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GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

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## Central Valley Regional Water Quality Control Board

2 December 2015

CMC Land Holdings LLC  
c/o George P. Rodarakis, Esq.  
Rodarakis & Sousa  
1301 L Street, Suite 4  
Modesto, CA 95354

### **CLEANUP AND ABATEMENT ORDER NO. R5-2015-0757, CMC LAND HOLDINGS LLC DISCHARGE OF WASTEWATER TO GROUNDWATER, 4702 W LINWOOD AVENUE, TURLOCK, STANISLAUS COUNTY**

Enclosed for your immediate attention is Cleanup and Abatement Order No. R5-2015-0757 (Order) to the owner and operator of the facility located at 4702 W Linwood Avenue in Turlock. This Order requires the immediate provision of interim uninterrupted replacement water supplies to and the testing of domestic wells at residences south of W Linwood Avenue between S Washington Road and the facility located at 4702 W Linwood Avenue. The Order requires reporting of the sampling results to the Central Valley Regional Water Quality Control Board (Central Valley Water Board), ongoing periodic sampling of domestic wells, and the preparation of a plan for providing long-term replacement water for those residences whose domestic wells continue to show impacts from the discharge of wastewater from the lagoon located at 4702 W Linwood Avenue. Also required is public outreach and education to residents living along W Linwood Avenue that may have been impacted by the lagoon discharge. Enclosed is a sample flyer with information on nitrate that the State Water Resources Control Board developed to educate the public. The flyer can be accessed at [http://gispublic.waterboards.ca.gov/webmap/nitrate\\_tool/files/nitrate\\_faq.pdf](http://gispublic.waterboards.ca.gov/webmap/nitrate_tool/files/nitrate_faq.pdf)

I appreciate your cooperation in this matter. If you have any questions, please contact Robert Busby at (916) 464-4666 or [robert.busby@waterboards.ca.gov](mailto:robert.busby@waterboards.ca.gov).

Original signed by  
Robert Busby for

Andrew Altevogt  
Assistant Executive Officer

Enclosures: CAO R5-2015-0757  
"Nitrate in Groundwater: Frequently Asked Questions"

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

**CLEANUP AND ABATEMENT ORDER NO. R5-2015-0757**

**WDID NO. 5B50NC00250**

**REQUIRING CMC LAND HOLDINGS LLC TO CLEAN UP AND ABATE THE EFFECTS  
OF DISCHARGING WASTEWATER TO GROUNDWATERS OF THE TURLOCK AREA,  
EAST VALLEY FLOOR SUBAREA, LOWER SAN JOAQUIN RIVER HYDROLOGIC  
UNIT**

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

**FINDINGS**

1. CMC Land Holdings LLC (“Discharger”) owns and operates the facility located at 4207 W Linwood Avenue, Turlock, in Stanislaus County. The facility is located at Stanislaus County Assessor’s parcel number 044-004-028-000.
2. The facility located at 4207 W Linwood Avenue, Turlock, was placed under the Reissued Waste Discharge Requirements General Order for Existing Milk Cow Dairies, Order No. R5-2013-0122 (Dairy General Order) by letter dated 29 June 2007. The facility is authorized to house a maximum of 536 mature dairy cows. The facility is not currently being used as a dairy but is housing support stock (heifers).
3. The Dairy General Order regulates waste discharges from the CMC Land Holdings LLC facility. This Order, in part requires the following:
  - a. Prohibition A.4 states:

“The collection, treatment, storage, discharge or disposal of wastes at an existing milk cow dairy shall not result in the creation of a condition of pollution or nuisance.”
  - b. General Specification B.1 states:

“The existing milk cow dairy shall have facilities that are designed, constructed, operated, and maintained to retain all facility process wastewater generated during the storage period...”
  - c. General Specification B.5 states:

“If groundwater monitoring demonstrates that discharge(s) from a dairy have caused an exceedance of the groundwater limitations set forth in this Order, the Executive Officer may issue an order to the owner/operator of the monitored dairy to identify and implement management practices that are protective of groundwater quality on a schedule that is as short as practicable.”

d. General Specification B.7 states:

“Manure and process wastewater shall not be applied closer than 100 feet to any down gradient surface waters, open tile line intake structures, sinkholes, agricultural or domestic well heads, or other conduits to surface waters, unless a 35-foot wide vegetated buffer or physical barrier is substituted for the 100-foot setback or alternative conservation practices or field-specific conditions will provide pollutant reductions equivalent or better than the reductions achieved by the 100-foot setback.”

e. Groundwater Limitation F.1 states:

“Discharge of waste at existing milk cow dairies shall not cause the underlying groundwater to exceed water quality objectives, unreasonably affect beneficial uses, or cause a condition of pollution or nuisance.”

