

California Regional Water Quality Control Board, Colorado River Basin
Prosecution Team Evidence
on the matter of
Administrative Civil Liability Complaint R7-2014-0041
Exhibit 40



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Colorado River Basin Regional Water Quality Control Board

January 31, 2014

David Kalscheur
National Beef Company
PO Box 539
Dodge City, KS 67801

Dear Mr. Kalscheur:

SUBJECT: REVIEW OF ROWD ADDENDUM AND GROUNDWATER STUDY SUBMITTED SEPTEMBER 26, 2013 PURSUANT TO JUNE 27, 2013 CALIFORNIA WATER CODE 13267 ORDER TO NATIONAL BEEF COMPANY, IMPERIAL COUNTY

Regional Board staff has reviewed your ROWD Addendum Groundwater Report submittal, along with other documentation regarding the wastewater pretreatment ponds (WWPP) at the National Beef Company (NBC) facility in Brawley. Following discussions with staff, management will be recommending Regional Board permitting requirements for the WWPPs need to be as follows:

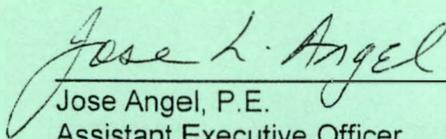
1. Pond 1 must be regulated pursuant to Title 27 of the California Code of Regulations (CCR), which will require a double liner and leachate detection system. Existing natural clay may be utilized as the outer liner when properly compacted to 90% to a depth of 2 feet. A leachate detection system must be placed between the liners. The top liner minimum requirement is 40 ml HDPE or equivalent material, as approved by the Regional Board Executive Officer. Existing monitoring wells may be utilized for ongoing groundwater monitoring, but NBC must submit a groundwater monitoring network proposal for review and approval. Financial Assurance will also be required pursuant to Title 27, both for closure, and for a reasonably foreseeable release.
2. Ponds 2 and 3 need to be regulated under Division 7, Chapter 4, Article 4 of the California Water Code (CWC). These ponds do not require a liner at this time. However, compaction of existing clay materials as described above is desirable and recommended at the next regularly scheduled maintenance, following installment of the new Pond 1. Ponds 1, 2, and 3 must be included in the groundwater monitoring program.

Waste Discharge Requirements (WDRs) will be drafted combining regulations for Ponds 1-3 as soon as design information for lining Pond 1 is submitted. Please supply the following information also:

1. The design capacity, working capacity, annual average discharge, and maximum daily discharge for Ponds 1-3.
2. Average annual precipitation and evaporation for the facility.

Should you have any questions regarding this letter, please contact Liann Chavez at 760-776-8945 or via email at liann.chavez@waterboards.ca.gov.

Sincerely,



Jose Angel, P.E.
Assistant Executive Officer
Colorado River Basin
Regional Water Quality Control Board

Ltc/hv

File: WDID No. 7A 135 004 001, National Beef Company, Working File