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15 *Attorneys for Petitioner*
16 *Chiquita Canyon, LLC*

17 **BEFORE THE STATE WATER RESOURCES CONTROL BOARD**

18 In The Matter Of:

19 CHIQUITA CANYON, LLC

20 FOR REVIEW OF LOS ANGELES
21 REGIONAL WATER QUALITY CONTROL
22 BOARD INVESTIGATIVE ORDER NO. R4-
23 2026-0156

24 **PETITION FOR REVIEW AND**
25 **REQUEST FOR STAY OF ORDER AND**
26 **HEARING**

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The State Board is already familiar with the Regional Board’s fraught February Order. The Order’s new requirements include, for example, installation of additional groundwater monitoring wells on the Chiquita Canyon Landfill’s (“Landfill”) west slope that are unfounded, basin- and discharge-volume estimates that are infeasible, leachate spill, seep, and leak reporting that are duplicative, and expanded liner collection and removal system (“LCRS”) and liner-integrity reporting that are infeasible. None of these requirements further the protection of water quality. The Order, much like the February Order,

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1 requires the impracticable, disregards demonstrable constraints, and imposes burdens untethered to a
2 reasonably supported water quality objective. The Order is unlawful and should be withdrawn.

3 As set forth in the accompanying Statement of Points and Authorities, the challenged provisions of
4 the Order are inappropriate and improper because the requirements fail to satisfy the reasonableness
5 tests established in Water Code section 13267, subd. (b)(1), and Water Code section 13383, subd. (b).
6 The State Board should therefore order the Regional Board to withdraw the challenged provisions of the
7 Order or, in the alternative, revise it to impose technically attainable and reasonable compliance
8 standards that are consistent with the California Water Code and rationally aimed at the Regional
9 Board's stated objectives.

10 Chiquita requests an immediate stay of the Order, or at minimum the challenged provisions,
11 retroactive to February 11, 2026. (Wat. Code, § 13321; Cal. Code Regs., tit. 23, § 2053.) Without a stay,
12 Chiquita will be substantially harmed as it is exposed to penalties based on requirements that available
13 laboratories cannot meet, monitoring that cannot safely be performed, reports that cannot be prepared,
14 and well installation-related obligations that rest on unsupported liner failure assumptions. A stay will
15 not harm the public interest, human health, or the environment.

16 Chiquita further requests a hearing on this Petition so that the State Board may hear oral argument
17 and receive evidence on the matters addressed herein.

18 **1. NAME AND ADDRESS OF THE PETITIONER(S):**

19 Petitioner Chiquita Canyon, LLC owns and operates the Chiquita Canyon Landfill, which is located
20 at 29201 Henry Mayo Drive, Castaic, California 91384.

21 **2. THE SPECIFIC ACTION OR INACTION OF THE REGIONAL BOARD WHICH**
22 **THE STATE BOARD IS REQUIRED TO REVIEW AND A COPY OF ANY ORDER**
23 **OR RESOLUTION OF THE REGIONAL BOARD WHICH IS REFERRED TO IN**
24 **THE PETITION:**

25 Petitioner seeks the State Board's review of Investigative Order No. R4-2026-0156, issued by the
26 Regional Board on June 12, 2026. A copy of the Order is attached hereto as Exhibit 1.

1 **3. THE DATE ON WHICH THE REGIONAL BOARD ACTED OR REFUSED TO**
2 **ACT OR ON WHICH THE REGIONAL BOARD WAS REQUESTED TO ACT:**

3 The Regional Board issued the Order on June 12, 2026.

4 **4. A FULL AND COMPLETE STATEMENT OF REASONS THE ACTION OR**
5 **FAILURE TO ACT WAS INAPPROPRIATE OR IMPROPER:**

6 As discussed in more detail in the Statement of Points and Authorities herein, the Regional Board's
7 issuance of the Order was inappropriate and improper because the challenged requirements are
8 technically infeasible, unsafe, unsupported by the evidence identified in the Order, duplicative or not
9 reasonably tailored to the Order's stated investigative purpose, and inconsistent with California Water
10 Code Sections 13383 and 13267. In particular:

- 11 a) **Installation of New Groundwater Monitoring Wells:** The Order requires the installation
12 of three new groundwater wells in the vicinity of the Landfill's west slope and co-located
13 with existing wells GP-14, GP-15, and GP-16 based on the inaccurate assumption that the
14 liner system has been compromised in the area near the west slope. The requirement is
15 improperly based on the assumption that the Landfill is experiencing a liner failure, which is
16 unsupported by voluminous site data.
- 17 b) **Basin and Discharge Volume Estimates:** For each storm event that results in a discharge
18 into either sedimentation basin, the Order requires that Chiquita estimate discharge volumes
19 into and out of each of the Landfill's basins, basin volumes before storm events, and
20 combined basin volumes after storm events. Those estimates cannot be generated with
21 reliable accuracy given the size, contour of the bottom, and lack of suitable measuring
22 equipment for large structures such as these and would therefore not provide reliable or
23 meaningful technical information, nor is there a clear need to provide these estimates,
24 particularly with respect to discharge volumes into the basin.
- 25 c) **Leachate Spill, Seep, and Leak Reporting:** The Order requires leachate spill, seep, and
26 leak reporting that substantially duplicates information Chiquita already provides to
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regulators. The duplicative reporting burden does not bear a reasonable relationship to any identified benefit.

- d) **LCRS and Liner Integrity Reporting:** The Order requires Chiquita to quantify the direction and rate of travel of the reaction and to provide spatially correlated, cell-specific leachate data. Those requirements cannot be reliably satisfied using available data or existing infrastructure and therefore impose an unreasonable burden.
- e) **Appendix 1 Reporting Limits:** The Order imposes laboratory Reporting Limits (“RLs”) for surface water, stormwater, groundwater, and basin discharges that available commercial laboratories cannot meet. Those RLs are not reasonably required monitoring methods and do not bear a reasonable relationship to the need for, or benefit of, the information.
- f) **Dilution, Sample Volume, and Re-Analysis Requirements:** The Order imposes costly and overly burdensome dilution, sample-volume, and repeated re-analysis obligations that conflict with scientifically appropriate laboratory procedures, sample holding times, sample interferences, and laboratory standard operating procedures. These obligations are not monitoring methods that can be viewed as “reasonably required.”
- g) **Basin Sampling and Analysis Requirements:** The Order requires sampling and analysis of “any and all” discharges into and out of the South and East Basins using an extensive list of analytes found in Appendix 1 of the Order. The Order does not establish that the expanded inlet and outlet sampling is necessary in light of Chiquita’s already existing stormwater and groundwater monitoring network, nor does it show that the burden bears a reasonable relationship to any incremental water quality benefit.
- h) **Unsafe Sampling Conditions:** The Order imposes basin sampling contrary to access restrictions, daylight and weather limitations, Industrial General Permit (“IGP”) protocols, the Landfill’s Stormwater Pollution Prevention Plan (“SWPPP”), or applicable health and safety procedures. These requirements compel sampling under unsafe conditions and are therefore not reasonable monitoring methods.

1 **5. THE MANNER IN WHICH THE PETITIONERS ARE AGGRIEVED:**

2 The Order subjects Chiquita to regulatory requirements that are unreasonable. It compels actions
3 that are technically unattainable, unsafe, unsupported by available data, technology, or accepted
4 scientific methods, and disproportionate to any demonstrated need for information. As a result, the
5 challenged requirements fail the reasonableness standards governing investigative and monitoring orders
6 under California Water Code sections 13267 and 13383 and therefore exceed the scope of the Regional
7 Board’s authority.

8 Chiquita faces potential administrative civil liability of up to \$1,000 per day under Water Code
9 section 13268 and up to \$10,000 per day under Water Code section 13385 for noncompliance with
10 requirements that Chiquita cannot reasonably, safely, or technically satisfy.

11 **6. THE SPECIFIC ACTION BY THE STATE OR REGIONAL BOARD WHICH**
12 **PETITIONER REQUESTS:**

13 Chiquita respectfully requests that the State Board withdraw the challenged provisions of the Order
14 as inappropriate and improper under Water Code section 13320(c). In the alternative, Chiquita requests
15 that the State Board revise the Order as follows:

- 16 a) Withdraw requirements associated with the installation and monitoring of three additional
17 groundwater monitoring wells located in the area of the west slope listed in Paragraph 1(a-d)
18 and Paragraph 2.
- 19 b) Withdraw basin-volume and discharge-volume reporting requirements listed in Paragraph 9
20 (2-5), which demands unreliable information that cannot serve as a basis for evaluating
21 pollutant impacts to surface or groundwater.
- 22 c) Withdraw leachate spill, seep, and leak reporting requirements in Paragraph 10, as they are
23 duplicative of reports already provided to the Regional Board.
- 24 d) Withdraw bottom liner and LCRS reporting requirements demanding that Chiquita
25 “quantif[y] the direction and rate of travel of the reaction” and “include time series plots,
26 correlated spatially for each cell to the degree possible, of leachate temperature
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1 measurements and leachate generation/removal rates” as listed in Paragraph 4(b-c), which
2 are infeasible to generate based on available data.

