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10 Attorneys for WOODS IRRIGATION COMPANY

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13 **BEFORE THE CALIFORNIA**
14 **STATE WATER RESOURCES CONTROL BOARD**

15 In the Matter of Draft Cease and Desist) **REQUEST FOR OFFICIAL NOTICE**
16 Order No. 2009-00XX-DWR Enforcement)
17 Action 73 Against Woods Irrigation)
Company)

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19 South Delta Water Agency, Central Delta Water Agency and Woods Irrigation Company
20 (hereinafter collectively "SDWA" and "CDWA" and "WIC") hereby requests that the Hearing
21 Officers in the above-referenced matter before the State Water Resources Control Board ("State
22 Water Board") take official notice of the certified copies of the four (4) deeds which are attached
23 hereto as Exhibits A-D respectively. **Exhibit "A"** is the Grant Deed between Jas Reid Stewart, Jas
24 Clark Bunten, Jas King and P.B. Fraser dated the 30th day of August 1890. **Exhibit "B"** is the Grant
25 Deed between Jas Reid Stewart, Jas King, Jas Clark Bunten and D. Muller, Claus Engel dated the
26 6th day of June 1891. **Exhibit "C"** is the Grant Deed between Jas Reid Stewart, Jas Clark Bunten,
27 Jas King and B.R. Keenan dated the 8th day of June 1891. **Exhibit "D"** is the Grant Deed between
28 Jas Reid Stewart, Jas Clark Bunten, Jas King and C. Bruse dated the eighth day of June 1891. These

1 deeds pertain to four (4) parcels which abut Middle River and which were previously owned by
2 Stewart, et al., at one point. Mr. Wee's testimony included all the other pertinent deeds from
3 Stewart, et al., and, thus, the hearing officers are already familiar with this information.

4 Section 648.2 to title 23 of the California Code of Regulations authorizes the State Water
5 Board to take official notice of "such facts as may be judicially noticed by the courts of this state."
6 (23 Cal. Code Regs. § 648.2.) California Evidence Code section 452 enables courts to take judicial
7 notice of the following types of matters/information:

- 8 (a) The decisional, constitutional, and statutory law of any state of the
9 United State and the resolutions and private acts of the Congress of
10 the United States and of the Legislature of this state.
- 11 (b) Regulations and legislative enactments issued by or under the
12 authority of the United States or any public entity in the United
13 States.
- 14 (c) Official acts of the legislative, executive, and judicial department of
15 the United States and of any state of the United States.
- 16 (d) Records of (1) any court of this state or (2) any court of record of the
17 Unites States or of any state of the United States.
- 18 (e) Rules of court of (1) any court of this state or (2) any court of record
19 of the Unites States or of any state of the United States.
- 20 (f) The law of an organization of nations and of foreign nations and
21 public entities in foreign nations.
- 22 (g) Facts and propositions that are of such common knowledge within the
23 territorial jurisdiction of the court that they cannot reasonably be the
24 subject of dispute.
- 25 (h) Facts and propositions that are not reasonably subject to dispute and
26 are capable of immediate and accurate determination by resort to
27 sources of reasonably indisputable accuracy.

28 As the court explains in *Lockhard v. MVM, Inc.* (2009) 175 Cal.App.4th 1452, at pages

1 1460-1461:

2 "The grant deed is judicially noticeable under Evidence
3 Code section 452, subdivisions (c) and (g). (See *Evans v.*
4 *Cal. Trailer Court* (1994) 28 Cal.App.4th 540, 549, 33
5 Cal.Rptr.2d 646 [court may take judicial notice of deed
6 under Evidence Code section 452, subdivision (g)]; *Cal-*
7 *American Income Property Fund II v. County of Los*
8 *Angeles* (1989) 208 Cal.App.3d 109, 112, fn. 2, 256
9 Cal.Rptr. 21 [court may take judicial notice of recordation
10 of deed under Evidence Code section 452, subdivision (c)
11].) Its existence and authenticity cannot reasonably be
12 subject to dispute

