

# California Regional Water Quality Control Board

## Central Coast Region

Internet Address: <http://www.swrcb.ca.gov/rwqcb3>  
895 Aerovista Place, Suite 101, San Luis Obispo, California 93401-7906  
Phone (805) 549-3147 • FAX (805) 543-0397

### NOTICE OF PUBLIC MEETING

#### CENTRAL COAST REGIONAL WATER QUALITY CONTROL BOARD MEETING

Thursday and Friday, February 5-6, 2004  
Regional Board Conference Room,  
895 Aerovista Place, Suite 101, San Luis Obispo, CA 93401-7906  
(See Page 9 for location map)

[Staff will review and transmit all written material to the Board Members received by Wednesday, January 28, 2004, 5:00 p.m. Written material submitted after that day will be placed into the official record (unless excluded by ruling of the Board Chair), but will not be sent to Board Members before the Board meeting.]

[The board and staff welcome information on pertinent problems, but comments at the meeting should be brief and directed to specifics of the case to enable the Board to take the appropriate action. Whenever possible, lengthy testimony should be presented to the Board in writing and only a summary of pertinent points presented verbally. In order to give everyone an opportunity to be heard, comments should have been previously submitted in writing and a time limit on presentations may be imposed on any agenda item. Speakers should plan to summarize key points within 3 minutes. We would appreciate staff being notified prior to meetings of presentations planned for longer than 3 minutes, for scheduling purposes.]

#### **Thursday, February 5, 2004, 3:00 p.m. to 5:00 p.m.**

1. Roll Call [Carol Hewitt 805/549-3503] ..... Board Members Present
2. Introductions [Roger Briggs 805/549-3140] ..... Guests and Staff Present
3. Workshop To Discuss Proposed Conditional Waivers Of Waste Discharge Requirements For Irrigated Agriculture ..... Information/Discussion  
(See website: [www.swrcb.ca.gov/rwqcb3/workshops/index.htm](http://www.swrcb.ca.gov/rwqcb3/workshops/index.htm))  
[Alison Jones 805/542-4646 and Karen Worcester 805/549-3333]

#### **Friday, February 6, 2004, 8:30 a.m.**

4. Roll Call [Carol Hewitt 805/549-3503] ..... Board Members Present
5. Introductions [Roger Briggs 805/549-3140] ..... Guests and Staff Present
6. Regional Board Chair and Vice Chair Election ..... Board Motion
7. Approval of December 5, 2003 Meeting Minutes. .... Board Motion
8. Report by State Water Resources Control Board Liaison [Gary Carlton 916/341-5603] ..... Status Report

**Your comments on agenda items should be submitted according to the deadlines we send with draft agenda items to our interested parties lists. The Regional Board can then review your comments with our staff analysis and response. If you wish to be added to our list for a specific item, please contact the staff person listed with each item in this agenda notice.**

9. Public Forum ..... Board Direction  
*(Any person may address the Board on any matter within its jurisdiction that is not on the agenda. Please walk to the rostrum and after receiving recognition from the Chair, give your name and address, and your comments or questions. In order that all interested parties have an opportunity to speak, please be brief. The Chair generally limits the time allotted to each speaker to three minutes).*
10. Uncontested Items Calendar ..... Board Motion  
*(Agenda Item numbers 22 through 29, with a single asterisk (\*), are expected to be routine and non-controversial. Recommended action on these items will be taken at the beginning of the meeting without discussion. If any Interested Party, Board Member, or the Executive Officer requests that an item be removed from the calendar, it will be taken up in order).*
11. Post-Earthquake Status of Wastewater Facilities, Landfills, and Power Plants ..... Status Report  
[Matt Thompson 805/549-3159]

**Low Threat and General Discharge Cases**

12. Low Threat and General Discharge Cases ..... Information/Discussion/Board Approval

**Discharges to Land by Small Domestic Wastewater Treatment Systems, Order No. 97-10-DWQ:**

Santa Ynez Valley Presbyterian Church, Santa Barbara County [Mike Higgins 805/542-4649]  
Lucia Mar Unified School Dist., Dorothea Lange School, San Luis Obispo County [Sorrel Marks 805/549-3695]

**General Waste Discharge Requirements for Wineries:**

Small Winery Waivers [Matt Thompson 805/549-3159]  
Chumeia Vineyards, Paso Robles, San Luis Obispo County [Tom Kukol 805/549-3689]  
Turley Wine Cellars, Templeton, San Luis Obispo County [Tom Kukol 805/549-3689]  
Talley Vineyards, Arroyo Grande, San Luis Obispo County [Matt Thompson 805/549-3159]  
Rancho Santa Rosa Winery, Lompoc, Santa Barbara County [Matt Thompson 805/549-3159]  
Clendenon-Lindquist Vintners, San Luis Obispo County [Matt Thompson 805/549-3159]

**Waivers of Waste Discharge Requirements:**

Melville Winery, Lompoc, Santa Barbara County [Matt Thompson 805/549-3159]  
Pietra Santa Winery, Hollister, San Benito County [Matthew Keeling 805/549-3685]  
Byron Winery & Tasting Room, Santa Maria, Santa Barbara County [Matt Thompson 805/549-3159]  
Olin Corporation, Morgan Hill, Santa Clara County [David Athey 805/542-4644]  
Unocal Corporation, Guadalupe Oil Field, San Luis Obispo County [Sheila Soderberg 805/549-3592]  
San Luis Obispo County Farm Supply Co., Paso Robles, San Luis Obispo County [Tom Kukol 805/549-3689]

**Staff Closed Cases:**

Toro Regional Park, Maintenance Facility, 501 Highway 68, Salinas [John Goni 805/542-4628]  
Former Shell-Branded Service Station, 1301 Broadway, King City [John Goni, 805/542-4628]

**Cleanup Cases**

13. Perchlorate Cases ..... Status Reports  
Olin Corporation, Santa Clara County [David Athey 805/542-4644]  
Whittaker Corporation, San Benito County [David Athey 805/542-4644]  
McCormick Selph, San Benito County [David Athey 805/542-4644]
14. MTBE Cases ..... Status Reports  
Chevron, Cambria, San Luis Obispo County [Sheila Soderberg 805/549-3592]  
Quick Stop Market, Soquel, Santa Cruz County [Tom Sayles 805/542-4640]  
Camp Evers Underground Tank Sites, Scotts Valley, Santa Cruz County [Wei Liu 805/542-4648]

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
Central Coast Regional Board Meeting Agenda**

**3  
February 6, 2004**

Los Osos Valley Garage/Bear Valley Chevron, Los Osos, San Luis Obispo County [Corey Walsh 805/542-4781]  
California Water Service Company Supply Wells, Pajaro Street and Bridge Street, Salinas, California  
[John Goni 805/542-4628]  
Regionwide MTBE Site List [Burton Chadwick 805/542-4786]

