

**Stipulated Settlement Agreement and
Disciplinary Order**

Exhibit A

1 DANIEL J. RUBIN
Chief Counsel
2 State Bar No.: 284387

3 SARA F. DUDLEY
Staff Attorney
4 State Bar No.: 311806

5 California Department of Pesticide Regulation
1001 I Street, 4th Floor
6 Sacramento, CA 95814
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **DEPARTMENT OF PESTICIDE REGULATION**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12
13 Tri-Cal, Inc.
14 Pest Control Business-Main, License No.
15 30596 located at 8770 Highway 25, Hollister,
16 California, 95023; Pest Control Business -
17 Branch License No. 38638, located at 1895
18 Ray Road, Santa Maria, California, 93458-
19 License No. 30597 300 E. 5th Street,
20 Camarillo, California, 93010

21 Respondents.

Case No. 22-001

ACCUSATION

[Gov. Code § 11504 *et seq.*]

22 **PARTIES**

23 1. Ken Everett (“Complainant”) brings this Accusation solely in his official capacity
24 as the Department of Pesticide Regulation’s (“DPR” or “Department”) Assistant Director over the
25 Pesticide Programs Division Enforcement Headquarters, Enforcement Regional Office, and
26 Integrated Pest Management branches.

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1 2. Tri-Cal, Inc. (“TriCal”¹) and its branch locations (collectively, “Respondents”) is
2 a pest control business licensed with the Department.

3 3. TriCal’s Pest Control Business - Main (“PCM”) License No. 30596 (“San Benito
4 Main”) is located at 8770 Highway 25, Hollister, California, 95023 (primary applicant address)
5 and 8100 Arroyo Circle, Gilroy, California, 95020 (mailing address). The San Benito Main
6 License No. 30596 was issued by DPR on or before January 1, 2006. PCM License No. 30596
7 will expire on December 31, 2023, unless renewed. PCM License No. 30596 was in full force
8 and effect at all times relevant to this proceeding.

9 4. The Pest Control Business - Branch (“PCB”) License No. 38638 is located at
10 1895 Ray Road, Santa Maria, California, 93458-9716 in Santa Barbara County (“Santa Maria
11 Branch”) and 8100 Arroyo Circle, Gilroy, California, 95020 (mailing address). PCB License No.
12 38638 was issued by DPR on or before January 5, 2012, and will expire on December 31, 2023,
13 unless renewed. PCB License No. 38638 was in full force and effect at all times relevant to this
14 proceeding.

15 5. Pest Control Business – Branch, PCB License No. 30597 is located at 300 E. 5th
16 Street, Camarillo, California, 93010 in Ventura County (“Ventura Branch”) and 8100 Arroyo
17 Circle, Gilroy, California, 95020 (mailing address.) PCB License No. 30597 was issued by DPR
18 on or before January 1, 2006. PCB License No. 30597 will expire on December 31, 2023, unless
19 renewed. PCB License No. 30597 was in full force and effect at all times relevant to this
20 proceeding.

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¹ Sometimes termed “Tri-Cal” in documentary evidence.

1 **JURISDICTION & AUTHORITY FOR DISCIPLINE**

2 **California Food and Agricultural Code (“Code”)**

3 6. Code section 11501.5 states, “[t]he director, and the commissioner of each county
4 under the direction and supervision of the director, shall enforce this division and the regulations
5 which are issued pursuant to it.”

6 7. Regarding a pest control business, Code section 11708 states:

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8 The director may refuse to grant any license and may revoke or suspend any
9 license if the applicant or licensee:

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11 (d) Violates or permits the violation of any provision of this division and
12 Division 7 (commencing with Section 12501) pertaining to pesticides or of
any regulations adopted pursuant thereto by the director or any
commissioner [.]

13 ...

14 Any hearing to deny, suspend, or revoke a license shall be heard under the
15 Administrative Procedure Act, Chapter 5 (commencing with Section 11500)
of Part 1 of Division 3 of Title 2 of the Government Code.

16 **STATUTORY VIOLATIONS**

17 8. Code section 11791 (Unlawful Acts) states:

18 It is unlawful for any person subject to this division to do any of the following:

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21 (b) Operate in a faulty, careless, or negligent manner.

22 (c) Refuse or neglect to comply with this division, or any regulation issued
23 pursuant to this division, or any lawful order of the commissioner or the director.

24 9. Code section 12973 (Use Not to Conflict with Label; Permit Conditions) states:

25 The use of any pesticide shall not conflict with labeling registered pursuant to this chapter
26 which is delivered with the pesticide *or with any additional limitations applicable to the*
27 *conditions of any permit* issued by the director or commissioner. (Emphasis added.)

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REGULATORY VIOLATIONS

California Code of Regulations, Title 3 (“3 CCR”)

10. 3 CCR section 6600 (General Standards of Care) states:

Each person performing pest control shall:

(a) Use only pest control equipment which is in good repair and safe to operate.

(b) Perform all pest control in a careful and effective manner.

(c) Use only methods and equipment suitable to insure proper application of pesticides.

(d) Perform all pest control under climatic conditions suitable to insure proper application of pesticides.

(e) Exercise reasonable precautions to avoid contamination of the environment.

11. 3 CCR section 6406 (Restricted Materials; Supervision Standards) states:

The certified applicator responsible for this supervision shall be aware of the conditions at the site of application and be available to direct and control the manner in which applications are made by the noncertified applicator. The availability of the certified applicator shall be directly related to the actual or potential hazard of the situation.

12. 3 CCR section 6614 (Protection of Persons, Animals and Property) states:

(a) An applicator prior to and while applying a pesticide shall evaluate the equipment to be used, meteorological conditions, the property to be treated and surrounding properties to determine the likelihood of harm or damage.

(b) Notwithstanding that substantial drift will be prevented, no pesticide application shall be made or continued when: (1) There is a reasonable possibility of contamination of the bodies or clothing of persons not involved in the application process; (2) There is a reasonable possibility of damage to nontarget crops, animals or other public or private property; or (3) There is a reasonable possibility of contamination of nontarget public or private property, including the creation of a health hazard, preventing normal use of such property. In determining a health hazard, the amount and toxicity of the pesticide, the type and uses of the property and related factors shall be considered.

1 13. 3 CCR section 6738.1 (Personal Protective Equipment Use) states:

2 Personal protective equipment may be required by pesticide product labeling,
3 regulations, or restricted material permit conditions. Except as provided in section
4 6738.4, the employer shall assure that:

5 (f) Employees wear a chemical-resistant apron when required. The apron must
6 cover the front of the body from mid-chest to the knees.

7 **STANDARD OF PROOF**

8 14. California Evidence Code section 115 provides that “[e]xcept as otherwise
9 provided by law, the burden of proof requires proof by a preponderance of evidence.” A pest
10 control business license is an occupational license. The standard of proof to revoke or suspend an
11 occupational license is the “preponderance of the evidence” standard defined in California
12 Evidence Code, section 115. (See *Imports Performance v. Dept. of Consumer Affairs, Bureau of*
13 *Automotive Repair* (2011) 201 Cal.App.4th 911, 916.)

14 **INTRODUCTION**

15 15. The Department of Pesticide Regulation by and through Complainant Ken Everett²
16 brings this licensing discipline action against the main location and two branches of TriCal, a pest
17 control business licensed with the Department.

18 16. TriCal specializes in the application of field fumigants used in commercial
19 agriculture. Field fumigants are pesticides that are applied to the soil by injection or fumigation
20 to control insects, nematodes, and other soil pathogens.

21 17. All the fumigants at issue here contain the active ingredient(s) chloropicrin and/or
22 1,3-Dichloropropene (“1,3-D.”) When misused, pesticide products with these active ingredients
23 are among the most hazardous pesticide products in California. As such, their use is strictly
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27 ² Individuals who report pesticide use complainants to the agricultural commissioner or the Department are
28 referred to as “Complainants” in investigatory reports. Thus, references to complainants in this Accusation refer to
such individuals. Mr. Ken Everett, the designated Complainant in this matter is referred to as Complainant Ken
Everett.

1 regulated through an enforceable set of instructions on the products' registered pesticide labels,
2 California law and regulation, and permit conditions imposed on the local level by the local
3 county agricultural commissioner ("CAC.")

4 18. The Department will demonstrate that Respondents have consistently violated
5 legal requirements pertaining to pesticide use and have failed to exercise due care necessary to
6 apply field fumigants safely and effectively in nine (9) incidents in four (4) counties across
7 California.³ As a result of these incidents, over 85 individuals reported experiencing pesticide-
8 related illnesses, such as eye, nose and throat irritation, headache, chest tightness, coughing, skin
9 rash and vomiting associated with TriCal fumigations. Complainants included two pregnant
10 women and numerous children. Six Complainants sought medical care. Two of the
11 Complainants who received medical care were children, ages one and three years old.

12 19. Four incidents described herein are "priority incidents" as defined by the
13 Department, U.S. EPA and its local partners, the CACs. In relevant part, priority incidents are
14 pesticide use violations where five or more individuals reported injuries from pesticide exposure
15 or where even one individual was hospitalized. The Monterey County District Attorney has
16 accepted referrals for three of these priority incidents.

17 20. The Department brings this action after extensive enforcement actions at multiple
18 levels of government failed to bring TriCal into compliance with important legal requirements
19 pertaining to pesticide use that protect human health and the environment.

20 21. Prior enforcement actions from 2014 to 2021 are described in detail below as
21 matters in aggravation. In sum, Respondents violated pesticide laws in these 40 prior incidents,
22 and paid over \$125,000 in administrative civil penalties for violations committed in 12 counties.⁴

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27 ³ Monterey, San Luis Obispo, Santa Barbara and Ventura.

28 ⁴ Fresno, Kern, Merced, Monterey, San Luis Obispo, Santa Barbara, Santa Cruz, Shasta, Stanislaus, Sutter,
Ventura and Yolo.

1 These incidents include four priority episodes, with over 40 injured persons. In one notable
2 example, the United States Environmental Protection Agency, Region 9 reached a legal
3 settlement with TriCal for \$44,275, for six violations of federal pesticide law.

4 22. Collectively, the incidents that form the basis of this Accusation and the matters in
5 aggravation resulted in 23 Stipulated Orders, imposing approximately \$188,000 in fines for over
6 70 individual violations of the Food and Agricultural Code and its implementing regulations.
7 These prior violations include multiple Class A violations, the highest administrative penalty
8 violation provided for in California pesticide law, and which is reserved for those violations
9 which cause an actual hazard to property, human health, or the environment.⁵

10 23. In consideration of the foregoing, Complainant Ken Everett requests that a hearing
11 be held on the matters herein alleged, and following the hearing, the Director of the Department
12 of Pesticide Regulation issue a decision to suspend or revoke Respondent's licenses and take such
13 other and further action as deemed necessary and proper.

14 **LEGAL BACKGROUND**

15 **A. Department of Pesticide Regulation**

16 24. The Department is a state agency created in the California Environmental
17 Protection Agency. (Code §§ 11451, 11454.) The Department is charged with administering and
18 enforcing the provisions of the Code and its implementing regulations. References to the
19 "Director" herein are to the Director of the California Department of Pesticide Regulation.
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24 ⁵ Administrative civil penalty violations and fines assessed by county agricultural commissioners are
25 divided into three categories: Class A, Class B and Class C. (3 CCR, §§ 6128, 6130.) Class A are "serious"
26 violations for acts that "cause[] a health, property or environmental hazard" (3 CCR, § 6130, subd. (b)(1)(A)) or
27 where there is a "violation of a law or regulation that mitigates the risk of adverse health, property, or environmental
28 effects" and where specified "aggravating circumstances" occur (*id.* at subd. (b)(1)(B).) A commissioner may also
assess a Class A violation if a respondent violates a previously issued order. (*Id.* at subd. (b)(1)(C).) A Class B
violation "is a violation of a law or regulation that mitigates the risk of adverse health, property, or environmental
effects." (*Id.* at subd. (b)(2).) A Class C violation is assessed for violations of pesticide law or regulation that do not
mitigate risks of adverse health, property, or environmental effects. (*Id.* at subd. (b)(3).) The fine ranges for each
category are set forth in regulation. (*Id.* at subd. (c).)

1 25. The provisions of the Code and its implementing regulations that license and
2 discipline pest control operations are at Division 6 of the Food and Agricultural Code (Code §
3 11401 et seq; see generally 3 CCR § 6600 et seq. [pest control operations generally]; 6700 et seq.
4 [pesticide worker safety].)

5 26. The Department is charged with administering and enforcing the provisions of the
6 Code and its implementing regulations that enforce and regulate the sale, use and application of
7 pesticides. These provisions are in Division 7 of the Food and Agricultural Code (Code § 12500
8 et seq.; see generally 3 CCR § 6000 et seq.) This licensing discipline action is brought against
9 Respondents for violations of various provisions of Divisions 6 and 7 of the Code and their
10 implementing regulations.
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12 **B. Pest Control Businesses**

13 27. All persons who “advertise, solicit or operate as a pest control business” must have
14 a license issued by the Director. (Code § 11701.) Licenses are issued for one year (Code §
15 11705.) To receive a license, the pest control business must, among other ministerial tasks,
16 submit a completed application form, fee, proof of insurance and bond to the Department.
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18 28. A pest control business must designate a main location (a PCM) and may also
19 operate branch locations (a PCB.)

