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Attorneys for Henry Tosta

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

SAN JOAQUIN COUNTY

IN THE MATTER OF: HENRY J. TOSTA (DBA HENRY TOSTA DAIRY), HENRY J. TOSTA JR. FAMILY LIMITED PARTNERSHIP, AND HENRY J. TOSTA TRUST	Administrative Civil Liability Complaint No.: R5-2012-0561 **DECLARATION OF ROBERT FUHRMAN**

I, Robert Fuhrman, declare as follows:

1. The facts stated in this declaration are based on my personal knowledge, academic training, experience, and the documents I reviewed related to this case. I could and would testify competently to these facts if called upon to do so.

2. I am Principal and CEO of Seneca Economics and Environment, LLC, a consulting firm located in Germantown, Maryland, which I founded in January 2002. Before that time, for approximately fourteen years I was a principal and director of two different economic and management consulting firms. Attachment 1 is a copy of my resume.

3. I studied economics (24 semester hours) and political science (27 semester hours) at Columbia College of Columbia University, from which I received a Bachelor of Arts degree in 1971. In 1973, I received a Master of Business Administration ("MBA") degree from Harvard Business School.

4. I am an expert in reviewing and critiquing penalty assessments made by governmental agencies, including the U.S. Environmental Protection Agency (EPA) and state environmental agencies, and in providing alternative calculations for use in both settlement and litigated cases. Since 1986, I have worked on over 200 environmental civil penalty disputes and have testified on relevant matters in U.S. District Court, U.S. Bankruptcy Court, state court, and in hearings before U.S. EPA administrative law judges. I have published approximately thirty articles on matters related to the calculation of economic benefit and ability-to-pay in environmental civil penalty cases.

5. I am particularly familiar with both the EPA "BEN" model, which EPA and certain state environmental agencies use for determining the economic benefit of non-compliance, and the EPA "ABEL" model that is used by the EPA and other governmental agencies to calculate individual entities' ability-to-pay civil penalties.

6. For the purposes of this opinion, I reviewed the Federal Income Tax Returns for the Henry J. Tosta Jr. Family Limited Partnership (the "L.P." or the "Tosta Family L.P."); the California State Water Resources Central Board's Enforcement Policy dated May 2010; and various EPA policies, including EPA's "Framework for Statute-Specific Approaches to Penalty Assessments" dated February 16, 1984.

7. I reviewed the declarations of Henry Tosta attached as Exhibit 1 and Exhibit 2 to this Declaration.

8. I also reviewed the Analysis by Mr. Gerald Horner of the State Water Resources Control Board (SWRCB) that was included in the State's Rebuttal Submitted July 8, 2013.

9. Although Mr. Smith, Counsel for the Tosta Family L.P., was told that Mr. Horner or another staff member of the SWRCB used the BEN model to calculate the "economic benefit allegedly obtained due to noncompliance" in this case, I see no evidence in Mr. Horner's

Analysis that indicates that he or anyone else working for the SWRCB actually ran the ABEL model to determine the L.P.'s ability-to-pay a civil penalty. This strikes me as strange for two reasons: (1) ABEL, like BEN, is easy to download from the EPA web site; and (2) unlike Mr. Horner's Analysis, ABEL provides (a) probabilistic estimates of an entity's future cash flows that presumably would be available to pay a civil penalty (b) and calculated financial ratios that may be used to assess an entity's solvency, liquidity, ability to raise capital through debt financing, and its likelihood of imminent bankruptcy.

10. My major opinions are as follows:

    a. The State's calculation of the L.P.'s ability-to-pay was improperly performed.

    b. The State's calculation of L.P.'s ability-to-pay was based on improper assumptions and an incorrectly drawn inference about the L.P.'s future ability to generate "Capital Gains."

    c. Based on use of the Tosta Family L.P.'s federal tax return data in the ABEL model and relying on the standard EPA assumptions for running this model, the Tosta Family L.P.'s ability to pay a one thousand dollar fine ($1,000) is less than 60 percent likely over the next five years based on ABEL's projection of the L.P.'s future cash flow. According to page 1 of the ABEL calculations I performed, which are attached as Attachment 2, "EPA typically employs a 70% probability level for determining ability to pay…." Thus, using EPA's standard probability cutoff and relying on the ABEL output, I conclude that the L.P. has no ability to pay a civil penalty.

    d. The State's calculation of Economic Benefit is improper.

    e. Based on my review of Mr. Tosta's declarations and the State's calculations, I believe that the L.P.'s economic benefit from alleged non-compliance was minimal.

11. My analysis of Mr. Horner's Analysis is as follows:

    a. The State's opinion is based on a one-time, "Capital Gain" incident that occurred in 2012. In his Analysis, Mr. Horner acknowledged that he did not

know for certain what caused the apparent "Capital Gain." However, he assumed that it represented the "sale of farm animals held for more than one year." As shown on Table 1 of Mr. Horner's Analysis, this "net long-term capital gain" directly led to the L.P. achieving positive net income in 2012 totaling $572,576.

b. On this basis, on page 2 of his Analysis, Mr. Horner wrote: "The trend in annual income has improved from a negative income of $973,823 in the year 2009 to a positive income of $572,576 in 2012. The increasing income trend provides a solid foundation to pay the proposed ACL [administrative civil liability]."

c. Contrary to Mr. Horner's assumption of a positive trend, his Analysis failed to provide any evidence that this "Capital Gain" incident is likely to recur at any time during the next five years. His conclusion regarding the Tosta Family L.P.'s ability-to-pay is therefore not only questionable; it is highly speculative and lacks a proper foundation in financial analysis.

d. Based on discussion with Counsel, Henry Tosta's Second Declaration, and my review of general ledger information, I understand that the "Capital Gain" at issue was actually a decrease in the debt owed to a bank both by the sale of, and due to its seizure of a portion of the Tosta Family L.P.'s herd of cattle, the subsequent sale of the seized animals, and the credit the bank provided against the outstanding amount of debt owed to the bank by the L.P. Thus, although the event in question looked to Mr. Horner to be positive cash flow, it was actually a liquidation of a portion of the Tosta Family L.P.'s income-generating herd, resulting in a reduction in the L.P.'s outstanding amount of bank debt and in its ability to generate future cash flow. As indicated on Schedule L of the L.P.'s 2012 tax return, the Tosta Family L.P. started 2012 with $5,786,315 and ended it with only $3,352,918 in buildings and other depreciable assets. (See Line 9a of Schedule L of the 2012 tax return.)

e. Mr. Horner's Analysis offered no valid evidence that the L.P. can afford to pay a penalty of $1,140,713, which is 70 percent of its total shareholder's equity as of the end of 2012, without going out of business. As shown by Mr. Horner's Table 3, and as confirmed by Schedule L of the L.P.'s 2012 tax return, at the end of 2012, the L.P. did not have on hand any cash, and most of its assets were needed to cover its liabilities. (Statement 4 of the tax return indicates that the L.P. actually ended the year with a bank overdraft of $4,454, credit card liabilities of $63,345, and payroll liabilities totaling $9,018.)

f. Mr. Horner's Table 2 indicates that if the L.P.'s cash flows for the next five years would be identical to its cash flows during last five years (which includes the positive amount of net income due to the "Capital Gain" in 2012), the L.P. would incur losses over the next five-year period totaling $368,334. If the L.P. were to pay any amount of civil penalties plus additional interest on a loan to finance such a payment, the L.P.'s total net losses would be even greater. Obviously, all this assumes that there is a lender who would be willing to loan money to the L.P. against its assets that are currently not fully pledged as collateral. Mr. Horner's Analysis did not include any basis for reaching a conclusion about L.P.'s ability to engage in additional debt financing.

g. Based on the above, I believe that Mr. Horner's Analysis is improper and highly deficient, and does not provide the State an appropriate basis for penalty-setting purposes.

12. Using the available tax return information of the Tosta Family L.P., I performed my analysis using the EPA ABEL model, which, as stated before, generates both probabilistic estimates of future cash flows and financial ratios for historical years.

13. Because EPA has yet to release an updated version of ABEL, I used the ABEL formats produced by the currently existing version of the model for the most recent five-year period. The relevant column headings ranged from years 2006 to 2010. Manually I corrected

the spreadsheets' column headings to reflect the actual years for which tax return data was entered into the model, i.e., years 2008 through 2012. This off-line adjustment had no effect on the results of the analyses that are reflected in the printouts.

14. ABEL does not require or use information on capital gains as an input into the model because the implication of such information is already embedded in the entry marked "Taxable Income Before NOL (Net Operating Loss) and Special Deductions," which appears on page 4 of the ABEL printout. The entry on that line for tax year 2012 totaled $572,576.

15. As shown on Attachment 2 to this Declaration, ABEL's financial ratio analyses, which reflect the capital gain that occurred in 2012, indicate that:

- For all five years covered by the tax returns considered in the ABEL, as indicated by the L.P.'s Debt-to-Equity Ratio, the L.P. faced possible difficulty in borrowing additional capital.
- The L.P.'s Current Ratio (i.e., current assets divided by current liabilities) indicated serious liquidity problems in each year.
- In four of the five years considered, the L.P.'s "Times Interest Earned Ratio" was a negative value, which is strongly indicative of difficulty in meeting future interest payments.
- In four of the five years, the L.P.'s "Beaver Ratio" was either negative or below 0.1, which indicated that the L.P. was in "poor financial condition" in those years. The Beaver Ratio was "inconclusive" only in 2012.
- In all five years, the L.P.'s "Altman Z-Score" indicated possible bankruptcy of the L.P. within two years.

I would anticipate that these historic financial ratios would make a lending institution risk-averse about lending additional funds to the Tosta Family L.P. at the present time.

