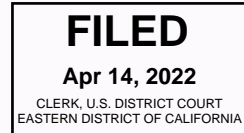


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8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,
11 Plaintiff,
12 v.
13 DENNIS FALASCHI,
14 Defendant.
15

CASE NO. 1:22-cr-00103 JLT-SKO
18 U.S.C. § 371 – Conspiracy (One Count); 18
U.S.C. § 641 – Theft of Government Property (One
Count); 26 U.S.C. § 7206(1) – Filing a False Tax
Return (Three Counts); 18 U.S.C. § 981(a)(1)(C), 26
U.S.C. § 7301, and 28 U.S.C. § 2461(c) – Criminal
Forfeiture

16
17 INDICTMENT

18 COUNT ONE: [18 U.S.C. § 371 – Conspiracy]

19 The Grand Jury charges:

20 DENNIS FALASCHI,
21 defendant herein, as follows:

22 I. INTRODUCTION

23 1. At all relevant times, the defendant, DENNIS FALASCHI, resided and worked in and
24 around Fresno and Merced Counties, in the State and Eastern District of California, as the General
25 Manager for PUBLIC WATER DISTRICT 1 (“PWD”).

26 2. PWD was located in portions of both Fresno and Merced Counties near the communities
27 of Dos Palos, Firebaugh, and Los Banos, in the State and Eastern District of California. It was a state
28 special district established to provide water to over 38,000 acres of farmland. Special districts are local

1 government entities formed to carry out single functions within certain areas such as delivering water to
2 farmers in the area served by PWD. As PWD's General Manager, defendant FALASCHI oversaw and
3 managed PWD's operations at all times relevant to this indictment.

4 3. The Bureau of Reclamation was an agency of the United States Department of Interior
5 responsible for managing the distribution of water and power in the western part of the United States,
6 including the State and Eastern District of California.

7 **II. BACKGROUND ON PWD AND THE DELTA-MENDOTA CANAL**

8 4. PWD obtained water in various ways, including by purchasing water from the federal
9 government and recycling or reclaiming runoff drainage water from farms.

10 5. The federal water that PWD purchased came from the Bureau of Reclamation's Central
11 Valley Project. The Central Valley Project takes water from various sources and pumps that water south
12 for delivery through the Delta-Mendota Canal ("DMC") to PWD and other water districts.

13 6. The DMC is a federally-managed canal that is operated by the Bureau of Reclamation
14 and holds federally-owned water. The canal was built in the 1950s and is approximately 117 miles long.
15 It runs through Alameda, San Joaquin, Stanislaus, Merced, and Fresno Counties, in the State and
16 Northern and Eastern Districts of California. Nearly 2,000,000 acre feet of water passes through it each
17 year. An acre foot is the amount of water that is needed to cover one acre of land to a depth of one foot
18 and it is the standard unit of measurement for the water industry.

19 7. The federal water that PWD purchased was usually delivered from the DMC to PWD
20 through metered sites that counted the number of acre feet. PWD paid the Bureau of Reclamation a set
21 price for each acre foot that it received based on its contracts with the agency.

22 8. After receiving the federal water, PWD generally combined that water with its other
23 water sources and moved the water around the district through a series of smaller canals, pipelines,
24 pump stations, and other facilities that it operated. PWD then either sold the water to its customers at a
25 markup or pumped excess water back into the DMC for federal water credits that it could use at a later
26 date. PWD generally did not store water because it had minimal capacity to do so.

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1 **II. THE CONSPIRACY**

2 9. Beginning on a date unknown to the Grand Jury, but not later than in or around 1992, and
3 continuing until on or about April 30, 2015, in the State and Eastern District of California, and
4 elsewhere, defendant FALASCHI and others known and unknown to the Grand Jury, including PWD
5 EMPLOYEES 1 through 8, did knowingly and intentionally conspire with each other to commit theft of
6 government property in violation of Title 18, United States Code, Section 641.