20 29. A pest control business’s certified applicators may supervise “handlers.”
21 Activities permitted to be performed by handlers include, but are not limited to, shoveling soil
22 onto tarps (shoveling), changing pesticide cylinders (copiloting), operating the tractors (driving),
23 chemigation application and leak repair, and other activities as permitted by the label. (3 CCR §
24 6445.)
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1 **C. Pesticides**

2 30. All pesticide products sold or distributed into or within the state must be registered
3 with the Department. (Code § 12993.) With limited exceptions, “[e]very manufacturer of,
4 importer of, or dealer in any pesticide” must register with the Department. (Code § 12811.) A
5 person that registers a product is a “registrant.” TriCal is the registrant for all the pesticide
6 products at issue in these matters.

7 31. The pesticide products at issue in this matter are: 1) Tri-Chlor EC Fumigant is a
8 registered pesticide (EPA Reg. No. 58266-2-11220; DPR Reg. No. 58266-5-AA-1120) (“Tri-
9 Chlor.”) The active ingredient in Tri-Chlor is chloropicrin; 2) Tri-Form 80 EC is a registered
10 pesticide (EPA Reg. No. 11220-35; DPR Reg. No. 11220-35-AA.) The active ingredients in
11 Tri-Form 80 EC are chloropicrin and 1,3-D; 3) Tri-Form 80 is a registered pesticide (EPA Reg.
12 No. 11220-36; DPR Reg. No. 11220-36-AA). The active ingredients in Tri-Form 80 are 1,3-D
13 and chloropicrin; 4) Pic-Chlor 60 is a registered pesticide (DPR Reg. No. 8536- 8-AA; EPA Reg.
14 No.: 8536-8.) The active ingredients in Pic-Chlor 60 are 1,3-D and chloropicrin; and 5) Pic-Chlor
15 60 EC is a registered pesticide (EPA Reg. No.: 8536-43-11220; DPR Reg. No. 8536- 43-AA-
16 11220.) The active ingredients in Pic-Chlor 60 EC are 1,3-D and chloropicrin.

17 **D. Restricted Materials**

18 32. DPR designates as restricted materials those pesticides it deems to have the
19 greatest potential to harm human health and the environment. (3 CCR § 6400 [definition of
20 restricted material]; see generally, Code §§ 14001 – 14015 [restricted materials].) The criteria
21 used to designate a pesticide as a restricted material includes its potential to pose a hazard to
22 public health, farmworkers, domestic animals, honeybees, the environment, and wildlife or crops
23 other than those being treated. (3 CCR § 6400; Code, § 14004.5.)
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1 33. All products containing chloropicrin and/or 1,3-D are California restricted
2 materials. (3 CCR § 6400 [listing chloropicrin and 1,3-D as restricted materials.]

3 34. To use or possess a restricted material, a site operator must possess a valid
4 restricted materials permit (“RMP”) issued by the CAC. (3 CCR §§ 6412, 6420, 6428; Code §§
5 14006, 14006.5.)

6 35. The property operator or designated agent must file a Notice of Intent (“NOI”) at
7 least twenty-four hours before applying a restricted material. The NOI must contain information
8 about the application, including the pesticide to be applied, pest control business / applicator, and
9 time, date, and location of the application. (3 CCR § 6434, subd. (b); see generally *id.* at 6434
10 [NOI requirements].)

11 36. In evaluating an RMP application, NOI or any permit to use a restricted material,
12 the CAC must consider local conditions, such as the location of sensitive sites (including schools,
13 homes, hospitals and recreational areas), the proximity of the proposed application site to
14 livestock, projected local weather conditions and the timing of the application.
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16 37. In consideration of these local conditions, the CAC may impose additional
17 restrictions on the permit in order to protect property, human health or the environment. (3 CCR
18 §§ 6432, subd. (b); 6442.)⁶

19 38. Following an application of a restricted material, the pest control business /
20 applicator must file a pesticide use report (“PUR”) with the CAC. (Code § 14011.5; 3 CCR, §
21 6624.
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23 **E. Field Fumigants Containing 1,3-D and/or Chloropicrin**

24 39. Field fumigants are pesticides that are applied to the soil by injection or
25 fumigation. (Code § 3 CCR, § 6000 [defining “applied to the soil”].)
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⁶ The CAC can also refuse to issue, revoke, or suspend the permit. (3 CCR, § 6442.)

1 40. Field fumigants containing chloropicrin and 1,3-D are highly regulated by the
2 Department, due to their potential to adversely impact human health and the environment. The
3 Department has promulgated California-specific regulations⁷ on the use of field fumigants to
4 protect pest control employees, fieldworkers,⁸ the public and the environment.

5 41. Numerous authoritative bodies have determined that exposure to 1,3-D poses
6 human health risks. The National Toxicology Program (1985)⁹ (“NTP”) reported “clear evidence
7 of carcinogenicity” in male rats and female mice and “some evidence of carcinogenicity” in
8 female rats. Tumors included malignant bladder tumors, benign and malignant lung tumors,
9 benign liver tumors, and benign and malignant forestomach tumors. The NTP Report on
10 Carcinogens¹⁰ lists 1,3-D as “reasonably anticipated to be a human carcinogen.” Similar
11 conclusions have been reached by DPR (1994, 1997, and 2015), the California Office of
12 Environmental Health Hazard Assessment (“OEHHA”) in its Public Health Goals for drinking
13 water program (1999, 2006),¹¹ the International Agency for Research on Cancer (1999),
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18 ⁷ In addition to regulations specifically discussed herein, regulations concerning the use of field fumigations
19 are at 3 CCR, sections 6469 – 6452.4 (Art. 4, Field Fumigation Requirements); 6448 (1,3-D field fumigation, general
20 requirements); 6448.1 (1,3-D fumigation methods); 6449 (chloropicrin field fumigation, general requirements);
21 6449.1 (chloropicrin field fumigation methods); 6453 to 6454 (use requirements for chloropicrin and methyl
22 bromide); 6624, subd. (a)(5) (pesticide use reporting required for all pesticides listed in 3 CCR, § 6800, subd. (b));
6624, subd. (f) (pesticide use reporting for chloropicrin and 1,3-D in ozone nonattainment areas); 6624, subd. (a)(5);
6800, subd. (b) [Chloropicrin is on the Department’s Groundwater Protection List due to its potential to pollute
groundwater]; 6624, subd. (a)(5) [additional reporting requirements for Groundwater Protection List pesticides].)

23 ⁸ A fieldworker means “any person who, for any kind of compensation, performs cultural activities in a
24 field.” (3 CCR, § 6000.) A fieldworker may perform “hand labor” which is defined as “any cultural activity,
performed by hand or with hand tools, that causes substantial contact with surfaces (such as plants or soil) that may
have pesticide residues. (*Ibid.*)

25 ⁹ U.S. Dept. of Health and Human Services (National Toxicology Program) *Toxicology and Carcinogenesis*
26 *Studies of Telone II (Technical-Grade 1,3-Dichlororopene [CAS No. 542-76-6] Containing 1.0% Epichlorohydrin as*
a Stabilizer) in F344/N Rats and B6C3F1 Mice (Gavage Studies), available at
https://ntp.niehs.nih.gov/ntp/htdocs/lt_rpts/tr269.pdf

27 ¹⁰ U.S. Dept. of Health and Human Services (National Toxicology Program), *Fifteenth Report on*
Carcinogens, available at <https://ntp.niehs.nih.gov/whatwestudy/assessments/cancer/roc/index.html> (last viewed Oct.
28 11, 2022.)

¹¹ Cal. Office of Environmental Health Hazard Assessment, *Public Health Goals*, available at
<https://oehha.ca.gov/water/public-health-goals-phgs> (last viewed Oct. 11, 2022.)

1 ¹² US EPA’s Integrated Risk Information System program (2000)¹³ and Office of Water (2008),¹⁴
2 and the Agency for Toxic Substances and Disease Registry (2008).¹⁵ 1,3-D is listed as known to
3 cause cancer under California’s Proposition 65 program (1989).¹⁶ Both chloropicrin and 1,3-D
4 are toxic air contaminants (“TACs”) and volatile organic compounds (“VOCs.”) (3 CCR § 6860,
5 subd. (a).) DPR has also identified acute risks from potential 1,3-D exposure.¹⁷

6 **F. Label Instructions: Tri-Form 80 EC, Tri-Form 80, Tri-Clor, Pic-Clor 60 and Pic-**
7 **Clor 60 EC**

8 42. Each pesticide container must have “a plainly printed label.” (Code § 12851.)
9 Instructions on the label create a legally enforceable set of requirements concerning the use of the
10 pesticide. Thus, the use of the pesticide cannot conflict with the product’s label. (Code § 12973.)
11 “‘Conflict with labelling’ means any deviation from instructions, requirements, or prohibitions.”
12 (3 CCR § 6000.)

13 43. Among other information, the label must contain the directions for use (Code §
14 12852), a statement of active ingredients and their percentages (*id.* at § 12858), required personal
15 protective equipment (“PPE”) for applicators, precautionary statements, and signal words.
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20 ¹² See generally, International Agency for Research on Cancer, *Re-Evaluation of Some Organic Chemicals,*
21 *Hydrazine and Hydrogen Peroxide (Part 1, Part 2, Part 3)* (1999.)

22 ¹³ See generally, U.S. Environmental Protection Agency, Integrated Risk Information System, *1,3-*
Dichloropropene, available at https://cfpub.epa.gov/ncea/iris2/chemicalLanding.cfm?substance_nmbr=224 (last
23 viewed Oct. 11, 2022.)

24 ¹⁴ See generally, U.S. Environmental Protection Agency, Integrated Risk Information System, *Regulatory*
Determination 2: Support Documents for 1,3-Dichloropropene (Telone), available at
<https://www.epa.gov/ccl/regulatory-determination-2-support-documents-13-dichloropropene-telone> (last viewed Oct.
25 11, 2022.)

26 ¹⁵ Agency for Toxic Substances and Disease Registry, *Toxicological Profile for Dichloropropenes*, available
at <https://www.cdc.gov/TSP/ToxProfiles/ToxProfiles.aspx?id=836&tid=163> (last viewed Oct. 11, 2022.)

27 ¹⁶ Cal. Office of Environmental Health Hazard Assessment, *Chemicals Known to the State of California to*
Cause Cancer or Reproductive Toxicity, available at [https://oehha.ca.gov/media/downloads/proposition-](https://oehha.ca.gov/media/downloads/proposition-65/p65list010320.pdf)
[65/p65list010320.pdf](https://oehha.ca.gov/media/downloads/proposition-65/p65list010320.pdf) (last viewed Oct. 11, 2022.)

28 ¹⁷ Cal. Dept. of Pesticide Regulation, *Risk Management Directive and Mitigation Guidance for Acute, Non-*
Occupational Bystander Exposure from 1,3-Dichloropropene (1,3-d), available at
https://www.cdpr.ca.gov/docs/whs/pdf/1,3-d_directive_mitigation_exposure.pdf (last viewed Oct. 11, 2022.)

1 44. Each of the labels for the pesticides at issue in these matters contain over 20 pages
2 of information, instructions, and warnings, including, but not limited to, the following:

- 3 a. The signal word is Danger (“Poison with Skull & Crossbones.”) This signal word
4 is assigned to pesticides in Toxicity Category I, the category designation reserved
5 for the most acutely toxic pesticides. The precautionary statement is “Hazards to
6 Humans and Domestic Animals.”
- 7 b. Applicators are required to prepare a Fumigation Management Plan (“FMP.”) The
8 Department has promulgated a standard FMP Form, DRP-ENF-227.
- 9 c. Applicators must be aware of local weather conditions, including wind speed,
10 wind stagnation and temperature to prevent off-site movement of the pesticide.
- 11 d. “Buffer zones” are required to mitigate the impact of off-site movement of the
12 pesticide and to prevent bystanders from entering the treated area. Buffer zone
13 signs must be placed along or outside the perimeter of the buffer zone, at all usual
14 points of entry, and along likely routes of approach from areas where people not
15 under the owner’s control may approach the buffer zone. Signs must be posted no
16 sooner than 24 hours prior to the start of the application and must remain posted
17 until the buffer zone period has expired. Where a buffer zone would encroach on
18 adjacent property, written encroachment and / or vacate agreements are required.
19 Buffer zone distances are calculated using the application rate and the size of the
20 application block and can vary depending on the type of tarp used.
- 21 e. For applications in California, applicators must comply with state-specific label
22 requirements and restrictions concerning tarps, buffer zones, and emergency
23 preparedness and response.
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FACTUAL ALLEGATIONS

A. San Benito Main

45. The Department finds that on the following occasions, the San Benito Main violated California pesticide law.

Monterey County, Priority Episode 71-MON-18; INV-27-20190910-035

(“San Benito Main I”)

46. On October 18, 2018, the Monterey CAC received an NOI for the San Benito Main to apply 320 gallons of Tri-Form 80 EC to 16 acres of strawberries property operated by Ramirez Jr. Berry Farms, Jacobs Ranch (“RJBF.”) The coordinates given for the application site corresponded with Lot 9. RJBF is located in Salinas in Monterey County, California.

47. The Monterey CAC also received a “Monterey County Chloropicrin Drip Soil Fumigation Plan” for the pesticide application (“Work Site Plan.”)

