

1 Monterey County Farm Bureau
P.O. Box 1449
2 Salinas, CA 93902-1449
Telephone: (831) 751-3100
3 Facsimile: (831) 751-3167

4 For Petitioners
Alisal Ranch, Martin Jefferson & Sons
5 Bardin Ranch, Nielson Farms, Inc.
Gabilan Ranch, Blanco Farms
6 Home Ranch, Jim Fanoë, Inc.

7
8 **BEFORE THE**
9 **CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**

10
11 In the Matter of Water Code Section 13267 Order
12 For Information, Alisal Ranch, AW#1817,
13 Salinas, Monterey County; Water Code Section
14 13267 Order For Information, Bardin Ranch,
15 AW#0204, Salinas, Monterey County; Water
16 Code Section 13267 Order For Information,
17 Gabilan Ranch, AW#0713, Salinas, Monterey
18 County; Water Code Section 13267 Order For
19 Information, Home Ranch, AW#0326, Salinas,
Monterey County

SWRCB/OCC File: _____
**PETITION FOR REVIEW;
PRELIMINARY POINTS AND
AUTHORITIES IN SUPPORT OF
PETITION** [Water Code § 13320]

20
21 In accordance with Water Code Section 13320 and California Code of Regulations, Title 23, Section
22 2050, Monterey County Farm Bureau, Martin Jefferson & Sons, Nielson Farms, Inc., Blanco Farms LLC,
23 and Jim Fanoë, Inc. (collectively “Petitioners”) hereby petition the State Water Resources Control Board
24 (“State Board”) to review the action by the Central Coast Regional Water Quality Board (“Regional
25 Board”) in issuing Water Code Section 13267 Order For Information, Alisal Ranch, AW#1817, Salinas,
26 Monterey County; Water Code Section 13267 Order For Information, Bardin Ranch, AW#0204,
27 Salinas, Monterey County; Water Code Section 13267 Order For Information, Gabilan Ranch,
28 AW#0713, Salinas, Monterey County; Water Code Section 13267 Order For Information, Home

1 Ranch, AW#0326, Salinas, Monterey County (collectively and hereinafter “Order For Information” or
2 “Order”).

3 A summary of the basis for Petitioners’ Petition for Review and a preliminary statement of points and
4 authorities are set forth in this Petition for Review in accordance with California Code of Regulations, title
5 23, section 2050(a). Petitioners reserve and request the right to file supplemental points and authorities in
6 support of the Petition for Review once the administrative record becomes available. Petitioners also reserve
7 the right to submit additional arguments and evidence responsive to the Regional Board’s or other interested
8 parties’ responses to the Petition for Review, to be filed in accordance with California Code of Regulations,
9 title 23, section 2050.5. Finally, in accordance with California Code of Regulations, title 23, section 2050.6,
10 Petitioners request a hearing for the purpose of presenting additional evidence, which evidence was available
11 and not presented to the Regional Board due to notice concerns expressed in Section 4.a below.

12 Petitioner Monterey County Farm Bureau is an organization whose members are directly affected by
13 the Regional Board’s Water Code Section 13267 Order For Information. Petitioners Martin Jefferson &
14 Sons, Nielson Farms, Inc., Blanco Farms LLC, and Jim Fanoie, Inc. are family farms, growers, and
15 landowners who are directly affected by the Regional Board’s Water Code Section 13267 Order For
16 Information. As explained below, all Petitioners are engaged in the agricultural industry within the Central
17 Coast Region of the Regional Water Quality Control Board.

18 ***Monterey County Farm Bureau***

19 The Monterey Farm Bureau (“Farm Bureau”) is a private, non-profit membership-based advocacy
20 organization serving approximately 529 members in Monterey County. Monterey County Farm Bureau
21 strives to protect and improve the ability of farmers and ranchers engaged in production agriculture to
22 provide a reliable supply of food and fiber through responsible stewardship of California’s resources.

23 Given the importance of agriculture to the County of Monterey, Monterey County Farm Bureau
24 is actively engaged in membership outreach and education. The top five crops, by value in 2008,
25 produced in Monterey County included leaf lettuce, strawberries, head lettuce, nursery products, and
26 broccoli. Monterey County is ranked as the state’s fourth highest county in the total value of
27 agricultural production (based on 2008 data).

1 ***Alisal Ranch, AW#1817***

2 Thomas Storm, Steve Storm, and Lytnin S. Ranch LP have been farming the Alisal Ranch since
3 the 1960s. Martin Jefferson & Sons Company and Benny Jefferson have been farming the Alisal
4 Ranch since 2002. Agricultural crops currently grown include lettuce, celery, and artichokes.

5 ***Bardin Ranch, AW#0713***

6 Nielson Farms, Inc. and Tom Nielson have been farming Bardin Ranch since 2004.
7 Agricultural crops currently grown include lettuce, spinach, broccoli, snap peas, and romaine lettuce.

8 ***Gabilan Ranch, AW#0713***

9 Blanco Farms, LLC has been farming Gabilan Ranch since 1998. Agricultural crops currently
10 grown include lettuces, broccoli, and green onions.

11 ***Home Ranch, AW#0326***

12 Jim Fanoie, Inc. and the Fanoie family have been farming the Home Ranch since 1870.
13 Agricultural crops currently grown include spinach, romaine lettuce, and broccoli.

14 Each of the Petitioners received an identical letter dated June 24, 2010 from the Regional Board,
15 “Water Code Section 13267 Order For Information,” ordering them to comply with monitoring requirements
16 and information requests contained within the letter. Water Code section 13320(a) provides in relevant part,
17 “[a]ny aggrieved person may petition the state board to review that action or failure to act.” Given that the
18 Regional Board’s Order directly harms Petitioners and its members, Petitioners are proper parties before the
19 State Water Board.

20 **1. NAME, ADDRESS, TELEPHONE NUMBER AND E-MAIL ADDRESS OF**
21 **PETITIONER:**

22 All materials and documents generated in connection with this Petition for Review should be
23 provided to Petitioners at the following addresses:

24 Monterey County Farm Bureau
25 c/o Traci Roberts
26 P.O. Box 1449
27 Salinas, CA 93902-1449
28 E-mail: traci@montereycfb.com; kfisher@cfbf.com

1 Martin Jefferson & Sons
2 Alisal Ranch
3 c/o Benny Jefferson
4 299 Neponset Road
5 Salinas, CA 93908

6 Nielson Farms, Inc.
7 Bardin Ranch
8 c/o Tom Nielson
9 47 Paraiso Court
10 Salinas, CA 93901

11 Blanco Farms, LLC
12 Gabilan Ranch
13 c/o Tim Borel
14 P.O. Box 6645
15 Salinas, CA 93912

16 Jim Fanoë, Inc.
17 Home Ranch
18 c/o Nick Fanoë
19 P.O. Box 7486
20 Spreckels, CA 93962

21 **2. SPECIFIC ACTION OF THE REGIONAL BOARD WHICH THE STATE BOARD**
22 **IS REQUESTED TO REVIEW:**

23 Petitioners seek review of the actions of the Regional Board in connection with the Order of
24 Information dated June 24, 2010, as discussed below. In issuing the Order, the Regional Board acted in a
25 manner contrary to law, and acted contrary to the public policy of the State of California. A true and correct
26 copy of the Regional Board's June 24, 2010 letter enclosing the Order For Information is attached to this
27 Petition as Exhibit A. Unless otherwise provided, the Petitioners contend that all actions and inactions of the
28 Regional Board challenged herein are not supported by adequate findings or evidence in the record and/or are
inconsistent with applicable law. Petitioners would like to work with the Regional Board to resolve the
issues presented herein, but is required by the Water Code to file this Petition within 30 days of issuance of
the June 24, 2010 Order. Thus, Petitioners request the State Board to review the Order and modify the
Order, or direct the Regional Board to modify the Order such that it complies with all requirements under
law.

1 **3. THE DATE ON WHICH THE REGIONAL BOARD ACTED:**

2 The Regional Board, through its Assistant Executive Officer Michael Thomas, approved the Order
3 and prepared it to be sent via certified mail on June 24, 2010.

4 **4. STATEMENT OF THE REASONS THE ACTION WAS INAPPROPRIATE OR**
5 **IMPROPER:**

6 As irrigators of agricultural lands, Petitioners are obligated to comply with the Regional Board's
7 Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands, Orders No.
8 R3-2004-0117 and R3-2009-0050. In doing so, Petitioners abide by all applicable laws under Porter-
9 Cologne in order to ensure they do not contribute to the degradation of water quality. In addition,
10 Petitioners abide by all applicable laws and guidance issued by the Department of Pesticide Regulations
11 and the County Agricultural Commissioners when applying pesticides and fertilizers to the ground.
12 Petitioners also use the most efficient application rates and methods when applying agricultural inputs
13 such as water, fertilizer, and crop protection products since this is essential to remaining economically
14 viable businesses. Petitioners seek review of the Order For Information on the grounds that adequate
15 notice was not given, the Regional Board's request for information is not supported by evidence, the
16 timeline for compliance is inadequate, costs associated with the request are not analyzed, and no
17 reasonable relationship for the need for information and the benefits to be obtained is provided.

