
Central Valley Regional Water Quality Control Board

25 January 2016

Sent via Federal Express
2nd Day Delivery

Gurcharan & Balwinder Rakkar (Trustees)
Rakkar Properties LP
11760 Highway 145
Madera, CA 93637

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2016-0505, FOR GURCHARAN & BALWINDER RAKKAR (TRUSTEES) AND RAKKAR PROPERTIES LP

Enclosed is an Administrative Civil Liability (ACL) Complaint, issued pursuant to California Water Code section 13323. This ACL Complaint alleges that Gurcharan & Balwinder Rakkar (Trustees) and Rakkar Properties LP (hereafter “Rakkar” or “Dischargers”) failed to submit a Report of Waste Discharge as required under Water Code section 13260, and recommends an administrative civil liability pursuant to Water Code section 13261 in the amount of **seventy thousand nine hundred eighty dollars, (\$70,980)**.

Rakkar may:

- Pay the proposed administrative civil liability and waive the right to a hearing (Option 1 on the attached waiver form—see Attachment L);
- Ask that the hearing be postponed to facilitate settlement discussions or for other reasons (Options 2 or 3 on the attached waiver form); or
- Contest the ACL Complaint and/or enter into settlement discussions without signing the enclosed waiver.

If the Central Valley Water Board does not receive a signed waiver by **15 February 2016**, a hearing will be scheduled for the **21/22 April 2016** Board meeting in Fresno. This hearing will be governed by the attached Hearing Procedures (see Attachment M), which have been approved by the Board Chair for use in adjudicating matters such as this one. Any objections to the Hearing Procedures must be received by Andrew Deeringer, whose contact information is listed in the Hearing Procedures, by **5 p.m. on 3 February 2016**.

If you choose to sign the waiver and pay the assessed civil liability, this will be considered a tentative settlement of the violations. The settlement will be considered

final pending a 30-day public comment period, starting from the date this ACL Complaint is issued. Interested parties may comment on the proposed action during this period by submitting written comments to the Central Valley Water Board staff person listed below. Should the Central Valley Water Board receive new information or comments during this comment period, the Assistant Executive Officer may withdraw the ACL Complaint, return payment, and issue a new complaint. If the Central Valley Water Board does not hold a hearing on the matter, and if the terms of the final settlement are not significantly different from those proposed in the enclosed ACL Complaint, then there will not be additional opportunities for public comment on the proposed settlement.

If the Dischargers would like to rebut the presumption in the ACL Complaint regarding an ability to pay the proposed liability, it must submit detailed financial information to the Central Valley Water Board by 3 April 2015. That information must include a balance sheet of outstanding debts and liabilities, as well as the information detailed on the attached Administrative Civil Liability Fact Sheet (See Attachment N).

In order to conserve resources, this letter transmits paper copies of the documents to Rakkar only. Interested persons may download the documents from the Central Valley Water Board's Internet website at:

http://www.waterboards.ca.gov/centralvalley/board_decisions/tentative_orders/

Copies of these documents can also be obtained by contacting or visiting the Central Valley Water Board's office weekdays between 8:00 AM and 5:00 PM.

If you have any questions or comments regarding the Administrative Civil Liability Complaint, please contact Brett Stevens at (916) 464-4642, or via e-mail at brett.stevens@waterboards.ca.gov.

Original signed by

ANDREW ALTEVOGT
Assistant Executive Officer

Enclosure: ACL Complaint R5-2016-0505

cc via email: Pamela Creedon, Central Valley Water Board, Rancho Cordova
Adam Laputz, Central Valley Water Board, Rancho Cordova
Rob L'Heureux, Central Valley Water Board, Rancho Cordova
Naomi Kaplowitz, Office of Enforcement, SWRCB, Sacramento
Andrew Deeringer, Office of Chief Counsel, SWRCB, Sacramento
Parry Klassen, East San Joaquin Water Quality Coalition
Stevie McNeil, Madera County Agricultural Commissioner

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2016-0505

ADMINISTRATIVE CIVIL LIABILITY
IN THE MATTER OF

GURCHARAN S. RAKKAR AND BALWINDER K. RAKKAR, AS INDIVIDUALS AND IN THEIR
REPRESENTATIVE CAPACITY AS TRUSTEES FOR THE
GURCHARAN & BALWINDER RAKKAR TRUST,
AND RAKKAR PROPERTIES LP,
MADERA COUNTY

This Administrative Civil Liability (ACL) Complaint is issued pursuant to California Water Code section 13323 to Gurcharan & Balwinder Rakkar as individuals and in their representative capacity as trustees for the Gurcharan & Balwinder Rakkar Trust, and Rakkar Properties LP, (hereafter "Rakkar" or "Dischargers") for failing to submit a Report of Waste Discharge required under Water Code section 13260.

The Assistant Executive Officer of the Central Valley Regional Water Quality Control Board (hereafter Central Valley Water Board or Board) alleges the following:

BACKGROUND

1. Gurcharan S. Rakkar and Balwinder K. Rakkar are trustees for the Gurcharan & Balwinder Rakkar Trust. Gurcharan S. Rakkar and Balwinder K. Rakkar are also principals of Rakkar Properties LP.
2. The discharge of irrigation return flows or storm water from irrigated lands in the Central Valley Region may contribute, or have the potential to contribute waste to ground and/or surface waters. The term "waste" is broadly defined in Water Code section 13050, subdivision (d), and includes runoff of sediment or agricultural chemicals. The term "waters of the state" includes all surface water and groundwater within the state (Water Code § 13050(e)). The Central Valley Water Board is required to regulate the amount of waste that may be discharged to waters of the state (Water Code § 13263).
3. Attachment E of the Waste Discharge Requirements General Order for Growers within the Eastern San Joaquin River Watershed that are Members of the Third-Party Group (Order R5-2012-0116-R2) defines "irrigated lands" as "land irrigated to produce crops or pasture for commercial purposes; nurseries; and privately and publicly managed wetlands."
4. Central Valley Water Board staff developed a list of landowners in Madera County, including Rakkar, which were likely to be discharging wastewater from irrigated lands to waters of the state and did not have regulatory coverage under waste discharge requirements (i.e., permits) or waivers of waste discharge requirements.

5. In developing this list, Central Valley Water Board staff used county assessor data and geographical land use data (i.e., the California Department of Conservation Farmland Mapping and Monitoring Program (FMMP) land use data) to assist in identifying potential discharges of agricultural wastewater to waters of the state and to identify owners and operators of agricultural lands who may not have complied with the California Water Code. Both data sets were used to develop lists of parcels for which Water Code section 13260 Directive Letters were issued that require parcel owners to obtain regulatory coverage for commercial irrigated lands.
6. Evaluation of county assessor and FMMP data indicates that Rakkar owns approximately 1,545 acres of agricultural land in Madera County, as identified as Assessor's Parcel Numbers (APN) and their respective acreages:

Madera County					
APN ¹	Acres	APN ¹	Acres	APN ¹	Acres
028-060-002	157	044-240-004	40	047-282-005	21
029-180-013	436	044-281-003	158	047-290-004	39
029-180-015	19	046-060-024	38	047-300-001	38
029-180-016	20	047-120-018	44	048-020-007	78
029-180-017	41	047-282-002	154		
044-170-012	160	047-282-004	102		

Board staff inspections indicate that the majority of the above acres are almond orchard, with a small fraction (around 5 percent) being vineyard.

7. On 20 February 2013, 10 April 2013, and 18 April 2013; the Central Valley Water Board issued notices to Rakkar describing new water quality regulations and options available to comply with the regulations. Rakkar did not obtain regulatory coverage in response to the notices. A copy of the Notices and an associated Record of Communication are provided as Attachment A.
8. On 21 June 2013, the Assistant Executive Officer of the Central Valley Water Board issued a Water Code section 13260 Directive Letter (hereafter Directive) to Rakkar, sent via certified mail. The Directive stated that, *"You are receiving this letter because, based on information available to the California Regional Water Quality Control Board, you own the following parcels with irrigated cropland, which are subject to new regulations."* The Directive was sent based on evidence of commercial irrigated lands from aerial photographs. A copy of the Directive is provided as Attachment B.
9. The Directive required Rakkar to obtain regulatory coverage for its irrigated agricultural parcel within 15 calendar days of receipt of the Directive. As detailed in the Directive, Rakkar could comply by joining the East San Joaquin Water Quality Coalition ("Coalition" or "ESJWQC"), or by submitting a Report of Waste Discharge.

¹ Per ParcelQuest™ data, all parcels are owned by Rakkar Properties LP C/O Gurcharan S Rakkar Trustee, except APN 046-060-024, which is owned by Gurcharan S & Balwinder K Rakkar Trustee.

10. The certified mail receipt for the Directive issued to Rakkar was received on 24 June 2013. A copy of the certified mail receipt for the Directive is included with the Directive in Attachment B. Rakkar neither obtained regulatory coverage by 9 July 2013 nor contacted the Board.
11. On 26 June 2013, 22 August 2013, and 29 August 2013; Board staff conducted field inspections of Rakkar-owned Madera County APNs 047-300-001, 047-120-018, 047-282-005, 048-020-007, 028-060-002, 046-060-024, 044-170-012, & 044-240-004, and found evidence of commercial irrigated agricultural operations based on the crops grown and the size of the operations. About 500 acres of these parcels were found to be almond orchards and about 100 acres were found to be vineyard. Copies of the inspection reports are provided as Attachment C.
12. Because the Dischargers failed to respond by the deadline specified in the Directive, a Notice of Violation (NOV) was sent via certified mail to the Dischargers on 17 July 2013 and was received by the Dischargers on 23 July 2013. A copy of the NOV and the certified mail receipt are provided as Attachment D.
13. On 1 August 2013, Rakkar contacted the Board and left a message regarding the NOV. There is no record of Board staff returning the call. A copy of Record of Communication is included with the NOV in Attachment D.
14. On 12 August 2013, Rakkar submitted a Notice of Intent (NOI) to join a grower coalition and a \$200 administrative fee to the Board. However, Rakkar did not obtain regulatory coverage by joining a coalition or through individual coverage. A copy of the NOI and the check for the administrative fee are provided as Attachment E.
15. On 6 June 2014, staff sent Rakkar an "Incomplete NOI" letter notifying the Dischargers that the Notice of Intent to join a coalition was received, but that further action was required to obtain regulatory coverage (i.e., the Dischargers must join a coalition). A copy of the Incomplete NOI letter is provided as Attachment F.
16. On 17 July 2014, the Dischargers contacted staff regarding the Incomplete NOI letter. Board staff and the Dischargers discussed the letter and the requirement to join the coalition; staff also provided Rakkar with the appropriate grower coalition's phone number. Rakkar did not obtain coalition membership in response to this phone call. A copy of the Record of Communication is provided as Attachment G.
17. On 1 July 2015, Board staff attempted to contact Rakkar to discuss the impending Administrative Civil Liability and a proposed penalty, but staff was unable to reach the Dischargers. A copy of Record of Communication is provided as Attachment H.
18. On 31 August 2015, Board staff conducted field inspections of Rakkar's sixteen APNs in Madera County for the purpose of determining if the parcels have the potential to discharge irrigation return flows or storm water to waters of the state. APN 029-180-013, a newly purchased Rakkar property (purchased 2/11/2014) and new orchard, was the only parcel inspected that displayed a high potential for surface water discharges. All other inspections found no direct evidence of surface water discharges from the parcels

(e.g., discharge pipes at borders or erosion rills leading offsite). Copies of the inspection reports are provided as Attachment I.

19. On 30 September 2015, staff sent Rakkar a notification letter via certified mail that an ACL Complaint in the amount of \$70,980 would be issued if Rakkar did not obtain regulatory coverage and initiate ACL settlement discussions by 16 October 2015. A copy of this “pre-ACL letter” is provided as Attachment J.
20. The certified mail receipt for the pre-ACL letter issued to Rakkar was received on 7 October 2015. Rakkar did not contact Board staff in response to the pre-ACL letter. A copy of the certified mail receipt for the pre-ACL is included in Attachment J along with the pre-ACL letter.
21. Central Valley Water Board records indicate that at the time of issuance of this ACL Complaint, Board staff had not received a report of waste discharge (RoWD) or proof of coalition membership from Rakkar.

ALLEGED VIOLATIONS

22. Rakkar failed to obtain coalition membership or submit a Report of Waste Discharge as required by Water Code section 13260. The Water Code section 13260 Directive Letter issued to Rakkar required either submittal of a RoWD or, in lieu of submitting a RoWD, submittal of a Notice of Intent (NOI) to enroll in the East San Joaquin Water Quality Coalition and joining the East San Joaquin Water Quality Coalition (“ESJWQC”). As of 25 January 2016, Rakkar’s RoWD or ESJWQC membership is 929 days past due.

REGULATORY CONSIDERATIONS

23. The Central Valley Water Board’s authority to regulate waste discharges that could affect the quality of the waters of the state, which includes both surface water and groundwater, is found in the Porter-Cologne Water Quality Control Act (California Water Code Division 7).
24. Water Code section 13260, subdivision (a), requires that any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the State, other than into a community sewer system, shall file with the appropriate Regional Board a report of waste discharge containing such information and data as may be required by the Regional Board, unless the Regional Board waives such requirement. The Central Valley Regional Board implements Water Code section 13260 in the area where the Dischargers’ lands are located.
25. Pursuant to Water Code section 13261, subdivision (a), a person who fails to furnish a report or pay a fee under Section 13260 when so requested by a regional board is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).

26. Water Code section 13261, subdivision (b)(1), states: Civil liability may be administratively imposed by a regional board or the state board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an amount not exceeding one thousand dollars (\$1,000) for each day in which the violation occurs. Civil liability shall not be imposed by the regional board pursuant to this section if the state board has imposed liability against the same person for the same violation.
27. The required RoWD is 929 days past due. The maximum liability under Water Code section 13261(b)(1) for the failure to furnish a report under Water Code section 13260 is \$1,000 per each day the violation occurs, for a total maximum of nine hundred thirty-one thousand dollars (\$929,000).
28. Pursuant to Water Code section 13327, in determining the amount of civil liability, the Central Valley Water Board shall take into consideration the nature, circumstance, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters as justice may require.
29. On 17 November 2009, the State Water Board adopted Resolution No. 2009-0083 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy was approved by the Office of Administrative Law and became effective on 20 May 2010. The Enforcement Policy establishes a methodology for assessing administrative civil liability. The use of this methodology addresses the factors that are required to be considered when imposing a civil liability as outlined in Water Code section 13327.
30. This administrative civil liability was derived from the use of the penalty methodology in the Enforcement Policy, as explained in detail in Attachment K. The proposed civil liability takes into account such factors as the Dischargers' culpability, history of violations, ability to pay and continue in business, and other factors as justice may require.
31. The Enforcement Policy endorses progressive enforcement action for violations of waste discharge requirements when appropriate, but recommends formal enforcement as a first response to more significant violations. Progressive enforcement is an escalating series of actions that allows for the efficient and effective use of enforcement resources. The Enforcement Policy recommends formal enforcement actions for the highest priority violations, chronic violations, and/or threatened violations. Order R5-2012-0116-R2 identifies failure to obtain regulatory coverage as a priority violation with regard to enforcement.
32. **Maximum and Minimum Penalties.** As described above, the maximum penalty for the violations is \$929,000. The Enforcement Policy requires that the minimum liability imposed be at least ten percent higher than the economic benefit so that liabilities are

not construed as the cost of doing business and so that the assessed liability provides a meaningful deterrent to future violations. The economic benefit to the Dischargers resulting from the failure to enroll under Order R5-2013-0100 is estimated at \$41,531 (see Attachment K for how this estimate was derived). Per the Enforcement Policy, the minimum penalty is the economic benefit plus ten percent (\$45,684).

33. Notwithstanding the issuance of this ACL Complaint, the Central Valley Water Board retains the authority to assess additional penalties for violations of the Water Code that may subsequently occur.
34. Issuance of this ACL Complaint is an enforcement action, and is therefore exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code § 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2).

