BEFORE THE STATE WATER RESOURCES CONTROL BOARD

In the Matter of Review of Waste Discharge Requirements General Order No. R5-2012-0116
For Growers Within the Eastern San Joaquin River Watershed That Are Members of the Third-Party Group

Pursuant to section 2050.6 of title 23 of the California Code of Regulations, the East San Joaquin Water Quality Coalition (ESJ Coalition) hereby requests that the State Water Resources Control Board (State Board) add the following supplemental evidence to the administrative record for the above-captioned matter and consider the following document: Exhibit 1 – Review of the Irrigated Lands Monitoring Program for the East San Joaquin Watershed (December 2017), prepared by Exponent, Inc. (Exponent).

The ESJ Coalition makes this request because admission of the aforementioned document is necessary and appropriate to respond to issues and questions raised by the State Water Resources Control Board (State Board) in its review of Waste Discharge Requirements for Growers Within the Eastern San Joaquin River Watershed that are Members of the Third-Party Group (General Order No. R5-2012-0116) (Second Draft Order). This request is consistent with the State Board’s regulations governing requests for supplemental evidence that were not previously provided to the regional board (here the “Central Valley Regional Water Quality Control Board,” or “Central Valley Water Board”) in the underlying proceedings for adoption of
the Waste Discharge Requirements for Growers Within the Eastern San Joaquin River Watershed
that are Members of the Third-Party Group (East San Joaquin WDR).

I. ARGUMENT

Section 2050.6 of title 23 of the California Code of Regulations requires any person
requesting the State Board to consider extra-record evidence to provide a reason why the
documents were unavailable for presentation to the regional board, a detailed statement of the
nature of the evidence and facts to be proved, and a detailed explanation of why the evidence
could not previously have been submitted. This Request for Consideration of Supplemental
Evidence justifies admitting the documents in question as supplemental evidence.

Exhibit 1 as identified above was not presented to the Central Valley Water Board during
the administrative process related to consideration and adoption of the East San Joaquin WDR
because it did not exist at the time that the East San Joaquin WDR was adopted in 2012. Further,
it was impossible to anticipate during the Central Valley Water Board’s proceedings, issues,
questions and findings that might arise in a subsequent State Board review, as is occurring in this
case.

Specifically, when the Central Valley Water Board considered and adopted the East San
Joaquin WDR, the Central Valley Water Board found that the ESJ Coalition’s existing
monitoring program was adequate. Now, the State Board is considering a Second Draft Order
with respect to review of the East San Joaquin WDR, and has found the ESJ Coalition’s
monitoring program to be inadequate. Additionally, the Agricultural Expert Panel’s review of the
ESJ Coalition’s existing monitoring program was a new process that occurred after Central
Valley Water Board adoption, and prior to this State Board proceeding. Thus, the need to
respond to the Second Draft Order, State Board staff findings and the Agricultural Expert Panel’s
review has arisen recently and well after completion of the Central Valley Water Board’s
proceedings.

In response to statements and proposed findings in the Second Draft Order that focus on
the ESJ Coalition’s existing irrigated lands surface water monitoring program, and the Second
Draft Order’s suggestion that a new Expert Panel process is warranted, the ESJ Coalition on its
own initiative retained a national leading expert at Exponent to conduct an objective and
independent review of its surface water monitoring program. The final version of Exponent’s
report became available on December 21, 2017.

A. Request for Supplemental Evidence Is Timely Made.

The ESJ Coalition submitted this Request for Supplemental Evidence as soon as possible
after the report became available on December 21, 2017. The need for this report became
apparent only in response to the Second Draft Order, whereby the State Board staff made
significant findings with respect to the sufficiency, or lack thereof, of the ESJ’s surface water
monitoring program. The Central Valley Water Board, on the other hand, has made significant
findings as to the adequacy of the ESJ Coalition’s monitoring program. Accordingly, the ESJ
Coalition timely submits this Request for Supplemental Evidence.

B. Nature of the Evidence.

As previously indicated above, the evidence being provided here was not available at the
time of the Central Valley Water Board’s consideration and adoption of the East San Joaquin
WDR. That process took place over five (5) years ago, and State Board just now questions the
sufficiency of the ESJ Coalition’s monitoring program. It is appropriate for the State Board to
supplement the record with the requested evidence because it is being offered directly in response
to proposed revisions that the State Board potentially seeks to make with respect to the Second
Draft Order.

The document being proposed as supplemental evidence is being provided to support the
ESJ Coalition’s request that the State Board find that the ESJ Coalition’s monitoring program is
adequate.

C. Additional Evidence Provided in Writing.

With this request, the ESJ Coalition provides the supplemental evidence in writing, on a
compact disc, attached as Exhibit 1.
II. CONCLUSION

For the reasons provided above, the ESJ Coalition respectfully requests that the State Board grant the request contained herein.

