

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

CLEANUP AND ABATEMENT ORDER NO. R5-2006-0709

FOR
GREGORY OWENS, KATHLEEN OWENS,
AND
MOUNTAIN VALLEY SEPTIC SERVICE
35135 CUTTER ROAD, COARSEGOLD
MADERA COUNTY

This Order is issued to Gregory Owens and Kathleen Owens (hereafter Discharger) based on provisions of Water Code section 13304, which authorizes the California Regional Water Quality Control Board, Central Valley Region (hereafter Regional Water Board) to issue a Cleanup and Abatement Order (Order) and Water Code section 13267, which authorizes the Regional Water Board to require preparation and submittal of technical and monitoring reports.

The Regional Water Board finds, with respect to the Discharger's acts or failure to act, the following:

INTRODUCTION

1. Gregory Owens and his wife, Kathleen Owens, own a 9.69-acre parcel (Assessor's Parcel Number 054-224-004-000) (hereafter Site) at 35135 Cutter Road, Coarsegold, as shown in Attachment 1, which is part of this Order. Gregory and Kathleen Owens occupy a residence at the Site that is served by a private onsite well and onsite domestic wastewater treatment system.
2. The Site is situated at an elevation of 700 feet above mean sea level. The Site's topography restricts visual inspection of its interior from its boundaries. Surface water runoff discharges to an unnamed tributary to Coarsegold Creek, a tributary to the Fresno River. The Site's geology generally consists of a veneer of sediments underlain by decomposed granite, which in turn is underlain by granitic bedrock. Groundwater occurs in two zones: a deeper zone present in fractures within the bedrock, and a shallow zone within the decomposed granite perched on top of bedrock. The shallow zone, when and where it exists, may be present only during wetter climatological periods. The shallow aquifer has been encountered at other sites within the Coarsegold area between depths of 5 to 30 feet below ground surface. The groundwater is of high quality. Area land use is primarily rural residential with water and sewer provided by private wells and onsite domestic wastewater treatment systems. The Site's nearest neighbors occupy 1.5 to 2.5-acre lots approximately 50 to 75 yards north and northwest of the Site; however, there are additional residences west of the Site on 2.5- to 10-acre parcels. Most of these parcels are situated at higher elevations than the Site.
3. Gregory Owens owns and operates Mountain Valley Septic Service, a septage pumping and trucking business that operates in several San Joaquin Valley counties. Neighbors of the Site have alleged to the Madera County Environmental Health Department (County) since 2003 and to the Regional Water Board since January 2005 that the Discharger disposes of septage at the Site. Complainants reported witnessing the Discharger's septage trucks enter and exit the Site and afterwards detecting objectionable sewage-like odors offensive to their senses emanating from the Site. The County obtained a warrant and, on 9 May 2005, County staff inspected the Site and confirmed the alleged septage disposal taking place. The County subsequently

requested Regional Water Board staff to assist in investigating potential water quality impacts from the septage discharges. On 18 May 2005, under the authority of the warrant, County staff inspected the Site accompanied by Regional Water Board staff. The inspectors documented physical evidence of residuals from numerous septage discharges at the Site, and confirmed that the residual septage created offensive odors. This evidence is described in Attachment 2, which is part of this Order. Additional technical information is required to evaluate the extent to which the discharged waste constituents may affect the quality of waters of the state.

- Gregory and Kathleen Owens own property where they have caused or permitted waste to be discharged or deposited and are, therefore, responsible parties pursuant to Water Code section 13304 and 13267. Gregory Owens, dba Mountain Valley Septic Services, owns the septage trucks and employs the drivers, and has caused or permitted waste from the trucks to be discharged or deposited on this property and is a responsible party for this reason. Gregory Owens and Kathleen Owens are, therefore, each a discharger under the Water Code.

BACKGROUND

- Septage is the liquid and solid material pumped from a septic tank when it is cleaned. Septage is characterized by a highly offensive odor, large quantities of grit and grease, and high solids and organic content. The table below presents typical concentrations of waste constituents in septage,¹ which are suggested values for proper design of septage treatment and disposal facilities.

<u>Constituent/Parameter¹</u>	<u>Units</u>	<u>Septage</u>
Total solids	mg/L	40,000
Total volatile solids	mg/L	25,000
Total suspended solids	mg/L	15,000
Grease	mg/L	8,000
5-day biochemical oxygen	mg/L	7,000
Total Kjeldahl nitrogen	mg/L	700
Arsenic	mg/L	0.2
Cadmium	mg/L	0.7
Chromium	mg/L	1.0
Copper	mg/L	8.0
Iron	mg/L	200
Mercury	mg/L	0.25
Manganese	mg/L	5
Nickel	mg/L	1

- Samples of odorous solids and soils (septage-soil) taken by County staff at the Site on 18 May 2005 revealed elevated concentrations of septage waste constituents compared to background

¹ Values from the U.S. Environmental Protection Agency publication, *Handbook Septage Treatment and Disposal* (EPA-625/6-84-009).

soil unaffected by septage discharges. Four of the suspected five septage-soil samples contained elevated concentrations, compared to background, of total organic carbon and organic matter; total Kjeldahl nitrogen; total oil and grease; and metals, particularly zinc, copper, and nickel. The table below compares the average concentrations of waste constituents in affected and unaffected soils. Affected soils contain elevated concentrations of septage waste constituents, as well as of diesel and motor oil. These data constitute physical evidence that septage and non-septage wastes (e.g., pumped contents of car wash grit chambers) were discharged to the Site.

<u>Constituent/Parameter</u>	<u>Units</u>	Unaffected Soils	Affected Soils
		<u>Average</u>	<u>Average</u>
Total Organic Carbon	%	1.8	25.1
Organic Matter	%	3.1	43.2
Total Kjeldahl Nitrogen	mg/kg	955	3,975
Metals			
Copper	mg/L	0.10	0.45
Nickel	mg/L	0.06	0.16
Vanadium	mg/L	0.10	0.29
Zinc	mg/L	0.29	8.0
Total Oil and Grease	mg/kg	140	1,175
Diesel	mg/kg	ND	92
Motor Oil	mg/kg	ND	420

- On 19 October 2005, the County issued the Discharger a Notice of Violation for discharging septage to the Site without authorization, operating a septic pumping business without a valid permit from the County, and violating sections of the California Health and Safety Code. The County Notice ordered that discharge of sewage at the Site cease. The County subsequently requested that the Regional Water Board also take a formal enforcement action to order that the Discharger cease all waste discharge at the Site and, as appropriate, implement effective cleanup and abatement measures.

