

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

ORDER R5-2023-0021

**RESCISSION OF AMENDED WATER CODE 13301 ORDER
R5-2020-0029 FOR**

**JOE SILVA, TONY SILVA, AND JAMES SILVA
SILVA BROTHERS DAIRY #1
SAN JOAQUIN COUNTY**

The California Regional Water Quality Control Board, Central Valley Region, (hereafter referred to as “Central Valley Water Board”) finds that:

1. On 4 June 2020, the Central Valley Water Board adopted Cease and Desist Order (CDO) R5-2020-0029 issued to Joe Silva, Tony Silva, and James Silva (collectively referred to hereafter as Discharger) based on alleged violations of *Reissued Waste Discharge Requirements General Order for Existing Milk Cow Dairies*, Order R5-2013-0122 (Dairy General Order) at the Silva Brothers Dairy #1 (hereafter Dairy).
2. CDO R5-2020-0029 required the Discharger to complete a number of tasks and comply with the Dairy General Order, as summarized below:
 - a. The Discharger was required to comply with all aspects of the WDRs, or subsequent revisions thereto, including the Prohibition against discharges of wastewater to surface waters, the Prohibition against applying solid manure or wastewater to land for any purpose other than nutrient recycling, and the requirement that all process wastewater applied to land application areas infiltrate completely within 72 hours after application. (CDO, Req. 1.)
 - b. The Discharger was required to apply wastewater and solids in conformance with a Nutrient Management Plan (NMP) that incorporated the technical requirements of Dairy General Order, Attachment C, and to submit reports if nonconforming application was deemed necessary. (CDO, Req. 3(a)-(c).)
 - c. The Discharger was required to export at least as many pounds of nitrogen in manure solids as described in its 2019 NMP and to apply solid manure only to those fields to which the NMP stated it would be applied. (CDO, Req. 3(c).)

- d. By 1 July 2020, and each subsequent 1 July during the effective period of the CDO, the Discharger was required to submit an Enhanced Annual Report. (CDO, Req. 3(d).)
- e. By 1 October 2020, the Discharger was required to submit a Mechanical Manure Separator Completion Report, certified by a Project Engineer. (CDO, Req. 4.)
- f. The Discharger was required to implement and update its Waste Management Plan (WMP), which included the following:
 - i. By 1 August 2020, submission of a Pond Cleanout Plan describing how each pond and settling basin would be cleaned to meet the 1 November freeboard levels described in the WMP, how the work would be completed in accordance with the Dairy General Order, and information about how semi-solid manure would be removed, staged, dried, and disposed. (CDO, Req. 5(a).)
 - ii. By 1 October 2020, submission of a Pond Sizing and Freeboard Marker Report, prepared by an appropriate professional, documenting the pond and settling basin dimensions, that freeboard markers have been installed in each pond and settling basin, dead storage loss for each pond and settling basin, monthly target freeboards in order to ensure ponds were sufficiently emptied by 1 November of each year, and to show that a flow meter had been added to the pump at Wastewater Pond #2. (CDO, Req. 5(b).)
 - iii. By 15 November 2020, and each subsequent 15 November during the effective period of the CDO, submission of an Implementation of Operations and Maintenance Plan Report documenting that each wastewater pond was drawn down the level shown in the WMP by 1 November and that excess solid manure was removed from the corrals, that the corrals were re-graded to drain Wastewater Pond #1, and that the southern berms were inspected and reinforced to address rodent holes. (CDO, Req. 5(c).)
 - iv. By 30 September 2021, submission of an Updated Waste Management Plan and associated Operations and Maintenance Plan. The Operations and Maintenance Plan was to specify the minimum freeboard necessary for each storage pond and settling basin (if used for storage) on 1 November and provide information as to how that freeboard will be achieved. The document was required to be prepared by an appropriate professional. (CDO, Req.

5(d.)

- g. The Discharger was required to implement enhanced monitoring and reporting on a monthly basis for the effective duration of the CDO. (CDO, Req. 6.)
3. The Discharger has completed all tasks required by the CDO. On 16 February 2022, an onsite inspection was performed, and operational documents required by the Dairy General Order and CDO were reviewed and found to be in compliance. The corrals located north of Peltier Road were dry, moderately graded, with a normal amount of manure. The corral berm adjacent to Peltier Road was in adequate condition. The Peltier Road ditch adjacent to the corrals was dry at the time of the inspection. The drain from the corrals to Wastewater Storage Lagoon #1 was operational. The Discharger contacted Central Valley Water Board Staff in March of 2022 that they wish to be rescinded from the CDO.
4. The Central Valley Water Board has notified the Discharger and interested agencies and persons of its intent to rescind CDO R5-2020-0029 and has provided them with an opportunity for them to submit their written comments and recommendations prior to the 27 April 2023 Board meeting where this item will be considered.
5. Cease and Desist Orders are issued by the Central Valley Water Board to enforce underlying permit obligations. The issuance and rescission of this Rescission of CDO R5-2020-0122 is therefore exempt from the provisions of the California Environmental Quality Act (Pub. Res. Code, § 21000 et seq.) in accordance with California Code of Regulations, title 14, section 15321(a)(2).
6. The Central Valley Water Board, in a public meeting, heard and considered all comments and evidence pertaining to this matter.

IT IS HEREBY ORDERED that Cease and Desist Order R5-2020-0029 is rescinded.

I, PATRICK PULUPA, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region on 27 April 2023.

PATRICK PULUPA, Executive Officer