

CLR

May 31, 2011

Clay L. Rodgers
Assistant Executive Officer
California Regional Water Quality Control Board
Central Valley Region
1685 E. Street
Fresno, CA 93706

Re: Civil Liability Complaint R5-2011-0562
Sweeney Dairy

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Dear Mr. Rodgers:

I enclose your form entitled "Waiver of 90-day Hearing Requirement for Administrative Civil Liability Complaint." We have checked box 5, and are thereby waiving the 90-day hearing requirement because we are requesting an extension of the hearing date and of the hearing deadlines. We request that the hearing date be extended at least 60 days beyond the current date of July 14/15, and that the hearing deadlines be extended by a corresponding 60 days.

Please treat this cover letter as the attached separate sheet explaining the reasons for the request. We need additional time to properly secure and prepare our evidence, to complete our legal research, and to develop our arguments that we intend to introduce at the hearing.

Because of the demands of operating our dairy, we request that the hearing before the regional board be when the board meets in Fresno. Travel to Sacramento would create excessive problems for us. We also ask that subject of the hearing include the issue of the request that we first made to your agency on March 28, 2010 for a modification of Order R5-2007-0035. As you know, modification of waste discharge requirements cannot be delegated by the regional board, but must be decided by the regional board itself. Hence, we made a number of subsequent requests to your agency to schedule our request as an agenda item before the regional board, but you failed to do so.

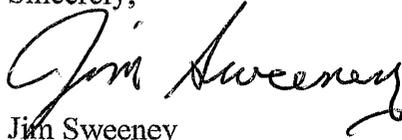
These failures on your agency's part are inextricably related to the merits of your Complaint for Civil Liability, and a consideration of these issues must be considered concurrently with consideration of your Complaint. Also please be advised that we intend to challenge the legal validity of Order R5-2007-0035 as part of our defense. Because of the magnitude and complexity of all of these issues, we need the requested extensions.

Also because of the magnitude and the complexity of the issues, we request additional time during the hearing to allow for the presentation of all of our evidence and arguments. We ask for

two hours of time, although we may need less. Please promptly advise the Advisory Team of this request.

Please advise us no later than June 8, 2011 whether you will agree to our request for extensions of time.

Sincerely,

A handwritten signature in cursive script that reads "Jim Sweeney". The signature is written in black ink and is positioned above the printed name.

Jim Sweeney

cc. Pamela Creedon

**WAIVER OF 90-DAY HEARING REQUIREMENT FOR
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

1. I am duly authorized to represent James G. and Amelia M. Sweeney (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint R5-2011-0562 (hereinafter the "Complaint");
2. I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served" with the Complaint;
3. **(Check one of the boxes below if the Discharger will waive its right to a hearing and either [Box 1] accept the proposed liability amount of eleven thousand four hundred dollars (\$11,400) in full or [Box 2] accept an adjusted amount of proposed liability subject to timely submission of the required reports)** I hereby waive any right the Discharger may have to a hearing before the Central Valley Regional Water Quality Control Board (Central Valley Water Board) within ninety (90) days of service of the Complaint

[Box 1] I certify that the Discharger will be liable for **eleven thousand four hundred dollars (\$11,400) in full** and will submit this signed waiver and full payment by check, which will contain a reference to "ACL Complaint R5-2011-0562" and will be made payable to the "State Water Resources Control Board Cleanup and Abatement Account" by **6 June 2011**

[Box 2] I certify that the Discharger will be liable for the adjusted amount of proposed liability if the Discharger submits one or more of the following documents by **20 June 2011**:

- a complete 2009 Annual Report; and/or
- a complete Waste Management Plan.

The amount of the assessed civil liability shall be reduced by two thousand dollars (\$2,000) for each report described above that is received by **20 June 2011** and which the Executive Officer finds complete.

In addition to the reports, the Discharger shall also remit payment of the adjusted liability amount, by check, which will contain a reference to "ACL Complaint R5-2011-0562" and will be made payable to the "State Water Resources Control Board Cleanup and Abatement Account". Payment must be received by the Central Valley Water Board along with the reports described above by **20 June 2011** or this matter will be placed on the Central Valley Water Board's agenda for consideration at the **14/15 July 2011** Hearing Panel.

I understand that payment of the liability amount either in full or in the adjusted amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

-or-

4. **(Check here if the Discharger will waive the 90-day hearing requirement, but wishes to engage in settlement negotiations. The Central Valley Water Board must receive information from the Discharger indicating a controversy regarding the assessed penalty at the time this waiver is submitted, or the waiver may not be accepted.)** I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board within 90 days after service of the complaint but reserve the ability to request a hearing in the future. I certify that the Discharger will promptly engage the Central Valley Water Board staff in discussions to resolve the outstanding violation(s). By checking this box, the Discharger is *not* waiving its right to a hearing on this matter. By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing so that the Discharger and Central Valley Water Board staff can discuss settlement. It remains within the discretion of the Central Valley Water Board to agree to delay the hearing. A hearing on the matter may be held before the Central Valley Water Board if these discussions do not resolve the liability proposed in the Complaint. The Discharger agrees that this hearing may be held after the 90-day period referenced in California Water Code section 13323 has elapsed.
5. **(Check here if the Discharger will waive the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. The Central Valley Water Board must receive information from the Discharger indicating a controversy regarding the assessed penalty at the time this waiver is submitted, or the waiver may not be accepted. Attach a separate sheet with the amount of additional time requested**

and the rationale.) I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board within 90 days after service of the complaint but reserve the ability to request a hearing in the future. By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing and/or hearing deadlines so that the Discharger may have additional time to prepare for the hearing. It remains within the discretion of the Central Valley Water Board to approve the extension.

If a hearing on this matter is held, the Hearing Panel will consider whether it should recommend to the Central Valley Water Board the issuance of an administrative civil liability order assessing the proposed liability, or a higher or lower amount, or rejecting the proposed liability, or it may recommend referral of the matter to the Attorney General for enforcement.

James G. Sweeney owner
(Print Name and Title)
James G. Sweeney
(Signature)
5-30-11
(Date)