SOMACH SIMMONS & DUNN
A Professional Corporation

DATED: December 22, 2017

By: [Signature]
Theresa A. Dunham
Attorneys for East San Joaquin Water Quality Coalition
BEFORE THE STATE WATER RESOURCES CONTROL BOARD

In the Matter of Waste Discharge Requirements
General Order No. R5-2012-0116 For Growers Within the Eastern San Joaquin River Watershed That Are Members of the Third-Party Group

SWRCB/OCC File Nos. A-2239(a)-(c)

DECLARATION OF MELANIE EDWARDS IN SUPPORT OF EAST SAN JOAQUIN WATER QUALITY COALITION’S REQUEST FOR CONSIDERATION OF SUPPLEMENTAL EVIDENCE

I, Melanie Edwards, declare:

1. I am an accredited statistician with the consulting firm of Exponent, Inc. (Exponent). Exponent is a consulting firm with expertise in assisting clients with human health, environmental, engineering, and regulatory issues, including projects involving hydrodynamics, aquatic chemistry, and the environmental fate of numerous constituents. Exponent was retained by the East San Joaquin Water Quality Coalition (ESJ Coalition) to conduct a review of the ESJ Coalition’s existing irrigated lands monitoring program. I assisted with data analytics for the preparation of the monitoring program review for the ESJ Coalition.

2. Additionally, I have over 20 years of experience performing and critiquing aspects of data analytics of lab chemistry concentrations, toxicity tests, field screening results, and background or reference comparisons. My areas of application include environmental chemical forensics and pesticide registration, and I have provided statistical support on projects involving metals, PCBs, PAHs, and dioxins/furans in soil, sediment, dust, groundwater, and surface water.
3. Exhibit 1 attached to the ESJ Coalition’s Request for Consideration of Supplemental Evidence (ESJ Coalition Request) is a true and correct copy of the final *Review of the Irrigated Lands Monitoring Program for the East San Joaquin Watershed* (December 2017) produced by Exponent. This report involved reviewing data characterizing land use, crop types, pesticide use, water quality and toxicity within the monitoring area, and performing statistical analyses to evaluate these data. The report explains that the ESJ Coalition’s monitoring program is adequate – specifically that monitoring sites selected provide sufficient spatial coverage, that the program’s data shows changes and improvements in water quality over time, that data gathered shows non-agricultural sources are likely important influences on water quality, and that the program’s structured framework helps tailor monitoring and implementation measures to maximize the likelihood that water quality problems will be identified.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 22nd day of December 2017, at Bellevue, Washington.

[Signature: Melanie Edwards]
In the Matter of Waste Discharge Requirements
General Order No. R5-2012-0116 For Growers
Within the Eastern San Joaquin River Watershed
That Are Members of the Third-Party Group

SWRCB/OCC File Nos. A-2239(a)-(c)

DECLARATION OF SUSAN C.
PAULSEN IN SUPPORT OF EAST SAN
JOAQUIN WATER QUALITY
COALITION’S REQUEST FOR
CONSIDERATION OF
SUPPLEMENTAL EVIDENCE

I, Susan C. Paulsen, declare:

1. I am Principal Scientist and Director of the Environmental and Earth Sciences
   Practice with the consulting firm of Exponent, Inc. (Exponent). Exponent is a consulting firm
   with expertise in assisting clients with human health, environmental, engineering, and regulatory
   issues, including projects involving hydrodynamics, aquatic chemistry, and the environmental
   fate of numerous constituents. Exponent was retained by the East San Joaquin Water Quality
   Coalition (ESJ Coalition) to conduct a review of the ESJ Coalition’s existing irrigated lands
   monitoring program. I provided direct oversight of Exponent’s services to the ESJ Coalition,
   particularly the preparation of the monitoring program review.

2. Additionally, I have 25 years of experience with projects involving hydrology,
   hydrogeology, hydrodynamics, aquatic chemistry, and the environmental fate of a range of
   constituents. My expertise includes designing and implementing both field and modeling studies
   to evaluate surface water and groundwater flows and contaminant fate and transport.
3. Exhibit 1 attached to the ESJ Coalition's Request for Consideration of Supplemental Evidence (ESJ Coalition Request) is a true and correct copy of the final *Review of the Irrigated Lands Monitoring Program for the East San Joaquin Watershed* (December 2017) produced by Exponent. This report involved reviewing data characterizing land use, crop types, pesticide use, water quality and toxicity within the monitoring area, and performing statistical analyses to evaluate these data. The report explains that the ESJ Coalition’s monitoring program is adequate – specifically that monitoring sites selected provide sufficient spatial coverage, that the program’s data shows changes and improvements in water quality over time, that data gathered shows non-agricultural sources are likely important influences on water quality, and that the program’s structured framework helps tailor monitoring and implementation measures to maximize the likelihood that water quality problems will be identified.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this ________ day of December 2017, at Pasadena, California.

Susan C. Paulsen, Ph.D., P.E.