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6  
7 BEFORE THE STATE WATER RESOURCES CONTROL BOARD

8  
9 IN THE MATTER OF REISSUED  
WASTE DISCHARGE REQUIREMENTS  
10 GENERAL ORDER FOR EXISTING  
MILK COW DAIRIES – CENTRAL  
11 VALLEY REGION ORDER NO. R5-  
2013-0122

SWRCB/OCC File No. A-2283(b)

**RESPONSE OF INTERESTED PARTY  
CALIFORNIA FARM BUREAU  
FEDERATION TO ENVIRONMENTAL LAW  
FOUNDATION AND ASOCIACION DE  
GENTE UNIDA POR EL AGUA'S PETITION  
FOR REVIEW**

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15 The California Farm Bureau Federation (“Farm Bureau”) submits this response to  
16 petitions by Petitioners Environmental Law Foundation and Asociación de Gente Unida por el  
17 Agua (collectively, “Petitioners”) relating to the California Regional Water Quality Control  
18 Board, Central Valley Region’s (“Regional Board”) October 3, 2013 adoption of Reissued Waste  
19 Discharge Requirements General Order for Existing Milk Cow Dairies, Order No. R5-2013-0122  
20 (2013 General Order (“2013 General Order”).

21 Farm Bureau is a non-governmental, non-profit, voluntary membership California  
22 corporation whose purpose is to protect and promote agricultural interests throughout the state of  
23 California and to find solutions to the problems of the farm, the farm home, and the rural  
24 community. Farm Bureau is California’s largest farm organization, comprised of 53 county Farm  
25 Bureaus currently representing more than 40,000 agricultural, associate, and collegiate members  
26 in 56 counties. Farm Bureau strives to protect and improve the ability of farmers and ranchers  
27 engaged in production agriculture to provide a reliable supply of food and fiber through  
28 responsible stewardship of California’s resources.

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2 On behalf of its dairy farm family members, Farm Bureau submits the attached response  
3 to the Petitioners' Petition for Review of the 2013 General Order ("Petition for Review").

4 **I. INTRODUCTION**

5 Within its Petition for Review, Petitioners take issue with the Regional Board's  
6 application of the State Water Resources Control Board's ("State Board") *Statement of Policy*  
7 *with Respect to Maintaining High Quality Waters*, Resolution No. 68-16 ("Resolution No.  
8 68-16") to the 2013 General Order, as well as alleging violations of the Porter-Cologne Water  
9 Quality Control Act ("Porter-Cologne"), particularly Water Code section 106.3, and anti-  
10 discrimination laws. This response focuses primarily on the Regional Board's compliance with  
11 Resolution No. 68-16.

12 In 1968, the State Board adopted Resolution No. 68-16, also referred to as the  
13 "Antidegradation Policy," with the goal of maintaining the state's "high quality" waters, that is,  
14 waters with quality that exceeds the water quality objectives ("WQOs") in the applicable Basin  
15 Plan. To meet this objective, Resolution No. 68-16 requires a regional board, before permitting  
16 degradation of high quality waters, to find that any change in water quality (1) would be  
17 consistent with the maximum benefit to the people of the state; (2) would not unreasonably affect  
18 present or probable future beneficial uses of such water; and (3) would not result in water quality  
19 less than prescribed in state policies. (Resolution No. 68-16, p. 1.) Resolution No. 68-16 further  
20 requires a regional water board, when issuing a permit to allow a discharge of waste into existing  
21 high quality waters, to establish requirements that result in the best practicable treatment or  
22 control ("BPTC") to ensure pollution or nuisance will not occur, and that the highest water  
23 quality consistent with maximum benefit to the people of the state will be maintained. (*Ibid.*)

24 In adopting the 2013 General Order, the Regional Board properly concluded that the 2013  
25 General Order was protective of water quality and consistent with the requirements of Resolution  
26 No. 68-16. Under the 2013 General Order, each dairy must: "Monitor wastewater, soil, crops,  
27 manure, surface water discharges, and storm water discharges; Monitor surface water and  
28 groundwater in accordance with a monitoring and reporting program (regulated dairies have the

1 option to join a Representative Groundwater Monitoring Program (RMP) in lieu of individual  
2 monitoring of first encountered groundwater); Implement a Waste Management Plan for the dairy  
3 production area; Implement a Nutrient Management Plan (NMP) for all land application areas;  
4 Retain records for the production area and the land application areas; Submit annual monitoring  
5 reports; and Improve or replace management practices that are found not to be protective of water  
6 quality.” (2013 General Order, Information Sheet, IS-1, hereinafter “IS”.) Further, the 2013  
7 General Order establishes requirements that will limit the degradation of high quality waters  
8 through the implementation of BPTC by all dischargers participating in the 2013 General Order  
9 through enhanced management practices, improved containment features for new and expanding  
10 dairy wastewater retention ponds, nutrient application rates and timing, farm planning, waste  
11 management plans, nutrient management plans, notification requirements, and feedback  
12 monitoring. (*Ibid.*) Collectively, these requirements establish a comprehensive program that  
13 extensively monitors discharges, identifies areas of concern, surveys and evaluates member  
14 management practices, employs BPTC measures, and ensures that any water quality issues of  
15 concern are addressed through an iterative process.

16           Petitioners would like a more rigid program that requires specific control technologies,  
17 among other requirements. But the Regional Board recognized that its job was not to develop the  
18 strictest program, however infeasible, but to establish a workable program consistent with the  
19 law. The Regional Board thus explained that the 2013 General Order “places restrictions on the  
20 discharge of wastes from dairy facilities that are intended to prevent pollution and nuisance  
21 conditions from occurring or persisting” and any allowed “[d]egradation will be limited so that  
22 discharges from dairy facilities will not cause long-term impacts to beneficial uses” (2013  
23 General Order, Finding 27, p. 9), while maintaining the economic viability of agriculture since  
24 “California’s dairy industry...is important to the economic well-being of the Central Valley.”  
25 (IS-19.) The Regional Board further explained that the 2013 General Order is intended to  
26 encourage implementation of management practices that improve water quality and “compel the  
27 dairy industry to focus their available resources on meeting water quality objectives,” (IS-19) but  
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1 to do so without forcing dairy operations out of business or imposing requirements beyond  
2 practicable economic limits in order to “maintain[] the Central Valley dairy industry” for “the  
3 benefit of the people of the state.” (IS-20.)

