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ESTABLISHED 1896

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GREGORY A. FOREST

July 12, 2012

*Electronic delivery*

Pamela C. Creedon  
Executive Director  
Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670

**Re: Clark Pacific Tentative Cease and Desist Order (CDO) Hearing August 1/2/3**

Dear Ms. Creedon:

This letter describes improved dust control and other best management practices (BMPs) that Clark Pacific, a California general partnership, will implement in connection with the removal of Precipitated Calcium Carbonate (PCC) on the property owned by Clark Structural, LLC, a California limited liability company. This letter also introduces rebuttal evidence on behalf of Clark Pacific and Clark Structural, LLC, in response to the information provided to the Central Valley Regional Water Quality Control Board (CVRWQCB) on June 25, 2012 by Don Mooney, Pam Nieberg and Alan Pryor on behalf of Brenda Cedarblade and Ted Wilson, the owners of the Historic Nelson Ranch (HNR) property in Woodland.

As you know, the Spreckels Sugar Company operated a sugar factory at the property now owned by Clark Structural, LLC for over sixty years – from 1937 through the year 2000. During its operation, Spreckels discharged millions of gallons of processed sugar beet byproducts onto the site, which remains on the property in the form of large mounds of lime chalk or PCC. When Brenda Cedarblade purchased the HNR property, not long after Spreckels closed, these great mounds covered the site. During all of the time that Ms. Cedarblade has owned her property the CVRWQCB has ordered the removal of these PCC piles, which has been conducted consistently by the same trucking company using the same basic methods for more than the last decade.

At no time has Ms. Cedarblade produced any evidence that the drinking water on her ranch has been affected by the long standing presence of PCC. Ms. Cedarblade and her supporters have tested soil and dust samples, analyzed historic groundwater monitoring results and imagined various scenarios of potential toxic substances. But no one has taken the simple step of analyzing a sample of her domestic well water. This is likely due to the fact that the HNR well draws from a much deeper aquifer (the well is screened between 284 and 376 feet below ground surface). Notwithstanding the lack of any evidence of actual contamination of this

deep aquifer, Clark Pacific proposes proactive measures to expedite the prompt clean-up of the site.

*Improved Best Management Practices (BMPs)*

On May 18, 2012, Clark Pacific submitted a revised Work Plan for the removal of PCC at the Clark Structural, LLC property. This Work Plan included a plan to clean up the site in three phases (identified as Areas A, B and C), and listed certain Best Management Practices (BMPs), designed to reduce fugitive dust from the PCC removal activity. In particular, these BMPs required Clark Pacific to use a water truck to prevent fugitive dust, maintain a crust on the PCC piles not being actively removed, suspend PCC removal during periods of high wind, maintain straw wattles near entry points, and wash off track out onto County Roads (among other measures). Clark Pacific proposed to monitor compliance with these BMPs every week, and report progress toward the clean-up goals every month.

These BMPs have been implemented successfully at the site for many years, and the PCC removal activity has a good record of avoiding fugitive dust emissions, as documented by the numerous inspections of the Yolo Solano Air Quality Management District (YSAQMD). In fact, YSAQMD has responded frequently to complaints from Ms. Cedarblade. I submitted a detailed report of one such visit, on March 4, 2012, where the inspector took multiple photos of the PCC removal activities “with no visible emissions detected.” (See YSAQMD Report by Robert Dovi, March 4, 2012, p. 2.) Similar conditions were documented in follow up inspections, with no violations reported and no visible emissions detected. Inspectors from YSAQMD came to the property *twelve times* between April 2 and June 28, 2012 and found no violations. Ms. Cedarblade’s health complaints were also investigated by a health inspector from the Yolo County Environmental Health (YCEH) Department and unsubstantiated.

Notwithstanding this success, Clark Pacific desires to improve all aspects of its performance as a company, including the removal of PCC. To that end, Clark Pacific proposes a different configuration of the three clean up phases (Areas A, B, and C) as illustrated on the **Figure 1** submitted with this letter. Area A was previously identified as the area closest to the HNR property, from which a large mound of PCC was removed over the last eighteen months. The new Area A now covers a wider portion of the site, and excludes the lime piles north of the HNR property. On July 9, 2012, Clark Pacific estimated that the new Area A contained 66,186 tons (or 62,375 cu. yd.) of PCC. This material has been moved onto Area B, where it is being loaded and shipped off-site.

