

73-720 Fred Waring Drive, Suite 100
Palm Desert, CA 92260
(760) 346-7491

Public Notice 7-13-82
WDID: 7A 13 7777 006
November 14, 2013

NOTICE OF PUBLIC HEARING
TO CONSIDER ADMINISTRATIVE CIVIL LIABILITY COMPLAINT
NO. R7-2013-0078
ISSUED TO REATA CATTLE FEEDERS, INC.
REATA CATTLE FEEDLOT
Brawley – Imperial County

**NOTICE IS HEREBY GIVEN THAT A HEARING WILL BE HELD
BEFORE THE REGIONAL BOARD ON JANUARY 16, 2014**

Background

The Assistant Executive Officer has issued an Administrative Civil Liability (ACL) Complaint pursuant to California Water Code Section 13323 (Water Code) to Reata Cattle Feeders, Inc., Owner/Operator of the Reata Cattle Feedlot (Feedlot) (hereinafter as Discharger) alleging that it has violated Water Code Section 13385. The Complaint proposes that administrative civil liability in the amount of \$90,960 be imposed as authorized by Water Code section 13385. Unless the Discharger waives its right to a Hearing and pays the proposed liability, a Hearing will be held before the Regional Board during its meeting of January 16, 2014.

Purpose of Hearing

The purpose of the hearing is to receive relevant evidence and testimony regarding the proposed ACL Complaint. At the Hearing, the Regional Board will consider whether to adopt the proposed assessment, modify it or reject it. If it adopts an assessment the Regional Board will issue an Administrative Civil Liability Order.

The Public Hearing on January 16, 2014 will commence at 9:00 a.m. or as soon thereafter as practical, or as announced in our Board meeting agenda. The meeting will be held in Palm Desert, 73-720 Fred Waring Drive. An agenda for the meeting will be issued at least ten days before the meeting and will be posted on the Regional Board's web page at <http://www.waterboards.ca.gov/coloradoriver>.

Hearing Procedures

A copy of the procedures governing an adjudicatory hearing before the Regional Board may be found at Title 23 of the California Code of Regulations, § 648 et seq., and is available at <http://www.waterboards.ca.gov> or upon request. Except as provided in Title 23 of the California Code of Regulations (CCRs), § 648(b), Chapter 5 of the Administrative Procedures Act (commencing with § 11500 of the Government Code) does not apply to adjudicatory hearings before the Regional Board. This Notice provides additional requirements and deadlines related to the proceeding.

THIS NOTICE MAY BE AMENDED BY THE ADVISORY STAFF AS NECESSARY. ANY OBJECTIONS TO THE HEARING PROCEDURE MUST BE RECEIVED BY THE REGIONAL

BOARD'S ADVISORY STAFF **BY 5:00 P.M. ON NOVEMBER 25, 2013.** FAILURE TO COMPLY WITH THE DEADLINES AND REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF DOCUMENTS AND/OR TESTIMONY.

Hearing Participation

Participants in this proceeding are designated as either "parties" or "interested persons." Designated parties to the hearing may present evidence and cross-examine witnesses and are subject to cross-examination. Interested persons may present non-evidentiary policy statements, but may not cross-examine witnesses and are not subject to cross-examination. Both designated parties and interested persons may be asked to respond to clarifying questions from the Regional Board, staff or others, at the discretion of the Regional Board.

The following participants are hereby designated as parties in this proceeding:

- (1) Regional Board Prosecution Staff
- (2) Reata Cattle Feeders, Inc.

Contacts

Advisory Staff:

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Discharger:
Ken Smith
Reata Cattle Feeders, Inc.
180 Marjorie Avenue, Suite E
Brawley, CA 92227

Separation of Functions

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Regional Board (Prosecution Staff) have been separated from those who will provide advice to the Regional Board (Advisory Staff). Members of the Advisory Staff are: Robert Perdue, Executive Officer; Tom Vandenberg, Staff Counsel; and Jon Rokke, Water Resource Control Engineer. Members of the Prosecution Staff are: Jose Angel, Assistant Executive Officer; Vanessa Young, Staff Counsel; Mary Serra, Supervising Water Resource Control Engineer; Doug Wylie, Senior Water Resource Control Engineer; and Jeong-Hee Lim, Water Resource Control Engineer. This Notice has been issued by the Advisory Staff based on a draft proposed by the Prosecution Staff.

