

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2009-0534

ADMINISTRATIVE CIVIL LIABILITY  
IN THE MATTER OF

JOHN BOS DAIRY  
STANISLAUS COUNTY

This Administrative Civil Liability Complaint (hereafter Complaint) is issued to the John Bos Dairy based on a finding of failure to submit technical reports pursuant to California Water Code (CWC) section 13267, for which administrative civil liability may be imposed pursuant to CWC section 13268.

The Executive Officer of the Central Valley Regional Water Quality Control Board (Central Valley Water Board or Board) finds, with respect to the John Bos Dairy's acts, or failure to act, the following:

1. The Discharger is the John Bos Dairy, owned by John Bos and operated by John Allen Bos, and is located at 4524 Milnes Rd, Modesto.
2. The John Bos Dairy consists of a 460 milk cow dairy facility with a 10-acre production area and 45 acres of cropland currently used for manure application (wastewater and solids).
3. On 3 May 2007 the Central Valley Water Board issued the Waste Discharge Requirements General Order for Existing Milk Cow Dairies Order R5-2007-0035 ("General Order"). This order serves as general waste discharge requirements for discharges of waste from existing milk cow dairies of all sizes (as defined in Finding 7 of the General Order), including John Bos Dairy. On 30 June 2007, Alice Bos, on behalf of John Bos Dairy, signed the certified mail receipt notifying the Discharger of coverage under the General Order.
4. CWC section 13267 authorizes Regional Water Boards to require the submittal of technical or monitoring reports from any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste to waters of the state.
5. Section J. 1 of the General Order, under "Schedule of Tasks" requires the dischargers to develop and implement a Waste Management Plan and Nutrient Management Plan and submit an Existing Conditions Report, Proposed Interim Facility Modifications, Salinity Report, Preliminary Infrastructure Needs checklist, and Annual Reports according to the schedule in Table 1. According to Table 1, by 31 December 2008, a Statement of Completion of Item V (Field Risk Assessment) of Attachment C (Nutrient Management Plan) and a Preliminary Infrastructure Needs Checklist were due to the Central Valley

Water Board. In the General Order, the Board required the submittal of these reports under the authority of CWC section 13267.

6. The Preliminary Infrastructure Needs Checklist consists of identification and documentation of infrastructure changes that will be needed to properly manage wastes at the facility. The Field Risk Assessment evaluates the effectiveness of management practices to control waste discharges from land application areas. The Statement of Completion certifies that the Field Risk Assessment was done and is available for review at the dairy.
7. On 9 March 2009, the Central Valley Water Board issued, via certified mail, a letter reminding the John Bos Dairy of the requirement to submit the Preliminary Infrastructure Needs Checklist and the Statement of Completion. The certified mail receipt was signed as received by John Bos on 11 March 2009. A second certified letter was received by Brooke K Bos on 14 March 2009.
8. Board staff checked the compliance tracking system and case files and it was verified that the Central Valley Water Board had not received a response or technical report from John Bos Dairy.

### **VIOLATIONS**

9. The requirement to submit the technical reports in accordance with CWC section 13267 was issued to the John Bos Dairy on 3 May 2007 as part of the General Order. The required technical reports were due by 31 December 2008. As of 15 May 2009, John Bos Dairy's technical reports are 135 days past due.

### **REGULATORY CONSIDERATIONS**

10. CWC section 13267 (b) states, in relevant part:

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..., 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.

11. CWC section 13268 (a) states:

Any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of section 13267, or failing or refusing to furnish a statement of compliance as required by subdivision (b) of section 13399.2, or falsifying any information provided therein, is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).

Administrative Civil Liability Complaint No. R5-2009-0534  
John Bos Dairy, Stanislaus County

12. CWC section 13268(b)(1) states:

Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with section 13323) or Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed one thousand dollars (\$1000) for each day in which the violation occurs.

13. The required technical reports are 135 days past due. The maximum liability under CWC section 13268(b)(1) for the nonsubmittal of the technical reports is \$1000 per day late, for a total of one hundred thirty five thousand dollars (\$135,000).

14. The Executive Officer has considered the nature, circumstances, extent, and gravity of the John Bos Dairy's failure to submit a technical report as required, the John Bos Dairy's ability to pay the proposed civil liability, the effect of the proposed civil liability on the John Bos Dairy's ability to continue in business, any history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the failure to submit the technical report required, and other matters as justice may require, including the staff time required to prepare this Complaint.