18 As stated by the Regional Board, there are numerous potential sources, both point sources and
19 non-point sources, of nitrate in the San Jerardo area. Potential direct and large contributors include the
20 wastewater treatment plant located in direct proximity to the area. Additionally, given the prior use of
21 the area, legacy sources are evident. Petitioners, who did not cause legacy contamination, should not
22 be held liable for baseline studies, monitoring, analysis, and determination of groundwater plumes,
23 streams, and flow direction. Furthermore, the issuance of the Order, as currently drafted, is improper
24 according to the Porter-Cologne Water Quality Control Act without findings of fact that are supported
25 by substantial evidence in the record. The Order violates Petitioners' constitutional rights to due
26 process, the Order requires Petitioners to conduct monitoring and submit information and monitoring
27 reports under arbitrary and inadequate timeframes, the economic burden for such reports and
28 information fails to bear a reasonable relationship to beneficial needs

1 **A. The Regional Board’s Action Was Not Adequately Noticed**

2 The Fifth Amendment’s due process clause generally requires that a person be provided notice
3 and an opportunity to be heard before the government deprives the person of property through
4 adjudication or some other form of individualized determination. (*United States v. James Daniel Good*
5 *Real Property* (1993) 510 U.S. 43, 48.) The notice must be “reasonably calculated, under all the
6 circumstances, to apprise interested parties of the pendency of the action and afford them an
7 opportunity to present their objections. [Citations.]” (*Mullane v. Central Hanover Tr. Co.* (1950) 339
8 U.S. 306, 314; accord, *Dusenbery v. United States* (2002) 534 U.S. 161, 168.)

9 The Regional Board did not provide adequate or appropriate notice of or an opportunity to be
10 heard on the validity of the Order. In addition to not having an opportunity to address the merits of the
11 order, Petitioners had no knowledge of any issue prompting the need for such an Order, as the Regional
12 Board had no previous written or verbal communications with the growers or landowners prior to the
13 receipt of the unforeseeable Order. Rather, the Order was issued unilaterally by the Assistant Executive
14 Officer of the Regional Board without a hearing, the taking of any evidence, or any prior
15 communication to Petitioners growers or landowners. Given the substantial information and
16 monitoring requirements contained within the Order and the civil penalties that will be assessed if such
17 obligatory requirements are not fulfilled by the abbreviated and insufficient deadline of September 30,
18 2010, Petitioners seek State Board review.

19 **B. The Regional Board’s Findings Are Not Supported by Evidence in the Record**

20 Water Code Section 13267 states that the cost of conducting site investigations and producing
21 reports must be reasonable in light of the benefits to be obtained. (Wat. Code, § 13267(b)(1).) In
22 addition to passing a reasonable relationship test, any request for monitoring and information reports
23 must be accompanied by a “written explanation with regard to the need for the reports,” as well as
24 clearly identifying “the evidence that supports requiring that person to provide the reports.” (*Ibid.*)
25 To support an order under Section 13267, the administrative findings must disclose the Regional
26 Board's mode of analysis and the basis for its conclusion that the evidence satisfies these statutory
27 requirements. (*Topanga Association for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.
28

1 3d 506 pp. 514-517.)

2
3 The Order does not disclose the Regional Board's mode of analysis nor the basis for its
4 conclusion that 1,2,3-TCP and nitrate information and monitoring is necessary. In addition, no
5 evidence as to these properties' direct link to any such groundwater contamination problems is
6 provided. The Order does not contain any preliminary data or evidence indicating activities occurring
7 on these lands pose a potential threat to water quality. Given that there is no evidence to support a
8 legally sufficient relationship between the monitoring and information ordered and the alleged
9 wrongdoing, the Order is contrary to the explicit requirements of Water Code Section 13267.

10 The Order directs Petitioners to perform studies, including groundwater monitoring, and submit
11 detailed information, without providing any causal link. The benefit to be obtained from such detailed
12 information requests is not expressed. Nor is a reasonable relationship established. Groundwater
13 monitoring programs may show presences of nitrate quantities. However, such studies will not indicate
14 the sources of such nitrates, whether they are legacy sources or from recent use, or if agricultural
15 discharges cause or contribute to those levels. In addition, some information requests within the Order
16 are duplicative, as such information is already contained in Farm Plans, plans the Regional Board has
17 access to if solicited.

18 The Order directs Petitioners to provide groundwater data on 1,2,3-TCP, as well as reporting the
19 amount of "historical or current onsite use of chemicals with the potential to contain 1,2,3-TCP.
20 Petitioners do not use 1,2,3-TCP. Petitioners do not have knowledge of past uses of 1,2,3-TCP that
21 may or may not have occurred on or near the land prior to their ownership. The burden of attempting to
22 obtain any information on 1,2,3-TCP greatly outweighs any benefit that may be obtained by the
23 Regional Board given that Petitioners are not the proper party to provide such information.

24 The reasons for requiring Petitioners to provide this information, and the evidence supporting
25 this need, can not be found in the Order which is in clear violation of the law. Furthermore, the
26 contents of the Order are not reasonable in light of the benefits, if any, to be obtained.
27
28

1 **C. Petitioners are Substantially Harmed by the Requirements of the Order**

2 Without State Board review and action, Petitioners will be harmed because the Order obligates
3 them to extend significant time and financial resources at the risk of being subjected to civil liability
4 and civil penalties up to \$1,000 per day for each day in which the violation occurs. Such penalties
5 begin on September 30, 2010. The September 30, 2010 deadline highlights the unreasonableness of the
6 Order, as, due to the lack of notice, this inadequate timeframe does not allow Petitioners to gather the
7 substantial and burdensome information requested.

8 **D. The Regional Board has Failed to Properly Consider Costs of Implementing the**
9 **Order**

10 Water Code Section 13267 also states that the cost of conducting site investigations and
11 producing reports must be reasonable in light of the benefits to be obtained. (Wat. Code, § 13267(b).)
12 Once monitoring, reporting, data collection, and information is requested, as is here, the statute is
13 triggered and the Regional Board must perform a costs benefits analysis. (*Ibid.*) The administrative
14 findings must disclose such analysis and evidence used to base its conclusions. (*Topanga, supra*, 11
15 Cal.3d at pp. 514-517.) Further, that analysis much show that the cost of data collection and
16 preparation of monitoring reports bears a reasonable relationship to the need for the reports and the
17 benefits to be obtained therefrom. (*Ibid.*) The Order does not contain any evidence of analysis or
18 consideration of the economic burdens to be placed upon Petitioners. As such, the Order is contrary to
19 Water Code Section 13267.

20 **5. THE MANNER IN WHICH THE PETITIONER IS AGGRIEVED:**

21 The Petitioners and their members are aggrieved by the conditions and limitations contained in
22 the Order. The Order issued by the Regional Board threatens the imposition of significant fines and
23 requires that Petitioners expend significant time and money to fulfill such information requests and
24 monitoring requirements without consideration of their economic or operational feasibility. Therefore,
25 the Order puts a significant burden - both financially and as property owners - on Petitioners. This
26 burden was imposed through an unforeseeable Order which was transmitted via mail preceding any
27 written or verbal communications from the Regional Board relating to any potential or actual threat to
28 water quality. The lack of notice and failure to provide an opportunity to be heard violates Petitioners'
due process rights.

1 **6. SPECIFIC ACTION BY THE STATE BOARD WHICH THE PETITIONER**
2 **REQUESTS:**

3 A. Based on the foregoing, the Petitioners request that the State Board to review the Petition and
4 the Order for Information and act accordingly, as follows:

5 (i) Modify the Order For Information to comply with all requirements under the Porter-
6 Cologne Water Quality Control Act (Wat. Code, § 13000 et seq.), specifically
7 Water Code Section 13267; or

8 (ii) Direct the Regional Board to modify the Order For Information to comply with all
9 requirements under the Porter-Cologne Water Quality Control Act (Wat. Code, §
10 13000 et seq.), specifically Water Code Section 13267, including:

- 11 a. Tailoring the scope and breadth of information sought;
12 b. Revising the timeframes for compliance, including granting an extension until
13 March 31, 2011, to submit the information requested in the Order;
14 c. Providing substantial evidence for the need for such information requests;
15 d. Conducting a reasonable relationship test on the benefits and burdens of such
16 requests;
17 e. Providing an adequate opportunity for Petitioners to be heard on the merits of the
18 Order; and
19 f. Conducting full review of all burdens, including costs, associated with the
20 contents of the Order.

21 B. Request for Hearing

22 In the event that the State Board determines that it is not appropriate to remand the Order For
23 Information to the Regional Board for further consideration, in accordance with California Code of
24 Regulations, Title 23, Section 2050(b), Petitioners request a hearing for purpose of presenting additional
25 evidence, which evidence was available and not presented to the Regional Board due to a lack of notice to
26 Petitioners.

27 **7. STATEMENT OF POINTS AND AUTHORITIES IN SUPPORT OF LEGAL**
28 **ISSUES RAISED IN THE PETITION:**

 A Statement of Points and Authorities in support of this petition is set forth in section 4 above.