**GURCHARAN & BALWINDER RAKKAR (TRUSTEES) AND RAKKAR PROPERTIES LP
ARE HEREBY GIVEN NOTICE THAT:**

1. The Assistant Executive Officer of the Central Valley Water Board proposes that the Dischargers be assessed **an administrative civil liability in the amount of seventy thousand nine hundred eighty dollars (\$70,980)**. The amount of the proposed liability is based upon a review of the factors cited in State Water Resources Control Board's Water Quality Enforcement Policy, and includes consideration of the economic benefit or savings resulting from the violations. The calculation of the penalty amount is explained in Attachment K.
2. A hearing on this matter will be conducted at the Central Valley Water Board meeting scheduled on **21/22 April 2016**, unless the Dischargers do any of the following by **15 February 2016**:
 - a) The Dischargers waive the hearing by completing the waiver form provided as Attachment L (checking off the box next to Option 1). If this option is selected, the Dischargers shall send a check for the proposed civil liability of **seventy thousand nine hundred eighty dollars (\$70,980)** (payable to the State Water Pollution Cleanup and Abatement Account) to State Water Resources Control Board, Division of Administrative Services, Accounting Branch, P.O. Box 1888, Sacramento, CA 95814. The Waiver and copy of the check shall be mailed to the Central Valley Water Board at 11020 Sun Center Drive, Suite 200, Rancho Cordova, CA 95670, Attn: Brett Stevens; OR
 - b) The Central Valley Water Board agrees to postpone any necessary hearing after the Dischargers request to engage in settlement discussions by checking the box next to Option 2 on the attached form, and returns it to the Central Valley Water Board along with a letter describing the issues to be discussed; OR
 - c) The Central Valley Water Board agrees to postpone any necessary hearing after the Dischargers request a delay by checking the box next to Option 3 on the attached

waiver form, and returns it to the board along with a letter describing the issues to be discussed.

3. If a hearing is held, the hearing will be governed by the Hearing Procedures, which are provided as Attachment M. During the hearing, the Central Valley Water Board would consider whether to affirm, reject, or modify the proposed Administrative Civil Liability, which may include raising the monetary value of the Civil Liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. If this matter proceeds to hearing, the Assistant Executive Officer reserves the right to amend the proposed amount of civil liability to conform to the evidence presented, including but not limited to, increasing the proposed amount to account for the costs of enforcement (including legal and expert witness costs) incurred after the date of the issuance of this ACL Complaint, and through completion of the hearing.

Original signed by

Andrew Altevogt, Assistant Executive Officer

25 January 2016

(Date)

Attachment A: Notices and Record of Communication

Attachment B: 21 June 2013 California Water Code section 13260 Directive

Attachment C: 26 June 2013, 22 August 2013, & 29 August 2013 Inspection Reports

Attachment D: 17 July 2013 Notice of Violation for Failure to respond to 13260 Directive

Attachment E: 3 August 2013 Notice of Intent

Attachment F: 4 June 2014 Receipt of NOI- Further Action Required Letter

Attachment G: 17 July 2014 Record of Communication

Attachment H: 1 July 2015 Record of Communication

Attachment I: 31 August 2015 Inspection Reports

Attachment J: 30 September 2015 pre-ACL Letter

Attachment K: Calculation of Penalty per SWRCB Water Quality Enforcement Policy

Attachment L: Waiver Form for ACL Complaint

Attachment M: Hearing Procedures

Attachment N: ACL Fact Sheet

ATTACHMENT A

Notices and Record of Communication

Note: An auto-counting error occurred in MS Word that caused the paragraphs in the April 10th letter to be mis-numbered as "580", "581", and "582". These paragraphs should have been numbered "1", "2", and "3".



Central Valley Regional Water Quality Control Board

20 February 2013

Rakkar, Gurcharan & Balwinder Tr
11760 Hwy 145
Madera CA 93637

New Water Quality Regulations Require You to Act Now

Nuevas Regulaciones de Calidad de Aqua Requieren que usted Responde Inmediamente

(Para obtener más información en español (formularios u otra información), por favor contáctenos al telefono (916) 464-4611 o vía email a: IrrLands@waterboards.ca.gov.)

You are receiving this letter because based on information available to us, you own the following parcels with irrigated cropland subject to the new regulations.

Table with 4 columns and 6 rows listing parcel numbers for County: Madera.

On 7 December 2012, the Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board or board), approved the Waste Discharge Requirements General Order (Order R5-2012-0116 or General Order) for Growers within the Eastern San Joaquin River Watershed that are Members of the Third-Party Group.

Based on information available to us, you own one or more parcels with irrigated cropland within the Eastern San Joaquin River Watershed. The parcel number(s) for your property that prompted this letter are included above as a reference.

What Do Landowners or their Tenant Farmers Need to Do?

If you are the owner of commercial irrigated lands and you are **NOT** currently a member of the East San Joaquin Water Quality Coalition (Coalition), you have three options.

- 1. Join the Coalition by 13 May 2013.** The Central Valley Water Board worked closely with agricultural and other interests to develop a cost effective program for complying with the State's water quality law. Under the General Order, the landowner, or your tenant, may enroll your irrigated agricultural parcel(s) directly with the Coalition (see next page). To take advantage of this option, you must enroll your parcel(s) with the Coalition by **13 May 2013**. After that date, landowners must apply to the Central Valley Water Board to join a Coalition. Additional fees will apply to applications after 15 May 2013 and the board has the discretion to reject the application and regulate the landowner directly.
- 2. Obtain Coverage Under the General Waste Discharge Requirements for Individual Growers.** The Central Valley Water Board is currently considering the adoption of general Waste Discharge Requirements for landowners who chose not to join a Coalition group (anticipated adoption is in May 2013). Board staff anticipates that costs and requirements will be similar to Option 3. However, the process for getting regulatory coverage will be simplified with the submission of a Notice of Intent, rather than a report of waste discharge.
- 3. Obtain an Individual Permit⁴³⁷.** You can apply to have your own individual Waste Discharge Requirements (a permit). Depending on the specific site conditions, growers with their own individual WDRs are often required to monitor runoff from their property, install monitoring wells, and submit technical reports regarding their actions to comply with their Waste Discharge Requirements. Costs would include State administrative fees (for example, annual fees for farm sizes from 10-100 acres are currently \$750 + \$5/acre); cost to prepare a report of waste discharge; and monitoring and reporting costs.

You do NOT need regulatory coverage under this Order if:

- Your commercial irrigated lands are covered by the General Order for Existing Milk Cow Dairies (R5-2007-0035) or NPDES Dairy General Permit CAG015001 (Dairy General Orders). Please notify board staff of your parcels that have Dairy General Order coverage so you do not receive further inquiries from the board regarding regulatory coverage of those parcels (see next page).
- **If your agricultural-zoned property is not used for commercial irrigated agriculture**, please notify board staff so you do not receive further inquiries from the board regarding regulatory coverage under this Order.

⁴³⁷ The form for completing the Application (referred to as a Form 200 - Report of Waste Discharge) can be found online at: http://www.waterboards.ca.gov/publications_forms/forms/docs/form200.pdf. You may be requested by the Executive Officer to submit additional information to supplement the data provided in Form 200.

Who Do I Contact to Join the Coalition or Get More Information?

Contact the Coalition - To join the East San Joaquin Water Quality Coalition, or to get more information about this new requirement, call (209) 522-7278 and ask to speak with Wayne Zipser or Candy Hill or go to www.esicoalition.org. Also, check the website for dates on informational meetings for new Members and those thinking of joining the Coalition scheduled for March 2013.

Contact the Central Valley Water Board - To learn more about the Irrigated Lands Regulatory Program, you can visit our website at: http://www.waterboards.ca.gov/centralvalley/water_issues/irrigated_lands/. If you have questions regarding the Irrigated Lands Regulatory Program, you can call our phone line at (916) 464-4611 or e-mail board staff at IrrLands@waterboards.ca.gov.



PAMELA C. CREEDON
Executive Officer



Central Valley Regional Water Quality Control Board

10 April 2013

Rakkar Properties LP
Gucharan S Rakkar TRS
11760 Hwy 145
Madera CA 93637

New Water Quality Regulations Require You to Act Now

Nuevas Regulaciones de Calidad de Aqua Requieren que usted Responde Inmediamente

(Para obtener más información en español (formularios u otra información), por favor contáctenos al telefono (916) 464-4611 o vía email a: IrrLands@waterboards.ca.gov.)

You are receiving this letter because based on information available to us, you own the following parcels with irrigated cropland subject to the new regulations.

County: Madera			
044-281-003	044-281-003	044-281-003	044-281-003
047-282-004	047-282-004	047-282-004	047-282-004

On 7 December 2012, the Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board or board), approved the Waste Discharge Requirements General Order (Order R5-2012-0116 or General Order) for Growers within the Eastern San Joaquin River Watershed that are Members of the Third-Party Group. All commercial irrigated lands within the Eastern San Joaquin River Watershed are now required to get regulatory coverage through one of the options described below. The General Order addresses the discharge of waste from irrigated lands to groundwater and surface water. Wastes discharged from irrigated lands include pesticides, fertilizers, pathogens, and sediment.

Based on information available to us, you own one or more parcels with irrigated cropland within the Eastern San Joaquin River Watershed. The parcel number(s) for your property that prompted this letter are included above as a reference. Pursuant to California Water Code section 13260, you must obtain regulatory coverage for that irrigated cropland. Failure to obtain the regulatory coverage outlined above may result in penalties of up to \$1,000 per day pursuant to Water Code section 13261.

What Do Landowners or their Tenant Farmers Need to Do?

If you are the owner of commercial irrigated lands and you are **NOT** currently a member of the East San Joaquin Water Quality Coalition (Coalition), you have three options.

580. Join the Coalition by 13 May 2013. The Central Valley Water Board worked closely with agricultural and other interests to develop a cost effective program for complying with the State's water quality law. Under the General Order, the landowner, or your tenant, may enroll your irrigated agricultural parcel(s) directly with the Coalition (see next page). To take advantage of this option, you must enroll your parcel(s) with the Coalition by **13 May 2013**. After that date, landowners must apply to the Central Valley Water Board to join a Coalition. Additional fees will apply to applications after 15 May 2013 and the board has the discretion to reject the application and regulate the landowner directly.

581. Obtain Coverage Under the General Waste Discharge Requirements for Individual Growers. The Central Valley Water Board is currently considering the adoption of general Waste Discharge Requirements for landowners who chose not to join a Coalition group (anticipated adoption is in May 2013). Board staff anticipates that costs and requirements will be similar to Option 3. However, the process for getting regulatory coverage will be simplified with the submission of a Notice of Intent, rather than a report of waste discharge.

582. Obtain an Individual Permit¹. You can apply to have your own individual Waste Discharge Requirements (a permit). Depending on the specific site conditions, growers with their own individual WDRs are often required to monitor runoff from their property, install monitoring wells, and submit technical reports regarding their actions to comply with their Waste Discharge Requirements. Costs would include State administrative fees (for example, annual fees for farm sizes from 10-100 acres are currently \$750 + \$5/acre); cost to prepare a report of waste discharge; and monitoring and reporting costs.

You do NOT need regulatory coverage under this Order if:

- Your commercial irrigated lands are covered by the General Order for Existing Milk Cow Dairies (R5-2007-0035) or NPDES Dairy General Permit CAG015001 (Dairy General Orders). Please notify board staff of your parcels that have Dairy General Order coverage so you do not receive further inquiries from the board regarding regulatory coverage of those parcels (see next page).
- **If your agricultural-zoned property is not used for commercial irrigated agriculture**, please notify board staff so you do not receive further inquiries from the board regarding regulatory coverage under this Order.

¹The form for completing the Application (referred to as a Form 200 - Report of Waste Discharge) can be found online at: http://www.waterboards.ca.gov/publications_forms/forms/docs/form200.pdf. You may be requested by the Executive Officer to submit additional information to supplement the data provided in Form 200.

Who Do I Contact to Join the Coalition or Get More Information?

Contact the Coalition - To join the East San Joaquin Water Quality Coalition, or to get more information about this new requirement, call (209) 522-7278 and ask to speak with Wayne Zipser or Candy Hill or go to www.esicoalition.org. Also, check the website for dates on informational meetings for new Members and those thinking of joining the Coalition scheduled for March 2013.

To learn more about the Irrigated Lands Regulatory Program, you can visit our website at: http://www.waterboards.ca.gov/centralvalley/water_issues/irrigated_lands/. If you have questions regarding the Irrigated Lands Regulatory Program, you can call our phone line at (916) 464-4611 or e-mail board staff at IrrLands@waterboards.ca.gov.



PAMELA C. CREEDON
Executive Officer

Central Valley Regional Water Quality Control Board

18 April 2013

Rakkar, Gurcharan & Balwinder Tr
11760 Hwy 145
Madera CA 93637

Final Notice New Water Quality Regulations Require You to Act Now

Nuevas Regulaciones de Calidad de Aqua Requieren que usted Responde Inmediamente

(Para obtener más información en español (formularios u otra información), por favor contáctenos al telefono (916) 464-4611 o vía email a: lrrLands@waterboards.ca.gov.)

If you are the owner of commercial irrigated lands and you are **NOT** currently a member of the East San Joaquin Water Quality Coalition (Coalition), you have three options.

- 1. Join the Coalition by 13 May 2013.** The Central Valley Water Board worked closely with agricultural and other interests to develop a cost effective program for complying with the State's water quality law. Under the General Order, the landowner, or your tenant, may enroll your irrigated agricultural parcel(s) directly with the Coalition (see next page). To take advantage of this option, you must enroll your parcel(s) with the Coalition by **13 May 2013**. After that date, landowners must apply to the Central Valley Water Board to join a Coalition. Additional fees will apply to applications after 15 May 2013 and the board has the discretion to reject the application and regulate the landowner directly.
- 2. Obtain Coverage Under the General Waste Discharge Requirements for Individual Growers.** The Central Valley Water Board is currently considering the adoption of general Waste Discharge Requirements for landowners who chose not to join a Coalition group. Board staff anticipates that costs and requirements will be similar to Option 3. However, the process for getting regulatory coverage will be simplified with the submission of a Notice of Intent, rather than a report of waste discharge.
- 3. Obtain an Individual Permit¹.** You can apply to have your own individual Waste Discharge Requirements (a permit). Depending on the specific site conditions, growers with their own individual WDRs would likely be required to monitor runoff from their property, install monitoring wells, and submit technical reports regarding their actions to comply with their Waste Discharge Requirements. Costs would include State administrative fees (for example, annual fees for farm sizes from 10-100 acres are currently \$750 + \$5/acre); cost to prepare a report of waste discharge; and monitoring and reporting costs.

continued on back of page

You do NOT need regulatory coverage under this Order if:

- Your commercial irrigated lands are covered by the General Order for Existing Milk Cow Dairies (R5-2007-0035) or NPDES Dairy General Permit CAG015001 (Dairy General Orders). Please notify board staff of your parcels that have Dairy General Order coverage so you do not receive further inquiries from the board regarding regulatory coverage of those parcels.
- **If your agricultural-zoned property is not used for commercial irrigated agriculture**, please notify board staff so you do not receive further inquiries from the board regarding regulatory coverage under this Order.

Who Do I Contact to Join the Coalition or Get More Information?