Ex Parte Communications

The designated parties and interested persons are forbidden from engaging in *ex parte* communications regarding this matter with members of the Advisory Staff or members of the Regional Board. An *ex parte* contact is any written or verbal communication pertaining to the investigation, preparation or prosecution of the ACL Complaint between a member of a designated party or interested party on the one hand, and a Regional Board member or an Advisory Staff member on the other hand, unless the communication is copied to all other designated and interested parties or made at a proceeding open to all other parties and interested persons (if verbal). Communications regarding non-controversial procedural matters are not *ex parte* contacts and are not restricted. Communications among the designated and interested parties themselves are not *ex parte* contacts.

Requesting Designated Party Status

Persons who wish to participate in the hearing as a designated party shall request party status by submitting a request in writing (with copies to the designated parties) no later than **5 p.m. on November 29, 2013** to Tom Vandenberg. The request shall include an explanation of the basis for status as a designated party (e.g., how the issues to be addressed in the hearing and the potential actions by the Regional Board affect the person), the information required of designated parties as provided below, and a statement explaining why the party or parties designated above do not adequately represent the person's interest. Any opposition to the request must be submitted by **5:00 p.m. on December 6, 2013**. The parties will be notified by **5:00 p.m. on December 20, 2013** in writing whether the request has been granted or denied.

Hearing Time limits

To ensure that all participants have an opportunity to participate in the Hearing, the following time limits shall apply: each designated party shall have 15 minutes to testify, present evidence, and cross-examine witnesses, and each interested person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid redundant comments. Additional time may be provided at the discretion of the hearing officer upon a showing that additional time is necessary.

Written Evidence, Testimony, Exhibits and Policy Statements

The Prosecution Team shall submit in writing 15 copies of the following information to Tom Vandenberg no later than **5:00 p.m. on December 20, 2013** with one copy to the Discharger. The Discharger shall submit in writing 15 copies of the following information to Tom Vandenberg no later than **5:00 p.m. on December 30, 2013** with one copy to the Prosecution Team:

1. All evidence, testimony (except rebuttal testimony) and exhibits proposed to be offered at the hearing.
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the designated party intends to call at the hearing, the subject of each witness' proposed testimony, and the estimated time required by each witness to present direct testimony.
4. The qualifications of each expert witness, if any.

Interested persons may submit one (1) copy of non-evidentiary policy statements by the close of the hearing.

In accordance with Title 23, CCR, Section 684.4, the Regional Board endeavors to avoid surprise testimony or evidence. Accordingly, oral testimony offered at the hearing that is beyond the scope of the previously submitted written testimony may be excluded. Power Point and other computer assisted visual presentations may, but are not required, to be submitted prior to the hearing as long as the contents do not exceed the scope of other submitted written material. Any witness providing written testimony shall appear at the hearing and affirm that the written testimony is true and correct.

Evidentiary Objections

A party objecting to evidence or testimony proposed by another party must submit a written objection by **5:00 p.m. on January 7, 2014** to the Advisory Staff with a copy to all other designated parties. The Advisory Staff will notify the parties about further action to be taken on such objections.

Evidentiary Documents and File

The Complaint, related evidentiary documents and comments received are on file and may be inspected or copied at the Regional Board office at Colorado River Basin Regional Water Quality Control Board, 73-720 Fred Waring Drive, Suite 100, Palm Desert, CA. Many of these documents are also posted on-line at www.waterboards.ca.gov/coloradoriver. Although the web page is updated regularly, to assure access to the latest information, you may contact Jeong-Hee Lim at Jeong-Hee.Lim@waterboards.ca.gov or (760) 776-8940.

Questions

Procedural questions concerning this proceeding may be addressed to Tom Vandenberg at tvandenberg@waterboards.ca.gov or (916) 341-5195.

IMPORTANT DEADLINES

November 14, 2013	Prosecution Team issues ACL Complaint to Discharger and Advisory Team, sends Hearing Procedure to Discharger and Advisory Team, and publishes Public Notice.
November 25, 2013	Deadline for objections, if any, to proposed Hearing Procedures.
November 29, 2013	Deadline for requests for designated party status.
December 6, 2013	Deadline for oppositions to designated party status.
December 13, 2013	Discharger's Deadline for waiving right to hearing.
December 20, 2013	Prosecution Team's Deadline for all information required under "Submission of Evidence and Policy Statements".
December 20, 2013	Advisory Team issues decision on request for designated party status, if any.
December 30, 2013	Remaining Designated Parties' Deadline for all information required under "Submission of Evidence and Policy Statements."
January 7, 2014	All Designated Parties' deadline for rebuttal information, evidentiary objections, and requests for additional time at the hearing, if any.
January 7, 2014	Interested Persons' deadline for written non-evidentiary policy statements.
January 16, 2014	Hearing Date.