

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ORDER NO. R5-2009-0086

WASTE DISCHARGE REQUIREMENTS  
FOR  
FOSTER POULTRY FARMS  
LIVINGSTON CHICKEN PROCESSING COMPLEX  
WASTEWATER TREATMENT PLANT  
MERCED COUNTY

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

1. Foster Poultry Farms, a California based corporation (hereafter Foster Farms or Discharger), operates a chicken processing complex (Complex) at 843 Davis Street in the City of Livingston, Merced County, within Sections 23 and 24, T6S, R11E, MDB&M, as shown on Attachment A, which is attached hereto and made part of this Order by reference.
2. The Complex consists of two processing plants, a rendering plant, two distribution centers, a truck maintenance shop, a delicatessen plant, two administrative buildings, and other ancillary and support facilities.
3. Wastewater from the Complex is currently discharged to the City of Livingston's Industrial Wastewater Treatment Facility (Facility), which provides wastewater collection and treatment exclusively for Foster Farms.
4. The Facility consists of 12 unlined ponds with limited aeration, encompassing approximately 83 acres adjacent to the Merced River. It is currently regulated by Waste Discharge Requirements (WDRs) Order No. 79-209. The WDRs limit wastewater discharge to 3.5 million gallons per day (mgd). Wastewater Reclamation Requirements (WRRs) Order No. 93-091 regulates the discharge of up to 2.4 mgd of effluent to 223 acres of adjacent lands (Reclamation Area) owned by Foster Farms.
5. On 26 October 2006, the Central Valley Water Board adopted Cease and Desist Order (CDO) No. R5-2006-0112 for violations of WDRs Order No. 79-209, including groundwater pollution, flow limit exceedances, and freeboard encroachment. The CDO, issued to the City of Livingston, includes tasks and a compliance schedule for construction of upgraded facilities to be complete by 15 January 2009. However, disagreements between the City of Livingston and Foster Farms over financing and treatment technology delayed construction. A Settlement Agreement, dated 16 November 2007, ended the litigation and established that Foster Farms would assume responsibility for construction of a new treatment facility on its own land. Under the agreement, the City of Livingston will continue to operate its existing Facility until the Foster Farms treatment plant is complete. Upon completion and

initiation of operations at the new wastewater treatment plant, Foster Farms has agreed to remediate the existing Facility site as directed by the Central Valley Water Board. Investigation and cleanup of impacts from previous discharges will be addressed by a separate Cleanup and Abatement Order.

6. Foster Farms submitted a Report of Waste Discharge (RWD) dated 31 January 2008 for its new wastewater treatment plant.

### **Wastewater Treatment Plant**

7. Foster Farms' new wastewater treatment plant (Foster Farms WWTP) will be constructed on approximately six acres at its existing chicken processing complex. The proposed treatment plant will consist of a multistage activated sludge treatment process (i.e., a modified Bardenpho design). Foster Farms WWTP will have a designed annual average daily flow of about 3.77 mgd with a maximum daily flow of about 5.0 mgd.
8. Wastewater generated from the various processes within the Complex will be combined and pre-treated using a Dissolved Air Flotation (DAF) System to remove suspended solids prior to entering the treatment system.
9. The treatment system will consist of two anoxic reactors, a nitrification reactor, an aerobic reactor, two clarifiers, and an effluent storage reservoir. Wastewater will be treated through a sequential series of aerobic and anoxic environments to provide nitrification and denitrification to remove nitrogenous compounds in the wastewater.
10. Wasted sludge from the treatment process will be stored in a 6 million-gallon double-lined lagoon with leachate collection system. Clarified liquid will be decanted and returned to the inlet of the treatment system. According to the RWD, settled solids from the lagoon will be dredged and removed every six months. After drying and pressing to approximately 25% solids, the sludge will be hauled off for land application as a soil amendment or composting at Foster Farms' Manure Storage Facility about five miles south of the City of Livingston.
11. The Foster Farms WWTP is intended to reduce 5-day Biochemical Oxygen Demand (BOD<sub>5</sub>) and nitrogen concentrations in the wastewater. The table below presents estimated effluent characteristics for the new treatment system:

<u>Constituent</u>	<u>Units</u>	<u>Effluent</u>
5-day Biochemical Oxygen Demand (BOD <sub>5</sub> )	mg/L	16
Chloride	mg/L	< 150
Electrical Conductivity (EC)	µmhos/cm	< 900
Total Dissolved Solids (TDS)	mg/L	< 624
Total Nitrogen	mg/L	< 10
Total Suspended Solids (TSS)	mg/L	20

12. The new treatment system is not designed to reduce concentrations of inorganic constituents. However, according to the RWD, Foster Farms will implement a Salinity Control Plan in conjunction with construction of the new WWTP, which is expected to reduce the EC and TDS of the effluent.
13. A recent study conducted by Condor Earth Technologies, Inc. (Condor) compared TDS versus fixed dissolved solids (FDS) as part of a salinity evaluation to establish a recommended salinity limitation for the new WWTP. The Study shows that organic compounds contribute approximately 30% to the TDS of the discharge.
14. Effluent from the new WWTP will be disposed of via percolation. The effluent will be applied to approximately 223 acres of Foster Farms existing Reclamation Area (hereafter identified as the Disposal Area). Field capacity testing indicates that the predominantly fine grained sands and high permeability of the soils should prevent ponding or nuisance conditions. Treatment and conformance with the conditions in this Order (e.g., TN of < 10 mg/L, FDS of < 550 mg/L, and infiltration within 48 hours) should preclude nuisance conditions, and over time is expected to improve in quality.
15. During wet weather, effluent will be stored in a 35 million-gallon unlined storage reservoir. The reservoir will have sufficient storage capacity to provide for approximately seven days of storage at the average daily flow rate plus precipitation from a storm event with a 100-year return frequency.
16. The Disposal Area comprises Assessor's Parcel Numbers 240-110-14, 240-200-29, 470-900-03, 470-900-07, 470-900-25, 470-900-29, 471-000-25, 471-000-33, 471-200-05, and 474-600-03. Attachment B, attached hereto and made part of this Order by reference, depicts a plan view of the Foster Farms WWTP and the Disposal Area.
17. According to the RWD, effluent will be applied via flood irrigation to individual fields approximately 10 acres in size within the Disposal Area. Effluent will be applied on a rotating basis with resting periods between applications of three or more days. Assuming an average BOD concentration of 16 mg/L, the instantaneous and cyclic BOD loading rate at the maximum daily flow rate of 5.0 mgd would be about 66 and 22 lbs/acre/day, respectively, which are both below the U. S. Environmental Protection Agency (USEPA) recommended rate of 100 lbs/acre/day according to publication No. 625/3-77/0007, *Pollution Abatement in the Fruit and Vegetable Industry*.
18. Foster Farms plans to continue to grow a summer crop on Disposal Area fields as long as the hydraulic capacity of the fields allows sufficient drying time to plant and harvest a crop. It expects that growing crops will cease once closure and cleanup of the ponds at the existing Livingston Facility is complete. However, water conservation and other measures may allow some cropping to continue. According to Foster Farms, no fertilizer will be applied to the fields unless a viable crop plan is implemented. This Order includes a provision requiring the Discharger to conduct a Crop Feasibility Study to evaluate continued cropping within the Disposal Area and preparation of a Crop Management Plan if continued cropping is feasible. In addition, this Order requires the Discharger to continue efforts to promote new or expanded wastewater recycling and reclamation opportunities.

19. Domestic wastewater from the Complex is discharged separately to the City of Livingston's municipal sewer system.

### **Site-Specific Conditions**

20. Foster Farms WWTP and Disposal Area are in an arid climate characterized by hot dry summers and mild winters. The rainy season generally extends from November through March. Occasional rains occur during the spring and fall months, but summer months are dry. Average annual precipitation and evaporation in the area are about 11.8 inches and 49.4 inches, respectively, according to information published by the California Department of Water Resources (DWR).
21. According to the United States Department of Agriculture, Natural Resources Conservation Service *Soil Survey of Merced Area, 1950*, soils in the area are primarily Delhi sand and Delhi loamy fine sand. These soils are described as excessively well drained, coarse textured and rapidly permeable. Both soils are identified as Class IVE-4 soils with low water holding capacity and are best suited for growing deep rooted crops. Primary crops grown in these soils include grapes, melons, orchards, and sweet potatoes. Other soils in the area include Hanford fine sandy loam and Grangeville loam designated as Class I and Class IIw-2 soils, which have little or no restrictions on cultivation.
22. Land use in the vicinity is primarily agricultural or light industrial. South and east of the Complex is a residential area. Primary crops grown in the area include almonds, and sweet potatoes. Other crops such as grapes, nectarines, peaches, rice, and strawberries are also grown in the area according to DWR land use data for Merced County published in 2002. Irrigation water is supplied by a combination of groundwater and surface water from the Merced River.
23. Storm water at the Complex is collected and diverted into onsite storm water basins. The Discharger is not required to obtain coverage under a National Pollutant Discharge Elimination System general industrial storm water permit since all storm water runoff is retained onsite and does not discharge into a water of the United States.
24. According to Federal Emergency Management Agency (FEMA) maps, Foster Farms WWTP and Disposal Area lay outside of the 500-year flood zone.

### **Groundwater Considerations**

25. Regional groundwater underlying the area is first encountered at about 50 feet below ground surface (bgs) and flows south-westward according to information in *Lines of Equal Elevation of Water in Wells in Unconfined Aquifer*, published by DWR in Spring 2004. According to groundwater data from existing monitoring wells in the Disposal Area, there is a groundwater mound approximately four feet high centered near monitoring well MW-4R with the groundwater gradient directed radially outward from this point.