4. On 20 November 2015, Water Board staff was notified by the California Office of Emergency Services that a lagoon embankment at the CMC Land Holdings LLC facility at 4207 W Linwood Avenue in Turlock had ruptured, flooding the front yards and driveways of neighboring homes and entering an irrigation canal. Based on the dimensions of the lagoon reported in the Waste Management Plan and the observed change in water level, staff estimates that 3.7 million gallons of wastewater were released. Water Board staff investigated and determined that wastewater released from the lagoon had surrounded at least two domestic wells serving houses located south of W Linwood Avenue, at 4030 W Linwood Avenue and 4406 W Linwood Avenue.
5. On 20 November 2015, Water Board staff collected samples from the two domestic wells located on nearby properties that were surrounded by wastewater from the lagoon. The wells were also sampled by a consultant working for CMC Land Holdings LLC.
6. The results of the two sets of samples indicate concentrations of nitrate-nitrogen in excess of the Maximum Contaminant Level (MCL) and concentrations of total dissolved solids in excess of the recommended, upper, and short term Secondary Maximum Contaminant Level (Secondary MCL). The sample from the well located at 4030 W Linwood Avenue also contained E. coli bacteria.

| Location       | Total dissolved solids (TDS) mg/l | Secondary MCL for TDS | Nitrate – N (mg/l) | MCL for Nitrate- N | E. coli bacteria | MCL for E. coli |
|----------------|-----------------------------------|-----------------------|--------------------|--------------------|------------------|-----------------|
| 4030 W Linwood | 2246                              | 500                   | 21.3               | 10                 | present          | 0               |
| 4406 W Linwood | 2786                              | 500                   | 13                 | 10                 | absent           | 0               |

## RECENT GROUNDWATER MONITORING RESULTS

7. Recent testing of groundwater from domestic wells south of the facility indicate concentrations of nitrate-nitrogen and E.coli in excess of the MCL and of total dissolved solids in excess of the Secondary MCLs. Based on the inundation of the area surrounding these wells with wastewater, there is a reasonable assumption that the wastewater is the cause of these exceedances.
8. The Discharger allowed wastewater containing high concentrations of nitrogen, total dissolved solids, and bacteria to be discharged to waters of the State underlying and adjacent to the CMC Land Holdings LLC facility.
9. California Water Code section 13050(l) defines "pollution" as: *an alteration of the water quality to a degree that unreasonably affects either beneficial uses or facilities that serve these beneficial uses.*

## AFFECTED BENEFICIAL USES

10. Pursuant to Chapter II of the Water Quality Control Plan for the Sacramento and San Joaquin River Basins (Basin Plan), groundwater in the Lower San Joaquin River Subarea underlying the CMC Land Holdings LLC facility and surrounding areas include the following present and potential beneficial uses: domestic and municipal water supply, agricultural water supply, industrial service supply, and industrial process supply. Residences at and adjacent to the facility rely on the groundwater for private domestic drinking supply wells for water supply.
11. The Basin Plan established water quality objectives (WQOs) for the protection of beneficial uses. Ground waters designated as domestic or municipal supply shall not contain concentrations of chemical constituents in excess of the maximum contaminant level (MCL) or secondary maximum contaminant level (Secondary MCL) based upon drinking water standards specified in Title 22 of the California Code of Regulations (Basin Plan III-10.00)

WQOs include the following MCLs established by the California Department of Public Health as a safe level to protect public drinking water supplies:

|                                     |         |
|-------------------------------------|---------|
| Nitrate as N                        | 10 mg/L |
| E. coli and fecal coliform bacteria | 0       |

The following Secondary MCL is established by the California Department of Public Health (Title 22, section 64449 (a)):

| Constituent                   | Recommended | Upper | Short Term |
|-------------------------------|-------------|-------|------------|
| Total Dissolved Solids (mg/L) | 500         | 1000  | 1500       |

