

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

CLEANUP AND ABATEMENT ORDER R5-2014-0701

FOR

LUIS M. AZEVEDO (DBA LUIS M. AZEVEDO DAIRY)
AND MENESES PROPERTIES LLC

STANISLAUS COUNTY

This Order is issued to Luis M. Azevedo, operator of the Luis M. Azevedo Dairy, and Meneses Properties LLC (Adaline, Linda, and Rose Marie Mendes), owners of the dairy property (collectively referred to as Discharger), pursuant to California Water Code (Water Code) section 13304, which authorizes the California Regional Water Quality Control Board, Central Valley Region (hereafter "Central Valley Water Board" or "Board") to issue a Cleanup and Abatement Order ("CAO"), and Water Code section 13267, which authorizes the Central Valley Water Board to require the preparation and submittal of technical and monitoring reports. This order covers only those water quality violations associated with the Luis M. Azevedo Dairy's operations that occurred on land owned by Meneses Properties LLC.

The Executive Officer of the Central Valley Water Board finds, with respect to the Discharger's acts or failure to act, the following:

FINDINGS

PROPERTY OWNERSHIP AND OPERATIONS

1. Luis M. Azevedo Dairy (Luis M. Azevedo Dairy or Dairy) (WDID 5B50NC00020) is located at 8201 Mitchell Road, Ceres, Stanislaus County. The property is owned by Meneses Properties LLC. and operated by Luis M. Azevedo.

LEGAL AND REGULATORY AUTHORITY

2. This Order conforms to, and implements policies and requirements of, the Porter-Cologne Water Quality Control Act (Division 7, commencing with Water Code section 13000) including:
 - a. Water Code sections 13267 and 13304;
 - b. applicable state and federal regulations;

- c. the Central Valley Regional Water Quality Control Board Order, *Waste Discharge Requirements for Existing Milk Cow Dairies*, Order R5-2007-0035 (Dairy General Order), and the Central Valley Regional Water Quality Control Board Order *Reissued Waste Discharge Requirements General Order for Existing Milk Cow Dairies*, Order R5-2013-0122 (Reissued Dairy General Order);
 - d. all applicable provisions of Statewide Water Quality Control Plans adopted by the State Water Resources Control Board (State Board) and the *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins*, Fourth Edition, revised October 2011, (Basin Plan) adopted by the Regional Board;
 - e. State Board policies and regulations, including State Board Resolution No. 68-16 (Statement of Policy with Respect to Maintaining High Quality of Waters in California), and Resolution No. 92-49 (Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Water Code section 13304); California Code of Regulations (CCR) Title 23, Chapter 16, Article 11; CCR Title 23, Section 3890 et. seq., and relevant standards, criteria, and advisories adopted by other state and federal agencies.
3. **Waste Discharge Requirements:** Water Code section 13263(a) allows a regional board to prescribe requirements as to the nature of any proposed discharge, existing discharge, or material change in discharge of waste to waters of the state. The Central Valley Water Board has determined that the discharge of nitrates, salts, and other waste from many dairies in the Central Valley region have impacted groundwater, a water of the state. The Central Valley Water Board may prescribe general waste discharge requirements to a category of discharges, such as those from ongoing dairy operations, if the discharges are produced by the same or similar operations, the discharges involve the same or similar types of waste, the discharges require the same or similar treatment standards, and the discharges are more appropriately regulated under general requirements than individual requirements.

The Reissued Dairy General Order is a set of general waste discharge requirements that apply to owners and operators of existing milk cow dairies that (1) submitted a Report of Waste Discharge in response to the Central Valley Water Board's August 8, 2008 request and (2) have not expanded operations since October 17, 2005. Dairy farms covered by the Reissued Dairy General Order are subject to the general waste discharge requirements for discharges of waste from existing milk cow dairies. The Discharger is required to file a Report of Waste Discharge with the Central Valley Water Board at least 140 days before making any material change in the character, location, or volume of the discharge including, but not limited to the addition of new waste water that results in a change in the character of the waste; significantly changing the disposal or waste application method or location; significantly changing the method of treatment; and/or

expanding the existing herd size beyond 15 percent. A Report of Waste Discharge was filed for the Luis M. Azevedo Dairy on 20 October 2005 and the dairy has not expanded beyond 15 percent; the Luis M. Azevedo Dairy is therefore a dairy operation covered by the Reissued Dairy General Order.

4. **Basin Plan:** The Dairy is located in the Lower San Joaquin River Watershed, East Valley Floor Subarea. The Basin Plan covers the San Joaquin River Watershed. Chapter IV of the Basin Plan also contains a policy for the *Investigation and Cleanup of Contaminated Sites*. The strategy generally outlines a process that includes site investigation, source removal or containment, information requirements for the consideration of establishing cleanup levels, and a basis for establishing soil and groundwater cleanup levels. Pursuant to Water Code section 13263(a), the Reissued Dairy General Order implements the Basin Plan. The Luis M. Azevedo Dairy is subject to the prohibitions and requirements of the Basin Plan.
5. **State Board Policies:** The State Water Resources Control Board ("State Water Board") has adopted Resolution 92-49, *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Water Code Section 13304* ("Resolution 92-49"). Resolution 92-49 sets forth the policies and procedures to be used during an investigation and cleanup of a polluted site, and requires that cleanup levels be consistent with State Water Board Resolution 68-16, the *Statement of Policy With Respect to Maintaining High Quality of Waters in California*. ("Resolution 68-16"). Resolution 92-49 requires the waste to be cleaned up in a manner that promotes attainment of either background water quality, or the best water quality which is reasonable if background levels of water quality cannot be restored. Any alternative cleanup level to background must: (1) be consistent with the maximum benefit to the people of the state; (2) not unreasonably affect present and anticipated beneficial use of such water; and (3) 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.