7 **III. THE OBJECT OF THE CONSPIRACY**

8 10. The object of the conspiracy was to: steal, purloin, and convert to their own and PWD's
9 use federal water from the DMC that belonged to the Bureau of Reclamation so as to increase the overall
10 amount of water that PWD had available to sell to its customers and to pump back into the DMC for
11 credits; receive, conceal, and retain that water with the intent to convert it to their own and PWD's use
12 and gain knowing it to have been stolen, purloined, and converted; and sell, convey, and dispose of
13 that water.

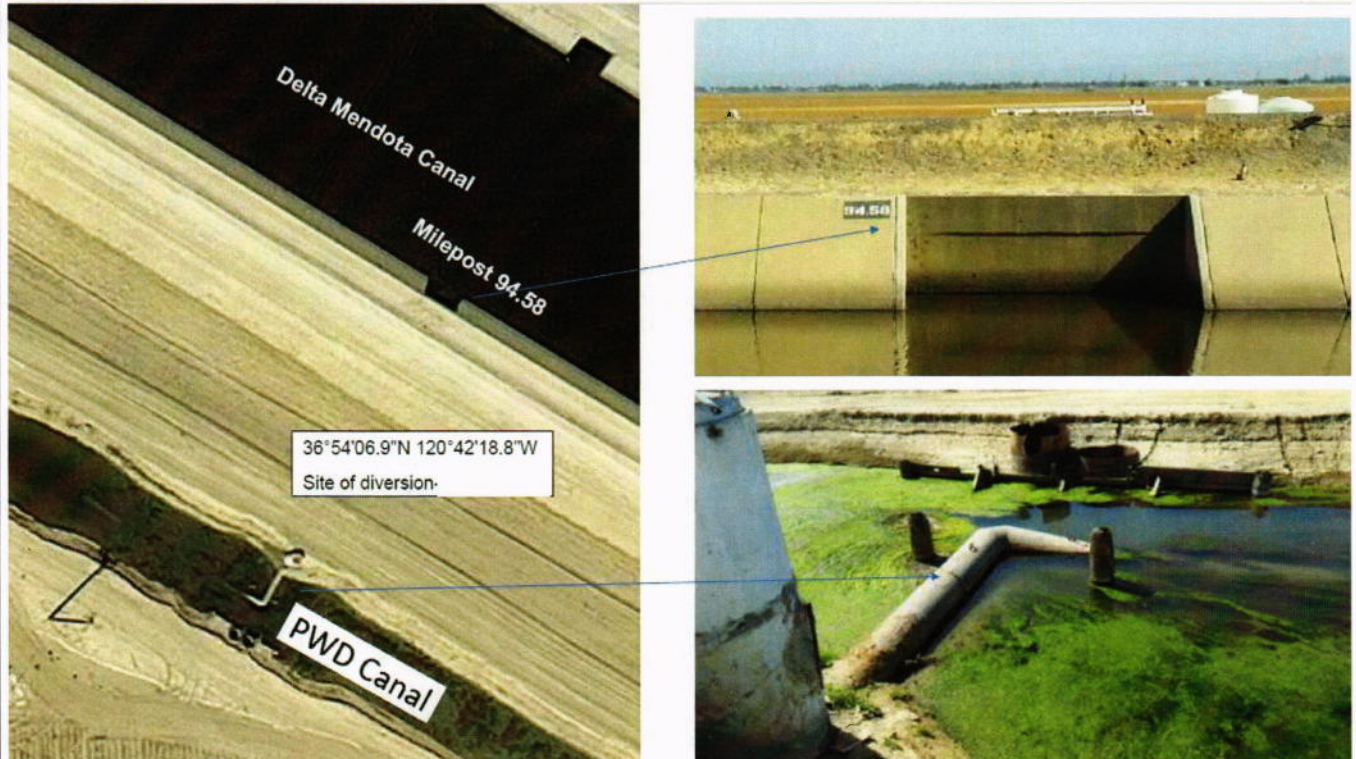
14 **IV. MANNER AND MEANS OF THE CONSPIRACY**

