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January 9, 2015

VIA EMAIL:

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Frances Spivy-Weber
STATE WATER RESOURCES CONTROL
BOARD

Steven Moore
STATE WATER RESOURCES CONTROL
BOARD

Re: *Woods Supplemental Hearing*
Our File No. 3535.051

Dear Vice-Chair Spivy-Weber and Board Member Moore:

This Firm represents the San Luis & Delta-Mendota Water Authority and Westlands Water District in this matter. This letter accompanies a joint brief submitted by those parties, together with the Modesto Irrigation District, and State Water Contractors (collectively, the "Water Agencies"), for the January 15, 2015, Pre-Hearing Conference for the Supplemental Public Hearing regarding Cease and Desist Order ("CDO") No. 2011-0005 against Woods Irrigation Company ("Woods").

As the State Water Resources Control Board ("State Water Board") is well aware, essential to effective water use management and enforcement are determinations of whether diversions are occurring (1) pursuant to valid water rights and (2) consistent with their terms. The dire water shortages in recent years, particularly 2014, have underscored the need for this certainty. With these concerns in mind, as discussed more fully in their joint brief, the Water Agencies seek to discuss and confirm the following at the upcoming Pre-Hearing Conference:

- The scope and procedures of the Supplemental Public Hearing will enable the State Water Board to make determinations about the alleged water rights Woods relies upon to make its diversions, and that the State Water Board in fact makes definitive determinations about those alleged water rights, which Order No. 2011-0005 neglects to do. We understand such determinations will be made in this proceeding, based on statements made by the State Water Board, and the Deputy Attorney General representing it, in connection with a pending lawsuit involving the Water Agencies and Woods.
- The State Water Board will receive and consider all relevant, admissible evidence in making definitive determinations about the alleged water rights, which evidence may go beyond the "supplemental information" the State Water Board has asked Woods' landowners to provide.

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- The State Water Board will ensure that all parties to the proceeding—"new" and "current," the latter which includes the Water Agencies—have an opportunity to fully participate in the Supplemental Public Hearing, including offering evidence and testimony that is relevant to the investigation and determination of Woods' and/or Woods' landowners' alleged water rights, as well as submitting briefs relevant to the legal issues implicated by the proceeding, and responding to briefs filed by others.

The Water Agencies fully appreciate and support your desire to ensure an orderly and expeditious Supplemental Public Hearing. The Water Agencies will thus recommend at the pre-hearing conference that you allow the parties to meet and confer, and then prepare and submit to you in approximately two months a schedule setting forth deadlines for submitting pre-hearing briefs, closing briefs, submissions of stipulations as to evidence and/or legal issues, and other such matters that will facilitate the Supplemental Public Hearing process.

As stated above, these issues are discussed more fully in the Water Agencies' joint brief. However, the Water Agencies look forward to discussing these issues and answering any questions you may have about them at the upcoming Pre-Hearing Conference.

Thank you for your time and attention to this matter.

Very truly yours,
DIEPENBROCK ELKIN LLP



Eileen M. Diepenbrock

EMD/mj

cc: Ernie.Mona@waterboards.ca.gov;
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See attached service list

SERVICE LIST

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