BACKGROUND

6. The Luis M. Azevedo Dairy, located at 8201 Mitchell Road, Ceres, Stanislaus County, began operations in April 2012. However, a dairy facility has been in operation on the property intermittently since 1960. The Dairy is permitted under the Reissued Dairy General Order to house up to 667 mature dairy cows, and currently houses 610 mature cows. The Dairy's production area occupies approximately 14 acres, with milk cows housed in one freestall barn with flush lanes and adjoining corrals. There is one wastewater storage lagoon at the Dairy and no settling basins or solid manure separator. The freestall barn is flushed into a sand trap at the north end of the barn and then pumped into the lagoon. Depth to groundwater in the production area is approximately 16 feet below ground surface, based on data from a Turlock Irrigation District monitoring well located one mile from the Dairy site.

7. The Dairy production area is surrounded by cropland on the west and south sides. The cropland totals approximately 125 acres to which process wastewater and solid manure is applied. Land Application Areas are considered to be part of the Dairy facility for purposes of the Reissued Dairy General Order.
8. The Dairy production area is bordered on the north side by East Monte Vista Road and bordered on the east side by Mitchell Road.
9. The Dairy has been inspected on multiple occasions by Central Valley Water Board staff ("Staff"). An initial inspection of the Dairy was conducted 27 November 2012 at which time staff found no operational record-keeping documents and the inspection was not completed. Staff again inspected the Dairy on 30 January 2013 and found no operational documents, corrals with excessive manure solids and ponded water, silage leachate flowing into cropland, excessive manure solids in the lagoon, ponded process wastewater in cropland, and abundant animal remains in the manure solids in the "Solid Manure Stacking" area. Staff conducted a follow up inspection of the Dairy on 20 March 2013 and again found the same onsite violations and record-keeping violations as evidenced during the previous inspections. Lastly Staff most recently inspected the Dairy on 12 December 2013 and found the previous violations still present; it was noted during this inspection that the lagoon had overflowed into adjacent cropland. A Notice of Violation was issued 4 December 2012 for failure to maintain operational documents; a second Notice of Violation was issued 11 February 2013 for the same violations due to having had no response from the dairy operator. The three inspection reports and two Notices of Violation are included as Attachments 1-5.

VIOLATIONS

10. **Violations of Reissued Dairy General Order:** Staff identified the following violations.
 - a. Abundant cow bones and decomposing cow carcasses ("animal remains") in the Production Area of the Dairy – The Waste Management Plan prepared for the previous dairy operator lists a "Solid Manure Stacking" area adjacent to the west side of the central corrals on the west boundary of the dairy production area. At the time of each inspection (30 January 2013, 20 March 2013, 12 December 2013) abundant animal remains in various stages of decay were present in the large piles of manure solids (\pm soil) in the "Solid Manure Stacking" area. Recognizable cow and calf carcasses with hide still present and some smell of decaying flesh were evident. As of 12 December 2013 these conditions persisted.

The disposal of dead animals at a dairy facility is a violation of Prohibition A.6 of the Reissued Dairy General Order.

- b. Ponded water in the “Solid Manure Stacking” area of the Dairy – At the time of each inspection (30 January 2013, 20 March 2013, 12 December 2013) the “Solid Manure Stacking” area, located on native soil, contained abundant piles of manure solids (\pm soil) and a very large area of ponded water; the ponded water is derived in part from outflow from the adjacent central corrals.

During the inspection of 30 January 2013 the ponded water in the “Solid Manure Stacking” area was being pumped into adjacent cropland to the west.

The discharge of process wastewater that results in the (1) discharge of waste constituents in a manner which could cause degradation of surface water or groundwater, (2) contamination or pollution of surface water or groundwater or (3) a condition of nuisance is a violation of Prohibition A4 of the Reissued Dairy General Order. In addition, the land application of process wastewater to cropland for other than nutrient recycling is a violation of Land Application Specifications 2 and 5 of the Reissued Dairy General Order. Lack of grading and conveyance to the lagoon of water that has contacted animal wastes is a violation of Production Area Specifications 1 and 6 of the Reissued Dairy General Order.

- c. Absence of required records: No operational documents were available onsite for review for the Dairy.
- i. No Nutrient Management Plan (NMP) was available;
 - ii. No Waste Management Plan (WMP) was available;
 - iii. No dated pond photos available;
 - iv. Visual inspection documents for the dairy production area – no documents were available;
 - v. Daily visual inspection of land application areas (cropland) when process wastewater is being applied – no documents were available;
 - vi. Process wastewater (lagoon) application records for each field; these records must include the volume, location, and date of application – no documents were available;
 - vii. Laboratory reports of manure, soil, and crop analyses – no documents were available;

- viii. Reports for significant storm events – no documents were available;
- ix. Nutrient monitoring records – no documents were available;
- x. Discharge monitoring records – no documents were available;

The absence of applicable plans and records for the dairy operation is a violation of the Monitoring and Reporting Program A – *Monitoring Requirements*, and B – *Record-Keeping Requirements* of the Reissued Dairy General Order.

d. Other violations of the Reissued Dairy General Order – Inspections of the Dairy revealed the following additional violations.

- i. Excessive manure solids and ponded water in the corrals – During the inspections of 30 January 2013, 20 March 2013, and 12 December 2013 excessive manure solids and ponded water were prevalent in the central and south corrals, and grading was not evident.

