



Enforcement News

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION**

11020 Sun Center Drive, #200, Rancho Cordova, California 95670-6114
(916) 464-3291 □ FAX (916) 464-4645
<http://www.waterboards.ca.gov/centralvalley>

Penalties Totaling \$1.38 Million Proposed for Tracy Dairy Properties Controlled by Henry J. Tosta

Central Valley Water Board Executive Officer proposes penalties for violations of Cleanup and Abatement Orders

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Contact: Robert Busby
Phone: 916-464-4666

SACRAMENTO – The Executive Officer of the Central Valley Regional Water Quality Control Board (Regional Water Board) has issued a complaint against two San Joaquin County facilities totaling more than \$1.3 million for violations found during routine inspections and failure to comply with Cleanup and Abatement Orders.

The Regional Water Board issued a complaint for \$1,140,713 to the Henry Tosta Dairy and a complaint for \$239,563 to the Reeve Road Heifer Ranch, both in Tracy. The inspections in May 2012 identified overflowing manure storage areas at the dairy and dead cows illegally buried in cropland rented by the Heifer Ranch. Two separate Cleanup and Abatement Orders were issued in June 2012. Both facilities are operated by Henry Tosta.

“These violations are extremely serious, and are compounded by the lack of cleanup and remediation activities by the operator of these two facilities,” said Water Board Executive Officer Pamela Creedon. “The vast majority of dairy operators in the Central Valley work hard to follow good environmental practices and to abide by the Dairy General Order. The lack of good management practices at both this large dairy and the Heifer Ranch, and the operator’s blatant disregard for the law, the Dairy General Order, and the subsequent Cleanup and Abatement Orders, has created unhealthy and dangerous conditions, polluting the waters of the State of California.”

The Dairy General Order, adopted by the Regional Water Board in 2007, requires dairies to handle wastes in ways that protect surface and groundwater. The General Order contains a number of requirements, including standards for manure and dairy wastewater storage and criteria for the application of manure and dairy wastewater to cropland as fertilizer. The Order also prohibits on-site disposal of dead animals except when state, federal, or local agencies declare a state of emergency.

At the dairy, Regional Water Board inspectors found manure slurry to a depth of several feet filling the central part of the production area and encroaching on corrals where animals were housed. The majority of cows are housed away from the manure piles in free stall barns or in corrals. Wastewater lagoons had not been cleaned out or maintained, and settling basins for solid manure were completely full of manure. The Waste Management Plan prepared for the dairy did not accurately reflect the conditions at the site. These management issues pose a significant threat to water quality, especially since groundwater at the dairy is less than five feet below the surface and the dairy production area is bordered by the Naglee-Burk Main Canal. Despite repeated inspections and reminders, the discharger has failed to comply with the majority of the requirements of the Cleanup and Abatement Order, especially with requirements to remove manure piled at the dairy.

In cropland rented by the Heifer Ranch, Regional Water Board inspectors found several cow carcasses placed in a groundwater-filled excavation and evidence that as many as several hundred additional animals may be buried in the same area. After removing several carcasses, the discharger has stated that removal activities are complete, and has failed to take any steps to remove additional animal remains or provide a plan for groundwater remediation.

Waste management at the two facilities violates rules prohibiting the collection of, treatment, storage, and discharge or disposal of wastes at a milk cow dairy that results in contamination of surface water or groundwater.

The maximum penalty that may be assessed under the California Water Code for the violations at the Henry Tosta Dairy is \$2,732,000 and the minimum penalty that may be assessed is \$826,991. The maximum penalty that may be assessed under the California Water Code for the violations at the Reeve Road Heifer Ranch is \$1,080,000 and the minimum penalty that may be assessed is \$54,951. The minimum penalty is determined by the economic benefit that the facilities received because they didn't comply with the Central Valley Water Board's Dairy General Order waste discharge requirements, plus a 10% surcharge. The California Water Code allows discretion in the assessment of penalties. The Executive Officer based the penalty, in part, on the severity of the problems and the dairyman's lack of cooperation in cleanup efforts.

The Water Board's Administrative Civil Liability Complaints (including inspection reports) and sets of selected pictures illustrating site conditions at the time of the inspections are available at:

Henry J. Tosta dba Henry Tosta Dairy:

http://www.waterboards.ca.gov/centralvalley/board_decisions/tentative_orders/index.shtml#tostadairy

Henry J. Tosta dba Reeve Road Heifer Ranch:

http://www.waterboards.ca.gov/centralvalley/board_decisions/tentative_orders/index.shtml#reeverdranch

The Central Valley Water Board is a California state agency responsible for the preservation and enhancement of water quality. For more information on the Central Valley Water Board, please visit the home page at:

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