15. Central Valley Water Board staff spent a total of 5 hours preparing this Complaint. The total cost for staff time is \$675 based on a rate of \$135 per hour.

**JOHN BOS AND JOHN ALLEN BOS ARE HEREBY GIVEN NOTICE THAT:**

1. The Executive Officer of the Central Valley Water Board proposes that the John Bos Dairy be assessed an administrative civil liability in the amount of **one thousand dollars (\$1,000)**. The amount of the proposed liability is based upon a review of the factors cited in CWC sections 13268 and 13327, as well as the State Water Resources Control Board's Water Quality Enforcement Policy, and includes consideration of the economic benefit or savings resulting from the violations.
2. A hearing on this matter will be conducted at the Central Valley Water Board meeting scheduled on **13/14 August 2009**, unless the John Bos Dairy does either of the following by **15 June 2009**:
  - a) Waives the hearing by completing the attached form (checking off the box next to item #4) and returning it to the Central Valley Water Board, along with payment for the proposed civil liability of **one thousand dollars (\$1,000)**; or
  - b) Agrees to enter into settlement discussions with the Central Valley Water Board and requests that any hearing on the matter be delayed by signing the enclosed waiver (checking off the box next to item #5) and returning it to the Central Valley Water Board along with a letter describing the issues to be discussed.

Administrative Civil Liability Complaint No. R5-2009-0534  
John Bos Dairy, Stanislaus County

3. If a hearing on this matter is conducted, the Central Valley Water Board will consider whether to affirm, reject, or modify the proposed Administrative Civil Liability, which may include raising the monetary value of the civil liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

\_\_\_\_\_ original signed by \_\_\_\_\_  
PAMELA C. CREEDON, Executive Officer

\_\_\_\_\_  
(15 May 2009)

Central Valley Regional Water Quality Control Board

PROPOSED DRAFT HEARING PROCEDURE  
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT  
R5-2009-0534

ISSUED TO  
JOHN BOS DAIRY  
STANISLAUS COUNTY

SCHEDULED FOR 13/14 AUGUST 2009

PLEASE READ THIS HEARING PROCEDURE CAREFULLY. FAILURE TO COMPLY WITH THE DEADLINES AND OTHER REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF YOUR DOCUMENTS AND/OR TESTIMONY.

**Background**

The Executive Officer has issued an Administrative Civil Liability (ACL) Complaint pursuant to California Water Code (CWC) section 13323 to John Allan Bos and John Bos, dba John Bos Dairy ("Discharger") alleging that it has violated CWC section 13267 by failing to file technical reports required by Waste Discharge Requirements General Order for Existing Milk Cow Dairies, Order R5-2007-0035. The Complaint proposes that an administrative civil liability in the amount of one thousand dollars (\$1,000) be imposed. A hearing is currently scheduled to be held before the Central Valley Water Board during its 13/14 August 2009 meeting.

**Purpose of Hearing**

The purpose of the hearing is to consider relevant evidence and testimony regarding the ACL Complaint. At the hearing, the Central Valley Water Board will consider whether to issue an administrative civil liability order assessing the proposed liability, or a higher or lower amount, or reject the proposed liability. The public hearing on 13/14 August 2009 will commence at 8:30 a.m. or as soon thereafter as practical, or as announced in the Central Valley Water Board meeting agenda. The meeting will be held at  
11020 Sun Center Drive, Suite 200, Rancho Cordova, California.

An agenda for the meeting will be issued at least ten days before the meeting and posted on the Central Valley Water Board's web page at:

[http://www.waterboards.ca.gov/centralvalley/board\\_info/meetings](http://www.waterboards.ca.gov/centralvalley/board_info/meetings).

## **Hearing Procedures**

The hearing will be conducted in accordance with this Hearing Procedure. This proposed draft version of the Hearing Procedure has been prepared by the Prosecution Team, and is subject to revision and approval by the Central Valley Water Board's Advisory Team. A copy of the general procedures governing adjudicatory hearings before the Central Valley Water Board may be found at California Code of Regulations, title 23, section 648 et seq., and is available at <http://www.waterboards.ca.gov> or upon request. In accordance with Section 648, subdivision (d), any procedure not provided by this Hearing Procedure is deemed waived. Except as provided in Section 648 and herein, subdivision (b), Chapter 5 of the Administrative Procedures Act (commencing with Gov't Code § 11500) does not apply to this hearing.