Standing (ponded) water in corrals as of 72 hours after the last rainfall and the lack of grading and conveyance to the lagoon of all water that has contacted manure within the corrals is a violation of Production Area Specifications 1 and 6 of the Reissued Dairy General Order.

- ii. Uncontrolled silage leachate in the Production Area – At the time of the inspections of 30 January 2013, 20 March 2013, and 12 December 2013 abundant silage leachate was flowing west and south off the asphalt silage pad into adjacent cropland. Ponding of silage leachate was present in cropland immediately adjacent to the west side of the asphalt pad.

The discharge of silage leachate that results in the (1) discharge of waste constituents in a manner which could cause degradation of surface water or groundwater, (2) contamination or pollution of surface water or groundwater or (3) a condition of nuisance is a violation of Prohibition A4 of the Reissued Dairy General Order. In addition, the lack of conveyance of silage leachate to the lagoon is a violation of Production Area Specifications 3 of the Reissued Dairy General Order.

- iii. Presence of excessive manure solids and lack of freeboard in lagoon – At the time of the inspections of 30 January 2013 and 20

March 2013 excessive manure solids were present in the lagoon. At the time of the inspection of 12 December 2013 there was no freeboard in the lagoon; available storage in the lagoon was less than required for the number of cows at the current operation based on review of the Waste Management Plan (WMP) for the site that was submitted to the Central Valley Water Board on 23 July 2010. The WMP prepared for the previous dairy operator was for 650 cows and lists the storage volume requirement at 6,243,782 gallons with a 1.5 factor; the total available capacity of the lagoon is 6,369,386 gallons. The Dairy has 610 cows, comparable in number to the previous dairy operator.

The lack of facilities to retain all facility process wastewater, including precipitation on and drainage through manured areas, up to and including during a 25-year, 24-hour storm, is a violation of General Specifications B1 of the Reissued Dairy General Order.

- iv. Ponded process wastewater in cropland – At the time of the inspections of 30 January 2013 and 20 March 2013, process wastewater was ponded in cropland west of the dairy production area. The ponded process wastewater was apparently derived from irrigation events for which (1) no records were available listing the date irrigation occurred or the volume of process wastewater applied, and (2) no Nutrient Management Plan was available.

Land application of waste from the facility conducted without a certified Nutrient Management Plan is a violation of Land Application Specifications E.2. and Required Reports and Notices J.1.c. of the Reissued Dairy General Order. Land application of waste from the facility conducted without preparation and maintenance of applicable records, and resulting in ponding of applied process wastewater in land application areas is a violation of Land Application Specifications E.5.b. and E.8., respectively, of the Reissued Dairy General Order.

LEGAL AUTHORITY

11. CWC section 13304(a) states, in relevant part:

Any person who has discharged or discharges waste into waters of this state in violation of any waste discharge requirement or other order or prohibition issued by a regional board or by the state 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 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... Upon failure of any person to comply with the cleanup or abatement order, the Attorney General, at the request of the regional board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the order...

12. CWC section 13304(c)(1) states, in relevant part:

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.

13. CWC section 13267(b)(1) states, in relevant part:

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, 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 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.

14. Pursuant to Water Code section 13267, subdivision (b), this Order requires the Discharger to submit technical and monitoring reports, including but not limited to work plans, to Central Valley Water Board Staff. The Central Valley Water Board requires technical and monitoring reports to determine the extent of the impacts of the discharge of waste and to assess additional cleanup and/or remediation measures at the Dairy.

15. The Water Board has considered the financial and technological resources available to the Discharger, and has determined that the cleanup directives required by this Order are feasible to implement and will be effective and necessary to protect the water quality of waters of the state. Therefore, the Executive Officer is authorized to issue this Cleanup and Abatement Order in accordance with Water Code sections 13304 and 13267 to the Discharger to cleanup and abate the effects of the discharge of waste from Luis M. Azevedo Dairy.

DIRECTIVES

IT IS HEREBY ORDERED that, pursuant to CWC sections 13304 and 13267 that the Discharger shall take the following actions to comply with this Order:

1. **Immediately stop** any further on-site disposal of dead cows. Dead cows must be disposed of properly as required under the Reissued Dairy General Order.
2. **By 24 March 2014**, begin removal of all animal remains buried and otherwise located within the "Solid Manure Stacking" area to a landfill authorized to accept such material. Removal of all animal remains must be completed by **14 April 2014**. Submit proof of legal disposal of the animal remains to the Central Valley Water Board by **28 April 2014**. A report must accompany the proof of legal disposal and include photo-documentation of the removal operation.
3. Land application of the manure solids now stored in the "Solid Manure Stacking" area is prohibited. The manure solids must be removed to a landfill authorized to accept such material by **14 April 2014**; documentation of landfill disposal must be submitted to the Central Valley Water Board by **28 April 2014**.
4. **By 28 April 2014**, submit a proposed schedule to the Central Valley Water Board for completing corral cleanout and grading, removal of manure solids from the lagoon, and installation of a drain to direct silage leachate to the lagoon. Staff will review and approve the proposed schedule. Cleanup and grading activities, removal of manure solids, and installation of a drain must commence within two weeks following Staff's approval of the schedule.
5. **By 28 April 2014**, submit a site-specific Waste Management Plan for the Dairy to the Central Valley Water Board that accurately describes how waste in the Production Area will be managed in conformance with the Reissued Dairy General Order. The Waste Management Plan must clearly identify and describe specific modifications to the operational components within the production area such that management of waste complies with the Reissued Dairy General Order.
6. **By 2 June 2014**, complete grading of the "Solid Manure Stacking" area such that stormwater is directed to the lagoon and ponding of water does not occur.

