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## Lahontan Regional Water Quality Control Board

March 20, 2015

Paul Ryken  
Desert View Dairy  
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Hinkley, CA 92347

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K&H Van Vliet Children LLC  
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**NOTICE OF VIOLATION OF CLEANUP AND ABATEMENT ORDER NOS.  
R6V-2008-0034 AND R6V-2008-0034A1 FOR DELAY IN PROVIDING NITRATE  
INFORMATION AND ALTERNATE WATER SUPPLY**

**DESERT VIEW DAIRY CONTAMINATION IN GROUNDWATER, HINKLEY, SAN  
BERNARDINO COUNTY, WDIID NO. 6B360409002**

This is to notify you that all parties and entities listed above and considered responsible for groundwater pollution at the Desert View Dairy (DVD) are in violation of Cleanup and Abatement Order (CAO) Nos. R6V-2008-0034 and R6V-2008-0034A1 for (a) not describing nitrate and other constituents exceedance of drinking water standards in a domestic well, (b) not providing alternate water supply to the residence affected by

nitrate pollution of groundwater resulting from the DVD, and (c) failing to provide a written report that alternate water supply is being provided to affected residents.

To date, the Water Board has not received written notification concerning the last item above that interim alternate water supply has been provided to the owner or parcel occupants of domestic well 22-39 after October 31, 2014. The verbal notification provided by PG&E staff on January 30, 2015 does not comply with this reporting requirement. Therefore, all parties and entities are in violation and considered responsible for the delay of this reporting requirement. I urge all of you to comply with this requirement as soon as possible to reduce your liability for additional enforcement actions by the Water Board.

## **Background**

Between November 10, 2008 and February 24, 2011, the Water Board issued CAO R6V-2008-0034 and three amendments to the five above-referenced parties and entities considered responsible for nitrate impacts to groundwater beneath the DVD and to properties beyond in Hinkley. The Order and amendments came after the Water Board received multiple complaints by nearby private domestic well owners of foul odor in the well water, skin rashes, health effects to themselves and animals, and deterioration of appliances. The Order and amendments required the responsible parties to (1) implement a sampling and reporting program of domestic wells in a defined affected area, (2) provide interim replacement water supply to residents with wells showing nitrates exceeding drinking water standard, (3) submit and implement a workplan for providing long-term, uninterrupted, replacement water for all water uses, and (4) conduct a groundwater investigation to define the extent of nitrate contamination.

Upon review of these Orders, some directives accounted for indefinite implementation while other directives were a one-time instance. For example, the sampling and reporting program required continual implementation (directives 4 and 5 in CAO R6V-2008-0034 and then amended in CAO R6V-2008-0034A1). Ongoing implementation is also required for interim replacement water when new wells affected by nitrate above the maximum contaminant level (MCL) of 10 mg/L are identified. However, providing long-term, replacement water supply for affected wells and conducting a groundwater investigation were one-time actions with deadlines in 2010 and 2011. Mr. Ryken completed the action to provide long-term replacement water and both Mr. Ryken and PG&E conducted groundwater investigations that define the extent of nitrate contamination.

Separate from the nitrate contamination issue in Hinkley, beginning in 2011, PG&E offered bottled water to all owners and residents of domestic wells within one mile of the chromium plume boundary and having chromium detection in their wells. Reports received by the Water Board show PG&E provided bottled water to the residents at domestic well 22-39, subject to CAO Nos. R6V-2008-0034 and R6V-2008-0034A1, starting in August 2011. However, PG&E ceased providing bottled water to Hinkley well owners or property occupants on October 31, 2014, including the residents at domestic well 22-39, located at 38080 Mountain View Road.

## **DOMESTIC WELL SAMPLING AND REPORTING**

The “Third Quarter 2014 Agricultural Treatment Units Monitoring Report (ATU Report),” dated November 20, 2014 and submitted by PG&E, shows in Table 6-2 that domestic well 22-39 contained nitrate at 11 milligrams per liter (mg/L) when sampled on July 1, 2014. This was a new well exhibiting nitrate detection above the 10 mg/L MCL for the first time. Additionally, the ATU Report shows that total dissolved solids (TDS), gross alpha, and uranium concentrations all exceeded their respective MCLs at well 22-39. No mention was made in the report or any other materials submitted to the Water Board about these exceedances or about the well owner or parcel occupants being notified of these detections or about being provided interim alternate drinking water, pursuant to directives in CAO R6V-2008-0034 and R6V-2008-0034A1.

