



California Regional Water Quality Control Board

San Diego Region



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

June 10, 2009

Certified Mail No.
7008 1140 0002 8455 9633

Mr. Tom Salayer and Mr. Mark Bousema
1650 Warnock Drive
Ramona, CA 92065

In reply refer to:
254826:chenning

Dear Messrs. Salayer and Bousema:

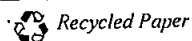
SUBJECT: WATER QUALITY INVESTIGATIVE ORDER NO. R9-2009-0077 FOR S & S FARMS, RAMONA, CALIFORNIA

Enclosed is a copy of Investigative Order No. R9-2009-0077, which directs you to submit an annual monitoring program report regarding the compliance of S & S Farms with the provisions prescribed in Conditional Waiver No. 3, *Discharges from Animal Operations*. S & S Farms became subject to this Conditional Waiver upon rescission of Order No. R9-2002-0067, NPDES No. CA0109371 in March 2009. The Conditional Waiver is contained in the *Water Quality Control Plan for the San Diego Basin* (Basin Plan) and is available online at: http://www.waterboards.ca.gov/sandiego/board_decisions/waivers/index.shtml.

The monitoring program report required under Investigative Order No. R9-2009-0077 is similar to the annual self-monitoring report that you have been submitting under Order No. R9-2002-0067. The purpose of this requirement for monitoring is to provide the Regional Board sufficient information to assess if the current on-farm management measures are adequate to protect water quality and to determine if any changes in operation of S & S Farms will result in the need for waste discharge requirements. Your first annual monitoring program report is due no later than December 1, 2009 on the self monitoring program report form enclosed.

At this time, annual Waste Discharge Requirement fees are not required for discharging waste under this waiver. General state and federal tax revenues cover the cost of this regulatory program.

California Environmental Protection Agency




Mr. Bousema and Mr. Salayer
Order No. R9-2009-0077
S & S Farms

- 2 -

June 10, 2009

In the subject line of any response, please include the requested "In reply refer to:" information located in the heading of this letter. For questions pertaining to the subject matter, please contact Ms. Cathryn Henning of my staff at (858) 636-3161 or at chenning@waterboards.ca.gov.

Sincerely,



Michael McCann
Assistant Executive Officer

MM:jac:rwm:clh

Enclosures: Water Quality Investigative Order No. R9-2009-0077
Self Monitoring Program Report Form

via email (w/ enclosures): Kate Rao, US EPA 9 <Rao.Kate@epamail.epa.gov>

CIWQS Place ID	254826
Reg. Measure ID (Waiver)	351433
Reg. Measure ID (Inv. Order)	365030
Party ID	39295



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

INVESTIGATIVE ORDER NO. R9-2009-0077

An Order Directing Mr. Tom Salayer and Mr. Mark Bousema to Submit Monitoring
Program Reports Pertaining to Compliance with Conditional Waiver No. 3,
Discharges from Animal Operations at

**S & S FARMS SWINE RAISING FACILITY,
1650 WARNOCK DRIVE,
RAMONA, CALIFORNIA**

The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board) finds:

1. **Legal and Regulatory Authority.** This Order is based on (1) sections 13267 and 13269(a)(2) of the California Water Code; (2) applicable state and federal regulations; (3) all applicable provisions of statewide Water Quality Control Plans adopted by the State Water Resources Control Board (State Board) and the *Water Quality Control Plan for the San Diego Basin* (9) (Basin Plan) adopted by the Regional Board including beneficial uses, water quality objectives, and implementation plans; (4) State Board policies and regulations, including State Board Resolution No. 68-16 *Statement of Policy with Respect to Maintaining High Quality of Waters in California*, and Resolution No. 88-63 *Sources of Drinking Water*; and (5) relevant standards, criteria, and advisories adopted by other state and federal agencies.
2. **Waiver of Waste Discharge Requirements.** The S & S Farms Swine Raising Facility (Facility) produces, treats, and stores animal waste from a maximum of 1,500 swine and is therefore considered a medium animal feeding operation. As a medium animal feeding operation, the facility has qualified for a waiver of waste discharge requirements as provided for in the Basin Plan under the general conditions set forth in Conditional Waiver No. 3, Discharges from Animal Operations.
3. **Discharge of Waste.** The discharge of swine facility wastes consisting of manure, urine, wash water, sprinkler water, and contaminated storm water runoff, have the potential to contribute to groundwater mineralization or cause the addition of nitrates to groundwater. If not properly managed, the discharge could affect the quality of underlying groundwater.
4. **Beneficial Uses of Groundwater.** The Basin Plan designates beneficial uses of the waters of the State. The Facility is located in the Ramona Hydrologic Subarea (905.41) of the Santa Maria Valley Hydrologic Area (905.40) of the San Dieguito Hydrologic Unit (905.00). Designated beneficial uses of groundwater are municipal

and domestic supply, agricultural supply, industrial service supply, and industrial process supply (Basin Plan, Table 2-5).

