



VIA EMAIL

November 1, 2010

Central Valley Water Board
Attn: David Sholes, Senior Engineering Geologist
1685 E Street
Fresno, CA 93706-2007

SUBJECT: Comment letter, Waste Discharge Requirements General Order for Dairies with Manure Anaerobic Digester or Co-Digester Facilities

Dear Mr. Sholes:

I have reviewed the above-referenced Tentative General Order (hereafter "TGO"), and am providing the following comments on behalf of the Dairy Cares coalition. Dairy Cares is a coalition of California's dairy producer and processor associations, including the state's largest producer trade associations (*Western United Dairymen, California Dairy Campaign and Milk Producers Council*) and the largest milk processing companies and cooperatives (*California Dairies, Inc., Dairy Farmers of America-Western Area Council, Hilmar Cheese Company, Joseph Gallo Farms, Producers Bar 20 Dairy and Land O' Lakes*). Formed in 2001, Dairy Cares promotes the long-term sustainability of California dairies by working to improve the industry's performance on environmental, animal care and quality-of-life issues.

Summary

We support the efforts of the Central Valley Regional Water Quality Control Board ("Regional Board") to develop clear regulatory guidelines for dairy manure digester and co-digester projects. Such projects provide substantial promise as a source of renewable, green energy and sustainable economic stimulus as digester technologies and economic models are allowed to develop and mature. As part of our support for the Regional Board's efforts, Dairy Cares representatives have served on the Regional Board's Technical Advisory Group (stakeholders group) for development of environmental documents for this project. We have participated in meetings of the TAG and have previously filed written comments in May and August of 2010, and earlier participated as stakeholders in developing and discussing the project scope. In short, we believe this project is important and want to do everything we can to ensure its success so that the people of California can enjoy the economic and environmental benefits that would be likely to accrue as a result.

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We appreciate the Regional Board's effort in developing the TGO so far. We also appreciate this TGO's consistency with General Order R5-2007-0035; consistency with this order is important because it ensures that the TGO will not place a significantly higher regulatory burden than R5-2007-0035. Consistency will also help avoid regulatory uncertainty for proposed projects. Regulatory uncertainty increases the difficulty of such projects becoming reality by increasing perceived risk to investors and ultimately increasing costs.

However, we have concerns with the language in the TGO and believe revisions are merited before adoption. In general, we believe manure digesters and co-digesters provide substantial environmental benefits and no significant risk to water quality above the baseline risk of a normally operating dairy farm.

From a water quality perspective, the major, important difference between dairies operated without digesters/co-digesters and those dairies with such facilities is the addition of co-substrates to manure. These co-substrates are typically a by-product of agricultural processing and production or food processing. Addition of these co-substrates increases biogas production and creates an opportunity to increase the economic viability of projects both through increased energy production but also by providing a sensible, economic disposal method for substrates that would otherwise be wastes.

However, more substrates added to the digester mean more effluent is produced, and ultimately discharged/applied to land as a fertilizer and soil amendment. As such, this change in volume and character of waste must be considered to ensure that the effluent continues to be applied at agronomic rates. The TGO appropriately recognizes that a nutrient management plan is needed (as it is needed at dairies with or without digesters) to ensure that nutrient application remains balanced with crop uptake. Notably, this requirement is consistent with what is required in R5-2007-0035 and therefore does not impose a burden for digester/co-digester projects that is unreasonable or beyond what is required for dairies without such facilities.

However, in many areas of the TGO, there have been further attempts to reduce the perceived risk posed by digesters – especially co-digesters – by placing additional operational constraints on dairies with such facilities. Several of these operational constraints would pose an unnecessary burden on digester/co-digester projects that would go beyond what R5-2007-0035 requires for dairies. Dairies with digester/co-digester projects do not pose a significantly higher risk to water quality than dairies without such facilities (arguably dairies with digesters may actually pose a smaller risk to water quality).

One example of this is Land Application Area Specification C12, which sets numeric salt-loading limitations of 2,000 pounds per acre for single-cropped fields and 3,000 pounds per acre for multi-cropped fields. With the implementation of a nutrient management plan prepared by a certified professional, this restriction is unnecessary. This requirement poses a significant, additional, unnecessary burden to dairies with digester/co-digester facilities. This is an example of several disincentives that are included in the TGO, which as a whole pose a regulatory burden that is wholly disproportionate to any corresponding potential improvement to water quality.

Additional issues where the TGO goes unnecessarily beyond what is required in R5-2007-0035 are identified in a Nov. 1, 2010 comment letter from Western United Dairymen, which is a member of the Dairy Cares coalition. We acknowledge the comments and incorporate them by reference. We urge the Regional Board to address these issues appropriately prior to adoption of the TGO. In addition, we note our comments of August 23, 2010, in which we discussed in detail issues related to a salt minimization plan and "reasonable salt loading." We reiterate those comments and incorporate them by reference.

On behalf of the Dairy Cares coalition, thanks again for the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read 'J.P. Cativiela', written in a cursive style.

J.P. Cativiela
Dairy Cares Program Coordinator