AUTHORITY – LEGAL REQUIREMENTS

- The Regional Water Board's *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, 4th Edition* (hereafter Basin Plan) designates beneficial uses of the waters of the state, establishes water quality objectives (WQOs) to protect these uses, and establishes implementation policies to implement WQOs. The designated beneficial uses of the groundwater beneath the Site are domestic, municipal, industrial, and agricultural supply. The beneficial uses of the Fresno River are municipal and domestic supply; agricultural supply; water contact recreation; non-contact water recreation; warm and cold freshwater habitat; and wildlife habitat.
- WQOs listed in the Basin Plan include numeric WQOs (e.g., state drinking water maximum contaminant levels) that are incorporated by reference, and narrative WQOs, including the narrative toxicity objective and the narrative tastes and odors objective for surface and

groundwater. Chapter IV of the Basin Plan contains the *Policy for Application of Water Quality Objectives*, which provides that “[w]here compliance with these narrative objectives is required (i.e., where the objectives are applicable to protect specified beneficial uses), the Regional Water Board will, on a case-by-case basis, adopt numerical limitations in orders which will implement the narrative objectives” (Basin Plan, p. IV-17.00). The numerical limits for the constituents of concern listed in the following table implement the Basin Plan WQOs.

<u>Constituent</u>	<u>Limits</u>	<u>WQO¹ cited in Basin Plan</u>	<u>Reference</u>
EC	900 µmhos/cm	California Recommended Secondary MCL ²	22 CCR 64449 ³ , Table 64449-B, DHS ⁴
Nitrate as NO ₃	45 mg/L	California Primary MCL	22 CCR 64449, Table 64431-A, DHS
Total Coliform Organisms	< 2.2 MPN ⁵ per 100 mL	Bacteria WQO	Basin Plan
TDS	500 mg/L	California Recommended Secondary MCL	22 CCR 64449, Table 64449-B, DHS
Aluminum	0.2 mg/L	California Secondary MCL	22 CCR 64449, Table 64449-A, DHS
Arsenic	0.01 mg/L	California Primary MCL	22 CCR 64449, Table 64431-A, DHS
Cadmium	0.005 mg/L	California Primary MCL	22 CCR 64449, Table 64431-A, DHS
Chromium	0.05 mg/L	California Primary MCL	22 CCR 64449, Table 64431-A, DHS
Copper	1.0 mg/L	California Secondary MCL	22 CCR 64449, Table 64449-A, DHS
Iron	0.3 mg/L	California Secondary MCL	22 CCR 64449, Table 64449-A, DHS
Mercury	0.002 mg/L	California Primary MCL	22 CCR 64449, Table 64431-A, DHS
Manganese	0.05 mg/L	California Secondary MCL	22 CCR 64449, Table 64449-A, DHS
Nickel	0.1 mg/L	California Primary MCL	22 CCR 64449, Table 64431-A, DHS
Selenium	0.05 mg/L	California Primary MCL	22 CCR 64449, Table 64431-A, DHS
Zinc	5.0 mg/L	California Secondary MCL	22 CCR 64449, Table 64449-A, DHS

¹ Water quality objective

² Maximum contaminant level

³ Abbreviation for Title 22, California Code of Regulations, section 64449

⁴ California Department of Health Services

⁵ Most probable number

10. Septage and constituents for septage and other tank pumpage listed in Findings 5 and 6 are wastes as defined in Water Code section 13050
11. Pollution is created when quality of waters of the state is impaired by waste to a degree that unreasonably affects waters for beneficial uses (Water Code section 13050 (1)). Disposal of waste that is offensive to the senses and affects any considerable number of persons constitutes nuisance (Water Code section 13050(m)).
12. The State Water Resources Control Board (hereafter State Water Board) has adopted Resolution No. 92-49, the *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under Water Code Section 13304*. This Policy sets forth the policies and procedures to be used during an investigation or cleanup of a polluted site and requires that cleanup levels be

consistent with State Water Board Resolution No. 68-16, the *Statement of Policy With Respect to Maintaining High Quality of Waters in California*. Resolution No. 92-49 and the Basin Plan establish the cleanup levels to be achieved. Resolution No. 92-49 requires the waste to be cleaned up to background, or if that is not reasonable, to an alternative level that is the most stringent level that is economically and technologically feasible in accordance with 23 CCR 2550.4. Any alternative cleanup level to background must (a) be consistent with the maximum benefit to the people of the state; (b) not unreasonably affect present and anticipated beneficial use of such water; and (c) not result in water quality less than that prescribed in the Basin Plan and applicable Water Quality Control Plans and Policies of the State Water Board.

13. Chapter IV of the Basin Plan contains the *Policy for Investigation and Cleanup of Contaminated Sites*, which describes the Regional Water Board's strategy for managing contaminated sites. This strategy is based on sections 13000 and 13304 of the Water Code; Title 27, Division 2, Subdivision 1 regulations; and State Water Board Resolution Nos. 68-16 and 92-49. The strategy includes site investigation, source removal or containment, information required to be submitted for consideration in establishing cleanup levels, and the bases for establishment of soil and groundwater cleanup levels.
14. The State Water Board *Water Quality Enforcement Policy* states, in part, that the State Water Board *Water Quality Enforcement Policy* states, in part, that spills (including other unauthorized releases) that result in adverse impact to beneficial uses of groundwater or surface water, or violate water quality objectives, are priority violations. The policy states that, if any violation continues, the enforcement response should be quickly escalated to increasingly more formal and serious actions until compliance is achieved. Abatement activities may include the provision of alternate water supplies." (Water Quality Enforcement Policy, p. 19.)
15. Section 13304(a) of the Water Code provides that:

"Any person who has discharged or discharges waste into waters of the state in violation of any waste discharge requirements or other order or prohibition issued by a regional [water] board or the state [water] board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional [water] board clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including but not limited to, overseeing cleanup and abatement efforts. A cleanup and abatement order issued by the state board or a regional board may require the provision of, or payment for, uninterrupted replacement water service, which may include wellhead treatment, to each affected public water supplier or private well owner. Upon failure of any person to comply with the cleanup or abatement order, the Attorney General, at the request of the regional [water] board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the order. In the suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant."
16. Section 13267(b) of the Water Code provides that:

“In conducting an investigation specified in subdivision (a), the regional [water] 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, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional [water] 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 [water] 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.”