As a reminder, Order 5 in CAO R6V-2008-0034A1 requires reports containing nitrate sampling results due semi-annually, but no later than 45 days after completing domestic well sampling. The reports must contain a discussion of the well sampling results and note those that exceed drinking water standards. The report must also describe alternate water supply provided to owners or tenants of affected domestic wells.

## **VIOLATIONS**

Order 1 in CAO R6V-2008-0034 requires, in part, the parties to supply interim uninterrupted replacement water service (i.e., bottled water or equivalent), to residences served by private or community domestic wells in which nitrate has been detected at concentrations exceeding the drinking water standard of 45 mg/L nitrate as NO<sub>3</sub> (10 mg/L nitrate as nitrogen).

Appendix C of the ATU Report shows a July 16, 2014 date for the laboratory report for water results showing nitrate at 11 mg/L in well 22-39. Since this was the first occasion of the well exceeding the nitrate drinking water standard, the parties were required to supply interim, uninterrupted replacement water service (i.e., bottled water or equivalent) within 48 hours. As PG&E was already providing bottled water at that time to Hinkley residents within one mile of the chromium plume and having detectable chromium in well water under a separate Water Board order, including the residents of well 22-39, the responsible parties were in compliance with directive 1 of CAO R6V-2008-0034 at that time.

In a July 31, 2014 letter, PG&E states that the volunteer bottled water program would no longer be offered to residents who did not have hexavalent chromium at concentrations exceeding the newly established drinking water standard of 10 µg/L. In meetings with PG&E staff during summer and fall 2014, Water Board staff reminded PG&E staff to ensure that bottled water be continued at properties where domestic wells contained nitrate exceeding the MCL, pursuant to the DVD CAOs.

Despite these reminders, PG&E ceased supplying bottled water to the residents of well 22-39 after October 31, 2014, in violation of Order 1 in CAO R6V-2008-0034. No party came forward to provide bottled water to the residents of well 22-39 until after the Water

Board staff notified PG&E staff at a January 30, 2015 technical meeting and we were told by PG&E staff that water would be provided.

Given that the owner and residents of domestic well 22-39 were not supplied interim uninterrupted replacement water from November 1, 2014 to March 10, 2015 there are **130 days** of violation of Order 1 in CAO R6V-2008-0034. To date, the Water Board has not received written notification that interim replacement water has been provided to the residents of affected domestic well 22-39 after October 31, 2014 when PG&E ceased its volunteer bottled water program in Hinkley.

## RESPONSIBLE PARTIES

As stated in CAO R6V-2008-0034 and amendments, all the above listed parties and entities are considered to be responsible parties for discharges of waste at the DVD property impacting groundwater quality with nitrate. Mr. Paul Ryken is considered primarily responsible and the other four parties are considered as secondarily responsible to comply with directives in the Order and amendments. The responsible parties were informed that directives listed in the Order and amendments could be completed by one or more of the responsible parties, so long as Water Board directives are complied with. If none of the responsible parties complies with these directives, all parties may be subject to enforcement action by the Water Board.

To date, the Water Board has not received written notification that interim alternate water supply has been provided to the owner or parcel occupants of domestic well 22-39 after October 31, 2014. The verbal notification provided by PG&E staff on January 30, 2015 does not comply with this reporting requirement. **Therefore, all parties and entities are in violation and considered responsible for the delay of this reporting requirement. I urge you to comply with this requirement as soon as possible to reduce your liability for additional enforcement actions by the Water Board.**

If you have any questions, you may contact me at [lauri.kemper@waterboards.ca.gov](mailto:lauri.kemper@waterboards.ca.gov) (530.542.5436) or Lisa Dernbach at [lisa.dernbach@waterboards.ca.gov](mailto:lisa.dernbach@waterboards.ca.gov) (530.542.5436).



LAURI KEMPER  
ASSISTANT EXECUTIVE OFFICER

Enclosures: 1. CAO R6V-2008-0034  
2. CAO R6V-2008-0034A1

cc: Desert View Dairy Mail List

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
LAHONTAN REGION**

**CLEANUP AND ABATEMENT ORDER NO. R6V-2008-0034  
REQUIRING PAUL RYKEN, THE ESTATE OF NICK VAN VLIET, FLAMELING  
DAIRY, INCORPORATED, K&H VAN VLIET CHILDREN LLC, AND  
THE PACIFIC GAS AND ELECTRIC COMPANY  
TO CLEANUP OR ABATE THE EFFECTS OF  
CONTAMINANTS TO GROUNDWATERS OF  
THE MOJAVE RIVER HYDROLOGIC UNIT,  
DESERT VIEW DAIRY, HINKLEY,  
WDID NO. 6B36040900**