5. **Water Quality Objectives.** The Basin Plan also establishes water quality objectives (WQOs) needed to support beneficial uses and implementation policies to achieve WQOs. The WQOs for total dissolved solids and nitrate as NO_3 are 1,000 mg/L and 10 mg/L, respectively.
6. **Persons Responsible for the Discharge of Wastes.** Mr. Tom Salayer and Mr. Mark Bousema (Dischargers) own and operate S & S Farms located at 1650 Warnock Drive, Ramona, California.
7. **Description of Management Measures.** Waste management and water quality protection measures at S & S Farms include the following:
 - a. Soil graded to divert storm water runoff away from the swine facility.
 - b. Swine housed in roofed facility to prevent contact with storm water runoff.
 - c. Facility wash water collected in pits and pumped to the facultative ponds for treatment and storage.
 - d. Facility designed to prevent and control odors.
8. **Monitoring Requirements for Waivers.** Section 13269(a)(2) of the Water Code provides in part that: "The conditions of the waiver shall include, but need not be limited to, the performance of individual, group, or watershed-based monitoring, except as provided in paragraph (3). Monitoring requirements shall be designed to support the development and implementation of the waiver program, including, but not limited to, verifying the adequacy and effectiveness of the waiver's conditions. In establishing monitoring requirements, the regional board may consider the volume, duration, frequency, and constituents of the discharge; the extent and type of existing monitoring activities, including, but not limited to, existing watershed-based, compliance, and effectiveness monitoring efforts, the size of the project area; and other relevant factors. Monitoring results shall be made available to the public."
9. **Basis for Requiring Monitoring Program Reports.** Condition 3.I.E.2 of Conditional Waiver No. 3 provides in part that animal operations must submit monitoring program reports when directed by the Regional Board. Section 13267(b) of the Water Code provides in part that: "(1) In conducting an investigation specified in [section 13267] 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...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 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."

10. **Need for and Benefit of Monitoring Program Reports.** Monitoring program reports are needed to provide information to the Regional Board verifying compliance with waiver conditions, and verifying that management measures at the facility are adequate to protect groundwater quality from any adverse effects from the discharge. The benefit to be obtained from a monitor program report includes enabling the Regional Board to determine if the discharge poses a threat to users of groundwater in the vicinity of the Facility and providing technical information that will be used to determine if any corrective actions are necessary to bring the site into compliance with waiver conditions. Based on the nature and possible consequences of the discharges (as described in Finding No. 7 above) the burden of providing the required reports bears a reasonable relationship to the need for the reports and the benefit to be obtained from the reports.
11. **Failure to Comply.** If the Dischargers fail to comply with this Order, the Executive Officer may request the Attorney General to petition the superior court for the issuance of an injunction.
12. **Order Violation.** If the Dischargers violate this Order, the Dischargers may be liable civilly in a monetary amount provided by the Water Code.
13. **California Environmental Quality Act (CEQA).** The project entails monitoring existing wells on the facility property and preparation of monitoring program reports. The project is exempt from the provisions of CEQA in accordance with section 15061 (b)(3) of Chapter 3, Title 14 of the California Code of Regulations (CCR) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. In addition, this action is being taken for the protection of the environment and is exempt from the provisions of the CEQA in accordance with section 15308, Chapter 3, Title 14 of the CCR.

IT IS HEREBY ORDERED, pursuant to section 13267 of the Water Code, that the Mr. Tom Salayer and Mr. Mark Bousema shall furnish monitoring program reports that comply with the following directives:

A. ANNUAL MONITORING PROGRAM REPORTS

1. General Reporting

Reporting Requirements. The monitoring program reports must include the following information:

- a. The current address of the Facility and of the owner(s).
- b. The maximum herd size during the reporting period of November 1 to October 31.
- c. A description of any changes to the waste collection, management, or disposal system.
- d. An analysis of the groundwater from the well stations identified in Annual Technical Reports Requirement A.2.c below.
- e. A discussion of the Facility's compliance with the conditions of Basin Plan Conditional Waiver No. 3 including general facility design and management conditions; general manure management conditions; general application of manure as a fertilizer, amendment or mulch conditions; and specific medium animal feeding operations conditions. The discussion shall include any pertinent information and describe any additional management measures or corrective actions taken or planned to achieve full compliance with Conditional Waiver No. 3.