48. The Work Site Plan states “[d]o not submit without Notification Log, [a]ll required Monterey County signed encroachment & vacating agreements [and] [c]omplete & accurate aerial maps showing the following ... [i]dentification of adjacent property operators.” Accompanying the Work Site Plan was a notification log and two signed encroachment agreements.

49. On October 15, 2018, the Monterey CAC approved an amended Work Site Plan for the application. The amended Work Site Plan reflected that the application site within RJBF had changed, from Lot 9 to Lot 12A. The notification log was not updated. Additional or amended encroachment agreements were not submitted.

50. Accompanying the Work Site Plan was the “2018 Monterey County Chloropicrin and Chloropicrin with 1,3-Dichloropropene Permit Conditions” which are county-wide permit conditions for applications of chloropicrin and chloropicrin with 1,3-D (“2018 Monterey County Permit Conditions.”)

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1 51. The 2018 Monterey County Permit Conditions state that “[y]ou [the property
2 operator], the PCB and the Pest Control Advisor (PCA) are all responsible to comply with all
3 conditions of this permit.” These conditions include:

- 4 a. Encroachment and vacating agreements are required if buffer zones encroach onto
5 adjacent property. These property owners / occupiers must be notified 48-hours
6 prior to the start of the application.
7 b. “Neighboring properties requiring notification and/or signed agreements must be
8 numbered to correspond with the notification log.”
9 c. The property owner, pest control business and PCA “are responsible for ensuring
10 the boundary of the buffer zone is posted with warning signs as required by the
11 fumigant labeling.”
12 d. “An application block treated with 1,3-D must not be within 100 feet of an
13 occupied structure [.]”
14 e. “Totally impermeable films (TIF) tarps are required for all applications ... The
15 tarps are considered part of the application equipment and they must be kept in
16 good repair throughout the application.”
17 18

19 52. The application began at approximately 9:00 am on October 22, 2018.

20 53. As described in the Pesticide Use Report filed for this application, between
21 9:00 am and 2:30 pm, TriCal employees applied 288 gallons of Tri-Form 80 EC by drip soil
22 fumigation to 16 acres of strawberry beds at RJBF Lot 12A. The application was conducted in
23 three sets. Each set consisted of a 1.5-hour application of the pesticide, followed by a 30-minute
24 clean water flush. At 2:30 pm, after the three sets were complete, the TriCal applicators left the
25 site. Then, RJBF handlers conducted three additional clean water flushes of the irrigation lines in
26 30-minute intervals, until approximately 4:00 pm.
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1 54. At approximately 3:20 pm, the Monterey CAC received a complaint from a
2 resident on San Juan Grade Road. The Complainant reported that she and her two minor children
3 had begun experiencing respiratory and eye irritation that day, October 22, 2018. She attributed
4 their symptoms to the pesticide application at RJBF.

5 55. The Monterey CAC initiated an investigation. The assigned inspector arrived at
6 the application site at approximately 4:15 pm. The inspector observed the following: two wind
7 speed recordings, documenting wind speeds of 3.2 and 7.9 miles per hour blowing east, from the
8 treated fields toward residences on San Juan Grade Road; the application site's southwest interior
9 road was flooded and so muddy as to be impassable; multiple holes of varying sizes in the tarps
10 covering the treated soil beds; pooled water in the furrows between multiple beds, including beds
11 across from residences on San Juan Grade Road; a chlorine-like smell in the downwind; milky
12 appearance on water; areas of tarps that were without dust, consistent with having water applied
13 by a sprinkler; and no buffer zone signs were posted along San Juan Grade Road.

14 56. When applying chloropicrin through irrigation lines, an emulsifier is added to the
15 product to allow it to mix with the water inside the irrigation lines. In standing water, the
16 emulsifier will separate from any escaping chloropicrin. This will give the standing water a
17 milky appearance, indicating to observing that chloropicrin has escaped from the irrigation lines.
18 In addition, chloropicrin is non-polar and hydrophobic (will not mix with water.) Thus, when
19 chloropicrin is introduced to standing water, the water can act as a "chimney" causing the
20 chloropicrin to diffuse (spread out over a large area.) Chloropicrin emits a strong chemical odor,
21 similar to chlorine.
22
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25 57. Prior to the start of the pesticide application, witnesses observed standing water in
26 the multiple furrows and saturated beds at various points in the field. The furrows continued to
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1 flood during the application. Witnesses observed that the pooling was incompletely remediated
2 by handlers after the pesticide application.

3 58. During a subsequent interview, the Complainant further reported that on
4 October 22, 2018, she vacated her residence with her children until 7:00 pm to avoid further
5 pesticide exposure. Their symptoms abated when they vacated the residence but recurred upon
6 returning to the property. The Complainant then vacated the property overnight with her children
7 to avoid continued pesticide exposure. The following day, October 23, 2018, the Complainant
8 received medical care and evaluations for her children for pesticide exposure.
9

10 59. The Monterey CAC inspector determined that thirteen (13) individuals at five
11 residences at San Juan Grade Road experienced symptoms of pesticide exposure, beginning on
12 October 22, 2018. One individual was pregnant, and eight (8) others were minors, ranging in age
13 from one (1) to nine (9) years old.

14 60. Symptoms of exposure experienced by the Complainants included eye, nose and
15 throat irritation, headache, chest tightness, coughing, skin rash and unpleasant odor. Symptoms
16 abated when the individuals left the area, but recurred when they returned to San Juan Grade
17 Road.
18

19 61. The Monterey CAC inspector reviewed the Work Site Plan submitted by TriCal
20 and found the following discrepancies:

- 21 a. The property located at 625 San Juan Grade Road, and a camper van parked at that
22 property, were within 100 feet of the application site. Therefore, encroachment
23 and vacate agreements from the resident(s) were required before the application
24 could proceed.
25
26 b. The property operator for Site 1, as identified on the notification log, an adjacent
27 agricultural property, was improperly identified. Therefore, an encroachment
28

1 agreement from the true and actual property owner / operator of Site 1 was
2 required before the application could proceed.

3 62. On October 12, 2020, the Monterey CAC issued a Notice of Proposed Action
4 (“NOPA”), Stipulation and Waiver to Order to TriCal, for 18 separate violations of the Food and
5 Agricultural Code and California Code of Regulations, Title 3, and ordering a \$62,400 fine. (See
6 Code § 12999.4.) Fifteen (15) of the violations were Class A violations and three (3) of the
7 violations were Class B violations. On October 26, 2020, TriCal stipulated to the Order, waived
8 its right to a hearing, and paid the fine.

9
10 ***Monterey County, Priority Episode 69-MON-19; INV-27-20191105-050***
11 ***(“San Benito Main II”)***

12 63. On October 8, 2019, the San Benito Main applied 160 gallons of Tri-Form 80 EC
13 to eight (8) acres of pre-plant strawberries at Block 2 of Bay View Farms, LLC’s Conley Ranch,
14 (“Conley Ranch”), per the Pesticide Use Report filed for the application. Conley Ranch is located
15 on Nashua Road, in Salinas, in Monterey County, California. A “Monterey County 2019
16 Chloropicrin Drip Soil Fumigation Plan” (“Work Site Plan”), NOI and FMP were also prepared
17 and submitted for the application.

18
19 64. TriCal employees and Conley Ranch handlers arrived at the site at approximately
20 5:30 am and began applying pesticides at approximately 6:30 am.

21 65. Prior to the application, a witness observed some liquid pooling in the furrows on
22 the northeast side of Block 2.

23 66. Between 8:00 and 8:30 am, TriCal ceased applying pesticides and left the site.
24 Conley Ranch handlers then conducted a water flush of the irrigation lines.

25 67. That same day, October 8, 2019, at approximately 9:47 am, a Monterey CAC
26 inspector observed and photographed several flooded soil beds on the west corner of Block 2.
27
28

1 68. The following day, on October 9, 2019, at approximately 7:00 am, two crews
2 totaling 39 fieldworkers began harvesting strawberries at River Valley Farms LLC, Nashua
3 Ranch (“Nashua Ranch.”) Nashua Ranch is located adjacent to, and northwest of, Conley Ranch.

4 69. Soon after beginning work on October 9, 2019, thirty-two (32) of the Nashua
5 Ranch fieldworkers reported symptoms of pesticide exposure, including nose and throat irritation,
6 dizziness, diarrhea, nausea, headache, burning sensation in stomach, sore throat, shortness of
7 breath, vomiting, high blood pressure and numerous impacts to their eyes, such as swelling,
8 burning, dryness, watery eyes, and general eye pain. Several complainants experienced
9 prolonged symptoms (up to three days.) T hree (3) complainants sought and received medical
10 care.
11

12 70. On October 11, 2019, the Monterey CAC opened an investigation in the incident.

13 71. The Monterey CAC inspector determined that from 10:00 pm on October 8, 2019,
14 until 6:00 am on October 9, 2019, the temperature and dew point at or near the treatment site
15 were nearly identical, which is indicative of inversion conditions. Under inversion conditions,
16 normal air mixing does not take place; fumigant vapors settle and concentrate near the ground.
17 When this happens, fumigant vapors often move offsite with low-level air movement or settle in
18 low-lying areas. At 7:00 am on October 8, 2019, 4.6 mph winds were coming from the south,
19 blowing towards Nashua Ranch.
20

21 72. The Monterey CAC referred this matter to the Monterey County District Attorney.
22 On or about April 29, 2021, the Monterey County District Attorney accepted the matter for
23 further enforcement action.
24

25 ***Monterey County, Priority Episode 66-MON-20; INV-27-20201020-076***
26 ***(“San Benito Main III”)***

27 73. On October 13, 2020, the San Benito Main applied Tri-Form 80 EC by drip
28

1 irrigation to 10 acres of pre-plant strawberries (Site Identification No. 410002) operated by
2 Bay View Farms, LLC, W&S Ranch (“W&S Ranch.”) W&S Ranch is located in Salinas, in
3 Monterey County, California. A Chloropicrin Drip Soil Fumigation Plan (“Tri-Form 80 EC
4 W&S Ranch Worksite Plan”), Pesticide Use Report (Doc. No. 10497323), NOI and FMP were
5 submitted for this application.

6 74. Over October 13 and 14, 2020, the San Benito Main applied Tri-Clor to a total of
7 10 acres of pre-plant strawberries (Site Identification No. 410001) at W&S Ranch. The October
8 13, 2020, application occurred on five (5) acres of the block, followed by an application to the
9 remaining five (5) acres of the block on October 14, 2020. A single Chloropicrin Drip Soil
10 Fumigation Plan (“Tri-Clor W&S Ranch Worksite Plan”), Pesticide Use Report (Doc. No.
11 10497313), NOI and FMP were submitted for the October 13 and 14 applications.

12 75. On October 14, 2020, the San Benito Main applied Tri-Form 80 EC by drip
13 irrigation to 13 acres of pre-plant strawberries (Site Identification No. 370001) at Bay View
14 Farms, LLC, Smith Ranch (“Smith Ranch.”) Smith Ranch is adjacent to W&S Ranch. A
15 Chloropicrin Drip Soil Fumigation Plan (“Smith Ranch Worksite Plan”), Pesticide Use Report
16 (Doc. No. 10497270) NOI and FMP were submitted for this application.

17 76. The application sites are adjacent to San Juan Grade Road, a residential
18 neighborhood located 946 feet to 1,227 feet to the northwest of Smith Ranch and W&S Ranch,
19 respectively.

20 77. Each application was subject to the “2019 Monterey County Chloropicrin and
21 Chloropicrin with 1,3-Dichloropene Permit Conditions” (“2019 Monterey County Permit
22 Conditions.”) The 2019 Monterey County Permit Conditions state:

- 23 a. “You [the property operator], the PCB and the Pest Control Advisor (PCA) are all
24 responsible to comply with all conditions of this permit.”
25
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1 82. Symptoms of pesticide exposure reported by the Complainants included smelling
2 an unpleasant odor, eye, nose and throat irritation, difficulty sleeping and emotional distress
3 among the minor children due to their physical discomfort. Symptoms abated when individuals
4 left the area, but recurred when they returned. Several Complainants experienced prolonged
5 symptoms (two or more days.) Animals residing on property at 237 San Juan Grade Road also
6 displayed symptoms of pesticide exposure, according to the residents.

7
8 83. The Monterey CAC inspector concluded that the symptoms described by the
9 Complainants were consistent with exposure to chloropicrin, an active ingredient in all of the
10 pesticides used by the San Benito Main on October 13 and 14, 2020.

11 84. Consistent with the weather forecasts submitted with each FMP, high temperatures
12 in the vicinity of the applications were 86.3 degrees on October 13, 2020, 86.7 degrees on
13 October 14, 2020, climbed to 92.4 degrees on October 15, 2020, and peaked at 96.1 degrees on
14 October 16, 2020.

15 85. The time period of October 13 to October 16, 2020, was the day of, or within 48
16 hours of, TriCal's pesticide applications of Tri-Form 80 EC and Tri-Clor at either the W&S
17 Ranch or Smith Ranch, as detailed above.

18 86. The Monterey CAC referred this matter to the Monterey County District Attorney.
19 On or about July 16, 2021, the Monterey County District Attorney accepted the matter for further
20 enforcement action.

