



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Central Valley Regional Water Quality Control Board

25 January 2016

Jim & Vera Kurnosoff
17223 W Kearney Blvd
Kerman, California 93630
s10tahoe87@yahoo.com

Certified Mail No.
7015 1730 0000 9939 8820

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2016-0513, JIM & VERA KURNOSOFF, AS INDIVIDUALS AND IN THEIR REPRESENTATIVE CAPACITY AS TRUSTEES FOR THE J & V REVOCABLE TRUST

Enclosed is an Administrative Civil Liability Complaint (“Complaint”), issued pursuant to California Water Code section 13323. This Complaint alleges that Jim & Vera Kurnosoff, as individuals and in their representative capacity as trustees for the J & V Revocable Trust (hereafter collectively “Dischargers”), failed to submit a Report of Waste Discharge (“RoWD”) for coverage under the Irrigated Lands Regulatory Program as required under Water Code section 13260, and recommends an administrative civil liability pursuant to Water Code section 13261 in the amount of **twenty seven thousand eight hundred eighty five dollars (\$27,885)**.

In accordance with the enclosed Waiver Form, the Dischargers may waive the 90-day hearing requirement in order to pay the full proposed civil liability amount, engage in settlement discussions, or extend the hearing date and/or hearing deadlines by checking the appropriate box on the Waiver Form and signing and returning it by 16 February 2016.

If the Central Valley Regional Water Quality Control Board (“Central Valley Water Board”) does not receive a signed waiver by 16 February 2016, a hearing will be scheduled for the **21/22 April 2016** Board meeting in Fresno. This hearing will be governed by the attached Hearing Procedure. Any objections to the Hearing Procedure must be received by Patrick Pulupa, whose contact information is listed in the Hearing Procedure, by **5:00 p.m. on 3 February 2016**.

If you choose to sign the waiver and a settlement is reached, this will be considered a tentative settlement of the violations. If the Central Valley Water Board does not hold a hearing on the matter, and if the terms of the final settlement are not significantly different from those proposed in the enclosed Complaint, the settlement will be considered final pending a 30-day public comment period from the date the Complaint was issued. If the terms of the settlement are significantly different from the Complaint, the settlement will be considered final pending a 30-day public comment period, starting from the date the Stipulated Order is issued. Interested

parties may comment on the proposed action during this period by submitting written comments to the Central Valley Water Board staff person listed below. Should the Central Valley Water Board receive new information or comments during this comment period, the Assistant Executive Officer may withdraw the Stipulated Order, return payment, and issue a new complaint.

Included with this Administrative Civil Liability Complaint is a subpoena commanding the Dischargers to produce the papers, books, records and documents in their possession or under their control in connection with this Complaint. Documents must be sent to: Kailyn Ellison, Attorney, Office of Enforcement, State Water Resources Control Board, P.O. Box 100, Sacramento, California 95812-0100, no later than **24 February 2016**.

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

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

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

If you have any questions or comments regarding the Administrative Civil Liability Complaint, please contact David Sholes at (559) 445-6279, or via e-mail at David.Sholes@waterboards.ca.gov.

original signed by

CLAY L. RODGERS
Assistant Executive Officer

Enclosures: ACL Complaint R5-2016-0513
Subpoena Package: Cover Letter, Declaration, and Subpoena

cc via email: Pamela Creedon, Central Valley Water Board, Rancho Cordova
Adam Laputz, Central Valley Water Board, Rancho Cordova
Rob L'Heureux, Central Valley Water Board, Rancho Cordova
Kailyn Ellison, Office of Enforcement, SWRCB, Sacramento
Patrick Pulupa, Office of Chief Counsel, SWRCB, Sacramento
Casey Creamer, Kings River Water Quality Coalition

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2016-0513

ADMINISTRATIVE CIVIL LIABILITY
IN THE MATTER OF

JIM & VERA KURNOSOFF,
AS INDIVIDUALS AND IN THEIR REPRESENTATIVE CAPACITY AS TRUSTEES FOR
THE J & V REVOCABLE TRUST
FRESNO COUNTY

This Complaint is issued pursuant to California Water Code section 13323 to Jim & Vera Kurnosoff as individuals and in their representative capacity as trustees for the J & V Revocable Trust (hereafter collectively Dischargers) for failing to submit a Report of Waste Discharge required under Water Code section 13260.

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

BACKGROUND

1. The discharge of irrigation return flows or storm water from irrigated lands in the Central Valley Region may contribute, or have the potential to contribute waste to ground and/or surface waters. The term "waste" is broadly defined in Water Code section 13050, subdivision (d), and includes runoff of sediment or agricultural chemicals. The term "waters of the state" includes all surface water and groundwater within the state (Wat. Code, § 13050, subd. (e)). The Central Valley Water Board is required to regulate the amount of waste that may be discharged to waters of the state (Wat. Code, § 13263).
2. Attachment E of the Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin Area that are Members of the Third-Party Group (Order R5-2013-0120) defines "irrigated lands" as "land irrigated to produce crops or pasture for commercial purposes; nurseries; and privately and publicly managed wetlands."
3. Central Valley Water Board staff developed a list of landowners in Fresno County, including Dischargers, which were likely to be discharging wastewater from irrigated lands to waters of the state and did not have regulatory coverage under waste discharge requirements (i.e., permits) or waivers of waste discharge requirements.
4. In developing this list, Central Valley Water Board staff used county assessor data and geographical land use data (i.e., the California Department of Conservation Farmland Mapping and Monitoring Program (FMMP) land use data) to assist in identifying potential discharges of agricultural wastewater to waters of the state and to identify owners and operators of agricultural lands who may not have complied

with the California Water Code. Both data sets were used to develop lists of parcels for which Water Code section 13260 Directive Letters were issued that require parcel owners to obtain regulatory coverage for commercial irrigated lands.

5. Evaluation of county assessor and FMMP data indicates that Dischargers own approximately 88 acres of agricultural land in Fresno County, as identified as Assessor's Parcel Numbers 020-100-32S, 020-100-33S, 020-150-11S and 020-150-12S.
6. On 21 February 2014 and 28 April 2014, the Central Valley Water Board issued notices to Dischargers describing new water quality regulations and actions available to comply with the regulations.
7. On 18 March 2015, Board staff conducted a field inspection of Fresno County parcel 020-100-33S and found evidence of 30 acres of commercially irrigated grapes. An additional three parcels (020-100-32S, 020-150-11S and 020-150-12S) of grapes were found using aerial imagery indicating a total of approximately 88 acres of irrigated cropland. A copy of the inspection reports are provided as Attachment B.
8. On 26 March 2015, the Assistant Executive Officer of the Central Valley Water Board issued a Water Code section 13260 Directive Letter (hereafter Directive) to Dischargers, sent via certified mail. The Directive stated that, *"You are receiving this letter because, based on information available to the California Regional Water Quality Control Board, you own the following parcels with irrigated cropland, which are subject to new regulations."* The Directive was sent based on evidence of commercial irrigated lands. A copy of the Directive is provided as Attachment A.
9. The Directive required Dischargers to obtain regulatory coverage for their irrigated agricultural parcels within 15 calendar days of receipt of the Directive. As detailed in the Directive, Dischargers could comply by joining the Kings River Water Quality Coalition ("Coalition" or "KRWQC"), or by submitting a Report of Waste Discharge (RoWD)/Notice of Intent (NOI).
10. Dischargers received the Directive on 28 March 2015. A copy of the certified mail receipt for the Directive is included with the Directive in Attachment A. Dischargers did not obtain regulatory coverage by 12 April 2015 and did not contact the Board.
11. Because the Dischargers failed to respond by the deadline specified in the Directive, a Notice of Violation (NOV) was sent via certified mail to Dischargers on 9 July 2015. A copy of the NOV is provided as Attachment C.
12. Dischargers received the NOV on 10 July 2015. A copy of the certified mail receipt for the NOV is included with the NOV in Attachment C. Dischargers neither obtained regulatory coverage nor contacted the Board in response to the NOV.

13. On 28 September 2015, Board staff conducted a second field inspection of Fresno County parcels 020-100-32S and 020-100-33S. Staff again found a commercial irrigated land use; however, staff observed no direct evidence of surface water discharges from the parcel (e.g., discharge pipes at borders or erosion rills leading offsite). Copies of the inspection reports that include an aerial photo of parcels 020-150-11S and 020-150-12S are provided as Attachment D.
14. On 5 October 2015, the Prosecution Team sent the Dischargers a notification letter via certified mail than an Administrative Civil Liability Complaint in the amount of \$27,885 would be issued if the Dischargers did not obtain regulatory coverage and initiate settlement discussions by 19 October 2015. A copy of the letter is included as Attachment E
15. Dischargers received the notification letter on 19 October 2015 and contacted the Prosecution Team via email on 21 October 2015.
16. A settlement meeting was held on 13 November 2015; however, the Prosecution Team and the Dischargers were unable to reach an agreement.
17. Central Valley Water Board records indicate that at the time of issuance of this Complaint, Board staff had not received a RoWD, proof of coalition membership, or a Notice of Intent from Dischargers.

ALLEGED VIOLATIONS

18. Dischargers failed to submit a Report of Waste Discharge as required by Water Code section 13260. The Water Code section 13260 Directive Letter issued to Dischargers required either submittal of a RoWD or, in lieu of submitting a RoWD, submittal of a NOI to enroll in the Coalition. As of 25 January 2016, Dischargers' RoWD or NOI is 287 days past due.