15. Corrective Action Approval..... Status Report  
Templeton Products, 701 Las Tablas Road, Templeton, San Luis Obispo County  
[Corey Walsh 805/ 542-4781]

**Enforcement**

16. Enforcement Report [Gerhardt Hubner 805/542-4647] ..... Status Report
17. City of Hollister, San Benito County ..... Order No. 2002-0105  
(*Consideration of Connection Ban Exemption Request*) [Matthew Keeling 805/549-3685]
18. City of Pismo Beach, San Luis Obispo County ..... Order No. 2004-0008  
(*Consideration of Mandatory Minimum Penalties*) [Scott Phillips 805/549-3550]
19. Goleta Sanitary District, Santa Barbara County ..... Order No. 2004-0003  
(*Consideration of Mandatory Minimum Penalties*) [Mike Higgins 805/542-4649]  
**Discharger waived hearing, no hearing to be held.**
20. Enforcement Options for Kelegian and Goldie Lane (Pierson) Properties,  
San Luis Obispo County [Donette Dunaway 805/549-3698] ..... Board Direction  
(*The Board may meet in closed session to decide whether to initiate litigation (Ca. Gov. Code s.  
11126(e)(2)(C))*)

**Waste Discharge Requirements**

21. General Waste Discharge Requirements for Closed Landfills ..... Order No. 2004-0006  
(*New General Waste Discharge Requirements*) [Hector Hernandez 805/ 542-4641]
- \*22. San Luis Tallow Company, San Luis Obispo County ..... Order No. 89-25  
(*Rescind Waste Discharge Requirements*) [Scott Phillips 805/549-3550]
- \*23. Woods Humane Society/Fundamental Evangelic Association,  
Los Osos, San Luis Obispo County ..... Order No. 89-79  
(*Rescind Waste Discharge Requirements*) [Scott Phillips 805/549-3550]
- \*24. Montecito Verde II, Nipomo, San Luis Obispo County ..... Order No. 82-33  
(*Rescind Waste Discharge Requirements*) [Scott Phillips 805/549-3550]
- \*25. New Galaxy Park and Tract Subdivisions, Nipomo, San Luis Obispo County ..... Order No. 80-01  
(*Rescind Waste Discharge Requirements*) [Scott Phillips 805/549-3550]
- \*26. Elks Events Center, Santa Maria, Santa Barbara County ..... Order No. 98-08  
(*Rescind Waste Discharge Requirements*) [Mike Higgins 805/542-4649]
- \*27. Slick Gardner Biosolids Application Site, Santa Barbara County ..... Order No.96-30  
(*Rescind Waste Discharge Requirements*) [Mike Higgins 805/542-4649]

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD**  
**Central Coast Regional Board Meeting Agenda**

**4**  
**February 6, 2004**

- \*28. Farm Supply Company, Paso Robles, San Luis Obispo County ..... Order No. 2002-0015  
(Rescind Waste Discharge Requirements) [Tom Kukol 805/549-3689]
- \*29. Cienega Valley Vineyards/DeRose Winery, Hollister, San Benito County ..... Order No. 86-105  
(Rescind Waste Discharge Requirements) [Matthew Keeling 805/549-3685]

**Status Reports**

- 30. Military Facilities Update [Michael LeBrun 805/542-4645] ..... Status Report
- 31. Land Disposal Unit Update [Michael LeBrun 805/542-4645] ..... Status Report

**Watershed Management and Basin Planning**

- 32. Chorro and Los Osos Creek Nutrient and Dissolved Oxygen TMDLs ..... Status Report  
(Status Report) [Katie McNeill 805/549-3336]

**Administrative Items**

- 33. Reports by Regional Board Members ..... Status Report
- 34. Executive Officer's Report [Roger Briggs 805-549-3140] ..... Information/Discussion  
Regulations Summary  
Water Quality Certifications  
(A chart is provided in the agenda listing the applications received from November 4, 2003 through December 31, 2003. A listing of pending applications for Water Quality Certifications pursuant to Section 401 of the Clean Water Act may be obtained by calling Corinne Huckaby 805-549-3504.)

**Watershed Reports**

Status Reports (Informational Updates; NOTE: Board may give policy direction):  
Santa Ynez Valley Presbyterian Church, Santa Barbara County [Michael Higgins 805/542-4649]  
Los Osos Wastewater Project [Sorrel Marks 805/549-3695]  
Annual Fees for Waste Discharge Requirements [Sorrel Marks 805/549-3695]  
Update on CalTrans 101/156 Interchange Construction Site ACL Complaint [Donette Dunaway 805/549-3698]

**Cleanup Reports**

Status Reports (Informational Updates; NOTE: Board may give policy direction):  
Underground Tanks Summary Report dated January 5, 2004 [Burton Chadwick 805/542-4786]  
Underground Tanks Financial Aid [Roger Briggs 805/549-3140]

**Regionwide Reports**

Regionwide Monitoring and Basin Planning [Karen Worcester 805/549-3333]  
Total Maximum Daily Load Program [Lisa Horowitz McCann 805/549-3132]

**Administrative Reports**

Presentations and Training [Roger Briggs 805/549-3140]

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
Central Coast Regional Board Meeting Agenda**

**5  
February 6, 2004**

**Closed Session**

Discussion of Cases in Litigation [Staff Counsel Lori Okun] ..... Closed Session  
*(The Board will meet in closed session to discuss pending litigation in the cases of California Cities Water Company and Southern California Water Company v. Regional Water Quality Control Board; South County Regional Waste Water Authority v. Regional Water Quality Control Board; Cambria Community Services District v. Regional Water Quality Control Board; Voices of the Wetlands, et al, v. Regional Water Quality Control Board; Petitions of San Luis Obispo County and Cambria Community Services District (Van Gordon Creek Dump Site) SWRCB-OCC File Nos. A-1599 and A-1599(a); Petition of Goleta Sanitary District, SWRCB File No. A-1494; and in the Matter of the Petition of Weyrich Development (SWRCB Petition File No.A-1486) as authorized by Government Code (GC) Section 11126[e][2][A]. The Board may discuss significant exposure to litigation as authorized by GC Section 11126[e][2][B]. The Board may also decide whether to initiate litigation as authorized by GC Section 11126[e][2][C].)*

**Adjournment**

The next regularly scheduled Board meeting is March 18-19, 2004 in Salinas.

