

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION  
CLEANUP AND ABATEMENT ORDER R5-2025-XXXX (PROPOSED)  
ISSUED TO M & M CARVALHO TRUST (DEANNA M CARVALHO ROCHA) AND  
VICTOR FANELLI  
REQUIRING THE M & M CARVALHO TRUST RANCH  
TO ABATE THREATENED DISCHARGE OF WASTE

This Order is issued to Deanna M. Carvalho Rocha and Victor Fanelli (together, “Dischargers”), based on California Water Code (“Water Code”) section 13304, which authorizes the California Regional Water Quality Control Board, Central Valley Region (“CVWB”) to issue a Cleanup and Abatement Order (“CAO”), and Water Code section 13267, which authorizes the CVWB to require the submittal of technical reports. Pursuant to Water Code section 13304, this CAO requires remedial action to abate threatened discharges of waste<sup>1</sup> to surface and groundwater, which are waters of the State, from wastewater contaminated with human waste generated at the M & M Carvalho Trust Ranch.

The Assistant Executive Officer of the CVWB finds, with respect to the Discharger's acts or failure to act, the following:

1. Deanna M. Carvalho Rocha is the owner of the M & M Carvalho Trust Ranch (WDID 5B24NC00433). The M & M Carvalho Trust Ranch is located at 23570 West Geer Avenue in Hilmar, Merced County. The M & M Carvalho Trust Ranch is hereafter referred to as “Bovine Facility.” Victor Fanelli, doing business as Fanelli Dairy, is the operator of the Bovine Facility, and the owner and operator of an adjacent dairy located at 23839 Bloss Avenue in Hilmar.
2. The Dischargers are regulated by the Waste Discharge Requirements General Order for Confined Bovine Feeding Operations, Order No. R5-2017-0058 (“Bovine General Order”), which was adopted by the CVWB on 8 June 2017. The Bovine Facility was deemed to fall under the Limited Population Operation tier based on meeting the criteria described in Section 5 of the Scope of Coverage of this Order for the Bovine General Order. As an enrolled facility, the Dischargers are subject to the requirements of the Bovine General Order for Limited Population Operations and its associated Monitoring and Reporting Program.

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<sup>1</sup> Water Code section 13304(e) defines “threaten” to mean “a condition creating a substantial probability of harm, when the probability and potential extent of harm makes it reasonably necessary to take immediate action to prevent, reduce, or mitigate damages to persons, property, or natural resources.”

3. The Bovine General Order regulates waste discharges from the Bovine Facility. The Waste Discharge Requirements, in part, contain the following:

- a. Bovine General Order Section 5.c, establishes the criteria necessary for a facility to be deemed a Limited Population Operation, which includes:

*“Stores storm water runoff from corrals in pond(s) that only contain water following precipitation events and are otherwise dry, and that do not receive wastewater from any source other than corral runoff;”*

- b. Bovine General Order Prohibition A.4, which states:

*“The collection, treatment, storage, discharge or disposal of wastes at a Confined Bovine Feeding Operation shall not result in the creation of a condition of pollution or nuisance.”*

- c. Bovine General Order Prohibition A.5, which states:

*“The disposal of waste not generated by on-site animal production activities is strictly prohibited except where a Report of Waste Discharge for the disposal has been submitted to the Executive Officer and the Central Valley Waterboard has issued a waived discharge requirements for that discharge.”*

- d. Bovine General Order Provisions H.7, which states:

*“This Order does not apply to facilities where wastes such as, but not limited to, whey, cannery wastes, septage, municipal or industrial sludge, municipal or industrial biosolids, ash or similar types of waste are generated on-site or are proposed to be brought onto the production area or land application area of the Confined Bovine Feeding Operation for the purpose of nutrient recycling or disposal. The Discharger shall submit a complete Report of Waste Discharge and shall not apply or dispose of such waste prior to receiving Waste Discharge Requirements or a waste-specific waiver of Waste Discharge Requirements from the Central Valley Water Board.”*

- e. Bovine General Order Provisions H.8, which states:

*“If site conditions threaten to violate Prohibition A.2 (discharge of waste and/or storm water from the production area in the absence of an NPDES permit) or Prohibition A.4 (creation of a condition of pollution or nuisance) of this Order, the Discharger shall take immediate action to preclude the violation, documenting the condition and all corrective actions. Records of*

*such actions shall be kept and maintained as required in Monitoring and Reporting Program R5-2017-0058. Alterations of the Waste Management Plan (see Required Reports and Notices K.1.c) for the production area to avoid a recurrence shall be submitted to the Central Valley Water Board as a modification to the Waste Management Plan.”*

- f. Bovine General Order Provisions H.11, which states:

*“Any instance of noncompliance with this Order constitutes a violation of the Water Code and its regulations. Such noncompliance is grounds for enforcement action, and/or termination of the authorization to discharge.”*

- g. Bovine General Order Provisions H.16, which states:

*“Upon obtaining coverage under this Order, 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 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 terminating the applicability of this Order to a specific facility or Discharger.”*

