

TON

DATE: NOVEMBER 17, 2005

FROM: KENNETH RODRIGUES
PH/FAX 209-965-3894

TO: ANTONIA K.J.VORSTER
SUPERVISING CONTROL ENGINEER

PH. 916-464-3291
FAX 916-464-4645

NUMBER OF PAGES: 9

DOCUMENTS FOR PRESENTATION AT HILMAR
CHEESE/HILMAR WHEY SETTLEMENT
AGREEMENT HEARING SCHEDULED FOR
NOVEMBER 29, 2005

RECEIVED
SACRAMENTO
COURT
NOV 17 PM 5:37

Kenneth Rodrigues
P.O. Box 1335
Pinecrest, Calif. 95364
Ph. 209-965-3894
Cell 209-765-1584
November 17, 2005

Antonia K. J. Vorster
Supervising Water Resources Control Engineer
11020Sun Center Drive #200
Ranch Cordova, Ca. 95670-6114
Ph. 916-464-3291
Fax 916-464-4645

Antonia Vorster,
The following document is being faxed to you for inclusion in the "Settlement Agreement hearing on the merits of the proposed administrative civil liability complaint against Hilmar Cheese Company and Hilmar Whey Protein Inc." scheduled for November 29, 2005. I will also be mailing you a hard copy.

Sincerely,

Kenneth Rodrigues

Kenneth Rodrigues
P.O. Box 1335
Pinecrest, Calif. 95364
Ph. 209-965-3894
Cell 209-765-1584
November 17, 2005

My name is Ken Rodrigues. I was employed by Hilmar Cheese from 1994 through 1997. Part of my responsibilities included managing wastewater discharge.

Regarding Hilmar Cheese seeks safe solutions printed June 17, 2005 in the Modesto Bee, John Jeter, CEO of Hilmar Cheese, is quoted stating "Hilmar Cheese is proud of our long standing commitment to environmental stewardship" and "recognizes its responsibility to the community and environment in which we live and raise our families. Since the early 1990's we have worked diligently with water quality regulators to comply with regulations".

Because of their diligence in following state guidelines in the past, you are going to allow them to increased their daily wastewater discharge from 700,000 gallons to 1.9 million, raise their discharge EC limits from 900 to 3700, release them from all past and present violations of their current Waste Discharge Requirements and the federal Clean Water Act and release HCC from all allegations of criminal wrongdoing- including illegally dumping wastewater into an irrigation canal. HCC couldn't have bought a permit from any local wastewater treatment facility that would give them that type of discharge for the \$3 million supposed fine negotiated by your lawyers.

This is from your web site; "The State Board's mission is to preserve, enhance and restore the quality of California's water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations." Is this what you are doing with this know violator of past water quality control laws and regulations?

First and foremost is that the State Board Officers needs to review the October 01, 2003 confidential report done by Boris Trgovcich regarding HCC continued violations and non-enforcement by the Regional Water Quality Control Board. Then review what the Central Valley Regional Water Quality Control Board (CVRWQCB) has said regarding HCC wastewater discharge in the PAST, then ask yourself if HCC, who says that they are a good neighbor and obey the laws, is correct and should they be REWARDED with this new agreement?

1. A quote from the Sacramento Bee article titled "Environmental Injustice" by Chris Bowman dated December 12, 2004... *"the water board has recorded at least 4,000*

violations against Hilmar Cheese in the past four years alone, making it one of California's most chronic offenders of clean-water laws".