**REGIONAL BOARD MEETING SCHEDULE 2004**

<b>Date</b>	<b>City</b>	<b>Address</b>
January 9, 2004 (Ag workshop)	Salinas	Richard W. Nutter Agricultural Conference Center 1432 Abbott Street, Salinas, CA 93901
February 5-6, 2004	San Luis Obispo	Regional Board Conference Room 895 Aerovista Place, Suite 101, San Luis Obispo, CA 93401-7906
March 18-19, 2004	Salinas	Salinas City Council Chamber Rotunda 200 Lincoln Avenue, Salinas, CA 93901
April 2, 2004	San Luis Obispo	Regional Board Conference Room 895 Aerovista Place, Suite 101, San Luis Obispo, CA 93401-7906
May 14, 2004	San Luis Obispo	Regional Board Conference Room 895 Aerovista Place, Suite 101, San Luis Obispo, CA 93401-7906
June 9, 2004	(Offsite) San Luis Obispo	Regional Board Conference Room 895 Aerovista Place, Suite 101, San Luis Obispo, CA 93401-7906
July 9, 2004	Watsonville	Watsonville City Council Chambers, 250 Main Street, Watsonville, CA 95076
September 10, 2004	San Luis Obispo	Regional Board Conference Room 895 Aerovista Place, Suite 101, San Luis Obispo, CA 93401-7906
October 22, 2004	Santa Barbara	Santa Barbara County Supervisors Board Hearing Room 105 East Anapamu St. - 4th Floor, Santa Barbara, CA 93101
December 3, 2004	San Luis Obispo	Regional Board Conference Room 895 Aerovista Place, Suite 101, San Luis Obispo, CA 93401-7906

**LEAD STAFF PERSONS**

Roger W. Briggs, <i>Executive Officer</i>	805-549-3140
Brad Hagemann, <i>Assistant Executive Officer/Ombudsman</i>	805-549-3697
Carol Hewitt, <i>Executive Assistant</i>	805-549-3503
Cyndee Jones, <i>Regional Administrative Officer</i>	805-549-3372
Lori Okun, <i>Staff Counsel</i>	916-341-5165
Michael LeBrun, <i>Cleanup, South</i>	805-542-4645
Harvey Packard, <i>Northern, Point Source</i>	805-542-4639
Chris Adair, <i>Northern, Non-point Source/Stormwater</i>	805-549-3761
Gerhardt Hubner, <i>Southern, Point Source</i>	805-549-4647
Eric Gobler, <i>Cleanup, North</i>	805-549-3467
Lisa Horowitz McCann, <i>Watershed Assessment</i>	805-549-3132
John Robertson, <i>Southern Non-point source/Stormwater</i>	805-542-4630
Karen Worcester, <i>Regional Monitoring/Basin Planning</i>	805-549-3333

*(Please send or fax correspondence to (refer to instructions at the bottom of page one):*

**Regional Water Quality Control Board – Central Coast Region**  
**895 Aerovista Place, Suite 101, San Luis Obispo, CA 93401-7906**  
**Phone: 805-549-3147 Fax: 805-543-0397**

**CENTRAL COAST REGIONAL BOARD MEMBERS**

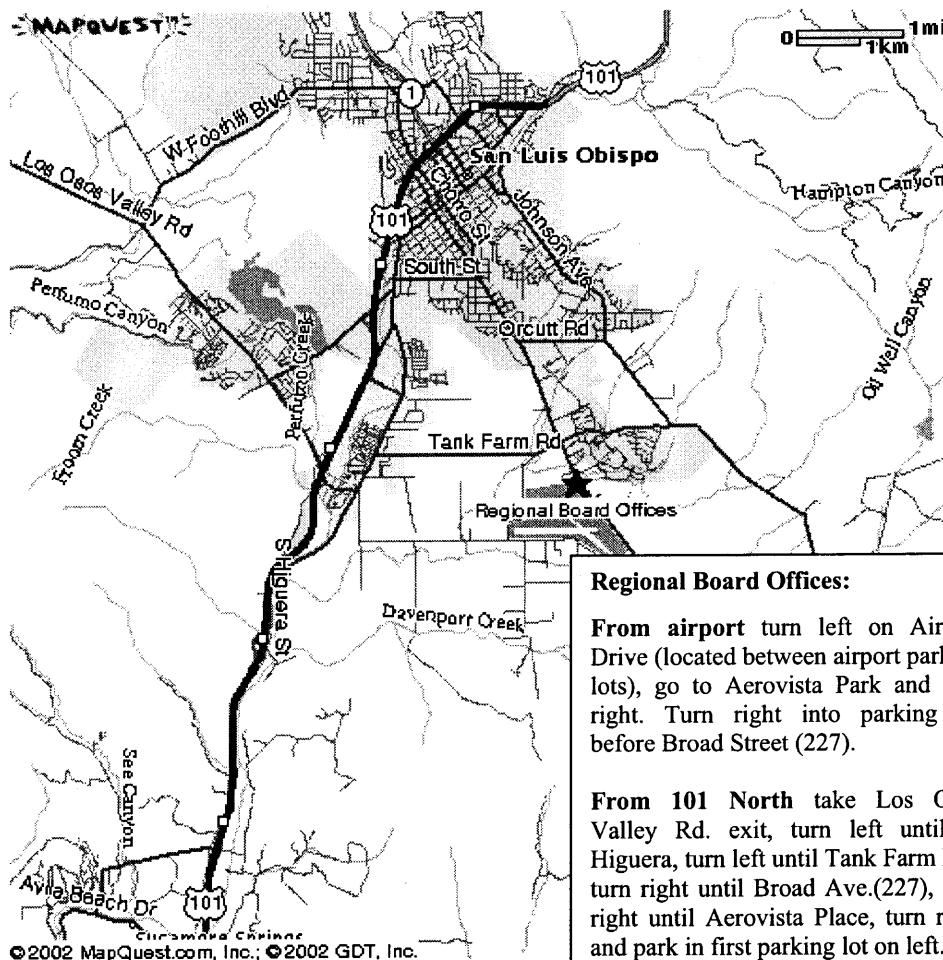
<b>Board Member</b>	<b>Appointment Category</b>	<b>Term Expires</b>
Leslie S. Bowker Los Osos	County Government	9/30/2007
Bruce K. Daniels Chair – Capitola	Water Quality	9/18/2006
VACANT	Irrigated Agriculture	9/30/2007
Russell M. Jeffries Salinas	Water Quality	9/30/2004
Daniel M. Press Santa Cruz	Public	9/30/2004
VACANT	Industrial Water Use	9/30/2004
Gary Shallcross Monterey	Recreation, Fish or Wildlife	9/18/2006
Donald A. Villeneuve Cambria	Water Supply	9/30/2005
Jeffrey S. Young Vice Chair - Santa Barbara	Municipal Government	9/30/2005