2. Groundwater Monitoring

- a. Groundwater monitoring must be capable of relating groundwater quality beneath and downgradient of the site to background water quality in order to determine if management measures are effective in eliminating any adverse effects on groundwater quality due to the discharge.
- b. *Procedures.* Groundwater monitoring must be conducted according to the following procedures unless the Regional Board approves alternative procedures:
 - i. All monitoring stations shall have fixed, marked, surveyed reference points determined by a professional surveyor. Groundwater elevation must be measured prior to the well being purged or sampled.

- ii. The wells must be pumped for a minimum of three volumes of the well casing before the sample is taken. If the well casing volume is not known, then three hundred gallons must be pumped before a sample is taken.
 - iii. The sample must be collected in a container approved by the laboratory doing the analysis. The containers must be suitable for collecting (1) a nitrate sample and (2) a total dissolved solids sample.
 - iv. The samples must be preserved in a container cooled to 4° Celsius (40° Fahrenheit).
 - v. The sample must be analyzed within seven days from the time the sample was taken.
 - vi. The sample must be taken during the September – October time period.
 - vii. The groundwater sample shall not be diluted by any other waste stream, body of water, or substance.
- c. *Monitoring Stations.* Groundwater samples shall be collected from wells at the stations described below:

<u>Station</u>	<u>Description</u>
1.	Onsite well west of the facultative treatment ponds alongside Ramona Street, used to pump water for agricultural uses.
2.	Onsite downgradient well located west of the treatment ponds and east of the swine housing structures.
3.	Onsite upgradient well located east of the treatment ponds.

- d. *Monitoring Parameters.* Groundwater from the monitoring wells shall be analyzed for the following constituents:

Parameter	Unit	Frequency
Groundwater Elevation	feet above mean sea level	Annual
Total Dissolved Solids	mg/L	Annual
Nitrate (N)	mg/L	Annual

3. **Reporting Schedule.** Monitoring program reports shall be submitted to the Regional Board according to the following schedule:

<u>Monitoring Frequency</u>	<u>Reporting Period</u>	<u>Report Due</u>
Annually	November 1 – October 31	December 1

4. **Transmittal Letter:** Each annual monitoring program report required by this Order shall be accompanied by a transmittal letter.

- a. The transmittal letter shall include a brief discussion of the findings, conclusions, and recommendations of the associated report.
- b. The person signing the transmittal letter shall make the following certification in the letter:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

- c. A principal executive officer or ranking elected official shall sign the transmittal letter. If not feasible, the transmittal letter may be signed by a duly-authorized representative of the principal executive officer or ranking elected official only if:

- i. the authorization is made in writing by the principal executive officer or ranking elected official,
- ii. the authorization specifies either an individual or position having responsibility for the overall operation of the regulated facility or activity, and
- iii. the written authorization is submitted to the Regional Board Executive Officer together with the Investigation Report.

B. REPORTING TO THE REGIONAL BOARD

All reports required by this Order shall be submitted in both electronic format, as a text searchable pdf, and paper copy to:

Assistant Executive Officer
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340
Attn: Supervisor Central San Diego County Groundwater Unit

C. PROVISIONS

1. **Contractor/Consultant Qualifications:** All reports, plans, and documents required under this Order shall be prepared under the direction of appropriately qualified professionals. A statement of qualifications and license numbers, if applicable, of the responsible lead professional and all professionals making significant and/or substantive contributions shall be included in the report submitted by the Dischargers. The lead professional performing engineering and geologic evaluations and judgments shall sign and affix their professional geologist or civil engineering registration stamp to all technical reports, plans, or documents submitted the Regional Board.
2. **Lab Qualifications:** All samples must be analyzed by California State-certified laboratories using methods approved by the U.S. Environmental Protection Agency (USEPA) for the type of analysis to be performed. All laboratories must maintain quality assurance/quality control (QA/QC) records for Regional Board review. Any report presenting new analytical data is required to include the complete Laboratory Analytical Report(s). The Laboratory Analytical Report(s) must be signed by the laboratory director and contain:
 - a. a complete sample analytical report,