Attend an East San Joaquin Water Quality Coalition New Member Signup Clinic – There will be three of these clinics held on the following dates, and at these locations:

- **Tuesday, April 23rd, 2013:** Madera County Farm Bureau, 1102 Pine Street, Madera; 1-hour presentations at 10 AM and 1:30 PM; Coalition staff available 9 AM to 4 PM
- **Wednesday, April 24th, 2013:** Merced County Farm Bureau, 646 So. Hwy 59, Merced; 1-hour presentations at 10 AM and 1:30 PM; Coalition staff available 9 AM to 4 PM
- **Thursday, April 25th, 2013:** Stanislaus County Farm Bureau, 1201 L Street, Modesto; 1-hour presentations at 10 AM and 1:30 PM; Coalition staff available 9 AM to 4 PM

Contact the Coalition - To join the East San Joaquin Water Quality Coalition, or to get more information about this new requirement, call (209) 846-6112 and ask to speak with Wayne Zipser or Candy Hill or go to www.esicoalition.org. **These contacts are with the Coalition, not the Central Valley Water Board.**

Contact the Central Valley Water Board - To learn more about the Irrigated Lands Regulatory Program, you can visit our website at: http://www.waterboards.ca.gov/centralvalley/water_issues/irrigated_lands/. If you have questions regarding the Irrigated Lands Regulatory Program, you can call our phone line at (916) 464-4611 or e-mail board staff at IrrLands@waterboards.ca.gov.



PAMELA C. CREEDON
Executive Officer

¹The form for completing the Application (referred to as a Form 200 - Report of Waste Discharge) can be found online at: http://www.waterboards.ca.gov/publications_forms/forms/docs/form200.pdf. You may be requested by the Executive Officer to submit additional information to supplement the data provided in Form 200.

CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

RECORD OF COMMUNICATION

Phone Call
 Meeting

Other (specify) _____
E-mail _____

PARTIES

Dana Kulesza

Gucharan Rakkar *
Rakkar Properties LP*

* Party Initiating Communication

SUBJECT: ESJ Letter

DATE / TIME

Initial call: 04/15/2013 / 14:07*

Return call: 04/16/2013 / 14:40

Phone Number: (559) 479-0341

Cell Number:

SUMMARY OF COMMUNICATION:

2 large parcels of irrigated almonds. Mr. Rakkar does not understand what this is for; I explained several times. English second language, but I think he understood my description. I think he will enroll parcels but he wants to check with his attorney. I strongly encouraged him to call the coalition and enroll.

WRITTEN BY:

Dana Kulesza

Rakkar ACL Complaint R5-2016-0505

ATTACHMENT B

21 June 2013 California Water Code section 13260 Directive



Central Valley Regional Water Quality Control Board

21 June 2013

Rakkar, Gurcharan & Balwinder Tr
11760 Hwy 145
Madera, CA 93637

Certified Mail Number
7044 1090 0001 3130 3288

DIRECTIVE TO OBTAIN IRRIGATED LANDS REGULATORY COVERAGE
THIS LETTER CONTAINS LEGAL DIRECTIVES THAT MUST BE FOLLOWED
PLEASE READ THIS LETTER CAREFULLY
FAILURE TO RESPOND MAY RESULT IN FINES OF UP TO \$1,000 PER DAY

You are receiving this letter because, based on information available to the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board or board), you own the following parcels with irrigated cropland, which are subject to new regulations:

Table with 2 columns and 6 rows listing parcel numbers under the heading 'County: Madera'.

On 7 December 2012, the Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board or board), approved the Waste Discharge Requirements General Order (Order R5-2012-0116 or General Order) for Growers within the Eastern San Joaquin River Watershed that are Members of the Third-Party Group. All commercial irrigated lands within the Eastern San Joaquin River Watershed are now required to get regulatory coverage through one of the options described below. The General Order addresses the discharge of waste from irrigated lands to groundwater and surface water. Wastes discharged from irrigated lands include pesticides, fertilizers, pathogens, and sediment.

The Central Valley Water Board is requiring you to obtain regulatory coverage for your irrigated lands within 15 calendar days of receiving this letter. You may obtain regulatory coverage by either:

- 63. Submitting (a) a completed Notice of Intent (NOI; provided herein as an attachment) to the Central Valley Water Board to comply with the conditions of the General Order, (b) a State Water Board administrative processing fee of \$200 for the NOI, and (c) a membership application to the East San Joaquin Water Quality Coalition

KARL E. LONGLEY ScD, P.E., CHAIR | PAMELA C. CREEDON P.E., BCEE, EXECUTIVE OFFICER

11020 Sun Center Drive #200, Rancho Cordova, CA 95670 | www.waterboards.ca.gov/centralvalley

(Coalition). Upon submittal of a complete NOI, and after receiving confirmation from the Coalition that the grower is now a member, the Central Valley Water Board Executive Officer will then issue a Notice of Applicability (NOA), after which the member will be considered covered under the General Order. The coalition conducts monitoring and submits reports to the Central Valley Water Board on its member's behalf.

You can obtain a Coalition membership application by contacting the Coalition at (209) 846-6112, or at www.esjcoalition.org. You should ask to speak with Katy Khatami; **or**

64. Submitting a Report of Waste Discharge³²(RoWD) to the Central Valley Water Board, along with the appropriate filing fee. When regulated individually, a grower must conduct their own monitoring and report directly to the Central Valley Water Board. Depending on the specific site conditions, growers are often required to monitor runoff from their property, install monitoring wells, and submit technical reports regarding their actions to comply with their Waste Discharge Requirements. Costs would include State administrative fees (for example, annual state fees for farm sizes from 11-100 acres are currently \$750 + \$5/acre); cost to prepare a report of waste discharge; and monitoring and reporting costs.

Please determine which form of regulatory coverage is best for you and submit the appropriate documents to:

**Central Valley Water Board
Attn: Scott Perrou
Irrigated Lands Regulatory Program
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670**

Grounds for Issuing the Directive Order

Discharge from irrigated lands may be considered a "waste" under the California Water Code. Irrigating agricultural lands such as yours may result in discharges of waste to land/groundwater or to surface water that could affect the quality of waters of the state.

Board staff recently inspected the parcel or parcels listed in the table above and found commercial irrigated cropland. Accordingly, regulatory coverage is required for this land use. You must choose between the regulatory options presented above.

Exemptions to the Program

If you no longer own or operate the parcel(s), you still need to respond to this Directive Letter. Please provide a written response explaining your exemption (with any supporting documents) to the aforementioned address. Please be aware that board staff may contact you to verify your exemption claim.

³² The form for completing the RoWD can be found online at: http://www.waterboards.ca.gov/publications_forms/forms/docs/form200.pdf. Submitting a RoWD may lead to issuance of Individual Waste Discharge Requirements (WDRs) for your irrigated lands. WDRs carry substantial permit fees and would likely require the development of a site-specific monitoring and reporting program. Board staff recommends that you discuss this option further with us before submitting a RoWD.

If you are a current coalition member and have received this notice, contact the coalition to add the above parcels to your membership. You must also notify the Water Board of the parcels you have enrolled, or you may be subject to fines. As stated above, if you no longer own or operate the parcel(s), you still need to respond to this Directive Letter.

Legal Authority

Water Code section 13260 states, in relevant part:

(a) All of the following persons shall file with the appropriate regional board a report of the discharge, containing the information which may be required by the regional board:

(1) Any person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the state, other than into a community sewer system.

You must respond to this Directive Letter within **15 calendar days of receiving it**. Under California Water Code section 13261, failing to submit a RoWD when requested by the Board may result in the Central Valley Water Board assessing an administrative civil liability against you. Administrative civil liability can run as high as \$1,000 per day for every day the report is late.

For general information about the Central Valley Water Board's Irrigated Lands Regulatory Program, please visit:

http://www.waterboards.ca.gov/centralvalley/water_issues/irrigated_lands/index.shtml

If you have any further questions about what is required of you, please contact Scott Perrou at (916) 464-4633 or via email at sperrou@waterboards.ca.gov.

Para obtener más información en español (formularios u otra información), por favor contáctenos al telefono (916) 464-4611 o vía email a: lrrlands@waterboards.ca.gov.



For PAMELA C. CREEDON
Executive Officer

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Rakkar, Gurcharan & Balwinder Tr
11760 Hwy 145
Madera, CA 93637

2. Article Number

(Transfer from service label)

7013 1090 0001 3130 3288

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Balwinder Tr* Agent
 Addressee

B. Received by (Printed Name)

C. Date of Delivery

6/24/13

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

- Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

 Yes

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4® in this box*

California Regional Water
Quality Control Board
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114

5570628950



ATTACHMENT C

26 June 2013, 22 August 2013, & 29 August 2013
Inspection Reports

CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

Irrigated Lands Regulatory Program Enrollment Confirmation Inspection Report

Owner(s): Rakkar, Gurcharan & Balwinder Tr

Parcel Number: 047-300-001, 047-120-018, 047-282-005, 048-020-007, 028-060-002, 046-060-024, 044-170-012, & 044-240-004 County: Madera Acres: 573.63

Date Inspected: 6/26/2013 Inspected By: SP & TB

Crop Type / Irrigation Method: Grapes, Almonds, and Orchard crops / Drip and Micro-sprinkler

Inspection Findings:

Commercial Irrigated Agriculture

Not Irrigated Ag

Not Commercial Ag

Dairy Permit

Other/Notes

Inspection Photos:



CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

Irrigated Lands Regulatory Program Enrollment Confirmation Inspection Report

Ownership Information:

Owner(s):	Rakkar, Gurcharan & Balwinder Tr	Coalition:	ESJWQC	County:	Madera
Parcel Number:	028-060-002	Acres:	156.6	All Info I.D. #	5858

Inspection Findings:

Date Inspected:	8/22/2013
Inspected By:	WO & SP
Results:	Commercially Irrigated Agriculture
Crop type:	Almonds
Irrigation Method:	Drip
Other/Notes:	

Inspection Photo: **028-060-002.JPG**



Approved:

A handwritten signature in blue ink, appearing to be 'Rakkar' or similar, written over the 'Approved:' text.

CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

Irrigated Lands Regulatory Program Enrollment Confirmation Inspection Report

Ownership Information:

Owner(s):	Rakkar, Gurcharan & Balwinder Tr	Coalition:	ESJWQC	County:	Madera
Parcel Number:	047-300-001	Acres:	39	All Info I.D. #	5854

Inspection Findings:

Date Inspected:	8/29/2013
Inspected By:	WO & DK
Results:	Commercially Irrigated Agriculture
Crop type:	Vineyards
Irrigation Method:	Furrow
Other/Notes:	

Inspection Photo: **047-300-001.JPG**



Approved:

A handwritten signature in blue ink, appearing to be 'Rakkar'.

CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

Irrigated Lands Regulatory Program Enrollment Confirmation Inspection Report

Ownership Information:

Owner(s):	Rakkar, Gurcharan & Balwinder Tr	Coalition:	ESJWQC	County:	Madera
Parcel Number:	048-020-007	Acres:	79.3	All Info I.D. #	5857

Inspection Findings:

Date Inspected:	8/29/2013
Inspected By:	WO & DK
Results:	Commercially Irrigated Agriculture
Crop type:	Almonds
Irrigation Method:	Sprinkler
Other/Notes:	

Inspection Photo: **048-020-007.JPG**



Approved:

A handwritten signature in blue ink, appearing to be 'Rakkar' or similar, written over a light blue circular stamp.

CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

Irrigated Lands Regulatory Program Enrollment Confirmation Inspection Report

Ownership Information:

Owner(s):	Rakkar, Gurcharan & Balwinder Tr	Coalition:	ESJWQC	County:	Madera
Parcel Number:	046-060-024	Acres:	38.1	All Info I.D. #	5859

Inspection Findings:

Date Inspected:	8/29/2013
Inspected By:	WO & DK
Results:	Commercially Irrigated Agriculture
Crop type:	Almonds
Irrigation Method:	Drip
Other/Notes:	

Inspection Photo: **046-060-024.JPG**



Approved:

CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

Irrigated Lands Regulatory Program Enrollment Confirmation Inspection Report

Ownership Information:

Owner(s):	Rakkar, Gurcharan & Balwinder Tr	Coalition:	ESJWQC	County:	Madera
Parcel Number:	044-170-012	Acres:	159.8	All Info I.D. #	5860

Inspection Findings:

Date Inspected:	8/29/2013
Inspected By:	WO & DK
Results:	Commercially Irrigated Agriculture
Crop type:	Almonds
Irrigation Method:	Sprinkler
Other/Notes:	

Inspection Photo: **044-170-012.JPG**



Approved:

A handwritten signature in blue ink, appearing to be 'RBS', written over a light blue circular stamp.

CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

Irrigated Lands Regulatory Program Enrollment Confirmation Inspection Report

Ownership Information:

Owner(s):	Rakkar, Gurcharan & Balwinder Tr	Coalition:	ESJWQC	County:	Madera
Parcel Number:	044-240-004	Acres:	41.4	All Info I.D. #	5861

Inspection Findings:

Date Inspected:	8/29/2013
Inspected By:	WO & DK
Results:	Commercially Irrigated Agriculture
Crop type:	Almonds
Irrigation Method:	Sprinkler
Other/Notes:	

Inspection Photo: **044-240-004.JPG**



Approved:

A handwritten signature in blue ink, appearing to be 'Rakkar', written over a light blue circular stamp.

ATTACHMENT D

17 July 2013 Notice of Violation
for Failure to respond to 13260 Directive



Central Valley Regional Water Quality Control Board

17 July 2013

Rakkar, Gurcharan & Balwinder Tr
11760 Hwy 145
Madera, CA 93637

Certified Mail Number
7006 2150 0000 7132 6611

NOTICE OF VIOLATION

FAILURE TO OBTAIN IRRIGATED LANDS REGULATORY COVERAGE UNDER CALIFORNIA WATER CODE SECTION 13260

FAILURE TO RESPOND MAY RESULT IN FINES OF UP TO \$1,000 PER DAY

You are receiving this letter because, based on information available to the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board or board), you own the following parcels with irrigated cropland, which are subject to new regulations:

County: Madera			
047-300-001	047-120-018	047-282-005	048-020-007
028-060-002	046-060-024	044-170-012	044-240-004

On 21 June 2013, the California Regional Water Quality Control Board, Central Valley Region's (Central Valley Water Board) Executive Officer issued you a directive to obtain irrigated lands regulatory coverage pursuant to California Water Code section 13260 (Directive Letter). The Directive Letter required you to either join a coalition group or submit a report of waste discharge for irrigated agricultural lands that you may own or operate which discharge waste to waters of the State. As stated in the Directive Letter, discharge from irrigated lands may be considered a "waste" under the California Water Code. Irrigating agricultural lands such as yours may result in discharges of waste to land/groundwater or to surface water that could affect the quality of waters of the state. Board staff recently inspected the parcel or parcels listed in the table above and found commercial irrigated cropland. Accordingly, regulatory coverage is required for this land use. You must choose between the regulatory options presented above.

Central Valley Water Board records indicate that (1) you received the Directive Letter by certified mail, and (2) you have not enrolled your irrigated lands in one of the aforementioned options within the 15 calendar days as required. This letter serves as notice that you are in violation of the Directive Letter. For your information a copy of the original Directive Order has been attached to this Notice of Violation.

Pursuant to the Directive Letter, you were required to determine which option was appropriate for your situation and submit the appropriate documents to:

Central Valley Water Board
Attn: Scott Perrou
Irrigated Lands Regulatory Program
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670

Water Code section 13260 states, in relevant part:

(a) All of the following persons shall file with the appropriate regional board a report of the discharge, containing the information which may be required by the regional board:

(1) Any person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the state, other than into a community sewer system.

You **must** take **one** of the following actions within **15 calendar days**:

1. Submitting (a) a completed Notice of Intent (NOI; provided herein as an attachment) to the Central Valley Water Board to comply with the conditions of the General Order, (b) a State Water Board administrative processing fee of \$200 for the NOI, and (c) a membership application to the East San Joaquin Water Quality Coalition (Coalition). Upon submittal of a complete NOI, and after receiving confirmation from the Coalition that the grower is now a member, the Central Valley Water Board Executive Officer will then issue a Notice of Applicability (NOA), after which the member will be considered covered under the General Order. The coalition conducts monitoring and submits reports to the Central Valley Water Board on its member's behalf.

