



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION IX**

**75 Hawthorne Street**

**San Francisco, CA 94105-3901**

November 5, 2010

Charlene Herbst  
Engineering Geologist  
Confined Animal Unit  
Central Valley Water Board  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670

Re: Tentative General Waste Discharge Requirements and General National Pollutant Discharge Elimination System (NPDES) Permit for Existing Milk Cow Dairy Concentrated Animal Feeding Operations within the Central Valley Region

Dear Ms. Herbst:

Thank you for the opportunity to review and comment on the above tentative order/draft general permit which was public noticed on October 6, 2010. As a follow-up to recent conversations my staff and I had with you, we provide the following comments on the tentative order/draft permit:


1. Nutrient Management Plans (NMPs). 40 CFR 122.21(i)(1)(x) requires a permittee to submit, as part of its permit application or notice of intent (NOI) for general permit coverage, an NMP developed in accordance with 40 CFR 122.42(e) and, for Large Concentrated Animal Feeding Operations (CAFOs) subject to subparts C or D of 40 CFR 412, the requirements of 412.4(c), as applicable. There are several areas in the tentative order/draft permit that contain language allowing a phased-in NMP after an NOI is submitted to the permitting authority. A phased-in NMP is not consistent with the federal NPDES Permit Regulation and Effluent Limitations Guidelines for CAFOs. The tentative order/draft permit must require the permittee to submit with the NOI an NMP that is developed in accordance with 40 CFR 122.42(e), and 412.4(c) if applicable, and that is fully implemented at the time the facility is covered under the general permit.

2. Field-Specific Phosphorus Transport Risk Assessment. 40 CFR 412.4(c) requires permitted CAFOs that land apply manure, litter, or process wastewater to do so in accordance with an NMP that is based on a field-specific assessment of the potential for nitrogen and phosphorus transport from the field to surface waters. The tentative order/draft permit allows land application at a rate based on crop nitrogen removal only. Phosphorus application rates are addressed through corrective action, only if monitoring indicates that phosphorus concentrations in surface runoff are causing adverse impacts. The tentative order/draft permit lacks an explanation for using only a nitrogen-based nutrient application rate and an "after the fact" approach for addressing phosphorus. The

Regional Board should include terms and conditions in the tentative order/draft permit that address the requirement for a field-specific phosphorus transport risk assessment to determine the appropriate land application rate for phosphorus. If the tentative order/draft permit is not amended to include such a provision, then the Regional Board should, at a minimum, provide more information on the rationale and supporting material, if necessary, for choosing the nitrogen-based approach and how this approach is protective of water quality. The rationale should specifically discuss why phosphorus is not expected to cause or contribute to water quality problems in Central Valley receiving waters, and why an approach different from the field-specific approach for assessing nitrogen and phosphorus application rates and transport potential is appropriate for field and receiving water conditions in the Central Valley.

We appreciate the opportunity to provide input on the tentative order/draft permit. If you would like to discuss these comments or have any questions, please contact me at 415-972-3971, or have your staff contact Kate Rao at (415) 972-3533 or via email at [rao.kate@epa.gov](mailto:rao.kate@epa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'DWA', is positioned above the printed name and title.

David Albright  
Manager, Ground Water Office

cc: Rick Moss, Central Valley Water Board  
Diana Messina, Central Valley Water Board  
John Menke, State Water Resources Control Board