



2485 NATOMAS PARK DRIVE, SUITE 550 SACRAMENTO, CA 95833 TEL (916) 640-8150 FAX (916) 640-8156 [www.clfp.com](http://www.clfp.com)

*The Voice and Advocate for the California Food Processing Industry since 1905*

Andrew Altevogt  
Assistant Executive Officer  
California Water Quality Control Board  
Central Valley Region  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670  
[andrew.altevogt@waterboards.ca.gov](mailto:andrew.altevogt@waterboards.ca.gov)

**SUBJECT: Comment Letter on Administrative Civil Liability Complaint R5-2014-0561  
in the Matter of California Sprouts, LLC**

Dear Mr. Altevogt:

The California League of Food Processors (CLFP) is submitting comments as an interested party to express our concern with the application of mandatory minimum penalties (MMPs) as assessed in the ACLC for California Sprouts, LLC. We are concerned about the potential impact that this may have on other entities subject to the Central Valley Regional Water Quality Control Board's (Regional Board) *Waste Discharge Requirements for Limited Threat Discharges of Treated/Untreated Groundwater from Cleanup Sites, Wastewater from Superchlorination Projects, and Other Limited Threat Wastewaters to Surface Waters* (Limited Threat General Order).

It is our understanding that California Sprouts LLC is facing a significant fine because it failed to file quarterly monitoring reports. We also understand that the Regional Board failed to notify this company of the fact that the reports had not been received for two years. Soon after California Sprouts filed the missing reports, it received another communication from the Regional Board indicating that it would be assessed MMPs of \$3,000 for each 30-day period for the late reports pursuant to Water Code section 13385.1(a)(1).

CLFP is concerned with several issues that arise from the circumstances surrounding the ACLC for California Sprouts LLC. While we recognize that the discharger is ultimately responsible for submitting discharge monitoring reports, the Regional Board has some responsibility to warn and/or notify companies that they have not received a discharge monitoring report in a timely manner. Waiting two years to provide such notification means that MMPs continue to accrue for every 30-day period even when the failure to report is an inadvertent oversight and there is no intent by the discharger to hide anything from the Regional Board.

We are also very concerned that the Regional Board's prosecution team is claiming that Water Code section 13385.1(b) is not available to California Sprouts LLC because this enforcement action is being brought after the January 1, 2014 sunset date of this code section. We strongly

disagree with this position. MMPs assessed for reporting violations that occurred prior to the January 1, 2014 sunset date should be calculated pursuant to Water Code section 13385.1(b) which stipulated that fines for a missing report be assessed on a one-time basis, and not for each 30-day period.

Further, by waiting two years, and after January 1, 2014, to notify California Sprouts, LLC of the fact that they had not properly filed quarterly monitoring reports, the prosecution team by its own actions has significantly increased the liability exposure to California Sprouts, LLC. This is extraordinarily unfair, and undermines the intent and purpose behind Water Code section 13385.1(b), which was to provide on a one-time basis fines assessed for the missing report, and not for each 30-day period.

It must be noted that the sunset provision was added because the State Water Resources Control Board assured the Legislature that it would address any backlogs prior to this date, and would establish a system for timely notifying dischargers of when quarterly reports were not received. Clearly, this did not happen for California Sprouts, LLC and we are very concerned that other dischargers that are subject to the Limited Threat General Order, and other General Orders, may be in similar circumstances.

Accordingly, we encourage the Regional Board to reject the ACLC as proposed by the Prosecution Team. Rather, the Regional Board should assess MMPs for the reporting violations that occurred prior to January 1, 2014 under the provisions of Water Code section 13385.1(b).

Sincerely,

A handwritten signature in black ink that reads "Trudi E. Hughes". The signature is written in a cursive, flowing style.

Trudi Hughes  
Director of Government Affairs