You can obtain a Coalition membership application by contacting the Coalition at (209) 846-6112, or at www.esjcoalition.org. You should ask to speak with Katy Khatami; **or**

2. Submitting a Report of Waste Discharge²⁹(RoWD) to the Central Valley Water Board, along with the appropriate filing fee. When regulated individually, a grower must conduct their own monitoring and report directly to the Central Valley Water Board. Depending on the specific site conditions, growers are often required to monitor runoff from their property, install monitoring wells, and submit technical reports regarding their actions to comply with their Waste Discharge Requirements. Costs would include State administrative fees (for example, annual state fees for farm sizes from 11-100 acres are currently \$750 + \$5/acre); cost to prepare a report of waste discharge; and monitoring and reporting costs.

²⁹ The form for completing the RoWD can be found online at: http://www.waterboards.ca.gov/publications_forms/forms/docs/form200.pdf. Submitting a RoWD may lead to issuance of Individual Waste Discharge Requirements (WDRs) for your irrigated lands. WDRs carry substantial permit fees and would likely require the development of a site-specific monitoring and reporting program. Board staff recommends that you discuss this option further with us before submitting a RoWD.

If you fail to take one of the actions described above, the Central Valley Water Board may impose penalties of up to \$1,000 per day pursuant to Water Code section 13261.

Water Code section 13261 states, in relevant part:

(a) Any person failing to furnish a report or pay a fee under Section 13260 when so requested by a regional board is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).

(b) (1) Civil liability may be administratively imposed by a regional board ... in an amount that may not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.

For general information about the Central Valley Water Board's Irrigated Lands Regulatory Program, please visit:

http://www.waterboards.ca.gov/centralvalley/water_issues/irrigated_lands/index.shtml

If you have any further questions, please contact Scott Perrou at (916) 464-4633 or via email at sperrou@waterboards.ca.gov.

Para obtener más información en español por favor contáctenos al teléfono (916) 464-4633 o vía email a: sperrou@waterboards.ca.gov.



JOE KARKOSKI, Chief, Irrigated Lands Regulatory Program

Attachments: 21 June 2013 Directive Order,
Notice of Intent

ILRP

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

SP

1. Article Addressed to:

Rakkar, Gurcharan & Balwinder Tr

11760 Hwy 145

Madera, CA 93637

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Balwinder*

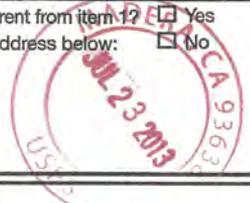
- Agent
- Addressee

B. Received by (Printed Name)

BALWINDER

C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No



3. Service Type

- Certified Mail
- Registered
- Insured Mail
- Express Mail
- Return Receipt for Merchandise
- C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number

(Transfer from service label)

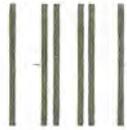
7006 2150 0000 7132 6611

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

UNITED STATES POSTAL SERVICE

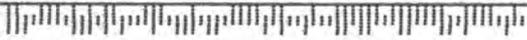


First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4® in this box®

California Regional Water
Quality Control Board
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114

55 70628550



CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

RECORD OF COMMUNICATION

Phone Call
 Meeting

Other (specify)
E-mail _____

PARTIES

Scott Perrou

Gucharan Rakkar *
Rakkar Properties LP*

* Party Initiating Communication

SUBJECT: Notice of Violation

DATE / TIME

Initial call: 08/01/2013 / 12:37*

Phone Number: (559) 479-0341

Cell Number:

SUMMARY OF COMMUNICATION:

Received NOV. Has questions. Please call back.

There is no record of staff call back.

WRITTEN BY:
Scott Perrou

ATTACHMENT E

3 August 2013 Notice of Intent

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

RECEIVED
COMMITTEE
CVRWQCB
13 APR 12 PM 1:57

NOTICE OF INTENT (NOI)
TO OBTAIN REGULATORY COVERAGE AND COMPLY
WITH ORDER R5-2012-0116

Applicable to Irrigated Lands in the Eastern San Joaquin River Watershed

You must complete the entire form. Submit it to the Central Valley Water Board, along with the applicable filing fee to cover administrative costs associated with processing this form. Instructions for filling out the form, filing fees, and address to mail the form are on the reverse side.

1. LANDOWNER INFORMATION:			
1a. Landowner Name: RAKKAR GURCHARAN		1b. Landowner Mailing Address: 11760 Hwy 145 MADERA CA 93632	
1c. Landowner Phone: 559-479-0341		1d. Landowner Email:	
1e. Is the landowner also the operator of the irrigated lands operation? NO (If Yes, skip boxes 2a-2d)			
2. OPERATOR INFORMATION: (If more than one tenant operator, attach additional sheet for sections 2 and 3, including identification of parcels operated by each tenant.)			
2a. Operator Name: RAKKAR GURCHARAN		2b. Operator Mailing Address: 11760 Hwy 145 MADERA CA 93632	
2c. Operator Phone:		2d. Operator Email:	
2e. Name of Operation:		2f. Has the landowner <input type="checkbox"/> or operator <input type="checkbox"/> applied for membership in the East San Joaquin Water Quality Coalition? No (check one; skip if you answered Yes to question 1e.)	
3. PARCEL INFORMATION: Please list parcels for which you would like to obtain regulatory coverage (attach additional sheets as needed):			
Parcel Number	County	Acres of Irrigated Cropland	Crop type or other land use (such as almonds, managed wetland, pasture)
047-300-001	Madera	32 Acre	Grapes
028-060-002	Madera	140	Almonds
047-120-018	Madera	35	Grapes
046-062-024	Madera	30	Almonds
047-282-005	Madera	15	Cherry
4. CERTIFICATION			
"I certify under penalty of law that to the best of my knowledge and belief, this document and any attachments submitted is, true, accurate, and complete and was prepared by me or under my direction or supervision. I am aware that there are significant penalties for knowingly submitting false information.			
I would like to obtain regulatory coverage for waste discharges to surface water and groundwater under Order R5-2012-0116 by obtaining membership in the <u>East San Joaquin Water Quality Coalition</u> and complying with all applicable provisions of the Order. Simultaneously with this form, I have submitted a <u>membership application</u> and applicable member dues to the East San Joaquin Water Quality Coalition.			
I am maintaining a copy of Order R5-2012-0116 at my primary place of business or headquarters for this farming operation so as to be available at all times to operations personnel. I am familiar with the content of this Order and will comply with the Order."			
(4a) Signature of Landowner or Operator Gurcharan Rakk		(4b) Date 8-3-13	

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

NOTICE OF INTENT (NOI)
TO OBTAIN REGULATORY COVERAGE AND COMPLY
WITH ORDER R5-2012-0116
Applicable to Irrigated Lands in the Eastern San Joaquin River Watershed

You must complete the entire form. Submit it to the Central Valley Water Board, along with the applicable filing fee to cover administrative costs associated with processing this form. Instructions for filling out the form, filing fees, and address to mail the form are on the reverse side.

1. LANDOWNER INFORMATION:			
1a. Landowner Name: RAKKAR GUNCMARAN.		1b. Landowner Mailing Address:	
1c. Landowner Phone:		1d. Landowner Email:	
1e. Is the landowner also the operator of the irrigated lands operation? (If Yes, skip boxes 2a-2d)			
2. OPERATOR INFORMATION: (If more than one tenant operator, attach additional sheet for sections 2 and 3, including identification of parcels operated by each tenant.)			
2a. Operator Name:		2b. Operator Mailing Address:	
2c. Operator Phone:		2d. Operator Email:	
2e. Name of Operation:		2f. Has the landowner <input type="checkbox"/> or operator <input type="checkbox"/> applied for membership in the East San Joaquin Water Quality Coalition? (check one; skip if you answered Yes to question 1e.)	
3. PARCEL INFORMATION: Please list parcels for which you would like to obtain regulatory coverage (attach additional sheets as needed):			
Parcel Number	County	Acres of Irrigated Cropland	Crop type or other land use (such as almonds, managed wetland, pasture)
044-170-012	Madera	150	ALMONDS
048-020-007	Madera	70	ALMONDS
044-240-004	Madera	35	ALMONDS
4. CERTIFICATION			
<p><i>"I certify under penalty of law that to the best of my knowledge and belief, this document and any attachments submitted is, true, accurate, and complete and was prepared by me or under my direction or supervision. I am aware that there are significant penalties for knowingly submitting false information.</i></p> <p><i>I would like to obtain regulatory coverage for waste discharges to surface water and groundwater under Order R5-2012-0116 by obtaining membership in the <u>East San Joaquin Water Quality Coalition</u> and complying with all applicable provisions of the Order. Simultaneously with this form, I have submitted a <u>membership application</u> and applicable member dues to the East San Joaquin Water Quality Coalition.</i></p> <p><i>I am maintaining a copy of <u>Order R5-2012-0116</u> at my primary place of business or headquarters for this farming operation so as to be available at all times to operations personnel. I am familiar with the content of this Order and will comply with the Order."</i></p>			
(4a) Signature of Landowner or Operator		(4b) Date	



NOTICE OF INTENT (NOI)
Applicable to Irrigated Lands in the Eastern San Joaquin River Watershed
INSTRUCTIONS

You must complete the entire form. Pursuant to State Board Resolution 2008-0073, an administrative fee of **\$50** has been developed to recover staff costs associated with processing forms and conducting outreach efforts to nonparticipants. However, if the landowner or operator has received a California Water Code section 13267 or 13260 Order, the administrative fee is increased to **\$200**. This fee is to be submitted with this NOI and made payable to the State Water Resources Control Board (SWRCB).

Upon submittal of a complete NOI, and after receiving confirmation from the East San Joaquin Water Quality Coalition that you submitted a complete coalition membership application, the Water Board may issue a Notice of Applicability (NOA), after which you will be considered covered under this Order.

Section 1. The information in this section pertains to the person(s) owning the parcels listed in section 3 (referred to as the "landowner").

Box 1e. If the landowner is also the person running the day to day activities of the irrigated agricultural operation on the parcel(s) listed in section 3 (referred to as the "operator"), enter "Yes" in box 1.e and then skip boxes 2a. through 2d. If the landowner and the operator are two separate people, completely fill out boxes 2a. through 2d.

Section 2. The information in this section pertains to the person(s) running the day to day activities of the irrigated agricultural operation on the parcel(s) listed in section 3 (referred to as the "operator"). If the landowner and the operator are the same person, please skip boxes 2a. through 2d. If the landowner has more than one cropland operator, please attached additional sheets, and list which parcels are operated by each operator.

Box 2e. Indicate the name of the business or farm.

Box 2f. When submitting this NOI, the landowner or operator must **also** submit an application to join the East San Joaquin Water Quality Coalition. The coalition does not require that both the owner and the operator must join; only one or the other. If the coalition membership application has not been submitted, please go to their website at <http://www.esjcoalition.org/home.asp> and submit the application.

Once the coalition membership application has been completed, check either **landowner** or **operator** in box 2f. to notify the Central Valley Water Board who has obtained coalition membership (or skip if the landowner and operator are the same person).

Section 3. Please list all Assessor Parcel Numbers (APNs) of parcels for which you are requesting regulatory coverage, the county of each parcel, the number or irrigated acres on each parcel, and the crop type or other applicable land use type that occurs on the parcel. Examples of other land use types (other than crops) that need regulatory coverage under the Irrigated Lands Regulatory Program include managed wetlands, pastureland, nurseries, and greenhouses.

Section 4. Certification statement.

Box 4a. Signature of the landowner or operator, certifying the NOI.

Box 4b. Date the landowner or operator signed and certified the NOI.

Send completed forms to:
Central Valley Water Board
Irrigated Lands Regulatory Program
11020 Sun Center Dr., Ste. 200
Rancho Cordova, CA 95670

5927

RAKKAR FARMS
11760 HWY 145
MADERA, CA 93637-9433

DATE 8-3-13 90-3842-1222

PAY TO THE ORDER OF State water resource \$ 200 ⁰⁰/₁₀₀

Two Hundred \$ _____ DOLLARS  Security Features Included. Details on Back.


Rabobank
Rabobank, N.A.
P.O. Box 6002
Arroyo Grande, CA 93421-6002
Customer Service 800-942-6222

FOR _____ Genevieve S. Rakkar MP

⑈005927⑈ ⑆122238420⑆ 9505085847⑈

ATTACHMENT F

4 June 2014 Receipt of "Further Action Required" Letter

Central Valley Regional Water Quality Control Board

6 June 2014

Gurcharan & Balwinder Rakkar TR
11760 Hwy 145
Madera, CA 93637

RECEIPT OF NOTICE OF INTENT TO JOIN EAST SAN JOAQUIN WATER QUALITY COALITION – FURTHER ACTION REQUIRED

Thank you for submitting a Notice of Intent (NOI) requesting coverage under Central Valley Regional Water Quality Control Board (Central Valley Water Board or board) Order R5-2012-0116 (Order; NOI copy attached). Please review the following table for the status of your submittal.

<input checked="" type="checkbox"/>	You must submit a membership application and applicable member dues to the East San Joaquin Water Quality Coalition. You can obtain a membership application by contacting the Coalition at (209) 846-6112, or at www.esjcoalition.org . You should ask to speak with Katy Khatami. After you join, you must notify board staff that you have done so (staff contact info provided below).
<input type="checkbox"/>	To complete the NOI, an administrative fee of \$50 is required. Please submit the administrative fee with the enclosed copy of your NOI. An explanation of why the fee is owed is provided below.
<input type="checkbox"/>	To complete the NOI, an administrative fee of \$200 is required. Please submit the administrative fee with the enclosed copy of your NOI. An explanation of why the fee is owed is provided below.
<input type="checkbox"/>	You submitted an administrative fee of \$50 , but your fee is \$200 . Please submit an additional fee of \$150 with the enclosed copy of your NOI. An explanation of why the fee is owed is provided below.
<input type="checkbox"/>	Your NOI does not include all the required information. Please see the highlighted sections in the attached copy and provide all information or supporting documents. Please send this copy with completed information to the mailing address provided below.
<input type="checkbox"/>	Your NOI does not include all parcels requiring regulatory coverage. Please add this parcel or parcels to your Coalition membership, and then to the attached NOI copy and submit the revised NOI to board staff (contact info provided below). Parcel(s):

Gurcharan & Balwinder Rakkar TR
11760 Hwy 145
Madera, CA 93637

- 2 -

6 June 2014

With regard to the explanation for administrative fees, the State Water Resources Control Board (State Board) establishes fees for water quality programs. Pursuant to State Board Resolution 2008-0073, the fee requirements for the Irrigated Lands Regulatory Program are explained in the following excerpt:

“Upon approval by the Regional Water Quality Control Board to join a group subject to waivers of discharges from agricultural land, the discharger shall submit to the State Water Board an application fee, unless such fee is not required by the Regional Water Quality Control Board. The application fee is a one-time fee of \$200 for dischargers responding to a California Water Code §13267 Order and \$50 for all other dischargers. This application fee shall not apply to dischargers who were members of a group on or before June 30, 2008.”

Please submit the required information or fee specified above to:

Central Valley Water Board
Irrigated Lands Regulatory Program
Attn: Brett Stevens
11020 Sun Center Drive #200,
Rancho Cordova, CA 95670

You are advised to submit the specified information or fee as soon as feasible. If you delay, you may be subject to Central Valley Water Board enforcement actions, including monetary fines.

If you have any questions regarding this letter, please contact the undersigned at (916) 464-4642, or via email at Brett.Stevens@waterboards.ca.gov.

[Original signed by]

BRETT STEVENS, Chief
Compliance and Outreach Unit
Irrigated Lands Regulatory Program

ATTACHMENT G

17 July 2014 Record of Communication

CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

RECORD OF COMMUNICATION

Phone Call
 Meeting

Other (specify) _____
E-mail _____

PARTIES

Brett Stevens

Gucharan Rakkar *
Rakkar Properties LP*

* Party Initiating Communication

SUBJECT: ESJ Directive

DATE / TIME

Initial call: 07/17/2014 / 10:05*

Return call: Same as above

Phone Number: Unknown

Cell Number:

SUMMARY OF COMMUNICATION:

Mr. Rakkar called the receptionist, who transferred his call to Brett.