SAN BERNARDINO COUNTY

The California Regional Water Quality Control Board, Lahontan Region (Water Board), finds:

**FINDINGS**

1. The Desert View Dairy (DVD) is located at 37501 Mountain View Road in Hinkley. The DVD is situated east of this unincorporated community in San Bernardino County, in the Harper Valley Subarea of the Mojave Hydrologic Unit. As described below, the Flameling Dairy operated at this location. Hereinafter, land upon which the Desert View Dairy is located and the Flameling Dairy was located will be referred to as the "Property" and the operations of the DVD and Flameling Dairy as "dairy operations."
2. From 1981 to 1992, the Property was owned by FD Farms and from 1981 to 1986 the dairy operations were controlled by Flameling Dairy, Inc. From 1986 to approximately 1992, no dairy operations were conducted at the Property.
3. The K&H Van Vliet Children LLC and various Van Vliet trusts owned the property from 1992 to 2002. Mr. Paul Ryken and Mr. Nick Van Vliet have conducted dairy operations on the Property since approximately 1992 under a general partnership known as the Desert View Dairy. Mr. Van Vliet is recently deceased. The Water Board understands that the estate of Mr. Van Vliet remains a partner in the dairy operation.
4. The Pacific Gas and Electric Company (PG&E) bought the property in 2002 and leases it to the Desert View Dairy partnership to operate as a dairy.
5. Mr. Ryken, the estate of Mr. Van Vliet, Flameling Dairy, Inc., the K&H Van Vliet Children LLC and PG&E are hereinafter referred to as "Dischargers." Additional dischargers may be named as additional information becomes available.
6. The Property consists of approximately 180 acres that include a dairy operation, two residences, crop fields, and a manure/wastewater storage pond. The current

dairy operation includes approximately 1,500 dairy cows on the Property. In a July 30, 2008 letter report from Conestoga-Rovers and Associates on behalf of Mr. Ryken, it was estimated that approximately 43,000 gallons of wastewater containing nitrogen and total dissolved solids is generated each day by dairy operations. Liquid wastewater is stored in a storm water pond that was reportedly constructed with a clay liner in 1981, when Flamelng Dairy, Inc. operated the dairy. The integrity of the clay liner is unknown. The wastewater is applied onto fields in the northern portion of the property. These discharges contributed to increased nitrate and other constituents in groundwater beneath and in the downgradient groundwater flow direction of the Property due to the nitrate and salts present in the wastewater.

7. From approximately 1992 to 1996, the Desert View Dairy partnership discharged manure solid waste to areas in the northern portion of the property. Between 1996 and 2001, manure was both spread on the site and exported to surrounding fields on other properties. Since 2002, manure has been trucked to an off-site facility for processing. No records were kept of the volume of manure applied at the Property each year when land disposal occurred. However, records from 2004 to 2007 show that the dairy operation produces an annual average of 5,314 tons of solid waste. These past discharges may have contributed to increased nitrate and other constituents in groundwater beneath and downgradient of the Property due to the nitrate and salts present in the manure.
8. As the current dairy operators, Mr. Paul Ryken and the estate of Mr. Nick Van Vliet, as the Desert View Dairy general partnership, are subject to this Order because they know or should know of the discharge of waste and have the ability to control it. As the former dairy operator, Flamelng Dairy, Inc. are subject to this Order because it knew or should have known of the discharge of waste and had the ability to control it. As former owner of the property, the K&H Van Vliet Children LLC knew or should have known of the discharge of waste and had the ability to control it. Since it acquired the Property in 2002, PG&E knows or should know of the discharge of waste and has the ability to control it.
9. On January 31, 2008, Water Board staff collected a water sample from the domestic well at the residence located at 22858 Alcludia Road in Hinkley, at the owner's request. The well is situated approximately 200 feet north of the Property. Six measured constituents in the sample exceed either the primary or secondary drinking water standards (Maximum Contaminant Levels or MCLs) or a USEPA Health Advisory level. The detected concentrations for the six constituents are shown here:

<u>Constituent</u>	<u>Concentration</u>	<u>Standard</u>
Nitrate as NO <sub>3</sub>	81 mg/L	45 mg/L
Chloride	1200 mg/L	250-600 mg/L