16. Mr. Horner's conclusion that the L.P. can raise $1,140,713 to pay a civil penalty is not supported by rigorous analysis and is directly contradicted by the results I obtained through use of the EPA ABEL model. The model essentially projected on a probabilistic basis that the L.P. is unlikely to generate from operations sufficient cash flow – essentially zero – to

pay a civil penalty. It also calculated past financial ratios that undermine the notion that it can to raise sufficient additional capital from credit markets to pay a significant civil penalty. Mr. Horner's reliance on a "Capital Gain" in one year as evidence of a future trend is both overly simplistic and fatally flawed. The 2012 "Capital Gain" did not represent a positive trend, as Mr. Horner had asserted. Instead, it was indicative of the L.P.'s poor financial condition and of the Bank of the West's desire to recoup a significant portion of the amount of money that the L.P. had borrowed from the bank.

17. I also have several opinions with respect to the amount of Economic Benefit that was calculated by the Regional Board.

18. As portrayed on State's Exhibit 26, based the EPA BEN Model, the Board staff calculated that the Tosta Family L.P. had obtained an economic benefited from non-compliance totaling $751,000.

19. According to that exhibit, there were several minor cost items and two very substantial cost items. According to the State, the L.P. avoided Manure Management costs resulting in $659,268 in economic benefit and avoided General Maintenance adding an additional $85,991 to economic benefit. Mr. Tosta has contested the underlying assumptions and, per his Declarations, has stated that the estimated costs do not accurately represent his actual costs, if any.

20. Mr. Tosta stated that since he began operating the dairy in 1994, his neighbors have been willing to take his manure without charge, and did so on numerous occasions.

21. According to Mr. Tosta, some years he was not able to give his neighbors access to his property, did not have employees who were available to load manure, or it was the wrong time of the year for manure use.

22. The BEN calculations provided by the State assumed 1/1/96 as the initial date of noncompliance. That date is well beyond the statute of limitations in this case, which Counsel believes was three years prior to the SWRCB or the regional water quality control board discovering the facts constituting the grounds for commencing actions in this matter related to their jurisdiction. Additionally, the State's relevant BEN calculations apparently did not take

into account the amounts of manure removed by Mr. Tosta's neighbors during relevant years at little or no cost to the L.P. The State's economic benefit calculations are therefore deficient and not reliable. Further, according to Mr. Tosta, the Dairy General Order was not in place until 2007 and the requirements for a fully implemented Waste Management Plan were not instituted until 2011, therefore no violations of the order could have occurred prior to that time.

23. Because there is little to no cost associated with the removal of manure during these years, the State has not accurately calculated economic benefit.

24. Even if there were a cost associated with loading of manure in certain years, this would be a delayed cost rather than an avoided cost, the latter being the way in which the State has modeled economic benefit for purposes of its BEN calculation. As delayed costs, economic benefit would be a function of inflation and the interest on the delayed costs. Instead, for economic benefit purposes, the State has treated those costs as if they were totally avoided. This is incorrect.

25. There is no evidence indicated to support the inclusion of the "Avoided General Maintenance Costs" included in Exhibit 26. From that Exhibit, the rationale or evidentiary basis for including some or all of those costs in the State's BEN analysis is, at best, unclear.

26. EPA's guidance document titled "A Framework Statute Specific Approaches to Penalty Assessments" (1984) stated that "Among the types of violations that would result in savings from deferred costs are the following: ...[I]mproper disposal, where proper disposal is still required to achieve compliance."

27. In my opinion, the State's economic benefit calculation incorrectly treated the alleged avoided costs. The Manure Management costs were not completely avoided. Some of these costs were incurred on time and for little or no money; the incurrence of some of some of these costs were postponed to a later date. The State's BEN analysis does not capture this information, and therefore significantly overstates the economic benefit obtained by the L.P.

28. It is my expert opinion that the BEN is based on an incorrect financial methodology. The interest forward rate in BEN applied to past cost savings due to noncompliance is based on the weighted average cost of capital for for-profit entities. To the

best of my knowledge, EPA has never cited in a court a peer-reviewed article from published academic financial literature that supports the methodology EPA adopted in this regard. Although this methodology has been upheld in some courts, it has been rejected in others, notably U.S. v. WCI Steel, a 1999 case in federal district court in Ohio. *U.S. v. WCI Steel,* 72 F. Supp. 2d 810, at 831. That Court adopted the after-tax rate of interest associated with short-term U.S. Treasury bills for the purpose of adjusting past calculated values to the present time. There is peer-reviewed, published academic literature in the field of corporate finance that supports the use of the Treasury bill rates to adjust past costs to present values. (See, R.F. Lanzillotti and A.K. Esquibel, "Measuring Damages in Commercial Litigation: Present Values of Lost Opportunities," *Journal of Accounting, Auditing and Finance*, Winter 1990, pages 125-142, at page 134; and Franklin M. Fisher and R. Craig Romaine, "Janet Joplin's Yearbook and the Theory of Damages," *Journal of Accounting, Auditing and Finance*, Winter 1990, pages 145-157.)

29. Based on my review it appears that an inappropriately high interest rate in the economic benefit analyses generated by the State was used. However, we were not provided with the original BEN analysis, which apparently would serve as the evidence for the information presented in their analysis. Additionally, without reviewing the State's BEN calculations, I cannot identify other problems that may exist related to these calculations.

Executed this 18th day of July, 2013, at Germantown, Maryland.

Robert H. Fuhrman

ROBERT FUHRMAN

ATTACHMENT 1

ROBERT H. FUHRMAN
Seneca Economics and Environment, LLC

Mr. Fuhrman has worked as a consultant for over twenty-five years, specializing in economic, financial, and regulatory policy analysis. His diverse background as a government economist, trade association executive, and consultant, as well as his training in economics, political science, and business administration, have given him a broad background in both public and private sector issues. He has worked in many engagements as a testifying expert witness, has extensive negotiation experience, and has authored over thirty published articles. In the environmental arena, Mr. Fuhrman has worked on cases involving civil penalties, ability-to-pay determinations, and monetary valuations of mitigation projects; Superfund cost recovery; hazardous waste insurance; and commercial litigation. In other consulting engagements, among other topics, he has worked on matters related to tort damages, breach-of-contract, illegal strip searches, and Federal False Claims Act cases. In September 2012, he co-founded Seneca Road Consultants LLC, a management-consulting firm that thus far has been inactive.

Mr. Fuhrman's background includes seven years of experience as an economist at the U.S. Environmental Protection Agency (EPA), three years at the Pharmaceutical Manufacturers Association (PMA), two years at General Electric's Center for Advanced Studies, fourteen years at two large, nationally-known economic consulting firms, ten years at his own consulting firm, and several years as an independent consultant.

He founded Seneca Economics and Environment, LLC, in January 2002, and has been a principal and CEO of the firm since that time.

From 1997 to 2001, Mr. Fuhrman was a principal and director of The Brattle Group, Inc., an economic, environmental, and management consulting firm. Before that time, he was a principal and director of Putnam, Hayes & Bartlett, Inc., a consulting firm he joined in 1987. From 1983 to 1986, he served as Director of Finance and Administration at the Pharmaceutical Manufacturers Association (PMA, now known as the Pharmaceutical Research and Manufacturers Association). In that capacity, he managed the business and financial affairs of that trade association. Between PMA and PHB, Mr. Fuhrman was an independent consultant and, for a few months, was employed as a Senior Consultant at National Economic Research Associates, Inc.

While at EPA from 1977 to 1983, Mr. Fuhrman served as an economist on the Energy Policy Staff, as Acting Chief of the Industrial Analysis Branch of the Economic Analysis Division, as Acting Director of that Division, and as Special Assistant to the Deputy Administrator, on an approximately one-year detail. During his tenure as Acting Chief of the Industrial Analysis Branch, he directed a staff that analyzed the environmental, economic, and financial effects of existing and potential EPA regulations affecting major industries, including chemical manufacturing, petroleum refining, iron and steel, and copper and aluminum smelting. When he was Acting Director of EPA's Economic Analysis Division in the Agency's central policy office, he directed and coordinated the efforts of approximately 40 economic analysts in their evaluation of the economic and financial effects of the Agency's policies. As a Special Assistant to the EPA Deputy Administrator, on an approximately one-year detail, Mr. Fuhrman analyzed conflicts between national energy and environmental policies, and provided advice on subjects such as the

regulation of air emissions from coal-fired power plants. Immediately prior to joining EPA as an employee, Mr. Fuhrman consulted to the Federal Energy Administration and to EPA.

From 1975 to 1976, Mr. Fuhrman was a staff associate at Developing World Industry and Technology, Inc., where he wrote case studies on corporate transfers of U.S. unique technologies to non-affiliated foreign firms, analyzing their implications for the U.S. economy. While at General Electric's Center for Advanced Studies from 1973 to 1975, Mr. Fuhrman performed classified studies for the Office of the Secretary of Defense. He also has worked as an independent consultant to such organizations as the Federal Energy Administration, the United Nations Environment Program, and the Center for Clean Air Policy.

Mr. Fuhrman received a B.A. from Columbia College, where he studied economics (24 semester hours) and political science (27 semester hours), and an MBA from Harvard Business School.

REPRESENTATIVE CONSULTING EXPERIENCE

Mr. Fuhrman has participated in numerous studies for public and private clients.

- He is currently working on civil penalty cases for several clients.

- For over 200 private-sector clients and for one public interest group, he has analyzed public and private entities' economic savings due to alleged noncompliance with environmental laws. For many entities, he also calculated their ability to pay civil penalties. Due to these engagements, Mr. Fuhrman has developed a high level of expertise on U.S. EPA enforcement matters, including EPA's media-specific civil penalty settlement policies and various computer models used by the Agency in calculating the economic benefit of noncompliance, entities' and individuals' ability-to-pay civil penalties, and the value of supplemental environmental projects.