17. Section 13304(c)(1) of the Water Code provides that:

“. . . the person or persons who discharged the waste, discharges the waste, or threatened to cause or permit the discharge of the waste within the meaning of subdivision (a), are liable to that government agency to the extent of the reasonable costs actually incurred in cleaning up the waste, abating the effects of the waste, supervising cleanup or abatement activities, or taking other remedial actions. . .”

OTHER FINDINGS

18. Discharges of septage and non-septage wastes, and soils affected by such wastes, that contain the concentrations of the waste constituents listed in Findings 5 and 6, as well as human pathogens, when leached to groundwater or carried by storm runoff to the unnamed tributary of Coarsegold Creek, will cause degradation and exceedances of water quality objectives in these state waters. Until waste discharges to the property are abated and residual wastes and affected soils on the property are satisfactorily removed or mitigated, the waste constituents will continue to cause or threaten to cause degradation and exceedances of water quality objectives. Until waste discharges to the property are abated, odors offensive to the senses of neighbors will be recurring and obstruct free use of property.
19. As described in Findings 1 through 6 and in accordance with the legal authorities described above, the Discharger is subject to an order pursuant to Water Code section 13304 because the Discharger has caused or permitted waste to be discharged or deposited where it has created or threatened to create a condition of nuisance and has caused or permitted waste to be discharged or deposited where it has been, is, or probably will be discharged into waters of the state to create or threaten to create a condition of pollution.
20. As described in Findings 3,4, and 6, and in accordance with authority described in Finding 16 in connection with requirements imposed pursuant to Water Code section 13304, the Discharger is subject to an order pursuant to Water Code section 13267 to submit technical reports because existing data and information about the Site indicates that the Discharger has discharged or is discharging, waste at the Discharger’s property. The technical reports required by this Order are necessary to ascertain compliance with section 13304 of the Water Code, including to adequately

investigate and cleanup the site to protect the beneficial uses of waters of the state, to protect against nuisance, and to protect human health and the environment.

21. Failure to comply with the provisions of this Order may result in further enforcement action including, but not limited to, the imposition of Administrative Civil Liability pursuant to CWC Sections 13268 and/or 13350 or a request for the Attorney General to petition the superior court for the issuance of an injunction.
22. The issuance of this Order is an enforcement action taken by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act (CEQA) (Public Resources Code, section 21000, et seq.), pursuant to 14 CCR 15321(a)(2). The implementation of this Order is also an action to assure the restoration of the environment and is exempt from the provisions of CEQA in accordance with 14 CCR 15308 and 15330.
23. Any person affected by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with 23 CCR 2050-2068. The regulations may be provided upon request and are available at www.waterboards.ca.gov. The State Water Board must receive the petition within 30 days of the date of this Order.

REQUIRED ACTIONS

IT IS HEREBY ORDERED that, pursuant to California Water Code section 13304 and section 13267, Gregory and Kathleen Owens, and Mountain Valley Septic Service, shall at their own cost and expense:

1. Abate further discharges of waste to the subject property without first obtaining waste discharge requirements pursuant to Water Code 13264, determine the extent of waste residuals remaining on ground surface of the property, clean up all visible waste residuals that have been determined, and abate the effects of the waste forthwith in accordance with State Water Board Resolution No. 92 49 Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under Water Code Section 13304 and with the Regional Water Board's Water Quality Control Plan for the Sacramento River and San Joaquin River Basins (in particular the Policies and Plans listed within the Control Action Considerations portion of Chapter IV). "Forthwith" means as soon as is reasonably possible. Compliance with this requirement shall include, but is not necessarily limited to, completing the following tasks according to the specified deadlines.
2. **Effective immediately**, abate further discharge of septage or any other type of waste foreign to the Site, which excepts domestic waste from the Discharger's residence discharged to the Site's onsite domestic wastewater treatment system in accordance with County requirements. By **12 June 2006**, certify in writing to this Regional Water Board that discharge of septage and other wastes has been permanently abated and the effective date of the abatement.
3. By **12 June 2006**, identify and mark on the ground for subsequent sampling purposes all areas on the property where waste residuals are visible on the soil surface, create a plot plan that depicts the areas, remove all identified waste residuals and contaminated soils visible on the soil surface in these areas, and dispose of the waste residuals and contaminated soils at a properly permitted facility. By **19 June 2006**, submit a written report with the plot plan that depicts every

area location where septage or pumpage residuals were visible and removed, that quantifies the amounts removed, and that identifies the final disposal location.

4. By **15 June 2006** collect samples from the upper foot of soils in each distinctly marked area from Task 3 and submit each sample to a certified laboratory for analysis of the waste constituents identified in Finding 6, as well as for fecal coliform organisms. Submit, by **17 July 2006**, a written technical report of the analytical results from the testing and, based upon the results, the professional recommendations for further cleanup or closure, as appropriate. The report shall contain the plot map depicting site areas from Task 3 as well as the relative position of the sample location within each area, and contain copies of lab sheets.

GENERAL REQUIREMENTS

5. As required by the California Business and Professions Code sections 6735, 7835, and 7835.1, have appropriate reports prepared by, or under the supervision of, a registered professional engineer or geologist and signed by the registered professional. Alternatively, investigation may be performed, and reports compiled and signed, by a registered sanitarian or registered environmental assessor. All technical reports submitted shall also include or have attached a statement signed by the Discharger certifying under penalty of law that the Discharger has examined and is familiar with the report and that to his knowledge, the report is true, complete, and accurate.
6. Notify Regional Water Board staff at least two working days prior to any onsite work or sampling in response to this Order.
7. Obtain all local and state permits and access agreements necessary to fulfill the requirements of this Order prior to beginning the work.
8. Conduct activities and submit such monitoring and technical reports as subsequently directed by the Executive Officer pursuant to California Water Code Sections 13304 or 13267, as implemented through amendments to this Order. This Order will be rescinded when the Executive Officer determines that sufficient cleanup has been accomplished to comply with the Water Code.
9. In the event compliance cannot be achieved within the terms of this Order, have the opportunity to request, in writing, an extension. The extension request shall include an explanation why the specified date could not or will not be met and justification for the requested period of extension. Any extension request shall be submitted as soon as the situation is recognized and no later than the compliance date. Extension requests not approved in writing with reference to this order are denied.

If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may refer this matter to the Attorney General for judicial enforcement or may issue a complaint for administrative civil liability. The Regional Board reserves its right to take any enforcement actions authorized by law.

This Order is effective upon the date of signature.

