

California Regional Water Quality Control Board
Santa Ana Region

ORDER NO. R8-2002-0027
NPDES NO. CA8000397

WASTE DISCHARGE REQUIREMENTS FOR JACK TULS & SONS DAIRY

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Regional Board) finds that:

1. Jack Tuls submitted a report of waste discharge dated June 6, 2002, for waste discharges from an existing dairy at 38980 Record Road in the San Jacinto area of Riverside County. The dairy is owned by Jack Tuls and is operated by Randy Record (hereinafter dischargers).
2. Revised regulations governing discharges from Concentrated Animal Feeding Operations (CAFO), including dairies, are contained in Division 2, Title 27 of the Combined State Water Resources Control Board/California Integrated Waste Management Board AB 1220 Regulations, which became effective on July 18, 1997. Chapter 7, Subchapter 2 (Article 1) contains requirements for Confined Animal Facilities.
3. Section 402 of the Clean Water Act (CWA) as amended by the Water Quality Act of 1987 and the related regulations published by the U.S. EPA on November 16, 1990 (40CFR Parts 122, 123 and 124), requires a National Pollutant Discharge Elimination System (NPDES) permit for pollutant discharges from CAFOs. The EPA's Effluent Guidelines and Standards for Feedlots are contained in 40 CFR Part 412 (revised July 1, 1993).
4. The Regional Board adopted a revised Water Quality Control Plan (Basin Plan) on March 11, 1994. The Basin Plan specifies beneficial uses and water quality objectives for surface and ground waters in the Santa Ana Region (Chapters 3 and 4). This Order specifies requirements necessary to meet the water quality objectives and to protect the beneficial uses.
5. This dairy overlies the San Jacinto Intake and Upper Pressure Groundwater Subbasin, the beneficial uses of which include:
 - a. Municipal and domestic supply,
 - b. Agricultural supply,
 - c. Industrial service supply, and
 - d. Industrial process supply.
6. Surface drainage in the area of this dairy is tributary to the San Jacinto River, Reach 4, the intermittent beneficial uses of which are:
 - a. Agricultural supply,
 - b. Groundwater recharge,
 - c. Water contact recreation,

- d. Non-contact water recreation,
 - e. Cold freshwater habitat, and
 - f. Wildlife habitat.
7. Wastes from CAFOs contain high concentrations of salts (total dissolved solids and nitrates). Previous studies conducted by the Regional Board have shown that cow manure produced in the Region contains about 160 pounds of salt per (dry) ton of manure (110 pounds of salt per ton of manure at 33% moisture). The application of manure or the discharge of process wastewater to land results in the discharge of salts that has impacted, and continues to adversely impact, the quality of groundwater and surface water in the Region.
8. Discharges of storm water from the Tuls Dairy may impact Lake Elsinore and Canyon Lake in the San Jacinto Watershed. These lakes are listed as impaired waters, under Section 303(d) of the Clean Water Act. Federal regulations require that a total maximum daily load (TMDL) be established for 303(d) listed waterbodies for each pollutant of concern. Discharges cannot cause or contribute to water quality or beneficial use impairment.
- The TMDLs for Lake Elsinore and Canyon Lake are scheduled to be established by 2004. These TMDLs, will specify waste load and load allocation for all significant sources of the pollutants causing impairment. This is expected to include allocations for dairy discharges, including those from the Tuls facility. These TMDLs will also specify an appropriate mitigation plan that may include provisions for offset or pollutant trading. Therefore, this Order will be reopened to include requirements necessary to implement the adopted TMDLs.
9. In accordance with Water Code Section 13389 the issuance of waste discharge requirements for this discharge are exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000 et seq.) in accordance with Section 15301, Chapter 3, Title 14, California Administrative Code.
10. A draft Engineered Waste Management Plan, dated March 14, 2002, which describes the various elements of waste management at the site, has been submitted to the Regional Board for review.
11. The approximate animal population of this dairy are as follows:
- a. 2617 milking cows
 - a. 281 dry cows
 - b. 300 heifers
12. The dairy consists of:
- a. Dairy acreage (buildings, corrals, etc.).....76
 - b. Cropland acreage.....72
 - c. Pond Acreage.....8
 - d. Total acreage.....156

