

TRUCKEE-CARSON IRRIGATION DISTRICT

PRESS RELEASE

FOR IMMEDIATE RELEASE

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The Truckee-Carson Irrigation District (TCID), based in Fallon, Nevada announced today that the Honorable James C. Mahan, Judge of the Federal District Court for the District of Nevada, has approved the dismissal with prejudice of all charges against the Truckee-Carson Irrigation District (TCID), Lyman McConnell, and John Baker in a federal indictment that was issued by the Grand Jury on December 3, 2008. TCID was represented by Michael Van Zandt of Hanson Bridgett. Mr. McConnell was represented by Scott Freeman and Tammy Riggs. Mr. Baker was represented by Vito DeLaCruz of the Federal Public Defenders' Office. The charges stem from allegations that TCID, Mr. McConnell, and Mr. Baker had falsified and conspired to falsify certain reports, and had committed fraud against the United States Bureau of Reclamation (BOR) in submitting certain water delivery records to the BOR. As a condition of the dismissal of the case, TCID, McConnell and Baker agreed not to seek reimbursement of their attorneys' fees and expenses in defending themselves against the charges if the government's position was found to be vexatious, frivolous, or in bad faith. They also agreed not to file any claims against the government or its agents arising from the investigation and prosecution of the case.

David Overvold, TCID's former Project Manager, who was represented by Craig Denney of Downey Brand, retired from his position at TCID, and has agreed to enter into a pretrial diversion program, while continuing to assert his innocence. After the pretrial diversion is completed in 18 months, the United States will also dismiss the indictment with prejudice against Mr. Overvold. Shelby Cecil, the former TCID Water Master, who was represented by Donald Evans, had charges against him dismissed on February 13, 2009, after he passed away.

"TCID has always asserted its innocence regarding these charges," said Ernie Schank, President of the TCID Board of Directors. "In the face of some very significant motions filed by Michael Van Zandt, TCID's defense counsel, based partially on alleged government misconduct during the investigation, and to its credit, the U.S. Attorney's Office in Reno took a look at the case and decided not to go forward with the prosecution of TCID," Schank added. Similar motions were filed by defense counsel on behalf of Mr. McConnell and Mr. Baker that secured dismissals on their behalf.

“There were some significant concerns raised by these motions,” TCID defense counsel Michael Van Zandt said, “that undermined the government’s theory of the charges and demonstrated that the charges in fact were not well-founded. For example, TCID filed a motion that asserted that a political subdivision of a state, such as an irrigation district in the State of Nevada, is not legally capable of committing a crime. This is a long established view based on the fact that a governmental entity is not able to form the specific intent to defraud, only a real live person can do that.” As to the misconduct allegations, Mr. Van Zandt stated that he cannot give specific information, but indicated that it involved the manner in which the case was investigated by the U.S. Department of Interior Office of the Inspector General under the supervision of the U.S. Attorney’s Office in Sacramento.

“If a person who was knowledgeable about the operation of an irrigation district with over 600 miles of canals, laterals and drains and some 70 water meter measuring devices had been involved in the investigation, this case would never have been filed in the first place,” Van Zandt stated. “Running an irrigation district on the scale of the Newlands Project, with over 3000 water right owners, receiving over 13,000 water deliveries in a single year, takes a lot of knowledge and experience to understand what is going on and how the deliveries are measured and reported,” Mr. Schank said. “You just can’t pick up a chart or report and understand everything that was involved with that water delivery without having the necessary background, and without investigating all of the circumstances behind a water delivery,” Schank added.

Kate Rutan, the Interim Project Manager for TCID had this to say: “I witnessed an honest man give up his dreams to build something worthwhile because of this indictment. I witnessed a kind, gentle, very ill man die with the accusation that he had committed a federal crime punishable by 20 years in jail hanging over his head. I witnessed an organization of honest hardworking people brought to their knees financially because of this indictment.”

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