4           Petitioners’ positions, however, ignore these considerations and the practical and  
5 economic considerations the Regional Board must employ. Their arguments, moreover, disregard  
6 the evidentiary record, the Regional Board’s findings, and the substantial discretion afforded the  
7 Regional Board in employing its technical expertise and in implementing the law. Because of  
8 these reasons, the State Board should reject Petitioners’ Petition for Review.

## 9 **II. LEGAL BACKGROUND**

### 10 **A. Resolution No. 68-16, the State’s Antidegradation Policy**

11           Petitioners advance a wide-sweeping challenge to the entire order asserting that the 2013  
12 General Order is in violation of the State Board’s policy on antidegradation. In making such  
13 arguments, Petitioners generally misconstrue application of the Policy. Before addressing  
14 Petitioners’ allegations, we first summarize the Policy itself, and when application of the Policy is  
15 triggered.

#### 16 **1. Summary of Resolution No. 68-16**

17           In 1968, in response to a directive from the U.S. Department of the Interior, the State  
18 Board adopted the *Statement of Policy with Respect to Maintaining High Quality Waters*,  
19 Resolution No. 68-16, which is commonly referred to as the “Antidegradation Policy”  
20 (hereinafter “Resolution No. 68-16” or “the Policy”). Resolution No. 68-16 expresses the goal of  
21 maintaining the state’s “high quality” waters, i.e., waters with quality that exceeds the WQOs in  
22 the applicable Basin Plan. (State Water Resources Control Board, Resolution No. 68-16, p. 1.)  
23 However, Resolution No. 68-16 is not a “no degradation” or “no discharge” policy. The policy  
24 provides three criteria for reducing the quality of high quality waters: (1) the change is consistent  
25 with maximum benefit to the people of the state; (2) the change will not unreasonably affect  
26 present and anticipated beneficial use of such water; and, (3) the change will not result in water  
27 quality less than that prescribed in policies. (*Ibid.*) When a regional water board issues a permit  
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1 to allow a discharge of waste into existing high quality water, it must ensure the discharge is  
2 utilizing the best practicable treatment or control (“BPTC”) to ensure pollution or nuisance will  
3 not occur, and that the highest water quality consistent with maximum benefit to the people of the  
4 state will be maintained. (*Ibid.*)

5 The Policy reflects the Legislature’s intent to attain the highest water quality that is  
6 “reasonable” in light of important economic, societal, and other non-water quality factors.<sup>1</sup> (*City*  
7 *of Burbank v. State Water Resources Control Bd.* (2015) 35 Cal.4th 613, 625-626.) This Policy is  
8 consistent with the Porter-Cologne Act, which requires that regional boards setting waste  
9 discharge requirements under state law consider and account for social and economic hardships  
10 resulting from water quality regulation, considerations that are not permitted when issuing federal  
11 NPDES permits. (*Ibid.* [citing Wat. Code, §§ 13241(e) and 13372].) When a regional water  
12 board issues a permit to allow a discharge of waste into existing high quality water, it must  
13 engage in the mandated weighing process to ensure the discharge is utilizing the best practicable  
14 treatment or control to ensure pollution or nuisance will not occur, and that the highest water  
15 quality consistent with maximum benefit to the people of the state will be maintained. (*Ibid.*)

16 Application of the Policy is triggered when a regional water board or State Board action  
17 will lower existing high quality water. (*In the Matter of Petitions of the County of Santa Clara,*  
18 *et al.* (May 5, 1986) State Board Order No. WQ 86-8, 10 [Resolution No. 68-16 “sets forth the  
19 circumstances under which *change* to existing high quality water will be allowed.” (Emphasis  
20 added.)].) Before approving any reduction in water quality, or any activity that would result in a  
21 reduction in water quality, “the Regional Board must first determine that the change in water  
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23 <sup>1</sup> The guiding principal of water regulation in California is reasonableness. Petitioners point to several of the  
24 longstanding water quality problems in the region and assert that such problems compel the Regional Board to  
25 instantly and extremely regulate and thereby debilitate the region’s agricultural industry. Surely, there are water  
26 quality issues in the region that must be and are addressed by this regulatory Order advanced by the Regional Board;  
27 but contrary to Petitioners’ arguments, that does not compel extreme and debilitating regulations, as the Water Code  
28 compels balance and reasonableness. Reasonableness in this particular application requires a balance of the various  
demands on the state’s waters and represents the balance the Regional Board strived for in the 2013 General Order.  
Further, Resolution No. 68-16, consistent with this state’s statutory water quality control law, is pragmatic in  
recognizing that social and economic concerns may sometimes outweigh the interest in maintaining existing “high  
quality” waters. The water boards therefore have the authority to permit an activity that may produce waste into  
existing high quality waters, as long as doing so would not violate the minimum water quality requirements and  
appropriate findings are made, both of which occurred here.

1 quality would not be in violation of State Board Resolution No. 68-16 or the federal  
2 antidegradation policy.” (*In the Matter of the Petition of Rimmon C. Fay* (Nov. 20, 1986) State  
3 Board Order No. WQ 86-17 (Order WQ 86-17).)

## 4 **2. Application of Resolution No. 68-16 and its Required Balancing**

5 Petitioners’ misplaced arguments stem from a fundamental misreading of Resolution No.  
6 68-16, believing the Policy to demand the highest water quality no matter the costs. The State  
7 Board, however, adopted a different Policy than that argued by Petitioners, one that seeks a  
8 balance “to achieve the highest water quality consistent with the maximum benefit to the people  
9 of the state.” Resolution No. 68-16 thus balances four important positive factors: quality water,  
10 food production, economic vitality, and employment. The two substantive provisions of the  
11 Policy continue in that theme of balance. The first provision clarifies that it is applicable to  
12 waters that are of better quality than when water quality standards were established, rather than  
13 all waters. Once applicable, the Policy generally requires high quality water to be maintained but  
14 permits the regional water board to depart from this standard when it is for the benefit of the  
15 people of the state and best practicable controls are implemented.

16 The balance advanced in Resolution No. 68-16 is consistent with the Porter-Cologne Act,  
17 which has an underlying requirement of reasonableness to the regulation of water quality in the  
18 state. Section 13300 states that the regional water boards may only regulate water quality  
19 “reasonabl[y], considering all demands being made and to be made on those waters.” Similarly,  
20 under Section 13050, “pollution means any alteration of the quality of water which may  
21 unreasonably affect” the waters of the state. While the regional water board is required to ensure  
22 the “reasonable protection of beneficial uses,...it is recognized that it may be possible for the  
23 quality of water to be changed to some degree without unreasonably affecting beneficial uses.”  
24 (Wat. Code, § 13241 [setting forth the Act’s water quality objectives].) These multiple references  
25 to reasonableness indicate the legislature’s desire for moderation and balance.