13. Based on 42 gallons of washwater per milking cow per day, approximately 113,400 gallons per day of dairy washwater are generated.
14. Approximately 31,755 tons of manure will be generated annually.
15. The requirements contained in this Order are necessary to implement the Water Quality Control Plan, the provisions of AB 1220 Regulations, Division 2, Title 27, Chapter 7, and 40 CFR Part 412.
16. The Regional Board has notified the discharger and interested agencies and persons of its intent to prescribe waste discharge requirements for Jack Tuls & Sons Dairy and has provided them with an opportunity to submit their written views and recommendations.
17. The Regional Board, in a public meeting, heard and considered all comments pertaining to the discharge.

IT IS HEREBY ORDERED that, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder and the provisions of the Clean Water Act as amended, and regulations and guidelines adopted thereunder, the discharger, the discharger's agents, successors, and assigns, discharging wastes from this CAFO, shall comply with the following:

A. DISCHARGE SPECIFICATIONS:

1. The discharger shall design, construct and maintain containment structures to retain all process wastewater¹ within its facility, including all process generated wastewater and all precipitation on, and drainage through, manured areas resulting from storms up to and including a 25-year, 24-hour, rainfall event.
2. The discharger shall develop and fully implement an Engineered Waste Management Plan (EWMP) acceptable to the Executive Officer. A registered professional engineer, or other qualified individual, shall develop the EWMP in accordance with current guidelines authorized by the Executive Officer (in Attachment "A" of this Order). The Executive Officer is hereby authorized to make necessary revisions to these guidelines for the preparation of an EWMP.
3. The facility shall be protected from inundation or washout by overflow from any stream channel during a 20-year frequency peak stream flow event. If the facility is already protected against a 100-year peak stream flow event, then it must continue to be protected against a 100-year peak flow event.
4. All surface drainage from outside of the facility shall be diverted away from any manured areas unless such drainage is fully contained on the facility.

¹ Process wastewater shall mean any process generated wastewater and any precipitation (rain or snow) which comes into contact with any manure, litter or bedding, or any other raw material or intermediate or final material or product used in or resulting from the production of animals or poultry or direct products (e.g. milk, eggs).

5. All manure generated at this site shall be removed from the corrals and hauled away every 60 days and shall not be used as fertilizer or disposed of in a manner that adversely affects water quality or creates nuisance conditions. Manifests of the manure hauled away shall be prepared and submitted with the January 15 and July 15 groundwater monitoring reports in accordance with Monitoring and Reporting Program R8-2002-0027.
6. Neither the treatment nor the discharge of dairy waste shall create, or threaten to create, a nuisance or pollution as defined by Section 13050 of the California Water Code.
7. The discharger shall develop and implement a fly and odor mitigation measure plan, acceptable to the Executive Officer, within 30 days from adoption of this Order. This plan shall include, but not be limited to, frequent tilling of the manure in the corrals and periodic spraying and baiting of appropriate areas by a registered pesticide applicator. The discharger may implement additional measures or substitute alternate fly and odor mitigation measures with prior approval of the Executive Officer.

B. DISCHARGE PROHIBITIONS:

1. The discharge to any surface water bodies, or tributary thereof, of process wastewater or runoff having come in contact with manure is prohibited unless a chronic or catastrophic rainfall causes overflow from a storage facility designed, constructed, maintained and operated to contain all process generated wastewater plus the runoff from a 25-year, 24-hour, rainfall event.
2. No containment structure shall be constructed of manure, and manure shall not be used to improve or raise existing containment structures.
3. Disposal of manure to land is prohibited, unless allowed by separate waste discharge requirements issued by the Regional Board.
4. The discharge of wastes to lands not owned or controlled by the discharger is prohibited.
5. The use of manure as a fertilizer in any area that may affect a groundwater subbasin lacking assimilative capacity, is prohibited unless a plan which mitigates the effects of that use on the underlying groundwater subbasin is implemented with prior approval from the Executive Officer.
6. Manure applied to cultivated cropland that may affect a groundwater subbasin lacking assimilative capacity, shall not exceed agronomic rates and shall be incorporated into the soil soon after application, or appropriate containment controls must be provided (based upon the specific crop grown). For any application of manure to cropland in excess of 12 dry tons per acre per year (17.5 tons/year at 33% moisture), an explanation of the type of crop and the number of times it is harvested per year shall also be included in the annual report.
7. The discharge of highly saline wastes is prohibited.