26. Source water for the Complex is provided by the City of Livingston from eight active water supply wells. Source water characteristics provided in the RWD include an average EC of 350  $\mu$ mhos/cm, TDS of 240 mg/L, nitrate as nitrogen of 3 mg/L, and a chloride of 24 mg/L.
27. Proximity to the Merced River makes groundwater unaffected by the discharge in the general vicinity of the Disposal Area of high quality. Previous WDRs and groundwater data from DWR wells in proximity to the site from 1959 to 2001 indicates ambient water quality of first-encountered groundwater is good to excellent with an EC less than 500  $\mu$ mhos/cm.
28. The current groundwater-monitoring network consists of 19 monitoring wells; 9 in and around the Livingston Facility, and 10 in and around the Disposal Area.
29. Monitoring data from monitoring wells in the vicinity of the Disposal Area and the Livingston Facility indicate that first-encountered groundwater has been significantly affected by the existing discharge. As a whole, the monitoring well network shows a clear trend of increasing TDS, nitrate, chloride, and other waste constituents in all wells, though some could be attributed to ongoing agricultural activities in the vicinity of the Disposal Area. Nitrate-nitrogen in groundwater is above the California Department of Public Health (DPH) primary maximum contaminant level (MCL) of 10 mg/L. A summary of groundwater monitoring results shows the following average values for constituents in all Disposal Area groundwater monitoring wells for the period of 2006 through 2007:

<u>Constituents</u>	<u>Units</u>	<u>Average</u>	<u>Range</u>
Chloride	mg/L	120	50 - 140
EC	$\mu$ mhos/cm	1000	760 - 1480
Hardness as CaCO <sub>3</sub>	mg/L	220	140 - 350
Nitrate as N	mg/L	20	8.3 - 36
pH	std. unit	6.2	5.8 - 6.7
Sodium	mg/L	130	33 - 180
Sulfate	mg/L	170	130 - 210
TDS	mg/L	740	610 - 950
TKN	mg/L	3.9	0.7 - 21
Total Nitrogen	mg/L	23	13 - 36

30. In 2007, groundwater beneath the Disposal Area contained EC and TDS concentrations ranging from about 800 to 1,400  $\mu$ mhos/cm and from about 600 to 950 mg/L, respectively. The lowest concentrations were in monitoring wells MW-1R and MW-10R, south and east of the Disposal Area and furthest from the groundwater mound in the vicinity of MW-4R and the existing ponds at the Livingston Facility. However, due to the groundwater gradient and proximity of several irrigation canals there does not appear to be a true up-gradient monitoring well.

### **Basin Plan, Beneficial Uses and Regulatory Considerations**

31. The *Water Quality Control Plan, for the Sacramento and San Joaquin River Basins, Fourth Edition* (revised October 2007) (hereafter Basin Plan) designates beneficial uses, establishes water quality objectives, contains implementation plans and policies for protecting waters of the basin, and incorporates by reference plans and policies adopted by the State Board. Pursuant to section 13263(a) of the California Water Code (CWC), these waste discharge requirements implement the Basin Plan.
32. The Foster Farms WWTP and Disposal Area lie within the San Joaquin Basin, specifically the Merced Hydrologic Area (No. 535.80), as depicted on interagency hydrologic maps prepared by the DWR in 1986. The Basin Plan designates the beneficial uses of groundwater as municipal and domestic supply, agricultural supply, industrial service supply, and industrial process supply.
33. Natural surface water drainage is to the Merced River. The Basin Plan designates the beneficial uses as: municipal and domestic supply, agricultural supply, water contact recreation, non-contact water recreation, warm and cold freshwater habitat, and wildlife habitat. As stated in Finding 23 the Discharger collects all storm water and diverts it to onsite storm water basins.
34. The Basin Plan includes a water quality objective for Chemical Constituents that, at a minimum, requires waters designated as domestic or municipal supply to meet the MCLs specified in Title 22, California Code of Regulations (CCR). The Basin Plan's incorporation of these provisions by reference is prospective, and includes future changes to the incorporated provisions as the changes take effect. The Basin Plan recognizes that the Central Valley Water Board may apply limits more stringent than MCLs to ensure that waters do not contain chemical constituents in concentrations that adversely affect beneficial uses.
35. The Basin Plan establishes narrative water quality objectives for Chemical Constituents, Tastes and Odors, and Toxicity. The Toxicity objective, in summary, requires that groundwater be maintained free of toxic substances in concentrations that produce detrimental physiological responses in human, plant, animal, or aquatic life associated with designated beneficial uses. Quantifying a narrative water quality objective requires a site specific evaluation of those constituents that have the potential to impact water quality and beneficial uses.
36. The Water Quality Control Plan for the Tulare Lake Basin, Second Edition (Tulare Lake Basin Plan), contains salt management requirements that have been successfully implemented for several decades. Widespread and long-term compliance with these requirements justify them as appropriate best practicable control measures for salinity applicable to discharges in the Sacramento River and San Joaquin River Basins. The Tulare Lake Basin Plan establishes several salt management requirements, including:
  - a. The incremental increase in salts from use and treatment must be controlled to the extent possible. The maximum EC shall not exceed the EC of the source water plus

500  $\mu\text{mhos/cm}$ , or a maximum of 1,000  $\mu\text{mhos/cm}$ . When the source water is from more than one source, the EC shall be a weighted average of all sources.

- b. Discharges to areas that may recharge good quality groundwater shall not exceed an EC of 1,000  $\mu\text{mhos/cm}$ , a chloride content of 175 mg/L, or a boron content of 1.0 mg/L.

These effluent limits are considered best practicable treatment or control (BPTC).

37. The Basin Plan states that when compliance with a narrative objective is required to protect specific beneficial uses, the Central Valley Water Board will, on a case-by-case basis, adopt numerical limitations in order to implement the narrative objective.
38. In the absence of specific numerical water quality limits, the Basin Plan methodology is to consider any relevant published criteria. General salt tolerance guidelines, such as Ayers and Westcott's *Water Quality for Agriculture, FAO Irrigation and Drainage Paper No. 29, Rev 1* (1985) and similar references indicate that yield reductions in nearly all crops are not evident when irrigating with water having an EC less than 700  $\mu\text{mhos/cm}$ . There is, however, an eight- to ten fold range in salt tolerance for agricultural crops. It is possible to achieve full yield potential with waters having EC up to 3,000  $\mu\text{mhos/cm}$  if the proper leaching fraction is provided to maintain soil salinity within the tolerance of the crop.
39. The list of crops in Finding 22 is not intended as a definitive inventory of crops that are or could be grown in the area affected by the discharge, but is representative. With good to excellent quality groundwater and Class I and Class IIw-2 soils (e.g., Hanford fine sandy loam and Grangeville loam) the area adjacent to the WWTP is suitable for most crop types including sensitive or moderately salt sensitive crops such as strawberries, almonds, and stone fruit.
40. While salt-sensitive crops such as strawberries can be grown in the area, almonds and sweet potatoes appear to be the most prevalent salt-sensitive crops. Based on the information in the *Western Fertilizer Handbook*, California Fertilizer Association (1998), almonds and sweet potatoes can tolerate irrigation water with an EC up to 1,000  $\mu\text{mhos/cm}$  with no reduction in yield, and irrigation water with an EC less than 1,400  $\mu\text{mhos/cm}$  would result in less than a 10% reduction in yield. According to Ayers and Westcott's, *Water Quality for Agriculture*, it is possible to achieve full yield potential with irrigation water in excess of salt tolerances if the proper leaching fraction is provided to maintain soil salinity within the tolerance of the crop. Soils in the area are excessively well drained with low water holding capacity.
41. The Basin Plan says that at a minimum, groundwater designated for use as domestic or municipal supply shall not contain concentrations of chemical constituents in excess of MCLs, including secondary MCLs, as specified in Title 22 of the CCR. Title 22 sets a secondary MCL or consumer acceptance limit for EC as a range between 900 and 1,600  $\mu\text{mhos/cm}$ . While an EC at or below 900  $\mu\text{mhos/cm}$  is desirable, a concentration up to 1,600  $\mu\text{mhos/cm}$  is acceptable if it is neither reasonable nor feasible to provide more suitable waters. The average EC of the effluent is projected to be around 900  $\mu\text{mhos/cm}$ ,

at or below the lowest secondary MCL; however, groundwater in the area is already above this secondary MCL at about 1,400  $\mu\text{mhos/cm}$  in some monitoring wells.

42. This Order sets a performance based groundwater limit for EC of 1,200  $\mu\text{mhos/cm}$ . This limit will prevent further degradation of groundwater, and due to the sandy soils and predominant crop types and irrigation methods in the immediate area, should preclude impairment of agricultural beneficial uses. In addition, this limit is within the range of the secondary MCL for EC consistent with beneficial uses for municipal and domestic supply. This limit can be re-visited in the future once the Discharger completes its salinity reduction measures, and actual performance of the new WWTP is known.

### Antidegradation Analysis

43. State Water Resources Control Board Resolution No. 68-16 ("Policy with Respect to Maintaining High Quality Waters of the State") (hereafter Resolution 68-16) prohibits degradation of groundwater unless it has been shown that:
- The degradation is consistent with the maximum benefit to the people of the State;
  - The degradation will not unreasonably affect present and anticipated future beneficial uses;
  - The degradation does not result in water quality less than that prescribed in state and regional policies, including violation of one or more water quality objectives; and
  - The discharger employs BPTC to minimize degradation.
44. Constituents of concern that have the potential to degrade groundwater include, in part, organics, nutrients, and salts. However, the discharge will likely not affect the beneficial uses of groundwater because:
- For BOD, the discharge will be treated to better than secondary standards and the instantaneous and cycle average loading rates to the Disposal Area are below the USEPA recommended rate of 100 lbs/acre/day according to publication No. 625/3-77/0007, *Pollution Abatement in the Fruit and Vegetable Industry*. Therefore, no further degradation due to organic loading is expected to occur.
  - For nitrogen, the WWTP is expected to reduce effluent nitrogen concentrations to below 10 mg/L, which is less than the primary MCL for nitrate, and is considered BPTC for nitrogen and should preclude further degradation of groundwater for nitrate. Groundwater down-gradient of the discharge should eventually be able to meet groundwater limits that are consistent with all beneficial uses.
  - For salinity, while first encountered groundwater beneath the Disposal Area has been degraded by previous discharges from Foster Farms and other surrounding activities, the new Foster Farms WWTP will be a significant improvement over the existing unlined pond system. Degradation beyond what resulted from the previously permitted discharge is not expected to occur and the resulting reduction in waste concentrations in the discharge is expected to improve groundwater quality over time.



