EXHIBIT E

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July 3, 2013

Vanessa Young
Staff Counsel
State Water Resources Control Board
Office of Enforcement
1001 I Street, 16th Floor
Sacramento, CA 95814

Re: Henry Tosta Dairy

Dear Ms. Young:

This letter is intended to confirm the information that we discussed at our meeting on Thursday, July 27, 2013, at your offices in Rancho Cordova.

We initially provided a statement that Mr. Tosta has removed three-quarters of the manure that was being stored on the property which was the major grievance of the CAO. It is estimated that of the four acres of area upon which the manure was allegedly stored, three acres has been cleaned and, per Mr. Tosta and Mr. Minney, manure is continually being removed on a day-to-day basis. We also pointed out that the Regional Board's estimation of the volume of manure on site was highly exaggerated, and we recognized that the Board's estimation was reportedly based on reports submitted by Mr. Tosta's former consultants. We then moved onto the specifics of the requirements in the Cleanup and Abatement Order ("CAO").

a. *removal of all slurry manure in the 3 to 4 acre central portion of the Production Area by August 27, 2012,*

As discussed above, Mr. Tosta has removed three-quarters of the manure that was located in this area. We have attached pictures that Mr. Minney took at the site on Thursday afternoon, June 27, after our meeting (see Exhibit A). In addition, Mr. Tosta has arranged for funding from the NRCS to assist in payment or the installation of a concrete pad and underlying drainage piping for this area. He has also arranged for funding to convey the runoff from the roof of the Dairy Barn to an off-site location rather than to add to the lagoons. Mr. Tosta has also voluntarily ceased using cooling plates and is also considering a new system for conserving additional water to diminish the existing wastewater flows in the system. Mr. Tosta believes that if these issues with the Barn are resolved there will be additional federal funding for future water conservation means. It is estimated that the remainder of the manure will be removed from the site by September 1, 2013.

b. *addresses removal of all manure within the two settling basins by September 27, 2012,*

Mr. Tosta indicated that this manure from the settling ponds has already been removed. However, since the Dairy continues to be in use there is existing water manure in those ponds. Mr. Tosta will have wastewater from the milk barn tested and provided to the Board to indicate the minimum amount of manure that is associated with this wastewater and thus would have minimal impacts on existing groundwater quality. This data will be submitted with the data from the wells that will be taken next week and should be returned to the Board by August 1, 2013.

c. *addresses removal of excess vegetation, excess manure, and manure used for construction on the six lagoons, and installation of staff gages, by September 27, 2012.*

With respect to the removal of this material, Mr. Tosta's indicated that has been completed except for certain berms along the southern most portion of the property and that he is merely awaiting recommendations from the supplier as to what chemicals can be used in that area to remove vegetation. Mr. Tosta also pointed out that the berms were made of dirt,

not manure as had been alleged (see also, Exhibit A pictures). This project can be done in 30 days, as will the staking by August 1, 2013.

2. By June 2012, permanently cap the pipe that extends from Settling Basing #1 to the Main Drain Canal of the Naglee Burk Irrigation District.

   This pipe has long since been removed from the site and the Board recognized this requirement had been met.

3. By June 29, 2012, install a concrete pad around Well #1 and install controls to ensure that 100 feet of separation is maintained between the Well and manured areas as required by Standard Provision B18 in the Standard Provisions and Reporting Requirements of the Dairy General Order.

   Mr. Tosta has indicated that there was already a concrete pad existing in this area and the Board has acknowledged that this is been accomplished. There was also discussion of the fact that there is at least a 130 foot separation between the wells in the manured areas, which the Board also indulged.

4. By July 23, 2012, locate and sample the three monitoring Wells in the Production Area of the Henry Tosta Dairy and submit the results to the Central Valley Water Board. Depth to water in the Wells shall be measured, and the groundwater tested for total dissolved solids, pH, nitrate-nitrogen, ammonia-nitrogen, total and fecal coliform, and standard minerals (calcium, magnesium, sodium, bicarbonate, carbonate, sulfate, and chloride).

   Mr. Minney was on the site last week to survey the locations of the wells and expects to take samples from those wells July 3, 2013. We would expect to have the samples back to the Board by August 1, 2013

5. By August 27, 2012, using a hydro punch or other similar method, collect one time groundwater samples in the 3 to 4 acre area where slurry manure was placed and submit the results to the Central Valley Water Board. Depth to water in the area shall be measured, and the groundwater tested for total dissolved solids, pH, nitrate-nitrogen, ammonia-nitrogen, total and fecal coliform, and standard minerals (calcium, magnesium, sodium, bicarbonate, carbonate, sulfate, and chloride).

   This item was discussed with the Board staff and Discharger believes that because the area will be paved over, no additional samples are required. In addition, the well samples that will be taken and the well water samples that were taken suffice to

provide the same information that would have been attained herein. Discharger will take wastewater samples from the milk barn. Once samples have been returned, this issue can be re-addressed.

6. **By August 27, 2012, submit a revised Waste Management Plan for the Henry Tosta Dairy to the Central Valley Water Board that accurately describes how the settling basins and the lagoons in the Production Area will be operated in conformance with the Dairy General Order, including a description of modifications needed to manage slurry manure within the existing constructed settling basin/lagoon system.**

   Discharger asserts herein that it has compiled most of the information from its Management Plan that would be required in a CNMP that was done for the NRCS and will be submitted to the Regional Board for review to determine how much additional work needs to be done in order to comply with the requirements for a waste management plan. He will continue ongoing discussions between the Discharger and the Board staff to determine the scope of the required waste management plan. However, such a plan could be completed by September 2013. The CNMP will be transmitted next week.

7. **If groundwater samples in the vicinity of the Dairy area indicate that waste disposal has caused pollution of groundwater, by September 27, 2012, submit a plan for the remediation of the groundwater. The plan shall also include an engineering evaluation of the impacts of the existing lagoons and settling basins on groundwater quality and a proposal for remedial measures, as required by General Specification B5 of the Dairy General Order.**

   Discharger asserts that this requirement is premature until the Discharger has results from the samples that will be taken this week. Once the samples are in, they will be reviewed and the scope of the remediation plan, if any, would be discussed in ongoing discussions with Board. Additionally, the requirements of the 13267 letter that was issued may allow for the continuing discussions with the Board concerning this issue.

   Discharger has indicated it will provide the following documents as soon as possible:

   1. Manure Manifests;
   2. Photos (Included)
   3. CNMP (will be transmitted early next week)
   4. Sample Results

5. Written Contract with NRCS if it exists
6. Proof of Payment to clean Ponds

8. 13267 Letter.

As indicated above, once samples are taken and the results received, Mr. Minney will submit Mr. Tosta's response to the 13267 Letter. This will be completed by September 1, 2013.

At the conclusion of the meeting there was a short discussion of settlement issues and Mr. Terpstra and Mr. Smith are to get back to Vanessa Young with a discussion of the ability to pay. In short, Discharger believes that the calculations were made incorrectly and, that most significant, there is no profit that was made by Mr. Tosta by not removing the manure from his property. Therefore, the amount suggested by the Board in that respect is much higher than it should be. In addition, to allow the continuance discussions with the Board, a call will be scheduled for next Wednesday, July 3, 2013 to discuss the progress of the case of the technical case. The attorneys are also supposed to meet by telephone to discuss settlement.

Please feel free to call if you have any questions.

Very truly yours,

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Lee N. Smith

LNS/td(cas)

Enclosure: Exhibit A