

To: Central Valley Regional Water Quality Control Board

Advisory Team

klandau@waterboards.ca.gov

amayer@waterboards.ca.gov

Date: June 13, 2011

Dear Advisory Team:

Overview.

Whenever I hereafter use the terms "we" or "us" I am referring to my wife and myself, owners of Sweeney Dairy.

The deadline for us to submit six technical reports was July 1, 2010. 2009 and 2020 were dreadful years for us financially; the entire dairy industry was reeling from catastrophically low milk prices and high feed costs. We are a small dairy, much less able to deal with the situation than a larger dairy. More than three months before the July 1 filing deadline we asked the Central Valley RWQCB staff for relief from that deadline, and when they refused to grant our request, we asked that our request be calendared for a formal, agenda-item hearing so that we could submit our request for a modification of the Order directly to the regional board. Your agency continued to deny our request for a hearing before the board.

On August 16, 2010, the Central Valley RWQCB sent us a Notice of Violation, specifying our failure to file the technical reports by the July 1 deadline. The RWQCB did not serve its Administrative Civil Liability Complaint on us until May 5, 2011, nine months later. Despite your Agency taking all of that time to develop its case against us, it has given us only 35 days after we received the Complaint to submit all documents, evidence and legal arguments that we wish to use or rely upon in our defense. According to your self-serving rules, we would be precluded from using anything that we did not identify and/or deliver to you by June 13, 2011. Because of the extensive time needed for us to do research and to line up documents and possible professional consultants, we asked for a 60-day extension of the hearing date and of the deadline for submission of documents and legal arguments.

We have received no communication from you that you have granted our request for an extension. The refusal to grant an extension deprives us of due process and is a terrible abuse of discretion. A common criminal is afforded much greater procedural protections than has been extended to us, and we somehow feel a judge will agree.

Documents/Evidence.

You require us to identify and provide all documents and other evidence that we intend to use or rely upon at the hearing.

(a) At the present time we intend to use or rely upon the following, which we submit by reference because they are believed to already be in the files or in the possession of the Central Valley RWQCB:

1. Jim Sweeney letter to Central Valley RWQCB dated March 28, 2010.
2. Jim Sweeney letter to Central Valley RWQCB dated April 7, 2010.
3. Central Valley RWQCB letter to the Sweeneys dated June 15, 2010.
4. Jim Sweeney letter to Central Valley RWQCB dated June 27, 2010.
5. Central Valley RWQCB Notice of Violation sent to the Sweeneys on August 16, 2010.
6. Jim Sweeney letter to Central Valley RWQCB dated August 22, 2010.
7. Jim Sweeney letter to Central Valley RWQCB dated September 5, 2010.
8. Central Valley RWQCB letter to Sweeneys from Clay Rodgers dated May 5, 2011 re Administrative Civil Liability Complaint R5-2011-0562.
9. Administrative Civil Liability Complaint R5-20011-0562 against James G. and Amelia M. Sweeney, dated May 5, 2011 (together with all attachments, including the Hearing Procedures).
10. Jim Sweeney letter to Central Valley RWQCB dated May 15, 2011.
11. Jim Sweeney letter to Central Valley RWQCB dated May 31, 2011.
12. Email from Mayumi Okamoto to Alex Mayer et al, dated June 7, 2011.
13. Order No. R5-2007-0035, "Waste Discharge Requirements General Order for Existing Milk Cow Dairies."