26 In applying this policy guidance to the 2013 General Order, one must recognize the  
27 importance of Central Valley agriculture, particularly dairies, to the farms, the employment  
28

1 sector, the business communities, and the residents of this area. (IS-19.) The Central Valley of  
2 California is renowned worldwide as the most productive food production region of the world.  
3 Agriculture, including dairies, is the principal element of California’s economy and it is the  
4 lifeblood of the Central Valley. “California’s dairy industry, built on the foundation of 1,563  
5 family-owned dairies statewide, is important to the economic well-being of the Central Valley.”  
6 (*Ibid.*) The Central Valley Regional Board recognized this and balanced this with the importance  
7 of achieving and maintaining the quality of the state’s waters in these water courses and aquifers  
8 to ensure that surface and groundwater sources meet water quality objectives, and thereby  
9 protects drinking water sources.

### 10 **III. LEGAL ARGUMENTS**

#### 11 **A. The 2013 General Order Contains a Proper Time Schedule in Accordance** 12 **with Porter-Cologne**

13 Petitioners allege that the 2013 General Order allows “continued degradation, pollution,  
14 and nuisance to occur for an undefined period of time.” (Petition for Review, p. 5.) Although  
15 Petitioners acknowledge that the 2013 General Order contains a time schedule, Petitioners argue  
16 that the time schedule is a delay. Petitioners’ arguments fail as the time schedule within the 2013  
17 General Order complies with the Porter-Cologne Act and is consistent with Resolution No. 68-16.

18 In adopting waste discharge requirements, regional water boards are authorized to set a  
19 time schedule for compliance, which may be revised at the board’s discretion. (Water Code, §  
20 13263(c).) Consistent with this provision, the Regional Board established a schedule for  
21 compliance with the 2013 General Order’s groundwater limitations. (2013 General Order,  
22 provision M, pp. 28-30; see also Groundwater Limitations F.1, p. 23; Finding 25, p. 8, Finding  
23 27, p. 8; Finding 28(c), p. 9; and General Specification 4, p. 14.) The time schedule was  
24 supported by the evidence in the record and is as short as practicable. (IS-18—IS-20.)  
25 Specifically, the dairies “in compliance with the requirements of Sections II or III of the  
26 Monitoring and Reporting Program R5-2013-0122, Attachment A, and...are implementing  
27 management practices/activities” must comply with the groundwater limitations “on a time  
28

1 schedule that is as short as practicable,” but not more than 10 years. (2013 General Order,  
2 Provision M, p. 29; IS-29.) All other dairies are subject to the groundwater limitations effective  
3 immediately. (IS-29.)

4 Misreading the Regional Board’s established time schedule, Petitioners argue the timeline  
5 for compliance permits undue delay, suggesting that dairies have without qualification 10 years or  
6 more to come into compliance. (Petition for Review, pp. 5-7.) Petitioners disregard the evidence  
7 in the record that supports the Regional Board’s determination that compliance with the  
8 groundwater limitations must and will occur on a time schedule that is “as short as practicable.”  
9 Petitioners also disregard all of the requirements within the 2013 General Order that dairies must  
10 comply with during that time frame, and instead incorrectly assume that dairies will do nothing  
11 but degrade water quality. Rather, the 2013 General Order, by its very nature, is replete with  
12 requirements specifying what dairies must do to protect water quality:

13  
14 The Dairy Order contains significant requirements for dairies that are designed to  
15 be protective of surface and groundwater quality while also being practicable and  
16 economically feasible. These include implementation of nutrient management  
17 plans prepared by certified specialists (including testing and measurement of  
18 manure, irrigation water, soil and plant tissue to track nutrient flow), and  
19 implementation of waste management plans prepared by professional engineers.  
The Dairy Order practices and design and maintenance standards include measures  
that apply to all areas of the dairy farm, including the crop production areas,  
existing manure retention ponds and animal housing areas, including all barns and  
corrals.

20 (IS-30.) Further, in addition to implementing best management practices that equate to BPTC, the  
21 Monitoring and Reporting Program requires: “periodic inspections of the production area and  
22 land application areas, monitoring of manure, process wastewater, crops, and soil, recording of  
23 operation and maintenance activities, groundwater monitoring, storm water monitoring, tile  
24 drainage water monitoring, monitoring of surface water and discharges to surface water, annual  
25 reporting, annual reporting of groundwater monitoring, annual storm water reporting,  
26 noncompliance reporting, discharge reporting,” among other requirements. (IS-29.)

27 Additionally, the 2013 General Order is an iterative process in which dairies must [i]mprove or  
28



1 replace management practices that are found not to be protective of water quality” (IS-1) in order  
2 to “not cause the underlying groundwater to exceed water quality objectives, unreasonably affect  
3 beneficial uses, or cause a condition of pollution or nuisance.”<sup>2</sup> (2013 General Order,  
4 Groundwater Limitations F.1, p. 23.)

5 Petitioners never offer contrary evidence or explain how a requirement that compliance  
6 occur on an “as short as practicable” time schedule somehow permits undue delay. Nor can it. In  
7 requiring dairies to comply with the groundwater limitations, at the latest, on a time schedule that  
8 is “as short as practicable,” the Regional Board established a reasonable time schedule consistent  
9 with Porter-Cologne and Resolution No. 68-16.

10 **B. The Regional Board’s Approval of the 2013 General Order Does Not Violate**  
11 **Resolution No. 68-16**

12 **1. The 2013 General Order Allows for Limited Degradation Consistent with**  
13 **Resolution No. 68-16 and is Consistent with the Maximum Benefit to the**  
14 **People of the State**

15 Before permitting degradation of high quality waters, Resolution No. 68-16 requires a  
16 regional board to find that any change in water quality (1) would be consistent with the maximum  
17 benefit to the people of the state; (2) would not unreasonably affect present or probable future  
18 beneficial uses of such water; and (3) would not result in water quality less than prescribed in  
19 state policies. The board must also assure that any authorized degradation of high quality waters  
20 is subject to waste discharge requirements that will result in BPTC of the discharge necessary to  
21 ensure that (1) pollution or nuisance will not occur and (2) the highest water quality consistent  
22 with the maximum benefit to the people of the state will be maintained. (Resolution No. 68-16.)

