

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION**

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<https://www.waterboards.ca.gov/sandiego>

**CEASE AND DESIST ORDER NO. R9-2023-0129, PINE HILL EGG RANCH AND  
DEMLER BROTHERS' PULLET FARM**

**DEMLER BROTHERS LLC**

**WHEREAS** the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) finds the following:

**BACKGROUND**

1. Demler Brothers LLC (Discharger) operates the Pine Hill Egg Ranch (Facility), an egg production facility on 362 acres, located at 25818 State Route 78 in Ramona, San Diego County. The Facility has operated since approximately 1960. A satellite photo of the Facility is shown in Attachment A.
2. The Facility houses approximately one million chickens and has the capacity to house up to two million chickens and produce approximately 800,000 eggs per day. The Facility currently generates approximately 2,000 gallons of wastewater per day from an egg washing operation and approximately 375 tons of manure per week. The Facility generates other types of waste, including broken eggs and chicken carcasses.
3. The Discharger has also been operating the Demler Brothers' Pullet Farm (Pullet Farm), a chicken raising operation on 74 acres, since around 2008. The Pullet Farm is located at 24555 Old Julian Highway in Ramona, San Diego County. A satellite photo of the Pullet Farm is shown in Attachment B.
4. The Pullet Farm houses approximately 400,000 pullets. The pullets are brought to the Pullet Farm at one day old and housed for 16-18 weeks until the pullets are transferred to the Facility for egg production.
5. The Facility and Pullet Farm property owners are shown in Table 1.

**Table 1. Facility and Pullet Farm Property Owners**

<b>Property</b>	<b>Assessor's Parcel Number (APN)</b>	<b>Owner(s)</b>
<b>Facility</b>	286-030-21-00	Kevin Demler and the Kevin Demler Separate Property Trust
<b>Facility</b>	286-030-22-00	Kevin Demler
<b>Facility</b>	286-030-09-00	Kevin Demler and the Kevin Demler Separate Property Trust
<b>Facility</b>	286-031-01-00	Kevin Demler
<b>Pullet Farm</b>	287-021-02-00	Kevin Joseph Demler and Mary Leigh Demler

6. The Facility and Pullet Farm are in the San Dieguito Hydrologic Unit (HU) (905.00). Stormwater from the Facility drains to Santa Teresa Valley Creek, a tributary to Hatfield Creek. The Facility is located about 0.5 miles upgradient of four groundwater wells owned by the Rancho Santa Teresa Municipal Water Company that provide potable water to residents. Stormwater from the Pullet Farm drains to Hatfield Creek. Both the Facility and the Pullet Farm are located upgradient of the Santa Maria Valley Groundwater Basin. Santa Teresa Valley Creek, Hatfield Creek, and the Santa Maria Valley Groundwater Basin are waters of the United States (U.S.) and/or state. Neither the Facility nor the Pullet Farm are located in, or surrounded by, a disadvantaged community.
7. The Water Quality Control Plan for the San Diego Basin (9) ([Basin Plan](#))<sup>1</sup> designates the following existing and potential beneficial uses for Santa Teresa Valley and Hatfield Creeks:
- a. Agricultural Supply (AGR) – Includes uses of water for farming, horticulture, or ranching including, but not limited to, irrigation, stock watering, or support of vegetation for range grazing.
  - b. Industrial Service Supply (IND) – Includes uses of water for industrial activities that do not depend primarily on water quality including, but not limited to, mining, cooling water supply, hydraulic conveyance, gravel washing, fire protection, or oil well re-pressurization.

<sup>1</sup> A copy of the Basin Plan is available at:  
[https://www.waterboards.ca.gov/sandiego/water\\_issues/programs/basin\\_plan/](https://www.waterboards.ca.gov/sandiego/water_issues/programs/basin_plan/)

- c. Municipal and Domestic Supply (MUN) – Includes uses of water for community, military, or individual water supply systems including, but not limited to, drinking water supply.
  - d. Industrial Process Supply (PROC) – Includes uses of water for industrial activities that depend primarily on water quality.
  - e. Water Contact Recreation (REC-1) – Includes uses of water for recreational activities involving body contact with water, where ingestion of water is reasonably possible. These uses include, but are not limited to, swimming, wading, water-skiing, skin and SCUBA diving, surfing, white water activities, fishing, or use of natural hot springs.
  - f. Non-Contact Water Recreation (REC-2) – Includes the uses of water for recreational activities involving proximity to water, but not normally involving body contact with water, where ingestion of water is reasonably possible. These uses include, but are not limited to, picnicking, sunbathing, hiking, beachcombing, camping, boating, tidepool and marine life study, hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities.
  - g. Warm Freshwater Habitat (WARM) – Includes uses of water that support warm water ecosystems including, but not limited to, preservation or enhancement of aquatic habitats, vegetation, fish or wildlife, including invertebrates.
  - h. Wildlife Habitat (WILD) – Includes uses of water that support terrestrial ecosystems including, but not limited to, preservation and enhancement of terrestrial habitats, vegetation, wildlife (e.g., mammals, birds, reptiles, amphibians, invertebrates), or wildlife water and food sources.
8. The Basin Plan designates the MUN, AGR, IND, and PROC beneficial uses for the Santa Maria Valley Groundwater Basin.
  9. Chapter 4 of the Basin Plan includes several [discharge prohibitions](#)<sup>2</sup> designed to protect waters of the U.S. and waters of the state from discharges of waste that can cause degradation and impairment.
  10. The San Dieguito HU surface waters are listed on the [2020-2022 California Integrated Report](#)<sup>3</sup> as impaired for indicator bacteria. Additionally, in 2018 the Rancho Santa Teresa Municipal Water Company reported nitrate levels of 10.3

