

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

Re: Amended Testimony of Stephen R. Wee

In the Matter of Draft Cease and Desist Order Against Mark and Valla Dunkel

APN 162-090-01

July 27, 2010

I, Stephen R. Wee, declare:

The following amended testimony is prepared to correct my written and oral testimony presented at the May 5, 2010 hearing before the State Water Resources Control Board on the Dunkel CDO (APN 162-090-01) with respect to the chain of title evidence presented regarding the severance of the Dunkel property from its connection to Middle River. In my previous testimony I concluded that the Dunkel parcel lost its contiguity with Middle River as a result of a conveyance dated December 28, 1909 from the Estate of John N. Woods to John Newton Woods, E. W. S. Woods, Jessie L. Wilhoit and Mary L. Douglass (MSS Exhibit 1H). My amended testimony concludes that the loss of contiguity to Middle River resulted from a conveyance dated November 29, 1911 from E. L. Wilhoit, M. D. Eaton, and W. D. Buckley to W. B. Walters and M. F. Walters (MSS Exhibit 5A).

The confusion was triggered by a mapping error made while transferring information from my hand-drawn draft base map for Roberts Island swampland survey tracts to a computer generated final map that was submitted as MSS Exhibit 1C in the Dunkel hearing. That error moved the south boundary line of CP 2864 about one mile too far south, thereby mistakenly placing the Dunkel tract within Certificate of Purchase (CP) No. 2864. The common boundary between CP 2864 and CP 3321 should have been placed about one mile to the north along the township line between T1N and T1S. This error was not discovered prior to my testimony in the Dunkel and Woods hearings, but only in reviewing the mapping evidence for the reopening of the Dunkel hearing.

Correcting this mapping error correctly places the Dunkel parcel within CP 3321. MSS Exhibit 5B shows the boundary line between CP 2864 and CP 3321 as originally submitted in the Dunkel matter. MSS Exhibit 5C shows the map with the corrected boundary line between the same two Certificates of Purchase. MSS Exhibit 5D shows a shaded area depicting the area added to CP 3321 on the corrected map (5C) as well as the location of the Dunkel parcel. An amended chain of title table to replace MSS Exhibit 1B is attached as MSS Exhibit 5E.

Since the Dunkel parcel was within CP 3321, it was not severed from Middle River in 1909 when E.W.S. Woods and the Wilhoit-Douglass interests split their holdings on Roberts Island with the division line between them being the Woods Irrigation Company main irrigation ditch. (See Dunkel Amended Sequencing Maps – MSS Exhibits 6A, 6B, 6C, and 6D) Two years later, however, the Dunkel parcel lost its physical connection to Middle River as the result of the November 29, 1911 conveyance of Tract 9 of the Wilhoit – Douglass subdivision to W. B. Walters and M. F. Walters (Dunkel Amended Sequencing Map – MSS Exhibit 6E). That conveyance was made subject to the contract to operate and maintain canal and drainage systems and the contract to furnish water, both dated September 29, 1911, between the Woods Irrigation Company and Jessie L. Wilhoit and Mary L. Douglass (MSS Exhibit 5A).