



California Regional Water Quality Control Board
Central Coast Region



Linda S. Adams,
Secretary for

Environmental Protection

895 Aerovista Place, Suite 101, San Luis Obispo, California 93401-7906
(805) 549-3147 • Fax (805) 543-0397
<http://www.waterboards.ca.gov/centralcoast>

Arnold Schwarzenegger
Governor

October 24, 2006

JOE TORQUATO
NATURAL SELECTIONS FOODS INC.
1721 SAN JUAN HIGHWAY
SAN JUAN BAUTISTA, CA 95045

Certified Mail No.
7004 1350 0003 9804 3898

DEAR JOE TORQUATO:

RE: REQUEST FOR BACTERIAL ANALYSES OF WATER SUPPLY AND RECYCLED WASTEWATER USED FOR IRRIGATION

In an effort to protect water quality and preserve beneficial uses of water, the Central Coast Region Regional Water Quality Control Board (hereafter, "Water Board") will be investigating water sources and wastewater discharges for both fecal coliform and the E. coli 0157:H7 strain from fruit and vegetable processing facilities that reuse their process wash water. As you know, the presence of E. coli 0157:H7 poses a significant threat to water quality. The risk to human health from the presence of E. coli 0157:H7 (where it is present) threatens beneficial uses of water, including agricultural (irrigation) uses. We are therefore requiring monitoring and reporting at all facilities that reuse wash water.

California Water Code Section 13267 states:

(a) A regional board, in establishing or reviewing any water quality control plan or waste discharge requirements, or in connection with any action relating to any plan or requirement authorized by this division, may investigate the quality of any waters of the state within its region.

(b)(1) In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.

(e) As used in this section, "evidence" means any relevant evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in a civil action.

Our records indicate that the above-named facility ("Facility") processes food products and produces process wash wastewater. For the discharge of wastewater, we regulate the Facility by either individual waste discharge requirements or by the general waste discharge requirements for fruit and vegetable processing waste. This coverage requires that your discharge not contain pollutants that could impact beneficial uses of surface water or groundwater. We understand that your industry is also concerned about this food and water quality issue, and may already be conducting monitoring to ensure the safety of your products.

The Water Board needs the required information in order to ensure protection of water quality and compliance by the Facility with its waste discharge requirements. You are required to submit this information because of the potential threat to surface and groundwater and their beneficial uses, and because of the potential for nuisance, pollution or contamination if E. coli is present.

Evidence supporting the need for this information includes:

- Recent E. coli outbreaks resulting from consumption of ready-to-eat crops;
- Statements from the U.S. Food and Drug Administration and the Centers for Disease Control and Prevention on the food-borne E. coli O157:H7 outbreak;
- Statements from the U.S. Environmental Protection Agency on E. coli O157:H7 potentially originating from rainfalls, snow melts, or other types of precipitation where E. coli may be washed into creeks, rivers, streams, lakes, or groundwater which supply drinking water;
- Indicator bacteria analytical results from Airport Boulevard Drain (309AXX) to Reclamation Ditch 1665 in Salinas, California;
- Watsonville Slough Total Maximum Daily Load (TMDL) for Pathogens study; and,
- Several other pathogen TMDL studies in progress throughout the Central Coast Region

Additional evidence supporting the need for these requirements is available at the Water Board's office.

Reporting Requirements for Facilities That Do Not Reuse Process Wash Wastewater

If your process wastewater is discharged to evaporation ponds or a wastewater treatment system, and not reused, you are not required to monitor the evaporation ponds as set forth below. If you do not reuse, you must provide the following

information to Harvey Packard at the letterhead address, above, no later than **December 4, 2006**

1. A statement that the Facility does not currently reuse process wastewater in any form (including for irrigation or process reuse within the facility).
2. If the Facility has reused process wastewater in the past, the last date on which you reused process wastewater.
3. A statement that the Facility does not plan to reuse process wastewater in any form. If you initiate reuse, you are required to institute monitoring and reporting, as described below.
4. Submit any existing coliform or E. coli [including 0157:H7] monitoring data for any water source, wash water, process water, or wastewater. This data must be submitted with the next scheduled monitoring report.

