

Executive Officer's Summary Report  
8:30 a.m., January 19, 2012  
Regional Water Board Office  
David C. Joseph Hearing Room  
5550 Skylane Blvd, Suite A  
Santa Rosa, CA

ITEM: 9

SUBJECT: **Public Hearing** to consider a **Regulatory Program for Waste Discharges from Dairies and Concentrated Animal Feeding Operations in the North Coast Region**, including Order No. R1-2012-0001, General NPDES No. CAG011001; Order No. R1-2012-0002, General Waste Discharge Requirements; and Order No. R1-2012-0003, Conditional Waiver of Waste Discharge Requirements

### **DISCUSSION**

Regional Water Board staff has drafted a three-tier regulatory program for existing cow dairies and Concentrated Animal Feeding Operations (CAFOs) in the North Coast Region. A Notice of Public Hearing formally announcing the availability of the draft permits for public review and comment was posted on October 24, 2011. At a November 3, 2011 Regional Water Board Workshop, staff provided an overview of the draft permits and the Board heard oral comments from the public. The public comment period closed on December 5, 2011.

Written comments were received from the following:

- University of California, Davis School of Agriculture and Natural Resources
- Western United Dairyman
- Sotoyome Resource Conservation District
- Natural Resource Conservation Service in Del Norte County
- Humboldt County Farm Bureau
- SHN Engineers and Geologists
- Humboldt Worm and Tea.

All written public comment letters are posted on the Regional Water Board website and are included in the Board's agenda package along with staff's responses to these comments. Regional Water Board staff have made a number of changes to the draft Orders in response to public comments. In addition, staff identified several changes to the draft Orders to improve clarity, correct typographical errors, and to make language consistent in the Orders, Monitoring and Reporting Programs and Fact Sheet. Strikeout/underline versions of each of the Orders and their supporting

documents showing the modifications to the public review drafts are provided. This is the public hearing to consider Regional Water Board adoption of the tentative Orders.

## **BACKGROUND**

There are approximately 150 dairies in the North Coast Region, housing about 50,000 cows. The dairies are located mainly in western Humboldt and Sonoma Counties, but several are also located in Siskiyou, Del Norte, Mendocino, and Marin Counties.

Some of these dairies have been inspected by staff sporadically through enforcement of the Water Quality Control Plan for the North Coast Basin (Basin Plan) and California Code of Regulations Title 27 statewide minimum standards for discharges of animal waste at confined animal facilities. One dairy is currently regulated under a 1996 individual waste discharge requirements Order. Since 2000, six dairies within the north coast have been covered under the General Permit to Discharge Storm Water Associated with Industrial Activity (Order 97-03-DWQ). Animal facilities in the region are currently covered by Order No. R1-2007-0098 "Policy for Waiving Waste Discharge Requirements for Specific Types of Waste Discharges." That Order applies to confined animal facilities in the region that do not require a NPDES discharge permit.

Other Regional Boards throughout the state regulate dairies mainly through National Pollutant Discharge Elimination System (NPDES) permits similar to the one proposed here for the North Coast Region. However, the San Francisco Bay and Central Valley regional boards have General Waste Discharge Requirements Orders adopted in 2003 and 2007, respectively. The San Francisco Bay region adopted a Waiver of Waste Discharge Requirements for dairies in 2003, but that Waiver expired in 2008 and is currently in the process of being re-written. Each of these existing permits was reviewed by Regional Water Board staff in developing the proposed tentative Orders for dairies and CAFOs in the North Coast Region.

Regional Water Board staff initiated stakeholder involvement in the development of this north coast dairy program in early 2010 through public scoping and meetings with agency representatives and interested parties. The tentative Orders collectively reflect months of discussions and input from stakeholders including representatives of the State Water Resources Control Board and the U.S. Environmental Protection Agency, University of California Cooperative Extension, National Resource Conservation District and resource conservation districts, Farm Bureaus, over 40 north coast dairy operators, Western United Dairywomen, and environmental organizations.

