

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

CLEANUP AND ABATEMENT ORDER NO. R5-2002-0149

FOR
MUSCO FAMILY OLIVE COMPANY AND THE STUDLEY COMPANY
WASTEWATER TREATMENT AND LAND DISPOSAL FACILITY
SAN JOAQUIN COUNTY

This Order is issued to Musco Family Olive Company and the Studley Company (hereafter known jointly as “Discharger”) based on provisions of California Water Code Section 13304 which authorize the Regional Water Quality Control Board, Central Valley Region (hereafter known as Regional Board) to issue a Cleanup and Abatement (C&A) Order.

The Regional Board finds, that with respect to the Dischargers’ acts, or failure to act, the following:

1. On 6 September 2002, the Regional Board adopted Waste Discharge Requirements (WDRs) Order No. R5-2002-0148 allowing the Discharger to discharge a monthly average of 700,000 gallons per day of wastewater to cropland. This Order revised and rescinded WDRs Order No. 97-037.
2. Musco Family Olive Company operates an olive brining and packaging plant south of the town of Tracy, near Patterson Pass Road. The facility (Assessor’s Parcel Numbers 209-11-18, 209-11-31, 209-11-32, 251-32-08, 251-32-09) is in Section 34, T2S, R4E, and Sections 3 and 4 of T3S, R4E, MDB&M. Musco operates the facility on land leased from the Studley Company.
3. Wastewater generated at the facility is regulated by two separate Waste Discharge Requirements (WDRs). Order No. 96-075 regulates the Class II surface impoundments that are used to store concentrated brines, while Order No. R5-2002-0148, adopted by the Regional Board on 6 September 2002, regulates the less concentrated wastes that are applied to land.

BACKGROUND

4. Musco Family Olive Company processes approximately one-half the total table olive crop in the State. In 1999, the Discharger acquired an olive packing facility in Visalia, closed that facility, and transferred the production to Tracy, without first making improvements to its existing wastewater treatment or disposal system. That consolidation has led to an increase in wastewater flow rates and numerous violations of WDRs Order No. 97-037. The Regional Board responded to the violations with various enforcement actions that are described below.
5. The facility processes and cans olives on a year-round basis and generates wastewater with extremely high concentrations of dissolved solids, sodium, and chloride. Processing consists of receiving olives, storage in acetic acid solutions, curing in sodium hydroxide (lye), pitting, and canning in a brine solution.
6. The facility is equipped with 734 storage tanks ranging in size from 3,600-gallons to 8,800-gallons and 98 processing tanks that are 2,500-gallons each. Additional olives are stored at the Discharger’s Visalia and Orland facilities and are trucked to Tracy for processing.
7. A wastewater system is used to collect and apply the industrial wastewater to land. Wastewater is collected throughout the facility by floor drains and is piped to a central collection area from which it is either directed to the Title 27 ponds or is pumped to a 1-million gallon settling pond. From the 1-million gallon pond, the wastewater is directly to the land application areas. Once the

new 84-mg pond is completed, all wastewater will be pumped from the 1-mg pond to the 84-mg pond prior to land application. The facility consists of 280 acres, of which approximately 200 acres are available as wastewater land application areas.

8. Self-monitoring reports submitted for the time period from 1 January 2002 to 30 June 2002 show that the Discharger is unable to meet two of the effluent limitations contained in WDRs Order No. R5-2002-0148. The table below contrasts the average and constituent concentrations to that which is allowed by the WDRs.

