

Central Valley Regional Water Quality Control Board

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Avleen K. Aujla, Assistant Planner
Stanislaus County Planning and Community Development
1010 10th Street, Suite 3400
Modesto, CA 95354



COMMENTS ON NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION (NOI/MND) FOR THE SILVA'S HOLSTEIN DAIRY FARMS EXPANSION PROJECT (CONDITIONAL USE PERMIT NO. PLN2021-0030), STATE CLEARINGHOUSE NUMBER 2021070138

The Central Valley Regional Water Quality Control Board (Central Valley Water Board) is a state agency with the statutory responsibility to protect water quality in California's Central Valley. (Wat. Code, § 13000 et seq.) In support of this mission, the Central Valley Water Board regulates discharges of waste, including from dairies, that have the potential to affect surface water and groundwater. The Central Valley Water Board has established a regulatory program that regulates discharges of waste from dairy facilities throughout the Central Valley.

The Central Valley Water Board, in its role as responsible agency, has reviewed the NOI/MND prepared for the Silva's Holstein Dairy Farms Expansion Project. Consistent with the Central Valley Water Board's obligations as a responsible agency, this comment letter reviews the scope and content of the environmental information germane to the Board's statutory responsibilities that should be included in the environmental review document for the expansion project. Given the project will result in potentially significant impacts to groundwater quality, the proposed initial study (IS) and mitigated negative declaration (MND) are inadequate and an environmental impact report needs to be prepared for the project.

Project Description/Summary

The IS/MND describes a request to expand an existing dairy facility operating on two parcels totaling 124± acres by expanding the herd from 1,095 mature cows (880 milk and 215 dry cows) to 2,200 mature cows (1,900 milk and 300 dry cows) and to increase support stock numbers by 1,015, from 885 to 1,900 heifers. The proposed support stock will consist of 600 heifers, 15-24 months old; 600 heifers, 7-14 months; 350 calves, 4-6 months old; and 350 calves, 0-3 months. The total number of animal units is to increase by 2,120. Consequently, additional waste will be generated. The IS/MND states the dairy's existing Waste Management Plan (WMP) and Nutrient Management Plan (NMP) were revised to account for the increase in waste and resulting storage and disposal

MARK BRADFORD, CHAIR | PATRICK PULUPA, ESQ., EXECUTIVE OFFICER

needs associated with the increase in herd size. The updated WMP estimates that the expansion will increase the daily manure production by 3,135 cubic feet, for a total of 5,889 cubic feet of manure per-day, which equates to approximately 10,588,324 gallons and 1,415,453 cubic feet of manure per year (pre-separation). Nutrients produced from the herd will be utilized to fertilize approximately 225± acres of irrigated cropland on parcels surrounding the existing dairy operation owned by the property owner as well as two parcels located to the north and east of the dairy that are not owned by the dairy property owner.

X. Hydrology and Water Quality (Section X)

Under *Section X*, item a), the IS/MND indicates that project impacts associated with violations of water quality standards or waste discharge requirements or the degradation of surface or ground water quality would be “Less Than Significant with Mitigation Included.” Under item e) the IS/MND indicates that project impacts associated with the potential conflict with or obstruction of implementation of a water quality control plan would be “Less Than Significant.”

The Discussion section states that because the project requires the following mitigation measures, impacts to water quality and hydrology will be less than significant:

1. Implementation of BMPs (specific BMPs are not described);
2. Compliance with the dairy’s WMP and NMP;
3. Compliance with requirements imposed by the Central Valley Regional Water Quality Control Board in a waste discharge requirements permit; and
4. Compliance with Central Valley Water Board Resolution R5-2018-0034 (Basin Plan Amendments implementing CVSALTS).

The Central Valley Water Board disagrees with the conclusion in the IS/MND that these mitigation measures will reduce the impacts of the proposed dairy expansion to “Less Than Significant.” Information provided to the Central Valley Water Board in the Central Valley Dairy Regional Monitoring Program’s (CVDRMP) Summary Representative Monitoring Report (Revised*) (2019)¹ indicates that the types of management practices described in the IS/MND (compliance with BMPs including the implementation WMPs and NMPs under waste discharge requirements adopted by the Central Valley Water Board) have not been adequate to prevent and/or mitigate degradation and pollution in groundwater underlying dairy facilities and lands receiving dairy wastes to less than significant levels. Degradation and pollution of groundwater resources are potentially significant adverse environmental impacts that require consideration in an EIR. The proposed project increases in herd size, reduction of land application area, and substantial increase in manure applied to off-site lands may be expected to exacerbate these adverse impacts.

¹ The CVDRMP Summary Representative Monitoring Report can be accessed at the following weblink: [CAF Groundwater Monitoring | Central Valley Water Quality Control Board](#).

Waste Discharge Requirements (WDRs)

Existing discharges at the dairy are regulated under the Central Valley Water Board's Reissued Waste Discharge Requirements General Order for Existing Milk Cow Dairies, Order No. R5-2013-0122 (Reissued Dairy General Order). Discharges from the proposed expanded dairy would not be eligible for continued coverage under the Reissued Dairy General Order, since expanded dairies fall beyond the scope of facilities covered under the Reissued Dairy General Order. The IS/MND does note that discharges from the expanded dairy would require individual WDRs.