1 The Petitioners reserve the right to supplement this statement.

2 **8. STATEMENT THAT THE PETITION HAS BEEN SENT TO THE REGIONAL**
3 **BOARD:**

4 In accordance with Title 23, Section 2050(a)(8) of the California Code of Regulations, the
5 Petitioners mailed a true and correct copy of this petition by First Class mail on July 27, 2010, to the
6 Regional Board at the following address:

7 Roger Briggs, Executive Officer
8 Central Coast Regional Water Quality Control Board
9 895 Aerovista Place, Suite 101
10 San Luis Obispo, CA. 93401-7906

11 **9. THE SUBSTANTIVE ISSUES OR OBJECTIONS WERE RAISED BEFORE**
12 **THE REGIONAL BOARD, OR THE PETITIONERS WERE UNABLE TO**
13 **RAISE THESE SUBSTANTIVE ISSUES OR OBJECTIONS:**

14 The substantive issues and objections raised in the petition above were raised before the
15 Regional Board in written comments submitted to the Regional Board in response to the Order. (See
16 letter sent to the Regional Board on July 23, 2010 by Monterey County Farm Bureau. A true and
17 correct copy is attached as Exhibit 2.) Given that no opportunity to be heard was provided to the
18 Petitioners, the substantive issues and objections raised in the petition above were not raised before the
19 Regional Board in oral testimony.

20 To the extent that the petition includes arguments not raised before the Regional Board,
21 Petitioners hereby request that the State Board consider the arguments pursuant to Title 23 of the
22 California Code of Regulations, Section 2050(a)(9) because Petitioners were not provided with ample
23 notice or an opportunity to be heard.

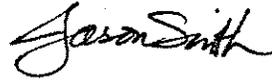
24 **10. STATEMENT OF ADDITIONAL EVIDENCE**

25 If the State Board determines that it is not appropriate to modify the Order or remand the Order to the
26 Regional Board for further consideration based on notice violations, failure to adequately address economic
27 impacts, failure to provide evidence for the information and monitoring requests, or any other reason
28 described herein, the Petitioners hereby request that the State Board grant the Petitioners leave to submit
supplemental evidence concurrently with this petition pursuant to Title 23 of the California Code of
Regulations Section 2050.6(b). The evidence for which Petitioners' request leave for consideration includes,
but is not limited to, legacy conditions, natural conditions, and conditions associated with the properties in

1 question, rebuttal evidence to the brief statements made in the Order, economic harm to Petitioners as a result
2 of the Order, and other evidence challenging the requirements being imposed by the Regional Board.

3
4 Dated: July 26, 2010

MONTEREY COUNTY FARM BUREAU

5
6 

7 By: JASON SMITH
8 President

9 On behalf of Martin Jefferson & Sons, Nielson Farms,
10 Inc., Blanco Farms LLC, and Jim Fanoie, Inc.

1 **PROOF OF SERVICE**

2 I, **Pamela K. Hotz**, declare as follows:

3 At the time of service I was at least 18 years of age; not a party to the within action; and employed at the
4 California Farm Bureau Federation, 2300 River Plaza Dr., Sacramento, CA 95833.

5 On July 27, 2010, I served the following document(s) in the manner set forth below:

6 **PETITION FOR REVIEW; PRELIMINARY POINTS AND AUTHORITIES IN
7 SUPPORT OF PETITION**

8 **UNITED STATES MAIL [C.C.P. § 1013]** I enclosed the documents in a sealed envelope
9 addressed to the following persons and

10 deposited the sealed envelope with the United States Postal Service with postage thereon fully
11 prepaid at Sacramento, CA addressed as follows:

12 placed the envelope for collection and mailing, following our ordinary business practices. I am
13 readily familiar with our practice for collection processing correspondence for mailing. On the
14 same day that the correspondence is placed for collection and mailing, it is deposited in the
15 ordinary course of business with the United States Postal Service, in a sealed envelope with
16 postage thereon fully prepaid at Salinas, CA address as follows :

17 Roger Briggs, Executive Officer
18 Central Coast Regional Water Quality
19 Control Board
20 895 Aerovista Place, Suite 101
21 San Luis Obispo, CA. 93401-7906

22 **OVERNIGHT DELIVERY [C.C.P. § 1013(c)]** I enclosed the documents in a sealed envelope
23 provided by an overnight delivery carrier and addressed it to the persons identified below. I
24 placed said envelope for collection at a regularly utilized drop box of the overnight carrier
25 addressed as follows:

26 *Tracking No:*

27 **EMAIL [C.C.P. § 1010.6]** Based on a court order or an agreement of the parties to accept service
28 by email, I caused the documents to be sent to the following persons at the following email address,
and did not receive, within a reasonable time after the transmission, any electronic message or other
indication that the transmission was unsuccessful:

Email:

PERSONAL DELIVERY [C.C.P. § 415.10] I personally delivered the documents as follows:

deposited the sealed envelope with the U.S. Postal Service with postage thereon fully prepaid at
Salinas, CA.

Person:

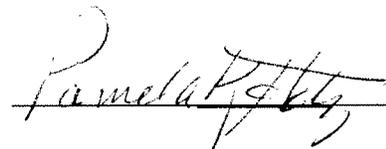
Address:

Date & Time:

[C.C.P. §§ 415.20; 1011(a); 1011(b)] I left the documents with or in the presence of the above
person, who was at least 18 years old and apparently in charge. I informed him or her of the
general nature of the papers.

Executed at Sacramento, CA.

Dated: July 26, 2010





California Regional Water Quality Control Board Central Coast Region



Linda S. Adams.
Secretary for
Environmental Protection

895 Aerovista Place, Suite 101, San Luis Obispo, California 93401-7906
(805) 549-3147 • Fax (805) 543-0397
<http://www.waterboards.ca.gov/centralcoast>

Arnold Schwarzenegger
Governor

CERTIFIED MAIL 7008 1140 0003 4708 5550

CERTIFIED MAIL 7004 1350 0003 9897 7551

WATER CODE SECTION 13267 ORDER FOR INFORMATION, GABILAN RANCH, AW# 0713, SALINAS, MONTEREY COUNTY

The Central Coast Regional Water Quality Control Board (Water Board) is a state regulatory agency with responsibility for protecting the quality of the waters of the state within its area of jurisdiction. The Water Board adopted the *Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands, Orders No. R3-2004-0117 and R3-2009-0050* (Agricultural Order) under the authority of the California Water Code. The Agricultural Order regulates waste discharges from irrigated lands, including discharges to groundwater through percolation. The goal of the Agricultural Order is to improve and protect water quality by providing a program to manage waste discharges from irrigated lands that could cause pollution of state waters.

According to the Water Board's *Water Quality Control Plan for the Central Coast Region* (Basin Plan), groundwater in the Salinas Valley has designated beneficial uses of municipal and domestic supply, agricultural supply, and industrial supply. The Basin Plan and Agricultural Order prohibit the discharge of nitrogenous compounds in quantities which could result in a groundwater nitrate concentration above 45 milligrams per liter (as nitrate). Furthermore, the Agricultural Order states that wastewaters percolated into groundwater shall be of such quality at the point where they enter the ground so as to ensure the protection of all actual or designated beneficial uses of all groundwaters of the basin.

According to information provided by Monterey County Health Department (MCHD), nitrate concentrations detected over the last several years from a public supply well at 24500 Calle El Rosario, San Jerardo (Salinas), CA 93908 exceed federal and state drinking water standards (45 milligrams per liter nitrate as nitrate). Potential sources of nitrate in this area include the San Jerardo wastewater treatment plant and fertilizers used in agricultural production. In addition, concentrations of 1,2,3-trichloropropane

(1,2,3-TCP) exceed the California Department of Public Health (CDPH) drinking water notification level (.005 micrograms per liter ($\mu\text{g/L}$)). 1,2,3-TCP is a suspected carcinogen and was used historically as a paint and varnish remover, cleaning and degreasing agent, and a cleaning and maintenance solvent, and more currently as a chemical intermediate in pesticides. The use of 1,2,3-TCP as a pesticide was in formulations with dichloropropenes in the manufacture of some soil fumigants (e.g., Shell D-D).

The Water Board is requiring the submittal of specific information to ensure that growers are not loading excessive nitrate and contributing to groundwater pollution. Immediate actions to address nitrate loading will ensure improvement in groundwater quality in the aquifer in the long term.

A review of the 2008 Ranch Map for Monterey County indicates that you are the landowner or operator of a farm in the immediate vicinity of the San Jerardo area. As farming operations at this location are a potential source of nitrate and 1,2,3-TCP in groundwater, you are required to submit the information below by **September 30, 2010**.