  These cases have involved many different industries, including metals, mining, chemicals, pulp and paper, oil and gas, and diversified manufacturing. The cases have also involved many different environmental programs, including those intended to control air and water pollution, solid wastes, hazardous wastes, pesticides, and underground storage tanks. Together with counsel, Mr. Fuhrman has participated in settlement negotiations with EPA and the U.S. Department of Justice.

- He has performed ability-to-pay analyses for over thirty clients. His private sector clients have included such diverse firms as a petroleum refining company, a steel mill, a race track, a foundry, an auto repair shop, a manufacturer of brass faucets, a seller of marine vessels, a chemical company, a lumber company, several "Jiffy Lube"-type enterprises, several food processing companies, a landfill, and a small conglomerate. Other engagements have involved ability-to-pay analyses of counties in Hawaii, Indiana, Kentucky, Maryland, and New Mexico; a major city in

Pennsylvania; a city in New Mexico; the City of Los Angeles, California; the Office of the Criminal Sheriff of Orleans Parish, Louisiana (which has the same geographical contours as the City of New Orleans); and various individuals. These cases were performed in various contexts, including environmental civil penalty disputes, Superfund cost recovery, and illegal strip search cases.

- On behalf of a very large mining operation in Alaska that produces zinc, lead, and other metals, Mr. Fuhrman calculated the contribution of that mine to the local, regional, and national economy, and on various affected entities. He also assessed the effects of the potential closure of that mine on employment, international prices for the affected metals, and other potentially affected entities.

- He calculated damages in a case in which fraudulent nondisclosure of environmental liabilities in the sale of a business entity was a major issue.

- In July 2007, on behalf of the American Chemistry Council and the Corporate Environmental Enforcement Council, Mr. Fuhrman drafted comments for the EPA public docket on "Enhancing Environmental Outcomes from Audit Policy Disclosures through Tailored Incentives for New Owners."

- In July 2004, on behalf of the Manufacturers Ad Hoc Group (comprised of the Alliance of Automobile Manufacturers, the American Chemistry Council, the Corporate Environmental Enforcement Council, the National Association of Manufacturers, and the National Ready Mixed Concrete Association), Mr. Fuhrman drafted the "Comments of the Manufacturers Ad Hoc Group" that were submitted to the U.S. EPA Science Advisory Board's Illegal Competitive Advantage Economic Benefit Advisory Panel.

- In 1999, on behalf of ten trade associations that comprised the "Ad Hoc Group," Mr. Fuhrman co-authored comments with Paul Wallach, Esq. (now deceased), of Hale and Dorr, LLP, that were submitted to EPA concerning "wrongful profits" and "illegal competitive advantages" that EPA associated with environmental noncompliance in a Federal Register notice appearing at 64 Fed. Reg. 32,948.

- In 1997, on behalf of the 12 trade associations and organizations that comprised the "BEN Coalition," Mr. Fuhrman co-authored comments that were submitted to EPA concerning its economic benefit recovery program.

- In 1995, for the American Automobile Manufacturers Association, American Forest and Paper Association, Chamber of Commerce of the United States, Chemical Manufacturers Association, and the National Association of Manufacturers, Mr. Fuhrman analyzed theoretical and practical problems with EPA's computerized software (the "BEN Model") for analyzing companies'

economic savings due to noncompliance. As part of this activity, he met with senior officials of EPA's Office of Enforcement and the U.S. Department of Justice to present his analysis of the model's analytic shortcomings.

- Mr. Fuhrman served as an expert witness in a Superfund cost recovery case involving hundreds of thousands of documents that the U.S. government provided in support of its cost claim.

- In a Superfund cost recovery case, Mr. Fuhrman performed a detailed analysis of a county's ability to pay its *pro rata* share of the cleanup costs at a multi-party site. As part of this analysis, he reviewed financial data provided by the county and state government, including both historical data and budgetary projections, and information generated by credit rating agencies. He examined general fund balances and determined the county's ability to raise revenues through tax increases and additional debt financing over a ten-year time frame. He also assessed indications of financial distress by performing ratio analyses and by considering population trends and other indicators.

- He worked on the prudence of past hazardous waste disposal activities. In several of these cases, Mr. Fuhrman reviewed key aspects of federal legislation and regulations related to specific toxic substances *(e.g.*, PCBs, organic solvents, metal plating wastes, and waste oil) from 1899 through the mid-1980s. He also analyzed industrial use and disposal practices related to some of these wastes for the period 1950 through 1985, and evaluated changing public perceptions of environmental hazards from the 1940s through the mid-1980s.

- Mr. Fuhrman helped to evaluate potential Superfund liabilities of several Fortune 500 companies. This work was performed in the context of hazardous waste-related insurance coverage cases and involved probabilistic cost forecasting within the analytic structure of decision analysis.

- As part of a team involving multiple consultants, he helped to develop damage estimates in coal contract litigation between a major manufacturer of steel and its chief supplier of metallurgical coal.

- Due to litigation related to an insurance claim, Mr. Fuhrman reviewed extensive cost documentation regarding the environmental cleanup associated with a fertilizer warehouse fire and opined on which costs might be recoverable in litigation.

- For American University, he helped develop a monetary claim concerning damages resulting from the disposal of mustard gas and related chemical substances on the university's campus during World War I by the U.S. Army.

- He worked on a large breach-of-contract case involving the U.S. Department of Energy's failure to remove spent nuclear fuel from three utility generating stations. Mr. Fuhrman's work on this matter was to coordinate the efforts of two teams of consultants to develop a complex

methodology that simulated utilities' cash flows and modeled actual and "but-for" worlds for use in damage calculations.

- On behalf of plaintiffs in a class action law suit involving tens of thousands of illegally conducted strip searches, Mr. Fuhrman completed an expert report assessing the Orleans Parish (Louisiana) Criminal Sheriff's Office's financial capacity to pay monetary damages.

- In a large class action case involving illegal strip searches, Mr. Fuhrman analyzed Jefferson County, Kentucky's ability to pay a multi-million dollar settlement by raising taxes, borrowing, taking money from general funds, liquidating property holdings, and other means. He also worked on a similar matter involving Franklin County, Kentucky.

- He worked on a product liability/insurance recovery case involving household electric water heaters.

- Mr. Fuhrman assisted in other types of litigation with an environmental dimension, including one engagement involving alleged improper design of a wastewater treatment plant and issues related to the role that EPA construction grants would play in calculating damages. In another case, he was asked to serve as an expert witness on behalf of a paper company that sought a variance from state water pollution control regulations based on cost-effectiveness criteria.

- For the EPA's Office of Cooperative Environmental Management, he performed work in support of the Technology Innovation and Economics Committee of the National Advisory Committee on Environmental Technology Transfer.

- For the Center for Clean Air Policy, he completed an analysis of residential energy conservation measures that might be considered in developing an acid rain strategy.

- As a consultant to the United Nations Environment Program (UNEP), Mr. Fuhrman co-authored with a former Deputy Administrator of EPA a handbook on environmental impact assessment for decision makers in developing countries. He also wrote reports on cost-benefit analysis and related techniques for environmental decision-making, and on ways to integrate environmental considerations into the development planning process.

- In an earlier study for UNEP, Mr. Fuhrman interviewed government officials in France and Yugoslavia and co-authored a report on the feasibility of developing cooperative relationships among Mediterranean nations for performance of environmental impact assessments.

- Mr. Fuhrman provided deposition testimony twenty-eight times, testified five times in federal district court, once in U.S. Bankruptcy Court, once in a state court, and twice in EPA

administrative law proceedings. He has authored numerous expert reports, and has provided litigation support in many cases.

- Mr. Fuhrman was invited by the U.S. Environmental Protection Agency and the Russian Academy of Sciences to participate in the Third US-USSR Bilateral Conference on Environmental Economics held in Moscow. He presented a paper at this conference, which was held in Moscow during October 1991.

- From April 1999 until May 2003, Mr. Fuhrman served on the Board of Contributing Editors of *Environmental Compliance and Litigation Strategy*, a monthly publication that is now discontinued.

TESTIMONY

Provided deposition testimony in April 2013 in *RE Sources for Sustainable Communities v. Pacific International Terminals, Inc.*, a civil penalty case in the Western District of the State of Washington.

Provided deposition testimony in October 2011 in *People of the State of California v. TA Operating LLC, et al.*, a civil penalty case in Superior Court of the State of California, Riverside County, Indio Branch.

Provided deposition testimony in July 2011 in *State of Texas v. BP Products North America, Inc.*, a civil penalty case in the District Court of Travis County, Texas (201st Judicial District).

Provided deposition testimony in July 2011 in *Puget Soundkeeper Alliance v. BNSF Railway Company*, a civil penalty case in the U.S. District Court for the Western District of the State of Washington.

Provided deposition testimony in May 2011 in *Ohio Valley Environmental Coalition, Inc., et al., v. Coal-Mac, Inc., et al.*, a civil penalty case in the U.S. District Court for the Southern District of West Virginia.

Provided deposition testimony in April 2011 in *Ohio Valley Environmental Coalition, Inc., et al., v. Independence Coal Company, Inc., et al.*, a civil penalty case in the U.S. District Court for the Southern District of West Virginia.

Provided deposition testimony in December 2010 in *WildEarth Guardians v. Public Service of Colorado d/b/a Xcel Energy*, a civil penalty case in the U.S. District Court for the District of Colorado.

Provided deposition testimony in February 2008 in *Association of Irritated Residents v. Fred Schakel Dairy et al.*, a civil penalty case in the U.S. District Court for the District of Eastern California, Fresno Division.