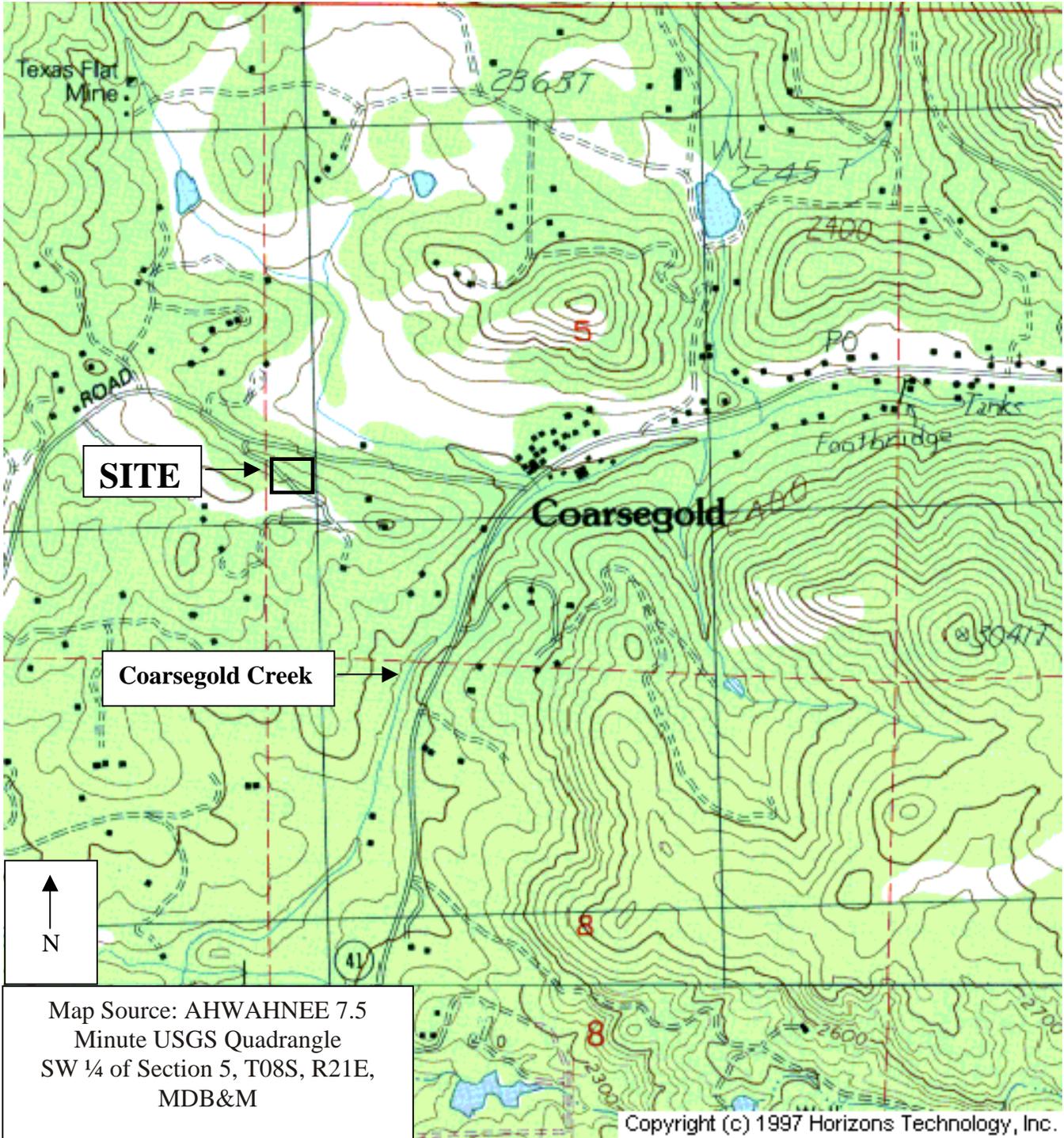
PAMELA C. CREEDON, Executive Officer

(Date)

Attachments

- 1 Site Vicinity Map
- 2 Report of 18 May 2005 Complaint Inspection

ATTACHMENT 1
SITE LOCATION MAP
CLEANUP AND ABATEMENT ORDER NO. R5-2006-0709
GREGORY OWENS, KATHLEEN OWENS,
AND
MOUNTAIN VALLEY SEPTIC SERVICE
35135 CUTTER ROAD, COARSEGOLD
MADERA COUNTY



ATTACHMENT 2
REPORT OF 18 MAY 2005 COMPLAINT INSPECTION
CLEANUP AND ABATEMENT ORDER NO. R5-2006-0709
GREGORY OWENS, KATHLEEN OWENS,
AND
MOUNTAIN VALLEY SEPTIC SERVICE
35135 CUTTER ROAD, COARSEGOLD
MADERA COUNTY

CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD FACILITY INSPECTION REPORT

20 September 2005

DISCHARGER: Mr. Greg Owens and Mrs. Kathy Owens

FACILITY: Mr. Owens' Residential Property

LOCATION & COUNTY: 35135 Cutter Road, Coarsegold in Madera County

CONTACT(S): Mr. Phil Hudecek, Supervisor with Madera County Resources Management Agency Environmental Health

INSPECTION DATES/TIME: 18 May 2005 / 10:15 AM

INSPECTED BY: Mr. Hossein Aghazeynali, WRC Engineer

ACCOMPANIED BY: Mr. Phil Hudecek and Mr. Dexter Marr (Environmental Health Specialist) both with Madera County; and Mr. Warren Anderson, Madera County Deputy Sheriff

BACKGROUND:

Mr. Gregory Owens operates a septage hauling business in several San Joaquin Valley Counties. He and his wife, Kathy, own the subject property near the unincorporated community of Coarsegold. Residents of neighboring properties have alleged on numerous occasions to the Madera County Environmental Health Department (County) and the Regional Board that Owens is discharging septage onto this property. They based these allegations on each personally witnessing septage trucks enter and exit Owens' property and the smell of objectionable sewage-like odors emanating from Owens' property. When County staff initially attempted to investigate the alleged discharge, Owens denied them access to the property. On 9 May 2005, under the authority of a Court-issued Inspection Warrant and in the company of a County deputy sheriff, County staff entered Owens' property and confirmed the existence of discharged septage.

On 17 May, I contacted one of the neighbors who had complained, who said he still sees septage hauling trucks entering and existing Owens' property. He added that some of the trucks belong to Owens' brother who also operates a septage hauling business. He also stated that from his property he can smell septic odors originating from the septage discharged to Owens' property.

