

**STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION**

**ADMINISTRATIVE CIVIL LIABILITY
ORDER NO. R3-2004-0019**

Issued To

**MR. WILLIAM FURTADO
WILLIAM FURTADO DAIRY
7955 FERGUSON ROAD, GILROY
SANTA CLARA COUNTY**

The California Regional Water Quality Control Board, Central Coast Region (Regional Board), finds that:

1. William Furtado, owner of William Furtado Dairy, is alleged to have violated provisions of the law for which the Regional Water Quality Control Board, Central Coast Region (Regional Board) may impose civil liability pursuant to California Water Code Section 13261(b)(1). William Furtado and his representatives will hereafter be referred to as 'Discharger.'
2. On March 14, 1986, the Regional Board issued Waste Discharge Requirements Order No. 86-01 to regulate discharges from a dairy located at 7955 Ferguson Road in Gilroy, Santa Clara County.
3. Regional Board staff needs a complete Report of Waste Discharge (ROWD) to revise the facility's waste discharge requirements, which are approximately seventeen years old.
4. On July 19, 2000, Regional Board staff requested a complete ROWD due by September 11, 2000. An incomplete ROWD of insufficient technical quality was received on October 12, 2000. On November 6, 2000, Regional Board staff notified the Discharger that the ROWD was incomplete and asked for a complete ROWD. The Discharger did not submit anything. Regional Board staff subsequently requested a complete ROWD on February 5, 2001, April 16, 2002, and February 20, 2003.
5. On February 6, 2003, Regional Board staff inspected William Furtado Dairy and discussed the Discharger's failure to submit a complete ROWD as required in previous correspondence. The Discharger said he had problems finding a consultant to prepare a complete ROWD. Regional Board staff suggested using an electronic phone book, however, the Discharger said he did not have internet access. Regional Board staff offered to mail him a list of consultants.
6. On February 20, 2003, the Regional Board Executive Officer sent a Notice of Violation addressed to the Discharger via certified mail. Enclosed was a list of consultants in or near Gilroy, obtained from an electronic phone book. The Notice of Violation required the Discharger to submit a complete ROWD pursuant to California Water Code sections 13260 and 13267. The Notice of Violation specified that if a complete ROWD was not received by April 19, 2003, the Discharger could be subject to formal enforcement action pursuant to California Water Code sections 13261 and 13268.
7. On multiple occasions in April 2003, a consultant contacted Regional Board staff to ask questions regarding the February 20, 2003 Notice of Violation. The consultant indicated he had been hired by the Discharger to comply with our requirements, including submittal of a complete ROWD.
8. To date, the Discharger has not submitted a complete ROWD or other ROWD information (other than the October 12, 2000 incomplete ROWD of insufficient technical quality).

9. On September 23, 2003, Regional Board staff left a telephone message for the Discharger's contact person regarding the ROWD, however the Discharger's contact person did not return staff's phone call.
10. On October 7, 2003, Regional Board staff spoke with the Discharger's consultant. The consultant said he had not been able to contact the Discharger to obtain information needed to submit a complete ROWD and other required reports. The consultant returned the Discharger's deposit.
11. California Water Code Section 13261(b)(1) provides that civil liability may be administratively imposed by a Regional Board for a violation of California Water Code Section 13260(a)(1) in an amount that may not exceed one thousand dollars (\$1,000) for each day the violation occurs. California Water Code Section 13260(a)(1) states that every person discharging waste shall file a report of waste discharge containing information required by the Regional Board. The total maximum liability the Regional Board may assess for this violation (from April 19, 2003, to December 22, 2003) is two hundred forty-eight thousand dollars (\$248,000).
12. The Regional Board is required by Section 13261 of the California Water Code to assess, at minimum, civil liability at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation.
13. Regional Board staff costs for investigating this incident and follow-up (technical, legal and administrative) were approximately \$3,000 (calculated from 40 hours at \$75/hour).
14. When imposing civil liability, California Water Code Section 13261 requires the Regional Board to consider the nature, circumstance, extent, and gravity of the violations, whether the discharge is susceptible to cleanup or abatement, and the degree of toxicity of the discharge. California Water Code section 13261 also requires the Regional Board to consider the violator's ability to pay, the effect on ability to continue in business, any voluntary cleanup efforts, any prior history of violations, the degree of culpability and economic savings, and other matters as justice may require. Consideration of these factors and calculations of potential civil liability are contained in Complaint No. R3-2004-0019.
15. This enforcement action is taken for the protection of the environment and as such is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.) in accordance with sections 15307 and 15308, Title 14, California Code of Regulations.
16. The Executive Officer issued Complaint No. R3-2004-0019 on January 12, 2004, pursuant to Water Code Section 13261. The complaint proposed imposing a penalty of \$5,000.
17. A hearing on this matter was held before the Regional Board on March 19, 2004 at the City Council Chamber Rotunda, 200 Lincoln Avenue in Salinas, California. The Discharger, or the Discharger's representative(s), had the opportunity to be heard and to contest the allegations in the Complaint No. R3-2004-0019, which recommended the imposition of civil liability by the Regional Board.
18. Following completed testimony on March 19, 2004, the hearing was closed and the Regional Board deliberated. This Administrative Civil Liability Order No. R3-2004-0019 is adopted based upon the evidence and arguments presented at the hearing and relevant evidence in the Regional Board files and upon consideration of the factors mandated by Water Code section 13261.

IT IS HEREBY ORDERED, pursuant to Section 13261 of the California Water Code, that the Discharger is assessed a total civil liability of Five Thousand Dollars (\$5,000) to be paid to the Regional Water Quality Control Board by April 18, 2004. The check is to be made payable to the State Water Resources Control Board.

I, Roger W. Briggs, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the Regional Water Quality Control Board on March 19, 2004.

Roger W. Briggs, Executive Officer

Date

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