8. The raising of calves at this dairy is prohibited.
9. The increase of the total dairy animal population beyond 3,200 animals is prohibited.

C. PROVISIONS:

1. This Order shall serve as a National Pollutant Discharge Elimination System (NPDES) permit pursuant to Section 402 of the Federal Clean Water Act or amendments thereto, that shall become effective 10 days after the date of its adoption, provided the Regional Administrator of the Environmental Protection Agency has no objection. If the Regional Administrator objects to its issuance, this Order shall not become effective until such objection is withdrawn.
2. All discharges from the facility must comply with the lawful requirements of municipalities, counties, drainage districts, and other local agencies regarding discharges of storm water to storm drain systems or other courses under their jurisdiction.
3. Storm flows in excess of a 25-year, 24-hour rainfall event and/or storm flows resulting from chronic, or catastrophic events may be discharged to surface water bodies in accordance with the requirements specified in U.S. Environmental Protection Agency's "Effluent Guidelines and Standards for Feedlot's, 40 CFR Part 412".
4. The discharger shall comply with all Federal, State, County and local laws and regulations pertaining to the discharge of wastes from the facility.
5. This Order expires on September 1, 2007 and the discharger must file a Report of Waste Discharge in accordance with Title 23, Division 3, Chapter 9 of the California Code of Regulations not later than 180 days in advance of such expiration date. The Report of Waste Discharge shall serve as the application for issuance of new waste discharge requirements.
6. The requirements prescribed herein do not authorize the commission of any act causing injury to the property of another, nor protect the discharger from liabilities under Federal, State, or local laws, nor guarantee the discharger a capacity right in the receiving waters.
7. This Order does not convey any property rights of any sort, or any exclusive privilege.
8. This Order is not transferable to any person except after notice to, and approval by the Executive Officer. The Regional Board may require modification or revocation and re-issuance of this Order to change the name of the discharger and incorporate such other requirements as may be necessary under the CWA.
9. In the event of any change in the operator or property ownership of this facility, the discharger shall notify the succeeding operator or owner of the existence of this Order by letter, a copy of which shall be forwarded to this Regional Board.
10. The discharger shall take all reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment.

11. Any instance of noncompliance with this Order constitutes a violation of the Clean Water Act (CWA), its regulations, and the California Water Code, and is grounds for enforcement action.
12. The provisions of this Order are severable, and if any provision of this Order, or the application of any provisions of this Order to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this Order shall not be affected thereby.
13. It shall not be a defense for the discharger in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this order.
14. Compliance determination with the terms of this Order shall be based on the following:
 - a. Periodic inspections by Regional Board staff;
 - b. Evaluation of the annual report of animal waste and storm water discharge submitted according to the attached monitoring and reporting program; and
 - c. Any other information deemed necessary by the Executive Officer.
15. The discharger shall comply with the attached Monitoring and Reporting Program No. R8-2002-0027.
16. A groundwater monitoring plan shall be submitted within 90 days of the adoption of this Order for the approval of the Executive Officer of the Regional Board. At a minimum, this plan shall include the following:
 - a. The location of at least two down-gradient and one up-gradient monitoring wells;
 - b. Construction details of the selected monitoring wells including depth, current groundwater level and screen intervals;
 - c. A time schedule for installation of the proposed monitoring wells; and
 - d. A proposal for routine sampling of the monitoring wells.

The groundwater monitoring plan shall be implemented in accordance with the time schedule approved by the Executive Officer.