1. Contact information for both the landowner and current farm operators. You must include name, physical address, mailing address, phone, and email address.
2. A map of the ranch in the vicinity of the San Jerardo area. The map must include:
 - a. Assessor's Parcel Number (APN)
 - b. Ranch and field boundaries
 - c. Buildings and structures
 - d. Well locations
 - e. Hydrologic features
 - i. Irrigation ditches
 - ii. Streams and creeks
 - iii. Reservoirs
 - iv. Tailwater recovery systems
 - v. Tiledrains
 - vi. Domestic and/or irrigation wells
 - vii. Offsite discharge locations (stormwater and/or tailwater)
 - viii. Septic Systems
3. Well location, construction and water quality information for all groundwater wells located on the above ranches. You must submit the following:
 - a. Owner-assigned well identification (how you identify your well);
 - b. Well location (latitude and longitude, measured in decimal degrees and reported to 7 decimal points);
 - c. Information on sealing of any abandoned wells;
 - d. Photographs documenting external condition of wells;
 - e. Type of water use (e.g., residential and/or agricultural);
 - f. Well logs, as-built drawings, and descriptions, if available;

- g. Well construction, as available;
 - i. Screen intervals
 - ii. Pumping rates
 - iii. Well depths
 - iv. Back-flow protections
 - v. Condition of surface completion (note any damage or cracks)
 - h. Water quality
 - i. Any existing nitrate or 1,2,3-TCP groundwater data
4. Ongoing quarterly groundwater quality analyses of nitrate (as nitrate) from each groundwater well, using EPA Laboratory Method 300.0 analyzed by a state Environmental Laboratory Accreditation Program (ELAP) accredited laboratory. Appropriate sampling procedure and bottles provided by the laboratory should be used. Ongoing quarterly monitoring results are due to our office at the end of the month following each calendar quarter, **January 30, April 30, July 30 and October 30** for the first two years. Thereafter, yearly monitoring results are due by **October 30** until further notice.
 5. A report of any historical or current onsite use of chemicals with the potential to contain 1,2,3-TCP (e.g., hazardous waste storage, paint operation, machine shop, D-D soil fumigant). Identify the amount of any such chemicals used or stored and detail how they are stored to prevent the contamination of stormwater, surface water and groundwater.
 6. Information on how you are currently making management decisions regarding nutrient and irrigation management on your ranch.
 7. An irrigation efficiency evaluation report.
 8. A plan on how you are going to minimize nitrate loading so that any groundwater discharge meets water quality standards. The plan shall include storm water management, fertilizer and irrigation management, fertigation back-flow protections and any other pertinent factors. At a minimum the plan must include:
 - Storm water and tailwater runoff controls where discharges from your property enter ditches, streams or creeks.
 - Detailed irrigation scheduling and management practices used to prevent the leaching of nitrate below the root zone.
 - Details of any fertigation practices and back-flow protections used throughout the ranch.
 - A nutrient management budget that demonstrates how you will reduce the potential leaching of nitrate into the groundwater. This shall include information by crop type such as plant needs, soil nitrate levels, irrigation water nitrate levels, 2009 nitrogen usage in pounds of nitrogen per acre, a proposal for future nitrogen reductions in pounds of nitrogen per acre, and

other information as appropriate. Include details on how this will be implemented and monitored at the field level (e.g., soil nitrate quick tests and record keeping).

For assistance with your nutrient budgeting and irrigation management you may wish to contact the Natural Resources Conservation Services Area Agronomist Zahangir Kabir, "Kabir", at 831-229-6053.

The Water Board's requirements for the above information are made pursuant to Sections 13267 of the California Water Code. Pursuant to Section 13268 of the Water Code, a violation of a requirement made pursuant to Water Code Section 13267 may subject you to civil liability of up to \$1,000 per day for each day in which the violation occurs (i.e., for each day after **September 30, 2010**).

According to Water Code section 13267(b)(2):

".... portions of a report that might disclose trade secrets or secret processes may not be made available for inspection by the public but shall be made available to governmental agencies for use in making studies. However, these portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report." If you have trade secrets that you wish to keep from review by the public, please submit two copies of the requested documents: one complete copy for our confidential file and one copy with the trade secrets blacked out for our public file.

Any person affected by this action of the Central Coast Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with

Section 13320 of the California Water Code and Title 23, California Code of Regulations, Section 2050. The petition must be received by the State Water Board, Office of Chief Counsel, P. O. Box 100, Sacramento, 95812 within 30 days of the date of this order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

Under the terms of the Agricultural Order, both owners and operators of irrigated land have responsibility for compliance with the conditions of the Order. In practice, many operational management practices are often under the direct control of the operator, while structural practices that remain in place through changes in leaseholders/operators are often controlled by the landowner. We require one party to submit all the required items and will rely on you to determine who will respond.

If you have any questions regarding this matter, please contact Jill North at 805-542-4762 or jnorth@waterboards.ca.gov.

Sincerely,



Michael Thomas
Assistant Executive Officer

cc:
Zahangir Kabir, Ph.D.
USDA-NRCS
318 Cayuga Street, Suite # 206
Salinas CA 93901

Monterey County Farm Bureau
Traci Roberts
PO Box 1449
Salinas, CA 93901

S:\Agricultural Regulatory Program\Inspections and Enforcement\Enforcement\San Jerardo\San Jerardo
13267_2.doc



Monterey County Farm Bureau

Located at 931 Blanco Circle, Salinas CA 93901

P.O. Box 1449, Salinas CA 93902

Phone: 831.751.3100 Fax: 831.751.3167

www.montereycfb.com

July 23, 2010

Michael Thomas

Assistant Executive Officer

California Regional Water Quality Control Board

Central Coast Region

895 Aerovista Place, Suite 101

San Luis Obispo, CA 93401-7906

Email Transmission

REFERENCE: Water Code Section 13267 Orders for Information on four ranches in Salinas, Monterey County.

Dear Mr. Thomas,

We are writing to you on behalf of four growers who received Orders for Information from the Regional Board. These growers request an extension of time to be able to gather and report the information listed in the letters they received and they have questions about some of the information required. The growers discussed with each other the type and amount of information being required and agreed that an additional six months from the due date of September 30th, 2010 would be adequate. Therefore, we are requesting an extension of time on behalf of these growers until March 31st, 2011.

An extension of time is needed for these growers for the following reasons:

- a) to allow time for resolution of questions the growers have about some of the information being required;
- b) to finish the most active and busy season of the year when crop production and harvest is at its peak;
- c) collection and formatting of the information is going to take significant time; in addition some of the information is not directly available to the growers so they will need to collect it from other entities if possible;
- d) the growers themselves were not previously contacted by the Regional Board on this issue and received this detailed information request without any prior contact from the Regional Board. (See "Note on Communications Below")

Questions regarding the information listed in the June 24th letter to growers:

Growers are willing to work with the Regional Board in fulfillment of this Order for Information. We hope you will extend the short time frame provided as requested above. Each grower will need to re-direct finite resources to collect, compile, and report the extensive and detailed information being required. It is important that growers are made aware of the relationship between the information being required and a need identified by the Regional Board based on studies or scientific assessments that point to these specific properties rather than any others.

Answers to the questions below will assist growers to prepare the information in a manner that will be most useful to the Regional Board. Your responses will also help growers to understand the purpose of the information and how it will be used by the Regional Board. Your patience and understanding attention to these questions will be greatly appreciated.

1. What is the history of land uses and activities on the ground now occupied by the San Jerardo Cooperative? Growers would like to receive any reports detailing the Regional Board's assessment of previous land uses and issues related to groundwater in the San Jerardo area;
2. Under #4. Ongoing quarterly groundwater quality analyses
Growers are uncertain about when the sampling should begin and the purpose to which this well monitoring data will be utilized by the Regional Board. Please clarify.
3. Under #5. There is no current use of 1,2,3 TCP on these properties. Growers are uncertain about the meaning of "chemicals with the potential to contain 1, 2, 3 TCP" as stated in the letter. Clarification is requested.
4. Under #6. This seems to be a duplicate of the information under #8. Methods for current nutrient and irrigation management are to be detailed under #8. Is there separate or different information that is being requested for #6 and does it have a specific purpose?
5. #8 makes an assumption that current storm water, irrigation, and nutrient management efforts carried out by the growers are not adequate. This assumption is of great concern to these growers who are carefully managing their irrigation and nutrient usage. Details of each growers' methods will be forthcoming in their response to this Order for Information. Does the Regional Board have evidence that connects these specific properties to groundwater quality data? Please provide any data and your analysis that connects these specific properties to a groundwater quality concern.
 - "Storm water and tail water controls where discharges from your property enter ditches, streams, or creeks."How does this information relate to the Regional Board concern about groundwater quality?

- “2009 nitrogen usage in pounds of nitrogen per acre”

Since Regional Board staff use an unexplained calculation to determine the amount of nitrate presumed to enter aquifers based on the amount of nitrogen applied, growers are very concerned that their fertilizer application for 2009 could be generalized into inaccurate assumptions.

Why is no cropping information requested? What is the source of the regional board's calculation used to extrapolate nitrate to groundwater from pounds of nitrogen applied?

6. Wastewater treatment ponds: The presence of open air, un-lined wastewater ponds receiving effluent from residents of the San Jerardo Cooperative is of great concern for these growers. Has the Regional Board investigated the potential for negative impacts coming from untreated effluent on nearby farming operations and farm homes? Growers request that the Regional Board provide an assessment of the health and safety issues posed by historic and current management methods at the San Jerardo Cooperative.
7. Groundwater data and analysis: Growers would like to gain a better understanding of the groundwater concerns in their area and request any information that would assist in this regard. Does the Regional Board have studies or analyses that provide a full understanding of the hydro-geologic characteristics of the area around the San Jerardo Cooperative?