**CONDUCT OF MEETING**

- A - The primary duty of the Regional Board is to protect the quality of waters within the Region for all beneficial uses. This duty is implemented by formulating and adopting water quality plans for specific ground or surface water basins and by prescribing and enforcing requirements on all domestic, municipal, and industrial waste discharges. Specific responsibilities and procedures of the Regional Water Quality Control Boards and the State Water Resources Control Board are outlined in the Porter-Cologne Water Quality Act (Division 7), California Water Code.
- B - The purpose of the meeting is for the Board to obtain testimony and information from staff and concerned and affected parties and make decisions after considering the recommendations made by the Executive Officer. The Board will vote only on matters listed on the agenda. The Board may give direction to the Executive Officer on any matter discussed during the meeting.
- C - Agenda items are numbered for identification purposes and will not necessarily be considered in the order listed.
- D - The Board and staff welcome information on pertinent problems, but comments at the meeting should be brief and directed to specifics of the case to enable the Board to take the appropriate action. Whenever possible, lengthy testimony should be presented to the Board in writing and only a summary of pertinent points presented verbally. In order to give everyone an opportunity to be heard, comments should have been previously submitted in writing and a time limit on presentations may be imposed on any agenda item. Speakers should plan to summarize key points within 3 minutes. We would appreciate staff being notified prior to meetings of presentations planned for longer than 3 minutes, for scheduling purposes.
- E - Material presented to the Board, as part of testimony (e.g., photographs, slides, charts, diagrams, etc.) that is to be made part of the record must be left with Executive Assistant, Carol Hewitt. Photographs or slides of large exhibits are acceptable.
- F - All Board files, exhibits, and agenda material pertaining to items on this agenda are hereby part of the record.
- G - Any person affected adversely by a certain decision of the California Regional Water Quality Control Board, Central Coast Region (Regional Board), may petition the State Water Resources Control Board (State Board) according to Water Code section 13320 and Title 23 California Code of Regulation section 2050. The Petition should be addressed to Office of Chief Counsel and must be filed within 30 days of the EO's or the Board's action or failure to act. The State Board must receive the petition within 30 days of the Regional Board's meeting at which the action was taken. Copies of the law and regulations applicable to filing petitions will be provided upon request.
- H - A copy of the procedures governing Regional Water Quality Control Board meetings may be found at Title 23, California Code of Regulations, Section 647 et seq., and is available upon request. Hearings before the Regional Board are not conducted pursuant to Government Code sections 11400 et seq. but not Government Code sections 11500 et seq.
- I - The facility is accessible to people with disabilities. Individuals who require special accommodations are requested to contact John Goni (805/542-4728) at least five working days prior to the meeting. TTY users may contact the California Relay Service at 1-800-735-2929 or voice line at 1-800-735-2922.
- J - All persons who actively support or oppose the adoption of waste discharge requirements or an NPDES permit pending before the Regional Board must submit a statement to the Board disclosing any contributions of \$100 or more to be used in a federal, state, or local election, made by the action supporter or opponent, or his or her agent within the last 12 months to any Regional Board Member.
- K - All permit applicants or persons who actively support or oppose adoption of a set of waste discharge requirements or an NPDES permit pending before the Regional Board, are prohibited from making a contribution of \$100 (or more) to any Board Member for three months following a Regional Board decision on the permit application.



Regional Water Quality Control Board  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401-7906  
805-549-3147



**STATE OF CALIFORNIA  
CALIFORNIA REGIONAL WATERQUALITY CONTROL BOARD  
CENTRAL COAST REGION**

**STAFF REPORT FOR REGULAR MEETING OF FEBRUARY 6, 2004**

Prepared on January 15, 2004

**ITEM: 20**

**SUBJECT: Summary, Conclusion, and Recommendation Regarding Pierson  
and Kelegian Properties**

**SUMMARY OF PIERSON SITE**

Land disturbances at the Pierson property included grubbing (removal of brush), clearing all vegetation from approximately 39 acres (according to the Storm Water Notice of Intent) of hillside and hilltop land, and road grading. The end result was steep hillsides completely denuded of all vegetation or other soil cover, with widespread erosion during rain events and extensive sediment deposition into Huer Huero Creek during the 2002-2003 rainy season.

Grading preceded the July 20, 2002 Highway 58 fire, and appears to have been complete by September 30, 2002, when Ryan Lodge of our staff visited the site. The actual grading and grubbing extended well beyond the scope of the Mitigated Negative Declaration prepared by San Luis Obispo (SLO) County Planning and Building, which included only subdividing (paper record) for the purpose of building residences, and widening existing roads. The Mitigated Negative Declaration and the accompanying Resource Conservation District (RCD) report state that the land is extremely vulnerable to erosion and that land disturbance would result in sedimentation to Huer Huero Creek. The RCD recommended sediment and erosion control measures be used throughout the project area. The project proponent did not implement the Conditions of Approval required by the Mitigated Negative Declaration, including explicit requirements for erosion and sediment controls on roadway grading.

The Mitigated Negative Declaration says site slopes average 30%. The Pierson Storm

Water Pollution Prevention Plan (SWPPP) describes the site as "generally hilly, with slopes in excess of 30%". The RCD report says the slopes range from 30% to 75%. The Central Coast Water Quality Control Plan (Basin Plan) prohibits disturbance of slopes greater than 30% unless an erosion and sediment control plan is developed and "will be enforced" (Section VIII.E.1). The RCD provided recommendations for the CEQA-approved project, described as "subdividing 675 acres of land into 5 separate parcels, and constructing an all-season road to access them." The RCD report did not consider a clearing project of the magnitude that was conducted on the Pierson property. According to Keith Miller, SLO County Environmental Division, and Harley Voss, SLO County Code enforcement, the planner overseeing the CEQA process is responsible for seeing that the erosion and sediment control plan is followed. It appears that the planner did not verify that the required erosion and sediment mitigation measures were implemented. The County did not initiate any enforcement for CEQA violations (although the County did open an enforcement case for illegal road grading).

Regional Board staff conducted multiple site visits with the site owner's representative, issued four Notice of Violation letters, and two Cleanup and Abatement Orders for violations including lack of sediment and erosion controls. The site was seeded, and appeared to be relatively vegetated and stable by September 19, 2003.

### **CONCLUSION REGARDING PIERSON SITE**

The evidence points strongly toward the conclusion that the Pierson site was, at all times, intended to be subdivided and cleared for home sites and future construction. Pierson obtained a Storm Water General Construction Permit after initial land disturbance, yet later claimed that the site was intended for agricultural purposes.