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<sup>2</sup> The Basin Plan waste discharge prohibitions are available at:  
[https://www.waterboards.ca.gov/sandiego/water\\_issues/programs/basin\\_plan/docs/chapter\\_4.pdf](https://www.waterboards.ca.gov/sandiego/water_issues/programs/basin_plan/docs/chapter_4.pdf)

<sup>3</sup> A copy of the 2020-2022 California Integrated Report is available at:  
[https://www.waterboards.ca.gov/water\\_issues/programs/water\\_quality\\_assessment/2020\\_2022\\_integrated\\_report.html](https://www.waterboards.ca.gov/water_issues/programs/water_quality_assessment/2020_2022_integrated_report.html)

milligrams per liter (mg/L) in one of its wells, which is above the maximum contaminant level (MCL) of 10 mg/L.

### NON-COMPLIANCE AT THE FACILITY

11. San Diego Water Board staff inspected the Facility on January 22, 2020, in response to a neighbor's complaint that groundwater in the vicinity of the Facility had high nitrate concentrations and a notification from the County of San Diego Department of Environmental Health and Quality (DEHQ) that a leach field at the Facility had failed multiple times. Staff learned that the wastewater produced from the egg wash process contains industrial strength concentrations of total suspended solids (TSS; 5,200 mg/L), biological oxygen demand (BOD; 12,200 mg/L), and total Kjeldahl nitrogen (TKN; 431 mg/L), based on laboratory analysis of the Discharger's water samples collected on April 3, 2019. Staff learned that the Discharger directs the egg wash process wastewater to an on-site wastewater treatment system (OWTS).
12. San Diego Water Board staff learned the Discharger's OWTS was installed around 1960 and designed to treat domestic wastewater. The OWTS included a septic tank and a leach field. The Discharger reported to the San Diego Water Board that the leach field failed several times, resulting in untreated or partially treated wastewater ponding at the surface despite replacement and/or repairs to the leach field in 1988, 1993, and 2009. The Discharger concluded that the industrial strength levels of BOD and TSS associated with the egg wash process wastewater likely caused the leach field failures.
13. San Diego Water Board staff determined that the egg wash process wastewater discharge could affect the quality of the waters of the state, and that waste discharge requirements (WDRs) are required for the Facility pursuant to California Water Code (Water Code) section 13260(a). Staff informed the Discharger by letter dated March 2, 2020, of the requirement to submit a report of waste discharge (ROWD) as a first step to obtain WDRs issued by the San Diego Water Board.
14. San Diego Water Board staff notified the Discharger in the March 2, 2020 letter that the Facility qualifies as a large confined animal feeding operation (CAFO)<sup>4</sup> subject to permitting by the National Pollutant Discharge Elimination System (NPDES) program for discharges of stormwater that may impact downstream surface waters.<sup>5</sup> Staff explained that the Discharger must submit a notice of intent (NOI) for enrollment in Order No. 2014-0057-DWQ, *National Pollutant Discharge*

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<sup>4</sup> Code of Federal Regulations (CFR) title 40 section 122.23(b)(4)(xi) defines a large CAFO as having at least 82,000 laying hens, if the animal feeding operation uses anything other than a liquid manure handling system.

<sup>5</sup> CFR title 40 section 122.23(e) states "The discharge of manure, litter or process wastewater to waters of the United States from a CAFO as a result of the application of that manure, litter or process wastewater by the CAFO to land areas under its control is a discharge from that CAFO subject to NPDES permit requirements..."

*Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Industrial Activities (IGP)*<sup>6</sup> and a nutrient management plan (NMP), to fulfill the NPDES program requirements for stormwater discharges from the Facility to surface waters. The San Diego Water Board must post the Discharger's NMP publicly for a minimum of 30 days and accept public comments on the NMP. The Discharger's NMP must include nine categories of best management practices (BMPs) related to nutrient management, as applicable, pursuant to Code of Federal Regulations [\(CFR\) title 40 section 122.42\(e\)\(1\)](#).<sup>7</sup> The nine BMP categories include: manure and wastewater handling and storage, proper management of mortalities, diversion of clean water from production areas, chemical and waste storage and handling, stormwater runoff control, testing protocols for waste, prevention of contact between animals and waters of the U.S., protocols for land application of waste, and record keeping.