21
22 ***Priority Episode 02-MON-21; INV-27-20210126-003 ("San Benito Main IV")***

23 87. On October 17, 2020, between 6:00 am and 9:00 am, the San Benito Main
24 conducted a drip irrigation application of Tri-Clor, at a rate of 320 pounds per acre, to
25 approximately 5.8 acres of pre-plant strawberry beds at N.R. Gonzalez Farms, Rancho Los
26 Eucaliptos ("RLE.") RLE is located at 818 Maher Road in Salinas, in Monterey County,
27
28

1 California. A Pesticide Use Report, NOI and FMP were submitted for the application.

2 88. The NOI stated that the San Benito Main would conduct three applications of
3 Tri-Clor as follows: 1) October 17, 2020, to seven (7) acres on RLE's western three blocks;
4 2) October 19, 2020, to eight (8) acres of RLE's eastern two blocks; and 3) October 24, 2020, to
5 seven (7) acres of RLE's middle three blocks.

6 89. On October 17, 2020, eight (8) people in and around their homes on Glenn
7 Avenue, located within 500 feet to the southwest of the fumigated field, experienced symptoms of
8 pesticide exposure, including eye irritation, throat irritation and chest tightness.

9 90. The application was subject to the 2019 Monterey County Permit Conditions. The
10 permit conditions state:

- 11
- 12 a. "You [grower], the PCB and the Pest Control Advisor (PCA) are all responsible to
13 comply with the conditions of this permit."
 - 14 b. Under the heading "Notices of Intent (NOIs)," the permit conditions state that the
15 following must be submitted with the NOI, at least 48-hours prior to the
16 application: "A clear, complete and accurate aerial map of the fumigation site
17 showing:"
 - 18 i. "All occupied structures and bystander areas within 300 feet of the outer
19 perimeter of the buffer zone."
 - 20 ii. "The location of the well supplying water for the fumigation, location of
21 backflow prevention device(s), and the injection sites(s) that will be used
22 for each block (if applicable.)"
 - 23 iii. "Locations of difficult to evacuate sites within ¼ mile of the application
24 block; and distances to bus stops; roadways; rights of way; walking paths;
25 sidewalks; lakes; waterways; and wells."
 - 26
 - 27
 - 28

1 iv. “Identification of adjacent property owners.”

2 c. Under the heading “Submitting NOIs by Email” the permit conditions state that
3 “[w]hen e-mailing an NOI and/or NOI map, the subject line of the email must
4 contain: Grower Name, Ranch Name and Recommendation Number.” (Emphasis
5 in original.)

6 d. “If fumigation of an application block does not commence on the date specified,
7 the NOI must be resubmitted with the new dates and times.”

8
9 91. With the exception of Elkhorn School (a difficult to evacuate site),¹⁹ the aerial
10 map submitted with the NOI did not identify any occupied structures and bystander areas within
11 300 feet of the outer limit of the buffer zone.

12 92. The aerial map submitted with the NOI did not show the location of the well
13 supplying water for the fumigation, the location of backflow prevention devices and the location
14 of the injection point.

15 93. The aerial map submitted with the NOI did not show the distances to any bus
16 stops, roadways, rights of way, walking paths or sidewalks including Maher Road, Glenn Avenue
17 and Pope Drive, which are roadways adjacent to the application site.

18 94. The subject line of the email which submitted the NOI to the Monterey CAC was
19 “Los Ecualeptos NOI.” This subject line did not specifically identify the grower’s name, ranch
20 name or include the recommendation number.

21 95. The application noticed for October 19, 2020, did not occur. The application
22 blocks noticed for fumigation on October 17, 2020, occurred on October 24, 2020. The
23 application blocks noticed for fumigation on October 24, 2020, occurred on October 17, 2020.

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¹⁹ In relevant part, the registered label for Tri-Chlor defines “difficult to evacuate site” as including “pre-K to grade 12 schools.”

1 The San Benito Main did not submit a NOI reflecting the changed dates and locations for these
2 applications.

3 96. The Monterey CAC referred this matter to the Monterey County District Attorney.
4 On or about January 24, 2022, the Monterey County District Attorney accepted the referral for
5 further enforcement action.

6 ***Investigation 106-27-21-M03B-016; ER-27-2022-028, Monterey County***

7 ***("San Benito Main V")***

8 97. On September 7, 2021, at approximately 11:20 am, a Monterey CAC inspector
9 biologist conducted a field fumigation use monitoring inspection ("Field Fumigation Use
10 Monitoring Inspection Report" No. 106-27-21-M03B-016) of an application of Tri-Form 80 to a
11 field of pre-plant raspberries by the San Benito Main to Reiter Berry Farm #3, Travers Ranch
12 ("Travers Ranch.") Travers Ranch is located in Monterey County. A NOI, PUR, FMP and
13 "Monterey County 2021 Chloropicrin Shank Soil Fumigation Plan" were submitted for this
14 application.
15

16 98. The application was subject to the "2021 Monterey County Chloropicrin and
17 Chloropicrin with 1,3 Dichlorophene Permit Conditions" ("2021 Monterey County Permit
18 Conditions.")
19

20 99. The 2021 Monterey County Permit Conditions state:

- 21 a. "You [the grower], the PCB and the Pest Control Adviser (PCA) are all
22 responsible to comply with all conditions of this permit."
23
24 b. The property owner, pest control business and PCA "are responsible for ensuring
25 **all** boundaries of the buffer zone are posted with warning signs." (Emphasis in
26 original.)
27
28

1 100. The Field Fumigation Use Monitoring Inspection Report recorded two violations.
2 First, the application required that a 172-foot buffer zone be established around the perimeter of
3 the application site at all usual points of entry; thus, buffer zone signs were required on west side
4 of an area identified as the Reiter Rodriquez field. No buffer zone signs were posted at this
5 location. Second, the FMP submitted by the San Benito Main incorrectly stated that the buffer
6 zone was 149 feet, not 172 feet as required.

7 101. The deficiencies were corrected in the field and no further action was taken.

8 **A. Santa Maria Branch**

9 102. The Department finds that on the following occasions, the Santa Maria Branch
10 violated California pesticide law.

11 ***San Luis Obispo County, ER-40-2018-004; INV-40-20170814-051 (“Santa Maria Branch I”)***

12 103. On October 27, 2018, Respondents Santa Maria Branch applied Pic-Clor 60 EC to
13 Ranch 1, Plot 2 (Site Identification No. 010002) at Milagro Ranch, LLC (“Milagro Ranch.”)
14 Milagro Ranch is located at Oso Flaco Lake Road at Highway 21, in San Luis Obispo County.
15

16 104. The registered label for Pic-Clor 60 EC provides:

- 17 a. The certified applicator must certify in writing that the FMP reflects current site
18 conditions before the start of the application, among other information.
19 b. Within 30 days after completing application, the certified applicator must complete
20 a Post-Application Summary (“PAS.”)
21 c. “Handlers in the application block within 5 days after the application is complete
22 with NO potential for contact with liquid fumigant must wear: ... A NIOSH certified full
23 facepiece air-purifying respirator equipped with an organic vapor (OV, NIOSH approval
24 number prefix TC-23C) cartridge and a particulate pre-filter (Type N, R, P, or HE,
25 NIOSH approval number prefix TC-84A), or a gas mask with a canister approved for
26 organic vapor (NIOSH approval number prefix TC-14G).”
27
28

1 105. The application was subject to San Luis Obispo County’s “Restricted Materials
2 Permit Condition #16, 1-3-Dichloropropene with Chloropicrin Tarped, Drip Irrigation and
3 Broadcast” (“Permit Condition #16.”) Permit Condition #16 provides:

- 4 a. “It is the responsibility of both the property operator and the pest control business
5 (PCB) to comply with product label instructions, pesticide regulations and permit
6 conditions.”
7
8 b. “Entry into the application block (including early entry that would otherwise be
9 permitted by the Worker Protection Standard) by any person, other than a
10 government official mandated to regulate pesticide use or a properly trained and
11 equipped handler who is performing a handling task permitted [by] the product
12 labeling, is prohibited from the start of the application until seven (7) days after the
13 application is complete. This prohibition applies to all applications, including all
14 tarp types.”

15 106. The day after the application, October 28, 2018, a Complainant contacted the
16 office of the San Luis Obispo County agricultural commissioner (“SLO CAC.”) The
17 Complainant had been directed by his employer, a third-party farm labor contractor, to perform
18 handling activities in the treated fields at Milagro Ranch that day. The Complainant entered the
19 field to perform work functions, including shoveling soil to mitigate the impacts of over-
20 saturation from the fumigation.
21

22 107. The Complainant was not provided with respiratory PPE required by the label, as
23 detailed above.
24

25 108. After entering the field treated by TriCal, the Complainant experienced symptoms
26 of pesticide exposure, including nausea, eye pain, headache, and tightness in his chest. The
27 Complainant was transported to a medical clinic for evaluation and care. Headache symptoms
28

1 were persistent (continuing over two days.)

2 109. The SLO CAC reviewed the FMP provided by the Santa Maria Branch and
3 observed the following inaccuracies and inconsistencies, including:

- 4 a. inconsistent identification of the certified applicator;
- 5 b. information was not provided for “Date and location of EPA-Approved Soil
6 Fumigant Training Program for Supervising Certified Applicators;”
- 7 c. regarding the section “Tarp Plan,” the FMP inaccurately identified the tarp
8 perforation equipment and tarp removal methods to be used, among other
9 deficiencies;
- 10 d. the “Communication Plan” was not provided. The purpose of the Communication
11 Plan is to document how applicators, the site operator and onsite handlers will
12 communicate regarding site conditions, regulatory compliance and other matters
13 concerning the application;
- 14 e. regarding the section “Handler Information and PPE,” the following information
15 was not provided, among other deficiencies: name and contact information for
16 handlers; date of PPE training for handlers; confirmation of receipt of Fumigant
17 Safe Handling Information by handlers; for handlers designated to wear
18 respirators, the date of medical qualification to wear a respirator, date of respirator
19 training, and date of respirator fit-testing; and
- 20 f. the FMP did not identify with specificity which tasks onsite handlers were
21 authorized and trained to perform, among other deficiencies.
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25 110. The SLO CAC reviewed the PAS provided by the Santa Maria Branch and
26 identified the following inaccuracies and inconsistencies, including:

- 27 a. the PAS did not include information regarding the Complainant’s pesticide
28

1 exposure as required, among other deficiencies; and

- 2 b. the PAS did not include the name of the person responsible for monitoring the drip
3 application, nor did it include their observations.

4 111. On or about March 12, 2018, the SLO CAC issued a Violation Notice to the Santa
5 Maria Branch (VN-40-2018-0202-005) related to the incident. On or about May 4, 2018, the
6 SLO CAC issued a Noticed of Proposed Action with Stipulation and Order, ordering Respondent
7 Santa Maria Branch to pay a \$250.00 Class B fine for violating one count of Code section 12973
8 (ACP-SLO-17/18-025.) On or about May 17, 2018, Respondent Santa Maria Branch stipulated to
9 the Order and paid the \$250.00 fine.
10

11 ***Santa Barbara County, ER-42-2021-111; INV-42-20210818-057 (“Santa Maria II”)***

12 112. On July 20, 2021, from approximately 4:00 am to 6:00 am, the Santa Maria
13 Branch applied Tri-Chlor EC to six acres of property operated by G. Garcia, identified as G. Garcia
14 Site 05, Block 01. The site is located in Santa Barbara County.

15 113. The registered label for Tri-Chlor EC provides that buffer zones must not include
16 agricultural areas owned and/or operated by persons other than the owner of the application
17 block, unless the owner of the other property provides a written agreement that they, their
18 employees, and other persons will stay out of the buffer zone during the buffer zone period. The
19 buffer zone period starts when the application begins and lasts for a minimum of 48 hours.
20

21 114. According to the calculations provided on the product label, a 25-foot buffer zone
22 was required.

23 115. The application was subject to the Santa Barbara County “2021 Permit Conditions
24 for Chloropicrin Fumigants” which states: “[w]hen the buffer zone extends onto agricultural
25 property not under the control of the fumigating property operator, permission must be obtained
26 in writing from the property operator, or their authorized representative or designee, and
27
28

1 submitted to the CAC prior to, or with, the NOI.”

2 116. The buffer zone period was in effect from July 20, 2021, at 4:00 am to July 22,
3 2021, at 7:00 am.

4 117. On July 26, 2021, the Santa Barbara CAC (“SB CAC”) received a complaint from
5 a concerned citizen. The Complainant stated that she leases agricultural property adjacent to the
6 application site. The Complainant was working in her field on July 17, 21 and 24, 2021. In the
7 evening of July 21, 2021, she began experiencing symptoms which she attributed to pesticide
8 exposure, including coughing and difficulty breathing. Symptoms were prolonged (lasting until
9 July 26, 2021.)

10
11 118. SB CAC inspectors determined that the buffer zone encroached up to 13 feet into
12 the adjacent property leased by the Complainant.

13 119. The Santa Maria Branch did not obtain written permission from the Complainant
14 or property owner to utilize the property as part of the buffer zone.

15
16 120. On or about October 27, 2021, the SB CAC issued a Noticed of Proposed Action
17 with Stipulation and Order to Respondent Santa Maria Branch, for a violation of one count of
18 Code section 12973, for failing to obtain a written encroachment agreement from an adjacent
19 property owner. The NOPA proposed a \$700.00 fine for a Class A violation (File No. 9-ACP-
20 SB-21/22.) On or about November 30, 2021, the SB CAC issued a Notice of Decision and Order,
21 fining Respondent Santa Maria Branch \$700.00. On December 2, 2021, Respondent Santa Maria
22 Branch stipulated to the Order and paid the fine.

