



1315 K STREET
MODESTO, CALIFORNIA 95354-0917
TELEPHONE (209) 527-6453
FAX (209) 527-0630

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Charlene Herbst
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite #200
Rancho Cordova, CA 95670

Sent via e-mail to: cherbst@waterboards.ca.gov

Regarding: Tentative General WDRs and General NPDES Permit

Dear Ms. Herbst:

Western United Dairymen (WUD) would like to thank Regional Board staff for this opportunity to comment on the General WDRs and General NPDES Permit. WUD would like to note that this NPDES permit seems to offer less water quality protection than the General WDR for Existing Milk Cow Dairies (General WDR) No. R5-2007-0035 adopted by this Board in May of 2007. This is because this NPDES permit allows the discharge of waste to surface waters under certain conditions and the General WDR prohibits such discharges. Since the vast majority of dairies in the Central Valley are able to operate in compliance with the General WDR it seems that the Regional Board's objective should be to keep dairies covered under and in compliance with the General WDR and not have them covered under an NPDES permit.

The General WDR established a process of assessment and improvement for dairies to follow. By now we are well into that process which should result in improvements to dairies and the elimination of surface water discharges. That process should be allowed to run its course and, consequently, we question the need for this NPDES permit. Below are WUD's specific comments on the Tentative NPDES permit.

Finding 36 in the tentative permit is misleading. Very few dairies actually discharge wastewater to surface waters. As a percentage of dairies covered under the General WDR, only a very small number have been found to be discharging to surface waters. This finding should be changed to reflect that reality by changing the word "many" in the first line of Finding 36 to "some".

Finding 37 states that waste management systems at dairies are commonly not capable of preventing adverse impacts to water quality at dairies, this statement was not accurate when it was included in the General WDR and is even more inaccurate now. The General WDR requires dairies to assess their facilities using registered professionals and to make improvements to remedy the issues that are indentified through those assessments. Dairies under the General WDR are well on their way to implementing the needed improvements. The word "commonly" in that finding should be changed to "occasionally" and a discussion of the process of improvement under the General WDR should also be mentioned.

Prohibition A.15 disallows discharges of clean stormwater from cropland within 60 days of a manure application. This prohibition should be based on the potential water quality impacts and not on an arbitrary time frame. This requirement should be the same as in the General WDR.

General Specifications B.18 requires that the dairy maintain a rain gauge. This specification should also allow information from a nearby rain gauge maintained by a local irrigation district or State agency to be suitable in place of an on-farm rain gauge.

Effluent Limitations E.2 requires that the maximum amount of manure that can be applied in a season be calculated before manure can be applied. While this may provide a broad range on the amount of manure that can be applied, it should not limit applications that are based on actual in-season analyses of the manure. The soil information should be removed from this paragraph, as those values may not be known when this budget is calculated and it should not be part of a budget that is limited to the 1.4 nitrogen ratio. We also question the usefulness of this requirement given that it would be submitted at the same time as the final nutrient accounting. This paragraph should be removed or otherwise state that the information calculated here is an estimate and not limit what happens as the crop is grown.

As required by NPDES CAFO permit guidance, this permit requires that the terms of the Nutrient Management Plan (NMP) be incorporated into the permit. An NMP is, by its nature, a living document. The conditions of the NMP will be governed by weather, feed prices, and many other factors that cannot be anticipated. Since the NMP will be incorporated into this permit, the terms of the NMP must be allowed to be flexible and the process to modify an NMP under the permit must be streamlined.

Attachment A, the Notice of Intent (NOI) item H. requires applicants to select land application best management practices. This list should be expanded to include practices used in California that are more protective than the ones listed, such as use of berms and tailwater recovery systems.

The CEQA section of the NOI refers to a date for noticing of a tentative permit. It is not clear what permit that section is referencing.

Attachment C, contents of a nutrient management plan, includes two items under VIII. Other Limitations. These limitations should be in another part of the permit, perhaps the WMP, as they have nothing to do with the agronomy and do not belong in the NMP.

Attachment D, the Monitoring and Reporting Program, in table 1 has a requirement for weekly monitoring of stormwater diversion devices. This requirement should be changed to include only the winter months due to the region's arid climate.

Table 2, nutrient monitoring, requires analyses of general minerals in both process wastewater and manure biennially. This should be the focus of a research project to correlate total dissolved or fixed solids to general minerals and not a regulatory requirement. We suggest removing general minerals from the MRP and conducting research to define any correlation. Then information only needs to be collected on farm to correlate the research to each individual farm. These analyses should be conducted no more frequently than once every five years, if they are still needed to form that correlation.

Table 2, nutrient monitoring. The mandatory soil sampling for analysis other than phosphorus should be made optional rather than mandatory. While soil sampling is useful on a site-specific basis, the requirement that nitrogen not be applied at more than 1.4 to 1.65 times the amount harvested in the crop makes this requirement unnecessary as a mandate. The crop consultant working with the dairy producer should make the determination of what soil analyses are required on a site-specific basis based on soil type and a variety of other factors that will vary from site to site. The amount of nutrients in soil vary greatly, especially in lighter soils, and it is not likely that this sampling will capture that variation or provide any useful information at all locations. At a minimum, this section should clarify that the soil sampling requirements are only required once every five years for all of the analyses and that 20% of the land application areas may be sampled each year.

The requirement for sampling ammonia and total dissolved solids (TDS) from domestic and agricultural supply wells should be removed. This requirement is not appropriate for all wells as only a very small fraction would be expected to contain ammonia, and electrical conductivity (EC) is already required with a good correlation to TDS. At a minimum, dairy producers should not have to continue this sampling after two years of non-detectable ammonia results for each individual well.

Record keeping requirements 3.e. on page MRP-10 requires that records be kept of the weather conditions at the time of manure application. This is not necessary in the arid climate of the region during summer months. This requirement should be modified to apply only from October 1 to April 30.

In closing, WUD does not believe that this tentative NPDES permit offers protections to water quality that are greater than the General WDR. Therefore, dairies should be encouraged to maintain coverage under and compliance with the General WDR instead of this NPDES permit. We again thank you for the opportunity to comment, and if you have any questions, please call Paul Sousa of our staff at (209) 527-6453.

Very truly yours,



Michael L. H. Marsh, CPA
Chief Executive Officer

MM/kmr

cc: Paul Martin, Western United Dairymen
Paul Sousa, Western United Dairymen
Clay Rodgers, Central Valley Regional Water Quality Control Board