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5 Attorneys for
See client list on next page
6
7

8 BEFORE THE STATE WATER RESOURCES CONTROL BOARD
9

10 IN THE MATTER OF THE
11 RECONSIDERATION OF ORDER WR
2011-0005
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**NOTICE OF INTENT TO APPEAR ON
BEHALF OF VARIOUS LANDOWNERS**

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1 Neumiller & Beardslee Client List:
2 RUDY M MUSSI INVESTMENT LP ET AL.
3 LORRY MUSSI TR ET AL.
4 LORY C MUSSI INVESTMENT LP
5 ELYSE RODGERS VIEIRA AND ELYSE RODGERS VIEIRA SEPARATE PROPERTY TR
6 ELYSE RODGERS VIEIRA SEPARATE PROPERTY TR
7 CECIL J. & SANDRA J. RODGERS
8 RUDY M. & TONI MUSSI ET AL.

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1 The Landowners listed on Exhibit A hereto submit this Notice of Intent to Appear in
2 response to the State Water Resources Control Board (“Board”) Notice of Supplemental Hearing
3 Rehearing dated November 10, 2014. The Exhibit A Landowners are appearing with respect to
4 the properties listed next to their names on Exhibit A, which properties receive irrigation water
5 through the Woods Irrigation Company facilities.

6 The Landowners listed on Exhibit B hereto submit this Notice of Intent to Appear in
7 response to the Board Notice of Supplemental Hearing Rehearing dated November 10, 2014.
8 The Exhibit B Landowners plan to appear with respect to the properties listed next to their
9 names on Exhibit B, which properties DO NOT receive irrigation water through the Woods
10 Irrigation Company facilities, only if the Board does not clarify that the scope of the rehearing
11 will not involve these properties and their associated water rights. If the Board issues the
12 limiting clarification requested in the Joint Petition To Clarify Scope Of Proceedings And
13 Remove From Proceedings Landowners Not Receiving Water From Woods Irrigation Company,
14 the Exhibit B Landowners will not need to appear.

15 The Exhibit A (and Exhibit B, if necessary) Landowners plan to participate in the
16 hearing for all purposes and plan to call the witnesses listed on Exhibit C. The Landowners also
17 reserve the right to call for direct or cross-examination any witness listed or called by another
18 party, and any and all witnesses who previously testified in the 2010 hearing. Landowners
19 further reserve the right to update and amend their witness list as a result of discovery of other
20 relevant evidence or issues as they prepare for the hearing and in response to the witness lists
21 filed by other parties.

22 The Landowners have listed witnesses and times for testimony that exceed the normal
23 time limits allowed by the Board at hearings. Landowners submit that given the nature of the
24 water rights involved in this hearing, the number of Landowners involved, the expert nature of
25 much of the testimony and the requirement that the Board satisfy due process, particularly when
26 making decisions impacting water rights, the Board should permit the extended time for
27 testimony. Landowners intend to work closely and diligently with the other parties to the hearing
28 to streamline the presentation of evidence and reach stipulations of fact whenever possible.

Submittal of this notice is not a waiver of any of the Landowners’ defenses related to the

1 procedural or substantive defects associated with the Board's rehearing process. The Landowners
2 continue to submit that the Board is depriving the Landowners of due process by:

- 3 • Failing to undertake a proper investigation of the Landowners' water rights before proceeding
4 to a hearing;
- 5 • Failing to give the Landowners sufficient notice and time to present information to the Board
6 in defense of their water rights in advance of a hearing process;
- 7 • Failing to give the Landowners sufficient time to prepare for a hearing involving their water
8 rights, which hearing will require voluminous evidence that is more than one-hundred years
9 old and expert testimony from several experts that need more time to sufficiently prepare;
- 10 • Failing to provide any draft Cease and Desist Order to the Landowners that explains what
11 type of flaw the Board finds in their current diversions or what type of order the Board intends
12 to issue against the Landowners such that the Landowners can have a coherent understanding
13 of what issues they must be prepared to address at a hearing.
- 14 • Failing to set aside in its entirety, Order WR 2011-0005.

15 Respectfully submitted,

16 Dated: December 15, 2014

NEUMILLER & BEARDSLEE

17
18 By:


KURTIS C. KELLER
Attorney for Rudy M Mussi
Investment LP et al.