REGULATORY CONSIDERATIONS

19. The Central Valley Water Board's authority to regulate waste discharges that could affect the quality of the waters of the state, which includes both surface water and groundwater, is found in the Porter-Cologne Water Quality Control Act (California Water Code Division 7).
20. Water Code section 13260, subdivision (a), requires that any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the State, other than into a community sewer system, shall file with the appropriate Regional Board a RoWD containing such information and data as may be required by the Regional Board, unless the Regional Board waives such requirement. The Central Valley Regional Board implements Water Code section 13260 in the area where the Dischargers' lands are located.
21. Pursuant to Water Code section 13261, subdivision (a), a person who fails to furnish a report or pay a fee under Section 13260 when so requested by a regional board is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).
22. Water Code section 13261, subdivision (b)(1), states: Civil liability may be administratively imposed by a regional board or the state board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an amount not exceeding one thousand dollars (\$1,000) for each day in which the violation occurs. Civil liability shall not be imposed by the regional board pursuant to this section if the state board has imposed liability against the same person for the same violation.
23. The required RoWD is 287 days past due. The maximum liability under Water Code section 13261, subdivision (b)(1) for the failure to furnish a report under Water Code section 13260 is \$1,000 per each day the violation occurs, for a total of two hundred and eighty-seven thousand dollars (\$287,000).
24. Pursuant to Water Code section 13327, in determining the amount of civil liability, the Central Valley Water Board shall take into consideration the nature, circumstance, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters as justice may require.
25. On 17 November 2010, the State Water Board adopted Resolution No. 2009-0083 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy was approved by the Office of Administrative Law and became effective on 20 May 2010. The Enforcement Policy establishes a methodology for

assessing administrative civil liability. The use of this methodology addresses the factors that are required to be considered when imposing a civil liability as outlined in Water Code section 13327.

26. This administrative civil liability was derived from the use of the penalty methodology in the Enforcement Policy, as explained in detail in Attachment F. The proposed civil liability takes into account such factors as the Dischargers' culpability, history of violations, ability to pay and continue in business, and other factors as justice may require.
27. The Enforcement Policy endorses progressive enforcement action for violations of waste discharge requirements when appropriate, but recommends formal enforcement as a first response to more significant violations. Progressive enforcement is an escalating series of actions that allows for the efficient and effective use of enforcement resources. The Enforcement Policy recommends formal enforcement actions for the highest priority violations, chronic violations, and/or threatened violations. Order R5-2013-0120 identifies failure to obtain regulatory coverage as a priority violation with regard to enforcement.
28. **Maximum and Minimum Penalties.** As described above, the maximum penalty for the violations is \$287,000. The Enforcement Policy requires that the minimum liability imposed be at least ten percent higher than the economic benefit of non-compliance so that liabilities are not construed as the cost of doing business and so that the assessed liability provides a meaningful deterrent to future violations. The economic benefit to the Dischargers resulting from the failure to enroll under Order R5-2013-0100 is estimated at \$3,773 (see Attachment F for how this estimate was derived). Per the Enforcement Policy, the minimum penalty is the economic benefit plus ten percent (\$4,150).
29. Notwithstanding the issuance of this Complaint, the Central Valley Water Board retains the authority to assess additional penalties for violations of the Water Code that may subsequently occur.
30. Issuance of this Administrative Civil Liability Complaint is an enforcement action, and is therefore exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code § 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2).

DISCHARGERS ARE HEREBY GIVEN NOTICE THAT:

1. The Assistant Executive Officer of the Regional Water Board proposes that Dischargers be assessed an administrative civil liability in the amount of **twenty seven thousand eight hundred eighty five dollars (\$27,885)**. A hearing on this matter will be conducted at the Central Valley Water Board meeting scheduled on

21/22 April 2016; the hearing may be delayed if the Dischargers submit a waiver (see Attachment G) and request a settlement discussion or a hearing delay.

2. During the hearing, the Central Valley Water Board will consider whether to affirm, reject, or modify the proposed Administrative Civil Liability, which may include raising the monetary value of the Civil Liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
3. The Assistant Executive Officer reserves the right to amend the proposed amount of civil liability to conform to the evidence presented, including but not limited to, increasing the proposed amount to account for the costs of enforcement (including legal and expert witness costs) incurred after the date of the issuance of this Complaint, and through completion of the hearing.

Clay L. Rodgers, Assistant Executive Officer

(Date)

Attachment A: 26 March 2015 California Water Code 13260 Directive

Attachment B: 18 March 2015 Inspection Reports

Attachment C: 9 July 2015 NOV for Failure to Respond to 13260 Directive

Attachment D: 28 September 2015 Inspection Reports

Attachment E: 5 October 2015 Pre-ACL Letter

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

Attachment G: Waiver Form

Attachment H: Proposed Hearing Procedure

Attachment I: ACL Fact Sheet

ATTACHMENT A

26 March 2015 California Water Code 13260 Directive



Central Valley Regional Water Quality Control Board

26 March 2015

JIM & VERA KURNOSOFF
17617 W NIELSEN
KERMAN, CA 93630

Certified Mail Number
7014 1200 0000 3347 5988

DIRECTIVE TO OBTAIN IRRIGATED LANDS REGULATORY COVERAGE

This Letter Contains Legal Directives That Must Be Followed
Please Read This Letter Carefully

Failure To Respond May Result In Fines

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

Table with 3 columns and 6 rows. The first row is labeled 'Parcel Number(s):' and contains '020-100-33S' in the first column.

On 19 September 2013, the Central Valley Water Board approved the Waste Discharge Requirements General Order (Order R5-2013-0120 or General Order) for Growers within the Tulare Lake Basin Area that are Members of a Third-Party Group. If you own irrigated commercial cropland within the Tulare Lake Basin Area that is not identified on the above table of parcel numbers, it will also require regulatory coverage through one of the options described below. The General Order addresses the discharge of waste from irrigated lands to groundwater and surface water. Wastes discharged from irrigated lands include pesticides, fertilizers, pathogens, and sediment.

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

- 1. Join the Kings River Water Quality Coalition (Coalition) by submitting (a) a membership application to the Coalition, (b) a completed Notice of Intent (NOI) to the Central Valley Water Board to comply with the conditions of the General Order, and (c) a State Water Board administrative processing fee of \$200 for the NOI.

The NOI is available online at:

http://www.waterboards.ca.gov/rwqcb5/water_issues/irrigated_lands/app_approval/index.shtml

Upon submittal of a complete NOI, and after receiving confirmation from the Coalition that you have been accepted as a member, the Central Valley Water Board Executive Officer will then issue a Notice of Applicability (NOA), after which you will be considered covered under the General Order.

If you require a hard copy NOI or have questions, please contact Central Valley Water Board staff at (559) 488-4396.

You can obtain a Coalition membership application by contacting the Coalition at (559) 365-7958, or at <http://www.kingsriverwqc.org/>.

Or

2. Enroll as an Individual Discharger under the Waste Discharge Requirements General Order for Discharges from Irrigated Lands within the Central Valley Region for Dischargers not participating in a Third-Party (Order R5-2013-0100 or Individual Order). If choosing this option you must submit a completed NOI with the first year's annual fee to the Central Valley Water Board. The fee schedule for the Individual Order can be found at:

http://www.waterboards.ca.gov/resources/fees/docs/fy1415_fee_schedule.pdf

When regulated individually, you also must conduct your own monitoring and report directly to the Central Valley Water Board. Depending on the specific site conditions, you may be required to monitor runoff from your property, install monitoring wells, and submit technical reports regarding your actions to comply with the Individual Order. If you intend to select this option please contact Central Valley Water Board staff at (559) 488-4396.

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

**Central Valley Water Board
Attn: David Sholes
Irrigated Lands Regulatory Program
1685 E. Street
Fresno, CA 93706**

Grounds for Issuing the Directive Order

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

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

Exemptions to the Program

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

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

Legal Authority

Water Code section 13260 states, in relevant part:

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

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

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

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

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

If you have any further questions about what is required of you, please contact Central Valley Water Board Staff at 488-4396 or via email at ilrpinfo@waterboards.ca.gov.

Para obtener más información en español (formularios u otra información), por favor contáctenos al telefono (559) 488-4396 o vía email a: ilrpinfo@waterboards.ca.gov.



CLAY L. RODGERS
Assistant Executive Officer

Enclosure(s): Inspection Report(s)

CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

Irrigated Lands Regulatory Program Enrollment Confirmation Inspection Report

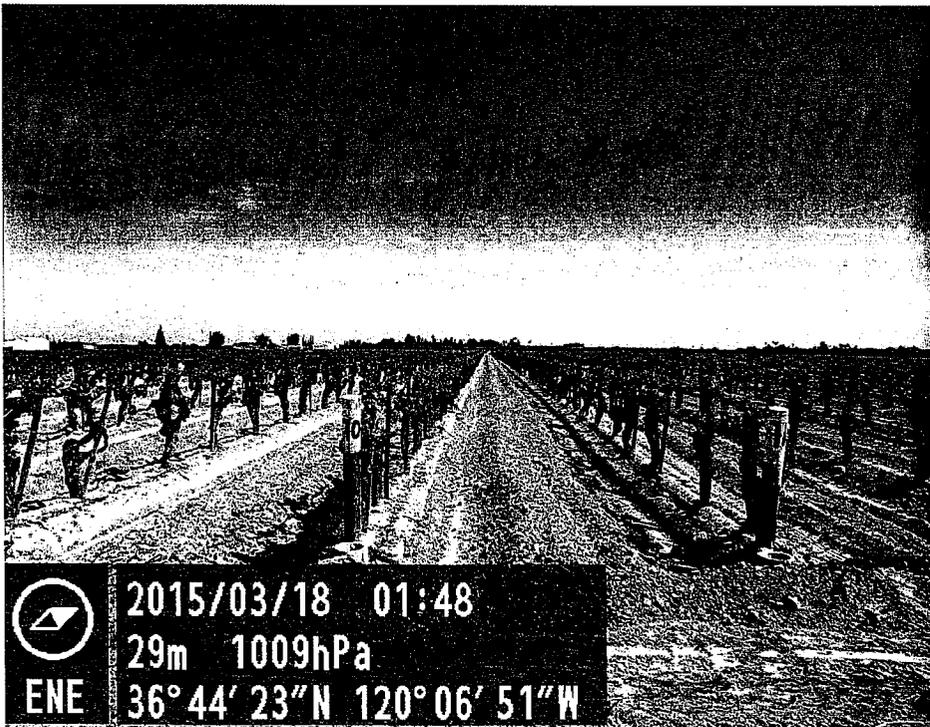
Ownership Information:

Owner(s):	JIM & VERA KURNOSOFF	Coalition:	Kings River Watershed Coalition Authority		
Parcel Number:	020-100-33S	Acres:	30.8	County:	Fresno

Inspection Findings:

Date Inspected:	3/18/2015
Inspected By:	EEW/RKW
Results:	Commercially Irrigated Agriculture
Crop type:	Grapes
Irrigation Method:	Furrow
Other/Notes:	

