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THE MORNING STAR PACKING COMPANY, L.P.

BEFORE THE CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

STATE OF CALIFORNIA

In the Matter of The Morning Star Packing Company, L.P., Respondent.	TENTATIVE CEASE AND DESIST ORDER R5-2016-XXXX **THE MORNING STAR PACKING COMPANY, L.P.'S LEGAL, POLICY AND TECHNICAL STATEMENT IN OPPOSITION TO THE CENTRAL VALLEY WATER BOARD PROSECUTION TEAM'S CEASE AND DESIST ORDER**

I. INTRODUCTION

The Morning Star Packing Company ("Morning Star") files this statement and the accompanying exhibits in opposition to the Tentative Cease and Desist Order No. R5-2016-XXXX ("Tentative CDO"), issued on November 20, 2015 to The Morning Star Packing Company, L.P. and Fred Gobel, Morning Star Tomato Packing Plant, Colusa County.

Morning Star has operated a tomato processing facility ("Facility") in Colusa County since 1995. The Facility was originally governed by Waste Discharge Requirements Order No. 95-160 ("1995 WDRs"). In 2005, Morning Star submitted a Report of Waste Discharge for updated waste discharge requirements, which Regional Board staff failed to take any action on until 2012, when staff finally indicated an intent to prepare revised waste discharge requirements. (Exh. B to Morning Star Exhibit ("MS Exh.") 1.) After a seven year delay, Regional Board staff then fast-tracked the waste discharge requirements, allowing very little opportunity for Morning Star to provide input and comment on the proposed changes to the waste discharge requirements. The waste discharge requirements were adopted in December 2013 as Waste Discharge Requirements Order No. R5-2013-0144 ("WDRs"). (*Id.*) Morning Star timely filed a Petition for Review of the WDRs with the State Water Resources Control Board. (MS Exh. 1.) The State Water Resources Control Board has failed to act on the pending Petition for Review for two years.

The process by which the WDRs were developed and adopted resulted in WDRs that lack clarity and, in some instances, do not accurately reflect the Facility and the operations. These issues have resulted in differing opinions between Morning Star and Regional Board staff about what the WDRs require. Morning Star should not be penalized for misunderstandings and miscommunications that resulted from a faulty process to develop the WDRs.

Morning Star is an industry-leading tomato food processor and recognizes its responsibilities to comply with all regulatory requirements, including the WDRs. Morning Star is particularly aware of California's drought conditions and the Governor's directive to reduce water use. In response, Morning Star has implemented water conservation measures that significantly reduce water use at the Facility by approximately one-third in the face of a 65% increase in production. (Prosecution Team Evidence List Exhibit ("Prosecution Exh.") 26.) Additionally, in 2015 and as authorized in the WDRs, Morning Star increased its production by 65%. (WDRs, ¶ 28.) As is typical when innovating process improvements, upsets can occur. In 2015, increased production by 65% and initial start-up issues resulted in higher than normal organic material entering the Cooling Pond and higher than normal tomato material entering the ditches. These upsets have been corrected and procedures are in place to prevent recurrence in future seasons. (Prosecution Exh. 26.) The characterization in the Tentative CDO that Morning Star is a repeat offender and bad actor is outrageous. Rather, Morning Star is innovating water conservation and energy saving techniques, while at the same time being mindful of the requirements in the WDRs. Although Morning Star acknowledges that there were some one-time, start-up issues with operations in 2015 as a result of the process modifications, such anomalous conditions do not give rise to the significant requirements in the Tentative CDO. (Prosecution Exh. 26.)

Additionally, Morning Star objects to several of the statements and allegations in the Tentative CDO for the reasons stated herein. In particular, Morning Star objects to the allegations that the Cooling Pond expansion, Settling Pond expansion, and reduction of Land Application Area ("LAA") violate the applicable WDRs. Accordingly, Morning Star seeks modification of the Tentative CDO provisions requiring restoring the Cooling Pond and Settling Pond to their former size and requiring irrigation of all 695 acres of LAA. Additional objections are further

detailed herein and Morning Star's proposed revisions to the Tentative CDO are attached hereto as Attachment A.

II. ARGUMENT

A. Expansion of the Cooling Pond and Removal of Land Application Area Does Not Violate the WDRs

The Tentative CDO alleges that expansion of the Cooling Pond violates Discharge Prohibition A.3 of the WDRs, which states: 'Discharge of waste at a location or in a manner different from that described in the Findings is prohibited.'" It is notable that the Tentative CDO finds a violation based solely on the Prosecution Team's interpretation of how the facility is described in the Findings of the WDRs and does not allege any violation of a specific discharge requirement or prohibition, or any actual impact to water quality as a result of the expansion of the Cooling Pond. More important, however, is that the Cooling Pond expansion is specifically contemplated by and accounted for in the WDRs, and the expanded Cooling Pond is not different from that described in the Findings.

1. The Cooling Pond Expansion Is Contemplated in the WDRs

In fact, the WDRs specifically state that "[t]he Discharger plans to increase production by up to 65 percent in the future…." (WDRs, ¶ 28.) The Cooling Pond is part of the facility production process. (See, 1995 WDRs ¶ 3; WDRs ¶ 16; and Attachment C (Process Flow Diagram).) The expansion of the Cooling Pond from 60 acres to 100 acres represents a 65% increase in the Cooling Pond size. Prior to issuance of the 2013 WDRs, Morning Star notified Regional Board staff of its intent to increase production by 65% so that the production increase could be accounted for in the 2013 WDRs. Morning Star's intent was to ensure that the WDRs accounted for a 65% increase in its entire production process, which includes the Cooling Pond. Indeed, the Cooling Pond is a surrogate for cooling towers or some other mechanical method of

cooling the process water prior to recycling it back into the process. (1995 WDRs, ¶ 3; WDRs ¶ 16 and Attachment C; MS Exhs. K and O.) While the Cooling Pond has the potential to discharge wastewater and is, therefore, regulated by the WDRs, it is not operated as a wastewater disposal pond. (1995 WDRs, ¶ 3.)

The Tentative CDO also asserts that the expansion of the Cooling Pond at the expense of decreasing the size of the LAA is a "material change in the character, location, or volume of discharge" requiring submittal of a new Report of Waste Discharge. (Tentative CDO, ¶ 20.) As noted, the WDRs contemplated this expansion and, therefore, a new Report of Waste Discharge was not required. Moreover, the Cooling Pond expansion does not represent a "material change in the character, location, or volume of discharge." The expansion of the Cooling Pond did not change the character of the wastewater, nor did it change the volume of wastewater being discharged. In fact, discharge volume to the LAA decreased by one-third. As to location, the expanded Cooling Pond is located in an area that was previously used for land application and, therefore, authorized to receive wastewater application. (Tentative CDO, ¶ 21.) In fact, the quality of wastewater in the expanded Cooling Pond area is much better than the quality of wastewater authorized by the WDRs to be applied to this land as part of the LAA. (MS Exhs. K and O.)

The Tentative CDO incorrectly assumes that expansion of the Cooling Pond and associated removal of approximately 90.5 acres of LAA allowed for increased wastewater discharges to the Cooling Pond and the potential to impact groundwater. (MS Exhs. J, K, N and O.) This assumption is not supported by any evidence and groundwater data demonstrates that the Cooling Pond Expansion does not impact groundwater. (MS Exhs. K, N and O.) Because the Cooling Pond expansion was contemplated by the WDRs, does not result in a material change to the character, location or quantity of discharge, and has no impact on water quality, expansion of

the Cooling Pond does not violate the WDRs. The Cooling Pond attributes should improve groundwater quality and current evidence is that this is the case.

2. The WDRs Do Not Require Use of the Entire 695 Acres

In addition, the Tentative CDO improperly requires Morning Star to apply wastewater to the entire 695 acres of its facility. Paragraph 22 of the Tentative CDO asserts: "applying wastewater to 485 acres rather than the entire 695 acres is a violation of Prohibition A.3 and Standard Provision A.4 of the 2013 WDRs." (Tentative CDO, ¶ 22, emphasis added.)

Contrary to the statements in the Tentative CDO, there is nothing in the WDRs that specifically requires Morning Star to apply wastewater to the entirety of the 695 acres of the LAAs. Finding 19 of the WDRs states that "[a]pproximately 695 acres of LAAs are ***available*** for irrigation with wastewater from the Settling Pond and/or Cooling Pond." (WDRs, ¶ 19, emphasis added.) Finding 60(f) also states, "[a]pproximately 695 acres of ***LAAs are available***. Crops are grown on the LAAs and will take up the nutrients found in the wastewater if wastewater application rates are carefully controlled." (WDRs, ¶ 60f, emphasis added.)

In each of these references to the 695 acres of LAAs, the WDRs specifically state that the entirety of the LAAs is *available for irrigation.* Nowhere in the Findings or elsewhere in the WDRs is there a requirement that Morning Star irrigate **all** 695 acres of LAAs. Indeed, it is standard for WDRs to cover all the area that might be used for wastewater disposal because disposal in an area not identified in the WDRs would be a violation. Specifying all acreage available for disposal, however, is not a mandate that every acre must be used for disposal. Similarly, the Tentative CDO incorrectly states that the "Anti-degradation Analysis discussion in the WDRs is based on the 60 acre Cooling Pond and application of wastewater to the entire 695 acres." (Tentative CDO, ¶ 17.) This is a gross mischaracterization of the WDRs. The Anti-degradation analysis in the WDRs does not specifically reference the 60 acre Cooling Pond or

application of wastewater to the *entire* 695 acres of LAA. (WDRs, ¶¶ 55- 62.) The Anti-degradation analysis in the WDRs discusses that there is no plan for *expansion* of the LAAs, but does not address reduction of the LAA area. (WDRs, ¶ 58(b), (c), (d).) Moreover, the analysis makes clear that the BOD loading rate is the means to achieve compliance with the Anti-degradation policy with respect to manganese and nitrogen. (WDRs, ¶ 58 (c), (d), (e).) The *availability* of 695 acres is one method to achieve the loading rates, but if loading rates can be achieved with less acreage, there is nothing in the WDRs requiring use of all 695 acres.

3. The Tentative CDO Violates Water Code Section 13360

In addition to this factually incorrect assessment of the WDRs, the Board cannot require irrigation of all available acreage because the Board has no authority to designate the manner of compliance. Section 13360 of the Water Code states:

> (a) No waste discharge requirement or other order of a regional board or the state board or decree of a court issued under this division shall specify the design, location, type of construction, or particular manner in which compliance may be had with that requirement, order, or decree, and the person so ordered shall be permitted to comply with the order in any lawful manner.

Paragraph 22 of the Tentative CDO specifically describes the manner in which Morning Star shall comply with the WDRs by specifying that all 695 acres must be used for land application, regardless of whether Morning Star can meet the discharge requirements by irrigating less land.

"Section 13360 of the Water Code is a shield against unwarranted interference with the ingenuity of the party subject to a waste discharge requirement…it preserves the freedom of persons who are subject to a discharge standard to elect between available strategies to comply with that standard." (*Tahoe-Sierra Preservation Council v. State Water Resources Control Board* (1989) 210 Cal.App.3d 1421, 1438.) In this instance, Morning Star has successfully implemented

a water conservation strategy that significantly reduces water use in the process. Reduced flows translate to less water available for irrigation and less LAA required to dispose of the wastewater.

Therefore, it is inappropriate for the Tentative CDO to specify that Morning Star irrigate every acre *available* for irrigation. The WDRs do not require irrigation of all available acreage and the Board may not dictate the manner in which Morning Star achieves compliance with its discharge requirements. Dictating how many acres Morning Star must irrigate is a violation of section 13360. For instance, the WDRs provided for 4.3 MGD on 695 acres, or 6,187 gallons/acre/day. In 2015, Morning Star applied 1.6 MGD on 485 acres, or 3,300 gallons/acre/day, which is nearly half what is contemplated in the WDRs.

B. Discharge of Organic Waste to the Cooling Pond is Not Unauthorized

The Tentative CDO alleges that discharge of organic waste to the Cooling Pond is unauthorized. (Tentative CDO, ¶¶ 30, 33, 35.) However, the Cooling Pond is primarily used to cool condensate process water from the evaporation process prior to recycling back to the production facility and, as a matter of normal operation, the condensate can contain low concentrations of organic compounds in vapor carryover from the tomato paste. (MS Exh. L, p. 1.) This process was documented in the 1995 Report of Waste Discharge and WDRs (Prosecution Exh. 1; 1995 WDRs, ¶ 3, Attachment A, Information Sheet; see also Prosecution Exh. 3, ¶ 4), and was not modified in the 2005 Report of Waste Discharge. For reasons unclear to Morning Star, the 2013 WDRs lack clarity regarding the small amounts of organic waste that enter the Cooling Pond as part of the normal Facility process.