Provided deposition and trial testimony in January/February 2008 in *City of Akron v. Akron Thermal Limited Partnership*, a case heard in U.S. Bankruptcy Court for the Northern District of Ohio (Akron, Ohio).

Provided testimony in December 2005 in a case styled *In the Matter of Rhee Bros., Inc.*, a civil penalty case brought under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The case was tried before the Chief EPA Administrative Law Judge.

Provided deposition testimony in February 2005 in *Enoch Adams et al. v. Teck Cominco Alaska Incorporated*, a citizen suit brought under the Clean Water Act.

Provided deposition testimony in November 2004 in *United States v. Allegheny Ludlum Corporation*, an environmental civil penalty case on remand from the Third Circuit Court of Appeals.

Provided testimony in August 2004 before the EPA Science Advisory Board's Illegal Competitive Advantage Economic Benefit Advisory Panel.

Provided deposition testimony in March 2004 in *Jim Stulb, Trustee, and Fountain Valley Environmental Remediation Trust v. Schlage Lock Company, et al.*, a property damages/unjust enrichment case.

Provided deposition testimony in December 2003 in *United States v. City of Los Angeles*, an environmental civil penalty case.

Provided deposition testimony in August 2003 in *State of Illinois v. IBP, inc.*, an environmental civil penalty case.

Provided trial testimony in Portland, Oregon in May 2003 in *U.S. v. New Portland Meadows, LLC*, an environmental civil penalty case involving a race track.

Provided testimony in May 2001 at a public hearing sponsored by the EPA Science Advisory Board's Environmental Economics Advisory Committee (EEAC) regarding the need for peer review of EPA's penalty calculation model by an impartial group such as the EEAC.

Provided deposition testimony in February 2001 and trial testimony in March 2001 in *U.S. v. Bay-Houston Towing Co., Inc.*, an environmental civil penalty case involving a peat harvesting operation.

Provided deposition testimony in September 1999 in *Hopkins v. Smithfield Foods, Inc.*, an environmental civil penalty case involving a pork slaughter house.

Provided deposition testimony in *State of Wisconsin v. I-K-I Manufacturing Co., Inc.* in June 1999 in an environmental civil penalty case involving a chemical plant.

Provided testimony in May 1999 before the Montgomery County, Maryland Planning Commission concerning the possible siting of an animal boarding kennel/veterinary clinic in an area zoned rural/residential. Mr. Fuhrman's testimony focused on the inadequacies of an economic impact study prepared on behalf of the proposed facility's proponents that claimed that property diminution could not be attributed to existing boarding kennels. Testified in September 1999 in the same matter before the Montgomery County Board of Appeals, which later rejected the siting of the facility by a unanimous vote.

Trial testimony on behalf of Amoco Oil Company in February 1999 in the Circuit Court of Missouri (Jackson County) in a toxic tort suit, *Slayton et al. v. Amoco Oil Company*. His testimony focused on "unjust enrichment." Although the plaintiffs sought over $500 million dollars in damages, the jury awarded the plaintiffs only $1 million.

Provided deposition testimony on behalf of WCI Steel in January 1998 in an environmental civil penalty case.

Provided deposition and trial testimony on behalf of the defendant in *U.S. v. Smithfield Foods, Inc.*, an environmental civil penalty case, in federal district court, in July 1997.

Testimony at the U.S. Environmental Protection Agency *Public Hearing on Recovery of Economic Benefit*, Washington, DC, November 6, 1996, on behalf of the American Automobile Manufacturers Association, American Forest and Paper Association, American Iron and Steel Institute, American Petroleum Institute, Chamber of Commerce of the United States, Chemical Manufacturers Association, Corporate Environmental Enforcement Council, Edison Electric Institute, National Mining Association, Utility Solid Waste Activities Group, and Utility Water Act Group.

Deposition testimony on behalf of Amoco Oil Company in September 1996 in a toxic tort case, *City of Independence, Missouri et al. v. Amoco Oil Company*.

Trial testimony on behalf of Laidlaw Environmental Services (TOC) in August 1995 in an environmental civil penalty case, *Friends of the Earth et al. v. Laidlaw*.

Deposition and trial testimony before an EPA Administrative Law Judge on behalf of Canonic Environmental Services in 1993 in a civil penalty case, *In the Matter of Outboard Marine Corporation*.

Trial testimony on behalf of Laidlaw Environmental Services in 1993 in *Friends of the Earth et al. v. Laidlaw*, a diligent prosecution/civil penalty case.

Deposition testimony in August 1993 in a civil penalty case, *U.S. v. Dext Company of Maryland*, on behalf of Dext.

Deposition testimony on behalf of Schering Plough Corporation in a Superfund cost recovery case, *U.S. v. Maryland Sand and Gravel, et al.*, in May 1993.

Deposition testimony on behalf of the defendant in a civil penalty case, *National Resources Defense Council v. Total Petroleum, Inc.*, in May 1992.

Deposition testimony on behalf of the defendant in a civil penalty case, *Public Interest Research Group v. Witco Chemical Corporation*, in May 1992.

Deposition testimony on behalf of the defendant in *U.S. v. Mobil Oil Corporation*, a civil penalty case, in November 1991.

Deposition testimony on behalf of the municipal governments of Woodbridge, Carteret, and Perth Amboy, New Jersey in a civil penalty case, *Township of Franklin Sewage Authority v. Middletown Utilities Authority, et al.* in 1991.

Deposition testimony on behalf of the defendants in *U.S. v. Menominee Paper Company and Bell Packaging Corporation* in April 1990.

PRESENTATIONS AND PUBLICATIONS

"Practical Advice for Negotiating Settlements of Environmental Civil Penalty Cases," a webinar presentation provided through Bloomberg BNA, March 21, 2013.

"Practical Advice for Negotiating Settlements of Environmental Civil Penalty Cases," (Bloomberg BNA's) *Daily Environment Report*, Dec. 4, 2012; *Environment Reporter*, Dec. 7, 2012; and *Chemical Regulations Reporter*, Dec. 10, 2012.

"Perspectives on the U.S. Environmental Protection Agency's Treatment of Ability-to-Pay Cases," *Environmental Liability, Enforcement and Penalties Reporter*, April 2009.

"EPA's Tools for Settling Civil Penalty Cases," an on-line article on the web site of the Technical Advisory Service for Attorneys, March 2009.

"Will Massey Energy Company Suffer Severe Penalties in Clean Water Act Case?, *Daily Environment Report*, September 26, 2007; and reprinted in *Environment Reporter*, September 28, 2007.

"Comments for the EPA Public Docket on 'Enhancing Environmental Outcomes from Audit Policy Disclosures through Tailored Incentives for New Owners,'" written on behalf of The American Chemistry Council and the Corporate Environmental Enforcement Council, July 13, 2007.

"EPA's Recent 'Final Action' on the BEN Model," published in the November/December 2005 issue of *Trends*, a bimonthly publication of the American Bar Association's Section on Environment, Energy, and Resources; and reprinted in the *Virginia Environmental Compliance Report*, a publication of the law firm Williams Mullen.

"Explanation of Recent Settlement in *U.S. v. Allegheny Ludlum*" (with John Downie), published in two different Bureau of National Affairs' publications, *Daily Environment Report* and *Environment Reporter*, both on April 29, 2005.

"*U.S v. The New Portland Meadows* Deviates from 'BEN' Methodology," *Environment Reporter*, December 19, 2003.

"Second-Highest CWA Penalty Raises Questions about Calculation Methodology," *Environmental Compliance and Litigation Strategy*, June 2002.

"Comparing the Economics of Nonconformance and Noncompliance Penalties," *Environmental Compliance and Litigation Strategy*, April 2002.

Comments on EPA's Proposed Rule on "Control of Air Pollution from New Motor Vehicle and New Motor Vehicle Engines: Proposed Non-Conformance Penalties for 2004 and Later Model Year Emission Standards for Heavy-Duty Diesel Engines and Heavy-Duty Diesel Vehicles," submitted to the public docket A-2001-30 at the U.S. Environmental Protection Agency, March 18, 2002.

"Unfinished Business: Peer Review of EPA's 'BEN' Penalty Calculation Model," *Environmental Compliance and Litigation Strategy*, July 2001.

"EPA's Penalty Calculation Model Must Be Fairly and Fully Reviewed," *Legal Backgrounder* (a publication of the Washington Legal Foundation), May 18, 2001.

"Not Quite Right: EPA Treatment of Ability-to-Pay Issues in Superfund Cases," *Toxics Law Reporter,* March 22, 2001; and *Environment Reporter,* April 6, 2001.

"Decision in *U.S. v. WCI Steel Inc.* Departs from U.S. EPA's 'BEN' Methodology," (with Kenneth T. Wise), *Environmental Compliance and Litigation Strategy,* February 2000.

"Comments of the Ad Hoc Group Submitted to the Public Docket on Calculation of the Economic Benefit of Noncompliance in EPA's Civil Penalty Enforcement Cases," (with Paul G. Wallach and Eric Andreas), September 1999. These comments were submitted on behalf of ten major trade associations.

"EPA's Response to Comments: Calculation of Economic Benefit and 'Wrongful Profits,'" *Environmental Compliance and Litigation Strategy*, August 1999.

"Explaining the Controversy Surrounding *U.S. vs. Smithfield Foods*" (with Patrick D. Traylor, Esq.), the *William and Mary Environmental Law and Policy Review,* Spring 1999.

"An Approach to Environmental Civil Penalty Cases" (with Kenneth T. Wise and M. Alexis Maniatis), *Environmental Compliance and Litigation Strategy,* January 1999.

"Civil Penalty Cases Raise Issues for Plaintiffs and Defendants" (with Kenneth T. Wise and M. Alexis Maniatis), *Environmental Compliance and Litigation Strategy,* November 1998.

