
Central Valley Regional Water Quality Control Board

TO: Morning Star File

FROM: Howard Hold, P.G.
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DATE: 4 November 2015

SUBJECT: Settling Pond Expansion, Morningstar Tomato Packing Plant,
Waste Discharge Requirements R5-2013-0144, Colusa County

The Morning Star Tomato Packing Plant is owned and operated by The Morning Star Packing Company, L.P (Discharger), and is regulated by the Central Valley Regional Water Board under Waste Discharge Requirements (WDRs) Order R5-2013-0144.

On 2 November 2015, Regional Board staff conducted an inspection of the Morningstar Tomato Packing Plant, just south of the City of Williams. The inspection was in response to the 11 September 2015 Notice of Violation, which was issued to the Discharger as a result of receiving numerous odors complaints during the 2015 tomato processing season. A portion of the inspection provided staff the opportunity to observe the "Settling Pond", which appeared to be significantly larger than the five acre foot pond described in the WDRs.

WDRs Findings:

Finding 12 and 13 of Waste Discharge Requirements R5-2013-0144 describe the Settling Pond as follows:

12. *"The Facility produces five wastewater streams. Four of the five wastewater streams are discharged to either the 5 acre-feet (ac-ft) Settling Pond or 210 ac-ft Cooling Pond..."*
13. *"The Settling Pond was constructed with clay soils compacted in lifts and includes a mechanical aerator. The Settling Pond receives wastewater during the processing season and is typically empty during the non-processing season..."*

Identification of Condition that Deviates from WDRs:

Following the inspection, staff reviewed the case file and believes there is photographic evidence from past inspections and from Google Earth "satellite" view photos that suggest the Settling Pond was enlarged beyond five acre-feet. The pond capacity appears to have increased prior to issuance of WDRs R5-2013-0144. Furthermore, there is no request for this

capacity increase in the Discharger's Report of Waste Discharges submitted in 1995¹ or 2005². General Provision 4b of the 1 March 1991 Standard Provisions³ states,

Before making a material change in the character, location, or volume of discharge, the discharger shall file a new Report of Waste Discharge with the Regional Board. A material change includes, but is not limited to, the following:

- a. An increase in area or depth to be used for solid waste disposal beyond that specified in waste discharge requirements.*
- b. A significant change in disposal method, location or volume, e.g., change from land disposal to land treatment.*
- c. The addition of a major industrial, municipal or domestic waste discharge facility.*
- d. The addition of a major industrial waste discharge to a discharge of essentially domestic sewage, or the addition of a new process or product by an industrial facility resulting in a change in the character of the waste.*

Photographic Evidence:

This memorandum presents five photographs, arranged in chronological order that illustrates the non-permitted expansion of the settling pond. The photographs are presented at the end of this memorandum. For consistency, in each photograph, the red arrow identifies the berm terminus, the yellow arrow pinpoints the wastewater discharge structure, and the blue arrow specifies the end of the pond's center divider.

Photograph 1

Staff's 4 September 2008 facility inspection⁴ photograph shows the Morningstar Tomato Packing Plant Settling Pond. This photograph clearly illustrates the relational distance between the terminus berm, the wastewater discharge point and how the pond's center divider essentially ends across from the discharge point.

Photograph 2

Google Earth is an electronic resource that Regional Board staff use to evaluate compliance with regulatory requirements. Specifically, it can provide a chronology of site activities, as well as calculate the area of a selected item. On 9 October 2009, a "satellite" photograph was taken of the Morningstar Tomato Packing Plant. As shown in the Google Earth photograph⁵, the settling pond appears to be consistent in size to the 40,000 square foot (approximately 1 acre) described in Morningstar's, 1995 Report of Waste Discharge.⁶ The text box in the photograph presents the approximate area of the pond on that day, which was 0.88 acre. North is at the top of the photograph. Note the large parking area beyond the pond's southern berm terminus.

¹ 12 January 1995, Report of Waste Discharge, The Morning Star Packing Company

² 30 December 2005, Report of Waste Discharge, The Morning Star Packing Company

³ 1 March 1991, Standard Provisions And Reporting Requirements For Waste Discharge Requirements

⁴ 4 September 2008, staff inspection photograph.

⁵ Google Earth satellite photograph taken 9 October 2009

⁶ 12 January 1995, Discharger letter, subject "Description of liquid waste to land by The Morning Star Packing Company tomato packing facility in Williams, California"

Photograph 3

On 20 September 2011, staff conducted a site inspection and took this photograph looking south across the Settling Pond⁷. For consistency, it appears to be taken from a similar location as Photograph 1. There appears to be no change in the Settling Pond's geometry since the previous the 2008 inspection.

Photograph 4

On 10 July 2013, approximately six-months prior to adoption of the current WDRs, Google Earth took another "satellite" picture of the settling pond at the Morningstar Tomato Packing Plant⁸. The pond in this photograph is much larger than previously shown in Google Earth's 2009 "satellite" picture and field verified by Regional Board staff on previous inspections. The parking area, which was evident in the 9 October 2009 Google Photograph, is no longer present. The pond here is estimated at 1.48 acres. For comparison with the 9 October 2009 picture, note the increase in distance between the end of the pond's central divider (the blue arrow), as well as the pond terminus (the red arrow).

