



MICHELLE LUJAN GRISHAM  
GOVERNOR

JAMES C. KENNEY  
CABINET SECRETARY

## **NOTICE OF VIOLATION**

### **Certified Mail - Return Receipt Requested**

March 21, 2025

Ron Schaap, Owner  
Sunwest Dairy  
1069 Curry Road 21  
Cloves, New Mexico 88101

**RE: Notice of Violation, Sunwest Dairy, DP-1288**

Dear Ron Schaap:

On November 2, 2021, the New Mexico Environment Department (NMED) issued a Discharge Permit Renewal, DP-1288, (Discharge Permit; copy enclosed) to Ron Schaap (Permittee) pursuant to Section 20.6.2.3109 NMAC of the Water Quality Control Commission (WQCC) New Mexico Ground and Surface Water Protection Regulations (20.6.2 NMAC). Section 20.6.2.3104 NMAC requires the Permittee to comply with the terms and conditions of this Discharge Permit.

NMED has determined that Sunwest Dairy (Facility) is operating in violation of the conditions of the Discharge Permit, the Water Quality Act (WQA), 20.6.2 NMAC, and the Supplemental Permitting Requirements for Dairies (Dairy Rule), 20.6.6 NMAC. Please be advised that NMED requires prompt action as described herein. The facility is located at 671 CR 8, approximately 3.5 miles southeast of Clovis in Section 26, Township 02 North, Range 36 East, Curry County.

### **A summary of the events resulting in the determination of violations at this facility follows.**

- On August 20, 2024, NMED issued a Notice of Non-Compliance (NONC) to the facility for failing to submit a monitoring well location proposal, confirmation of installation of the Parlor Supply Meter and missing meter readings, and the initial Nutrient Management Plan.
- On August 21, 2024, NMED received comments on the NONC by the facility's consultant, Enviro-Ag Engineering, Inc.
- On September 24, 2024, NMED responded to the comments submitted by Enviro-Ag Engineering, Inc., approving some of the facility's requests. Additionally, NMED mandated

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Ground Water Quality Bureau | 1190 Saint Francis Drive, PO Box 5469, Santa Fe, New Mexico 87502-5469  
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that the necessary submittals be included in the next quarterly monitoring report, due by February 1, 2025.

- The permittee failed to submit several required documents in the quarterly monitoring report due February 1, 2025, including downgradient irrigation well samples (in lieu of the monitoring well proposal), monthly Parlor Supply Meter readings, and the initial Nutrient Management Plan.

**The requirements of the Discharge Permit, resultant violation(s) and associated actions necessary to correct the violation(s) are identified below.**

1. Condition a in Table B8 of the Discharge Permit requires the submission of a written monitoring well location proposal to NMED by January 1, 2022. NMED received comments prepared by Enviro-Ag Engineering, Inc. on behalf of Sunwest Dairy to the Notice of Non-Compliance (NONC) dated August 21, 2024, where the facility requested the use of irrigation wells for downgradient monitoring in lieu of submitting a monitoring well proposal which NMED accepted September 24, 2024.

This condition has been violated because, to date, NMED has not received 4<sup>th</sup> quarter groundwater sampling data from the irrigation wells that were intended to replace the additional monitoring wells.

In order to correct this violation, **submit the construction and lithologic logs and the 4<sup>th</sup> quarter groundwater analysis for CC-770-S and CC-770-S2 to NMED in their entirety by April 21, 2025.** Thereafter, submit complete monitoring reports to NMED in accordance with the Discharge Permit.

2. Conditions j and k in Table B6 of the Discharge Permit require the submission of Parlor Supply Meter readings at intervals not to exceed monthly in the quarterly monitoring reports.

This condition has been violated because, to date, NMED has not received monthly Parlor Supply meter readings.

In order to correct this violation, **submit the Parlor Supply Meter readings in their entirety to NMED by April 21, 2025.** Thereafter, submit complete monitoring reports to NMED in accordance with the Discharge Permit.

3. Condition r in Table B3 of the Discharge Permit requires the submission of the initial Nutrient Management Plan (NMP) to NMED by May 1, 2022.

This condition has been violated because, to date, NMED has not received the initial NMP since the Discharge Permit was approved on November 2, 2021.

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In order to correct this violation, **submit the initial NMP to NMED in its entirety by April 21, 2025**. The NMP must meet all requirements of 20.6.6(I) NMAC. Thereafter, submit NMP annual updates to NMED in accordance with the Discharge Permit.

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Pursuant to WQA § 74-6-5, NMED has authority to terminate or modify the Discharge Permit prior to its date of expiration for any of the following causes:

1. violation of any condition of the permit;
2. obtaining the permit by misrepresentation or failure to disclose fully all relevant facts;
3. violation of any provisions of the WQA, or any applicable regulations, standard of performance or water quality standards;
4. violation of any applicable state or federal effluent regulations or limitations; or
5. change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

Failure to comply with this Notice of Violation may result in NMED's issuance of a compliance order that assesses a civil penalty pursuant to WQA, Section 74-6-10. NMED may also assess civil penalties up to \$15,000 per day for each violation of the WQA, Section 74-6-5, any regulation promulgated pursuant to that section, or any permit issued pursuant to that section. NMED may assess civil penalties up to \$10,000 per day for each violation of any other provision of the WQA, or any regulation, standard, or order adopted pursuant to such other provision.

As an alternative to the remedies described above, NMED may commence an action in district court for appropriate relief, including injunctive relief.

Nothing in this letter shall be construed as relieving the Permittee of the obligation to comply with all requirements of the Discharge Permit, the WQCC Regulations, the WQA, and other applicable federal, state, and local laws, regulations, permits or orders. This letter is intended to obtain voluntary compliance in addressing violations of certain requirements of the Discharge Permit and may not address all violations. It is the responsibility of the Permittee to be familiar with and comply with the Discharge Permit.

Please note that your Facility will appear on the NMED's Enforcement Watch as a result of this NOV (see: <https://www.env.nm.gov/enforcement-watch/>). Further, NMED will issue a press release to local media highlighting your Facility as appearing on this webpage. Your Facility will remain on the Enforcement Watch website as an active matter until this matter is fully resolved.

Pursuant to the NMED Delegation Order dated November 26, 2024, the Cabinet Secretary has delegated the authority to sign a Notice of Violation under the New Mexico Water Quality Act to the Chief of the Ground Water Quality Bureau. If you have any questions regarding this matter,

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Ron Schaap  
March 21, 2025  
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please contact Samantha Carver, Acting Program Manager of the Ground Water Agriculture Compliance Section, at (505) 490-5266 or submit an email to [acs.general@env.nm.gov](mailto:acs.general@env.nm.gov).

Sincerely,

Justin D. Ball, Chief  
Ground Water Quality Bureau

JB:sc

Encl: Discharge Permit Renewal, DP-1288, dated November 2, 2021

cc: Jonas Armstrong, Division Director, Water Protection Division  
Damon Reyes, District Manager, NMED District I  
Allison Smithkier, Assistant General Counsel, NMED Office of General Counsel  
Eric Conklin, Enviro-Ag Engineering, Inc., [econklin@enviroag.com](mailto:econklin@enviroag.com)  
ACS Reading File

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