- 3 e) Withdraw all requirements to comply with the unattainable RLs listed in Appendix I of the
4 Order and instead revert to the RLs utilized by Chiquita’s commercial laboratory, which are
5 consistent with industry standards and protective of human health and the environment.
- 6 f) Withdraw the unreasonable dilution, sample volume, and sample re-run obligations listed in
7 Paragraph 11(i-ii) and instead allow laboratories certified through the agency-approved
8 Environmental Laboratory Accreditation Program (ELAP) to apply scientifically appropriate
9 dilution, re-analysis, and reporting procedures consistent with approved methods, laboratory
10 standard operating procedures, holding times, and data-quality objectives.
- 11 g) Withdraw the overbroad and unrealistic sampling and analysis requirements for “each and
12 any” discharge into and out of the South and East Basins listed in Paragraph 8.
- 13 h) Clarify that the sampling listed in Paragraph 8 is required only when it can be performed
14 safely and consistent with the SWPPP, the IGP, and applicable health and safety protocols,
15 including daylight, operating-hours, weather, and access limitations.

16 In the interim, Chiquita requests an immediate stay of the Order, or at minimum, a stay of the
17 challenged provisions, retroactive to February 11, 2026,² pending resolution of this matter. (Wat. Code,
18 § 13321, subd. (a)(1); Cal. Code Regs., tit. 23, § 2053, subd. (a).) Chiquita further requests a formal
19 adjudicative and evidentiary hearing on this Petition and request for stay so that the State Board may
20 hear oral argument and receive evidence on the matters addressed herein. (Cal. Code Regs., tit. 23, §§
21 2052, subd. (c), 2053, and 648; Gov. Code, § 11500.)

22 **7. A STATEMENT OF POINTS AND AUTHORITIES IN SUPPORT OF LEGAL**
23 **ISSUES RAISED IN THE PETITION:**

24 A Statement of Points and Authorities accompanies this Petition.
25

26 ² The February Order first imposed some of the same unreasonable and unattainable requirements that are repeated in the
27 challenged Order. While the Regional Board withdrew the February Order when issuing the challenged Order, it noted that it
28 withdrew the Order, “except for enforcement purposes.” (Exhibit 1.) Therefore, the stay should be retroactive to the date
when these requirements were first imposed on February 11, 2026.

1 **8. A STATEMENT THAT THE PETITION HAS BEEN SENT TO THE**
2 **APPROPRIATE REGIONAL BOARD AND TO THE DISCHARGERS, IF NOT THE**
3 **PETITIONER:**

4 Chiquita provided this Petition electronically to:

5 Susana Arredondo, Executive Officer
6 Los Angeles Regional Water Quality Control Board
7 320 West 4th Street, Suite 200
8 Los Angeles, CA 90013
9 Susana.Arredondo@waterboards.ca.gov

10 A copy was also sent to waterqualitypetitions@waterboards.ca.gov.

11 **9. A STATEMENT THAT THE ISSUES RAISED IN THE PETITION WERE**
12 **PRESENTED TO THE REGIONAL BOARD BEFORE THE REGIONAL BOARD**
13 **ACTED, OR AN EXPLANATION OF WHY THE PETITIONER COULD NOT**
14 **RAISE THOSE OBJECTIONS BEFORE THE REGIONAL BOARD:**

15 The Regional Board issued the Order without providing Chiquita an opportunity to present its
16 technical concerns regarding the new or revised requirements before issuance or before the deadline for
17 this Petition. The Regional Board’s transmittal letter states that “[the] Order is being issued as a final
18 order” but that Chiquita’s written comments would be considered. (Exhibit 1).

19 Recognizing that the deadline for comments coincides exactly with the deadline for this Petition,
20 Chiquita met with the Regional Board on July 2, 2026 to discuss its concerns. Chiquita also submitted
21 written requests for modification of the Order on July 10, 2026 summarizing the issues raised in the
22 Petition and memorializing the July 2 discussion. (Exhibit 2). Although the Regional Board agreed to
23 potentially consider some of Chiquita’s concerns, as of the filing of this Petition, the Regional Board has
24 not withdrawn or revised the challenged requirements, and Chiquita remains subject to them.

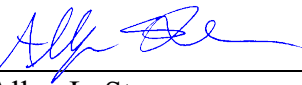
25 Chiquita had already presented many of the same objections to predecessor provisions in the
26 February Order through telephone conferences, written communications, and Chiquita’s March 13,
27 2026, Petition for State Board Review of the February Order (Exhibit 3). As the Order itself

acknowledges, Chiquita notified the Regional Board on June 1, 2026, that it could not achieve the RLs required by the February Order based on a survey of eleven laboratories and urged the Regional Board to revise the order. (Exhibit 1, p. 7.) Despite that notice, the Order carries forward several mandatory RLs and re-analysis requirements that commercial laboratories cannot satisfy. The Regional Board's continued inclusion of dilution, sample volume, and sample re-run requirements, as well as unsafe sampling requirements, also disregards the prior concerns brought to the Regional Board's attention.

Chiquita reserves the right to amend this Petition, to supplement the accompanying Statement of Points and Authorities, and to supplement the administrative record. These reservations are appropriate and necessary given the developing nature of the facts surrounding laboratory compliance capabilities, basin and discharge volume measurement feasibility, and other technical matters, and because the Regional Board issued the Order without providing Chiquita with an adequate opportunity to address the newly imposed requirements before issuance.

DATED: July 13, 2026

BEVERIDGE & DIAMOND, P.C.

By: 

Allyn L. Stern
Jacob P. Duginski
Megan L. Morgan
*Attorneys for Petitioner Chiquita
Canyon, LLC*

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Under its investigative authority, the Los Angeles Regional Water Quality Control Board
4 (“Regional Board”) may require Chiquita to provide information reasonably needed to protect water
5 quality, but it may not require the impossible, the unsafe, or the technically unsupported. Yet, that is
6 what the new Investigative Order issued to Chiquita Canyon, LLC (“Chiquita”) does. The June
7 Investigative Order, No. R4-2026-0156 (the “Order”) supersedes the prior Order No. 2024-0010-A01,
8 which was issued in February 2026 (the “February Order”). Chiquita challenged several aspects of the
9 February Order. (Exhibit 3). Despite providing detailed evidence supporting the infeasibility of many of
10 the provisions of the February Order, the new Order carries forward unattainable reporting limits (RLs),
11 impracticable dilution and re-analysis requirements, and basin sampling obligations that are unsafe. It
12 also adds new requirements concerning the installation of three new groundwater monitoring wells,
13 storm-event volume estimates, leachate spill, seep, and leak reporting, and expanded Leachate
14 Collection and Removal System (“LCRS”) and liner-integrity reporting, which are all based on
15 unfounded concerns regarding potential leachate and landfill gas impacts to surface and groundwater.
16 Despite being advised of these technical infeasible, unsafe, and duplicative concerns, the Regional
17 Board continues to demand the impossible from Chiquita.

18 Most of these issues are not new. Chiquita has repeatedly demonstrated the flaws with the February
19 2026 version of the Order that included the same or similar directives. (Exhibits 3 and 4). But against all
20 evidence, the Regional Board continues to resist revisions that would shape the monitoring and reporting
21 requirements into achievable obligations. Instead, the Regional Board issued a new Order that not only
22 is silent on known infeasibility and safety issues but also adds several other provisions that similarly
23 demand information that Chiquita cannot reliably generate and require data based on concerns not
24 supported by evidence.

25 Chiquita does not oppose reasonable, protective, and technically sound monitoring. But Water Code
26 sections 13267 and 13383 do not authorize the Regional Board to require the impossible, demand
27 information that cannot be reliably generated, or impose duplicative and burdensome reporting
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obligations, much less when these items are imposed without a demonstrated water quality need. Under Water Code Section 13267, subd. (b)(1), the burden and cost of required technical reports must bear a reasonable relationship to the need for the reports and the Regional Board must identify the evidence supporting those requirements. Water Code section 13383, subd. (b), similarly requires monitoring and analytical requirements to be reasonable. The challenged provisions fail those standards.