Photograph 5

On 20 August 2015⁹, staff conducted another site inspection of the facility. The photograph was taken from the opposite side of the pond from where Photographs 1 and 3 were taken. This photograph provides field confirmation that the pond dimensions have enlarged.

Conclusion:

The photographs presented in this memorandum provide a time sequence of how the dimensions of the Morningstar Tomato Packing Plant's Settling Pond increased over time. The photographs suggest that the Pond was enlarged between September 2011 and July 2013. The Discharger operated three complete processing seasons with the enlarged settling pond, which would allow for increased production at the facility, and increased impacts to groundwater.

The Discharger is required to submit a Report of Waste Discharge before making a material change in the character, location, or volume of discharge. An increase in the area of the Settling Pond from 0.88 acre to 1.48 acre is a material change. Apparently, no documents describing this change in the pond's capacity were submitted to the Regional Board, by the Discharger that requested a change in the WDRs.

With regard to water quality, the increased capacity in the Settling Pond will ultimately increase the flows out to the facility's land application areas, along with the potential increase of seepage from the pond to the underlying groundwater. Changing the volume of wastewater stored and discharged can impact water quality.

The WDRs were updated in December 2013. The Discharger had an opportunity to work with the permitting staff to properly permit the Settling Pond, but did not do so. The Anti-Degradation Analysis in the WDRs is based on a 5 acre-foot pond and therefore, the Settling Pond needs to be returned to that size.

⁷ 20 September 2011 staff inspection photograph.

⁸ Google Earth satellite photograph taken 10 July 2013

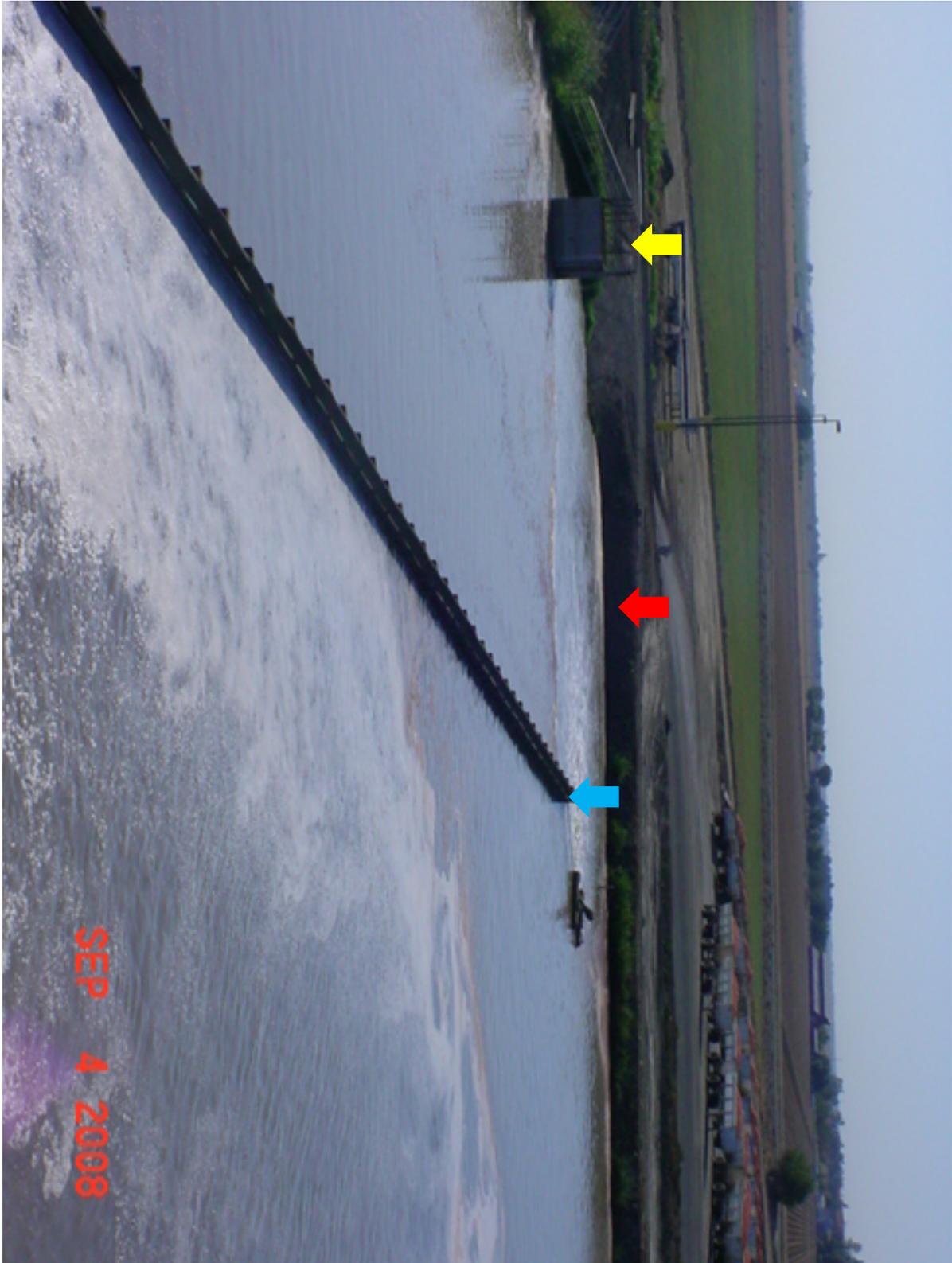
⁹ 20 August 2015 staff inspection photograph.