45. Economic prosperity of valley communities and associated industry is of maximum benefit to the people of the State, and therefore sufficient reason exists to accommodate growth and groundwater degradation around the new Foster Farms WWTP and Disposal Area, provided that the terms of the Basin Plan are met. Degradation of groundwater quality by some of the typical waste constituents released with discharge from a food processing wastewater utility after effective source reduction, treatment and control, and considering the best efforts of the Discharger and magnitude of degradation, is of maximum benefit to the people of the State. Foster Farms aids in the economic prosperity of the region by direct employment of approximately 3,500 people. In addition, it provides incomes and support for valley poultry farms and associated trucking firms, and provides a tax base for local and county governments.
46. The reduction in the discharge of nitrogen resulting from the project, and the implementation of a Salinity Control Plan to control and reduce salts to the extent feasible are consistent with BPTC and for the maximum benefit of the people of the State, in accordance with the Antidegradation Policy.

### **Treatment and Control Practices**

47. The Project as described in Findings 7 through 12, once completed, will provide treatment and control of the discharge that incorporates:
  - a. Pre-treatment to remove suspended solids, oil, and grease.
  - b. Biological treatment to reduce nitrogen concentrations in the discharge to less than 10 mg/L.
  - c. Double-lined sludge storage lagoon with leachate collection and removal system.
48. This Order establishes groundwater limitations that will not unreasonably threaten present and anticipated beneficial uses or result in groundwater quality that exceeds water quality objectives set forth in the Basin Plan. This Order includes a monitoring and reporting program that contains groundwater monitoring to assure that the highest water quality consistent with the maximum benefit to the people of the State will be achieved.

### **Water Recycling Criteria**

49. State Water Board Resolution No. 77-1, Policy with Respect to Water Recycling in California, encourages recycling projects that replace or supplement the use of fresh water, and the Water Recycling Law (CWC sections 13500-13529.4) declares that utilization of recycled water is of primary interest to the people of the State in meeting future water needs.
50. The Basin Plan encourages recycling on irrigated crops wherever feasible and indicates that evaporation of recyclable wastewater is not an acceptable permanent disposal method where the opportunity exists to replace an existing use or proposed use of fresh water with recycled water.

51. The DPH, which has primary statewide responsibility for protecting public health, has established statewide criteria in Title 22, CCR, section 60301 et seq., (hereafter Title 22) for the use of recycled water and has developed guidelines for specific uses. Revisions of the water recycling criteria in Title 22 became effective on 2 December 2000. The revised Title 22 expands the range of allowable uses of recycled water, establishes criteria for these uses, and clarifies some of the ambiguity contained in the previous regulations. Although the WWTP does not treat domestic waste, some of the guidelines in Title 22 may still be applicable.

### **Designated Waste and Title 27**

52. CWC Section 13173 defines designated waste as either:
- a. Hazardous waste that has been granted a variance from hazardous waste management requirements pursuant to section 25143 of the Health and Safety Code.
  - b. Nonhazardous waste that consists of, or contains, pollutants that, under ambient environmental conditions as a waste management unit, could be released in concentrations exceeding applicable water quality objectives or could reasonably be expected to affect beneficial uses of the waters of the state contained in the appropriate state water quality control plan.
53. Release of designated waste is subject to full containment pursuant to the requirements of Title 27, CCR, section 20005 et seq. (hereafter "Title 27"). Title 27 section 20090(b) exempts discharges of designated waste to land from Title 27 containment standards provided the following conditions are met:
- a. The applicable regional water board has issued waste discharge requirements, or waived such issuance;
  - b. The discharge is in compliance with the applicable basin plan; and
  - c. The waste is not hazardous waste and need not be managed according to Title 22, CCR, Division 4.5, Chapter 11, as a hazardous waste.

The discharge of effluent and the operation of treatment or storage facilities associated with a food processing facility can be allowed without requiring compliance with Title 27, provided any resulting degradation of groundwater is in accordance with the Basin Plan. With treatment to remove organics and reduce total nitrogen to less than 10 mg/L, and fixed dissolved solids of less than 550 mg/L, the discharge authorized by this Order is in accordance with the Basin Plan and the Antidegradation Policy and is therefore exempt from Title 27.

## CEQA

54. On 3 March 2009, the City of Livingston, in accordance with the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) and the State CEQA guidelines (Title 14, Division 6, CCR, as amended) adopted a Mitigated Negative Declaration for the construction and operation of a new wastewater treatment plant for the Foster Poultry Farms Livingston Chicken Processing Complex. The Mitigated Negative Declaration determined that the project would have a less than significant impact on water quality since the project, as proposed would reduce or maintain concentrations of constituents in the discharge. Specifically nitrogen concentrations in the discharge will be reduced to < 10 mg/L, which is a significant improvement from the existing discharge and is expected to improve groundwater quality beneath the Disposal Area.
55. Central Valley Water Board staff, reviewed and concurs with the conclusion in the Mitigated Negative Declaration that the project would be an improvement over the existing discharge, although the Mitigated Negative Declaration did not include any specific mitigation measures to protect water quality. The Central Valley Water Board as a responsible agency under CEQA includes the following specific conditions in this Order to mitigate or avoid any adverse impacts to water quality:
- a. Sets effluent limits for BOD<sub>5</sub>, TSS, total nitrogen, chloride, and FDS;
  - c. Establishes groundwater limits;
  - d. Establishes a monitoring and reporting program; and
  - e. Requires the Discharger to prepare and implement a Salinity Control Plan, a groundwater study, and a Crop Feasibility Study.

## General Findings

56. Pursuant to CWC section 13263(g), discharge is a privilege, not a right, and adoption of this Order does not create a vested right to continue the discharge.
57. CWC section 13267(b) states that: "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."

58. The monitoring and technical reports required by this Order and the attached Monitoring and Reporting Program No. R5-2009-0086 are necessary to assure compliance with these waste discharge requirements. The Discharger operates the facility that discharges the waste subject to this Order.
59. The DWR sets standards for the construction and destruction of groundwater wells, as described in *California Well Standards Bulletin 74-90* (June 1991) and *Water Well Standards: State of California Bulletin 94-81* (December 1981). These standards, and any more stringent standards adopted by the State or county pursuant to CWC section 13801, apply to all monitoring wells.
60. All the above and the supplemental information and details in the attached Information Sheet, which is incorporated by reference herein, were considered in establishing the following conditions of discharge.

### Public Notice

61. The Discharger and interested agencies and persons have been notified of the intent to prescribe waste discharge requirements for this discharge, and they have been provided an opportunity for a public hearing and an opportunity to submit their written views and recommendations.
62. All comments pertaining to the discharge were heard and considered in a public meeting.

**IT IS HEREBY ORDERED** that, pursuant to sections 13263 and 13267 of the California Water Code, Foster Poultry Farms, and its agents, successors, and assigns, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, shall comply with the following:

#### **A. Prohibitions:**

1. Discharge of wastes to surface waters or surface water drainage courses is prohibited.
2. Bypass or overflow of untreated wastes, except as allowed by Provision E.2 of Standard Provisions and Reporting Requirements, is prohibited.
3. Discharge of waste classified as 'hazardous', as defined in section 2521(a) of Title 23, California Code of Regulations, section 2510 et seq., is prohibited. Discharge of waste classified as 'designated', as defined in California Water Code section 13173, in a manner that causes violation of groundwater limitations, is prohibited.
4. Application of treated wastewater in a manner or location other than that described herein is prohibited.

**B. Effluent Limitations:**

1. The discharge shall not exceed the following effluent limitations:

<u>Constituents</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>
BOD <sub>5</sub>	mg/L	40	80
TSS	mg/L	40	80
Total Nitrogen	mg/L	10	---
Chloride	mg/L	175	---

2. The annual flow-weighted average fixed dissolved solids (FDS) of the discharge shall not exceed 550 mg/L as calculated on a monthly basis using the percentage of the annual flow volume for that month.

**C. Discharge Specifications:**

1. The discharge shall not exceed an average flow rate of 3.77 million gallons per day (mgd) calculated as a rolling average for the last 12 months, or a maximum daily flow rate of 5.0 mgd.
2. All conveyance, treatment, storage, and disposal units shall be designed, constructed, operated, and maintained to prevent inundation or washout due to floods with a 100-year return frequency.
3. Objectionable odors shall not be perceivable beyond the limits of the WWTP or the Disposal Area at an intensity that creates or threatens to create nuisance conditions.
4. Wastewater storage ponds shall have sufficient capacity to accommodate allowable wastewater flow and design seasonal precipitation and ancillary inflow and infiltration during the winter. Design seasonal precipitation shall be based on total annual precipitation using a return period of 100 years, distributed monthly in accordance with historical rainfall patterns.
5. On or about 1 October of each year, the available storage pond capacity shall at least equal the volume necessary to comply with Discharge Specification C.4.
6. Storage ponds shall be managed to prevent breeding of mosquitoes. In particular,
  - a. An erosion control plan should assure that coves and irregularities are not created around the perimeter of the water surface.
  - b. Weeds shall be minimized through control of water depth, harvesting, and herbicides.
  - c. Dead algae, vegetation, and other debris shall not accumulate on the water surface.

- d. Vegetation management operations in areas in which nesting birds have been observed shall be carried out either before or after, but not during, the 1 April to 30 June bird nesting season.
7. No waste constituent shall be released or discharged, or placed where it will be released or discharged, in a concentration or in a mass that causes violation of groundwater limitations.

**D. Disposal Area Specifications:**

1. The perimeter of the Disposal Area shall be graded to prevent ponding along public roads or other public areas and prevent runoff onto adjacent properties not owned or controlled by the Discharger.
2. No physical connection shall exist between wastewater piping and any domestic water supply or domestic well, or between wastewater piping and any irrigation well that does not have an air gap or reduced pressure principle device.
3. The Disposal Area shall be managed to prevent breeding of mosquitoes. More specifically:
  - a. All applied effluent must infiltrate completely within a 48-hour period;
  - b. Ditches not serving as wildlife habitat should be maintained free of emergent, marginal, and floating vegetation; and
  - c. Low-pressure and unpressurized pipelines and ditches accessible to mosquitoes shall not be used to store wastewater.
4. Effluent used for irrigation of crops shall be restricted to fodder, fiber, and seed crops not eaten by humans or for grazing of non-milking cattle.

