



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Region 10

1200 Sixth Avenue, Seattle, Suite 900 Washington, 98101

EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-2010-0158, NPDES Nos. "unpermitted"

RECEIVED

JUL 30 AM 7:28

HEARINGS CLERK  
EPA--REGION 10

Happy Valley Dairy LLC & Nicolaas J. DeRuyter ("Respondents") are "persons," within the meaning of Section 502(5) of the Clean Water Act ("Act"), 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.

Attached is an "Expedited Settlement Offer Worksheet Deficiencies Form" ("Form"), which is incorporated by reference. By its signature, Complainant ("EPA") finds that Respondents are responsible for the deficiencies specified in the Form.

Respondents had an unauthorized discharge of storm water in violation of Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311, and/or failed to comply with their National Pollutant Discharge Elimination System ("NPDES") storm water permit issued under Section 402 of the Act, 33 U.S.C. § 1342.

EPA finds, and Respondents admit, that Respondents are subject to Section 301(a) of the Act, 33 U.S.C. § 1311, and that EPA has jurisdiction over any "person" who "discharges pollutants" from a "point source" to "waters of the United States." Respondents neither admit nor deny the deficiencies specified in the Form.

EPA is authorized to enter into this Consent Agreement and Final Order ("Agreement") under the authority vested in the Administrator of EPA by Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), and by 40 C.F.R. § 22.13(b). The parties enter into this Agreement in order to settle the civil violation(s) alleged in this Agreement for a penalty of \$14,750. Respondents consent to the assessment of this penalty, and waive the right to: (1) contest the finding(s) specified in the Form; (2) a hearing pursuant to Section 309(g)(2) of the Act, 33 U.S.C. § 1319(g)(2); and (3) appeal pursuant to Section 309(g)(8), 33 U.S.C. § 1319(g)(8).

Additionally, Respondents certify, subject to civil and criminal penalties for making a false statement to the United States Government, that any deficiencies identified in the Form have been corrected. Respondents shall submit a written report with this Agreement detailing the specific actions taken to correct the violations cited herein.

Respondents certify that they have submitted bank, cashiers, or certified checks, with case name and docket number noted, totaling the amount specified above, payable to the "Treasurer, United States of America," via certified mail, to:

U.S. EPA, Region 10  
Fines and Penalties, Cincinnati Finance Center  
In the Matter of: Happy Valley Dairy LLC & Nicolaas J. DeRuyter  
Docket No.: CWA-10-2010-0158  
P.O. Box 979077  
St. Louis, MO 63197-9000

This Agreement settles EPA's civil penalty claims against Respondents for the Clean Water Act violation(s) specified in this Agreement. EPA does not waive its rights to take any enforcement action against Respondents for any other past, present, or future civil or criminal violation of the Act or of any other federal statute or regulation. EPA does not waive its right to issue a compliance order for any uncorrected deficiencies or violation(s) described in the Form. EPA has determined this Agreement to be appropriate.

This Agreement is binding on the parties signing below and effective upon filing with the Regional Hearing Clerk.

APPROVED BY EPA:

Kimberly A. Ogle Date: 5/14/10  
Kimberly A. Ogle  
Manager, NPDES Compliance Unit

APPROVED BY RESPONDENT:

Name (print): NICOLAAS J. DERUYTER

Title (print): MEMBER

Signature: Nicolaas J. DeRuyter Date: 5-24-10

More than 40 days have elapsed since the issuance of public notice pursuant to Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A), and EPA has received no comments concerning this matter.

Having determined that this Agreement is authorized by law, IT IS SO ORDERED:

Thomas M. Jahke Date: 7/27/10  
Thomas M. Jahke  
Regional Judicial Officer, Region 10

**CERTIFICATE OF SERVICE**

The undersigned certifies that the original of the attached CONSENT AGREEMENT AND FINAL ORDER In the Matter of: Happy Valley Dairy LLC dba Happy Valley Dairy and Nicolaas J. DeRuyter, DOCKET NO. CWA-10-2010-0158, was filed with the Regional Hearing Clerk on July 30, 2010.

On July 30, 2010 the undersigned certifies that a true and correct copy of the document was delivered to:

David Allnutt  
U.S. EPA  
Region 10, Suite 900  
1200 Sixth Avenue, ORC-158  
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt on July 30, 2010, to:

Nicolaas J. DeRuyter  
Happy Valley Dairy LLC dba Happy Valley Dairy  
4699 Buntrock Road  
Marsing, Idaho 83639

DATED this 30<sup>th</sup> day of July 2010.

Sharon Eng  
Signature  
Print Name: Sharon Eng  
Regional Hearing Clerk  
EPA Region 10