14. All evidence, including the Administrative Record of all Public Hearings and Public Input, upon which Order R5-2007-0035 was based and adopted.
15. Water Quality Control Plan for the Tulare Lake Basin (2nd ed., 1995).
16. State Water Resources Control Board ("SWRCB") Resolution No. 68-16, "Statement of Policy with Respect to Maintaining High Quality of Waters in California."
17. Final Report of Brown, Vence & Associates, "Review of Animal Waste Management Regulations – Task 4 Report (November, 2004)." While we believe that your Agency is in possession of a copy, please advise if you do not.
18. Study Findings, Recommendations, and Technical Report (Parts I & II) of the University of California Extension, entitled "Manure Waste Ponding and Field Application Rates (March, 1973). We believe that your Agency has a copy.
19. NRCS Guidelines for Water Treatment Lagoons, Natural Resources Conservation Service Conservation Practice Standards, Code 359 (July, 2000).
20. "Impact of Dairy Operations on Groundwater Quality," a research project conducted and a report prepared by the Lawrence Livermore National Laboratory in cooperation with the State Water Resources Control Board. The report was submitted to the SWRCB in August, 2009, and we believe your agency has a copy.
21. "Fate and Transport of Waste Water Indicators: Results from Ambient Groundwater and from Groundwater Directly Influenced by Wastewater," a report prepared by the Lawrence Livermore National Laboratory in connection with the State Water Resources Control Board. We believe this report is in the possession of the Central Valley Board, and if it is not, it is available at the SWRCB website:
<http://www.swrcb.ca.gov/gama/gamadocs.shtml>.
22. Every other document and report which we have submitted to the Central Valley RWQCB since 1995.
23. Every other letter, note and report that the Central Valley RWQCB has prepared or sent to us since 1995, including the results of any on-site inspections of the Sweeney Dairy that Central Valley RWQCB staff have made since 1995.

(b) At the present time we intend to use the following additional documents at the hearing, which are attached to this letter:

1. Letter from Farm Credit West to us dated September 30, 2009.
2. Dairy Inventory Worksheet, dated 12/30/09, prepared by us for Farm Credit West.
3. Well water test dated 6/28/10, domestic well.
4. Well water test dated 6/29/10, Rd 170 well.
5. Well water test dated 6/29/10, Rd 180 well.
6. Letter from 4 Creeks Civil Engineering firm dated June 1, 2011, with attachments.
7. Proposed Regulatory Service Agreement between Jim Sweeney and Innovative Ag Services, LLC.

Witnesses.

1. Jim Sweeney.
2. James Sullins, Tulare County Director of University of California Cooperative Extension.

We reserve our right to use other evidence and witnesses not listed above if any come to light during the course of continuing to develop our case. We will notify you when such evidence or witnesses become known.

Legal Arguments.

1. As can be seen from the volume of documents referred to above, especially those of a highly technical nature, substantial time is needed by us to identify and secure all relevant evidence and to secure all needed witnesses by June 13, 2011, which, under your Hearing Procedures, is the deadline for identifying and presenting the evidence and arguments that we can use at the hearing. Anything not identified and submitted by that date cannot be used. This is less than 35 days after being served the Complaint and a copy of the Hearing Procedures.

In refusing to grant the requested continuance of the hearing date and the information submission deadline, our ability to satisfactorily prepare our evidence and position and to defend ourselves against the Complaint has been substantially impaired. Hence, we have been deprived of due process and have suffered an abuse of discretion.

2. We have a right to appear before the regional board to seek a modification of or a waiver from any of Order R5-2007-0035's general waste discharge requirements. The Order declares that it "serves as general waste discharge requirements of waste from existing milk cow dairies ... of all sizes." Under the Order's terms, a Dairyman (Discharger) has the right to seek a modification of any of those general waste discharge requirements. The reporting requirements, including the filing deadlines for annual and technical reports, are part of the Order's general waste discharge requirements for which a dairyman may seek modification, exemption or other similar relief.

While the regional board may delegate some of its powers and duties, some are not delegable. The modification of any waste discharge requirement is one of those powers and duties that are not delegable. (Water Code Section 13223) The regional board must review the staff's determination with respect to a request for relief.

3. Under the Order, we would have been required to file the following technical reports with the Central Valley RWQCB by July 1, 2010: (1) retrofitting plan needed to improve storage capacity, flood protection or design of the production area, (2) dairy site and cropland maps, (3) wastewater lagoon capacity evaluation, (4) flood protection evaluation, (5) dairy design and construction evaluation, (6) cross-connection inspection report. We were also required to submit an Annual Report, an Annual Dairy Facility Assessment report, and a Nutrient Management Plan. Most of these reports, technical and otherwise, must be prepared by appropriately licensed professionals/engineers and consultants, who are very costly. It was going to cost almost \$20,000.00.