**E. Solids Specifications**

1. Any handling and storage of solids and sludge at the Foster Farms WWTP or Disposal Area shall be temporary, and controlled and contained in a manner that minimizes leachate formation and precludes infiltration of waste constituents into soils in a mass or concentration that will violate groundwater limitations of this Order.
2. Collected screenings, sludges, and other solids removed from the liquid waste shall be disposed of in a manner approved by the Executive Officer and consistent with Title 27. Removal for further treatment, disposal, or reuse at sites (i.e., landfill, rendering plants, composting sites, soil amendment sites) operated in accordance with a valid Order issued by a regional water quality control board will satisfy this specification.
3. Any proposed change in solids use or disposal practice shall be reported to the Executive Officer in writing at least **90 days** in advance of the change.

**F. Groundwater Limitations:**

1. Release of waste constituents from any treatment or storage component associated with the discharge shall not cause or contribute to groundwater:
  - a. Containing constituent concentrations in excess of the concentrations specified below or natural background quality, whichever is greater:
    - (i) Nitrate as nitrogen of 10 mg/L.
    - (ii) Electrical Conductivity of 1,200  $\mu$ mhos/cm.
    - (iii) Total Coliform Organisms of 2.2 MPN/100 mL.
    - (iv) For constituents identified in Title 22, the MCLs quantified therein.
  - b. Containing taste or odor-producing constituents, toxic substances, or any other constituents in concentrations that cause nuisance or adversely affect beneficial uses.

**G. Provisions:**

1. The Discharger shall comply with the *Standard Provisions and Reporting Requirements for Waste Discharge Requirements*, dated 1 March 1991, which are part of this Order. This attachment and its individual paragraphs are referred to as *Standard Provisions*.
2. The Discharger shall comply with Monitoring and Reporting Program (MRP) No. R5-2009-0086, which is part of this Order, and any revisions thereto as adopted by the Central Valley Water Board or approved by the Executive Officer. The submittal date for Self Monitoring Reports (SMRs) shall be no later than the date specified in the MRP.
3. The Discharger shall keep at the Facility a copy of this Order, including its MRP, Information Sheet, attachments, and Standard Provisions, for reference by operating personnel. Key operating personnel shall be familiar with its contents.
4. The Discharger must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the Discharger to achieve compliance with the conditions of this Order. Proper operation and maintenance also include adequate laboratory controls and appropriate quality assurance procedures. This Provision requires the operation of back-up or auxiliary facilities or similar systems that are installed by the Discharger only when the operation is necessary to achieve compliance with the conditions of the Order.
5. All technical reports required herein that involve planning, investigation, evaluation, or design, or other work requiring interpretation and proper application of engineering or geologic sciences, shall be prepared by or under the direction of persons registered to practice in California pursuant to California Business and Professions Code sections 6735, 7835, and 7835.1. To demonstrate compliance with sections 415 and 3065 of Title 16, CCR, all technical reports must contain a statement of the qualifications of the

responsible registered professional(s). As required by these laws, completed technical reports must bear the signature(s) and seal(s) of the registered professional(s) in a manner such that all work can be clearly attributed to the professional responsible for the work.

6. The Discharger must comply with all conditions of this Order, including timely submittal of technical and monitoring reports as directed by the Executive Officer. Accordingly, the Discharger shall submit to the Central Valley Water Board on or before each report due date the specified document or, if an action is specified, a written report detailing evidence of compliance with the date and task. If noncompliance is being reported, the reasons for such noncompliance shall be stated, plus an estimate of the date when the Discharger will be in compliance. The Discharger shall notify the Central Valley Water Board by letter when it returns to compliance with the time schedule. Violations may result in enforcement action, including Central Valley Water Board or court orders requiring corrective action or imposing civil monetary liability, or in revision or rescission of this Order.
7. In the event of any change in control or ownership of land or waste treatment and storage facilities presently owned or controlled by the Discharger, the Discharger shall notify the succeeding owner or operator of the existence of this Order by letter, a copy of which shall be immediately forwarded to the Central Valley Water Board office.
8. To assume operation under this Order, the succeeding owner or operator must apply in writing to the Executive Officer requesting transfer of the Order. The request must contain the requesting entity's full legal name, the state of incorporation if a corporation, the address and telephone number of the persons responsible for contact with the Central Valley Water Board and a statement. The statement shall comply with the signatory paragraph of Standard Provision B.3 and state that the new owner or operator assumes full responsibility for compliance with this Order. Failure to submit the request shall be considered a discharge without requirements, a violation of the California Water Code. If approved by the Executive Officer, the transfer request will be submitted to the Central Valley Water Board for its consideration of transferring the ownership of this Order at one of its regularly scheduled meetings.
9. At least **90 days** prior to termination or expiration of any agreement involving a recycled water use area that may jeopardize compliance with this Order due to lack of disposal capacity, the Discharger shall notify the Executive Officer in writing of the situation and of what measures have been taken or are being taken to ensure full compliance with this Order.
10. As a means of discerning compliance with Discharge Specification C.3, the dissolved oxygen (DO) content in the upper one foot of any wastewater pond shall not be less than 1.0 mg/L for three consecutive days. Should the DO be below 1.0 mg/L during a weekly sampling event, the Discharger shall take all reasonable steps to correct the problem and commence daily DO monitoring in all affected ponds until the problem has been resolved. If unpleasant odors originating from affected ponds are noticed in developed areas, or if the Discharger receives one or more odor complaints, the Discharger shall report the findings in writing within 5 days of that date and shall include



a specific plan to resolve the low DO results to the Central Valley Water Board within 10 days of that date.

11. The pH of the discharge shall not be less than 6.5 or greater than 8.3 pH units for more than three consecutive 24-hour composite sampling events. In the event that the pH of the discharge is outside of this range for more than three consecutive sampling events, the Discharger shall submit a technical evaluation in its monthly SMRs documenting the pH of the blended discharge to the Disposal Area, and if necessary demonstrate that the effect of the discharge on soil pH will not exceed the buffering capacity of the soil profile.
12. The Discharger shall maintain and operate all ponds sufficient to protect the integrity of containment levees and prevent overtopping or overflows. Unless a California registered civil engineer certifies (based on design, construction, and conditions of operation and maintenance) that less freeboard is adequate, the operating freeboard in any pond shall never be less than two feet (measured vertically). As a means of management and to discern compliance with this Provision, the Discharger shall install and maintain in each pond permanent markers with calibration that indicates the water level at design capacity and enables determination of available operational freeboard.
13. Prior to Operation and use of the new WWTP the Discharger shall submit an Operations and Maintenance (O&M) Plan. At a minimum the submittal shall contain a detailed operations plan for the WWTP including operating parameters and maintenance procedures for equipment and emergency backup systems to ensure compliance with the conditions of this Order. In addition, the O&M Plan should also include contact information and qualifications for the Chief Plant Operator who will be charged with operation the WWTP.
14. **By 1 December 2009**, submit a technical report that describes a Salinity Control Plan, with salinity source reduction goals and a time schedule to meet the goals (prior to completion of the new WWTP). The Salinity Control Plan should also identify any additional methods that could be used to further reduce the salinity of the discharge to the maximum extent feasible, include an estimate on load reductions that may be attained through the methods identified, and provide a description of the tasks, cost, and time required to investigate and implement various elements in the Salinity Control Plan.
15. **By 1 August 2010**, submit a Crop Feasibility Study prepared by a certified soil scientist or agronomic specialist that evaluates the feasibility of using effluent to irrigate crops and the most appropriate crops to be grown considering soil, climate, and irrigation management. If it is determined that a viable crop is feasible, the Discharger shall submit a Crop Management Plan that includes: (a) a description of the types of crops to be grown, (b) crop water use and uptake rates, and (c) supporting data and calculations for monthly and annual nutrient balances (e.g., lbs nitrogen/acre/year).

16. **By 1 August 2010**, submit a groundwater study to characterize background groundwater quality in the immediate area. The study may require a groundwater well installation work plan to expand the existing monitoring well network to include adequate characterization of background groundwater in the area. The study should coincide or be compatible with studies to determine the extent of groundwater degradation beneath the existing Livingston Facility and former Reclamation Area (i.e., Disposal Area).
17. **By 1 August 2010**, and periodically thereafter, but not less than once **every five years**, the Discharger shall document its efforts to promote new or expanded wastewater recycling and reclamation opportunities.
18. If the Central Valley Water Board determines that waste constituents in the discharge have reasonable potential to cause or contribute to an exceedance of an objective for groundwater, this Order may be reopened for consideration of addition or revision of appropriate numerical effluent or groundwater limitations for the problem constituents.

I, PAMELA C. CREEDON, 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 13 August 2009.

  
PAMELA C. CREEDON, Executive Officer

Order Attachments:

Monitoring and Reporting Program No. R5-2009-0086

Information Sheet

A. Site Map

B. Plan View of Chicken Processing Complex and Disposal Area

Standard Provisions (1 March 1991)

kc/DKP 7/13/09

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

MONITORING AND REPORTING PROGRAM NO. R5-2009-0086

FOR  
FOSTER POULTRY FARMS  
LIVINGSTON CHICKEN PROCESSING COMPLEX  
WASTEWATER TREATMENT PLANT  
MERCED COUNTY

This Monitoring and Reporting Program (MRP) is required pursuant to California Water Code (CWC) section 13267.

The Discharger shall not implement any changes to this MRP unless and until the Central Valley Water Board adopts, or the Executive Officer issues, a revised MRP. Changes to sample location shall be established with concurrence of Central Valley Water Board staff, and a description of the revised stations shall be submitted for approval by the Executive Officer.

All samples shall be representative of the volume and nature of the discharge or matrix of material sampled. All analyses shall be performed in accordance with **Standard Provisions and Reporting Requirements for Waste Discharge Requirements**, dated 1 March 1991 (Standard Provisions).

Field test instruments (such as pH) may be used provided that the operator is trained in the proper use of the instrument and each instrument is serviced and/or calibrated at the recommended frequency by the manufacturer or in accordance with manufacturer instructions.

Analytical procedures shall comply with the methods and holding times specified in the following: *Methods for Organic Chemical Analysis of Municipal and Industrial Wastewater* (EPA); *Test Methods for Evaluating Solid Waste* (EPA); *Methods for Chemical Analysis of Water and Wastes* (EPA); *Methods for Determination of Inorganic Substances in Environmental Samples* (EPA); *Standard Methods for the Examination of Water and Wastewater* (APHA/AWWA/WEF); and *Soil, Plant and Water Reference Methods for the Western Region* (WREP 125). Approved editions shall be those that are approved for use by the United States Environmental Protection Agency or the California Department of Public Health's Environmental Laboratory Accreditation Program. The Discharger may propose alternative methods for approval by the Executive Officer.