GENERAL REQUIREMENTS

The Discharger shall:

7. As required by the California Business and Professions Code sections 6735, 7835, and 7835.1, have reports prepared by, or under the supervision of, a

registered professional engineer or geologist and signed by the registered professional. All technical reports submitted by the Discharger shall include a cover letter signed by an authorized representative of the Discharger, certifying under penalty of law that the signer has examined and is familiar with the report and that to their knowledge, the report is true, complete, and accurate. The Discharger shall also state if it/they agree with any recommendations/proposals and whether it/they approved implementation of said proposals.

8. The Discharger will obtain all local and state permits and access agreements necessary to fulfill the requirements of this Order prior to beginning the work. The Discharger will continue any remediation or monitoring activities until such time as the Executive Officer determines that sufficient assessment and/or remediation has been accomplished to fully comply with this Order and this Order has been either amended or rescinded in writing.
9. If, for any reason, the Discharger is unable to perform any activity or submit any document in compliance with the schedule set forth herein, or in compliance with any work schedule submitted pursuant to this Order and approved by the Executive Officer, the Discharger may request, in writing, an extension of the time specified. The extension request shall include justification for the delay. Any extension request shall be submitted as soon as the situation is recognized and no later than the compliance date. An extension may be granted by revision of this Order or by a letter from the Executive Officer. Extension requests not approved in writing by the Executive Officer with reference to this Order are denied.
10. Reimburse the Central Valley Water Board for reasonable costs associated with oversight of the investigation and remediation of the Site, as provided in Water Code section 13304(c) (1). Failure to reimburse the Central Valley Water Board's reasonable oversight costs shall be considered a violation of this Order.
11. This Order does not limit the authority of the Water Board to institute additional enforcement actions or to require additional investigation and cleanup of the site consistent with the Water Code. This Order may be revised by the Executive Officer as additional information becomes available. **Failure to comply with the terms or conditions of this Cleanup and Abatement Order will result in additional enforcement action**, which may include the imposition of administrative civil liability pursuant to CWC including sections 13350, 13385 and 13268 or referral to the Attorney General of the State of California for civil enforcement.

REPORTING REQUIREMENTS

1. **Signatory Requirements.** All reports required under this Cleanup and Abatement Order shall be signed and certified by the Discharger or by a duly authorized representative of the Discharger and submitted to the Water Board staff. A person is a

duly authorized representative of the Discharger only if: (1) the authorization is made in writing by the Discharger and (2) the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility of activity. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).

2. **Certification.** Include the following signed certification with all reports submitted pursuant to this Order:

I certify under penalty of perjury under the laws of the State of California that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

3. **Report Submittals.** All monitoring and technical reports required under this Order shall be submitted to:

California Regional Water Quality Control Board
Central Valley Region - Sacramento Office
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670
Attn: Charlene Herbst, Chief, Confined Animal Unit
Email: Charlene.herbst@waterboards.ca.gov
Phone: (916) 464-4724

Notifications:

4. **Cost Recovery.** Pursuant to Water Code section 13304, the Water Board is entitled to, and may seek, reimbursement for all reasonable costs actually incurred by the Water Board to investigate unauthorized discharges of wastes and to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action required by this Order.
5. **Applicability of Other Orders.** This Order does not affect the Discharger's obligation to comply with any previously issued Orders, including the 2013 Reissued Dairy General Order (R5-2013-0122). The requirements and legal enforceability of these Orders are not superseded or affected upon issuance of this Order.

6. **California Environmental Quality Act (CEQA) Compliance.** 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 (Pub. Resources Code § 21000 et seq.), pursuant to California Code of Regulations (CCR), title 14, section 15321(a)(2). The issuance of this Order may also be considered an action by a regulatory agency for the protection of the environment, exempt pursuant to CCR, title 14, section 15308. This action is also exempt from the provisions of CEQA in accordance with section 15061(b) (3) of Chapter 3, Title 14 of the California Code of Regulations because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.
7. **Requesting Administrative Review by the State Water Board.** Any person aggrieved by an action of the Water Board that is subject to review as set forth in Water Code section 13320, subdivision (a), may petition the State Water Resources Control Board (State Water Board) to review the action. Any petition must be made in accordance with Water Code section 13320 and California Code of Regulations, title 23, section 2050 and following. The State Water Board must receive the petition within 30 days of the date the action was taken, except that if the thirtieth day following the date the action was taken falls on a Saturday, Sunday, state holiday, then the State Water Board must receive the petition by 5:00 p.m. on the next business day. Copies of the law and regulation applicable to filing petitions may be found on the internet at: <http://www.waterboards.ca.gov/publicnotices/petitions/waterquality> or will be provided upon request.
8. **Enforcement Notification.** 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. Failure to comply with the terms or conditions of this Cleanup and Abatement Order may result in additional enforcement action, which may include the imposition of administrative civil liability pursuant to Water Code section 13350 and/or section 13268, in an amount not to exceed **\$5,000 for each day in which the violation occurs** under Water Code section 13304 or 13350, or referral to the Attorney General of the State of California for injunctive relief or civil or criminal liability.

This Order is effective upon the date of signature.