2. A quote from Rafael Maestu, an inspector for California's nine regional water boards, from the Modesto Bee dated December 14, 2004 regarding HCC continued violations over the years. *"This is a clear case of environmental injustice ... basically they are above the law"*
3. In a May 2002 U.S.E.P.A. report titled "California Toxics Release Inventory Fact Sheet", HCC was tied with Chevron Oil Company and U.S. Filter Recovery Services for 8th, 9th and 10th largest discharger of toxic waste in California.
 - A. In 1996 Delton Nyman, one of HCC's owners, installed a subsurface drain line adjacent to and through HCC permitted wastewater applications fields. A quote from the CVRWQCB Executive meeting notes of March 15, 2001:
 - *"A Notice of Violation was issue last August concerning degrading groundwater. The discharge continues to violate WDR's relative to flow, waste application rates and groundwater."* *"Hydraulic loadings currently exceed 10 feet annually."*
 - *"Potentially significant amounts of wastewater enter subsurface tile drains within and adjacent to the disposal area that T.I.D. pumps to concrete ditches that ultimately discharge to the San Joaquin River."*
 - To understand the hydraulic loadings, you would need to image all of the land that HCC was discharging to, then put over 10' of wastewater on top of it. Knowing that the water table in that area is between 3-5 feet, depending on the time of year, you install a subsurface perforated drain line next to and across those same wastewater fields. Where do you think that wastewater is going to end up at?
 - Other neighboring farmers and sportsmen were using this same water, assuming that it was pure and not being affected by HCC discharge.
 - A quote from the Farm Bureau Federation Ag Alert newsletter of August 6, 1997 on page #2. *"Merced County dairyman Chuck Ahlem, a co-founder of H.C.C.... If there are any bad players out there, we sure don't want to see them clouding the quality of our product, ...He added from my standpoint, if there are those people who are violating and discharging into the waterways, they need to be punished."* This statement was made at the same time that Mr. Ahlem was on the State Water Quality Control Board. Shouldn't it also apply to a company that he himself owns? AGAIN, WOULD A GOOD NEIGHBOR INSTALL THIS SYSTEM KNOWING THE POTENTIAL FOR THEIR WASTEWATER ENDING UP IN PUBLIC WATER WAYS?
 - B. Executive Officer's Report 13/14 March 2003.
 - *"Groundwater monitoring data indicates the current discharge has caused groundwater to contain waste constituents (e.g. nitrate, chloride, sodium, iron,*

manganese, oxygen demanding substances) in concentrations that impair its beneficial uses

C. Executive Officer's Report of 24/25 April 2003.

- *"Hilmar's long-term discharge of untreated cheese processing wastewater to land has polluted groundwater with salinity constituents, nitrate, and oxygen-demanding substances."*

D. Regional Board Inspection Report of July 17, 2003

- States *"R.O. concentrate to primary lands between April 2001 and January 2003 was at 10.4 million gallons."* HCC was supposed to send this discharge to a processing facility, but chose to save millions of dollars in shipping and processing cost by discharging it onto its application fields and could have been fined \$104 million, but wasn't.

E. Executive notes of 4/5 September 2003 states;

- *"the Discharger was issued an enforcement letter on 18 July regarding significant deficiencies in its discharge, which has degraded groundwater with salinity constituents, nitrate, and oxygen demanding substances. The Discharger currently treats only a portion of its wastewater flow by reverse osmosis, and discharges untreated or partially treated wastewater in a manner that threatens to create odor nuisance conditions."*

F. Executive Officer's Report of 16/17 October 2003 states;

- *"WDR's prescribe maximum discharge flow and EC limits. The Discharger has been in constant violation of these two limits, and a past source of odors"*

G. Facility Inspection Report February 25, 2004:

- *"Struckmeyer indicated that the deeper well was necessary to obtain groundwater with arsenic in concentrations below the new lower arsenic water quality standards required by the Department of Health Services"*
- Bert Van Voris on February 25, 2005 and Thomas Pinkos on March 28, 2005, requested HCC to also test domestic wells for arsenic. His response was *"Evidence demonstrates that HCC's discharge has over flooded groundwater with organics (e.g., BOD, iron, and manganese). Given the overloading, monitoring to characterize arsenic and barium is appropriate."*
- But did HCC comply? In a letter dated April 18, 2005, from Thomas Pinkos, HCC is quoted *"you object to adding arsenic and barium to the list of constituents to be monitored" ... "given the relative circumstances of HCC to these other sites, it appears probable that barium and arsenic were leached at the HCC site." ... "It is the only means to preliminarily assess the threat posed by these two constituents to any supply well potentially influenced by HCC's discharge."*