23 ***Santa Barbara County, INV-42-20210819-059; ER 42-2021-125 (“Santa Maria Branch III”)***

24
25 121. On August 9, 2021, the Santa Maria Branch was conducting an application of
26 Pic-Clor 60 at a site operated by Glad-A-Way Gardens, Inc., Site 207JM (“Glad-A-Way”) to 11
27 acres of outdoor flowers. Glad-A-Way is located in Santa Maria, in Santa Barbara County,
28

1 California. The application was conducted by two applicators employed by the Santa Maria
2 Branch, including the Complainant.

3 122. Under the heading “Personal Protection Equipment (PPE)” the registered label for
4 Pic-Clor 60 states “[w]hen performing tasks with potential for contact with liquid fumigant, all
5 handlers (including applicators) must wear [a]: ... Chemical-resistant apron[.]”

6 123. The application was conducted using the broadcast shank fumigation process.
7 Applying the fumigant using this method required the Complainant to drive a tractor with shank
8 arms attached to the rear of the vehicle. The shank arms injected the fumigant into the soil.

9 124. At approximately 8:40 am, the Complainant left the tractor to adjust the shank
10 arms and remove accumulated field and plant debris from them. During this process, the
11 Complainant’s body made contact with debris that had been saturated with the fumigant, thus
12 exposing the Complainant to the pesticide. The Complainant decontaminated at the site and was
13 taken for medical care.
14

15 125. The Santa Maria Branch reported the incident to the SB CAC, who opened an
16 investigation.
17

18 126. The SB CAC determined that the Complainant was not wearing a chemical
19 resistant apron as required during the application.

20 127. On or about December 15, 2021, the SB CAC issued a Noticed of Proposed Action
21 with Stipulation and Order to Respondent Santa Maria Branch, alleging a violation of 3 CCR
22 section 6738.1, subdivision (f) for Respondent’s failure to ensure that its employee wore the
23 required PPE, and ordering a \$550.00 Class B fine (File No. 11-ACP-SB-21/22.) On or about
24 January 13, 2022, the SB CAC issued a Notice of Decision and Order, ordering Respondent Santa
25 Maria Branch to pay the fine. On or about March 20, 2022, Respondent stipulated to the Order
26 and paid the fine.
27
28

1 **C. Ventura Branch, ER-56-2021-066**

2 128. The Department finds that on the following occasion, the Ventura Branch violated
3 California pesticide law.

4 129. On September 4, 2020, the Ventura Branch applied Tri-Clor by chemigation to
5 11.75 acres of pre-plant strawberries to Yamamoto Ranch operated by Marz Farms (RMP No.
6 56C04484.) Marz Farms is located in Ventura County. A NOI and FMP were submitted to the
7 Ventura CAC for this application.

8 130. The FMP stated that the Ventura Branch would utilize Ginegar Ozard TPlus tarp.
9 Ginegar Ozard TPlus is Department-listed Totally Impermeable Film (“TIF”) tarp. Use of this
10 tarp qualifies for a 60% buffer zone reduction credit. Applying the credit, the buffer zone was
11 designated at 56 feet. No other tarps were listed on the FMP.

12 131. The application was subject to the Ventura County “2018 Permit Field Fumigation
13 Conditions: Chloropicrin and Chloropicrin with >2% in Combination with other Products”
14 (“2018 Ventura County Permit Conditions.”)
15

16 132. The 2018 Ventura County Permit Conditions state:
17

- 18 a. “All application blocks shall be covered with tarps of the same permeability.”
19 b. “When a buffer zone includes occupied structures, occupants must agree to vacate
20 the structures before a buffer zone can be permitted to include such structures.”

21 133. The NOI submitted for the application stated “[o]nly trained handlers performing
22 fumigation handling activities will be permitted in buffer zone.”

23 134. The registered label for Tri-Clor states:
24

- 25 a. Under the heading “Exclusion of Non Handlers from the Application Block and
26 Buffer Zone” the label states, “[t]he certified applicator supervising the application
27 and the owner of the establishment where the application is taking place must
28

1 make sure that all persons who are not trained and PPE-equipped and who are not
2 performing one of the handling tasks as stated in this labeling are [bullet point]
3 excluded from the application block during the entry restricted period, and [bullet
4 point] excluded from the buffer zone during the buffer zone period”

5 b. Under the heading “Buffer Zone” the label states “[n]on-handlers must be
6 excluded from the buffer zone during the buffer zone period.”

7
8 135. On or around 4:30 pm on September 4, 2020, the Ventura Branch reported to the
9 Ventura CAC that some of the pre-plant soil beds were not covered with the designated TIF tarp,
10 but in a more permeable film tarp.

11 136. The Ventura CAC immediately opened an investigation (Pesticide Episode
12 Investigation Report) and went to the Yamamoto Ranch site.

13 137. The Ventura CAC determined that due to the use of non-designated tarp, the
14 application was ineligible for buffer zone reduction credit. Thus, the actual buffer zone for the
15 application should have been designated as 225 feet, and not 56 feet.

16
17 138. The Ventura CAC determined that the larger buffer zone unlawfully encroached
18 onto an adjacent field where agricultural fieldworkers, not involved in the application, were
19 installing irrigation pipes, in violation of the instructions on the label and 2018 Ventura County
20 Permit Conditions.

21 139. The Ventura CAC determined that the larger buffer zone unlawfully encroached
22 onto an occupied structure for which a vacating agreement was not obtained, in violation of the
23 2018 Ventura County Permit Conditions.

24 140. The violations cited above were corrected on site by obtaining vacating
25 agreements and removing the fieldworkers from the buffer zone.²⁰
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28 ²⁰ Additionally, the Ventura CAC observed that the site only had micro-sprinklers, not the separate, high-
(continued...)

1 141. On or about May 28, 2021, the Ventura CAC issued a Noticed of Proposed Action
2 with Stipulation and Order to Respondent Ventura Branch for one count of violating Code section
3 12973 and ordering a \$1,000 Class A fine (ACP-VEN-20/21-132.) The penalty was subsequently
4 paid by Respondents.

5 **CAUSES OF DISCIPLINE**

6 **San Benito Main I**

7 **FIRST CAUSE OF DISCIPLINE**

8 **Code § 11791, subd. (b)**

9
10 142. Respondent San Benito Main's PCM License No. 30596 is subject to discipline
11 under Code section 11791, subdivision (b), by and through Code section 11708, in that on
12 October 18, 2018, Respondent San Benito Main violated Code section 11791, subdivision (b) by
13 performing a pesticide application in a faulty, careless, or negligent manner. The facts and
14 circumstances are described with particularity in paragraphs 46-62 above.

15 **SECOND CAUSE OF DISCIPLINE**

16 **Code § 11791, subd. (c)**

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18 105. Respondent San Benito Main's PCM License No. 30596 is subject to discipline
19 under Code section 11791, subdivision (c), by and through Code section 11708, in that on
20 October 18, 2018, Respondent San Benito Main violated Code section 11791, subdivision (c) by
21 refusing to comply with Division 6 of the Code, or any regulation issued pursuant to that
22 Division. The facts and circumstances are described with particularity in paragraphs 46-62
23 above.

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volume sprinkler arrays required when non-TIF tarps are used. Thus, the NOI for second day of the application,
September 5, 2020, was subsequently denied.

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THIRD CAUSE FOR DISCIPLINE

Code § 12973

106. Respondent San Benito Main’s PCM License No. 30596 is subject to discipline under Code section 12973, by and through Code section 11708, in that on October 18, 2018, Respondent San Benito Main violated Code section 12973 by failing to conduct a pesticide application without having first submitted an encroachment and vacate agreement(s) to the county agricultural commissioner from the occupant(s) of 625 San Juan Grade Road and the camper van at that property in violation of the 2018 Monterey County Permit Conditions. The facts and circumstances are described with particularity in paragraphs 46-62 above.

FOURTH CAUSE FOR DISCIPLINE

Code, § 12973

107. Respondent San Benito Main’s PCM License No. 30596 is subject to discipline under Code section 12973, by and through Code section 11708, in that on October 18, 2018, Respondent San Benito Main violated Code section 12973 by conducting a pesticide application without having first submitted an encroachment agreement from the property operator of Lot 12B, in violation of the 2018 Monterey County Permit Conditions which provide that encroachment and vacating agreements are required where buffer zones encroach upon neighboring property. The facts and circumstances are described with particularity in paragraphs 46-62 above.

FIFTH CAUSE FOR DISCIPLINE

Code § 12973

108. San Benito Main’s PCM License No. 30596 is subject to discipline under Code section 12973, by and through Code section 11708, in that on October 18, 2018, Respondent San Benito Main violated Code section 12973 by conducting a pesticide application in violation of the

1 2018 Monterey County Permit Conditions which provide that “[n]eighboring properties requiring
2 notification and/or signed agreements must be numbered to correspond with the notification log.”
3 The facts and circumstances are described with particularity in paragraphs 46-62 above.

4 **SIXTH CAUSE FOR DISCIPLINE**

5 **Code § 12973**

6 109. San Benito Main’s PCM License No. 30596 is subject to discipline under Code
7 section 12973, by and through Code section 11708, in that on October 18, 2018, Respondent San
8 Benito Main violated Code section 12973 by conducting a pesticide application in violation of the
9 2018 Monterey County Permit Conditions which provide that “[a]n application block treated
10 with 1,3-D must not be within 100 feet of an occupied structure.” The facts and circumstances are
11 described with particularity in paragraphs 46-62 above.

12 **SEVENTH CAUSE FOR DISCIPLINE**

13 **Code, § 12973**

14 San Benito Main’s PCM License No. 30596 is subject to discipline under Code section
15 12973, by and through Code section 11708, in that on October 18, 2018, Respondent San Benito
16 Main violated Code section 12973 by failing to post buffer zone signs prior to conducting a
17 pesticide application, in violation of the label instructions for Tri-Form 80 EC which state that
18 “[b]uffer zone signs must be placed along or outside the perimeter of the buffer zone, at all usual
19 points of entry[.]” The facts and circumstances are described with particularity in paragraphs
20 46-62 above.

21 **EIGHTH CAUSE FOR DISCIPLINE**

22 **Code § 12973**

23 110. San Benito Main’s PCM License No. 30596 is subject to discipline under Code
24 section 12973, by and through Code section 11708, in that on October 18, 2018, Respondent
25 conducted a pesticide application of Tri-Form 80 EC in conflict with its label instructions which
26 state that, “pre-application soil moisture should be dry enough to prevent soil saturation and bed
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1 collapse once application and flushing is complete.” The facts and circumstances are described
2 with particularity in paragraphs 46-62 above.

3 **NINTH CAUSE FOR DISCIPLINE**

4 **3 CCR § 6600, subd. (b)**

5 111. San Benito Main’s PCM License No. 30596 is subject to discipline under 3 CCR
6 section 6600, by and through Code section 11708, in that on October 18, 2018, Respondent San
7 Benito Main violated 3 CCR section 6600, subdivision (b) by failing to perform pest control in a
8 careful and effective manner. The facts and circumstances are described with particularity in
9 paragraphs 46-62 above.
10

11 **TENTH CAUSE FOR DISCIPLINE**

12 **3 CCR § 6600, subd. (e)**

13 112. San Benito Main’s PCM License No. 30596 is subject to discipline under 3 CCR
14 section 6600, subdivision (e), by and through Code section 11708, in that on October 18, 2018,
15 Respondent San Benito Main violated 3 CCR section 6600, subdivision (e) by not exercising
16 reasonable precautions to avoid contamination of the environment. The facts and circumstances
17 are described with particularity in paragraphs 46-62 above.
18

19 **ELEVENTH CAUSE FOR DISCIPLINE**

20 **3 CCR § 6614, subd. (a)**

21 113. San Benito Main’s PCM License No. 30596 is subject to discipline under 3 CCR
22 section 6614, subdivision (a), by and through Code section 11708, in that on October 18, 2018,
23 Respondent San Benito Main violated 3 CCR section 6614, subdivision (a), by failing to evaluate
24 the property to be treated prior to and while applying a pesticide to determine the likelihood of
25 harm or damage. The facts and circumstances are described with particularity in paragraphs 46-
26 62 above.
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TWELFTH CAUSE FOR DISCIPLINE

3 CCR § 6614, subd. (b)(1)

114. San Benito Main’s PCM License No. 30596 is subject to discipline under 3 CCR section 6614, subdivision (b)(1), by and through Code section 11708, in that on October 18, 2018, Respondent San Benito Main violated 3 CCR section 6614, subdivision (b)(1), by conducting a pesticide application when there was a reasonable possibility of contamination to the bodies and clothing of persons not involved in the application process. The facts and circumstances are described with particularity in paragraphs 46-62 above.

THIRTEENTH CAUSE FOR DISCIPLINE

3 CCR § 6614, subd. (b)(3)

115. San Benito Main’s PCM License No. 30596 is subject to discipline under 3 CCR section 6614, subdivision (b)(3), by and through Code section 11708, in that on October 18, 2018, Respondent San Benito Main violated 3 CCR section 6614, subdivision (b)(3) by conducting a pesticide application when there was a reasonable possibility of contamination of nontarget public or private property, including the creation of a health hazard, preventing normal use of such property. The facts and circumstances are described with particularity in paragraphs 46-62 above.

