CALIFORNIA
Water Boards

EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIQUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

May 4, 2012

Mr. and Mrs. Steve Vermeer
Vermeer Family Farms
541 North Warren Road
San Jacinto, CA 92582

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

EXPEDITED PAYMENT OPTION NOTICE TO ADDRESS MANDATORY MINIMUM PENALTIES FOR VIOLATIONS OF NPDES PERMIT NO. CAG018001

Mr. and Mrs. Vermeer:

This is to notify you that you are alleged to have violated California Water Code (CWC) Section 13385(h) for which the Regional Board shall assess mandatory minimum penalties. This letter outlines an expedited methodology for settling the outstanding violations and the mandatory minimum penalties associated with them.

VIOLATIONS AND STATUTORY AND DISCRETIONARY LIABILITIES:

Pursuant to CWC Section 13385(h)(1), a mandatory penalty of three thousand dollars ($3,000) shall be assessed for each serious violation. CWC Section 13385.1 defines, in part, a serious violation as "...a failure to file a discharge monitoring report required pursuant to Section 13383 for each complete period of 30 days following the deadline for submitting the report..."

The Vermeer Family Farms is covered under General Waste Discharge Requirements for Concentrated Animal Feeding Operations (Dairies and Related Facilities) within the Santa Ana Region, Order No. R8-2007-0001, NPDES No. CAG018001 (General Permit). Attachment B, Sections X.A and X.B, provide specific information on the Reporting Requirements for the Monitoring and Reporting Program of the General Permit. Sections X.A.2 and X.B.2 provide a deadline of January 15 of each year for submitting an Annual Report of Animal Waste Discharge. The Regional Board has determined that Vermeer Family Farms has violated Sections X.A.2 and X.B.2 of the Permit for not submitting the required reports by January 15, 2012 and is therefore subject to mandatory penalties. The required Annual Report was submitted on March 1, 2012 and therefore Vermeer Family Farms has incurred one 30-day period of violation (that is non-submittal of Annual Report by February 15, 2012). In accordance with CWC Section 13385(h) and Section 13383, the total mandatory penalty for the one 30-day period is three thousand dollars (1 x $3,000 = $3,000).

Alternatively, in accordance with CWC Section 13385(c), the Regional Board may impose discretionary administrative civil liability for the violations cited above. The time period for the violation cited above represents 44 days of violation. Consequently, the maximum administrative civil liability which may be imposed for this violation is $440,000 ($10,000 per day of violation).

EXPEDITED PAYMENT PROGRAM:

Generally, the Regional Board would issue a formal administrative civil liability complaint to assess these penalties and conduct a public hearing. To conserve the discharger's as well as Regional Board staff resources, the State Water Resources Control Board, through its Office of Enforcement, has developed a methodology for the discharger to settle these types of violations through an expedited payment program. If Vermeer Family Farms desires to have an expedited settlement as stipulated in Attachment 1, "Acceptance of Conditional Resolution and Waiver of Right to Hearing", the Vermeer Family Farms must sign the Attachment and make a payment of three thousand dollars ($3,000) to this office. If Vermeer Family Farms accepts this option by executing Attachment 1, Vermeer Family Farms would be also waiving its right to a hearing. The Regional Board will then forgo issuance of a formal administrative complaint and will waive its right to seek additional discretionary civil liabilities for the violations identified above. Please note that the expedited payment option does not address any violation that is not specifically identified in this notice.

VERMEER FAMILY FARMS OPTIONS:

1. Accept this offer for expedited payment by signing and returning Attachment 1 by May 18, 2012. Federal regulations require the Regional Board to publish and seek public comments on any proposed settlement of actions related to NPDES permit violations (40 CFR 123.27(d)(2)(iii)). Upon receipt of your acceptance of the expedited payment option (signed Attachment 1), Regional Board staff will publish a notice of the proposed resolution of the violations cited above. If no significant public comments are received within 30 days, the Executive Officer will counter-sign Attachment 1 and it will be returned to you for payment of the mandatory minimum penalty of $3,000 within 30 days of acceptance by the Executive Officer. If significant public comments are received during the public comment period, Board staff will try to address those comments. If the comments cannot be satisfactorily addressed by staff, the expedited payment option will be withdrawn and a formal administrative complaint may be issued and a public hearing may be scheduled at a regularly scheduled Regional Board meeting.

