

ITEM: 22

SUBJECT: Resolution Authorizing the Executive Officer to Enter Into an Agreement for Mutual Release and Covenant Not to Sue

BOARD ACTION: Consideration of a Resolution authorizing the Executive Officer to enter into an agreement for mutual release and covenant not to sue with SVA Group, LLC and Sierra Valley Almonds, LLC for two parcels containing concrete warehouses at the former Oberti Olive Company olive processing facility (the Site), 12806 Road 26, Madera County, California.

BACKGROUND: The Site consists of four parcels comprising approximately 78.5 acres at 12806 Road 26 in Madera County. Historical olive processing operations and the groundwater impacts from olive brine wastewater discharges were regulated by various Orders issued by the Central Valley Regional Water Quality Control Board (Central Valley Water Board) from the 1960's until 2009 when all Orders were rescinded. In 2006 a developer purchased the majority of the Site and removed all olive processing facilities.

SVA Group, LLC and Sierra Valley Almonds, LLC are seeking assurances from the Central Valley Water Board that they will not incur liability associated with the Site following the purchase of two of the four parcels, each parcel containing a concrete warehouse. The warehouses would be used by Sierra Valley Almonds, LLC to process and distribute almonds, which poses no known threat to water quality. SVA Group, LLC and Sierra Valley Almonds, LLC propose to carry out certain limited remedial activities at the two parcels in exchange for the mutual release and covenant not to sue for investigation and cleanup of contamination and/or pollution at or originating from the Site, such activities being carried out under the direction and supervision of Central Valley Water Board staff. The acquisition of the parcels and subsequent operation by SVA Group, LLC and Sierra Valley Almonds, LLC would benefit the surrounding community.

The granting of a covenant not to sue does not constitute a project as defined by Public Resources Code section 21065 and California Code of Regulations, title 14, Section 15378(a). Thus this action is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code § 210000 et seq.).

RECOMMENDATION: Adopt the proposed resolution.

Mgmt. Review _____
Legal Review _____