

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

CEASE AND DESIST ORDER NO. R5-2015-0114
REQUIRING
SIERRA NEVADA CHEESE COMPANY, INC.
AND
GREGERSEN PROPERTIES LLC
CHEESE PRODUCTION FACILITY
GLENN COUNTY

TO COMPLY WITH REQUIREMENTS PRESCRIBED IN WASTE DISCHARGE
REQUIREMENTS ORDER R5-2007-0043

The California Regional Water Quality Control Board, Central Valley Region (hereafter referred to as Central Valley Water Board), finds:

1. On 4 May 2007, the Central Valley Water Board adopted Waste Discharge Requirements Order No. R5-2007-0043 (WDRs) for Sierra Nevada Cheese Company and Gregersen Properties LLC (collectively hereafter Discharger). The Discharger owns and operates a cheese factory located at 6505 County Road 39 in Willows, Glenn County (Facility). The WDRs regulate the discharge of treated cheese production wastewater to land for disposal.
2. Approximately 65,000 gallons of milk are processed monthly. The primary waste stream is liquid whey from the fraction of milk that is not made into cheese. The Facility includes seven, unlined, wastewater ponds. Wastewater is treated primarily through aeration, biological degradation, settling, and percolation through soils. At the time of the issuance of the WDRs, all wastewater was contained in Ponds 1, 2, and 3 located immediately east of the plant and south of County Road 39. Process and cooling waters are discharged directly to Pond 1, which is aerated. Wastewater from Pond 1 overflows to Ponds 2 and 3, which also have aerators. Historically excess wastewater from Pond 3 was discharged to Ponds 4 through 7 north of County Road 39.
3. The Facility is in the Stony Creek Fan of the Sacramento Valley Groundwater Basin. The Stony Creek Fan is an unconfined aquifer system, consisting mainly of unconsolidated, unweathered gravel and sand, with areas of clay interspersed. Groundwater in the shallow aquifer has been measured in these wells between 6 to 20 feet below ground surface.
4. Discharge Prohibition A.2 of the WDRs specifies that *“By-pass or overflow of untreated or partially treated waste is prohibited, except as allowed in Provision E.2 of the Standard Provisions and Reporting Requirements for Waste Discharge Requirements.”*
5. Review of the case file, including past Inspection Reports, Notices of Violation, and Monitoring Reports revealed that from the fall of 2013 through the spring of 2014 the Discharger periodically discharged untreated or partially treated whey wastewater directly into Pond Nos. 4 and 5, bypassing Ponds 1 through 3. Additionally, for a period

of three weeks in February and March of 2015, the Discharger again discharged partially treated wastewater directly into Pond No. 5.

6. The discharges described in Finding 5 violated Discharge Prohibition A.2 of the WDRs.
7. Discharge Provision E.10 of the WDRs specifies "*The Discharger shall report promptly to the Regional Water Board any material change or proposed change in the character, location, or volume of the discharge*".
8. Review of the case file, including past Inspection Reports, Notices of Violation, and Monitoring Reports revealed that between the fall of 2013 and spring of 2014 and a period of three weeks between February and March 2015 the discharger changed the character and location of discharge without notifying the Regional Water Board of proposed changes. The discharger diverted wastewater directly to Ponds 4 and 5 rather than to Pond 1.
9. The discharges described in Finding 8 violated Discharge Provision E.10 of the WDRs.
10. Discharge Specification B.4 of the WDRs specifies that "*Objectionable odors originating at this Facility shall not be perceivable beyond the limits of the Discharger's property.*"
11. Review of the case and monitoring files indicates that there have been at least eight odor complaints from nearby property owners dating back to 2007.
12. Most recent odor complaints were associated with the discharge of untreated or partially treated process wastewater that was directly discharged to Ponds Nos. 4 and 5 in the fall of 2013 and spring of 2014 rather than Pond 1. Inspections of the Facility on 15 August 2013, 11 March 2014, and 14 April 2015 and odor observations by Central Valley Water Board staff on at least 14 days from 11 March 2014 to 8 June 2015 confirmed the presence of objectionable odors originating from the Facility and perceivable beyond the limits of the Discharger's property.
13. Based on the information cited in Findings 11 and 12, the Discharger violated Discharge Specification B.4 of the WDRs.
14. Discharge Specification B.5 of the WDRs specifies that "*As a means of ensuring compliance with Discharge Specification No. B.4, the dissolved oxygen content in the upper one-foot of any wastewater pond shall not be less than 1.0 mg/L.*"
15. Review of the case file, including past Notices of Violations and Monitoring Reports revealed that the dissolved oxygen (DO) levels in Ponds 1, 2, and 3, are frequently below 1.0 mg/L since adoption of the WDRs in May 2007. Dissolved oxygen levels reported between May 2007 and May 2015 indicates approximately 85% of the reported DO measurements collected from Pond 1 were below the permit requirements of 1.0 mg/L. Additionally 38% of the measurements from Pond 2 and 21% of the measurements from Pond 3 were also reported below permit requirements.

