

**Note: This document has been prepared by the
Central Valley Water Board's Prosecution Team**

ITEM: 10

SUBJECT: James G. Sweeney and Amelia M. Sweeney, Sweeney Dairy, Tulare
County

BOARD ACTION: Consideration of an Administrative Civil Liability Order

BACKGROUND: James G. Sweeney and Amelia M. Sweeney (Discharger) own and operate the Sweeney Dairy (Dairy) in Tulare County. The Dairy is regulated by Reissued Waste Discharge Requirements General Order for Existing Milk Cow Dairies, Order R5-2013-0122 (Reissued General Order) and accompanying Monitoring and Reporting Program (MRP), which was adopted in October 2013. The Reissued General Order and accompanying MRP contain reporting requirements for dairies regulated by the Reissued General Order, including timely submission of technical reports. The reports are required to document that the dairies are operating in compliance with the Reissued General Order and are not unreasonably affecting groundwater and/or surface water quality. The Discharger failed to submit an Annual Report for the calendar year 2014, which was due by 1 July 2015. Central Valley Water Board staff issued a notice of violation to the Discharger for failure to submit the required report. To date, the Discharger has not submitted the report.

ISSUES: On 4 April 2016, the Assistant Executive Officer issued Administrative Civil Liability (ACL) Complaint R5-2016-0531 pursuant to California Water Code section 13268, proposing that the Discharger be assessed monetary penalties in the amount of \$59,850 for failure to submit the technical report. The ACL Complaint was accompanied by Hearing Procedures which describe the process that must be followed if the matter proceeds to a hearing. On 29 April 2016, the Discharger submitted a signed form provided with the ACL Complaint to waive its right to a hearing within 90 days of being served with the ACL Complaint to extend the hearing date and hearing deadlines. The Advisory Team granted the Discharger's request and issued revised Hearing Procedures that modified the hearing date to 18 August 2016 and hearing deadlines accordingly. The Discharger submitted evidence and argument by the extended 17 June 2016 deadline provided in the revised Hearing Procedures. The Discharger's position is that the underlying Reissued General Order is invalid and therefore the Prosecution Team has not met its burden of proof under Water Code section 13267 to require the technical report.

RECOMMENDATION: Prosecution Team recommends that the Central Valley Water Board adopt the Administrative Civil Liability Order as proposed.

Mgmt. Review DKP
Legal Review SNL
18 August 2016
11020 Sun Center Dr. #200
Rancho Cordova, CA 95670