15. CAFO discharges resulting from animal activities and wastes are subject to WDRs pursuant to Water Code section 13260(a) to protect groundwater quality because CAFO discharges contain pollutants that can percolate to groundwater. The NMP required to fulfill NPDES CAFO stormwater requirements must also address CAFO discharges to land that may affect groundwater.
16. The Discharger installed an OWTS to collect the egg wash process wastewater in January 2021. The new OWTS, which replaced the failed septic tank and leach field design, includes a larger septic tank and an above ground surge tank. The surge tank is designed to temporarily contain and treat wastewater overflows as a temporary means for storage and treatment until the San Diego Water Board adopts WDRs for the Facility. The OWTS does not include an installed or permitted leach field. Wastewater from the new septic tank discharges to an unlined pond in a natural depression on the Facility property, which has the potential to overflow into a downstream stormwater detention basin.
17. Despite meetings and phone calls between San Diego Water Board staff and the Discharger to clarify the regulatory requirements for waste discharges to land and surface waters in 2020 and 2021, the Discharger failed to submit a ROWD or NOI for discharges from the Facility. The San Diego Water Board directed the Discharger by letter dated February 8, 2022, to submit a ROWD for its wastewater discharges to land, and an NOI for its stormwater discharges by March 25, 2022, pursuant to Water Code sections 13260 and 13376. The February 8, 2022 letter explained that failure to comply with the due date subjected the Discharger to monetary penalties of up to \$1,000 per day pursuant to Water Code section 13261 and up to \$10,000 per day pursuant to Water Code section 13385. The February 8, 2022 letter instructed the Discharger to enroll in the IGP and include elements

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<sup>6</sup> A copy of the IGP is available at:

[https://www.waterboards.ca.gov/water\\_issues/programs/stormwater/docs/industrial/2014indgenpermit/wqo2014\\_0057\\_dwq\\_revmar2015.pdf](https://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/industrial/2014indgenpermit/wqo2014_0057_dwq_revmar2015.pdf).

<sup>7</sup> A copy of CFR title 40 section 122.42 is available at: <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-D/part-122/subpart-C/section-122.42>.

related to nutrient management in its stormwater pollution prevention plan (SWPPP) to satisfy CAFO stormwater requirements.

18. The Discharger submitted an NOI on March 11, 2022, effectively enrolling the Facility's CAFO in the IGP.<sup>8</sup> However, the Discharger's NOI submission lacked an NMP, as instructed in the February 8, 2022 letter. The Discharger submitted a ROWD on June 16, 2022, for its egg wash process wastewater discharge, 84 days after the March 25, 2022 due date. San Diego Water Board staff reviewed the ROWD and deemed the document incomplete due to missing information requested by the San Diego Water Board.
19. San Diego Water Board staff met with representatives of the Rancho Santa Teresa Estates, a residential community located about 0.75 mile west of the Facility, and the County of San Diego Planning and Development Services Department (PDS) and the Solid Waste Local Enforcement Agency (LEA; a division of DEHQ) on August 11, 2022, in response to community complaints regarding odor from the Facility. Staff learned during the meeting that the Discharger is composting chicken manure and carcasses at the Facility. Composting activities are subject to San Diego Water Board oversight and require regulatory coverage by either enrollment in Order WQ 2020-0012-DWQ, *General Waste Discharge Requirements for Commercial Composting Operations*, ([Composting General Order](#))<sup>9</sup>, issuance of individual WDRs, or by obtaining a waiver of WDRs as allowed under Water Code section 13269.
20. The LEA investigated several neighbor complaints regarding odors and flies from the composting operation at the Facility. The LEA issued three Notices of Violations (NOVs) and conducted 14 inspections between July 24, 2019, and December 13, 2022. The LEA found the Discharger had violated California Code of Regulations (CCR) title 14 section 17820 (Agricultural Solid Waste as a Public Health/Well-being Hazard) and section 17823.5 (Agricultural Waste Management Practices), and the Discharger's site-specific Composting Plan, which the LEA approved in 2019.
21. The San Diego Water Board issued NOV No. R9-2022-0118 to the Discharger on October 6, 2022, for failure to comply with Basin Plan discharge prohibition No. 10 and Water Code section 13260(a)(1). Basin Plan discharge prohibition No. 10 states that, "a person is prohibited from discharging industrial wastes to conventional septic tank/subsurface disposal systems, except as authorized by the terms described in Water Code section 13264." Water Code section 13260(a)(1) states that, "a person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the state, other than into a

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<sup>8</sup> The State Water Resources Control Board assigned Waste Discharge Identification (WDID) number 9 371029664 to the Facility.

<sup>9</sup> A copy of the Composting General Order is available at: [https://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2020/wqo2020\\_0012\\_dwq.pdf](https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2020/wqo2020_0012_dwq.pdf)

community sewer system, shall file with the appropriate regional board a report of the discharge, containing the information that may be required by the regional board.” NOV No. R9-2022-0118 cited San Diego Water Board staffs’ observation that the Discharger is discharging industrial strength egg wash wastewater to a conventional OWTS and described in detail the inadequacies of the Discharger’s ROWD. Staff identified that the ROWD failed to fully characterize the waste discharge from the Discharger’s egg wash operation and failed to include any information describing the Discharger’s composting operation. San Diego Water Board staff emailed the Discharger on November 23, 2022, requesting additional information about the composting operation.