H. January 23, 2004 Groundwater Characterization report to Warren Climo from Bert Van Voris, Senior Engineer at CVRWQCB

- *"The response does not describe any proactive steps taken by HCC since January 2002 to monitor the quality of nearby domestic wells and/or replace wells identified as being impacted by HCC's discharge"*

- WOULD A GOOD NEIGHBOR POTENTIALLY POLUTE YOUR DRINKING WATER WELLS WITH ARSENIC AND BARIUM AND NOT WHAT TO TEST FOR IT RIGHT AWAY?? Also, Delton Nyman, a HCC owner located next to the Plant, had a contaminated domestic well. HCC had run a water line from their own deep well to his house by 1994 when I started working there. But, by CVRWQCB public documents didn't try to help other local landowners that may have had their well polluted by HCC discharge.
- Regional Board staff comments Feb. 25, 2004. *"Staff also intends to prepare and propose for Regional Board consideration an accompanying enforcement order, which will impose a compliance schedule and require HCC to mitigate the adverse impacts to area groundwater caused by its discharge by requiring HCC to (1) supply affected residents with an alternative water supply, and/or (2) pump and treat groundwater adversely affected by HCC's discharge"*.
- I. Also, would a good neighbor, who knows that they are having major fly problems caused by their wastewater, use a mixture of molasses and polymers on dirt road surfaces for dust control? They had to know that it would attract even more flies. (As noted on Page 3 of the Facility Inspection Report dated February 25, 2004)
- J. Quotes from "effects of Hilmar Cheese Company's WW discharge on ground water dated February 11, 2004:
 - *"measured concentrations of waste constituents in groundwater that exceed groundwater limitations indicate the land application system is not effective due to poor design, poor operational accountability, or both"*
 - *"It demonstrates that HCC is in violation of groundwater limitations and that HCC's discharge of partially treated cheese processing wastewater has caused or contributed to cause concentrations of waste constituents in groundwater to exceed applicable water quality limits."*
 - *"HCC did not treat and control the increased discharge as proposed in its RWD (e.g. treatment bypass is more frequent than that proposed and has substantially altered treatment and control"*
 - *"since the issuance of the Revised MRP on 31 January 2001, HCC has not evaluated compliance in the Revised MRP... From the above history, it is apparent HCC disagrees with the manner of determining compliance with groundwater limitations". NON-COMPLIANCE FOR 3 YEARS*
 - *"Compared to background groundwater quality, as represented by MW-20, groundwater influenced by the discharge contains higher concentrations of sodium, potassium, manganese, iron, nitrogen compounds, sulfate, chloride, and TDS, and is characterized by higher bicarbonate alkalinity, BOD, COD, and EC.*
 - *"Compliance Monitoring Points that are on or within the Points of Compliance and not rendered ineffective by other recharge influences show a statistically significant degradation from the waste constituents discharged by HCC."*

K. Quotes from Notice of Violation to HCC dated February 25, 2004:

- *"RO permeate contains BOD in concentrations similar to raw municipal sewage and TKN in concentrations about twice as high as raw municipal sewage"*

L. Quotes "Under Conclusion and Violations" dated February 25, 2004

- *"violation for discharging untreated and partially treated wastewater to land"*
- *"violation for discharging wastewater to fallow portions of the primary fields"*
- *"violation for exceeding the maximum permitted discharge flow of .75mgd"*
- *"violation for exceeding the maximum permitted discharge EC of 900 umhos/cm"*
- *"violation for applying wastewater to the reclamation area at rates exceeding the environmental conditions of the site"*
- *"violation for applying wastewater to the reclamation area at rates exceeding agronomic demand"*
- *"violation for causing groundwater to contain waste constituents in concentrations statistically greater than background water quality"*
- *"violation for submitting incomplete SMR's"*
- *"violation for failing to maintain in good working order and operate as efficiently as possible any facility, control system, or monitoring device installed to achieve compliance with the WDR's"*
- *"violation for threatening to (a) cause what the Regional Board may determine as a condition of pollution, and (b) create a condition of nuisance"*