Sulfate as SO <sub>4</sub>	1400 mg/L	250-600 mg/L
Specific Conductance (EC)	5100 µmhos/cm	900-2200 µmhos/cm
Sodium	410 mg/L	20 mg/L
Total Dissolved Solids	4600 mg/L	500-1500 mg/L

10. On May 9, 2008, the Water Board ordered Mr. Ryken and PG&E to submit technical reports to investigate pollution in groundwater beneath and adjacent to the Property. The order was based on prior ground water samples collected at the Property showing concentrations of nitrates (as NO<sub>3</sub>) up to 81 mg/L and total dissolved solids up to 3120 mg/L, which exceed MCLs. The order, issued pursuant to section 13267 of the Water Code, required the submittal of: a groundwater investigation workplan; description of all waste disposal actions for the past 15 years, and; a technical report describing the results of a groundwater investigation to evaluate the extent of pollution from dairy operations on the Property.
11. On August 11, 2008, the Water Board received a citizen letter complaining about high levels of nitrates detected in her residential well, located at 22726 Thompson Road in Hinkley. The residence is situated about 2,500 feet north of the Property, in the estimated downgradient groundwater flow direction from the Property. The letter included a copy of laboratory results showing that 96 mg/L nitrate (as NO<sub>3</sub>) was detected in a water sample. The letter expressed concern about the source of nitrates, potential health affects, and actions that the Water Board is taking to address the problem. A reply letter by Water Board staff was issued on September 15, 2008.
12. As of October 31, Mr. Ryken has complied with the three directives in the Water Code section 13267 order issued on May 9, 2008. The Water Board received a workplan proposing a groundwater investigation at and in the vicinity of the Property and a letter report describing waste management practices during the past 15 years. The workplan states that based on historical database review, the general background concentration of nitrate as nitrogen in groundwater ranges from 1 to 15 mg/L (nitrate as NO<sub>3</sub> from 4.5 to 67.5 mg/L) on properties surrounding the Property. Mr. Ryken conducted the groundwater investigation, with off-site domestic well sampling in early-October 2008. The technical report describing the investigation results was submitted to the Water Board on October 31, 2008.
13. The 1995 *Water Quality Control Plan for the Lahontan Region* (Basin Plan) established water quality objectives (WQOs) for the protection of beneficial uses. WQOs include the following primary MCL established by the California Department of Public Health as a safe level to protect public drinking water supplies:

PAUL RYKEN,  
THE ESTATE OF NICK VAN VLIET,  
FLAMELING DAIRY, INCORPORATED,  
K&H VAN VLIET CHILDREN LLC, AND  
THE PACIFIC GAS AND ELECTRIC COMPANY  
San Bernardino County

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Nitrate as NO<sub>3</sub>

45 mg/L

The following secondary MCLs are established by the California Department of Public Health as consumer acceptance contaminant levels:

Constituent	Recommended	Upper	Short Term
Chloride (mg/L)	250	500	600
Sulfate as SO <sub>4</sub> (mg/L)	250	500	600
Total Dissolved Solids (mg/L)	500	1000	1500
Specific Conductance (EC) (µmhos/cm)	900	1600	2200

The following U.S. EPA Health Advisory is established as a secondary drinking water standard for individuals on a 500 mg/day restricted sodium diet:

Sodium

20 mg/L

14. Dairy wastewater and solid manure are defined as wastes pursuant to Water Code section 13050, subdivision (d).
15. The Dischargers caused or allowed or threatened to cause nitrate-containing wastes and other wastes to be discharged to waters of the State underlying the Property.
16. Nitrate-containing wastes and other wastes have impacted groundwater beyond the boundaries of the Property. Water data from wells on the Property and off-site domestic wells as presented in Finding Nos. 9 - 12 indicate that the nitrate plume originating at the Property has migrated to at least Thompson Road, about 2,500 feet to the north. The lateral and vertical extent of the plume is not fully known but is under investigation. The required investigation report is the subject of another order of the Water Board.
17. Parcels within one mile to the north of the Property contain approximately 40 private and community domestic drinking supply wells, as indicated in a 2006 well survey report submitted by PG&E. Wastes from the Property either have adversely impacted or threaten to impact supply wells with nitrates and other wastes exceeding the drinking water MCLs.



