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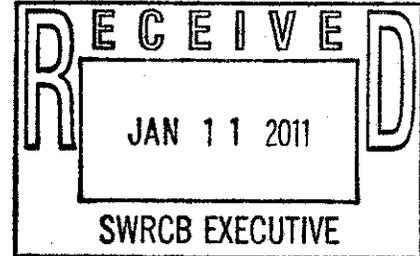
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January 11, 2011

Via Email to Jeanine Townsend

At: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov), at 10:17 a.m.

MS. JEANINE TOWNSEND  
Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24<sup>th</sup> Floor  
Sacramento, CA 95814



Re: **Comment Letter – 01/18.11 Board Workshop: Woods CDO**  
*In the Matter of Draft Cease and Desist Order Against*  
*Unauthorized Diversions by Woods Irrigation Company ("CDO")*

Dear State Water Resources Control Board:

It appears that the State Water Resources Control Board ("SWRCB") did not consider at all or analyze in any way California Civil Code section 1113 as applied to the facts, or as applied to its discussion, in the CDO. This omission by the SWRCB from its consideration and analysis makes the CDO both flawed and incomplete.

Throughout the CDO, and more specifically (without limitation) as set forth in Section 4 of the CDO, the SWRCB opines with respect to ascertaining the intent of the parties to transfers of land with respect to both riparian and pre-1914 water rights. In its evaluation of the evidence in this case, as well as in its discussion of determining the intent of parties to a transfer in general, the SWRCB makes frequent reference to the presence, or absence, of language in various grant deeds.

Enacted in 1872, Civil Code section 1113 establishes certain statutory covenants which are to be implied to the word "grant". This section is one of the foundational statutory provisions to an accurate understanding of the use and meaning of grant deeds within the State of California.

**The CDO should discuss the meaning of Section 1113 and its application to the facts in the CDO.**

If you have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink that reads "Mark A. Pruner".

MARK A. PRUNER

MAP:m