

Note: This summary has been prepared by the Board's Prosecution Team

ITEM: 16

SUBJECT: Clark Structural, LLC and Clark Pacific General Partnership, Former Spreckels Sugar Company Facility, Yolo County

BOARD ACTION: (a) *Name Change Order*  
(b) *Cease and Desist Order*

BACKGROUND: Clark Structural, LLC and Clark Pacific General Partnership own and operate the Former Spreckels Sugar Company Facility near Woodland. The facility operated from 1937 until 2000, and manufactured sugar from sugar beets. The facility is regulated under Waste Discharge Requirements Order R5-2003-0047. Although processing ceased in 2000, there are still large stockpiles of precipitated calcium carbonate (PCC) that must be removed. As the current property owner and operator, Clark Structural LLC and Clark Pacific General Partnership are now responsible for removing the PCC from the property.

Name Change Order: The Prosecution Team recommends that the Board adopt the Name Change Order prior to considering the Cease and Desist Order. Clark Pacific General Partnership continues to manufacture pre-cast concrete at the facility, but the land was recently sold from Reverse Property Exchange to Clark Structural LLC. Board staff received a Form 200 from Clark Structural LLC. The Name Change Order is not contested.

Background for Cease and Desist Order: The WDRs require that the PCC stockpiles be removed by 15 December 2006. However, the former property owners and operators did not comply with this deadline. Clark Pacific took over the property in 2008.

PCC is used in the agricultural industry as a fertilizer and to raise the pH of acidic soils. It is also used at dairies to prevent mastitis, at confined animal facilities to control flies, and at biomass power generation plants to control combustion emissions. The Yolo Central Landfill is currently investigating whether the material may be used as alternate daily cover. The rate at which the PCC has been removed from the site has been dependent on market demand. To date, over 1.1 million tons of PCC has been removed, and as of May 2012, approximately 212,000 tons of PCC remain on-site.

The purpose of this CDO is to provide an enforceable schedule for the final removal of the PCC, and to ensure that the storage and removal of PCC takes place in a manner that: (a) prevents wind-blown PCC dust from leaving the site, (b) prevents storm water from transporting PCC off-site, and (c) does not result in tracking of PCC on public roadways. The Order would require that the Discharger evaluate its best management practices (BMPs) and add additional BMPs as needed to meet the above conditions. The Order also requires daily monitoring

and monthly reporting regarding the adequacy of the BMPs. If adopted as proposed, the Order will require that all PCC be removed from the property by 31 March 2015.

Cease and Desist  
Order Issues:

This matter was originally scheduled to be heard at the August Board meeting. However, just prior to the meeting, one of the Designated Parties asked that the hearing be continued to October. The other parties did not object. Given the delay, Board staff revised the due dates in the tentative CDO and made other changes in an attempt to reach consensus. The document was then sent out for a second comment period.

First Comment Period (June)

The draft CDO was circulated for public comments in June, and six parties provided comments in a timely manner. Ms. Brenda Cedarblade operates a horse ranch on property adjacent to the PCC piles. Comments were also submitted by Ms. Cedarblade's attorney (Mr. Mooney) and consultant (Ozone Consultants), as well as two other individuals (Ted Wilson and Pamela Nieberg).

Ms. Cedarblade does not oppose the CDO but would like additional restrictions. Mr. Mooney, Ozone Consultants, Ted Wilson, and Pamela Nieberg submitted comments in support of Ms. Cedarblade. Clark Pacific stated that they agree with the CDO and did not request any changes.

Staff has prepared a Response to Comments. The main issues are the allegation that the removal of PCC has caused dust to blow onto Ms. Cedarblade's property causing health issues and contamination; that Clark Pacific's best management practices are insufficient; and that the PCC has polluted groundwater and surface water.

Over the last several years, Water Board staff has received numerous complaints from Ms. Cedarblade, and have conducted inspections in response. The majority of the complaints are about PCC dust blowing onto her property and into her house. The Yolo County Environmental Health Department and the Yolo Solano Air Quality Management District have also received complaints and have also conducted inspections. Three of these inspection reports were provided by Clark Pacific and are included in the Evidence List. Neither Water Board staff nor the County agencies have documented PCC dust blowing onto Ms. Cedarblade's property. In particular, Yolo County inspected Ms. Cedarblade's property and house on 3 April 2012, in response a complaint of health problems due to PCC dust. The County inspector did not find an indication of the alleged human or horse health issues, and found only "normal" levels of dust in the house.

Although the Board does not regulate facilities based on health concerns, we do have jurisdiction over the discharge of waste. In this

case the waste is the PCC, and it is appropriate to ensure that the waste remain in the area for which it is permitted. Although the Designated Parties dispute whether wind-blown PCC has entered Ms. Cedarblade's property, it is still appropriate to address this concern in the Cease and Desist Order. Therefore, the proposed Order has been revised to state that "*The storage and removal of PCC shall take place in a manner that . . . prevents the wind-blown deposition of PCC off the Discharger's property.*" The Order also requires that the Discharger prepare and implement an updated list of best management practices to ensure that PCC dust remains onsite, and requires that the Discharger monitor the PCC piles on a daily basis to ensure that the BMPs are adequate to prevent PCC from blowing onto Ms. Cedarblade's property.