We operate a 300 cow dairy, very small compared to the average size in the industry. 2009 and 2010 were unprecedented years in that they represented a combination of extraordinarily low milk prices and high feed costs. We were losing money and our lender would not advance funds to have these reports prepared and submitted. It was a financial impossibility.

Hence, on March 28, 2010, more than three months before the July 1, 2010 filing deadline, we wrote a letter to the Central Valley RWQCB asking for an extension of the deadline for submission of these reports. Anticipating that the staff would refuse to grant said relief, we asked the RWQCB staff in our letter of April 7, 2010 to schedule the matter for a hearing before the regional board. In their letter of June 15, 2010, the Central Valley staff stated that they had no authority to modify the reporting requirements, which

is true. But they refused to schedule a formal, agenda-item hearing before the regional board. Instead, they advised us that we were free to address the Board during the Public Forum section of their Agenda, even though such presentations are limited to 3 minutes.

In letters dated July 27, 2010, and August 22, 2010 we continued to press the staff to schedule a hearing before the regional board.

The RWQCB staff continues to refuse to schedule a hearing before the regional board. Had the staff scheduled a hearing, it is possible that the regional board could have granted us relief from these deadlines, in which case, we would not be in violation of the filing requirements. Therefore, the Central Valley cannot contend that we have violated the filing requirements until such time as the regional board has heard and denied our request and after we have exhausted all of our appeal and other legal remedies afforded us under the Water Code. (Water Code Sections 13320, 13325, and 13330)

4. We would not be in violation of failing to file the reports alleged in the Complaint if such reporting requirements were determined to violate applicable provisions of the Water Code. We contend that the Order fails to comply with state law in the following respects:
 - (a) The Order's waste discharge requirements must take into account economic considerations. (Water Code Sections 13241 and 13263 (a)) The Order does not sufficiently do so, particularly because it fails to provide means for smaller dairies to deal with disproportionately higher per cow reporting costs. Indeed, the Order fails to address the special financial circumstances of smaller dairies in any way whatsoever.
 - (b) The regional board is under a duty to review waste discharge requirements periodically. (Water Code Section 13263 (e)) If new and more cost effective ways can accomplish the same purpose, it must revise its requirements accordingly. New and old research and advanced technologies exist which may provide less expensive means for evaluating groundwater contamination risk, of determining non-contamination of groundwater, and of using less expensive practices that can still prevent such contamination. We contend that the Central Valley RWQCB will be unable to show that it has continued to sufficiently examine and consider such research results and advanced technologies, or that it has modified the Order accordingly.
 - (c) The law requires the regional board to provide a discharger with a written explanation for the need for these technical reports and the evidence that supports the requirement for the person to provide these reports (Water Code Section 13267) The RWQCB has failed to adequately comply with this legal requirement.

- (d) The RWQCB staff possesses inspection and other reports about our dairy from earlier years. These reports already provide information about our facility and operation. Hence, much of the information required in the technical reports would be duplicative and would add nothing useful or valuable.
- (e) The Order would be more sensitive to economic considerations if it was more "performance based," and less "rule based." A dairy has continuously operated on our site for more than eighty years. Yet, all our well water tests consistently show incredibly low nitrate nitrogen levels (less than 2 mg/L). This is considerably below state limits. Do such results indicate that our operation is a threat to the underground water? Are these results not excellent grounds to justify relief from these costly reports?
5. For the Order to be enforceable, the Central Valley RWQCB must show that its Order was approved by the State Water Resources Control Board. (Water Code Section 13245)
6. We would not be in violation of the Order's filing requirements if it is determined that the consideration, adoption and processing of the Order failed to comply with all applicable provisions of the California Administrative Procedure Act ("CAPA"). (Govt. Code Sections 11340 et seq) We contend that CAPA applies to the Order and that its consideration, adoption and processing failed to comply with the Act's requirements. Considering that the legislative intent of CAPA is to protect small business from excessively expensive and burdensome regulations, it is difficult to foresee a court not concluding that the Order is subject to CAPA requirements.

Concluding comments

Despite participating in your Hearing Procedure, we are not waiving our right to have a face-to-face hearing before the regional board under circumstances where we are given sufficient time to present all evidence relevant to the foregoing important issues.