The Order's central premise is that additional monitoring and reporting is necessary because landfill gas ("LFG") migration, leachate seeps, and movement at the west slope of the Landfill indicate potential threats to groundwater and surface water. These concerns have no evidentiary support. The Regional Board also does not connect those concerns to the specific requirements it imposed. First, record data does not support that there are threats to groundwater and surface water, which the Regional Board, again, fails to grapple with. Second, even if additional measures were justified, they would still need to be feasible and tailored to the supposed need. In several instances, the Order demands data that available commercial laboratories cannot produce, sampling that cannot safely be performed under the conditions required, estimates that cannot be generated with reasonable reliability, or analysis that existing infrastructure does not support. Requirements of that kind do not become reasonable simply because they are framed as investigative and placed in an Order.

Accordingly, Chiquita requests that the State Board find the Order inappropriate and improper and direct the Regional Board to withdraw the challenged provisions. Alternatively, Chiquita requests that the State Board require the Regional Board to revise the challenged provisions of the Order in accordance with the arguments below.

Pending review, Chiquita requests an immediate stay of the Order or at a minimum, the challenged provisions, retroactive to the date the first order imposing inappropriate requirements was issued on February 11, 2026. (Wat. Code, § 13321, subd. (a)(1); Cal. Code Regs., tit. 23 § 2052, subd. (a).) Without a stay, Chiquita faces substantial harm from penalties that can be associated with requirements it cannot reasonably, safely, or technically satisfy. No substantial harm to the public interest, human health, or the environment will result from preserving the status quo during State Board review. Chiquita

1 further requests a formal hearing on this Petition so that the State Board may hear oral argument and
2 receive evidence on the matters addressed in this Petition.

3 **II. BACKGROUND**

4 The Chiquita Canyon Landfill is a 639-acre landfill that opened in 1972 and served as the location
5 for nearly a quarter of Los Angeles County’s municipal solid waste disposal needs before closing and
6 ceasing to accept public waste effective January 1, 2025. The Landfill continues to operate under several
7 permits and plans, including Waste Discharge Requirements (“WDRs”) Order No. R4-2018-0172,
8 National Pollutant Discharge Elimination System Industrial General Permit Order 2014-0057-DWQ
9 (“IGP”), and an updated September 2025 Stormwater Pollution Prevention Plan (“SWPPP”). The
10 Landfill manages stormwater in relevant part using two stormwater basins, the South and East Basins,
11 industry-standard features that collect stormwater from the Landfill and allow sediments and other
12 pollutants to settle out prior to discharge.

13 Due to an ongoing elevated temperature event at the Landfill, the Regional Board issued
14 Investigative Order No. R4-2024-0010 on March 20, 2024. The Regional Board later issued Order No.
15 R4-2024-0010-A01 on February 11, 2026 (the “February Order”), which amended the previous directive
16 to impose additional monitoring requirements including: (1) an expansion of sampling and reporting
17 obligations related to the East Basin; (2) new, more stringent RLs on all groundwater, stormwater, and
18 surface water analyses; and (3) requiring that Chiquita repeatedly, and in some cases indefinitely, re-run
19 all samples that require dilution during laboratory analysis. (Exhibit 3). Upon receiving the February
20 Order, Chiquita immediately engaged with the Regional Board to identify its concerns and discuss
21 potential reasonable modifications to the February Order. Chiquita also demonstrated the technical
22 issues limiting Chiquita’s ability to fully comply with the February Order, including that commercial
23 laboratories did not have the capability to meet the February Order’s stringent RLs and specific and
24 unusual sampling requirements. (Exhibit 4).

25 On March 13, 2026, Chiquita petitioned the State Board to review the February Order in light of
26 technical feasibility concerns. (Exhibit 3). On June 12, 2026, the last day that the State Board could act
27 on the petition, the Regional Board issued the Order now being challenged, superseding the February
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Order. (Exhibit 1). However, instead of addressing any of the issues Chiquita had raised, the Order’s revised RL requirements continue to be unattainable by commercial laboratories. Some of the new RLs in the challenged Order are actually lower than prior limits, thereby making compliance even more difficult. The Order further repeats problematic dilution, sample-volume, and sample re-run obligations and introduces a new host of unreasonable, unduly burdensome, technically unattainable and infeasible requirements, as detailed below.

As before, Chiquita promptly engaged with the Regional Board upon receipt of the Order. On July 2, 2026, Chiquita met with the Regional Board to provide comments. The Regional Board stated that it might consider some of Chiquita’s concerns once received in writing, but, as of the filing of this Petition, the Board has not withdrawn or revised any of the challenged requirements.

As a result, the Order continues to require the State Board’s intervention. If the language of the Order stands, the Regional Board may impose penalties for failure to comply with these unsupported and infeasible conditions. The State Board should act to correct these errors now.

III. STANDARD OF REVIEW

Under California Water Code section 13320, subd. (a), any aggrieved person may file a petition for State Board review of a Regional Board action. The State Board reviews petitions to determine whether the Regional Board’s action or failure to act was “appropriate and proper.” (Wat. Code, § 13320, subd. (c); Cal. Code Regs., tit. 23, § 2052, subd. (a).) Upon finding that the Regional Board’s action was inappropriate or improper, the State Board may direct the Regional Board to take appropriate action, refer the matter to another state agency with jurisdiction, take appropriate action itself, or take any combination of those actions. (Wat. Code, § 13320, subd. (c).)

When requiring technical or monitoring program reports under Water Code section 13267, the Regional Board must ensure that “[t]he burden, including costs, of these reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.” (Wat. Code, § 13267, subd. (b)(1).) The Regional Board must also provide “a written explanation with regard to the need for the reports” and identify “the evidence that supports requiring that person to provide the

reports.” (*Id.*) Monitoring, analytical, and methodology requirements imposed under Water Code section 13383 must be reasonably required and grounded in appropriate methods and compliance objectives.

Under Water Code section 13321, petitions to the State Board may include a request for a stay of a Regional Board order. A stay is appropriate where: (1) there will be substantial harm to the petitioner or to the public interest if a stay is not granted; (2) there will be no substantial harm to other interested persons and to the public interest if a stay is granted; and (3) there are substantial questions of fact or law regarding the disputed action. (Cal. Code Regs., tit. 23, § 2053.) The State Board may issue a stay effective as of the date of the Regional Board’s order. (Wat. Code, § 13321, subd. (c).)

IV. ARGUMENT

A. The Order Imposes Unsupported Groundwater Well Installation and Monitoring Requirements.

The Order’s well-installation requirement is unsupported. There is no evidence that the landfill liner has been compromised. The Order directs Chiquita to submit a workplan by July 27, 2026, to install three groundwater monitoring wells west of the Main Canyon portion of the Landfill near the Landfill’s west slope. (Exhibit 1, pp. 10–11.) The wells are required to be co-located with existing gas probes GP-14, GP-15, and GP-16. (*Id.*) According to the findings, new groundwater monitoring wells are needed in those locations due to concerns related to supposed “LFG breaches and leachate seeps beneath the geomembrane liner on the west slope, as well as the lateral movement of the West Slope[.]” (*Id.* at 8.) As the source of those concerns, the Order points to LFG detections in boundary probes GP-13 and GP-15 outside the western boundary of the Reaction Area as indicating “a failed liner . . . posing a substantial threat to groundwater.” (Exhibit 1, p. 4.)

1. The Regional Board’s Concerns about Liner Failure Are Unfounded

Water Code section 13267, subd. (b)(1), requires that the burden, including cost, of technical reports bear a reasonable relationship to the need for the reports and the benefits to be obtained. That standard is not satisfied here. The Order does not provide sufficient evidence to support the concerns of groundwater or surface water contamination due to a failed liner. The Order assumes that LFG migration and slope movement indicate a compromised liner, but Chiquita’s monitoring data do not show that the

1 elevated temperature event has adversely affected liner integrity or caused impacts to groundwater
2 quality. (Exhibit 5). Chiquita closely monitors site conditions relevant to liner performance, including
3 waste temperatures, LFG conditions, leachate generation, and groundwater quality. (*Id.*) The available
4 data do not support the Regional Board’s assumption that the bottom liner or LCRS has failed in the
5 west slope area.