Participation in a comprehensive regional groundwater monitoring program, acceptable to the Executive Officer, may be considered in lieu of the development and implementation of the above plan. The discharger shall be responsible for the timely submittal of groundwater monitoring reports as described in the Monitoring and Reporting Program, No. R8-2002-0027.

17. The Regional Board, USEPA, and other authorized representatives shall be allowed:
 - a. Entry upon premises where the regulated facility or activity is located or conducted, or where records are kept under the conditions of this Order;
 - b. Access to copy any records that are kept under the conditions of this Order;

- c. To inspect any facility, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and
- d. To photograph, sample, and monitor for the purpose of assuring compliance with this Order, or as otherwise authorized by the CWA.

D. PERMIT REOPENING, REVISION, REVOCATION, AND RE-ISSUANCE:

1. If more stringent applicable water quality standards are promulgated or approved pursuant to Section 303 of the Federal CWA, or amendments thereto, the Board will revise and modify this Order in accordance with such standards. This Order will be reopened to implement appropriate requirements of applicable TMDLs for the San Jacinto Watershed.
2. This Order may be reopened to address any changes in State or Federal plans, policies or regulations that would affect the requirements for the discharges.
3. This Order may be revised, revoked, reissued, and/or terminated under certain conditions, including, but not limited to, the following:
 - a. A change in the ownership, operation, animal population, or location of the facility;
 - b. Violation of any terms or conditions contained in this Order;
 - c. Failure to submit any reports in the reporting program or to disclose fully any relevant facts; and
 - d. If the acquisition of land for improvement of the San Jacinto River (flood control channel) causes the dairy to diminish its capacity to contain their wastes or be protected from a 100-year peak flow event in the River.
4. This Order is subject to reopening at any time to review the adequacy of measures required under A.7 and, if appropriate, to revise this Order to require additional or alternate measures.

E. PENALTIES

1. The CWA provides that any person who violates a provision implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the CWA, or any permit condition or limitation implementing any such sections in this permit, is subject to a civil penalty not to exceed \$25,000 per day for each violation. The CWA provides that any person who willfully or negligently violates a provision implementing these sections of the CWA is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment of not more than 1 year, or both. Any person who knowingly violates a provision implementing these sections is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than 2 years, or both.
2. The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 2 years per violation, or by both.

3. The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 2 years per violation, or by both.
4. The California Water Code provides that any person who violates a waste discharge requirement or a provision of the California Water Code is subject to civil penalties of up to \$5,000 per day, \$10,000 per day, or \$25,000 per day of violation, or when the violation involves the discharge of pollutants, is subject to civil penalties of up to \$10 per gallon per day, or \$20 per gallon per day of violation; or some combination thereof, depending on the violation, or upon the combination of violations.

F. REQUIRED REPORTS AND NOTICES

1. Reporting Provisions:
 - a. All applications, annual reports, or information submitted to the Regional Board shall be signed and certified in accordance with 40 CFR 122.22.
 - b. The discharger authorized to discharge waste under this Order shall furnish, within a reasonable time, any information the Regional Board or EPA may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit. The discharger shall also furnish to the Regional Board, upon request, copies of records required to be kept by this Order.
 - c. Except for data determined to be confidential under Section 308 of the CWA, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Regional Water Quality Control Board and the Regional Administrator of USEPA. As required by the CWA, effluent data shall not be considered confidential. Knowingly making any false statements on any such report may result in the imposition of criminal penalties as provided for in Section 309 of the Act and Section 13387 of the California Water Code.
2. The discharger shall notify the Regional Board by telephone within 24 hours of any off-property discharge of facility wastewater. This notification shall be followed by a written report including the following:
 - a. The approximate date and time of the discharge;
 - b. An estimate of the flow rate and duration of the discharge;
 - c. Source of the waste discharge; and
 - d. A time schedule and a plan to implement necessary corrective actions to prevent the recurrence of the discharge.
3. The discharger shall report promptly in writing to the Executive Officer of the Regional Board any changes or proposed changes in:
 - a. The control, ownership, operation or location of the dairy;
 - b. The character, location, volume or disposal methods of waste discharges; and
 - c. Changes to the facility that impact process wastewater containment capability.