In closing, let me make some final grim observations. It is extremely troublesome that the Agency's staff prepared the Complaint but purposely chose to not mention the letters we wrote prior to the filing deadline and thereafter. The Complaint also failed to mention that we had often requested a hearing before the regional board. Thus, the Complaint is inherently deceptive and prejudicial. This will only serve to bolster our contention that your Agency abuses its legal and discretionary powers.

We are responding to your self-serving set of protocols and short-fused deadlines, but we have concluded that they are unjustifiably difficult to meet and suspect that they are purposely designed to overwhelm, intimidate and discourage anyone from questioning or challenging your

Agency. We intend to eventually ask a court to rule whether they effectively constitute a denial of due process and whether they represent a significant obstacle to being afforded a fair hearing.

Let me also add that your creation of an Advisory Team, a Prosecution Team, and a Hearing Panel appears to be a convoluted sham. Each member of each Team/ Panel/Board is either an agent or employee of the same agency; all serving the same master. Hence, I do not expect this process to be fair, balanced and impartial. Despite your protestations to the contrary, your Agency is performing all of the functions of rule-maker, prosecutor, judge, jury and executioner. Thank goodness that our probable recourse is to have the issues ultimately ruled upon by an impartial superior court judge.

Submitted by,

Jim Sweeney

c.c. Prosecution Team

dessarv@waterboards.ca.gov

MOkamoto@waterboards.ca.gov

Documents attached



Farm Credit West

Hanford Office
1111 W. Lacey Blvd., Hanford, CA 93230
P.O. Box 1204, Hanford, CA 93232
559.584.2681 FAX: 559.584.9075
Web: www.farmcreditwest.com

September 30, 2009

David Souza

James G. Sweeney
Amelia M. Sweeney

Re: Farm Credit West Customer No. [redacted]
Loan Nos. [redacted]

Dear Customer:

Although we recognize that the above loans are not now delinquent, Federal Regulations require that we notify you that, based upon the financial information we currently have available to us and representations you have made, we have determined that the above-referenced loans are distressed loans that may be suitable for restructuring pursuant to the Farm Credit Act of 1971, as amended (the "Act"). An alternative to restructuring may be foreclosure. Enclosed is an Application for Restructure and a copy of the Distressed Loan Restructuring Policy of Farm Credit West, PCA and Farm Credit West, F.I.C.A., collectively ("FCW"). Please note that only one application will be considered on these loans. That application must be signed by all borrowers and agreed to by all guarantors.

Before you submit a completed Application for Restructure to the association, we would strongly recommend that you contact the association to set up a personal meeting to review the status of your loans, your current financial condition and the suitability of your loans for restructuring. In order to have a productive discussion about possible restructure options, we would encourage you to provide to us the financial information requested in the Restructure Application three (3) days prior to the meeting so that we may have a chance to review it. If you would like to have such a meeting, please contact David Hill at (559) 584-2681 to arrange for a convenient time and date. Please inform us at that time if you intend to be represented by counsel at that meeting. However, please be advised that before your loans can be considered for restructuring, the association must receive a completed Application for Restructure, which includes a restructure plan, within 48 days of this letter i.e., by November 17, 2009.

We must remind you that the above-referenced loans, while not in default, are considered distressed:

- 1) Loan No. [redacted] has a monthly payment due October 1, 2009 in the estimated amount of \$8,487.16. The principal and interest balance as of today's date is \$237,213.46.
- 2) Loan No. [redacted] has a monthly payment due October 1, 2009 in the estimated amount of \$5,226.11. The principal and interest balance as of today's date is \$279,755.24.
- 3) Loan No. [redacted] has a monthly payment due October 1, 2009 in the estimated amount of \$4,449.95. The principal and interest balance as of today's date is \$636,177.46.

Farm Credit West, F.I.C.A.
Farm Credit West, PCA,
Subsidiaries of Farm Credit West, ACA

The Farm Credit System

This is to inform you that unless the default is cured, the association will be entitled to begin foreclosure proceedings after the forty-eighth (48th) day following the date of this letter, i.e., after November 17, 2009, if you have not submitted a completed Application for Restructure, including a restructure plan by that date or if your Application for Restructure is denied and the process for considering your loans for restructuring has been completed.