13 SDWA, CDWA and WIC further requests that all evidence which is in the record in the
14 Mussi, Pak & Young, and Dunkel matters be incorporated into the Woods Irrigation Company
15 matter. The issues are similar, the parties are identical, and the evidence in these matters is
16 substantially interrelated. Moreover, the parties' including the Prosecution Team previously
17 agreed that examination of certain witnesses in the Woods Irrigation Company hearing be
18 incorporated in the Mussi, Pak & Young, and Dunkel matter.

19 The evidence in the record in the Mussi, Pak & Young, and Dunkel matter is clearly the
20 type of records and information to which the Board may take judicial notice of in the Woods
21 Irrigation Company matter pursuant to Evidence Code section 452(d) et seq.

22 DATED: August 18, 2010

HARRIS, PERISHO & RUIZ

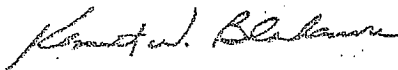
23 BY

24 
25 DEAN RUIZ

EXHIBIT "A"

I hereby certify that this is a true copy of
the record consisting of 1 pages if the
seal of this office is impressed in purple ink.

AUG 17 2010



KENNETH W. BLAKEMORE
Assessor-Recorder-Co Clerk
San Joaquin County, CA



EXHIBIT "B"

✓ Jas Reid Stewart
 ✓ Jas Clark Bunten
 ✓ Sir James King
 To
 W. Muller
 ✓ Claus Engel.

This Indenture, made the Sixth day of
June in the year of our Lord one thousand eight hundred
 and ninety-one

Between Jas Reid Stewart, James Clark
 Bunten and Sir James King, all of the
 Kingdom of Great Britain the parties
 of the first part and W Muller and
 Claus Engel, of the County of San Joa-
 quin State of California the parties of the second part

Witnesseth: That the said parties of the first part, for and in consideration of the sum of
Five \$1000 Dollars Gold Coin of the United
 States of America, in hand paid by the said parties of the second part, the receipt whereof is
 hereby acknowledged, do by these presents, grant, bargain sell, convey
 and confirm

unto the said parties of the second part, and to their heirs and assigns forever, all that
 certain lot piece or parcel of land, situated lying and
 being in the County of San Joaquin State of California
 and bounded and particularly described as follows, to-wit:
 Commencing at the section corner in the centre of section 35, Town
 ship one North range five East Mount Diablo Base Meridian, and
 running thence South 23.22 chains to the north bank of Middle river
 thence following the meander of said north bank down stream N 81° 57'
 West 6.17 chains, thence North 79° 36' West 8.03 chains, thence S 87° 20' W 2.28 chains
 thence South 63° 28' West 4.02 chains, thence North 82° 16' West 1.12 chains, thence leaving river
 North 19° 29' chains, thence East 20.00 chains to the point of beginning and containing 41.24
 acres as per survey made by George A. Atherton County Surveyor of San Joaquin County
Together with all and singular the tenements, hereditaments and appurtenances thereto belonging, or in any
 wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

To have and to hold, all and singular the said premises, together with the appurtenances, unto the
 said parties of the second part, and to their heirs and assigns forever.

In witness whereof, the said parties of the first part have hereunto set their hands and
 seals the day and year first above written.

Signed, Sealed and Delivered in the Presence of
 Henry M. McCall
 Jas Reid Stewart
 Jas King
 Jas Clark Bunten
 per John Wakefield Ferris their
 attorney in fact.

State of California,
 City and County of San Francisco,
 On this 9th day of June in the year one thousand eight hundred and ninety-one
 before me, Henry M. McCall a Notary Public in and for said City and County,
 residing thereon duly commissioned and sworn
 personally appeared John Wakefield Ferris
 known to me to be the person whose name is subscribed to the within instrument and
 acknowledged to me that he executed the same
 as the attorney in fact of Jas Reid Stewart, James Clark Bunten
 and Sir James King and the said John Wakefield Ferris
 acknowledged to me that he subscribed the names of Jas Reid
 Stewart, James Clark Bunten and Sir James King therein as
 principals, and his own name as attorney in fact. 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.