Inspection Photo:



Approved:	<i>RKW</i>	<i>DAS</i>
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SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:

JIM & VERA KURNOSOFF
 17617 W NIELSEN
 KERMAN, CA 93630

2. Article Number
(Transfer from service label)

7014 1200 0000 3347 5988

PS Form 3811, July 2013

Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY**A. Signature**

X Jim Kurnosoff Agent
 Addressee

B. Received by (Printed Name)

JIM KURNOSOFF

C. Date of Delivery

3-28-15

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

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

4. Restricted Delivery? (Extra Fee) Yes

ATTACHMENT B

18 March 2015 and 16 September 2015 Inspection Reports

CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

Irrigated Lands Regulatory Program Enrollment Confirmation Inspection Report

Ownership Information:

Owner(s):	JIM & VERA KURNOSOFF	Coalition:	Kings River Watershed Coalition Authority		
Parcel Number:	020-100-33S	Acres:	30.8	County:	Fresno

Inspection Findings:

Date Inspected:	3/18/2015
Inspected By:	EEW/RKW
Results:	Commercially Irrigated Agriculture
Crop type:	Grapes
Irrigation Method:	Furrow
Other/Notes:	

Inspection Photo:



Approved:	<i>RKW</i>	<i>EWS</i>
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CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

Irrigated Lands Regulatory Program Enrollment Confirmation Inspection Report

Ownership Information:

Owner(s):	JIM & VERA KURNOSOFF TRUS-TEES	Coalition:	Kings River Water Quality Coalition		
Parcel Number:	020-150-11S	Acres:	20.0	County:	Fresno

Inspection Findings:

Date Inspected:	9/16/2015
Inspected By:	PB
Results:	Commercially Irrigated Agriculture
Crop type:	Grapes
Irrigation Method:	Unknown
Other/Notes:	

Inspection Photo:



CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

Irrigated Lands Regulatory Program Enrollment Confirmation Inspection Report

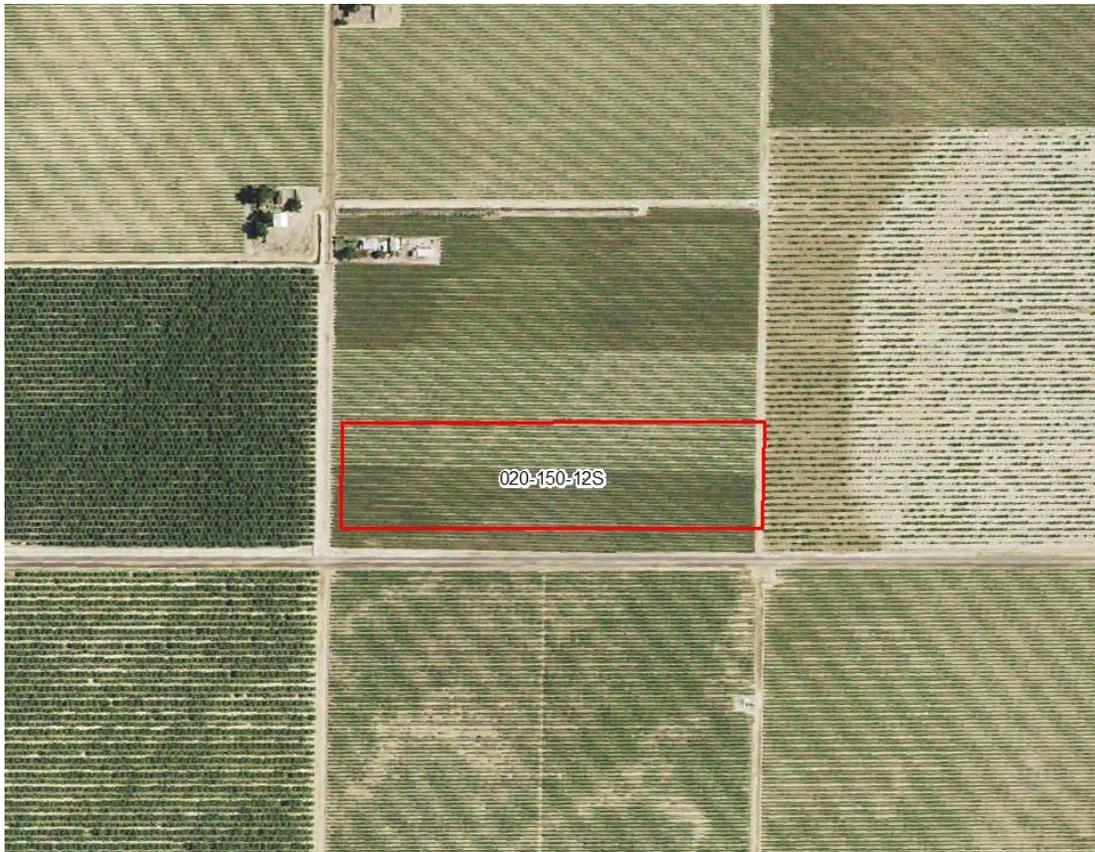
Ownership Information:

Owner(s):	JIM & VERA KURNOSOFF TRUS-TEES	Coalition:	Kings River Water Quality Coalition		
Parcel Number:	020-150-12S	Acres:	10.0	County:	Fresno

Inspection Findings:

Date Inspected:	9/16/2015
Inspected By:	PB
Results:	Commercially Irrigated Agriculture
Crop type:	Grapes
Irrigation Method:	Unknown
Other/Notes:	

Inspection Photo:



CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

Irrigated Lands Regulatory Program Enrollment Confirmation Inspection Report

Ownership Information:

Owner(s):	JIM KURNOSOFF TRUSTEE	Coalition:	Kings River Water Quality Coalition		
Parcel Number:	020-100-32S	Acres:	20.0	County:	Fresno

Inspection Findings:

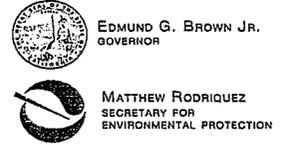
Date Inspected:	9/16/2015
Inspected By:	PB
Results:	Commercially Irrigated Agriculture
Crop type:	Grapes
Irrigation Method:	Unknown
Other/Notes:	

Inspection Photo:



ATTACHMENT C

9 July 2015 NOV for Failure to Respond to 13260 Directive



Central Valley Regional Water Quality Control Board

9 July 2015

JIM & VERA KURNOSOFF
17617 W NIELSEN
KERMAN, CA 93630

Certified Mail Number
7015 0920 0001 5203 4294

NOTICE OF VIOLATION

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

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

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

Table with 5 columns and 2 rows. Row 1: County: Fresno. Row 2: 020-100-33S, followed by four empty cells.

On 26 March 2015 the California Regional Water Quality Control Board, Central Valley Region's (Central Valley Water Board) Assistant Executive Officer issued you a directive to obtain irrigated lands regulatory coverage pursuant to California Water Code section 13260 (Directive Letter). The Directive Letter required you to either join a coalition group or enroll as an individual discharger under waste discharge requirements for all commercial irrigated agricultural lands that you may own or operate which discharge waste to waters of the State. As stated in the Directive Letter, discharge from irrigated lands may be considered a "waste" under the California Water Code. Irrigating agricultural lands such as yours may result in discharges of waste to land/groundwater or to surface water that could affect the quality of waters of the state. Board staff inspected the parcel or parcels listed in the table above and found commercial irrigated cropland. Accordingly, regulatory coverage is required for this land use.

Central Valley Water Board records indicate that (1) you received the Directive Letter by certified mail on 28 March 2015 and (2) you have not arranged regulatory coverage within the 15 calendar days as required. This letter serves as notice that you are in violation of the Directive Letter. For your information a copy of the original Directive Order has been enclosed with this Notice of Violation.

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

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

1685 E Street, Fresno, CA 93706 | www.waterboards.ca.gov/centralvalley

**Central Valley Water Board
Attn: Patrick Barnes
Irrigated Lands Regulatory Program
1685 E Street
Fresno, CA 93706**

Water Code section 13260 states, in relevant part:

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

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

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

65. Submit **(a)** a membership application to the Kings River Water Quality Coalition (Coalition), **(b)** a completed electronic Notice of Intent (eNOI; available here: <https://geotracker.waterboards.ca.gov/region5enoi/>) to the Central Valley Water Board to comply with the conditions of the General Order, **and (c)** a State Water Board administrative processing fee of \$200 for the NOI. Upon submittal of a complete NOI, and after receiving confirmation from the Coalition that you are now a member, the Central Valley Water Board Executive Officer will then issue a Notice of Applicability (NOA), after which you will be considered covered under the General Order.

If you have questions, please contact Patrick Barnes with the Central Valley Water Board at (559) 444-2417.

You can obtain a Coalition membership application by contacting the Coalition at (559) 365-7958, or at www.kingsriverwqc.org.

OR

66. Enroll as an Individual Discharger under the Waste Discharge Requirements for Dischargers from Irrigated Lands within the Central Valley Region for Dischargers not Participating in a Third-party Group (Order R5-2013-0100 or Individual Order). If choosing this option you must submit a completed electronic Notice of Intent³³ (eNOI) with the first year's annual fee to the Central Valley Water Board. The fee schedule for the Individual Order can be found at: http://www.waterboards.ca.gov/resources/fees/docs/fy13_14_fee_schedule_ilrp.pdf

³³ The required information for submitting a Notice Intent to enroll under the Individual Order can be found in Attachment B section IV.B of the Individual Order (Order R5-2013-0100).

When regulated individually, you also must conduct your own monitoring and report directly to the Central Valley Water Board. Depending on the specific site conditions, you may be required to monitor runoff from your property, install monitoring wells, and submit technical reports regarding your actions to comply with the Individual Order. If you intend to select this option please contact please contact Patrick Barnes with the Central Valley Water Board at (559) 444-2417.

If you fail to take one of the actions described above, the Central Valley Water Board may impose penalties of up to \$1,000 per day pursuant to Water Code section 13261. As of the date of this Notice of Violation, you are 88 days late in obtaining regulatory coverage per the Directive Letter. This gives a potential maximum penalty of \$88,000.

Water Code section 13261 states, in relevant part:

- (a) Any person failing to furnish a report or pay a fee under Section 13260 when so requested by a regional board is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).
- (b) (1) Civil liability may be administratively imposed by a regional board ... in an amount that may not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.