23 In *Asociacion de Gente Unida por El Agua et al, v. Central Valley Regional Water*  
24 *Quality Control Bd.* (2012) 210 Cal.App.4th 1255 (*AGUA*), the court looked to four factors in  
25 determining whether the waste discharge requirements before it was consistent with the

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26 <sup>2</sup> Petitioners take issue with the footnote associated with Groundwater Limitations F.1, arguing that the footnote  
27 allows inappropriate and illegal degradation. The footnote does no such thing. As allowed by the Porter-Cologne  
28 Act and Resolution 68-18 (where appropriate findings allowing some degradation, such as the ones made in the 2013  
General Order, are made), immediate compliance allowing no degradation that would result in a violation of water  
quality objectives is not reasonable in all situations. As supported by the evidence in the record, the Regional Board  
included a time schedule within the 2013 General Order for those dairies where immediate compliance is  
economically and/or technologically infeasible.

1 maximum benefit to the people of the state: the past, present, and probable beneficial uses of  
2 water, the economic and social costs compared to the benefits, the environmental aspects, and the  
3 implementation of feasible alternative treatment or control methods. (*AGUA, supra*, 210 Cal.  
4 App. at p. 1279.) Making the required findings, the Regional Board found that the limited  
5 degradation permitted under the 2013 General Order was consistent with the maximum benefit to  
6 the people of the state. (IS-19—IS-20.) In explaining why this was so, the Regional Board  
7 acknowledged the importance of Central Valley agriculture for employment and for the state and  
8 nation’s food supply, and explained, among other things, that the 2013 General Order requires  
9 compliance with water quality objectives and beneficial uses, requires the implementation of  
10 BPTC, and includes performance standards that would work to prevent further degradation of  
11 surface and groundwater quality. (*Ibid.*) Specifically, as supported by the evidence in the record  
12 such as data and information generated by the California Milk Advisory Board, the Regional  
13 Board found that dairies in the Central Valley are economically significant and play an important  
14 role not only for the Valley, but also nationally. (IS-20.) Not only do “dairies play an important  
15 role in food and nutrition security for California and the nation,” but they also generate jobs in a  
16 variety of sectors, from employees on the farm, providers of farm and veterinary services, other  
17 farmers who grow feed, processors of milk and dairy products, and in transportation of feed, milk  
18 and dairy products, and many others.” (IS-19—IS-20.) Additional evidence concluded that  
19 adding additional requirements, such as those advocated by Petitioners, would result in  
20 detrimental impacts by putting many dairy operations out of business, resulting in “regional and  
21 state economic impacts.” (IS-18—IS-20.) Therefore, the Regional Board properly examined the  
22 beneficial uses of the water and balanced the costs and benefits in compliance with Resolution  
23 No. 68-16.

24           Petitioners’ varied attacks on the Regional Board’s findings overlook the Board’s  
25 analysis. Petitioners are dissatisfied with the Regional Board’s findings, especially Finding 33,  
26 and the evidence in the record, and claim that the maximum benefit analysis does not analyze the  
27 impacts “for every person or business that does not happen to be a dairy in the Central Valley.”  
28

1 (Petition for Review, p. 12.) In other words, Petitioners claim the maximum benefit analysis and  
2 Finding 33 are inadequate because the analysis did not look at impacts to each and every person  
3 and thing within the Central Valley. (*Ibid.*) Petitioners include no support for their claims, nor  
4 can they.

5 As the Regional Board correctly explained, “some of the factors that the Board considers  
6 in determining whether degradation is consistent with the maximum benefit to people of the State  
7 include: economic and social costs, tangible and intangible, of the proposed discharge, as well as  
8 the environmental aspects of the proposed discharge, including benefits to be achieved by  
9 enhanced pollution controls.” (IS-13.) Further, a maximum benefit analysis does not look at  
10 every unreasonable effect or potential impact because those impacts, due to the very nature of  
11 Porter-Cologne and Resolution No. 68-16, are prohibited:

12  
13 It is, however, important to keep the “maximum benefit to people of the state”  
14 requirement in context. Neither the State Anti-Degradation Policy nor the Water  
15 Code allows unreasonable affects to beneficial uses. *Therefore, such unreasonable*  
16 *effects (such as the unmitigated pollution of a drinking water source) are not the*  
17 *focus of the Board’s inquiry, because they are legally prohibited.* Instead, the State  
18 Anti-Degradation Policy requires the Board to consider the costs that may be  
19 imposed on other dischargers as a result of the degradation that the Board is  
20 allowing to occur.

21 (IS-13, emphasis added.) The 2013 General Order’s provisions clearly carry out this prohibition.  
22 (Finding 24, p. 7; Findings 27-33, pp. 8-10; Finding 37, p. 11; Prohibitions 1-15, pp. 12-14;  
23 Groundwater Limitations, F.1, p. 23; Provision G.7, p. 24; IS-6; IS-13.)

24 Petitioners also claim that permitting degradation up to water quality objectives is  
25 inadequate because it might result in accidental exceedances of water quality objectives. (Petition  
26 for Review, p. 15.) The theoretical possibility of an exceedance does not justify placing such an  
27 undue burden on dairy operations, particularly when measures are already in place to address any  
28 exceedances. (2013 General Order, Provisions G. 1-15, pp. 23-25; 2013 General Order,  
Monitoring and Reporting Program (“MRP”), pp. MRP1-MRP16; MRP Attachment A, pp.  
MRP17-MRP31; Standard Provisions And Reporting Requirements (“SPRR”), pp. SPRR1-

1 SPRR8; see also Finding 24, p. 7; Findings 27-33, pp. 8-10; Finding 37, p. 11; Prohibitions 1-15,  
2 pp. 12-14, Groundwater Limitations, F.1, p. 23; Provision G.7, p. 24].) For the foregoing reasons,  
3 the 2013 General Order’s analysis regarding the maximum benefit to the people of the state  
4 complies with Resolution No. 68-16.

## 5 **2. The 2013 General Order Results in Implementation of BPTC**

6 As noted above, to permit degradation, the Regional Board was required to implement  
7 waste discharge requirements that would result in the best practicable treatment or control  
8 (“BPTC”). The 2013 General Order establishes requirements and standards that will result in the  
9 implementation of BPTC measures to limit the degradation caused by dairy discharges. In order  
10 to require appropriate, feasible, and practical BPTC measures that properly protect water quality,  
11 the 2013 General Order distinguishes the four specific areas of a dairy operation and requires,  
12 with separate findings, different BPTC measures for each of the four areas: production areas  
13 (including milk barns, wash/sprinkler pens, feed and non-liquid manure storage areas, and  
14 corrals), land application areas, new and expanded wastewater retention ponds, and existing  
15 wastewater retention ponds. (2013 General Order, Finding 28, pp. 8-9; IS-14 –IS-19.) This  
16 complies with the Court of Appeals’ direction in *AGUA* regarding BPTC measures for principal  
17 sources of potential groundwater degradation. (*AGUA, supra*, p. 1284.)