Mr. Rakkar received an 'incomplete NOI' letter. I explained that he submitted an NOI and fee, but that he now needs to join the ESJ Coalition. I gave him the Coalition's phone number to arrange membership.

WRITTEN BY:

Brett Stevens

ATTACHMENT H

1 July 2015 Record of Communication

CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

RECORD OF COMMUNICATION

Phone Call
 Meeting

Other (specify) _____
E-mail _____

PARTIES

Scott Perrou*

Gucharan Rakkar
Rakkar Properties LP

DATE / TIME

Initial call: 07/01/2015 / 11:30*

* Party Initiating Communication

SUBJECT: Call to discuss non-compliance with ILRP and Impending ACL

Phone Number: (559) 479-0341

Cell Number:

SUMMARY OF COMMUNICATION:

7/1 Called and got a message saying that the number being called was unavailable. No ability to leave message. Call hung up.

WRITTEN BY:
Scott Perrou

Rakkar ACL Complaint R5-2016-0505

ATTACHMENT I

31 August 2015 Inspection Reports

CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

Irrigated Lands Regulatory Program Inspection Report

Ownership Information:

Owner(s):	RAKKAR PROPERTIES LP	Coalition:	ESJWQC	County:	MADERA
Parcel Number:	028-060-002	Acres:	156.6	I.D. #	MADERA 028-060-002

Inspection Findings:

Date Inspected:	8/31/2015
Inspected By:	SP & WO
Type of Inspection:	FIELD
Results:	Commercially Irrigated Agriculture
Crop type:	Almonds
Irrigation Method:	Drip
Other/Notes:	Does not appear to drain. Lower than road. No road side ditches. Low potential to discharge.

Inspection Photo:



CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

Irrigated Lands Regulatory Program Inspection Report

Ownership Information:

Owner(s):	RAKKAR PROP LP	Coalition:	ESJWQC	County:	MADERA
Parcel Number:	029-180-013	Acres:	435.5	I.D. #	MADERA 029-180-013

Inspection Findings:

Date Inspected:	8/31/2015
Inspected By:	SP & WO
Type of Inspection:	FIELD
Results:	Commercially Irrigated Agriculture
Crop type:	Orchard
Irrigation Method:	Drip
Other/Notes:	NEW Orchard. Drains to unnamed drainage. Surface water drainage. High potential to discharge.

Inspection Photo:



CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

Irrigated Lands Regulatory Program Inspection Report

Ownership Information:

Owner(s):	RAKKAR PROP LP	Coalition:	ESJWQC	County:	MADERA
Parcel Number:	029-180-015	Acres:	19.5	I.D. #	MADERA 029-180-015

Inspection Findings:

Date Inspected:	8/31/2015
Inspected By:	SP & WO
Type of Inspection:	FIELD
Results:	Commercially Irrigated Agriculture
Crop type:	Pistachios
Irrigation Method:	Drip
Other/Notes:	Does not appear to drain. Low potential to discharge.

Inspection Photo:



CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

Irrigated Lands Regulatory Program Inspection Report

Ownership Information:

Owner(s):	RAKKAR PROP LP	Coalition:	ESJWQC	County:	MADERA
Parcel Number:	029-180-016	Acres:	20.3	I.D. #	MADERA 029-180-016

Inspection Findings:

Date Inspected:	8/31/2015
Inspected By:	SP & WO
Type of Inspection:	FIELD
Results:	Commercially Irrigated Agriculture
Crop type:	Pistachios
Irrigation Method:	Drip
Other/Notes:	Does not appear to drain. Low potential to discharge.

Inspection Photo:



CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

Irrigated Lands Regulatory Program Inspection Report

Ownership Information:

Owner(s):	RAKKAR PROP LP	Coalition:	ESJWQC	County:	MADERA
Parcel Number:	029-180-017	Acres:	40.5	I.D. #	MADERA 029-180-017

Inspection Findings:

Date Inspected:	8/31/2015
Inspected By:	SP & WO
Type of Inspection:	FIELD
Results:	Commercially Irrigated Agriculture
Crop type:	Pistachios
Irrigation Method:	Drip
Other/Notes:	Does not appear to drain. Low potential to discharge.

Inspection Photo:



CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

Irrigated Lands Regulatory Program Inspection Report

Ownership Information:

Owner(s):	RAKKAR PROPERTIES LP	Coalition:	ESJWQC	County:	MADERA
Parcel Number:	044-170-012	Acres:	159.8	I.D. #	MADERA 044-170-012

Inspection Findings:

Date Inspected:	8/31/2015
Inspected By:	SP & WO
Type of Inspection:	FIELD
Results:	Commercially Irrigated Agriculture
Crop type:	Almonds
Irrigation Method:	Micro sprinkler
Other/Notes:	Does not drain. Does not appear to have surface drainage. No road side ditches. Low potential to discharge.

Inspection Photo:



CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

Irrigated Lands Regulatory Program Inspection Report

Ownership Information:

Owner(s):	RAKKAR PROPERTIES LP	Coalition:	ESJWQC	County:	MADERA
Parcel Number:	044-240-004	Acres:	40	I.D. #	MADERA 044-240-004

Inspection Findings:

Date Inspected:	8/31/2015
Inspected By:	SP & WO
Type of Inspection:	FIELD
Results:	Commercially Irrigated Agriculture
Crop type:	Orchard
Irrigation Method:	Unknown
Other/Notes:	Inaccessible. Aerial imagery shows potential irrigated agriculture but irrigation unknown. Could not determine potential to discharge from aerial imagery.

Inspection Photo:

The screenshot shows the PARCELQUEST web application. At the top, there are navigation menus for Search, Label / Export, Report, Account, and Support. Below this is a 'Find My Parcels' section with a 'Hide Tools' sidebar containing View, Layers, Go To, Buffer & Shapes, and Legend. The main area is a map showing a grid of agricultural parcels. A blue pin is placed on a parcel, which is highlighted with a blue border. A yellow box on the right side of the map highlights the specific parcel of interest, labeled '044-240-004'. At the bottom of the map, the Google logo and map data information are visible, including coordinates: Lat: 36.877130° and Lon: -120.094605°. Below the map, there is a 'Results' section with a table listing the parcel details.

all none	ID	Co	APN	Owner	Lot Acres	M Street Address	M City State Zip
<input checked="" type="checkbox"/>	1	MAD	044-240-004-000	RAKKAR PROPERTIES LP	40.000	11760 HIGHWAY 145	MADERA CA 93637



CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

Irrigated Lands Regulatory Program Inspection Report

Ownership Information:

Owner(s):	RAKKAR PROPERTIES LP	Coalition:	ESJWQC	County:	MADERA
Parcel Number:	044-281-003	Acres:	157.5	I.D. #	MADERA 044-281-003

Inspection Findings:

Date Inspected:	8/31/2015
Inspected By:	SP & WO
Type of Inspection:	FIELD
Results:	Commercially Irrigated Agriculture
Crop type:	Almonds
Irrigation Method:	Drip
Other/Notes:	Does not appear to drain. Low potential to discharge.

Inspection Photo:



CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

Irrigated Lands Regulatory Program Inspection Report

Ownership Information:

Owner(s):	GURCHARAN S & BALWINDER K RAKKAR	Coalition:	ESJWQC	County:	MADERA
Parcel Number:	046-060-024	Acres:	38	I.D. #	MADERA 046-060-024

Inspection Findings:

Date Inspected:	8/31/2015
Inspected By:	SP & WO
Type of Inspection:	FIELD
Results:	Commercially Irrigated Agriculture
Crop type:	Almonds
Irrigation Method:	Drip
Other/Notes:	Does not appear to drain. No surface water discharges parcel. Orchard lower than road and perimeter. Low potential to discharge.

Inspection Photo:



CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

Irrigated Lands Regulatory Program Inspection Report

Ownership Information:

Owner(s):	RAKKAR PROPERTIES LP	Coalition:	ESJWQC	County:	MADERA
Parcel Number:	047-120-018	Acres:	44	I.D. #	MADERA 047-120-018

Inspection Findings:

Date Inspected:	8/31/2015
Inspected By:	SP & WO
Type of Inspection:	FIELD
Results:	
Crop type:	Vineyard
Irrigation Method:	
Other/Notes:	Inaccessible. Appears to be a vineyard. Unknown irrigation. Unable to determine if parcel drains.

Inspection Photo:



CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

Irrigated Lands Regulatory Program Inspection Report

Ownership Information:

Owner(s):	RAKKAR PROPERTIES LP	Coalition:	ESJWQC	County:	MADERA
Parcel Number:	047-282-002	Acres:	154.1	I.D. #	MADERA 047-282-002

Inspection Findings:

Date Inspected:	8/31/2015
Inspected By:	SP & WO
Type of Inspection:	FIELD
Results:	Commercially Irrigated Agriculture
Crop type:	Almonds
Irrigation Method:	Drip
Other/Notes:	Does not appear to drain. Levees all the way around. Low potential to discharge.

Inspection Photo:



CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

Irrigated Lands Regulatory Program Inspection Report

Ownership Information:

Owner(s):	RAKKAR PROPERTIES LP	Coalition:	ESJWQC	County:	MADERA
Parcel Number:	047-282-004	Acres:	101.8	I.D. #	MADERA 047-282-004

Inspection Findings:

Date Inspected:	8/31/2015
Inspected By:	SP & WO
Type of Inspection:	FIELD
Results:	Commercially Irrigated Agriculture
Crop type:	Almonds
Irrigation Method:	Drip
Other/Notes:	Does not appear to drain. Low potential to discharge.

Inspection Photo:



CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

Irrigated Lands Regulatory Program Inspection Report

Ownership Information:

Owner(s):	RAKKAR PROPERTIES LP	Coalition:	ESJWQC	County:	MADERA
Parcel Number:	047-282-005	Acres:	21.3	I.D. #	MADERA 047-282-005

Inspection Findings:

Date Inspected:	8/31/2015
Inspected By:	SP & WO
Type of Inspection:	FIELD
Results:	Commercially Irrigated Agriculture
Crop type:	Orchard
Irrigation Method:	Unknown
Other/Notes:	Inaccessible. Aerial imagery shows potential irrigated agriculture but irrigation unknown. Could not determine potential to discharge from aerial imagery.

Inspection Photo:

The screenshot shows the PARCELQUEST web application interface. At the top, there are navigation menus for Search, Label / Export, Report, Account, and Support. Below this is a 'Find My Parcels' section. On the left, there is a 'Hide Tools' sidebar with options: View, Layers, Go To, Buffer & Shapes, and Legend. The main area is a map showing a parcel outlined in blue with a blue pin. The map includes a compass, a scale bar (50m), and a 'Map Satellite' toggle. At the bottom of the map, the coordinates are displayed: Lat: 36.881199°, Lon: -120.049477°, and a zoom level of 17. Below the map is a 'Results' table with a 'List View' display type and a 'Show Map' page layout. The table contains one entry for the parcel.

all none	ID	Co	APN	Owner	Lot Acres	M Street Address	M City State Zip
<input checked="" type="checkbox"/>	1	MAD	047-282-005-000	RAKKAR PROPERTIES LP	21.290	11760 HIGHWAY 145	MADERA CA 93637

CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

Irrigated Lands Regulatory Program Inspection Report

Ownership Information:

Owner(s):	RAKKAR PROP LP	Coalition:	ESJWQC	County:	MADERA
Parcel Number:	047-290-004	Acres:	39.4	I.D. #	MADERA 047-290-004

Inspection Findings:

Date Inspected:	8/31/2015
Inspected By:	SP & WO
Type of Inspection:	FIELD
Results:	Commercially Irrigated Agriculture
Crop type:	Almonds
Irrigation Method:	Drip
Other/Notes:	Does not appear to drain. No road side ditches. Low potential to discharge.

Inspection Photo:



CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

Irrigated Lands Regulatory Program Inspection Report

Ownership Information:

Owner(s):	RAKKAR PROPERTIES LP	Coalition:	ESJWQC	County:	MADERA
Parcel Number:	047-300-001	Acres:	39	I.D. #	MADERA 047-300-001

Inspection Findings:

Date Inspected:	8/31/2015
Inspected By:	SP & WO
Type of Inspection:	FIELD
Results:	Commercially Irrigated Agriculture
Crop type:	Vineyard
Irrigation Method:	Drip
Other/Notes:	Does not appear to drain. No road side ditches. Looks like access road on back of parcel is also higher. Low potential to discharge.

Inspection Photo:



CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

Irrigated Lands Regulatory Program Inspection Report

Ownership Information:

Owner(s):	RAKKAR PROPERTIES LP	Coalition:	ESJWQC	County:	MADERA
Parcel Number:	048-020-007	Acres:	78	I.D. #	MADERA 048-020-007

Inspection Findings:

Date Inspected:	8/31/2015
Inspected By:	SP & WO
Type of Inspection:	FIELD
Results:	Commercially Irrigated Agriculture
Crop type:	Almonds
Irrigation Method:	Micro sprinkler
Other/Notes:	Does not appear to drain. No road side ditches. Sandy soil. Low potential to discharge.

Inspection Photo:



Rakkar ACL Complaint R5-2016-0505

ATTACHMENT J

30 September 2015 Pre-ACL Letter

Central Valley Regional Water Quality Control Board

30 September 2015

Rakkar, Gurcharan & Balwinder Trust
Rakkar Properties LP
11760 Hwy 145
Madera, CA 93637

Certified Mail No.
7014 2870 0000 7535 5217

FORTHCOMING ASSESSMENT OF CIVIL LIABILITY FOR FAILURE TO COMPLY WITH CALIFORNIA WATER CODE SECTION 13260, RAKKAR, GURCHARAN & BALWINDER TRUST AND RAKKAR PRPERTIES LP, MADERA, MADERA COUNTY

The purpose of this letter is to inform you of a forthcoming Administrative Civil Liability Complaint (Complaint), and to notify you of your opportunity to negotiate and settle the assessment of monetary penalties for your failure to comply with the California Water Code. **Please read this notice carefully.**

On 20 February 2013 and 18 April 2013, the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) issued notices to you describing new water quality regulations and actions available to comply with the regulations.

On 21 June 2013, the Central Valley Water Board issued a Directive Order pursuant to California Water Code section 13260 (13260 Directive) by certified mail that required you to obtain regulatory coverage within fifteen (15) days for irrigated lands that you may own or operate.

On 18 July 2013, the Central Valley Water Board issued a Notice of Violation pursuant to California Water Code section 13260 (NOV) by certified mail that requested you obtain regulatory coverage for irrigated lands that you may own or operate.

Central Valley Water Board records indicate that you (1) own parcels that contain irrigated agriculture; (2) received a 13260 Directive and a Notice of Violation by certified mail requiring you to obtain regulatory coverage for all parcels containing irrigated agriculture; and (3) have not obtained regulatory coverage to date.

Legal Authority

Water Code section 13260 states, in relevant part:

“(a) All of the following persons shall file with the appropriate regional board a report of the discharge, containing the information which may be required by the regional board:

- (1) Any person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the state, other than into a community sewer system.”

Under California Water Code section 13261, failing to submit a Report of Waste Discharge when requested by the Central Valley Water Board may result in an administrative civil liability against you of up to \$1,000 per day for every day the report is late.

As of 30 September 2015, your obtainment of regulatory coverage is 813 days overdue. The **maximum penalty** for the violation described above is **eight hundred and thirty thousand dollars (\$813,000)** based on a calculation of the total number of per-day violations times the statutory maximum penalty (800 total days of violation multiplied by \$1,000). Based on our review and after conducting a preliminary penalty calculation, the Assistant Executive Officer of the Central Valley Water Board intends to issue a Complaint seeking an administrative civil liability assessment against you for **seventy thousand nine hundred and eighty dollars (\$70,980)**. This proposed penalty amount was calculated considering the methodology in the State Water Resources Control Board’s Water Quality Enforcement Policy (Enforcement Policy) and is based on facts known to date. This proposed penalty amount is preliminary and is subject to modification should additional information come to light. In addition, because the violation is continuing, the maximum and proposed penalty amounts will continue to increase until you obtain regulatory coverage. The full Enforcement Policy may be found here: http://www.swrcb.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf. To avoid further liability, you are urged to obtain regulatory coverage.