WHETHER OR NOT YOU REQUEST A MEETING, IF YOU WANT THE ASSOCIATION TO CONSIDER YOUR LOANS FOR RESTRUCTURING, YOU MUST COMPLETE AND EXECUTE THE APPLICATION FOR RESTRUCTURE. THE ASSOCIATION MUST RECEIVE YOUR APPLICATION, TOGETHER WITH ALL OTHER DOCUMENTS AND INFORMATION REQUESTED ON THE APPLICATION FORM, NO LATER THAN 5:00 P.M. ON NOVEMBER 17, 2009, WHICH IS 48 DAYS FROM THE DATE OF THIS LETTER. YOUR FAILURE TO PROVIDE TO THE ASSOCIATION A COMPLETED APPLICATION BY THIS DATE MAY RESULT IN YOUR LOSING THE RIGHT TO HAVE YOUR LOANS CONSIDERED FOR RESTRUCTURING. ORAL APPLICATIONS, INCOMPLETE WRITTEN APPLICATIONS AND APPLICATIONS RECEIVED AFTER 5:00 P.M. ON NOVEMBER 17, 2009 WILL NOT COMPLY WITH THIS REQUIREMENT.

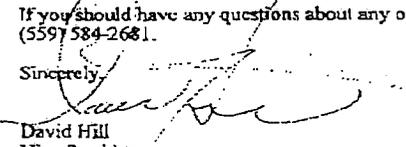
Any application received by the association after 5:00 P.M. on November 17, 2009 if considered by the association in its sole discretion, will not be subject to the provisions of the Farm Credit Act of 1971, as amended, or the Distressed Loan Restructuring Policy. For example, you will not be entitled to a personal meeting with the association to discuss the application, the association will not be obligated to evaluate the application under the restructuring guidelines set forth in the Act and the Distressed Loan Restructuring Policy, and you will not have the right to seek review by a credit review committee of the association's decision on the application.

If your loans are restructured and you do not perform under the restructure agreement, Farm Credit West may initiate foreclosure proceedings without further notice. Performance means that a borrower has made six consecutive monthly payments under the restructure agreement.

Finally, please note that a copy of this letter, together with copies of the application and the policy, are being provided to all other obligors and guarantors on the loans.

If you should have any questions about any of the foregoing, please contact David Hill at (559) 584-2681.

Sincerely,


David Hill
Vice President

Enclosures

used by Farm Credit

DAIRY INVENTORY WORKSHEET

As of 09/30/08

FEED LOCATED ON THE DAIRY

	Tons	Cost Per Ton	Total Cost
Hay			
Milk Cow Hay	15	\$ 175	\$ 2,625
Dry Cow Hay	90	\$ 110	\$ 9,900
Oat Hay	80	\$ 95	\$ 7,600
Straw		\$	
Sudan		\$	
TOTAL			\$ 20,125

GE:

Com Silage	1700	\$ 45	\$ 76,500
Wheat Silage		\$	
Haylage		\$	
Winter Silage		\$	
Total	1,700		\$ 76,500

GRAIN/COMMODITIES

Com		\$	\$
Barley		\$	\$
Almond Hulls		\$	\$
Beet Pulp		\$	\$
Hominy		\$	\$
Minerals		\$	\$
Molasses		\$	\$
Cracked Corn	20	\$ 300	\$ 6,000
Inside Mix		\$	\$
Outside Mix	15	\$ 220	\$ 3,300
Total	35		\$ 9,300

PREPAID FEED

Dealer	Amount \$
Total	\$

CASH IN GROWING CROPS

\$ 3,250

NAME Jim Sweeney

DATE September 30, 2008

HERD INVENTORY

	Current No. of Head
MATURE COWS	
Milk Cows	290
Dry Cows	34
Springers	7
TOTAL	331

HEIFERS

	Current No. of Head
Bred Heifers	76
Heifers 12-15 Months Old	83
Heifers 6-12 Months Old	58
Heifers 3-6 Months Old	23
Heifers 0-3 Months Old	27
TOTAL	267

