

## STAFF REPORT

### CONSIDERATION OF A RESOLUTION TO ADOPT FINAL WASTE DISCHARGE REQUIREMENTS GENERAL ORDER

#### FOR DAIRIES WITH MANURE ANAEROBIC DIGESTER OR CO-DIGESTER FACILITIES

#### BACKGROUND

Governor Schwarzenegger's Executive Order S-06-06 found that sustained biomass development offers strategic energy and economic, social and environmental benefits to California, and established targets for the use and production of biofuels and biopower. The California Department of Energy's *Bioenergy Action Plan for California*, found that the cost of dealing with California's time consuming and complex siting and permitting process can hamper bioenergy project development. State Water Resources Control Board Resolution No.2007-0059 supports implementation of the *Bioenergy Action Plan for California* and ...*"renews its commitment in this plan to identify clear and consistent procedures that are used to protect water quality from the harvesting of biomass and the operation of biomass facilities; conduct prompt reviews of planning documents, environmental documents prepared under the California Environmental Quality Act (CEQA) and monitoring proposals for biomass harvesting and biomass facilities, work...to ensure that adequate criteria for water protection and water quality are put into place on agricultural and forest lands in California."*

This General Order and the accompanying Program Environmental Impact Report (Program EIR) streamline the Central Valley Water Board's permitting process for dairy digester facilities, and provide for the protection of the beneficial uses of surface and groundwater.

The General Order will apply to dairies with anaerobic digester or co-digester facilities that use only manure generated onsite, as well as to dairies with digesters that import either manure or organic feedstock to supplement manure feedstocks. Existing dairies currently covered under Waste Discharge Requirements General Order for Existing Milk Cow Dairies, R5-2007-0035 (Dairy General Order), that construct and operate a manure-only digester using only manure generated onsite could retain regulatory coverage under the Dairy General Order.

## **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Prior to consideration of this General Order, the Central Valley Water Board will certify the Final Program Environmental Impact Report for Waste Discharge Regulatory Program for Dairy Manure Digester and Co-digester Facilities (Program EIR).

The Program EIR identified significant environmental impacts, and proposed mitigation measures. A listing of the significant environmental impacts, the written findings regarding those impacts required by Section 15091 of the CEQA Guidelines, and the explanation for each finding are contained in a Finding of Fact and Statement of Overriding Considerations to be adopted with this General Order.

Pursuant to sections 15091(d) and 15097 of the CEQA Guidelines, a Mitigation Monitoring and Reporting Program has been incorporated into the General Order as enforceable permit provisions for potential impacts to water quality. For mitigation measures not traditionally within the expertise of the Central Valley Water Board, mitigation measures have been incorporated in the permit enrollment process.

## **HOW DOES THIS ORDER COMPARE TO THE DAIRY GENERAL ORDER?**

The General Order was written to follow the format of the Dairy General Order (R5-2007-0035) as closely as feasible, and contains many requirements similar to those contained in the Dairy General Order. However, this Order includes additional requirements needed to address the differences in character and volume of possible digester feedstocks. Unlike the Dairy General Order, this Order limits the amount of non-nutrient salts that can be applied annually to land application areas. Alternative salt limits may be allowed if the discharger demonstrates the alternative salt limits will comply with the groundwater limitations of this Order.

Also unlike the Dairy General Order, and because the Central Valley Water Board is the CEQA lead agency for the Program EIR, all mitigation measures required by the Program EIR have been incorporated into the General Order either as enforceable provisions of the General Order for those mitigation measures dealing with water quality, or into the application process, for those mitigation measures for which other agencies have responsibility.

The Monitoring and Reporting Program (MRP) for the General Order was also written to follow the format of the Dairy General Order MRP and they contain many similar requirements. Additional monitoring requirements have been added as needed to address the differences in character and volume of possible digester feedstocks.

## **CONTENTS OF THE GENERAL ORDER**

The General Order requires submittal of a complete Notice of Intent (NOI) to comply with the General Order, and a Facility Information Report (FIR) prior to issuance of a Notice of Applicability by the Executive Officer. The NOI requires facility and ownership information and contains a checklist of information needed to process the application. The FIR must include a description of dairy facility, digester facility, and land application areas, and the Waste Management Plan and Salt Minimization Plan.

The General Order requires implementation of the Waste Management Plan, Salt Minimization Plan, and the preparation and implementation of a Nutrient Management Plan. The General Order also requires compliance with State Water Resources Control Board Resolution 68-16 (Antidegradation Policy), and monitoring and reporting to ensure the protection of beneficial uses of waters of the State and compliance with the General Order.

## **COMMENTS RECEIVED ON THE GENERAL ORDER**

Seven comment letters were received by 1 November 2010, when the comment period on the tentative General Order ended. Changes to the tentative General Order and Monitoring and Reporting Program, described in the Responses to Comments, have been incorporated in the tentative General Order in the agenda.

Comments focused on the following.

- Ensuring the General Order does not overly burden dairymen and digester developers with new regulatory, monitoring, or reporting requirements.

The General Order incorporates many of the prohibitions, provisions, and specifications as the Dairy General Order, providing a familiar regulatory framework to dairymen and digester developers. Digester facilities seeking coverage under this General Order may be adding a feedstock from offsite whose characteristics may not be known. Additional provisions and monitoring are needed to ensure that handling, treatment, and disposal of these materials does not create a threat to water quality. Mitigation monitoring required by the Program EIR is also incorporated into the General Order.

- The need for a Salt Minimization Plan and a limitation on the amount of non-nutrient salts that may be applied to land application areas during a year.

The accumulation of nutrients and salts in surface waters and groundwaters of the State is a major concern to the Central Valley Water Board. The Central Valley Water Board is addressing the long term effects of accumulation of salt in waters of the State through Central Valley Salinity Alternatives for Long-Term Sustainability (CV-SALTS), a collaborative effort aimed at developing and implementing a comprehensive salinity and nitrate management program for the Central Valley. Preparation of a salinity minimization plan, and its implementation, is a mitigation measure identified by the Program EIR to reduce the affect of digesters on water quality. The Dairy General Order also requires a Salinity Report and implementation of measures to minimize salt in dairy wastes. The General Order also sets a limit on the amount of non-nutrient salts that may be applied to land application areas each year (2,000 lb if single cropped and 3,000 pounds per double cropped acre per year). Different application rates may be acceptable if demonstrated to the Executive Officer that they will comply with the groundwater limitations of the General Order.

- Many comments were received regarding the requirements of the Monitoring and Reporting Program. Comments generally focused on the identification of appropriate analytical methods and frequency of sampling.

The Central Valley Water Board maintains guidance documents with approved sampling procedures and analytical methods on the website. These documents may be viewed at [www.waterboards.ca.gov/centralvalley](http://www.waterboards.ca.gov/centralvalley) under Dairy Program and General Order Guidance. With respect to the constituents required to be analyzed and the frequency of analyses, the MRP requirements are based on the monitoring requirements of the Dairy General Order MRP with modifications to reflect the changed feedstock character and volume. Specific responses to comments on the MRP are provided in the Response to Comments.