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

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

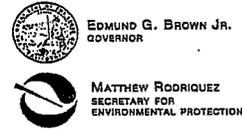
If you have any further questions, please contact Patrick Barnes at (559) 444-2417 or via email at patrick.barnes@waterboards.ca.gov.

Para obtener más información en español por favor contáctenos al teléfono Patrick Barnes o vía email a: patrick.barnes@waterboards.ca.gov.



DAVID A. SHOLES
Senior Engineering Geologist
Irrigated Lands Regulatory Program

Enclosures: 26 March 2015 Directive Order
22 December 2014 Water Boards Press Release



Central Valley Regional Water Quality Control Board

26 March 2015

JIM & VERA KURNOSOFF
17617 W NIELSEN
KERMAN, CA 93630

Certified Mail Number
7014 1200 0000 3347 5988

DIRECTIVE TO OBTAIN IRRIGATED LANDS REGULATORY COVERAGE

This Letter Contains Legal Directives That Must Be Followed
Please Read This Letter Carefully

Failure To Respond May Result In Fines

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

Table with 4 columns and 5 rows. The first row is labeled 'Parcel Number(s):' and contains '020-100-33S' in the first column. The remaining rows are empty.

On 19 September 2013, the Central Valley Water Board approved the Waste Discharge Requirements General Order (Order R5-2013-0120 or General Order) for Growers within the Tulare Lake Basin Area that are Members of a Third-Party Group. If you own irrigated commercial cropland within the Tulare Lake Basin Area that is not identified on the above table of parcel numbers, it will also require regulatory coverage through one of the options described below. The General Order addresses the discharge of waste from irrigated lands to groundwater and surface water. Wastes discharged from irrigated lands include pesticides, fertilizers, pathogens, and sediment.

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

- 1. Join the Kings River Water Quality Coalition (Coalition) by submitting (a) a membership application to the Coalition, (b) a completed Notice of Intent (NOI) to the Central Valley Water Board to comply with the conditions of the General Order, and (c) a State Water Board administrative processing fee of \$200 for the NOI.

The NOI is available online at:

http://www.waterboards.ca.gov/rwqcb5/water_issues/irrigated_lands/app_approval/index.shtml

Upon submittal of a complete NOI, and after receiving confirmation from the Coalition that you have been accepted as a member, the Central Valley Water Board Executive Officer will then issue a Notice of Applicability (NOA), after which you will be considered covered under the General Order.

If you require a hard copy NOI or have questions, please contact Central Valley Water Board staff at (559) 488-4396.

You can obtain a Coalition membership application by contacting the Coalition at (559) 365-7958, or at <http://www.kingsriverwqc.org/>.

Or

2. Enroll as an Individual Discharger under the Waste Discharge Requirements General Order for Discharges from Irrigated Lands within the Central Valley Region for Dischargers not participating in a Third-Party (Order R5-2013-0100 or Individual Order). If choosing this option you must submit a completed NOI with the first year's annual fee to the Central Valley Water Board. The fee schedule for the Individual Order can be found at:
http://www.waterboards.ca.gov/resources/fees/docs/fy1415_fee_schedule.pdf

When regulated individually, you also must conduct your own monitoring and report directly to the Central Valley Water Board. Depending on the specific site conditions, you may be required to monitor runoff from your property, install monitoring wells, and submit technical reports regarding your actions to comply with the Individual Order. If you intend to select this option please contact Central Valley Water Board staff at (559) 488-4396.

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

Central Valley Water Board
Attn: David Sholes
Irrigated Lands Regulatory Program
1685 E. Street
Fresno, CA 93706

Grounds for Issuing the Directive Order

Discharge from irrigated lands may be considered a "waste" under the California Water Code. Irrigating agricultural lands such as yours may result in discharges of waste to land/groundwater or to surface water that could affect the quality of waters of the state. Board staff recently inspected the parcel or parcels listed in the table above and found commercial irrigated cropland. Accordingly, regulatory coverage is required for this land use. You must choose between the regulatory options presented above.

Exemptions to the Program

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

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

Legal Authority

Water Code section 13260 states, in relevant part:

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

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

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

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

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

If you have any further questions about what is required of you, please contact Central Valley Water Board Staff at 488-4396 or via email at ilrpinfo@waterboards.ca.gov.

Para obtener más información en español (formularios u otra información), por favor contáctenos al teléfono (559) 488-4396 o vía email a: ilrpinfo@waterboards.ca.gov.



CLAY L. RODGERS
Assistant Executive Officer

Enclosure(s): Inspection Report(s)

CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

Irrigated Lands Regulatory Program Enrollment Confirmation Inspection Report

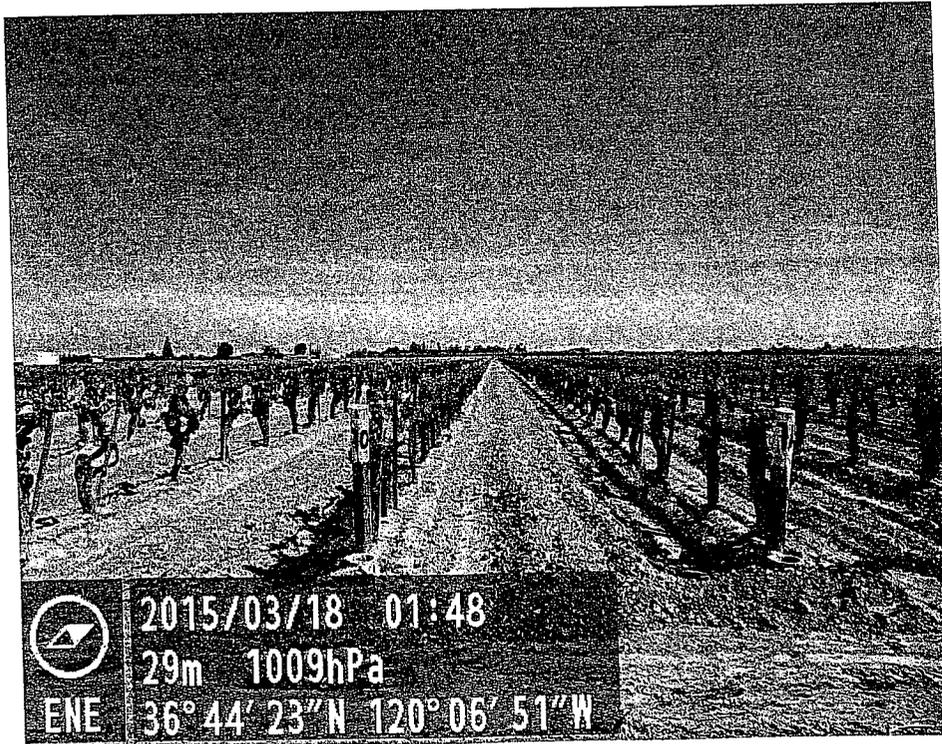
Ownership Information:

Owner(s):	JIM & VERA KURNOSOFF	Coalition:	Kings River Watershed Coalition Authority		
Parcel Number:	020-100-33S	Acres:	30.8	County:	Fresno

Inspection Findings:

Date Inspected:	3/18/2015
Inspected By:	EEW/RKW
Results:	Commercially Irrigated Agriculture
Crop type:	Grapes
Irrigation Method:	Furrow
Other/Notes:	

Inspection Photo:



2015/03/18 01:48

29m 1009hPa

ENE 36° 44' 23" N 120° 06' 51" W

Approved:	<i>RKW</i>	<i>DAS</i>
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Enforcement News

Central Valley Regional Water Quality Control Board
www.waterboards.ca.gov/centralvalley/

Board Approves Fines for Discharging Irrigated Land Waste without a Permit

FOR IMMEDIATE RELEASE
Dec. 22, 2014

Contact: Andrew Altevogt
Phone: (916) 464-4656

The Central Valley Regional Water Quality Control Board has issued Administrative Civil Liability Orders against Merced and Madera county landowners for failure to acquire the required permits for the discharge of waste from irrigated cropland.

Larry and Shireen Slate of Merced County were fined \$32,032, and the David and Linda Davis Trust of Madera County was fined \$9,152.

The landowners were issued directives to obtain regulatory coverage for their irrigated lands, and failed to respond to several notices to do so. The croplands subject to the fines are located in the eastern San Joaquin River Watershed.

State water quality law requires an owner or operator of a facility who discharges waste to get a water quality permit (called waste discharge requirements). Because pesticides and fertilizers used on cropland can run off into streams, or seep into groundwater sources, these permits ensure waste discharges don't harm the Central Valley's groundwater aquifers and rivers.

In December 2012, the Central Valley Water Board issued waste discharge requirements that allowed farmers in the eastern San Joaquin River Watershed to join a coalition of growers called the East San Joaquin Water Quality Coalition. The coalition conducts monitoring and provides reports to the Central Valley Water Board on behalf of the growers. Growers who don't join the coalition incur much higher costs associated with conducting their own individual monitoring and reporting directly to the Central Valley Water Board. Landowners whose parcels do not have the required permit are subject to fines and may lose their opportunity to be regulated under the coalition-based permit.

"Our board provided growers with a very cost effective option for getting the regulatory coverage required by law by joining the coalition," said Andrew Altevogt, assistant executive officer for the Central Valley Water Board. "The vast majority of growers have complied. For



Enforcement News

those who are trying to avoid these requirements, we have an aggressive program to identify their lands and, if necessary, issue fines to bring them into compliance. Through these fines, the board is clearly signaling that there is a steep price to pay for ignoring these basic regulatory requirements, and there is no economic advantage to delaying compliance.”

For more information, please review the State Administrative Civil Liability Order [here](#); and the Davis Trust Stipulated Order is available for review [here](#).

Landowners of irrigated cropland can find out how to join a coalition group and get the required regulatory coverage by going to the [Irrigated Lands Regulatory Program join a coalition webpage](#), or by calling the Irrigated Lands Regulatory Program at (916) 464-4611. More information about these fines can be found at the [Irrigated Lands Regulatory Program Compliance and Outreach Activities page](#).