18 With regard to existing ponds, the Regional Board compared the treatment or control  
19 practices of existing dairies to the treatment or control practices employed by similarly situated  
20 dairies in order to make a BPTC determination. (IS-12; Order WQ 2000-07, at pp. 10-11.) The  
21 Regional Board also analyzed the standards allowed by law in Title 27 of the California Code of  
22 Regulations, concluding that additional and more stringent standards are needed to properly  
23 protect water quality. (IS-9.) Further, the Regional Board analyzed the practicality and  
24 practicability of requiring the same BPTC measures as for new or expanded ponds and found,  
25 based on the evidence in the record, that “requiring the immediate retrofitting of existing ponds to  
26 meet Tier 1 or Tier 2 requirements (the Dairy General Order’s requirements for new or expanded  
27 ponds) would be beyond practicable economic limits for most dairies.” (IS-18.) “Practicable”  
28

1 means feasible—and feasibility considerations, as the Regional Board explained, preclude the use  
2 of specific technologies, practices, or treatment devices to achieve BPTC for existing dairy ponds.

3 (*Ibid.*)

4 Accordingly, rather than selecting specific retrofitting requirements, the Regional Board  
5 established an iterative process full of performance standards that focus on management practices,  
6 education, and evaluation and research of case studies, and that establish additional measures in  
7 the event degradation trends are observed. (*Ibid.*) This process constitutes the best available,  
8 economically achievable means of protecting groundwater degradation.

9 Petitioners nonetheless attack the 2013 General Order as insufficient to achieve BPTC.  
10 Reciting flawed arguments, Petitioners claims the 2013 General Order fails to require BPTC  
11 measures for existing wastewater retention ponds because dairies would be under an iterative  
12 process with an “undefined” time schedule. (Petition for Review, p. 8.) Petitioners take issue  
13 with the Regional Board’s justification for the iterative process, ignoring Resolution No. 68-16’s  
14 practicality limitations and the evidence in the record that supports the Regional Board’s  
15 conclusion that immediately requiring the same measures as for new ponds would be cost  
16 prohibitive.<sup>3</sup> (IS-18.)

17 Petitioners also claim the BPTC measures are too vague since the 2013 General Order  
18 allows for an iterative process for existing dairy ponds to implement best practicable treatment or  
19 control measures, and therefore, BPTC is delayed as the 2013 General Order “kicks the can down  
20 the road.” (Petition for Review, p. 8.) Petitioners’ argument relies on a faulty premise. As  
21 discussed, record evidence illustrates that the time schedule is appropriate and practical given the  
22 economic and technological challenges faced by dairies. (IS-18 - IS-20.) Moreover, Petitioners’  
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24 <sup>3</sup> Again, Petitioners misconstrue the 2013 General Order’s requirement that compliance occur on “as short as  
25 practicable” a time schedule—a requirement consistent with Water Code section 13263, subdivision (c), which  
26 permits the regional boards to set time schedules for compliance with waste discharge requirements—by ignoring the  
27 “practicability” standard. As correctly concluded by the Regional Board, “practicability” dictates that the Board  
28 consider the costs associated with the treatment or control measures that are proposed in the ROWD” and  
“practicality” limits the extent to which a discharger must implement expensive treatment or control measures.” (IS-  
12.) Further, the Regional Board’s determinations must hinge upon reasonableness. (See Section II.A.2 regarding  
reasonableness and balancing, *ante.*)

1 gripe with the BPTC measures appears to be that it does not require specific technologies or  
2 controls, specifically that all existing ponds be lined. (Petition for Review, p. 9.) The Regional  
3 Board could have simply required all existing ponds to be in compliance with design standards  
4 specified in California Code of Regulations, Title 27. After all, Title 27 is current law. However,  
5 the Regional Board concluded that Title 27 *was not protective enough* to be considered BPTC and  
6 additional measures are needed to protect water quality:

7  
8 Existing wastewater retention ponds must be in compliance with design standards  
9 specified in Title 27. However, these design standards have not been found to be  
10 protective of groundwater under all conditions, and the immediate replacement of  
11 these wastewater retention ponds is not a practicable option for many dairies.  
12 Therefore, though compliance with Title 27 design standards was once considered  
13 to be BPTC, the Board now considers BPTC for existing ponds to be an iterative  
14 process whereby the ponds are evaluated (either under an individual monitoring  
15 program or under the RMP) to determine whether or not they are protective of the  
16 underlying groundwater, and upgraded or replaced on a time schedule that is  
17 as short as practicable if they are found not to be protective. This Order contains a  
18 time schedule to bring any deficient management practices (including wastewater  
19 retention ponds) into compliance.

20 (2013 General Order, Finding 28(c), p. 9.) Thus, the Regional Board's inclusion of an iterative  
21 process is more stringent than the requirements in Title 27 so that water quality, especially  
22 drinking water, is protected.

23 Growers need flexibility in implementing management practices and BPTC measures to  
24 best achieve performance given their unique situations. This being the case, the Regional Board  
25 established an iterative process<sup>4</sup> to achieve BPTC:

26 The Central Valley Water Board finds that BPTC for existing ponds constitutes an  
27 iterative process of evaluation that includes groundwater monitoring individually  
28 or through the RMP, assessment of data collected, evaluation of Existing Pond  
conditions and their impact on groundwater quality, and case studies that evaluate  
potential changes in management practices and/or activities that may be necessary  
to further protect groundwater quality from existing ponds. The Board will use the

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4 Along with the iterative process, all ponds, including existing ponds, "must be verified by an engineer to have adequate capacity and structural integrity to hold generated process water and precipitation. All ponds must be managed and maintained to prevent breeding of mosquitoes and other vectors. Ponds shall not have small coves and irregularities around the perimeter of the water surface. Weeds shall be minimized in all ponds through control of water depth, harvesting, or other appropriate method, and dead algae, vegetation, and debris shall not be allowed to accumulate on the water surface. These measures are required elements of a BPTC program for all ponds, whether they are already existing ponds or whether they are new or expanded ponds." (IS-16.)