Pierson had been made aware of the highly erodible nature of the soils, and the potential for sediment discharge into Huer Huero Creek. Pierson was informed of the sediment and erosion control requirements (per Mitigated Negative Declaration Conditions of Approval, and later per Storm Water Construction Permit) for land disturbance at the site, but did not implement those controls. The result was extensive erosion, and sediment deposition into Huer Huero Creek and its tributaries. Huer Huero Creek is a sand-bottom, meandering stream system with vegetation tenuously established on the stream banks and bottom. Sediment deposited in the creek system from the site has buried existing vegetation and could, in all likelihood, be remobilized in future flow events until vegetation reestablishes itself. Despite the impact of the sediment in the stream system, staff believes removing the sediment would be more detrimental overall, due to the impact to the stream bed and banks during the sediment removal process. The current condition of the land does not further threaten water quality.

Past events indicate a high degree of culpability by Pierson, and Regional Board staff could pursue an Administrative Civil Liability for past violations (e.g. Basin Plan violations).

### **SUMMARY OF KELEGIAN SITE**

Land disturbances at the Kelegian property included grubbing (removal of brush) and clearing the land of all vegetation across approximately 50% of the 412-acre site (according to the Notice of Intent). Subsequent rain events caused widespread erosion and sediment deposition in Huer

Huero Creek and its tributaries. Regional Board staff has recently inquired as to whether a CEQA document was prepared for the Kelegian project from SLO County staff. As of this writing, no definitive answer has been provided.

The Kelegian site is nearly identical in slope (at least 30%) and soil types (highly erodible) to the Pierson site. The Kelegian and Pierson sites are contiguous and have no obvious geologic or other natural features to distinguish one site from the other.

Regional Board staff conducted multiple site visits with the site owner's representative, issued one Notice of Violation letter, one Administrative Civil Liability Complaint, and one Cleanup and Abatement Order for violations including lack of sediment and erosion controls. The Regional Board legal counsel recommended withdrawing the Administrative Civil Liability due to a new understanding of the Storm Water General Construction Permit. A second ACL was written and prepared for mailing on March 27, 2003. The second ACL was intended to rescind the first, however, the second ACL was never sent (the first ACL needs to be formally withdrawn). The site was seeded, and appeared to be relatively vegetated and stable by September 19, 2003.

### **CONCLUSION REGARDING KELEGIAN SITE**

Based on the information provided by an olive tree consultant (see below), Regional Board staff conclude that the Kelegian property was cleared, at least in part, in preparation for future home construction. The evidence is not substantiated by written documentation. The site is currently being leased for cattle grazing, and was fenced by the lessee. It is evident, however, that land clearing led to widespread erosion and sedimentation into Huer Huero Creek and its tributaries during the 2002-2003 rainy season. As stated above in the Pierson conclusion, Regional Board staff does not believe that the benefits of removing the excess sediment from the creek and tributaries, outweighs the impacts that will result from the removal process.

**ADDITIONAL INFORMATION,  
APPLICABLE TO BOTH SITES**

A representative for Pierson, and through context of conversation, also for Kelegian, contacted an olive grower and requested a proposal for purchase and installation of a low density of olive trees; The grower stated that the low density, and "huge spaces between the trees" was desirable because the trees were intended for aesthetics, rather than olive oil production. Soil samples were not provided to the consultant putting together the olive tree order. The landowner did not, and still does not, know an existing groundwater well's safe yield, therefore an irrigation system was never designed. The site representative stated that they did not pursue growing olive trees with the grower, or any other consultant.

Without an in-depth investigation, it is difficult to predict the volume of erosion that may have left either site and entered the Huer Huero Creek or its tributaries. Regional Board staff spoke at length with RCD staff regarding this issue. RCD staff summarized that it was highly reasonable to expect there would have been "one to two orders of magnitude of increased soil loss" given the land clearing, as "compared to the native setting".

Regional Board staff know the sites were cleared of vegetation prior to the August 20, 2002 Highway 58 fire, and the August 2003 CAO's issued to each site indicate that the sites were still without erosion controls and a threat to water quality at that time. Days of actual discharge are unknown. Potential discharge periods could be correlated with months when rainfall was recorded at the Paso Robles airport (NOAA station, data available on the website. Assume one-day discharge for each month rainfall was measured.).

Soil loss models (USLE or Russell 2) are available, and are useful for comparing expected erosion from sites given differing land use scenarios (in this case: native land cover versus bare soil). The soil loss models require detailed information on slope lengths and runs, native vegetation percent cover, soil type, rainfall events, and infiltration rates. This information can be obtained or

reasonably estimated, and staff is available to pursue this option if needed. One caveat regarding the soil loss models is that they have been designed and calibrated based on agricultural practices. The clearing operations done on the Pierson and Kelegian properties were likely not done using agriculture equipment, thus the resulting soil characteristics may not mirror those on agriculture lands, and the soil models may not yield as precise a prediction of soil erosion rates or volumes.

**RECOMMENDATION FOR BOTH SITES**

Regional Board staff has pursued informal (Notice of Violation letters, site visits, etc.) and formal enforcement (Cleanup and Abatement Orders and an Administrative Civil Liability), which prompted additional work on both sites, with a satisfactory end result in the land condition at both sites. The current condition of both properties does not threaten water quality. Staff believes that further enforcement for past violations could be merited at both sites. Staff concurs with comments at the October board meeting that the agricultural exemption from NPDES permit requirements cannot be used as a shield for construction activities. However, staff time is limited due to the current budget status, so the Board should consider whether these sites warrant allocation of additional staff resources to pursue further enforcement. The Board may direct staff to pursue additional enforcement (the only additional enforcement would likely be an Administrative Civil Liability). The extensive "informal" and "formal" enforcement actions already taken have prompted the additional work necessary to protect water quality. Staff believes this outcome is an adequate conclusion to these cases.

**ATTACHMENTS**

1. Summary of Kelegian Activities.
2. Summary of Pierson Activities.
3. December 12, 2003 letter from Jeffrey J. Emrick with attachments. Regarding Goldie Lane Property.

4. December 12, 2003 letter from William S. Walter. Regarding Pierson Property.
5. December 12, 2003 letter from Jeffrey J. Emrick, regarding Kelegian Property.

S:\Storm Water\Construction\San Luis Obispo Co\319357, Pierson, Crest\Summary of Pierson and Kelegian.doc

## Summary of Kelegian Activities

Oct. 8, 2002 – RWQCB issues 13267 Request for Erosion and Sediment Control Report to be submitted by Oct. 21, 2002.

Oct. 22, 2002 – SWPPP submitted along with NOI for Construction Permit.

Oct. 29, 2002 – Ryan Lodge reviews SWPPP. States, "Erosion control measures seem meager. Site will have problems if vegetation is not established immediately... If first rain is substantial there could be widespread erosion."

Nov. 4, 2002 – NOI and copy of SWPPP received. Total size 412 ac. Total area to be disturbed 199 ac.. Type of construction checked is "Other " with "Agriculture – olives and grazing" written in.

