

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of the Petition of)
SAN DIEGO COUNTY MILK PRODUCERS) ORDER NO. WQ 88-13
COUNCIL)
For Review of Cease and Desist)
Order No. 87-143 for the Vander)
Woude Dairy adopted by the)
California Regional Water Quality)
Control Board, San Diego Region.)
Our File No. A-514.)

BY THE BOARD:

On November 16, 1987, the California Regional Water Quality Control Board, San Diego Region (Regional Board), adopted Cease and Desist Order No. 87-143 for the Vander Woude Dairy. A timely petition was received from the San Diego County Milk Producers Council (Petitioner). The petition was deemed complete on February 24, 1988.

I. BACKGROUND

The Vander Woude Dairy is located in San Marcos on Twin Oaks Valley Road. The dairy currently confines less than 250 milking cows on a 65-acre site with 35 of those acres used for wastewater disposal. The dairy discharges to the Twin Oaks Hydrological Sub Area of the San Marcos Hydrological Sub Unit,

Carlsbad Hydrological Unit. Beneficial uses for groundwater of the Sub Unit include domestic and municipal supply agricultural supply and stock watering. The water quality objectives applicable in the Sub Unit are 1,000 parts per million (ppm) for total dissolved solids and 10 ppm for nitrate.

Waste discharge from the dairy is regulated by waste discharge requirements contained in Order No. 76-64. This order provides requirements for a 358 milking cow dairy. On April 20, 1987, the Regional Board adopted enforcement Time Schedule Order No. 87-67 which directed the dairy to design and construct waste management facilities in conformance with the requirements of Order No. 76-64. The requirements of Order No. 76-64 were subsequently amended by the Regional Board on November 16, 1987, updating the requirements to conform with State Animal Confinement Facility regulations (23 California Code of Regulations Section 2560 et seq.) and reducing the maximum milking cow head size to 250 cows.

On November 16, 1987, the Regional Board adopted Cease and Desist Order No. 87-143 which orders the dairy to cease and desist violations of the amended waste discharge requirements. The order finds violations of both the requirements and the enforcement time schedule order and directs the discharger to construct facilities to properly dispose of wastes generated by the dairy. While the petitioner does not dispute the violations

of requirements and the time schedule order, they do take issue with certain directives of Order No. 87-143.

II. CONTENTIONS AND FINDINGS

1. Contention: The Petitioner contends that the cease and desist order should not contain requirements more stringent than the Confined Animal Facilities regulations.

Findings: As we stated in Order No. WQ 88-12 (regarding the Van Tol Dairy), the Confined Animal Facilities regulations are minimum standards and Regional Boards should adopt additional requirements where necessary to prevent water quality degradation or impairment of beneficial uses.

The petitioner disputes the need for a water balance requirement and the operation and maintenance plan contained in Order No. 87-143. Adequate wastewater storage is an integral part of a dairy's waste management system and a water balance is appropriate to accurately determine the required storage volume. Such a requirement will ensure that discharge does not occur except during a storm more severe than the 25-year, 24-hour storm. The Regional Board is willing, however, to accept a wastewater storage volume equivalent to 60 days production of milkbarn washwater in addition to the runoff resulting from a 25-year, 24-hour storm in lieu of a water balance. This is a

reasonable position because it eliminates the necessity of an expensive data collection effort, but it also provides adequate protection from stormwater discharges. Vander Woude Dairy has, in fact, proposed to install a 60-day storage pond as a means of complying with Order No. 87-143. Therefore, no water balance will be required.

The operation and maintenance plan required by Order No. 87-143 is necessary to insure that the wastewater disposal system is properly operated. Such a requirement is particularly appropriate for the Vander Woude Dairy in light of its compliance history. In the past, the dairy has not constructed wastewater containment facilities sufficient to contain anticipated wastewater flows, and wastewater has been allowed to flow offsite. Therefore, we find this requirement to be appropriate.

2. Contention: The petitioner contends that the provision of Order No. 87-143 directing termination of discharge of dairy waste over a water supply pipeline by maintaining a minimum separation of 25 feet from the dairy waste disposal area and the edge of the pipeline unless otherwise approved by the State Department of Health Services (Department) is inappropriate.

Findings: We agree with petitioner on this point. The water supply pipeline is operated by the San Diego County Water

Authority. The minimum separation requirement was initiated by a Department memorandum to the Regional Board, dated September 23, 1987, in which it was recommended that the disposal of dairy wastes over the waterline be terminated because it constitutes a significant hazard to the domestic water supply. The Department based this recommendation on Title 22 of the California Code of Regulations, Section 64630(c)(3) which provides that water mains shall be installed at least ten feet, and preferably 25 feet, horizontally from sewage leach fields, cesspools, seepage pits, and septic tanks. The physical rationale for this regulation is that, if the waterline loses pressure, biological and chemical pollutants associated with sewage will be less likely to enter a water supply in high concentrations.

While it is generally appropriate for Regional Boards to incorporate relevant provisions in water quality orders based on regulations and state agency recommendations, unique factors exist in this case that indicate to the contrary. Evidence was received at the workshop meeting¹ which shows that the dairy operation existed at the site prior to construction of the water supply pipeline in question. An easement agreement dated March 7, 1964 was submitted by the discharger which grants an easement right of way to the San Diego County Water Authority for pipeline use subject to the dischargers surface use of the land.

¹ Water Code Section 13320 allows the record to be augmented. See also Title 23 California Code of Regulations Section 2066.

It is further noted that the regulation cited refers to sewage and does not specifically address dairy waste discharges. While the same rationale that applies to sewage may also apply to dairy waste discharge, the record does not contain sufficient evidence to this effect. Therefore, the directive in Order No. 87-143 to eliminate this practice is not supported by the evidence in the record.

III. SUMMARY AND CONCLUSIONS

The provisions of Order No. 87-143 requiring submittal of a detailed water balance and an operation and maintenance plan are appropriate and proper. The provision requiring the termination of waste discharge within 25 feet of a water supply pipeline is inappropriate.

IV. ORDER

Section No. 4 of Order No. 87-143 requiring the termination of discharge within 25 feet of a water supply

pipeline is vacated. In all other respects, the petition is denied.

CERTIFICATION

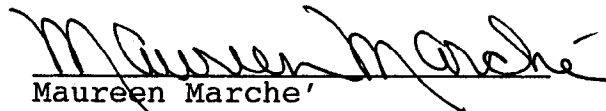
The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on November 15, 1988.

AYE: Darlene E. Ruiz
Edwin H. Finster
Eliseo M. Samaniego

NO: None

ABSENT: W. Don Maughan
Danny Walsh

ABSTAIN: None


Maureen Marche
Administrative Assistant
to the Board

