

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of the
Petition of

HARRY WIERSEMA

to Review Inaction of
California Regional Water
Quality Control Board, Santa
Ana Region. Our File A-334.

ORDER NO. WQ 83- 8

BY THE BOARD:

On May 13, 1983, Harry Wiersema appeared before the California Regional Water Quality Control Board, Santa Ana Region (Regional Board) to request that the Regional Board readopt a previously rescinded cease and desist order against the Joe Borba Dairy (discharger). The Regional Board declined to take any action. On June 13, 1983, Harry Wiersema (petitioner) appealed this inaction of the Regional Board.

I. BACKGROUND

The Joe Borba Dairy is situated in the Chino dairy area of San Bernardino County. The discharger has 2,900 head of cattle, including 2,250 milk cows, on a 200-acre parcel. The dairy is bounded on the north by Eucalyptus Avenue, on the west by Grove Avenue and on the south by Merrill Avenue. The Regional Board has regulated the Borba Dairy since 1972. The Regional Board revised waste discharge requirements for the operation in September 1982, by adopting Order 82-244. The petitioner operates a dairy and lives on Merrill Avenue, across the street and downslope from the discharger.

In March 1981 the Regional Board adopted a cease and desist order against the discharger. Prior to that time, numerous complaints had been received by the Regional Board concerning discharges of wastewater from the Borba Dairy, including instances where the dikes surrounding the discharger's property were intentionally cut. In September 1982 the Regional Board rescinded the cease and desist order, on the basis of consistent compliance for one-and-a-half years.

Four complaints, three from petitioner, regarding manured water discharges have been received by the Regional Board since January 1982. The latest complaint from petitioner concerned the amount of runoff from the Borba Dairy during heavy rainfall between February 27 and March 3, 1983. The Regional Board considered this complaint of petitioner at its May 1983 meeting, but determined enforcement action was not appropriate because of the extremely heavy off-site surface drainage flows. Petitioner asks us to reinstate the cease and desist order against the discharger.

II. CONTENTIONS & FINDINGS

The petitioner basically urges that the discharger should not be allowed to discharge manured wastewater which causes a nuisance. The discharger responds that the Joe Borba Dairy has been in conformance with waste discharge requirements and any flooding which may result on petitioner's property is the result of off-site flooding from above the Borba Dairy. The Regional Board believes the conditions which led to the previously adopted cease and desist order have been adequately corrected. It is the Regional

Board's position that any recent violation of requirements was caused by heavy rainfall and should not be the subject of an enforcement action.

A. General Guidance

In 1973 the State Board issued "Minimum Guidelines for Protection of Water Quality from Animal Wastes" (Animal Waste Guidelines). The Animal Waste Guidelines contain the following provisions:

1. All dairies must be able to retain on site all facility wastewater generated plus stormwater runoff from manured areas which occurs during a 10-year, 24-hour storm.¹
2. All existing dairies must be protected against inundation and washout from overflows of stream channels that occur during a 20-year peak storm.
3. All dairies must be managed to prevent nuisance.

B. Containment Capacity

1. Washwater and On-site Stormwater

The Regional Board implemented the Animal Waste Guidelines by including the following specifications in the discharger's waste discharge requirements:

"A. Discharge Specifications

1. The discharger shall provide and operate facilities which shall contain all dairy wastes within the dairy, including the stormwater runoff from manured areas which results from up to 4.25 inches (10.75 cm) of rain in a 24-hour period."

¹ We note this is the current standard. The proposed revision of our regulations of Waste Disposal to Land would change this to a 25-year storm.

The discharger indicated that 125 acres are set aside for waste disposal in a May 14, 1982, report of waste discharge. Based on aerial photos and visual observation, it is estimated that on November 4, 1983, Mr. Borba had approximately 35 acres of ponds. Additionally, petitioner has a perimeter dike system around his facilities. It is unclear from a review of the record whether these containment facilities are adequate to contain the washwater and stormwater.

