

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
NORTH COAST REGION**

Administrative Civil Liability Order No. R1-2014-0060

**In the Matter of
Spring Hill Jersey Cheese Inc.
Administrative Civil Liability Complaint No. R1-2014-0054**

**Sonoma County
WDID No. 1B12013DSO**

1. This matter comes before the North Coast Regional Water Quality Control Board (Regional Water Board) from Administrative Civil Liability Complaint R1-2014-0054 dated September 11, 2014 (Complaint) issued to Spring Hill Jersey Cheese, Inc. (Discharger). The Complaint alleges violations of General Waste Discharge Requirements Order for Existing Cow Dairies in the North Coast Region, Order R1-2012-0002 (General Order) and the accompanying Monitoring and Reporting Program (MRP) and proposes an administrative civil liability in the amount of \$37,125 pursuant to California Water Code section 13268. A hearing took place on November 20, 2014, in accordance with the Hearing Notice and Procedure and California Code of Regulations, title 23, sections 648-648.8. The Regional Water Board heard relevant evidence and testimony to decide whether to issue an administrative civil liability order assessing the proposed liability, a higher or lower amount, or to reject the proposed liability.
2. To help ensure the fairness and impartiality of the proceeding, the functions of those who acted in a prosecutorial role by presenting evidence for consideration by the Regional Water Board (Prosecution Team) were separated from those who advise to the Regional Water Board (Advisory Team). Members of the Prosecution Team were subject to the prohibition on ex parte communications with the members of the Regional Water Board or the Advisory Team, just like other Parties.
3. The Discharger owns and operates Spring Hill Jersey Cheese, Inc. Dairy (Dairy) located at 4235 Spring Hill Road Petaluma, California, in Sonoma County. The Dairy is located in the Bodega Hydrologic Unit, Estero de San Antonio Hydrologic Area. Stemple Creek and the Estero de San Antonio watershed are considered waters of the State and of the United States. The Regional Water Board and the U.S. Environmental Protection Agency (EPA) have listed these watersheds under Clean Water Act section 303, subdivision (d), as impaired for nutrients and sediment. A Stemple Creek tributary flows through the Dairy's northern pastures approximately 0.2 miles northwest of the Dairy's North Pond. Another tributary of Stemple Creek flows directly adjacent to the Dairy property. (Complaint at 1.)
4. The Dairy is regulated by the General Order and accompanying MRP. (Prosecution Team (PT) Exhibit 14 A & B.) The General Order became effective on January 19, 2012, and the Discharger enrolled on May 7, 2012. Pursuant to Water Code section 13267, the

General Order and the MRP required the Discharger to submit annual reports by November 30 each year. (PT Exhibit 14A at 8 & 11; PT Exhibit 14B at 1 & 9.)

