



CALIFORNIA DEPARTMENT OF  
FOOD & AGRICULTURE

A. G. Kawamura, Secretary

**VIA E-MAIL**

April 23, 2007

Ms. Polly Lowry  
Senior Engineering Geologist  
Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive, #200  
Rancho Cordova, CA 95670

**MARCH 23, 2007 TENTATIVE WASTE DISCHARGE REQUIREMENTS GENERAL ORDER  
FOR EXISTING MILK COW DAIRIES**

Dear Ms. Lowry:

The California Department of Food & Agriculture (Department) takes this opportunity to offer additional comments on the latest revision to the Tentative Waste Discharge Requirements (WDR). The Department recognizes the importance of the WDR process as it represents the foundation for developing near and long-term programmatic steps for water quality approaches to managing dairy manure. Furthermore, the WDR will lead ultimately to enhancing environmental performance on existing milk cow dairies in the Central Valley through balanced means.

Comments were prepared in January 2007 on the Tentative WDR and the Department would again like to reiterate a couple of concerns that did not get addressed in the current version. Additionally, the Department has a several new concerns.

***General Comments***

- The Department addressed the use of lysimeters in previous comments. We still believe that to the extent practicable, where deemed effective, this type of lower cost technology could save dairyman thousands of dollars and yield important information in the collection of the movement of the water in the vadose zone.
  - Recognizing that lysimeters are not a panacea given the highly site-specific and variable nature of the Central Valley soil conditions, the use of such technology can add value to understanding immediate site specific vadose zone quality and may be more practical than installing wells. The Department believes the Dairy Technical Coordination Committee aimed at improving dairy environmental research and demonstration could address this topic.



***Specific Comments on Tentative WDR General Order***

- On page 10 under **Prohibition 6**, the Department would like to take the opportunity to underscore an important point with regard to the disposal of dead animals. The Cal/EPA document entitled "Emergency Animal Disease Regulatory Guidance for Disposal and Decontamination", referenced on page 10 should be recognized as a guidance document for use during emergencies outside normal dairy operating activities and should not be misunderstood as a regulatory document.
  - Recognizing this draft WDR has implications beyond the Central Valley; the Department believes it very practicable to recognize the limitations of rendering facilities not only in the Central Valley, but other dairying areas throughout the state. Furthermore, allowing the dairy producer flexibility to identify and develop their own individual mortality plan that would be consistent with an ROWD submittal or local ordinance/regulation and protective of both surface and groundwater is the best-case scenario.
  - For reference the applicable Food and Agriculture Code § that address care and control of animal mortality, contagious diseases, etc. are §9141, §9142, §9143, and §9148 respectively.
- Under Finding 22, **Dairy Impacts on Water Quality**, the finding argues no suite of management practices has been demonstrated to date to show groundwater is protected in all circumstances. The finding goes on to suggest that groundwater monitoring will be applied to all existing dairies seeking coverage under this order irrespective as to whether there is a known or persistent threat to groundwater on a given dairy.
  - The Department sees what appears to be a conflict in the rationale of the WDR language. How is it that no suite of management practices to date will protect groundwater in all circumstances, but implementing groundwater monitoring on all dairies will solve the perceived problem that all dairies are contributing to the recognized and extensive groundwater pollution problem? How can asking all dairies regardless of threat potential (i.e., herd size, nutrient management style), to install extremely cost prohibitive wells and monitoring equipment satisfy the fact that no suite of management practices to date have demonstrated protective methods for groundwater. The proposed solution does not justify the means.



- The Department recognizes the need to more thoroughly investigate and understand the impacts of on farm dairy practices with regard to groundwater aquifer interaction and overall quality as a beneficial use.
- However, to require all dairies to install monitoring wells, when in fact there has not be any verification that the potential source of groundwater contamination could be originating from some other source such as irrigated agriculture, urban, or industrial sources appears to be placing sole burden on one party to provide the proof. The Department suggests a more holistic approach to identifying the sources of groundwater pollution by spreading the efforts to determine sources beyond just one group (i.e., urban, agriculture, or industrial) or individual commodity group.
- Previous Department comments made under Finding 25, **Dairy Impacts on Water Quality**, argued that any improvements for recycling flush water systems, leasing and purchasing of additional lands be recognized as needing a longer time frame for compliance purposes. The Department appreciates staffs' suggested language changes made that allow producers reasonable time to phase in improvements per the Nutrient Management and Waste Management Plans. We believe this recognizes the reality on the ground and could provide a more balanced perspective.
- Under **Required Reports and Notices**, H2a, Existing Conditions Report, the Department had the previous concern with a shortened timeline of four months, which now has been expanded to seven months (assuming WDR approval in May 2007). If neither a waste management plan nor a nutrient management plan has been completed, the WDR asks the producer to complete a preliminary dairy facility assessment. The assessment contains several estimates based on annual accrual of both nitrogen imports as well as exports. There appears to be an unreasonable expectation that 1500 dairies will be able to submit this assessment in conjunction with the Existing Conditions Report by 31 December 2007. The Department just cannot understand how this information could be collected within a 6-7 month window given the magnitude of dairies involved and the potential technical assistance likely needed to develop such estimates.
  - A time phased in criterion should be developed based upon size (e.g., 1000-2000 head, 5000-6000 head) of the dairy that would dictate the timeframe of submitting the assessment.
- Under **Required Reports and Notices**, H2e, Salinity Report, the Department previously suggested there should be a direct nexus to the strategies and integrated salt management approach being developed by the statewide Salinity



Working Group headed by Dr. Karl Longley. The current document does not reflect any sort of coordinated understanding from the Salinity Working Group with what is being asked of the individual producers or via a 3<sup>rd</sup> party to identify salt source reduction. If this were addressed it could help ensure both vertical and horizontal consistency in both the WDR and Salinity Working Group process.

