

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
LAHONTAN REGION**

**MEETING OF JANUARY 11-12, 2012  
APPLE VALLEY**

- ITEM:** 4
- SUBJECT:** **RESCISSION OF WASTE DISCHARGE REQUIREMENTS, ORDER NO. R6V-2010-0019 FOR GREEN VALLEY FOODS PRODUCTS, INC. AND HECTOR HUERTA, CHEESE PROCESSING FACILITY, CLASS II SURFACE IMPOUNDMENT, SAN BERNARDINO COUNTY – W DID NO. 6B360704003**
- CHRONOLOGY:** May 13, 2010 Waste Discharge Requirements adopted
- ISSUE:** Should the Water Board rescind the waste discharge requirements?
- DISCUSSION:** In May 2010, the Water Board imposed waste discharge requirements (WDRs) on the discharge of waste that had been occurring at the Green Valley Foods Products cheese processing facility. At the time the Water Board imposed WDRs, the cheese processing waste was being disposed to land. The Dischargers (Green Valley Foods Products, Inc. and Hector Huerta) proposed to construct a new surface impoundment to contain the waste. The waste discharge requirements specified that after March 30, 2011 all waste discharged must be to a lined surface impoundment.
- On December 8, 2011, counsel for the Dischargers submitted a letter (Enclosure 2) to the Water Board indicating that the Dischargers have no plans to construct or operate a surface impoundment. The letter indicated that the Dischargers ceased operations and all discharges on November 23, 2011. Additionally, the Dischargers are committed to complying with the requirements of the California Water Code (CWC) and have retained a consultant to evaluate waste disposal options. The letter requests that the WDRs be rescinded.
- By e-mail dated December 20, 2011 (Enclosure 3), counsel representing the dischargers advised that Green Valley foods operated its cheese processing facility during portions of

December 2011 with all waste being stored and transported to a waste processing facility.

Section 13264(a) of the CWC specifies that “No person shall initiate any new discharge of waste ... prior to the filing of the report required by Section 13260 ...” Section 13265(a) of the CWC specifies that “Any person discharging waste in violation of Section 13264, after such violation is called to his attention in writing by the regional board, ... may be liable civilly...” If the Water Board was to rescind the existing WDRs, it would be appropriate to provide written notice to the Dischargers that it must comply with Sections 13260 and 13265 of the CWC prior to initiating any new discharge.

**RECOMMENDATIONS:** I will have a recommendation on this proposed rescission of waste discharge requirements (Enclosure 1) at the close of the hearing.

<b>ENCLOSURE</b>	<b>Item</b>	<b>Bates Number</b>
1	Proposed Order rescinding waste discharge requirements	<b>4-5</b>
2	Letter dated December 8, 2011 from Loren J. Harlow of Stoel Rives LLP	<b>4-11</b>
3	E-mail dated December 20, 2011 from Loren J. Harlow of Stoel Rives LLP	<b>4-17</b>

# **ENCLOSURE 1**

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**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
LAHONTAN REGION**

**BOARD ORDER NO. R6T-2012-Proposed**

**RESCISSION OF WASTE DISCHARGE REQUIREMENTS IN BOARD ORDER  
NO R6V-2010-0019**

**FOR**

**GREEN VALLEY FOODS PRODCUTS, INC AND HECTOR HUERTA  
CHEESE PRODUCTION FACILITY,  
CLASS II SURFACE IMPOUNDMENTS**

\_\_\_\_\_  
SAN BERNARDINO COUNTY

The California Regional water Quality Control Board, Lahontan Region (Water Board) finds:

1. Discharger and Facility Description

Green Valley Foods Products, Inc. and Hector Huerta (collectively Dischargers) operate a cheese production facility, which processed milk (both liquid and solid) into rounds of Mexican style hard cheese known as Cotija. The cheese production facility is located on two parcels, owned by Hector Huerta, located at 25684 and 36293 Community Boulevard, Barstow, San Bernardino County, California (Assessor's Parcel Numbers 0497-221-14-0000 and 0497-221-13-0000, respectively.

2. An underground pipeline transported untreated wash water (waste) from the cheese production facility located at 25684 Community Boulevard to the unimproved parcel located at 36293 Community Boulevard. The waste consisted of water and cleaning solution used for cleaning the cheese-making equipment and the rinsate from the milk delivery truck discharge spigots. The Dischargers discharged the waste directly to the land on the unimproved parcel, where it is allowed to percolate.

3. Permit History

On May 13, 2010, the Water Board adopted Board Order No. R6V-2010-0019, prescribing waste discharger requirements for the Facility's waste dischargers. Board Order No. R6V-2010-0019 specified prohibitions, specifications, and provisions necessary to protect the beneficial uses of the surface and ground waters within the Middle Mojave River Valley Groundwater Basin.