22. The Discharger submitted a revised ROWD on December 30, 2022. San Diego Water Board staff reviewed the revised ROWD and found the Discharger failed to: (1) include basic information regarding the Discharger’s management of the Facility, including waste discharges, (2) quantify the pollutant load reduction expected from the proposed treatment system; and (3) include an antidegradation analysis, California Environmental Quality Act (CEQA) documentation, or information about the Facility’s composting operation, which staff identified as inadequacies in NOV No. R9-2022-0118.
23. San Diego Water Board staff met with the Good Neighbor Committee (Committee) on December 7, 2022. Concerned neighbors from the Rancho Santa Teresa Estates and adjoining communities convened the Committee to coordinate efforts to communicate concerns over the Facility’s impacts to the environment, including odors and impacts to surface waters and the groundwater aquifer. In addition to San Diego Water Board staff, the December 7, 2022 meeting included representatives from the California Department of Resources Recycling and Recovery (CalRecycle), the County of San Diego Vector Control Program, PDS, LEA, and the San Diego County Air Pollution Control District. Members of the Committee reported visual observations of chicken bones and feathers, and observed foul smells in the neighborhood, including around Santa Teresa Valley Creek. The Committee also stated that these observations had been ongoing for several years.
24. San Diego Water Board staff met with the Committee on January 9, 2023, to explain the Water Board’s permitting requirements and enforcement process.
25. San Diego Water Board staff inspected Santa Teresa Valley Creek on January 17 and 18, 2023, at the Oakana Road crossing, about 0.75 miles downstream of the Facility. Staff observed excessive foaming, discoloration, and foul odors in and around Santa Teresa Valley Creek on both days.
26. San Diego Water Board staff inspected the Facility on February 10, 2023. Staff observed egg wash process wastewater in an unlined depression on the property. Staff observed that the Discharger allowed wastewater from this depression to discharge to one of two unlined stormwater detention basins, where it comingles with stormwater from a cattle grazing area. This unlined stormwater detention basin (northern basin) discharges to Santa Teresa Valley Creek.

27. San Diego Water Board staff inspected the Discharger's composting operation at the Facility on February 10, 2023. The Discharger's feedstocks for the composting operation include chicken manure, ground chicken carcasses, processed green waste, and steer manure. The Discharger's compost windrows are located on decomposed granite within a natural surface water drainage area. Staff did not observe BMPs within or around the composting operation to either prevent stormwater run-on from contacting the windrows or polluted runoff from leaving the area. Staff observed dark-colored ponded water within the composting operation area and dark-colored runoff from the composting operation area flowing towards the southern unlined stormwater detention basin, which drains to Santa Teresa Valley Creek. Staff learned that the Discharger routinely spreads all compost generated on the Facility pastures. Staff observed chicken bones and feathers throughout the Facilities pastures, and experienced foul odors from pastures where the compost is applied.
28. Alex Demler, Facility and Pullet Farm manager, informed San Diego Water Board staff that the southern unlined stormwater detention basin located downstream of the composting operation area has a manual release valve that is usually closed. Alex Demler stated that the valve was open during the January 14 – 16, 2023, storm events, which allowed wastewater from the composting operation to discharge to Santa Teresa Valley Creek. Alex Demler admitted fault for the release of wastewater to Santa Teresa Valley Creek.
29. San Diego Water Board staff inspected Santa Teresa Valley Creek at the Oakana Road crossing on February 10, 2023. Staff observed the creek to be foul smelling, and the water within the creek to be opaque, brownish-red color, and frothy.
30. San Diego Water Board staff collected water quality samples from Santa Teresa Valley Creek at the Oakana Road crossing on March 6, 2023. Laboratory analysis of the samples detected the analyte concentrations reported in Table 2 below.

**Table 2. Water Quality Results at Santa Teresa Valley Creek, March 6, 2023**

<b>Analyte</b>	<b>Result</b>	<b>Basin Plan Surface Water Quality Objective</b>
Nitrate/Nitrite as N	3.4 mg/L	Not Applicable
Total Dissolved Solids	480 mg/L	500 mg/L
Total Suspended Solids	100 mg/L	Narrative <sup>a</sup>
Ammonium as NH <sub>4</sub>	13 mg/L	Not Applicable
Ammonia-Nitrogen	10 mg/L	0.025 mg/L
Total Phosphorus	3.1 mg/L	0.1 mg/L
Kjeldahl Nitrogen	13 mg/L	Not Applicable
Total Nitrogen	16 mg/L	1 mg/L



Analyte	Result	Basin Plan Surface Water Quality Objective
Total Coliforms	> 2419 MPN/100 mL	Not Applicable
E. Coli	> 2419 MPN/100 mL	100 CFU/100 mL <sup>b</sup>
Avian Helicobacter marker	1,354 copies/100 mL	Not Applicable <sup>c</sup>
Salmonella	Not Detected	Not Applicable

Notes: a. Surface waters shall not contain suspended and settleable solids in concentrations of solids that cause nuisance or adversely affect beneficial uses.

b. For purposes of reporting, most probable number (MPN) and colony forming units (CFU) are interchangeable methods of quantification.

c. Presence of the avian Heliobacter marker indicates presence of avian fecal matter.