M. Executive Officer's Report 18/19 March 2004.

- *"(9.8 million gallons) of treated cheese processing wastewater was inadvertently applied to a 65-acre tile-drained parcel" "Operator error caused the spill"*

N. April 08, 2005 Tentative Order states:

- *"HCC may have avoided as much as \$22.2 million in operational costs in not treating the 821 million gallons with conventional and salt removal technology"*

"Section 13050(I) 1 of the CWC defines pollution as: an alteration of the quality of the waters of the state by waste to a degree which unreasonable affects either of the following: (A) The water for beneficial uses. (B) Facilities which serve these beneficial uses".

How would the State Board members feel if some large company moved in next to your house, was negatively affecting your drinking and irrigation water, the right to enjoy your own home with out odor or fly problems and at the same time not following water quality control laws and regulations, like HCC has done? Does this show a company that can be trusted with their proposed increase discharge to 1.9 million gallons per day with an increased in EC limits from 900 to 3700? Does this agreement demonstrate that the State Board is following your own Mission Statement against a major violator of clean water laws? Also, doesn't this prove that HCC should be forced to have their wastewater treated at the Turlock Municipal Waste Treatment Plant?

This is a copy of a fax that I sent out on Nov. 10, 2005 requesting some type of legal protection. I haven't received any reply to it and request that the State Board puts in some type of clause protecting citizens who filed complaints against HCC to regional, state and federal water quality control agencies.

DATE: NOVEMBER 10, 2005

FROM: KENNETH RODRIGUES
PH. #209-965-3894

TO: DISTRIBUTION

Catherine George	Fax 858-571-6972
Lori Okun	Fax 916-341-5199
Jack Del Conte	Fax 916-464-4758
Bert Van Voris	Fax 559-445-5910
Janice Tanaka	Fax 916-464-4645
John Russel	Fax 916-464-4645
Boris Trgovcich	Fax 916-341-5284

OF PAGES: 2

SUBJECT:

Concerns on retaliation by Hilmar Cheese on those who have filed complaints with the Regional Water Quality Control Board, State Attorney General and USEPA office.

Kenneth Rodrigues
P.O. Box 1335
Pinecrest, Ca. 95364
November 10, 2005
Ph. 209-965-3894

I have read through the Settlement Agreement regarding the Civil Liability against Hilmar Cheese that the State Water Quality Control Board and HCC attorneys have negotiated that will be presented to the State Board on November 28, 2005.

I have tried to the best of my ability, in full truth, to present first hand testimony and evidence regarding HCC past wastewater violations to the Regional Water Quality Control Board, State Attorney General's office and U.S.E.P.A. office. Now that you have reached an agreement with HCC, I fear that in the same way that HCC attorneys went after the Water Board, they could in turn initiate some legal challenge to those of us who filed complaints. Even though I believe we would be vindicated, the cost for attorneys would financially destroy us.

I felt that I had some umbrella of legal protection by the California State Attorney General's office and that the entire truth would come out under penalty of perjury at my deposition that was scheduled for Sept 13th. But, that has changed now that you have reached an agreement with HCC.

I request that in the same way that you have agreed not to pursue any further fines or charges against HCC on past violations or criminal action in the installation of the tile drain line, that the Board would put in some kind of statement that HCC could not initiate any legal action against any person or persons who have filed complaints to any state or federal agency.

Please advise if this request would be granted. If not, I need to be able to present this same request to the State Water Quality Control Executive Board meeting on November 28, 2005.

Sincerely,

Kenneth Rodrigues