18. Water Code section 13050, subdivision (l) defines "pollution" as follows:

*... an alteration of the water quality to a degree that unreasonably affects either beneficial uses or facilities that serve these beneficial uses.*

19. Pursuant to Chapter 2 of the Basin Plan, present and potential beneficial uses of groundwater underlying and downgradient of the Property include domestic and municipal water supply, agricultural water supply, industrial water supply, freshwater replenishment, and aquaculture.
20. Because the discharges have caused or contributed to groundwater beneath and downgradient of the Property to exceed the drinking water standard for nitrate as NO<sub>3</sub> (45 mg/L), the affected ground water is no longer useable for drinking or domestic supply. This alteration is unreasonable because the aquifer is currently used for drinking water and 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.
21. Mr. Paul Ryken, the estate of Mr. Nick Van Vliet, and Flaming Dairy, Inc., are primarily liable for complying with this Order. A regional board may make a distinction between primary and secondary liability. (See, e.g., *Alcoa et al.*, State Water Resources Control Board (State Water Board) WQ Order No. 93-09 at p. 12, fn. 8.) This distinction has been made primarily for equitable reasons.

In this case, Mr. Paul Ryken, the estate of Mr. Nick Van Vliet, and Flaming Dairy, Inc., are primarily liable for compliance with this cleanup order because Mr. Ryken and Mr. Van Vliet, as the Desert View Dairy general partnership, and the Flaming Dairy, Inc., as dairy operators initiated and contributed to the discharge of waste. More specifically, because Mr. Paul Ryken, Mr. Van Vliet and Flaming Dairy, Inc., caused waste to be discharged such that groundwater has been adversely affected by elevated concentrations of nitrate and salts, Mr. Paul Ryken, the estate of Nick Van Vliet, and Flaming Dairy, Inc., are primarily responsible for compliance with this Order.

22. The K&H Van Vliet Children LLC and PG&E are secondarily liable for complying with this Order. The State Water Board has also cited factors that are appropriate for regional boards to consider in determining whether a party should be held secondarily liable. These factors include making a distinction between those parties who were considered responsible parties solely due to their land ownership and whether or not the parties initiated or contributed to the discharge.

PAUL RYKEN,  
THE ESTATE OF NICK VAN VLIET,  
FLAMELING DAIRY, INCORPORATED,  
K&H VAN VLIET CHILDREN LLC, AND  
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San Bernardino County

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In this case, Mr. Ryken, Mr. Van Vliet, and Flameling Dairy, Inc., rather than the K&H Van Vliet Children LLC and PG&E, initiated or contributed to the discharge, and the K&H Van Vliet Children LLC and PG&E are named as responsible parties due to their former or current ownership of the Property.

### **AUTHORITY – LEGAL REQUIREMENTS**

23. 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 to 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 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 the state board or 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 or 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.*

24. 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 prior to the discharge of waste.*

25. The conditions described in Findings No. 9 - 12 constitute violations of the Basin Plan. The conditions described in these Findings also identify discharges of wastes where it has been discharged or deposited into waters of the State (groundwater) or probably will be discharged into the waters of the State. The Dischargers are therefore subject to Water Code section 13304.

26. 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.*

27. This Order requires monitoring, workplans and reports pursuant to Water Code section 13267, subdivision (b). The monitoring required by this Order is necessary to evaluate the extent of pollution in groundwater, determine affected well owners, and to protect human health. Workplan and technical reports required in this Order are essential to design a water replacement plan and implementation schedule and to determine compliance with this Order.
28. 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 or to oversee cleanup of such waste, abatement of the effect thereof, or other remedial action pursuant to this Order.
29. The issuance of this Order is an enforcement action taken by a regulatory agency and is exempt from the provision 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 15308 and 15330.

## ORDERS

**IT IS HEREBY ORDERED**, pursuant to Water Code sections 13267 and 13304, that Mr. Paul Ryken, the estate of Mr. Nick Van Vliet, and Flameling Dairy, Inc., as primarily responsible for the discharge of waste that has caused or threatens to cause a condition of pollution or nuisance, shall abate the effects of waste discharges at, near, and downgradient of the Property as follows in paragraphs 1 through 9. As secondarily liable for the discharge of waste that has caused or threatens to cause a condition of pollution or nuisance, the K&H Van Vliet Children LLC and PG&E shall abate the effects of waste discharges, at, near, or downgradient of the Property as follows in paragraphs 1 through 9 in the event that Mr. Ryken, the estate of Mr. Van Vliet, and Flameling Dairy, Inc. fail to comply with all or any portion of this Order and the Water Board notifies the K&H Van Vliet Children LLC and PG&E of the failure of Mr. Ryken, the estate of Mr. Van Vliet, and Flameling Dairy, Inc. to comply with this Order.