31. The San Diego Water Board issued NOV No. R9-2023-0054 to the Discharger on May 22, 2023, for: (1) failure to prevent conditions of nuisance in violation of Basin Plan discharge prohibition No. 1 and Water Code section 13050(m); (2) failure to implement BMPs and prevent the discharge of waste to land and waters of the state in violation of Basin Plan discharge prohibition Nos. 1 and 2, and IGP section X.H.1; (3) failure to describe all storage areas and dust generating activities in the SWPPP in violation of IGP section X.G.1; (4) failure to submit sampling and analytical results and an NMP in violation of IGP section XI.B.11.a and 40 CFR section 122.21(i)(1)(x); and (5) failure to obtain WDRs for discharges of wastes related to composting and egg wash activities in violation of Water Code section 13260(a). The NOV cited San Diego Water Board staff observations during inspections in January and February 2023 as evidence of the violations.
32. IGP section V.A requires dischargers to implement BMPs that comply with the Best Available Technology Economically Achievable (BAT) and Best Conventional Pollutant Control Technology (BCT) standard to reduce or prevent pollutants in stormwater discharges in a manner that reflects best industry practice considering technological availability and economic practicability and achievability. The San Diego Water Board finds that BMPs at the Facility are not in compliance with the BAT/BCT standard.
33. The San Diego Water Board finds that the Discharger's waste-generating activities at the Facility, and failure to comply with CFR title 40, the Water Code, Basin Plan discharge prohibitions, and the IGP, pose a significant and ongoing threat to Santa Teresa Valley Creek and the Santa Maria Groundwater Basin.

### **NON-COMPLIANCE AT THE PULLET FARM**

34. San Diego Water Board staff inspected the Pullet Farm on February 10, 2023, to assess the applicability of the IGP for the Pullet Farms' stormwater discharges and WDRs for the composting operations.

35. The Pullet Farm houses approximately 400,000 pullets.<sup>10</sup> The Discharger estimates the pullet mortality rate at 500 pullets per week. The Discharger manages mortality waste through onsite composting operations. The Discharger notified San Diego Water Board staff on September 1, 2023, that mortality waste will be exported to, and composted at, the Facility until the Discharger can purchase and install an incinerator at the Pullet Farm
36. San Diego Water Board staff observed that the Discharger's composting operation is located in an unlined area near the Pullet Farm north property boundary and approximately 50 feet of Hatfield Creek. Staff observed a single incorrectly installed straw wattle along the composting operation area perimeter but did not observe any other BMPs. Staff observed dark-colored wastewater flowing from the composting operation area, beneath the straw wattle, towards Hatfield Creek. Staff observed feathers and pullet remains within the composting operation area and in the pasture outside of the composting operation area, including a slope angled towards Hatfield Creek. Staff observed a strong, foul odor around the composting operation area and scavenging birds flying overhead.
37. San Diego Water Board staff observed spilled manure in multiple areas on the ground around the manure loading areas and outside the Pullet Farm fence line. Staff observed an unlined depression on the property that receives runoff from the pullet houses. Stormwater flows from the pullet houses to the unlined depression where it ponds and either evaporates or percolates into the ground. The Pullet Farm has three onsite wells approximately 1,000-feet deep that are regularly used for operational needs. Alex Demler stated that one shallow well is high in nitrate concentrations.
38. San Diego Water Board staff determined that waste generated at the Pullet Farm could affect the quality of the waters of the state. Staff notified Alex Demler during the inspection that the unauthorized discharges of wastes at the Pullet Farm requires enrollment under the IGP to comply with federal CAFO regulations<sup>11</sup> and the issuance of WDRs for discharges associated with the CAFO and composting operation. Staff explained that an NOI and related documents for its stormwater discharges, and a ROWD for its CAFO and composting operation, must be submitted to the San Diego Water Board immediately.
39. The San Diego Water Board issued NOV No. R9-2023-0087 on May 22, 2023 to the Discharger for: (1) failure to prevent conditions of nuisance in violation of Water Code section 13050(m); (2) failure to implement BMPs and prevent the discharge of waste to land in violation of Basin Plan discharge prohibition Nos. 1 and 2; and (3) failure to obtain WDRs for composting activities and failure to obtain enrollment under the IGP for the CAFO in violation of Water Code section 13260(a) and CFR

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<sup>10</sup> Based on personal communications between San Diego Water Board staff and Alex Demler during the February 10, 2023, inspection.

<sup>11</sup> 40 CFR section 122.23(b)(4)(x) defines a large CAFO as having at least 125,000 chickens, if the animal feeding operation uses anything other than a liquid manure handling system.

title 40 section 122. The NOV cited San Diego Water Board staff observations during the February 10, 2023, inspection as evidence of the violations.

40. The San Diego Water Board finds that discharges of manure and pullet carcasses from the Pullet Farm pose an ongoing threat to water quality in Hatfield Creek and the Santa Maria Groundwater Basin. The Pullet Farm continues to implement inadequate BMPs to prevent or minimize unauthorized discharges of waste, in violation of CFR title 40, the Water Code, and Basin Plan discharge prohibitions.

