno Slough Water District Providing

1 for Project Water Service from Delta Division and Facilities Repayment,” Contract No. 14-06-
2 200-4019A-LTR1, between the United States Department of Interior through the Bureau of
3 Reclamation (“Reclamation”) and the District (the “Conversion Contract”). The Conversion
4 Contract is authorized by Section 4011(a) of the Water Infrastructure Improvements for the Nation
5 Act, Pub.L. 114-322 (2016) (the “WIIN Act”).

6 2. At a duly noticed and public board meeting, the District’s Board of
7 Directors (the “Board”) approved the Conversion Contract and authorized, *inter alia*, its execution
8 and delivery as set forth in Resolution No. 20/21-02 dated October 7, 2020 (the “Resolution”).
9 The Conversion Contract was fully executed by both parties and is effective November 1, 2020.
10 The Resolution and the executed Conversion Contract are attached hereto as Exhibits 1 and 2,
11 respectively, and are incorporated herein by this reference.

12 3. This special *in rem* validation action is brought under the Validation
13 Statutes for prompt judicial examination, approval, and final confirmation of the proceedings
14 leading up to and including the adoption of the Resolution and resulting approval and execution of
15 the Conversion Contract as set forth in the Resolution. Judicial validation will ensure the
16 implementation of the Conversion Contract and continued agricultural water supply to the
17 District’s customers.

18 4. A court’s validation of the District’s actions authorizing the execution of the
19 Conversion Contract is necessary to ensure that the Conversion Contract is binding on the United
20 States pursuant to 43 U.S.C. Section 511, and by the terms of the Conversion Contract itself,
21 which states:

22 Promptly after the execution of this amended Contract, the Contractor [the District]
23 will provide to the Contracting Officer [Reclamation] a certified copy of a final
24 decree of a court of competent jurisdiction in the State of California, confirming
25 the proceedings on the part of the Contractor for the authorization of the execution
26 of this amended Contract. This amended Contract shall not be binding on the
27 United States until the Contractor secures a final decree.

26 (Conversion Contract, § 41.)

27 5. All proceedings by and for the District set forth herein are in the best
28 interests of the District and all interested parties, and are in conformity with the provisions of all

1 the county in which the action is pending, and whenever possible within the District’s boundaries,
2 and in such other counties or by any other means that the Court may direct.

3 14. The District proposes to provide notice of this validation action by
4 publication of the Summons in the *Fresno Business Journal*, which is a newspaper published in
5 general circulation in the County of Fresno.

6 15. The District is informed and believes, and thereon alleges, that the
7 proceedings held herein and the adoption of the Resolution are of general knowledge to the
8 persons affected thereby or interested therein. Because the District does not have an internet
9 website, the District proposes to mail a copy of the Summons to all District landowners as another
10 reasonably practicable manner of providing notice. An ex parte application for publication and
11 mailing of the Summons is filed concurrently with this Complaint. The District requests this
12 Court order accordingly.

13 **Factual Background**

14 16. The United States, through Reclamation, constructed and operates the
15 Central Valley Project (“CVP” or “Project”) for diversion, storage, carriage, distribution, for
16 beneficial use, flood control, irrigation, municipal, domestic, industrial, fish and wildlife
17 mitigation, protection and restoration, power generation and distribution, salinity control,
18 navigation and other beneficial uses, of the waters of the Sacramento River, the American River,
19 the Trinity River, and the San Joaquin River, and their tributaries.

20 17. On or about July 30, 1968, the District and Reclamation entered into
21 Contract No. 14-06-200-4019A (the “1968 Contract”) for delivery of Project water through the
22 Delta-Mendota Canal, a component of the CVP facilities. The 1968 Contract included the
23 delivery of 866 acre feet (AF) of permanent Schedule 2 water (“Rights Water”)¹, and for delivery
24 of 4,000 AF of supplemental water purchased from the United States (“Project Water”) through
25 December 23, 2003, for irrigation purposes.

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¹ Rights water is not contemplated in the Conversion Contract, and remains subject to the terms of the 1968 Contract.

1 18. The District and Reclamation subsequently entered into two interim renewal
2 contracts identified as Contract No(s). 14-06-200-4019A-IR1 and 14-06-200-4019A-IR2 for
3 delivery of Project Water from March 1, 2004, through February 28, 2006 (collectively, the
4 “Interim Contracts”), pursuant to Section 3404(c)(1) of the Central Valley Project Improvement
5 Act (Pub. L. No. 102-575, 106 Stat. 4706, 4709 (1992)).

6 19. After expiration of the Interim Contracts, the District and Reclamation
7 entered into a long-term contract identified as Contract No. 14-06-200-4019A-LTR1 for continued
8 water service (the “Existing Contract”).

9 20. Section 4011(a)(1) of the WIIN Act allows for the conversion and
10 prepayment of current water service contracts executed under Section 9(c)(2) and 9(e) of the 1939
11 Reclamation Project Act (53 Stat. 1187) (the “1939 Act”), at the request of a water contractor,
12 such as the District.