Clark Pacific also proposes to step-up the dust suppression methods in the BMPs for the site in the following ways. Area A will be immediately cleaned up and planted in grasses, permanently eliminating any fugitive dust emissions. This roughly corresponds to a portion of the property which contains a 300-foot buffer that has already been dedicated to permanent open space use. Clark Pacific will also install an eight-foot earthen berm near the western boundary line of the HNR property. The clean-up of Area A will be completed by August 31 of this year, and the berm will be installed by August 1, 2013.

Grasses will be planted over the remaining PCC that has been piled on the property in order to further reduce the potential for fugitive dust emissions. This includes the portion of the property identified as “Area B” in the Work Plan that is outside of the current PCC removal activity. Clark Pacific is currently working with the Yolo County Farm Bureau, the Yolo County Agriculture Commissioner’s office, and several local farmers to select the best grass (or grasses) for the conditions. Grass and weeds already cover much of the remaining PCC piles, identified as “Area C” in the Work Plan (see aerial photos, submitted with this letter). An expanded grass cover over the PCC piles will further reduce the potential for fugitive dust emissions, and is more effective means to control dust than the use of a tarp.

Clark Pacific also proposes to enhance the BMPs by providing water in closer proximity to the PCC removal activity. Historically water trucks had to cross Road 100B to refill. Clark Pacific has extended a water line to the east of Road 100B to allow the water trucks to refill on the east side of Road 100B. This will avoid track out of PCC from water trucks crossing Road 100B. To reduce track out caused by the trucks hauling PCC offsite, Clark Pacific will install a truck tire wash system at the site’s exit.

Clark Pacific will keep a daily log of compliance with these improved BMPs, and will provide monthly reports documenting the progress toward the removal of all PCC from the property in accordance with the following timeline.

*Timeline for Clean-up and Removal of PCC*

- |               |   |
|---------------|---|
| <b>Area A</b> | <b>Clean-up by August 31, 2012.</b>                                   |
| <b>Area C</b> | <b>Clean-up by December 31, 2013.</b>                                 |
| <b>Area B</b> | <b>Clean-up and off-site removal of all PCC by December 31, 2015.</b> |

In addition to the above timeline for closure and removal of PCC, Clark Pacific will commit to removing no less than 60,000 tons of PCC off site per year. This rate exceeds the rate of 50,000 tons per year previously required by CVRWQCB.

PCC is used routinely among farmers in the Sacramento Valley and across the state as a soil amendment and for various beneficial uses. PCC improves clay and acidic soil. Dairy farmers add PCC to the bedding provided for their cows, as it is beneficial for the cows' hides and controls mastitis.<sup>1</sup> PCC removal from the Clark Structural property has corresponded to the market demand for PCC among growers and dairy farmers in the region. Simply discarding PCC in a landfill would deny the beneficial use of the material to farmers in the region who demand it as an additive to their soil and for other uses on their farms.

The current estimates of remaining PCC on the Clark Structural property are the result of surveying performed in the first half of 2012, which has provided the best estimate of remaining PCC that has been made to date. However, Spreckels Sugar Company did not dispose of the PCC onto a perfectly even ground surface. Much of the PCC was deposited into ponds, which are in some cases up to 10 feet deep. While Clark Pacific is reasonably confident that it has conservatively and accurately estimated the amount of PCC remaining on the property, the true amount of PCC will only be discovered as the PCC removal process continues.

On account of Clark Pacific's commitment to remove no less than 60,000 tons per year, the many beneficial uses of PCC for the agricultural community, and the inherent uncertainty regarding the estimates of PCC remaining on site, Clark Pacific requests that the CVRWQCB not require complete closure of the site by December 31, 2015, in the event that PCC remains. It is unfair to require all PCC to be removed by a date certain, *even if* the mandatory removal rate of 60,000 tons per year has been met but proves insufficient. Instead, the CDO should provide that the final closure date can be extended in the event that the current estimate of PCC remaining on the property proves to be too low.

Please accept the following rebuttal evidence in response to material provided by the HNR owners.

#### *Rebuttal Evidence*

Revised Clean-Up Phasing Plan (Figure 1) – As described in this letter, Clark Pacific proposes to alter the PCC clean-up and removal process as shown on the enclosed Figure 1, which replaces Figure 1 of the Work Plan submitted to Todd Del Frate on May 18, 2012.

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<sup>1</sup> Department of Animal Science (2001). "Mastitis in Dairy Cows." MacDonald Campus of McGill University.

