

# EXHIBIT 5

TO

MEMORANDUM IN SUPPORT OF MOTION IN LIMINE TO ESTABLISH THE UNITED STATES' LEGAL ENTITLEMENT TO A FEDERAL RESERVED WATER RIGHT AND TO LIMIT THE SCOPE OF EVIDENCE NECESSARY AT TRIAL

Civil No. 05-cv-49053

THIS DEED made March 23, 1936 by SOUTHERN PACIFIC LAND COMPANY, a corporation of the State of California, first party, unto UNITED STATES OF AMERICA, second party,

WITNESSETH: That first party, for and in consideration of One hundred thirty-three thousand six hundred ninety-four and 06/100 (133,694.06) dollars, receipt whereof is acknowledged, hereby grants and conveys unto second party, and assigns, the following described land situated in the Counties of Kern, San Bernardino and Los Angeles, State of California, to wit:

All of sections five (5), seventeen (17) and twenty-nine (29) township nine (9) north, range six (6) west; also

South half of south half (S 1/2 of S 1/2) of section five (5) and all of sections seventeen (17) and twenty-nine (29) township ten (10) north, range six (6) west; also

All of sections one (1), five (5), seven (7), nine (9), thirteen (13) seventeen (17), nineteen (19), twenty-one (21), twenty-five (25) twenty-nine (29) and thirty-three (33) township nine (9) north, range seven (7) west; also

All of sections seven (7) and nine (9) east half (E 1/2) of section eleven (11), All of sections thirteen (13) fifteen (15), seventeen (17), nineteen (19), twenty-one (21) twenty-five (25), twenty-seven (27) twenty-nine (29) thirty-one (31) and thirty-three (33) township ten (10) north, range seven (7) west ; Also

All of sections one (1), three (3), five (5), seven (7), nine (9), eleven (11), thirteen (13), fifteen (15), seventeen (17), nineteen (19), twenty-one (21), twenty-three (23), twenty-five (25) twenty-seven (27), twenty-nine (29), thirty-one (31), thirty-three (33) and thirty-five (35) township nine (9) north, range eight (8) west ; also

Northeast quarter (NE 1/4) of section seven (7), south half of southeast quarter (S 1/2 of SE 1/4) of section nine (9), All of sections eleven (11), thirteen (13) and fifteen (15), northeast quarter (NE 1/4), south half of northwest quarter (S 1/2 of NW 1/4) and south half (S 1/2) of section seventeen (17), All of sections nineteen (19), twenty-one (21), twenty-five (25), twenty-nine (29) and thirty-one (31), north half (N 1/2) of section thirty-three (33) and All of section thirty-five (35), township ten (10) north, range eight (8) west; Also

West half of east half (W 1/2 of E 1/2), west half of west half (W 1/2 of W 1/2) of section three (3) and All of section five (5) township eight (8) north, range nine (9) west ; Also

All of sections one (1), three (3) and five (5), north half of northeast quarter (N 1/2 of NE 1/4), south half of northwest quarter (S 1/2 of NW 1/4) and southeast quarter (SE 1/4) of section seven (7), All of sections nine (9), eleven (11) and thirteen (13), north half (N 1/2) and southwest quarter (SW 1/4) of section fifteen (15), All of sections seventeen (17) nineteen (19) and twenty-one (21), north half of north half (N 1/2 of N 1/2) and south half of south half (S 1/2 of S 1/2) of section twenty-three (23), north half of north half (N 1/2 of N 1/2) and south half of south half (S 1/2 of S 1/2) of section twenty-five (25) and All of sections twenty-seven (27), twenty-nine (29), thirty-one (31), thirty-three (33) and thirty-five (35), township nine (9) north, range nine (9) west ; Also

All of sections one (1), three (3), five (5), seven (7), nine (9) and eleven (11), north half of northeast quarter (N 1/2 of NE 1/4) and northwest quarter (NW 1/4) of section thirteen (13), All of sections seventeen (17) and nineteen (19), north half (N 1/2) and north half of southwest quarter (N 1/2 of SW 1/4) of section twenty-one (21), All of section twenty-five (25), All, except right of way Two hundred (200) feet wide conveyed to The California, Arizona & Santa Fe Railway Company by Deeds dated December 27, 1911 and May 29, 1913 of section twenty-nine (29) and all of sections thirty-three (33) and thirty-five (35) township ten (10)

North, range nine (9) west ; also

All of section one (1), township eight (8) north, range ten (10) west ; also

Southwest quarter (SW 1/4) of section thirteen (13), north half (N 1/2), north half of southwest quarter (N 1/2 of SW 1/4), southeast quarter of southwest quarter (SE 1/4 of SW 1/4) and southeast quarter (SE 1/4) of section twenty-three (23), All of section twenty-five (25) and east half (E 1/2) of section thirty-five (35), township nine (9) north, range ten (10) west; also

North half (N 1/2) of section thirteen (13), north half (N 1/2), except right of way Two hundred (200) feet wide conveyed to The California, Arizona & Santa Fe Railway Company by Deeds dated December 27, 1911 and May 29, 1913, of section thirty-five (35), township ten (10) north, range ten (10) west; San Bernardino Base and Meridian, containing fifty-nine thousand, four hundred nineteen and 58/100 (59,419.58) acres, more or less; also all the reversionary rights within or upon said premises reserved to first party in Deeds Nos. 103-R and 4019-R, hereinafter mentioned, together with all rights, privileges and appurtenances thereunto belonging or in any wise appertaining.

