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20 BEFORE THE  
21 CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

22 In the Matter of the Draft Cease and Desist  
23 Order Against Unauthorized Diversion of  
Water by Mark and Valla Dunkel

**DECLARATION OF REBECCA R.  
AKROYD IN SUPPORT OF PETITION  
FOR RECONSIDERATION**

24  
25 I, REBECCA R. AKROYD, declare as follows:

26 1. I am an attorney duly licensed to practice law in the State of California and an  
27 attorney for the San Luis & Delta-Mendota Water Authority ("Water Authority"). I make this  
28 declaration in support of the Water Authority, State Water Contractors, and Modesto Irrigation

1 District's petition for reconsideration of State Water Resources Control Board ("State Water  
2 Board") Order WR 2012-0012 ("Order") Declining to Issue a Cease and Desist Order Against  
3 Mark and Valla Dunkel (the "Dunkels"). I have personal knowledge of the facts stated in this  
4 declaration, and, if called to do so, could and would testify competently thereto.

5 **A. The Dunkel Matter**

6 2. On August 4, 2010, the State Water Board conducted a hearing pursuant to the  
7 Draft Cease and Desist Order ("CDO") issued by the State Water Board against the Dunkels. The  
8 CDO requested that the Dunkels provide proof of their legal right to use water from the Middle  
9 River in San Joaquin County on Parcel 162-090-01.

10 3. On October 16, 2012, the State Water Board issued Order WR 2012-0016  
11 Declining to Issue a Cease and Desist Order Against Mark and Valla Dunkel. In the Order, the  
12 State Water Board declines to issue a cease and desist order against Mark and Valla Dunkel (the  
13 "Dunkels") in large part because the State Water Board finds that the evidence supports a finding  
14 that the Dunkels' property retained riparian rights after its severance from Middle River, and  
15 there is no indication that the Dunkels are using water contrary to this right. (Order at p. 6.)

16 **B. The Woods Irrigation Company Matter**

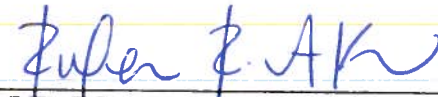
17 4. On February 1, 2011, the State Water Board issued Order WR 2011-0005 in the  
18 Matter of Draft Cease and Desist Order Against Unauthorized Diversions by Woods Irrigation  
19 Company. Order WR 2011-0005 required that Woods Irrigation Company cease and desist from  
20 diverting water in excess of 77.7 cfs from Middle River in compliance with the order.

21 5. On August 7, 2012, the State Water Board issued Order WR 2012-0012 granting  
22 reconsideration of Order WR 2011-0005. In Order WR 2012-0012, the State Water Board  
23 committed to reopen the Woods Irrigation Company hearing to allow Woods' customers,  
24 including the Dunkels, to participate as parties, call witnesses, and cross-examine witnesses that  
25 have already testified on behalf of other parties in order to supplement the evidentiary record with  
26 evidence of water rights held by the Woods' customers.

27 6. It is anticipated that in a reopened Woods hearing pursuant to Order WR 2012-  
28 0012, evidence will be presented pertaining to the water rights possessed by Woods Irrigation

1 Company, and separately, by its customers (including the Dunkels).

2 I declare under penalty of perjury under the laws of the State of California that the above  
3 is true and correct and that this declaration is executed on November 15th, 2012, in Sacramento,  
4 California.

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7 REBECCA R. AKROYD

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1 **PROOF OF SERVICE**

2 I, Sherrie Cork, declare:

3 I am a citizen of the United States and employed in Sacramento County, California. I am  
4 over the age of eighteen years and not a party to the within-entitled action. My business address  
5 is 400 Capitol Mall, 27th Floor, Sacramento, California 95814. On November 15, 2012, served a  
6 copy of the within document(s):

7 **DECLARATION OF REBECCA R. AKROYD IN SUPPORT OF PETITION FOR  
8 RECONSIDERATION**

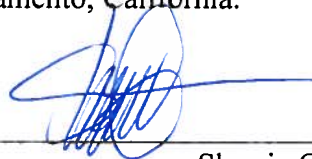
- 9  by transmitting via facsimile the document(s) listed above to the fax number(s) set  
10 forth below on this date before 5:00 p.m.
- 11  by placing the document(s) listed above in a sealed envelope with postage thereon  
12 fully prepaid, in the United States mail at Sacramento, California addressed as set  
13 forth below.
- 14  by placing the document(s) listed above in a sealed Federal Express envelope and  
15 affixing a pre-paid air bill, and causing the envelope to be delivered to a Federal  
16 Express agent for delivery.
- 17  by personally delivering the document(s) listed above to the person(s) at the  
18 address(es) set forth below.
- 19  by transmitting via e-mail or electronic transmission the document(s) listed above  
20 to the person(s) at the e-mail address(es) set forth below.

21 *See Attached Service List*

22 I am readily familiar with the firm's practice of collection and processing correspondence  
23 for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same  
24 day with postage thereon fully prepaid in the ordinary course of business. I am aware that on  
25 motion of the party served, service is presumed invalid if postal cancellation date or postage  
26 meter date is more than one day after date of deposit for mailing in affidavit.

27 I declare that I am employed in the office of a member of the bar of this court at whose  
28 direction the service was made.

Executed on November 15, 2012, at Sacramento, California.



\_\_\_\_\_  
Sherrie Cork

1 *In The Matter of the Draft Cease and Desist Order Against Unauthorized Diversion of Water by*  
2 *Mark and Valla Dunkel*

3 **SERVICE LIST**

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20 SAN JOAQUIN COUNTY AND THE  
21 SAN JOAQUIN COUNTY FLOOD  
22 CONTROL AND WATER  
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