

EXHIBIT "G"

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9 BEFORE THE STATE WATER RESOURCES CONTROL BOARD

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11 OCEAN MIST FARMS AND RC FARMS

SWRCB/OCC File No. _____

12 vs.

13 CALIFORNIA REGIONAL WATER
14 QUALITY CONTROL BOARD,
CENTRAL COAST REGION

DECLARATION OF DALE HUSS IN
SUPPORT OF REQUEST FOR STAY AND
PETITION FOR REVIEW OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL
BOARD, CENTRAL COAST REGION,
ORDER NOS. R3-2012-0011, R3-2012-0011-
01, R3-2012-0011-02, AND R3-2012-0011-03,
AND RESOLUTION NO. R3-2012-0012

LAW OFFICES OF
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DECLARATION OF DALE HUSS IN SUPPORT OF REQUEST FOR STAY AND PETITION

1 4. If the enforcement of 2012 Ag Waiver is not stayed immediately, Ocean Mist
2 Farms will suffer substantial harm. Based on information provided to me by operators of other
3 farms in the Central Coast region, I believe other farms that are similarly situated will also suffer
4 substantial harm under the 2012 Ag Waiver.

5 5. Specifically, the 2012 Ag Waiver requires that Ocean Mist Farms immediately
6 comply with applicable Total Maximum Daily Loads, prevent its existing containment structures
7 (such as retention ponds or reservoirs) from percolating any waste to groundwater, and maintain
8 riparian vegetative covers and riparian areas for aquatic and wildlife support. (See 2012 Ag
9 Waiver, p. 24, ¶24, & p. 20, ¶33 & 39.) To satisfy the new regulations that are currently subject
10 to review by the State Water Resources Control Board ("State Board"), Ocean Mist Farms will
11 need to hire experts and consultants to develop a program to comply with the Total Maximum
12 Daily Loads, design and construct new containment structures to replace its existing retention
13 ponds, and hire and/or train its employees to maintain riparian vegetative covers and riparian
14 areas. Since these regulations take effect immediately, Ocean Mist Farms must act on an urgent
15 basis to avoid any liability under the 2012 Ag Waiver. To comply with these regulations, Ocean
16 Mist Farms will incur substantial costs, estimated to be between \$50.00 and \$100.00 per acre
17 (several hundreds of thousands of dollars), all of which will be incurred in the short period of
18 time that the Petition is subject to review by the State Board. Many of these costs will be
19 ongoing and could position Ocean Mist Farms at a distinct financial competitive disadvantage to
20 other growers in other regions of the state, other states, and other countries who are direct
21 competitors with California Vegetable Production.

22 6. Moreover, due to its crops, the size of its farmland and its vicinity to the impaired
23 waterbodies, Ocean Mist Farms will have many farms likely be classified as a Tier 2 or Tier 3
24 participant pursuant to the 2012 Ag Waiver. As such, Ocean Mist Farms has to install backflow
25 prevention devises at its wells and pumps, develop a farm water quality management plan, submit
26 an Annual Compliance Form, calculate its nitrate loading risk facts, and conduct photo
27 monitoring of surface waterbodies by October 1, 2012 – less than six months from now. (See
28 2012 Ag Waiver, p. 19, ¶31, p. 21, ¶44, & pp. 27-28, ¶¶67, 68 & 69.)

1 7. As a farm with a high nitrate load risk crops (vegetables) we are required to
2 determine the nitrate uptake for each crop type. The new regulations would require by October 1,
3 2012 Ocean Mist to calculate nitrate chemical uptake for each of our many crops, each different
4 soil type, each different soil pH, and considerable other important variables. These studies and
5 calculations take many experts, and considerable time to evaluate. We could not possibly comply
6 within the October 1, 2012 regulatory deadline.

7 8. The waiver would also require that we initiate an Irrigation and Nutrient
8 Management Plan (INMP) which is to be certified by a CCA or propose a Groundwater
9 Monitoring and Reporting Plan (GMRP) for each ranch unit and assess if waste will cause
10 exceedances of nitrate in groundwater. (Page 29, ¶¶ 74-79.) It is totally an unreasonable
11 requirement for a farmer to calculate the nitrogen uptake for each crop for each ranch, much less
12 calculate how much of a particular chemical would not be taken up by plants, tied to soil particles
13 or otherwise attenuated by the soil and its organic components and therefore may actually
14 percolate to groundwater.

15 9. Given the size of Ocean Mist Farms' operations, six months will not even be
16 enough time to implement the required actions. To ensure compliance, Ocean Mist Farms must
17 take actions now to (a) retain experts and consultants to develop management plans, and calculate
18 nitrate loading risks, (b) purchase, install, and maintain the backflow prevention devises for its
19 wells and pumps, and (c) train and/or hire additional employees to perform the required work. As
20 a result, Ocean Mist Farms will incur substantial costs, estimated to be in the hundreds of
21 thousands of dollars, for compliance with regulations that the State Board may later revoke.

22 10. As the State Board may not render its decision on the Petition until well after
23 October 1, 2012, the costs described in paragraphs 5 and 6 above will be incurred during the time
24 that the Petition is subject to review. If a stay is not granted immediately, Ocean Mist Farms will
25 suffer irreparable and substantial harm as described above.

26 11. I have not received any information that suggests interested persons or the public
27 interest will be substantially harmed if a stay is granted, and on that basis, I believe that a stay
28 will not cause substantial harm to interested persons or to the public interest.

1 I declare under penalty of perjury under the laws of the state of California that the
2 foregoing is true and correct.

3 Executed this 12th day of April, 2012, at Castroville, California.

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