"Consideration of 'Wrongful Profits' in Environmental Civil Penalty Cases" (with M Alexis Maniatis and Kenneth T. Wise), *Environment Reporter*, September 18, 1998; reprinted in the *National Environmental Enforcement Journal,* October 1998.

"Use of After-Tax Risk-Free Rate Theory in Calculating EPA Penalties: Counterpoint" (with M. Alexis Maniatis and Kenneth T. Wise), *Toxics Law Reporter,* November 19, 1997.

"The Economic Benefit of Noncompliance: A Response," (with M. Alexis Maniatis and Kenneth T. Wise), *Toxics Law Reporter,* September 17, 1997.

"Almost Always ABEL: How EPA Deals with Ability-to-Pay Issues in Civil Penalty Cases," *Toxics Law Reporter,* March 12, 1997.

Comments of the BEN Coalition (12 trade associations and organizations), (with Kathy D. Bailey, Esq.), submitted to the U.S. Environmental Protection Agency Public Docket on EPA's Economic Benefit Recovery Program, March 3, 1997.

"Reexamining EPA's 'Economic Benefit' Penalty Process" (with Kathy D. Bailey and James W. Conrad, Jr.), *The Environmental Corporate Counsel Report*, February 1997.

"EPA's New Computer Model for Calculating Value of Supplemental Environmental Projects" (with Thomas H. Birdsall), *California Environmental Compliance Monitor*, August 7, 1995.

"Comments on EPA's Interim Revised Supplemental Environmental Projects Policy (60 FR 24856) and Its Related Economic Methodology" (with Thomas H. Birdsall), comments submitted to EPA (Docket No. 95F-FRL-5205-5), August 4, 1995.

"A Discussion of Technical Problems with EPA's BEN Model," *The Environmental Lawyer*, February 1995.

"Avoiding the Pitfalls of EPA's Civil Penalty Assessment Procedures" (with Lawrence J. Straw, Jr.), *California Environmental Law Reporte*r, September 1994.

"Improving EPA's Civil Penalty Policies—And Its Not-So-Gentle BEN Model," *Environment Reporte*r, September 9, 1994.

"EPA Penalty Calculations May Contain Significant Biases," *Counsel's Advisory* (a publication of the Washington Legal Foundation), October 1, 1993.

Comments submitted to the U.S. Environmental Protection Agency on Proposed Rulemaking titled: "Recovery of Costs for CERCLA Response Actions" (with David B. Hird, Esq. and Steven L. Humphreys, Esq.), Docket No. 115 CCR; FRL-3825-4, 57 Fed. Reg. 34742 (August 6, 1992), submitted on behalf of Schering-Plough Corporation and Westinghouse Electric Corporation, November 4, 1992.

"Getting It Right: EPA's 'BEN' Model Still Needs Work," *Environment Reporte*r, April 2, 1993.

"The Role of Policy Analysis and Economic Instruments in the Environmental Protection Program of the United States," November–December 1992 issue of *Economic and Mathematical Method*s, a quarterly publication of the Russian Academy of Sciences.

"EPA Proposed Rule on Cost Recovery: Streamlining or Steamrolling?" (with David B. Hird, Esq.), *Toxics Law Reporte*r, September 9, 1992.

"Comments on Jonathan D. Libber's Article on the EPA Civil Penalty Assessment Model," *National Environmental Enforcement Journa*l, December 1991.

"Penalty Assessment at the Environmental Protection Agency: A View from Outside," *Environment Reporte*r, October 18, 1991.

"Negotiated Settlements under the Clean Water Act: An Excursion into a Turkish Bazaar" (with George Hansen), *Water Environment and Technology*, August 1991.

"The Role of EPA's BEN Model in Establishing Civil Penalties," *Environmental Law Reporter*, May 1991, 21 ELR 10426.

ATTACHMENT 2

Ability to Pay Analysis

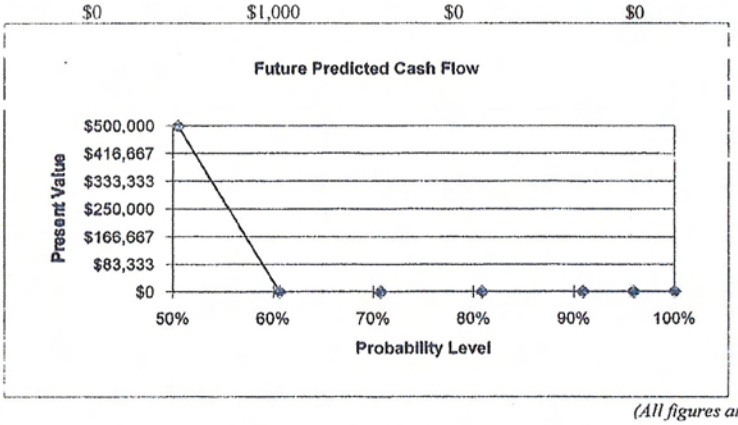
Partnership: Tax Form 1065 *Run Name: Run 1*

Penalty Amount:	$1,000 (2011 dollars)
Reinvestment Rate:	0
Inflation & Discount Rates	1.5% & 6.9%
Weighted-Average Smoothing Constant:	0.3
Marginal Income Tax Rate:	41.7%
No. of Years of Considered Future Cash Flow:	5

Your model version may be outdated: go to www.epa.gov/compliance/civil/econmodels

Summary of Predicted Cash Flow *all tabular figures expressed in Dollars*

Probability of Cash Flow	Total Generated After-Tax Cash Flow	Penalty Payment	After-Tax Initial Pollution Control Expenditures	Present Value of Annual Pollution Control Costs	Cash Flow Net of Penalty and Compliance Costs
50%	$499,087	$1,000	$0	$0	$498,087
60%	$0	$1,000	$0	$0	($1,000)
70%	$0	$1,000	$0	$0	($1,000)
80%	$0	$1,000	$0	$0	($1,000)
90%	$0	$1,000	$0	$0	($1,000)
95%	$0	$1,000	$0	$0	($1,000)
99%	$0	$1,000	$0	$0	($1,000)



Conclusions *(All figures are expressed as of 2011.)*

- ABEL estimates a 59% probability that Tosta Family L.P. can currently afford a $1,000 penalty after meeting total Pollution Control Expenditures of $0 (see below for detailed breakout of expenditures).
- ABEL estimates a 70% probability that Tosta Family L.P. could afford to pay a penalty of $0 after meeting total Pollution Control Expenditures of $0 (see below for detailed breakout of expenditures).
- This is based only on cash flow the firm is projected to generate in the next 5 years. (Additional ability to pay could follow from an examination of unnecessary expenses, assets unrelated to business operations, and/or other sources.)
- EPA typically employs the 70% probability level for determining ability to pay, but the litigation team must ultimately determine the appropriate cutoff for the case.
- For the payment schedule (which does not affect the ability to pay), 3 Yearly payments (at a 6.9% interest rate) of $0.00 are the equivalent of the lump-sum affordable amount.

Note that the owners may be individually liable for this partnership's liabilities.
See the ABEL User's Manual or help system for further details.

Pollution control expenditures include $0 for depreciable capital investment, $0 for tax-deductible one-time expenditure, $0 for non-tax-deductible one-time expenditure, and $0 for annually recurring costs.

Partnership: Tax Form 1065

Financial Profile: Financial Statements

In Dollars

	~~2010~~ 2012	~~2009~~ 2011	~~2008~~ 2010	~~2007~~ 2009	~~2006~~ 2008
Assets		**Balance Sheet**			
Cash	-	102,893	91,249	-	-
Accounts Receivable	-	-	-	-	-
Inventories	-	-	-	-	-
U.S. Government Obligations	-	-	-	-	-
Tax-Exempt Securities	-	-	-	-	-
Other Current Assets	-	-	-	-	-
All Other Assets*	5,988,932	6,006,911	6,066,974	6,291,697	6,671,561
Total Assets	$ 5,988,932	$ 6,109,804	$ 6,158,223	$ 6,291,697	$ 6,671,561
Liabilities					
Accounts Payable	-	-	-	-	-
Mortgages, Bonds Payable in <1 Year	736,964	1,341,279	1,043,875	795,825	2,010,200
Other Current Liabilities	76,817	41,483	64,327	62,613	56,991
Loans from Stockholders	-	-	-	-	-
Mortgages, Bonds Payable in >1 Year	3,448,760	3,664,643	3,799,126	3,943,391	2,096,220
Other Liabilities	-	-	-	-	-
Total Liabilities	$ 4,262,541	$ 5,047,405	$ 4,907,328	$ 4,801,829	$ 4,163,411
Stockholders' Equity	$ 1,726,391	$ 1,062,399	$ 1,250,895	$ 1,489,868	$ 2,508,150
Total Liabilities and Stockholders' Equity	$ 5,988,932	$ 6,109,804	$ 6,158,223	$ 6,291,697	$ 6,671,561
		Income Statement			
Gross Sales	$ 2,357,778	$ 3,590,991	$ 2,754,012	$ 2,178,063	$ 2,742,851
Cost of Goods Sold	$ -	$ -	$ -	$ -	$ -
Operating Profit	$ 2,357,778	$ 3,590,991	$ 2,754,012	$ 2,178,063	$ 2,742,851
Other Expenses and Income					
Interest Expense	31,406	32,906	33,782	32,793	33,004
Depreciation	78,673	96,396	246,491	407,555	415,326
Depletion and Amortization	1,545	1,545	4,258	229	100
Other Expenses (Income)**	1,673,578	3,627,910	2,689,719	2,711,309	3,125,622
Total Expenses (Income)	$ 1,785,202	$ 3,758,757	$ 2,974,250	$ 3,151,886	$ 3,574,052
Taxable Income Before NOL	$ 572,576	$ (167,766)	$ (220,238)	$ (973,823)	$ (831,201)
		Summary of Estimated Cash Flow			
Taxable Income Before NOL	572,576	(167,766)	(220,238)	(973,823)	(831,201)
Tax	-	-	-	-	-
Credit for Regulated Investment	-	-	-	-	-
Credit for Federal Fuels	-	-	-	-	-
Depreciation	78,673	96,396	246,491	407,555	415,326
Depletion and Amortization	1,545	1,545	4,258	229	100
Income Not Included on Return	-	-	-	-	-
Available After-Tax Cash Flow* **	$ 652,794	$ (69,825)	$ 30,511	$ (566,039)	$ (415,775)
Available Pre-Tax Cash Flow	$ 652,794	$ (69,825)	$ 30,511	$ (566,039)	$ (415,775)

* May include loans to stockholders, mortgage and real estate loans, other investments, buildings and other depreciable assets, depletable assets, land, intangible assets, and other long-term assets; see Schedule L of firm's federal income tax return.