1. **By November 19, 2008**, supply interim uninterrupted replacement water service (i.e., bottled water or equivalent), to residences or businesses served by private or community domestic wells in which nitrate has been detected at concentrations exceeding 45 mg/L nitrate as NO<sub>3</sub> (10 mg/L nitrate as nitrogen), based on data generated in the most recent sampling event for any domestic well in the Affected Area. The Affected Area is defined as the area that is bounded by Serra Road in the west, Santa Fe Road in the south, Summerset Road in the east and Salinas Road in the north. The Affected Area may be modified as additional information becomes available. Furthermore, the Dischargers shall supply interim uninterrupted replacement water service (i.e., bottled water or equivalent), to any residence or business served by a private or community domestic well within the Affected Area within 48 hours of determining that the domestic well exhibits a nitrate as NO<sub>3</sub> concentration greater than 45 mg/L (10 mg/L nitrate as nitrogen) for the first time.
2. **By November 26, 2008**, provide notification to all parcel owners and occupants in the Affected Area that nitrate as NO<sub>3</sub> concentrations in groundwater may exceed the MCL of 45 mg/L. The Dischargers shall also include notification that all potentially affected wells will need to be sampled on a quarterly basis, beginning December 10, 2008. A copy of the notification must be received by the Water Board.
3. **By December 1, 2008**, submit a technical report to the Water Board listing all residences and businesses that have been provided interim uninterrupted replacement water service. The report must include the method(s) that the Dischargers have implemented to provide interim uninterrupted replacement water service including how this service will be maintained. If a residence or

business should have been provided interim uninterrupted replacement water service based on the requirement in Order No. 1 above and has not been provided interim uninterrupted replacement water service, the technical report must include actions the Dischargers have taken and will continue to take to provide interim uninterrupted replacement water service to the residence or business. If the reason that the Dischargers have failed to provide interim uninterrupted replacement water service is the refusal of the occupants of the residence or business to accept such service, the report must include a statement from the occupants of this refusal. The report must identify all other wells in the Affected Area that are threatened by the discharge and have yet to be sampled.

4. **By December 31, 2008 and quarterly thereafter (by March 31, June 30, September 30, and December 31)**, complete the quarterly sampling of all private and community domestic wells within the Affected Area and submit samples with chain of custody documentation to a California certified laboratory for nitrate analyses. Laboratory analyses must include general minerals and regulated inorganics. Nitrate as  $\text{NO}_3$  analysis must have a Method Detection Limit of 2 mg/L or less (nitrate as nitrogen Method Detection Limit of 0.4 mg/L or less).
5. **By January 31, 2009, and quarterly thereafter** (April 30, July 31, October 31, and January 31) but no later than 30 days after completing the well sampling required in Order 4 above, submit to the Water Board California-certified laboratory results and other quality assurance/control documentation from the first quarterly sampling event (and subsequent quarterly sampling events) for all potentially affected private and community domestic wells and a list of residences with nitrate as  $\text{NO}_3$  concentrations exceeding 45 mg/L in their supply water. If the results indicate that other constituents beside nitrate are detected exceeding the MCL, the report must describe those wells affected. The report must state how each parcel owner and occupant were notified of these results within the required 48 hour period if a new detection above the MCL or within 5 days if previously detected at levels above the MCL. The report must contain a map showing the location of all wells that were sampled or attempted to be sampled. If the results of this monitoring identify a well that exhibits a nitrate as  $\text{NO}_3$  concentration exceeding 45 mg/L (10 mg/L nitrate as nitrogen) for the first time, the Dischargers must notify the Water Board of this information within 48 hours of the Dischargers receiving the monitoring information and state the alternate water supply to be given to the residence or occupants.
6. **By March 20, 2009**, submit a detailed Alternative Water Supply Implementation Workplan for long-term, uninterrupted, replacement water, for domestic and community supply wells with nitrate as  $\text{NO}_3$  concentrations exceeding 45 mg/L

(10 mg/L nitrate as nitrogen). The workplan must propose an implementation schedule. Include a report describing the volumes of interim uninterrupted water supplied to specific addresses up to February 28, 2009.