While Morning Star acknowledges that an anomalous event occurred during startup of the 2015 processing season, which resulted in greater amounts of organic matter being misdirected to the Cooling Pond, this event was a one-time occurrence that was immediately corrected.

Of significance is that the Facility process has always resulted in small amounts of organic matter entering the Cooling Pond and it is not possible to operate the Facility without that occurrence. For this reason, Morning Star requests modification to the Tentative CDO prohibition on discharge of any organic matter to the Cooling Pond. (Tentative CDO, ¶ 6.)

C. The Tentative CDO Overstates Odor Issues

The Tentative CDO fails to acknowledge that the odor issues in the 2015 processing season were due primarily to transitional issues with startup of the expanded processing facility, as well as the water conservation measures that were implemented by Morning Star. (Prosecution Exh. 26; MS Exh. L, p. 2.) Moreover, the Tentative CDO overstates the odor occurrences, by listing each complaint separately, even where complaints were made on the same days, and by listing Morning Star's self-reporting in the same table as the odor complaints. In fact, there were only seven instances of public odor complaints during the 2015 processing season, and only two self-reported instances that received a medium rating. (MS Exh. L, pp. 3-6.) All other self-reported odor incidences were reported as none to slight. (*Id.*) The reports of odors do not rise to the level of nuisance as defined in Water Code section 13050(m). (See, e.g., Prosecution Exh. 16.)

Despite the fact that the Tentative CDO significantly overstates the extent of the odor issues in the 2015 processing season, Morning Star proposes to implement an odor monitoring and mitigation program beginning with the 2016 processing season as an extra safety measure, and beyond, if warranted. The Facility does not have a notable history of odor issues (MS Exh. L at pp. 6-11.)

D. The Tentative CDO Overstates Dissolved Oxygen Issues

Morning Star objects to the characterization of inappropriate sampling methods in the Tentative CDO. (Tentative CDO, ¶ 49.) Morning Star collected dissolved oxygen ("DO")

samples based on the manufacturer's recommended procedures, which resulted in consistent DO readings above 1.0 mg/L. (Prosecution Exh. 23.) Lab results for DO were also consistently above 1.0 mg/L. (Prosecution Exh. 35.) Morning Star also objects to the reference in footnote 9 of the Tentative CDO to support the statement that the Cooling Pond DO concentration would be significantly greater than 1.0 mg/L if there were no organic matter in the Cooling Pond. (Tentative CDO, ¶ 33.) The support for this statement is a study on freshwater, not wastewater, and therefore provides no relevant information regarding the likely DO concentrations associated with a cooling pond used for a tomato processing facility.

E. Expansion of the Settling Pond Does Not Violate the WDRs

As the Tentative CDO acknowledges, the Settling Pond was expanded *prior to issuance of the applicable WDRs.* (Tentative CDO, ¶ 57.) The failure of the WDRs to accurately describe the size and capacity of the Settling Pond is an oversight and technical error, but does not have any impact to groundwater quality and should not form the basis for a penalty.

Morning Star submitted a Report of Waste Discharge to support the existing WDRs in 2005. For seven years, Regional Board staff took no action on the Report of Waste Discharge and provided Morning Star no communication on its status. (Ex. B to MS Exh. 1.) It was not until 2012 that Regional Board permitting staff contacted Morning Star requesting additional information about the operations. Morning Star readily responded to all inquiries, but the modification to the Settling Pond was inadvertently overlooked during this process. Morning Star recognizes the importance of accurately describing its operations in a Report of Waste Discharge, but in this instance, the significant time lag and the lack of staff diligence to process the 2005 Report of Waste Discharge resulted in an oversight. Such an oversight reflects only a minor error in describing the size of the Settling Pond, without any impact to water quality as a result of such description error. (MS Exhs. K and P.)

As with the Cooling Pond, the Settling Pond expansion has no potential to negatively impact water quality. (MS Exhs. K and P; see also, Prosecution Exh. 49.) The 2013 WDRs acknowledged the Settling Pond's low risk to EC levels and, as a result, reduced the water quality monitoring requirements associated with the Settling Pond as compared to the prior WDRs. (1995 WDRs MRP; WDRs MRP.) Similarly, Regional Board staff made clear that they had no concerns regarding potential expansion of the Settling Pond when they testified at the hearing on the WDRs that "… we believe that it's, it's probably not a big deal to do some earth work and you know, make the pond a little bigger to accommodate a little more holding time." (Exh. D, pp. 20-21, to MS Exh. 1.) Discrepancy in the Settling Pond size described in the WDRs as compared to the actual facility was simply an oversight in preparation of the WDRs and the Settling Pond in its current configuration has no potential to impact water quality. Moreover, the modification of the Settling Pond occurred prior to issuance of the current WDRs and does not form a basis for enforcement under the current WDRs. (See, Wat. Code, § 13301.)

F. <u>The Effluent and Mass Loading Violations are Overstated</u>

As described in the Technical Memorandum regarding Land Application Loading Rates (MS Exh. J), the Tentative CDO overstates the number of instances when BOD loading rates were exceeded during the 2015 processing season. The Tentative CDO lists 27 overloading instances out of over 100 total irrigation cycles. However, the 27 instances were based on a loading calculation that did not coincide specifically to the requirements of the Monitoring and Reporting Program (MRP) for the WDRs. In particular, in several instances, the BOD loading was calculated based on irrigation of an individual check, rather than a total field area as required by the WDRs (WDRs, ¶ C.2.6.). (MS Exh. J, p. 4.) Further, two of the BOD samples were suspect. (*Id.* at p. 2.) Based on the revised calculations in accordance with the formula in the WDRs, there were only 15 instances of BOD overloading during the 2015 processing season. (*Id.*

at Table A-2.) The average loading rate for the entire season was only one-half the maximum limit of 100 lbs/acre/day.

The Tentative CDO assumes that the BOD overloading resulted from the decrease in LAA. (Tentative CDO, ¶ 23; Prosecution Team's Technical Analysis, pp. 3-4.) In fact, the BOD overloading did not directly result from reducing the LAA to accommodate the increased Cooling Pond size. Rather, the BOD overloading resulted from increased production, water conservation, and anomalous startup conditions, and the fact the BOD concentration levels cannot be confirmed for a couple weeks, due to the testing time. (MS Exh. J.) Even with the reduction in LAA, there is double the land available to meet the loading requirements of the facility. (*Id.*) In order to improve the reliability of overloading not occurring, Morning Star has agreed to a reduced flow limit in proportion to the reduced LAA area, and has proposed a real-time monitoring program using a surrogate for BOD to obtain better estimates of BOD loading rates and enabling correction of any potential loading issues. (MS Exh. J, p. 4.)

Similarly, the nitrogen overloading that is alleged in the Tentative CDO resulted from Morning Star test of planting rice in field MS 6 in the 2015 season. (MS Exh. J, p. 4.) Morning Star agrees not to plant rice in the future. (*Id.*)

G. <u>The Conclusions Regarding Groundwater Pollution Are Not Supported</u>

The Tentative CDO assumes that the reduction in LAA area and BOD overloading is causing groundwater impacts, particularly with respect to manganese. (See, e.g., Tentative CDO, ¶¶ 17, 18, 23, 66, 67.) As described in the Technical Memorandum - Groundwater Manganese in Land Application Areas dated January 8, 2016, however, this assumption is erroneous as multiple factors are likely to be impacting manganese levels in groundwater. (MS Exh. N.) Moreover, as described in Technical Memorandum No. 2, expansion of the Cooling Pond likely improved groundwater quality and the Settling Pond expansion did not adversely impact groundwater

quality. (MS Exh. K; see also, MS Exhs. O and P.) The Prosecution Team has failed to present evidence that the alleged violations have had or are likely to have an adverse impact on groundwater quality. The Prosecution Team has failed to present evidence that the alleged violations have an adverse impact on groundwater quality.

H. Solid Waste Is Managed to Prevent Impacts to Water Quality

The Tentative CDO includes allegations regarding tomato solids in ditches and acknowledges that this was the result of upset conditions during the 2015 processing season. (Tentative CDO, ¶¶ 77, 78.) Morning Star is implementing measures to reduce the potential for this condition to reoccur.

The Tentative CDO also addresses silage at the facility. (Tentative CDO, ¶ 82.) Morning Star has submitted a Silage Management Plan setting forth the measures that are in place and will continue in place to prevent any impacts to water quality from the silage operation. (MS Exh. M.)

I. The pH Violation Is an Anomaly

The pH violation noted in the Tentative CDO appears to be the result of a probe that was not calibrated. If properly calibrated, the pH violation would not have occurred and represents only one sample taken on a sampled day. (Prosecution Exh. 35.)

J. Morning Star Has Complied with Storm Water Requirements

With respect to the alleged violation regarding the General Permit for Storm Water Discharges Associated with Construction Activity, Morning Star submitted a Notice of Non-Applicability in October 2015. (Prosecution Exh. 35.)

III. CONCLUSION

For the foregoing reasons, Morning Star objects to the Tentative CDO and urges revisions consistent with those specified in Attachment A hereto.

DATED: January 13, 2016

STOEL RIVES LLP

By: _____
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ATTACHMENT A

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ORDER NO. R5-2016-XXXX

CEASE AND DESIST ORDER
FOR
MORNING STAR PACKING COMPANY, L.P.
AND FRED GOBEL
THE MORNING STAR TOMATO PACKING PLANT
COLUSA COUNTY

TO CEASE AND DESIST
FROM DISCHARGING CONTRARY TO REQUIREMENTS

The Regional Water Quality Control Board, Central Valley Region, (hereafter referred to as Central Valley Water Board or Board) finds that:

1. On 5 December 2013, the Central Valley Water Board adopted Waste Discharge Requirements (WDRs) Order R5-2013-0144 (the "2013 WDRs") for Morning Star Packing Company, L.P. and Fred Gobel (hereafter referred to jointly as "Discharger" or individually as "Morning Star" or "Gobel"). The WDRs prescribe requirements for the discharge of industrial wastewater to land, and replace the previous WDRs, Order 95-160. On January 6, 2014 the Discharger filed a Petition for Review with the State Water Resources Control Board challenging WDRs Order R5-2013-0144, which is still pending.

2. Morning Star Packing Company, L.P. owns and operates a tomato processing facility (Facility). According to the 2013 WDRs, the Facility includes approximately 609 acres of associated land application areas (LAAs or cropland). An additional 95 acres of LAA (known as "Field MS1") is owned by Fred Gobel and leased to Morning Star Packing Company, L.P. Both Morning Star and Fred Gobel are responsible for compliance with the WDRs.

3. The Facility, which consists of a tomato processing facility and associated LAAs, is located south of the City of Williams, east of Interstate 5, in Colusa County (Sections 19, 20, 29 and 30, T15N, R2W, MDB&M).

4. According to the 2013 WDRs, the Facility operates only during the tomato harvest season, from about June to mid-October each year, and is designed to ~~making~~ make tomato paste and diced tomatoes. There are five wastewater streams: tomato waste generated in the flume system, water softener reject, condensate from the evaporation process, boiler blowdown, and plant cleaning water. The tomato waste enters the Settling Pond. The water softener reject, condensate, and boiler blowdown wastes are directed to the Cooling Pond. Wastewater generated from sanitation or cleaning activities flows directly to the cropland. The 2013 WDRs state that the volume of the Settling Pond is 5 acre-feet, the volume of the Cooling Pond is 210 acre-feet, and that ~~wastewater is applied to~~approximately 695 acres of cropland is available for irrigation with wastewater at agronomic rates.

PREVIOUS ENFORCEMENT

9. On 27 January 2005, the Central Valley Water Board issued Cease and Desist Order (CDO) R5-2005-0003 to Morning Star Packing Company, L.P. and Fred Gobel. The CDO was issued for the following violations of WDRs 95-160:

   a. Discharges of wastewater to surface water.

   b. Failure to comply with the dissolved oxygen limit in the Settling Pond.

   c. Evidence that the discharge had degraded the groundwater with calcium, chloride, nitrate, sulfate, and total dissolved solids.

   d. Application of excessive levels of nitrogen and salts to the LAAs. Monitoring reports for the year 2004 reported that nitrogen loading rates ranged from 296 to 811 pounds per acre (lb/ac); however, few crops can consume more than 400 lb/ac of nitrogen per year. The total dissolved solids loading rates ranged from 5,600 to 14,800 lb/ac.