FOURTEENTH CAUSE FOR DISCIPLINE

3 CCR § 6406

116. San Benito Main’s PCM License No. 30596 is subject to discipline under 3 CCR section 6406, by and through Code section 11708, in that on October 18, 2018, Respondent San Benito Main violated 3 CCR section 6406, by failing to be aware of conditions at the application site and failing to direct and control the way in which applications were made by noncertified handlers. The facts and circumstances are described with particularity in paragraphs 46-62 above.

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1 **San Benito Main II**

2 **FIFTEENTH CAUSE FOR DISCIPLINE**

3 **Code § 11791, subd. (b)**

4 117. San Benito Main's PCM License No. 30596 is subject to discipline under Code
5 section 11708, by and through Code section 11791, subdivision (b) in that on October 8, 2019,
6 Respondent San Benito Main violated Code section 11791, subdivision (b) by operating in a
7 faulty, careless, or negligent manner. The facts and circumstances are described with
8 particularity in paragraphs 63-72 above.
9

10 **SIXTEENTH CAUSE FOR DISCIPLINE**

11 **Code § 11791, subd. (c)**

12 118. San Benito Main's PCM License No. 30596 is subject to discipline under Code
13 section 11708, by and through Code section 11791, subdivision (c) in that on October 8, 2019,
14 Respondent San Benito Main violated Code section 11791, subdivision (c) by refusing or
15 neglecting to comply with Division 6 of the Code or any regulation issued pursuant to that
16 Division. The facts and circumstances are described with particularity in paragraphs 63-72
17 above.
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19 **SEVENTEENTH CAUSE FOR DISCIPLINE**

20 **3 CCR § 6600, subd. (b)**

21 119. San Benito Main's PCM License No. 30596 is subject to discipline under Code
22 section 11708, by and through 3 CCR section 6600 subdivision (b) in that on October 8, 2019,
23 Respondent San Benito Main violated 3 CCR section 6600, subdivision (b) by failing to perform
24 pest control in a careful and effective manner. The facts and circumstances are described with
25 particularity in paragraphs 63-72 above.
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EIGHTEENTH CAUSE FOR DISCIPLINE

3 CCR § 6600, subd. (e)

120. San Benito Main’s PCM License No. 30596 is subject to discipline under Code section 11708, by and through 3 CCR section 6600 subdivision (e) in that on October 8, 2019, Respondent San Benito Main violated 3 CCR section 6600, subdivision (e), by failing to exercise reasonable precautions to avoid contamination of the environment. The facts and circumstances are described with particularity in paragraphs 63-72 above.

NINETEENTH CAUSE FOR DISCIPLINE

3 CCR § 6614, subd. (b)(1)

121. San Benito Main’s PCM License No. 30596 is subject to discipline under Code section 11708, by and through 3 CCR section 6614, subdivision (b)(1), in that on October 8, 2019, Respondent San Benito Main violated 3 CCR section 6614, subdivision (b)(1) by making or continuing an application when there was a reasonable possibility of contamination of the bodies or clothing of persons not involved in the application process. The facts and circumstances are described with particularity in paragraphs 63-72 above.

San Benito Main III

TWENTIETH CAUSE FOR DISCIPLINE

Code § 11791, subd. (b)

122. San Benito Main’s PCM License No. 30596 is subject to discipline under Code section 11708, by and through Code section 11791, subdivision (b) in that between October 13 and October 14, 2020, Respondent San Benito Main violated Code section 11791, subdivision (b) by operating in a faulty, careless, or negligent manner. The facts and circumstances are described with particularity in paragraphs 73-86 above.

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TWENTY-FIRST CAUSE FOR DISCIPLINE

Code § 11791, subd. (c)

123. San Benito Main’s PCM License No. 30596 is subject to discipline under Code section 11708, by and through Code section 11791, subdivision (c) in that between October 13 and October 14, 2020, Respondent San Benito Main violated Code section 11791, subdivision (c) by refusing or neglecting to comply with Division 6 of the Code or any regulation issued pursuant to that Division. The facts and circumstances are described with particularity in paragraphs 73-86 above.

TWENTY-SECOND CAUSE FOR DISCIPLINE

3 CCR § 6600, subd. (b)

124. San Benito Main’s PCM License No. 30596 is subject to discipline under Code section 11708, by and through 3 CCR section 6600, subdivision (b), in that between October 13 and October 14, 2020, Respondent violated 3 CCR section 6000, subdivision (b) by failing to perform pest control in a careful and effective manner. The facts and circumstances are described with particularity in paragraphs 73-86 above.

TWENTY-THIRD CAUSE FOR DISCIPLINE

3 CCR § 6600, subd. (d)

125. San Benito Main’s PCM License No. 30596 is subject to discipline under Code section 11708, by and through 3 CCR section 6600, subdivision (d), in that between October 13 and October 14, 2020, Respondent violated 3 CCR section 6600, subdivision (d) by failing to perform pest control under climatic conditions suitable to insure proper application of pesticides. The facts and circumstances are described with particularity in paragraphs 73-86 above.

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TWENTY-FOURTH CAUSE FOR DISCIPLINE

3 CCR § 6600, subd. (e)

126. San Benito Main’s PCM License No. 30596 is subject to discipline under Code section 11708, by and through 3 CCR section 6600, subdivision (e), in that between October 13 and October 14, 2020, Respondent violated 3 CCR section 6600, subdivision (e) by failing to exercise reasonable precautions to avoid contamination of the environment. The facts and circumstances are described with particularity in paragraphs 73-86 above.

TWENTY-FIFTH CAUSE FOR DISCIPLINE

3 CCR § 6614, subd. (b)(1)

127. San Benito Main’s PCM License No. 30596 is subject to discipline under Code section 11708, by and through 3 CCR section 6614, subdivision (b)(1), in that between October 13 and October 14, 2020, Respondent made or continued pesticide applications when there was a reasonable possibility of contamination of the bodies or clothing of persons not involved in the application process. The facts and circumstances are described with particularity in paragraphs 73-86 above.

TWENTY-SIXTH CAUSE FOR DISCIPLINE

3 CCR § 6614, subd. (b)(3)

128. San Benito Main’s PCM License No. 30596 is subject to discipline under Code section 11708, by and through 3 CCR, section 6614, subdivision (b)(3) in that between October 13 and October 14, 2020, Respondent made or continued a pesticide application when there was a reasonable possibility of contamination of nontarget public or private property, including the creation of a health hazard, preventing normal use of such property. The facts and circumstances are described with particularity in paragraphs 73-86 above.

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1 **San Benito Main IV**

2 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

3 **Code § 11791, subd. (b)**

4 129. San Benito Main’s PCM License No. 30596 is subject to discipline under Code
5 section 11708, by and through Code section 11791, subdivision (b), in that on October 9, 2020,
6 Respondent violated Code section 11791, subdivision (b) by operating in a faulty, careless, or
7 negligent manner. The facts and circumstances are described with particularity in paragraphs
8 87-96 above.
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10 **TWENTY-EIGHTH CAUSE FOR DISCIPLINE**

11 **Code § 11791, subd. (c)**

12 130. San Benito Main’s PCM License No. 30596 is subject to discipline under Code
13 section 11708, by and through Code section 11791, subdivision (c), in that on October 9, 2020,
14 Respondent violated Code section 11791, subdivision (c) by refusing or neglecting to comply
15 with Division 6 of the Code or any regulation issued pursuant to that Division. The facts and
16 circumstances are described with particularity in paragraphs 87-96 above.
17

18 **TWENTY-NINTH CAUSE FOR DISCIPLINE**

19 **Code § 12973**

20 129. San Benito Main’s PCM License No. 30596 is subject to discipline under Code
21 section 11708, by and through Code section 12973, in that on October 9, 2020, Respondent
22 submitted a NOI in violation of the 2019 Monterey County Permit Conditions which state that a
23 NOI must include “A clear, complete and accurate map of the fumigation site showing: All
24 occupied structures and bystanders areas with 300 feet of the outer perimeter of the buffer zone”
25 where the map submitted by Respondent failed to include this information. The facts and
26 circumstances are described with particularity in paragraphs 87-96 above.
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THIRTIETH CAUSE FOR DISCIPLINE

Code § 12973

130. San Benito Main’s PCM License No. 30596 is subject to discipline under Code section 11708, by and through Code section 12973, in that on October 9, 2020, Respondent submitted a NOI in violation of the 2019 Monterey County Permit Conditions which states that a NOI must include “A clear, complete and accurate map of the fumigation site showing: The location of the well supplying water for the fumigation, location of backflow prevention devices(s) and the injection site(s) that will be used for each block (if applicable)” where the map submitted by Respondent failed to include this information. The facts and circumstances are described with particularity in paragraphs 87-96 above.

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THIRTY-FIRST CAUSE FOR DISCIPLINE

Code § 12973

131. San Benito Main’s PCM License No. 30596 is subject to discipline under Code section 11708, by and through Code section 12973, in that on October 9, 2020, Respondent submitted a NOI in violation of the 2019 Monterey County Permit Conditions which states that a NOI must include “A clear, complete and accurate map of the fumigation site showing: Locations of ... distances to bus stops; roadways; rights of way; walking paths; sidewalks; lakes; waterways; and wells” where the map submitted by Respondent failed to include this information, including the location of the adjacent Maher Road, Glenn Avenue and Pope Drive. The facts and circumstances are described with particularity in paragraphs 87-96 above.

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THIRTY-SECOND CAUSE FOR DISCIPLINE

Code § 12973

132. San Benito Main’s PCM License No. 30596 is subject to discipline under Code section 11708, by and through Code section 12973, in that on October 9, 2020, Respondent

1 submitted a NOI in violation of the 2019 Monterey County Permit Conditions which states that a
2 NOI must include “A clear, complete and accurate map of the fumigation site showing:
3 Identification of adjacent property owners” where the map submitted by Respondent failed to
4 include this information. The facts and circumstances are described with particularity in
5 paragraphs 87-96 above.

6 **THIRTY-THIRD CAUSE FOR DISCIPLINE**

7 **Code § 12973**

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9 133. San Benito Main’s PCM License No. 30596 is subject to discipline under Code
10 section 11708, by and through Code section 12973, in that on October 9, 2020, Respondent
11 submitted a NOI in violation of the 2019 Monterey County Permit Conditions which states that
12 “[w]hen emailing a NOI and/or NOI map, the subject line of the email must contain: Grower
13 Name, Ranch Name and Recommendation number” where the email attaching the NOI did not
14 have a conforming subject line. The facts and circumstances are described with particularity in
15 paragraphs 87-96 above.

16 **THIRTY-FOURTH CAUSE FOR DISCIPLINE**

17 **Code § 12973**

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19 134. San Benito Main’s PCM License No. 30596 is subject to discipline under Code
20 section 11708, by and through Code section 12973, in that on October 9, 2020, Respondent
21 submitted a NOI in violation of the 2019 Monterey County Permit Conditions which states that
22 “[i]f fumigation of an application block does not commence on the date specified, the NOI must
23 be resubmitted with the new dates and times” where Respondent noticed an application for
24 October 17, 2020 which occurred on October 24, 2020 and noticed an application for October 24,
25 2020 which occurred on October 17, 2020, without resubmitting a NOI. The facts and
26 circumstances are described with particularity in paragraphs 87-96 above.
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1 **San Benito Main V**

2 **THIRTY-FIFTH CAUSE FOR DISCIPLINE**

3 **Code § 11791, subd. (b)**

4 135. San Benito Main’s PCM License No. 30596 is subject to discipline under Code
5 section 11708, by and through Code section 11791, subdivision (b), in that on September 27,
6 2021, Respondent conducted a pesticide application in a faulty, negligent, or careless manner.
7 The facts and circumstances are described with particularity in paragraphs 97-101 above.

8 **THIRTY-SIXTH CAUSE FOR DISCIPLINE**

9 **Code § 11791, subd. (c)**

10 136. San Benito Main’s PCM License No. 30596 is subject to discipline under Code
11 section 11708, by and through Code section 11791, subdivision (c), in that on September 27,
12 2021, Respondent refused or neglected to comply with Division 6 of the Code, or any regulation
13 issued pursuant to that Division. The facts and circumstances are described with particularity in
14 paragraphs 97-101 above.
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16 **THIRTY-SEVENTH CAUSE FOR DISCIPLINE**

17 **Code § 12973**

18 137. San Benito Main’s PCM License No. 30596 is subject to discipline under Code
19 section 11708, by and through Code section 12973, in that on September 27, 2021, Respondent
20 conducted a pesticide application of Tri-Form EC in violation of the label which states that
21 “[b]uffer zone signs must placed along or outside the perimeter of the buffer zone, at all usual
22 points of entry and along likely routes of approach from areas where people not under the owners
23 control may approach the buffer zone. ... Signs must be posted no sooner than 24 hours prior to
24 the start of the application and remain posted until the buffer zone period has expired.” The facts
25 and circumstances are described with particularity in paragraphs 97-101 above.
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THIRTY-EIGHTH CAUSE FOR DISCIPLINE

Code § 12973

138. San Benito Main’s PCM License No. 30596 is subject to discipline under Code section 11708, by and through Code section 12973, in that on September 27, 2021, Respondent conducted a pesticide application of Tri-Form EC in violation of the label which provides that a fumigation management plan must include the buffer zone distance, and where the fumigation management plan incorrectly cited the buffer zone distance. The facts and circumstances are described with particularity in paragraphs 97-101 above.