The State Water Boards are now on Twitter! Follow us at: <https://twitter.com/CaWaterBoards>

SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:

JIM & VERA KURNOSOFF
 17617 W NIELSEN
 KERMAN, CA 93630

 2. Article Number
 (Transfer from service label)

7015 0920 0001 5203 4294

PS Form 3811, July 2013

Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Jim Kurnosov* Agent Addressee

B. Received by (Printed Name)

JIM KURNOSOV

C. Date of Delivery

7-10-11

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

JUL 13 2015

3. Service Type

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

FRESNO CALIF

4. Restricted Delivery? (Extra Fee)

 Yes

ATTACHMENT D

28 September 2015 Inspection Reports

CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

Irrigated Lands Regulatory Program Inspection Report

Ownership Information:

Owner(s):	JIM KURNOSOFF TRUSTEE	Coalition:	Kings River Water Quality Coalition		
Parcel Number:	020-100-32S	Acres:	30	County:	Fresno

Inspection Findings:

Date Inspected:	9/28/2015
Inspected By:	PAB/EEW
Results:	Commercially Irrigated Agriculture
Crop type:	Grapes
Irrigation Method:	Furrow
Other/Notes:	Parcel does not appear to drain. Low potential to discharge.

Inspection Photo:



CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

Irrigated Lands Regulatory Program Inspection Report

Ownership Information:

Owner(s):	JIM & VERA KURNOSOFF TRUSTEES	Coalition:	Kings River Water Quality Coalition		
Parcel Number:	020-100-33S	Acres:	30	County:	Fresno

Inspection Findings:

Date Inspected:	9/28/2015
Inspected By:	PAB/EEW
Results:	Commercially Irrigated Agriculture
Crop type:	Grapes
Irrigation Method:	Furrow
Other/Notes:	Parcel does not appear to drain. Low potential to discharge.

Inspection Photo:



CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

Irrigated Lands Regulatory Program Inspection Report

Ownership Information:

Owner(s):	JIM & VERA KURNOSOFF TRUSTEES	Coalition:	Kings River Water Quality Coalition		
Parcel Number:	020-150-11S, 020-150-12S	Acres:	30	County:	Fresno

Inspection Findings:

Date Inspected:	9/28/2015
Inspected By:	PAB/EEW
Results:	Commercially Irrigated Agriculture
Crop type:	Grapes
Irrigation Method:	Unknown
Other/Notes:	Inaccessible. Aerial imagery shows irrigated agriculture but irrigation method unknown. Could not determine potential to discharge from aerial imagery.

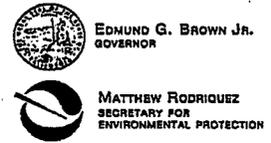
Inspection Photo:

The screenshot shows the PARCELQUEST web application interface. At the top, there are navigation menus for Search, Label / Export, Report, Account, and Support. Below this is a 'Find My Parcels' section with a 'Hide Tools' sidebar containing View, Layers, Go To, Buffer & Shapes, and Legend. The main area is a map showing aerial imagery of agricultural fields. A blue rectangle highlights a specific area, and two blue location pins are placed on the map. The map includes a scale bar (50 m) and coordinates: Lat: 36.724059° and Lon: -120.099955°. At the bottom, there is a 'Results' table with columns for Co, APN, Owner, Lot Acres, M Street Address, M City State Zip, and Owner 2.

Co	APN	Owner	Lot Acres	M Street Address	M City State Zip	Owner 2
1	FRE 020-150-11S	KURNOSOFF JIM & VERA TRUSTEES	20.000	17617 W NIELSEN	KERMAN CA 93630	
2	FRE 020-150-12S	KURNOSOFF JIM & VERA TRUSTEES	10.000	17617 W NIELSEN	KERMAN CA 93630	

ATTACHMENT E

5 October 2015 Pre-ACL Letter



Central Valley Regional Water Quality Control Board

5 October 2015

Jim & Vera Kurnosoff
17617 W Nielsen Ave
Kerman, CA 93630

Certified Mail No.
7015 0920 0001 5203 4478

FORTHCOMING ASSESSMENT OF CIVIL LIABILITY FOR FAILURE TO COMPLY WITH CALIFORNIA WATER CODE SECTION 13260, KURNOSOFF, JIM & VERA, KERMAN, FRESNO COUNTY

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

On 14 February 2014 and 28 April 2014, the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) issued notices to you describing new water quality regulations and actions available to comply with the regulations.

On 26 March 2015, the Central Valley Water Board issued a Directive Order pursuant to California Water Code section 13260 (13260 Directive) by certified mail that required you to obtain regulatory coverage for irrigated lands that you may own or operate within fifteen (15) days of receipt of the 13260 Directive.

On 28 March 2015, you received the 13260 Directive via certified mail. You did not obtain regulatory coverage by the 12 April 2015 deadline.

On 9 July 2015, the Central Valley Water Board issued a Notice of Violation pursuant to California Water Code section 13260 (NOV) by certified mail that requested you obtain regulatory coverage for irrigated lands that you may own or operate.

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

Legal Authority

Water Code section 13260 states, in relevant part:

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

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

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

As of 5 October 2015, your obtainment of regulatory coverage is 177 days overdue. As of this date, the **maximum penalty** for the violation described above is **one hundred seventy seven thousand dollars (\$177,000)** based on a calculation of the total number of per-day violations times the statutory maximum penalty (177 total days of violation multiplied by \$1,000). Based on our review and after conducting a preliminary penalty calculation, the Assistant Executive Officer of the Central Valley Water Board intends to issue a Complaint seeking an administrative civil liability assessment against you for **twenty seven thousand eight hundred eighty five dollars (\$27,885)**. This proposed penalty amount was calculated considering the methodology in the State Water Resources Control Board's Water Quality Enforcement Policy (Enforcement Policy) and is based on facts known to date. This proposed penalty amount is preliminary and is subject to modification should additional information come to light. In addition, because the violation is continuing, the maximum and proposed penalty amounts will continue to increase until you obtain regulatory coverage. The full Enforcement Policy may be found here:

http://www.swrcb.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf. To avoid further liability, you are urged to obtain regulatory coverage.

By way of this letter, you are being notified of the opportunity to meet to discuss the facts regarding the alleged violation, including the option of settlement. This meeting affords you the opportunity to potentially reduce the proposed penalty amount if you present new information to the Central Valley Water Board staff, or other information you believe is relevant to determining an appropriate monetary penalty. All settlement communications would be kept confidential subject to California Evidence Code sections 1152 and 1154. If a settlement is reached at this meeting, the Assistant Executive Officer will forego issuing the Complaint.

If you intend to argue that you have an inability to pay the proposed penalty amount, you must bring supporting documentation with you to the meeting. Appropriate documentation **must include** the last three years of signed federal income tax returns including schedules and **may also include** credit card or line of credit statements, mortgage loan statements, bank account statements, or any other document that explains the special circumstances regarding past, current, or future financial conditions. This information may be used in determining an appropriate monetary penalty assessment to resolve this matter without a hearing.

In order to initiate any discussions to settle this matter, you must contact David Sholes at (559) 445-6279 by **19 October 2015** to schedule a day and time to meet with Central Valley Water Board staff. If you do not respond by this date, the Assistant Executive Officer will issue you a Complaint and this matter will proceed to a formal enforcement hearing before the Central Valley Water Board; or the Assistant Executive Officer may refer the matter to the Attorney General's Office or other prosecution agency.

Before settlement discussions can occur, you must get the required regulatory coverage by providing a completed Notice of Intent (NOI) and submitting the appropriate fee (\$200). You can enroll under the Waste Discharge Requirements General Order (Order R5-2013-0120 or Coalition Order) for Growers within the Tulare Lake Basin Area who are Members of the Third-Party (or Coalition) Group (NOI enclosed); or you can submit an NOI (also enclosed) for coverage under the Waste Discharge Requirements General Order for Discharges from Irrigated Lands within the Central Valley Region for Dischargers not Participating in a Third-party Group (Order R5-2013-0100 or Individual Order).

The Individual Order is significantly more expensive than coalition membership, so most growers choose to join a coalition. Here are cost estimates for your irrigated lands under the two regulatory options:

Estimated cost of 2014 regulatory coverage under the Individual General Order:

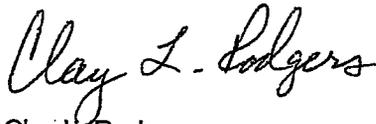
Farm Size	Annual Regulatory Fee	Annual Estimated Monitoring and Reporting Costs	Estimated Annual Costs
90 acres	\$1,613 ¹	\$4,894 ²	\$6,507

Cost of 2014 regulatory coverage as a member of the Kings River Water Quality Coalition:

Farm Size	Annual Cost for First Year of Coalition Membership (Includes Monitoring and Reporting)	Annual Cost for Following Years (Including Monitoring and Reporting)	Estimated Annual Costs
90 acres	\$413	\$220	\$413 (First Year) then \$220 annually, thereafter

Once you've obtained regulatory coverage, you should contact David Sholes (information provided below) to schedule a settlement meeting with Board staff. You can arrange membership with the Coalition by calling (559) 365-7958.

As discussed above, you need to contact David Sholes by **19 October 2015**. He may be reached by phone at (559) 445-6279 or by email at David.Sholes@waterboards.ca.gov.



Clay L. Rodgers
Assistant Executive Officer

cc: Andrew Altevogt, Assistant Executive Officer, Central Valley Water Board, Rancho Cordova
Sue McConnell, Manager, Irrigated Lands Regulatory Program
Kailyn Ellison, Attorney, SWRCB, Office of Enforcement

¹ See page 12 of 2014-2015 Fee Schedules at: http://www.waterboards.ca.gov/resources/fees/docs/fy1415_fee_schedule.pdf.

² See pages 33-35 of Attachment A (Information Sheet) to Order R5-2013-0100. Specifically, the per-acre estimate of monitoring, reporting, and tracking costs under this order provided in Table 3 on page 35 (\$54.38) was used to estimate costs for this operation.

SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:

Jim & Vera Kurnosoff
17617 W Nielsen Ave
Kerman, CA 93630-9455



9590 9403 0621 5183 9742 58

2. Article Number
7015 0920 0001 5203 4478

COMPLETE THIS SECTION ON DELIVERY

A. Signature

Agent
 Addressee

B. Received by (Printed Name)
10-19-15

C. Date of Delivery

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

3. Service Type
- Adult Signature
 - Adult Signature Restricted Delivery
 - Certified Mail®
 - Collect on Delivery
 - Collect on Delivery Restricted Delivery
 - Insured Mail
 - Insured Mail Restricted Delivery (over \$500)
 - Priority Mail Express®
 - Registered Mail™
 - Registered Mail Restricted Delivery
 - Return Receipt for Merchandise
 - Signature Confirmation™
 - Signature Confirmation Restricted Delivery

ATTACHMENT F

Calculation of Penalty per SWRCB Water Quality Enforcement Policy

Calculation of Penalty per SWRCB Water Quality Enforcement Policy

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

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

Calculation of Penalty for Violation

Step1. Potential for Harm for Discharge Violations

This step is not applicable.

Step 2. Assessment for Discharge Violations

This step is not applicable.

Step 3. Per Day Assessment for Non-Discharge Violations

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

Using Table 3 in the Enforcement Policy, staff has determined that the potential for harm is moderate, because the characteristics of the violation present a substantial threat to beneficial uses, and the circumstances of the violation indicate a substantial potential for harm. This conclusion is, in part, based on the size of the Dischargers' irrigated land parcels, which total approximately 88 acres.

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

The greater the size of the operation, the greater the potential risk, since any practices being implemented by the Dischargers that are detrimental to water quality may impact a much greater area. The regulatory program is compromised when staff resources are directed to bringing dischargers into compliance rather than being available for outreach and assistance with regulatory compliance. Since the violation thwarts the Board's ability to identify water quality risks, the violation has the potential to

exacerbate the presence and accumulation of, and the related risks associated with, pollutants of concern. This, in turn, presents a threat to beneficial uses and indicates a substantial potential for harm.

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

Table 3 of the Enforcement Policy prescribes a per day factor ranging from 0.40 to 0.70 for those violations in which the potential for harm is moderate and the deviation from the requirement is major. Based on the above factors, a per day factor of 0.55 is appropriate (see Table 3 on pg. 16 of the Enforcement Policy).

On 26 March 2015, the Dischargers were sent a Directive Letter pursuant to California Water Code section 13260 (Directive), which required the Dischargers to obtain regulatory coverage within 15 calendar days of receipt or face a potential civil liability. The Directive was received on 28 March 2015; hence, regulatory coverage was required by 12 April 2015.

As of 25 January 2016, the Dischargers are 287 days late in meeting that requirement. The maximum liability under Water Code section 13261, subdivision (b)(1) for the failure to furnish a report under Water Code section 13260 is \$1,000 per each day the violation occurs, for a total of two hundred eighty-seven thousand dollars (\$287,000).

Step 4. Adjustment Factors

a) *Culpability*: 1.3

The Dischargers were given the score of 1.3 for the culpability factor. Central Valley Water Board staff sent a notice on 21 February and 28 April 2014 to Dischargers describing the new water quality regulations and the required actions to comply therewith. Dischargers also received a 13260 Directive and Notice of Violation requiring the Dischargers to obtain coverage. Despite knowledge of the regulatory requirements, which is exemplified by the notices described above, Dischargers failed to come into compliance. The four notices and failure to respond suggest Dischargers acted intentionally, or at least negligently, in ignoring the requirement to get regulatory coverage, resulting in a culpability factor of 1.3.

b) *Cleanup and Cooperation: 1.5*

The Dischargers were given the score of 1.5. The Regional Board issued the Discharger a Notice of Violation in an effort to allow the Dischargers to address the violation prior to the issuance of a complaint. The Dischargers did not respond and cooperate with the Regional Board despite being awarded ample time in which to do so. Despite opportunities to come into compliance, the Dischargers have yet to do so. Cleanup is not applicable in this case.

c) *History of Violations: 1.0*

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

Multiple Day Violations: On 26 March 2015, the Dischargers were sent a Directive, which required the Dischargers to obtain regulatory coverage within 15 calendar days or face a potential civil liability. The 13260 Directive was received by the Dischargers on 28 March 2015. Thus, regulatory coverage was required by 12 April 2015. As of 25 January 2016, the date on which this Complaint was issued, the Dischargers are 287 days late in meeting that requirement.

Violations under Water Code section 13260 are assessed on a per day basis. However, the violations at issue are primarily reporting violations and therefore qualify for the alternative approach to penalty calculation under the Enforcement Policy (page 18). Under that approach, for violations that last more than thirty (30) days, the daily assessment can be less than the calculated daily assessment, provided that it is no less than the per day economic benefit, if any, resulting from the violation. For these cases, the Central Valley Water Board must make express findings that the violation: (1) is not causing daily detrimental impacts to the environment or the regulatory program; or (2) results in no economic benefit from the illegal conduct that can be measured on a daily basis; or (3) occurred without the knowledge or control of the violator, who therefore did not take action to mitigate or eliminate the violation. If one of these findings is made, an alternate approach to penalty calculation for multiple day violations may be used.

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

Moreover, the Dischargers' failure to submit a RoWD or NOI results in no economic benefit that can be measured on a daily basis. Rather, the economic benefit here is

associated with costs of permit fees, groundwater monitoring, and preparing an Annual Monitoring Report, which are outlined below.

Either of the above findings justifies use of the alternate approach to penalty calculation for multiple day violations. The minimum number of days to be assessed in this case under the alternate approach is 15. However, because this approach generates a Total Base Liability Amount that is not a sufficient deterrent, and because the Dischargers' inaction undermines the Central Valley Water Board's ability to protect water quality through its regulatory program, the Prosecution Team has increased the number of days of violation above the minimum to a total number of 26 days of violation.

Step 5. Determination of Total Base Liability Amount

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

- a) *Total Base Liability Amount: \$27,885.* (Initial Liability (\$1,000/day x 26 days x 0.55) x Adjustments (1.3)(1.5)(1.0)).

BASE LIABILITY AND FACTORS APPLIED TO THE VIOLATION

The Base Liability Amount for the Violation is **\$27,885**. The following factors apply to the Base Liability Amount for the violation.

Step 6. Ability to Pay and Continue in Business

As per the Enforcement Policy, "[t]he ability of a discharger to pay an ACL is determined by its revenues and assets." The Dischargers have the ability to pay the Base Liability Amount based on the value of property owned by the Dischargers as trustees, a significant asset with a 2014-2015 assessed value of the Fresno County parcels listed as \$994,935 according to the Fresno County Assessor's office; and the Dischargers' ownership of approximately 88 acres of grapes. The Fresno Agricultural Commissioner's 2014 Annual Crop Report on Agriculture suggests that based on the county average for grapes, 88 acres generated an estimated \$312,554 in revenue in 2014¹. Therefore, there are no factors under this category that warrant an adjustment.

Step 7. Other Factors as Justice May Require

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

Step 8. Economic Benefit²

¹ Information provided by the 2014 Fresno County Agricultural Crop Report, available at <http://www.co.fresno.ca.us/WorkArea/DownloadAsset.aspx?id=65462>

² Order R5-2013-0100 includes an estimate of average annual costs per acre related to that Order. The average annual costs are not used in this economic benefit analysis, since the costs represent an average cost, if the Order were

Economic Benefit: \$3,773

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

For the purposes of determining the economic benefit, the Regional Board assumes that the General Order R5-2013-0100 (Individual General Permit) will apply to the Dischargers' operations since the Regional Board cannot compel the Dischargers to join a coalition. The date of non-compliance for the filing of the NOI and payment of initial fees was 13 April 2015 – the deadline provided in the Directive. Annual fees are assumed to be payable on the anniversary of enrollment. The State Water Resources Control Board charged a permit fee of \$1,010 plus \$6.70 per acre for farms 11 to 100 acres³ during the 2014-15 and 2015-16 billing year. Dischargers have 88 crop acres, which results in an annual permit fee of \$1,600 and for the two billing years. Dischargers have avoided paying this permit fee for these two years. As a result, the Dischargers have failed to pay \$3,200 in annual fees for enrollment years 2015 and 2016. Costs associated with preparation of the NOI were not included in the economic benefit calculation.

Also included under the Individual General Order, the Dischargers would have been required to conduct groundwater monitoring of domestic and agriculture supply wells. Monitoring is required for the first and second year of enrollment under the General Order. Based on estimated sampling labor and laboratory costs associated with two supply wells, the Dischargers avoided monitoring costs of approximately \$2,724. An Annual Monitoring Report (AMR) would have also been required, with the first report due May 1, 2015. The Regional Board estimates the cost of preparing the AMR at approximately \$960. Other costs such as data review and interpretation, or development of a groundwater action plan based on monitoring results were not considered for the economic benefit calculation.

applied Central Valley-wide. The cost estimates made in this analysis are based on the circumstances and facts related to these Dischargers, rather than a broad class of Dischargers.

³ See section 2200.6 of the 2014-15 and 2015-16 Fee Schedules at

http://www.waterboards.ca.gov/resources/fees/docs/fy1415_fee_schedule.pdf and

http://www.waterboards.ca.gov/resources/fees/water_quality/docs/fy1516_ilrp_fees.pdf

In summary, the Dischargers avoided compliance actions estimated at approximately \$6,884. The BEN financial model provided by the United States Environmental Protection Agency was used to compute the total economic benefit of noncompliance. Economic benefit was calculated using BEN version 5.5.0. BEN calculates a discharger's monetary interest earned from delaying or avoiding compliance with environmental statutes. Cost estimate and other assumptions are detailed in the table below. For computational purposes, the penalty payment date was established as 21 April 2016. It is further assumed that the Discharger will have applied for applicable permitting (having paid appropriate enrollment fees) by this date. Changes to this date will affect the total economic benefit. Based on specific assumptions within the model, the total economic benefit of noncompliance was determined to be approximately \$3,773.

Step 9. Maximum and Minimum Liability Amounts

a) *Minimum Liability Amount: \$4,150*

The Enforcement Policy requires that the minimum liability amount imposed not be below the economic benefit plus ten percent. As discussed above, the Central Valley Water Board Prosecution Team's estimate of the Dischargers' economic benefit obtained from the violations cited herein is \$3,773. This number plus ten percent results in a Minimum Liability of \$4,150.

b) *Maximum Liability Amount: \$287,000*

The maximum administrative liability amount is the maximum amount allowed by Water Code section 13261, which is \$1,000 for each day in which the violation occurs. The Dischargers are 287 days past due in complying with the applicable Water Code section 13260 Directive. Therefore, the Maximum Liability is \$287,000.