6 To start with, available data do not support that the reaction has had any impact on the Landfill’s
7 liner system. Temperature data indicates that the reaction and associated high temperatures are located
8 in the middle of the waste mass, and cooler temperatures prevail at the liner level. (*Id.*) Chiquita has
9 installed temperature monitoring probes (“TMPs”) in and around the reaction area (“Reaction Area”) to
10 evaluate thermal conditions within the waste mass at varying depths. (*Id.*) Those data support that
11 elevated temperatures at the Landfill are not affecting the underlying composite liner system. (*Id.*) In
12 fact, data from the deepest temperature monitoring probes—which are located approximately 19 to 25
13 feet above the bottom liner system—shows cooling occurring in deep waste due to the underlying
14 cooling of the earth. (*Id.*) This is specifically demonstrated in the temperatures recorded in the deepest
15 intervals at TP-24, TP-27, TP-31, TP-32, TP-36, TP 38, and TP-40. (*Id.*) The temperature profiles in the
16 seven (7) probes that were installed to within 25 feet of the bottom liner (TP-24, TP-27, TP-31, TP-32,
17 TP-36, TP-38, and TP-40) demonstrate temperature reductions—rather than increases—occurring within
18 the lowest waste layers and in close proximity to the bottom liner system, further supporting that there is
19 no evidence the liner has failed. (*Id.*) Even if that was not the case, liner exposure to high temperatures
20 does not pose an immediate threat to its integrity. (*Id.*) While sustained elevated temperatures are
21 expected to reduce the longevity of the liner, the suggestion that high temperatures will create tears or
22 punctures in the liner is not technically accurate. (*Id.*) In any event, there is nothing to suggest that
23 concerning temperatures are occurring near the bottom liner or that the liner system has been thermally
24 compromised. (*Id.*)

25 Groundwater monitoring data likewise do not show constituents indicative of groundwater
26 impacts resulting from LFG migration in the area. (*Id.*) Historical groundwater monitoring data
27 demonstrate that volatile organic compounds (VOCs) have never been detected, while inorganic
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1 constituents have consistently remained below their limits. (Exhibit 6). The absence of VOC detections
2 is particularly significant because VOCs are among the primary indicators of groundwater impacts
3 associated with LFG migration. (*Id.*)

4 Further, LFG detections in perimeter probes do not, standing alone, prove that the liner has
5 failed. (*Id.*) Modern landfill designs rely primarily on the gas collection and control system (GCCS) to
6 manage LFG generation and maintain inward pressure gradients, while the composite liner system is
7 intended primarily to minimize liquid leakage and protect groundwater. (*Id.*) Treating any detection of
8 LFG in perimeter monitoring probes as evidence of liner failure conflates the functions of these two
9 engineered systems. (*Id.*) Without more, the detections do not support the Order's conclusion that the
10 liner failed or that contaminants reached groundwater. (*Id.*)

11 The LFG detections the Regional Board identifies fail to substantiate its purported concerns.
12 LFG has only been detected in two of the five gas probes along the western perimeter of the landfill—
13 GP-13 and GP-15—while the closest adjacent probes to the west slope—GP-12, GP-14, and GP-16—
14 have consistently reported no LFG at any monitored depth. (Exhibit 5.) These data demonstrate that the
15 observed LFG migration is localized. The localized nature of the GP-13 and GP-15 detections, together
16 with the differences in methane concentrations at similar depths between GP-13 and GP-15, is more
17 consistent with localized gas migration rather than widespread migration resulting from failure of the
18 composite liner system. (*Id.*)

19 Together, these data undermine the Order's stated justification that three new wells are needed
20 because of a compromised liner.

21 **2. Three Groundwater Monitoring Wells is Excessive for the Purpose of** 22 **Monitoring Impacts from LFG Detections**

23 The Order's requirement to install three new wells co-located with GP-14, GP-15, and GP-16 is
24 excessive and not reasonably tailored to the stated purpose. (Exhibit 6.) Chiquita already has an existing
25 groundwater monitoring well, DW-8, co-located with GP-13, where one of the two relevant gas
26 detections has occurred. (*Id.*) Thus, potential groundwater impacts associated with the GP-13 detection
27 are already being monitored by an existing groundwater well. (*Id.*)

1 The remaining gas detection has occurred at GP-15. (*Id.*) Assuming the Regional Board could
2 reasonably require additional groundwater monitoring to evaluate potential impacts associated with the
3 GP-15 detection, requiring three additional wells to address that LFG detection is excessive. (*Id.*) The
4 Order does not explain why three new wells are necessary at this stage, why monitoring at GP-14, GP-
5 15, and GP-16 would provide non-duplicative information, or why a more targeted and phased approach
6 would not satisfy the Regional Board's stated investigative objective.

7 A more reasonable approach would be for Chiquita to install one groundwater monitoring well in
8 the location where potential early impacts to groundwater, if any, would most likely be detected. (*Id.*)
9 Chiquita could then evaluate the data from that well and, if warranted, assess whether additional wells
10 are necessary to provide broader groundwater monitoring coverage. (*Id.*) That phased approach would
11 allow the Regional Board to obtain meaningful groundwater data while avoiding unnecessary cost and
12 operational burden associated with installing multiple wells before the need for them is demonstrated.

13 Requiring Chiquita to install three new wells immediately would therefore impose substantial
14 costs and operational burdens without a proportional benefit. At this stage, there is no indication that
15 three new wells are necessary to evaluate potential groundwater impacts from the localized LFG
16 detections, particularly where existing monitoring already addresses GP-13 and where a single targeted
17 well could address the GP-15 area in the first instance. (*Id.*) Because less burdensome measures are
18 available to achieve the same regulatory objective, the requirement to install three wells co-located with
19 GP-14, GP-15, and GP-16 does not bear a reasonable relationship to the need for, or benefit of, the
20 information to be obtained. Accordingly, consistent with Water Code section 13267, the Order should be
21 revised to require, at most, a phased and technically supported approach beginning with one
22 appropriately located groundwater monitoring well, followed by further evaluation before any additional
23 wells are required.

24 The State Board should therefore require the Regional Board to withdraw the requirement to
25 install three new wells co-located with GP-14, GP-15, and GP-16. At most, the Order should be revised
26 to require Chiquita to evaluate or install one groundwater monitoring well to address the GP-15 area,
27 subject to appropriate technical review of location, access, constructability, and hydrogeologic
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1 suitability. That narrower approach would address the Regional Board’s stated concern without
2 imposing redundant and unsupported monitoring obligations that fail Water Code section 13267’s
3 reasonableness requirement.

4 **B. The Order Imposes Basin- and Discharge-Volume Estimate Requirements that**
5 **Cannot Be Reliably Generated**

6 The Order further requires that Chiquita, for each storm event resulting in a discharge into any
7 basin, provide volume estimates that cannot be provided with any reasonable level of scientific certainty.
8 Under Paragraph 9, Chiquita must provide an (1) estimated volume of discharge into and out of each
9 basin, (2) estimated volume of water in each basin before the storm event, and (3) combined estimated
10 volume in each basin after the discharge event. (Exhibit 1, p. 12.) However, as Chiquita has explained to
11 the Regional board, those volumes cannot be estimated with any reasonable degree of accuracy or
12 reliability. The requirement invites the production of speculative estimates rather than meaningful
13 technical information. For that reason, the requirement fails the “reasonably required” monitoring
14 method test in Water Code section 13383, subd. (b).

15 **1. It is Infeasible and Unreasonable for Chiquita to Estimate Basin Volumes.**

16 Chiquita has no ability to accurately measure basin volumes at particular points in time. For the
17 South Basin, Chiquita would wait until the basin is restored to its original/empty design volume after
18 seasonal maintenance to be able to estimate its initial capacity. For the East Basin, however, Chiquita
19 cannot rely on the same method. (Exhibit 7). For the East Basin, Chiquita does not have baseline total
20 design capacity information for the basin at this time and would need to survey the basin once empty to
21 obtain such information. (*Id.*) Even if Chiquita had such information, it is of no utility. (*Id.*) Chiquita
22 would need to recalculate total baseline capacity of each basin before each rain event, which in turn
23 would require each basin to be fully emptied and surveyed prior to a storm event. (*Id.*) Basin capacities
24 are constantly in flux due to the deposition and movement of sediments. (*Id.*) As stormwater
25 accumulates in the basin, sediments drop out, changing the bottom contours of the basin and the volume
26 of stormwater that can accumulate within the basin. (*Id.*) Sedimentation accumulation is not uniform,
27 and could vary greatly between the different stages of the basins, or even within the same stage of a
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basin. (*Id.*) It is a large effort and not practical to require removing millions of gallons from the basins for a new survey every time there is a change in volume. (*Id.*)

Even if Chiquita could perform an initial survey to assess basin capacity, it would not be feasible to generate accurate basin-volume estimates after each storm event. (*Id.*) Chiquita's current understanding of the Order requirement is that discharge- and basin-volumes could be estimated either based on measuring equipment or personnel observations. (*Id.*) The basins do not have equipment capable of proving these measurements, and Chiquita is not aware of any available technology that could be acquired and installed to generate consistently accurate measurements. (*Id.*) Chiquita is only aware of the existence of depth gauge monitoring equipment that cannot produce reliable data given the basins' configuration, depth, and size. (*Id.*) Equipment installation therefore would not serve any useful purpose given that resulting measurements are unreliable, particularly for basin-volume estimates, where minor differences in depth-gauge placement could result in discrepancies of thousands of gallons due to the large surface areas of the basins. (*Id.*)

Similarly, estimates based on Chiquita's staff observations, assumptions, or rough calculations would, by its very nature, be approximations of unknown accuracy.