** Includes additional income categories listed on page 1, Income Section, of firm's federal income tax return and additional expense categories listed on page 1, Deductions Section, of firm's tax return.

*** User-specified reinvestment rates (i.e., optional run inputs) are reflected only in ability to pay analysis.

Financial Profile: Ratio Analysis

Historical Financial Ratios	~~2010~~ 2012	~~2009~~ 2011	~~2008~~ 2010	~~2007~~ 2009	~~2006~~ 2008
Debt to Equity (D/E)	2.47	4.75	3.92	3.22	1.66
Current Ratio (CR)	0.00	0.07	0.08	0.00	0.00
Times Interest Earned (TIE)	19.23	-4.10	-5.52	-28.70	-24.18
Beaver's Ratio (BR)	0.15	-0.01	0.01	-0.12	-0.10
Altman's Z-Score (AZS)	0.96	0.59	0.49	0.08	0.29

Debt to Equity (D/E) **2.47** **4.75** **3.92** **3.22** **1.66**

- Defined as total liabilities divided by stockholders' equity.
- Measures the degree to which debt constitutes the company's financing.
- Less than zero or "na" indicates no stockholder equity, an extremely poor financial condition.
- Greater than 1.5 indicates possible difficulty in borrowing additional capital.
- Less than 1.5 but greater than or equal to zero generally indicates additional debt capacity.

Current Ratio (CR) **0.00** **0.07** **0.08** **0.00** **0.00**

- Defined as current assets divided by current liabilities.
- Assesses whether cash and other easily liquidated current assets can cover short-term debts.
- Less than 1.0 indicates serious liquidity problems.
- Between 1.0 & 2.0, or "na" combined w/ no current assets, indicates possible liquidity problems.
- Greater than 2.0, or "na" combined with current assets greater than zero, indicates good liquidity.

Times Interest Earned (TIE) **19.23** **-4.10** **-5.52** **-28.70** **-24.18**

- Defined as earnings before interest and taxes divided by interest expense payments.
- Indicates how easily the firm can pay the interest expense on its debt.
- Less than 2.0 indicates possible difficulty in meeting future interest payments; the lower the value, the higher this possibility.
- Greater than 2.0 indicates the ability to meet interest payments.
- No interest expense is indicated by "na", which can mean either the simple absence of required debt service or instead missed interest payments (an indicator of financial distress)

Beaver's Ratio (BR) **0.15** **-0.01** **0.01** **-0.12** **-0.10**

- Defined as after-tax cash flow divided by total liabilities.
- Can predict a firm's long-term solvency and likelihood of staying in business.
- Indicates whether internally generated cash flow is sufficient for current and long-term obligations.
- Less than 0.1 indicates poor financial condition.
- Between 0.1 and 0.2 is inconclusive.
- Greater than 0.2 indicates solvency and good financial condition.
- No liabilities are indicated by "na", an extremely unusual situation: recheck data entry & tax returns.

Altman's Z-Score (AZS) **0.96** **0.59** **0.49** **0.08** **0.29**

- Calculated as a weighted average of several financial ratios.
- Predictor of firm failure; most accurate within two years prior to bankruptcy.
- Less than 1.23 indicates possible bankruptcy in next two years if financial condition does not improve.
- Between 1.23 and 2.90 is inconclusive.
- Greater than 2.90 indicates that bankruptcy is unlikely within the next two years.
- No assets or liabilities are indicated by "na", an extremely unusual situation: recheck data.

- These ratios provide a rough indication of the firm's financial condition, but can be misinterpreted
- Acceptable debt ratios can vary considerably by industry.
- The guidelines listed above are "rules of thumb" that may not apply to all firms.
- See the ABEL help system for a more detailed discussion on how to interpret these ratios.

Tax Return Data Summary	2012	2011	2010	2009	2008
Partnership: Tax Form 1065	~~2010~~	~~2009~~	~~2008~~	~~2007~~	~~2006~~
Gross Receipts or Sales Less Returns and Allowances	2,357,778	3,590,991	2,754,012	2,178,063	2,742,851
Cost of Goods Sold	-	-	-	-	-
Interest Expense	31,406	32,906	33,782	32,793	33,004
Depreciation. first page	78,673	96,396	246,491	407,555	415,326
Depreciation: detailed approach	-	-	-	-	-
Depreciation: detailed approach	-	-	-	-	-
Depreciation: detailed approach	-	-	-	-	-
Depreciation: detailed approach	-	-	-	-	-
Depreciation amount to be used :	*78,673*	*96,396*	*246,491*	*407,555*	*415,326*
Depletion	-	-	-	-	-
Amortization	1,545	1,545	4,258	229	100
Taxable Income Before NOL and Special Deductions	572,576	(167,766)	(220,238)	(973,823)	(831,201)
NOL Deductions	-	-	-	-	-
Special Deductions	-	-	-	-	-
Total Tax	-	-	-	-	-
Credit from Regulated Investment Companies	-	-	-	-	-
Credit for Federal Tax on Fuels (Form 4136)	-	-	-	-	-
Cash	-	102,893	91,249	-	-
Trade Notes & Accounts Receivable Less Allowance for Bad Debts	-	-	-	-	-
Inventories	-	-	-	-	-
U.S. Government Obligations	-	-	-	-	-
Tax-Exempt Securities	-	-	-	-	-
Other Current Assets	-	-	-	-	-
Accounts Payable	-	-	-	-	-
Mortgages, Notes, Bonds Payable in Less than One Year	736,964	1,341,279	1,043,875	795,825	2,010,200
Other Current Liabilities	76,817	41,483	64,327	62,613	56,991
Loans from Stockholders	-	-	-	-	-
Mortgages, Notes, Bonds Payable in One Year or More	3,448,760	3,664,643	3,799,126	3,943,391	2,096,220
Other Liabilities	-	-	-	-	-
Appropriated Retained Earnings	1,632,944	1,062,399	1,250,895	1,489,868	2,508,150
Unappropriated Retained Earnings	-	-	-	-	-
Total Liabilities and Stockholders' Equity	5,988,932	6,109,804	6,158,223	6,291,697	6,671,561
Income Recorded on Books Not Included in Return	-	-	-	-	-

EXHIBIT 1

THOMAS H. TERPSTRA – SBN: 142972
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Attorneys for Henry Tosta

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

SAN JOAQUIN COUNTY

IN THE MATTER OF: HENRY J. TOSTA (DBA HENRY TOSTA DAIRY), HENRY J. TOSTA JR. FAMILY LIMITED PARTNERSHIP, AND HENRY J. TOSTA TRUST	Administrative Civil Liability Complaint No.: R5-2012-0561 **DECLARATION OF HENRY TOSTA**

I, Henry Tosta, declare as follows:

1. The facts stated in this declaration are based on my personal knowledge, and I could and would testify competently to these facts if called upon to do so.

2. I am the owner and operator of Henry Tosta Dairy, which is the subject of the instant proceedings.

3. During my entire time in operation at this location, I have been able to transfer dried manure at no cost by any or all of the following methods:

a) I also apply some portion of the manure at agronomic rates to agricultural properties which I own or control, including parcels which are contiguous to the dairy, and others which are within San Joaquin and Stanislaus County.

b) By allowing farmers who own land near the dairy to remove dried manure, free of charge, for application to their fields. Farmers who have taken manure under this type of arrangement include Joe Enriques (99 loads of about 20 tons each in 2012 alone), Arnaudo Brothers and Tom Genace.

c) By allowing other parties, most notably Bruce Mellor Trucking, to haul dry manure to Hyponex, which in turn bags the material and sells it as fertilizer.

4. Using the methods outlined above, I have been able to get rid of excess dry manure from my dairy without cost.
5. At all times relevant to this case, I was able to transfer manure at no cost.
6. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 6 day of July, 2013, at Tracy, California.

Henry Tosta

HENRY TOSTA

EXHIBIT 2

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Attorneys for Henry Tosta

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

SAN JOAQUIN COUNTY

IN THE MATTER OF: HENRY J. TOSTA (DBA HENRY TOSTA DAIRY), HENRY J. TOSTA JR. FAMILY LIMITED PARTNERSHIP, AND HENRY J. TOSTA TRUST	Administrative Civil Liability Complaint No.: R5-2012-0561 **SECOND DECLARATION OF HENRY TOSTA**

I, Henry Tosta, declare as follows:

1. Since I began the dairy business in the greater Tracy area I have been able to find someone who is willing to take the manure generated at my dairy, at no charge to me. Every year including 2010, 2011, 2012, and 2013 some percentage of the manure at the dairy has been removed at no cost to me.

2. On an annual basis, I also use some portion of the manure on my own crops during proper times.

3. At various times I have not been able to have the manure removed due to weather or other access issues, issues with available equipment, and crews that were otherwise occupied.