1 SRMR (for dairies represented in the RMP) or individual Summary Monitoring  
2 Reports (SMRs), for dairies that are in an individual monitoring program, to  
3 determine whether upgrades to existing ponds will be required. Facilities where  
4 data demonstrate that an existing pond is resulting in degradation beyond what is  
5 authorized under this order will be required to upgrade facilities on a time schedule  
6 that is as short as practicable. Substituting alternative management practices for  
7 the existing ponds (such as reducing the water level in the ponds, dry-scrape, or  
8 other methods) would also be acceptable, provided those management practices are  
9 found to be protective of groundwater quality for the conditions present where they  
10 would be implemented. Regulated dairies that are found not to be protective of  
11 underlying groundwater must upgrade their management practices on a time  
12 schedule that is as short as practicable, supported with appropriate technical or  
13 economic justification, but in no case may time schedules extend beyond 10 years  
14 from the date that the Summary Report or SRMR is approved by the Executive  
15 Officer.

16 (IS-18—IS-19.) Accordingly, the iterative process for existing ponds includes a baseline set of  
17 universal requirements (IS-16) combined with upfront evaluation, planning and implementation  
18 of management practices, evaluation of groundwater monitoring, assessment of data collected,  
19 evaluation of Existing Pond conditions and their impact on groundwater quality, and case studies  
20 to evaluate the effectiveness of management practices on protecting groundwater quality. (IS-  
21 18.) Collectively, this process will allow the Regional Board to review current and new  
22 technologies to ensure proper protection of water quality. By its very nature, the Regional  
23 Board’s iterative process approach is BPTC: “BPTC is an evolving concept that takes into  
24 account changes in the technological feasibility of deploying new or improved treatment or  
25 control methodologies, new scientific insights regarding the effect of pollutants, and the  
26 economic realities that regulated industries face.” (IS-12.)

27 The process of reviewing the data and instituting additional practices when necessary  
28 assures BPTC/best efforts and facilitates the collection of information necessary to demonstrate  
the effectiveness of the practices. (IS-20—IS-22; see also MRP1-MRP16; MRP Attachment A,  
pp. MRP17-MRP31; SPRR1-SPRR8.) The processes will ensure the highest quality of water is  
for the maximum benefit of the people. (*Ibid.*; IS-19—IS-20.)

The 2013 General Order’s suite of monitoring programs and reporting requirements will  
provide the Regional Board with the information necessary to determine whether actions are

1 being taken to achieve BPTC. (2013 General Order, Findings 21-23, pp. 5-6; MRP1-MRP16;  
2 MRP Attachment A, pp. MRP17-MRP31; SPRR1-SPRR8; IS-20—IS-23; IS-30—IS-34.)  
3 Further, the 2013 General Order demands that farmers apply BPTC to achieve the overarching  
4 goal of Resolution No. 68-16, which is to ensure that degradation to high quality waters is  
5 consistent with the maximum benefit to the people of the state; in this instance, maintaining the  
6 productivity and existence of Central Valley dairies, protecting the economies and job base of the  
7 region and state, and improving the quality of the region’s water, particularly the sources of  
8 drinking water.

9 Therefore, the 2013 General Order requires proper BPTC measures and complies with  
10 Resolution No. 68-16 and the decision in *AGUA*.

### 11 **3. The 2013 General Order Contains Proper Time Schedules**

12 In order to ensure discharges that are allowed to high quality waters will not unreasonably  
13 affect beneficial uses and will not result in water quality below applicable water quality  
14 objectives, the 2013 General Order contains numerous provisions including a time schedule for  
15 compliance. Petitioners take issue with the time schedule, alleging it will result in an unnecessary  
16 time lag. (Petition for Review, p. 5.)

17 In contrast to the Petitioners’ contentions, the time schedule does not allow for a “time  
18 lag” and are not inconsistent with the requirements of Resolution No. 68-16. Resolution No. 68-  
19 16 and Water Code section 13263 do not require instantaneous compliance or otherwise provide  
20 time limitations (beyond what is practicable) on achieving policy objectives. Additionally, Water  
21 Code section 13263(c) provides the Regional Board broad discretion to prescribe time schedules  
22 within waste discharge requirements. In *AGUA*, the court explicitly endorsed the use of time  
23 schedules and phased approaches, stating: “A phased approach... is reasonable, and is authorized  
24 by section 13263, which allows the requirements of a regional water quality control board to  
25 contain a time schedule.” (*AGUA, supra*, 210 Cal.App.4th at p. 1277.) After a full  
26 antidegradation analysis, the 2013 General Order found that discharges to high quality waters are  
27 permitted in certain circumstances, and included a time schedule for compliance to provide a  
28



1 reasonable amount of time without allowing for an unnecessary time lag. (See IS-20—IS-22.)

2 As discussed in Section III.A *ante*, none of Petitioners’ claims are persuasive. Further, for  
3 all of the same reasons that the 2013 General Order’s time schedule complies with Porter-  
4 Cologne, the 2013 General Order’s time schedule also complies with Resolution No. 68-16.<sup>5</sup>

5 **C. The 2013 General Order Complies with *Asociacion de Gente Unida por El***  
6 ***Agua et al, v. Central Valley Regional Water Quality Control Board***

7 Petitioners allege that the 2013 General Order violates the Court of Appeals’ decision in  
8 *AGUA, supra*, 210 Cal.App.4th 1255. Petitioners’ reliance on *AGUA* to allege inadequacies  
9 within the 2013 General Order is inapposite.

10 Petitioners fail to provide evidence or explanation as to how the 2013 General Order fails  
11 to comply with *AGUA* beyond brief and conclusory statements. In *AGUA*, the court found the  
12 2007 dairy general order to not comply with Resolution No. 68-16 because the regional water  
13 board made blanket findings stating that the order did not “authorize degradation,” and that the  
14 order required actions to “assure that degradation does not occur.” without specificity. (*AGUA,*  
15 *supra*, 210 Cal.App.4th at p. 1264.) Specifically, the regional water board in *AGUA* argued that it  
16 was not required to perform an analysis under Resolution No. 68-16 “because the Order prohibits  
17 further degradation.” (*Id.* at p. 1271.) With respect to this issue, the court found the order in  
18 general, and the monitoring program specifically, to be inadequate to support the regional water  
19 board’s claims that Resolution No. 68-16 was not triggered. (*Id.* at p. 1278.) Additionally, the  
20 uncontroverted evidence in the record indicated that the specific dairy groundwater monitoring  
21 program was not sufficient to detect any groundwater degradation. (*Id.* at pp. 1267, 1274-1275.)  
22 The regional water board did not dispute this, nor was there any evidence in the record to show  
23 that other provisions of the dairy order would protect groundwater quality. (*Ibid.*) Given this  
24 situation, the court, as a matter of law, found that the monitoring program was inadequate and did  
25 not comply with Resolution No. 68-16. (*Id.* at p. 1275.)