THE PROCEDURES AND DEADLINES HEREIN MAY BE AMENDED BY THE ADVISORY TEAM IN ITS DISCRETION. **ANY OBJECTIONS TO THE HEARING PROCEDURE MUST BE RECEIVED BY THE CENTRAL VALLEY WATER BOARD'S ADVISORY TEAM NO LATER THAN 26 MAY 2009, OR THEY WILL BE WAIVED.** THESE DRAFT HEARING PROCEDURES WILL BECOME FINAL AT 5:00 P.M. ON **26 MAY 2009** IF NO PARTY SUBMITS TIMELY OBJECTION(S), OR AS OTHERWISE DIRECTED BY THE ADVISORY TEAM. FAILURE TO COMPLY WITH THE DEADLINES AND REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF DOCUMENTS AND/OR TESTIMONY.

## **Hearing Participants**

Participants in this proceeding are designated as either "parties" or "interested persons." Designated parties to the hearing may present evidence and cross-examine witnesses and are subject to cross-examination. Interested persons may present non-evidentiary policy statements, but may not cross-examine witnesses and are not subject to cross-examination. Interested persons generally may not present evidence (e.g., photographs, eye-witness testimony, monitoring data). Both designated parties and interested persons may be asked to respond to clarifying questions from the Central Valley Water Board, staff or others, at the discretion of the Central Valley Water Board.

The following participants are hereby designated as parties in this proceeding:

1. Central Valley Water Board Prosecution Team
2. John Allen Bos and John Bos, referred to as the Discharger

## **Requesting Designated Party Status**

Persons who wish to participate in the hearing as a designated party must request party status by submitting a request in writing (with copies to the existing designated parties) so that it is received no later than 5 p.m. on **1 June 2009** to Lori Okun (contact information listed below). The request shall include an explanation of the basis for status as a

designated party (i.e., how the issues to be addressed in the hearing and the potential actions by the Central Valley Water Board affect the person), the information required of designated parties as provided below, and a statement explaining why the party or parties designated above do not adequately represent the person's interest. Any opposition to the request must be received by the Advisory Team, the person requesting party status, and all other parties by 5 p.m. on **5 June 2009**. The parties will be notified by 5 p.m. on **9 June 2009** whether the request has been granted or denied.

### **Primary Contacts**

#### **Advisory Team:**

Ken Landau, Assistant Executive Officer  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670  
Phone: (916) 464-4726; fax: (916) 464-4758  
[klandau@waterboards.ca.gov](mailto:klandau@waterboards.ca.gov)

Lori Okun, Senior Staff Counsel  
State Water Resources Control Board, Office of Chief Counsel  
1001 I Street  
Sacramento, CA 95814  
Phone: (916) 341-5165; fax: (916) 341-5199  
[lokun@waterboards.ca.gov](mailto:lokun@waterboards.ca.gov)

#### **Prosecution Team:**

Pamela Creedon, Executive Officer  
Joe Karkoski, Acting Assistant Executive Officer  
Rudy Schnagl, Environmental Program Manager  
Charlene Herbst, Senior Engineering Geologist  
Neena Moitoso, Sanitary Engineering Technician  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670  
Phone: (916)464-4762  
[nmoitoso@waterboards.ca.gov](mailto:nmoitoso@waterboards.ca.gov)

Patrick Pulupa, Staff Counsel  
State Water Resources Control Board, Office of Chief Counsel  
1001 I Street  
Sacramento, CA 95814  
Phone: (916) 341-5189; fax: (916) 341-5199  
[ppulupa@waterboards.ca.gov](mailto:ppulupa@waterboards.ca.gov)

**Discharger:**

John Allen Bos  
John Bos Dairy  
3304 Cypress Bay Ln  
Modesto, CA 95355

John Bos  
John Bos Dairy  
4524 Milnes Rd  
Modesto, CA 95357

**Separation of Functions**

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Central Valley Water Board (Prosecution Team) have been separated from those who will provide advice to the Central Valley Water Board (Advisory Team). Members of the Advisory Team are: Ken Landau, Assistant Executive Officer; and Lori Okun, Senior Staff Counsel. Members of the Prosecution Team are: Pamela Creedon, Executive Officer; Joe Karkoski, Acting Assistant Executive Officer; Rudy Schnagl, Environmental Program Manager; Charlene Herbst, Senior Engineering Geologist; Neena Moitoso, Sanitary Engineering Technician; and Patrick Pulupa, Staff Counsel. Any members of the Advisory Team who normally supervise any members of the Prosecution Team are not acting as their supervisors in this proceeding, and vice versa. Members of the Prosecution Team have acted as advisors to the Central Valley Water Board in other, unrelated matters, but they are not advising the Central Valley Water Board in this proceeding. Members of the Prosecution Team have not had any ex parte communications with the members of the Central Valley Water Board or the Advisory Team regarding this proceeding.