By way of this letter, you are being notified of the opportunity to meet to discuss the facts regarding the alleged violation, including the option of settlement. This meeting affords you the opportunity to potentially reduce the proposed penalty amount if you present new information to the Central Valley Water Board staff, or other information you believe is relevant to determining an appropriate monetary penalty. All settlement communications would be kept confidential subject to California Evidence Code sections 1152 and 1154. If a settlement is reached at this meeting, the Assistant Executive Officer will forego issuing the Complaint and this matter may be resolved without a hearing.

If you intend to argue that you have an inability to pay the proposed penalty amount, you must bring supporting documentation with you to the meeting. Appropriate documentation **must include** the last three years of signed federal income tax returns including schedules **and may also include** credit card or line of credit statements, mortgage loan statements, bank account statements, or any other document that explains the special circumstances regarding past, current, or future financial conditions. This information may be used in determining an appropriate monetary penalty assessment.

In order to initiate any discussions to settle this matter, you must contact Brett Stevens at (916) 464-4642 by **16 October 2015** to schedule a day and time to meet with Central Valley Water Board staff. If you do not respond by this date, the Assistant Executive Officer will issue you a Complaint and this matter will proceed to a formal enforcement hearing before the Central Valley Water Board; or the Assistant Executive Officer may refer the matter to the Attorney General's Office or other prosecution agency.

Before settlement discussions can occur, you must get the required regulatory coverage by enrolling under the Waste Discharge Requirements General Order (Order R5-2012-0116 or Coalition Order) for Growers within the Eastern San Joaquin River Watershed who are Members of the Third-Party (or Coalition) Group. Staff understands that you have previously submitted a Notice of Intent to join a Coalition, but you have not followed through to date by joining.

The estimated cost of regulatory coverage as a member of the East San Joaquin Water Quality Coalition is presented below:

Farm Size	Annual Cost for First Year of Coalition Membership (Includes Monitoring and Reporting)	Annual Cost for Following Years (Including Monitoring and Reporting)	Estimated Annual Costs
574 acres	\$17,302.65	\$2,202.50	\$17,302.65 (First Year) then \$2,202.50 annually, thereafter

Once you've joined the Coalition, you should contact Brett Stevens (information provided below) to schedule a settlement meeting with Board staff. You can arrange membership with the Coalition by calling (209) 846-6112.

If you have any questions, please contact Brett Stevens by phone at (916) 464-4642 or by email at Brett.Stevens@waterboards.ca.gov.



Sue McConnell, Manager
Irrigated Lands Regulatory Program

cc: Andrew Altevogt, Central Valley Water Board, Rancho Cordova
Kailyn Ellison, SWRCB Office of Enforcement
Naomi Kaplowitz, SWRCB Office of Enforcement

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Rakkar, Gurcharan & Balwinder Trust
 Rakkar Properties LP
 11760 Hwy 145
 Madera, CA 93637

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

 Agent Addressee

B. Received by (Printed Name)

JANANTHAN LALIA

C. Date of Delivery

10-7-15

D. Is delivery address different from item 1? Yes

If YES, enter delivery address below:

 No

Service Type

 Certified Mail® Priority Mail Express™ Registered Return Receipt for Merchandise Insured Mail Collect on Delivery

4. Restricted Delivery? (Extra Fee)

 Yes

2. Article Number

(Transfer from service label)

7014 2870 0000 7535 5217

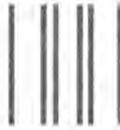
PS Form 3811, July 2013

Domestic Return Receipt

UNITED STATES POSTAL SERVICE

CA 956

13 OCT '15



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

PM 11

- Sender: Please print your name, address, and ZIP+4® in this box•

California Regional Water Quality Control Board
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114



ATTACHMENT K

Calculation of Penalty per SWRCB
Water Quality Enforcement Policy

Calculation of Penalty per SWRCB Water Quality Enforcement Policy

The proposed administrative civil liability was derived following the State Water Resources Control Board's Water Quality Enforcement Policy (the "Enforcement Policy") and using the "Penalty Calculation Methodology Worksheet, version 5.4.0" (the "Penalty Calculation Worksheet"). The proposed civil liability takes into account such factors as the Dischargers' culpability, history of violations, ability to pay and continue in business, and other factors as justice may require.

Each factor of the Enforcement Policy and its corresponding score for the violation is presented below:

Calculation of Penalty for Violation

Step 1. Potential for Harm for Discharge Violations

This step is not applicable.

Step 2. Assessment for Discharge Violations

This step is not applicable.

Step 3. Per Day Assessment for Non-Discharge Violations

The Dischargers have failed to submit a Report of Waste Discharge (RoWD) or enroll under an applicable General Order for discharges from irrigated cropland despite evidence that the Dischargers own such cropland. Irrigated cropland can be a source of sediment, pesticide residue, nitrate, and other waste discharged to the waters of the state. Unregulated discharges of such wastes can present a substantial threat to beneficial uses and/or indicate a substantial potential for harm to beneficial uses.

Using Table 3 in the State Water Resources Control Board's Water Quality Enforcement Policy (Enforcement Policy), staff has determined that the potential for harm is moderate, because the characteristics of the violation present a substantial threat to beneficial uses, and the circumstances of the violation indicate a substantial potential for harm. This conclusion is, in part, based on the size of the Dischargers' irrigated land parcels, which is approximately 1,545 acres.

By failing to file a RoWD or to enroll under an applicable General Order, the Dischargers have undermined the regulatory program. Dischargers regulated under an applicable General Order either conduct monitoring or contribute to monitoring efforts to identify water quality problems associated with their operations. In addition, dischargers report on the practices in which they engage to protect water quality. By failing to provide that information, the Dischargers frustrate the Central Valley Water Board's efforts to assess potential impacts and risks to water quality, and circumvent the Regional Board's ability to take necessary enforcement actions to address problems.

The greater the size of the operation, the greater the potential risk, since any practices being implemented by the Dischargers that are detrimental to water quality may impact a much greater area. Additionally, the regulatory program is compromised when staff resources are directed to bringing dischargers into compliance rather than being available for outreach and assistance with regulatory compliance. Since the violation thwarts the Board's ability to identify water quality risks, the violation has the potential to exacerbate the presence and accumulation of, and the related risks associated with, pollutants of concern. This, in turn, presents a threat to beneficial uses and indicates a substantial potential for harm.

The deviation from the requirement is major. To date, Rakkar has disregarded the regulatory requirements and rendered those requirements ineffective. Rakkar has undermined the efforts of the Central Valley Waters Board's Irrigated Lands Regulatory Program by disregarding the requirement to obtain the appropriate regulatory coverage for their waste discharges. A Dischargers' regulatory coverage is foundational to the Board's efforts to protect water quality. The Orders adopted by the Board specify the expectations and requirements for water quality protection, which do not apply until the Dischargers is covered by an appropriate Order. The requirements in the applicable Orders are rendered ineffective when a Discharger has not gone through the process of becoming subject to the Order.

On 21 June 2013, the Dischargers received a Directive Letter pursuant to California Water Code section 13260 (Directive), which required them to obtain regulatory coverage within 15 calendar days of receipt or face a potential civil liability. The Directive was received on 24 June 2013; hence, regulatory coverage was required by 9 July 2013.

As of 25 January 2016, the Dischargers are 929 days late in meeting that requirement. The maximum administrative civil liability under Water Code section 13261(b)(1) for the failure to furnish a report under Water Code section 13260 is \$1,000 per each day the violation occurs, for a total of nine hundred fourteen thousand dollars (\$929,000).

Table 3 of the Enforcement Policy prescribes a per day factor ranging from 0.40 to 0.70 for those violations in which the potential for harm is moderate and the deviation from the requirement is major. Based on the above factors, a per day factor of 0.7 is appropriate (see Table 3 on pg. 16 of the Enforcement Policy).

Step 4. Adjustment Factors

a) *Culpability*: 1.3

The Dischargers were given the score of 1.3, which increases the fine. Central Valley Water Board staff sent notices on 20 February 2013, 10 April 2013, and 18 April 2013 to Rakkar describing the new water quality regulations and the options to comply therewith. Rakkar also received the 13260 Directive and Notice of Violation requiring the Dischargers to obtain coverage. Despite knowledge of the regulatory requirements, Rakkar failed to come into

compliance. Rakkar's disregard for the five notices suggest that Rakkar acted intentionally in ignoring the requirement to get regulatory coverage, resulting in a multiplying factor of 1.3.

b) *Cleanup and Cooperation*: 1.5

The Dischargers were given the score of 1.5. The Central Valley Water Board issued the Dischargers a notice of violation in an effort to allow the Dischargers to address the violation prior to the issuance of a complaint. The Dischargers did not respond and cooperate with the Central Valley Water Board despite being awarded ample time in which to do so. Despite opportunities to come into compliance, the Dischargers did not make any attempt to cooperate with the Central Valley Water Board. Cleanup is not applicable in this case.

c) *History of Violations*: 1.0

The Dischargers were given the score of 1.0, as there is no evidence that Rakkar has a history of violations.

Multiple Day Violations: On 21 June 2013, the Dischargers were issued a Directive Letter pursuant to California Water Code section 13260 (Directive), which required him to obtain regulatory coverage within 15 calendar days or face a potential civil liability. The 13260 Directive was received by the Dischargers on 24 June 2013. Thus, regulatory coverage was required by 9 July 2013. As of 25 January 2016, the date on which this Complaint was issued, the Dischargers were 929 days late in meeting that requirement.

Violations under Water Code section 13260 are assessed on a per day basis. However, the violations at issue are primarily reporting violations and therefore qualify for the alternative approach to penalty calculation under the Enforcement Policy (page 30). Under that approach, for violations that last more than thirty (30) days, the daily assessment can be less than the calculated daily assessment, provided that it is no less than the per day economic benefit, if any, resulting from the violation. For these cases, the Central Valley Water Board must make express findings that the violation: (1) is not causing daily detrimental impacts to the environment or the regulatory program; or (2) results in no economic benefit from the illegal conduct that can be measured on a daily basis; or (3) occurred without the knowledge or control of the violator, who therefore did not take action to mitigate or eliminate the violation. If one of these findings is made, an alternate approach to penalty calculation for multiple day violations may be used.

Here, the Central Valley Water Board finds that the Dischargers' failure to submit a RoWD or NOI is not causing daily detrimental impacts to the environment or the regulatory program. There is no evidence that the Dischargers' failure to submit a RoWD or NOI has detrimentally impacted the environment on a daily basis, since obtaining regulatory coverage does not result in an immediate evaluation of, or changes in, practices that could be impacting water quality. There is no daily

detrimental impact to the regulatory program because information that would have been provided by the Dischargers pursuant to the regulatory requirements would have been provided on an intermittent, rather than daily basis.

Moreover, the Dischargers' failure to submit a RoWD or NOI results in no economic benefit that can be measured on a daily basis. Rather, the economic benefit here is associated with costs of permit fees, groundwater monitoring, and preparing a Farm Water Quality Plan, which are outlined below.

Either of the above findings justifies use of the alternate approach to penalty calculation for multiple day violations. The minimum number of days to be assessed in this case under the alternate approach is 36. However, because this approach generates a Total Base Liability Amount that is not a sufficient deterrent, and because the Dischargers' inaction undermines the Central Valley Water Board's ability to protect water quality through its regulatory program, the Prosecution Team has increased the number of days of violation above the Minimum Approach to a total number of 52 days of violation.

Step 5. Determination of Total Base Liability Amount

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Initial Liability Amount determined in Step 3.

- a) *Total Base Liability Amount: \$70,980.* (Initial Liability (\$1,000/day x 52 days x 0.7) x Adjustments (1.3)(1.5)(1.0)).

BASE LIABILITY AND FACTORS APPLIED TO THE VIOLATION

The Base Liability Amount for the Violation is **\$70,980**. The following factors apply to the Base Liability Amount for the violation.

Step 6. Ability to Pay and Continue in Business

As per the Enforcement Policy, "[t]he ability of a Dischargers to pay an ACL is determined by its revenues and assets." The Dischargers have the ability to pay the Base Liability Amount based on the value of property owned by the Dischargers, a significant asset with a 2014-2015 assessed value of the Madera County parcels listed as \$17,544,569¹ according to the Madera County Assessor's office; and the Dischargers' current ownership of approximately 1,545 acres of mixed almond orchard and vineyard in Madera County, which generated an estimated \$10,530,830 in revenue in 2014². Therefore, there are no factors under this category that warrant an adjustment.

¹ According to ParcelQuest™, the value of parcels owned by Rakkar Properties LP is \$16,150,604, and the value of the single parcel (APN 046-060-024) owned by Gurcharan & Balwinder Rakkar is \$1,393,965.

² Information provided by the 2014 Madera County Agricultural Crop Report (see pg. 6), available at <http://www.madera-county.com/index.php/publications/crop-reports>

Step 7. Other Factors as Justice May Require

There are no factors under this category that warrant an adjustment.

Step 8. Economic Benefit

Economic Benefit: \$41,531

Pursuant to Water Code section 13385(e), civil liability, at a minimum, must be assessed at a level that recovers the economic benefit, if any, derived from the acts that constitute a violation. The violations described in the Complaint identify several avoided costs that have significantly benefited the Dischargers. As alleged in the Complaint, the Dischargers failed to enroll under an applicable General Order for discharges from irrigated cropland. As a result, the Dischargers have avoided substantial costs associated with maintaining and complying with the conditions of the General Order. In order to determine the economic benefit of noncompliance, the Prosecution Team has made several assumptions regarding how the Dischargers would comply with the 2013 Directive. These assumptions were necessary as the Dischargers have made no attempts to comply on their own accord, and therefore their enrollment preferences are unknown.

For the purposes of determining the economic benefit, the Prosecution Team assumes that the General Order R5-2013-0100 (Individual General Permit) will apply to the Dischargers' operations. The date of noncompliance for the filing of the NOI and payment of initial fees was July 9, 2013 – the deadline provided in the Directive. Annual fees are assumed to be payable on the anniversary of enrollment. As a result, the Dischargers have failed to pay \$30,015 in annual fees for enrollment years 2013, 2014, and 2015. Costs associated with preparation of the NOI were not included in the economic benefit calculation.

Once enrolled under the General Order, the Prosecution Team estimates that a NOA would have been issued within one month of receiving the NOI. Under the Individual General Order, the Dischargers would have been required to prepare and implement a Farm Water Quality Plan (FWQP) within one year of the NOA issuance (August 9, 2014), and a Management Practices Evaluation Plan (MPEP) within two years (August 9, 2015). The estimated cost to prepare each of these plans is a minimum of \$2,500. Costs associated with updating the FWQP on an annual basis as required in the General Order were not included in the economic benefit calculation.

Also included under the Individual General Order, the Dischargers would have been required to conduct groundwater monitoring of domestic and agriculture supply wells. The Prosecution Team assumes that such monitoring would commence within six months of the NOA issuance (February 9, 2014). Monitoring is required for the first and second year of enrollment under the General Order. Based on estimated sampling labor and laboratory costs associated with eight supply wells, the Dischargers avoided

monitoring costs of approximately \$19,872. An Annual Monitoring Report would have also been required, with the first report due May 1, 2015. The Prosecution Team estimates the cost of preparing the AMR at approximately \$2,400. Other costs such as data review and interpretation, or development of a groundwater action plan based on monitoring results were not considered for the economic benefit calculation. Following the submittal of the FWQP, the General Order requires annual surface water monitoring at the facility's discharge points. The Prosecution Team assumes that monitoring would commence within one month of the FWQP submittal (September 9, 2014) for one discharge point. Based on estimated sampling labor and laboratory costs, the Dischargers avoided monitoring costs of approximately \$6,000. Other costs such as data review and interpretation, or development of a surface water action plan based on monitoring results were not considered for the economic benefit calculation.

