

California Regional Water Quality Control Board  
Santa Ana Region

IN THE MATTER OF:

Golden Cheese Company of California	)	Complaint No. R8-2002-0025
1138 West Rincon	)	for
Corona, CA 92880	)	Administrative Civil Liability

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Golden Cheese Company of California (GCCC) has violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), may impose administrative civil liability pursuant to California Water Code Section 13385.
2. A hearing concerning this complaint will be held before the Board within 60 days of the date of issuance of this complaint, unless GCCC waives its right to a hearing. Waiver procedures are specified on Page 6 of this complaint. If the hearing on this matter is not waived, the hearing will be held during the Board's regular meeting on March 15, 2002, in the City Council Chambers, City of Loma Linda, California. The meeting begins at 9:00 a.m. GCCC or its representative will have the opportunity to appear and be heard and to contest the allegations in this complaint and the imposition of civil liability by the Board. An agenda announcement for the meeting will be mailed to you not less than 10 days prior to the hearing date.
3. If a hearing is held on this matter, the Board will consider whether to affirm, reject, or modify the proposed administrative civil liability or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. GCCC is alleged to have violated Provisions A.1, A.2, A.6.a.v, and B.3 of the General Industrial Activity Storm Water Permit, NPDES No. CAS000001 (General Permit). The WDID number for the facility is 833S005553. GCCC failed to properly develop and implement an effective Storm Water Pollution Prevention Plan (SWPPP) and Monitoring and Reporting Requirements and discharged pollutants to waters of the United States from the facility. GCCC has not implemented appropriate best management practices (BMPs) at the facility. Pursuant to Water Code Section 13385 (a)(2), civil liability may be imposed for the preceding violations.
5. This complaint is based on the following facts:
  - A) On August 23, 2001, a hot summer day, Regional Board staff observed a foul-smelling, milky-colored liquid flowing along Rincon Street. Staff tracked this discharge to GCCC's facility located at 1138 Rincon Street.

The liquid flowed approximately 0.6 miles from the discharger's facility to a catch basin located at Rincon and Auburndale. The catch basin drains directly to Temescal Creek, which is tributary to the Santa Ana River. Staff observed that the trail of liquid was approximately 24 inches wide by 2 inches deep. Based thereon, staff estimates that, at a minimum, 7900 gallons of the liquid were discharged down Rincon Street. None of the liquid waste was recovered.

Staff determined that this non-storm water discharge originated from the storm water discharge vault located on an embankment in front of GCCC's facility on Rincon Street. The pH measurement of this discharge was 5 pH units. Board staff left a voice mail message for GCCC's Plant Manager, Mr. Dermot O'Brien, notifying him of the observed discharge and its origin and directing that GCCC take measures to prevent further discharges.

- B) On August 24, 2001, another hot day, Regional Board staff and a City of Corona inspector observed another non-storm water discharge from GCCC onto Rincon Street. Again, the discharged foul-smelling liquid originated at the storm water vault located at discharger's facility and reached Temescal Creek. The volume appeared to be a minimum of 7900 gallons and none of the liquid discharged was cleaned up.
- C) On August 24, 2001, Regional Board staff and the City of Corona inspector met with Mr. Dermot O'Brien of GCCC and inspected the facility. The inspection revealed several sources of non-storm water discharges, poor housekeeping practices, chemical spills, and cheese wastes at a number of locations around the exterior grounds of the facility.

On the west side of the facility a non-storm water flow was measured at 9 pH units. On the east side of the facility a non-storm water flow was measured at 5 and 5.5 pH units. Liquid near a storm drain on the northeast area of the facility was measured at 5 pH units. At the parking lot at the north end of the facility, there was a rusty colored puddle near a storm drain with a pH at 9 pH units.

- D) Normally, non-storm water discharges from the facility are collected in an on-site underground vault (collection vault) from which they are pumped into the facility's wastewater treatment system and discharged into the SARI line.

The August 23 and 24, 2001 non-storm water discharges were the direct result of a pump failure in a collection vault. Mr. O'Brien confirmed that the pump was not operating. Without the pump operating, the wastewater accumulated and went over the internal baffle and overflowed down

gradient into a second vault on the north perimeter of the property, next to Rincon Street.