10. The Discharger submitted the reports required by the 2005 CDO and implemented facility and operational improvements. The CDO also established a loading rate for biochemical oxygen demand (BOD) of 100 pounds per acre per day or 300 pounds per acre per irrigation cycle. However, as discussed in the 2013 WDRs, compliance with the BOD and nitrogen loading rate limits has been inconsistent. The CDO was rescinded on 7 February 2014, after adoption of the 2013 WDRs.

VIOLATIONS OF THE 2013 WASTE DISCHARGE REQUIREMENTS

11. In August 2015, Board staff began receiving complaints of odors associated with Morning Star's operation. Staff inspected the facility on 20 August 2015, and subsequently issued a Notice of Violation (NOV) on 11 September 2015. The alleged violations included: (a) expansion of the Cooling Pond from 60 acres to 100 acres, (b) removal of 90.5 acres of land application area, (c) discharge of organic matter (tomato juice) directly into the Cooling Pond (d) discharge of tomato solids into the ditches used to convey wastewater to the cropland, (e) off-site odors, (f) dissolved oxygen violations, and (g) pH violations. These violations, as well as others discovered during a review of monitoring reports, are discussed below. The NOV required a response, which Morning Star submitted on 1 October 2015. The response was inadequate to ensure that Morning Star would return to compliance with the 2013 WDRs in a timely manner and therefore this Cease and Desist Order has been prepared.

    The following violations of the 2013 WDRs are discussed below:

    - Unpermitted expansion of the Cooling Pond and removal of the land application area
    - Unauthorized discharge of organic waste to the Cooling Pond
    - Odor violations

- Dissolved oxygen violations
- Unpermitted expansion of the Settling Pond
- Effluent and mass loading limit violations
- Groundwater pollution
- Solid waste management violations
- pH effluent limit violations
- Stormwater violations

Unpermitted Expansion of the Cooling Pond and Removal of Land Application Area (Cropland)

12. Discharge Prohibition A.3 of the WDRs states: "Discharge of waste at a location or in a manner different from that described in the Findings is prohibited."

13. Discharge Specification D.3 of the WDRs states that "Wastewater treatment, storage, and disposal shall not cause pollution or nuisance as defined by Water Code section 13050."

14. Standard Provision A.4 of the 2013 WDRs states: "Before making a material change in the character, location, or volume of discharge, the discharger shall file a new Report of Waste Discharge with the Regional Board."

15. The WDRs state that the Cooling Pond is 210 acre-feet in volume and 60 acres in size.[1] The Cooling Pond is not lined and the base of the pond is approximately 1.7 to 3.2 feet above groundwater.[2] The Cooling Pond receives ~~water softener reject,~~ condensate from the evaporation process~~, and boiler blowdown~~. Water softener reject and boiler blowdown were previously directed to the Cooling Pond, but were redirected several years ago and now boiler blowdown is only directed to the Cooling Pond during upset conditions. ~~are high strength wastes; Finding 18 of the 2013 WDRs shows that the electrical conductivity of the water softener reject ranges from 850 to 8,600 mg/L. Finding 17 of the WDRs states that the boiler blowdown has an average electrical conductivity of 1,200 to 1,400 umhos/cm.~~ It is appropriate for the Board to regulate the waste entering the Cooling Pond because it has the potential to impact groundwater and surface waters.

16. According to the Facility Site Plan (Attachment B of the 2013 WDRs), the Cooling Pond is directly north of the plant and south of Fields MS20 and MS21, and shows that the pond is 60 acres in size. The 2013 WDRs state that approximately ~~wastewater is applied to~~ 695 acres of cropland is available for irrigation with wastewater.[3]

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[1] Finding 12 and Attachment B.
[2] Calculated using toe-of-berm elevation data provided in the engineering drawings included as Attachment A to the 1 October 2015 NOV response, and groundwater elevation data provided in Morning Star's First Quarter 2015 Groundwater Monitoring Report. The data includes: (a) a toe-of-berm elevation of 87.87 feet from a location along the southeastern portion of the pond near monitoring well MW 3, (b) a toe-of-berm elevation of 86.44 feet from a location along the northwest corner of the pond near MW 5, and (c), groundwater elevations of 86.22 feet for MW 3 and 83.27 feet for MW 5.
[3] Findings 19, 28, and 60; Information Sheet.

17. The Anti-degradation Analysis discussion in the WDRs ~~is based on the 60 acre Cooling Pond and application of wastewater to the entire 695 acres. The analysis~~ identifies five specific constituents of concern that have the potential to degrade groundwater quality: total dissolved solids (TDS), chloride, nitrate, iron, and manganese. With respect to manganese, excessive BOD loading rates can deplete oxygen resulting in anoxic conditions that can solubilize naturally occurring metals in soil, like manganese. The WDRs assume BOD overloading to the cropland has caused reducing conditions that favor dissolution of manganese from native soil. This assumption is challenged in the Petition for Review of the WDRs. The analysis in the WDRs attributes these conditions to extended periods of soil saturation with high BOD wastewater ~~which~~ and assumes this has caused and/or contributed manganese concerns in groundwater. However, elevated levels of manganese have been found in Central Valley shallow aquifers related to rice farming. Also, elevated levels of manganese at the site have been correlated to reduced groundwater levels as a result of the drought. Additionally, with respect to nitrates, the historic ~~over~~ uneven application of wastewater to the cropland has resulted in uneven nutrient loading with some fields receiving more nitrogen than is reasonably expected to be consumed by the crop.

18. During the 20 August 2015 inspection, Board staff observed that the Cooling Pond had been expanded and that LAAs MS20A, MS20B, and MS21, a total of 90.5 acres, had been removed because of the Cooling Pond expansion. The Morning Star representative verbally indicated that the pond had been expanded from 60 acres to approximately 100 acres.[4] The increased size of the Cooling Pond allows for (a) increased production, (b) increased discharge of wastewater to this pond, and (c) the potential to further impact groundwater ~~beyond what was discussed in the Anti-degradation Analysis~~. The potential groundwater impacts consist of ~~are two-fold: there is~~ an increase in the volume of wastewater which can percolate directly into the groundwater from the Cooling Pond ~~and there is a decrease in cropland on which to spread the waste at agronomic rates~~.

19. The Discharger did not submit a new Report of Waste Discharge ~~or provide any notice~~ to the Water Board prior to expanding the Cooling Pond and removing 90.5 acres of LAA cropland. Based on information provided by Morning Star in response to the Notice of Violation, the Cooling Pond expansion appears to have been completed in the spring of 2015.

~~20. The expansion of the Cooling Pond is a violation of Prohibition A.3, Discharge Specification D.3, and Standard Provision A.4 of the 2013 WDRs.~~

~~21.~~20. The Discharger includes a facility map as Attachment D in its monthly monitoring reports. A review of the reports submitted for April through September 2015 finds that for the months of April, May, and June, the map shows the Cooling Pond and fields as described in the WDrs. However, beginning with the July 2015 report, the map shows the expanded Cooling Pond and the removal of fields MS20A, MS20B, and MS21.

[4] The new size of 100 acres was verbally confirmed during a meeting with Morning Star on 2 November 2015.

~~22.~~21. The 2015 monthly monitoring reports also show that the Discharger did not apply wastewater to the Gobel property,[5] the 95 acre field known as MS-1. Morning Star did not submit a Report of Waste Discharge or otherwise notify Board staff that it planned to modify the acreage to which it is applying wastewater. According to Morning Star's NOV response, for the 2015 tomato processing season, wastewater was only applied to 485 acres of cropland. ~~Applying wastewater to 485 acres rather than the entire 695 acres is a violation of Prohibition A.3 and Standard Provision A.4 of the 2013 WDRs.~~

~~23.~~22. Morning Star's NOV response also states that the average effluent BOD concentration increased from 600 mg/L in 2014 to approximately 1,769 mg/L in 2015. This resulted in a "net increase of BOD produced by the facility which was applied on a smaller LAA (600 acres to 485 acres)." Application of wastewater with increased BOD concentrations threatens to cause a condition of pollution in groundwater as BOD can trigger anoxic conditions that solubilize metals like iron and manganese in soil. ~~The application of wastewater to only 485 acres of cropland is a violation of Discharge Specification D.3, Standard Provision A.4, and as discussed below, a violation of Effluent Limits C.1 and C.2 of the 2013 WDRs~~.

~~24.~~23. The 11 September 2015 Notice of Violation required that Morning Star, among other items, provide a plan for how it would replace the 90.5 acres of cropland that had become part of the expanded Cooling Pond. Morning Star's 1 October 2015 response states that "the facility does not plan on replacing the fields replaced by the cooling pond at the current time. The existing flows can be applied to the 485 acres currently being utilized at agronomic rates." However, Morning Star has not submitted a Report of Waste Discharge to request that its WDRs be revised to allow the same volume of wastewater to be applied to 31% less land than is currently described in the WDrs. The Board's Anti-degradation Analysis, a necessary component of permitting a discharge of waste, is based on the use of 695 acres of cropland at rates consistent with crop demand.

~~25.~~24. This Order requires that Morning Star comply with WDRs Order R5-2013-0144 by ~~restoring the Cooling Pond to 60 acres and restoring the 90.5 acres of land application areas MS20A, MS20B, and MS21, as authorized in the WDrs. This restoration must be completed prior to the 2016 tomato processing season. In addition, this Order requires that the Discharger apply wastewater to the entire 695 acres envisioned in the WDRs, including the Gobel property~~implementing procedures to monitor BOD loading in real time and ensure compliance with the loading rates. This Order also requires Morning Star to pursue updated WDRs to accurately reflect the Cooling Pond size

Unauthorized Discharge of Organic Waste to the Cooling Pond

~~26.~~25. Discharge Prohibition A.3 of the WDRs states: "Discharge of waste at a location or in a manner different from that described in the Findings is prohibited."

[5] Wastewater was not applied to the Gobel property in 2014 or in 2015. During a 2 November 2015 meeting, staff was told that the reason this field was not used was that Morning Star could not obtain a lease for it.

~~27.~~26. Discharge Specification D.3 of the WDRs states "Wastewater treatment, storage, and disposal shall not cause pollution or nuisance as defined by Water Code section 13050."

~~28.~~27. Discharge Specification D.1 of the WDRs states "No waste constituent shall be release or discharged, in a concentration or in a mass that causes violation of the Groundwater Limitations of this Order."

~~29.~~28. Standard Provision A.4 of the 2013 WDRs states: "Before making a material change in the character, location, or volume of discharge, the discharger shall file a new Report of Waste Discharge with the Regional Board."

~~30.~~29. Finding 12 of the WDRs states that "The Cooling Pond receives water softener reject, condensate from the evaporation process, and boiler blowdown." Water softener reject and boiler blowdown have been redirected and now, boiler blowdown only enters the Cooling Pond during upset conditions. ~~According to t~~The WDRs~~,~~ do not clearly indicate that the Cooling Pond ~~does not~~ receives ~~any~~ wastewater containing organic matter. This is reflected in the fact that the only monitoring required for the Cooling Pond is flow, dissolved oxygen, pH, freeboard, and odors. However, inherent in the evaporative process, small amounts of vaporized water from tomato juice containing a very little solubilized sugars is found in the evaporator condensate and is directed to the Cooling Pond. In contrast, wastewater containing organic matter from tomato by-products is directed to the Settling Pond, and this pond must also be monitored for BOD, fixed dissolved solids, and total nitrogen.

~~31.~~30. When questioned about the August 2015 odor complaints, the Discharger stated that water containing organic matter (tomato juice) had been inadvertently pumped directly into the Cooling Pond. Prior to the 2015 tomato processing season, new evaporators were installed, which "discharged a condensate that had a higher than normal concentration of tomato material"[6] which entered the Cooling Pond. Morning Star states that it has now re-routed the condensate from that particular evaporator to enter the Settling Pond instead of the Cooling Pond.

~~32.~~31. During a meeting with Morning Star on 2 November 2015, staff learned that organic matter is routinely discharged to the Cooling Pond through the steam that is pulled off of the evaporators.[7] The system has been designed so that there's not a "significant amount" of organic matter discharged. The purpose of the Cooling Pond is to both cool water and to provide enough surface area to add enough oxygen to mitigate the BOD which enters it. ~~However~~Although this has historically been how the facility is operated, the WDRs do not ~~envision or allow~~clearly contemplate that any organic matter ~~to~~ will enter the Cooling Pond.