I hereby certify that this is a true copy of
the record consisting of 1 pages if the
seal of this office is impressed in purple ink.

AUG 17 2010

Kenneth W. Blakemore

KENNETH W. BLAKEMORE
Assessor-Recorder-Co Clerk
San Joaquin County, CA



EXHIBIT "C"

✓ Jas Reid Stewart
 ✓ Jas Clark Buntin
 ✓ Jas King
 = To =
 ✓ B. R. Reenan

This Indenture, made the Eighth day of June in the year of our Lord one thousand eight hundred and ninety-one
 Between James Reid Stewart, James Clark Buntin and Sir James King all of the Kingdom of Great Britain the parties of the first part and B. R. Reenan of the County of San Joaquin and State of California the party of the second part

Witnesseth: That the said parties of the first part, for and in consideration of the sum of Five (\$5000) Dollars, Gold Coin of the United States of America, to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, do by these presents grant bargain sell, convey and confirm

unto the said party of the second part, and to his heirs and assigns forever, all that certain lot piece or parcel of land situated lying and being in the County of San Joaquin, State of California, and bounded and particularly described as follows to wit: Commencing at a stake at the north west corner of the Southeast $\frac{1}{4}$ of Section 35 Township one North Range five (5) East Mount Diablo Base and meridian, thence running south 22 chains 8 links to the north bank of Middle river; thence along said bank in courses and distances as follows viz: $S 83^{\circ} 3'$ East 4 chains; South $68^{\circ} 2'$ East 2 chains 1 link; North $2^{\circ} 1'$ East 4 chains 1 link; South $75^{\circ} 2'$ East 9 chains 3 links; north $78^{\circ} 2'$ East 5 chains 7 links; thence north 27 chains 59 links to a stake, thence west 20 chains to the place of beginning, containing $54 \frac{3}{4}$ acres, all bearings true Var. $1^{\circ} 4'$ E. As per survey made by Frank E. Brown Civil Engineer.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

To have and to hold, all and singular the said premises, together with the appurtenances, unto the said party of the second part, and to his heirs and assigns forever.
 In witness whereof, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered in the Presence of
 Henry M. McGill
 Jas. Reid Stewart
 Jas. King
 Jas. Clark Buntin
 per John Wakefield Perrie their attorney

State of California,)
 City and County of San Francisco,) ss.
 On this 9th day of June in the year one thousand eight hundred and ninety one before me Henry M. McGill a Notary Public in and for said City and County residing therein duly commissioned and sworn personally appeared John Wakefield Perrie known to me to be the person described in and whose name is subscribed to the within instrument and as the Attorney in fact of James Reid Stewart, James Clark Buntin, Sir James King and the said John Wakefield Perrie acknowledged to me that he subscribed the names of James Reid Stewart, James Clark Buntin & Sir James King therein as principals and his own name as Attorney in fact in witness whereof I have hereunto set my hand and affixed my Official Seal as my office is in the City and County of San Francisco the day and year in the Certificate first above written.
 Henry M. McGill Notary Public

I hereby certify that this is a true copy of
the record consisting of 1 pages if the
seal of this office is impressed in purple ink.

AUG 17 2010

Kenneth W. Blakemore

KENNETH W. BLAKEMORE
Assessor-Recorder-Co Clerk
San Joaquin County, CA

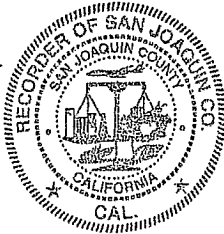


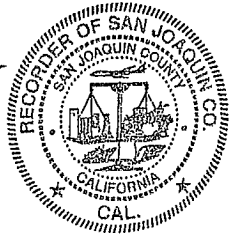
EXHIBIT "D"

I hereby certify that this is a true copy of
the record consisting of 1 pages if the
seal of this office is impressed in purple ink.