The second vault, located next to Rincon Street, was inspected by Regional Board staff, and it contained a milky, rancid-smelling liquid. This liquid was overflowing from this second vault into Rincon Street. The liquid in the second vault measured between 3 and 4 pH units. The second vault was the source of the liquid waste discharged onto Rincon Street as observed on August 23 and 24, 2001.

- E) On August 23 and 24, 2001, the liquid waste flowed from the second vault, located adjacent to Rincon Street, and approximately 0.6 miles to the catch basin at Rincon and Auburndale, directly adjacent to Temescal Creek. None of the liquid waste was recovered; at a minimum, 7900 gallons on each of the noted days were discharged to a tributary of Temescal Creek (based on an estimate of 0.6 miles times 24 inches wide by 2 inches deep.)
- F) Temescal Creek is tributary to the Santa Ana River (Reach 3). The beneficial uses of Santa Ana River, Reach 3, and Temescal Creek, Reach 1A include: agricultural supply, industrial service supply (Temescal Creek only), groundwater recharge, water contact recreation, non-contact water recreation, warm freshwater habitat, wildlife habitat, rare, threatened and endangered species habitat, and spawning (Temescal Creek only).

The Basin Plan states that the pH of inland surface waters shall not be raised above 8.5 or depressed below 6.5 as a result of controllable water quality factors.

- G) The General Permit Provision A.1 provides:

“Except as allowed in Special Conditions (D.1.) of this General Permit, materials other than storm water (non-storm water) that discharge either directly or indirectly into waters of the United States are prohibited. Prohibited non-storm water discharges must be either eliminated or permitted by a separate NPDES permit.”

- H) The General Permit Provision A.2 provides:

“Storm water discharges and authorized non-storm water discharges shall not cause or threaten to cause pollution, contamination, or nuisance.”

I) The General Permit Provision A (6)(a)(v) provides:

“Facility operators shall investigate the facility to identify all non-storm water discharges and their sources. As part of this investigation, all drains (inlets and outlets) shall be evaluated to identify whether they connect to the storm drain system.

All non-storm water discharges shall be described. This shall include the source, quantity, frequency, and characteristics of the non-storm water discharges and associated drainage area.

Non-storm water discharges that contain significant quantities of pollutants or that do not meet the conditions provided in Special Conditions D. are prohibited by this General Permit (Examples of prohibited non-storm water discharges are contact and non-contact cooling water, boiler blowdown, rinse water, wash water, etc.)”

J) The General Permit Provision B.3 provides:

“Facility operators covered by this General Permit must reduce or prevent pollutants associated with industrial activity in storm water discharges and authorized non-storm water discharges through implementation of BAT for toxic and non-conventional pollutants and BCT for conventional pollutants. Development and implementation of a SWPPP that complies with the requirements in Section A of the General Permit and that includes BMPs that achieve BAT/BCT constitutes compliance with this requirement.”

The discharges from GCCC’s facility of August 23 and 24 are in violation of these Permit provisions. GCCC’s failure to implement BMP’s and observe good housekeeping practices, resulting in several sources of non-storm water discharges, is a violation of these provisions.

6. Pursuant to Section 13385(c), the Board is authorized to administratively assess civil liability in an amount not to exceed the sum of the following:
  - A) Ten thousand dollars (\$10,000) for each day in which the violation occurs; and,
  - B) Where there is a discharge, any portion which is not susceptible to clean up or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) times the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

7. In accordance with Water Code Section 13385(c), the total maximum liability for the violation cited above is \$168,000. This liability has been calculated as follows:
  - A) \$20,000 for two days of violations.
  - B) \$148,000 at \$10 per gallon for each gallon for both days. (15,800-1000=14,800 gallons x \$10/gallon).
8. Regional Board staff spent approximately 40 hours investigating this incident (@\$70.00 per hour, the total cost for staff time is \$2,800.00). GCCC saved approximately \$500.00 by not properly maintaining the pumps for the collection sump and \$2,500.00 by not implementing other BMPs at the site.
9. Section 13385 (e) specifies factors that the Board shall consider in establishing the amount of civil liability. These factors include: nature, circumstances, extent, and gravity of the violation, and, with respect to the discharger, the ability to pay, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters that justice may require. At a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation. The factors are evaluated in the table on the following page.