~~33.~~32. It appears that a ~~significant~~ higher than normal volume of tomato waste entered the Cooling Pond in 2015. The expanded Cooling Pond is 100 acres in size and ranges in

[6] Response to The Morning Star Packing Company, LP NOV dated September 11, 2015. Document dated 1 October 2015.
[7] "Summary of Meeting" memo from Wendy Wyels to Morning Star case file dated 3 November 2015.

depth from 3-4 feet at the southern end to 6-8 feet at the northern end.[8] The Discharger has not provided the maximum capacity of the pond, but it is estimated to be 550 acre-feet (as compared to the maximum capacity of 210 acre-feet described in the WDRs). ~~If there were no organic matter in the Cooling Pond, then it would be expected that the dissolved oxygen concentration would be significantly greater than the WDR limit of 1.0 mg/L.~~[9] ~~However, b~~Between 6 August 2015 and 14 October 2015,[10] ~~there~~ dissolved oxygen was measured at less than 1.0 mg/L ~~of dissolved oxygen 59% of the time~~on several occasions, and Morning Star representatives noticed that the pond had a ~~pink~~ dark color in early August. Because there is such a large volume of water in the expanded Cooling Pond and because the dissolved oxygen was ~~significantly~~ depressed for ~~so long~~some period of time, Board staff concludes that Morning Star discharged a large volume of organic material into the pond, in violation of Prohibition A.3, Discharge Specification D.3, and Standard Provision A.4 of the WDRs.[11] As discussed in Findings 17, 18, and 23, the Prosecution Team contends that this unpermitted discharge of tomato waste likely impacted groundwater, which is a violation of Discharge Specification D.1.

~~34.~~33. Because the Monitoring and Reporting Program does not require constituent monitoring of the Cooling Pond, it is not possible to determine the concentration of the organic material has been discharged into it.

~~35.~~34. This Order requires the Discharger to comply with its WDRs ~~and therefore prohibits the discharge of organic matter (tomato waste) into~~by implementing a Cooling Pond monitoring program that ~~the Cooling Pond~~. ~~To verify that no tomato waste enters the Cooling Pond, this Order~~ requires the Discharger to collect weekly wastewater samples from the influent into the Cooling Pond, and analyze the samples for BOD, FDS, and total nitrogen. The monitoring results are to be submitted with the monthly monitoring reports that are required by the MRP.

Odor Violations

~~36.~~35. Discharge Specification D.7 of the WDRs states: "Objectionable odors shall not be perceivable beyond the limits of the property where the waste is generated, treated, and/or discharged at an intensity that creates or threatens to create nuisance conditions."

~~37.~~36. Between 6 August and 14 August 2015, the Colusa County Environmental Health Department received five odor complaints from residents of the City of Williams. According to the complainants, the odors were the result of tomato processing operations

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[8] *Ibid.*

[9] ~~United States Geological Survey Water Supply Paper 2254, Study and Interpretation of the Chemical Characteristics of Natural Water, third edition, (page 155, Oxygen) "At 5°C in freshwater the equilibrium DO value is 12.75 mg/L. At 30°C the concentration is 7.54 mg/L." See: ttp://pubs.usgs.gov/wsp/wsp2254/pdf/wsp2254a.pdf.~~

[10] The date of the last Daily Update Assessment Report.

[11] See also Morning Star's 24 August 2015 response to Board staff's phone call regarding the odor complaints. The letter states that "we were discharging too much tomato organics into the cooling pond" as a result of a process change, and in addition "a major upset…necessitated a fast shutdown and the operating folks spilt a large tank into the cooling pond."

and discharges occurring at the Morning Star Packing Plant. These complaints were forwarded to Board staff on 7 August 2015 and 14 August 2015.

~~38.~~37. On 14 August 2015, in response to the complaints, Board staff contacted Morning Star via telephone to ask about the dissolved oxygen content in the Cooling Pond and Settling Pond and if anything unusual had occurred during the previous week. Morning Star stated in a follow-up phone conversation that the odors were from two sources: (a) water containing organic matter that was pumped into the Cooling Pond, and (b) a reduction in clean water used in the facility which resulted in higher strength wastewater in the Settling Pond. Staff informed Morning Star via telephone and e-mail that it must follow its permit requirements and submit a written report by 26 August 2015 describing in detail how the odor violations occurred, the steps to be taken to prevent odors in the future, and all analytical data (i.e. dissolved oxygen) collected during the odor events. In addition, Board staff requested that Morning Star submit Daily Update Assessment Reports describing odor conditions and the results of daily dissolved oxygen readings for the ponds.

~~39.~~38. Morning Star submitted Daily Update Assessment Reports between 18 August 2015 and 14 October 2015.[12] The reports contain the results of daily odor observations at four on-site locations[13] and seven off-site locations, as well as daily dissolved oxygen, pH, and EC results for the Settling and Cooling Ponds. The reports show that slight odors were consistently reported at the following offsite locations: Abel and Husted Roads to the northwest of the facility, Husted and the Interstate 5 overpass to the southwest, and to the west along old Highway 99.

~~40.~~39. On the morning of the 20 August 2015 site inspection, Board staff noted slight odors at the corner of Husted and Abel roads, located northwest of the facility.

~~41.~~40. On 22 September 2015, Board staff was informed by the City of Williams of an odor complaint that was reported on 10 September 2015. The City indicated that "…on 10 September 2015 late afternoon, I had people come into my office complaining heavily about the odor coming from Morning Star. Their main complaint was with this year's ponds and asked [sic] if they were putting anything in the new ponds to neutralize the odors. The smell occurs mid-afternoon and carries into the evening when everyone would like to enjoy outdoor activities but not now due to the smells. [sic]Said it will stop for a few days but would return again and the winds make smells worse. These complaints were from families living on Crawford Road.[14] They understood there will be odors due to the nature of the plant and had high regards for Morning Star but this year seemed excessive."

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[12] As allowed by Board staff, the reporting ended because Morning Star had achieved seven consecutive days of dissolved oxygen readings above 1 mg/L in the Cooling Pond and the Settling Pond had been drained.
[13] Morning Star considered the "Abel/Husted" location to be on-site. The point is at the northwest corner of the Gobel field. However, because wastewater was not applied to the Gobel field in 2014 or 2015, "Abel/Husted" is not an on-site location and is instead an off-site location.
[14] Crawford Road is northwest of the Morning Star facility.

~~42.~~41. On 22 September 2015, Colusa County Environmental Health Department reported two additional odor complaints that were received on 21 and 22 September 2015. The 21 September 2015 complaint was from the Valley Ranch area, and the 22 September 2015 complaint was from the Husted Road area. Both locations are northwest of the facility. The complainant from Husted Road indicated that there were a large number of flies in the area which did not allow the complainant to go outside. Each of the complaints indicated that the odors occurred during the evening hours.

~~43.~~42. On 28 September 2015, Board staff was informed by Colusa County Environmental Health of three separate odor complaints that occurred on 21, 25 and 27 September 2015. The odors were reported from a resident living on Butte View Drive, just northwest of the Morning Star Plant. The odors occurred from mid to late afternoon through the evening hours, up to approximately 10:00 pm.

~~44.~~43. Attachment A to this Cease and Desist Order summarizes the odor complaints received during Morning Star's 2015 tomato packing season~~, as well as the off-site odors reported by Morning Star. As shown in the Attachment A, for the period of 6 August 2015 to 12 October 2015, odors were reported for 47 days of the 67 days (70% of the time)~~.

~~45.~~44. Morning Star's 1 October 2015 response to the NOV states that the odors resulted from (a) an increase in BOD concentrations because less water was used at the facility than in previous years, (b) the higher-strength wastewater was applied to less cropland ~~(485 acres as compared to the 695 acres described in the WDRs)~~, and (c) a "difficult start-up of the facility". Morning Star states that it has planned improvements during the off season to capture more of the tomato product, install additional sprinkler irrigation, and install additional solids screening, and that these actions should reduce odors.

~~46.~~45. This Order requires Morning Star to address the odor issues by ~~completing a comprehensive review of the five waste streams, as well as the Settling Pond, Cooling Pond, irrigation ditches, and irrigation methods and propose specific improvements to prevent odor generation at each location. In particular, the review shall consider the need for additional aerators, dissolved aeration flotation (DAF) units, and screening at the Settling Pond, and at the Cooling Pond, aerators, screening, and a cooling tower, as well as methods to ensure that no organic waste enters the Cooling Pond. T~~implementing an Odor Monitoring and Mitigation Plan, which includes ~~his Order also requires Morning Star to conduct~~ real time odor monitoring during the 2016 processing season, and to take immediate actions if there are any off-site odors.

Dissolved Oxygen Violations

~~47.~~46. As stated in the Odor Violations section above, Discharge Specification D.7 states "Objectionable odors shall not be perceivable beyond the limits of the property where the waste is generated, treated, and/or discharged at an intensity that creates or threatens to create nuisance conditions."

~~48.~~47. Discharge Specification D.8 of the WDRs states: "As a means of discerning compliance with Discharge Specification D.7, the dissolved oxygen (DO) content in the upper one

foot of any wastewater pond shall not be less than 1.0 mg/L for three consecutive weekly sampling events. If the DO in any single pond is below 1.0 mg/L for three consecutive weekly sampling events, the Discharger shall report the findings to the Regional Water Board in writing within 10 days and shall include a specific plan to resolve the low DO results within 30 days."

~~49.~~48. A review of Morning Star's 2014 monthly monitoring reports show that Morning Star consistently reported the DO concentration above the 1.0 mg/L limit for both ponds. The same was true for the beginning of the 2015 processing season. However, during the 20 August 2015 inspection, staff observed the Morning Star technician's process for measuring DO, and determined that Morning Star had been collecting DO samples in a manner that allowed extra oxygen to enter the waste prior to the measurement.[15] This inappropriate sampling method[16] calls into question the DO results that have previously been reported by Morning Star.

~~50.~~49. In response to Board staff's request, Morning Star began collecting daily DO readings in the Settling Pond and Cooling Pond on 6 August 2015. These Daily Assessment Reports contain DO results for samples collected by three different methods: "direct DO", "grab DO", and "lab grab DO". The "grab DO" method uses the inappropriate collection method described in the above Finding and therefore these values cannot be used for compliance determination. The "lab grab DO" results are samples which were collected by analytical laboratory staff with the grab method and then analyzed onsite with the laboratory's equipment. These values cannot be used to determine compliance because the collection method was inappropriate. The only samples which Board staff are fairly confident were collected and analyzed correctly are the "direct DO" samples, in which the DO probe was lowered into the pond and the concentration was determined while the probe was in the pond. However, the manufacturer of the DO probe used to collect the direct DO samples has advised Morning Star that the probe is not intended to be used in this manner.

~~51.~~50. A review of the "direct DO" results reported in the Daily Assessment Reports for the period of 6 August 2015 through 29 September 2015[17] shows that the DO in the Settling Pond exceeded 1.0 mg/L for 42 of 54 days, or 78% of the time. A review of the same reports for the period of 6 August 2015 through 12 October 2015[18] shows that the DO in the Cooling Pond exceeded 1.0 mg/L for 41 of 69 days, or 59% of the time. Coupled

[15] As described in staff's 11 September 2015 inspection report, "Grab samples were collected using a glass bottle attached to a pole which was submerged one foot below the surface. The sample was then poured into a plastic bottle and the DO measurement was taken." The act of pouring the sample into a bottle introduces oxygen and provides an erroneous (too high) result. This is validated in staff's inspection report which states that the DO measurements taken from the bottle sample ranged from 1.12 to 3.38 mg/L, awhile the DO measurements taken by dropping the probe directly into the pond water were all less than 1.0 mg/L .

[16] See for example, the US EPA discussion on how to sample dissolved oxygen at: http://water.epa.gov/type/rsl/monitoring/vms52.cfm. See also US EPA's standard operating procedures in the document titled "Field Measurement of Dissolved Oxygen", available at: http://www2.epa.gov/sites/production/files/2015-06/documents/Field-DO-Measurement.pdf.

[17] The date that the Settling Pond was drained.

[18] The date that Board staff agreed that daily monitoring could be discontinued.

with the odor complaints and off-site odor monitoring, this data shows that Morning Star violated Discharge Specification D.8 of the WDRs.

52.51. Morning Star's 1 October 2015 response to the NOV states "a DO study will be performed to determine if additional aeration is required to keep the DO levels above 1.0 mg/L." The response also states that the Discharger is investigating which brand of aerator has the most efficient method of oxygen transfer. During the 20 August 2015 inspection, Board staff observed one aerator in the Settling Pond and no aerators in the Cooling Pond. It is noted that installation of the single aerator in the Settling Pond was the Discharger's method to address the DO violations described in the 2005 CDO.