### **CEASE AND DESIST ORDER AUTHORITY**

41. Water Code section 13301 authorizes the San Diego Water Board to issue a cease and desist order (CDO) when it finds that a waste discharge is taking place, or threatening to take place, in violation of requirements or discharge prohibitions prescribed by the San Diego Water Board or the State Water Resources Control Board. The San Diego Water Board may, in a CDO, direct those persons not complying with the requirements or discharge prohibitions to a) comply forthwith, b) comply in accordance with a time schedule set by the Board, or c) in the event of a threatened violation, take appropriate remedial or preventive action.
42. The San Diego Water Board is pursuing this CDO based on the 2023 inspections, which revealed ongoing incomplete enrollment under the identified regulatory programs and waste discharges from CAFO activities and composting that resulted in San Diego Water Board staff issuing NOVs to the Discharger. In response to this CDO, the Discharger must immediately seek regulatory coverage for all waste discharges and infrastructure improvements must be made to avoid additional unauthorized discharges of waste. The San Diego Water Board is currently not seeking penalties, however, this CDO provides an enforceable document for all activities and violations noted in NOV Nos. R9-2023-0054 and R9-2023-0087 issued on May 22, 2023.
43. This CDO directs the Discharger to: (1) immediately cease unauthorized discharges by providing off site waste disposal and improved BMPs for temporary on-site waste storage and (2) take immediate action to comply with the San Diego Water Board's enrollment requirements, as described in the directives of this CDO. This CDO establishes a time schedule for the Discharger to obtain regulatory coverage for onsite storage and treatment of all waste discharges, and implementation of the necessary treatment controls and practices to minimize or prevent waste discharges to waters of the state and U.S.
44. The time schedules provided in Tables 3 and 4 are as short as possible, considering the previous directives and notices regarding ongoing violations, and based on reasonably expected times needed to select contractors, and to design, install, and implement new or modified control measures. The San Diego Water Board may modify the tasks and time schedule for completing the tasks based upon new information.

**BASIS, NEED, AND BENEFIT FOR REQUIRING TECHNICAL AND MONITORING REPORTS**

45. Water Code section 13267(b)(1) provides 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 reports 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.”

46. This CDO requires the Discharger to submit quarterly reports pursuant to Water Code section 13267. The burden, including costs, of these reports bears a reasonable relationship to the need for the reports and the benefits to be obtained. The San Diego Water Board estimates that the burden and cost of compliance with each quarterly report will be about \$5,000. This estimate assumes a licensed professional engineer would charge \$200 per hour, and that about 20 hours are required for each report. The information generated from the quarterly reports is essential for San Diego Water Board staff to evaluate the Discharger’s progress with obtaining compliance with the requirements of this CDO, including obtaining regulatory coverage. Therefore, the burden of preparing the reports bears a reasonable relationship to the need for the reports and the benefit to be obtained from the reports.

**CALIFORNIA ENVIRONMENTAL QUALITY ACT COMPLIANCE**

47. As an enforcement action, including the requirement to obtain regulatory coverage, this CDO is exempt from the provisions of CEQA<sup>12</sup> in accordance with CCR title 14 section 15321. This exemption does not apply to any improvements needed at the Facility or the Pullet Farm to comply with the directives of this CDO.
48. The San Diego Water Board notified the Discharger and interested persons of its intent to consider adoption of this CDO and provided an opportunity to appear and provide comments in writing and/or at a public hearing. All documents relied upon are described in Attachment C.

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<sup>12</sup> Public Resources Code section 21000 et seq.

49. The San Diego Water Board, at a public hearing, heard and considered all comments on this matter.

**IT IS HEREBY ORDERED**, in accordance with Water Code sections 13300, 13301 and 13267, that the Discharger must immediately cease and desist from discharging and threatening to discharge wastes in violation of CFR title 40, Water Code, IGP, and Basin Plan discharge prohibitions, and comply with the following directives:

**A. Facility Waste Management and Disposal.**

1. Egg Wash Process Wastewater. The Discharger must direct all egg wash process wastewater generated at the Facility to temporary on-site liquid storage containers and dispose of the egg wash process wastewater at a fully permitted wastewater treatment facility, until:
  - a. The Discharger submits a complete ROWD to the San Diego Water Board,
  - b. The San Diego Water Board adopts site-specific WDRs for the discharge of egg wash process wastewater to land, and
  - c. The Discharger installs and maintains an OWTS that complies with the site-specific WDRs, adopted by the San Diego Water Board, for the Facility.
2. Egg Process Solid and Semi-Solid Wastes and Animal Waste Compost. The Discharger must direct all egg process solid and semi-solid waste, chicken carcasses, and chicken manure to lined and covered temporary storage containers, and dispose of the solid and semi-solid waste at a fully permitted waste disposal facility,<sup>13</sup> until:
  - a. The Discharger submits a complete ROWD to the San Diego Water Board,
  - b. The San Diego Water Board adopts site-specific WDRs for the discharge of egg process solid and semi-solid wastes and animal wastes to land, and
  - c. The Discharger constructs and maintains a composting operation that complies with the site-specific WDRs adopted by the San Diego Water Board for the Facility.

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<sup>13</sup> Under CCR title 14 section 17823.1, an operation cannot store solid waste onsite for more than seven days, in order to prevent the propagation or attraction of flies, rodents or other vectors (unless an alternate frequency is approved by the local enforcement agency).

3. Stormwater Management. The Discharger must prohibit the discharge of stormwater from the Facility unless:
  - a. The Discharger conducts stormwater sampling at the Facility discharge point(s), at the minimum frequency described in section XI.B of the IGP,
  - b. The Discharger analyzes the collected stormwater samples for pH, oil and grease, total dissolved solids, total suspended solids, E. coli, enterococcus, total coliforms, nitrate, nitrite, total nitrogen, and total phosphorus,
  - c. The Discharger implements BMPs to meet the BAT/BCT standard for stormwater discharges at the Facility, and
  - d. The Discharger installs and maintains Facility upgrades to ensure stormwater discharges comply with the Water Code, Basin Plan, and IGP.
4. Confined Animal Feeding Operations. The Discharger must submit a complete NMP to the San Diego Water Board on or before May 31, 2024.

