

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION**

**TENTATIVE RESCISSION OF
CEASE AND DESIST ORDER R5-2020-0030
FOR
DARIN LEMOS
LOCKWOOD III DAIRY
STANISLAUS COUNTY**

The California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) finds that:

1. On 4 June 2020, the Central Valley Water Board adopted Cease and Desist Order R5-2020-0030 (CDO) issued to Darin Lemos (Discharger) based on alleged violations of *Reissued Waste Discharge Requirements General Order for Existing Milk Cow Dairies*, Order R5-2013-0122 (Reissued General Order) at the Lockwood III Dairy (Dairy).
2. The CDO required the Discharger to complete several tasks and comply with the Reissued General Order, as summarized below:
 - a. Reissued General Order: The Discharger was to comply with all aspects of the Reissued General Order, or subsequent revisions, including the Prohibition against discharges of wastewater to surface waters, the Prohibition against applying solid manure or wastewater to land for any purpose other than nutrient recycling, and the requirement that all process wastewater applied to land application areas infiltrate completely within 72 hours after application.
 - b. Prepare and Implement the Nutrient Management Plan (NMP). **By 1 January 2021**, the Discharger was required to submit a Nutrient Management Plan that contains all items required by Attachment C of the Reissued General Order and is prepared by a specialist as described in Attachment C).
 - c. Flow Meter: **By 1 May 2021**, the Discharger was to document that it had installed a flow meter on the wastewater pond, such that the volume of wastewater used to irrigate the fields can be accurately measured.
 - d. Enhanced Monitoring and Reporting: **By 1 July 2021** and each subsequent 1 July (as long as this Order is in effect), the Discharger was required to submit an Enhanced Annual Report. The document shall contain all the information required by the Reissued General Order for an Annual Report. In addition, the Enhanced Annual Report shall:

- i. Reflect the measured volumes of wastewater discharged to each field.
- ii. Document the volume and destination of all solid manure produced during the year.
- iii. Describe any deviations from the 2020 NMP.

If any field, for any crop, had a nitrogen applied to removed ratio greater than 1.4, then the Enhanced Annual Report was to contain the information described in Attachment C, Technical Standard V. B.2.i-iv of the Reissued General Order.

If the Discharger cannot meet the conditions listed in Attachment C, Technical Standard V.B.2.i-iv, or if any field, for any crop, had a nitrogen applied to removed ratio greater than 1.65, then the Discharger shall include an explanation as to why the 1.65 ratio was exceeded and was to also submit an Updated Nutrient Management Plan that describes different practices to prevent such exceedance.

- e. **Manure Settling Basins:** **By 15 March 2021**, the Discharger was to submit a conceptual description of the new manure settling basins. If the Discharger believed that the basins meet the definition of “existing ponds” per Pond Specification C.4 of Reissued General Order, then the conceptual description was to include maps, photos, and/or written information to document this claim.

Prior to the start of construction, but no later than 1 June 2021, the Discharger was to submit the Design Report required by the Reissued General Order (i.e., Pond Specification C.5.c). As stated in the Reissued General Order, construction was not to begin until the Executive Officer notified the Discharger in writing that the design report is acceptable.

Prior to use of the manure settling basins, but no later than 15 October 2021, the Discharger was to submit the *Post Construction Report* required by the Reissued General Order (i.e., Pond Specification C.5.d). As stated in the Reissued General Order, waste shall not be placed into the settling basins until the Executive Officer notifies the Discharger in writing that the Post Construction Report is acceptable.

- f. **Implementing and Updating the Waste Management Plan (WMP):** **By 1 October 2021**, the Discharger was to submit a Pond Sizing and Freeboard Marker Report, prepared by an appropriate professional and containing the following three items:
 - (1) A California licensed surveyor was to document the length, width and depth (from the lowest point of the berm to native soil at the bottom) of the wastewater pond. The report shall clearly describe the methods

used to measure each dimension; these methods must be defensible and reproducible.

(2) The report was to document that a freeboard marker has been installed into the pond. The freeboard marker shall have one-foot measurements from the lowest point on the berm to native soil at the bottom of the pond and shall be placed in a location and be large enough that the measurement marks are visible in the monitoring photographs.

(3) The report was to document the practical minimum freeboard (i.e., depth to which the pond can be emptied, given physical constraints such as pump elevation and recirculation of wastewater to flush the freestalls).

- g. Contingency Plan: **By 15 July 2020**, the Discharger was to submit a Contingency Plan to be implemented both prior to and after construction of the manure settling basins.
 - h. For the period prior to the construction and use of the settling basins, the Contingency Plan was to include removal of solids from the wastewater pond (with specific details described in the O&M Plan, below) and/or a reduction in herd size such that the Discharger could comply with all aspects of the Reissued General Order.
 - i. For the period after the settling basins are in use, the Contingency Plan was to be implemented in the event that the freeboard targets are not met by 1 November of any year.
- j. Operations and Maintenance Plan: **By 15 July 2020**, the Discharger was to submit an Operation and Maintenance Plan. The O&M Plan was required to specify the minimum freeboard necessary for the wastewater pond on 1 November of each year and provide information as to how that freeboard will be achieved.
- k. Implementation of Operations and Maintenance Plan Report: **By 15 November 2021**, and each subsequent 15 November (as long as this Order is in effect) the Discharger was required to submit an Implementation of Operations and Maintenance Plan Report. The report documented that the wastewater pond was drawn down to the level shown in the Updated WMP by 1 November.

3. **The Discharger completed all tasks required by the CDO.** Staff conducted six site visits between the adoption of the CDO on 4 June 2020 and 14 July 2023, confirming tasks have been satisfactorily completed including the completion and implementation of the onsite settling basin. Another inspection was completed

21 August 2024 and the dairy was noted as being in compliance with the Reissued General Order.

4. The Central Valley Water Board has notified the Discharger and interested agencies and persons of its intent to rescind CDO R5-2020-0030 and has provided them with an opportunity for them to submit their written comments and recommendations prior to the 12/13 October 2024 Board meeting where this item will be considered.
5. This Order is exempt from the provisions of the California Environmental Quality Act (Pub. Res. Code, § 21000 et seq.) in accordance with California Code of Regulations, title 14, section 15321(a)(2).
6. The Central Valley Water Board, in a public meeting, heard and considered all comments and evidence pertaining to this matter.
7. Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date that this Order becomes final, except that if the thirtieth day following the date that this Order becomes final falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at https://www.waterboards.ca.gov/public_notices/petitions/water_quality/ or will be provided upon request.

IT IS HEREBY ORDERED that Cease and Desist Order R5-2020-0030 is rescinded.

I, PATRICK PULUPA, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region on XX October 2024.

PATRICK PULUPA, Executive Officer