Finally, growers would like it acknowledged that there are significant costs associated with the time required to locate, compile, review, and submit the large amount of information being asked for in these Orders for Information.

A NOTE ON COMMUNICATIONS:

Monterey County Farm Bureau would like to ensure that Regional Board staff does not substitute communication with Monterey County Farm Bureau for communication directly to growers impacted by this or future issues. While we appreciate Regional Board staff reaching out to our staff, as we have requested in the past, to inform us of emerging issues – a call to the Farm Bureau is not an adequate substitute for communicating with the growers themselves.

Contact was made by your staff member Jill North to Farm Bureau staff on March 26th 2010 stating that a letter would be forthcoming in April. Details of the letter were not provided by staff and the letter was not received by growers in April. After March 26th, there was no further communication from Regional Board staff to growers or to the Farm Bureau.

Our role as communicator of today's request for an extension of time and addressing of questions from the growers is unique to this situation. In this case, we were asked by all the growers involved to prepare this letter. Please send future communications on this issue directly to the growers of the properties with courtesy copies provided to the Monterey County Farm Bureau.

Thank you for your serious consideration of our request for an extension and responses to the growers' questions. You may contact Traci Roberts, Monterey County Farm Bureau staff with any questions at traci@montereycfb.com or our office at 831-751-3100.

Sincerely,

A handwritten signature in black ink that reads "Jason Smith". The signature is written in a cursive, flowing style.

Jason Smith, President

CC: Grower Representatives for the four properties in receipt of the Order for Information
Home Ranch, Nick Fano
Bardin Ranch, Tom Nielson
Gabilan Ranch, Tim Borel
Alisal Ranch, April England-Mackie



California Regional Water Quality Control Board Central Coast Region



Linda S. Adams.
Secretary for
Environmental Protection

895 Aerovista Place, Suite 101, San Luis Obispo, California 93401-7906
(805) 549-3147 • Fax (805) 543-0397
<http://www.waterboards.ca.gov/centralcoast>

Arnold Schwarzenegger
Governor

June 24, 2010

CERTIFIED MAIL 7004 1350 0003 9897 7605

Nielson Farms, Inc.
47 Paraiso Court
Salinas, CA 93901

CERTIFIED MAIL 7004 1350 0003 9897 7568

Patricia Bickel
1560 Old State Road
Salinas, CA 93910

WATER CODE SECTION 13267 ORDER FOR INFORMATION, BARDIN RANCH, AW# 0204 OLD STAGE ROAD, SALINAS, MONTEREY COUNTY

The Central Coast Regional Water Quality Control Board (Water Board) is a state regulatory agency with responsibility for protecting the quality of the waters of the state within its area of jurisdiction. The Water Board adopted the *Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands, Orders No. R3-2004-0117 and R3-2009-0050* (Agricultural Order) under the authority of the California Water Code. The Agricultural Order regulates waste discharges from irrigated lands, including discharges to groundwater through percolation. The goal of the Agricultural Order is to improve and protect water quality by providing a program to manage waste discharges from irrigated lands that could cause pollution of state waters.

According to the Water Board's *Water Quality Control Plan for the Central Coast Region* (Basin Plan), groundwater in the Salinas Valley has designated beneficial uses of municipal and domestic supply, agricultural supply, and industrial supply. The Basin Plan and Agricultural Order prohibit the discharge of nitrogenous compounds in quantities which could result in a groundwater nitrate concentration above 45 milligrams per liter (as nitrate). Furthermore, the Agricultural Order states that wastewaters percolated into groundwater shall be of such quality at the point where they enter the ground so as to ensure the protection of all actual or designated beneficial uses of all groundwaters of the basin.

According to information provided by Monterey County Health Department (MCHD), nitrate concentrations detected over the last several years from a public supply well at 24500 Calle El Rosario, San Jerardo (Salinas), CA 93908 exceed federal and state drinking water standards (45 milligrams per liter nitrate as nitrate). Potential sources of nitrate in this area include the San Jerardo wastewater treatment plant and fertilizers used in agricultural production. In addition, concentrations of 1,2,3-trichloropropane

(1,2,3-TCP) exceed the California Department of Public Health (CDPH) drinking water notification level (.005 micrograms per liter ($\mu\text{g/L}$)). 1,2,3-TCP is a suspected carcinogen and was used historically as a paint and varnish remover, cleaning and degreasing agent, and a cleaning and maintenance solvent, and more currently as a chemical intermediate in pesticides. The use of 1,2,3-TCP as a pesticide was in formulations with dichloropropenes in the manufacture of some soil fumigants (e.g., Shell D-D).

The Water Board is requiring the submittal of specific information to ensure that growers are not loading excessive nitrate and contributing to groundwater pollution. Immediate actions to address nitrate loading will ensure improvement in groundwater quality in the aquifer in the long term.

A review of the 2008 Ranch Map for Monterey County indicates that you are the landowner or operator of a farm in the immediate vicinity of the San Jerardo area. As farming operations at this location are a potential source of nitrate and 1,2,3-TCP in groundwater, you are required to submit the information below by **September 30, 2010**.

1. Contact information for both the landowner and current farm operators. You must include name, physical address, mailing address, phone, and email address.
2. A map of the ranch in the vicinity of the San Jerardo area. The map must include:
 - a. Assessor's Parcel Number (APN)
 - b. Ranch and field boundaries
 - c. Buildings and structures
 - d. Well locations
 - e. Hydrologic features
 - i. Irrigation ditches
 - ii. Streams and creeks
 - iii. Reservoirs
 - iv. Tailwater recovery systems
 - v. Tiledrains
 - vi. Domestic and/or irrigation wells
 - vii. Offsite discharge locations (stormwater and/or tailwater)
 - viii. Septic Systems
3. Well location, construction and water quality information for all groundwater wells located on the above ranches. You must submit the following:
 - a. Owner-assigned well identification (how you identify your well);
 - b. Well location (latitude and longitude, measured in decimal degrees and reported to 7 decimal points);
 - c. Information on sealing of any abandoned wells;
 - d. Photographs documenting external condition of wells;

- f. Well logs, as-built drawings, and descriptions, if available;
 - g. Well construction, as available;
 - i. Screen intervals
 - ii. Pumping rates
 - iii. Well depths
 - iv. Back-flow protections
 - v. Condition of surface completion (note any damage or cracks)
 - h. Water quality
 - i. Any existing nitrate or 1,2,3-TCP groundwater data
4. Ongoing quarterly groundwater quality analyses of nitrate (as nitrate) from each groundwater well, using EPA Laboratory Method 300.0 analyzed by a state Environmental Laboratory Accreditation Program (ELAP) accredited laboratory. Appropriate sampling procedure and bottles provided by the laboratory should be used. Ongoing quarterly monitoring results are due to our office at the end of the month following each calendar quarter, **January 30, April 30, July 30 and October 30** for the first two years. Thereafter, yearly monitoring results are due by **October 30** until further notice.
 5. A report of any historical or current onsite use of chemicals with the potential to contain 1,2,3-TCP (e.g., hazardous waste storage, paint operation, machine shop, D-D soil fumigant). Identify the amount of any such chemicals used or stored and detail how they are stored to prevent the contamination of stormwater, surface water and groundwater.
 6. Information on how you are currently making management decisions regarding nutrient and irrigation management on your ranch.
 7. An irrigation efficiency evaluation report.
 8. A plan on how you are going to minimize nitrate loading so that any groundwater discharge meets water quality standards. The plan shall include storm water management, fertilizer and irrigation management, fertigation back-flow protections and any other pertinent factors. At a minimum the plan must include:
 - Storm water and tailwater runoff controls where discharges from your property enter ditches, streams or creeks.
 - Detailed irrigation scheduling and management practices used to prevent the leaching of nitrate below the root zone.
 - Details of any fertigation practices and back-flow protections used throughout the ranch.
 - A nutrient management budget that demonstrates how you will reduce the potential leaching of nitrate into the groundwater. This shall include information by crop type such as plant needs, soil nitrate levels, irrigation water nitrate levels, 2009 nitrogen usage in pounds of nitrogen per acre, a

proposal for future nitrogen reductions in pounds of nitrogen per acre, and other information as appropriate. Include details on how this will be implemented and monitored at the field level (e.g., soil nitrate quick tests and record keeping).

For assistance with your nutrient budgeting and irrigation management you may wish to contact the Natural Resources Conservation Services Area Agronomist Zahangir Kabir, "Kabir", at 831-229-6053.

The Water Board's requirements for the above information are made pursuant to Sections 13267 of the California Water Code. Pursuant to Section 13268 of the Water Code, a violation of a requirement made pursuant to Water Code Section 13267 may subject you to civil liability of up to \$1,000 per day for each day in which the violation occurs (i.e., for each day after **September 30, 2010**).

According to Water Code section 13267(b)(2):

".... portions of a report that might disclose trade secrets or secret processes may not be made available for inspection by the public but shall be made available to governmental agencies for use in making studies. However, these portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report." If you have trade secrets that you wish to keep from review by the public, please submit two copies of the requested documents: one complete copy for our confidential file and one copy with the trade secrets blacked out for our public file.