In summary, the Dischargers avoided compliance actions estimated at approximately \$63,287. The actual economic benefit realized is derived by adjusting the avoided costs for inflation and tax deductibility, assuming the Dischargers operate as a tax-paying entity. For the purposes of computing the economic benefit, the Prosecution Team assumes that the Dischargers operate as a California corporation, and that compliance costs are tax deductible. The BEN financial model provided by the United States Environmental Protection Agency was used to compute the total economic benefit of noncompliance. Cost estimate and other assumptions are detailed in the attached table. For computational purposes, the penalty payment date was established as April 21, 2016. It is further assumed that the Discharger will have applied for applicable permitting (having paid appropriate enrollment fees) by this date. Changes to this date will affect the total economic benefit. Based on specific assumptions within the model, the total economic benefit of noncompliance was determined to be approximately \$41,531.

Step 9. Maximum and Minimum Liability Amounts

*a) Minimum Liability Amount: **\$45,684***

The Enforcement Policy requires that the minimum liability amount imposed not be below the economic benefit plus ten percent. As discussed above, the Central Valley Water Board Prosecution Team's estimate of the Dischargers' economic benefit obtained from the violations cited herein is \$41,531. This number plus ten percent results in a Minimum Liability of \$45,684.

*b) Maximum Liability Amount: **\$929,000***

Discussion: The maximum administrative liability amount is the maximum amount allowed by Water Code section 13261, which is \$1,000 for each day in which the violation occurs.

Step 10. Final Liability Amount

Based on the foregoing analysis, and consistent with the Enforcement Policy, the final liability amount proposed for failure to submit a RoWD under California Water Code section 13260 is seventy thousand nine hundred eighty dollars, **\$70,980**.

Economic Benefit Analysis																	
Rakkar Properties, LP																	
Compliance Action	Capital Investment				One-Time Non-Depreciable Expenditure				Annual Cost			Non-Compliance Date	Compliance Date	Penalty Payment Date	Discount Rate	Benefit of Non-Compliance	
	Amount	Basis	Date	Delayed?	Amount	Basis	Date	Delayed?	Amount	Basis	Date						
Permit Fee (2013/2014)		ECI	1/1/2015	Y	\$ 10,905.00	ECI	4/21/2016	N		ECI	1/1/2015	7/9/2013	4/21/2016	4/21/2016	7.50%	\$ 7,484	
Permit Fee (2014/2015)		ECI	1/1/2015	Y	\$ 9,555.00	ECI	4/21/2016	N		ECI	1/1/2015	7/9/2014	4/21/2016	4/21/2016	7.50%	\$ 6,232	
Permit Fee (2015/2016)		ECI	1/1/2015	Y	\$ 9,555.00	ECI	4/21/2016	N		ECI	1/1/2015	7/9/2015	4/21/2016	4/21/2016	7.20%	\$ 5,890	
GW Monitoring Event #1 (Lab Costs)		ECI	1/1/2015	Y	\$ 5,136.00	GDP	8/19/2014	N		ECI	1/1/2015	2/9/2014	4/21/2016	4/21/2016	7.50%	\$ 3,536	
GW Monitoring Event #2 (Lab Costs)		ECI	1/1/2015	Y	\$ 5,136.00	GDP	8/19/2014	N		ECI	1/1/2015	2/9/2015	4/21/2016	4/21/2016	7.20%	\$ 3,307	
GW Monitoring Event #1 (Labor)		ECI	1/1/2015	Y	\$ 4,800.00	ECI	4/21/2016	N		ECI	1/1/2015	2/9/2014	4/21/2016	4/21/2016	7.50%	\$ 3,181	
GW Monitoring Event #2 (Labor)		ECI	1/1/2015	Y	\$ 4,800.00	ECI	4/21/2016	N		ECI	1/1/2015	2/9/2015	4/21/2016	4/21/2016	7.20%	\$ 3,025	
Farm Water Quality Plan (FWQP)		ECI	1/1/2015	Y	\$ 2,500.00	ECI	7/1/2010	N		ECI	1/1/2015	8/9/2014	4/21/2016	4/21/2016	7.50%	\$ 1,813	
SW/Sediment Monitoring #1 (Lab Costs)		ECI	1/1/2015	Y	\$ 1,560.00	GDP	7/1/2013	N		ECI	1/1/2015	9/9/2014	4/21/2016	4/21/2016	7.50%	\$ 1,056	
SW/Sediment Monitoring #2 (Lab Costs)		ECI	1/1/2015	Y	\$ 1,560.00	GDP	7/1/2013	N		ECI	1/1/2015	9/9/2015	4/21/2016	4/21/2016	7.20%	\$ 988	
SW/Sediment Monitoring #1 (Labor)		ECI	1/1/2015	Y	\$ 1,440.00	ECI	4/21/2016	N		ECI	1/1/2015	9/9/2014	4/21/2016	4/21/2016	7.50%	\$ 928	
SW/Sediment Monitoring #2 (Labor)		ECI	1/1/2015	Y	\$ 1,440.00	ECI	4/21/2016	N		ECI	1/1/2015	9/9/2015	4/21/2016	4/21/2016	7.20%	\$ 880	
Management Practices Evaluation Workplan (MPEP)		ECI	1/1/2015	Y	\$ 2,500.00	ECI	7/1/2010	N		ECI	1/1/2015	8/9/2015	4/21/2016	4/21/2016	7.20%	\$ 1,717	
Annual Monitoring Report		ECI	1/1/2015	Y	\$ 2,400.00	ECI	4/21/2016	N		ECI	1/1/2015	5/1/2015	4/21/2016	4/21/2016	7.20%	\$ 1,494	
Income Tax Schedule: Corporation															Analyst: Bryan Elder	Total Benefit: \$	41,531
USEPA BEN Model Version: Version 5.5.0 (July 2015)															Date/Time of Analysis: 1/14/2016 13:41		
Assumptions:																	
1 Cost estimates and non-compliance dates provided by Regional Board staff.																	
2 Laboratory costs assume standard inflation for cost estimate adjustment using the Gross Domestic Product (GDP) index.																	
3 FWQP and MPEP preparation costs assume cost adjustment using Employment Cost Index (ECI).																	
4 This analysis assumes that full compliance is achieved and associated penalties paid by April 21, 2016 - tentative Board hearing date.																	
5 BEN model run using a "corporation" -type income tax schedule for a California-based company.																	

Table 1. Benefit of Non-compliance Summary Table

ATTACHMENT L

Waiver Form
For ACL Complaint

**WAIVER FORM
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent **GURCHARAN & BALWINDER RAKKAR TRUST AND RAKKAR PROPERTIES LP**, (hereafter Discharger) in connection with Administrative Civil Liability Complaint R5-2016-0505 (hereafter Complaint). I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served. The person who has been issued a complaint may waive the right to a hearing."

(OPTION 1: Check here if the Dischargers waive the hearing requirement and will pay in full.)

I hereby waive any right the Dischargers may have to a hearing before the Central Valley Water Board.

- a. I certify that the Dischargers will remit payment for the proposed civil liability in the full amount of **seventy thousand nine hundred eighty dollars (\$70,980)** by check that references "ACL Complaint R5-2016-0505" made payable to the *State Water Pollution Cleanup and Abatement Account*. Payment must be received by **15 February 2016**.
- b. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after a 30-day public notice and comment period. Should the Central Valley Water Board receive significant new information or comments during this comment period, the Central Valley Water Board's Assistant Executive Officer may withdraw the complaint, return payment, and issue a new complaint. I also understand that approval of the settlement will result in the Dischargers having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- c. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Dischargers to further enforcement, including additional civil liability.

(OPTION 2: Check here if the Dischargers waive the 90-day hearing requirement in order to engage in settlement discussions.)

I hereby waive any right the Dischargers may have to a hearing before the Central Valley Water Board within 90 days after service of the complaint, but I reserve the ability to request a hearing in the future. I certify that the Dischargers will promptly engage the Central Valley Water Board Prosecution Team in settlement discussions to attempt to resolve the outstanding violation(s). By checking this box, the Dischargers request that the Central Valley Water Board delay the hearing so that the Dischargers and the Prosecution Team can discuss settlement. It remains within the discretion of the Central Valley Water Board to agree to delay the hearing. Any proposed settlement is subject to the conditions described above under "Option 1."

(OPTION 3: Check here if the Dischargers waive the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.)

I hereby waive any right the Dischargers may have to a hearing before the Central Valley Water Board within 90 days after service of the complaint. By checking this box, the Dischargers request that the Central Valley Water Board delay the hearing and/or hearing deadlines so that the Dischargers may have additional time to prepare for the hearing. It remains within the discretion of the Central Valley Water Board to approve the extension.

(Print Name and Title)

(Signature)

(Date)

ATTACHMENT M

Hearing Procedures

PROSECUTION TEAM'S PROPOSED HEARING PROCEDURE
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT
R5-2016-0505

ISSUED TO
GURCHARAN & BALWINDER RAKKAR
AND
RAKKAR PROPERTIES LP
MADERA COUNTY

SCHEDULED FOR 21/22 APRIL 2016

PLEASE READ THIS HEARING PROCEDURE CAREFULLY. FAILURE TO COMPLY WITH THE DEADLINES AND OTHER REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF YOUR DOCUMENTS AND/OR TESTIMONY.

Overview

Pursuant to Water Code section 13323, the Assistant Executive Officer has issued an Administrative Civil Liability (ACL) Complaint to Gurcharan & Balwinder Rakkar (Trustees) and Rakkar Properties LP (Discharger), alleging violations of Water Code section 13260 by failing to submit a Report of Waste Discharge after being requested by the Central Valley Water Board under Water Code section 13260. The ACL Complaint proposes that the Central Valley Water Board impose administrative civil liability in the amount of **seventy thousand eight hundred ninety dollars (\$70,890)**. A hearing is currently scheduled to be conducted before the Board during its 21/22 April 2016 meeting.

The purpose of the hearing is to consider relevant evidence and testimony regarding the ACL Complaint. At the hearing, the Central Valley Water Board will consider whether to issue an administrative civil liability order assessing the proposed liability, or a higher or lower amount. The Board may also decline to assess any liability, or may continue the hearing to a later date. If less than a quorum of the Board is available, this matter may be conducted before a hearing panel. The public hearing will commence at 8:30 a.m. or as soon thereafter as practical, or as announced in the Board's meeting agenda. The meeting will be held at the Central Valley Water Board's Fresno office located at 1685 E Street in Fresno.

An agenda for the meeting will be issued at least ten days before the meeting and posted on the Board's web page at:

http://www.waterboards.ca.gov/centralvalley/board_info/meetings

Hearing Procedure

The hearing will be conducted in accordance with this Hearing Procedure. The procedures governing adjudicatory hearings before the Central Valley Water Board may be found at California Code of Regulations, title 23, section 648 et seq., and are available at

<http://www.waterboards.ca.gov>

Copies will be provided upon request. In accordance with Section 648(d), any procedure not provided by this Hearing Procedure is deemed waived. Except as provided in Section 648(b) and herein, Chapter 5 of the Administrative Procedures Act (Gov't Code, § 11500 et seq.) does not apply to this hearing.

The procedures and deadlines herein may be amended by the Advisory Team in its discretion. Objections to the hearing procedures must be received by the Central Valley Water Board's Advisory Team **no later than 5:00 p.m. 3 February 2016**, or they will be waived. Failure to comply with the

deadlines and requirements contained herein may result in the exclusion of documents and/or testimony. The Dischargers shall attempt to resolve objections to this Hearing Procedure with the Prosecution Team BEFORE submitting objections to the Advisory Team.

Hearing Participants

Participants in this proceeding are designated as either “Designated Parties” or “Interested Persons.” Designated Parties may present evidence and cross-examine witnesses and are subject to cross-examination. Interested Persons may present non-evidentiary policy statements, but may not cross-examine witnesses and are not subject to cross-examination. Interested Persons generally may not present evidence (e.g., photographs, eye-witness testimony, monitoring data). At the hearing, both Designated Parties and Interested Persons may be asked to respond to clarifying questions from the Central Valley Water Board, staff, or others, at the discretion of the Board Chair.

The following participants are hereby designated as Designated Parties in this proceeding:

1. Central Valley Water Board Prosecution Team
2. Gurcharan & Balwinder Rakkar and Rakkar Properties LP

Requesting Designated Party Status

Persons who wish to participate in the hearing as a Designated Party must request designated party status by submitting a request in writing so that it is received no later than the deadline listed under “Important Deadlines” below. The request shall include an explanation of the basis for status as a Designated Party (i.e., how the issues to be addressed at the hearing affect the person, the need to present evidence or cross-examine witnesses), along with a statement explaining why the parties listed above do not adequately represent the person’s interest. Any objections to these requests for designated party status must be submitted so that they are received no later than the deadline listed under “Important Deadlines” below.

Primary Contacts

Advisory Team:

Adam Laputz, Assistant Executive Officer
11020 Sun Center Drive, Suite 200, Rancho Cordova, CA 95670
Phone: (916) 464-4726
Adam.Laputz@waterboards.ca.gov

Andrew Deeringer, Staff Counsel
State Water Resources Control Board, Office of Chief Counsel
Physical Address: 1001 I Street, Sacramento, CA 95814
Mailing Address: P.O. Box 100, Sacramento, CA 95812
Phone: (916) 322-3575; fax: (916) 341-5199
Andrew.Deeringer@waterboards.ca.gov

Prosecution Team:

Andrew Altevoigt, Assistant Executive Officer
Sue McConnell, Supervising Water Resources Control Engineer
Brett Stevens, Senior Environmental Scientist
Scott Perrou, Environmental Scientist

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Separation of Prosecutorial and Advisory Functions

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Board (the "Prosecution Team") have been separated from those who will provide legal and technical advice to the Board (the "Advisory Team"). Members of the Advisory Team are: Pamela Creedon, Executive Officer, Adam Laputz, Assistant Executive Officer, and Andrew Deeringer, Staff Counsel. Members of the Prosecution Team are: Andrew Altevogt, Assistant Executive Officer, Sue McConnell, Supervising WRCE, Brett Stevens, Senior ES, Scott Perrou, ES, and Naomi Kaplowitz, Staff Counsel.

Any members of the Advisory Team who normally supervise any members of the Prosecution Team are not acting as their supervisors in this proceeding, and vice versa. Andrew Altevogt regularly advises the Central Valley Water Board in other, unrelated matters, but is not advising the Central Valley Water Board in this proceeding. Other members of the Prosecution Team act or have acted as advisors to the Central Valley Water Board in other, unrelated matters, but they are not advising the Central Valley Water Board in this proceeding. Members of the Prosecution Team have not had any ex parte communications with the members of the Central Valley Water Board or the Advisory Team regarding this proceeding.

Ex Parte Communications

Designated Parties and Interested Persons are forbidden from engaging in ex parte communications regarding this matter. An ex parte communication is a written or verbal communication related to the investigation, preparation, or prosecution of the ACL Complaint between a Designated Party or an Interested Person and a Board Member or a member of the Board's Advisory Team. However, if the communication is copied to all other persons (if written) or is made in a manner open to all other persons (if verbal), then the communication is not considered an ex parte communication. Communications regarding non-controversial procedural matters are also not considered ex parte communications and are not restricted.

The following communications to the Advisory Team must be copied to all designated parties: objections to these Hearing Procedures; requests for modifications to these Hearing Procedures; requests for designated party status, or objections thereto; and all written evidence, legal argument or policy statements from designated parties. This is not an all-inclusive list of ex parte communications.

