



Mr. Bryan Withnell

May 7, 1980

Robert R. Keeling

### Possessory Interest in Stampede Reservoir

You ask if a possessory interest exists in Stampede Reservoir where the Truckee-Carson Irrigation District enjoys a contractual right for the storage of 10,000 acre feet of water in that reservoir.

You tell me that the Truckee-Carson Irrigation District is a State of Nevada irrigation district, so the first question you must have is whether that entity is taxable in California.

California Constitution provides that all property is taxable in California unless it is exempted by the California Constitution, or by statute authorized by this Constitution or exempt from taxation by the Federal Constitution or federal statute (California Constitution, Article XIII, Section 1). I am not aware of any provision which would exempt this irrigation district from California property tax, therefore, I conclude any district property located in California is taxable.

The next question is whether the district possesses an interest in Stampede Reservoir which is subject to property taxation.

I understand Stampede Reservoir is United States property. United States property, as you know, is exempt from California taxation, however, a possessory interest enjoyed in that property by the district may be taxable. A possessory interest is taxable when it gives the owner a sufficient degree of exclusive use to elevate the use to a usufructuary right. His right must be more than a right in common with others. His right must afford him an independent use to the exclusion of all others. In this instance the irrigation district has acquired a right to store 10,000 acre feet of water in Stampede Reservoir for some substantial period of time. The agreement with the United States government provides for the release of the water when requested by the district. The district will request release of the water in accord with a contract they

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have entered with the City of Reno. I understand the purpose of the release will be to temporarily dilute effluent from Reno sewage facilities until new facilities are constructed. It appears to me that the district has such control and exclusive use of the reservoir to have acquired a possessory interest therein. The magnitude of the interest nor the duration of the interest is not controlling so long as those elements are substantial. Those elements would only determine the value that may be ascribed to the possessory interest.

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