Original signed by

ANDREW ALTEVOGT, Assistant Executive Officer

25 March 2014

(Date)

Central Valley Regional Water Quality Control Board

NOTICE OF VIOLATION

4 December 2012

CERTIFIED MAIL
7010 1670 0002 0652 7833

Mr. Luis M. Azevedo
8201 Mitchell Road
Ceres, CA 95307

NOTICE OF VIOLATION FOR FAILURE TO MAINTAIN OPERATIONAL DOCUMENTS, LUIS M. AZEVEDO DAIRY, 8201 MITCHELL ROAD, CERES, STANISLAUS COUNTY

You were notified by the Executive Officer that your dairy facility is covered under Order No. R5-2007-0035, Waste Discharge Requirements General Order for Existing Milk Cow Dairies (General Order). The General Order requires that you have documentation for regular oversight of operations at the dairy available for review by staff of the Regional Water Board. During an inspection of your dairy conducted on 27 November 2012 the documents listed below were not available for review.

1. Nutrient Management Plan (NMP) specific to the current dairy operation;
2. Waste Management Plan (WMP) specific to the current dairy operation;
3. Dated pond photos;
4. Visual inspection documents for the dairy production area – no documents were available;
5. Daily visual inspection of land application areas (cropland) when process wastewater is being applied – no documents were available;
6. Process wastewater (lagoon) application records for each field; these records must include the volume, location, and date of application – no documents were available;
7. Laboratory reports of manure, soil, and crop analyses – no documents were available;
8. Laboratory reports of groundwater sample analyses from each well at the dairy site – no documents were available;
9. Reports for significant storm events – no documents were available;
10. Nutrient monitoring records – no documents were available;
11. Discharge monitoring records – no documents were available;

The specific records required to be at the dairy site and available for review are presented and described in the Monitoring and Reporting section of the General Order. Please have the records available for review at your dairy by **7 January 2013** at which time reinspection of the facility will be scheduled.

You will continue to accrue potential daily liability until you comply with this Notice of Violation. If you fail to comply with this Notice of Violation you will be subject to additional enforcement action and/or termination of the authorization to discharge according to General Order Provision E.10.

If you have questions regarding this matter, please contact me at (916) 464-4724 or cherbst@waterboards.ca.gov, or Daniel Davis at (916) 464-4739 or ddavis@waterboards.ca.gov.

Original signed by
Charlene Herbst
Chief, Confined Animal Facilities Regulatory Unit

Central Valley Regional Water Quality Control Board

NOTICE OF VIOLATION

11 February 2013

CERTIFIED MAIL
7010 1670 0002 0652 7857

Mr. Luis M. Azevedo
8407 Mitchell Road
Ceres, CA 95307

NOTICE OF VIOLATION FOR FAILURE TO MAINTAIN OPERATIONAL DOCUMENTS, LUIS M. AZEVEDO DAIRY, 8201 MITCHELL ROAD, CERES, STANISLAUS COUNTY

You were notified by the Executive Officer that your dairy facility is covered under Order No. R5-2007-0035, Waste Discharge Requirements General Order for Existing Milk Cow Dairies (General Order). The General Order requires that you have documentation for regular oversight of operations at the dairy available for review by staff of the Regional Water Board. It is understood that the current dairy began operations in April 2012. At an inspection of your dairy conducted on 27 November 2012 the required operational documents listed below were not available for review.

1. Nutrient Management Plan (NMP) specific to the current dairy operation;
2. Waste Management Plan (WMP) specific to the current dairy operation;
3. Dated pond photos;
4. Visual inspection documents for the dairy production area – no documents were available;
5. Daily visual inspection of land application areas (cropland) when process wastewater is being applied – no documents were available;
6. Process wastewater (lagoon) application records for each field; these records must include the volume, location, and date of application – no documents were available;
7. Laboratory reports of manure, soil, and crop analyses – no documents were available;
8. Reports for significant storm events – no documents were available;
9. Nutrient monitoring records – no documents were available;
10. Discharge monitoring records – no documents were available;

The specific records required to be at the dairy site and available for review are presented and described in the Monitoring and Reporting section of the General Order. Please have the records available for review at your dairy by **15 March 2013** at which time reinspection of the facility will be scheduled.

You will continue to accrue potential daily liability until you comply with this Notice of Violation. If you fail to comply with this Notice of Violation you will be subject to additional enforcement action and/or termination of the authorization to discharge according to General Order Provision E.10.

If you have questions regarding this matter, please contact me at (916) 464-4724 or cherbst@waterboards.ca.gov, or Daniel Davis at (916) 464-4739 or ddavis@waterboards.ca.gov.

Original signed by
Charlene Herbst
Chief, Confined Animal Facilities Regulatory Unit

CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

INSPECTION REPORT

DATE: 21 February 2013

DAIRY LOCATION & COUNTY: Luis M. Azevedo Dairy
8201 Mitchell Rd., Ceres 95307
Stanislaus County

CONTACTS: Luis 209-678-0722

MAILING ADDRESS: 8407 Mitchell Rd., Ceres 95307

INSPECTION DATE: 30 January 2013

INSPECTED BY: Daniel J. Davis, CVRWQCB

ACCOMPANIED BY: Sean Walsh, CVRWQCB

OBSERVATIONS AND COMMENTS:

Regional Water Board staff visited the dairy site on 30 January 2013. The purpose of the visit was to review operations documents and inspect the dairy facility operational components, particularly regarding how dairy waste is being managed. Regional Board staff visited the dairy site on 27 November 2012 for the purpose of completing an inspection; however, no operational documents were then available and the inspection was not completed. Currently there are approximately 500 milking cows and 110 dry cows at the dairy, totaling approximately 610 cows. The maximum allowed herd size at the site is 667 animals including the additional 15 percent. Operations documents were again not available for review; this included no Nutrient Management Plan (NMP), Waste Management Plan (WMP) and animal mortality records.