- b. a complete laboratory quality assurance/quality control (QA/QC) report,
 - c. a discussion of the sample and QA/QC data, and
 - d. a transmittal letter that shall indicate whether or not all the analytical work was supervised by the director of the laboratory, and contain the following statement, "All analyses were conducted at a laboratory certified for such analyses by the California Department of Health Services in accordance with current USEPA procedures."
3. **Reporting of Changed Owner or Operator:** The Dischargers must notify the Regional Board of any changes in site occupancy or ownership associated with the property described in this Order, within one month of the change.
 4. **Penalty of Perjury Statement:** All reports must be signed by the Dischargers' principal executive officer or their duly authorized representative, and must include a statement by the official, under penalty of perjury, that the report is true and correct to the best of the official's knowledge.

D. NOTIFICATIONS


1. **Enforcement Discretion.** The Regional Board reserves its right to take any enforcement action authorized by law for violations of the terms and conditions of this Order. This Order in no way limits the authority of this Regional Board to institute additional enforcement actions or to require additional investigation and cleanup consistent with the Water Code.
2. **Compliance.** Water Code section 13268(a)(1) provides that any person failing or refusing to furnish technical or monitoring reports as required by Water Code section 13267(b), or falsifying any information provided therein, is guilty of a misdemeanor and, in accordance with subdivision 13268(b), may be liable civilly for an administratively imposed liability of up to \$1,000 per day for each day that adequate program monitoring reports are not furnished to the Regional Board.
3. **Requesting Evidentiary Hearing by the Regional Board.** Any person affected by this action of the Regional Board may request an evidentiary hearing before the Regional Board. The Regional Board's Executive Officer may elect to hold an informal hearing or a "paper hearing" in lieu of scheduling a hearing before the Regional Board itself. If you decide to request an evidentiary hearing, send your request to the Regional Board Executive Officer, Attn: Supervisor Central San Diego County Groundwater

Unit, at the address provided on the Order transmittal letter. Please consider the following carefully:

- a. The Regional Board must receive your request within 30 days of the date of this Order.
- b. Your request must include all comments, technical analysis, documents, reports, and other evidence that you wish to submit for the evidentiary hearing. However, please note that the administrative record will include all materials the Regional Board has previously received regarding this site. You are not required to submit documents that are already in the record.
- c. The Executive Officer or Regional Board may deny your request for a hearing after reviewing the evidence.
- d. If you do not request an evidentiary hearing, the State Board may prevent you from submitting new evidence in support of a State Board petition.
- e. Your request for an evidentiary hearing, if you submit one, does not stay the effective date of the Order, whether or not a hearing is scheduled.
- f. A request for a hearing does not extend the 30-day period to file a petition with the State Board (see below). However, we suggest that you ask the State Board to hold the petition in abeyance while your request for a hearing is pending. (Refer to CCR Title 23 section 2050.5(d)) Additional information regarding the SWRCB petition process is provided below.

4. **Requesting Administrative Review by the State Board.** Any person affected by this action of the Regional Board may petition the State Board to review the action in accordance with section 13320 of the Water Code and CCR Title 23 section 2050. The petition must be received by the State Board (Office of Chief Counsel, P.O. Box 100, Sacramento, California 95812) within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

Ordered By: _____


Michael P. McCann
Assistant Executive Officer
June 10, 2009

California Regional Water Quality Control Board
San Diego Region

Investigative Order No. R9-2009-0077

Page 1 of 4

Date of report: _____

Annual Monitoring Program Report for November 1, 20__ to October 31, 20__

CIWQS Place ID: 254826, CIWQS Regulatory ID: 365030

MARK BOUSEMA and/or TOM SALAYER
S&S FARMS SWINE FACILITY

Directions:

1. Respond to all questions. If a question does not pertain to your facility, write "Not Applicable" in the space provided.
2. Attach additional pages if necessary to further demonstrate compliance with waste discharge requirements or to answer any question in greater detail.
3. Make copies of this form for annual reporting, identifying the monitoring period on the line at the top of the page, and save the original as a master copy.