16. The information cited in Finding 15 indicates the Discharger violated Discharge Specification B.5 of the WDRs.
17. The WDRs include a Monitoring and Reporting Program (MRP). The MRP requires the Discharger to monitor weekly and report monthly the freeboard measurements in all ponds to ensure that they are not less than two feet as measured vertically from the water surface to the lowest point of overflow.
18. Review of the case file, including past Notices of Violations and Monitoring Reports revealed that freeboard has not been monitored or reported since February 2012.
19. The information cited in Finding 18 indicates the Discharger violated or failed to comply with freeboard monitoring and reporting requirement in the MRP.
20. The MRP requires the Discharger to collect samples from wastewater disposal ponds and groundwater monitoring wells and submit results of monitoring to the Central Valley Water Board.
21. The MRP requires the monitoring of four groundwater monitoring wells surrounding the Facility. Monitoring of these wells includes the measurement and analysis of physical and chemical parameters listed in the MRP.
22. In a 2 June 2011 Monitoring Well Assessment report the Discharger recommended the abandonment of Monitoring Well MW-3. Due to agricultural practices Monitoring Well MW-3 was not an appropriate point of compliance to monitor for potential impacts of wastewater to underlying groundwater. Monitoring Well MW-3 was removed from the monitoring program and abandoned in April 2012. The abandonment of Monitoring Well MW-3 was documented in a 1 June 2012 Second Quarter 2012 monitoring report submitted by the Discharger. Reportedly due to drought conditions Monitoring Well MW-2 has been dry and subsequently not sampled since September 2013. Monitoring Wells MW-1 and MW-4 have also been reported as dry and not able to be monitored due to drought conditions since September 2013 with the exception of the first quarter of 2014.
23. In a letter dated 8 March 2010, Central Valley Water Board staff requested a work plan for the expansion of the current monitoring well network, which included the installation of new groundwater monitoring wells in and around the Facility. The requested work plan was submitted on 11 June 2011 as an attachment of a *Monitoring Well Assessment Report*. The Discharger proposed to install three new monitoring wells. Central Valley Water Board staff concurred with the work plan in a letter dated 1 August 2011, which requested the submittal of a time schedule for the implementation of work plan tasks by 31 August 2011. The Discharger claims installation of the wells was delayed due to operational changes.
24. On 7 April 2014 Central Valley Water Board staff issued a Notice of Violation for noncompliance with WDR and MRP conditions. The Notice of Violation requested detailed responses from the Discharger for each of the violations listed by 30 May 2014, which included a time schedule for the installation of proposed groundwater monitoring

wells. The Discharger submitted a response to the Notice of Violation in a 28 May 2014 letter. In the letter the Discharger provided a time schedule which indicated proposed groundwater monitoring wells would be installed by 30 September 2014. To date, these wells have not been installed.

25. The information cited in Findings 22, 23 and 24 indicates the Discharger violated and continues to violate the groundwater monitoring and reporting requirements in the MRP.

REGULATORY CONSIDERATIONS

26. The Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fourth Edition (hereafter Basin Plan) designates beneficial uses, establishes water quality objectives, and contains implementation plans and policies for protecting waters of the basins. The designated beneficial uses of underlying groundwater are municipal and domestic supply, agricultural supply, industrial service supply, and industrial process supply.

27. California Water Code, Section 13301, states, in part, that:

When a regional board finds that a discharge of waste is taking place or threatening to take place in violation of requirements or discharge prohibitions prescribed by the regional board or the state board, the board may issue an order to cease and desist and direct that those persons not complying with the requirements or discharge prohibitions (a) comply forthwith, (b) comply in accordance with a time schedule set by the board, or (c) in the event of a threatened violation, take appropriate remedial or preventive action. Cease and desist orders may be issued directly by a board, after notice and hearing.

28. As a result of the events and activities described in this Order, the Central Valley Water Board finds that the Discharger is in violation of discharge specifications in its WDR and failed to comply with its MRP. This Order requires the Discharger to take appropriate remedial action and to comply in accordance with the time schedule set forth below.

29. Section 13267 of the California Water Code states, in part, that:

(a) A regional board, in establishing or reviewing any water quality control plan or waste discharge requirements, or in connection with any action relating to any plan or requirement or authorized by this division, may investigate the quality of any waters of the state within its region.

(b)(1) In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or who proposes to discharge waste 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 those 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 that supports requiring that person to provide the reports.

