

ITEM: 13

SUBJECT: Workshop on tentative Waste Discharge Requirements General Order for Existing Milk Cow Dairies

BOARD ACTION: No action required by the Board: Workshop only to receive comments on tentative Waste Discharge Requirements General Order for Existing Milk Cow Dairies

BACKGROUND: Until January 2003, most confined animal facilities in the Central Valley Region operated pursuant to a 1982 conditional waiver of waste discharge requirements, which expired on December 31, 2002 pursuant to Water Code section 13269. On 15 December 2002, the United States Environmental Protection Agency (USEPA) promulgated new regulations for Large Concentrated Animal Feeding Operations (CAFOs). These new federal regulations required all Large CAFOs to apply for coverage under a National Pollutant Discharge Elimination System (NPDES) permit. In 2003 and 2004, the Regional Board proceeded to develop an NPDES General Permit for CAFOs to reflect the new federal regulations.

Before that permit could be adopted, on 28 February 2005, the United States Court of Appeals for the Second Circuit vacated the requirement for all CAFOs to apply for an NPDES permit. The USEPA is currently revising the federal regulations to incorporate the 2<sup>nd</sup> Circuit Court's decision. Since the federal CAFO regulations do not require all CAFOs to apply for an NPDES permit, staff has drafted tentative Waste Discharge Requirements General Order for Existing Milk Cow Dairies (General Order) rather than finalize the NPDES permit. The General Order will be released for public comment by 22 November 2006. Staff released a working draft General Order in March 2006 for interested parties to comment on. The General Order incorporates many of the comments received on the previous draft NPDES permits and the March 2006 working draft.

The General Order includes requirements for protection of both surface water and groundwater. For surface water protection, the General Order prohibits discharges of: (1) waste and/or storm water to surface water from the production area, (2) wastewater to surface water during or following application to cropland, and (3) storm water to surface water from the land application area where manure or process wastewater has been applied, unless the land application has been managed consistent with a certified Nutrient Management Plan. The General Order also prohibits discharges that cause or contribute to exceedances of any water quality standards and requires each dairy to submit a Waste Management Plan and Nutrient Management Plan to demonstrate that they: have adequate waste containment to prevent discharges to surface water; have

adequate flood protection to comply with state regulations; can operate and maintain their facilities in compliance with the permit; and can manage their waste applications to land application areas in a manner that will minimize or eliminate the transport of nutrients to surface water.

The General Order will provide groundwater protection by requiring Dischargers to: (1) develop and implement Nutrient Management Plans that will control nutrient losses from land application areas; (2) reconstruct existing retention ponds when groundwater monitoring demonstrates that an existing retention pond has impacted groundwater quality, (3) design and construct new retention ponds that will result in compliance with the groundwater limitations of this General Order, (4) document that no cross connections exist that would allow the backflow of wastewater into a water supply well or irrigation well, and (5) submit an Operation and Maintenance Plan for the production area. This General Order also requires that discharges of waste from existing milk cow dairies shall not cause groundwater to be further degraded, to exceed water quality objectives, unreasonably affect beneficial uses of the groundwater, or cause a condition of pollution or nuisance.

The General Order requires monitoring of discharges, surface water, groundwater, storm water, tailwater, and applications of dairy waste to cropland.

ISSUES:

Based on comments on previous draft requirements, the main issues are expected to be:

- Costs to comply with the Order and the Monitoring and Reporting Program
- Groundwater monitoring
- Retention pond design

Mgmt. Review \_\_\_\_\_

Legal Review \_\_\_\_\_