## **TENTATIVE ORDERS**

Three permit options have been developed to address the range of potential threat to water quality from existing dairy and CAFO facilities in the north coast. The three tiers of the dairy regulatory program are:

1. The Conditional Waiver of Waste Discharge Requirements (Waiver) covers dairies that demonstrate that they do not discharge to surface water or groundwater and that they meet the minimum standards for protection of surface water and groundwater contained in Title 27. Preparation of a Water Quality Plan is required. Regular inspections of best management practices are required, including demonstration of compliance before the winter rains begin. Submittal of an Annual Report documenting compliance with conditions of the Waiver is due each fall. Surface water and groundwater sampling are required; however, group monitoring may be allowed if approved in advance by the Regional Water Board staff.
2. The General Waste Discharge Requirements (GWDRs) permit cover dairies that do not discharge to surface water and groundwater and do not meet the requirements for coverage under the Conditional Waiver of Waste Discharge Requirements. The GWDR requires the development and implementation of a Waste Management Plan for the production area and a Nutrient Management Plan for the land application area, while requiring regular sampling of surface water runoff and groundwater wells. Best management practices must be implemented to protect water quality and meet Title 27.
3. The general National Pollutant Discharge Elimination System (NPDES) and waste discharge requirements permit for Concentrated Animal Feeding Operations (CAFOs) covers cow dairies as well as other designated CAFOs that discharge waste to surface water or groundwater. A Nutrient Management Plan and water quality sampling of discharges are mandatory requirements of this permit. The NPDES permit allows dairies to operate while meeting minimum water quality standards. Dairies that have large volumes of water to control, in comparison to the size of the dairy infrastructure, may fall under this permit.

All three permits require:

1. Enrollment under one of the three permit types. The GWDR and Waiver enrollment is required by April 30, 2012 by submitting a Notice of Intent form;
2. A written plan for the control of waste within the production area and the land application area;
3. Regular inspection of water quality protection structures and other best management practices;
4. Submittal of surface water and groundwater monitoring results;
5. Submittal of Annual Reports each fall prior to the rainy season; and
6. Allowing Regional Water Board access to conduct inspections, review the dairy plan, take photographs, and collect water quality samples.

The permits allow for termination of industrial storm water permits or individual waste discharge requirements upon enrollment in one of the new permit types.

### Summary of Changes to Draft Orders

In addition to editorial corrections and clarifications, the following substantive changes were made to the Orders in response to public comments received during the public comment period:

- The deliverable dates for some reports were modified, as summarized below:

Report	Draft Deliverable Date	Revised Deliverable Date
Notice of Intent	April 19, 2012	April 30, 2012
Waiver Water Quality Plan	July 19, 2012	November 30, 2012
GWDR Waste Management Plan and Nutrient Management Plan	January 19, 2014	January 19, 2013

- Modifications to the calculation and assessment of nitrogen application rates in the Nutrient Management Plans to be consistent with University of California Cooperative Extension and Natural Resources Conservation Service recommendations (see Waiver and GWDR Nutrient Management Plan section D. Nutrient Budget Calculations);
- Clarification regarding specialist support required in development of technical reports; and
- Clarification of the existing facility exemption under the California Environmental Quality Act (see revisions to Waiver and GWDR findings 1, and 29 through 33).

None of the modifications to the draft Orders change the fundamental requirements and conditions of the Orders.

Regional Water Board staff did *not* make changes to the Orders in response to the following comments:

- UC Davis requested that individual facility surface water monitoring of pH and temperature be removed from the Monitoring and Reporting Program requirements for the Waiver and GWDR, and that the frequency of groundwater well monitoring be reduced (from 4 to 2 samples). Staff has not reduced these monitoring requirements, as monitoring for these parameters is necessary to assess compliance with critical water quality standards. Groundwater monitoring during both the spring and fall during the first two years after permit adoption is necessary to assess nitrate and fecal coliform conditions under fluctuating groundwater levels.
- UC Davis requested certain reporting components in the Waiver's Annual Report be removed since similar reporting requirements are included in the Water Quality Plan. Staff has not changed the reporting requirements, as some of the reporting components could change following completion of the Water Quality Plan.

### **Table of Contents**

A table of contents itemizing the contents of this agenda item package follows this summary report. Section I includes the public comment letters and staff's response to comments. Section II, III, and IV include the Conditional Waiver, GWDR, and NPDES Orders and the attachments, respectively. A clean version of the tentative Orders follows a strikeout/underline version showing the changes proposed to the draft Orders.

**PRELIMINARY STAFF  
RECOMMENDATION:**

Adoption of Orders Numbers:  
R1-2012-0001 (General NPDES No. CAG011001);  
R1-2012-0002 (General WDRs); and  
R1-2012-0003 (Conditional Waiver of WDRs)  
as proposed.