Nov. 12, 2002 – RWQCB sends letter to Kelegian stating SWPPP is inadequate and must be revised. Revised SWPPP must be on site, but not submitted.

Nov. 25, 2002 – NOV sent for erosion and lack of BMPs

Jan. 28, 2003 – Revised SWPPP, dated 1-28-03

Feb. 21, 2003 – ACLC issued based on Storm Water Permit, including section A.2.

March 5, 2003 – Revised SWPPP with revision date March 5, 2003

March 6, 2003 – ACLC removed from March 21, 2003 Board agenda. ACLC not rescinded.

March 11, 2003 – NOV to Kelegian for failure to install sediment and erosion BMPs.

March 17, 2003 – Revised SWPPP submitted by EDA in response to a March 4, 2003 on-site meeting with Ryan Lodge. SWPPP not adequate for Permit compliance.

March 27, 2003 – 2<sup>nd</sup> ACLC written (electronic version only). Cover letter states 1<sup>st</sup> ACLC is rescinded and is replaced by 2<sup>nd</sup> ACLC. This 2<sup>nd</sup> ACLC apparently was never sent to Kelegian. No evidence that 1<sup>st</sup> ACLC was ever officially rescinded.

April 3, 2002 – Ryan Lodge reviews SWPPP. States, "SWPPP does not contain training information, contact information. Some required parts of the SWPPP are not included and should be addressed whether they are applicable or not."

April 4, 2003 – Revised SWPPP, dated April 2, 2003, submitted by EDA in response to a March 30, 2003 site inspection. Letter states, "We will attempt to have the new erosion control measure in place by April 9, 2003."

July 15, 2003 – Annual Compliance Status Report request.

Aug. 21, 2003 – CAO issued. Cover letter states Kelegian has identified his project as agriculture. NOT is included with the CAO. CAO is issued based on Water Code Sections 13304, and 13050. CAO requires Erosion and Sediment Control Plan (Sept. 8, 2003), prevention of erosion by covering all disturbed soils (Oct. 15, 2003), submit a letter verifying all areas are stabilized (Oct. 15, 2003).

Sept. 5, 2003 – NOT submitted by Kelegian, signed by Ryan Lodge Oct. 3, 2003.

Sept. 19, 2003 site conditions – Ryan Lodge and Donette Dunaway inspected the Kelegian site on September 19, 2003. The site looked well vegetated, with only small areas requiring additional seeding. The site was not threatened by erosion. Sediment that had eroded to Huer Huero Creek and its tributaries had not been removed. It is staff's opinion that removal of the sediment would be more detrimental than beneficial at this time.

Dec. 1, 2003 – Donette Dunaway spoke with Jeff Emrick, EDA, regarding the status and intent for use of both Kelegian and Pierson sites. Emrick stated there were currently 40 head of cattle at the Kelegian site. No other determination had been made as to how the site would be used in the future.

Dec. 12, 2003 – letter from EDA stating that there is currently a cattle grazing lease and approximately 40 head of cattle grazing on the site. The lessee has installed fencing for this operation.

## Summary of Pierson Activities

August 30, 2001 – Resource Conservation District (RCD) reviewed project and prepared comments as to grading and drainage impacts. Project is described as "sub-dividing 675 acres of land into 5 separate parcels, and constructing an all season road to access them." The RCD report concludes that "The site's geographic location above Huer Huero Creek (a blue line creek on the quadrangle sheets), the erodible soils and steep slopes of the project site dictate that, if the applicant is approved to sub-divide the property, extreme care be taken to insure that proper erosion and sediment control measures are employed, in the design, installation, and maintenance, of roads and building sites."

Aug. 23, 2002 – Mitigated Negative Declaration filed with SLO Co. parcel size 635 ac to be subdivided to 3 parcels of 160 acres. Entire focus of Neg. Dec. is building pads on new parcels, road widening, and well water source to serve six residences. Rural Lands category "does not support agricultural activities due to steep slopes and poor quality soils." High concerns, substantiated by RCD report, of highly erodible soils and critical need to implement proper erosion and sediment controls. Conditions placed on project to implement BMPs and seeding for erosion control. Warnings that sediment would drain to Huer Huero Creek.

Oct. 10, 2002 – RWQCB issues NOV, 13267 Request for Erosion and Sediment Control Report to be submitted by Oct. 21, 2002.

Oct. 17, 2002 – Correction letter requesting above report by Oct. 25, 2002.

Oct. 21, 2002 – SWPPP submitted along with NOI for Construction Permit.

Oct. 24, 2002 – Letter to Sara Christie, citizen, from Art Trinidad, SLO Co. Code Enforcement that indicates County Code considers the land disturbance as grubbing because there were no changes in land contours, and that County Code believed there was agricultural-related soil disturbance, stating that "property is zoned Rural Land so agricultural grading for crop cultivating is allowed...".

Nov. 4, 2004 – SLO Co Building and Planning recommended the Subdivision Review Bd. Adopt the Neg. Dec. for the subdivision. No mention of ag. operations.

Nov. 5, 2002 – NOI and SWPPP received. Total size 635 ac. Total area to be disturbed 39 ac. "cleared & grubbed only". Type of construction checked is "Other" with "Agriculture – olives and grazing" written in. Ryan Lodge analyzed SWPPP and concluded "erosion control seems inadequate. Early substantial rain will cause problems on site."

Nov. 25, 2002 – NOV sent for erosion and lack of BMPs

Jan. 23, 2003 – CAO issued based on Storm Water Permit, including section A.2. Registered mail was returned marked "unclaimed" by post office. CAO required by Jan. 31, 2003: 1. updated SWPPP including description of immediate actions taken to prevent sediment and erosion, 2. submit site inspection checklists from Oct. 1, 2002 – Dec 31, 2002, 3. place BMPs on disturbed slopes and stockpiles, 4. stabilize all access roads.



Jan. 29, 2003 – Revised SWPPP submitted by EDA in response to Jan. 23, 2003 "letter" and a Jan. 27, 2003 on-site meeting with Ryan Lodge. SWPPP not adequate for Permit compliance.

Jan. 31, 2003 – Inspection and Maintenance forms received, as required by CAO.

Feb. 12, 2003 – Revised SWPPP submitted by EDA

Feb. 18, 2003 – Ryan Lodge reviews Feb. 12 SWPPP. Comments, "SWPPP focuses primarily on erosion and sediment control measures. The document is not signed and lacks schedules for implementation."