<u>Constituent</u>	<u>Average between January and June 2002</u>	<u>WDRs Limitation</u>
Total Dissolved Solids	4,737 mg/L	2,047 mg/L
Sodium	739 mg/L	597 mg/L
Chloride	415 mg/L	601 mg/L

PREVIOUS ENFORCEMENT ACTIVITIES

9. On 15 May 2000, the Discharger was issued a Notice of Violation for inadequate wastewater handling, storage, and application procedures observed during inspections on 8 May and 10 May 2000. During the site inspection, evidence of the one million gallon storage pond overtopping and wastewater escaping the site in surface water drainage courses was observed. A review of self-monitoring reports also showed that the Discharger was discharging wastewater in violation of the effluent limits contained in Order No. 97-037.
10. Due to numerous violations of its WDRs, on 17 November 2000 the Executive Officer issued Cleanup and Abatement (C&A) Order No. 5-00-717 to the Discharger. The C&A Order required the Discharger to prepare technical reports and construct wastewater treatment system improvements to comply with WDRs No. 97-037 by 1 November 2001.
11. Because the Discharger did not comply with C&A Order 5-00-717, the Regional Board adopted California Water Code (CWC) Section 13308 Time Schedule Order (TSO) No. R5-2002-0014 on 25 January 2002. The TSO provided interim higher flow and dissolved inorganic solids (DIS) limits, required control of nuisance odors, installation of groundwater monitoring wells, an evaluation of the domestic wastewater system, construction of the wastewater improvements designed by the Discharger's consultants, and cropping on all land application areas.
12. Administrative Civil Liability (ACL) Complaint No. R5-2002-0502 for \$150,000 was issued by the Executive Officer on 11 April 2002 for violations of WDRs Order No. 97-037 in the time period between issuance of the C&A Order (17 November 2000) and the adoption of the TSO (25 January 2002). The Discharger waived its right to a public hearing and settled the ACL Complaint on 24 May 2002 with the \$150,000 amount split into three \$50,000 payments.
13. In April 2002, the Discharger requested a revision to TSO No. R5-2002-0014 to allow interim higher flow limits and supported that request with a technical report. The technical report addressed hydraulic, nutrient, and BOD loading but did not adequately address the dissolved solids loading. Because the TSO was considered an interim measure to allow the Discharger to continue operation while wastewater problems were addressed, staff supported the interim increase. A revised TSO No. R5-2002-0014-R01 was adopted by the Regional Board on 6 June

2002. In addition to the interim higher flow limits, the Discharger was allowed to apply wastewater as dust control in disturbed areas of the impoundment construction area and was allowed additional time to complete the 84-million gallon storage pond. The Discharger was required to provide an odor control report, evaluate the adequacy of monitoring well MW-9, and perform and submit the results of an additional groundwater monitoring event.
14. As a result of the enforcement actions, the Discharger is constructing an 84-million gallon storage pond and making improvements to the land application areas. The improvements include planting crops on the land application areas, mechanical equipment to improve distribution of wastewater on the land application areas, construction of tailwater collection ditches, and sumps equipped with pumps to return collected tailwater to either the 1-million gallon settling pond or the 84-million gallon storage pond. The improvements were designed to prevent wastewater from entering the surface water drainage course that flows through the land application areas and the facility.
 15. Revised TSO No. R5-2002-0014-R01 requires that, as of 7 September 2002, the Discharger be in continuous compliance with the daily flow limit of 500,000 gpd described in WDRs No. 97-037. WDRs Order No. R5-2002-0148 allows the Discharger a monthly average flow of 800,000 gpd. Therefore, the limitation in the Revised TSO is no longer necessary and will be rescinded with adoption of this Cleanup and Abatement Order.
 16. Revised TSO No. R5-2002-0014-R01 requires that, as of 7 September 2002, the Discharger comply with the DIS and BOD loading limits contained in WDRs No. 97-037. WDRs Order No. R5-2002-0148 contains updated effluent limits. Therefore, the limitation in the Revised TSO is no longer necessary and will be rescinded with adoption of this Cleanup and Abatement Order.