If monitoring consistently shows no significant variation in magnitude of a constituent concentration or parameter after at least 12 months of monitoring, the Discharger may request this MRP be revised to reduce monitoring frequency. The proposal must include adequate technical justification for reduction in monitoring frequency.

A glossary of terms used within this MRP is included on page 9.

### INFLUENT MONITORING

Influent samples shall be collected at the headworks of the WWTP just after the Dissolved Air Flotation pre-treatment system. Time of collection of the sample shall be recorded. Influent monitoring shall include at least the following:

<u>Frequency</u>	<u>Constituent/Parameter</u>	<u>Units</u>	<u>Sample Type</u>
Continuous	Flow	mgd	Meter
Weekly	pH	pH Units	Grab
Weekly	EC	µmhos/cm	Grab
Monthly	BOD <sub>5</sub>	mg/L	24-hour composite
Monthly	TSS	mg/L	24-hour composite

### EFFLUENT MONITORING

Effluent samples shall be collected at a point in the system following treatment and before discharge to the effluent storage reservoir or the Disposal Area. Time of collection of the sample shall be recorded. Effluent monitoring shall include at least the following:

<u>Frequency</u>	<u>Constituent/Parameter</u>	<u>Units</u>	<u>Sample Type</u>
Weekly	pH	pH Units	Grab
Weekly	EC	µmhos/cm	Grab
Weekly	Nitrate as N	mg/L	24-hour composite
Weekly	TKN	mg/L	24-hour composite
Weekly	Total Nitrogen	mg/L	Computed
Monthly	BOD <sub>5</sub>	mg/L	24-hour composite
Monthly	TSS	mg/L	24-hour composite
Monthly	TDS	mg/L	24-hour composite
Monthly	FDS	mg/L	24-hour composite
Monthly	Chloride	mg/L	24-hour composite
Annually	General Minerals	mg/L	24-hour composite

### POND MONITORING

Permanent markers (e.g., staff gages) shall be placed in all ponds. The markers shall have calibrations indicating the water level at design capacity and available operational freeboard. Effluent storage and disposal pond monitoring shall include at least the following:

<u>Frequency</u>	<u>Constituent/Parameter</u>	<u>Units</u>	<u>Sample Type</u>
Weekly	DO	mg/L	Grab
Weekly	Freeboard	Feet <sup>1</sup>	Grab

<sup>1</sup> To nearest tenth of a foot

The Discharger shall inspect the condition of the disposal and/or effluent storage ponds weekly and record visual observations in a bound logbook. Notations shall include observations of whether weeds are developing in the water or along the bank, and their location; whether grease, dead algae, vegetation, scum, or debris are accumulating on the pond surface and their location; whether burrowing animals or insects are present; and the color of the ponds (e.g., dark sparkling green, dull green, yellow, gray, tan, brown, etc.). A summary of the entries made in the log shall be included in the subsequent monitoring report.

### GROUNDWATER MONITORING

After measuring water levels and prior to collecting samples, each monitoring well shall be adequately purged to remove water that has been standing within the well screen and casing that may not be chemically representative of formation water. Depending on the hydraulic conductivity of the geologic setting, the volume removed during purging is typically from 3 to 5 volumes of the standing water within the well casing and screen, or additionally the filter pack pore volume.

The Discharger shall monitor all wells in its Groundwater Monitoring Network, and any additional wells installed pursuant to this MRP, for the following:

<u>Frequency</u>	<u>Constituent/Parameter</u>	<u>Units</u>	<u>Sample Type</u>
Quarterly	Depth to groundwater	Feet <sup>1</sup>	Measured
Quarterly	Groundwater Elevation	Feet <sup>2</sup>	Computed
Quarterly	pH	pH Units	Grab
Quarterly	EC	µmhos/cm	Grab
Quarterly	Nitrate as N	mg/L	Grab
Quarterly	Total Nitrogen	mg/L	Grab
Quarterly	TDS	mg/L	Grab
Quarterly	Chloride	mg/L	Grab
Quarterly	Sodium	mg/L	Grab
Quarterly	Arsenic <sup>3</sup>	µg/L	Grab

<u>Frequency</u>	<u>Constituent/Parameter</u>	<u>Units</u>	<u>Sample Type</u>
Quarterly	Iron <sup>3</sup>	µg/L	Grab
Quarterly	Manganese <sup>3</sup>	µg/L	Grab
Quarterly	Total Organic Carbon <sup>3</sup>	mg/L	Grab
Quarterly	Total Coliform Organisms <sup>3</sup>	MPN/100 mL	Grab
Annually	General Minerals	mg/L	Grab

<sup>1</sup> To nearest tenth of a foot

<sup>2</sup> To nearest tenth of a foot above Mean Sea Level

<sup>3</sup> Wells to be sampled will be established with concurrence of Central Valley Water Board staff based on results of the initial sampling of all monitoring wells within the Disposal Area.

### SOURCE WATER MONITORING

For each source, the Discharger shall collect a sample of the source water coming into the Complex and analyze for the following:

<u>Frequency</u>	<u>Constituent/Parameter</u>	<u>Units</u>	<u>Sample Type</u>
Quarterly	EC	µmhos/cm	Grab
Quarterly	TDS	mg/L	Grab
Annually	General Minerals	mg/L	Grab

### DISPOSAL AREA MONITORING

The Discharger shall perform the following routine monitoring and loading calculations for each discrete irrigation unit within the Disposal Area. Data shall be collected and presented in tabular format and shall include the following:

<u>Frequency</u>	<u>Constituent/Parameter</u>	<u>Units</u>	<u>Sample Type</u>
Daily	Application Area	acres	n/a
Daily	Wastewater flow	gallons	Estimated
Daily	Wastewater loading	inches/day	Calculated
Daily	Supplemental irrigation	gallons	Estimated
Daily	Precipitation	inches	Rain gage <sup>1</sup>
Monthly	Total Hydraulic Loading <sup>2</sup>	inches/acre-month	Calculated

<sup>1</sup> National Weather Service data from the nearest weather station is acceptable.

<sup>2</sup> Combined loading from wastewater, irrigation water, and precipitation.

In addition, the Discharger shall inspect the Disposal Area on a weekly basis. Evidence of erosion, field saturation, runoff, or the presence of nuisance conditions (i.e., flies, ponding, etc.) shall be noted in field logs and included as part of the quarterly monitoring reports.

## REPORTING

All monitoring results shall be reported in **Quarterly Monitoring Reports** which are due by the **first day of the second month after the calendar quarter**. Therefore, monitoring reports are due as follows:

- First Quarter Monitoring Report: **1 May**
- Second Quarter Monitoring Report: **1 August**
- Third Quarter Monitoring Report: **1 November**
- Fourth Quarter Monitoring Report: **1 February.**

**A transmittal letter shall accompany each monitoring report.** The transmittal letter shall discuss any violations that occurred during the reporting period and all actions taken or planned for correcting violations, such as operation or facility modifications. If the Discharger has previously submitted a report describing corrective actions or a time schedule for implementing the corrective actions, reference to the previous correspondence is satisfactory.

The following information is to be included on all monitoring and annual reports, as well as any report transmittal letters, submitted to the Central Valley Water Board:

- Discharger name
- Facility Name
- MRP Number
- Contact Information (telephone number and email)

In reporting monitoring data, the Discharger shall arrange the data in tabular form so that the date, the constituents, and the concentrations are readily discernible. The data shall be summarized in such a manner that illustrates clearly whether the Discharger complies with waste discharge requirements.

In addition to the details specified in Standard Provision C.3, monitoring information shall include the method detection limit (MDL) and the Reporting limit (RL) or practical quantitation limit (PQL). If the regulatory limit for a given constituent is less than the RL (or PQL), then any analytical results for that constituent that are below the RL (or PQL) but above the MDL shall be reported and flagged as estimated.

Laboratory analysis reports do not need to be included in the monitoring reports; however, the laboratory reports must be retained for a minimum of three years in accordance with Standard Provision C.3.

All monitoring reports shall comply with the signatory requirements in Standard Provision B.3. Monitoring data or discussions submitted concerning WWTP performance must also be signed and certified by the chief plant operator. If the chief plant operator is not in direct line of supervision of the laboratory function for a Discharger conducting any of its own analyses, reports must also be signed and certified by the chief of the laboratory.

All monitoring reports that involve planning, investigation, evaluation, or design, or other work requiring interpretation and proper application of engineering or geologic sciences, shall be prepared by or under the direction of persons registered to practice in California pursuant to California Business and Professions Code sections 6735, 7835, and 7835.1.

**A. All Quarterly Monitoring Reports**, shall include the following:

**Wastewater reporting**

1. The results of influent, effluent, and pond monitoring specified on pages 2 and 3.
2. For each month of the quarter, calculation of the maximum daily flow and the rolling average flow for the last 12 months.
3. For each month of the quarter, calculation of the 12-month rolling average FDS of the discharge using the FDS value for that month averaged with the FDS values for the previous 11 months.
4. A summary of the notations made in the pond monitoring log during each quarter. The entire contents of the log do not need to be submitted.

**Groundwater reporting**

1. The results of groundwater monitoring specified on pages 3 and 4.
2. For each monitoring well, a table showing constituent concentrations for at least five previous years, up through the current quarter.
3. A groundwater contour map based on groundwater elevations for that quarter. The map shall show the gradient and direction of groundwater flow under/around the facility and/or effluent disposal area(s). The map shall also include the locations of monitoring wells and wastewater storage and discharge areas.

**Source Water reporting**

1. The results of source water monitoring specified on page 4.

**Disposal Area reporting**

1. The results of the routine monitoring and loading calculations specified on page 4.
2. For each month of the quarter, calculation of the monthly hydraulic load for wastewater and supplemental irrigation water in millions of gallons to each discrete irrigation area.
3. A summary of the notations made in the Disposal Area monitoring log during each quarter. The entire contents of the log do not need to be submitted.