**EXHIBIT A - LANDOWNERS WHO RECEIVE IRRIGATION WATER THROUGH
THE WOODS IRRIGATION COMPANY FACILITIES**

Acreage	Fee Title Holder	APN
95.02	Rudy M Mussi Investment LP et al.	162-050-13
100.22	Mussi, Lorry Tr et al.	162-050-16
244.79	Rudy M Mussi Investment LP et al.	162-060-02, 15
45.86	Rudy M Mussi Investment LP et al.	162-060-14
44.41	Lory C Mussi Investment LP	162-060-16, 17
78.86	Mussi, Lorry Tr et al.	162-060-09
40	Rudy M Mussi Investment LP et al.	162-060-10
40	Rudy M Mussi Investment LP et al.	162-060-11
39.26	Rudy M Mussi Investment LP et al.	160-120-07
5	Rudy M Mussi Investment LP et al.	160-120-08
33.79	Rudy M Mussi Investment LP et al.	162-120-08
1.82	Elyse Rodgers Vieira Separate Property Tr	162-070-04
51.68	Elyse Rodgers Vieira Separate Property Tr	162-110-17
13.24	Elyse Rodgers Vieira Separate Property Tr	162-110-17
184.63	Rodgers, Cecil J. & Sandra J.	162-110-11
39	Rudy M Mussi Investment LP et al.	162-070-06
70.18	Mussi, Rudy M. & Toni et al.	131-170-03
155.57	Rudy M Mussi Investment LP et al.	162-120-01

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EXHIBIT B - LANDOWNERS WHO DO NOT RECEIVE IRRIGATION WATER THROUGH THE WOODS IRRIGATION COMPANY FACILITIES

Acres	Owner	APN
83.74	Rudy M Mussi Investment LP et al.	162-120-06
2.2	Rodgers Vieira, Elyse and Elyse Rodgers Vieira Separate Property Tr	162-110-18
2.2	Rodgers Vieira, Elyse and Elyse Rodgers Vieira Separate Property Tr	162-110-20

**EXHIBIT C
NOTICE OF INTENT TO APPEAR**

(See lists Exhibits A and B) _____ plans to participate in the water right hearing regarding
(name of party or participant)

Woods Supplemental Hearing

**scheduled to commence
June 8, 2015 at 9:00 a.m.
and continuing, if necessary,
on June 9, 10, and 11, 2015**

Check all that apply:

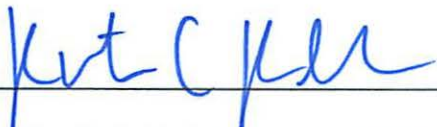
- I/we intend to present a policy statement only.
 I/we intend to participate by cross-examination or rebuttal only.
 I/we decline electronic service of hearing-related materials.
 I/we plan to call the following witnesses to testify at the hearing.

The landowners intend to fully participate in the hearing in all respects and maintain a continuing objection to the hearing proceeding in a manner that violates their due process rights.

NAME	SUBJECT OF PROPOSED TESTIMONY	ESTIMATED LENGTH OF DIRECT TESTIMONY	EXPERT WITNESS (YES/NO)
Lorey Mussi	Operations of WIC system	20 min	No
Timothy Grunsky	WIC records, customers	20 min	No
Dino Del Carlo	Landowner water use in WIC	20 min	No
Douglas R. Littlefield, Ph.D.	History of Roberts Island, historic location of channels, sloughs, ditches, development of irrigated agriculture in WIC service area, crops grown in WIC service area over time, real estate transactions on Roberts Island from 1800's through 1920's, relationship of landowners on Roberts Island at different points in time	3 hours	Yes
Thomas Burke P.E.	Hydrology of the Delta and channels in and around Roberts Island	1 hour	Yes
Robert Wagner P.E., Wagner & Bonsignor	Custom and practice regarding diversion and measurement of pre-1914 appropriative rights	1 hour	Yes

