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11
12 **BEFORE THE STATE OF CALIFORNIA**
13 **STATE WATER RESOURCES CONTROL BOARD**
14

15 In the Matter of Draft Cease and Desist) **NOTICE OF PETITION AND PETITION**
Order No. 2009-00XX DWR Enforcement) **FOR RECONSIDERATION OF ORDER**
16 Action No. 74, Draft Cease and Desist) **WR 2010-0026-EXEC**
Order Gallo Vineyards, Inc.)
17

18 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

19 **NOTICE IS HEREBY GIVEN** that, pursuant to section 768 of the California Code of
20 Regulations, the San Luis & Delta-Mendota Water Authority (Water Authority) and State Water
21 Contractors (SWC), acting for and on behalf of their member agencies, request that the State Water
22 Resources Control Board (State Water Board) reconsider Order WR 2010-0026-EXEC, dated July
23 2, 2010 (Order Approving Settlement), which approves a settlement between Gallo Vineyards, Inc.
24 and the State Water Board's Division of Water Rights Prosecution Team (Settlement). The State
25 Water Board must reconsider the Order Approving Settlement and find that it and the Settlement are
26 improperly void of necessary findings, conclusions, and citations to substantial evidence in support
27 thereof.

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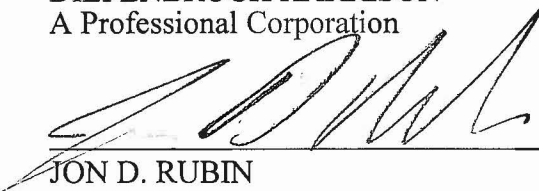
1 The State Water Board's executive director approved the settlement on July 2, 2010.
2 However, neither the Settlement nor the Order Approving Settlement explain why the State Water
3 Board no longer contests the riparian rights associated with parcels 191-060-02 and 191-060-03.
4 And, there is nothing in the Settlement or the Order Approving Settlement to suggest substantial
5 evidence supports either document. Accordingly, this Petition requests that the State Water Board
6 disapprove the Order Approving Settlement (Order 2010-0026-EXEC) and remand this matter to
7 the executive director. This Petition further requests that the State Water Board order the executive
8 director to re-consider the Settlement and include in any order findings of fact and conclusions that
9 are supported by citations to evidence.

10 This Petition is based on this Notice and Petition for Reconsideration, the Memorandum of
11 Points and Authorities filed in support thereof, the pleadings and papers on file herein, and upon
12 such other matters as may be presented to the State Water Board at the time of the hearing, if such a
13 hearing is scheduled. This Notice and Petition and the Memorandum filed in support thereof have
14 been served on all interested parties listed in the attachment to the Proof of Service. The address for
15 the Water Authority is P.O. Box 2157, 842 6th Street, Los Banos, CA 93635. The address for State
16 Water Contractors is 1121 L Street, Sacramento, CA 95814.

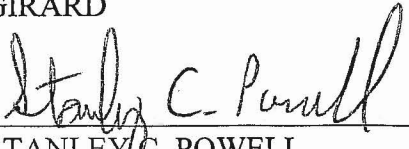
17 Dated: August 2, 2010

Respectfully submitted,

18
19 DIEPENBROCK HARRISON
A Professional Corporation

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21 By 
22 JON D. RUBIN
Attorneys for San Luis & Delta-Mendota
Water Authority

23
24 KRONICK, MOSCOVITZ, TIEDEMANN &
GIRARD

25
26 By 
27 STANLEY C. POWELL
Attorneys for State Water Contractors

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1 **PROOF OF SERVICE**

2 I, Tracy Gomez, declare as follows:

3 I am over 18 years of age and not a party to the within action; my business address is 400
4 Capitol Mall, Suite 1800, Sacramento, California, I am employed in Sacramento County, California.

5 On August 2, 2010, I served a copy of the foregoing document entitled:

6 **NOTICE OF PETITION AND PETITION FOR RECONSIDERATION OF ORDER**
7 **WR 2010-0026-EXEC**

8 on the following interested parties in the above-referenced case number to the following:

9 See attached Service List

10 **BY MAIL**

11 By following ordinary business practice, placing a true copy thereof enclosed in a sealed envelope,
12 for collection and mailing with the United States Postal Service where it would be deposited for
first class delivery, postage fully prepaid, in the United States Postal Service that same day in the
ordinary course of business as indicated above.

13 **ELECTRONIC MAIL**

14 I caused a true and correct scanned image (.PDF file) copy to be transmitted via the electronic mail
transfer system in place at Diepenbrock Harrison, originating from the undersigned at 400 Capitol
Mall, Suite 1800, Sacramento, California, to the e-mail address(es) indicated above.”

16 **BY FACSIMILE** at _____ a.m./p.m. to the fax number(s) listed above.

17 The facsimile machine I used complied with California Rules of Court, rule 2003 and no error was
18 reported by the machine. Pursuant to California Rules of Court, rule 2006(d), I caused the
machine to print a transmission record of the transmission, a copy of which is attached to this
declaration.

19 A true and correct copy was also forwarded by regular U.S. Mail by following ordinary business
20 practice, placing a true copy thereof enclosed in a sealed envelope, for collection and mailing with the United
States Postal Service where it would be deposited for first-class delivery, postage fully prepaid, in the United
States Postal Service that same day in the ordinary course of business.

21 **BY OVERNIGHT DELIVERY**

22 Federal Express Golden State Overnight

23 Depositing copies of the above documents in a box or other facility regularly maintained by
Federal Express, or Golden State Overnight, in an envelope or package designated by Federal
Express or Golden State Overnight with delivery fees paid or provided for.

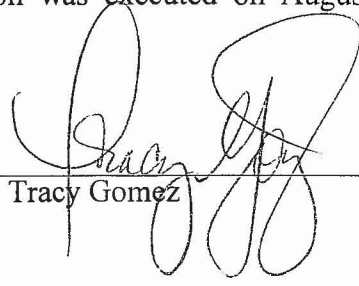
24 **PERSONAL SERVICE**

25 via process server

26 via hand by

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I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on August 2, 2010 at Sacramento, California.


Tracy Gomez

**SERVICE LIST
(VIA ELECTRONIC MAIL)**

<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p>	<p>GALLO VINEYARDS INC. c/o Robert E. Donlan Ellison, Schneider & Harris 2015 H Street, Suite 400 Sacramento, CA 95816 red@eslawfirm.com</p>	<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>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p>	<p>MARK AND VALLA DUNKEL 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>YONG PAK AND SUN YOUNG 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>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p>	<p>RUDY MUSSI, TONI MUSSI AND LORY C. MUSSI INVESTMENT LP 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>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>18</p> <p>19</p> <p>20</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>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>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</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 tshepard@neumiller.com</p>	<p>MODESTO IRRIGATION DISTRICT c/o Tim O'Laughlin Ken Petruzzelli O'Laughlin & Paris LLP 117 Meyers Street, Suite 110 P.O. Box 9259 Chico, CA 95927-9259 towater@olaughlinparis.com kpetruzzelli@olaughlinparis.com</p>

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<p>CALIFORNIA DEPARTMENT OF WATER RESOURCES c/o Erick Soderlund 1416 Ninth Street, Room 1118 Sacramento, CA 95814 esoderlu@water.ca.gov</p>	<p>SAN JOAQUIN FARM BUREAU c/o Bruce Blodgett 3290 North Ad Art Road Stockton, CA 95215-2296 director@sifb.org</p>
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