Step 10. Final Liability Amount

Based on the foregoing analysis, and consistent with the Enforcement Policy, the final liability amount proposed for failure to submit a RoWD under California Water Code section 13260 is twenty seven thousand eight hundred and eighty five dollars **\$27,885**.

Jim & Vera Kurnosoff (Trustees), ACL Complaint R5-2016-0550									
Compliance Action The actions required to have prevented the violation.	One-Time Nondepreciable Expenditure			Recurring Annual Cost		Non-Compliance Date	If complied, enter Compliance Date (3)	Cost Index for Inflation (4)	Benefit of Non-compliance
	Amount	Date (1)	Delayed? (2)	Amount	Date (1)				
1 - 2014 Permit Fee	\$1,600	7/1/2014	n	\$0		4/13/2015	4/21/2016	ECI	\$912
2 - 2015 Permit Fee	\$1,600	7/1/2014	n	\$0		4/13/2016	4/21/2016	ECI	\$867
3 - 2015 AMR preparation/submittal	\$960	9/1/2014	n	\$0		5/2/2015	4/21/2016	ECI	\$546
4 - 2015 GW Monitoring Lab Fees	\$1,284	6/19/2014	n	\$0		11/13/2015	4/21/2016	PPI	\$660
5 - 2015 GW Monitoring Labor	\$1,440	2/25/2015	n	\$0		11/13/2015	4/21/2016	ECI	\$788
Totals	\$6,884			\$0					\$3,773

Hearing Date:	4/21/2016	Date of Run:	1/21/16 11:24 AM
Penalty Payment Date:	4/21/2016		
Income Tax Schedule (5)	For-Profit		
Analyst:	MMRansom		
Model used:	US EPA BEN, Version 5.5.0		

(1) This is the Date of the cost estimate. Answers the question: When was the cost estimate made?
(2) Enter "y" if delayed, and "n" if avoided.
(3) The hearing date was used for the BEN analysis because the Dischargers have yet to comply.
(4) Economist chooses the most appropriate index.
(5) This determines the level of taxation for entities: for-profit entities (C-corporation or not C-corporation), and not-for-profit entities (municipality, NGO, federal facility) . Consult the economist if needed.

ATTACHMENT G

Waiver Form

**WAIVER FORM
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

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

I am duly authorized to represent Jim & Vera Kurnosoff, as individuals and in their representative capacity as trustees for the J & V Revocable Trust (collectively "Dischargers"), in connection with Administrative Civil Liability Complaint No. R5-2016-0513 ("Complaint"). I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served. The person who has been issued a complaint may waive the right to a hearing."

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

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

- a. I certify that the Dischargers will remit payment for the proposed civil liability in the full amount of **twenty seven thousand eight hundred eighty five dollars (\$27,885)** by check that references "ACLC Complaint R5-2016-0513" made payable to the *State Water Pollution Cleanup and Abatement Account*. Payment must be received by 16 February 2016.
- b. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after a 30-day public notice and comment period. Should the Central Valley Water Board receive significant new information or comments during this comment period, the Central Valley Water Board's Assistant Executive Officer may withdraw the complaint, return payment, and issue a new complaint. I also understand that approval of the settlement will result in the Dischargers having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- c. I understand the payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Dischargers to further enforcement, including civil liability.

(OPTION 2: Check here if the Dischargers waive the 90-day hearing requirement in order to engage in settlement discussions.) I hereby waive any right the Dischargers may have to a hearing before the Central Valley Water Board within 90 days after service of the complaint, but I reserve the ability to request a hearing in the future. I certify that the Dischargers will promptly engage the Central Valley Water Board Prosecution Team in settlement discussions to attempt to resolve the outstanding violation(s). By checking this box, the Dischargers request that the Central Valley Water Board delay the hearing so that the Dischargers and the Prosecution Team can discuss settlement. It remains within the discretion of the Central Valley Water Board to agree to delay the hearing. Any proposed settlement is subject to the conditions described above under "Option 1."

(OPTION 3: Check here if the Dischargers waive the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.) I hereby waive any right the Dischargers may have to a hearing before the Central Valley Water Board within 90 days after service of the complaint. By checking this box, the Dischargers request that the Central Valley Water Board delay the hearing and/or hearing deadlines so that the Dischargers may have additional time to prepare for the hearing. It remains within the discretion of the Central Valley Water Board to approve the extension.

(Print Name and Title)

(Signature)

(Date)

ATTACHMENT H

Proposed Hearing Procedure

CENTRAL VALLEY WATER QUALITY CONTROL BOARD

HEARING PROCEDURE
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT
R5-2016-0513

ISSUED TO
JIM & VERA KURNOSOFF,
AS INDIVIDUALS AND IN THEIR REPRESENTATIVE CAPACITY AS TRUSTEES FOR THE
J & V REVOCABLE TRUST

FRESNO COUNTY

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

The Central Valley Water Board has the authority to impose civil liability against persons who commit various water quality violations. The Board's Prosecution Team has issued an Administrative Civil Liability (ACL) Complaint that proposes that the Board impose civil liability against Jim & Vera Kurnosoff, as individuals and in their representative capacity as trustees for the J & V Revocable Trust, for the violations charged in the ACL Complaint. The Board has scheduled a hearing to consider the matter on the following date:

21/22 April 2016
Central Valley Water Board Offices
1685 E Street
Fresno, California

At the hearing, the Central Valley Water Board will receive testimony regarding the alleged violation(s). After considering the evidence, the Board may assess the proposed civil liability, assess a higher or lower amount, decline to assess any liability, or continue the hearing to a later date. The Board's Meeting Agenda will set the specific date of the hearing. The Meeting Agenda will be posted at least ten days before the meeting on the Board's website, at the following address:

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

To ensure a fair hearing, the Board staff and attorneys that have issued the ACL Complaint (the "Prosecution Team") have been separated from the Board staff and attorneys that will provide legal and technical advice to the Board (the "Advisory Team"). Members of the Board's Prosecution Team have not communicated with the members of the Central Valley Water Board or the Board's Advisory Team regarding any substantive matter at issue in the proceeding.

The Board Chair has approved this Hearing Procedure for the adjudication of ACL matters. Objections to this Hearing Procedure must be sent to the Board's Advisory Team no later than the deadline listed on the "Important Deadlines" page of this Hearing Procedure. The Board's Advisory Team will promptly respond to all timely objections to this Hearing Procedure after consulting with the Board Chair.

Designated Parties shall attempt to resolve objections to this Hearing Procedure with the Prosecution Team BEFORE submitting objections to the Advisory Team.

I. Hearing Participants

Participants in the ACL hearing are considered either "Designated Parties" or "Interested Persons."

Designated Parties are the primary participants in the hearing. Designated Parties may submit evidence, may offer witnesses to testify at the hearing, are allowed to cross-examine adverse witnesses, and are subject to cross-examination.

Interested Persons are those persons that have an interest in the outcome of the hearing, but who are not the primary participants in the hearing. Interested persons typically include members of the public as well as advocacy groups. Interested persons may present policy statements to the Board, but may not generally present evidence (photographs, eyewitness testimony, etc.). Interested persons are not subject to cross-examination.

At the hearing, both Designated Parties and Interested Persons may be asked to respond to questions from the Board, staff, or others, at the discretion of the Board Chair.

The following participants have been designated as Designated Parties in this proceeding:

1. Central Valley Water Board Prosecution Team
2. Jim & Vera Kurnosoff, as individuals and in their representative capacity as trustees for the J & V Revocable Trust

Anyone else who wishes to participate in the hearing as a Designated Party must submit a request to the Advisory Team no later than the deadline listed on the "Important Deadlines" page of this Hearing Procedure. The request must include an explanation of how the issues to be addressed at the hearing affect the person, and why the Designated Parties listed above do not adequately represent the person's interest. The Board's Advisory Team will promptly respond to all timely requests for Designated Party status.

II. Hearing Time Limits

The following combined time limits will apply at the hearing (additional time is granted to the Prosecution Team because they have the obligation to introduce the case).

1. Board Prosecution Team: **35 minutes**
2. Jim & Vera Kurnosoff, as individuals and in their representative capacity as trustees for the J & V Revocable Trust: **30 minutes**

The Designated Parties may allocate their allotted time as they see fit between: presenting evidence and testimony, cross-examining adverse witnesses, and making a closing statement. Interested Persons will have **3 minutes** to present their statements.

Participants who would like additional time must submit a request to the Advisory Team so that it is received no later than the deadline listed on the "Important Deadlines" page of this Hearing Procedure. Additional time may be provided at the discretion of the Advisory Team (prior to the hearing) or the Board Chair (at the hearing) upon a showing that additional time is necessary. A timer will be used, but will not run during Board questions and the responses to such questions, or during discussions of procedural issues.

III. Documents in Evidence and Availability of Board Files

The Board's Prosecution Team maintains a file containing the ACL Complaint and all related documents at the Central Valley Water Board's office at 11020 Sun Center Drive in Rancho Cordova, CA. Other submittals received in accordance with this Hearing Procedure will be added to the file unless the Board rules to exclude them. The file is available to the public and may be inspected or copied during regular business hours. Scheduling an appointment to review the file by contacting the Prosecution Team in advance is not required, but calling ahead will help ensure timely access to these documents. Documents will also be posted online at:

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

Although the website is updated regularly, to ensure access to the latest materials, you may contact the Prosecution Team for assistance in obtaining copies.

IV. Submittal of Evidence, Legal and Technical Arguments or Analysis, and Policy Statements

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

1. All evidence that the Designated Party would like the Board to consider. Evidence already in the Board's files may be submitted by reference as long as the location of the evidence is clearly identified.
2. All legal and technical arguments or analysis.
3. The name of each witness (including Board staff) whom the Designated Party intends to call at the hearing, the subject(s) that will be covered by each witness, and the estimated time required by each witness to present their testimony. Witness testimony at the hearing may not exceed the scope of previously-submitted written material.
4. The qualifications of each expert witness, if any.