BULLS

Mature Bulls	2
Yearling Bulls	18
Young Bulls	8
TOTAL	28

ACCOUNTS PAYABLE

Cow Brokers	
Food Brokers	76,000
Grain Companies	71,722
Other	27,000
Total	\$ 174,722

ACCOUNTS RECEIVABLE

Current Monthly	
Creamery Milk Check	64,000

CASH ON HAND

\$ 8,280



ENVIRONMENTAL

nel c

July 14, 2010 Analytical Chemists

Lab ID : VI1041217-001
Customer ID : 4-18503

Valley Tech Agricultural Lab Services
Attn: Monique Baldiviez
2120 S. "K" St
Tulare, CA 93274

Sampled On : June 28, 2010-07:00
Sampled By : Not Available
Received On : July 3, 2010-14:40
Matrix : Ground Water

Description : Domestic 6-29X751-1
Project : Sweeney Dairy

Sample Result - Inorganic

Constituent	Result	PQL	Units	Note	Sample Preparation		Sample Analysis	
					Method	Date/ID	Method	Date/ID
Bairy Analysis								
Nitrate Nitrogen	1.4	0.1	mg/L		4500403F	07/10/10:200759	3500403F	07/10/10:200759
Conductivity	216	1	umhos/cm		25100	07/06/10:200763	25100	07/06/10:200763

ND-Not Detected, PQL-Practical Quantitation Limit, Comments: (P) Plastic Preservation, (2504 µl) <2.5 Semiquant.

Corporate Office & Laboratory
501 Corporate Drive
Santa Paula, CA 93060
TEL: 805/920-2000
FAX: 805/920-1772
CA NELAP Certification No. 0780CA

Office & Laboratory
2200 Stagecoach Road
Stockton, CA 95215
TEL: 209/942-0182
FAX: 209/942-0123
CA ELAP Certification No. 1563

Office & Laboratory
663 E. Linden Avenue
Orland, CA 95956
TEL: 530/843-5818
FAX: 530/843-3897
CA ELAP Certification No. 2870

Field Office
Visalia, California
TEL: 559/734-9473
Mobile: 559/737-2099
FAX: 559/734-9430



ENVIRONMENTAL



July 14, 2010 Analytical Chemists

Lab ID : V11041217-002
Customer ID : 4-18503

Valley Tech Agricultural Lab Services
Attn: Monique Bakdivicz
2120 S. "K" St.
Tulare, CA 93274

Sampled On : June 29, 2010-06:30
Sampled By : Not Available
Received On : July 3, 2010-14:40
Matrix : Ground Water

Description : Rd.170 6-29X751-2
Project : Sweeney Dairy

Sample Result - Inorganic

Constituent	Result	PQL	Units	Note	Sample Preparation		Sample Analysis	
					Method	Date/ID	Method	Date/ID
Dairy Analysis ⁽¹⁾								
Nitrate Nitrogen	1.1	0.1	mg/L		4500NO1F	07/16/10-286059	3500NO2F	07/16/10-286059
Conductivity	372	1	umhos/cm		25106	07/16/10-286059	25106	07/16/10-286059

ND=Non-Detected, PQL=Practical Quantitation Limit, Container: (F) Plastic Preservative: 17504 pH < 2.5 Autogas.

Corporate Office & Laboratory
853 Corporate Street
Santa Paula, CA 93090
TEL: 805/922-3400
FAX: 805/922-4122
CA NELAP Certification No. 07110CA

Office & Laboratory
2500 Stegansach Road
Stockton, CA 95215
TEL: 209/942-0182
FAX: 708/942-0427
CA ELAP Certification No. 1563

Office & Laboratory
553 E. Linda Avenue
Chico, CA 95920
TEL: 530/343-5818
FAX: 530/343-3817
CA ELAP Certification No. 2670

Field Office
Wasco, California
TEL: 559/734-9173
Mobile: 559/734-2200
FAX: 559/734-6136



ENVIRONMENTAL

nel c:

Analytical Chemists
July 14, 2010

Lab ID : VI 1041217-003
Customer ID : 4-13503

Valley Tech Agricultural Lab Services
Attn: Monique Baldiviez
2120 S. "K" St.
Tulare, CA 93274

Sampled On : June 29, 2010-06:30
Sampled By : Not Available
Received On : July 3, 2010-14:40
Matrix : Ground Water