**Ex Parte Communications**

The designated parties and interested persons are forbidden from engaging in ex parte communications regarding this matter with members of the Advisory Team or members of the Central Valley Water Board. An ex parte contact is any written or verbal communication pertaining to the investigation, preparation or prosecution of the ACL Complaint between a member of a designated party or interested person on the one hand, and a Central Valley Water Board member or an Advisory Team member on the other hand, unless the communication is copied to all other designated parties (if written) or made in a manner open to all other designated parties (if verbal). Communications regarding non-controversial procedural matters are not ex parte contacts and are not restricted. Communications among one or more designated parties and interested persons themselves are not ex parte contacts.



### **Hearing Time Limits**

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: each designated party shall have a combined 25 minutes to present evidence (including evidence presented by witnesses called by the designated party), cross-examine witnesses (if warranted), and provide a closing statement; and each interested person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid redundant comments. Participants who would like additional time must submit their request to the Advisory Team so that it is received no later than ten days after all of the evidence has been received. Additional time may be provided at the discretion of the Advisory Team (prior to the hearing) or the Central Valley Water Board Chair (at the hearing) upon a showing that additional time is necessary.

### **Submission of Evidence and Policy Statements**

The following information must be submitted in advance of the hearing:

1. All evidence (other than witness testimony to be presented orally at the hearing) that the Designated Party would like the Central Valley Water Board to consider. Evidence and exhibits already in the public files of the Central Valley Board may be submitted by reference as long as the exhibits and their location are clearly identified in accordance with California Code of Regulations, title 23, section 648.3.
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the designated party intends to call at the hearing, the subject of each witness' proposed testimony, and the estimated time required by each witness to present direct testimony.
4. The qualifications of each expert witness, if any.

The evidence upon which the Complaint is based will have been entered into the administrative file at the time the Complaint is issued. However, the Prosecution Team may submit additional evidence into the administrative file until 5 p.m. on **5 June 2009**. The Board's Advisory Team, all other Designated Parties, and all Interested Parties will be notified if additional evidence is added to the file, and will be provided with copies of the additional evidence. Should the Prosecution Team require witnesses to provide direct testimony at the Hearing, the Prosecution Team will provide the Board's Advisory Team, all other Designated Parties, and all Interested Parties with the information contained in items 3 and 4, above, by 5 p.m. on **5 June 2009**.

The remaining designated parties shall submit 11 hard copies and one electronic copy of the information described in items 1 through 4 above to Ken Landau so that they are received no later than 5 p.m. on **19 June 2009**. In addition to the foregoing, each designated party shall send (1) one copy of the above information to each of the other designated parties by 5 p.m. on the deadline specified above. The Designated Parties should submit all rebuttal evidence to Ken Landau no later than 5 p.m. on **20 July 2009**, in

order to allow all parties to consider all evidence prior to the hearing. "Rebuttal evidence" is limited to evidence that is offered to disprove or contradict evidence presented by an opposing party.

If the total amount of information submitted by any party is less than 15 pages, that party may submit the information by email, rather than in writing. In addition to the foregoing, each designated party shall send (1) one copy of the above information to each of the other designated parties by 5 p.m. on the deadline specified above.

Interested persons who would like to submit written non-evidentiary policy statements are encouraged to submit them to the Advisory Team as early as possible. Interested persons do not need to submit written comments in order to speak at the hearing.

In accordance with California Code of Regulations, title 23, section 648.4, the Central Valley Water Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Central Valley Water Board may exclude evidence and testimony that is not submitted in accordance with this Hearing Procedure. Excluded evidence and testimony will not be considered by the Central Valley Water Board and will not be included in the administrative record for this proceeding. Power Point and other visual presentations may be used at the hearing, but their content may not exceed the scope of other submitted written material. Additionally, any witness who has submitted written testimony for the hearing shall appear at the hearing and affirm that the written testimony is true and correct, and shall be available for cross-examination.