7. Following Executive Officer's concurrence with the detailed Alternate Water Supply Implementation Workplan for wells with nitrate as  $\text{NO}_3$  concentrations exceeding 45 mg/L (10 mg/L nitrate as nitrogen), the Dischargers shall implement the plan according to a schedule approved by the Executive Officer.
8. The Dischargers shall be liable, pursuant to Water Code section 13304, to the Water Board for all reasonable costs incurred by the Water Board to investigate unauthorized discharges of waste, or to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, pursuant to this Order. The Dischargers shall reimburse the Water Board for all reasonable costs associated with site investigation, oversight, and cleanup. Failure to pay any invoice for the Water Board's investigation and oversight costs within the time stated in the invoice (or within thirty days after the date of invoice, if the invoice does not set forth a due date) shall be considered a violation of this Order. If the Property is enrolled in a State Board-managed reimbursement program, reimbursement shall be made pursuant to this Order and according to the procedures established in that program.
9. All technical and 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 Dischargers, or an authorized representative of the Dischargers, certifying (under penalty of perjury in conformance with the laws of the State of California) that the workplan and/or report is true, complete, and accurate. Hydrogeologic reports and plans shall be prepared or directly supervised by, and signed and stamped by a Professional Geologist or Professional Civil Engineer registered in California.

This Order in no way limits the authority of this 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.

Compliance with the provisions of this Order by any one or more of the primary responsible parties will be considered as compliance by all primary and secondary responsible parties. If none of the primary responsible parties comply with this Order, all of the primary responsible parties will be considered in non-compliance with this Order and subject to additional enforcement action.

PAUL RTREIN,  
THE ESTATE OF NICK VAN VLIET,  
FLAMELING DAIRY, INCORPORATED,  
K&H VAN VLIET CHILDREN LLC, AND  
THE PACIFIC GAS AND ELECTRIC COMPANY  
San Bernardino County

CLEANUP & ABATEMENT  
ORDER NO. R6V-2008-0034  
WDID NO. 6B36040900

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 such legal action as he or she may deem appropriate.

Any person aggrieved by this action of the Lahontan Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: [http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

Ordered by: Harold J. Singer Dated: Nov 10, 2008  
HAROLD J. SINGER  
EXECUTIVE OFFICER

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
LAHONTAN REGION**

**AMENDED CLEANUP AND ABATEMENT ORDER NO. R6V-2008-0034A1**

**REQUIRING PAUL RYKEN, THE ESTATE OF NICK VAN VLIET, FLAMELING  
DAIRY, INC., K&H VAN VLIET CHILDREN LLC,  
AND  
THE PACIFIC GAS AND ELECTRIC COMPANY  
TO CLEAN UP OR ABATE THE EFFECTS OF  
CONTAMINANTS TO GROUNDWATERS OF  
THE MOJAVE RIVER HYDROLOGIC UNIT,  
DESERT VIEW DAIRY, HINKLEY,  
WDID NO. 6B36040900**

San Bernardino County

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The California Regional Water Quality Control Board, Lahontan Region (Water Board), finds:

1. On November 10, 2008, the Water Board issued Cleanup and Abatement Order (Order) No. R6V-2008-0034 (attached) to Paul Ryken, the Estate of Nick Van Vliet, Flameling dairy, inc., K&H Van Vliet Children LLC, and the Pacific Gas and Electric Company. This amendment provides supplemental findings and modifies the well sampling requirements of the Order. All Findings and those requirements that are not amended in Cleanup and Abatement Order No. R6V-2008-0034 remain in effect.
  2. On January 9, 2009, the Dischargers submitted to the Water Board a document titled, *Residential Well Sampling Results (Results)*, for sampling conducted in December 2008. Well monitoring data in the Results show that concentrations of nitrate as NO<sub>3</sub> were reported at 200 mg/L in a private domestic supply well located at 22839 Thompson Road. This result is greater than the primary drinking water standard of 45 mg/l for nitrate as NO<sub>3</sub>. The Results also show that the drinking water standard for nitrate as NO<sub>3</sub> was exceeded at five additional off-site well locations on four different properties. The Results did not show any new private supply wells with nitrate concentrations exceeding the standard beyond those listed in previous technical reports.
  3. On March 20, 2009, the Water Board received a letter by Conestoga-Rovers and Associates, on behalf of Mr. Paul Ryken and the estate of Nick Van Vliet, requesting modifications to requirements in the Order. The letter recommended that residential well sampling be reduced in frequency and in the number of sampling locations. The request was based upon results from three residential well sampling events and evidence that all residential wells currently affected by nitrate pollution have been identified.
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PAUL RYKEN, 2  
THE ESTATE OF NICK VAN VLIET,  
FLAMELING DAIRY, INCORPORATED,  
K&H VAN VLIET CHILDREN LLC, AND  
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4. On March 30, 2009, the Dischargers submitted a letter report documenting the findings of additional residential well sampling at off-site locations downgradient of the Facility. Analytical results from three residential wells, located on Sonoma Street 6,000 feet to the north, show that the nitrates detected were well below the drinking water standard for nitrate as NO<sub>3</sub>. The information indicates that the downgradient boundary of the nitrate plume from the Facility extends in groundwater to less than 6,000 feet from the Facility.
5. This Amended Order requires monitoring and reporting pursuant to Water Code section 13267, subdivision (b). The monitoring required by this Amended Order is necessary to determine water supply sources adversely affected by pollution and threat to other potential water supply sources and to verify compliance with the Amended Order. This Amended Order lists well locations for semi-annual and annual monitoring and establishes a semi-annual reporting frequency.
6. The issuance of this Amended Order is an enforcement action taken by a regulatory agency and is exempt from the provision 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 Amended 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 15308 and 15330.