12. Wastewater discharged from the CMC Land Holdings LLC lagoon inundated nearby domestic wells and appears to have caused groundwater south of the facility to exceed the MCL drinking water standards for nitrate as N (10 mg/L) and E. coli (0), and the Secondary MCL for total dissolved solids (500 mg/L). The MCLs and Secondary MCLs were established by the California Department of Health Services pursuant to the California Safe Drinking Water Act and are found in title 22 of the California Code of Regulations (CCR), Division 4, Chapter 15, Domestic Water Quality Monitoring.
13. CMC Land Holdings caused or permitted or threatened to cause or permit wastewater from the Discharger's lagoon to be discharged where it is, or probably will be, discharged into waters of the state and creates, or threatens to create, a condition of pollution or nuisance. The discharge of wastewater appears to have caused or contributed to groundwater adjacent the facility exceeding the drinking water standard for nitrate as N (10 mg/L), and has caused at least one well to contain E. coli bacteria. The affected ground water is no longer useable for drinking or domestic supply purposes. This alteration is unreasonable because the aquifer is currently used for drinking water must be protected for potential use as domestic water supply. The portion of the aquifer affected by the discharge is no longer suitable for this beneficial use. The discharges have, therefore, unreasonably affected the water for municipal and domestic supply beneficial use and caused a condition of pollution.

**AUTHORITY - LEGAL REQUIREMENTS**

14. Water Code section 13304, subdivision (a) states:

*Any person ... who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into 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. A cleanup and abatement order issued by ... a regional board may require the provision of, or payment for, uninterrupted replacement water service, which may include wellhead treatment, to each affected public water supplier or private well owner. Upon failure of any person to comply with the cleanup and abatement order, the Attorney General, at the request of the board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the order. In the suit, the court shall*

*have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant.*

15. Pursuant to Water Code section 13304, subdivision (f):

*Replacement water provided pursuant to subdivision (a) shall meet all applicable federal, state, and local drinking water standards, and shall have comparable quality to that pumped by the public water system or private well owner before the discharge of waste.*

16. State drinking water standards promulgated in the California Code of Regulations (22 CCR § 64449 et. seq.) require community water systems to comply with both MCLs and Secondary MCLs. A Regional Board may order replacement water for private domestic wells that have been impacted by a discharger's pollution or nuisance. Discharges that exceed either the MCLs or Secondary MCLs constitute an alteration of the water quality to a degree that unreasonably affects either beneficial uses or facilities that serve these beneficial uses.

17. The conditions described in Findings 4 and 6 constitute violations of the Dairy General Order and the Basin Plan. The Discharger has caused or permitted waste to be discharged or deposited where it has or probably will discharge into waters of the state creating or threatening to create a condition of pollution or nuisance. The Discharger is therefore subject to the Water Boards' authority as described in Water Code section 13304.

18. Pursuant to Water Code section 13267, subdivision (b):

*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 reports, and shall identify the evidence that supports requiring that person to provide the reports.*

19. This Order requires monitoring and reports pursuant to Water Code section 13267(b). The monitoring required by this Order is necessary to identify impact to domestic wells from the discharge and to determine compliance with this Order. This Order also requires the submission of a technical report evaluating the impacts to all domestic wells sampled. Monitoring and reports required by this Order are

necessary for the protection of water quality in light of the recent lagoon rupture that flooded from the Discharger's facility.

**THEREFORE, IT IS HEREBY ORDERED**, pursuant to Water Code sections 13267 and 13304, the Discharger shall take action to abate the effects from the release of wastewater from the lagoon as follows:

**A. ORDERS:**

1. By **Friday, 4 December 2015**, supply interim uninterrupted replacement drinking water service (i.e., bottled water or equivalent) for consumption and cooking, to all residences served by private domestic wells and bordering W Linwood Avenue between S Washington Road and the area immediately south of the facility (red circled area on attached map). For residences where E. coli have been detected in domestic well water, supply interim uninterrupted replacement water for all domestic uses. The water shall be supplied to a residence until the Discharger can demonstrate to the satisfaction of the Board that the domestic well that services the residence does not show impacts from the discharged wastewater. The water shall be supplied in a way that is usable to the residents of the affected parcels. Provide information to residents on the potential health impacts from consumption of water contaminated by nitrates and fecal coliform/E. coli bacteria.
2. By **Friday, 4 December 2015**, sample all domestic wells at residences bordering W Linwood Avenue between S Washington Road and the area immediately south of the facility, including those wells sampled on 20 November 2015 (red circled area on attached map). The samples shall be analyzed by an appropriately certified laboratory for nitrate as N, total dissolved solids, and bacteria (E. coli and total coliform). The depth to groundwater from land surface shall be measured for each well. Samples shall be collected as close to the well as possible.
3. By **Tuesday, 8 December 2015**, submit a technical report to the Water Board listing all domestic wells that were sampled and the results of the sampling. If a domestic well was not sampled, the report must include the reason that the sampling was not conducted and the steps that will be taken to collect a sample. The report must identify which wells exceed the MCLs or Secondary MCLs described in this Order. If the Discharger believes that any domestic wells sampled do not show evidence of impacts from the discharged wastewater, the justification for that determination shall be presented in the report. The report shall also describe which residences have been provided with interim uninterrupted replacement drinking water service or domestic water service and the method used to provide the service. If the reason the Discharger has failed to provide interim uninterrupted replacement drinking water or domestic water service is the refusal of the occupants of the residence to accept such service, the report must include a statement from the occupants of this refusal. The report shall include a description of the outreach and education efforts conducted as required in A.1 above.

