

Case No. CV-14932  
Dept. No. 98107 25 PM 2:33

FILED

OCT 8 11 53 AM '99

Margaret W. Zane  
NYE COUNTY CLERK

IN THE FIFTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR NYE COUNTY

NEVADA DIVISION OF ENVIRONMENTAL PROTECTION )  
Plaintiff, )  
v. )  
PONDEROSA DAIRY, )  
Defendant. )

COMPLAINT

Attorney General's Office  
100 N. Carson Street  
Carson City, Nevada 89701-4717

The NEVADA DIVISION OF ENVIRONMENTAL PROTECTION ("NDEP") brings this action for violating specific sections of the Nevada Water Pollution Control Law ("NWPCCL") Nevada Revised Statutes ("NRS") 445A.300 to 445A.730 inclusive, as detailed below.

JURISDICTION AND PARTIES

1. This civil action is instituted by NDEP pursuant to NRS 445A.675, 445A.695 and 445A.700 for injunctive relief and a civil penalty for violation of the NWPCCL.
2. Authority to bring this action is vested with the Attorney General of the State of Nevada by NRS 445A.670.
3. This Court has subject matter jurisdiction over this action and venue lies in accordance with Nev. Const. art. 6 § 6, and venue lies in this district in accordance with NRS 13.020.
4. NDEP, under the authority of NRS 445A.445(1) and 445A.450(9), has the power and duty to administer and enforce the provisions of NRS 445A.300 to 445A.730 inclusive, and all rules, regulations and standards promulgated by the State Environmental Commission and all Orders and permits issued by the Department.



1 14. Inspection of the dairy by NDEP staff on February 27, 1998 found a saturated field  
2 with wastewater and sludge flowing off of the field through a man-made berm which diverted the  
3 flow out into drainage channels, thence to the wash south of the dairy.

4 15. Ponds designed to contain wastewater were found to have six to seven feet of  
5 freeboard.

6 16. Inspection of the downstream area also found dairy sludge ponded on the sides of  
7 roads south of the dairy, including California State Route 127 north of Death Valley Junction.

8 17. Pools of dark green water smelling strongly of dairy waste were found in tributaries of  
9 the Amargosa River several miles into California.

10 18. The owner or operator, or a designated agent of Defendant PONDEROSA DAIRY  
11 failed to notify the Division of Emergency Management or the Director of the DCNR, or his  
12 delegated agent, of the release of dairy waste and cow manure into the environment after having  
13 knowledge of the release of these pollutants from the dairy.

14 19. Defendant PONDEROSA DAIRY violated NRS 445A.465, paragraphs 1,3 and 4, by  
15 discharging pollutants into waters of the state, by discharging pollutants that could be carried into the  
16 waters of the state, and by allowing pollutants to remain in a place where they could be carried into  
17 waters of the state.

18 20. Defendant PONDEROSA DAIRY violated NAC 445A.347 by failing to provide notice  
19 of a release of pollutants into the environment.

20 RELIEF REQUESTED

21 Plaintiff prays for judgment as follows:

22 1. For payment to the State of Nevada of a civil penalty in an amount not to exceed  
23 twenty-five thousand dollars (\$25,000.00) per day for each violation of the NWPCL.

24 2. For recovery of actual damages by the State of Nevada from Defendant PONDEROSA  
25 DAIRY which is determined to be just and equitable by the Court.

26 3. For an Order enjoining Defendant PONDEROSA DAIRY from any further violation  
27 of the NWPCL, and requiring Defendant PONDEROSA DAIRY to comply with the NWPCL and  
28 any permit, rule, regulation or order issued pursuant to the NWPCL.

Attorney General's Office  
100 N. Carson Street  
Carson City, Nevada 89701-4717

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

- 4. For attorney's fees and costs.
- 5. For whatever other relief the Court deems just and proper.

DATED this 6<sup>th</sup> day of October, 1998.

FRANKIE SUE DEL PAPA  
Attorney General

By: 

CHARLES T. MEREDITH  
Deputy Attorney General  
Nevada Bar No. 6420  
100 N. Carson Street  
Carson City, Nevada 89701-4717  
(702) 687-7317

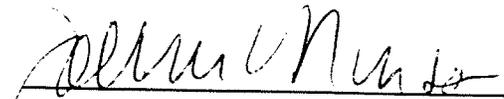
Attorneys for NEVADA DIVISION  
OF ENVIRONMENTAL PROTECTION

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

CERTIFICATE OF MAILING

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on this 16<sup>th</sup> day of October, 1998, I deposited for mailing at Carson City, Nevada, postage prepaid, a true and correct copy of the foregoing COMPLAINT, addressed as follows:

Stephen R. Onstut, Esq.  
Burke, Williams & Sorensen, LLP  
611 West Sixth Street  
Suite 2500  
Los Angeles, California 90017

  
\_\_\_\_\_  
Laurie Munson

Attorney General's Office  
100 N. Carson Street  
Carson City, Nevada 89701-4717

LM: c:\files\cm\ponderos\complain.doc