Description : Rd. 180 6-29X751-3
Project : Sweeney Dairy

Sample Result - Inorganic

Constituent	Result	PQL	Units	Note	Sample Preparation		Sample Analysis	
					Method	Date/ID	Method	Date/ID
Dairy Analysis ⁽¹⁾								
Nitrate Nitrogen	0.2	0.1	mg/L		4300NDJF	07/10/10:20659	4300NDJF	07/10/10:20659
Conductivity	147	1	umhos/cm		2310B	07/06/10:206765	2310B	07/16/10:208559

ND=Not Detected, PQL=Practical Quantitation Limit, Contaminants: (P) Plastic Preservatives: H2SO4 pH < 2 & Surrogate.

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Corporate Offices & Laboratory
BS3 Corporation Blvd
Santa Paula, CA 93060
TEL: 805/570-2800
FAX: 805/523-4772
CA NELAP Certification No. 01130CA

Office & Laboratory
2500 Stegmann Road
Shafter, CA 93292
TEL: 209/842-0185
FAX: 209/842-0423
CA ELAP Certification No. 1563

Office & Laboratory
863 E. Lindo Avenue
Chico, CA 95928
TEL: 530/243-6818
FAX: 530/243-3807
CA ELAP Certification No. 2570

Field Office
Visalia, California
TEL: 559/734-8173
Mobile: 559/734-2399
FAX: 559/734-8435



June 1, 2011

Jim Sweeney
Sweeney Dairy
30712 Road 170
Visalia, CA 93292

RE: **General Order Waste Management Plan
Sweeney Dairy**

Dear Mr. Sweeney,

As you are aware, the California Regional Water Quality Control Board (CRWQCB) required a Waste Management Plan (General Order No. R5-2007-0035, Attachment B) to be submitted for each existing dairy by July 1, 2010. Per your email, the facility in question located at 30712 Road 170, Visalia, CA has not yet prepared a WMP.

4Creeks has completed a preliminary assessment of your facility based on the location, facility size, and flood zone designation. This has allowed us to provide you an accurate scope of work and engineering fees for this project. Please refer to Attachment A for a summary our scope of work.

In addition to a WMP, a Nutrient Management Plan and an Annual Report will need to be prepared and submitted by an agronomist. 4Creeks does not provide these services but can help coordinate with an agronomist to complete these reports. 4Creeks will complete the Waste Management Plan and coordinate to ensure consistency with the Nutrient Management Plan and Annual Report. The Annual Report and Nutrient Management Plan fees are not included within our scope of work.

4Creeks would be privileged to assist you in the preparation and submittal of the Waste Management in a timely manner.

Respectfully,

A handwritten signature in black ink, appearing to read "D. De Groot", with a long horizontal flourish extending to the right.

David De Groot, RCE 70992
4Creeks, Inc.

1150 N. Chinoweth St., Suite B, Visalia, CA 93291
(559) 802-3052

ATTACHMENT "A"

SWEENEY DAIRY WASTE MANAGEMENT PLAN

4Creeks, Inc. will provide the following services to complete the Waste Management Plan per the General Order No. R5-2007-0035 Attachment B requirements.

To complete the items outlined below, 4Creeks, Inc. will provide a topographic survey of the production area to substantiate the results and conclusions of the Waste Management Plan.

I. Facility Maps

- a. Provide an updated Production Area Map with wastewater conveyance system
- b. Provide an updated Land Application Map with wastewater conveyance system
- c. Review existing maps and exhibits previously prepared by owners and update as required

II. Wastewater Pond Storage Volume Analysis

- a. Calculate the storage volume of the existing wastewater pond
- b. Calculate the total amount of process wastewater generated during the retention period
- c. Calculate the total amount of storm drain run-off during the storage period
- d. Provide an analysis of the pond required capacity versus existing capacity
- e. Determine any modifications needed to meet storage volume requirements and prepare a summary of the options for the dairy owner.
- f. Prepare a Technical Report summarizing results, conclusions and any modifications required.

