

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

TIME SCHEDULE ORDER NO. R5-2010-0009

REQUIRING  
HILMAR CHEESE COMPANY, INC.  
HILMAR CHEESE PROCESSING PLANT  
MERCED COUNTY  
TO COMPLY WITH REQUIREMENTS PRESCRIBED IN ORDER NO. R5-2010-0008

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

1. On 29 January 2010, the Central Valley Water Board adopted Waste Discharge Requirements (WDR) Order R5-2010-0008 prescribing waste discharge requirements for Hilmar Cheese Company, Inc. (hereafter Discharger) at its Cheese Processing Plant's wastewater treatment facility (WWTF), Merced County. The Discharger discharges wastewater to two Reuse Areas known as the Primary and Secondary Lands as described in Order R5-2010-0008.
2. The Central Valley Water Board issued Cleanup and Abatement Order R5-2004-0772 (CAO) in December 2004 due to nuisance conditions and impacts to groundwater from the Discharger's disposal of wastewater to land. The CAO directs the Discharger to abate nuisance and address impacts to groundwater caused by its discharge in violation of Order 97-206. Work to address the tasks of the CAO is ongoing.
3. On 26 January 2005, the Executive Officer issued Administrative Civil Liability Complaint R5-2005-0501 to the Discharger in the amount of \$4,000,000 for chronic violations of the effluent electrical conductivity (EC) limitation prescribed in Order 97-206. On 16 March 2006, the Central Valley Water Board adopted Order R5-2006-0025, which ratified a Revised Settlement Agreement with the Discharger. Order R5-2006-0025 settled Administrative Civil Liability Complaint R5-2005-0501; required the Discharger to submit a Report of Waste Discharge (RWD) by 31 October 2006; and prescribed Interim Operating Limits for discharge flow and effluent EC that would be in effect until the Central Valley Water Board issued revised waste discharge requirements for the discharge.
4. The Revised Settlement Agreement required the Discharger to assess the impact to groundwater and submit an RWD by October 2006. The Revised Settlement Agreement included Interim Operating Limits (Order R5-2006-0025) that prescribed discharge requirements until the Discharger could complete improvements to the WWTF. The Discharger has been operating within those limits since adoption of the Revised Settlement Agreement in March 2006, which became effective in April 2006. The Interim Operating Limits allow for the discharge of up to 1.2 million gallons per day (mgd) of partially-treated wastewater with an EC of up to 3,700 micromhos per centimeter ( $\mu\text{mhos/cm}$ ) to the Primary Lands. In 2008, the monthly average flow of partially-treated wastewater to the Primary Lands was about 0.65 mgd, with an average EC of about 3,500  $\mu\text{mhos/cm}$ . In 2009 (through November 2009), the discharge of partially-treated wastewater to the Primary Lands was about 0.60 mgd, with an average EC of about 3,300  $\mu\text{mhos/cm}$ .

5. The Discharger submitted a RWD in 2006, but also indicated that it needed additional time to complete its evaluation of WWTF improvements and effluent disposal options. Central Valley Water Board staff concurred with the Discharger's determination that additional time was necessary to allow it to submit an RWD of sufficient detail for staff to prepared revised WDRs. The Discharger submitted two additional RWDs in November 2007 and June 2008, followed by an *Addendum to Report of Waste Discharge* (Addendum) dated 13 November 2008 prepared by Kennedy/Jenks Consultants.
6. The Addendum proposed to increase the discharge flow from 1.9 to 2.5 mgd; to fully treat all the Plant's cheese processing wastewater flow by December 2009; and provide reuse water for use as an irrigation supply to owners of about 1,200 acres of agricultural land situated generally west/northwest of the Plant. In July 2009, the Discharger reported that costs associated with ultrafiltration (UF) and reverse osmosis (RO) units may not be sustainable and that it was evaluating a new salinity-removal technology, Electrodialysis Reversal (EDR), an electrochemical separation process that removes ions and other charged species from water and other fluids. The Discharger indicated the EDR system could potentially function more effectively than UF/RO treatment and its associated costs in labor, chemicals, maintenance, and equipment would be considerably less. EDR treatment technology has been successfully employed to treat brackish water for use as drinking water, but has not been tested on industrial wastes such as from a cheese processing plant.
7. The Discharger indicated it would need until 1 May 2010 to complete a testing program to evaluate the EDR technology. If testing indicates EDR is effective, the Discharger proposed a date of 15 July 2011 to have the equipment installed and operating. Should testing indicate EDR is not applicable, the previously proposed UF/RO system would be in place by 15 February 2011.
8. The average discharge flow rate to the Primary Lands from April 2006 through 2008 was about 0.73 mgd. In 2008, the average flow was about 0.65 mgd. Even with flows considerably less than the 1.2 mgd limit in the Interim Operating Limits, Central Valley Water Board staff received complaints from nearby residents in 2008 and issued three NOVs because of standing wastewater that had caused or threatened to cause objectionable odors and potential nuisance conditions. In the latter part of 2009, the Discharger modified the means for discharge to the Primary Lands in an effort to further reduce the potential for objectionable odors and potential nuisance conditions.