**IT IS HEREBY ORDERED**, pursuant to the Water Code sections 13267 and 13304, that Mr. Paul Ryken, the estate of Nick Van Vliet, and Flaming Dairy, Inc., are primarily responsible for the discharge of waste that has caused or threatens to cause a condition of pollution or nuisance, and shall abate the effects of waste discharges at, near, and downgradient of the Facility as directed in Cleanup and Abatement Order No. R6V-2008-0034 and as amended below. As secondarily liable for the discharge of waste that has caused or threatens to cause a condition of pollution or nuisance, the K&H Van Vliet Children LLC and PG&E shall abate the effects of waste discharges at, near, or downgradient of the Facility as directed in Cleanup and Abatement Order No. R6V-2008-0034 and as amended below, in the event that Mr. Paul Ryken, the estate of Nick Van Vliet, and Flaming Dairy, Inc., fail to comply with all or any portion of this Amended Order after being so notified by the Water Board to comply with this Amended Order.

Order Nos. 4 and 5 of Cleanup and Abatement Order No. R6V-2008-0034 are amended as follows:

4. Well Sampling

- A. **During the periods April 1, 2009 to June 30, 2009 and October 1, 2009 to December 31, 2009 and semi-annually (every six months) thereafter,** conduct sampling of the private domestic wells listed in the table below. Submit samples with chain of custody documentation to a California certified laboratory for analyses. Laboratory analyses must include general minerals and regulated inorganics. Nitrate as NO<sub>3</sub> must have a Method Detection Limit of 2 mg/L or less.

Well Location	Nitrate Status
37501 Mountain View Rd	Threatened
38080 Mountain View Rd	Threatened
38132 Mountain View Rd	Threatened
38423 Mountain View Rd	Threatened
23203 Salinas Rd	Threatened
22772 Sonoma St	Threatened

- B. **During the period October 1 to December 30, 2009 and annually (every twelve months) thereafter,** conduct sampling of the private domestic wells listed in the table below. Submit samples with chain of custody documentation to a California certified laboratory for analyses. Laboratory analyses must include general minerals and regulated inorganics. Nitrate as NO<sub>3</sub> must have a Method Detection Limit of 2 mg/L or less.

22619 (1) Thompson Rd	Above MCL
22619 (2) Thompson Rd	Above MCL
22726 Thompson Rd	Above MCL
22839 Thompson Rd	Above MCL
22875 Thompson Rd	Above MCL
22698 Alcudia Rd	Above MCL

5. **By August 15, 2009 and semi-annually (every six months) thereafter,** but no later than 45 days after completing the well sampling required in Order 4 above, submit to the Water Board California-certified laboratory results and other quality assurance/control documentation from the semi-annual sampling event, and annual sampling event, if appropriate, for all potentially affected private domestic wells. If the results indicate that other constituents besides nitrate are detected above the MCL, the report must describe those wells affected. The report must contain a map showing the location of all wells that were sampled or were attempted to be sampled. List all attachments and figures in the report.

Failure to comply with the terms or conditions of this Order will result in additional enforcement action that may include the imposition of administrative civil liability pursuant to

PAUL RYKEN,  
THE ESTATE OF NICK VAN VLIET,  
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San Bernardino County

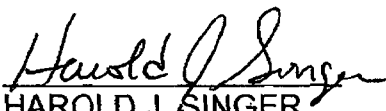
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Water Code sections 13268 and 13350 or referral to the Attorney General of the State of California for appropriate legal action.

Any person aggrieved by this action of the Lahontan Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, of state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

[http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

Ordered by:   
HAROLD J. SINGER  
EXECUTIVE OFFICER

Dated: June 16, 2009

Attachment: Cleanup and Abatement Order No. R6V-2008-0034