5. Pursuant to Water Code section 13267, the General Order and the MRP required the Discharger to develop and implement a Waste Management Plan (WMP) and Nutrient Management Plan (NMP) for the Dairy. (PT Exhibit 14A at 10; PT Exhibit 14B at 1.) The General Order and the MRP also required the Discharger to furnish the WMP and NMP upon request by Regional Water Board staff. (PT Exhibit 14A at 14 [42].) On March 5, 2014, the Assistant Executive Officer of the Regional Water Board issued a letter to the Discharger requesting that it furnish a NMP and WMP by April 5, 2014. (PT Exhibit 4.) Upon request of Discharger, the Regional Water Board agreed to extend the submittal date for the NMP and WMP until May 14, 2014. (PT Exhibit 2.)
6. The Discharger violated Water Code section 13267 by failing to submit the 2012 Annual Report by the required deadline of November 30, 2012. The Discharger violated Water Code section 13267 by failing to submit the 2013 Annual Report by the required deadline of November 30, 2013. The Discharger violated Water Code section 13267 by failing to furnish the WMP and NMP upon request by the May 14, 2014 deadline.
7. Discharger does not dispute the facts underlying the alleged violations. In its Case in Chief, Discharger submitted a single letter stating that it could not find the proper professionals to complete the NMP and WMP and hopes to submit the required plans soon. The Discharger's oral testimony in this regard lacks credibility and supporting documentation. In addition, any effort made to secure professionals to complete the plans, and Annual Reports, appears to have been made late in the process, well after the deadlines for these submittals had passed. Discharger was on notice and had a strong incentive to diligently pursue compliance particularly in light of the evidence in Exhibit 13, which is a 2012 Stipulated Judgment from the Sonoma County Superior Court. The Stipulated Judgment requires Discharger to comply with the requirements of the General Order. Finally, even if Discharger diligently sought and failed to secure professional services, this would not constitute a valid defense.
8. Water Code section 13268 provides for the imposition of administrative civil liability, up to \$1000 for each day the violation occurs, against any person failing or refusing to furnish technical or monitoring program required by Water Code section 13267.
9. The Prosecution Team applied the penalty methodology of the 2010 Water Quality Enforcement Policy (Enforcement Policy) as explained in more detail in the ACLC, Attachment A to address the factors to be considered under Water Code section 13327, including the Discharger's culpability, history of violations, ability to pay and continue in business, economic benefit, and other factors as justice may require. (PT Exhibit B.1 [Attachment A]) The Regional Water Board finds the Prosecution Team's proposed final liability amount of \$37,125 to be reasonable.

10. Compliance with the requirements of the General Order is necessary to ensure that the Regional Water Board's Dairy Program is effective at protecting water quality. Enforcement is necessary to ensure that the program is administered fairly for those who are participating and in compliance. Annual Reports are needed to assess the implementation and effectiveness of best management practices for waste containment and nutrient application to prevent discharges of waste to waters of the state. The WMP and NMP ensure that a dairy is operated to manage waste and prevent water quality impacts. As of the date the Complaint was issued, Discharger's submittals are collectively 713 days overdue. While these violations are technically not discharge-related, the reports link to actual measures that must be employed to control discharges, and the mechanism to gauge whether the measures are sufficient to protect water quality. The record shows that Regional Water Board staff was accommodating and willing to assist. Additionally, Discharger had access to support and resources from other entities and organizations, yet still remains out of compliance.
11. The imposition of staff costs is necessary as the fiscal impact incurred by the Regional Water Board to remedy a violation should be borne by the violator.
12. Based on consideration of the above facts, the applicable law, and after applying the penalty methodology of the Enforcement Policy, the Regional Water Board finds that civil liability should be imposed administratively against the Discharger in the amount of **\$37,125**.
13. This is an action to enforce the laws and regulations administered by the Regional Water Board. The Regional Water Board finds that issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Pub. Res. Code § 21000 et seq.) pursuant to title 14, California Code of Regulations sections 15308 and 15321 subsection (a) (2).

IT IS HEREBY ORDERED, pursuant to Water Code section 13268, that:

1. Spring Hill Jersey Cheese, Inc. shall be assessed an Administrative Civil Liability in the amount of \$37,125.
2. Payment shall be made no later than 30 days from the date on which this order is adopted. Spring Hill Jersey Cheese, Inc. shall send the original signed check (payable to the Waste Discharge Permit Fund) to the State Water Resources Control Board Division of Administrative Services, ATTN: Accounting, 1001 I Street, 18th Floor, Sacramento, California 95814, and shall send a copy to Diana Henriouille, North Coast Regional Water Quality Control Board, 5550 Skylane Blvd., Ste. A, Santa Rosa, CA 95403.

Administrative Civil Liability Order
R1-2014-0060
Spring Hill Jersey Cheese, Inc.

3. Notwithstanding the issuance of this Order, the Regional Water Board retains the authority to assess additional penalties for violations for which penalties have not yet been assessed or for violations that may subsequently occur.

I, Matthias St. John, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, North Coast Region, on November 20, 2014.

Original Signed By Fred Blatt For

Matthias St. John
Executive Officer

14_0060_SpringHill_ACLO