Michael L. Quartaroli, Licensed Land Surveyor	Maps of WIC service area, patents and property transaction documents and illustrative maps reflecting properties at different periods of time on Roberts Island	2 hours	Yes
Dr. Charles Burt and/or Dr. Daniel Howes, Cal Poly Irrigation Training and Resource Center	Custom and practice for historic irrigation delivery systems on Roberts Island, delivery and on-farm irrigation system efficiencies, crop water demand and season of use; Crop evapotranspiration analysis for crops grown on Roberts Island at different periods of time (testimony will not be duplicative between witnesses)	3 hours	Yes
Kenneth R. Lajoie, Ph.D	Existence of streams, historic water courses/bodies in and around Roberts Island	2 hours	Yes
Donald W. Moore, PG, CHG	Interpretation of aerial photos and maps identifying geological features of the Delta in and around Roberts Island	2 hours	Yes
Terry Prichard	Irrigation needs for agricultural crops	1 hour	Yes
Neal Colwell, P.E. KSN	Measurement of WIC diversions	1 hour	Yes
William L. Halligan P.G.	Water availability in Delta channels, the interconnections between ground and surface water, the impacts on total Delta supply and local impacts from changing diversions from surface water to ground water at various locations, the existence of old Delta sloughs and connection to surface water, depth of old sloughs in relation to ground water and if such old sloughs would fill with surface or ground water.	3 hours	Yes
Mark Stretars	Investigation of WIC diversions	20 min	No
Chuck Arnold	Investigation of WIC diversions	20 min	No
Rudy Mussi	Landowner water use	20 min	No
Cecil Rodgers	Landowner water use	20 min	No

Name, Address, Phone Number and Fax Number of Attorney or Other Representative:

Signature:  Dated: 12/15/14

Name (Print): Kurtis C. Keller, Esq., Neumiller & Beardslee

Mailing

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PROOF OF SERVICE

I am employed in the County of San Joaquin; my business address is 509 W. Weber Avenue, 5th Floor, Stockton, California 95203; I am over the age of 18 years and not a party to the foregoing action.

On December 15, 2014, I served a true and correct copy of:

NOTICE OF INTENT TO APPEAR ON BEHALF OF VARIOUS LANDOWNERS

BY ELECTRONIC MAIL (EMAIL). By sending the document(s) to the person(s) at the email address(es) listed below.

WOODS IRRIGATION COMPANY S. Dean Ruiz, General Counsel HARRIS, PERISHO & RUIZ ATTORNEYS AT LAW Brookside Corporate Center 3439 Brookside Road, Suite 210 Stockton CA 95219 dean@hprlaw.net	DIVISION OF WATER RIGHTS PROSECUTION TEAM David Rose John O'Hagan State Water Resources Control Board 1001 I. Street Sacramento, CA 95814 David.Rose@waterboards.ca.gov John.O'Hagan@waterboards.ca.gov
WOODS IRRIGATION COMPANY John Herrick, Co-Counsel 4255 Pacific Avenue, Suite 2 Stockton, CA 95207 jherrlaw@aol.com	
MODESTO IRRIGATION DISTRICT Tim O'Laughlin O'Laughlin & Paris LLP PO. Box 9259 Chico, CA 92927 towater@olaughlinparis.com vkincaid@olaughlinparis.com	STATE WATER CONTRACTORS Stanley C. Powell Kronick, Moscovitz, Tiedemann & Girard 400 Capitol Mall, 27th Floor Sacramento, CA 95814 spowell@kmtg.com
THE SAN LUIS & DELTA-MENDOTA WATER AUTHORITY Jon Rubin, Senior Staff Counsel San Luis & Delta-Mendota Water Authority 400 Capitol Mall, 27th Floor Sacramento, CA 95814 Jon.Rubin@sldmwa.org	SAN JOAQUIN COUNTY AND THE SAN JOAQUIN COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT Kurtis C. Keller DeeAnne M. Gillick Neumiller & Beardslee P.O. Box 20 Stockton, CA 95201-3020 kkeller@neumiller.com dgillick@neumiller.com
THE SAN LUIS & DELTA-MENDOTA WATER AUTHORITY Daniel J. O'Hanlon Rebecca R. Akroyd	

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9	dean@hprlaw.net	
10	SOUTH DELTA WATER AGENCY	SPALETTA LAW PC
11	John Herrick, Esq.	Jennifer J. Spaletta
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13	Stockton, CA 95207	and Janet Del Carlo, R.D.C. Farms,
14	jherrlaw@aol.com	Inc., Eddie Vierra Farms, LLC,
15	SOUTH DELTA WATER AGENCY	Howard Schmidt, Trustee of the
16	S. Dean Ruiz, Esq.	Schmidt Family Revocable Trust et
17	3439 Brookside Road, Suite 210	al.
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26	NORTHERN CALIFORNIA WATER	Shane E. Conway McCoin
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	dguy@norcalwater.org	
	Department of Water Resources	
	James Mizell	
	P.O. Box 942836	
	Sacramento, CA 94236-0001	
	James.Mizell@water.ca.gov	

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

Dated: 12-15-2014