Videos of Wind Conditions June 9, 2012 – Ryan Nakken, the Assistant Plant Manager of the Clark Structural property, shot two videos on June 9, 2012, which are submitted with this letter. These videos refute Brenda Cedarblade’s claim, in her letter to the Regional Board dated June 25, 2012, that dust from the Clark Structural property ruined an event that she hosted at her property on June 9, 2012. The longer video depicts the event looking north from Road 18C. It shows large clouds of dust being blown along the eastern boundary of the Cedarblade property by a stiff north-northwest wind. The source of the dust appears to be property to the north of the HNR. The camera pans west and shows several trailers parked for the event at the ranch, and shows the wind blowing the trees along the boundary with the Clark Structural property. Mr. Nakken also took the shorter video from the Clark Structural property, which shows the same north wind blowing on the trees and a horse on the Cedarblade property. Mr. Nakken is prepared to testify at the Hearing in August regarding these videos, which clearly document the lack of any fugitive dust emissions from the Clark Structural property on June 9, 2012, despite a strong north-northwest wind.<sup>2</sup>

Aerial Photos – Ryan Nakken took fourteen (14) photos from a helicopter over the HNR and Clark Structural properties on July 10, 2012. These photos show the current extent of grass cover over the PCC piles, and provide the most current view of the site.

Letter from Neighboring Property Owner (Billy Ritchie) – A letter is submitted from Billy Ritchie, the owner of the property immediately south of the HNR property. In this letter Mr. Ritchie states unequivocally that the PCC Removal operation has been performed with professionalism and has not caused any nuisance conditions. Mr. Ritchie disputes Ms. Cedarblade’s allegations regarding the PCC removal process. Mr. Ritchie has not suffered any negative effects despite living directly south of the HNR property and the site of PCC removal activities for over 30 years.

SWAPE Analysis – Clark Pacific submits an analysis from Paul Rosenfeld, Ph.D., an Environmental Chemist and principal at Soil Water Air Protection Enterprise (SWAPE). Dr. Rosenfeld has a Ph.D. in chemistry and has extensive experience with PCC and other agricultural chemicals (a copy of Dr. Rosenfeld’s CV is included). The thesis for his doctorate degree was on the addition of biosolids to calcium carbonate from the paper industry. His analysis responds to the analysis of soil and dust samples collected by Jeffrey Clayton of Grayland Environmental Consulting Services. Dr. Rosenfeld found that the levels of calcium carbonate in the soil sample

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<sup>2</sup> Sustained wind speeds of up to 31 mph were recorded on June 9, 2012, with gusts up to 41 mph. Wind direction was out of the north-northwest. (Information for zip code 95776 from [www.weatherunderground.com](http://www.weatherunderground.com) accessed 7/12/2012).

taken by Mr. Clayton were actually lower than the level that is occurs naturally in soils throughout the Sacramento Valley. Dr. Rosenfeld also found that Mr. Clayton failed to identify the type of chromium found in the sample, which makes it impossible to reach any conclusion related to chromium.

Wallace-Kuhl Report – A Response to Comments will be provided under separate cover from Wallace-Kuhl & Associates (WKA). This report responds to four assertions in correspondence from Don Mooney (and Jeffrey Clayton of Grayland Environmental Consulting Services), Pam Neiberg, Alan Pryor (Ozone Process Consultants, Inc.) and Brenda Cedarblade. First, the WKA report discusses previous determinations by the CVRWQCB regarding potentially hazardous materials at the site, and finds that there is no evidence of contamination from heavy metals or other industrial pollutants among the basic constituents of PCC. Second, the report shows that PCC is not affecting groundwater quality. Third, the report questions Mr. Clayton's sampling methods and analysis of dust collected inside the Cedarblade residence. Lastly, the WKA report disputes the assertion that fugitive dust causes nuisance conditions, based on multiple site inspections by YSAQMD personnel.

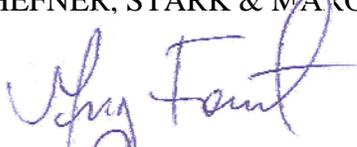
*Conclusion*

Please accept the rebuttal evidence submitted with this cover letter on behalf of Clark Pacific and Clark Structural, LLC. Our clients take their responsibility to the CVRWQCB very seriously and are committed to the clean-up and BMPs described in this letter. We look forward to discussing these matters and responding to any questions that the staff or members of the Board may have at the hearing in August.

Very truly yours,

HEFNER, STARK & MAROIS, LLP

By

  
Gregory A. Forest

GAF  
Enclosures