AUG 17 2010

Kenneth W. Blakemore

KENNETH W. BLAKEMORE
Assessor-Recorder-Co Clerk
San Joaquin County, CA



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5 Attorneys for SOUTH DELTA WATER AGENCY
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9 Facsimile: (209) 956-0154
Email: jherrlaw@aol.com

10 Attorneys for WOODS IRRIGATION COMPANY

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12
13 **BEFORE THE CALIFORNIA**
14 **STATE WATER RESOURCES CONTROL BOARD**

15
16 In the Matter of Draft Cease and Desist) **DECLARATION OF DEAN RUIZ IN**
Order No. 2009-00XX-DWR Enforcement) **SUPPORT OF REQUEST FOR OFFICIAL**
17 Action 73 Against Woods Irrigation) **NOTICE**
Company)
18 _____)

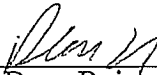
19 I am an attorney duly licensed to practice law in the State of California and participating
20 in the above referenced matter before the State Water Resources Control Board on behalf of the
21 South Delta Water Agency and Central Delta Water Agency (hereinafter collectively "SDWA",
22 "CDWA").

23 In connection with the Request for Official Notice submitted herewith by SDWA,
24 CDWA, and Woods Irrigation Company, I obtained certified copies of the four (4) deeds which
25 are attached to the Request for Official Notice as Exhibits A-D. These deeds pertain to four (4)
26 parcels which abut Middle River and which were previously owned by Stewart, et al. The
27 testimony of Stephen Wee on behalf of the MSS parties in this matter included the other
28

1 pertinent deeds from Stewart, et al., and, thus, it is my understanding that the hearing officers are
2 readily familiar with this information.

3 I declare under penalty of perjury under the laws of the State of California that the
4 foregoing is true and correct.

5 Executed this 18th day of August 2010 at Stockton, California.

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8 _____
9 Dean Ruiz
10 Attorney for SDWA and CDWA
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1 In the Matter of Draft Cease and Desist Order No. 2009-00XX-DWR Enforcement Action 73 Against
2 Woods Irrigation Company

3 **CERTIFICATE OF SERVICE**

4 I am employed in the County of San Joaquin, State of California, over the age of eighteen years,
5 and not a party to the within action. My business address is Harris, Perisho & Ruiz, 3439 Brookside
6 Road, Suite 210, Stockton, California 95219.

6 On, August 18, 2010, I served the following document(s) described as:

7 **REQUEST FOR OFFICIAL NOTICE; DECLARATION OF DEAN RUIZ IN SUPPORT**
8 **OF REQUEST FOR OFFICIAL NOTICE**

9 **(BY MAIL)** by placing the original a true copy thereof enclosed in sealed envelopes for
10 collection and mailing with the United States Postal Service that same day in the ordinary course
11 of business. I am aware that on motion of party served, service is presumed invalid if postal
12 cancellation date or postage meter date is more than 1 day after date of deposit for mailing in
13 affidavit.

12 **(BY CERTIFIED MAIL)**
13 Certified Mail Receipt No. _____ (attached)/Return Receipt Requested

14 **(BY FACSIMILE)** I transmitted from a facsimile transmission machine whose telephone
15 number is (209) 957-4254 the following documents described above. The above-described
16 transmission was reported as complete without error by a transmission report issued by the
17 facsimile transmission machine upon which the said transmission was made immediately
18 following the transmission. A true and correct copy of the said transmission report is attached
19 hereto and incorporated herein by this reference.