### **Evidentiary Documents and File**

The Complaint and related evidentiary documents are on file and may be inspected or copied at the Central Valley Water Board office at 11020 Sun Center Drive, Suite 200, Rancho Cordova. This file shall be considered part of the official administrative record for this hearing. Other submittals received for this proceeding will be added to this file and will become a part of the administrative record absent a contrary ruling by the Central Valley Water Board's Chair. Many of these documents are also posted on-line at <http://www.waterboards.ca.gov/centralvalley/>. Although the web page is updated regularly, to assure access to the latest information, you may contact Neena Moitoso at (916) 464-4710.

### **Questions**

Questions concerning this proceeding may be addressed to Lori Okun at (916) 341-5165.

**IMPORTANT DEADLINES**

(Note: the Central Valley Water Board is required to provide a hearing within 90 days of issuance of the Complaint (CWC § 13323). The Advisory Team will generally adhere to this schedule unless the discharger submits a waiver and it is accepted.)

- |                   |   |
|-------------------|---|
| 15 May 2009       | Prosecution Team issues ACL Complaint to Discharger and Advisory Team, sends proposed Hearing Procedure to Discharger and Advisory Team, and publishes Public Notice. |
| 26 May 2009       | Objections due on proposed Hearing Procedure; Hearing Procedure becomes final if no Objections.   |
| 1 June 2009       | Deadline for submission of request for designated party status.   |
| 5 June 2009       | Deadline for opposition to request for designated party status.   |
| 5 June 2009       | Prosecution Team's deadline for submission of all information required under "Evidence and Policy Statements," above.   |
| 9 June 2009       | Advisory Team issues decision on requests for designated party status, if any.  |
| 15 June 2009      | Discharger's deadline for submitting signed form to waive right to hearing within 90 days.  |
| 19 June 2009      | Remaining Designated Parties' (including the Discharger) Deadline for submission of all information required under "Evidence and Policy Statements," above.           |
| 20 July 2009      | All Designated Parties' should submit all rebuttal evidence (if any) and evidentiary objections by this date.   |
| 13/14 August 2009 | Hearing   |

**WAIVER OF 90-DAY HEARING REQUIREMENT FOR  
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

1. I am duly authorized to represent the John Bos Dairy (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint R5-2009-0534 (hereinafter the "Complaint");
2. I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served" with the Complaint;
3. I hereby waive any right the Discharger may have to a hearing before the Central Valley Regional Water Quality Control Board (Central Valley Water Board) within ninety (90) days of service of the Complaint; and
4.  **(Check here if the Discharger will waive the hearing requirement and will pay the fine)**
  - a. I certify that the Discharger will remit payment for the proposed civil liability in the amount of **one thousand dollars (\$1,000)** by check, which will contain a reference to "ACL Complaint R5-2009-0534" and will be made payable to the "State Water Resources Control Board Waste Discharge Permit Fund." Payment must be received by the Central Valley Water Board by **15 June 2009** or this matter will be placed on the Central Valley Water Board's agenda for adoption at the **13/14 August 2009** Central Valley Water Board meeting.
  - b. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

-or-

5.  **(Check here if the Discharger will waive the 90-day hearing requirement, but will not pay at the current time. The Central Valley Water Board must receive information from the Discharger indicating a controversy regarding the assessed penalty at the time this waiver is submitted, or the waiver may not be accepted.)** I certify that the Discharger will promptly engage the Central Valley Water Board staff in discussions to resolve the outstanding violation(s). By checking this box, the Discharger is *not* waiving its right to a hearing on this matter. By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing so that the Discharger and Central Valley Water Board staff can discuss settlement. It remains within the discretion of the Central Valley Water Board to agree to delay the hearing. A hearing on the matter may be held before the Central Valley Water Board if these discussions do not resolve the liability proposed in the Complaint. The Discharger agrees that this hearing may be held after the 90-day period referenced in California Water Code section 13323 has elapsed.
6. If a hearing on this matter is held, the Central Valley Water Board will consider whether to issue, reject, or modify the proposed Administrative Civil Liability Order, or whether to refer the matter to the Attorney General for recovery of judicial civil liability. Modification of the proposed Administrative Civil Liability Order may include increasing the dollar amount of the assessed civil liability.