26  
27  
28 <sup>5</sup> For the sake of brevity, Farm Bureau will not repeat all of the same arguments briefed in Section III.A, *ante*, and instead refers the reader to Section III.A, *ante*, as all of the arguments in that section also apply here.

1 Here, the Regional Board has not taken such a position that Resolution No. 68-16 does not  
2 apply with respect to their adoption of the 2013 General Order. Rather, the Regional Board  
3 concluded that Resolution No. 68-16 did apply and made lengthy findings supported by evidence  
4 that the 2013 General Order implemented the requirements of Resolution No. 68-16, that it did  
5 not authorize further degradation of groundwater, that it would not allow historic practices to  
6 continue without change, that it would result in implementation of best practicable treatment or  
7 control, and that it would assure that pollution or nuisance would not occur, and that the highest  
8 water quality consistent with maximum benefit to the people of the state would be maintained.  
9 (IS-9—IS-22; *contra*, *AGUA*, *supra*, at pp. 1273, 1271 fn. 11.)

10 Specifically, Finding 33 clearly indicates that high quality waters must be protected, and  
11 specifically finds that such high quality waters will be protected through the provisions contained  
12 in the 2013 General Order. (2013 General Order, Finding 33, p. 10.) The 2013 General Order is  
13 further consistent with Resolution No. 68-16 because it is fundamentally different than the 2007  
14 order, containing stringent requirements including a robust monitoring program, analysis of  
15 practice effectiveness, verification measures, and requires compliance with WQOs and  
16 implementation of best management practices to prevent pollution or nuisance and to maintain the  
17 highest water quality consistent with the maximum benefit to the people of the state. (IS-1; IS-6;  
18 IS-7; IS-8; IS-9.) Further, Resolution No. 68-16’s components with respect to BPTC are fully  
19 satisfied by a very aggressive multifaceted regulatory program set forth in the 2013 General  
20 Order.

21 To further protect high quality waters, and ensure that surface and groundwaters comply  
22 with WQOs, the 2013 General Order includes extensive surface and groundwater monitoring  
23 requirements. (2013 General Order, Findings 21-23, pp. 5-6; MRP1-MRP16; MRP Attachment  
24 A, pp. MRP17-MRP31; SPRR1-SPRR8; IS-20—IS-23; IS-30—IS-34.) The 2013 General Order  
25 further requires “implementation of nutrient management plans, waste management plans,  
26 enhanced management practices within the production area, and improved containment features  
27 for new and expanding dairy wastewater retention ponds will limit the amount of degradation that  
28

1 will occur under this Order.” (2013 General Order, Finding 27, p. 8.) The 2013 Order includes  
2 time schedules for compliance as well. (2013 General Order, Provision M, pp. 28-29.)

3 The 2013 General Order in its entirety is designed to protect and improve waters,  
4 including any high quality waters of the region, and is consistent with the decision in *AGUA*.

5 **D. For the Same Reasons the 2013 General Order Will Not Violate Resolution**  
6 **No. 68-16, the 2013 General Order Will Not, as Petitioners Claim, Allow**  
7 **Pollution and Nuisance to Groundwater in Violation of Porter-Cologne**

8 Petitioners claim the 2013 General Order unreasonably allows continued degradation,  
9 pollution, and nuisance, in violation of the Porter-Cologne Act, for the very same reasons in  
10 violates Resolution No. 68-16. (Petition for Review, pp. 4-7.) Specifically, Petitioners assert that  
11 the 2013 General Order allows degradation up to the water quality objectives; allows discharges  
12 to contribute to exceedances of water quality objectives and nuisance; fails degradation or the  
13 impacts of discharge; and fails to establish a time schedule as short as practicable.

14 As discussed above, none of Petitioners’ claims are persuasive. The Regional Board made  
15 the required findings to permit limited degradation of high quality waters, including that the 2013  
16 General Order’s provisions are consistent with the maximum benefit to the people of the state.  
17 (See Section III.B.1 regarding maximum benefit on p. 9, *ante*.) The Regional Board reasonably  
18 set a time schedule for compliance with the 2015 General Order in requiring compliance on a  
19 time schedule that is “as short as practicable,” but “in no case may time schedules extend beyond  
20 10 years.” (See Section III.A regarding time schedules on p. 7, *ante*, and Section III.B.3 on p. 16,  
21 *ante*.) And the Regional Board established monitoring and reporting procedures that are effective  
22 in determining whether dairies are implementing BPTC, and in improving water quality. (See  
23 Section III.B.2 regarding BPTC on p. 12, *ante*.) Thus, similar to the reasons the 2013 General  
24 Order complies with Resolution No. 68-16, the 2013 General Order does not allow groundwater  
25 pollution or nuisance in violation of Water Code section 13050 et seq.

26 **E. The Human Right to Water Does Not Apply to the 2013 General Order**

27 Petitioners assert that the 2013 General Order fails to comply with the Human Right to  
28 Water, Water Code section 106.3, because the Regional Board failed to consider the human right

1 to water when adopting the 2013 General Order. Water Code section 106.3, by its terms, does not  
2 apply to the issuance of a water quality order such as the 2013 General Order. Rather, section  
3 106.3 applies to quasi-legislative actions such as adopting regulations, making new rules, and  
4 establishing new policies. (See *Western States Petroleum Association v. Superior Court* (1995) 9  
5 Cal.4th 559, 567.) The adoption of the 2013 General Order, a water quality order, is a quasi-  
6 judicial action as it involved the “exercise of judgment, the care balancing of conflicting interests,  
7 [and] the hallmark of the adjudicative process.” (*Langsam v. City of Sausalito* (1987) 190  
8 Cal.App.3d 871, 880.) Thus, the Regional Board was under no obligation to consider Water  
9 Code section 106.3 during the 2013 General Order adoption process.

10           Nevertheless, the 2013 General Order supports the basic human right “to safe,  
11 clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary  
12 purposes,” expressed in Water Code section 106.3, because it requires all dairies to “Monitor  
13 wastewater, soil, crops, manure, surface water discharges, and storm water discharges; Monitor  
14 surface water and groundwater in accordance with a monitoring and reporting program (regulated  
15 dairies have the option to join a Representative Groundwater Monitoring Program (RMP) in lieu  
16 of individual monitoring of first encountered groundwater); Implement a Waste Management  
17 Plan for the dairy production area; Implement a Nutrient Management Plan (NMP) for all land  
18 application areas; Retain records for the production area and the land application areas; Submit  
19 annual monitoring reports; and Improve or replace management practices that are found not to be  
20 protective of water quality.” (IS-1.) Further, in addition to other requirements, the 2013 General  
21 Order also implements Resolution 68-16, requires BPTC, and employs a time schedule.