One domestic well is located adjacent to the south side of the milk barn (Dairy Barn Well). The well is placed in a large area of concrete that appears sloped to allow stormwater flow away from the wellhead and prevent ponding. One other domestic well (House Well) at the site was not inspected. The NO₃-nitrogen concentration in samples from the two domestic wells is above the maximum contaminant concentration of 10.0 mg/l.

<u>WELL</u>	<u>NO₃-Nitrogen (mg/l)</u>		
	<u>2009</u>	<u>2010</u>	<u>2011</u>
House	25.8	25.0	26.4
Dairy Barn	26.1	24.8	22.1

Many of the gutters on buildings in the production area drain to the corrals either as planned management of stormwater or due to poor condition. Corrals are scraped monthly during the dry season and graded before the winter wet season. At the time of the inspection excess manure solids and water ponding was prevalent in the central and south corrals and grading was not evident; corrals adjacent to the freestall barn appeared in good condition. Silage is stored covered on an asphalt pad at the southwest corner of the production area. Abundant silage leachate was noted flowing west and south off the pad into adjacent cropland.

One lagoon is used at the dairy and no settling basin. All manure solids are directed to the lagoon. At the time of the inspection freeboard in the lagoon was approximately two feet; excessive solids in the lagoon were evident. The WMP prepared for the previous dairy operator is for 650 cows and lists the storage volume requirement at 6,243,782 gallons with a 1.5 factor; the total available capacity of the lagoon is 6,369,386 gallons. Weeds and animal burrows were minimal on top of the lagoon embankment. A sand trap is located at the north end of the freestall barn adjacent to the northeast corner of the lagoon; at the time of the inspection abundant manure solids were in and adjacent to the sand trap.

Ponded process wastewater was evident in various locations in cropland west of the dairy production area. Process wastewater some distance from the dairy production area was apparently derived from irrigation events although there were no records to corroborate this having occurred.

The WMP prepared for the previous dairy operator lists a "Solid Manure Stacking" area adjacent to the west side of the central corrals. At the time of the inspection this "Solid Manure Stacking" area, located on native soil, contained abundant manure solids and a very large pond of manure water; the ponded manure water is derived in part from outflow from the adjacent central corrals. The manure water in this area is pumped into adjacent cropland to the west. The large piles of manure solids (\pm soil) in the "Solid Manure Stacking" area showed abundant cow bones in various stages of decay; e.g., recognizable calf carcasses with hide still present and some minor smell of decaying flesh.

SUMMARY

The following issues were evident at the dairy during the inspection.'

1. No operational documents were available for review;
2. Corrals contained excessive manure solids and ponded water;
3. Silage leachate was flowing off the asphalt pad into adjacent cropland;

4. Excessive manure solids were present in the lagoon;
5. Ponded process wastewater used for irrigation was evident in cropland;
6. Ponded water from corrals and the "Solid Manure Stacking" area is being pumped into adjacent cropland; and
7. Abundant cow bones in various stages of decay were present in the large piles of manure solids (\pm soil) in the "Solid Manure Stacking" area.

In addition, available storage in the lagoon appears to be less than required for the number of cows at the current operation based on review of the WMP for the site.



Domestic well at south side of milk barn.



View west across central corral showing ponding and pile of manure solids; note dead cow in corral at upper right.



Central corral area showing abundant manure slurry.



View east across south corrals; note ponded water.



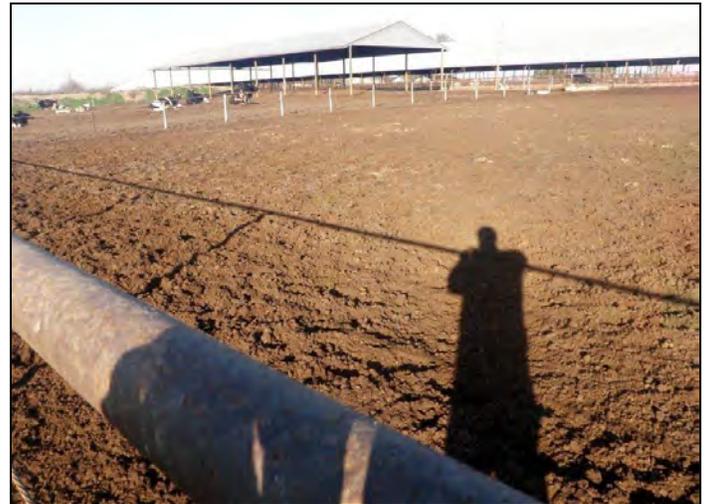
View north across south corral; note ponded water.



View east across south corrals; note ponded water.



View north across south corral showing ponding.



View northeast across west corral.



View east across silage storage pad from west side; note silage leachate in center of photo.