Any person affected by this action of the Central Coast Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with

Section 13320 of the California Water Code and Title 23, California Code of Regulations, Section 2050. The petition must be received by the State Water Board, Office of Chief Counsel, P. O. Box 100, Sacramento, 95812 within 30 days of the date of this order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

Under the terms of the Agricultural Order, both owners and operators of irrigated land have responsibility for compliance with the conditions of the Order. In practice, many operational management practices are often under the direct control of the operator, while structural practices that remain in place through changes in leaseholders/operators are often controlled by the landowner. We require one party to submit all the required items and will rely on you to determine who will respond.

If you have any questions regarding this matter, please contact Jill North at 805-542-4762 or jnorth@waterboards.ca.gov.

Sincerely,



Michael Thomas
Assistant Executive Officer

cc:

Zahangir Kabir, Ph.D.
USDA-NRCS
318 Cayuga Street, Suite # 206
Salinas CA 93901

Monterey County Farm Bureau
Traci Roberts
PO Box 1449
Salinas, CA 93901

S:\Agricultural Regulatory Program\Inspections and Enforcement\Enforcement\San Jerardo\San Jerardo
13267_2.doc



California Regional Water Quality Control Board Central Coast Region



Linda S. Adams.
Secretary for
Environmental Protection

895 Aerovista Place, Suite 101, San Luis Obispo, California 93401-7906
(805) 549-3147 • Fax (805) 543-0397
<http://www.waterboards.ca.gov/centralcoast>

Arnold Schwarzenegger
Governor

June 24, 2010

CERTIFIED MAIL 7008 1140 0003 4708 5550

Blanco Farms, LLC
Tim Borel
PO Box 6645
Salinas, CA 93912

CERTIFIED MAIL 7004 1350 0003 9897 7551

Mr. Eric Schween
4979 Edelweiss Road
New Glarus, WI 53574

WATER CODE SECTION 13267 ORDER FOR INFORMATION, GABILAN RANCH, AW# 0713, SALINAS, MONTEREY COUNTY

The Central Coast Regional Water Quality Control Board (Water Board) is a state regulatory agency with responsibility for protecting the quality of the waters of the state within its area of jurisdiction. The Water Board adopted the *Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands, Orders No. R3-2004-0117 and R3-2009-0050* (Agricultural Order) under the authority of the California Water Code. The Agricultural Order regulates waste discharges from irrigated lands, including discharges to groundwater through percolation. The goal of the Agricultural Order is to improve and protect water quality by providing a program to manage waste discharges from irrigated lands that could cause pollution of state waters.

According to the Water Board's *Water Quality Control Plan for the Central Coast Region* (Basin Plan), groundwater in the Salinas Valley has designated beneficial uses of municipal and domestic supply, agricultural supply, and industrial supply. The Basin Plan and Agricultural Order prohibit the discharge of nitrogenous compounds in quantities which could result in a groundwater nitrate concentration above 45 milligrams per liter (as nitrate). Furthermore, the Agricultural Order states that wastewaters percolated into groundwater shall be of such quality at the point where they enter the ground so as to ensure the protection of all actual or designated beneficial uses of all groundwaters of the basin.

According to information provided by Monterey County Health Department (MCHD), nitrate concentrations detected over the last several years from a public supply well at 24500 Calle El Rosario, San Jerardo (Salinas), CA 93908 exceed federal and state drinking water standards (45 milligrams per liter nitrate as nitrate). Potential sources of nitrate in this area include the San Jerardo wastewater treatment plant and fertilizers used in agricultural production. In addition, concentrations of 1,2,3-trichloropropane

(1,2,3-TCP) exceed the California Department of Public Health (CDPH) drinking water notification level (.005 micrograms per liter ($\mu\text{g/L}$)). 1,2,3-TCP is a suspected carcinogen and was used historically as a paint and varnish remover, cleaning and degreasing agent, and a cleaning and maintenance solvent, and more currently as a chemical intermediate in pesticides. The use of 1,2,3-TCP as a pesticide was in formulations with dichloropropenes in the manufacture of some soil fumigants (e.g., Shell D-D).

The Water Board is requiring the submittal of specific information to ensure that growers are not loading excessive nitrate and contributing to groundwater pollution. Immediate actions to address nitrate loading will ensure improvement in groundwater quality in the aquifer in the long term.

A review of the 2008 Ranch Map for Monterey County indicates that you are the landowner or operator of a farm in the immediate vicinity of the San Jerardo area. As farming operations at this location are a potential source of nitrate and 1,2,3-TCP in groundwater, you are required to submit the information below by **September 30, 2010**.

1. Contact information for both the landowner and current farm operators. You must include name, physical address, mailing address, phone, and email address.
2. A map of the ranch in the vicinity of the San Jerardo area. The map must include:
 - a. Assessor's Parcel Number (APN)
 - b. Ranch and field boundaries
 - c. Buildings and structures
 - d. Well locations
 - e. Hydrologic features
 - i. Irrigation ditches
 - ii. Streams and creeks
 - iii. Reservoirs
 - iv. Tailwater recovery systems
 - v. Tiledrains
 - vi. Domestic and/or irrigation wells
 - vii. Offsite discharge locations (stormwater and/or tailwater)
 - viii. Septic Systems
3. Well location, construction and water quality information for all groundwater wells located on the above ranches. You must submit the following:
 - a. Owner-assigned well identification (how you identify your well);
 - b. Well location (latitude and longitude, measured in decimal degrees and reported to 7 decimal points);
 - c. Information on sealing of any abandoned wells;
 - d. Photographs documenting external condition of wells;
 - e. Type of water use (e.g., residential and/or agricultural);
 - f. Well logs, as-built drawings, and descriptions, if available;

- g. Well construction, as available;
 - i. Screen intervals
 - ii. Pumping rates
 - iii. Well depths
 - iv. Back-flow protections
 - v. Condition of surface completion (note any damage or cracks)
 - h. Water quality
 - i. Any existing nitrate or 1,2,3-TCP groundwater data
4. Ongoing quarterly groundwater quality analyses of nitrate (as nitrate) from each groundwater well, using EPA Laboratory Method 300.0 analyzed by a state Environmental Laboratory Accreditation Program (ELAP) accredited laboratory. Appropriate sampling procedure and bottles provided by the laboratory should be used. Ongoing quarterly monitoring results are due to our office at the end of the month following each calendar quarter, **January 30, April 30, July 30 and October 30** for the first two years. Thereafter, yearly monitoring results are due by **October 30** until further notice.
 5. A report of any historical or current onsite use of chemicals with the potential to contain 1,2,3-TCP (e.g., hazardous waste storage, paint operation, machine shop, D-D soil fumigant). Identify the amount of any such chemicals used or stored and detail how they are stored to prevent the contamination of stormwater, surface water and groundwater.
 6. Information on how you are currently making management decisions regarding nutrient and irrigation management on your ranch.
 7. An irrigation efficiency evaluation report.
 8. A plan on how you are going to minimize nitrate loading so that any groundwater discharge meets water quality standards. The plan shall include storm water management, fertilizer and irrigation management, fertigation back-flow protections and any other pertinent factors. At a minimum the plan must include:
 - Storm water and tailwater runoff controls where discharges from your property enter ditches, streams or creeks.
 - Detailed irrigation scheduling and management practices used to prevent the leaching of nitrate below the root zone.
 - Details of any fertigation practices and back-flow protections used throughout the ranch.
 - A nutrient management budget that demonstrates how you will reduce the potential leaching of nitrate into the groundwater. This shall include information by crop type such as plant needs, soil nitrate levels, irrigation water nitrate levels, 2009 nitrogen usage in pounds of nitrogen per acre, a proposal for future nitrogen reductions in pounds of nitrogen per acre, and

other information as appropriate. Include details on how this will be implemented and monitored at the field level (e.g., soil nitrate quick tests and record keeping).

For assistance with your nutrient budgeting and irrigation management you may wish to contact the Natural Resources Conservation Services Area Agronomist Zahangir Kabir, "Kabir", at 831-229-6053.

The Water Board's requirements for the above information are made pursuant to Sections 13267 of the California Water Code. Pursuant to Section 13268 of the Water Code, a violation of a requirement made pursuant to Water Code Section 13267 may subject you to civil liability of up to \$1,000 per day for each day in which the violation occurs (i.e., for each day after **September 30, 2010**).

According to Water Code section 13267(b)(2):

".... portions of a report that might disclose trade secrets or secret processes may not be made available for inspection by the public but shall be made available to governmental agencies for use in making studies. However, these portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report." If you have trade secrets that you wish to keep from review by the public, please submit two copies of the requested documents: one complete copy for our confidential file and one copy with the trade secrets blacked out for our public file.

Any person affected by this action of the Central Coast Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with

Section 13320 of the California Water Code and Title 23, California Code of Regulations, Section 2050. The petition must be received by the State Water Board, Office of Chief Counsel, P. O. Box 100, Sacramento, 95812 within 30 days of the date of this order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

Under the terms of the Agricultural Order, both owners and operators of irrigated land have responsibility for compliance with the conditions of the Order. In practice, many operational management practices are often under the direct control of the operator, while structural practices that remain in place through changes in leaseholders/operators are often controlled by the landowner. We require one party to submit all the required items and will rely on you to determine who will respond.