4. By **Tuesday 29 December 2015**, submit a plan for providing long-term replacement water for those residences whose domestic wells continue to show impacts from wastewater.
5. Uninterrupted replacement water service may cease if the Discharger demonstrates that drinking water from domestic wells in the area described in A.2 meets the MCL for nitrate as N, fecal coliform, and E. coli. In order to establish compliance with the MCL for these constituents, the Discharger shall submit documentation in the form of testing results that demonstrate that the affected well is below the 10 mg/L MCL for nitrogen and contains no detected E. coli or fecal coliform bacteria for three sequential monitoring events. The monitoring events shall be conducted at least one week apart from each other.
6. All technical, monitoring plans, and reports required in conjunction with this Order are required pursuant to Water Code section 13267 and shall include a statement by the Discharger, or an authorized representative of the Discharger, certifying (under penalty of perjury in conformance with the laws of the State of California) that the work plan and/or report is true, complete, and accurate.
7. This Order does not limit the authority of the Water Board to institute additional enforcement actions 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. Failure to comply with the terms or conditions of this Cleanup and Abatement Order will result in additional enforcement action, which may include the imposition of administrative civil liability pursuant to Water Code sections 13350 and 13268 or referral to the Attorney General of the State of California for civil enforcement.
8. This Order does not affect the Discharger's obligation to comply with the Dairy General Order. The requirements and legal enforceability of the Dairy General Order is not superseded or affected upon issuance of this Order.

**B. REPORTING REQUIREMENTS:**

1. **Signatory Requirements.** All reports required under this Cleanup and Abatement Order shall be signed and certified by the Discharger or by a duly authorized representative of the Discharger and submitted to the Central Valley Water Board 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.** Include the following signed certification 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:

Andrew Altevogt  
Assistant Executive Officer  
California Regional Water Quality Control Board  
Central Valley Region  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670

Attn: Charlene Herbst  
Email: charlene.herbst@waterboards.ca.gov  
Phone: (916) 464-4724