2. It is Infeasible and Unreasonable to Measure Discharge Volumes Into and Out of the Basins.

Chiquita also has no reliable means to measure discharge volumes into and out of the basins. While Chiquita maintains two on-site rain gauges and relies upon daily visual observations to support rain occurrences and volumes, such information is not always reliable and is based on rough estimates. (*Id.*) Evaluating any potential change in volume following discharges into and out of the basins would also be entirely unreliable given that stormwater can enter the open-top basins in a variety of ways, including directly from rainwater. (*Id.*)

Finally, estimating volumes of discharges *into* the basins is unreasonable because there is no clear need for it. During the meeting between Chiquita and the Regional Board on July 2, 2026, the Regional Board stated the reason for this requirement is to ensure leachate is not reaching the basins.

1 (*Id.*) It is unclear how estimating the volume of liquid entering the basin ensures no leachate is within
2 that discharge. (*Id.*)

3 Water Code section 13383 authorizes monitoring methods that are reasonably required; it does
4 not authorize requirements that yield speculative or unreliable results. The State Board should therefore
5 require the Regional Board to withdraw the basin-volume and discharge-volume requirement in
6 Paragraph 9. At a minimum, the Order should be revised to recognize the limitations of any resulting
7 estimates and expressly provide that these will not form the basis for violations or penalties when based
8 on reasonable methods and disclosed assumptions.

9 **C. The Order Imposes Duplicative Leachate Spill, Seep, and Leak Reporting**
10 **Requirements**

11 The Order requires Chiquita to report any leachate spill, seep, or leak that occurred before a
12 stormwater discharge event, including the date, estimated volume, number of days between the event
13 and the stormwater discharge event, and the location of the spill, seep, or leak. (Exhibit 1, pp. 12-13.)
14 This is not a reasonably required monitoring method under Water Code section 13383, subd. (b), for two
15 reasons.

16 First, this requirement is duplicative. Chiquita already provides leachate spill, seep, and leak
17 reporting under the Stipulated Order for Abatement with the South Coast Air Quality Management
18 District (SOFA) in Case No. 6177-4, as modified on June 3, 2026, and under relevant WDR and agency
19 reporting requirements. (*Id.*) Those reports are provided to multiple regulators, including the Regional
20 Board, and information is publicly available through Chiquita's website. (*Id.*) Requiring duplicative
21 submissions with undefined scope imposes unnecessary burden without a corresponding benefit.

22 Second, the requirement is neither reasonably necessary to protect water quality nor sufficiently
23 clear about the concerns that are supposedly addressed with this extra reporting obligation. As written,
24 Paragraph 10 requires reporting of *any* leachate spill, seep, or leak that occurred before a stormwater
25 discharge event. The Order provides no limiting standard, nexus, or threshold tying the spill, seep, or
26 leak event to a water quality concern.

1 As a result, the requirement would compel reporting of leachate spill, seep, or leaks that could not
2 reasonably compromise water quality. To cite some examples, the Order appears to require reporting of
3 a spill that was completely cleaned up before any precipitation occurred; a release that remained entirely
4 within secondary containment and never reached stormwater; or an incident occurring within the East
5 Basin watershed when the only offsite discharge originated from the South Basin watershed. In each of
6 these circumstances, the reported information would not provide any meaningful data. A reporting
7 requirement that compels disclosure of events with no demonstrated relationship to an issue with the
8 discharge is not a reasonably required monitoring method and should therefore be withdrawn.

9 The State Board should therefore require the Regional Board to withdraw the requirement in
10 Paragraph 10 and instead allow Chiquita to copy the Regional Board on future seep, leak, or spill
11 notifications submitted to agencies. If the requirement is retained, it should be reasonably limited to
12 leachate spills, seeps, or leaks that occurred no more than two weeks prior to the reportable storm event,
13 and that reached a stormwater channel and thus had a possibility of reaching a basin if that basin is the
14 same one experiencing the discharge (i.e., spills in the watershed that would flow to the East Basin are
15 not reportable if the storm event discharge was from the south basin).

16 **D. The Order Imposes Infeasible LCRS And Liner-Integrity Reporting Requirements**

17 The Order requires expanded reporting requirements in connection with Chiquita's assessment of
18 the integrity of the bottom liner and LCRS within the Reaction Area. (Exhibit 1, p. 11). In detailing the
19 required content of the quarterly liner integrity and LCRS report, the Regional Board orders Chiquita to
20 "quantify the direction and rate of travel of the reaction" and provide "time series plots, correlated
21 spatially for each cell to the degree possible, of leachate temperature measurements and leachate
22 generation/removal rates." (*Id.*) As Chiquita repeatedly communicated to the Regional Board, both
23 directives require unattainable information the Regional Board cannot reasonably justify. (Exhibit 5).

24 Indeed, these directives are not new. Requests for this information were first imposed through the
25 Regional Board's issuance of the June 27, 2024, Notice of Violation No. WDID No. 4 19I022488 ("June
26 2024 NOV"). Since that time, Chiquita has consistently included notes and explanatory language in its
27 quarterly reports advising the Regional Board that it cannot reliably generate or report the requested
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1 information due to technical and operational limitations inherent in the Landfill's design and monitoring
2 systems. (*Id.*) First, as Chiquita's consultants have repeatedly explained, it is infeasible to quantify the
3 direction and rate of travel of the reaction from comparisons of temperature, landfill gas composition,
4 LFG production quantities, leachate collection flowrates, settlement, and cover distress (*Id.*)
5 Temperatures recorded at landfill gas wellheads and TMPs can vary daily, weekly, or monthly. It is
6 however impossible to establish what degree of temperature variability would constitute a definitive
7 direction or specific velocity of reaction travel because changes in a particular well's gas composition or
8 flowrate may indicate localized conditions, but they do not reliably indicate the reaction's direction or
9 velocity. (*Id.*)

10 Similarly, the requirement to provide leachate generation or removal rates correlated spatially for
11 each cell is incompatible with existing landfill infrastructure. (*Id.*) It is not industry standard, and
12 Chiquita therefore does not measure the temperature of leachate within the waste mass or at the bottom
13 liner LCRS. Further, Chiquita has liquid generation and extraction data collected through the bottom-
14 liner LCRS on a facility-wide basis, and the Landfill is not engineered to allow tracking of leachate
15 origin to a specific cell. (*Id.*) Landfill infrastructure does not include unique and segregated leachate
16 collection system and collection point that serves each landfill cell exclusively. (*Id.*) Without segregated
17 discharge points and individual flow meters for each cell, cell-specific time-series plots cannot be
18 reliably generated. (*Id.*) There is no scientific or engineering basis for that requirement.

19 Chiquita has expressly identified these limitations in each quarterly liner integrity and LCRS report
20 submitted since the June 2024 NOV. (*Id.*) Despite these repeated disclosures, the challenged
21 requirements have been carried forward and reiterated in the Order. Instead of modifying the reporting
22 requirements to account for these known constraints, the Regional Board continues to require
23 information that cannot be accurately or reliably produced.

24 The State Board therefore should require the Regional Board to revise the liner-integrity and LCRS
25 reporting requirements to exclude technically infeasible obligations involving quantification of the
26 direction and rate of reaction travel and spatial correlation of leachate temperature measurements with
27 leachate generation or removal rates.