4. During the wet part of the year, it is not always possible to get equipment in to remove all the manure.

5. In 2010, I removed the majority of the manure from my dairy.

6. In 2011, one-half of the manure was removed .

7. In 2012, about eighty percent (80%±) was removed.

8. In 2013 at least seventy-five percent (75%) of the manure has been removed, and we are continuing to remove the remainder.

9. At no time that I recall, did we pay anyone for the removal of manure.

10. It is my understanding that the Dairy General Order was adopted in 2007 but that the requirements for a fully implemented Waste Management Plan were not effective until 2011.

11. Attached to this Declaration is a true and correct copy of Form 8949 from 2012 (and my 2012 General Ledger) which indicates that the capital gain we received in 2012 was due to the forced sale of part of the herd. The proceeds were used to pay down the bank debt owed.

Executed this 18 day of July 2013, at Tracy, California.

Henry Tosta

HENRY TOSTA

Form **8949** (2012) Attachment Sequence No. **12A** Page **2**

Name(s) shown on return. (Name and SSN or taxpayer identification no. not required if shown on other side.) | **SSN or taxpayer identification no.**

HENRY J. TOSTA, JR. FAMILY, L.P. | 20-8154233

Most brokers issue their own substitute statement instead of using Form 1099-B. They also may provide basis information (usually your cost) to you on the statement even if it is not reported to the IRS. Before you check Box A, B, or C below, determine whether you received any statement(s) and, if so, the transactions for which basis was reported to the IRS. Brokers are required to report basis to the IRS for most stock you bought in 2011 or later.

Part II **Long-Term.** Transactions involving capital assets you held more than one year are long term. For short-term transactions, see page 1.

You *must* check Box A, B, or C below. Check only one box. If more than one box applies for your long-term transactions, complete a separate Form 8949, page 2, for each applicable box. If you have more long-term transactions than will fit on this page for one or more of the boxes, complete as many forms with the same box checked as you need.

☐ **(A)** Long-term transactions reported on Form(s) 1099-B showing basis **was** reported to the IRS

☐ **(B)** Long-term transactions reported on Form(s) 1099-B showing basis was **not** reported to the IRS

☒ **(C)** Long-term transactions not reported to you on Form 1099-B

3 (a) Description of property (Example: 100 shares XYZ Co)	(b) Date acquired (Mo, day, yr)	(c) Date sold or disposed (Mo, day, yr)	(d) Proceeds (sales price) (see instructions)	(e) Cost or other basis. See the **Note** below and see *Column (e)* in the separate instructions	Adjustment, if any, to gain or loss. If you enter an amount in column (g), enter a code in column (f). **See the separate instructions.** (f) Code(s) from instructions	(g) Amount of adjustment	(h) **Gain or (loss).** Subtract column (e) from column (d) and combine the result with column (g)
RAISED LIVESTOCK (2+ YEARS OLD)	VARIOUS	VARIOUS	1062672.	0.			1062672.
4 Totals. Add the amounts in columns (d), (e), (g), and (h) (subtract negative amounts). Enter each total here and include on your Schedule D, **line 8** (if **Box A** above is checked), **line 9** (if **Box B** above is checked), or **line 10** (if **Box C** above is checked)			1062672.	0.		0.	1062672.

Note. If you checked Box A above but the basis reported to the IRS was incorrect, enter in column (e) the basis as reported to the IRS, and enter an adjustment in column (g) to correct the basis. See *Column (g)* in the separate instructions for how to figure the amount of the adjustment.

8:42 AM
05/30/13
Cash Basis

Henry Tosta Dairy
General Ledger
As of December 31, 2012

Type	Date	Num	Adj	Name	Memo	Debit	Credit	Balance
Deposit	08/20/2012				JUNE 12		400.00	-10,600.00
Deposit	09/14/2012				JULY 12		200.00	-10,800.00
Deposit	09/19/2012				SEPT 12		800.00	-11,600.00
Deposit	10/04/2012				OCT 12		800.00	-12,400.00
Deposit	10/24/2012				-MULTIPLE-		1,000.00	-13,400.00
Deposit	12/24/2012				DEPOSIT SECURITY		1,700.00	-15,100.00
Total Rent - 6198 W. Canal						0.00	15,100.00	-15,100.00
Rent - Tanker								0.00
Total Rent - Tanker								0.00
Rent Income - Other								0.00
Total Rent Income - Other								0.00
Total Rent Income						967.08	112,372.98	-111,405.90
Sale of lots on Kasson Rd								0.00
Total Sale of lots on Kasson Rd								0.00
Sales								0.00
Breeding								0.00
Total Breeding								0.00
Crop								0.00
Total Crop								0.00
Livestock								0.00
Deposit	01/04/2012				Deposit		732.99	-732.99
Deposit	01/06/2012				Deposit		1,717.05	-2,450.04
Deposit	01/07/2012				Deposit		4,651.89	-7,101.93
Deposit	01/25/2012				Deposit		6,321.11	-13,423.04
Deposit	01/31/2012				Deposit		1,709.29	-15,132.33
Deposit	02/09/2012				Deposit		4,242.59	-19,374.92
Deposit	02/10/2012				Deposit		3,397.40	-22,772.32
Deposit	02/16/2012				Deposit		1,512.14	-24,284.46
Deposit	02/21/2012				Deposit		886.12	-25,170.58
Deposit	03/01/2012				Deposit		420.88	-25,591.46
Deposit	03/06/2012				Deposit		4,841.55	-30,433.01
Deposit	03/12/2012				Deposit		3,586.55	-34,019.56
Deposit	03/16/2012				Deposit		4,848.01	-38,867.57
Deposit	03/27/2012				Deposit		542.99	-39,410.56
Deposit	04/03/2012				Deposit		1,958.86	-41,369.42
Deposit	04/09/2012				Deposit		1,835.85	-43,205.27
Deposit	04/09/2012				Deposit		760.70	-43,965.97

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8:42 AM
05/30/13
Cash Basis

Henry Tosta Dairy
General Ledger
As of December 31, 2012

Type	Date	Num	Adj	Name	Memo	Debit	Credit	Balance
Deposit	04/11/2012				Deposit		3,790.21	-47,756.18
Deposit	04/16/2012				Deposit		3,930.97	-51,687.15
Deposit	04/18/2012				Deposit		2,048.23	-53,635.38
Deposit	04/19/2012				Deposit		3,559.96	-57,195.34
Deposit	04/27/2012				Deposit		1,582.88	-58,778.22
Deposit	05/01/2012				Deposit		1,008.70	-59,786.92
Deposit	05/07/2012				Deposit		2,382.49	-62,169.41
Deposit	05/14/2012				Deposit		1,087.21	-63,256.62
Deposit	05/21/2012				Deposit		659.08	-63,915.70
Deposit	06/04/2012				Deposit		4,665.80	-68,581.50
Deposit	06/12/2012				Deposit		1,754.09	-70,335.59
Deposit	06/21/2012				Deposit		4,030.35	-74,365.94
Deposit	07/12/2012				Deposit		3,882.12	-78,248.06
Deposit	07/16/2012				Deposit		6,031.74	-84,279.80
Deposit	07/24/2012				Deposit		4,190.82	-88,470.62
Deposit	07/27/2012				Deposit		5,813.40	-94,284.02
Deposit	08/06/2012				3 COS		1,117.29	-95,401.31
Deposit	08/07/2012				2		563.25	-95,964.56
Deposit	08/10/2012				3		3,247.39	-99,211.95
Deposit	08/14/2012				Deposit-SOLD HEIFERS		272,608.55	-371,820.50
Deposit	08/20/2012				Deposit		1,282.96	-373,103.46
Deposit	08/24/2012				2		874.65	-373,978.11
Deposit	08/30/2012				DepositSOLD HEIFERS		89,358.99	-463,337.10
Deposit	08/31/2012				6		3,304.21	-466,641.31
Deposit	09/14/2012				5		3,219.07	-469,860.38
Deposit	09/21/2012				Deposit		199,676.50	-668,536.88
Deposit	09/24/2012				Deposit		103,388.48	-771,925.36
Deposit	10/03/2012				1		14.42	-771,939.78
Deposit	10/05/2012				2		1,408.82	-773,348.60
Deposit	10/05/2012				7		4,731.97	-778,080.57
Deposit	10/10/2012				7		7,225.64	-785,306.21
Deposit	10/22/2012				13		7,066.04	-792,372.25
Deposit	10/30/2012				6		5,785.64	-798,157.89
Deposit	11/05/2012				5		2,639.37	-800,798.28
Deposit	11/06/2012				5		3,734.69	-804,530.95
Deposit	11/13/2012				6		6,492.19	-811,023.14
Deposit	11/19/2012				14		10,314.71	-821,337.85
Deposit	11/20/2012				7		7,409.84	-828,747.69
Deposit	11/29/2012				4		2,864.95	-831,612.64
Deposit	12/07/2012				4		3,818.07	-835,430.71
Deposit	12/11/2012				3		1,419.88	-836,850.59
Deposit	12/13/2012				4		2,764.70	-839,615.29
Deposit	12/19/2012				6		6,175.41	-845,790.70
Deposit	12/26/2012				10		8,304.07	-852,094.77