**B. Fourth Quarter Monitoring Reports**, in addition to the above, shall include the following:

**Wastewater treatment facility information**

1. The names, certificate grades, and general responsibilities of all persons in charge of wastewater treatment and disposal.
2. The names and telephone numbers of persons to contact regarding the WWTP for emergency and routine situations.
3. A statement certifying when the flow meter and other monitoring instruments and devices were last calibrated, including identification of who performed the calibrations (Standard Provision C.4).
4. A summary of any changes in processing that might affect waste characterization and/or discharge flow rates.

**Solids/Sludge Monitoring**

1. Annual production totals in dry tons or cubic yards.
2. A description of disposal methods, including the following information related to the disposal methods used. If more than one method is used, include the percentage disposed of by each method.
  - a. For landfill disposal, include: the name and location of the landfill, and the Order number of WDRs that regulate it.
  - b. For land application, include: the location of the site, and the Order number of any WDRs or waiver of WDRs that regulate it.
  - c. For incineration, include: the name and location of the site where incineration occurs, the Order number of WDRs that regulate the site, the disposal method of ash, and the name and location of the facility receiving ash (if applicable).
  - d. For composting, include: the location of the site, and the Order number of any WDRs or waiver of WDRs that regulate it.
3. Annual volume in gallons of leachate removed by the Leachate Collection System from the sludge disposal lagoon.

**Disposal Area**

1. The type of crop(s) grown,(if applicable), planting and harvest dates, and the quantified nitrogen and fixed dissolved solids uptakes (as estimated by technical references or, preferably, determined by representative plant tissue analysis).
2. The monthly and annual discharge volumes during the reporting year expressed as million gallons and inches.

3. A monthly balance for the reporting year that includes:
  - a. Monthly average  $ET_o$  (observed evapotranspiration) – Information sources include California Irrigation Management Information System (CIMIS)  
<http://www.cimis.water.ca.gov/>
  - b. Monthly crop uptake (if applicable)
    - i. Crop water utilization rates are available from a variety of publications available from the local University of California Davis extension office.
    - ii. Irrigation efficiency – Frequently, engineers include a factor for irrigation efficiency such that the application rate is slightly greater than the crop utilization rate. A conservative design does not include this value.
  - c. Monthly average precipitation – this data is available at  
<http://www.cimis.water.ca.gov/> or at  
<http://www.ncdc.noaa.gov/oa/climate/online/ccd/nrmlprcp.html>.
  - d. Monthly average and annual average discharge flow rate.

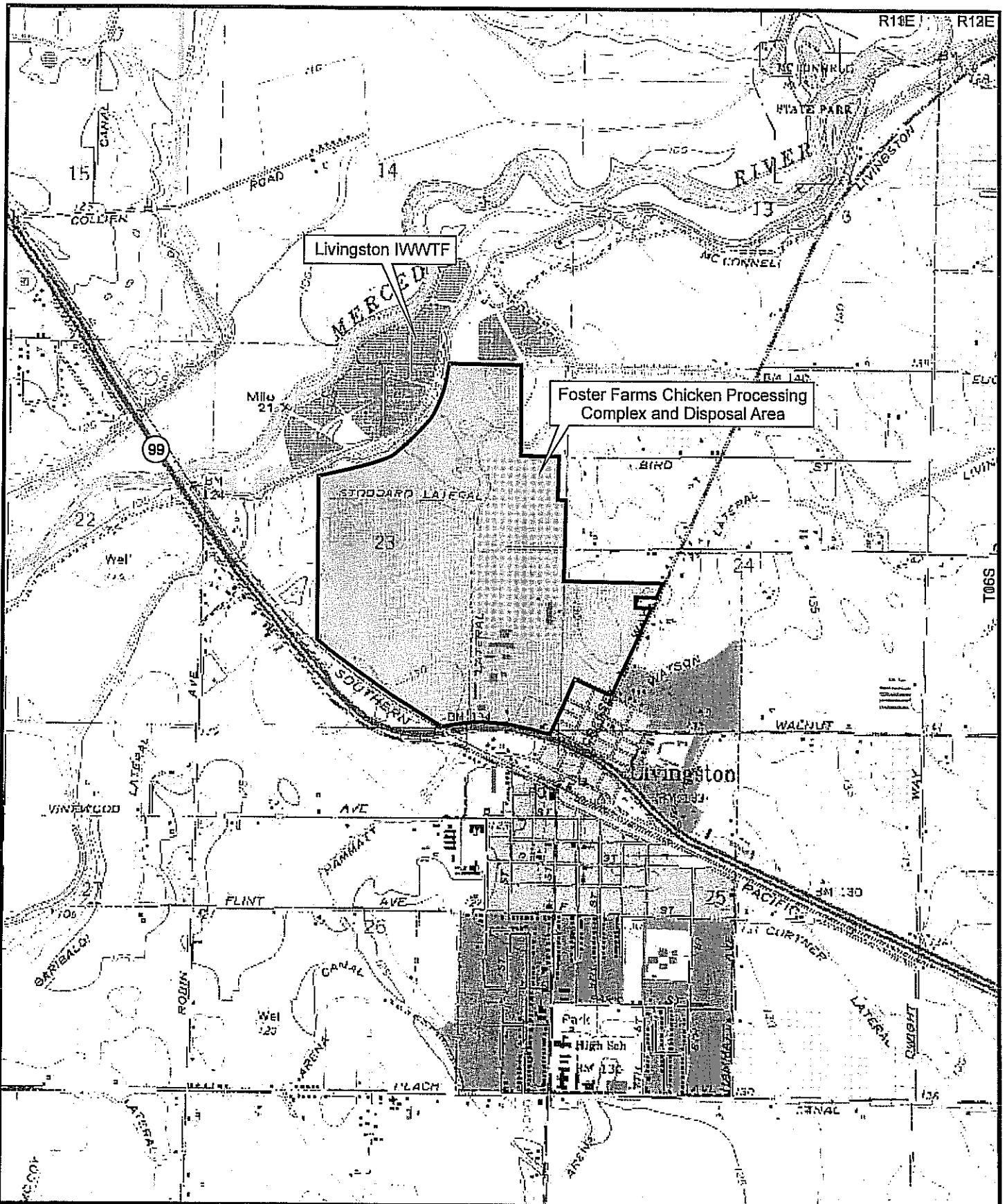
The Discharger shall implement the above monitoring program on the first day of the month following adoption of this Order.

Ordered by: Pamela C Creedon  
PAMELA C. CREEDON, Executive Officer  
August 13, 2009  
(Date)

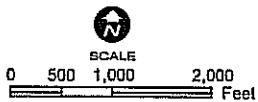
kc/DKP: 7/13/09

## GLOSSARY

BOD <sub>5</sub>	Five-day biochemical oxygen demand		
CBOD	Carbonaceous BOD		
DO	Dissolved oxygen		
EC	Electrical conductivity at 25° C		
FDS	Fixed dissolved solids		
NTU	Nephelometric turbidity unit		
TKN	Total Kjeldahl nitrogen		
TDS	Total dissolved solids		
TSS	Total suspended solids		
Continuous	The specified parameter shall be measured by a meter continuously.		
24-Hour Composite	Samples shall be a flow-proportioned composite consisting of at least eight aliquots.		
Daily	Samples shall be collected every day.		
Twice Weekly	Samples shall be collected at least twice per week on non-consecutive days.		
Weekly	Samples shall be collected at least once per week.		
Twice Monthly	Samples shall be collected at least twice per month during non-consecutive weeks.		
Monthly	Samples shall be collected at least once per month.		
Bimonthly	Samples shall be collected at least once every two months (i.e., six times per year) during non-consecutive months.		
Quarterly	Samples shall be collected at least once per calendar quarter. Unless otherwise specified or approved, samples shall be collected in January, April, July, and October.		
Semiannually	Samples shall be collected at least once every six months (i.e., two times per year). Unless otherwise specified or approved, samples shall be collected in April and October.		
Annually	Samples shall be collected at least once per year. Unless otherwise specified or approved, samples shall be collected in October.		
mg/L	Milligrams per liter		
mL/L	Milliliters [of solids] per liter		
µg/L	Micrograms per liter		
µmhos/cm	Micromhos per centimeter		
mgd	Million gallons per day		
MPN/100 mL	Most probable number [of organisms] per 100 milliliters		
General Minerals	Analysis for General Minerals shall include at least the following:		
	Alkalinity	Chloride	Phosphorous
	Bicarbonate	Hardness	Sodium
	Calcium	Magnesium	Sulfate
	Carbonate	Potassium	TDS
	General Minerals analyses shall be accompanied by documentation of cation/anion balance.		