13 21. Pursuant to and consistent with the WIIN Act, the District requested
14 conversion of its Existing Contract, which was executed under Section 9(e) of the 1939 Act, to a
15 repayment contract under Section 9(d) of the 1939 Act. Section 9(d)(2) states that “the part of the
16 construction costs [of the CVP] allocated by the Secretary [of the Interior] to irrigation shall be
17 included in a general repayment obligation of the organization...” The “general repayment
18 obligation shall be spread in annual installments.” (1939 Act, § 9(d)(3).)

19 22. The WIIN Act allows prepayment of the repayment contract obligations in a
20 lump sum or in or an otherwise accelerated prepayment, at the contractor’s election. (WIIN Act, §
21 4011(a)(2)(A).)

22 23. The District and Reclamation engaged in Conversion Contract negotiations
23 for continued water delivery and repayment terms beginning on or about May 29, 2019. On or
24 about July 6, 2020, Reclamation posted the unexecuted negotiated Conversion Contract on its
25 internet website for a public comment period.

26 24. After the public comment period ended on August 31, 2020, Reclamation
27 transmitted the Conversion Contract to the District for the District’s approval on or about October
28 2, 2020.

1 25. On October 5, 2020 the District posted a notice and agenda for its special
2 Board of Directors meeting on the District’s publicly-available bulletin board more than 24 hours
3 prior to the special Board of Directors meeting held on October 7, 2020, consistent with the Ralph
4 M. Brown Act (Gov. Code §§ 54950 *et seq.*) (“Brown Act”) and specifically Government Code
5 section 54956. The Agenda is attached hereto and incorporated herein by reference as Exhibit 3.
6 Consideration of the Conversion Contract was identified as an action item on the Agenda.

7 26. Under California Water District Law, the District has the authority to enter
8 into contracts and cooperate with the United States under the Federal Reclamation Act of June 17,
9 1902 and all subsequent related acts of Congress (collectively, “Reclamation Law”) for “[f]or the
10 storage, regulation, control, development, and distribution of water for the irrigation of land.”
11 (Wat. Code §§ 35851, 35875.) Authority is also granted to the District to enter into contracts with
12 the United States for the operation of irrigation and flood control works, for the delivery of water
13 supply, and to assume indebtedness to the United States. (*Id.* at §§ 35876, subs. (a) – (c).) This
14 authority granted by the California Legislature includes contracting for delivery and distribution of
15 water by federal reclamation projects, such as the CVP. (See *id.* at § 35878 [water districts have
16 the same powers, rights and privileges as irrigation districts under Irrigation District Federal
17 Cooperation law], § 23197 [contracting with the United States for delivery and distribution of
18 water on district lands].) The District and its Board of Directors have the authority to perform all
19 acts necessary to carry out the powers granted to the District and to perform the terms of any
20 federal contract. (*Id.* at §§ 23179; 35877.)

21 27. The WIIN Act and the 1939 Act are both Acts amendatory to federal
22 Reclamation Law.

23 28. At said duly-noticed October 7, 2020 Board meeting, the District’s Board
24 approved the Conversion Contract and authorized a) the District’s Board President to execute and
25 deliver the Conversion Contract as set forth in the Resolution; b) the filing a notice of statutory
26 and categorical exemptions from the California Environmental Quality Act (Pub. Res. Code §§
27 21000 *et seq.*) for approval of and authorization of execution of the Conversion Contract; and c)
28 additional actions in furtherance thereof.

1 and proper notice to all persons interested in the subject matter of this action, and that pursuant to
2 such notice, this Court has jurisdiction over all persons and the subject matter of this action;

3 36. That the Court find that this action is properly brought under Water Code
4 Section 35855 and the Validation Statutes in the Superior Court for the County of Fresno;

5 37. That judgment be entered on the First Cause of Action determining that:

6 (a) The District and its Board have the authority under California Water
7 District Law and Irrigation District Federal Cooperation Law to enter into the Conversion Contract
8 with the United States for water delivery and repayment obligations, and to adopt and approve the
9 Resolution, and each of the findings, determinations, and terms therein;

10 (b) Pursuant to Code of Civil Procedure Section 864, the District's
11 adoption of and authorizations in the Resolution are "in existence" for the purpose of determining
12 their validity in this action;

13 (c) The Conversion Contract and Resolution are proper matters to be
14 validated in this *in rem* validation action brought pursuant to the Validation Statutes;

15 (d) The District's actions related to the Resolution and Conversion
16 Contract were valid and proper under California law, and so validate the Conversion Contract and
17 all of the District's actions related thereto;

18 (e) This action be binding and conclusive as to all matters adjudicated
19 herein and as to all matters which could have been adjudicated herein, against the District and
20 against all other parties to this action;

21 (f) All persons shall be permanently enjoined and restrained from
22 instituting any action or proceeding challenging, *inter alia*, the validity of the Resolution and the
23 Conversion Contract, or any other matters herein adjudicated or which at this time could have
24 been adjudicated against the District or any other persons;

25 38. For costs as appropriate in the court's discretion, pursuant to Code of Civil
26 Procedure Section 868; and

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39. For such other and further relief as the Court may deem just and proper.

DATED: November 10, 2020

Respectfully submitted,

BAKER MANOCK & JENSEN, PC

By: 

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DISTRICT