

# Tulane Environmental Law Clinic

6329 Freret Street  
New Orleans, Louisiana 70118-6231  
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## **VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED**

Mr. Peter Schenkel  
President, Suiza Dairy Group  
Suiza Foods, Inc.  
2515 McKinney Avenue, Ste. 1200  
Lock Box 30  
Dallas, TX 75201

April 12, 2001

### **Re: Notice of Intent to File Citizen Suit Pursuant to Clean Water Act Section 505(b)(1)**

To Suiza Foods, Inc.:

The Felicity Street Redevelopment Project, Inc., Aurora Castro Knox, and Betty Baptiste hereby provide Suiza Foods, Inc. ("Suiza Foods"), owners of Brown's Dairy, located at 1300 Baronne Street, New Orleans, Louisiana, with this Notice of Intent to File Suit pursuant to Section 505(b)(1) of the Clean Water Act ("CWA"), 33 U.S.C. §1365(b)(1)(A), and 40 C.F.R. §135.2

This notice is being provided to Suiza Foods because Suiza Foods has violated, and will continue to be in violation of CWA, specifically CWA's sections regarding the discharge of any pollutant by any persons, without a permit.

#### **Violations:**

Section 402(a) of the CWA requires that the Administrator of the Environmental Protection Agency ("EPA") permit any discharge of a pollutant. The EPA has delegated to the State of Louisiana, under Section 402(b) of the CWA, the authority to administer and enforce permit requirements for pollutant discharges into waters within the state. 61 Fed.Reg. 47932 (Sept. 11, 1996). Louisiana Revised Statute ("La.R.S.") 30:2075 also prohibits any activity, which results in the discharge of any substance into the waters of the state without the appropriate permit. La.R.S. 30:2075. Pursuant to Louisiana Administrative Code ("LAC") 33:IX.2311(A)(1), Louisiana requires permits for the discharge of any pollutant from a point source into the waters of the state. LAC 33:IX.2311.A.1. Suiza Foods has violated and continues to violate Section 402(a) of the CWA, 33 U.S.C. §1342(a), La.R.S. 30:2075 and LAC 33:IX.2311.A.1. by discharging

without a permit leftover biological materials from the Brown's Dairy plant at 1300 Baronne Street, New Orleans, LA into the storm drain sewer system which flows into the waters of Lake Pontchartrain and/or the Mississippi River.

**Relief Sought:**

- Civil penalties, pursuant to Section 309(d) of the CWA, 33 U.S.C. §1319(d), of up to \$25,000 per day for each alleged violations of Section 402(a) of the CWA;
- Immediate cessation of the aforementioned discharges and illegal activities;
- All reasonable court costs; and
- Any other such relief as may be just and appropriate.

**Person Giving Notice:**

Federal regulations concerning citizen suit notices of intent to sue require us to provide the names, addresses and telephone numbers of the persons giving notice. 40 C.F.R. §§135.1-3. However, any communication should be directed to the undersigned counsel for the Plaintiff. The name, address and telephone number of the person giving notice of intent to sue are:

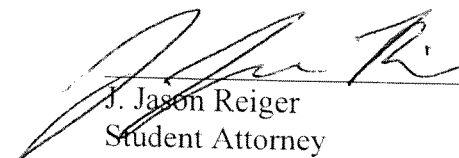
Felicity Street Redevelopment Project, Inc.  
1241 Carondelet Street  
New Orleans, LA 70130

Aurora Castro Knox  
1231-33 Carondelet Street  
New Orleans, LA 70130

Betty Baptiste  
1229 Carondelet Street  
New Orleans, LA 70130

Plaintiffs hereby demand that Suiza Foods immediately abate and/or remedy the violations described above. If you wish to discuss this matter, please call one of the below listed attorneys. During the sixty-day waiting period proscribed by CWA, we will be pleased to discuss this matter further.

Sincerely,

  
J. Jason Reiger  
Student Attorney



Suzanne Dickey  
Supervising Attorney (La. Bar No. 23713)  
Tulane Environmental Law Clinic  
6329 Freret Street  
New Orleans, LA 70018  
(504) 865-5789

cc: Administrator Christie Whitman  
U.S. Environmental Protection Agency  
401 M Street, Southwest  
Washington, DC 20460  
**Certified Mail**

Gregg A. Cooke  
Environmental Protection Agency  
Region VI Administrator  
Fountain Place 12<sup>th</sup> Floor, Suite 1200  
1445 Ross Avenue  
Dallas, TX 75202-2733  
**Certified Mail**

Linda Levy  
Assistant Secretary  
Louisiana Department of Environmental Quality  
Office of Environmental Compliance  
P.O. Box 82215  
Baton Rouge, LA 70884-2215  
**Certified Mail**

Mr. Kennon Davis  
General Manager  
Brown's Dairy  
1300 Baronne Street  
New Orleans, LA 70130  
**Certified Mail**