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Factor	Comment
<b>A. Nature, Circumstances, Extent and Gravity of Violation</b>	<p><b>Pollutants:</b> August 23, 2001, sample results indicate the wastewater contained: 4,080 umhos/cm Conductivity, 5.5 pH units, 3,400 mg/l total dissolved solids, 169 mg/l Calcium, trace amounts of Boron, 33.4 mg/l Iron, 25.3 mg/l Magnesium, 149 mg/l Potassium, 545 mg/l Sodium, 525 mg/l total hardness, 935 mg/l total alkalinity as CaCO<sub>3</sub>, 433 mg/l Chloride, 161mg/l Sulfate, 126 mg/l ammonia-N, 79.8 mg/l total Phosphorus and 0.07 mg/l Fluoride.</p> <p><b>Volume:</b> Approximately 15,200 gallons total, for two days spillage.</p> <p><b>Sensitivity of Receiving Waters:</b> Santa Ana River, Reach 3, is listed on the 303(d) list as an impaired waterbody.</p> <p><b>Beneficial Uses:</b> As described above, the Temescal Creek and Santa Ana River have potential or existing beneficial uses which might have been adversely impacted by the discharge.</p>
<b>B. Culpability</b>	<p>The discharger violated the terms of the General Permit by failing to implement appropriate BMPs, by not maintaining the pumps and level controls in the vault and by discharging non-storm water containing pollutants.</p>
<b>C. Economic Benefit or Savings</b>	<p>GCCC saved approximately \$500.00 by not properly maintaining the pumps for the collection sump and \$2,500.00 by not implementing other BMPs at the site. Unknown amount for the cost it would have incurred to treat the wastewater in its own wastewater treatment unit.</p>
<b>D. Prior History of Violations</b>	<p>The site has had non-storm water discharges observed prior to this incident. Discharger's conduct has been cooperative.</p>
<b>E. Staff Costs</b>	<p>Regional Board staff spent approximately 40 hours investigating this incident (@\$70.00 per hour, the total cost for staff time is \$2,800.00).</p>
<b>F. Ability to pay</b>	<p>The discharger has not provided any information to indicate that it is unable to pay the proposed amount.</p>

After consideration of these factors, the Executive Officer proposes civil liability be imposed on GCCC in the amount of \$20,000 for the violation cited above. An invoice for this amount is enclosed.

10. GCCC may waive its right to a hearing in this matter. If GCCC chooses to do so, please sign the attached waiver, which is on page 8 of this Complaint, and return it, together with the bottom portion of the invoice and a check for \$20,000, to the State Water Resources Control Board in the preprinted enclosed envelope.

If you have any questions concerning this complaint, contact Michael Adackapara at (909) 782-3238, Ann Iaali at (909) 320-2182, or Chuck Griffin at (909) 782-4996. All legal questions should be addressed to Jorge Leon, the Board's Staff Counsel, at (916) 341-5180.

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Date

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Gerard J. Thibeault  
Executive Officer

California Regional Water Quality Control Board  
Santa Ana Region

IN THE MATTER OF:

Golden Cheese Company of California )	Complaint No. R8-2002-0025
1138 West Rincon Street )	for
Corona, California 92880 )	Administrative Civil Liability

Waiver of Hearing

I agree to waive Golden Cheese Company of California's (GCCC) right to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. R8-2002-0025. I have enclosed the bottom portion of the invoice and a check payable to the State Water Resources Control Board for the amount of the proposed liability in Paragraph 9 of Complaint No. R8-2002-0025. I understand that I am giving up GCCC's right to be heard and to argue against the allegations made in the Complaint No. R8-2002-0025, and against the imposition of, and amount of, civil liability.

\_\_\_\_\_

Date

\_\_\_\_\_

for Golden Cheese Company of California

Please use the enclosed, preprinted envelope for returning this waiver form, bottom portion of the invoice and the payment.