## **VIOLATIONS OF THE BOVINE GENERAL ORDER**

4. On 19 October 2022 and due to safety concerns, CVWB staff inspected the Bovine Facility from a Turlock Irrigation District canal embankment located north of Geer Road. The inspection was conducted following a complaint of human waste being pumped into the onsite irrigation pipeline and applied to the 18.7 acres field leased by Fanelli Dairy at 23839 Bloss Avenue in Hilmar. CVWB staff accessed the 18.7 acres field through the Turlock Irrigation District canal embankment and observed the presence of dark brown water with a yellow crust in the field valves consistent with the characteristics of human waste.
5. On 20 October 2022, staff from Merced County Division of Environmental Health (“County Staff”) joined the CVWB staff in a second inspection of the Bovine Facility. After a visual inspection of the 18.7 acres field through the Turlock Irrigation District canal embankment, County Staff suspected the presence of human waste. Due to

safety concerns, County Staff and CVWB staff couldn't access the production area of the facility and set up a joint inspection with Merced County Code Enforcement.

6. On 27 October 2022, CVWB staff, accompanied by County Staff and Merced County Code Enforcement Sheriffs, returned to the Bovine Facility for a third inspection. The inspection report indicated that there is one wastewater storage pond onsite that receives wastewater through a direct pipeline from Fanelli Dairy, and that CVWB staff and County Staff were able to confirm that the direct pipeline from Fanelli Dairy and the standpipe located at the southwest corner of the storage pond contained human waste. CVWB staff communicated to the Fanelli Dairy that until the Bovine Facility cleaned out the pipeline to the CVWB satisfaction, the pipeline could not be used to apply fresh water or wastewater to the 18.7-acre parcel, and Fanelli Dairy agreed to clean out the pipeline to CVWB staff's satisfaction. The cleanup was completed on 14 November 2022 and samples were collected on that day by CVWB staff for analysis. CVWB staff received sample results on 9 December 2022 and confirmed that no residual human Bacteroides were present in the pipes.
7. The Bovine Facility was issued a Notice of Violation dated 10 February 2023 for violations of the Bovine General Order. The Notice of Violation required the Discharger to submit proof that human waste is no longer being routed to the pipeline used for cropland irrigation, proof that a septic system has been installed, documentation of the condition that created the potential for discharge and any corrective actions taken, and a Notice of Intent to request to be enrolled in the Bovine General Order as a Full Coverage Operation.
8. On 1 June 2023, Fanelli Dairy collected samples from the wastewater storage pond, standpipe, and field valve at the Bovine Facility. The sample collected from the field valve was below the reporting limit for human Bacteroides. However, the samples collected from the wastewater pond and stand pipe were above the reporting limit for human Bacteroides:

<b>Laboratory Report</b> <b>HF183-Human Bacteroides EPA Method B modified/SIPP manual (molecular)</b>					
Lab ID	Client Sample ID	Analysis Date	Dilution Factor	Reporting Limit (GC/100ml)	HF183-Human Bacteroides (GC/100ml)
230602-3866-01	23F0301-01 Rocha Lagoon	06/13/2023 10:34 AM	1	120.0	650
230602-3866-02	23F0301-02 Stand Pipe	06/13/2023 10:34 AM	1	120.0	151
230602-3866-03	23F0301-03 Field Valve	06/13/2023 10:34 AM	1	120.0	60 (DNQ)

9. On 29 March 2024, CVWB staff received a Form for Transfer of Owner / Operator Coverage (O/O Transfer Form) requesting termination of coverage under the

Bovine General Order for Victor Fanelli. The O/O Transfer Form was signed by Victor Fanelli but was not signed by Deanna M. Carvalho Rocha. On 26 September 2024, the CVWB issued a response to the O/O Transfer Form (“Response Letter”). In the Response Letter, CVWB staff described the requirements for termination under the Bovine General Order as a Limited Population Operations. The Response Letter stated that “[f]or the Central Valley Water Board to terminate Mr. Fanelli’s coverage under the Bovine General Order, it must receive either (1) a completed O/O Transfer Form signed by both the Owner and Operator, or (2) demonstration that the facility has been closed in accordance with Bovine General Order Provision H.12” and that “both parties will be maintained as co-dischargers responsible for compliance until Order coverage can be terminated.”

10. To date, the CVWB has not received any of the submittals necessary for termination described in the CVWB Response Letter dated 26 September 2024.

## **REGULATORY CONTEXT**

1. The CVWB has jurisdiction over the discharge or threatened discharge of waste to waters of the State, including groundwaters.<sup>2</sup> It may also restrict or prohibit discharges to land to protect waters of the State.<sup>3</sup>
2. Water Code section 13267, subdivision (b)(1), states, in part, [i]n conducting an investigation... 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 ... shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires.”
3. Water Code section 13304, subdivision (a), states, in part, “[a] person who...threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall, upon order of the regional board, clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts.”