E. The Appendix 1 Reporting Limits Are Not Reasonably Required Because Available Commercial Laboratories Cannot Meet Them

The Order continues to impose mandatory reporting limits (“RLs”) listed in Appendix 1 that are unattainable and directs Chiquita to utilize the Appendix 1 RLs in violation of both Water Code section 13267, subd. (b), and Water Code section 13383. The Order requires Chiquita to use the Appendix 1 RLs for “all analysis conducted to comply with this Order.” (Exhibit 1, p. 11). It further requires that, “[a]t a minimum, the reporting limits listed in Appendix 1 of this Order shall be met” for laboratory analyses of stormwater, surface water, groundwater, and discharges into and out of the South and East Basins. (Exhibit 1, p. 13). Those requirements are not appropriate or proper because many of the Appendix 1 RLs cannot be achieved by available Environmental Laboratory Accreditation Program (“ELAP”)-certified commercial laboratories using approved and scientifically defensible methods.

An RL is the lowest concentration of an analyte that a laboratory can reliably quantify and report using a particular analytical method. (Exhibit 8). The Regional Board may require technical and monitoring reports under Water Code section 13267 only where the burden, including cost, bears a reasonable relationship to the need for the reports and the benefits to be obtained. (Wat. Code, § 13267, subd. (b)(1).) The Regional Board must also provide a written explanation of the need for the reports and identify the evidence supporting the requirement. (*Id.*) Monitoring and analytical requirements imposed under Water Code section 13383 likewise must be “reasonably required.” (Wat. Code, § 13383, subd. (b).) The Appendix 1 RLs fail both standards. A reporting limit that available commercial laboratories cannot meet is not a reasonably required monitoring method, and an impossible analytical requirement cannot bear a reasonable relationship to any legitimate investigative need.

Chiquita previously advised the Regional Board that many RLs in the February Order could not be achieved by available commercial laboratories. (Exhibit 3). That conclusion was based on a survey of eleven laboratories, none of which reported the ability to meet all of the prior RLs. The Order itself acknowledges that, on June 1, 2026, Chiquita notified the Regional Board that it could not achieve the February Order’s RLs based on that laboratory survey and urged the Regional Board to revise the requirements. (Exhibit 1, p. 7.) Despite Chiquita’s notice, the Order’s revised analyte list maintains

1 many of the same infeasible requirements, and in some instances imposes limits that are even lower than
2 those previously challenged.

3 At least 22 of the Order's Appendix 1 RLs are not technically attainable by Chiquita's contracted
4 laboratory, Onterris. (Exhibit 8.) Approximately 17 of those RLs are set so low that Onterris cannot
5 meet them using its existing instrumentation and analytical methods. (*Id.*) Onterris also cannot meet
6 approximately 5 additional RLs because, like many commercial laboratories, it is not accredited to
7 analyze those analytes. (*Id.*)

8 Chiquita has also continued to evaluate whether other commercial laboratories can meet the
9 Order's Appendix 1 requirements. (*Id.*) During the July 2 discussion with the Regional Board, the
10 Regional Board stated that the RLs were set based on Babcock's capabilities, as shown in an April 23,
11 2026, sample analysis conducted by that lab. (Exhibit 7). An evaluation of the data from the Babcock
12 April 23, 2026 sample analysis against the Appendix 1 RLs demonstrates that this statement by the
13 Regional Board is not accurate as this Babcock analysis shows that at least 3 of the Appendix 1 RLs
14 cannot be met. (Exhibit 8). Moreover, 59 analytes listed in the Order are entirely missing from the report
15 and thus Babcock's capability to achieve all of the Appendix 1 RLs cannot be determined based on the
16 April 23, 2026 sample analysis. (*Id.*) Chiquita took an additional step and inquired further, requesting
17 Onterris to contact Babcock directly to verify that laboratory's capability. On July 8, 2026, Babcock
18 informed Onterris that it cannot meet 22 of the Order's RLs. (*Id.*) Onterris further contacted a third
19 laboratory, Physis, to confirm whether they could meet the Order's RLs. (*Id.*) On July 8, 2026, Physis
20 informed Onterris that it cannot meet at least 13 of the Order's RLs. (*Id.*)

21 As a result, none of the three laboratories are able to meet the Order's RLs in full. These results
22 confirm that the problem is not Chiquita's choice of laboratory; the problem is that the Order imposes
23 mandatory limits that available commercial laboratories cannot reliably satisfy.

24 The Regional Board has not explained why these unattainable RLs are necessary or what
25 additional benefit they would provide. Nor has it demonstrated that the RL requirements are
26 achievable—the benchmark on which it relies does not withstand scrutiny. The RL requirements
27 independently fail both applicable Water Code standards. Under Water Code section 13267, subd.
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(b)(1), the Regional Board must identify the need for the required reports, the evidence supporting the requirement, and a reasonable relationship between the burden imposed—including cost—and the benefits to be obtained. The Order does not do so. It generally asserts that “detailed information regarding potential leachate discharges is required” (Exhibit 1, p. 8), but it does not explain why dozens of laboratory limits lower than commercially available RLs are necessary, what additional benefit those limits would provide, or how infeasible limits could produce relevant information. The RLs also fail Water Code section 13383 because a monitoring method that available ELAP-certified laboratories cannot perform using approved, scientifically defensible methods is not “reasonably required.” To the contrary, infeasible limits create a compliance trap while undermining the Order’s stated investigative purpose.

The Appendix 1 RLs therefore should be withdrawn or revised. At minimum, the State Board should require the Regional Board to limit Appendix 1 to RLs that are achievable by available ELAP-certified commercial laboratories using approved, scientifically defensible methods. Alternatively, the Order should allow Chiquita to use the lowest practicable RL achievable by its ELAP-certified laboratory, with an appropriate data qualifier explaining any analytical limitations. That approach would provide the Regional Board with reliable data while avoiding impossible compliance obligations that are neither reasonably related to the need for the information nor reasonably required under the Water Code.

F. The Order Imposes Impracticable and Unnecessary Sample Volume, Dilution and Re-Analysis Obligations

The Order imposes sample volume, dilution, and re-analysis requirements that conflict with accepted laboratory practices and in some circumstances, may damage laboratory equipment or produce unusable data. Specifically, the Order requires Chiquita to “collect sufficient sample volume to allow the lab to re-run the analysis undiluted if diluted analyses are non-detect.” It further dictates that “[i]f a sample is diluted and a target analyte is not detected, the sample shall be re-run at lesser dilutions until a detection without J flag is obtained or the reporting limit is met.” (Exhibit 1, p. 13.) This means that, for any sample that is diluted and results in a non-detect, the laboratory must re-analyze the sample in a

1 more concentrated form, over and over again, until the equipment detects the analyte or a non-detect
2 result is obtained against all RLs specified in the order.

3 These requirements are impracticable and oftentimes will be impossible to meet either because
4 substantial sample volumes are not always available for collection or because sample dilution is
5 essential to generate accurate analytical results. In addition, re-run obligations can damage laboratory
6 equipment or result in unusable data. Given the substantial issues with these requirements, they cannot
7 be a “reasonably required” method under Water Code section 13383, subd. (b).

8 **1. The Dilution and Re-Run Requirements Are Technically Infeasible**

9 The Order’s “sufficient volume” requirement is often impracticable and, similarly, the dilution and
10 re-run requirements may prevent laboratories from generating accurate and reliable analytical results.

11 First, the Order does not define what constitutes a “sufficient sample volume” and Chiquita cannot
12 reliably know in advance whether a particular sample will require dilution or how much additional
13 volume would be needed for potential re-runs. Sample volumes may be limited by the type and location
14 of sampling and there may be equipment, transportation, and other logistical limitations depending on
15 where and by whom the sample is being collected (Exhibit 9). The East Basin inlet is a clear example of
16 this: accessing that location is possible only by one person at a time, who must navigate a steep, often
17 muddy slope—it is neither safe nor practically possible to collect samples from this location, and a
18 requirement for larger samples only compounds that safety risk. (Exhibit 7). Relatedly, Chiquita’s
19 sampling crew cannot predict in advance whether a particular sample will require dilution and,
20 consequently, whether extra sample volumes will be needed for potential re-run purposes.