Santa Maria Branch I

THIRTY-NINTH FIRST CAUSE FOR DISCIPLINE

Code § 11791, subd. (b)

139. Respondent Santa Maria Branch’s PCB License No. 38638 is subject to discipline under Code section 11708, by and through Code section 11791, subdivision (b), in that between October 27 and October 28, 2018, Respondent operated in a faulty, careless, or negligent manner. The facts and circumstances are described with particularity in paragraphs 103-111 above.

FORTIETH SECOND CAUSE FOR DISCIPLINE

Code § 11791, subd. (c)

140. Respondent Santa Maria Branch’s PCB License No. 38638 is subject to discipline under Code section 11708, by and through Code section 11791, subdivision (c), in that between October 27 and October 28, 2018, Respondent refused or neglected to comply with Division 6 of the Code, or any regulation issued pursuant to that Division. The facts and circumstances are described with particularity in paragraphs 103-111 above.

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1 **FORTY-FIRST CAUSE FOR DISCIPLINE**

2 **Code § 12973**

3 141. Respondent Santa Maria Branch’s PCB License No. 38638 is subject to discipline
4 under Code section 11708, by and through Code section 12973, in that between October 27 and
5 October 28, 2018, the FMP submitted by Respondent inconsistently and inaccurately identified
6 the certified applicator for the application in violation of permit conditions. The facts and
7 circumstances are described with particularity in paragraphs 103-111 above.
8

9 **FORTY-SECOND CAUSE FOR DISCIPLINE**

10 **Code § 12973**

11 142. Respondent Santa Maria Branch’s PCB License No. 38638 is subject to discipline
12 under Code section 11708 by and through Code section 12973, in that between October 27 and
13 October 28, 2018, the FMP submitted by Respondent failed to provide information regarding the
14 date and location of the “EPA-Approved Soil Fumigant Training Program for Supervising
15 Certified Applicators” in violation of the permit conditions. The facts and circumstances are
16 described with particularity in paragraphs 103-111 above.
17

18 **FORTY-THIRD CAUSE FOR DISCIPLINE**

19 **Code § 12973**

20 143. Respondent Santa Maria Branch’s PCB License No. 38638 is subject to discipline
21 under Code, section 11708 by and through Code section 12973, in that between October 27 and
22 October 28, 2018, the FMP submitted by Respondent inaccurately identified the tarp perforation
23 and removal equipment, in violation of the permit conditions. The facts and circumstances are
24 described with particularity in paragraphs 103-111 above.
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FORTY-FOURTH CAUSE FOR DISCIPLINE

Code § 12973

144. Respondent Santa Maria Branch's PCB License No. 38638 is subject to discipline under Code section 11708, by and through Code section 12973, in that between October 27 and October 28, 2018, the FMP submitted by Respondent contained incomplete, inaccurate, and inconsistent information regarding the Communication Plan, in violation of permit conditions. The facts and circumstances are described with particularity in paragraphs 103-111 above.

FORTY-FIFTH CAUSE FOR DISCIPLINE

Code § 12973

145. Respondent Santa Maria Branch's PCB License No. 38638 is subject to discipline under Code section 11708, by and through Code section 12973, in that between October 27 and October 28, 2018, the FMP submitted by Respondent contained incomplete, inaccurate and inconsistent information regarding handler information and PPE, in violation of the permit conditions. The facts and circumstances are described with particularity in paragraphs 103-111 above.

FORTY-SIXTH CAUSE FOR DISCIPLINE

Code § 12973

146. Respondent Santa Maria Branch's PCB License No. 38638 is subject to discipline under Code section 11708, by and through Code section 12973, in that between October 27 and October 28, 2018, the FMP submitted by Respondent contained incomplete, inaccurate, and inconsistent information regarding which tasks onsite handlers were authorized and trained to perform during the application, in violation of the permit conditions. The facts and circumstances are described with particularity in paragraphs 103-111 above.

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1 **FORTY-SEVENTH CAUSE FOR DISCIPLINE**

2 **Code § 12973**

3 147. Respondent Santa Maria Branch’s PCB License No. 38638 is subject to discipline
4 under Code section 11708, by and through Code section 12973, in that between October 27 and
5 October 28, 2018, the PAS submitted by Respondent contained incomplete, inaccurate, and
6 inconsistent information regarding Complainant G.R.’s pesticide exposure. The facts and
7 circumstances are described with particularity in paragraphs 103-111 above.
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9 **FORTY-EIGHTH CAUSE FOR DISCIPLINE**

10 **Code § 12973**

11 148. Respondent Santa Maria Branch’s PCB License No. 38638 is subject to discipline
12 under Code section 11708, by and through Code section 12973, in that between October 27 and
13 October 28, 2018, the PAS submitted by Respondent contained incomplete, inaccurate, and
14 inconsistent information regarding the identification of the person responsible for the application
15 and their observations. The facts and circumstances are described with particularity in paragraphs
16 103-111 above.
17

18 **Santa Maria Branch II**

19 **FORTY-NINTH CAUSE FOR DISCIPLINE**

20 **Code § 11791, subd. (b)**

21 149. Respondent Santa Maria Branch’s PCB License No. 38638 is subject to discipline
22 under Code section 11708, by and through Code section 11791, subdivision (b), in that on
23 July 20, 2021, the Respondent operated in a faulty, careless, or negligent manner. The facts and
24 circumstances are described with particularity in paragraphs 112-120 above.
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FIFTIETH CAUSE FOR DISCIPLINE

Code § 11791, subd. (c)

150. Respondent Santa Maria Branch’s PCB License No. 38638 is subject to discipline under Code section 11708, by and through Code section 11791, subdivision (c), in that on July 20, 2021, the Respondent refused or neglected to comply with Division 6 of the Code or with any regulation issued pursuant to that Division. The facts and circumstances are described with particularity in paragraphs 112-120 above.

FIFTY-FIRST CAUSE FOR DISCIPLINE

Code § 12973

151. Respondent Santa Maria Branch’s PCB License No. 38638 is subject to discipline under Code section 11708, by and through Code section 12973, in that on July 20, 2021, the Respondent failed to obtain and submit written permission from an adjacent property owner in the buffer zone, as required by the permit conditions. The facts and circumstances are described with particularity in paragraphs 112-120 above.

Santa Maria Branch III

FIFTY-SECOND CAUSE FOR DISCIPLINE

Code § 11791, subd. (b)

Respondent Santa Maria Branch’s PCB License No. 38638 is subject to discipline under Code section 11708, by and through Code section 11791, subdivision (b), in that on August 9, 2021, the Respondent operated in a faulty, careless, or negligent manner. The facts and circumstances are described with particularity in paragraphs 121-127 above.

FIFTY-THIRD CAUSE FOR DISCIPLINE

Code § 11791, subd. (c)

152. Respondent Santa Maria Branch’s PCB License No. 38638 is subject to discipline

1 under Code section 11708, by and through Code section 11791, subdivision (c) in that on
2 August 9, 2021, the Respondent refused or neglected to comply with Division 6 of the Code or
3 with any regulation issued pursuant to that Division. The facts and circumstances are described
4 with particularity in paragraphs 121-127 above.

5 **FIFTY-FOURTH CAUSE FOR DISCIPLINE**

6 **3 CCR § 6738.1**

7
8 153. Respondent Santa Maria Branch's PCB License No. 38638 is subject to discipline
9 under Code section 11708, by and through 3 CCR section 6738.1, subdivision (f), in that on
10 August 9, 2021, the Respondent failed to ensure that its employee was wearing the required PPE
11 per 3 CCR section 6738.1, subdivision (f). The facts and circumstances are described with
12 particularity in paragraphs 121-127 above.

13 **Ventura Branch**

14 **FIFTY-FIFTH CAUSE FOR DISCIPLINE**

15 **Code § 11791, subd. (b)**

16
17 154. Respondent Ventura Branch's PCB License No. 30597 is subject to discipline
18 under Code section 11708, by and through Code section 11791, subdivision (b), in that on
19 September 4, 2020, Respondent violated Code section 11791, subdivision (b) by operating in a
20 faulty, careless, or negligent manner. The facts and circumstances are described with
21 particularity in paragraphs 128-141 above.

22 **FIFTY-SIXTH CAUSE FOR DISCIPLINE**

23 **Code § 11791, subd. (c)**

24
25 155. Respondent Ventura Branch's PCB License No. 30597 is subject to discipline
26 under Code section 11708, by and through Code section 11791, subdivision (c), in that on
27 September 4, 2020, Respondent refused or neglected to comply with Division 6 of the Code, or
28

1 any regulation issued pursuant to that Division. The facts and circumstances are described with
2 particularity in paragraphs 128-141 above.

3 **FIFTY-SEVENTH CAUSE FOR DISCIPLINE**

4 **Code § 12973**

5 156. Respondent Ventura Branch's PCB License No. 30597 is subject to discipline
6 under Code section 11708, by and through Code section 12973, in that on September 4, 2020,
7 Respondent violated Code section 12973 by permitting non-handlers into the buffer zone, in
8 violation of label instructions and 2018 Ventura County Permit Conditions. The facts and
9 circumstances are described with particularity in paragraphs 128-141 above.
10

11 **FIFTY-EIGHTH CAUSE FOR DISCIPLINE**

12 **Code § 12973**

13 157. Respondent Ventura Branch's PCB License No. 30597 is subject to discipline
14 under Code section 11708, by and through Code section 12973, in that on September 4, 2020,
15 Respondent violated Code section 12973 by utilizing the two different tarps during a pesticide
16 application, in violation of the 2018 Ventura County Permit Conditions. The facts and
17 circumstances are described with particularity in paragraphs 128-141 above.
18

19 **FIFTY-NINTH CAUSE FOR DISCIPLINE**

20 **Code § 12973**

21 158. Respondent Ventura Branch's PCB License No. 30597 is subject to discipline
22 under Code section 11708, by and through Code section 12973, in that on September 4, 2020,
23 Respondent violated Code section 12973 by failing to obtain a vacating agreement from the
24 occupier of adjacent property within the buffer zone, in violation of the 2018 Ventura County
25 Permit Conditions. The facts and circumstances are described with particularity in paragraphs
26 128-141 above.
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SIXTIETH CAUSE FOR DISCIPLINE

3 CCR § 6600, subd. (b)

159. Respondent Ventura Branch’s PCB License No. 30597 is subject to discipline under section 11708, by and through 3 CCR section 6600, subdivision (b), in that on September 4, 2020, Respondent violated 3 CCR section 6600, subdivision (b) and failed to perform pest control in a safe and effective manner, by miscalculating the buffer zone, providing incorrect information on the FMP regarding the tarps used, and permitting non-handlers in the buffer zone during a pesticide application in violation of label instructions and the 2018 permit conditions. The facts and circumstances are described with particularity in paragraphs 128-141 above.

SIXTY-FIRST CAUSE FOR DISCIPLINE

3 CCR § 6614, subd. (b)(1)

160. Respondent Ventura Branch’s PCB License No. 30597 is subject to discipline under Code section 11708, by and through 3 CCR section 6614, subsection (b)(1), in that on September 4, 2020, Respondent violated 3 CCR section 6614, subsection (b)(1), by making and continuing an application when there was a reasonable possibility of contamination of the bodies and clothing of adjacent fieldworkers not involved in the application. The facts and circumstances are described with particularity in paragraphs 128-141 above.

MATTERS IN AGGRAVATION

161. From 2014 to 2021, the Respondents were cited in 40 pesticide use enforcement actions and paid over \$125,000 in civil administrative penalties. These matters in aggravation include three priority incidents with 44 injured persons, 12 Class A violations, and an enforcement action by the United States Environmental Protection Agency.

2014

161. Pursuant to a priority investigation, 91-FRE-14, and subsequent enforcement

1 action and hearing conducted by the Fresno County CAC (003-ACP-FRE-16/17), on or about
2 October 4, 2014, Respondent San Benito Main failed to use soil sealing equipment required by
3 the pesticide product label, causing illness to nine (9) individuals, including three emergency first
4 responders, in violation of Code section 12973 and 3 CCR sections 6724, subdivisions (b) and (e)
5 and 6739, subdivision (p)(1). Following a hearing and subsequent appeal before the Director,
6 Director's Decision Docket No. 211, Respondent paid a \$53,000 fine for six Class A violations.

7 **2015**

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9 162. Pursuant to a priority episode investigation by the Butte CAC, 01-BUT-16,
10 Respondent San Benito Main conducted a pesticide application on July 31, 2015, where five
11 residential bystanders experienced symptoms of pesticide exposure, in violation of Code section
12 12973 and 3 CCR section 6614, subdivision (b)(1). Respondent paid \$3,075 in administrative
13 civil penalties for the violations.

14 163. Pursuant to an investigation by the Monterey CAC, on October 18, 2015, the San
15 Benito Main conducted a fumigation where the applicator improperly injected the fumigant
16 causing injury to the applicator, in violation of 3 CCR section 6726, subdivision (c). The
17 Respondent paid a \$1,560 fine for the violation.

18
19 164. Pursuant to an investigation by the Kern CAC, on August 19, 2015, Respondent
20 San Benito Main violated 3 CCR section 6600, subdivision (b). The Respondent paid a \$250 fine
21 for the violation.