## **COST AND BENEFIT OF TECHNICAL REPORTS**

1. Water Code section 13267, subdivision (b), specifies that the burden, including costs, of these reports must bear a reasonable relationship to the State Water Resources Control Board’s (“State Water Board”) need for the reports and the benefits obtained from the reports. The cost of preparing the reports required in this Order are estimated to be in the range of \$8,000 to \$12,000 for the Pond Cleanout Plan.

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<sup>2</sup> See Water Code sections 13050, 13260, and 13304.

<sup>3</sup> See Water Code sections 13243, 13301, and 13263.

2. The cost of the technical reports bear a reasonable relationship to the benefit to be gained. The Pond Cleanout Plan is needed to ensure no threats to public health and the environment, including contamination of groundwater or surface water, remain once Bovine General Order coverage is terminated.

**THEREFORE, IT IS HEREBY ORDERED**, pursuant to Water Code sections 13267 and 13304, the Discharger shall take action to abate the effects of failure to manage the Bovine Facility as follows:

1. **Immediately stop** the disposal of human waste in the wastewater pond, standpipe, and field valve on-site of the Bovine Facility and comply with Bovine General Order Pond Section 5.c, Prohibition A. 4, Prohibition A. 5, Provisions H. 7, Provisions H. 8, Provisions H. 11, and Provisions H. 16.
2. **30 days after the adoption of this Order**, submit a Pond Cleanout Plan, describing the cleanout procedure of the wastewater pond in accordance with the Bovine General Order Requirements. The wastewater pond should be scraped to clean soil 30 days after the owner/operator receives approval for the Pond Cleanout Plan. Manifests must be submitted that track the exact volumes and destination of removed waste.
3. **30 days after the adoption of this Order**, submit a signed affidavit that disposal of human waste to the wastewater pond ceased and neither the pond or piping system will be used for the storage or discharge of human waste in the future.
4. **30 days after the adoption of this Order**, submit a Closure Plan to terminate your coverage under the Bovine General Order that ensures protection of surface water and groundwater.
5. **No more than 30 days after completion of site closure**, submit a Post-Closure Plan which documents that all closure activities were completed as proposed and approved in the Closure Plan. The Post-Closure Plan shall include sample results confirming that no residual human waste is present in the standpipe and field valve.
6. This Order does not limit the authority of the CVWB to commence additional enforcement actions for past or continuing storage, discharge or disposal of wastes that result in the creation of a condition of pollution or nuisance, or to require additional investigation and cleanup of the site consistent with the Water Code. This Order may be revised by the Executive Officer as additional information becomes available.

### **REPORTING REQUIREMENTS**

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

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

2. **Certification.** The following signed certification must be included with all reports submitted pursuant to this Order:

*I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.*

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

John J. Baum  
Assistant Executive Officer  
California Regional Water Quality Control  
Central Valley Region  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670

Attn: Dan Gamon  
Senior Engineering Geologist  
Email: Daniel.gamon@waterboards.ca.gov  
Phone: (916) 464-4724

## NOTIFICATIONS

1. **Cost Recovery.** Pursuant to Water Code section 13304, subdivision (c), the Water Board is entitled to and may seek reimbursement for all reasonable costs actually incurred by the Water Board to investigate unauthorized discharges of wastes and to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action required by this Order.
2. **California Environmental Quality Act (CEQA) Compliance.** The issuance of this Order is an enforcement action taken by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, section 21000 et seq.) pursuant to California Code of Regulations ("CCR"), title 14, section 15321, subdivision (a)(2). The issuance of this Order is also exempt from the provisions of CEQA based on the Bovine Facility's status as an "existing facility" pursuant to CCR, title 14, section 15301.

3. **Requesting Administrative Review by the State Water Board.** Any person aggrieved by an action of the Water Board that is subject to review as set forth Water Code section 13320, subdivision (a), may petition the State Water Board to review the action. Any petition must be made in accordance with Water Code section 13320 and California Code of Regulations, title 23, section 2050 and following. The State Water Board must receive the petition within 30 days of the date the action was taken, except that if the thirtieth day following the date the action was taken falls on a Saturday, Sunday, state holiday, or furlough day, then the State Water Board must receive the petition by 5:00 p.m. on the next business day. Copies of the [law and regulation applicable to filing petitions](http://www.waterboards.ca.gov/publicnotices/petitions/waterquality) may be found on the internet at: (<http://www.waterboards.ca.gov/publicnotices/petitions/waterquality>) or will be provided upon request.
4. **Request for Extension of Time.** If for any reason, the Discharger is unable to perform any activity or submit any document in compliance with the schedule set forth herein, or in compliance with any work schedule submitted pursuant to this Order and approved by the Assistant Executive Officer, the Discharger may request, in writing, an extension of the time specified. The extension request shall include justification for the delay. An extension may be granted by the Regional Board or Executive Officer only by revision of or amendment to this Order.
5. **Enforcement Notification.** Failure to comply with the terms or conditions of this CAO may result in additional enforcement action, which may include the imposition of administrative civil liability pursuant to California Water Code section 13350 and/or section 13268, or referral to the Attorney General of the State of California for injunctive relief or civil or criminal liability.

For Patrick Pulupa,

Executive Officer

Central Valley Regional Water Quality Control Board