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05/30/13
Cash Basis

Henry Tosta Dairy
General Ledger
As of December 31, 2012

Type	Date	Num	Adj	Name	Memo	Debit	Credit	Balance
Deposit	12/28/2012				11 HEIFERS		9,951.63	-862,046.40
Deposit	12/29/2012				9		10,022.56	-872,068.96
General Journal	12/31/2012	adj 1...	*		Apply cattle sales to loan		190,602.90	-1,062,671.86
Total Livestock						0.00	1,062,671.86	-1,062,671.86
Sales - Other								0.00
Total Sales - Other								0.00
Total Sales						0.00	1,062,671.86	-1,062,671.86
Cost of Goods Used								0.00
Total Cost of Goods Used								0.00
Amortization								0.00
General Journal	12/31/2012	adj 1...	*		2012 depr and amort	1,545.00		1,545.00
Total Amortization						1,545.00	0.00	1,545.00
Banta Inn Payments- Interest								0.00
Total Banta Inn Payments- Interest								0.00
Reeve Rd - Pump house/ tank hou								0.00
Total Reeve Rd - Pump house/ tank hou								0.00
Advertising								0.00
Check	04/09/2012	17686		San Joaquin River Club	car show	30.00		30.00
Check	04/25/2012	17729		Tracy High FFA		40.00		70.00
Check	08/13/2012	PHO...		Capital One J		81.26		151.26
Check	09/17/2012	16185		Class of 1962		72.00		223.26
Check	10/13/2012	phone		Capital One J	banta inn sports book	189.00		412.26
Check	10/15/2012	18264		Tracy Press		60.00		472.26
Total Advertising						472.26	0.00	472.26
Automobile/Truck Expense								0.00
Inspection								0.00
Total Inspection								0.00

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05/30/13
Cash Basis

Henry Tosta Dairy
General Ledger
As of December 31, 2012

Type	Date	Num	Adj	Name	Memo	Debit	Credit	Balance
Loans - Other								-945,019.00
Bank of the West - Cows loan								-945,019.00
Check	01/22/2012			Bank of the West				-945,019.00
Check	01/22/2012			Bank of the West				-945,019.00
Check	02/14/2012			Bank of the West				-945,019.00
Check	02/15/2012			Bank of the West				-945,019.00
Deposit	02/16/2012				Deposit		28,000.00	-973,019.00
Check	03/01/2012			Bank of the West				-973,019.00
Check	03/01/2012			Bank of the West				-973,019.00
Check	03/22/2012			Bank of the West				-973,019.00
Check	04/23/2012			Bank of the West				-973,019.00
General Journal	05/17/2012	adj 1...	*		Transfer loan per BofW		396,260.00	-1,369,279.00
Check	05/21/2012			Bank of the West				-1,369,279.00
Check	06/20/2012			Bank of the West				-1,369,279.00
Check	07/20/2012			Bank of the West				-1,369,279.00
Check	08/20/2012			Bank of the West				-1,369,279.00
Check	08/31/2012			Bank of the West				-1,369,279.00
Check	08/31/2012			Bank of the West		204,767.30		-1,164,511.70
Check	09/20/2012			Bank of the West				-1,164,511.70
Check	10/09/2012			Bank of the West	VOID:	0.00		-1,164,511.70
Check	10/15/2012			Bank of the West		236,944.73		-927,566.97
Check	10/22/2012			Bank of the West				-927,566.97
Check	11/20/2012			Bank of the West				-927,566.97
Check	12/20/2012			Bank of the West				-927,566.97
General Journal	12/31/2012	adj 1...	*		Apply cattle sales to loan	190,602.90		-736,964.07
Total Bank of the West - Cows loan						632,314.93	424,260.00	-736,964.07
Bank fo the West Feed LoC								0.00
Total Bank fo the West Feed LoC								0.00
Bank of the West Misc. LoC								0.00
Total Bank of the West Misc. LoC								0.00
Tri Counties Bank Loan								0.00
Total Tri Counties Bank Loan								0.00
Tri County -Generator Loan								0.00
Total Tri County -Generator Loan								0.00
Tri County Bank Loan								0.00
Total Tri County Bank Loan								0.00

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8:42 AM
05/30/13
Cash Basis

Henry Tosta Dairy
General Ledger
As of December 31, 2012

Type	Date	Num	Adj	Name	Memo	Debit	Credit	Balance
Bank of the West - Feed #12-5								-396,260.00
Check	01/22/2012			Bank of the West				-396,260.00
Check	01/22/2012			Bank of the West				-396,260.00
Check	02/14/2012			Bank of the West				-396,260.00
Check	02/15/2012			Bank of the West				-396,260.00
Check	03/01/2012			Bank of the West				-396,260.00
Check	03/01/2012			Bank of the West				-396,260.00
Check	03/22/2012			Bank of the West				-396,260.00
Check	04/23/2012			Bank of the West				-396,260.00
General Journal	05/17/2012	adj 1...	*		Transfer loan per BofW	396,260.00		0.00
Check	05/21/2012			Bank of the West				0.00
Check	06/20/2012			Bank of the West				0.00
Check	07/20/2012			Bank of the West				0.00
Check	08/20/2012			Bank of the West				0.00
Check	08/31/2012			Bank of the West				0.00
Check	08/31/2012			Bank of the West				0.00
Check	09/20/2012			Bank of the West				0.00
Check	10/09/2012			Bank of the West	VOID:	0.00		0.00
Check	10/22/2012			Bank of the West				0.00
Check	11/20/2012			Bank of the West				0.00
Check	12/20/2012			Bank of the West				0.00
Total Bank of the West - Feed #12-5						396,260.00	0.00	0.00
Bank of the West - RE #13-3								0.00
Total Bank of the West - RE #13-3								0.00
Lines of Credit - Other								0.00
Total Lines of Credit - Other								0.00
Total Lines of Credit						396,260.00	0.00	0.00

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8:42 AM
05/30/13
Cash Basis

Henry Tosta Dairy
General Ledger
As of December 31, 2012

Type	Date	Num	Adj	Name	Memo	Debit	Credit	Balance
Notes Payable - Other								0.00
Total Notes Payable - Other								0.00
Total Notes Payable						6,921.87	34,769.00	-93,447.13
A.L. Gilbert Note								0.00
Total A.L. Gilbert Note								0.00
Auto/Truck Loans								0.00
Total Auto/Truck Loans								0.00
Property Loans								-3,599,042.71
B of West - Property loan 12109								-3,110,520.00
Check	01/05/2012			Bank of the West real estate loan		11,270.00		-3,099,250.00
Check	02/06/2012			Bank of the West real estate loan		11,270.00		-3,087,980.00
Check	03/01/2012			Bank of the West real estate loan		11,270.00		-3,076,710.00
Check	04/01/2012			Bank of the West real estate loan		11,270.00		-3,065,440.00
Check	05/07/2012			Bank of the West real estate loan		11,270.00		-3,054,170.00
Check	06/05/2012			Bank of the West real estate loan		11,270.00		-3,042,900.00
Check	07/02/2012			Bank of the West real estate loan		11,270.00		-3,031,630.00
Check	08/06/2012			Bank of the West real estate loan		11,270.00		-3,020,360.00
Check	09/05/2012			Bank of the West real estate loan		11,270.00		-3,009,090.00
Check	10/05/2012			Bank of the West real estate loan		11,270.00		-2,997,820.00
Check	11/01/2012			Bank of the West real estate loan		11,270.00		-2,986,550.00
Check	12/05/2012			Bank of the West real estate loan		11,270.00		-2,975,280.00
Total B of West - Property loan 12109						135,240.00	0.00	-2,975,280.00
Anderson - Middle Rd.								0.00
Total Anderson - Middle Rd.								0.00
Guarnaty Bank								0.00
Total Guarnaty Bank								0.00
Indy Mac Lathrop								0.00
Total Indy Mac Lathrop								0.00
IndyMac Bank - Manteca Property								0.00
Total IndyMac Bank - Manteca Property								0.00
Kasson Rd. 155 Ac.								0.00
Total Kasson Rd. 155 Ac.								0.00

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8:40 AM
05/30/13
Accrual Basis

Henry Tosta Dairy
Adjusting Journal Entries
January through December 2012

Date	Num	Memo	Account	Debit	Credit
01/01/2012	adj 12-11	Close out 2011	Capital - Irrevocable Trust	18,850.00	
		Close out 2011	Capital - Henry J. Tosta	1,883.00	
		Close out 2011	Capital - Henry J. Tosta Trust	167,762.36	
		Close out 2011	Owner's Draw Account		20,729.68
		Close out 2011	Retained Earnings		167,765.68
				188,495.36	188,495.36
12/31/2012	adj 12-12	Misc adjustments	License Fees		2,824.00
		Misc adjustments	Health Insurance		1,115.38
		Misc adjustments	Ranch Supplies		2,719.92
		Misc adjustments	Payable - Henry Tosta	6,659.30	
		Misc adjustments	Receivable - Hatch Road	1,888.16	
		Misc adjustments	Hatch Road		1,888.16
		Misc adjustments	Receivable - Banta Inn	538.43	
		Misc adjustments	Banta Inn		538.43
		Misc adjustments	Federal		2,831.14
		Misc adjustments	State	800.00	
		Misc adjustments	Penalties	2,031.14	
				11,917.03	11,917.03
12/31/2012	adj 12-13	2012 depr and amort	Depreciation Expense	98,600.00	
		2012 depr and amort	Accumulated depreciation		78,673.00
		2012 depr and amort	Accumulated depreciation		19,927.00
		2012 depr and amort	Amortization	1,545.00	
		2012 depr and amort	Refinance costs, net		1,545.00
				100,145.00	100,145.00
12/31/2012	adj 12-14	Zero out AP at year-end	Hay	53,731.95	
		Zero out AP at year-end	Accounts payable offset		53,731.95
				53,731.95	53,731.95
05/17/2012	adj 12-15	Transfer loan per BofW	Bank of the West - Feed #12-5	396,260.00	
		Transfer loan per BofW	Bank of the West - Cows loan		396,260.00
				396,260.00	396,260.00
12/31/2012	adj 12-16	Apply cattle sales to loan	Bank of the West - Cows loan	190,602.90	
		Apply cattle sales to loan	Livestock		190,602.90
				190,602.90	190,602.90

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