2. If you choose to contest the violation cited above, please identify the basis for the challenge (e.g., factual error, affirmative defense, analytical error, etc.) prior to May18, 2012 and contact Stephen D. Mayville at 951-782-4992. Board staff will evaluate the contested violation and determine that either the violation is not supported and amend the violation, or determine that the

alleged violation is meritorious and inform you of the staff decision. If you are not satisfied with the staff decision, a formal administrative complaint and a public hearing may be considered.

If you have any questions about this letter or the attachments, please contact Stephen D. Mayville at 951-782-4992 (by email to smayville@waterboards.ca.gov), or you may contact Ed Kashak at (951) 782-3292, or ekashak@waterboards.ca.gov

Sincerely,

Robert L. Holub
Division Chief

Enclosures: Attachment 1 (Acceptance of Conditional Resolution and Waiver of Right to Hearing)

cc: w\enclosures (by electronic mail only):

Board Members
Executive Officer (Regional Board Advisory Team)
State Water Resources Control Board, Office of Chief Counsel – David Rice (Regional Board Advisory Team Attorney)
State Water Resources Control Board, Office of Enforcement – Cris Carrigan (Regional Board Prosecution Team Attorney)
Robert Vandenheuvel, Milk Producers Council
Pat Boldt, Milk Producers Council
Jim Griffin, Western United Dairymen

EGK:dairies/ekashak/dairy_annual_reports/mmp_ltrs/vermeer_mmp.sdm

Attachment 1

ACCEPTANCE OF CONDITIONAL RESOLUTION AND WAIVER OF RIGHT TO HEARING

Vermeer Family Farms
Order No. R8-2012-0042

By signing and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Order), Vermeer Family Farms hereby accepts the resolution of the mandatory minimum penalty assessments for the violations cited in the Expedited Payment Option Notice, violations of NPDES Permit No. CAG018001, for which mandatory minimum penalties shall be assessed by the Regional Board. By signing the Acceptance and Order, Vermeer Family Farms also waives its right to a hearing before the Regional Board.

Vermeer Family Farms agrees that the Expedited Payment Option Notice and Attachment 1 together will serve as a Complaint pursuant to Article 2.5 of the California Water Code (CWC) and that no separate Complaint is required by the Regional Board to assert jurisdiction over the alleged violations. Vermeer Family Farms agrees to pay the mandatory minimum penalty of $3,000 as shown in the Expedited Payment Option Notice dated May 4, 2012, which shall be deemed payment in full for the violations listed in the Notice, pursuant to CWC Section 13385.

Vermeer Family Farms understands that pursuant to 40 CFR Section 123.27(d)(2)(iii), the Regional Board is required to provide public notice for at least 30 days and seek comments of any settlement agreement with the Vermeer Family Farms related to the NPDES permit violations, prior to the Executive Officer executing any settlement agreements such as this Acceptance and Order. Vermeer Family Farms understands that if significant comments are received, this Acceptance and Order may not be executed and the offer for expedited payment and settlement may be withdrawn and the Regional Board may choose to take formal enforcement action.

Vermeer Family Farms understands that once this Acceptance and Order is executed by the Executive Officer of the Regional Board, payment is due within 30 days and a check for $3,000 made payable to the State Water Resources Control Board, for deposit in the State Water Pollution Cleanup and Abatement account, shall be submitted to the Regional Board office.

Vermeer Family Farms understands that this Acceptance and Order only addresses the violations cited in the Expedited Payment Option Notice.

I hereby affirm that I am duly authorized to act on behalf of and to bind the Vermeer Family Farms in the making and execution of this Acceptance and Order.

Chastity Vermeer co-Owner

Name and Title of the Person Signing on behalf of Vermeer Family Farms (Print)

Chastity Vermeer 6/6/12

Signature Date

IT IS SO ORDERED PURSUANT TO CALIFORNIA WATER CODE SECTION 13385

Signature Date
Kurt V. Berchtold, Executive Officer
Santa Ana Regional Water Quality Control Board