REGULATORY CONSIDERATIONS

17. As a result of the events and activities described in this Order, the Regional Board finds that the Discharger has caused or permitted waste to be discharged in such a manner that it has created, and continues to threaten to create, a condition of pollution or nuisance.
18. The Regional Board's Water Quality Control Plan (Fourth Edition) for the Sacramento River and San Joaquin River Basins (Basin Plan) establishes the beneficial uses of the waters of the state and water quality objectives to protect those uses. The beneficial uses of the groundwater beneath the site are municipal and domestic supply; agricultural supply; industrial service and process supply; contact and noncontact recreation; warm and cold freshwater habitat; warm and cold spawning habitat; warm water spawning; wildlife habitat; and navigation.
19. Section 13304(a) of the California Water Code provides that: "Any person who has discharged or discharges waste into waters of this state in violation of any waste discharge requirements or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the water of the state, and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board clean up the waste or abate the effects of the waste, or, in case of threatened pollution or nuisance, take other necessary remedial action, including but not limited to, overseeing cleanup and abatement efforts. Upon failure of any person to comply with the cleanup or abatement order, the Attorney General, at the request of the board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the order. In

the suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant.”

20. Section 13267(b) of the California Water Code states: “In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters of the state within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring these reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence requiring that person to provide the reports.”
21. The technical reports required by this Order are necessary to ensure compliance with Waste Discharge Requirements Order No. R5-2002-0148 and the limits and conditions contained in this Order. The Discharger operates the facility that discharges the waste subject to this Order.
22. Failure to comply with this Order may result in further enforcement action, including the assessment of an Administrative Civil Liability (ACL) pursuant to sections 13268, 13271, and 13350 of the CWC and/or referral to the Attorney General for assessment of judicial civil liability and/or injunctive relief.
23. The issuance of this Order is an enforcement action by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act, pursuant to Section 15321(a)(2), Title 14, California Code of Regulations.
24. Any person affected by this action of the Regional Board may petition the State Water Resources Control Board (State Board) to review the action in accordance with Section 2050 through 2068, Title 23, California Code of Regulations. The petition must be received by the State Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request. In addition to filing a petition with the State Board, any person affected adversely by this Order may request the Regional Board to reconsider this Order. Such request should be made within 30 days of the date of this Order. Note that, even if reconsideration by the Regional Board is sought, filing a petition with the State Board within the statutory period is necessary to preserve the petitioner’s legal rights.

IT IS HEREBY ORDERED that, pursuant to Sections 13304 and 13267 of the California Water Code, Musco Family Olive Company and the Studley Company shall comply with Waste Discharge Requirements Order No. R5-2002-0148, and any revisions thereto, subject to the compliance schedule presented below.

Compliance with this requirement shall include, but not be limited to, the following measures:

1. The Discharger shall immediately comply with all requirements of WDRs Order No. R5-2002-0148 except as described below. Nothing in this Cleanup and Abatement Order shall be construed as authorization to discharge wastewater into the surface drainage or off the Discharger’s property.

2. The Discharger shall comply with the following effluent limitations according to the time schedule as shown in the table below:

<u>Constituent</u>	<u>6 Sept 2002</u>	<u>6 Sept 2003</u>	<u>6 Sept 2004</u>
Total Dissolved Solids	4,700 mg/L	3,373 mg/L	2,047 mg/L
Sodium	739 mg/L	668 mg/L	597 mg/L

3. By **6 September 2003 and 6 September 2004**, the Discharger shall submit reports describing the facility improvements that have been made to reduce the constituent concentrations to those listed for that date in the above table.
4. By **6 September 2004**, the Discharger shall comply with all aspects of WDRs Order No. R5-2002-0148.
5. The requirements of Revised TSO No. R5-2002-0014-R01 remain in effect except for the Items No. 18 and No. 19 (found on page 11 of the Order).

In addition to the above, the Discharger shall comply with all applicable provisions of the California Water Code that are not specifically referred to in this Order. As required by the California Business and Professions Code Sections 6735, 7835, and 7835.1, all reports shall be prepared by, or under the supervision of, a California Registered Engineer or Registered Geologist and signed by the registered professional.

If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may refer this matter to the Attorney General for judicial enforcement or may issue a compliant for administrative civil liability.

I, THOMAS R. PINKOS, Acting 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, Central Valley Region, on 6 September 2002.

THOMAS R. PINKOS, Acting Executive Officer

AMENDED
TRO: 9/6/02