Ms. Cedarblade's attorney submitted analytical results from a soil and dust sample collected from her property, and claimed that the results show significant contamination. Board staff has reviewed both those results and Clark Pacific's expanded analysis of the PCC. Based on this data, Board staff finds no evidence of a water quality problem or a potential health impact. Board staff also do not find evidence of "toxic" levels of contamination as alleged by another commentor.

Ms. Cedarblade's consultant submitted an evaluation of the shallow groundwater (using data through 2009) and contends that Clark Pacific should be required to remediate the plume and to provide a new deep well if Ms. Cedarblade's supply well is contaminated. Board staff completed a thorough evaluation of the available groundwater data, through the most recent monitoring event of May 2012. Staff agrees that the analytical data shows that the shallow groundwater has become impacted by the salt constituents found in the PCC piles. This is to be expected because the first groundwater is shallow (about 20 feet below ground surface) and because liquid and solid waste has been deposited onsite for over 60 years. However, the salinity concentrations in the groundwater have remained constant over the last four years, and there is no evidence that the shallow groundwater is used for drinking water or agricultural supply. Three local supply wells, including Ms. Cedarblade's well, are screened at about 300 feet below ground surface, and there are a number of confining layers between the shallow groundwater and the supply water. Therefore, it is expected that the contamination will not reach the deeper groundwater. The first step in any site remediation is to remove the source of contamination. This Order requires the Discharger to accelerate the PCC removal process and to demonstrate that the underlying soils left in place are clean. It is anticipated that once the PCC piles have been removed, the shallow groundwater will naturally attenuate and that Ms. Cedarblade's well will not be affected.

Based on the comments received, the draft CDO (prepared for the August Board meeting) was revised to require that the PCC removal be

completed sooner (the final date was moved from 30 December 2015 to 30 March 2015); that Clark Pacific submit a revised list of best management practices designed to prevent PCC from leaving the site in wind-blown dust or storm water, or by tracking on County roads; and that Clark Pacific conduct more frequent inspection to determine the adequacy of the BMPs (the inspection frequency was changed from weekly to daily).

#### Second Comment Period (August)

Because consideration of the CDO was delayed from the August Board meeting to the October Board meeting, staff needed to make edits to a number of the due dates in the tentative CDO. Staff also edited certain language to be more explicit about the need to remove the PCC from the site. The revised tentative CDO was circulated for a second comment period in August.

Comments were received from only two parties, Mr. Mooney and Clark Pacific. Mr. Mooney stated that his clients (Ms. Cedarblade and Ted Wilson) had no additional comments on the revised tentative CDO.

Clark Pacific asked for a number of changes to the revised tentative Order. In general, Clark Pacific would like the timelines to be more flexible to reflect a varying market demand for the PCC, and asked for a "carry over" allowance in that material removed from January through March be counted toward the volume removed the previous year. In addition, the Discharger asked that the language requiring removal of 60,000 tons of PCC per year be changed to removal of 50,000 tons per year, and that the date for final cleanup be extended from 31 March 2015 to 30 September 2015.

Board staff has carefully considered the requested changes, but do not find most supportable. In May 2012, Clark Pacific stated that market demand would support the removal of 60,000 tons of PCC/year, and in July 2012 stated that it committed to removing 60,000 tons/year. Clark Pacific has provided no support for its request to remove only 50,000 tons/year.

However, Board staff is sympathetic to Clark Pacific's claim that most PCC is applied to cropland in the winter, and that weather conditions can impact the amount removed per year. Therefore, the revised CDO includes a "carry over" provision which states that if the Discharger does not remove 60,000 tons in a calendar year, and if it documents that it has implemented all options for beneficial reuse, then the amount of PCC removed in January and February the following year may be counted toward the prior calendar year requirement. The Discharger is still expected to remove 60,000 tons/year, even if it uses the "carry over" provision during that year.

Staff does not believe it necessary to change the final removal date from 31 March 2015 to the requested date of 30 September 2015. In May 2012, Clark Pacific provided a conservative estimate of 212,000 tons of PCC remaining onsite. If 60,000 tons are removed per year, and if the majority of the material is removed in the fall and winter, then Clark Pacific should be able to comply with the 31 March 2015 date. This date is in effect even if the "carry-over" provision is used.

Prosecution's Recommendation:           The Prosecution Team recommends that the Board adopt the Cease and Desist Order as proposed.

Mgmt. Review     WSW      
Legal Review     VY    

**4/5 October 2012 Meeting**  
Central Valley Regional Water Quality Control Board meeting  
11020 Sun Center Dr. #200  
Rancho Cordova, CA 95670