15 11. In furtherance of the conspiracy, defendant FALASCHI and his co-conspirators
16 employed the following manner and means, among others:

17 12. In or around 1992, defendant FALASCHI was informed by EMPLOYEE 1 that an old
18 drain turnout near milepost markers 94.57 and 94.58 on the DMC, in the State and Eastern District of
19 California, was leaking water from the DMC into a parallel canal that PWD controlled. Specifically, the
20 drain was connected to a standpipe on the bank of the DMC. Standpipes are structures that use gates
21 and valves to redirect water from one source to another source. The gate inside the standpipe that
22 controlled the water flow between the DMC and PWD's canal had been cemented closed years earlier
23 when the drain was abandoned. The cement had cracked and water was coming through it. The site was
24 referred to as a "Lift" and was named after INDIVIDUAL 1 because it was adjacent to a farm owned by
25 INDIVIDUAL 1's family.

26 13. In or around 1992, defendant FALASCHI instructed EMPLOYEE 2 to install a new gate
27 inside the standpipe so that the Lift could be opened and closed on demand. He later instructed
28 EMPLOYEE 2 to install a lid with a lock on top of the standpipe and an approximate two-foot elbow

1 pipe off the valve of the standpipe that angled down 90 degrees into PWD's canal. The lid concealed
2 the theft because it prevented people from seeing that the gate inside the standpipe was functional. The
3 elbow pipe further concealed and expedited the theft because it enclosed the water flow from the DMC
4 into PWD's canal and was installed in such a way that it was generally submerged under the water. The
5 following pictures show the drain turnout on the DMC, the lid on the standpipe, and the elbow pipe that
6 angled down into PWD's canal (visible because of low water conditions caused by drought):



19 14. Thereafter, from in or around 1992, and continuing until on or about April 30, 2015,
20 when the Lift was discovered by authorities, defendant FALASCHI repeatedly instructed his employees,
21 including EMPLOYEES 1 through 7, to use the Lift to steal water from the DMC. At times, he
22 instructed the employees to commit the theft after normal business hours to avoid detection. The stolen
23 water was unmetered and travelled down PWD's canal to a pump station where it was lifted into the
24 district's broader canal system. It was then combined with PWD's other water sources and either sold to
25 customers or pumped back into the DMC for credits.

26 15. Defendant FALASCHI also instructed his employees, including EMPLOYEES 1, 3, and
27 8, to: include the stolen water volume in daily reports of deliveries to PWD's customers that they
28 submitted to the district's accounting department so that the district could bill the customers and be paid

1 for the water; and to further misclassify the water as reclaimed runoff drainage water from farms in
2 monthly reports presented to PWD's Board of Directors to account for the district's water supply.

3 16. In furtherance of the conspiracy, defendant FALASCHI and his co-conspirators caused
4 over 130,000 acre feet of federal water to be stolen from the DMC through the Lift. The total value of
5 that stolen water exceeded \$25,000,000.

6 17. Defendant FALASCHI used the proceeds from the theft for his own benefit and the
7 benefit of his co-conspirators, none of whom were entitled to such proceeds. In furtherance of the
8 conspiracy, defendant FALASCHI used the proceeds from the theft to pay himself and other co-
9 conspirators exorbitant salaries, fringe benefits, and personal expense reimbursements, including for the
10 purpose of incentivizing the co-conspirators to participate in and continue with the conspiracy.

11 **V. OVERT ACTS IN FURTHERANCE OF THE CONSPIRACY**

12 18. In furtherance of the conspiracy, and to accomplish its object, defendant FALASCHI and
13 his co-conspirators committed the following overt acts, among others:

14 19. In or around March 2015, defendant FALASCHI directed EMPLOYEE 3 to have
15 EMPLOYEE 2 use the Lift to steal water from the DMC.