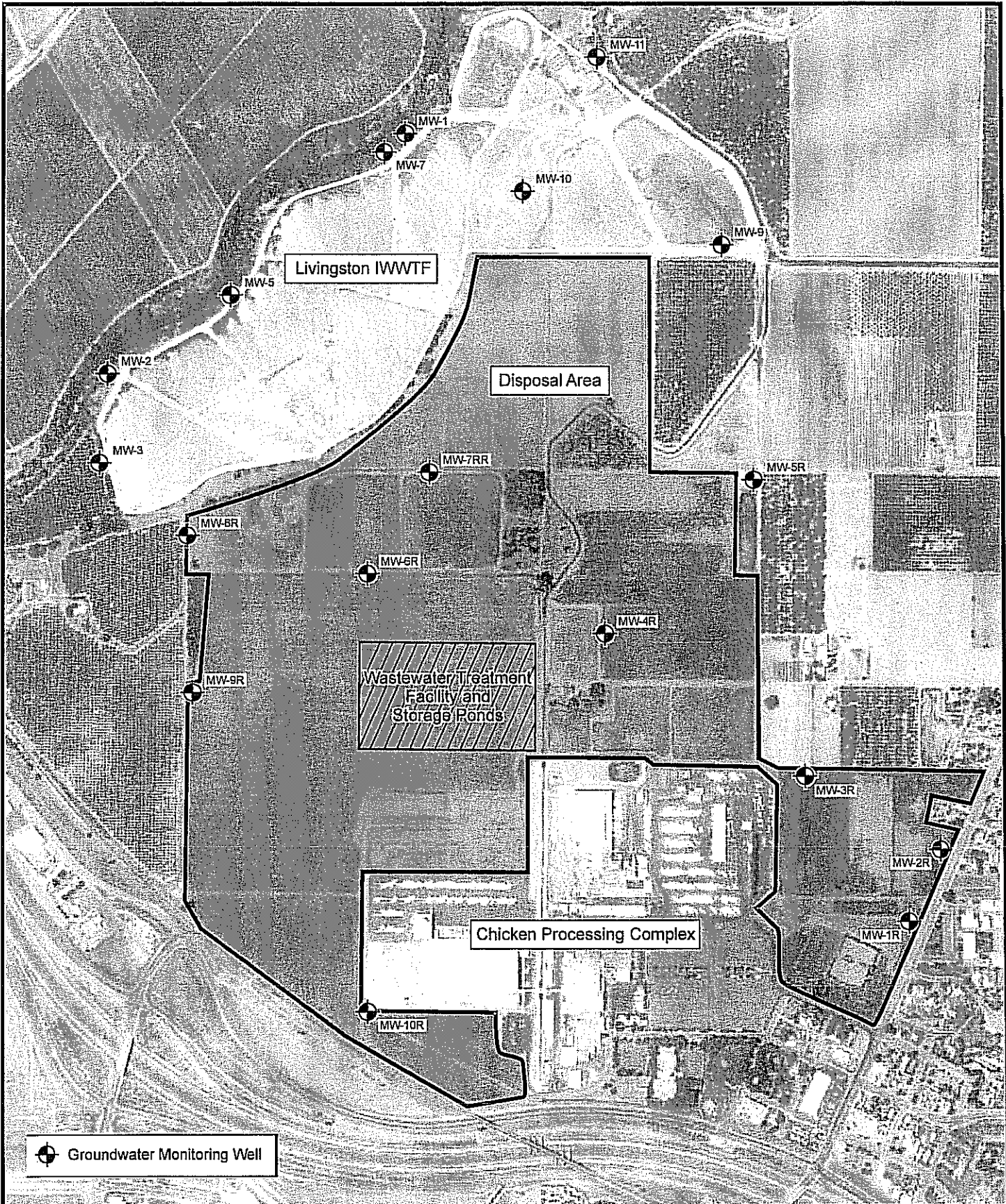


Map Source:  
 CRESSEY 7.5 Minute USGS Quadrangle  
 Sections 23 & 24, T06S, R11E, MDB&M




**SITE MAP**  
 ORDER NO. R5-2009-0086  
 WASTE DISCHARGE REQUIREMENTS  
 FOR  
 FOSTER POULTRY FARMS  
 LIVINGSTON CHICKEN PROCESSING COMPLEX - WASTEWATER TREATMENT PLANT  
 MERCED COUNTY

**ATTACHMENT A**



Map Source:  
 NAIP Aerial Photograph (2005)  
 Sections 23 & 24, T06S, R11E, MDB&M

  
 SCALE  
 0 250 500 1,000  
 Feet

**FACILITY MAP**  
 ORDER NO. R5-2009-0086  
 WASTE DISCHARGE REQUIREMENTS  
 FOR  
 FOSTER POULTRY FARMS  
 LIVINGSTON CHICKEN PROCESSING COMPLEX - WASTEWATER TREATMENT PLANT  
 MERCED COUNTY

**ATTACHMENT B**

## INFORMATION SHEET

R5-2009-0086  
FOSTER POULTRY FARMS  
LIVINGSTON CHICKEN PROCESSING COMPLEX  
WASTEWATER TREATMENT PLANT  
MERCED COUNTY

### **Background**

Foster Poultry Farms a California based corporation (hereafter Foster Farms or Discharger) operates a chicken processing complex (Complex) at 843 Davis Street in the City of Livingston, Merced County. Wastewater from the Complex is currently discharged to the City of Livingston's Industrial Wastewater Treatment Facility (Facility), which provides wastewater collection and treatment exclusively for Foster Farms.

The existing Facility consists of 12 unlined ponds with limited aeration, encompassing approximately 83 acres adjacent to the Merced River and is currently regulated by Waste Discharge Requirements (WDRs) Order No. 79-209. The WDRs limit wastewater discharge to 3.5 million gallons per day (mgd). Wastewater Reclamation Requirements (WRRs) Order No. 93-091 regulates the discharge of up to 2.4 mgd of effluent to 223 acres of adjacent lands (Reclamation Area) owned by Foster Farms.

On 26 October 2006, the Central Valley Water Board adopted Cease and Desist Order (CDO) No. R5-2006-0112 for violations of WDRs Order No. 79-209, including groundwater pollution, flow limit exceedances, and freeboard encroachment. The CDO, issued to the City of Livingston, includes tasks and a compliance schedule for construction of an upgraded Facility to be complete by 15 January 2009. However, disagreements between the City of Livingston and Foster Farms over financing and treatment technology delayed the construction. A Settlement Agreement, dated 16 November 2007, ended the litigation and established that Foster Farms would assume responsibility for construction of a new wastewater treatment plant (WWTP) on its own land. Under the agreement, the City of Livingston will continue to operate its existing Facility until the Foster Farms WWTP is complete. Upon completion and initiation of operations at the new WWTP, Foster Farms has agreed to remediate the existing site as directed by the Central Valley Water Board, including removal of accumulated sludge from the existing ponds.

Foster Farms submitted a Report of Waste Discharge (RWD) dated 31 January 2008, for its new WWTP. The new WWTP will consist of a series of aerobic and anaerobic tanks as part of a biological nitrogen removal (BNR) treatment system to reduce high nutrient concentrations in the wastewater. The WWTP, expected to be operational by the end of 2010, will be a significant improvement over the existing Livingston Facility. Treated wastewater will be disposed of via percolation on approximately 223 acres of Foster Farms' existing Reclamation Area (hereafter referred to as Disposal Area). During wet weather, effluent will be stored in a 35 million-gallon unlined storage reservoir adjacent to the WWTP.

Foster Farms plans to continue to grow a summer crop on Disposal Area fields as long as the hydraulic capacity of the fields allows sufficient drying time to plant and harvest a crop. It expects that growing crops will cease once closure and cleanup of the ponds at the existing

Livingston Facility is complete. However, water conservation and other measures may allow some cropping to continue. According to Foster Farms, no fertilizer will be applied to the fields unless a viable crop plan is implemented. This Order includes a provision requiring the Discharger to conduct a Crop Feasibility Study to evaluate continued cropping within the Disposal Area. In addition, this Order requires the Discharger to continue efforts to promote new or expanded wastewater recycling and reclamation opportunities.

### **Solids Disposal**

Wasted sludge from the treatment process will be stored in a 6-million gallon double-lined lagoon with a Leachate Collection System. Clarified liquid will be decanted and returned to the inlet of the treatment system. After drying and pressing to approximately 25% solids, the sludge will be hauled off for land application as a soil amendment or for composting at Foster Farms' Manure Storage Facility about five miles south of Livingston under the terms and conditions of WDRs or a waiver.

### **Groundwater Conditions**

Regional groundwater underlying the area is first encountered at about 50 feet below ground surface (bgs) and flows south-westward according to information in Lines of Equal Elevation of Water in Wells in Unconfined Aquifer, published by Department of Water Resources (DWR) in Spring 2004. According to groundwater data from existing monitoring wells in the Disposal Area there is a groundwater mound approximately four feet high centered near monitoring well MW-4R with the groundwater gradient directed radially outward from this point.

Proximity to the Merced River makes groundwater unaffected by the discharge in the general vicinity of the Disposal Area of high quality. Previous WDRs and groundwater data from DWR wells in proximity to the site from 1959 to 2001 indicates ambient water quality of first-encountered groundwater is good to excellent with an EC less than 500  $\mu\text{mhos/cm}$ .

Data from monitoring wells in the vicinity of the Disposal Area and the Livingston Facility indicates that first-encountered groundwater has been significantly affected by the existing discharge. The monitoring well network shows a clear trend of increasing TDS, nitrate, chloride, and other waste constituents in some groundwater monitoring wells.

In 2007, groundwater beneath the Disposal Area contained EC and TDS concentrations ranging from about 800 to 1,400  $\mu\text{mhos/cm}$  and about 600 to 950 mg/L, respectively. The lowest concentrations were in monitoring wells MW-1R and MW-10R, south and east of the Disposal Area and furthest from the groundwater mound and the existing ponds at the Livingston Facility. However, due to the groundwater gradient and proximity of several irrigation canals there does not appear to be a true up-gradient monitoring well.

The new WWTP will be a significant improvement over the existing unlined pond system and is expected to improve groundwater quality over time. Investigation and cleanup of impacts from previous discharges will be addressed by a separate Cleanup and Abatement Order.

### **Basin Plan, Beneficial Uses, and Regulatory Considerations**

The *Water Quality Control Plan for the Sacramento and San Joaquin River Basins, Fourth Edition* (revised October 2007) (Basin Plan) designates beneficial uses, establishes numerical and narrative water quality objectives, contains implementation plans and policies for protecting all waters of the basin, and incorporates by reference plans and policies of the State Water Board.

One of the greatest long-term problems facing California's groundwater is increasing salinity. The Tulare Lake Basin Plan's salt management requirements have been successfully implemented for several decades. Widespread and long-term compliance with these requirements justify them as appropriate best practicable control measures for salinity applicable to discharges in the Sacramento and San Joaquin River Basins. The Central Valley Water Board encourages proactive management of waste streams by dischargers to control addition of salt through use, and has established an incremental electrical conductivity (EC) limitation of 500  $\mu\text{mhos/cm}$  as the measure of the maximum permissible addition of salt constituents through use or a maximum of 1,000  $\mu\text{mhos/cm}$  for discharges to land overlying good quality groundwater. A more restrictive limitation on salt constituents added through use is appropriate where necessary to assure compliance with a groundwater limitation for any constituent established by the Central Valley Water Board.

The Basin Plan states that when compliance with a narrative objective is required to protect specific beneficial uses, the Central Valley Water Board will, on a case-by-case basis, adopt numerical limitations in order to implement the narrative objective. With good to excellent quality groundwater and Class I and Class IIw-2 soils (e.g., Hanford fine sandy loam and Grangeville loam) the area is suitable for most crop types including sensitive or moderately salt sensitive crops such as strawberries, melons, or stone fruit.