Hearing Time Limits

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: The Central Valley Water Board Prosecution Team shall have a combined 30 minutes to present evidence (including evidence presented by witnesses called by the Designated Party), to cross-examine witnesses (if warranted), and to provide a closing statement. The Dischargers shall have a combined 20 minutes to present evidence (including evidence presented by witnesses called by the Designated Party), to cross-examine witnesses (if warranted), and to provide a closing statement. Each Interested Person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid redundant comments. Participants who would like additional time must submit their request to the Advisory Team so that it is received no later than the deadline listed under "Important Deadlines" below. Additional time may be provided at the discretion of the Advisory Team (prior to the hearing) or the Board Chair (at the hearing) upon a showing that additional time is necessary. Such showing shall explain what testimony, comments, or legal argument requires extra time, and why it could not have been provided in writing by the applicable deadline.

A timer will be used, but will not run during Board questions or the responses to such questions, or during discussions of procedural issues.

Submission of Evidence and Policy Statements

The Prosecution Team and all other Designated Parties (including the Discharger) must submit the following information in advance of the hearing:

1. All evidence (other than witness testimony to be presented orally at the hearing) that the Designated Party would like the Central Valley Water Board to consider. Evidence and exhibits already in the public files of the Central Valley Board may be submitted by reference, as long as the exhibits and their location are clearly identified in accordance with California Code of Regulations, title 23, section 648.3. Board members will not generally receive copies of materials incorporated by reference unless copies are provided, and the referenced materials are generally not posted on the Board's website.
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the Designated Party intends to call at the hearing, the subject of each witness' proposed testimony, and the estimated time required by each witness to present direct testimony.
4. The qualifications of each expert witness, if any.

Prosecution Team: The Prosecution Team's information must include the legal and factual basis for its claims against each Discharger; a list of all evidence on which the Prosecution Team relies, which must include, at a minimum, all documents cited in the ACL Complaint, Staff Report, or other material submitted by the Prosecution Team; and the witness information required under items 3-4 for all witnesses, including Board staff.

Designated Parties (including the Discharger): All Designated Parties shall submit comments regarding the ACL Complaint along with any additional supporting evidence not cited by the Central Valley Water Board's Prosecution Team no later than the deadline listed under "Important Deadlines" below.

Rebuttal: Any Designated Party that would like to submit evidence, legal analysis, or policy statements to rebut information previously submitted by other Designated Parties shall submit this rebuttal information so that it is received no later than the deadline listed under "Important Deadlines" below. "Rebuttal" means evidence, analysis or comments offered to disprove or contradict other submissions.

Rebuttal shall be limited to the scope of the materials previously submitted. Rebuttal information that is not responsive to information previously submitted may be excluded.

Copies: Board members will receive copies of all submitted materials. The Board Members' hard copies will be printed in black and white on 8.5"x11" paper from the Designated Parties' electronic copies. Designated Parties who are concerned about print quality or the size of all or part of their written materials should provide an extra nine paper copies for the Board Members. For voluminous submissions, Board Members may receive copies in electronic format only. Electronic copies will also be posted on the Board's website. Parties without access to computer equipment are strongly encouraged to have their materials scanned at a copy or mailing center. The Board will not reject materials solely for failure to provide electronic copies.

Other Matters: The Prosecution Team will prepare a summary agenda sheet (Summary Sheet) and will respond to all significant comments. The Summary Sheet and the responses shall clearly state that they were prepared by the Prosecution Team. The Summary Sheet and the responses will be posted online, as will revisions to the proposed Order.

Interested Persons: Interested Persons who would like to submit written non-evidentiary policy statements are encouraged to submit them to the Advisory Team as early as possible, but they must be received by the deadline listed under "Important Deadlines" to be included in the Board's agenda package. Interested Persons do not need to submit written comments in order to speak at the hearing.

Prohibition on Surprise Evidence: In accordance with California Code of Regulations, title 23, section 648.4, the Central Valley Water Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Board Chair will likely exclude evidence and testimony that is not submitted in accordance with this Hearing Procedure. Excluded evidence and testimony will *not* be considered by the Central Valley Water Board and will not be included in the administrative record for this proceeding.

Presentations: Power Point and other visual presentations may be used at the hearing, but their content shall not exceed the scope of other submitted written material. These presentations must be provided to the Advisory Team at or before the hearing both in hard copy and in electronic format so that they may be included in the administrative record.

Witnesses: All witnesses who have submitted written testimony shall appear at the hearing to affirm that the testimony is true and correct, and shall be available for cross-examination.

Evidentiary Documents and File

The ACL Complaint and related evidentiary documents are on file and may be inspected or copied at the Central Valley Water Board office at 11020 Sun Center Drive, Rancho Cordova, CA 95670. This file shall be considered part of the official administrative record for this hearing. Other submittals received for this proceeding will be added to this file and will become a part of the administrative record absent a contrary ruling by the Central Valley Water Board's Chair. Many of these documents are also posted on-line at: http://www.waterboards.ca.gov/centralvalley/board_decisions/tentative_orders/index.shtml Although the web page is updated regularly, to assure access to the latest information, you may contact Brett Stevens (contact information above) for assistance obtaining copies.

Questions

Questions concerning this proceeding may be addressed to the Advisory Team attorney (contact information above).

IMPORTANT DEADLINES

All required submissions must be received by 5:00 p.m. on the respective due date.

25 January 2016	<ul style="list-style-type: none"> Prosecution Team issues ACL Complaint, Hearing Procedure, and other related materials.
3 February 2016	<ul style="list-style-type: none"> Objections due on Hearing Procedure. Deadline to request “Designated Party” status. <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney</p> <p><u>Electronic and Hard Copies to:</u> Prosecution Team Primary Contact, Advisory Team Primary Contact</p>
10 February 2016	<ul style="list-style-type: none"> Deadline to submit opposition to requests for Designated Party status. <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney</p> <p><u>Electronic and Hard Copies to:</u> Prosecution Team Primary Contact, Advisory Team Primary Contact</p>
15 February 2016	<ul style="list-style-type: none"> Dischargers’ deadline to submit <i>90-Day Hearing Waiver Form</i>. <p><u>Electronic or Hard Copy to:</u> Prosecution Team Primary Contact</p>
19 February 2016*	<ul style="list-style-type: none"> Advisory Team issues decision on requests for designated party status. Advisory Team issues decision on Hearing Procedure objections.
26 February 2016*	<ul style="list-style-type: none"> Prosecution Team’s deadline for submission of information required under “Submission of Evidence and Policy Statements,” above. <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons</p> <p><u>Electronic and Hard Copies to:</u> Advisory Team Primary Contact, Advisory Team Attorney</p>
17 March 2016*	<ul style="list-style-type: none"> Remaining Designated Parties’ (including the Dischargers’) deadline to submit all information required under “Submission of Evidence and Policy Statements” above. This includes all written comments regarding the ACL Complaint. Interested Persons’ comments are due. <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney</p> <p><u>Electronic and Hard Copies to:</u> Prosecution Team Primary Contact, Advisory Team Primary Contact</p>
28 March 2016*	<ul style="list-style-type: none"> All Designated Parties shall submit any rebuttal evidence, any rebuttal to legal arguments and/or policy statements, and all evidentiary objections. Deadline to submit requests for additional time. If rebuttal evidence is submitted, all requests for additional time (to respond to the rebuttal at the hearing) must be made within 3 working days of <i>this</i> deadline. <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney</p> <p><u>Electronic and Hard Copies to:</u> Prosecution Team Primary Contact, Advisory Team Primary Contact</p>
31 March 2016* [†]	<ul style="list-style-type: none"> Prosecution Team submits Summary Sheet and responses to comments. <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons</p> <p><u>Electronic and Hard Copies to:</u> Advisory Team Primary Contact, Advisory Team Attorney</p>
21/22 April 2016*	<ul style="list-style-type: none"> Hearing

** Dischargers have the right to a hearing before the Board within 90 days of receiving the Complaint, but this right can be waived (to facilitate settlement discussions, for example). By submitting the waiver form, the Dischargers are not waiving the right to a hearing; unless a settlement is reached, the Board will hold a hearing prior to imposing civil liability. However, if the Board accepts the waiver, all deadlines marked with an “*” will be revised if a settlement cannot be reached.*

† This deadline is set based on the date that the Board compiles the Board Members’ agenda packages. Any material received after this deadline will not be included in the Board Members’ agenda packages

ATTACHMENT N

ACL Fact Sheet

Administrative Civil Liability

Fact Sheet

The California Regional Water Quality Control Boards (Regional Water Boards) have the authority to impose administrative civil liabilities for a variety of violations under California Water Code section 13323. This document generally describes the process that the Regional Water Boards follow in imposing administrative civil liabilities.

The first step is the issuance of an administrative civil liability complaint (complaint) by the authorized Regional Water Board's Executive Officer or Assistant Executive Officer. The complaint describes the violations that alleged to have been committed, the Water Code provisions authorizing the imposition of liability, and the evidence that supports the allegations. **Any person who receives a complaint must respond timely as directed, or risk the Regional Water Board imposing the administrative civil liability by default.** The complaint is accompanied by a letter of transmittal, a Waiver Form and a Hearing Procedure. Each document contains important information and deadlines. You should read each document carefully. A person issued a complaint is allowed to represent him or herself. However, legal advice may be desirable to assist in responding to the complaint.

Parties

The parties to a complaint proceeding are the Regional Water Board Prosecution Team and the person/s named in the complaint, referred to as the "Discharger." The Prosecution Team is comprised of Regional Water Board staff and management. Other interested persons may become involved and may become "designated parties." Only designated parties are allowed to submit evidence and participate fully in the proceeding. Other interested persons may play a more limited role in the proceeding and are allowed to submit non-evidentiary policy statements. If the matter proceeds to hearing, the hearing will be held before the full membership of the Regional Water Board (composed of up to nine board members appointed by the Governor) or before a panel of three board members. The board members who will hear the evidence and rule on the matter act as judges. They are assisted by an Advisory Team, which provides advice on technical and legal issues. Both the Prosecution Team and the Advisory Team have their own attorney. Neither the Prosecution Team nor the Discharger or his/her representatives are permitted to communicate with the board members or the Advisory Team about the complaint without the presence or knowledge of the other. This is explained in more detail in the Hearing Procedure.

Complaint Resolution Options

Once issued, a complaint can lead to (1) withdrawal of the complaint; (2) withdrawal and reissuance; (3) payment and waiver; (4) settlement; (5) hearing. Each of these options is described below.

Withdrawal: may result if the Discharger provides information to the Prosecution Team that clearly demonstrates that a fundamental error exists in the information set forth in the complaint.

Withdrawal and reissuance: may result if the Prosecution Team becomes aware of information contained in the complaint that can be corrected.

Payment and waiver: may result when the Discharger elects to pay the amount of the complaint rather than to contest it. The Discharger makes a payment for the full amount and the matter is ended, subject to public comment.

Settlement: results when the parties negotiate a resolution of the complaint. A settlement can include such things as a payment schedule, or a partial payment and suspension of the remainder pending implementation by the Discharger of identified activities, such as making improvements beyond those already required that will reduce the likelihood of a further violation or the implementation or funding of a Supplemental Environmental Project (SEP) or a Compliance Project. Qualifying criteria for Compliance Projects and SEPs are contained in the State Water Resources Control Board's (State Water Board) Enforcement Policy, which is available at the State Water Board's website at: http://www.waterboards.ca.gov/plans_policies/. Settlements are generally subject to public notice and comment, and are conditioned upon approval by the Regional Water Board or its authorized staff management. Settlements are typically memorialized by the adoption of an uncontested Administrative Civil Liability Order.

Hearing: if the matter proceeds to hearing, the parties will be allowed time to present evidence and testimony in support of their respective positions. The hearing must be held within 90 days of the issuance of the complaint, unless the Discharger waives that requirement by signing and submitting the Waiver Form included in this package. The hearing will be conducted under rules set forth in the Hearing Procedure. The Prosecution Team has the burden of proving the allegations and must present competent evidence to the Regional Water Board regarding the allegations. Following the Prosecution Team's presentation, the Discharger and other parties are given an opportunity to present evidence, testimony and argument challenging the allegations. The parties may cross-examine each others' witnesses. Interested persons may provide non-evidentiary policy statements, but may generally not submit evidence or testimony. At the end of the presentations by the parties, the board members will deliberate to decide the outcome. The Regional Water Board may issue an order requiring payment of the full amount recommended in the complaint, it may issue an order requiring payment of a reduced amount, it may order the payment of a higher amount, decide not to impose an assessment or it may refer the matter to the Attorney General's Office.

Factors that must be considered by the Regional Water Board

Except for Mandatory Minimum Penalties under Water Code section 13385 (h) and (i), the Regional Water Board is required to consider several factors specified in the Water Code, including nature, circumstance, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any resulting from the violations, and other matters as justice may require (Cal. Water Code §§ 13327, 13385(e) & 13399). During the period provided to submit evidence (set forth in the Hearing Procedure) and at the hearing, the Discharger may submit information that it believes supports its position regarding the complaint. If the Discharger intends to present arguments about its ability to pay it must provide reliable documentation to establish that ability or inability. The kinds of information that may be used for this purpose include:

For an individual:

1. Last three years of signed federal income tax returns (IRS Form 1040) including schedules;
2. Members of household, including relationship, age, employment and income;
3. Current living expenses;
4. Bank account statements;
5. Investment statements;
6. Retirement account statements;
7. Life insurance policies;
8. Vehicle ownership documentation;
9. Real property ownership documentation;
10. Credit card and line of credit statements;
11. Mortgage loan statements;
12. Other debt documentation.

For a business:

1. Copies of last three years of company IRS tax returns, signed and dated,
2. Copies of last three years of company financial audits
3. Copies of last three years of IRS tax returns of business principals, signed and dated.
4. Any documentation that explains special circumstances regarding past, current, or future financial conditions.

For larger firms:

1. Federal income tax returns for the last three years, specifically:
 - IRS Form 1120 for C Corporations
 - IRS Form 1120 S for S Corporations
 - IRS Form 1065 for partnerships

2. A completed and signed IRS Form 8821. This allows IRS to provide the Regional Water Board with a summary of the firm's tax returns that will be compared to the submitted income tax returns. This prevents the submission of fraudulent tax returns;
3. The following information can be substituted if income tax returns cannot be made available:
 - Audited Financial Statements for last three years;
 - A list of major accounts receivable with names and amounts;
 - A list of major accounts payable with names and amounts;
 - A list of equipment acquisition cost and year purchased;
 - Ownership in other companies and percent of ownership for the last three years;
 - Income from other companies and amounts for the last three years.

For a municipality, county, or district:

1. Type of entity:
 - City/Town/Village;
 - County;
 - Municipality with enterprise fund;
 - Independent or publicly owned utility;
2. The following 1990 and 2000 US Census data:
 - Population;
 - Number of persons age 18 and above;
 - Number of persons age 65 and above;
 - Number of Individual below 125% of poverty level;
 - Median home value;
 - Median household income.
3. Current or most recent estimates of:
 - Population;
 - Median home value;
 - Median household income;
 - Market value of taxable property;
 - Property tax collection rate.
4. Unreserved general fund ending balance;
5. Total principal and interest payments for all governmental funds;
6. Total revenues for all governmental funds;
7. Direct net debt;
8. Overall net debt;
9. General obligation debt rating;
10. General obligation debt level.
11. Next year's budgeted/anticipated general fund expenditures plus net transfers out.

This list is provided for information only. The Discharger remains responsible for providing all relevant and reliable information regarding its financial situation, which may include items in the above lists, but could include other documents not listed. Please note that all evidence regarding this case, including financial information, will be made public.

Petitions

If the Regional Water Board issues an order requiring payment, the Discharger may challenge that order by filing a petition for review with the State Water Board pursuant to Water Code section 13320. More information on the petition process is available at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality/index.shtml

An order of the State Water Board resolving the petition for review of the Regional Water Board's Administrative Civil Liability Order can be challenged by filing a petition for writ of mandate in the superior court pursuant to Water Code section 13330.

Once an Administrative Civil Liability Order becomes final, the Regional Water Board or State Water Board may seek a judgment of the superior court under Water Code section 13328, if necessary, in order to collect payment of the administrative civil liability amount.