16 20. In or around March 2015, at defendant FALASCHI's direction, EMPLOYEE 3 asked
17 EMPLOYEE 2 to use the Lift to steal water from the DMC.

18 21. In or around March 2015, EMPLOYEE 2 used the Lift to steal water from the DMC by
19 opening the gate inside the standpipe and allowing water to flow from the DMC into PWD's canal.

20 22. In or around March 2015, at defendant FALASCHI's direction, EMPLOYEE 3 delivered
21 stolen water from the DMC to customers and recorded the volume of that water in daily reports of
22 deliveries that he submitted to PWD's accounting department.

23 23. In or around March 2015, at defendant FALASCHI's direction, EMPLOYEE 8
24 misclassified stolen water from the DMC as recycled or reclaimed runoff drainage water from farms in a
25 monthly report that was submitted to PWD's Board of Directors.

26 24. In or around March 2015, defendant FALASCHI caused PWD to make a monthly
27 payment of approximately \$300 plus the cost of health benefits to EMPLOYEE 1, who had retired, so
28 that EMPLOYEE 1 would continue with the conspiracy.

1 the intention of depriving the Bureau of Reclamation of the use and benefit of that property.

2 All in violation of Title 18, United States Code, Section 641.

3 COUNT THREE: [26 U.S.C. § 7206(1) – Filing a False Tax Return]

4 The Grand Jury further charges:

5 DENNIS FALASCHI,

6 defendant herein, as follows:

7 33. Paragraphs 1 and 2 are incorporated by reference as though fully set forth herein.

8 34. At all relevant times, the Internal Revenue Service (“IRS”) was an agency of the United
9 States Department of Treasury responsible for administering the tax laws of the United States.

10 35. The San Joaquin River Improvement Project (“SJRIP”) was a joint federal and state
11 funded program to reduce the amount of salt-contaminated drainage water from farms that was
12 discharged into the San Joaquin River, in the State and Eastern District of California. It did so by
13 paying for salt-tolerant crops to be grown on the farms. These crops were intended to filter the salt out
14 of the drainage water before it went into the San Joaquin River. The crops were then sold and the
15 proceeds were re-invested into the project minus various project-related fees. The SJRIP was managed
16 by PWD on farmland owned by PWD.

17 36. From in or around 2011, and continuing until in or around 2016, defendant FALASCHI
18 received, as income, payments from INDIVIDUAL 2, who was a PWD contractor that provided farming
19 services for the SJRIP.

20 37. Defendant FALASCHI also obtained income from private water sales involving INDIVIDUALS
21 2 and 3. INDIVIDUAL 3 was the general manager of another public water district in California. In an
22 attempt to conceal and forestall the discovery of defendant FALASCHI’s involvement in such private
23 water sales, defendant FALASCHI caused INDIVIDUAL 2 to act publicly as the purported seller in the
24 private water sales. From in or around 2013, and continuing until in or around 2016, defendant
25 FALASCHI and INDIVIDUALS 2 and 3 sold approximately \$1,985,300 of water in such private water
26 sales and split the proceeds with each other.

27 38. On or about April 14, 2015, in Merced County, in the State and Eastern District of
28 California, defendant FALASCHI did willfully make and subscribe a false IRS Form 1040, Individual

1 Income Tax Return, for the tax year 2014 that was verified by a written declaration made under the
2 penalties of perjury and that he did not believe to be true and correct as to every material matter. The
3 tax return was filed with the IRS. In that tax return, defendant FALASCHI did not report as income
4 \$330,802 that he received as income in 2014 from his deals with INDIVIDUALS 2 and 3. He falsely
5 reported his gross income was only \$220,575, whereas in truth and in fact, it was well in excess of
6 that amount.

7 All in violation of Title 26, United States Code, Section 7206(1).

8 COUNT FOUR: [26 U.S.C. § 7206(1) – Filing a False Tax Return]

9 The Grand Jury further charges:

10 DENNIS FALASCHI,

11 defendant herein, as follows:

12 39. Paragraphs 1 and 2 and 34 through 37 are incorporated by reference as though fully set
13 forth herein.