4. Board Order No. R6V-2010-0019 required that by March 30, 2011, no discharge must occur outside of a Class II Surface Impoundment. The Board Order required the Discharger to design a Class II Surface Impoundment, as defined in Title 27, section 20250, in order to contain the waste, which was classified under Water Code 13173 as designated waste.
5. On June 24, 2011, Green Valley Foods submitted a report, informing the Water Board that due to costs of operation and management, it did not believe it was feasible to construct a Title 27 impoundment for the waste. The Discharger filed a new report of waste discharge on August 31, 2011, which the Water Board concluded was incomplete and required supplemental additional information.
6. On November 8, 2011, the Water Board prosecution team issued a draft Cease and Desist Order that it planned to take before the Water Board at its January 2012 board meeting, requiring that the Discharger “cease and desist forthwith from discharging wastes or threatening to discharge wastes, in violation of waste discharge requirements prescribed by Board Order No. R6V-2010-0019.”
7. Request for Rescission  

On December 5, 2011, Mr. Huerta, as President of Green Valley Foods Products, Inc., notified the Water Board Executive Officer that operations of the cheese processing facility and all waste discharges had ceased, and requested that Board Order No. R6V-2010-0019 be rescinded. Mr. Huerta stated that “Prior to resumption of manufacturing activities either a zero discharge alternative or a long term fully permitted facility will be constructed.”
8. On December 20, 2011, Mr. Huerta’s attorney notified the Water Board via email that Green Valley Foods Products, Inc. operated its cheese processing facility the week prior, and planned to continue operating throughout the week of December 19, 2011, and that all wastewater was collected, stored, and transported to the K Pure waste treatment facility in San Bernardino County. The Discharger anticipated that its consultants would have a short-term alternative in place in January 2012 to minimize or concentrate residual waste, which would then be transported and disposed of off-site.

9. Water Code Requirements

Water Code section 13264(a) of the Water code requires that “No person shall initiate any new discharge of waste ... prior to filing of the report [of waste discharge] required by Section 13260.” Section 13265(a) of the Water Code states that “Any person discharging waste in violation of Section 13264, after such violation is called to his attention in writing by the regional board, ... may be liable civilly.” This Order constitutes notice pursuant to Water Code 13265 that the Dischargers may be liable civilly for discharges from the Dischargers’ cheese-processing facility prior to filing a report of waste discharge, pursuant to Water Code section 13260.

10. California Environmental Quality Act (Public Res. Code §§ 21000 et seq.) (CEQA)

Actions by regulatory agencies to revoke a permit are exempt from the provisions of the CEQA, in accordance with section 15321, title 14 of the California Code of Regulations.

11. Public Meeting

In its agenda, which was available on the Water Board’s website at least 10 days in advance of the meeting and mailed to the Discharger and other interested persons, the Water Board provided notice of its intent to consider rescinding Board Order No. R6V-2010-0019 at its January 11-12, 2012 public meeting. On January 11-12, 2012 in Apple Valley, the Water Board held a public meeting to receive testimony and comments concerning this proposal to rescind Board Order No. R6V-2010-0019, and has considered all the comments received.

12. Ability to Petition this Action to the State Water Resources Control Board

Any person aggrieved by an action of the Water Board that is subject to a review as set forth in California Water Code section 13320, subdivision (a), may petition the State Water Resources Control Board (State Water Board) to review the action. Any petition must be made in accordance with California Water Code section 13320 and California Code of Regulations, title 23, section 2050 and following. The State Water Board must receive the petition within 30 days of the date the action was taken, except that if the thirtieth day following the date the action was taken falls on a Saturday, Sunday, or state holiday, then the State Water Board must

GREEN VALLEY FOODS PRODUCTS INC., 4  
AND HECTOR HUERTA  
CHEESE PROCESSING FACILITY  
CLASS II SURFACE IMPOUNDMENT  
San Bernardino County

BOARD ORDER NO.  
R6V-2012-PROPOSED  
WDID NO. 6B360704003

receive the petition by 5:00 p.m. on the next business day. Copies of the law and regulation applicable to filing petitions may be found on the internet at:

[http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality/index.shtml](http://www.waterboards.ca.gov/public_notices/petitions/water_quality/index.shtml) or will be provided upon request.

**IT IS HEREBY ORDERED THAT:** Board Order No. R6V-2010-0019 is rescinded.

I, Harold J. Singer, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Lahontan Region, on January 11, 2012

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HAROLD J. SINGER  
EXECUTIVE OFFICER

PROPOSED

# **ENCLOSURE 2**

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~~HJS~~ LK  
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LOREN HARLOW  
Direct (916) 319-4753  
ljharlow@stoel.com

December 8, 2011

Mr. Harold Singer, Executive Officer  
Regional Water Quality Control Board,  
Lahontan Region  
2501 Lake Tahoe Boulevard  
South Lake Tahoe, CA 96150

**Re: Green Valley Foods Products, Inc. and Hector Huerta  
Cheese Processing Facility and Class II Surface Impoundment  
Board Order No. R6V-2010-0019**

Dear Mr. Singer:

We are counsel to Green Valley Foods, Products, Inc. (Green Valley Foods) and Mr. Hector Huerta and on their behalf are providing you a letter signed by Mr. Hector Huerta, President of Green Valley Foods.