30. The technical reports required by this Order are necessary to assure compliance with the WDRs. The Discharger operates the facility that produces and discharges the waste subject to the WDRs. The actions and reports required by this order are directly related to the Discharger's compliance with the WDRs and do not require expense that is not already required pursuant to the WDRs. The expense will not affect the Discharger's ability to continue business. The burden of these actions and reports bears a reasonable relationship to the need for the actions and reports.
31. 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 Title 14, California Code of Regulations, Section 15321(a)(2). Issuance of this Order is being taken for the protection of the environment and as such is exempt from provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) in accordance with California Code of Regulations, title 14, sections 15061(b)(3), 15306, 15307, 15308, and 15321. This Order generally requires the Discharger to submit plans for approval prior to implementation of remedial measures and activities required to comply with the Discharger's waste discharge requirements. Mere submittal of plans is exempt from CEQA as submittal will not cause a direct or indirect physical change in the environment and/or is an activity that cannot possibly have a significant effect on the environment. CEQA review at this time would be premature and speculative, as there is simply not enough information concerning the Discharger's proposed remedial activities and possible associated environmental impacts. If the Regional Board determines that implementation of any plan required by this Order will have a significant effect on the environment, the Regional Board will conduct the necessary and appropriate environmental review prior to Executive Officer's approval of the applicable plan. The Discharger will bear the costs, including the Regional Board's costs, of determining whether implementation of any plan required by this Order will have a significant effect on the environment and, if so, in preparing and handling any documents necessary for environmental review. The Discharger and a consultant acceptable to the Regional Board shall enter into a memorandum of understanding with the Regional Board regarding such costs prior to undertaking any environmental review.
32. On 2 October 2015, in Redding, California, after due notice to the Discharger and all other affected persons, a public hearing was held and evidence received to consider this Cease and Desist Order.

IT IS HEREBY ORDERED THAT: Pursuant to sections 13301 and 13267 of the California Water Code, the Sierra Nevada Cheese Company, its agents, successors, and assigns, shall implement the following measures necessary to ensure compliance with WDRs Order R5-2007-0043 and any amendments or revisions thereto.

Any person signing a document submitted to comply with this Order shall make the following certification:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment.

1. Cease and desist discharging wastes in violation or threatened violation of WDRs. No term or condition of WDRs is superseded or stayed by this Cease and Desist Order.
2. **Freeboard Monitoring, Increase Dissolved Oxygen Concentration, and Odor Reduction.** In order to ensure compliance with Discharge Specifications B.4, B.5, and B.8 of the WDRs the Discharger shall complete the following tasks no later than the dates stated in the following time schedule:

	Task	Compliance Date
a.	Interim Operation Plan: Implement an interim operation plan for immediate measures to: (a) eliminate objectionable odors from being perceivable beyond the limits of the Discharger's property as required in Discharge Specification B.4 of the WDRs, (b) increase dissolved oxygen concentration within the wastewater ponds to a concentration of at least 1.0 mg/L as required in Discharge Specification B.5 of the WDRs or at concentrations required to eliminate odors, and (c) implement freeboard monitoring and ensure freeboard is not less than two feet as required in Discharge Specification B.8 of the WDRs.	1 November 2015
b.	Work plan and Implementation Schedule: Submit a technical report in the form of a work plan, including a proposed time schedule for implementation that describes in detail, appropriate engineering calculations and design information, and measures proposed to address WDRs Discharge Specification B.4, Discharge Specification B.5, and Discharge Specification B.8 of the WDRs. <ul style="list-style-type: none"> • The time schedule in the Work Plan must include an implementation date of no later than 30 days after Executive Officer approval of a Work Plan. • The time schedule in the Work Plan must achieve full compliance with WDRs no later than 6 months after Executive Officer approval of a Work Plan. 	No later than 31 January 2016
c.	Progress Reporting and Final Report: The Discharger	Progress Report: every

	<p>is required to submit quarterly progress reports every March, June, September, and December along with a Final Report no later than 30 days after final implementation of the Work Plan. The reports must describe and explain progress with implementation of the Work Plan and whether the Discharger has met WDRs Discharge Specification B.4, Discharge Specification B.5, and Discharge Specification B.8 of the WDRs.</p>	<p>March, June, September, and December</p> <p>Final Report: 30 days after the final implementation of the Work Plan.</p>
--	--	--

3. **Groundwater Monitoring.** The Discharger shall complete the following tasks no later than the dates stated in the following time schedule:

	Task	Compliance Date
a.	<p>Groundwater Monitoring Work Plan and Implementation Schedule: Submit a technical report in the form of an updated work plan and proposed time schedule that describes in detail, including appropriate engineering calculations and design information, measures proposed to install a new groundwater monitoring well network to ensure compliance with the Groundwater Monitoring requirements of the MRP.</p> <ul style="list-style-type: none"> • The time schedule in the Work Plan must include an implementation date of no later than 30 days after Executive Officer approval of a Work Plan. • The time schedule in the Work Plan must achieve full compliance with WDRs no later than 30 March 2016. 	<p>1 November 2015</p>

In addition to the above, the Discharger shall comply with all applicable provisions of the Water Code that are not specifically referred to in this Order. As required by the Business and Professions Code sections 6735, 7835, and 7835.1, all technical reports shall be prepared by, or under the supervision of, a California Registered Engineer or Professional Geologist and signed/stamped 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 complaint for administrative civil liability.

Failure to comply with this Order or with the WDRs may result in the assessment of administrative civil liability of up to \$5,000 per violation, per day, depending on the violation, pursuant to the Water Code, including sections 13268 and 13350. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date that this Order becomes final, except that if the thirtieth day following the date that this Order becomes final falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at

http://www.waterboards.ca.gov/public_notices/petitions/water_quality

or will be provided upon request.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify 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 2 October 2015.

Original signed by:

PAMELA C. CREEDON, Executive Officer

RLT:sjs