This information must be submitted under penalty of perjury signed by an authorized representative as defined in the Standard Provisions and Reporting Requirements (SPRR) for National Pollutant Discharge Elimination System Permit section G.5 (Section F.6 of the SPRR for Waste Discharge Requirements):

5. *"Duly Authorized Representative" is one where:*
 - a) *the authorization is made in writing by a person described in the signatory paragraph (C.14:a,b, or c) of this document;*
 - b) *the authorization specifies either an individual or the occupant of a position having either responsibility for the overall operation of the regulated facility, such as the plant manager, or overall responsibility for environmental matters of the company; and,*
 - c) *the written authorization was submitted to the Regional Board.*

Monitoring and Reporting Requirements for Facilities that Reuse Process Wash Wastewater

If you discharge any of your process wash water (including, but not limited to vegetable, fruit, equipment, and working surface wash water) to fields for irrigation of any type, or reuse the wash water again within the facility, you are hereby required to report analytical results for specific bacterial methods, frequencies, and water sources, as identified below:

Bacterial Analytical Methods and Frequencies:

Bacterial Test	Recommended Analytical Method ¹	Sample Frequency	Analysis Frequency
Total Coliform	Standard EPA Method 9223B for total coliforms using: • Collert/Collert-18®	Daily ³	Daily
OR			
E. coli	Standard EPA Method 9223B for E. coli using: • ReadyCult® Coliforms 100 + Indole enrichment ²	Daily ³	Daily
THEN FOLLOWED BY			
E. coli 0157:H7	MacConkey Agar with Sorbital method	Daily ³	When total coliform or E. coli results are positive [at any quantity]

Notes:

- ¹ Recommended analytical method, must receive Water Board approval prior to using substitute analytical method.
- ² This method must include indole enrichment (2,5 ml Kovac's reagent) to detect E. coli 0157:H7.
- ³ When facility is operating and wastewater flow exists.

Sampling Locations:

Source Monitoring - You are required to sample each water source (i.e., well water, reservoir, holding pond, stream, etc.) used to supply the Facility. If you exclusively use a municipal water supply, you do not have to conduct this source-monitoring component. You must identify the source of each water sample in your monitoring report.

Discharge Monitoring - You are required to sample at the same location that effluent samples are collected for your self-monitoring report.

Analytical Reporting:

- Report all monitoring results as a section within your self-monitoring report at the frequency specified in your waste discharge requirements.

- Report any positive results for the 0157:H7 analysis within 24 hours of determining positive result to:
 - Central Coast Regional Water Quality Control Board
Michael Thomas, Assistant Executive Officer
Phone: (805) 542-4623
 - Department of Health Services, Food and Drug Branch
Benson Yee, Chief, Emergency Response Unit
Phone: (916) 650-6616.

Existing Data Reporting:

You are required to submit any existing coliform or E. coli [including 0157:H7] monitoring data for any water source, wash water, process water, or wastewater. This data must be submitted with the next scheduled monitoring report by **December 4, 2006**. In reporting any results, flag any positive results of E. coli 0157:H7

The Water Board's requirement for monitoring and reporting is made pursuant to Section 13267 of the California Water Code. Pursuant to Section 13268 of the Water Code, a violation of a requirement made pursuant to Water Code Section 13267 may subject you to administrative civil liability of up to \$1,000 per day for each day in which the violation occurs, or judicial civil liability of up to \$5,000 per day.

Any person affected by this action of the Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Section 13320 of the California Water Code and Title 23, California Code of Regulations, Section 2050. The petition must be received by the State Water Resources Control Board, Office of Chief Counsel, P. O. Box 100, Sacramento, CA 95812 within 30 days of the date of this letter. Copies of the law and regulations applicable to filing petitions will be provided upon request and are available at <http://www.waterboards.ca.gov/html/petitions.html>.

Any person affected by this may also request a hearing before the Central Coast Water Board to reconsider the requirements in this letter. The Executive Officer may elect to hold a staff-level hearing in lieu of scheduling a hearing before the Board itself. Send your hearing request to Harvey Packard at the letterhead address, above. Your request must include a summary of legal and technical arguments you will make at the hearing. The Water Board must receive the review request within 30 days of the date of this letter. Failure to request review may prevent you from submitting new evidence in support of any State Water Board petition that you file. The Executive Officer or Water Board may deny the request for a hearing after reviewing the request. A review request does not stay (extend) the due dates of the requirements in this letter.

JOE TORQUATO

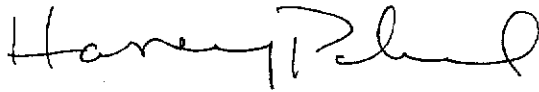
- 6 -


October 24, 2006

A request for a Central Coast Water Board hearing does not extend the 30-day period to file a petition with the State Water Board.

If you have questions regarding this requirement, please contact Cecile DeMartini at cdemartini@waterboards.ca.gov or (805) 542-4782 or John M. Robertson at (805) 542-4630


Sincerely,



 Roger W. Briggs
Executive Officer

File: S:\WDR\Fruit and Vegetable General Order Admin\Bacteria Testing 13267 Ltr 101706.doc

California Environmental Protection Agency

 Recycled Paper