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(Print Name and Title)

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(Signature)

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(Date)



Linda S. Adams  
Secretary for  
Environmental Protection

# California Regional Water Quality Control Board Central Valley Region

Karl E. Longley, ScD, P.E., Chair



Arnold  
Schwarzenegger  
Governor

## Sacramento Main Office

11020 Sun Center Drive #200, Rancho Cordova, California 95670-6114  
Phone (916) 464-3291 • FAX (916) 464-4645  
<http://www.waterboards.ca.gov/centralvalley>

15 May 2009

### CERTIFIED MAIL

7007 0710 0004 3778 1413

John Allen Bos  
John Bos Dairy  
3304 Cypress Bay Ln  
Modesto, CA 95355

### CERTIFIED MAIL

7007 0710 0004 3778 1406

John Bos  
John Bos Dairy  
4524 Milnes Rd  
Modesto, CA 95357

### **ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2009-0534, JOHN BOS DAIRY, STANISLAUS COUNTY**

Enclosed is an Administrative Civil Liability (ACL) Complaint, issued pursuant to California Water Code (CWC) section 13267(b), for violation of the Waste Discharge Requirements General Order for Existing Milk Cow Dairies, Order R5-2007-0035 ("General Order"). The Complaint charges John Bos Dairy (hereafter "Discharger") with a civil liability in the amount of **one thousand dollars (\$1,000)** for failure to file required reports.

Pursuant to CWC section 13323, the Discharger may:

- Pay the assessed civil liability and waive its right to a hearing before the Central Valley Water Board by signing the enclosed waiver (checking off the box next to item #4) and submitting it to this office by **15 June 2009**, along with payment for the full amount;
- Agree to enter into settlement discussions with the Central Valley Water Board and request that any hearing on the matter be delayed by signing the enclosed waiver (checking off the box next to item #5) and submitting both the waiver and a letter describing the issues to be discussed to this office by **15 June 2009**; **or**
- Contest the Complaint and/or enter into settlement discussions with the Central Valley Water Board without signing the enclosed waiver.

If the Discharger chooses to sign the waiver and pay the assessed civil liability, this will be considered a tentative settlement of the violations in the Complaint. This settlement will be considered final pending a 30-day period, starting from the date of this Complaint, during which time interested parties may comment on this action by submitting information to this office, attention Neena Moitoso. Should the Central Valley Water Board receive new information or comments during this comment period, the Central Valley Water Board's Executive Officer may withdraw the complaint, return payment, and issue a new complaint. If the Central Valley Water Board does not hold a hearing on the matter, and if the terms of the final settlement are not

significantly different from those proposed in the enclosed Complaint, then there will not be additional opportunities for public comment on the proposed settlement.

If the Central Valley Water Board does not receive a signed waiver within 30 days of the date of this Complaint (**by 15 June 2009**), then a hearing will be scheduled for the **13/14 August 2009** Central Valley Water Board meeting in Rancho Cordova. The Central Valley Water Board's Prosecution Team has proposed the enclosed draft Hearing Procedures to govern the conduct of such a hearing. Any objections to these draft Hearing Procedures must be received by Lori Okun, whose contact information is listed in the enclosed draft Hearing Procedures, by **5 p.m. on 26 May 2009**.

Any comments or evidence concerning the enclosed Complaint must be submitted in accordance with the deadlines contained in the enclosed draft Hearing Procedures, unless these deadlines are changed by the Central Valley Water Board's Adjudicatory Team, either on their own accord or upon request.

In order to conserve resources, this letter transmits paper copies of the documents to the Discharger only. Interested persons may download the documents from the Central Valley Water Board's Internet website at:

[http://www.waterboards.ca.gov/centralvalley/tentative\\_orders/](http://www.waterboards.ca.gov/centralvalley/tentative_orders/).

Copies of these documents can also be obtained by contacting or visiting the Central Valley Water Board's office weekdays between 8:00 AM and 5:00 PM.

If you have any questions or comments regarding the Administrative Civil Liability Complaint, please contact Neena Moitoso at (916) 464-4710.

RUDY SCHNAGL  
Environmental Program Manager I  
Chief, San Joaquin River Section

Enc: Administrative Civil Liability Complaint No. R5-2009-0534  
Draft Hearing Procedure  
Hearing Waiver

cc: Ms. Pamela C. Creedon, Executive Officer, Central Valley Water Board  
Mr. Dan Radulescu, Enforcement Coordinator, Central Valley Water Board  
Mr. Patrick Pulupa, Office of Chief Counsel, State Water Resources Control Board  
Mr. Reed Sato, Enforcement Unit, State Water Resources Control Board  
Mr. Joe Karkoski, Acting Assistant Executive Officer, Central Valley Water Board  
Mr. Ken Landau, Assistant Executive Officer, Central Valley Water Board  
Ms. Lori Okun, Senior Staff Counsel, State Water Resources Control Board