OBSERVATIONS AND COMMENTS:

On the morning of 18 May, I met with Phil Hudecek and Dexter Marr from Madera County Environmental Health, and Warren Anderson the Madera County Deputy Sheriff in Coarsegold at Hudecek's request to assist them. Anderson escorted us to Owens' residence where we arrived at 10:30 AM. Figures 1 and 2 depict a vicinity and location map, respectively. The weather was sunny; however, it had rained the previous day. Hudecek showed a copy of the Inspection Warrant to Owens. Hudecek introduced me as part of the investigation team for the County and indicated that we would be conducting an inspection of the property. He also indicated that we will be collecting samples and photographs. See Photos 1 and 2 for views of the entry to Owens' property and view of the back of his

residence. Hudecek asked Owens several questions regarding use of his property to store and discharge septage. Owens' response to this inquiry went as follows:

1. Owens alleged his two nephews, who he identified as Dale Wishon and Markie Owens, were responsible for the discharge, and attributed it to them cleaning tank bottoms for the last two months. He stated, "I think they got sloppy on their cleaning trucks." He indicated that Wishon may be the most responsible.
2. Owens said two septage trucks present at the site had been parked onsite for two months full of septage, one with a 2970-gallon capacity tank and the other with a 2000-gallon capacity tank. He stated that the trucks were loaded in Tulare County and, as it was too late to haul them to the nearest wastewater treatment facility (WWTF) at the time, he parked them onsite with intentions to haul the septage back to the City of Visalia WWTF. He indicated that two additional septage trucks were on the road.
3. He stated that he has a permit to operate in Madera, Tulare, and Fresno Counties.

I asked Owens to show us where the truck washing was done. He led us to an area behind his residence where I observed three septage trucks parked. Two of the trucks displayed different septic service names, one was labeled as *Mountain Valley Septic Service* with license CA-152359, and the other was labeled *Owens & Sons* (Photos 3 and 4). He admitted then that he had three trucks parked onsite (See Photos 5, 6, and 7) and that all were loaded with septage (totaling 7,970 gallons instead of 4,970 gallons) and was using the fourth truck to haul septage to the Visalia WWTF. Hudecek noticed one of the trucks was leaking septage and asked Owens to correct the problem immediately. Owens pointed to an area near his domestic well where he said his nephews discharge truck wash water (See Photos 5 and 12 through 14). Owens then returned to his residence without fixing the leak and we continued to inspect the area immediately behind his residence. We observed a 3-inch-diameter flexible hose laying next to the area where Owens claimed that just truck wash water was discharged. We saw evidence that septage solids had been discharged in this area (See Photos 12 and 14).

The end of the 3-inch-diameter flexible hose was fixed with brackets or clips designed to connect to the septage trucks' tank outlets (Photo 15). The hose (about 15 feet long) was laid out down the slope of a steep hill. I observed evidence of discharged septage solids near its outlet, where the discharge had also created a pothole (Photo 16) indicating sustained flow. I also detected objectionable odors in this area typical of raw sewage.

Based on my recommendations, County staff collected two soil samples as background soil samples, one from the front of the residence (soil sample 1) and the other from behind the residence (soil sample 2) (See Photos 10 and 11) and another sample from the septage discharge area where Owens admitted truck wash water had been discharged (soil sample 3). Figure 3 depicts a schematic of the property layout and soil and water sampling locations collected during the inspection. Table 1 lists the soil sampling laboratory results. The sample Identification (ID) prefix for all the soil samples collected is DM050518 (e.g., for background soil sample 1 the sample ID is DM050518-1).

About 33 feet south and 13 feet west of the soil sample 3 on the same slope, we observed evidence of more discharged septage (See Photos 17 and 18) and detected objectionable sewage-like odors. I asked County staff to collect a soil sample from this area (soil sample 4). I observed another location on the slope about 25 feet south and downgradient of the sample location (See Photo 19) where I asked County staff to collect another soil sample (soil sample 5). About 22 feet west of the sample 5 location, I observed more evidence of discharged septage (See Photos 20 and 21) where County staff collected another sample (soil sample 6). We walked diagonally across the slope about 29 feet northwest of the sample 6 location and detected objectionable odors and found a used latex contraceptive device and more evidence of discharged septage (See Photos 22 through 24) and County staff collected another soil sample (soil sample 7). The sampling area was steep. According to Hudecek, on 9 May a section of 3-inch-diameter flexible hose was laying on the ground with its outlet near the location of soil sample 7.

I observed several 3-inch-diameter flexible hoses on the ground along the slope and near most of the locations of discharged septage solids (See Photos 8, 9, 15, and 16). I also observed similar hoses in the area behind Owens' residence near where his septage trucks were parked (Owens had stated to us before returning to his house that these flexible hoses were never used). I also observed an area southwest of his residence and adjacent to the south side of the entry road leading to his septage trucks that had evidence of discharged septage (e.g., a used contraceptive device) (Photo 25).

Hudecek attempted to find an area downgradient of most of the septage discharge areas where we could sample the nearby creek or a drainage course but access was severely limited. The creek is tributary to Coarsegold Creek, which in turn, is tributary to the Fresno River. He did find an active drainage course southwest of Owens' property not directly downslope of observed discharge points. I sampled this drainage course in two locations (See Photo 26) for coliform (water samples 8 and 9).

We placed the seven soil samples and two water samples in an insulated container packed with ice and County staff released the samples to me by signing the laboratory chain-of-custody forms. I delivered the samples to The Twining Laboratories, Inc. the same day. The results are tabulated in the attached Table 1.

According to a 26 July telephone conversation with Hudecek, Owens does not have a permit to operate their septage trucks in the Madera and the Fresno Counties and they just recently applied to get a permit to operate in Fresno County. Hudecek was not sure if Owens has a permit to operate in Tulare County.

LABORATORY RESULTS:

Four of the suspected five septage-soil samples (soil samples 3 through 6) collected from the suspected septage discharge areas have unusually high percentages of total organic carbon (TOC) and organic matter, high concentrations of total Kjeldahl nitrogen (TKN) and total oil and grease, and elevated concentrations of metals when compared to background soil samples (soil samples 1 and 2). These four septage-soil samples had elevated concentrations of diesel and motor oil, as shown in Table 1 under the semi-volatile organics analysis results. Analysis for semi-volatile organics indicates that the large concentrations of motor oil and diesel oil are from petroleum based products. This suggests the septage discharge was not limited to domestic waste, but included the pump out of car wash facilities. The fifth septage-soil sample (soil sample 7) is similar in quality to background despite the physical evidence of

discharged septage at that location. These data are supportive of soil contamination with domestic sewage type wastes and some influence from car wash type facilities discharges.

