

Note: This Summary Sheet was prepared by the Prosecution Team

ITEM: 11

SUBJECT: Henry J. Tosta et. al., Reeve Road Heifer Ranch, San Joaquin County

BOARD ACTION: Consideration of an Administrative Civil Liability Order (ACLO)

BACKGROUND: Henry J. Tosta operates the Reeve Road Heifer Ranch (Heifer Ranch) in San Joaquin County. During the period of the alleged violations, the Heifer Ranch was regulated by Waste Discharge Requirements General Order for Existing Milk Cow Dairies, Order No. R5-2007-0035 (Dairy General Order), adopted in May 2007. The Dairy General Order contains provisions protective of surface water and groundwater, including monitoring and reporting requirements for discharges to surface water and groundwater. Central Valley Water Board staff inspected the Reeve Road Heifer Ranch on 1 May 2012 and found violations of the Dairy General Order, including the burial of dead animals. Regional Board staff identified two areas at the Heifer Ranch containing dead animal remains: the burial of two dead mature cows in cropland located immediately adjacent to the Main Drain canal of the Naglee-Burk irrigation district, and the area immediately south and adjacent to the onsite wastewater storage lagoon containing significant amount of bones and dead animal remains.

Cleanup and Abatement Order R5-2012-0564 (CAO) was issued to the Discharger on 11 June 2012. The CAO contained the following five directives:

1. **Immediately stop** any further onsite burials of dead animals. Dead cows must be disposed of properly as required under the Dairy General Order.
2. **By 18 June 2012**, begin removal of dead animals buried on APN 209-300-016 adjacent to the Main Drain canal of Naglee-Burk Irrigation District. Complete removal of dead animals by **25 June 2012**. Submit proof to the Central Valley Water Board of legal disposal of the carcasses by **2 July 2012**.
3. **By 23 July 2012**, collect one-time groundwater samples in the vicinity of the dead animal burial area adjacent to the Main Canal of the Naglee-Burk Irrigation District and submit the results to the Central Valley Water Board. Collect a sample of the water in the Main Drain canal at the same time and test for the same constituents.
4. If groundwater samples in the vicinity of the dead animal burial area indicate that waste disposal has caused pollution to groundwater, **by 27 August 2012** submit a plan for the remediation of the groundwater. **By 29 June 2012**, remove all wastewater and manure solids from the wastewater lagoon at the Reeve Road Heifer Ranch, remove manure and cow bones in the area south of the wastewater lagoon, and complete any and all additional actions required to remove the Heifer Ranch from coverage under the Dairy General Order. Cow bones must be exported to a landfill and documentation of proper disposal provided to the Central Valley Water Board.

5. **By 29 June 2012**, repair and perform maintenance on three water wells.

Staff conducted five inspections of the Heifer Ranch between the issuance of the CAO on 11 June 2012 and identified ongoing noncompliance with the deadlines and directives in the CAO, including the failure to remove manure mixed with animal remains from the area south of the wastewater lagoon and the failure to submit a plan for the remediation of groundwater as required by the CAO. 6. Staff conducted an additional seven inspections between 19 November 2012 and 15 November 2013 to monitor the Discharger's progress with the directives of the CAO and compliance with the Dairy General Order.

ACLO BACKGROUND: *Consideration of an Administrative Civil Liability Order (ACLO)*

ACL Complaint, R5-2013-0592 was issued on 21 November 2013 to the Discharger. ACLC R5-2013-0592 alleges the following violations.

- Violation A: The Discharger violated Prohibition A.6 of the Dairy General Order and Water Code section 13350(a)(2) by burying dead cows causing waste to be deposited where it discharged to groundwater, a water of the state from at least 1 May 2012, the date of the initial discovery inspection, through 25 June 2012, the date the carcasses were removed and hauled to a landfill for disposal, for a total of 56 days. The Complaint proposes that \$143,220 in liability be imposed for this violation.
- Violation B: The Discharger violated directive 2 of CAO R5-2012-0709 and Water Code section 13267 by failing to timely submit proof of legal disposal of animal carcasses from 2 July 2012, the deadline for submittal in the CAO, through 20 July 2012, the date that proof of legal disposal was received, for a total of 18 days. The Complaint proposes that \$9,009 in liability be imposed for this violation.
- Violation C: The Discharger violated directive 4 of CAO R5-2012-0709 and Water Code section 13267 by failing to timely submit a Groundwater Remediation Plan from 28 August 2012, the day after the deadline for submittal in the CAO, through 12 April 2013, the date that a groundwater remediation plan was received, for a total of 228 days. The Complaint proposes that \$8,808.80 in liability be imposed for this violation.
- Violation D: The Discharger violated directive 4 of CAO R5-2012-0709 and Water Code section 13350(a)(1) by failing to timely remove manure containing animal remains from the area south of the wastewater lagoon from 30 June 2012, the day after the deadline for removal in the CAO through 15 November 2013, the date of the last inspection by staff prior to issuance of the Complaint, for a total of 504 days. The Complaint proposes that \$149,737.50 in liability be imposed for this violation.

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RECOMMENDATION: The Prosecution Team recommends that the Central Valley Water Board adopt the Administrative Civil Liability Order as proposed in the total amount of \$310,775.

Mgmt. Review \_\_\_\_\_  
Legal Review \_\_\_\_\_

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