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Attorneys for: Gilbert and Enedina Marroquin

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY
IN THE MATTER OF

GILBERT AND ENEDINA
MARROQUIN

TULARE COUNTY

ACL Complaint: R5-2016-0551

**BRIEF IN RESPONSE TO
ADMINISTRATIVE CIVIL
LIABILITY COMPLAINT**

1. Gilbert and Enedina Marroquin are pistachio farmers in Tulare County. They own approximately 80 acres in two 40 acre parcels, but only farm approximately 65 acres of pistachios. The APNs are 119-110-012 and 119-110-013. One parcel has approximately 32 acres of pistachios and the other has approximately 33 acres of pistachios. This is confirmed by the Marroquins' membership application to join the coalition. The prosecution team's economist incorrectly assumed that because the total acreage was approximately 79 acres, that all of it was used for farming pistachios. This is simply inaccurate.

2. 2014 was a terrible year for the Marroquins in every conceivable way. Mr. Marroquin was battling cancer during 2014. As if that wasn't enough of a challenge, Tulare County was still in the midst of a drought and production for his



1 pistachios was less than half of normal production. Pistachios are an alternating year
2 crop. This means that you have a banner year followed by a terrible year. 2014 was a
3 terrible year. In our exhibits, we have provided the actual crop production numbers for
4 the Marroquins' 2014 crop, as provided by Wonderful Pistachios. Contrary to the
5 findings of the economist for the prosecution, the Marroquins' production and resulting
6 revenue was nowhere near the more than \$600,000 claimed. The Marroquins wish that
7 were the case. Instead, as revealed by the production numbers from Wonderful
8 Pistachios and confirmed by the Marroquins' 2014 tax return, they had a net farm loss
9 of -10,571 (See Schedule F of the 2014 tax return, which is Exhibit 6), and an overall
10 loss that year of more than \$50,000.

11 **3.** At the same time, the Marroquins were hopelessly in debt. They owed
12 more than \$1.2 million dollars. Their farms were upside down, their home was upside
13 down, and things were looking pretty bleak. We have provided not only a summary
14 (See Exhibit 9), but the backup documentation for that summary revealing the
15 significant expenses owed at that time (See Exhibit 10).

16 **4.** The Marroquins were simply overwhelmed in 2014 and in significant
17 personal and financial stress. The notion of another expense for 2014, like joining the
18 coalition, was more than they could bear. In addition, they did not understand the
19 significance of joining the coalition, in spite of notices sent to them. They honestly
20 believed it was just another expense, but did not grasp the notion that they needed to
21 join a coalition. There was no bad faith or resistance apart from their emotional and
22 financial state at the time that caused them to misunderstand the urgency in joining the
23 coalition.

24 **5.** To be fair, the Board's own inspection reports from September 16, 2015
25 show no signs of discharge. (See Exhibit 2). Further, according to the Board's
26 Calculation of Penalty per SWRCB Water Quality Enforcement Policy at page F-3
27 reveals that the failure of the Marroquins to submit a RoWd or NOI is not causing daily
28 detrimental impacts to the environment or the regulatory program nor is that failure

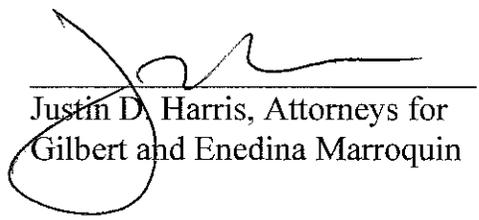


1 resulting in an economic benefit that can be measured on a daily basis. (See Exhibit 3)
2 In short, the Marroquins may have failed to submit a RoWd or NOI, but it did not harm
3 the water supply. It was an inadvertent oversight by the Marroquins caused by their
4 personal and financial problems in 2014.

5 6. The Marroquins have since filed their NOI and joined the Kaweah Basin
6 Water Quality Association. (See Exhibits 12-14). The Marroquins ask that they only be
7 required to pay the minimum fine of \$6,246.

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9 DATED: 9-22, 2016

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Justin D. Harris, Attorneys for
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