Recommendation:

The WDRs were issued with specific site conditions that must be maintained. Findings 12 and 13 of the WDRs no longer describe accurately the site conditions. Therefore, a 13267 Order should be issued to retain information to accurately verify the current dimensions and capacity of the pond, for compliance verification with the 2013 WDRs.



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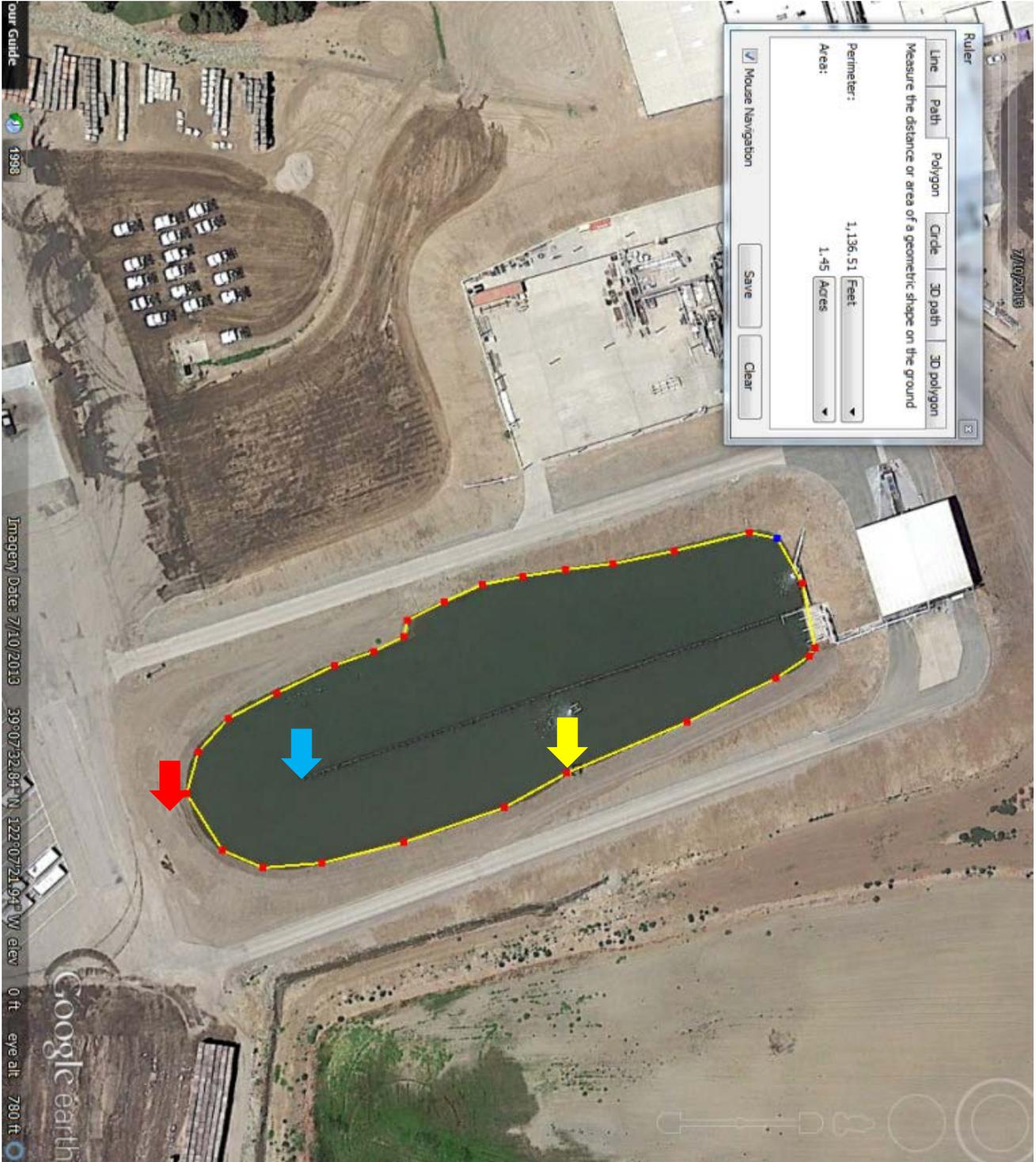
Photograph 1, 4 September 2008



Photograph 2, 9 October 2009



Photograph 3, 20 September 2011



Photograph 4, 10 July 2013



Photograph 4, 20 August 2015