The upstream creek sample (water sample 9) contained total and fecal coliform concentrations of 900 and 23 most probable number (MPN)/100 mL, respectively, while the downstream creek sample (water sample 8) contained total and fecal coliform concentrations of 280 and 30 MPN/100 mL, respectively. The coliform sample results suggest a coliform source, but not necessarily a septage discharge. As indicated above, the creek sampling locations were not situated where they would be likely to measure effect from the discharged septage.

INSPECTION SUMMARY:

Area residents have alleged regular ingress and egress of the Owens' property by septage trucks, as well as an offensive sewage odor emanating from the Owens' property. From evidence collected during the inspection of the Owens' property on Cutter Road last May, Greg and Kathy Owens have had full knowledge of a discharge of septage or septage waste solids onto their property. Greg and Kathy Owens own the septage hauling trucks involved. Greg Owens implicates the truck drivers, who may be employees and/or relatives, as the actual dischargers. Based on observations of one neighbor, another discharger may be the brother of Greg Owens. It appears that the Owens allow full or partially-full septage trucks to park in a secluded location behind their residence. The Owens' property is wooded and, in areas, steeply sloped. Creeks flow through and below the property. Septage solids and evidence of sanitary wastes were observed by sight and detected by smell in several locations along the slope below the truck parking area. Though Greg Owens' alleges that the discharges nearest the parking area are from his nephews' cleaning out the tanks of septage trucks, this does not appear credible.

Several septage pumper hoses were laying around the general area and down slope, with the end of one hose still at the alleged wash down area. Piles of solids and sanitary waste residuals were in proximity to hose outlets. Odorous solids accumulated at scattered locations along the slope suggest several discharge events have occurred over time. An eroded pothole at the end of one hose suggests a high rate of discharge occurred at that location. Representative sampling of a mix of odorous solids and soils at four locations reveals high organic content and nitrogen, as well as of diesel and motor oil, that distinguish the mixture from background soil. Whether amounts of pollutants were sufficient to reach the creek farther down slope at time of discharge, hillside rain runoff can and will transport pollutants to the creek and waste constituents will infiltrate into soil and impact groundwater.

In my judgment, the evidence cannot be explained by the discharge of the cleaning out of the tanks of septic trucks. The evidence demonstrates that the Owens' themselves have discharged, or allowed others to discharge or deposit, septage waste onto their property where it discharges, or probably will discharge, into waters of the State. The unpermitted discharge of septage threatens to create conditions of nuisance or pollution. In conclusion, the Owens had discharged waste to land prior to filing a report of waste discharge required by California Water Code Section 13260, a violation of California Water Code Section 13264.

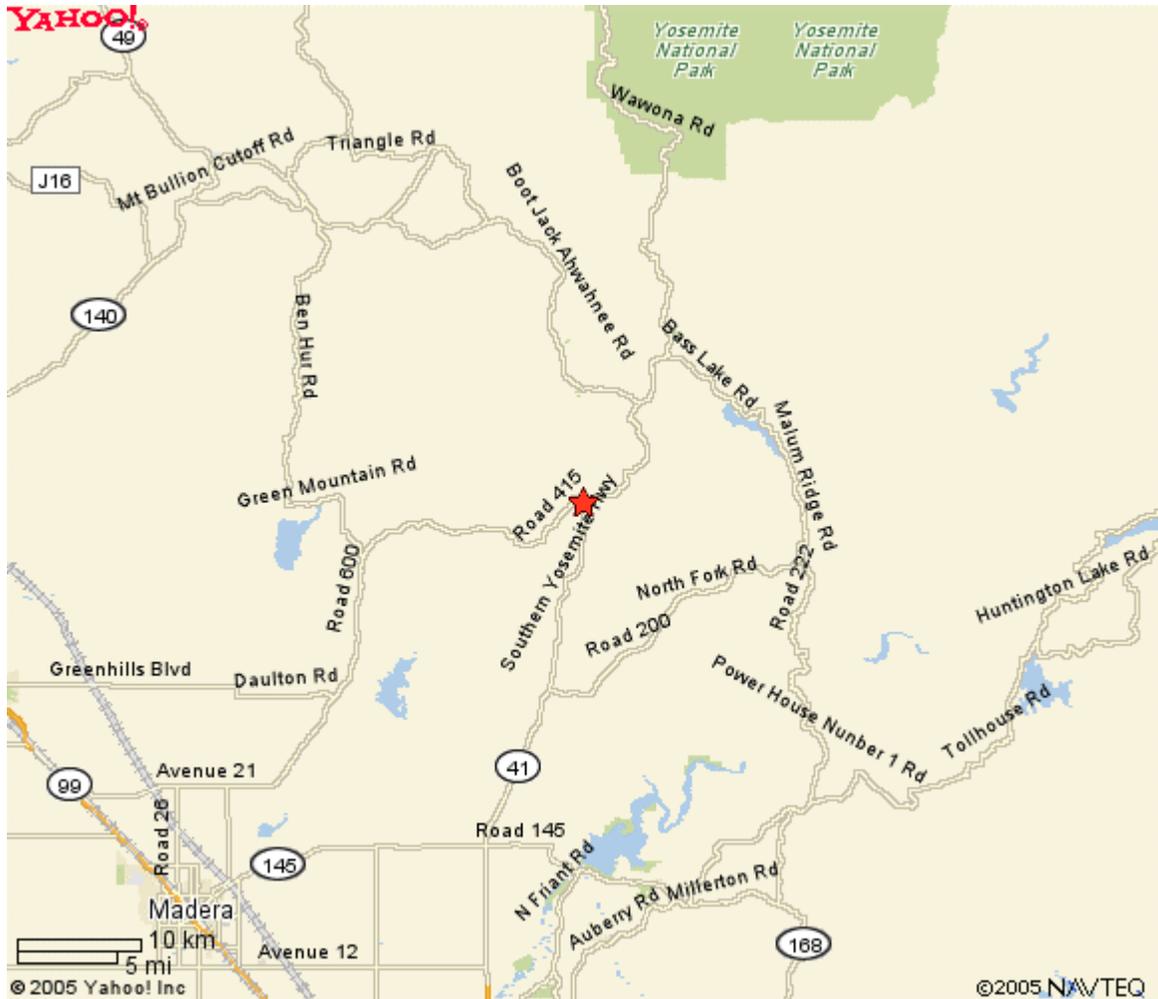


Figure 1. Vicinity Map – Owens Property near Coarsegold in eastern Madera County.