53.52. During the 20 August 2015 inspection, Board staff observed that Morning Star's technician collected a DO sample from the Settling Pond in a location different than that required by the Monitoring and Reporting Program, i.e., "opposite the inlet". The sample was collected in a location that would have the most aerated water, and was not representative of the wastewater in the entire pond. In response to the 11 September 2015 Notice of Violation, Morning Star submitted Standard Operating Procedures for collecting and measuring dissolved oxygen. However, this document needs to be updated to reflect sampling locations and proper sample collection. This Order requires the submittal of Sampling and Analysis Plan for sample collection and measurement of dissolved oxygen[19], as well as other constituents which are measured with hand-held meters.

54.53. This Order requires the Discharger to submit a Dissolved Oxygen Compliance Feasibility Study evaluating and describing the improvements that are needed to meet the DO requirements described in Discharge Specification D.8 of the WDrs.

Unpermitted Expansion of Settling Pond

55.54. According to Morning Star's 12 January 1995 letter submitted with its Report of Waste Discharge,[20] the Settling Pond was 40,000 square feet (0.92 acres in size), with a depth of 5 feet. The volume was therefore 4.6 acre-feet. However, Findings 12-13 of the 2013 WDRs states that the Settling Pond has a capacity of 5 acre-feet (i.e., 1 acre in size by 5 feet deep). The Findings also state that the pond and was constructed with clay soils compacted in lifts.

56.55. Based on observations during the 2 November 2015 inspection, staff suspected that the Discharger increased the size of the Settling Pond beyond the 5 acre-foot volume. Subsequent to this inspection, Board staff confirmed the probable size increase by reviewing photos taken during previous inspections and a Google Earth aerial image

[19] Standard operating procedures prepared by the U.S. Environmental Protection Agency, titled "Field Measurement of Dissolved Oxygen" are available at: http://www2.epa.gov/sites/production/files/2015-06/documents/Field-DO-Measurement.pdf.

[20] 12 January 1995 letter Description of Liquid Waste Discharge to Land by The Morning Star Packing Company Tomato Processing Facility in Williams, California.

dated 10 July 2013.[21] On 3 November 2015, Morning Star was issued a California Water Code Section 13267 Order to provide the current capacity of the Settling Pond.

~~57.~~56. On 13 November 2015, Morning Star responded to the 13267 Order. A registered engineer determined that the top of the Settling Pond is now 440 feet by 196 feet (1.98 acres) by 7.65 feet deep (allowing for two feet of freeboard). The current volume of the Settling Pond is 10.16 acre feet.[22] The document also references "the 2011 staking plans for the pond expansion." Apparently, the pond was expanded in 2011, yet Morning Star did not communicate this to the Board's Permitting staff when the updated WDRs were being prepared in 2013. The Anti-degradation Analysis of the 2013 WDRs is based on a 5 acre-foot Settling Pond, not a 10.16 acre-foot Settling Pond.

~~58.~~57. This Order requires ~~that, prior to the 2016 processing season,~~ Morning Star ~~restore the Settling Pond to the volume allowed by the 2013 WDRs~~to pursue updated WDRs to accurately reflect the Settling Pond size.

Effluent and Mass Loading Limitation Violations

~~59.~~58. Effluent and Mass Loading Limitations C.2 of the WDRs states: "Wastewater applied to each LAA field shall not exceed the following mass loading limits:

Constituent	*Units*	*Maximum*	*Annual Maximum*
Total Nitrogen Mass Loading	*lb/ac/year*	--	*Crop Demand*
BOD Mass Loading[1]	*lb/ac/day*	*100*[2]	--

[1] *Based on all sources, including residual solids, commercial fertilizers and cattle manure, as well as water from the Settling Pond and plant sanitation and cleaning activities.*

[2] *This limit applies as an irrigation cycle average. For the purpose of this Order, "irrigation cycle" is defined as the time period between the start of an irrigation event for a single field and the start of the next irrigation event for the same field."*

~~60.~~59. The July through September 2015 monthly monitoring reports report that the BOD mass loading concentrations exceeded 100 lb/ac/day irrigation cycle average ~~numerous~~ several times.~~, as shown in the table below:~~ The dates on which application exceeded the limits is documents in the Discharger's Technical Memorandum - Land Application Loading Rates, dated 8 January 2016.

~~Field~~	~~Dates On Which Application Exceeded the Effluent Limit of 100 lb/ac/day~~	~~BOD Loading Rate (lb/acre/day)~~
~~MS2~~	~~28 to 29 August~~	~~109~~
~~MS3~~	~~29 to 30 August~~	~~153~~

[21] See a 4 November 2015 memo from Howard Hold to Morning Star case file titled "Settling Pond Expansion."
[22] See the 16 November 2015 memo from Howard Hold and Mike Fischer to Wendy Wyels titled "Settling Pond Seepage Increase Estimate, Morning Star Packing Company, Williams Facility, Colusa County."

~~MS6~~	~~8 to 14 August~~	~~134~~
~~MS6~~	~~23 to 26 August~~	~~195~~
~~MS11~~	~~8 August to 9 August~~	~~199~~
~~MS11~~	~~14 August to 19 August~~	~~146~~
~~MS15~~	~~17 August to 19 August~~	~~108~~
~~MS16~~	~~11 August to 13 August~~	~~134~~
~~MS16~~	~~13 August to 15 August~~	~~104~~
~~MS18a~~	~~14 August to 16 August~~	~~122~~
~~MS18a~~	~~17 August to 19 August~~	~~147~~
~~MS24~~	~~15 August to 18 August~~	~~118~~
~~MS24~~	~~21 August~~	~~118~~
~~MS2~~	~~16 to 17 September~~	~~127~~
~~MS5~~	~~8 to 9 September~~	~~155~~
~~MS14~~	~~8 to 10 September~~	~~216~~
~~MS14~~	~~12 to 18 September~~	~~198~~
~~MS14~~	~~18 to 20 September~~	~~113~~
~~MS14~~	~~23 to 25 September~~	~~118~~
~~MS14~~	~~27 to 30 September~~	~~103~~
~~MS15~~	~~15 to 16 September~~	~~192~~
~~MS15~~	~~23 to 25 September~~	~~150~~
~~MS16~~	~~13 to 15 September~~	~~131~~
~~MS16~~	~~15 to 16 September~~	~~151~~
~~MS16~~	~~24 to 26 September~~	~~138~~
~~MS18a~~	~~2 to 3 September~~	~~113~~
~~MS18b~~	~~25 to 26 September~~	~~154~~

~~61.~~60. A review of the January through September 2015 monthly monitoring reports shows that Morning Star has violated the nitrogen loading limit for field MS6. The field was double cropped with oats and rice, and Morning Star states that the crop demand is 225 lbs nitrogen/acre/year. However, through September 2015, Morning Star has applied 319 lbs/nitrogen/acre to this field, in violation of Effluent and Mass Loading Limitations C.2 of the WDRs.

~~62.~~61. This Order requires Morning Star to submit a technical report describing the improvements and operational changes that will be made prior to the 2016 processing season to reduce the BOD and nitrogen loading rates to meet the Effluent and Mass Loading Limitations C.2 of the WDRs.

Groundwater Pollution

Groundwater Limitation Violation for Manganese

~~63.~~62. Groundwater Limitations section E.1 of the 2013 WDRs states, in part, that "The release of waste constituents from any portion of the Facility shall not cause the groundwater to: 1. Contain any of the specified constituents in a concentration statistically greater than

the maximum allowable concentration tabulated below. The wells to which these requirements apply are specified in the Monitoring and Reporting Program."

~~64.~~63. The Applicability of Groundwater Limitations section of the Monitoring and Reporting Program contains, in part, the following:

Constituent	Groundwater Limitation	Compliance Wells to which Limitation Applies
Manganese	0.05 mg/L[1]	MW2, MW3, MW6, MW9
Manganese	Current Groundwater Quality[1,2]	MW7, MW8

[1] Compliance with this requirement shall be determined on an intrawell basis for each of the specified wells using approved statistical methods.

[2] "Current groundwater quality" means the quality of groundwater in the well as evidence by monitoring completed as of the date of the WDRs.

~~65.~~64. The Second Half Semi Annual 2015 Groundwater Monitoring Report contains historical tabulated monitoring well data. Manganese data for selected compliance wells are tabulated ~~below~~in the Discharger's Technical Memorandum - Groundwater Manganese in Land Application Areas, dated 13 January 2016. Note that only results from samples collected after issuance of the 2013 WDRs (5 December 2013) are provided. Upgradient well MW-5 shows a recent increase in manganese.

~~Well~~	~~Date~~	~~Manganese Concentration, mg/L~~	~~Groundwater Limit, mg/L[23]~~	~~Was Limit Exceeded?~~
~~MW-7~~	~~Dec-13~~	~~0.19~~	~~About 0.175~~	~~Yes~~
	~~Feb-14~~	~~0.27~~	~~About 0.175~~	~~Yes~~
	~~May-14~~	~~0.24~~	~~About 0.175~~	~~Yes~~
	~~Aug-14~~	~~0.26~~	~~About 0.175~~	~~Yes~~
	~~Nov-14~~	~~0.31~~	~~About 0.175~~	~~Yes~~
	~~Feb-15~~	~~0.31~~	~~About 0.175~~	~~Yes~~
	~~May-15~~	~~0.33~~	~~About 0.175~~	~~Yes~~
	~~Aug-15~~	~~0.69~~	~~About 0.175~~	~~Yes~~
~~MW-8~~	~~Dec-13~~	~~0.96~~	~~About 0.65~~	~~Yes~~
	~~Feb-14~~	~~1.18~~	~~About 0.65~~	~~Yes~~
	~~May-14~~	~~1.15~~	~~About 0.65~~	~~Yes~~

~~[23] Limits for MW-7 and MW-8 calculated per Morning Star's 1 July 2014 Groundwater Limitations Compliance Assessment Plan which states that the "current groundwater quality" (i.e., concentrations at the time the 2013 WDRs were adopted) is to be determined using the mean concentration with a confidence interval of the historical data. However, Morning Star did not propose a groundwater limit for wells MW-7 or MW-8. Therefore, staff used the Sanitas groundwater program to calculate the mean of the historical data but did not include a confidence interval. The "groundwater limit" for MW-7 and MW-8 is an approximation.~~

	~~Aug-14~~	~~1.33~~	~~About 0.65~~	~~Yes~~
	~~Nov-14~~	~~1.64~~	~~About 0.65~~	~~Yes~~
	~~Feb-15~~	~~1.73~~	~~About 0.65~~	~~Yes~~
	~~May-15~~	~~1.44~~	~~About 0.65~~	~~Yes~~
	~~Aug-15~~	~~1.34~~	~~About 0.65~~	~~Yes~~
~~MW-9~~	~~Dec-13~~	~~0.14~~	~~0.05~~	~~Yes~~
	~~Feb-14~~	~~0.10~~	~~0.05~~	~~Yes~~
	~~May-14~~	~~0.10~~	~~0.05~~	~~Yes~~
	~~Aug-14~~	~~0.19~~	~~0.05~~	~~Yes~~
	~~Nov-14~~	~~0.32~~	~~0.05~~	~~Yes~~
	~~Feb-15~~	~~0.23~~	~~0.05~~	~~Yes~~
	~~May-15~~	~~0.34~~	~~0.05~~	~~Yes~~
	~~Aug-15~~	~~0.37~~	~~0.05~~	~~Yes~~

~~66.~~65. The data in the above table shows that ~~Morning Star has violated~~ the manganese groundwater limitation has been exceeded in three monitoring wells. In addition, Morning Star's 2014 Annual Report states that the manganese concentrations in well MW-7 and MW-8 were not in compliance with the groundwater limitation (although Morning Star did not specify the limitation that they used to make this determination, and did not recognize that MW-9 also exceeded the specified limit). The 2015 groundwater data shows that there continues to be manganese pollution in all three wells. The Discharger has submitted technical reports indicating that the elevated levels of manganese cannot be fully attributed to the Discharger. Elevated levels of manganese in groundwater at the site may be attributed to one or a combination of: 1) higher than permitted BOD loadings, 2) drought-related effects, or 3) rice farming techniques.

~~67.~~66. As described in Finding 58.d of the WDRs, the wastewater is not expected to contain manganese. However, excessive loading of BOD onto the cropland can deplete oxygen in the soil resulting in anoxic conditions that can solubilize naturally occurring metals in the soil. ~~At the time t~~The WDRs ~~were adopted,~~assume overloading of BOD on cropland had already caused pollution in monitoring wells MW-7 and MW-8. The WDRs set a groundwater limit to prohibit any increase in pollution and set a protective BOD loading limit for the cropland. However, as discussed above, Morning Star has exceeded its BOD loading limit numerous times during the 2015 season, and the extent of manganese pollution in the groundwater has increased.

~~68.~~67. This Order requires that Morning Star take immediate steps to ~~reduce~~ address the manganese in the groundwater, including reducing the BOD loading to its fields.