21 Second, some discharges into and out of the stormwater basins are very low in volume, particularly
22 in the dry season. (*Id.*) In such cases, there may not be enough liquid discharging into the basin to meet
23 the Order’s “sufficiency” requirement. (*Id.*) Chiquita’s sample crew has observed and sampled
24 discharges into the South Basin of such low flow that they were barely able to collect a sample at all—to
25 collect a sufficient sample for hypothetically required future re-runs of particular analytical methods
26 would not be possible. (*Id.*)

1 Third, this methodology may damage critical laboratory equipment. (Exhibit 9). Samples may
2 sometimes contain high concentrations of non-target compounds that can interfere with target analytes
3 or monitoring compounds, such as surrogates and internal standards, or they may coat internal
4 components of the instrument, suppressing instrument response and even causing the instrument to fall
5 out of control. (*Id.*)

6 Fourth, this methodology may simply not work, as it can result in unusable data. Laboratories
7 cannot comply with the Order’s dilution and re-run requirements while ensuring generation of accurate
8 data. For certain analytical methods requiring internal standards (*i.e.*, compounds added to the sample
9 that are similar to compounds of interest not expected to be present), forcing laboratories to repeatedly
10 re-run samples with existing interference (e.g., dark color, high viscosity) may impact the ability to
11 monitor compound behavior that serves as basis for the analysis, thus rendering the resulting data
12 unreliable or unusable. (*Id.*)

13 Finally, the holding times applicable to certain analytes may make the “re-run” requirement
14 impossible. (*Id.*) Holding times applicable to the analytes in the Order are attached for reference. (*Id.*)
15 Nitrate Nitrogen, for instance, has a 48-hour hold time. (*Id.*) Chiquita cannot guarantee that Onterris or
16 any other commercial laboratory can identify the need for, schedule, and complete required re-analyses
17 within the often-short holding times applicable to certain analytes. By the time a need for re-run under
18 the Order is identified, the holding time for multiple methods or analytes may be long-expired, making it
19 technically impossible for Onterris to produce a valid re-analysis.

20 **2. The Re-Analysis Mandate Rests on Unsupported Assumptions and Fails the** 21 **Water Code’s Reasonableness Requirements**

22 The Regional Board has not shown that repeated re-analysis of diluted non-detects is a technically
23 feasible or reasonably required monitoring method. (Wat. Code, § 13383, subd. (b); Exhibit 1, p. 13).
24 The Order provides no meaningful technical justification for requiring laboratories to re-run diluted non-
25 detect samples at lesser dilutions until either a detection without a J-flag is obtained or the reporting
26 limit is met. Instead, the Order relies on the generalized assertion that “high laboratory dilution factors
27 made previously collected data unreliable for detecting the monitored parameters.” (Exhibit 1, p. 7).

1 That statement does not establish that the re-analysis mandate is reasonably required nor does it account
2 for the fact that dilution can be scientifically necessary.

3 Sample dilution is a standard and accepted laboratory practice used to generate reliable analytical
4 results and protect laboratory equipment from damage. Dilution may be required because of sample-
5 specific conditions such as heavy sediment loading, dark color, high viscosity, matrix interference, or
6 concentrations of non-target constituents that could overload analytical instruments. (Exhibit 9). Under
7 those circumstances, dilution is not a defect in the analysis; it is the procedure that allows the laboratory
8 to produce meaningful and defensible data. Forcing laboratories to re-run samples at lesser dilutions
9 despite those conditions can undermine data quality, damage equipment, or produce unusable results.

10 The Order itself recognizes that dilution may be necessary, stating that “[d]ilution of samples is
11 permitted when required by the sample conditions” and that the sample conditions must be described in
12 a case narrative or data qualifier. (Exhibit 1, p. 13). But the Order then contradicts that recognition by
13 requiring repeated re-analysis whenever a diluted sample results in a non-detect. That approach assumes
14 that a lesser dilution will necessarily produce better data. In many cases, the opposite is true. Where
15 dilution was required because of matrix interference, sediment, viscosity, or instrument-protection
16 concerns, reducing the dilution may simply reintroduce the same conditions that prevented reliable
17 analysis in the first place (Exhibit 9).

18 Nor has the Regional Board shown that the burden of the re-analysis mandate bears a reasonable
19 relationship to a corresponding benefit. Re-running samples at progressively lower dilutions can
20 consume limited sample volume, conflict with holding times, require additional laboratory resources,
21 delay reporting and risk instrument damage or invalid data. (*Id.*) Adding case narrative descriptions is
22 possible, but not standard, and it will take additional time to comply. (*Id.*) The Order provides no
23 transition or adaptation period for Chiquita or its laboratory to modify existing procedures, making
24 immediate compliance with this requirement impracticable. Yet the Order does not explain how those
25 burdens will produce more reliable or useful information than data generated under approved analytical
26 methods, laboratory standard operating procedures, and appropriate data qualifiers. An obligation that
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1 may degrade data quality and cannot be reliably performed is not a reasonably required monitoring
2 method.

3 The State Board should therefore order withdrawal of these requirements as unreasonable and
4 without evidentiary support. At minimum, the Order should be revised to allow ELAP-certified
5 laboratories to determine when dilution and re-analysis are scientifically appropriate under approved
6 methods, holding-time requirements, laboratory standard operating procedures, and data-quality
7 objectives, with appropriate case narratives or qualifiers where dilution affects reporting limits.

8 **G. The Order Imposes Baseless Sampling and Analysis Obligations Associated with**
9 **Discharges into and out the Basins**

10 The Order requires immediate compliance with monitoring requirements associated with the South
11 and East Basin that dramatically expand the traditional scope of sampling and analytical obligations
12 associated with basin discharges without explaining why the existing monitoring framework is
13 inadequate or what additional information will be gained from monitoring every basin inlet and outlet.

14 Under the Order, Chiquita must sample “any and all” discharges into and out of the South and East
15 Basins and analyze the samples pursuant to an unreasonably extensive list of analyte parameters that go
16 far beyond parameters required by the IGP. As a practical matter, these requirements force Chiquita to
17 investigate every single discharge into and out of the basins for a sweeping list of analytes without any
18 without any demonstrated basis for believing those analytes are present or that such monitoring will
19 yield meaningful additional information.

20 Chiquita is already subject to and complies with extensive groundwater monitoring and outlet
21 discharge monitoring requirements to address the Regional Board’s concern that “leachate could
22 commingle with stormwater and enter surface waters as well as groundwater because the stormwater
23 sedimentation basins are unlined.” (Exhibit 1, p. 8.) Existing monitoring data do not support that
24 concern. To date, the Groundwater Evaluation Monitoring Program has consistently shown no indication
25 of any new, measurably significant impacts to groundwater during past reporting periods. (Exhibit 5.)

26 The existing monitoring network for groundwater and discharges from the basins already provides a
27 reliable means of evaluating whether groundwater or surface water quality is at risk. As a result, the
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burden underlying the required additional inlet monitoring does not bear a reasonable relationship with the need for that data, in violation of Water Code section 13267, subd. (b).

Additionally, as discussed in more detail below regarding safety concerns, especially during wet weather events or nighttime hours, these sampling requirements further present significant safety concerns to Chiquita personnel and samplers. Such a requirement directly contradicts established sampling protocols pursuant to the IGP, the Landfill's SWPPP, and industry standards, which are intended to ensure safe sampling conditions. As such, the Order's requirements for sampling discharges into and out of the South and East Basin are unreasonably required. The State Board should therefore withdraw the requirement entirely.

H. The Order Fails to Ensure Safe Sampling Protocols Consistent with California Water Permitting Standards

Despite Chiquita's repeated requests to revise the Order to ensure safe sampling practices, the Order continues to impose, without limitation, sampling of all discharges into and out of the East and South Basins regardless of access or other safety concerns. For example, Paragraph 8 of the Order requires sampling of "any and all discharges into and out of the south sedimentation basin and east sedimentation basin," without specifying or addressing industry standard practices and safety precautions for sampling should a discharge occur during nighttime hours. Chiquita maintains compliance with all IGP sampling procedures consistent with industry standards and the Landfill's SWPPP. As outlined in the IGP and the Landfill's SWPPP, stormwater sampling protocols require that sampling be undertaken only in certain conditions and preclude sample collection "[d]uring dangerous weather conditions" or [o]utside of scheduled facility operating hours."³ The Order fails to incorporate these reasonable safety standards.

³ See Cal. State Water Res. Control Bd., Order WQ 2014-0057-DWQ, as amended by Order WQ 2015-0122-DWQ & Order WQ 2018-0028-DWQ, NPDES No. CAS000001, General Permit for Stormwater Discharges Associated with Industrial Activities § XI.C.6.a, at 51 (Nov. 6, 2018) ("Sample collection and visual observations are not required under the following conditions: i. During dangerous weather conditions such as flooding or electrical storms; or, ii. Outside of scheduled facility operating hours. The Discharger is not precluded from collecting samples or conducting visual observations outside of scheduled facility operating hours"); *see also* Stormwater Pollution Prevention Plan and Monitoring Implementation Plan § 7.7 ("Sample collection or inspections are not required during dangerous weather conditions (i.e., flooding, high winds, or electrical storms) or outside scheduled operating hours. Documentation of dangerous conditions preventing sampling or inspections shall be entered into the site record.")