- The current March 23 version does not address such nexus nor is there recognition that salt source control is a basin wide problem that must be addressed in the context of urban, industrial, agriculture, and naturally occurring sources in the basin, and not just as one individual commodity group.
- Under **General Specifications**, No. 7, regarding pond design, the Department believes that a threat to groundwater, in the context of the beneficial use of drinking water, is a complex problem. On dairies potential threats are highly variable dependent upon site specific conditions, such as depth to groundwater, soil permeability, soil type, and overall climatic fluctuations and variability.
  - The Department does not believe that dairy storage ponds should be treated like the Underground Storage Tank Program, given the enormous cost implications and unknown threat potentials. Pond lining specifications should be scientifically based and take into account the site specific conditions to appropriately enable protecting groundwater in a cost effective manner.
  - The Department believes the tiered approach is not appropriate and that the best method for storage ponds is demonstrating protective cost effective actions are taken to prevent aggregate seepage from threatening groundwater, i.e., the California Natural Resources Conservation Service Practice Standard 313.
- Under **Land Application Specifications**, No.2, regarding written agreements, the Department has concern over the draft requirement of having 3<sup>rd</sup> parties enter into a written agreement to receive either solid manure or process wastewater.
  - The Department does not believe a written agreement should be applicable for solid manure receipt. Our rationale is twofold. First, solid manure poses no demonstrated threat either acute or chronic to surface or groundwater given the overall low nitrogen content of solid manure ranging between 2 and 5 percent.



- Secondly, and potentially more problematic for the dairy producer is the high likelihood that more land for process wastewater nutrient application will be needed given the current WDR construction. With that as a basis, the dairy producer will be hard pressed to find a 3<sup>rd</sup> party to take any excess solid manure. The Department believes this to be an unnecessary hurdle to have a written agreement and ultimately a waiver or individual waste discharge requirement that the 3<sup>rd</sup> party will need to undertake and receive before accepting additional solid manure.
- The written agreement does not provide the dairy producer the flexibility of managing the solid manure, but rather transfers the burden of a willing party desiring or needing the manure to question whether they want the burden of acquiring a waiver or waste discharge permit. These requirements are likely to discourage some potential recipients of manure from taking manure from a producer, thereby making it more difficult for a dairy producer to deal with excess nutrients at the dairy facility.
- The Department believes the export of manure for incorporation into other agricultural lands is beneficial due to positive impacts on soil physical and chemical properties. Manure incorporation should be encouraged and it is the most economical means available to a dairy producer to reduce the excess nutrient burden, notwithstanding emerging food safety issues.

### ***Specific Comments on Attachment C-Nutrient Management Plan***

- Under **Technical Standards for Nutrient Management**, Section V, Nutrient Budget is currently too cumbersome overall in terms of requirements to be met by a 24-month window as identified in Table 1, Schedule for Submittal. As previous comments by the Department suggest, a more reasonable accommodation of 36 months to measure the nutrient cycles would better serve the scientific understanding and regulatory responsiveness of the nutrient process on individual dairies.
- The Department believes two key issues need more refinement. First, the concern in terms of performance management of the Central Valley Water Board staff's ability to process and conduct reviews of over 1500 dairy nutrient management plans within a compressed window of time (24 months). Secondly, dairy producer's ability to identify, arrange, and provide funding for technical services to assist in the compilation of such prescribed nutrient management plans.



***Specific Comments on Attachment D-Manure/Process Wastewater Tracking Manifest***

- Under the **Destination Information**, the Department appreciates the additional clarity provide in this section based on previous comments submitted. Staff has provided consistency of choices to allow transparency as well as helping the producer make a clear distinction as to where solid manure and or process waster water is hauled.

CDFA looks forward to continued involvement throughout the regulatory hearing and implementation process of the WDR to offer:

- Technical assistance that addresses management practices to achieve water quality goals while allowing economically sustainable dairy operations in the Central Valley.
- Financial assistance that addresses research and implementation of management practices to achieve water quality goals.

Again, thank you for the opportunity to provide comments. Please call me at (916) 657-4956 if you have any questions. Please direct responses and comments to Eddie Hard at (916) 653-0873.

Sincerely,



Steve Shaffer, Director  
Agriculture and Environmental Stewardship

cc: A.G. Kawamura, Secretary, California Department of Food & Agriculture  
George Gomes, Undersecretary, California Department of Food & Agriculture  
Daniel Merkley, State Water Resources Control Board  
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