Feb 21, 2003 – NOV for CAO violations. 1. SWPPP unsigned, 2. erosion control BMPs not on all bare areas, 3. roadways still subject to erosion

Feb 25, 2003 – Response letter from EDA. Claims SLO Co. Planning and Building Dpt. will require a permit for proposed BMPs for roadway erosion control. EDA is waiting on SLO Co. Dpt. to implement BMPs

March 5, 2003 – CAO resent to site owner.

March 7, 2003 – RWQCB letter disagreeing with EDA statements that there was no erosion from hillsides to Huer Huero Creek, and that the access road should not be part of the Construction site area, and therefore subject to Permit requirements.

March 11, 2003 – NOV for failing to submit a signed SWPPP, and failing to implement the erosion controls of SWPPP.

March 12, 2003 – letter from EDA disagreeing with RWQCB letter of March 7, 2003.

July 15, 2003 – Annual Compliance Status Report request.

August 12, 2003 – letter transmitting second CAO, and NOT for Storm Water Permit and rescinding original CAO. Second CAO is based on Water Code Sections 13304, and 13050. CAO requires Erosion and Sediment Control Plan (Aug. 20, 2003), Road Plan (Aug. 29, 2003), prevention of erosion by covering all disturbed soils (Oct. 15, 2003), stabilize roads (Oct. 15, 2003), submit a letter verifying all areas are stabilized (Oct. 15, 2003).

Aug. 20, 2003 – letter from EDA of planned activities

Aug. 27, 2003 – SWPPP submitted. Cover page states Road Management Plan also included, but not found in RWQCB file.

Sept. 19, 2003 site conditions – Ryan Lodge and Donette Dunaway inspected the Pierson site on September 19, 2003. The site looked well vegetated, with only small areas requiring additional seeding. The site did not appear to be have a potential erosion threat. Sediment that had eroded

to Huer Huero Creek and its tributaries had not been removed. It is staff's opinion that removal of the sediment would be more detrimental than beneficial at this time.

Oct. 13, 2003 – Letter from EDA certifying SWPPP and Road Mgmt. Plan fully implemented and soils are stabilized.

Nov. 26, 2003 – letter from RWQCB responding to Mr. Pierson's attorney, William Walter requesting evidence of agricultural or construction intent.

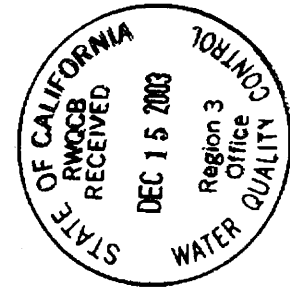
Dec. 1, 2003 – Donette Dunaway spoke with Jeff Emrick, EDA, regarding both Kelegian and Pierson sites. Emrick stated there were currently 40 head of cattle at the Kelegian site. Pierson had plans for olive planting, and olives were on order, but prices had dropped and they had cancelled the order. There were no new plans yet as to what to do with the land, Pierson was planning to subdivide to 160 acre parcels for his children. Dunaway summarized in the phone conversation, that the only evidence RWQCB has to date, is the CEQA Mit. Neg. Dec., which is solely for subdividing for construction purposes, and RDA's report for the same purpose. Emrick countered that the cleared area is only a small percentage of the entire site, and is not necessarily indicative of a home site.

Dec. 12, 2003 – letter from EDA providing proposal from Alegre Agricultural Consulting, Inc for purchase of Olive trees. Proposal dated Aug. 2, 2003.

Jan. 8, 2004 - Donette Dunaway called Mindy Alegre with Alegre Ag. Consulting. Ms. Alegre stated that Pierson's rep. (David Williams) wanted "huge spaces" between the olive trees because the trees were desired for aesthetics, rather than olive oil production. She understood the land was intended to be subdivided for development. Ms. Alegre provided a cost estimate for trees and planting. No water or soil samples were taken by her, or submitted to her. Ms. Alegre told the proponents she could go no further with irrigation estimates because the owner had only one well on the site, and did not know about its safe yield. The site owner did not pursue growing olive trees with her any further. Ms. Alegre also stated that Garrison Wine Company had leased a small portion of the site for cattle grazing (apparently this is the Kelegian site she is referring to, if Emrick was correct in his statement on Dec. 1, 2003). This claim was verified by an earlier phone call

December 12, 2003

Mr. Roger Briggs  
Regional Water Quality Control Board  
895 Aerovista, Suite 101  
San Luis Obispo, Ca. 93401



Re: **Goldie Lane Property, Santa Margarita  
WDID #3 40S319357**

Dear Roger:

This is in response to your letter dated November 26, 2003, requesting information relating to the intended agricultural use of this property. The majority of the site is currently accessible only by foot due to the erosion control measures installed in conformance with our Road Management Plan dated August 29, 2003.

Please find enclosed a proposal from Alegre Agricultural Consulting, Inc., for the installation of approximately 25 acres of olive trees. The extent and quantity of trees to be planted will depend on the production capabilities of a new well to be drilled near the Huer Huero River in the spring when the site is accessible.

Thank you for this opportunity to respond to your concerns. Please contact us if you have any questions.

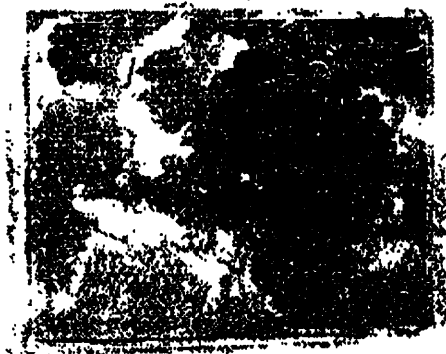
Sincerely,  
**eda - design professionals**

A handwritten signature in black ink, appearing to read "Jeffrey J. Emrick".

Jeffrey J. Emrick, P.E., AIA

encl

D:\LTRS\22558000\ag use resp.rb



*Alegre*

**Agricultural Consulting, Inc**  
5520 El Pomar Drive, Templeton, CA 93465  
Office: 805-237-7796 Fax: 805-237-7797  
Mobile: 805-610-2019  
License # 0650036

---

August 2, 2003

Creston Real Estate  
David Williams  
P.O. Box 320  
Creston, CA 93432

Dear David,

Thank you for your interest in Alegre Ag Consulting Services, Inc. Enclosed you will find the breakdown for the olive orchard based on 25 acres. Please notice the variation in price reflects the addition of end posts and the placing of drip hose 12-14 inches from the ground.

I have verified availability of all olive tree varieties as well as the stock of all materials, and I am confident that we would be able to begin ground preparation as early as the completion of our first full rainfall this winter and begin planting by spring.

Please do not hesitate to call with any questions you may have, or any further references you may need.