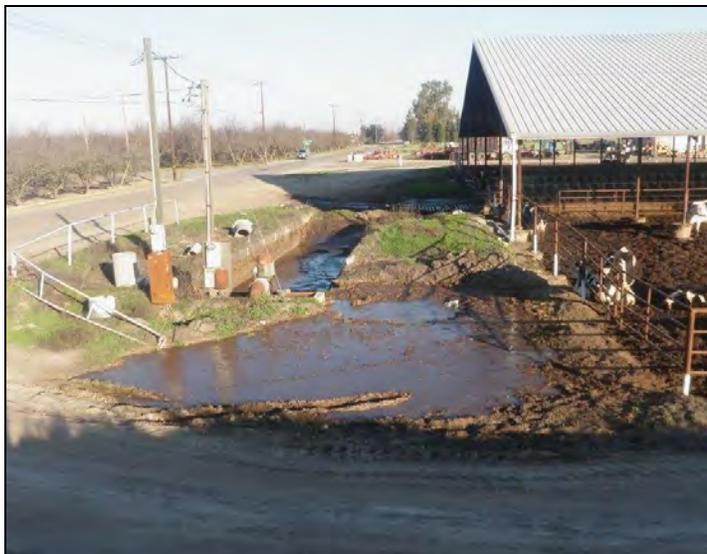
View north along west side of silage storage pad; note silage leachate and stormwater in cropland at left that has flowed from silage pad.



View north along west side of silage storage pad showing ponding of silage leachate and stormwater in adjacent cropland.



View north across lagoon; note abundant solids.



View east from lagoon berm showing sand trap at end of freestall barn.



View west showing sand trap at end of freestall barn; note abundant manure slurry.



Ponded process wastewater in cropland.



Ponded process wastewater in cropland.



Ponded process wastewater in cropland; note dairy production in upper left of photo.



Ponded process wastewater in cropland adjacent to west corrals.



View east from west side of production area showing excessive ponding; this area identified in WMP as "Solid Manure Stacking".



View northeast across "Solid Manure Stacking" area showing excessive ponding.



View north across "Solid Manure Stacking" area showing excessive ponding.



View north showing ponded water from "Solid Manure Stacking" area being pumped west to adjacent cropland through blue hose.



Dead calves in "Solid Manure Stacking" area; note ponded water to right and silage pad at top of photo.



View east across "Solid Manure Stacking" area showing cow bones in pile of manure solids (±soil).

CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

INSPECTION REPORT

DATE: 22 March 2013

LOCATION & COUNTY: Luis M. Azevedo Dairy
8201 Mitchell Road, Ceres 95307
Stanislaus County

OPERATOR CONTACT: Kevin Azevedo 209-678-0722

OWNER: Adeline Meneses
615 N. Hopper Road
Modesto, CA 95357

INSPECTION DATE: 20 March 2013

INSPECTED BY: Daniel J. Davis, CVRWQCB

ACCOMPANIED BY: Sean Walsh, CVRWQCB
Afton Nunes, WUES
Adeline, Linda, & Rose Meneses (owners)

OBSERVATIONS AND COMMENTS:

Staff of the Central Valley Regional Water Board inspected the dairy on 20 March 2013 as a follow-up to two previous inspections (27 November 2012 and 30 January 2013) during which numerous violations of the Dairy General Order were noted. A Nutrient Management Plan, signed by Paul Sousa (WUES), had been completed. Fresh water and process wastewater application to cropland was documented for irrigation that occurred 11 March 2013; however, it was not clear how the volume of applied process wastewater was measured. In addition, no analyses for the process wastewater were available. Other required operational documents (lagoon photos, land application visual inspections, production area inspections, etc.) were not available for review.

The condition of the dairy operational components (corrals, feed storage, etc.) was the same as evidenced during the previous inspection of 30 January 2013.

1. Corrals contained excessive manure solids and ponded water;
2. Silage leachate flowing off the asphalt pad into adjacent cropland;
3. Excessive manure solids present in the lagoon;
4. Excessive solids from process wastewater irrigation evident in cropland;
5. Ponded process wastewater in cropland;

6. Ponded water within the “Solid Manure Stacking” area; and
7. Abundant cow bones in various stages of decay remain in the large piles of manure solids (\pm soil) in the “Solid Manure Stacking” area.

The dairy operator stated that cow bones in the manure solids (\pm soil) were sifted out and removed to a landfill. However, there still remained abundant cow bones in the “Solid Manure Stacking” area (see photographs).



View west across central corral showing ponding and manure solids; note "Solid Manure Stacking" area in background.



View southwest across central corral showing ponding.



View west across central corral.



View south across south corral; note ponding at upper area of photo.



South corral showing ponding and manure solids.



View northeast across south corral showing manure solids; note manure pile in background.



Silage leachate at south end of silage pad.



Silage leachate; note leachate flowing into cropland at upper left in photo.



Ponded process wastewater in cropland from irrigation.



Manure solids in cropland from irrigation.



Ponded process wastewater in cropland from irrigation.



View northeast across "Solid Manure Stacking" area.



View north across "Solid Manure Stacking" area.



Cow bones in "Solid Manure Stacking" area.



Cow bones in "Solid Manure Stacking" area.



Cow bones in "Solid Manure Stacking" area.



Cow bones in "Solid Manure Stacking" area.



Cow bones in "Solid Manure Stacking" area.



View north across lagoon showing abundant solids.



Sand trap showing overflowing manure solids.

CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

INSPECTION REPORT

DATE: 3 January 2014

LOCATION & COUNTY: Luis M. Azevedo Dairy
8201 Mitchell Road, Ceres 95307
Stanislaus County

OPERATOR CONTACT: Kevin Azevedo 209-678-0722

OWNER: Adeline Meneses
615 N. Hopper Road
Modesto, CA 95357

INSPECTION DATE: 12 December 2013

INSPECTED BY: Daniel J. Davis, CVRWQCB

ACCOMPANIED BY: Sean Walsh, CVRWQCB

OBSERVATIONS AND COMMENTS:

Staff of the Central Valley Regional Water Board visited the dairy on 12 December 2013 as a follow-up to previous inspections (27 November 2012, 30 January 2013, and 20 March 2013) during which numerous violations of the Dairy General Order were noted. The violations included abundant cow bones in various stages of decay within large piles of manure solids (± soil) in the “Solid Manure Stacking” area. The purpose of the current visit was to check the status of clean-up efforts in the “Solid Manure Stacking” area, particularly regarding removal of the cow bones and decayed cow remains, and to document current conditions at the dairy.