22           Additionally, the 2013 General Order contains Finding 38 which expressly states that the  
23 2013 General Order complies with and promotes Water Code section 106.3: “In compliance with  
24 Water Code section 106.3, it is the policy of the State of California that every human being has  
25 the right to safe, clean, affordable, and accessible water adequate for human consumption,  
26 cooking, and sanitary purposes. This order promotes that policy by requiring discharges to meet  
27 maximum contaminant levels designed to protect human health and ensure that water is safe for  
28

1 domestic use.” (2013 General Order, Finding 38, p. 11.) As evidenced by the 2013 General  
2 Order’s provisions taken collectively, and for the foregoing reasons, the 2013 General Order  
3 protects groundwater used as drinking water.

4 **F. Petitioners’ Claim of Disparate Impacts Fails Because Petitioners Did Not**  
5 **Meet Their Burden to Show a Causal Connection**

6 Petitioners claim in a conclusory fashion that the 2013 General Order disproportionately  
7 impacts low income and Latino communities in violation of Government Code section 11135 and  
8 other state and federal civil rights laws. (Petition for Review, pp. 13-14.) The 2013 General  
9 Order, however, does not disparately impact these communities, nor does it engage in  
10 discrimination. Petitioners have not met their burden to show a causal connection between the  
11 2013 General Order and any disparate impacts.

12 California Government Code section 11135 prohibits a state agency program from  
13 discriminating on the basis of race, ethnicity, national origin, and color, among other  
14 characteristics. For a plaintiff to have a successful disparate impact claim under section 11135,  
15 the plaintiff must show that “the defendant’s facially neutral practice causes a disproportionate  
16 adverse impact on a protected class.” (*Darensburg v. Metro. Transp. Comm’n* (9th Cir. 2011)  
17 636 F.3d 511, 519.) Petitioners have not met this burden. Petitioners do not articulate how the  
18 2013 General Order will cause further degradation in a manner that will have a disproportionate  
19 adverse impact on the Latino community. Stating that the 2013 General Order will lead to nitrate  
20 contamination and that Latino communities in the Central Valley are more likely to have higher  
21 nitrate levels in their drinking water does not show a sufficient causal connection. Petitioners  
22 present no specific evidence that shows the 2013 General Order’s provisions will cause the  
23 contamination of groundwater in a disproportionate manner. Instead, Petitioners cite to a non-  
24 peered reviewed white paper and research paper to support their claims. However, Petitioners  
25 merely use the papers as citations to two generic statements—that certain communities in the  
26 Central Valley are more likely to have contaminated water and this water is more likely to have  
27 nitrates. (*Ibid.*) Petitioners provide no support or evidence as to how the 2013 General Order is  
28 the specific cause for the problem or how the 2013 General Order specifically and

1 disproportionately targets low-income and Latino communities. A restatement of statistics does  
2 not amount to a disparate impact, nor does it prove the disparate impact.

3 As the 2013 General Order complies with all provisions of the Porter-Cologne and  
4 Resolution No. 68-16, it monitors and protects all groundwater throughout the Central Valley  
5 equally. As such, the 2013 General Order applies equally to all people in the region, regardless of  
6 race, ethnicity, national origin, or color.

7 Within its comments attached to their Petition for Review, Petitioners also claim the 2013  
8 General Order will violate Government Code section 65008, yet does not describe how it will do  
9 so. Section 65008 prohibits a local government from interfering with an individual's enjoyment  
10 of his or her housing because of certain characteristics, such as race. Section 65008, however,  
11 applies to local governments, not bodies of the state such as the Regional Board. In addition,  
12 Petitioners do not explain how the 2013 General Order threatens the housing opportunities of and  
13 discriminates against low-income communities and communities of color. There is also no  
14 evidence that the 2013 General Order treats Latino and low-income communities differently from  
15 others when it comes to the enjoyment of housing or landownership. Again, as the 2013 General  
16 Order applies to all groundwater equally, it applies to all people in the region equally. Petitioners  
17 have not shown a violation of Government Code section 65008 or Government Code section  
18 11135.

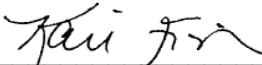
19 **IV. Conclusion**

20 Based on the foregoing reasons, Farm Bureau requests that the State Board deny  
21 Petitioners' Petition for Review and find that the 2013 General Order is consistent with the  
22 Porter-Cologne Water Quality Control Act and Resolution No. 68-16.

23 Dated: February 1, 2018

Respectfully submitted,

CALIFORNIA FARM BUREAU FEDERATION

24  
25 By:   
26 KARI E. FISHER  
27 Attorney for Petitioner  
28 CALIFORNIA FARM BUREAU  
FEDERATION

1 **DECLARATION OF SERVICE**

2  
3 I am a citizen of the United States and employed in the County of Sacramento; I  
4 am over the age of eighteen years and not a party to the within entitled action; my business  
5 address is 2300 River Plaza Drive, Sacramento, California 95833.

6 On February 1, 2018, I served the **RESPONSE OF INTERESTED PARTY**  
7 **CALIFORNIA FARM BUREAU FEDERATION TO ENVIRONMENTAL LAW**  
8 **FOUNDATION AND ASOCIACION DE GENTE UNIDA POR EL AGUA’S PETITION**  
9 **FOR REVIEW** on the party (ies) in this action, by placing a true copy thereof in an appropriate,  
10 sealed envelope(s), each addressed as follows on next page.

- 11 ( ) (By Mail) I placed such sealed envelope(s), with postage thereon fully prepaid for first-  
12 class mail, for collection and mailing at California Farm Bureau Federation, Sacramento,  
13 California, following ordinary business practices. I am readily familiar with the practice  
14 of California Farm Bureau Federation for collection and processing of correspondence -  
15 said practice being that in the ordinary course of business, correspondence is deposited in  
16 the United States Postal Service the same day as it is placed for collection.  
17 (X) (By e-mail or electronic transmission) Based on a court order or an agreement of the  
18 parties to accept service by e-mail or electronic transmission, I caused the documents to be  
19 sent to the persons at the e-mail addresses listed below. I did not receive, within a  
20 reasonable time after the transmission, any electronic message or other indication that the  
21 transmission was unsuccessful.

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

24 Executed February 1, 2018 at Sacramento, California.

25  
26  
27  
28  


\_\_\_\_\_  
Pamela K. Hotz

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