Sincerely,

Mindy Alegre  
Alegre Ag Consulting Services, Inc

*Alegre*  
**Agricultural Consulting, Inc.**  
5520 El Pomar Drive, Templeton, CA 93465  
Office: 805-237-7796 Fax: 805-237-7797  
Mobile: 805-610-2019  
License # 0650036

---

**COST BREAKDOWN**  
20'x20' OLIVE TREE SPACING  
109 TREES PER ACRE

Ground Preparation including ripping and discing	\$19,869.50
Survey	\$ 4,750.00
Stake Layout	\$20,450.00
Materials	\$12,261.50
Irrigation materials and design	\$25,937.50
Olive Trees-1 gallon	\$25,662.50
Planting of trees	\$24,419.00
<u>Supervision, insurance, overhead</u>	<u>\$20,400.00</u>

**TOTAL FOR 25 ACRES**

**\$153,750.00**

**Additional fees will apply for the following services:**

- Any Wells, Pumps or Filters
- Main irrigation lines brought to proposed irrigation site
- Fencing or removal of any fencing
- Rock removal
- Tree or brush removal
- Terracing on hillsides

*Alegre*  
**Agricultural Consulting, Inc.**  
 5520 El Pomar Drive, Templeton, CA 93465  
 Office: 805-237-7796 Fax: 805-237-7797  
 Mobile: 805-610-2019  
 License # 0650036

COST BREAKDOWN  
 20'x20' OLIVE TREE SPACING  
 109 TREES PER ACRE

Ground Preparation including ripping and discing	\$19,869.50
Survey	\$ 4,750.00
Stake Layout	\$20,450.00
Endposts and installation	\$ 6,875.00
Materials	\$12,261.50
Irrigation materials and design	\$25,937.50
Olive Trees-1 gallon	\$25,662.50
Planting of trees	\$24,419.00
<u>Supervision, insurance, overhead</u>	<u>\$20,400.00</u>

***TOTAL FOR 25 ACRES*** ***\$160,625.00***

**Additional fees will apply for the following services:**

- Any Wells, Pumps or Filters
- Main irrigation lines brought to proposed irrigation site
- Fencing or removal of any fencing
- Rock removal
- Tree or brush removal
- Terracing on hillsides

*Alegre*  
**Agricultural Consulting, Inc**  
5520 El Pomar Drive, Templeton, CA 93465  
Office: 805-237-7796 Fax: 805-237-7797  
Mobile: 805-610-2019  
License # 0650036

---

## **CONSULTING COST**

Fee is based on a per acre rate:

\$ 250.00/per acre

**The Consultant/Manager shall oversee:**

- Consulting/advising on an as-needed basis
- Supervision of crews as needed
  - Organize all labor crews
  - Estimate of labor costs for each service
- All farming practices including:
  - Management
    - Training of young trees
    - Suckering
    - Varmint control recommendation
    - Chemical recommendation through Certified Companies
    - All pruning practices
    - Cover crop recommendation

**Consulting does not include:**

- Purchase of chemicals or maintenance materials
- Payment to labor contractor
- Tractor and implement rental fees

*Alegre*  
**Agricultural Consulting**  
5520 El Pomar Drive, Templeton, CA 93465  
Office: 805-237-7796 Fax: 805-237-7797  
Mobile: 805-610-2019  
License # 0650036

---

## **MANAGEMENT COST**

Fee is based on a per acre rate:

\$ 1,125.00/per acre

The Consultant/Manager shall oversee:

- Consulting/advising on an as-needed basis
- Supervision of crews as needed
  - Organize all labor crews
  - Estimate of labor costs for each service
- All farming practices including:
  - Management
    - Training of young trees
    - Suckering
    - Varmint control
    - Chemical for weed control
    - All pruning practices
    - Cover crop planting

Management includes:

- Purchase of chemicals and maintenance materials
- Payment to labor contractor
- Tractor and implement rentals

Management does not include:

- Repair to any well, pumps, or filters



TELEPHONE (805) 541-6601  
FACSIMILE (805) 541-6640

LAW OFFICES  
**WILLIAM S. WALTER**  
A PROFESSIONAL CORPORATION  
THE BELLO HOUSE  
679 MONTEREY STREET  
SAN LUIS OBISPO, CALIFORNIA 93401



December 12, 2003

Roger W. Briggs, Executive Officer  
Central Coast Regional Water Quality Control Board  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401

Re: **October 23 Regional Water Quality Control Board Meeting Action;  
"Pierson Property" [sic]; Creston; San Luis Obispo County**

Dear Mr. Briggs:

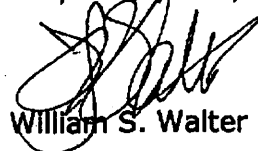
This is in response to letters dated November 19, 2003, addressed to this office. The letters contained the subject matter referencing, "Pierson Property; Creston; San Luis Obispo County." This will inform you that the two properties are under separate ownership, and there has been a peculiar tendency to confuse such basic facts as property ownership.

Both of these matters have been processed by Jeff Emrick of EDA, who has been working with members of your staff, to demonstrate agricultural uses, and dispel the rather careless public comments which have been made regarding these two separate properties.

It is our understanding that under separate cover, EDA is providing proof of agricultural activities for each specific property. It is also our understanding that this information has been communicated to Donette Dunaway with the Regional Board staff. The agricultural lease contains confidential information regarding the terms and payment which are required by the lessee to be kept confidential. However, a copy can be made available for review by your staff if required.

Under the circumstances, it is the expectation of each property owner that these matters will be completely closed, and the public record accurately reflect those facts.

Very truly yours,



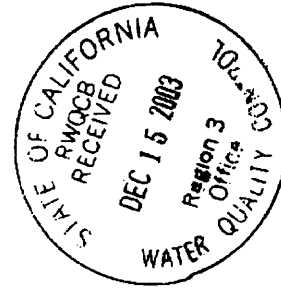
William S. Walter

cc: Haig Kelegian  
David Pierson  
Jeffrey J. Emrick, P.E., EDA

Item No. 20, Attachment 4  
February 6, 2004 Meeting  
Pierson and Kelegian Properties

December 12, 2003

Mr. Roger Briggs  
Regional Water Quality Control Board  
895 Aerovista, Suite 101  
San Luis Obispo, Ca. 93401



**Re: Kelegian Property, Santa Margarita**

Dear Roger:

This is in response to your letter dated November 26, 2003, requesting information relating to the intended agricultural use of this property. There is currently a cattle grazing lease in place and approximately 40 head of cattle are on the ranch. The lessee installed significant fencing to support this operation.

Thank you for this opportunity to respond to your concerns. Please contact us if you have any questions.

Sincerely;  
**eda - design professionals**

A handwritten signature in black ink, appearing to read "Jeffrey J. Emrick".

Jeffrey J. Emrick, P.E., AIA

encl

D:\LTRS\22748000\eg use resp.rb