No clean-up or removal of cow bones/decayed cow remains was evident during the site visit. The piles of manure solids containing cow bones/decayed cow remains were present as in previous inspections. A dead calf was present at the south end of the “Solid Manure Stacking” area; a dead calf was also in the cropland west of the production area.

The condition of the dairy operational components (corrals, feed storage, etc.) was generally the same as noted during the previous inspections. In addition, it was evident the lagoon had overflowed into adjacent cropland; at the time of the inspection the lagoon showed virtually no freeboard.



3/20/2013 – View north across “Solid Manure Stacking” area; white specks in large manure pile are cow bones.



12/12/2013 – View north across “Solid Manure Stacking” area; white specks in large manure pile are cow bones.



12/12/2013 – View northeast across “Solid Manure Stacking” area; note cow bones in lower right of photo.



12/12/2013 – Close up view showing cow bones within manure pile in “Solid Manure Stacking” area.



3/20/2013 – View northeast across “Solid Manure Stacking” area.



12/12/2013 – View northeast across “Solid Manure Stacking” area.



3/20/2013 – View southwest across “Solid Manure Stacking” area.



12/12/2013 – View southwest across “Solid Manure Stacking” area.



3/20/2013 – View east showing outflow of manure slurry from adjacent central corrals into “Solid Manure Stacking” area.



12/12/2013 – View east showing outflow of manure slurry from adjacent central corrals into “Solid Manure Stacking” area.



1/30/2013 – Cow bones in manure within the “Solid Manure Stacking” area.



1/30/2013 – Cow bones in manure within the “Solid Manure Stacking” area.



1/30/2013 – View south showing cow bones in manure within the “Solid Manure Stacking” area



3/20/2013 – Cow bones in manure within the “Solid Manure Stacking” area.



3/20/2013 – Dead cow remains within the “Solid Manure Stacking” area; note hide still visible on bones.



12/12/2013 – View east showing cow bones in manure within the “Solid Manure Stacking” area.



12/12/2013 – View northwest showing cow bones in manure within the “Solid Manure Stacking” area.



12/12/2013 – View west showing cow bones in manure within the “Solid Manure Stacking” area.



12/12/2013 – Cow bones in manure within the “Solid Manure Stacking” area..



12/12/2013 – Dead calf at south end of “Solid Manure Stacking” area; view is north.



12/12/2013 – Close-up of dead calf at south end of “Solid Manure Stacking” area.



12/12/2013 – View north showing dead calf at edge of cropland; note corrals to right in photo.



12/12/2013 – View east showing dead calf at edge of cropland; note corrals in background.



12/12/2013 – View northeast showing area of discharge from lagoon into cropland.



12/12/2013 – Southwest corner of lagoon embankment over which discharge occurred.



12/12/2013 – Southwest corner of lagoon embankment over which discharge occurred; note impounded water in background.



12/12/2013 – Top of lagoon embankment at southwest corner showing point of discharge; view is northeast.



12/12/2013 – View northwest across southwest corner of lagoon embankment showing point of discharge; note lack of freeboard in lagoon.



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Central Valley Regional Water Quality Control Board

12 March 2014

CERTIFIED MAIL NO.

7013 2250 0000 3465 8789

Luis M. Azevedo
8407 Mitchell Road
Ceres, CA 95307

CERTIFIED MAIL NO.

7013 2250 0000 3465 8796

Meneses Properties LLC
615 N. Hopper Road
Modesto, CA 95357

CLEANUP AND ABATEMENT ORDER R5-2014-0701, LUIS M. AZEVEDO DAIRY, 8201 MITCHELL ROAD, CERES, STANISLAUS COUNTY

Enclosed is Cleanup and Abatement Order (CAO) R5-2014-0701 issued to Luis M. Azevedo, operator of the Luis M. Azevedo Dairy, and Meneses Properties LLC, owners of the Luis M. Azevedo Dairy (hereafter collectively referred to as "Discharger").

This CAO is issued pursuant to California Water Code section 13304. This CAO requires the Discharger to clean up the waste and/or abate the effects of the waste or threat of waste to surface water or groundwater in accordance with the specified time schedule. The first remediation deadline is **14 April 2014** and the first documentation is due to the Central Valley Regional Water Quality Control Board (Central Valley Water Board) on **28 April 2014**. Please read the CAO carefully for a description of all required actions and the corresponding due dates.

Please note that if you do not comply with the requirements of the CAO, the Central Valley Water Board's Executive Officer may refer the matter to the state Attorney General for judicial enforcement, or may issue a complaint for penalties in an amount not to exceed **\$5,000 per day** for each day in which you do not comply.

If you have questions regarding the CAO please contact Charlene Herbst at (916) 464-4724 or cherbst@waterboards.ca.gov.

Original signed by
Robert D. Busby, Manager, P.G., C.E.G.
Permitting, Title 27 and Confined Animals Section

Enclosure: CAO R5-2014-0701

cc w/ encl: James Ralph, State Water Board, Office of Enforcement, Sacramento
David Boyers, State Water Board, Office of Enforcement, Sacramento