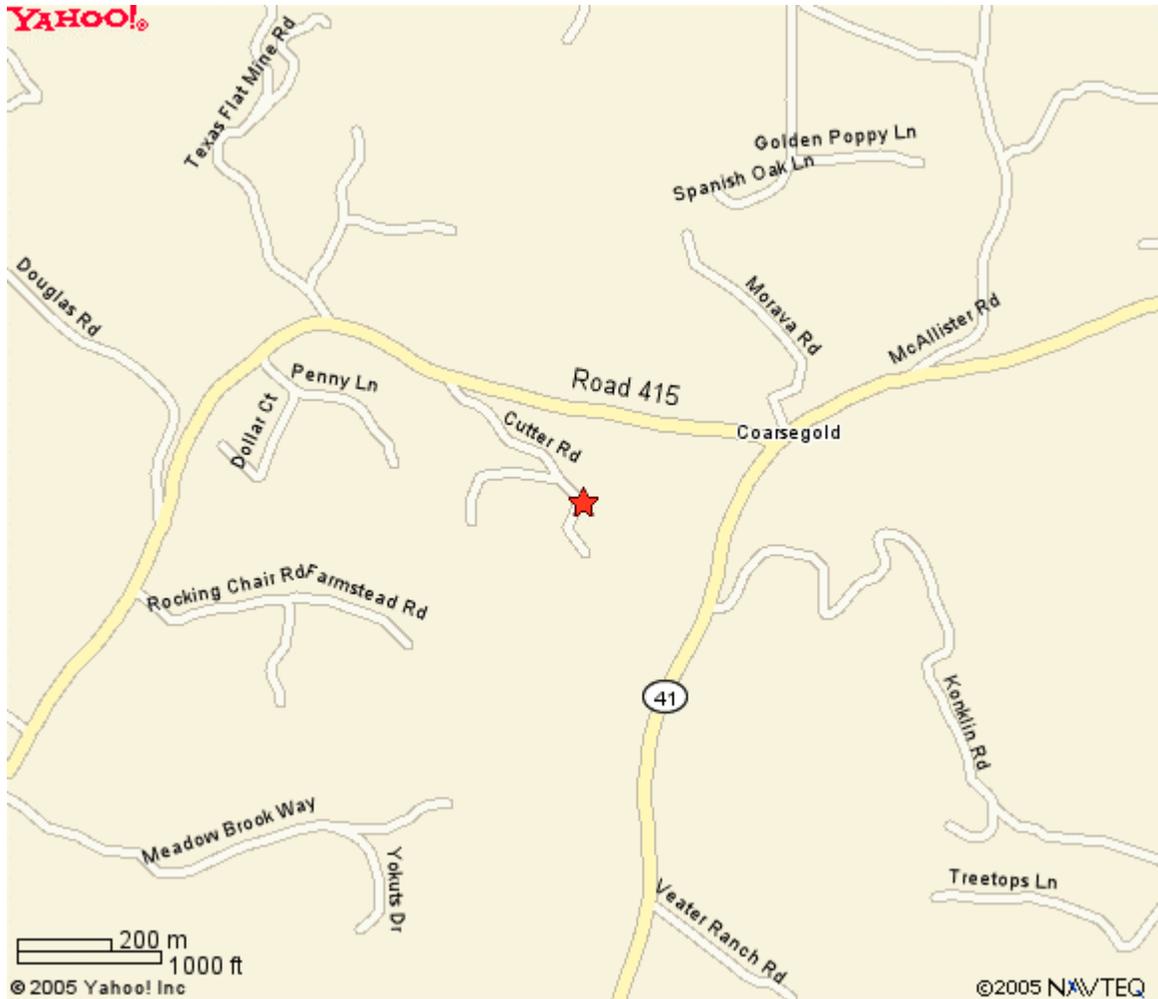


Figure 2. Location Map – Owens Property on 35135 Cutter Road, near the unincorporated community of Coarsegold