Green Valley Foods ceased operation of their cheese operations and all discharges on November 23, 2011. Green Valley is committed to complying with the requirements of the California Water Code. To accomplish that commitment, Green Valley has retained Conestoga-Rover & Associates to evaluate both long and short term alternatives for waste disposal to permit Green Valley Foods to resume operations.

Green Valley Foods has been at best a break even operation while manufacturing. Without operational income, Green Valley Foods' financial capability is severely strained.

We request that the current Board Order No. R6V-2010-0019 be rescinded. Green Valley has no current plan to construct or operate a Title 27 surface impoundment. Green Valley in its letter to you has committed not to discharge any waste water prior to obtaining waste discharge requirements and completing construction of necessary improvements.



Mr. Harold Singer  
December 8, 2011  
Page 2

If you have any questions, please contact me.

Very truly yours,

Loren J. Harlow

LJH:mrd  
Enclosure

cc: Ms. Lauri Kemper, AEO  
Regional Water Quality Control Board,  
Lahontan Region, South Lake Tahoe

Ms. Ann Carroll, Staff Counsel  
Office of Chief Counsel, Sacramento

Ms. Kimberly Niemeyer, Staff Counsel  
Office of Chief Counsel, Sacramento

Mr. Hector Huerta, President  
Green Valley Foods Products, Inc.

Mr. Kevin Clutter  
Conestoga-Rovers & Associates

***Green Valley Foods Products, Inc.***

*25684 Community Boulevard  
Barstow, California 92311*

December 5, 2011

Mr. Harold Singer, Executive Officer  
Regional Water Quality Control Board  
Lahontan Region  
2501 Lake Tahoe Boulevard  
South Lake Tahoe, CA 96150

Re: Green Valley Foods Products, Inc. and Hector Huerta  
Cheese Processing Facility and Class II Surface Impoundment  
Board Order No. R6V-2010-0019

Dear Mr. Singer:

I am President of Green Valley Foods Products, Inc. (Green Valley Foods). I am also named individually on the subject order issued by the Regional Board.

On November 23, 2011, I ceased operations of the cheese processing facility and all waste discharges. I have retained Mr. Kevin Cutter of Conestoga Rovers & Associates to evaluate both short and long term waste treatment and disposal alternatives to permit resumption of Green Valley's operation. Any interim alternative will not include a waste discharge.

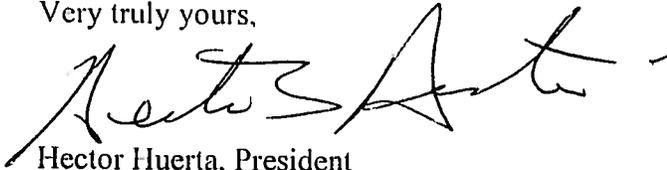
Green Valley Foods and I are fully committed to be compliant with the California Water Code, Policies and Regulations. Any recommended long term alternative that contemplates a waste discharge will not occur until all appropriate permits are secured and construction of necessary facilities is completed. However, none of the short or long term alternatives under consideration include the construction or operation of Title 27 surface impoundments.

I respectfully request that Regional Board Order No. R6V-2010-0019 be rescinded. All cheese manufacturing and waste discharges have ceased. The order as written governs the construction and operation of Title 27 surface impoundments. I have no plan to operate or construct Title 27 surface impoundments. Prior to resumption of manufacturing activities either a zero discharge alternative or a long term fully permitted facility will be constructed.

Thank you for your consideration.

If you have any questions, please contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Hector Huerta". The signature is fluid and cursive, with a horizontal line extending from the end.

Hector Huerta, President  
Green Valley Foods, Inc.

/hh

cc: Ms. Lauri Kemper, AEO, Regional Water Quality Control Board  
Lahontan Region, South Lake Tahoe

Ms. Ann Carroll, Staff Counsel  
Office of Chief Counsel, Sacramento

Ms. Kimberly Niemeyer, Staff Counsel  
Office of Chief Counsel, Sacramento

# **ENCLOSURE 3**

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**From:** "Harlow, Loren J." <LJHARLOW@stoel.com>  
**To:** 'Harold Singer' <HSinger@waterboards.ca.gov>, 'Lauri Kemper' <LKemper@wa...>  
**CC:** "'Clutter, Kevin'" <kclutter@craworld.com>  
**Date:** 12/20/2011 9:23 AM  
**Subject:** Green Valley Foods Update

Hi All:

I spoke to Mr. Hector Huerta last evening. As a result, I want to provide you with an update since my December 12 submittal in response to the ACL and proposed CDO.

In order to fulfill commitments and maintain its customer base, Green Valley Foods operated its cheese processing facility last week and will continue to operate throughout this week. All generated waste water was collected, stored and transported to the K Pure waste treatment facility in San Bernardino County. Waste hauling and disposal receipts are available.

Green Valley anticipates that Conestoga Rovers Associates will have a short term alternative in place shortly after the New Year. The alternative will minimize or concentrate the residual waste to be economical for transport and disposal. Green Valley used aged accounts receivable to finance the transport and disposal for the current production run. Unfortunately, this has depleted Green Valley's capital reserve.

If you have any questions, please contact me.

Thanks,

Loren J. Harlow | Of Counsel  
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