Subject to right of way Seventy-five (75) feet in width for electric power transmission line over south half of south half (S 1/2 of S 1/2) of section five (5) and All of sections seventeen (17) and twenty-nine (29) township ten (10) north, range six (6) west, San Bernardino Base and Meridian, conveyed to The Southern Sierras Power Co. by deed No. 103-R, dated June 21, 1912; also subject to right of way for road over east thirty (30) feet of section five (5), township eight (8) north, range nine (9) west, San Bernardino Base and Meridian, conveyed to County of Los Angeles by Deed No. 4019-R, dated July 7, 1936; and also subject to any and all existing and lawfully established County Roads.

IN WITNESS WHEREOF, first party has caused its name to be hereunto subscribed by its Vice President first duly authorized and its corporate seal to be hereunto affixed and attested by its Assistant Secretary, on the date herein first written.

(Corporate Seal) SOUTHERN PACIFIC LAND COMPANY  
By D.V.COWDEN  
Vice President  
Attest D.P. EWING  
Assistant Secretary

Countersigned:  
J.J.HENDERSON  
For Land Commissioner  
Countersigned:  
H.M.Strohlein  
For General Auditor  
H.W.L.  
Form Approved:  
P.V.D. A.E.STEWART  
Contract Attorney

Sale No. 7745-R Date March 7, 1935 Appraisal No. 871.

STATE OF CALIFORNIA )  
CITY AND COUNTY OF SAN FRANCISCO ) ss

On this 28 day of March in the year one thousand nine hundred and thirty-eight, before me, Frank Harvey, a Notary Public in and for the City and County of San Francisco, State of California, personally appeared D.V.Cowden, known to me to be the Vice President and D.P.Ewing, known to me to be the Assistant Secretary of the corporation described in and that executed the within instrument, and also known to me to be the person who executed it on behalf of the corporation therein named, and he acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in the City and County of San Francisco, the day and year in this certificate first above written.

(Notarial Seal)

FRANK HARVEY  
Notary Public in and for the City  
and County of San Francisco, State  
of California.

My commission expires June 20, 1939.

#14 COPY of original recorded at request of Title Ins. & Tr. Co., Aug.27, 1938,  
8:30 A.M. Copyist #2, Compared R.L.HAZEN, County Recorder; by R.CRAMEER (93) Deputy.  
\$2.10-17.T.

STATE OF CALIFORNIA }  
COUNTY OF LOS ANGELES } ss

I hereby certify the foregoing to be a full, true and correct copy of the instrument appearing recorded in Book No. 16015 of Official Records page 145 Records of Los Angeles County, and that I have carefully compared the same with the original record.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 27 day of August 1938.

(SEAL) R.L.HAZEN, County Recorder  
By M.Haines (92) Deputy

Recorded at request of Title Insurance & Trust Co., Aug.27, 1938 at 12 M. in Book \$26 of Official Records page 1 Kern County Records.

Chas.H.Shomate, Recorder  
By Frances Ahmann, Deputy Recorder

20320 Compared by: *H. Hubert*

Checked by: *A. Gyles*

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STANDARD ACCIDENT INSURANCE CO.  
DETROIT, MICH.

KNOW ALL MEN BY THESE PRESENTS:

THAT We, VIRGINIA JAMESON, as Principal, and STANDARD ACCIDENT INSURANCE CO. a corporation duly organized and existing under the laws of the State of Michigan and duly authorized and licensed by the laws of the State of California to do a general surety business in the State of California, as surety, are held and firmly bound unto the State of California, in the sum of One Thousand and no/100 (\$1,000.00) dollars, lawful money of the United States of America, to be paid to the said State of California, or its assigns, for which payment well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns jointly and severally, firmly by these presents.

The condition of the above obligation is such, that whereas, the above bounden VIRGINIA JAMESON was, on the 1st day of September A.D. 1938 duly appointed Deputy Probation Officer in and for the County of Kern, State of California.

Now, if the said VIRGINIA JAMESON shall well, truly and faithfully perform all official duties required of her by law, and all such additional duties as may be hereafter imposed on her as such officer by any law of the State of California, then the above obligation to be void, otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the seal and signature of said principal is hereto affixed and the corporate name of the said surety is hereto affixed and attested by its duly authorized officers at Bakersfield, California, this 1st day of Sept. A.D. 1938.

Virginia Jameson (Seal)

(SEAL) STANDARD ACCIDENT INSURANCE CO.  
By A.W.Kincaid, Its Attorney in Fact.  
Attest - Agent

STATE OF CALIFORNIA }  
COUNTY OF KERN } ss

On this 1st day of September in the year one thousand nine hundred and thirty eight before me, W.A.Williams, a Notary Public in and for the said County of Kern, residing therein, duly commissioned and sworn, personally appeared A.W.Kincaid known to me to be the Attorney in fact of the Standard Accident Insurance Co., the corporation that executed the within instrument, and known to me to be the person who executed the said instrument on behalf of the corporation therein named and acknowledged to me that