Groundwater Trigger Violation for Total Dissolved Solids

~~69.~~68. The Groundwater Monitoring Section of Monitoring and Reporting Program (MRP) R5-2013-0144 includes groundwater trigger concentrations to be used in assessing whether the discharge has the potential to cause a violation of the Groundwater Limitations of the WDR. This section states that if the annual average of one or more

trigger concentrations are exceeded in any compliance well during a calendar year, then by 1 May of the following year, the Discharger shall submit a technical report describing the reasons for the increase and either (a) a demonstration that continuing the discharge with no change will not result in an exceedance of the groundwater limitation or (b) a plan to evaluate facility changes to prevent an exceedance of the groundwater limitation.

~~70.~~69. The 2014 Annual Monitoring Report states that no groundwater trigger concentrations were exceeded during 2014, based on the required semi-annual groundwater data. However, Board staff's calculation of the 2014 annual average TDS concentration for Monitoring Well MW-9, using quarterly groundwater data collected for the months of February, May, August, and November 2014, shows that in 2014 the annual average TDS concentration was 1,296 mg/L, which exceeds the trigger concentration limit of 1,200 mg/L for well MW-9.[24] The Prosecution Team contends Morning Star should have submitted the reports described in the above Finding, but did not.

~~71.~~70. The Second Half Semi Annual 2015 Groundwater Monitoring Report shows that well MW-9 is on track to again exceed the TDS trigger concentration. The average TDS concentration for the first three quarters of 2015 in well MW9 is 1,307 mg/L, which exceeds the trigger concentration of 1,200 mg/L.

~~72.~~71. The Prosecution Team takes the position that Morning Star has violated the MRP by not submitting the technical report(s) required when the 2014 groundwater trigger was exceeded in the quarterly monitoring data. The report for the 2015 trigger exceedance is not required until 1 May 2016. This Order requires that both reports be submitted.

Solid Waste Management Violations

~~73.~~72. Discharge Specification D.5 of the WDRs states: "The Discharger shall operate all systems and equipment to optimize the quality of the discharge."

~~74.~~73. Finding 60 of the WDRs states: "The Discharger currently provides treatment and control of the discharge that incorporates the following…b. Wastewater screening to reduce BOD."

~~75.~~74. Residual Solids Disposal Specification G.2 of the WDRs states, in part: "[s]ludge, solid waste, or residual solids shall be removed from screens, sumps, and ponds as needed to ensure optimal operation and adequate storage capacity."

~~76.~~75. Residual Solids Disposal Specification G.5 of the WDRs states in part: "Prior to the use of residual solids as a soil amendment on the LAAs… the Discharger shall obtain the Executive Officer's written approval of the Residual Solids Management Plan Provision H.3 …"

Tomato Solids in Ditches

[24] Morning Star made this determination based on the average concentration of two semi-annual data points. However, Morning Star collected quarterly samples, and therefore all four values must be used for the calculation.

~~77.~~76. During the 20 August 2015 inspection, Board staff observed tomato solids in the ditches used to transport the wastewater from the facility to the cropland. The tomato solids ~~are~~ can be a source of excessive BOD and odors, and should not be present in the irrigation ditches. The presence of the tomato solids is a violation of Discharge Specification D.5 and Finding 60 of the WDRs.

~~78.~~77. Morning Star states in its 1 October 2015 response to the NOV that "an investigation into the discharge of tomatoes to the ditches and settling pond determined that the removal of rock trap screens from the stream of water flowing to the rotary screens caused a large number of tomatoes to be discharged to the Settling Pond when the rock dump valves opened." In addition to removing the rock trap screen, there was also a timing issue with tomatoes being released from the streams to the conveyor belt. Morning Star states that it has replaced the screen and fixed the timing issue

~~79.~~78. The presence of tomato solids in the ditches is a violation of Discharge Specifications D.5 and G.2 of the 2013 WDrs. This Order requires that Morning Star take measures to prevent this discharge, conduct daily monitoring, and on a daily basis, remove and appropriately dispose of any tomatoes in the irrigation ditches.

Application of Residual Solids to Land

~~80.~~79. Morning Star has not submitted the Residual Solids Management Plan referenced in Provision H.3 of the WDrs. Therefore, Morning Star is not permitted to apply residual solids (including cull tomatoes, vines, and tomato pomace) to the LAAs. However, a review of the August 2015 and corrected September 2015 monthly monitoring reports show that Morning Star disposed of 1,215 tons of pomace and 1,215 tons of wet waste to field MS24. This disposal is in violation of Discharge Specification G.5.

~~81.~~80. During the 2 November 2015 meeting, staff learned that Morning Star's previous practice was to have its residual solids hauled off-site by a contractor. However, for 2015, ~~the hauler raised its price and~~ Morning Star ~~decided instead of hauling the residual solids off-site, that it would~~ mixed it with other materials ~~and~~ to make silage. Staff observed multiple large silage tubes on the south and east side of the property.

~~82.~~81. A review of the July through September 2015 monthly reports shows that 57,358,980 ~~tons~~ pounds of pomace and 52,839,832 ~~tons~~ pounds of wet waste were generated during this three month period. Of that, 1,200 ~~tons~~ pounds were applied to a field and the remaining 110 million ~~tons~~ pounds were made into silage. The WDRs do not discuss silage operations or provide any specification or monitoring to ensure that water quality is protected while conducting this type of operation. ~~The Discharger violated Discharge Prohibition A.3 and Standard Provision A.4 of the 2013 WDRs.~~

~~83.~~82. This Order requires that the Discharger ~~comply with its 2013 WDRs and therefore remove all silage from the property, not generate any more silage, and~~ submit the Residual Solids Management Plan so that residual solids may be applied to the fields in a manner that complies with the WDRs and comply with a Silage Management Plan.

pH Violations

~~84.~~83. Discharge Specification D.15 of the WDRs states: "Wastewater contained in the Cooling Pond shall not have a pH less than 6.0 or greater than 9.0. Wastewater contained in the Settling Pond shall not have a pH less than 4.0 or greater than 9.0."

~~85.~~84. Board staff's review of Daily Assessment Reports show that pH concentrations in the Settling Pond were reported at 3.9 pH units in samples collected on 5-7 September 2015.

~~86.~~85. Morning Star's 1 October 2015 response to the NOV states that the pH readings reported during this period were not accurate because the weekly calibration of the pH probe was found to be low by 0.13 pH units. The Discharger indicates that they have prepared a Standard Operating Procedure that requires recalibration of the pH meter when the reading is out of the specified range. This document has not been submitted to Board staff. Board staff recognizes that if this probe was out of calibration by 0.13 pH units low, compliance with WDR Discharge Specification D.15 would have been achieved.

~~87.~~86. This Order requires the Discharger to submit Sampling and Analysis Plan that includes specific calibration and sampling procedures for all hand-held meters, including the pH meter.

Storm Water Violations

~~88.~~87. Morning Star should have applied for coverage under the State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity (Order 2009-0009-DWQ) for the warehouse expansion project. However, it failed to do so.

~~89.~~88. This Order requires the Discharger to file a Notice of Intent to obtain storm water coverage under the State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity (Order 2009-0009-DWQ) for any future construction project that meet the conditions for coverage under the Construction General Permit.

~~90.~~89. Finding 68 of the 2013 WDRs states that Morning Star "prevents all storm water from leaving the tomato processing facility during the processing season" and therefore the Discharger is not required to obtain coverage under General Permit for Industrial Storm Water Discharges Associated with Industrial Activities (NPDES General Permit CAS000001). However, Morning Star has ~~significantly~~ expanded its facility. In addition, the State Water Board's Industrial Storm Water General Permit has been renewed (i.e., Order 2014-0057-DWQ) and contains new requirements. ~~This Order requires that Morning Star review the Industrial Storm Water General Permit and determine whether it must apply for coverage. If not, Morning Star must submit a Notice of Non-Applicability~~Morning Star has submitted a Notice of Non-Applicability.

REGULATORY CONSIDERATIONS

~~91.~~90. As a result of the events and activities described in this Order, the Central Valley Water Board finds that the Discharger has caused or permitted waste to be discharged in such a manner that it has threatened to create~~d~~, and continues to threaten to create, a condition of pollution or nuisance. The Board also finds that a discharge of waste is ~~taking place or~~ threatening to take place in violation of WDRs Order R5-2013-0144, as described in the Findings of this Order. This Order requires the Discharger to take appropriate remedial action and to comply in accordance with the time schedule set forth below.

~~92.~~91. The Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fourth Edition (hereafter Basin Plan) designates beneficial uses, establishes water quality objectives, contains implementation plans and policies for protecting waters of the basin, and incorporates by reference plans and policies adopted by the State Board. These requirements implement the Basin Plan.

~~93.~~92. Local drainage is to the Colusa Basin Drain. The beneficial uses of Colusa Basin Drain as stated in the Basin Plan, are agricultural supply; water contact recreation; warm freshwater habitat; migration of aquatic organisms; spawning, reproduction, and/or early development; and wildlife habitat.

~~94.~~93. The beneficial uses of the underlying groundwater, as specified in the Basin Plan are municipal, domestic, and industrial supply.

~~95.~~94. Section 13050(m) of the California Water Code defines "nuisance" as anything which meets the following requirements:

(1) Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

(2) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

(3) Occurs during, or as a result of, the treatment or disposal of wastes.

~~96.~~95. Section 13301 of the California Water Code states in part: "When a Regional Board finds that a discharge of waste is taking place or threatening to take place in violation of the requirements or discharge prohibitions prescribed by the regional board or the state board, the board may issue an order to cease and desist and direct that those persons not complying with the requirements or discharge prohibitions (a) comply forthwith, (b) comply in accordance with a time schedule set by the board, or (c) in the event of a threatened violation, take appropriate remedial or preventive action."

~~97.~~96. Section 13267(b) of the California Water Code states: "In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this

state person who has discharged, discharges, or is suspected of discharging, or who proposes to discharge waste outside of its region that could affect the quality of waters of the state within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports."

~~98.~~97. 98. The technical reports required by this Order are necessary to ensure compliance with this Order and WDRs Order R5-2013-0144, and to ensure the protection of water quality. The Morning Star Packing Company, LP and Fred Gobel own and operate the facility that discharges waste subject to this Order and WDRs Order R5-2013-0144.

~~99.~~98. The issuance of this Order is being taken for the protection of the environment and as such is exempt from provisions of the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) pursuant to California Code of Regulations, title 14, sections 15061 subdivision (b)(3), 15306, 15307, 15308, and 15321 subdivision (a)(2).

~~100.~~99. The 1995 WDRs state that Colusa County certified a Final Environmental Impact Report (EIR), in accordance with the California Environmental Quality Act (CEQA)(Pub. Resources Code, § 21000 et seq.) prior to the construction of the facility. The 2013 WDRs contain the same CEQA finding, and state that because the 2013 WDRs "do not envision or allow any significant change in the Facility or the discharge the action to update the WDRs is exempt from CEQA". Staff has contacted both the City of Williams and Colusa County and learned that Morning Star was issued building permits between 9 December 2014 and 4 July 2015 for the construction of footings and foundation to the building~~. However, there is no indication that Morning Star completed the CEQA process for the Cooling Pond expansion, the warehouse expansion, the removal of cropland, the expansion of the Settling Pond, or the silage operation. Therefore, it is appropriate that this Order require that Morning Star come back into compliance with its 2013 WDRs until it goes through the CEQA process and the Board adopts updated WDRs~~.

~~101.~~100. On _____, in Rancho Cordova, California, after due notice to the Discharger and all other affected persons, the Central Valley Water Board conducted a public hearing at which evidence was received to consider a Cease and Desist Order under Water Code section 13301 to establish a time schedule to achieve compliance with waste discharge requirements.

IT IS HEREBY ORDERED that, pursuant to Water Code Sections 13301 and 13267, Morning Star Packing Company, LP and Fred Gobel shall implement the following measures in order to comply with WDRs Order R5-2013-0144.

This Order requires submittal of technical reports. These technical reports shall contain the information and decisions required by the following paragraphs. If a report is submitted without the required information or decision, then the Discharger is in violation of this Order and subject

to additional enforcement action.

The Board has transitioned to a paperless office. Therefore, all technical reports required by this Order must be converted to a searchable pdf file and emailed to centralvalleysacramento@waterboards.ca.gov. The following information shall be included in the body of the email: Attention: Guy Childs, Compliance Section, Waste Discharge to Land Unit. In addition, include the Discharger name, facility name, county, and CIWQS place ID (272617) in the body of the email.