9. WDR Order No. R5-2010-0008 contains Effluent Limitations B.1 and B.2, which reads:

1. The discharge shall not exceed the following monthly averages for the constituents listed:

<b>Parameter</b>	<b>Effluent Limit<sup>1</sup></b>
Electrical Conductivity (EC)	1,000 umhos/cm
Total Dissolved Solids (TDS)	600 mg/L
5-Day Biochemical Oxygen Demand (BOD)	50 mg/L
Chloride	85 mg/L
Total Nitrogen (TKN + NO <sub>3</sub> as N)	20 mg/L

1. Micromhos/centimeter (umhos/cm), milligrams per liter (mg/L), million gallons per day (mgd).

2. The discharge from the WWTF to the effluent storage ponds shall not exceed the following 12-month rolling average for the constituents listed:

<b>Parameter</b>	<b>Effluent Limit<sup>1</sup></b>
Electrical Conductivity (EC)	900 µmhos/cm
Total Dissolved Solids (TDS)	500 mg/L

10. Immediate compliance with Effluent Limitation B.1 for the portion of flow currently discharged to the primary lands is not practicable. The California Water Code authorizes time schedules for achieving compliance.

11. California Water Code (CWC) section 13300 states: *“Whenever a regional board finds that a discharge of waste is taking place or threatening to take place that violates or will violate requirements prescribed by the regional board, or the state board, or that the waste collection, treatment, or disposal facilities of a discharger are approaching capacity, the board may require the discharger to submit for approval of the board, with such modifications as it may deem necessary, a detailed time schedule of specific actions the discharger shall take in order to correct or prevent a violation of requirements.”*

12. In accordance with CWC section 13300, the Central Valley Water Board finds that there is a discharge of waste threatening to take place that will violate requirements prescribed by the Central Valley Water Board, and that the Discharger may not be able to immediately comply with Effluent Limitation B.1 on the Primary Lands for EC, TDS, BOD, chloride, and total nitrogen. Therefore, the Central Valley Water Board finds that a Time Schedule Order is appropriate.

13. CWC Section 13267(b) states that: “In conducting an investigation specified in subdivision (a), the Central Valley Water 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 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 within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the Central Valley Water 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 Central Valley Water 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.”

14. The technical reports required by this Order are necessary to assure compliance with the Order and applicable provisions of the California Water Code. The Discharger operates the facility that discharges the waste subject to this Order.
15. On 29 January 2010, in Sacramento, California, after due notice to the Discharger and all other affected persons, the Regional Water Board conducted a public hearing at which evidence was received to consider a Time Schedule Order under CWC section 13300 to establish a time schedule to achieve compliance with waste discharge requirements.
16. The issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.) because it is an enforcement order exempted under 15321(a)(2), Title 14, California Code of Regulations. This Order is also exempt under Section 15061(b)(3) because it implements the Effluent Limitations imposed by another Order, and because it will result in improvement of the quality of ongoing discharges that are part of the CEQA “baseline.”
17. Any person adversely affected by this action of the Regional Water Board may petition the State Water Resources Control Board (State Water Board) to review the action. The petition must be received by the State Water Board Office of the Chief Counsel, P.O. Box 100, Sacramento, California 95812-0100, within 30 days of the date on which the action was taken. Copies of the law and regulations applicable to filing petitions may be found on the Internet at [www.waterboards.ca.gov/centralvalley](http://www.waterboards.ca.gov/centralvalley) or will be provided upon request.

**IT IS HEREBY ORDERED** that, pursuant to sections 13300 and 13267 of the California Water Code, Hilmar Cheese Company, Inc. and its agents, successors, and assigns, shall comply with the following:

1. The Discharger shall comply with the following time schedule to ensure compliance with Effluent Limitation B.1 on the Primary Lands contained in WDR Order No. R5-2010-0008 as described in the above findings.

<b><u>Task</u></b>	<b><u>Date Due</u></b>
Submit a Work Plan indicating what treatment system will be used to treat wastewater to the numerical limits listed in Effluent Limitation B.1.	<b>15 May 2010</b>
Submit progress reports <sup>1</sup>	<b>Quarterly, from 15 July 2010 until final compliance</b>
Full Compliance if UF/RO technology is implemented <sup>2</sup>	<b>15 February 2011</b>
Full Compliance if anything other than UF/RO technology is implemented <sup>2</sup>	<b>15 July 2011</b>

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<sup>1</sup> The progress reports shall report the monthly average flow volume discharged to the Primary Lands and detail what steps have been implemented towards completing the expansion project, including studies, construction progress, evaluation of measures implemented, and recommendations for additional measures as necessary to cease discharge of partially-treated wastewater to the Primary Lands.

<sup>2</sup> Full compliance shall be demonstrated by ceasing the discharge of partially treated wastewater to the Primary Lands by the final compliance date.

2. The following interim effluent limitations for discharge to the Primary Lands, as defined in Order R5-2010-0008, shall be effective immediately:
  - a. The discharge flow shall be limited to whatever is necessary to preclude wastewater from standing in the Reuse Area for greater than 48 hours and to preclude the creation of nuisance conditions.
  - b. The monthly average discharge flow shall not exceed 0.500 mgd.
  - c. The monthly average EC of the discharge shall not exceed 3,600 µmhos/cm.
  - d. The 12-month rolling average EC of the discharge shall not exceed 3,400 µmhos/cm.
3. If, in the opinion of the Executive Officer, the Discharger violates this Order, the Executive Officer may refer the matter to the Attorney General for judicial enforcement or alternately issue a formal complaint for Administrative Civil Liability

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 29 January 2010.

*Original signed by:*

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PAMELA C. CREEDON, Executive Officer