1 As Chiquita has repeatedly described to the Regional Board, the safety concerns posed by the Order
2 are further exacerbated by the East Basin monitoring requirements set forth in Paragraph 8. The East
3 Basin can only be accessed via an unpaved soil road with a 15% grade, which becomes a major safety
4 hazard in wet conditions or at night. (Exhibit 7). These conditions present unacceptable safety risks,
5 including limited visibility, unstable ground conditions, and increased potential for slips, trips, and falls.
6 (*Id.*) Moreover, Chiquita anticipates that additional unforeseen site conditions may at times render
7 sampling unsafe or impossible. (*Id.*) For example, in the past, Chiquita personnel have been prohibited
8 from accessing basin areas due to bear sightings and other wildlife activity, which posed an immediate
9 risk to employee safety. (*Id.*) The Order prevents Chiquita from exercising best judgment about safe
10 working conditions, unlike the IGP and SWPPP that provide for this flexibility. (*Id.*) The State Board
11 should therefore revise the Order to require the industry standard sampling safety protocols as outlined
12 in the IGP and Landfill's SWPPP.

13 **I. A Stay of the Order, or At Minimum the Challenged Provisions, Should Be Issued**

14 For the reasons set forth above and further explained below, Chiquita meets all three elements
15 required for the State Board to grant a stay. (Cal. Code Regs., tit. 23, § 2053, subd. (a).) A stay is
16 necessary because, without one, Chiquita will be substantially harmed and left with no adequate remedy
17 while being forced to comply with the Order's unreasonable and technically infeasible requirements,
18 thereby exposing itself to potential penalties and enforcement for alleged noncompliance. This also
19 includes, among other harms, expending unnecessary and unreasonable time, resources, and costs in
20 attempting to comply with the Order. There is no indication that a stay will substantially harm other
21 interested parties, the public interest, human health, or the environment. In fact, there is public interest in
22 ensuring that California citizens and entities are not subject to unreasonable requirements. Thus, all
23 factors pursuant to the California water regulations for a stay are met.

24 **1. Chiquita Will Be Subject To Serious Harm Without A Stay**

25 As outlined above, Chiquita cannot feasibly comply with many provisions of the Order for
26 reasons outside of its control. For instance, Chiquita cannot comply with the Appendix 1 RLs because
27 commercial laboratories cannot meet many of the listed RLs. Chiquita also cannot guarantee that its
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1 contracted laboratory can repeatedly re-run diluted samples because re-analysis may be limited by
2 sample volume, holding times, matrix interference, among others. Chiquita cannot reliably generate the
3 basin- and discharge-volume estimates because there is no available equipment capable of producing
4 accurate measurements. Chiquita cannot produce certain liner-integrity and LCRS data because the
5 Landfill's existing infrastructure and monitoring systems do not allow Chiquita to quantify the direction
6 and rate of reaction travel or spatially correlate leachate temperature and generation/removal rates by
7 cell. Chiquita cannot safely perform certain sampling activities as currently required by the Order
8 because of access limitations, nighttime conditions, wet-weather hazards, wildlife risks, among other
9 potentially unforeseen circumstances.

10 Chiquita is subject to substantial penalties (up to \$10,000 per day) under the Order for non-
11 compliance. If Chiquita cannot comply with certain obligations, and is subject to penalties for the
12 resulting noncompliance, Chiquita is substantially harmed without a stay. A stay here is necessary to
13 allow the State Board sufficient time to review Chiquita's petition and determine whether to withdraw
14 the Order, or in the alternative, modify its requirements to allow Chiquita to reasonably comply.

15 **2. No Substantial Harm Would Result to Others If a Stay Is Issued**

16 No substantial harm will occur to other interested parties, the public interest, or human health
17 and the environment if a stay is issued. Chiquita is already subject to stringent stormwater monitoring
18 requirements pursuant to the IGP, SWPPP, and applicable WDRs ensuring protections are in place to
19 prevent the contemplated impacts to surface water and groundwater. Specifically:

20 (a) No harm will result from staying the groundwater monitoring well installation requirement
21 because there is no data indicating that liner integrity has been compromised or that groundwater quality
22 has been impacted;

23 (b) No harm will result from staying the discharge- and basin-volume estimates requirement
24 because the estimates cannot be generated with reliable accuracy using available equipment or personnel
25 observations and therefore would not provide meaningful technical information regarding potential
26 impacts to surface water or groundwater;

1 (c) No harm will result from staying the leachate spill, seep, and leak reporting requirements
2 because Chiquita already reports leachate spills, seeps, and leaks under existing regulatory requirements,
3 including reports provided or made available to the Regional Board, and the Order's duplicative
4 requirement is not tied to a demonstrated water-quality concern;

5 (d) No harm will result from staying the infeasible LCRS and liner integrity reporting
6 requirements because Chiquita cannot reliably generate that data from existing landfill infrastructure or
7 monitoring data and therefore the requirement does not provide meaningful technical information to
8 address any specific water quality concern;

9 (e) No harm will result from staying the Appendix 1 RLs because commercial laboratories
10 cannot reliably meet many of the listed RLs, and the continued reliance on the lowest practicable RL
11 achievable by Chiquita's ELAP-certified laboratory can provide sound, scientifically defensible data for
12 evaluating potential impacts;

13 (f) No harm will result from staying the dilution and re-run requirements because it may be
14 infeasible to generate reliable data based on those methods and Chiquita's ELAP-certified laboratory
15 dilution practices are broadly accepted and able to provide sound, scientifically defensible data for
16 evaluating potential impacts; and

17 (g) No harm will result from staying the basin sampling requirements because existing
18 monitoring network for groundwater and discharges from the basins already provides a reliable means of
19 evaluating whether groundwater or surface water quality is at risk.

20 Additionally, the Regional Board has provided no evidence that there is present substantial harm
21 to human health or the environment relating to stormwater and groundwater quality. Therefore, there is
22 no possibility of harm imposed by staying the Order pending the State Board's review.

23 **3. Substantial Questions Surrounding the Validity Of The Order Remain**

24 Lastly, the Order should be stayed during the pendency of the State Board's review because
25 substantial questions of law and fact remain. Based on the issues outlined above, there is substantial
26 doubt about the validity of the Order based on the facts and California law. Further, the Order and
27 Regional Board fail to provide any sound explanation or evidence in support of the need to comply with
28

1 these unreasonable and overly burdensome requirements, as required for the Regional Board to satisfy
2 its obligations under the Water Code.

3 The July 2, 2026 meeting between Chiquita and the Regional Board further confirms that
4 substantial questions remain and that a stay is warranted. During those discussions, the Regional Board
5 acknowledged that certain aspects of the Order require further evaluation, clarification, or revision,
6 including issues concerning groundwater monitoring well installation, compliance deadlines, and
7 typographical or drafting errors in the Order. (Exhibit 7). Those acknowledgements are significant. They
8 demonstrate that the challenged Order is not settled in its present form and that even the Regional Board
9 recognizes that at least some of the challenged provisions warrant change.

10 In sum, a stay is required here because without one, Chiquita will be subjected to potential
11 significant penalties and enforcement for any alleged non-compliance by the Regional Board for
12 requirements that are either unreasonable or impossible to comply with. Chiquita will also incur
13 unnecessary and unreasonable time, resources, and costs attempting to comply with the Order. There is
14 no indication that a stay will substantially harm other interested parties the public interest, or human
15 health and the environment, and there are clear questions of fact and law regarding the Order. Even the
16 Regional Water Board itself acknowledges that it will need to change certain challenged aspects of the
17 Order but has not done so. (*Id.*)

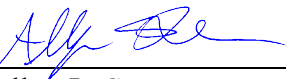
18 **V. CONCLUSION**

19 The Order is not merely burdensome; in several material respects, it is impossible, unsafe,
20 unsupported, or incapable of producing reliable information. The Regional Board may require technical
21 reports and monitoring only where the burden bears a reasonable relationship to the need for the
22 information and the benefits to be obtained, and only where monitoring methods are reasonably
23 required. The challenged provisions fail those standards.

24 Chiquita respectfully requests that the State Board order the Regional Board to withdraw the
25 challenged provisions of the Order, or in the alternative, revise it in accordance with the arguments and
26 requested relief in this Petition. In the interim, Chiquita requests an immediate stay of the Order, or at
27 minimum the challenged provisions, retroactive to February 11, 2026.

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3 DATED: July 13, 2026

BEVERIDGE & DIAMOND, P.C.

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