~~Restoring~~ Cooling Pond, ~~and~~ Settling Pond, ~~Replacing~~ LAAs, and ~~Use of Entire LAA Acreage~~BOD and Nitrogen Loading

1. **Effective immediately**, wastewater shall be applied to the ~~695 acres of~~available cropland described in the WDRs (485 acres owned by Morning Star as well as an additional 95 acres owned by Gobel, if available), in a manner that ensures the BOD and nitrogen loading rates in the WDRs are maintained~~, including LAAs MS20A, MS20B, and the Gobel property (field MS1)~~. Based on the availability of 485 acres of LAA, the average daily flow of industrial process wastewater to the LAAs shall not exceed the following limits (as defined in the WDRs):

Flow Measuresment	Flow Limit
Average Daily Flow	3.0 million gallons per day
Total Annual Flow	295 million gallons per year

2. By **1 March 2016**, the Discharger shall submit a ~~*Cooling Pond, Settling Pond, and LAA Replacement*~~*BOD Loading Workplan*. The Workplan shall contain a description of the ~~work and schedule for (a) restoring the Cooling Pond to its permitted size of 60 acres and volume of 210 acre-feet, (b) restoring the Settling Pond to its permitted volume of 5 acre-feet, and (c) restoring land application areas MS20A, MS20B, and MS21 (a total of 90.5 acres) for use as cropland. The schedule to complete the work shall not extend beyond **1 June 2016**~~methods and process the Discharger will implement during the 2016 production season to monitor BOD loading rates in real time. Specifically, the Workplan shall describe how the Discharger will conduct twice weekly brix testing and develop a correlation of the readings to the BOD concentrations in the wastewater. The Workplan shall describe how the Discharger will use the brix results to predict the BOD being applied and maintain BOD loading rate below 100 lb/acre/day.

~~3. **At least 15 days before beginning the restoration**, the Discharger shall file a Notice of Intent to obtain storm water coverage under the State Water Resources Control Board General Storm Water Permit 2009-0009-DWQ for the construction associated with restoring the Cooling Pond to 60 acres, the Settling Pond to 5-acre feet, and replacing LAAs MS20A, MS20B, and MS21.~~

~~4.~~3. The Discharger will not be required to use all available acreage if compliance with the loading rate is achieved~~By **15 June 2016**, the Discharger shall submit a *Cooling Pond, Settling Pond, and LAA Replacement Report of Results* showing that the Cooling Pond has been restored to its original size and volume, and that LAAs MS20A, MS20B, and MS21 have been replaced and planted with a crop~~.

4. **Effective immediately**, the Discharger shall not grow rice on the LAAs.

~~5. By **15 July 2016**, the Discharger shall submit a *Gobel Field Report* documenting that an agreement is in place to allow wastewater to be applied to the Gobel property, field MS1, during each processing season as long as WDRs Order R5-2013-0144 remains in effect.~~

Unauthorized Discharge of Organic Waste to Cooling Pond

~~6.~~5. ~~**Effective immediately**, this Order prohibits the discharge of organic matter (tomato waste) into the Cooling Pond.~~ By **15 May 2016**, the Discharger shall submit a *Cooling Pond Influent and Monitoring Report* documenting ~~the changes that have been made to the evaporation units and other facility processes~~the monitoring that will be conducted to ~~ensure that~~address the impacts of small amounts of organic matter ~~is not~~ discharged to the Cooling Pond. The report shall also clearly describe the waste streams which are directed to the Cooling Pond and provide estimated constituent concentrations for each waste stream.

~~7.~~6. Beginning **1 June 2016**, the Discharger shall collect samples from the influent to the Cooling Pond on a weekly basis. The samples shall be analyzed for BOD, FDS, total nitrogen, and the results submitted with the monthly monitoring reports required by the MRP.

Odor Monitoring and Mitigation

~~8. By **15 March 2016**, the Discharger shall submit a *Comprehensive Review of Odor Causing Conditions Report*. The review shall include an evaluation of the odor potential from each of the waste streams, the Cooling Pond, the Settling Pond, the solid waste, the irrigation ditches, and the irrigation methods. The review shall evaluate physical and chemical methods to ensure compliance, including the need for additional aerators, dissolved aeration flotation (DAF) units, and screening or other solids removal techniques at the Settling Pond, and at the Cooling Pond, aerators, screening, and a cooling tower, as well as methods to and methods to ensure that no organic waste enters the Cooling Pond. The review shall propose improvement(s) to be implemented prior to the 2016 processing season, and shall contain sufficient technical detail to demonstrate confidence that the proposed improvement(s) will prevent off-site odors. If desired, this report may be combined with the *Dissolved Oxygen Compliance Feasibility Study*.~~

~~9.~~7. ~~By **15 April 2016** t~~The Discharger shall ~~submit an~~implement the *Odor Identification and Mitigation Plan* dated 11 January 2016~~. The plan shall describe how the Morning Star facility and land application areas will be continuously monitored during the processing season using real time sensors, such as Odowatch© (or similar system for odor~~

~~monitoring) to identify the presence of nuisance odors associated with wastewater treatment and disposal. The plan must also include notification and corrective action procedures for Morning Star to follow when odors are identified~~.

~~10.~~8. By **15 June 2016**, the Discharger shall submit an *Implementation Report* certifying that ~~a real time continuous odor monitoring system has been installed in accordance with~~procedures are in place to implement the approved Odor Identification and Mitigation Plan. ~~The Discharger shall provide Water Board staff with log-in information so that staff can also review the real time data. The Report shall also describe the physical improvements that have been implemented as a result of the *Comprehensive Review of Odor Causing Conditions Report*~~.

~~11.~~9. Beginning **1 July 2016**, the Discharger shall submit monthly *Odor Monitoring Reports*. Each report shall cover the previous month, and shall include ~~odor plume maps and~~ a discussion of odors attributable to the processing facility and land application areas. If odors are present, then the report shall also describe the actions that Morning Star took in response reduce/prevent the odors. The reports shall be submitted from 1 July through 1 November each year, until this Order is rescinded or the Executive Officer determines that they are no longer necessary.

Dissolved Oxygen Compliance

~~12.~~10. By **15 March 2016**, the Discharger shall submit a *Dissolved Oxygen Compliance Feasibility Study* which evaluates physical and chemical improvements which would result the wastewater in the Settling Pond and Cooling Pond continuously meeting compliance with Discharge Specifications D.7 and D.8. The study shall also evaluate BOD reduction and solids screening as a method of reducing organic loading to aid in preventing odors and achieving the required dissolved oxygen content. The study shall propose improvement(s) to be implemented prior to the 2016 processing season, and shall contain sufficient technical detail to demonstrate confidence that the proposed improvement(s) will result in compliance. ~~If desired, this report may be combined with the *Comprehensive Review of the Odor Causing Conditions Report.*~~

Sampling and Analysis Plan

~~13.~~11. By **1 July 2016** the Discharger shall submit a *Sampling and Analysis Plan (SAP)* that describes specific sampling procedures for all samples required to be collected by the MRP, including groundwater samples. The SAP shall also describe the procedure and schedule for calibration of hand-held meters. The SAP shall document that dissolved oxygen shall be measured in situ (i.e., probes shall be lowered into the wastewater). The SAP shall also contain a discussion of the sampling location for each pond. Samples shall be collected at a location that complies with the MRP (i.e., at a depth of one foot, opposite the inlet).

~~BOD and Nitrogen Loading on the LAAs~~

~~14. By **1 July 2016**, the Discharger shall submit an *Effluent Loading Update* that documents the changes that the Discharger has made to ensure that, when irrigating with wastewater on its LAAs, it will comply with the BOD loading limit of 100 lb/ac/day and nitrogen loading limit of annual crop demand. In addition, the Discharger shall propose changes to the oversight of its irrigation practices, in particular, to determine in real-time whether overloading is occurring, or has the potential to occur, and the changes that will be made at that time to prevent overloading.~~

Groundwater Pollution

~~15.~~12. By **1 May 2016**, Morning Star shall submit the *Groundwater Trigger Reports* as required by the "Groundwater Trigger Concentrations" section of the MRP. The Reports shall be related to the TDS concentration in monitoring well MW-9 for 2014 and 2015. Morning Star shall submit both the Technical Evaluation and the Action Plan, with the content as described on page 6 of the MRP.

~~16.~~13. By **1 August 2016**, Morning Star shall submit a *Groundwater ~~Pollution Mitigation~~Evaluation Report* describing the ~~steps it has taken to prevent~~contributions to the elevated levels of manganese in groundwater ~~pollution by manganese~~. The report shall also ~~predict how long it will take~~address timing for manganese concentrations in the groundwater to return to background conditions, and the steps that Morning Star will take if concentrations do not begin to decline in a reasonable period.

Solid Waste Management

~~17.~~14. ~~**Effective immediately**, this Order prohibits the discharge of tomato solids to the irrigation ditches leading to the land application areas.~~ The ~~*Comprehensive Review of Odor Causing Conditions Report*~~*Identification and Monitoring Plan*, ~~due by **15 March 2016** (described above)~~ shall contain proposals for improving the screening operations ~~such that no~~to reduce tomato solids from enter the irrigation ditches. All improvements shall be in place prior to the 2016 processing season.

~~18.~~15. Beginning **1 June 2016**, the Discharger shall conduct daily inspections of all irrigation ditches, and shall record whether or not tomato solids are present. If so, the Discharger shall immediately remove the solids and dispose of them appropriately. The results of the inspections and removal activities shall be submitted with the monthly monitoring reports required by the MRP.

~~19.~~16. **Effective immediately**, the generation of silage on the Morning Star property ~~is prohibited~~shall be consistent with the Silage Management Plan submitted on 13 January 2016. All silage produced during the 2015 processing season shall be ~~removed no later than **1 August 2016**~~managed in accordance with the Silage Plan.

~~20.~~17. The *Residual Solids Management Plan* described in Provision H.3 of the WDRs shall be submitted by **1 July 2016**. Residual solid waste (including cull tomatoes, vines, and tomato pomace) may not be applied to the land application areas until the Executive Officer has provided written approval of the report.

Storm Water Permit Coverage

~~21.~~18. Morning Star shall review the Industrial Storm Water General Permit (Order 2014-0057-DWQ, the *General Permit for Industrial Storm Water Discharges Associated with Industrial Activities*) and determine whether it must apply for coverage or submit a Notice of Non Applicability. By **1 August 2016**, Morning Star shall submit proof that it either submitted a Notice of Intent or a Notice of Non-Applicability to the State Water Resources Control Board using the SMARTS database (https://smarts.waterboards.ca.gov/smarts/faces/SwSmartsLogin.jsp)

Other Requirements

As required by the California Business and Professions Code sections 6735, 7835, and 7835.1, all reports shall be prepared by, or under the supervision of, a California Registered Engineer or Professional Geologist and signed by the registered professional. Each technical report submitted by the Discharger shall contain the professional's signature and/or stamp of the seal.

As required by Provision F.6, of WDRs Order 5-00-142 and General Reporting Requirement B.3 of Standard Provisions and Reporting Requirements For Waste Discharge Requirements, all reports and transmittal letters shall be signed by either a principal executive officer of the corporation with at least the level of senior vice-president or a duly authorized representative in accordance with the WDRs, and any person signing a document submitted to comply with this Order shall make the following certification:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may refer this matter to the Attorney General for judicial enforcement or may issue a complaint for administrative civil liability.

Failure to comply with this Order or with the WDRs may result in the assessment of Administrative Civil Liability of up to $10,000 per violation, per day, depending on the violation, pursuant to the Water Code, including sections 13268, 13350 and 13385. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on _____ 2016.

_____
PAMELA C. CREEDON, Executive Officer

_____
(Date)

Attachment A: Summary of odor complaints

GJC/WSW: 20-Nov-15

ATTACHMENT A

The following table summarizes the odor complaints received during Morning Star's 2015 tomato packing season~~, as well as the off-site odors reported by Morning Star~~.

