

To: Matt St. John, Executive Officer
North Coast Regional Water Quality Control Board

From: John Short

Date: 7/31/12

Subject: Comments on the proposed City of Santa Rosa dairy nutrient offset project

Dear Matt:

I appreciate the opportunity to comment on the above-referenced item. Discharges of treated effluent from the City of Santa Rosa wastewater treatment facility are regulated under waste discharge requirements which also serve as a federal National Pollutant Discharge Elimination Program permit (NPDES permit). The NPDES permit includes detailed requirements, effluent limits and monitoring programs in order to ensure that the effluent discharge does not cause adverse impacts to ground and surface waters. The highly treated wastewater effluent contains levels of nutrients that cause or contribute to the exceedance of nutrient-related surface water quality objectives in the Laguna de Santa Rosa (Laguna). The Laguna, the most impaired waterbody on the north coast, was listed as nutrient impaired by the USEPA. Until an appropriate control strategy (TMDL) is developed, permit conditions require that the City either eliminate nutrients in their surface water discharge, discharge entirely to land, or offset their nutrient discharge by conducting nutrient control projects in the watershed. The protocol for the implementation of an offset program is contained in Board Resolution R1-2008-0061 (offset resolution) adopted by the North Coast Regional Water Quality Control Board (Regional Board) on July 24, 2008. The offset resolution does not allow offsets for projects that are separately required by Regional Board programs. Unfortunately, the three dairy offset projects contained in the City's proposal do not comply with the criteria contained in the offset resolution and must not be approved.

The City's offset proposal includes implementation of the following control measures at the Baretta Dairy.

1. Installation of a concrete pad and drainage collection facilities to control the release of manure leachate generated during manure pond dredging. Downslope vegetated buffer areas are proposed for leachate, manure and manure-area runoff not captured by the control project.
2. Installation of cattle fencing and buried pipes to preclude discharges of raw wastewater, manure and manure-area runoff to a clean water diversion that passes through a "heavy use area". Buffer areas are proposed to help remove pollutants from uncontrolled waste discharges from the "heavy use area".
3. Relocation of a "heavy use area" currently located immediately adjacent to Roseland Creek, tributary to the Laguna. It is unclear what BMPs are proposed for the new "heavy use area".

The common element to the three proposals is to control discharges of wastewater and runoff from existing “heavy use areas”. This BMP is the most important and basic control measure at confined animal facilities.

In March, 1973, the State Water Resources Control Board (state board) adopted statewide minimum guidelines for discharges of animal waste at confined animal facilities (currently promulgated at Title 27, California Code of Regulations Sections 22560-22565). These regulations are intended to complement and apply in addition to federal regulations for Concentrated Animal Feeding Operations (CAFOs). The CAFO regulations apply to certain large confined animal facilities that discharge to surface waters. The Title 27 regulations are applicable to all confined animal facilities statewide and contain requirements for protection of ground and surface waters. The Title 27 regulations (section 22562) as well as federal requirements contain basic pollutant control requirements for the containment of manure, wash water and storm water runoff from animal confinement areas. Once fully contained, Title 27 allows for the land discharge of collected wastewater at “rates which are reasonable for the crop, soil, climate, special local situations, management system, and type of manure (section 22563). Title 27 clearly refers to these requirements as “minimum” standards and directs the regional board to impose additional requirements, where necessary, in order to prevent degradation of water quality or impairment of beneficial uses of waters of the state. The language requires that the minimum standards be implemented in any waste discharge requirements issued to animal waste facility or be made a condition to the waiver of waste discharge requirements for such facilities. Since 1973, the regional board has adopted and renewed at least 4 categorical waivers of waste discharge requirements for confined animal facilities (including the most recent waiver adopted in January 2012). All of these waivers require compliance with the minimum statewide standards as a condition of enrollment.

A review of the Santa Rosa proposal and available background information on the Baretta Dairy indicate that the statewide minimum criteria are fully applicable but are not currently being implemented at the described locations. Even if the BMPs identified by the City are installed, they would not ensure full retention of wastes (including storm water runoff up to design storm criteria) from the facilities identified in the proposal. Installation of more appropriate BMPs at these locations should be a very high priority and RB staff should assist the discharger in the design and funding of compliance measures in a timely manner. However, these installation of these required BMPs cannot be used to provide a discharge offset for 20 years of Santa Rosa wastewater discharge.

The Title 27 minimum standards, adopted by the state nearly 30 years ago, clearly describe mandatory BMPs and allow Regional Board flexibility for other program elements (monitoring, site specific effluent application rates, etc). Despite this plain language, the City states that raw wastewater collection is not required. Furthermore, they presume that such controls are not required for any confined animal facility in the Region and would not be a requirement for 20 years. This interpretation undermines

the significant progress the dairy industry has made in water quality protection. Alternative dairy offset projects should be considered in place of these projects. Installation of riparian buffers downslope from land-application pasture areas, removal of historic manure stockpiles (including poultry wastes), pumping manure ponds and exporting manure wastewater out of the watershed, and abandonment of old substandard manure ponds may be examples of projects not required by Title 27 minimum standards.

In addition to the alternative projects listed above, the Regional Board should direct the City to projects that have multiple environmental benefits. Consideration should be given to sources that are not currently regulated. The City could subsidize the pumping of septic tanks from sites adjacent to Santa Rosa creek and other tributaries. Wastes could also be collected from small stables and other private facilities. Education and outreach efforts could be combined with this waste collection. Erosion control and stream bank stabilization projects focused on current sources adjacent to streams could yield significant benefits. Although its benefits may not occur quickly, floodplain and wetland restoration/creation may provide the best long term benefit and will likely be the foremost compliance measure for the Laguna nutrient TMDL.