

## Central Valley Regional Water Quality Control Board

21 November 2013

**CERTIFIED MAIL NO.  
7013 1090 0000 6372 3772**

Henry J. Tosta  
20662 San Jose Road  
Tracy, CA 95304

### **ISSUANCE OF ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2013-0592 FOR HENRY J. TOSTA AND RESCISSION OF ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2012-0564, REEVE ROAD HEIFER RANCH, 21070 REEVE ROAD, TRACY, SAN JOAQUIN COUNTY**

The Executive Officer hereby rescinds Administrative Civil Liability Complaint, R5-2012-0564 which was previously issued by the Executive Officer on 19 November 2012 regarding violations of the Water Code at the Reeve Road Heifer Ranch. Enclosed is an Administrative Civil Liability Complaint, R5-2013-0592, (Complaint), issued pursuant to California Water Code (Water Code) section 13323. The Complaint proposes that civil liability in the amount of **\$310,775** be imposed on Henry J. Tosta, operator of the Reeve Road Heifer Ranch, (hereafter referred to as "Discharger") pursuant to Water Code sections 13268 and 13350 for discharging waste to groundwater and failing to comply with directives of Cleanup and Abatement Order No. R5-2012-0709.

In response to the Complaint, the Discharger may:

- Pay the assessed civil liability and waive its right to a hearing before the Central Valley Regional Water Quality Control Board (Central Valley Water Board) by signing the enclosed waiver (checking off the box next to item #3) and submitting it to this office by 13 December 2013. Payment for the full amount, indicating the number of this ACL Complaint, R5-2013-0592, must be submitted to: the State Water Resources Control Board, Division of Administrative Services, Accounting Branch 1001 I Street, 18th Floor, Sacramento, California, 95814. A copy of the signed waiver and check shall be sent to: David Boyers, Office of Enforcement, 16th Floor, Sacramento, California, 95814;
- Waive its right to a 90-day hearing and agree to enter into settlement discussions with the Central Valley Water Board by signing the enclosed waiver (checking off the box next to item #4) and submitting it to this office by 13 December 2013;
- Waive its right to a 90-day hearing in order to extend the hearing deadlines by signing the enclosed waiver (checking off box next to item #5) and submitting it to this office by 13 December 2013; or
- Contest the Complaint and/or enter into settlement discussions with the Central Valley Water Board without signing the enclosed waiver.

If the Discharger would like to rebut the presumption in the Complaint regarding **an ability to pay the proposed liability**, it must submit detailed financial information to the Central Valley Water Board by 14 January 2014. Information must include a balance sheet of outstanding debts and liabilities, as well as the information detailed in the attached Administrative Civil Liability Fact Sheet.

If the Central Valley Water Board does not receive a signed waiver by 13 December 2013, then a hearing on this matter will be scheduled for the **6/7 February 2014** regular meeting of the Central Valley Water Board to be held at 11020 Sun Center Drive, Suite 200, in the City of Rancho Cordova, California, 95670. If a hearing on this matter is held, the Central Valley Water Board will consider whether to issue, reject, or modify an Administrative Civil Liability Order based on the enclosed Complaint, or whether to refer the matter to the Attorney General for recovery of judicial civil liability. Modification of the proposed Administrative Civil Liability Order may include increasing the dollar amount of the proposed civil liability.

Attached to the Complaint is a draft public hearing procedure identifying the type of information that must be submitted in preparation for the public hearing, the hearing participants, and explaining how the public hearing will proceed. The public hearing procedures will be finalized by the Advisory Team to the Central Valley Water Board.

Payment of this assessed civil liability amount (**\$310,775**) does not absolve the Discharger from complying with the Dairy General Order or Cleanup and Abatement Order R5-2012-0709, the terms of which remain in effect. Additional civil liability may be assessed in the future if the Discharger fails to comply with the Dairy General Order or Cleanup and Abatement Order.

If you have any questions or comments regarding the Administrative Civil Liability Complaint, please contact Charlene Herbst at (916) 464-4724 or [charlene.herbst@waterboards.ca.gov](mailto:charlene.herbst@waterboards.ca.gov).

Pamela C. Creedon  
Executive Officer

Enclosure: Administrative Civil Liability Complaint R5-2013-0592

cc w/encl: Mr. Andrew Altevogt, Central Valley Water Board, Rancho Cordova  
Mr. David Boyers, Esq., Office of Enforcement, SWRCB, Sacramento  
Ms. Vanessa Young, Esq., Office of Enforcement, SWRCB, Sacramento  
Mr. Alex Mayer, Esq., Office of Chief Counsel, SWRCB, Sacramento  
Mr. Ken Landau, Central Valley Water Board, Rancho Cordova  
Mr. Tom Terpstra, Esq.

cc w/out encl: Mr. Lee Smith, Esq.