FACILITY INSPECTION REPORT
OWENS PROPERTY
MADERA COUNTY

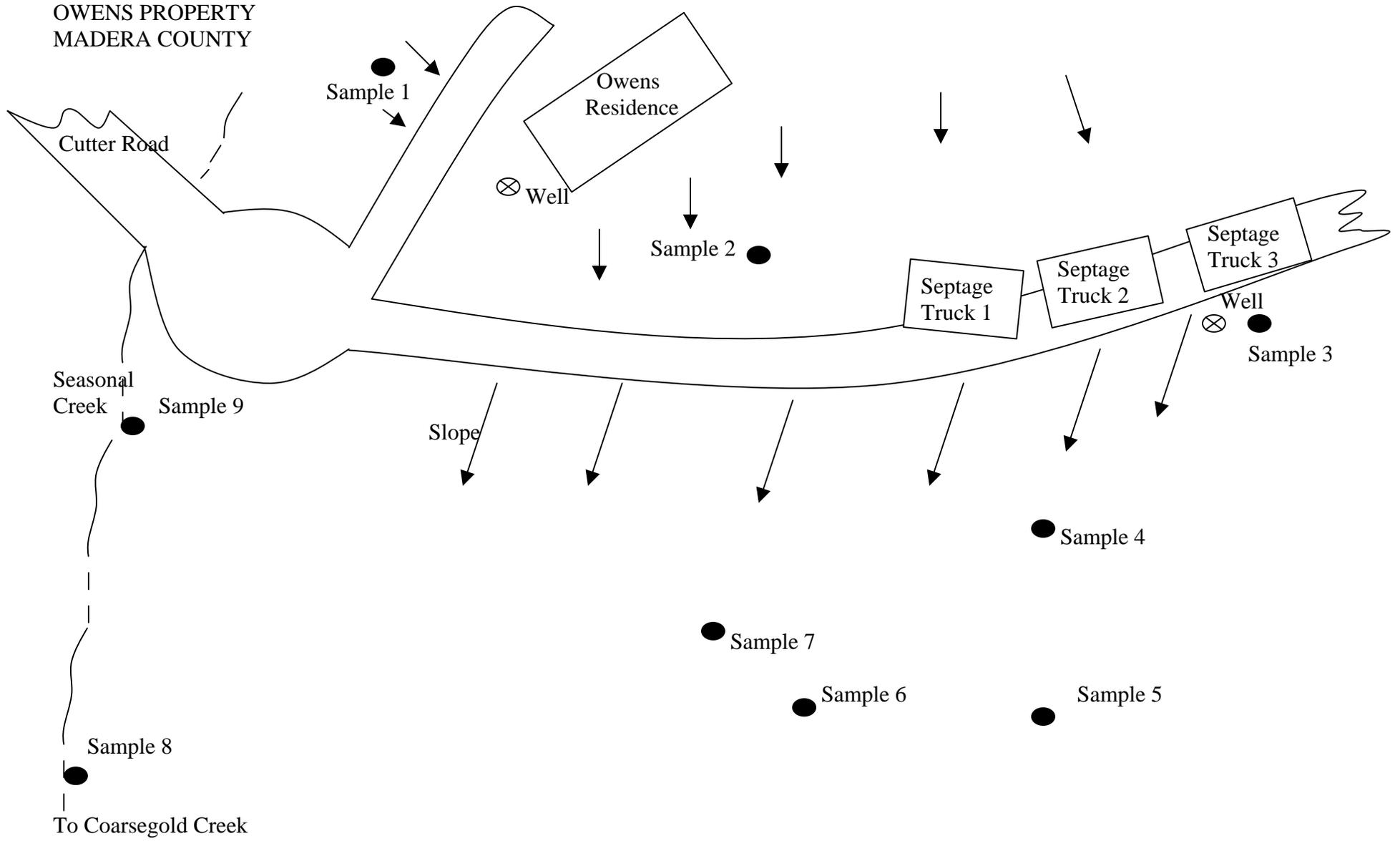


Table 1
LABORATORY RESULTS FOR 18 MAY 2005 SOIL SAMPLING¹

			Background samples		Samples from suspected septage discharge areas				
Group or Class	Constituent	Units	1	2	3	4	5	6	7
	TOC ² (% Carbon)	(%)	2	1.6	27	21	9.3	43	1.6
	LOI ³ (% Organic Matter)	(%)	3.4	2.8	47	36	16	74	2.8
	TKN	(mg/kg)	1100	810	4400	2500	3100	5900	870
Inorganics	Hexavalent Chromium	(mg/kg)	0.08	ND ⁴	ND	ND	ND	ND	ND
Metals with DI Extraction	Antimony	(mg/L)	ND	ND	ND	0.0082	ND	ND	ND
	Barium	(mg/L)	0.1	0.1	0.27	0.18	0.15	0.18	0.044
	Cobalt	(mg/L)	ND	ND	ND	ND	ND	ND	ND
	Copper	(mg/L)	0.0097	0.0058	0.0078	0.0093	0.0061	ND	ND
	Molybdenum	(mg/L)	ND	ND	0.036	0.028	0.017	0.011	ND
	Zinc	(mg/L)	0.02	0.012	0.054	0.014	0.015	0.014	ND
Metals with Citrate Extraction	Barium	(mg/L)	5.7	16	11	9.7	8.1	11	11
	Cobalt	(mg/L)	0.055	0.12	0.073	0.087	0.12	0.075	0.12
	Copper	(mg/L)	ND	0.19	ND	0.44	0.46	ND	0.13
	Nickel	(mg/L)	ND	0.11	0.19	0.16	0.15	0.15	ND
	Vanadium	(mg/L)	0.2	ND	0.31	0.2	0.37	0.27	0.21
	Zinc	(mg/L)	0.18	0.39	11	4.8	5.3	11	0.86
Semi-Volatile Organics	Total O&G	(mg/kg)	140	ND	2000	980	900	820	480
	Diesel	(mg/Kg)	ND	ND	170	97	66	34	ND
	Motor oil	(mg/Kg)	ND	ND	930	320	240	180	14
Semi-Volatile Organics-silica gel treated	Diesel	(mg/L)	ND	ND	59	52	31	19	ND
	Motor Oil	(mg/L)	ND	ND	330	200	130	91	ND
Volatile Organics	1,4-Dichlorobenzene	(mg/l)	ND	ND	0.012	ND	0.0014	ND	ND
	Gasoline	(mg/kg)	ND	ND	ND	ND	ND	ND	ND

1 Sample identification prefix is "DM050518"

2 Total organic carbon or percent carbon

3 Loss on ignition (LOI) analysis used to measure percent organic matter

4 Not detect

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Photo 1. Driveway to Owens' residence and near water sample 9 location



Photo 4. View of 2000-gallon-capacity septic truck (note label *Owens & Sons*)



Photo 2. View of Owens' residence from road leading to back of his residence



Photo 5. View of 3000-gallon-capacity septic truck near soil sample 3



Photo 3. Septage truck displaying Owens' septage hauling business information



Photo 6. Partial view of three septic trucks and several aboveground flexible hoses

PICTURES TAKEN BY: Hossein Aghazeynali, WRC Engineer
PICTURE DATE: 18 May 2005
TIME: 10:30 A.M.-1:00 P.M.

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Photo 7. Another view of two septic trucks



Photo 10. Location of background soil sample 1 in front of Owens' residence



Photo 8. Various aboveground flexible hoses adjacent to septic discharge areas



Photo 11. Location of background soil sample 2 behind Owens' residence



Photo 9. Various aboveground flexible hoses adjacent to septic discharge areas



Photo 12. Location of soil sample 3 (note evidence of septic discharge between well and 3-inch flexible hose)

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Photo 13. Owens' domestic well adjacent to a septic discharge area and flexible hose



Photo 16. End of flexible hose from which septic was discharged (note erosion pothole at pipe outlet)



Photo 14. Evidence of septic discharge in an area between Owens' well and flexible hose near soil sample 3



Photo 17. Location of soil sample 4



Photo 15. Beginning of flexible hose near Owens' well where evidence of septic discharge was found



Photo 18. View of soil sample 4 location

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Photo 19. View of soil sample 5 location



Photo 22. View of soil sample 7 location



Photo 20. View of soil sample 6 location



Photo 23. View of soil sampling 7 location (note contraceptive)



Photo 21. Location of soil sample 6 (another view)



Photo 24. View of soil sample 7 location

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Photo 25. Evidence of septage discharge near Owens' backyard



Photo 26. Location of water sample 8

PICTURES TAKEN BY: Hossein Aghazeynali, WRC Engineer
PICTURE DATE: 18 May 2005
TIME: 10:30 A.M.-1:00 P.M.