While the area is suitable for most crop types including salt-sensitive crops, almonds and sweet potatoes, which appear to be the most prevalent salt-sensitive crops grown in the area, will tolerate irrigation water with an EC up to 1,000  $\mu\text{mhos/cm}$  with no reduction in yield and less than a 10% reduction in yield with irrigation water up to 1,400  $\mu\text{mhos/cm}$ . According to Ayers and Westcott's, *Water Quality for Agriculture*, it is possible to achieve full yield potential with irrigation water in excess of salt tolerances if the proper leaching fraction is provided to maintain soil salinity within the tolerance of the crop. The soils in the area are excessively well drained with low water holding capacity.

The Basin Plan says that at a minimum, groundwater designated for use as domestic or municipal supply shall not contain concentrations of chemical constituents in excess of MCLs, including secondary MCLs, as specified in Title 22 of the CCR. Title 22 sets a secondary MCL or consumer acceptance limit for EC as a range between 900 and 1,600  $\mu\text{mhos/cm}$ . While an EC at or below 900  $\mu\text{mhos/cm}$  is desirable, a concentration up to 1,600  $\mu\text{mhos/cm}$  is acceptable if it is neither reasonable nor feasible to provide more suitable waters. The average EC of the effluent is projected to be around 900  $\mu\text{mhos/cm}$ , at or below the lowest secondary MCL; however, groundwater in the area is already above this secondary MCL at about 1,400  $\mu\text{mhos/cm}$  in some monitoring wells.



This Order sets a performance based groundwater limit for EC of 1,200  $\mu\text{mhos/cm}$ . This limit will prevent further degradation of groundwater, and due to the sandy soils, and predominant crop types and irrigation methods in the immediate area should preclude impairment of agricultural beneficial uses. In addition, this limit is within the range of the secondary MCL for EC consistent with beneficial uses for municipal and domestic supply. This limit can be re-visited in the future once the Discharger completes its salinity reduction measures, and actual performance of the new WWTP is known.

### **Antidegradation**

The antidegradation directives of State Water Board Resolution No. 68-16, "Statement of Policy With Respect to Maintaining High Quality Waters in California," or "Antidegradation Policy" require that waters of the State that are better in quality than established water quality objectives be maintained "consistent with the maximum benefit to the people of the State." Waters can be of high quality for some constituents or beneficial uses and not others. Policy and procedures for complying with this directive are set forth in the Basin Plan.

Constituents of concern that have the potential to degrade groundwater include, in part, organics, nutrients, and salts. However, the discharge will likely not affect the beneficial uses of groundwater because:

- a. For BOD, the discharge will be treated to better than secondary standards and the instantaneous and cycle average loading rates to the Disposal Area are below the USEPA recommended rate of 100 lbs/acre/day according to publication No. 625/3-77/007, *Pollution Abatement in the Fruit and Vegetable Industry*. No further degradation due to organic loading is expected to occur.
- b. For nitrogen, the WWTP is expected to reduce effluent nitrogen concentrations to below 10 mg/L, which is below the primary MCL for nitrate. This should be considered BPTC for nitrogen and should preclude further degradation of groundwater for nitrates. Groundwater downgradient of the discharge should eventually be able to meet groundwater limits that are consistent with all beneficial uses.
- c. For salinity, while first encountered groundwater beneath the Disposal Area has been degraded by previous discharges from Foster Farms and other surrounding activities, the new Foster Farms WWTP will be a significant improvement over the existing unlined pond system. Degradation beyond what resulted from the previously permitted discharge is not expected to occur and the resulting reduction in waste concentrations in the discharge is expected to improve groundwater quality over time.

The salinity of the discharge will be greater than 500  $\mu\text{mhos/cm}$  (considered ambient background water quality), and therefore the discharge could potentially degrade water quality. However, the degradation will be less than what has occurred in the past and groundwater downgradient of the discharge should eventually be able to meet groundwater limits that are consistent with all beneficial uses.

Economic prosperity of valley communities and associated industry is of maximum benefit to the people of the State, and therefore sufficient reason exists to accommodate growth and groundwater degradation, provided that the terms of the Basin Plan are met. Degradation of groundwater quality by some of the typical waste constituents released with discharge from a food processing facility after effective source reduction, treatment and control, and considering the best efforts of the Discharger and magnitude of degradation, is of maximum benefit to the people of the State. Foster Farms aids in the economic prosperity of the region by direct employment of approximately 3,500 people. In addition, it provides incomes and support for valley poultry farms and associated trucking firms, and provides a tax base for local and county governments.

The reduction in the discharge of nitrogen resulting from the project, and the implementation of a Salinity Control Plan to control and reduce salts to the extent feasible (required as a Provision of the proposed Order) are consistent with BPTC and for the maximum benefit of the people of the State, in accordance with the Antidegradation Policy.

#### **Title 27**

Title 27, CCR, section 20005 et seq. (Title 27) contains regulations to address certain discharges to land. Title 27 establishes a waste classification system, specifies siting and construction standards for full containment of classified waste, requires extensive monitoring of groundwater and the unsaturated zone for any indication of failure of containment, and specifies closure and post-closure maintenance requirements. Generally, no degradation of groundwater quality by any waste constituent in a classified waste is acceptable under Title 27 regulations.

Title 27 section 20090(b) exempts discharges of designated waste to land from Title 27 containment standards provided the Central Valley Water Board has issued waste discharge requirements or waived such issuance; the discharge is in compliance with the Basin Plan; and the waste need not be managed according to Title 22, CCR, Division 4.5, Chapter 11, as a hazardous waste.

Accordingly, the discharge of effluent and the operation of treatment or storage facilities associated with a food processing facility can be allowed without requiring compliance with Title 27, provided any resulting degradation of groundwater is in accordance with the Basin Plan. With treatment to remove organics and reduce total nitrogen to less than 10 mg/L, and fixed dissolved solids of less than 550 mg/L, the discharge authorized by this Order is in accordance with the Basin Plan and the Antidegradation Policy and is therefore exempt from Title 27.

#### **CEQA**

On 3 March 2009, the City of Livingston adopted a Mitigated Negative Declaration for the construction and operation of a new wastewater treatment plant for the Foster Farms chicken-processing complex in Livingston.

The Mitigated Negative Declaration determined that the project would have a less than significant impact on water quality since the project, as proposed would reduce or maintain concentrations of constituents in the wastewater discharge. Specifically nitrogen concentrations in the discharge will be reduced to < 10 mg/L, which is a significant improvement from the existing discharge and is expected to improve groundwater quality beneath the Disposal Area.

Central Valley Water Board staff, reviewed and concurs with the conclusion in the Mitigated Negative Declaration that the project would be an improvement over the existing discharge, although the Mitigated Negative Declaration did not include any specific mitigation measures to protect water quality. The Central Valley Water Board as a responsible agency under CEQA includes the following specific conditions in this Order to mitigate or avoid any adverse impacts to water quality:

- a) Sets effluent limits for BOD<sub>5</sub>, TSS, total nitrogen, chloride, and FDS;
- b) Establishes groundwater limits;
- c) Establishes a monitoring and reporting program; and
- d) Requires the Discharger to prepare and implement a Salinity Control Plan, a groundwater study, and a Crop Feasibility Study.

### **Proposed Order Terms and Conditions**

#### **Discharge Prohibitions, Effluent Limitations, Discharge Specifications, and Provisions**

The proposed Order prohibits discharge to surface waters and water drainage courses.

The proposed Order would set an annual average flow limit at 3.77 mgd (to be calculated as a rolling average over the last 12 months), with a maximum daily flow limit of 5.0 mgd. Field capacity testing indicates that the predominantly fine grained sands and high permeability of the soils should prevent ponding or nuisance conditions. Treatment and conformance with the conditions in this Order (e.g., TN of < 10 mg/L, FDS of < 550 mg/L, and infiltration within 48 hours) should preclude nuisance conditions.

The proposed Order would set an annual average effluent limit for FDS of 550 mg/L. A recent salinity evaluation of the discharge from the DAF pre-treatment system shows that approximately 30% of the discharge TDS is contributed by organics. Organic TDS should be considered separate from mineralized TDS (i.e., sodium, chloride, etc.) since sources, treatment, and environmental impacts are very different, so an effluent limitation based on FDS would be more appropriate. Based on the salinity evaluation, it is anticipated that a discharge limit for FDS of 550 mg/L, would equate to an EC between 850 and 950 µmhos/cm. The proposed Order would prescribe groundwater limits based on numeric interpretations of the Basin Plan's water quality objectives for agriculture and sets specific limits for EC, nitrates, and total coliform organisms, which would be protective of beneficial uses based on site specific crops and soil type in the immediate vicinity of the site. The limitations require that the discharge not cause or contribute to exceedances of these objectives or natural background

water quality, whichever is greatest. In addition, this Order includes a provision requiring the Discharger to submit a groundwater study, to characterize background groundwater quality in the immediate area.

The proposed Order also includes provisions requiring the Discharger to submit a comprehensive Salinity Control Plan, a Crop Feasibility Study and Management Plan, and to continue efforts to promote new or expanded wastewater recycling and reclamation opportunities.

### **Monitoring Requirements**

Section 13267 of the CWC authorizes the Central Valley Water Board to require monitoring and technical reports as necessary to investigate the impact of a waste discharge on waters of the state. In recent years there has been increased emphasis on obtaining all necessary information, assuring the information is timely as well as representative and accurate, and thereby improving accountability of any discharger for meeting the conditions of discharge. Section 13268 of the CWC authorizes assessment of civil administrative liability where appropriate.

The proposed Order includes requirements for effluent monitoring, supply water monitoring, and recycling monitoring requirements including groundwater monitoring in the Disposal Area. In order to adequately characterize wastewater, the Discharger is required to monitor for pH, EC, biochemical oxygen demand, total dissolved solids, fixed dissolved solids, total nitrogen, and other constituents.

The Discharger must monitor groundwater for waste constituents expected to be present in the discharge, and capable of reaching groundwater, and violating groundwater limitations if its treatment, control, and environmental attenuation, proves inadequate..

### **Reopener**

The conditions of discharge in the proposed Order were developed based on currently available technical information and applicable water quality laws, regulations, policies, and plans, and are intended to assure conformance with them. It may be appropriate to reopen the Order if applicable laws and regulations change.

kc/DKP: 7/13/09