22 165. Pursuant to an investigation by the Santa Cruz CAC, on October 14, 2015,
23 Respondent San Benito Main violated Code section 12973, for failing to provide notification to
24 an agricultural grower prior to a field soil fumigation as required by the Emergency Preparedness
25 and Response Measures instructions on the fumigant labels. The Respondent paid a \$250 fine for
26 the violation.
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1 166. Pursuant to an investigation by the Monterey CAC, on October 18, 2015,
2 Respondent San Benito Main violated 3 CCR section 6726, subdivision (c). The Respondent paid
3 a \$1,560 fine for the violation.

4 167. Pursuant to an investigation by the Sutter CAC, on November 3, 2015, Respondent
5 San Benito Main violated 3 CCR sections 6632 and 6434, subdivision (a) by failing to file a NOI
6 or obtain a permit prior to performing the fumigation. The Respondent paid a \$1,000 fine for the
7 violation.

8
9 **2016**

10 168. Pursuant to an investigation by the Sutter CAC, INV 106-51-16-M005-001,
11 ER-51-2016-005, on or about July 20, 2016, Respondent San Benito Main conducted an
12 application where the buffer zone extended into adjacent occupied property, without first having
13 obtained an encroachment agreement from the property owner, in violation of 3 CCR section
14 6447.2. Respondent paid a \$2,500 fine for the Class A violation.

15 169. Pursuant to an investigation by the Santa Cruz CAC, Respondent San Benito Main
16 did not apply the pesticide at the application rate specified and approved in the work plan and
17 NOI, in violation of Code section 12973 and 3 CCR section 6600, subdivision (b). The
18 Respondent paid a \$876 fine for the violations.

19 170. Pursuant to an investigation and subsequent enforcement action and hearing
20 conducted by the Kern CAC (038-ACP-KERN-16/17), on or about October 25, 2016, Respondent
21 San Benito Main permitted an untrained pesticide handler to enter and perform work inside the
22 buffer zone during an application, in violation of Code section 12973. Following the hearing and
23 subsequent appeal before the Director, Director's Decision Docket No. 212, Respondent paid a
24 \$700 fine for the Class B violation.

25 171. Pursuant to an investigation by the Fresno CAC, INV 10-20180501-173, ER-10-
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1 2018-213, on or about November 9, 2016, Respondent did not maintain required records pursuant
2 to their pesticide handler training program, failed to include required information in the FMP and
3 Post-Application Summary, failed to use all required soil sealing equipment, required signs were
4 incomplete or improperly placed, and failed to conduct fumigant site monitoring as required by
5 the pesticide product label, in violation of six counts of Code section 12973 and 3 CCR sections
6 6000, 6724, subdivisions (a) and (e).

7
8 172. On or about November 10 to November 14, 2016, pursuant to a priority episode
9 investigation by the Fresno CAC, 80-FRE-16, Respondent San Benito Main conducted an
10 application in Selma, California which resulted in pesticide exposure to 12 residential bystanders,
11 not involved in the application. In November 2021, the Respondent entered into a settlement and
12 paid a \$44,275 fine to the U.S. EPA for the violations.

13 **2017**

14 173. Pursuant to a priority incident investigation, 73-SCR-17, ER-44-2019-041, by the
15 Santa Cruz CAC, on or about September 20, 2017, Respondent San Benito Main conducted an
16 application where a tarp was breeched, causing 23 bystanders to experience symptoms of
17 pesticide exposure, in violation of Code section 12973 and 3 CCR sections 6600, subdivision (b)
18 and 6614, subdivision (b)(3). Respondent paid a \$15,000 fine for the three Class A violations.

19
20 174. Pursuant to an investigation, INV-27-20180511-022, ER-27-2019-126, by the
21 Monterey CAC, on or about September 22, 2017, Respondent San Benito Main conducted an
22 application where Respondent improperly connected a fumigant line, exposing a handler to the
23 pesticide and causing injury, in violation of 3 CCR section 6600. The Respondent paid a \$5,000
24 fine for the Class A violation.

25
26 175. On or about September 28, 2017, the Monterey CAC issued a violation notice to
27 Respondent San Benito Main pursuant to an investigation, INV 106-27-M023-009, ER-27-2017-
28

1 184. The investigation discovered that Respondent San Benito Main was using regulators which
2 had not been regularly inspected, in violation of 3 CCR section 6739.

3 176. Pursuant to an investigation, INV 106-27-17-MO1U-014, ER-27-2017-174, by the
4 Monterey CAC, on or about October 13, 2017, Respondent San Benito Main conducted an
5 application whereby Respondent used a different tarp than had been cited in the FMP, in violation
6 of California pesticide law. The Monterey CAC issued a violation notice for a Class C violation
7 to Respondent San Benito Main.
8

9 **2018**

10 177. Pursuant to an investigation, INV 106-42-18-M00W-009, ER 42-2018-0037, by
11 the Santa Barbara CAC, between April 23 and April 24, 2018, the Santa Maria Branch performed
12 two applications of Tri-Chlor EC Fumigant, where the Fumigation Summary submitted to the
13 Santa Barbara CAC was inaccurate, in violation of Code section 12973. Respondent paid a \$250
14 fine for the Class B violation.
15

16 178. Pursuant to an investigation, INV-04-20180611-015, ER-04-2018-008, by the
17 Butte CAC, on or about June 11, 2018, the Respondent Ventura Branch conducted a fumigation
18 without having submitted a NOI, in violation of Code section 12973. Respondent paid a \$250
19 fine for the Class B violation.
20

21 179. Pursuant to an investigation, INV-15-20180815-102, ER-15-2018-058, by the
22 Kern CAC, on or about August 10, 2018, Respondent San Benito Main conducted an application
23 where the handler was not wearing label-required personal protective equipment, in violation of
24 3 CCR section 6738.1. Respondent paid a \$1,000 fine for the Class B violation.
25

26 180. Pursuant to an investigation, INV 106-45-18-M00A-004, ER-45-2018-011, by the
27 Shasta CAC, on or about August 21, 2018, Respondent San Benito Main conducted a fumigation
28 where the buffer zone extended onto adjacent property without having first obtained an

1 encroachment agreement from the property owner, failed to post buffer zone signs as required by
2 the label, and failed to submit a PUR within seven days of the application, in violation of 3 CCR
3 sections 6614 and 6626, subdivision (b). Respondents paid a \$1,400 fine for the Class A and
4 Class C violations.

5 181. Pursuant to an investigation, INV 106-44-18-W000-001, ER-44-2019-029, by the
6 Santa Cruz CAC, on or about September 4, 2018, Respondent San Benito Main conducted an
7 application where the buffer zone extended onto adjacent residential property, without having
8 first obtained an encroachment agreement from the property owner, in violation of Code section
9 12973. Respondent San Benito Main paid a \$250 fine for the Class B violation.
10

11 182. Pursuant to a field fumigation inspection, INV 106-40-18-M009-008, ER-40-
12 2018-146, conducted by the San Luis Obispo CAC, on or about September 14, 2018, the Santa
13 Maria Branch conducted a fumigation where two significant leaks occurred during the
14 application.
15

16 183. Pursuant to an investigation, INV 106-57-18-M00F-002, ER-57-2018-059,
17 conducted by the Yolo CAC, on or about October 9, 2018, Respondent San Benito Main
18 submitted an FMP that failed to include required information and contained inaccuracies, in
19 violation of Code section 12973. Respondent San Benito Main paid a \$700 fine for the Class B
20 violation.
21

2019

22 184. Pursuant to an investigation, INV 106-10-19-M000-001, ER-10-2019-210, by the
23 Fresno CAC, on or about March 8, 2019, Respondent San Benito Main conducted an application
24 without submitting a NOI to the CAC at least 96 hours prior to the application, in violation of
25 Code section 12973. Respondent San Benito Main received a violation notice for the Class C
26 violation.
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1 185. Pursuant to an investigation, INV 20-2019-0605-096, ER-20-2019-071, by the
2 Madera CAC, the San Benito Main failed to submit monthly PURs for the prior six months, in
3 violation 3 CCR sections 6626 and 6628. On or about June 5, 2019, the Madera CAC issued a
4 violation notice for the Class C violations.

5 186. Pursuant to an investigation, INV 44-20200205-002, ER-44-2020-004, by the
6 Santa Cruz CAC, on or about August 11, 2019, Respondent San Benito Main failed to adequately
7 perform post-application site monitoring and did not remediate a tarp breach, in violation of Code
8 section 12973. Respondent San Benito Main paid a \$5,000 fine for the Class A violation.

9 187. On or about October 25, 2019, the Stanislaus CAC issued a violation notice for a
10 Class B violation to Respondent San Benito Main. The violation notice was based on an
11 investigation, INV 106-50-19-M014-004, ER-50-2019-120, which concluded that an unpermitted,
12 untrained individual was present in the buffer zone during an application, in violation of Code
13 section 12973.

14 188. Pursuant to an investigation by the Yolo CAC, INV 104-57-19-M00B-055, ER-57-
15 2020-005, on or about November 19, 2019, Respondent San Benito Main conducted an
16 application in violation of label-required soil moisture requirements, in violation of Code section
17 12973 and 3 CCR section 6614. Respondent paid a \$1,500 fine for the Class B violations.

18 189. On or about November 25, 2019, the Fresno CAC issued a violation notice for
19 three Class C violations to Respondent San Benito Main. The notice was based on two
20 inspections, INV 10-20200203-083 and INV 10-20191203-427, ER-10-2020-095, which
21 discovered that the Respondents failed to submit a PUR within seven days of an application and
22 where an application was made even though a NOI was not timely submitted to the CAC, in
23 violation of Code section 12973 and 3 CCR sections 6626, subdivision (b) and 6434.

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2020

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2 190. On or about January 21, 2020, the Merced CAC issued a violation notice for a
3 Class B violation to Respondent San Benito Main. The notice was based on an inspection, INV
4 106-24-20-M00R-001, ER-24-2020-017, which discovered that Respondent's employees were
5 not wearing label-required chemically resistant footwear during an application, in violation of
6 Code section 12973.

7
8 191. On or about March 3, 2020, the Fresno CAC issued a violation notice for two
9 Class C violations to Respondent San Benito Main. The notice was based on an inspection, INV
10 10-20200630-264, ER-10-2020-262, which discovered that the NOI was not timely submitted to
11 the CAC prior to the application, in violation of Code section 12973 and 3 CCR section 6434.

12 192. Pursuant to an investigation by the Santa Cruz CAC, INV 106-44-20-M00E-006,
13 ER-44-2021-001, on or about July 9, 2020, Respondent San Benito Main conducted an
14 application without posting the required buffer zone boundary signs, in violation of Code section
15 12973. Respondent San Benito Main paid a \$250 fine for the Class B violation.

16
17 193. Pursuant to an investigation by the Ventura CAC, INV 106-56-20-M00S-055, ER
18 56-2021-016, on or about August 31, 2020, Respondent San Benito Main had an untrained
19 employee working within a buffer zone in violation of Code section 12973. Respondent paid
20 \$250 for the Class B violation.

21 194. On or about September 24, 2020, pursuant to a Compliance Interview conducted
22 by the Santa Cruz CAC, INV 106-44-20-M00E-016, ER-44-2020-022, Respondent San Benito
23 Main did not provide required personal protective equipment (overalls), in violation of 3 CCR
24 section 6734, a Class B violation.

25
26 195. On or about September 29, 2020, the Santa Cruz CAC issued a violation notice for
27 a Class C violation to Respondent San Benito Main pursuant to an investigation, INV 106-44-20-
28

1 M00B-003, ER-44-2020-025, which discovered that Respondent did not submit a revised NOI
2 within 48 hours, in violation of Code section 12973.

3 196. Pursuant to an investigation, INV-42-20201116-071, ER-42-2020-097, by the
4 Santa Barbara CAC, on September 29, 2020, Respondent Santa Maria Branch did not timely
5 submit required buffer zone encroachment agreements to the Santa Barbara CAC, in violation of
6 Code section 12973. Respondent Santa Maria Branch paid a \$190 fine for the Class C violation.

7 197. Pursuant to an investigation by the Monterey CAC, INV 27-20201110-085, ER-
8 27-2020-099, on or about October 13, 2020, Respondent San Benito Main did not conduct a
9 pesticide application in a careful and effective manner and applied pesticides where there was a
10 reasonable possibility of the contamination of nontarget public or private property or the creation
11 of a health hazard, preventing normal use of such property, in violation of 3 CCR section 6614,
12 subdivisions (b) and (b)(3). Respondent San Benito Main paid a \$5,000 fine for the Class A
13 violation.
14

15 **2021**

16 198. Pursuant to an investigation by the Fresno CAC, INV 106-10-21-M03C-002, ER
17 10-2021-020, on or about February 18, 2021, Respondent San Benito Main did not use the
18 required soil sealing equipment during an application, in violation of Code section 12973.
19 Respondent San Benito Main was issued a cease-and-desist order, a violation notice, and paid a
20 \$5,000 fine for the Class A violation.
21

22 199. On or about June 16, 2021, a violation notice was issued to Respondent San Benito
23 Main by the Fresno CAC. The notice was based on an inspection, INV 10-20210616-056, ER10-
24 2021-045, which discovered that Respondent had not submitted a PUR within seven days of
25 completing a pesticide application, in violation of 3 CCR section 6626, subdivision (b), a Class C
26 violation.
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