

Regional Water Quality Control Board
North Coast Region

Executive Officer's Summary Report
Thursday, November 20, 2014
Regional Water Board Office
Santa Rosa, California

ITEM: 7

SUBJECT: Public Hearing Regarding Settlement of Administrative Civil Liability Complaint R1-2014-0054 for Spring Hill Jersey Cheese, Inc. (Cherie Blatt & Cecile Morris)

SUMMARY: Administrative Civil Liability ("ACL") Complaint No. R1-2014-0054 ("Complaint"), which replaced ACL Complaint No. R1-2014-0022, was issued on September 11, 2014 to Spring Hill Jersey Cheese, Incorporated ("Discharger") for alleged violations at the Spring Hill Jersey Dairy located at 4235 Spring Hill Road, Petaluma, Sonoma County. The Complaint alleges three violations: (1) failing to submit an Annual Report for 2012 by November 30, 2012, as required by Waste Discharge Requirements Order for Existing Cow Dairies in the North Coast Region, Order R1-2012-0002 ("General Order") and the accompanying Monitoring and Reporting Program ("MRP"); (2) failing to submit an Annual Report for 2013 by November 30, 2013 as required by the General Order and MRP; and (3) failing to submit a Nutrient Management Plan ("NMP") and Waste Management Plan ("WMP") for the Dairy upon the request of Regional Water Board staff as required by the General Order and MRP. The Complaint proposes that the Regional Water Board assess discretionary penalties in the amount of thirty-seven thousand one hundred and twenty-five dollars (\$37,125) pursuant to California Water Code section 13268.

DISCUSSION: The Discharger owns and operates the Spring Hill Jersey Dairy ("Dairy") located at 4235 Spring Hill Road in Petaluma, Sonoma County. The Dairy is an organic milking operation that maintains approximately 280 milking and dry cows, 100 heifers, and 40 calves on 600 acres of pasture. Dairy facilities consist of small buildings, milk barn, pit, two ponds (North and South), calf hutches, pastures, commodity, silage, and manure storage areas.

Prosecution Assertions:

The Complaint asserts that the Discharger failed to submit its 2012 and 2013 Annual Reports by the November 30 deadlines as required by the General Order and MRP. The Complaint further

asserts that the Discharger failed to submit its NMP and WMP upon the request of Regional Water Board staff as required by the General Order and MRP.

On March 8, 2013, the Regional Water Board issued a Notice of Violation ("NOV") to the Discharger for failing to submit a 2012 Annual Report by November 30, 2012, as required by the General Order. On March 25, 2014, the Regional Water Board issued Administrative Civil Liability Complaint (ALCL) R1-2014-0022 to Spring Hill Jersey Cheese, Inc. pursuant to California Water Code (Water Code) section 13323, which was based on allegations that the Discharger violated provisions of the General Order by failing to submit annual reports for 2012 and 2013.

On March 5, 2014, the Assistant Executive Officer of the Regional Water Board, issued a letter to the Discharger requesting that it furnish a NMP and WMP pursuant to the General Order, by April 5, 2014. On April 25, 2014, the Regional Water Board agreed to extend the submittal date for the NMP and WMP until May 14, 2014 per an April 17, 2014 phone call with a representative of the Discharger.

On April 23, 2014, the Discharger emailed the Regional Water Board a signed form waiving its right to a hearing within 90 days for ALCL R1-2014-0022, and indicating that it intended to engage in settlement negotiations.

On May 14, 2014, Discharger representatives submitted to the Regional Water Board a partially completed 2013 Annual Report.

On May 27, 2014, Discharger representatives met with Regional Water Board staff to discuss a possible settlement of ALCL R1-2014-0022 and the Dairy's continuing responsibilities under the General Order. At that time, the total violations alleged against the Dairy included: (a) a violation for failing to submit the Dairy's 2012 Annual Report; (b) a second violation for failing to submit the Dairy's 2013 Annual Report, and; (c) a third violation for failing to submit the Dairy's NMP and WMP by the agreed-upon May 14, 2014, deadline.

On September 11, 2014, the Assistant Executive Officer for the Regional Water Board issued to the Discharger ACL Complaint No. R1-2014-0054, which replaced ACL Complaint No. R1-2014-0022, for the three alleged violations noted above.

Discharger Assertions:

The Discharger does not deny that it has not submitted the 2012 and 2013 Annual Reports, and the NMP and WMP. The Discharger asserts that they have done extensive work to improve the Dairy. Additionally, the Discharger asserts that it has had difficulty in employing the appropriate professional to prepare the Annual Reports, NMP, and WMP. In the absence of staff to prepare the reports and plans, the Discharger “has been working with” the USDA-NRCS. The Discharger has now employed a professional to complete the Annual Reports and Plans, although they are not complete at this time.

PRELIMINARY STAFF

RECOMMENDATION: To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence to the Regional Water Board (Prosecution Team) have been separated from those who will provide legal and technical advice to the Board (Advisory Team).

Advisory Team recommends that Board members review the evidence included in the agenda package and hear testimony provided at the hearing to determine whether to issue an administrative civil liability order assessing the penalty proposed by Prosecution Team, or a higher or lower amount.

SUPPORTING
DOCUMENTS:

1. Complaint R1-2014-0054 & Attachments A and B
2. Prosecution Team Case in Chief
3. Dischargers’ Case in Chief
4. Dischargers’ Evidence Submission
5. Prosecution Team Rebuttal Brief
6. Revised Prosecution Team Evidence List (Rebuttal Evidence Added) and Rebuttal Evidence
7. Public Notice