Date	Reporting Party	Location	Additional Information
6 August 2015	County Health	Not Given	Received complaint regarding odors from the Morning Star
11 to 14 August 2015	County Health	Not Given	Received complaints regarding odors from the Morning Star
20 August 2015	Board staff	Abel/Husted	Slight odor at 8:02 am
~~21 August 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~Slight odor at 12:10 pm~~
~~22 August 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~None to slight odor at 6:15 am~~
~~22 August 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Moderate odor at 6:15 am~~
~~22 August 2015~~	~~Morning Star~~	~~Valley Ranch Southeast~~	~~None to slight odor at 9:45 am~~
~~22 August 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~None to slight odor at 9:45 am~~
~~22 August 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~Slight odor at 3:10 pm~~
~~24 August 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~None to slight odor at 6:21 pm~~
~~25 August 2015~~	~~Morning Star~~	~~Valley Ranch Southeast~~	~~None to slight odor at 5:40 am~~
~~26 August 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 6:15 am~~
~~26 August 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 9:34 am~~
~~26 August 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 6:21 pm~~
~~27 August 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 7:41 am~~
~~27 August 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 1:35 pm~~
~~27 August 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 6:40 pm~~
~~28 August 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 7:10 am~~
~~28 August 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 10:40 am~~
~~28 August 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~None to slight odor at 5:49 pm~~
~~28 August 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 5:49 pm~~
~~29 August 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~None to slight odor at 5:10 am~~
~~29 August 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 5:10 am~~
~~29 August 2015~~	~~Morning Star~~	~~Chevron Station~~	~~None to slight odor at 10:50 pm~~
~~29 August 2015~~	~~Morning Star~~	~~Valley Ranch Southeast~~	~~None to slight odor at 10:50 pm~~
~~29 August 2015~~	~~Morning Star~~	~~Crawford &~~	~~None to slight odor at 10:50~~
~~29 August 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 10:50 pm~~
~~29 August 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 5:10 pm~~

Date	Reporting Party	Location	Additional Information
~~30 August 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 7:10 am~~
~~30 August 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 9:50 am~~
~~30 August 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 6:10 pm~~
~~31 August 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 6:15 am~~
~~31 August 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 2:00 pm~~
~~31 August 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~None to slight odor at 6:20 pm~~
~~31 August 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 6:20 pm~~
~~1 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 7:30 am~~
~~1 Sept 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~None to slight odor at 12:45 pm~~
~~1 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 12:45 pm~~
~~1 Sept 2015~~	~~Morning Star~~	~~Valley Ranch Southeast~~	~~None to slight odor at 6:05 pm~~
~~1 Sept 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~Slight odor at 6:05 pm~~
~~1 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 6:05 pm~~
~~2 Sept 2015~~	~~Morning Star~~	~~Valley Ranch Southeast~~	~~None to slight odor at 5:10 am~~
~~2 Sept 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~Slight odor at 5:10 am~~
~~2 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 5:10 am~~
~~2 Sept 2015~~	~~Morning Star~~	~~Valley Ranch Southeast~~	~~None to slight odor at 8:00 am~~
~~2 Sept 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~None to slight odor at 8:00 am~~
~~2 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 8:00 am~~
~~4 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~None to slight odor at 10:03 am~~
~~6 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 6:15 pm~~
~~7 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~None to slight odor at 7:35 am~~
~~7 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~None to slight odor at 10:50 am~~
10 Sept 2015	City of Williams	Crawford Road	Several people complained that day; reported odors for multiple days
~~13 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~None to slight odor at 7:40 pm~~
~~14 Sept 2015~~	~~Morning Star~~	~~Valley Ranch Southeast~~	~~None to slight odor at 8:40 am~~
~~14 Sept 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~None to slight odor at 8:40 am~~
~~14 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 8:40 am~~
~~14 Sept 2015~~	~~Morning Star~~	~~Valley Ranch Southeast~~	~~None to slight odor at 1:03 pm~~
~~14 Sept 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~None to slight odor at 1:03 pm~~

Date	Reporting Party	Location	Additional Information
~~14 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 1:03 pm~~
~~14 Sept 2015~~	~~Morning Star~~	~~Valley Ranch Southeast~~	~~None to slight odor at 6:41 pm~~
~~14 Sept 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~None to slight odor at 6:41 pm~~
~~14 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 6:41 pm~~
~~15 Sept 2015~~	~~Morning Star~~	~~Valley Ranch Southeast~~	~~None to slight odor at 7:32 pm~~
~~15 Sept 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~None to slight odor at 7:32 pm~~
~~15 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 7:32 pm~~
~~16 Sept 2015~~	~~Morning Star~~	~~Valley Ranch Southeast~~	~~Slight odor at 6:50 am~~
~~16 Sept 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~Slight odor at 6:50 am~~
~~16 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 6:50 am~~
~~16 Sept 2015~~	~~Morning Star~~	~~Valley Ranch Southeast~~	~~None to slight odor at 10:54 am~~
~~16 Sept 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~None to slight odor at 10:54 am~~
~~16 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 10:54 am~~
~~16 Sept 2015~~	~~Morning Star~~	~~Valley Ranch Southeast~~	~~None to slight odor at 8:04 pm~~
~~16 Sept 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~None to slight odor at 8:04 pm~~
~~16 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~None to slight odor at 8:04 pm~~
~~18 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~None to slight odor at 7:43 pm~~
~~19 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~None to slight odor at 4:37 pm~~
~~21 Sept 2015~~	~~Morning Star~~	~~Valley Ranch Southeast~~	~~None to slight odor at 9:30 pm~~
~~21 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~None to slight odor at 9:30 pm~~
21 Sept 2015	County Health	Butte View Dr.	Odors in afternoon-evening hours
~~22 Sept 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~None to slight odor at 7:07 am~~
~~22 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~None to slight odor at 7:07 am~~
~~22 Sept 2015~~	~~Morning Star~~	~~Valley Ranch Southeast~~	~~None to slight odor at 4:35 pm~~
~~22 Sept 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~None to slight odor at 4:35 pm~~
~~22 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 4:35 pm~~
~~22 Sept 2015~~	~~Morning Star~~	~~Valley Ranch Southeast~~	~~None to slight odor at 7:45 pm~~
~~22 Sept 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~None to slight odor at 7:45 pm~~
~~22 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 7:45 pm~~

Date	Reporting Party	Location	Additional Information
~~23 Sept 2015~~	~~Morning Star~~	~~Valley Ranch Southeast~~	~~None to slight odor at 9:03 pm~~
~~23 Sept 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~None to slight odor at 9:03 pm~~
~~23 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 9:03 pm~~
~~24 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~None to slight odor at 7:51 am~~
~~24 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 3:15 pm~~
~~24 Sept 2015~~	~~Morning Star~~	~~Valley Ranch Southeast~~	~~None to slight odor at 7:22 pm~~
~~24 Sept 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~None to slight odor at 7:22 pm~~
~~24 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 7:22 pm~~
~~25 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~None to slight odor at 9:40 pm~~
25 Sept 2015	County Health	Butte View Dr.	Odors in afternoon-evening hours
~~26 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~None to slight odor at 8:11 am~~
~~26 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~None to slight odor at 10:53 pm~~
~~26 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 10:03 pm~~
~~27 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~None to slight odor at 10:17 am~~
~~27 Sept 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~None to slight odor at 1:01 pm~~
~~27 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 1:01 pm~~
~~27 Sept 2015~~	~~Morning Star~~	~~Valley Ranch Southeast~~	~~None to slight odor at 9:57 pm~~
~~27 Sept 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~None to slight odor at 9:57 pm~~
~~27 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 9:57 pm~~
27 Sept 2015	County Health	Butte View Dr.	Odors in afternoon-evening hours
~~28 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 6:57 am~~
~~28 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 9:31 am~~
~~28 Sept 2015~~	~~Morning Star~~	~~Valley Ranch Southeast~~	~~None to slight odor at 10:13 pm~~
~~28 Sept 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~None to slight odor at 10:13 pm~~
~~28 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 10:13 pm~~
~~29 Sept 2015~~	~~Morning Star~~	~~Valley Ranch Southeast~~	~~None to slight odor at 8:55 am~~
~~29 Sept 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~None to slight odor at 8:55 am~~
~~29 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 8:55 am~~
~~29 Sept 2015~~	~~Morning Star~~	~~Valley Ranch Southeast~~	~~None to slight odor at 2:20 pm~~

Date	Reporting Party	Location	Additional Information
~~29 Sept 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~None to slight odor at 2:20 pm~~
~~29 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 2:20 pm~~
~~29 Sept 2015~~	~~Morning Star~~	~~Valley Ranch Southeast~~	~~None to slight odor at 10:15 pm~~
~~29 Sept 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~None to slight odor at 10:15 pm~~
~~29 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 10:15 pm~~
~~30 Sept 2015~~	~~Morning Star~~	~~Valley Ranch Southeast~~	~~None to slight odor at 9:12 am~~
~~30 Sept 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~None to slight odor at 9:12 am~~
~~30 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 9:12 am~~
~~30 Sept 2015~~	~~Morning Star~~	~~Valley Ranch Southeast~~	~~None to slight odor at 1:40 pm~~
~~30 Sept 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~None to slight odor at 1:40 pm~~
~~30 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 1:40 pm~~
~~30 Sept 2015~~	~~Morning Star~~	~~Valley Ranch Southeast~~	~~None to slight odor at 7:44 pm~~
~~30 Sept 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~None to slight odor at 7:44 pm~~
~~30 Sept 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 7:44 pm~~
~~1 October 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 9:20 am~~
~~1 October 2015~~	~~Morning Star~~	~~Valley Ranch Southeast~~	~~None to slight odor at 1:41 pm~~
~~1 October 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~None to slight odor at 1:41 pm~~
~~1 October 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 1:41 pm~~
~~1 October 2015~~	~~Morning Star~~	~~Valley Ranch Southeast~~	~~None to slight odor at 6:31 pm~~
~~1 October 2015~~	~~Morning Star~~	~~Crawford & Zumwalt~~	~~None to slight odor at 6:31 pm~~
~~1 October 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 6:31 pm~~
~~2 October 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~None to slight odor at 6:21 am~~
~~2 October 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~None to slight odor at 6:21 am~~
~~2 October 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~None to slight odor at 8:56 am~~
~~2 October 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~None to slight odor at 5:11 pm~~
~~4 October 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~None to slight odor at 6:37 pm~~
~~5 October 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~None to slight odor at 5:28 am~~
~~5 October 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 1:54 pm~~
~~5 October 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Sight odor at 6:09 pm~~
~~6 October 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~None to slight odor at 5:58 am~~
~~6 October 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 8:21 pm~~
~~7 October 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~None to slight odor at 9:11 am~~
~~7 October 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~Slight odor at 12:38 pm~~

Date	Reporting Party	Location	Additional Information
~~7 October 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~None to slight odor at 6:17 pm~~
~~8 October 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~None to slight odor at 6:17 pm~~
~~9 October 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~None to slight odor at 8:55 am~~
~~9 October 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~None to slight odor at 1:40 pm~~
~~9 October 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~None to slight odor at 7:11 pm~~
~~12 October 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~None to slight odor at 7:17 am~~
~~12 October 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~None to slight odor at 2:02 pm~~
~~12 October 2015~~	~~Morning Star~~	~~Abel/Husted~~	~~None to slight odor at 7:36 pm~~

DECLARATION OF SERVICE

I declare that I am over the age of eighteen years and not a party to this action. I am employed in the City and County of Sacramento and my business address is 500 Capitol Mall, Suite 1600, Sacramento, California 95814.

On January 13, 2016, at Sacramento, California, I served the attached document(s):

THE MORNING STAR PACKING COMPANY, L.P.'S LEGAL, POLICY AND TECHNICAL STATEMENT IN OPPOSITION TO THE CENTRAL VALLEY WATER BOARD PROSECUTION TEAM'S CEASE AND DESIST ORDER

on the following parties:

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X	**BY FIRST CLASS MAIL:** I am readily familiar with my employer's practice for the collection and processing of correspondence for mailing with the U.S. Postal Service. In the ordinary course of business, correspondence would be deposited with the U.S. Postal Service on the day on which it is collected. On the date written above, following ordinary business practices, I placed for collection and mailing at the offices of Stoel Rives LLP, 500 Capitol Mall, Suite 1600, Sacramento, California 95814, a copy of the attached document in a sealed envelope, with postage fully prepaid, addressed as shown on the service list. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing contained in this declaration.
X	**BY EMAIL:** On the date written above, I emailed a copy of the attached documents to the addressee, as shown on the service list.
	BY FACSIMILE: On the date written above, I caused a copy of the attached document to be transmitted to a fax machine maintained by the person on whom it is served at the fax number shown on the service list. That transmission was reported as complete and without error and a transmission report was properly issued by the transmitting fax machine.
	BY OVERNIGHT MAIL: I am readily familiar with my employer's practice for the collection and processing of correspondence for overnight delivery. In the ordinary course of business, correspondence would be deposited in a box or other facility regularly maintained by the express service carrier or delivered to it by the carrier's authorized courier on the day on which it is collected. On the date written above, following ordinary business practices, I placed for collection and overnight delivery at the offices of Stoel Rives LLP, 500 Capitol Mall, Suite 1600, Sacramento, California 95814, a copy of the attached document in a sealed envelope, with delivery fees prepaid or provided for, addressed as shown on the service list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this document was executed on January 13, 2016, at Sacramento, California.

Marilyn Sykes