III. Flood Protection Analysis

- a. Determine FEMA flood designation for production area
- b. Prepare exhibits outlining the boundary of the flood zone and identifying the Base Flood Elevation per the Zone AE Designation
- c. Prepare a Flood Analysis Summary with the results, conclusions, and modifications for adequate flood protection summarized

IV. Production Area Design Assessment

- a. Review the production area and verify that:
 - i. Corrals drain to wastewater pond
 - ii. Milk Parlor, Barn areas drain to wastewater pond
 - iii. Manure and Feed Storage areas drain to wastewater pond
- b. Determine any modifications needed to divert run-off to wastewater pond

c. Prepare a Technical Report summarizing results and conclusions

V. Operation and Maintenance Plan

- a. Prepare Draft Operation and Maintenance Plan and review the plan with owner for consistency and update as needed
- b. Prepare a Technical Report summarizing plan

VI. Backflow Prevention

- a. Verify that there are no cross connections on any irrigation or domestic wells
- b. Provide a summary report identifying the wells with adequate backflow prevention.

4Creeks, Inc. will provide the services described above on a fixed fee basis. Please note that this fee only includes the portions above in the waste management plan portion of the General Order.

Total Fixed Fee: \$7,500

This fee amount will expire after 30 days of delivering the proposal. After the 30 day period, 4Creeks, Inc. will re-evaluate the fee, which may increase based on capacity of work at 4Creeks, Inc.

25% Retainer Amount Due: \$1,875

4Creeks, Inc. will require a 25% retainer to be paid prior to commencing work. Upon a complete draft submittal to the owner for review prior to submittal, the project will be billed to 75%. Upon completing the final document and providing it to the owner, the project will be billed to 100%.

The final WMP will not be submitted until payment has been received in full for the project. If this is not possible, please discuss with 4Creeks and a separate payment agreement may be discussed.



Innovative Ag Services, LLC

1201 Lacey Blvd., Suite 5 Hanford, CA 93230
Office (559) 587-2800 Fax (559) 587-2801

Regulatory Service Agreement

INTRODUCTION

The following agreement has been prepared by Innovative Ag Services, LLC (IAS) to provide agronomic and environmental consulting services for Jim Sweeny (Client) to address regulatory compliance for the SWEENEY DAIRY (Facility), located at 30712 ROAD 172, Visalia CA 93277 (Facility Address).

SCOPE OF WORK

The scope of work identified in this proposal includes the services needed to address the agronomic expertise necessary for your facility.

REGIONAL WATER QUALITY CONTROL BOARD (RWQCB) STANDARD SERVICES

I. NUTRIENT MANAGEMENT PLAN – \$5,000.00

- a. IAS will provide a Nutrient Management Plan (NMP) to meet the requirements of the General Order for Existing Milk Cow Dairy R5-2007-0035. The NMP will be prepared by a Certified Nutrient Management Specialist and provide recommendations designed to maximize returns while complying with the RWQCB using the most recent and available laboratory data from the Monitoring and Reporting Program (MRP) on your dairy facility.
- b. A Certified Crop Advisor (CCA) will perform a site visit to inspect the farming operation and verify the agronomic capacity of the farming operation.
- c. The Client agrees to provide IAS with all laboratory data and record keeping records that are available.
- d. Since the NMP is a plan for the upcoming year, IAS can modify the report to meet current operation or prepare one of the upcoming season.

II. ANNUAL REPORT – \$3,000.00

- a. IAS will prepare and submit the required "Annual Report" of the Waste Discharge Requirements General Order for Existing Milk Cow Dairies R5-2007-0035
- b. The client agrees to provide a complete copy of all their MRP results for the previous year by February 1st.

III. RECORD KEEPING SYSTEM SET-UP – \$550.00

- a. IAS will provide a record keeping system to comply with the Waste Discharge Requirements General Order R5-2007-0035 that is customized specifically for your facility.

IV. MONTHLY RECORD KEEPING – \$350.00 per month

- a. IAS will provide monthly record keeping services to assist the dairy facility meet its MRP requirements of the Waste Discharge Requirements General Order R5-2007-0035, including monthly pictures.
- b. This monthly fee will be charged to the client and continue on an annual automatic renewal agreement.
- c. A set-up fee of \$350.00 will be charged to set up the record keeping system where applicable.