

**From:** Fischer, Adam@Waterboards [<mailto:Adam.Fischer@waterboards.ca.gov>]  
**Sent:** Monday, April 15, 2019 12:58 PM  
**To:** Richard Ayala <[rayala@ontarioca.gov](mailto:rayala@ontarioca.gov)>  
**Subject:** comments on notice of preparation of DEIR

Mr. Ayala: Our office is in receipt of a notice of preparation of a draft environmental impact report for the Merrill Commerce Center Specific Plan. The following are our comments on the scope of the draft EIR.

The draft EIR should give attention to the demolition phase of the dairies and the resulting disposition of manure, wastewater, and soil. Typically, manure and wastewater will be the responsibility of the dairy operator according to Regional Board Order R8-2018-0001. However, the Order also anticipates that the dairy operator may abandon these wastes so that they are the responsibility of the subsequent landowner. Dairies subject to the Order should already have containment structures designed to hold runoff from up to the 25-year, 24-hour storm event from production areas. If manure and wastewater are abandoned at the site, the new owner should be responsible for maintaining those structures until the wastes are removed.

The turnover of dairy property may also require the disposal of unsuitable soils containing manure. Depending on the depth of excavation, these soils may also contain salts that have accumulated from decades of dairy use (See the Dairy Report available at: [https://www.waterboards.ca.gov/santaana/water\\_issues/programs/dairies/docs/chino\\_dairies.pdf](https://www.waterboards.ca.gov/santaana/water_issues/programs/dairies/docs/chino_dairies.pdf)). Site preparation may result in the export of soils contaminated with manure and salt. The Regional Board has had to respond to several reports of contaminated soils being disposed of in the floodplain of the Santa Ana River and elsewhere. The draft EIR should describe this potential water quality threat and describe the mitigation measures that the City will take to track and control the disposition of exported soils. This should include providing a description of the potential volume of exported soil and the potential locations for disposal. Please be advised that disposal locations may be subject to the State Board's General Construction Permit.

Urbanization upstream of agricultural areas has historically increased runoff through some dairies. This problem is recognized in the Regional Board's Water Quality Control Plan for the Santa Ana River Basin. As noted earlier, dairies have containment structures to hold runoff from production areas. The draft EIR should recognize that the project should not increase runoff through production areas of dairies onsite or downstream of the project site. The phasing of the construction of the storm drain system for the project should be described in the draft EIR and controlled so that increased runoff through production areas does not occur at any time.

The pertinent requirements of Regional Board Order No. R8-2010-0036, as later amended or revised, for controlling the discharge of pollutants from the project after construction should be included in the draft EIR. The draft EIR should include a general description of the potential or actual structural treatment controls that may be used for the project. Thank you.

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