If you have any questions regarding this matter, please contact Jill North at 805-542-4762 or jnorth@waterboards.ca.gov.

Sincerely,



Michael Thomas
Assistant Executive Officer

cc:
Zahangir Kabir, Ph.D.
USDA-NRCS
318 Cayuga Street, Suite # 206
Salinas CA 93901

Monterey County Farm Bureau
Traci Roberts
PO Box 1449
Salinas, CA 93901

S:\Agricultural Regulatory Program\Inspections and Enforcement\Enforcement\San Jerardo\San Jerardo
13267_2.doc





California Regional Water Quality Control Board Central Coast Region



Linda S. Adams.
Secretary for
Environmental Protection

895 Aerovista Place, Suite 101, San Luis Obispo, California 93401-7906
(805) 549-3147 • Fax (805) 543-0397
<http://www.waterboards.ca.gov/centralcoast>

Arnold Schwarzenegger
Governor

June 24, 2010

CERTIFIED MAIL 7004 1350 0003 9897 7582

Jim Fanoë, Inc.
Nick Fanoë
PO Box 7486
Spreckels, CA 93962

CERTIFIED MAIL 7004 1350 0003 9897 7575

Fanoë Residence
2355 Alisal Road
Salinas, CA 93910

WATER CODE SECTION 13267 ORDER FOR INFORMATION, HOME RANCH, AW# 0326, SALINAS, MONTEREY COUNTY

The Central Coast Regional Water Quality Control Board (Water Board) is a state regulatory agency with responsibility for protecting the quality of the waters of the state within its area of jurisdiction. The Water Board adopted the *Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands, Orders No. R3-2004-0117 and R3-2009-0050* (Agricultural Order) under the authority of the California Water Code. The Agricultural Order regulates waste discharges from irrigated lands, including discharges to groundwater through percolation. The goal of the Agricultural Order is to improve and protect water quality by providing a program to manage waste discharges from irrigated lands that could cause pollution of state waters.

According to the Water Board's *Water Quality Control Plan for the Central Coast Region* (Basin Plan), groundwater in the Salinas Valley has designated beneficial uses of municipal and domestic supply, agricultural supply, and industrial supply. The Basin Plan and Agricultural Order prohibit the discharge of nitrogenous compounds in quantities which could result in a groundwater nitrate concentration above 45 milligrams per liter (as nitrate). Furthermore, the Agricultural Order states that wastewaters percolated into groundwater shall be of such quality at the point where they enter the ground so as to ensure the protection of all actual or designated beneficial uses of all groundwaters of the basin.

According to information provided by Monterey County Health Department (MCHD), nitrate concentrations detected over the last several years from a public supply well at 24500 Calle El Rosario, San Jerardo (Salinas), CA 93908 exceed federal and state drinking water standards (45 milligrams per liter nitrate as nitrate). Potential sources of nitrate in this area include the San Jerardo wastewater treatment plant and fertilizers used in agricultural production. In addition, concentrations of 1,2,3-trichloropropane

(1,2,3-TCP) exceed the California Department of Public Health (CDPH) drinking water notification level (.005 micrograms per liter ($\mu\text{g/L}$)). 1,2,3-TCP is a suspected carcinogen and was used historically as a paint and varnish remover, cleaning and degreasing agent, and a cleaning and maintenance solvent, and more currently as a chemical intermediate in pesticides. The use of 1,2,3-TCP as a pesticide was in formulations with dichloropropenes in the manufacture of some soil fumigants (e.g., Shell D-D).

The Water Board is requiring the submittal of specific information to ensure that growers are not loading excessive nitrate and contributing to groundwater pollution. Immediate actions to address nitrate loading will ensure improvement in groundwater quality in the aquifer in the long term.

A review of the 2008 Ranch Map for Monterey County indicates that you are the landowner or operator of a farm in the immediate vicinity of the San Jerardo area. As farming operations at this location are a potential source of nitrate and 1,2,3-TCP in groundwater, you are required to submit the information below by **September 30, 2010**.

1. Contact information for both the landowner and current farm operators. You must include name, physical address, mailing address, phone, and email address.
2. A map of the ranch in the vicinity of the San Jerardo area. The map must include:
 - a. Assessor's Parcel Number (APN)
 - b. Ranch and field boundaries
 - c. Buildings and structures
 - d. Well locations
 - e. Hydrologic features
 - i. Irrigation ditches
 - ii. Streams and creeks
 - iii. Reservoirs
 - iv. Tailwater recovery systems
 - v. Tiledrains
 - vi. Domestic and/or irrigation wells
 - vii. Offsite discharge locations (stormwater and/or tailwater)
 - viii. Septic Systems
3. Well location, construction and water quality information for all groundwater wells located on the above ranches. You must submit the following:
 - a. Owner-assigned well identification (how you identify your well);
 - b. Well location (latitude and longitude, measured in decimal degrees and reported to 7 decimal points);
 - c. Information on sealing of any abandoned wells;
 - d. Photographs documenting external condition of wells;
 - e. Type of water use (e.g., residential and/or agricultural);
 - f. Well logs, as-built drawings, and descriptions, if available;

- g. Well construction, as available;
 - i. Screen intervals
 - ii. Pumping rates
 - iii. Well depths
 - iv. Back-flow protections
 - v. Condition of surface completion (note any damage or cracks)
 - h. Water quality
 - i. Any existing nitrate or 1,2,3-TCP groundwater data
4. Ongoing quarterly groundwater quality analyses of nitrate (as nitrate) from each groundwater well, using EPA Laboratory Method 300.0 analyzed by a state Environmental Laboratory Accreditation Program (ELAP) accredited laboratory. Appropriate sampling procedure and bottles provided by the laboratory should be used. Ongoing quarterly monitoring results are due to our office at the end of the month following each calendar quarter, **January 30, April 30, July 30** and **October 30** for the first two years. Thereafter, yearly monitoring results are due by **October 30** until further notice.
 5. A report of any historical or current onsite use of chemicals with the potential to contain 1,2,3-TCP (e.g., hazardous waste storage, paint operation, machine shop, D-D soil fumigant). Identify the amount of any such chemicals used or stored and detail how they are stored to prevent the contamination of stormwater, surface water and groundwater.
 6. Information on how you are currently making management decisions regarding nutrient and irrigation management on your ranch.
 7. An irrigation efficiency evaluation report.
 8. A plan on how you are going to minimize nitrate loading so that any groundwater discharge meets water quality standards. The plan shall include storm water management, fertilizer and irrigation management, fertigation back-flow protections and any other pertinent factors. At a minimum the plan must include:
 - Storm water and tailwater runoff controls where discharges from your property enter ditches, streams or creeks.
 - Detailed irrigation scheduling and management practices used to prevent the leaching of nitrate below the root zone.
 - Details of any fertigation practices and back-flow protections used throughout the ranch.
 - A nutrient management budget that demonstrates how you will reduce the potential leaching of nitrate into the groundwater. This shall include information by crop type such as plant needs, soil nitrate levels, irrigation water nitrate levels, 2009 nitrogen usage in pounds of nitrogen per acre, a proposal for future nitrogen reductions in pounds of nitrogen per acre, and

other information as appropriate. Include details on how this will be implemented and monitored at the field level (e.g., soil nitrate quick tests and record keeping).

For assistance with your nutrient budgeting and irrigation management you may wish to contact the Natural Resources Conservation Services Area Agronomist Zahangir Kabir, "Kabir", at 831-229-6053.

The Water Board's requirements for the above information are made pursuant to Sections 13267 of the California Water Code. Pursuant to Section 13268 of the Water Code, a violation of a requirement made pursuant to Water Code Section 13267 may subject you to civil liability of up to \$1,000 per day for each day in which the violation occurs (i.e., for each day after **September 30, 2010**).

According to Water Code section 13267(b)(2):

".... portions of a report that might disclose trade secrets or secret processes may not be made available for inspection by the public but shall be made available to governmental agencies for use in making studies. However, these portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report." If you have trade secrets that you wish to keep from review by the public, please submit two copies of the requested documents: one complete copy for our confidential file and one copy with the trade secrets blacked out for our public file.

Any person affected by this action of the Central Coast Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with

Section 13320 of the California Water Code and Title 23, California Code of Regulations, Section 2050. The petition must be received by the State Water Board, Office of Chief Counsel, P. O. Box 100, Sacramento, 95812 within 30 days of the date of this order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

Under the terms of the Agricultural Order, both owners and operators of irrigated land have responsibility for compliance with the conditions of the Order. In practice, many operational management practices are often under the direct control of the operator, while structural practices that remain in place through changes in leaseholders/operators are often controlled by the landowner. We require one party to submit all the required items and will rely on you to determine who will respond.

If you have any questions regarding this matter, please contact Jill North at 805-542-4762 or jnorth@waterboards.ca.gov.