14 40. On or about March 15, 2016, in Merced County, in the State and Eastern District of
15 California, defendant FALASCHI did willfully make and subscribe a false IRS Form 1040, Individual
16 Income Tax Return, for the tax year 2015 that was verified by a written declaration made under the
17 penalties of perjury and that he did not believe to be true and correct as to every material matter. The
18 tax return was filed with the IRS. In that tax return, defendant FALASCHI did not report as income
19 \$403,770 that he received as income in 2015 from his deals with INDIVIDUALS 2 and 3. He falsely
20 reported his gross income was only \$201,741, whereas in truth and in fact, he knew that it was well in
21 excess of that amount.

22 All in violation of Title 26, United States Code, Section 7206(1).

23 COUNT FIVE: [26 U.S.C. § 7206(1) – Filing a False Tax Return]

24 The Grand Jury further charges:

25 DENNIS FALASCHI,

26 defendant herein, as follows:

27 41. Paragraphs 1 and 2 and 34 through 37 are incorporated by reference as though fully set
28 forth herein.

1 42. On or about April 17, 2017, in Merced County, in the State and Eastern District of
2 California, defendant FALASCHI did willfully make and subscribe a false IRS Form 1040, Individual
3 Income Tax Return, for the tax year 2016 that was verified by a written declaration made under the
4 penalties of perjury and that he did not believe to be true and correct as to every material matter. The
5 tax return was filed with the IRS. In that tax return, defendant FALASCHI did not report as income
6 \$153,280 that he received as income in 2016 from his deals with INDIVIDUALS 2 and 3. He falsely
7 reported his gross income was only \$745,736, whereas in truth and in fact, he knew that it was well in
8 excess of that amount.

9 All in violation of Title 26, United States Code, Section 7206(1).

10 FORFEITURE ALLEGATION: [18 U.S.C. § 981(a)(1)(C), 26 U.S.C. § 7301, and 28 U.S.C. §
11 2461(c)]

12
13 1. Upon conviction of one or more of the offenses alleged in Counts One and Two of this
14 Indictment, defendant FALASCHI shall forfeit to the United States, pursuant to 18 U.S.C. §
15 981(a)(1)(C) and 28 U.S.C. § 2461(c), all property, real and personal, which constitutes or is derived
16 from proceeds traceable to such violations, including but not limited to: A sum of money equal to the
17 amount of proceeds traceable to such offenses, for which defendant is convicted.

18 2. Upon conviction of one or more of the offenses alleged in Counts Three through Five
19 of this Indictment, defendant FALASCHI shall forfeit to the United States, pursuant to 26 U.S.C. §
20 7301 and 28 U.S.C. § 2461(c), any property on which any tax is imposed for the purpose of being sold
21 or removed by defendant in fraud of the internal revenue laws, or with design to avoid payment of
22 such tax, or which is removed, deposited, or concealed, with intent to defraud the United States of
23 such tax or any part thereof.

24 3. If any property subject to forfeiture, as a result of offenses alleged in Counts One
25 through Five of this Indictment, for which defendant is convicted:

- 26 a. cannot be located upon the exercise of due diligence;
- 27 b. has been transferred or sold to, or deposited with, a third party;
- 28 c. has been placed beyond the jurisdiction of the court;

1 d. has been substantially diminished in value; or

2 e. has been commingled with other property which cannot be divided without difficulty;

3 it is the intent of the United States, pursuant to 28 U.S.C. § 2461(c), incorporating 21 U.S.C. § 853(p), to
4 seek forfeiture of any other property of defendant, up to the value of the property subject to forfeiture.

5
6 A TRUE BILL.

7
8 **/s/ Signature on file w/AUSA**

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FOREPERSON

12 PHILLIP A. TALBERT
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18 Chief, Fresno Office