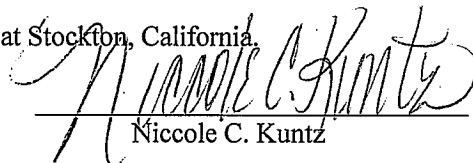
17 **(BY OVERNIGHT DELIVERY)**
18 Depositing originals/copies of the above documents in a box or other facility regularly maintained
19 by Federal Express, or UPS, in an envelope or package designated by
20 Federal Express or UPS with delivery fees paid or provided for.

20 **(BY PERSONAL SERVICE)** (as indicated below)
21 process server courier service

22 **(BY ELECTRONIC MAIL)**
23 I caused a true and correct scanned image (.PDF file) copy to be transmitted via the electronic
24 mail transfer system in place at Harris, Perisho & Ruiz, originating from the undersigned at 3439
25 Brookside Road, Suite 210, Stockton, California, to the email address(es) indicated in the
26 attached Service List of Participants.

25 I declare under penalty of perjury under the laws of the State of California that the foregoing is true
26 and correct to the best of my knowledge.

27 Executed this 18th day of August 2010 at Stockton, California.

28 
Niccole C. Kuntz

**WOODS IRRIGATION COMPANY CDO HEARING
SERVICE LIST
(VIA ELECTRONIC MAIL)**

<p>DIVISION OF WATER RIGHTS PROSECUTION TEAM c/o David Rose State Water Resources Control Board 1001 I Street Sacramento, CA 95814 DRose@waterboards.ca.gov</p>	<p>WOODS IRRIGATION COMPANY c/o John Herrick, Esq. 4255 Pacific Avenue, Suite 2 Stockton, CA 95207 jherrlaw@aol.com</p> <p>c/o Dean Ruiz, Esq. Harris, Perisho & Ruiz 3439 Brookside Road, Suite 210 Stockton, CA 95219 dean@hpllp.com</p> <p>c/o Dennis Donald Geiger, Esq. 311 East Main Street, Suite 400 Stockton, CA 95202 dgeiger@bgm.com</p>
<p>SOUTH DELTA WATER AGENCY c/o John Herrick Attorney at Law 4255 Pacific Avenue, Suite 2 Stockton, CA 95207 jherrlaw@aol.com</p> <p>c/o Dean Ruiz, Esq. Harris, Perisho & Ruiz 3439 Brookside Road, Suite 210 Stockton, CA 95219 dean@hpllp.com</p>	<p>CENTRAL DELTA WATER AGENCY c/o Dean Ruiz, Esq. Harris, Perisho & Ruiz 3439 Brookside Road, Suite 210 Stockton, CA 95219 dean@hpllp.com</p>
<p>SAN LUIS & DELTA-MENDOTA WATER AUTHORITY c/o Jon D. Rubin diepenbrock+harrison 400 Capitol Mall, Suite 1800, Sacramento, California 95814 jrubin@diepenbrock.com</p>	<p>MODESTO IRRIGATION DISTRICT c/o Tim O'Laughlin Ken Petruzzelli O'Laughlin & Paris LLP 117 Meyers St., Suite 110 P.O. Box 9259 Chico, CA 95927-9259 towater@olaughlinparis.com kpetrुzzelli@olaughlinparis.com</p>
<p>SAN JOAQUIN COUNTY AND THE SAN JOAQUIN COUNTY FLOOD CONTROL & WATER CONSERVATION DISTRICT c/o DeeAnne M. Gillick Neumiller & Beardslee P.O. Box 20 Stockton, CA 95201-3020 dgillick@neumiller.com mbrown@neumiller.com</p>	<p>STATE WATER CONTRACTORS c/o Stanley C. Powell Kronick, Moskovitz, Tiedemann & Girard 400 Capitol Mall, 27th Floor Sacramento, CA 95814 spowell@kmtg.com</p>
<p>SAN JOAQUIN FARM BUREAU c/o Bruce Blodgett 3290 North Ad Art Road Stockton, CA 95215-2296 director@sifb.org</p>	