**B. Pullet Farm Waste Management and Disposal.**

1. Animal Waste Compost. The Discharger must direct all pullet carcasses and manure to lined and covered temporary storage containers; and dispose of the animal wastes at a fully permitted waste disposal facility, until:
  - a. The Discharger submits a complete ROWD to the San Diego Water Board, and
  - b. The San Diego Water Board adopts site-specific WDRs for the discharge of animal wastes to land or determines that WDRs are not needed, and
  - c. The Discharger constructs and maintains a waste management system that complies with the site specific WDRs, if adopted by the San Diego Water Board for the Pullet Farm.
2. Stormwater Management. The Discharger must prohibit the discharge of stormwater from the Pullet Farm unless:
  - a. The Discharger submits a complete NOI, including a stormwater pollution prevention plan (SWPPP) to the State Water Resources Control Board,
  - b. The Discharger conducts stormwater sampling at the Facility discharge point(s), at the minimum frequency described in section XI.B of the IGP,
  - c. The Discharger analyzes the collected stormwater samples for pH, oil and grease, total dissolved solids, total suspended solids, E. coli,

enterococcus, total coliforms, nitrate, nitrite, total nitrogen, and total phosphorus,

- c. The Discharger implements BMPs to meet the BAT/BCT standard for stormwater discharges at the Pullet Farm, and
  - d. The Discharger installs and maintains Pullet Farm upgrades to ensure stormwater discharges comply with the Water Code, Basin Plan, and IGP.
2. Confined Animal Feeding Operations. The Discharger must submit a complete NMP to the San Diego Water Board on or before May 31, 2024.
- C. **Facility and Pullet Farm Implementation Schedule**. The Discharger must submit to the San Diego Water Board detailed individual implementation schedules for the Facility and Pullet Farm within 60-days from the adoption of this CDO. The Discharger's implementation schedule must describe all activities and dates associated with improvement projects at the Facility and Pullet Farm, proposed to ensure compliance with 40 CFR title 40, the Water Code, Basin Plan, IGP, and site-specific WDRs.
- D. **Compliance Progress Reports**. The Discharger must submit to the San Diego Water Board quarterly compliance progress reports detailing progress with complying with the tasks identified in Tables 3 and 4. Reports are due at 5:00 pm on the last day of the months of March, June, September, and December beginning upon San Diego Water Board adoption of this CDO. If the due date falls on a weekend or holiday, the progress report is due the following business day. Reports must be submitted in electronic format and emailed to: [sandiego@waterboards.ca.gov](mailto:sandiego@waterboards.ca.gov) with **CARias: PIN CW-864333** included in the subject line. The first quarterly report is due on January 2, 2024. The Discharger must ensure the quarterly reports include, at a minimum:
1. A detailed discussion of the Discharger's progress to comply with the directives of this CDO.
  2. Photographs documenting the Discharger's progress towards satisfying the directives of this CDO.
  3. Updated individual implementation schedules for the Facility and Pullet Farm, as applicable.
  4. The results of stormwater sampling at Facility and Pullet Farm discharge point(s) at the minimum frequency described in section XI.B of the IGP. Samples shall be analyzed for pH, oil and grease, total suspended solids, E. coli, enterococcus, nitrate, nitrite, total nitrogen, and total phosphorus.
  5. A description of unauthorized discharges, if any, including cause(s) and corrective action(s) taken.

- E. **Facility and Pullet Farm Corrective Action Time Schedule.** The Discharger must comply with the time schedules prescribed in Tables 3 and 4, no later than the due dates indicated.

**Table 3. Facility Time Schedule for Corrective Actions.**

<b>Directive</b>	<b>Description</b>	<b>Due Date</b>	<b>Regulatory Authority/Program</b>
<b>A.3.c</b>	Implement best management practices (BMPs) to meet Best Available Technology Economically Achievable (BAT)/Best Conventional Pollutant Control Technology (BCT) standard for discharges of stormwater from the Facility.	Immediately <sup>a</sup>	Industrial General Stormwater Program (IGP), Order No. 2014-0057-DWQ
<b>A.4</b>	Submit a nutrient management plan (NMP) that contains, at a minimum, BMPs that satisfy the criteria specified in 40 CFR section 122.42(e)(1).	On or before May 31, 2024.	Water Code section 13267
<b>A.1.a and A.2.a</b>	Submit complete report of waste discharge (ROWD) for all waste discharges.	On or before May 31, 2024.	Water Code section 13260
<b>C</b>	Submit a schedule describing planned Facility improvement projects, to ensure all waste discharges comply with CFR title 40, Water Code, Basin Plan, IGP, and site-specific WDRs.	60 days from adoption of this CDO.	Water Code section 13267 and 13300
<b>A.3.d</b>	Install/implement Facility upgrades to ensure waste discharges comply with CFR title 40, the Water Code, Basin Plan, and IGP, and site-specific WDRs.	Implement according to schedule proposed in line item above (Directive C).	Water Code section 13301



<b>Directive</b>	<b>Description</b>	<b>Due Date</b>	<b>Regulatory Authority/Program</b>
<b>A.3.a and A.3.b</b>	Conduct stormwater sampling at Facility discharge point(s) at the minimum frequency described in section XI.B of the IGP. Samples shall be analyzed for pH, oil and grease, total suspended solids, E. coli, enterococcus, nitrate, nitrite, total nitrogen, and total phosphorus.	Sample in accordance with requirements of IGP section XI.B, include results in quarterly progress reports described in Directive D.	Water Code section 13267 and IGP