However, the State Water Resources Control Board (State Water Board) is currently conducting a review of the Reissued Dairy General Order and has signaled that its review is likely to result in an order that will direct the Central Valley Water Board to reconsider significant aspects of its confined animal facilities program. Anticipating these changes, the Central Valley Water Board is deferring the issuance of new individual WDRs for new and expanding dairies while its regulatory program is under review. It will therefore be some time before the proposed expanded discharges could be regulated under individual WDRs.

The State Water Board has also taken notice of the results of the CVDRMP study that current practices detailed in Waste Management Plans and Nutrient Management Plans have not proven adequate to prevent pollution of underlying aquifers. The EIR should therefore provide a detailed description of additional mitigation measures to mitigate these impacts.

Salt and Nitrate Control Programs

In 2018, the Central Valley Water Board adopted Basin Plan amendments ([Resolution R5-2018-0034](#)) that established valley-wide Salt and Nitrate Control Programs. For more information about the Salt and Nitrate Control Programs, visit the [Central Valley Water Board's website](#) and the [Central Valley Salinity Coalition's website](#) at:

https://www.waterboards.ca.gov/centralvalley/water_issues/salinity/

<https://www.cvsalinity.org/public-info>

The Nitrate Control Program is a prioritized program that will require facilities that discharge nitrates at levels that are causing exceedances of drinking water standards (including most dairies) to upgrade their facilities and/or waste management practices over a timeframe that may extend as long as 35 years. While upgrades are being developed and implemented, facilities responsible for adverse nitrate impacts are required to supply impacted communities with replacement drinking water. Facilities such as dairies may comply with the Nitrate Control Program individually or may elect to participate in Management Zones, which are collectives of permittees that collaborate on enhancing water quality management practices while providing affected communities replacement drinking water. The subject dairy is in a Priority 1 area. Currently, the dairy

is complying with the Nitrate Control Program by maintaining membership in CVDRMP. The Central Valley Water Board would expect that compliance would be maintained in the future.

The 2018 Basin Plan Amendments also established a Salt Control Program to address ongoing accumulation of salts in the soils and groundwater of the Central Valley. The Salt Control Program is a phased program, and the first phase requires nearly all permitted facilities (including all dairies) to participate in an extensive, collaborative study of salinity management practices throughout the basins that form the Central Valley. Currently, the dairy is complying with the Salt Control Program by maintaining membership in CVDRMP. The Central Valley Water Board would expect that compliance would be maintained in the future.

The proposed EIR should describe measures that the dairy will take on an ongoing basis to comply with the regulatory requirements established by both the Nitrate and Salt Control Programs.

Construction Storm Water General Permit

A National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (NPDES General Permit No. CAS000002) is required when a project includes, but is not limited to, demolition, clearing, grading, grubbing, excavation, or any other similar land disturbance. Currently, construction/land disturbance activity requires coverage under the Construction Storm Water General Permit if it involves one or more acres, or less than an acre where the activity is part of a larger common plan of development or sale of one or more acres.

If construction/land disturbance associated with the subject project will disturb one acre or more, the subject dairy will need to obtain permit coverage under the Construction Storm Water General Permit. Before construction begins, the proponent must submit a Notice of Intent (NOI) to comply with the permit to the State Water Resources Control Board and a Storm Water Pollution Prevention Plan (SWPPP) must be prepared. For [more information on the Construction Storm Water General Permit](#), please visit the State Water Resources Control Board website at:

https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction.html

Miscellaneous Comments

The following are miscellaneous comments on the IS/MND:

- Page 16, paragraph 2 under the Discussion section refers to federal Clean Water Act (CWA) requirements, National Pollutant Discharge Elimination System (NPDES) permits, and NPDES General Order R5-2011-0091 for dairies. Federal CWA requirements and NPDES permits and NPDES General Order R5-2011-

0091 are not relevant to the subject Project. The Central Valley Water Board regulates confined animal facilities under the authority of the California Water Code. Additionally, NPDES General Order R5-2011-0091 was rescinded in 2020 due to a lack of interest/use. The 2007 General Order for Existing Milk Cow Dairies was superseded by 2013 Reissued Dairy General Order.

- Central Valley Water Board staff do not appear to have a copy of the 2 July 2021 correspondence regarding approval of the project WMP and NMP, and it is not included in the IS/MND. If you could provide a copy of the correspondence, we would appreciate it.
- The 18 February 2022 email was not for the subject Project but was for another dairy project and is not necessarily relevant to the site-specific evaluation that needs to be conducted for the proposed project.
- The last paragraph on page 19 indicates that if the applicant installs a water treatment system, presumably for potable water, that it would need to be approved by the "Regional Water Quality Control Board." The Central Valley Water Board does not approve drinking water systems. To the extent that the system would be a Public Water System, it would be regulated by the State Water Resources Control Board, Division of Drinking Water.

Thank you for the opportunity to comment on the IS/MND. If you have questions about these comments, please contact me at (559) 974-1965 or by email at Dale.Harvey@waterboards.ca.gov.



W. Dale Harvey
Supervising Engineer

cc: State Clearinghouse, state.clearinghouse@opr.ca.gov