

REVISED SETTLEMENT AGREEMENT

This Revised Settlement Agreement (“Settlement Agreement”) is made as of February 10, 2006, by and between the Staff of the California Regional Water Quality Control Board, Central Valley Region (“Regional Board Staff” or “Staff”), on the one hand, and Hilmar Cheese Company, Inc. and Hilmar Whey Protein, Inc. (collectively “Hilmar”), on the other. At times, the Regional Board Staff and Hilmar are referred to herein individually as a “Party” or collectively as the “Parties.” This Settlement Agreement modifies and supersedes the Settlement Agreement between the Parties that was made as of October 24, 2005, in order to address concerns raised by members of the California Regional Water Quality Control Board, Central Valley Region (“Regional Board”), the Regional Board’s advisory team and members of the public at the public meeting held November 29, 2005, regarding the October 24, 2005, Settlement Agreement.

RECITALS

A. The Regional Board is a state agency, and is part of the California Environmental Protection Agency. (Water Code, §§ 175, 13100.) The Regional Board is one of nine such boards created to establish and enforce water quality control plans, policies, and regulations to ensure the protection of beneficial uses of the waters of the state within nine designated regions in the State of California. (Water Code, §§ 13200, 13201, 13240, *et seq.*) The Regional Board has primary enforcement authority, including power to remedy unlawful discharges, and to achieve cleanup and abatement of water pollution and nuisance. (Water Code, § 13300, *et seq.*)

B. The summaries of arguments contained in this Paragraph B are the Parties’ respective allegations only. Neither Party necessarily ascribes to or agrees with the allegations of the other. These allegations are not evidence and no hearing has occurred. Based on the timing of this Settlement Agreement, Staff has not had the opportunity to respond to Hilmar’s prepared testimony and expert reports, and reserves the right to do so if this Settlement Agreement is not approved.

1. Staff’s Allegations:

On January 26, 2005, Regional Board Executive Officer Thomas R. Pinkos issued Administrative Civil Liability Complaint No. R5-2005-0501 to Hilmar (“ACL Complaint”) pursuant to Water Code section 13323. The ACL Complaint alleged that Hilmar violated its discharge permit, Waste Discharge Requirements Order No. 97-206 (the “Permit”), by discharging wastewater containing salt, as measured by Electrical Conductivity (“EC”), in excess of the Permit’s limit for EC of 900 $\mu\text{mhos/cm}$. The ACL Complaint more specifically alleged, among other things: that monthly discharger self-monitoring reports (“SMRs”) covering the period January 27, 2002 through November 30, 2004 contain daily measurements for EC exceeding 900 $\mu\text{mhos/cm}$ for 1,039 days; that the EC in the wastewater discharged during this period ranged from 1,750 to 4,160 $\mu\text{mhos/cm}$ on a monthly basis; and that the wastewater was discharged where salt in the wastewater discharged or would discharge to waters of the state (specifically groundwater). Based on these allegations, Executive Officer Pinkos proposed that administrative civil liability in the amount of \$4,000,000 (four million dollars) be imposed