**Table 4. Pullet Farm Time Schedule for Corrective Actions.**

<b>Directive</b>	<b>Description</b>	<b>Due Date</b>	<b>Regulatory Authority/Program</b>
<b>B.2.c</b>	Implement BMPs to prevent unauthorized discharges in accordance with Basin Plan prohibitions.	Immediately upon adoption of this Order. <sup>b</sup>	Basin Plan Waste Discharge Prohibitions
<b>B.2.a</b>	Submit NOI, including a SWPPP.	30 days from adoption of this Order.	Water Code sections 13267, 13376, and IGP
<b>B.3</b>	Submit an NMP that contains, at a minimum, BMPs that satisfy the criteria specified in 40 CFR section 122.42(e)(1).	On or before May 31, 2024.	Water Code section 13267
<b>B.1.a</b>	Submit complete ROWDs for all waste discharges to land.	On or before May 31, 2024.	Water Code section 13260

Directive	Description	Due Date	Regulatory Authority/Program
<b>C</b>	Submit a schedule describing planned Pullet Farm improvement projects, to ensure all waste discharges comply with CFR title 40, Water Code, Basin Plan, IGP, and site-specific WDRs.	60 days from adoption of this CDO.	Water Code section 13267 and 13300
<b>B.2.d</b>	Install/implement Pullet Farm upgrades to ensure waste discharges comply with CFR title 40, the Water Code, Basin Plan, and IGP, and site-specific WDRs.	Implement according to schedule proposed in line item above (Directive C).	Water Code section 13301
<b>B.2.b and B.2.c</b>	Conduct stormwater sampling at Pullet Farm discharge point(s) at the minimum frequency described in section XI.B of the IGP. Samples shall be analyzed for pH, oil and grease, total suspended solids, E. coli, enterococcus, nitrate, nitrite, total nitrogen, and total phosphorus.	Upon adoption of this CDO, sample in accordance with requirements of IGP section XI.B, include results in quarterly progress reports described in Directive D.	Water Code section 13267

Notes: a. These items are past due and subject to administrative civil liability.  
b. San Diego Water Board staff communicated the urgent need to implement BMPs at the Pullet Farm pending IGP enrollment during the February 10, 2023 inspection. BMPs are required immediately to avoid an unauthorized discharge.

**F. Signatory Requirements and Penalty of Perjury Statement.** A principal executive, ranking official, or a duly authorized representative of the Discharger must sign all documents submitted to the San Diego Water Board. Any person signing a document submitted under this CDO must make the following certification:

“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 knowledge and 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.”

- G. **Qualified Professionals.** The Discharger’s reliance on qualified professionals promotes proper planning, implementation, and long-term cost-effectiveness of regulatory compliance. Professionals must be qualified, licensed where applicable, and competent and proficient in fields relevant to the required activities. California Business and Professions Code sections 6735, 7835, and 7835.1 require the engineering and geologic evaluations and judgments be performed by or under the direction of licensed professionals.

All technical reports specified herein that contain workplans for investigations and studies, which describe the conduct of investigations and studies, or that contain technical conclusions and recommendations concerning engineering and geology must be prepared by or under the direction of appropriately qualified professional(s), even if not explicitly stated. Each schedule, plan, quarterly or other technical report submitted by the Discharger must bear the professional’s signature and stamp.

- H. **Consequences of Non-Compliance.** If the Discharger fails to comply with the provisions of this CDO, the San Diego Water Board Executive Officer is authorized to take enforcement action or to request the Attorney General to take appropriate actions against the Discharger in accordance with Water Code sections 13268, 13308, 13331, 13350, and 13385. These actions may include injunctive and civil remedies, if appropriate, or the development of an administrative civil liability for the San Diego Water Board’s consideration.
- I. **San Diego Water Board Authority.** The issuance of this CDO in no way limits the authority of the San Diego Water Board to take additional enforcement actions or to require additional investigations consistent with the Water Code and all other applicable laws and regulations. This includes enforcement for past unauthorized discharges of waste to waters of the state and/or U.S. This CDO does not prescribe interim effluent limits; the Discharger must, at all times, meet the requirements of the IGP, Water Code, and Basin Plan discharge prohibitions. This CDO may be revised as additional information becomes available.
- J. **Compliance with Other Regulatory Requirements.** Nothing in this CDO excuses the Discharger from meeting any additional regulatory requirement that may be imposed by other local, state, or federal regulatory entities for corrective actions taken by the Dischargers to comply with this CDO.
- K. **Effective Date.** In accordance with Water Code section 13303, this CDO shall become effective and final upon issuance of this CDO by the San Diego Water Board.

- L. **Completion Date.** Upon obtaining regulatory coverage for all waste discharges to land and surface waters, and the San Diego Water Board has deemed the items in Tables 3 and 4 to be complete, the San Diego Water Board will issue a letter to the Discharger stating that no further actions are required to satisfy this CDO, and the submittal of quarterly compliance progress reports are no longer required.

*I, David W. Gibson, do hereby certify the foregoing is a full, true, and correct copy of a CDO adopted by the California Regional Water Quality Control Board, San Diego Region on November 8, 2023.*

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David W. Gibson, Executive Officer