

ITEM: 33

SUBJECT: Carlos Estacio and Bernadette Estacio, San Isidro Dairy, Stanislaus County

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

BACKGROUND: Carlos Estacio and Bernadette Estacio (Discharger) own and operate the San Isidro Dairy (Dairy) in Stanislaus County. The Dairy is regulated by the Reissued Waste Discharge Requirements General Order for Existing Milk Cow Dairies, Order R5-2013-0122 (2013 Reissued General Order), which was adopted in October 2013. The Reissued General Order replaces the Waste Discharge Requirements General Order for Existing Milk Cow Dairies, Order R5-2007-0035 (2007 General Order). The 2007 General Order and 2013 Reissued General Order contain reporting requirements for regulated dairies, including timely submission of technical reports. The reports are required to document that the dairies are operating in compliance with the General Order and are not unreasonably affecting groundwater and/or surface water quality. The Discharger failed to submit an Annual Report for the calendar year 2012, which was due by 1 July 2013 and an Annual Report for the calendar year 2013, which was due by 1 July 2014. Central Valley Water Board staff issued notices of violation to the Discharger for failure to submit the required reports. The Discharger attempted to submit the annual reports after the due date. However, the Discharger's submissions have been deemed materially deficient. The failure to file acceptable 2012 and 2013 Annual Reports is the basis of this enforcement action.

While not alleged as a violation in this enforcement action, the Discharger's noncompliance extends to the failure to pay fees associated with the operation of the dairy. The Discharger owes seven annual fees for enrollment in the 2007 General Order and 2013 Reissued General Order for the years 2008 through 2014. The total amount of unpaid annual fees for seven years is \$8,126. The Discharger is also delinquent in submission of membership fees to the Central Valley Dairy Representative Monitoring Program (CVDRMP) and payments for Central Valley Water Board Stipulated Orders R5-2014-0578 and R5-2014-0579.

ISSUES: On 20 January 2015, the Assistant Executive Officer issued Administrative Civil Liability (ACL) Complaint R5-2015-0504 pursuant to California Water Code section 13323, proposing that the Discharger be assessed monetary penalties in the amount of \$73,710 for failure to submit the technical reports. The ACL Complaint was accompanied by Hearing Procedures which describe the process that must be followed if the matter proceeds to a hearing. The Discharger submitted a signed waiver

requesting a time extension of the hearing and/or hearing deadlines. However, the Discharger did not submit a justification for the additional time requested and the rationale. The Advisory Team for the Regional Board denied the Discharger's request to delay/reschedule the hearing and hearing deadlines.

RECOMMENDATION: Prosecution Team recommends that the Central Valley Water Board adopt the Administrative Civil Liability Order as proposed.

Mgmt. Review _____
Legal Review _____

16/17 April 2015
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