**C. NOTIFICATIONS:**

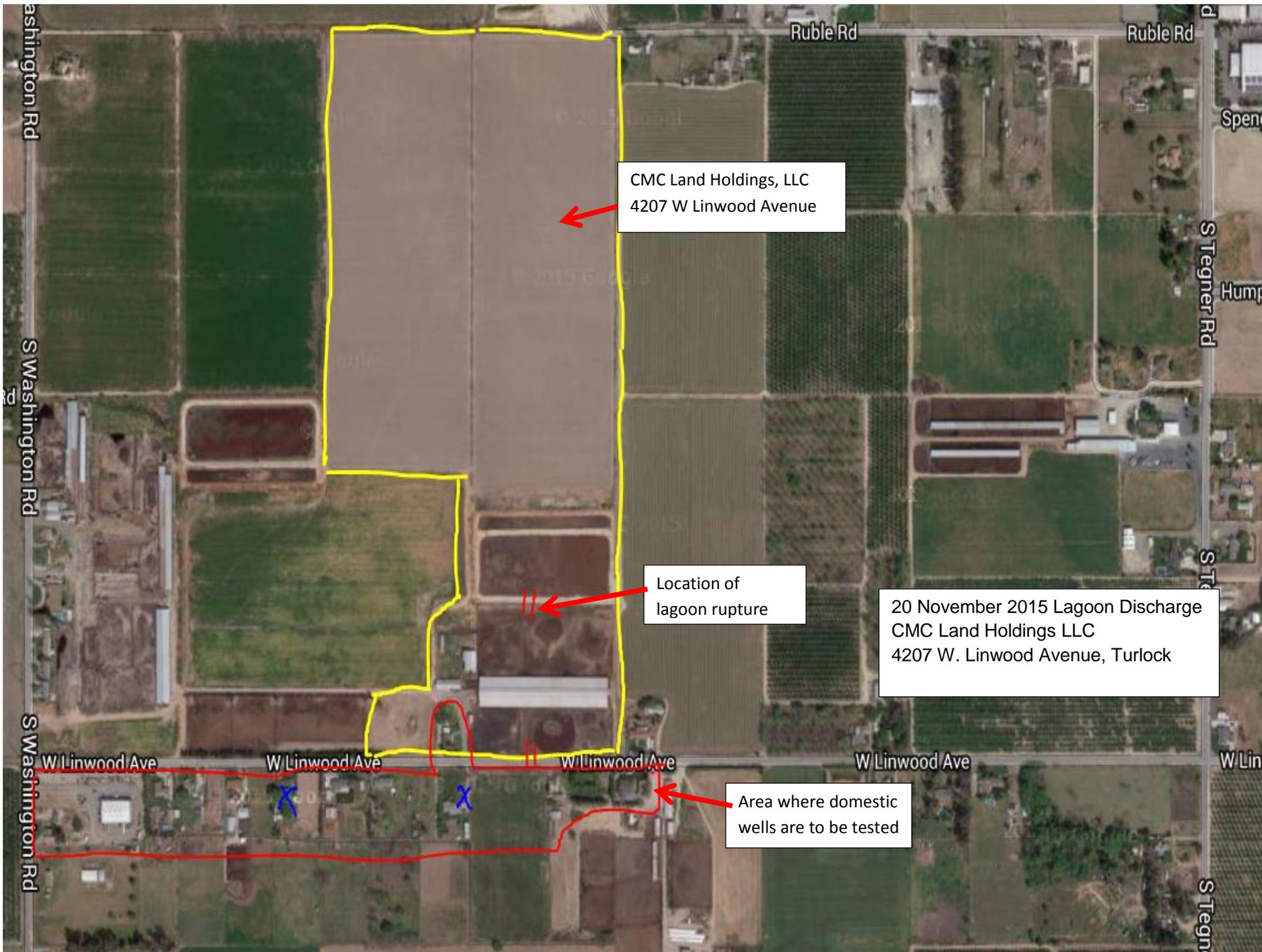
1. **Cost Recovery.** Pursuant to Water Code section 13304, the Water Board is entitled to, and may seek, reimbursement for all reasonable costs actually incurred by the Water Board to investigate unauthorized discharges of wastes and to oversee cleanup of such waste, abatement of the effects thereof, 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 implementation of this Order is also an action to assure the restoration of the environment and is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, section 21000 et seq.), in accordance with CCR title 14, sections 15061(b)(3), 15306, 15307, 15308, and 15321. This Order generally requires the Discharger to submit plans for approval prior to implementation of remedial activities at the facility and adjacent properties. Mere submittal of plans is exempt from CEQA as submittal will not cause a direct or indirect physical change in the environment and/or is an activity that cannot possibly have a significant effect on the environment. CEQA review at this time would be premature and speculative, as there is simply not enough information concerning the Discharger's proposed remedial activities and possible associated environmental impacts. If the Central Valley Water Board determines that implementation of any plan required by this Order will have a significant effect on

the environment, the Board will conduct the necessary and appropriate environmental review prior to the Executive Officer's approval of the applicable plan. The Discharger will bear the costs, including the Board's costs, of determining whether implementation of any plan required by this Order will have a significant effect on the environment and, if so, in preparing and handling any documents necessary for environmental review. If necessary, the Discharger and a consultant acceptable to the Central Valley Water Board shall enter into a memorandum of understanding with the Board regarding such costs prior to undertaking any environmental review.

- 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 in Water Code section 13320, subdivision (a), may petition the State Water Resources Control Board (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 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 only by revision of or amendment to this Order.
- 5. Enforcement Notification.** Failure to comply with the terms or conditions of this Cleanup and Abatement Order 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, in an amount not to exceed \$5,000 for each day in which the violation occurs under Water Code section 13304 or 13350, or referral to the Attorney General of the State of California for injunctive relief or civil or criminal liability.

Ordered by: original signed by Dated: 12/2/15

Andrew Altevogt  
Assistant Executive Officer



CMC Land Holdings, LLC  
4207 W Linwood Avenue

Location of  
lagoon rupture

20 November 2015 Lagoon Discharge  
CMC Land Holdings LLC  
4207 W. Linwood Avenue, Turlock

Area where domestic  
wells are to be tested

Washington Rd

S Washington Rd

S Washington Rd

Ruble Rd

Ruble Rd

S Tegner Rd

S Tegner Rd

S Tegner Rd

W Linwood Ave

W Linwood Ave

W Linwood Ave

W Linwood Ave

W Linwood Ave