Sincerely,



Michael Thomas
Assistant Executive Officer

cc:
Zahangir Kabir, Ph.D.
USDA-NRCS
318 Cayuga Street, Suite # 206
Salinas CA 93901

Monterey County Farm Bureau
Traci Roberts
PO Box 1449
Salinas, CA 93901

S:\Agricultural Regulatory Program\Inspections and Enforcement\Enforcement\San Jerardo\San Jerardo
13267_2.doc



California Regional Water Quality Control Board Central Coast Region



Linda S. Adams.
Secretary for
Environmental Protection

895 Aerovista Place, Suite 101, San Luis Obispo, California 93401-7906
(805) 549-3147 • Fax (805) 543-0397
<http://www.waterboards.ca.gov/centralcoast>

Arnold Schwarzenegger
Governor

June 24, 2010

Martin Jefferson and Sons Company
Benny Jefferson
299 Neponset Road
Salinas, CA 93908
Certified Mail 7004 1350 0003 9897 7599

**Certified Mail 7008 1140 0003 4708
5581**
Lytnin S Ranch LP
PO Box 7345
Spreckels, CA 93962

Thomas Storm
150 Kern Street, SPC 140
Salinas, CA 93905-2043
Certified Mail 7008 1140 0003 4708 5567
Steve Storm
1357 Old State Road
Salinas, CA 93908
Certified Mail 7008 1140 0003 4708 5574

WATER CODE SECTION 13267 ORDER FOR INFORMATION, ALISAL RANCH, AW# 1817, SALINAS, MONTEREY COUNTY

The Central Coast Regional Water Quality Control Board (Water Board) is a state regulatory agency with responsibility for protecting the quality of the waters of the state within its area of jurisdiction. The Water Board adopted the *Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands, Orders No. R3-2004-0117 and R3-2009-0050* (Agricultural Order) under the authority of the California Water Code. The Agricultural Order regulates waste discharges from irrigated lands, including discharges to groundwater through percolation. The goal of the Agricultural Order is to improve and protect water quality by providing a program to manage waste discharges from irrigated lands that could cause pollution of state waters.

According to the Water Board's *Water Quality Control Plan for the Central Coast Region* (Basin Plan), groundwater in the Salinas Valley has designated beneficial uses of municipal and domestic supply, agricultural supply, and industrial supply. The Basin Plan and Agricultural Order prohibit the discharge of nitrogenous compounds in quantities which could result in a groundwater nitrate concentration above 45 milligrams per liter (as nitrate). Furthermore, the Agricultural Order states that wastewaters percolated into groundwater shall be of such quality at the point where they enter the ground so as to ensure the protection of all actual or designated beneficial uses of all groundwaters of the basin.

According to information provided by Monterey County Health Department (MCHD), nitrate concentrations detected over the last several years from a public supply well at 24500 Calle El Rosario, San Jerardo (Salinas), CA 93908 exceed federal and state

drinking water standards (45 milligrams per liter nitrate as nitrate). Potential sources of nitrate in this area include the San Jerardo wastewater treatment plant and fertilizers used in agricultural production. In addition, concentrations of 1,2,3-trichloropropane (1,2,3-TCP) exceed the California Department of Public Health (CDPH) drinking water notification level (.005 micrograms per liter ($\mu\text{g/L}$)). 1,2,3-TCP is a suspected carcinogen and was used historically as a paint and varnish remover, cleaning and degreasing agent, and a cleaning and maintenance solvent, and more currently as a chemical intermediate in pesticides. The use of 1,2,3-TCP as a pesticide was in formulations with dichloropropenes in the manufacture of some soil fumigants (e.g., Shell D-D).

The Water Board is requiring the submittal of specific information to ensure that growers are not loading excessive nitrate and contributing to groundwater pollution. Immediate actions to address nitrate loading will ensure improvement in groundwater quality in the aquifer in the long term.

A review of the 2008 Ranch Map for Monterey County indicates that you are the landowner or operator of a farm in the immediate vicinity of the San Jerardo area. As farming operations at this location are a potential source of nitrate and 1,2,3-TCP in groundwater, you are required to submit the information below by **September 30, 2010**.

1. Contact information for both the landowner and current farm operators. You must include name, physical address, mailing address, phone, and email address.
2. A map of the ranch in the vicinity of the San Jerardo area. The map must include:
 - a. Assessor's Parcel Number (APN)
 - b. Ranch and field boundaries
 - c. Buildings and structures
 - d. Well locations
 - e. Hydrologic features
 - i. Irrigation ditches
 - ii. Streams and creeks
 - iii. Reservoirs
 - iv. Tailwater recovery systems
 - v. Tiledrains
 - vi. Domestic and/or irrigation wells
 - vii. Offsite discharge locations (stormwater and/or tailwater)
 - viii. Septic Systems
3. Well location, construction and water quality information for all groundwater wells located on the above ranches. You must submit the following:
 - a. Owner-assigned well identification (how you identify your well);
 - b. Well location (latitude and longitude, measured in decimal degrees and reported to 7 decimal points);
 - c. Information on sealing of any abandoned wells;

- d. Photographs documenting external condition of wells;
 - e. Type of water use (e.g., residential and/or agricultural);
 - f. Well logs, as-built drawings, and descriptions, if available;
 - g. Well construction, as available;
 - i. Screen intervals
 - ii. Pumping rates
 - iii. Well depths
 - iv. Back-flow protections
 - v. Condition of surface completion (note any damage or cracks)
 - h. Water quality
 - i. Any existing nitrate or 1,2,3-TCP groundwater data
4. Ongoing quarterly groundwater quality analyses of nitrate (as nitrate) from each groundwater well, using EPA Laboratory Method 300.0 analyzed by a state Environmental Laboratory Accreditation Program (ELAP) accredited laboratory. Appropriate sampling procedure and bottles provided by the laboratory should be used. Ongoing quarterly monitoring results are due to our office at the end of the month following each calendar quarter, **January 30, April 30, July 30 and October 30** for the first two years. Thereafter, yearly monitoring results are due by **October 30** until further notice.
 5. A report of any historical or current onsite use of chemicals with the potential to contain 1,2,3-TCP (e.g., hazardous waste storage, paint operation, machine shop, D-D soil fumigant). Identify the amount of any such chemicals used or stored and detail how they are stored to prevent the contamination of stormwater, surface water and groundwater.
 6. Information on how you are currently making management decisions regarding nutrient and irrigation management on your ranch.
 7. An irrigation efficiency evaluation report.
 8. A plan on how you are going to minimize nitrate loading so that any groundwater discharge meets water quality standards. The plan shall include storm water management, fertilizer and irrigation management, fertigation back-flow protections and any other pertinent factors. At a minimum the plan must include:
 - Storm water and tailwater runoff controls where discharges from your property enter ditches, streams or creeks.
 - Detailed irrigation scheduling and management practices used to prevent the leaching of nitrate below the root zone.
 - Details of any fertigation practices and back-flow protections used throughout the ranch.
 - A nutrient management budget that demonstrates how you will reduce the potential leaching of nitrate into the groundwater. This shall include

information by crop type such as plant needs, soil nitrate levels, irrigation water nitrate levels, 2009 nitrogen usage in pounds of nitrogen per acre, a proposal for future nitrogen reductions in pounds of nitrogen per acre, and other information as appropriate. Include details on how this will be implemented and monitored at the field level (e.g., soil nitrate quick tests and record keeping).

For assistance with your nutrient budgeting and irrigation management you may wish to contact the Natural Resources Conservation Services Area Agronomist Zahangir Kabir, "Kabir", at 831-229-6053.

The Water Board's requirements for the above information are made pursuant to Sections 13267 of the California Water Code. Pursuant to Section 13268 of the Water Code, a violation of a requirement made pursuant to Water Code Section 13267 may subject you to civil liability of up to \$1,000 per day for each day in which the violation occurs (i.e., for each day after **September 30, 2010**).

According to Water Code section 13267(b)(2):

".... portions of a report that might disclose trade secrets or secret processes may not be made available for inspection by the public but shall be made available to governmental agencies for use in making studies. However, these portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report." If you have trade secrets that you wish to keep from review by the public, please submit two copies of the requested documents: one complete copy for our confidential file and one copy with the trade secrets blacked out for our public file.

Any person affected by this action of the Central Coast Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with

Section 13320 of the California Water Code and Title 23, California Code of Regulations, Section 2050. The petition must be received by the State Water Board, Office of Chief Counsel, P. O. Box 100, Sacramento, 95812 within 30 days of the date of this order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

Under the terms of the Agricultural Order, both owners and operators of irrigated land have responsibility for compliance with the conditions of the Order. In practice, many operational management practices are often under the direct control of the operator, while structural practices that remain in place through changes in leaseholders/operators are often controlled by the landowner. We require one party to submit all the required items and will rely on you to determine who will respond.

If you have any questions regarding this matter, please contact Jill North at 805-542-4762 or jnorth@waterboards.ca.gov.

Sincerely,


Michael Thomas
Assistant Executive Officer

cc:
Zahangir Kabir, Ph.D.
USDA-NRCS
318 Cayuga Street, Suite # 206
Salinas CA 93901

Monterey County Farm Bureau
Traci Roberts
PO Box 1449
Salinas, CA 93901

S:\Agricultural Regulatory Program\Inspections and Enforcement\Enforcement\San Jerardo\San Jerardo
13267_2.doc