2. Off-Site Runoff

In addition to requiring containment of wastewater and stormwater generated on site, the Animal Waste Guidelines require inundation and washout protection for animal confinement facilities. Overflows of stream channels during a 20-year peak storm flow for existing facilities must be prevented from running through animal confinement facilities, including retention ponds. The discharger has previously indicated in the record that it is impossible for him to hold and contain any stormwater flows entering his property. However, the streets above the dairy essentially function as stream channels during storms. As such, the discharger has the responsibility for protecting against inundation or washout of his facilities by any amount of precipitation up to and including a 20-year peak storm.

We note various proposals and studies have called for construction projects to channel runoff in the area. We encourage all parties, including San Bernardino County, to work on improving stormwater management facilities.

The Regional Board may also wish to consider issuing appropriate permits to prevent water quality degradation and nuisance conditions for the residential developments in the City of Ontario cited by both the discharger and the Regional Board as contributing to the problem at hand.

C. Management Practices

1. Manure Pile

The Animal Waste Guidelines and the discharge permit require that wastes be managed to prevent nuisance. Currently, the discharger has at least one large, uncovered manure pile located just north of the southernmost property line where the dikes appear to have been cut. This potential nuisance should be eliminated by measures such as moving it, covering it, or adequately protecting the pile with berms or dikes.² The dike along Merrill Avenue should be reconstructed if the area behind it is to be used to contain manure piles.

2. Dike Construction and Cutting

The record is replete with references to the discharger's dikes which have been intentionally cut, or have failed due to gophers. The current dikes are essentially low, uncompacted berms, easily penetrated by gophers. It is uncertain whether the berm system can contain the required wastewater and stormwater without some reinforcement.

² We note that the discharger states that he has all his manure hauled away. If so, this pile and another large pile should be removed. We also note that the site has some crop acreage where up to three tons per acre per year of manure could be utilized.

We further note that the discharger's repeated action of cutting his dikes is a practice which violates his waste discharge requirements. When the dikes are cut, they can no longer contain the required wastewater. It is permissible for runoff which exceeds this volume to overflow the dikes, but minimum containment requirements must be met at all times.

III. CONCLUSIONS

1. The discharger must be able to contain washwater and storm runoff in accordance with his waste discharge requirements. It is unclear from the record whether the discharger's existing system of ponds and dikes are adequate to contain this amount.

2. The discharger must provide protection for his facilities, including manured areas and retention ponds, from off-site runoff resulting from a 20-year storm.

3. Measures need to be taken to eliminate the potential nuisance of large manure piles on the southern portion of the discharger's property.

4. The practice of cutting dikes, which results in a lack of ability to contain wastewater, is a violation of waste discharge requirements and should be eliminated.

5. The discharger should be required to address these problems in a technical report prepared by a professional engineer and take appropriate corrective action. Specifically the report should contain the following information:

- a. A detailed description of current facilities used to retain washwater.

b. A detailed description of facilities used to retain on-site stormflows from manured areas.

c. A detailed description of facilities used to protect the dairy against inundation and washout.

d. A description of measures taken to prevent manure piles from becoming nuisances.

e. A description of measures taken to prevent the berms surrounding the dairy from being cut.

f. A description of corrective actions necessary to prevent threatened or actual violations of waste discharge requirements, including provisions requiring adequate disposal capability and runoff protection. This description should include an analysis of such corrective measures as:

- (1) Using more of the 200-acre site for dairy operations.
- (2) Deepening the disposal ponds.
- (3) Raising and/or compacting the berms.
- (4) Using recirculation pumps in the storage ponds.
- (5) Improving drainage within the site.
- (6) Measures to protect the site from flood flows.


IV. ORDER

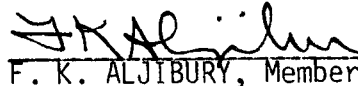
IT IS HEREBY ORDERED THAT, pursuant to the authority contained in Water Code Section 13267, the discharger submit to the Regional Board and to the State Board, under penalty of perjury, a technical report and time schedule of specific actions the discharger will take to address the conclusions listed above. This report must be prepared by a professional engineer and submitted by January 5, 1984.

Dated:

DEC 15 1983


CAROLE A. ONORATO, Chairwoman


WARREN D. NOTEWARE, Vice Chairman


F. K. ALJIBURY, Member


KENNETH W. WILLETS, Member