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

Prosecution Team's Evidence: The Prosecution Team must submit the legal and factual basis for each of its claims against each Discharger. This must include a list of all evidence on which the Prosecution Team relies, including all documents cited in the ACL Complaint or proposed ACL Order.

Designated Parties' (including the Discharger's) Evidence: All other Designated Parties must submit all evidence not already cited by the Board's Prosecution Team and all their legal and technical arguments or analysis no later than the deadline listed on the "Important Deadlines" page of this Hearing Procedure.

Rebuttal Evidence: "Rebuttal evidence" is evidence offered to disprove or contradict evidence presented by an opposing party. This Hearing Procedure requires rebuttal evidence to be submitted prior to the start of the hearing in order to ensure the fairness and orderly conduct of the proceeding.

Printing and Page Limitations: For each Designated Party, including the Board's Prosecution Team, the Board has set a **120 page limit** (60 pages printed on both sides) for printed materials. Although the Board Members will receive electronic copies of all submittals, no matter how voluminous, only 120 pages will be printed out per Designated Party and provided to the Board Members. Designated Parties that submit more than 120 pages should specify which 120 pages should be printed out by the deadline listed on the "Important Deadlines" page of this Hearing Procedure. Printed materials may include excerpts of larger documents as long as the larger document is submitted in its entirety in electronic format. If a Designated Party does not specify which 120 pages should be printed out, the Advisory Team will simply select the first 120 pages of the Designated Party's submittal. The Draft ACL Order with the penalty calculation, the ACL Complaint, this Hearing Procedure, and the Summary Sheet will not count against the Prosecution Team's 120 page limit.

Parties without access to computer equipment are encouraged to have their materials scanned at a copy or mailing center. The Board will not reject materials solely for failure to provide electronic copies.

Hard copies will be printed in black and white on 8.5"x11" paper. Designated Parties who are concerned about the print quality of all or part of their 120 pages of printed materials should provide an extra nine paper copies for the Board Members, which must be received by the Advisory Team at

Board's Rancho Cordova Office (address listed below) no later than the deadline listed on the "Important Deadlines" page.

Written Statements by Interested Persons: Interested Persons who would like to submit their policy statements in writing are encouraged to submit them as early as possible, but they must be received by the deadline listed on the "Important Deadlines" page in order to be included in the Board's agenda package. Interested Persons do not need to submit written statements in order to speak at the hearing.

Responding to Written Statements submitted by Interested Persons: All Designated Parties, including the Board's Prosecution Team, may respond to written statements submitted by Interested Persons no later than the deadline listed on the "Important Deadlines" page of this Hearing Procedure.

V. Miscellaneous Matters

Summary Sheet and Proposed ACL Order: The Prosecution Team will prepare a summary agenda sheet (Summary Sheet) for the Board in advance of the Hearing. The Summary Sheet shall clearly state that it was prepared by the Prosecution Team, shall summarize the ongoing controversies involved in the proceeding, and shall summarize the positions taken by each of the Designated Parties. The Prosecution Team will also draft a proposed ACL Order for the Board's consideration. The proposed ACL Order shall be substantively based on the allegations made in the ACL Complaint, but may contain revisions reflecting the evidence submitted after the ACL Complaint was issued.

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

Witnesses: All witnesses who have submitted written testimony should be available at the hearing to affirm that the testimony is true and correct, and should be available for cross-examination. A witnesses' failure to appear may result in the submitted testimony being treated as hearsay.

Prohibition on Ex Parte Contacts: Any communication regarding the ACL Complaint that is directed at the Board members or the Advisory Team by a participant in the hearing and that is not made in a manner open to all other persons is considered an "ex parte" contact. In order to maintain the impartiality of the Board, all "ex parte" contacts are prohibited. Communications regarding non-controversial procedural matters are not considered ex parte contacts and are not restricted.

Applicable Regulations: The regulations governing adjudicatory hearings before the Board may be found at California Code of Regulations, title 23, section 648 et seq., and are available online at: <http://www.waterboards.ca.gov>. Copies of these regulations will be provided upon request. Any procedures not provided by this Hearing Procedure are not applicable to this hearing. Except as provided in Section 648(b) and herein, Chapter 5 of the California Administrative Procedures Act (Gov. Code, § 11500 et seq.) does not apply to this hearing.

VI. Questions

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

CONTACT INFORMATION: PRIMARY CONTACTS

BOARD ADVISORY TEAM	
Pamela Creedon 11020 Sun Center Drive, Suite 200 Rancho Cordova, CA 95670 Phone: (916) 464-4839 Pamela.Creedon@waterboards.ca.gov	Patrick Pulupa, Attorney III State Water Board, Office of Chief Counsel P.O. Box 100, Sacramento, CA 95812 Phone: (916) 341-5189 Patrick.Pulupa@waterboards.ca.gov
BOARD PROSECUTION TEAM*	
David Sholes 1685 E Street Fresno, CA 93706 (559)445-6279 David.Sholes@waterboards.ca.gov	Kailyn Ellison, Attorney State Water Board, Office of Enforcement P.O. Box 100 Sacramento, CA 95812 Phone: (916) 445-9557 Kailyn.Ellison@waterboards.ca.gov
DISCHARGER	
Jim & Vera Kurnosoff 17223 W Kearney Blvd. Kerman, CA 93630 s10tahoe87@yahoo.com	

*The Board's Prosecution Team also includes: Clay Rodgers, Doug Patteson, and Patrick Barnes.

IMPORTANT DEADLINES

All submissions must be received by 5:00 p.m. on the respective due date. Unless otherwise noted, documents only need to be submitted in electronic format by submitting electronic versions of the documents to the email addresses listed in the “Primary Contacts” table on the previous page. It is not necessary to submit documents to Interested Persons.

Where *only* hard copies are being submitted, hard copies must be received by the date listed below. When hard copies are being submitted *in addition to* electronic copies, hard copies must be mailed by the date listed below.

All of the submitted documents will be placed online. Please provide both unredacted and redacted versions of any documents that contain personal information that you do not want posted online.

25 January 2016	<ul style="list-style-type: none"> ▪ Prosecution Team issues ACL Complaint and Hearing Procedure.
3 February 2016	<ul style="list-style-type: none"> ▪ Objections due on Hearing Procedure. ▪ Deadline to request “Designated Party” status. <p>Hard copies of all of these documents must be submitted to the Prosecution Team.</p>
16 February 2016	<ul style="list-style-type: none"> ▪ Discharger’s deadline to submit 90-Day Hearing Waiver Form. <p>If the Prosecution Team accepts the waiver, all the following deadlines may be revised.</p>
26 February 2016	<ul style="list-style-type: none"> ▪ Prosecution Team’s deadline to submit all materials required under “IV. Submittal of Evidence, Legal and Technical Arguments or Analysis, and Policy Statements.”
17 March 2016	<ul style="list-style-type: none"> ▪ Remaining Designated Parties’ (including the Discharger’s) deadline to submit all materials required under “IV. Submittal of Evidence, Legal and Technical Arguments or Analysis, and Policy Statements.” ▪ Interested Persons’ written statements are due. <p>Hard copies of all of these documents must be submitted to the Prosecution Team.</p>
28 March 2016	<ul style="list-style-type: none"> ▪ All Designated Parties shall submit any rebuttal evidence, the names of each rebuttal witness (including witness qualifications, if an expert witness), and any evidentiary objections. <p>Hard copies of rebuttal documents must be submitted to the Prosecution Team.</p> <ul style="list-style-type: none"> ▪ If a Designated Party’s submittals, including rebuttal, exceed 120 pages, the Designated Party shall identify which 120 pages should be printed out for the Board Members by this date. ▪ Deadline to submit requests for additional time.
30 March 2016	<ul style="list-style-type: none"> ▪ All Designated Parties may submit responses to written statements submitted by Interested Persons. ▪ Prosecution Team submits Summary Sheet. ▪ Designated Parties concerned about the print quality of their 120 pages of printed materials must provide an extra nine paper copies for the Board Members so that they are <u>received by</u> the Advisory Team by this date.
21/22 April 2016	Board Hearing

ATTACHMENT I

ACL Fact Sheet

Administrative Civil Liability

Fact Sheet

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

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

Parties

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

Complaint Resolution options

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

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

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

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

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

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

requiring payment of the full amount recommended in the complaint, it may issue an order requiring payment of a reduced amount, it may order the payment of a higher amount, decide not to impose an assessment or it may refer the matter to the Attorney General's Office.

Factors that must be considered by the Regional Water Board

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

For an individual:

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

For a business:

1. Copies of last three years of company IRS tax returns, signed and dated,
2. Copies of last three years of company financial audits

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

For larger firms:

1. Federal income tax returns for the last three years, specifically:
 - IRS Form 1120 for C Corporations
 - IRS Form 1120 S for S Corporations
 - IRS Form 1065 for partnerships
2. A completed and signed IRS Form 8821. This allows IRS to provide the Regional Water Board with a summary of the firm's tax returns that will be compared to the submitted income tax returns. This prevents the submission of fraudulent tax returns;
3. The following information can be substituted if income tax returns cannot be made available:
 - Audited Financial Statements for last three years;
 - A list of major accounts receivable with names and amounts;
 - A list of major accounts payable with names and amounts;
 - A list of equipment acquisition cost and year purchased;
 - Ownership in other companies and percent of ownership for the last three years;
 - Income from other companies and amounts for the last three years.

For a municipality, county, or district:

1. Type of entity:
 - City/Town/Village;
 - County;
 - Municipality with enterprise fund;
 - Independent or publicly owned utility;
2. The following 1990 and 2000 US Census data:
 - Population;
 - Number of persons age 18 and above;
 - Number of persons age 65 and above;
 - Number of Individual below 125% of poverty level;
 - Median home value;
 - Median household income.
3. Current or most recent estimates of:
 - Population;
 - Median home value;
 - Median household income;
 - Market value of taxable property;

- Property tax collection rate.
- 4. Unreserved general fund ending balance;
- 5. Total principal and interest payments for all governmental funds;
- 6. Total revenues for all governmental funds;
- 7. Direct net debt;
- 8. Overall net debt;
- 9. General obligation debt rating;
- 10. General obligation debt level.
- 11. Next year's budgeted/anticipated general fund expenditures plus net transfers out.

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

Petitions

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

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

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

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