Name and Address Changes:

Note any changes or corrections to the following:

1. Name of facility: S & S Farms _____
Address: 1650 Warnock Drive _____
Ramona, California 92065 _____
Phone number: (760) 788-7007 _____
2. Name of owner: Mark Bousema/Tom Salayer _____
Address: 1650 Warnock Drive _____
Ramona, California 92065 _____
Phone number: (760) 788-7007 _____
Fax: (760) 788-7042 _____
Email: sns farms@sbcglobal.net _____
3. Facility contact: Same as owner _____

Animal Counts:

Report the maximum number of animals during the year. The maximum authorized herd size is 1500 total swine.

1. Wean to Grower (40 -220 lb.) _____
2. Gilt (>220 lb.) _____
3. Sow (Gestation) _____
4. Sow (Lactation) _____
5. Boars _____
6. Nursing/nursery pigs (0 -40 lb.) _____

Groundwater Monitoring:

Complete the following and attach a copy of the laboratory's analysis sheet.

1. Was the groundwater monitoring conducted according to the procedures prescribed by Annual Monitoring Program Reports Requirement A.2.b of Investigative Order No. R9-2009-0077?

Yes No, the procedures were modified as follows: (attached additional sheets if necessary)

	Well #1	Well #2	Well #3
Date sampled			
Time sampled			
Name of individual who performed sampling*			
Name of laboratory and individual(s) who performed analyses*			
Date analyses were performed*			
Analytical techniques*			
Analytical Results			
Total Dissolved Solids (mg/L)			
Nitrate (as N) (mg/L)			

* Submittal of laboratory sheets containing this information will satisfy these requirements

Compliance Statement:

The discharger shall discuss the swine facility's compliance with the waiver conditions contained in Conditional Waiver No. 3, Discharges from Animal Operations. Review compliance statements below and check the appropriate box. You should include any pertinent information and describe any additional management measures or corrective actions taken or planned to achieve full compliance with the waiver.

Compliance statement	Waiver Condition	Yes	No
Were all management measures and/or best management practices maintained such that discharge of pollutants were minimized or eliminated? Please explain.	3.1.A.2		
Were animals and animal wastes prevented from direct or indirect contact with surface water bodies? If no, please explain.	3.1.A.3 and 3.1.B.1		
Was waste from the collection pits disposed of to the facultative ponds at least once every two weeks? If no, please explain.	3.1.B.2.a		
Was grading maintained to prevent storm water and surface runoff from reaching the collection pits? If no, please explain.	3.1.B.2.c		
Was manure applied as a fertilizer, amendment, or mulch to soil on the same property where the manure was generated? If yes, please describe type (i.e. fresh, dried, composted, etc.).	3.1.C.1		
Was manure applied as a fertilizer, amendment, or mulch to soil on sites other than the same property where the manure was generated? If yes, please describe type (i.e. fresh, dried, composted, etc.).	3.1.C.2		
If manure was applied, was a buffer zone of at least 100 feet maintained between the manure applied to the soil and surface waters of the state? If no, please explain.	3.1.C.3		
If manure was applied, was it applied to soil at agronomic rates and at rates appropriate to the season?	3.1.C.4 and 3.1.C.5		
Was the facility operated and maintained in accordance with the regulations cited in California Code of Regulations Title 27 sections 22562 through 22565?	3.II.B.2		

Comments:

Waste Management Program:

The discharger shall describe any changes to the waste collection, management or disposal system during the past year from what was described in the Notice of Intent for Conditional Waiver No. 3, Discharge from Animal Operations. If physical changes have occurred, submit a map showing the new facilities.

- No changes to the waste management facilities and operation occurred during the year, or The following changes have been made. (attach additional sheets if necessary)

Certification Statement:

Pursuant to Annual Monitoring Program Reports A.4 of Investigative Order No. R9-2009-0077, this report must be signed and certified by the discharger or a duly authorized representative of that person as follows:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Signed under Penalty of Perjury

Date

Print Name

Additional Comments: (attach additional sheets if necessary)

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
 Tom Salayer and Mark Bousema
 1650 Warnock Drive
 Ramona, CA 92065

2. Article Number
 (Transfer from service label)

7008 1140 0002 8455 9633

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS FOLD AT DOTTED LINE
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Sent To: Tom
 Street, Apt. No. or PO Box: [blank]
 City, State, ZIP+4: [blank]

Sent To: Tom Salayer and Mark Bousema
 Street, Apt. No., or PO Box No.: 1650 WARNOCK DRIVE
 City, State, ZIP+4: Ramona, CA 92065