4. The discharger shall give advance notice to the Regional Board of any planned changes in the permitted facility or activity that may result in noncompliance with this Order.

I, Gerard J. Thibeault, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on September 6, 2002.

Gerard J. Thibeault
Executive Officer

California Regional Water Control Board
Santa Ana Region

Monitoring and Reporting Program (M. & R.P.) No. R8-2002-0027
NPDES No. CA8000397

for

~~Jack Tuls~~~~Randy Record, dba & Sons~~~~RGR~~ Dairy

A. MONITORING REQUIREMENTS

1. The discharger shall inspect the waste holding and disposal areas and note any discharges off the property that is under the control of the discharger. Inspections shall be made daily when wastewater is being applied to cropland and during the time period October through April and weekly during other periods. The results of all inspections shall be recorded and submitted with the technical report due each January 15, or more frequently as requested.
2. During each significant rainfall event (i.e., precipitation of equal to or greater than 0.5 inches in 24 hours), the discharger shall make visual inspections of all storm water containment structures.
3. The discharger shall record the approximate date and time of each rainfall-related discharge that results in off-property discharges if storm water has commingled with wastewater or manure, and the approximate duration of the discharge.
4. The discharger shall record each manure hauling event on a manure tracking manifest form (supplied by the Regional Board).

B. MITIGATION MEASURE MONITORING

1. Quarterly (i.e., by the 15th day of January, April, July, and October), the discharger shall submit a report detailing fly and odor mitigation measures conducted during the prior quarter. The report shall include:
 - a. Dairy-wide Manure Management:

A discussion regarding the dairy-wide stockpiling/removal of manure, including the length of time manure was stockpiled, and the dates manure was removed.

b. Corral Manure Management:

A discussion regarding corral manure management practices during the quarter, including:

- i. The frequency of manure removal, the amount of manure produced during the previous ~~quarter, quarter~~ and the amount of manure removed.
- ii. The frequency and extent of tilling or other such practices were conducted.
- iii. The types, frequency, and amounts of biological manure conditioners used in the corrals.

c. Pesticides:

A discussion regarding the use of pesticides, including the frequency, amounts, and types of pesticides used. Fly abatement activities shall be included in this discussion.

d. Other:

Any other actions taken and any proposed improvements or changes needed for the program.

2. The approved groundwater monitoring wells shall be monitored, at a minimum, for total dissolved solids and nitrates on a semi-annual basis during May and November of each year. The results of the groundwater monitoring program shall be submitted to this office with the January 15 and July 15 reports as described in B.1 above. The discharger shall be ultimately responsible for obtaining a sufficient representative groundwater sample for lab analysis.

C. ~~DAIRY ANNUAL REPORTING~~

1. Annually, by January 15 of each year, a technical report, on the form supplied by the Regional Board, shall be submitted which includes the following:

a. ÷

~~1.~~ The date of the report;

~~2.~~ b. The animal population;

~~3.~~ c. The total amount of manure (dry weight) produced, stockpiled, spread on disposal land, and hauled away;

~~4.d.~~ Copies of all manure tracking manifests for the reporting period which include the date(s) and the destination(s) of manure hauled away, including the name(s) and address(es) of the haulers;

~~5.e.~~ The annual report shall be submitted on forms provided by Regional Board staff and shall also include copies of the inspection logs required to be maintained under A.1 and A.4 above;

~~6.f.~~ A statement that all wastewater disposal and manured areas have been routinely inspected and are in compliance with the requirements of this order;

~~7.g.~~ Any other comments relative to these waste discharge requirements.

2.

~~All reports shall be signed by a responsible officer or duly authorized representative of the discharger and shall be submitted under penalty of perjury. All reports shall be signed by a responsible officer or duly authorized representative of the discharger and shall be submitted under penalty of perjury.~~

Gerard J. Thibeault
Executive Officer

~~April 26~~ September 6, 2002