

Central Valley Regional Water Quality Control Board

9 September 2022

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COMMENTS ON NOTICE OF PREPARATION AND INITIAL STUDY (NOP/IS) FOR THE SILVA DAIRY FARMS EXPANSION PROJECT (CONDITIONAL USE PERMIT NO. CUP21-011), STATE CLEARINGHOUSE NUMBER 2022080190

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 NOP/IS prepared for the Silva 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 impact report for the expansion project.

Project Description/Summary

The NOP/IS describes the merger of two dairies in Merced County into a single facility and includes an expansion of the dairy herd size and facilities. The dairies are the Silva Dairy Farms #3A at 1499 North Edminster Road and the Silva Dairy Farms #3B at 1904 Edminster Road, both in Stevinson. The dairies are on ~25, and ~18 acres respectively. There are reportedly 364 acres of cropped acres associated with 23 parcels that receive liquid and solid manure from the dairy facilities (Land Application Area or LAA). One of the cropped parcels will be reduced from 13 acres to 6 acres to allow its conversion to dairy facilities. Thirteen parcels totaling 169 acres are leased, and 18 acres are pasture. The proposed project would result in the expansion of the existing combined dairy herd size of 2,953 animals to 7,300 animals, including 4,000 milk cows, 500 dry cows, and 2,800 support stock.

Liquid manure is applied to the LAA. Solid manure is reportedly applied to the LAA, used

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for bedding, or sold to brokers and hauled off-site to fields in the project vicinity. The IS indicates approximately 9,300 tons of manure are exported and applied to off-site fields not owned by the dairy operator. With the expansion, the amount of exported manure would increase to 49,000 tons annually.

While the dairy facilities are currently regulated as two separate facilities enrolled under *Order R5-2013-0122, Reissued Waste Discharge Requirements General Order for Existing Milk Cow Dairies* (the Dairy General Order), the NOP/IS correctly indicates that the Silva Dairy Farms would need to obtain individual Waste Discharge Requirements (WDR) for the proposed expansion, since expansions cannot be authorized under the existing Dairy General Order. The NOP/IS also notes Silva Dairy Farms is a member of the Central Valley Dairy Representative Monitoring Program (CVDRMP).

The NOP/IS Initial Environmental Checklist, *Section X, Hydrology and Water Quality*, indicates that dairy facilities pose several potential risks to water quality, primarily related to the amount of manure and process water that they generate. It goes on to state:

“While the existing and proposed waste management systems would act to prevent groundwater contamination, the operation of the Silva Dairy Farms Expansion project may result in degradation of groundwater resources and potential adverse effects to surface water quality. In addition, increased solid manure exports to off-site fields associated with the proposed dairy expansion could result in off-site impacts to water quality. These potentially significant impacts will be evaluated further in the EIR for the proposed project. The EIR will include a water quality characterization and impacts analysis based on water quality data available from both on-site and nearby wells, and nearby water wells.”

Water quality concerns related to the operation of dairy facilities, and mitigation measures to mitigate adverse impacts, will need to be discussed extensively in the EIR. Information provided to the Central Valley Water Board pursuant to the CVDRMP’s Summary Representative Monitoring Report (Revised*) (2019) indicates that the types of management practices described in the NOP/IS (Waste Management Plans and Nutrient Management Plans) have not been adequate to prevent groundwater pollution in groundwater underlying dairy facilities and lands receiving dairy wastes. The proposed 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.

Waste Discharge Requirements (WDRs)

Currently, the dairies are separately regulated under the Dairy General Order that was issued by the Central Valley Water Board in 2013. Discharges from the proposed merged and expanded dairies are not eligible for continued coverage under the Dairy General Order, since expanded dairies fall beyond the scope of facilities covered under the Dairy General Order. The NOP/IS notes that the expanded discharges would require individual WDRs.

However, the State Water Resources Control Board (State Water Board) is currently conducting a review of the 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 while its regulatory program is under review. It will therefore be some time before the proposed expanded discharges could be regulated under individual WDRs.

Further, the NOP/IS indicates that the project proponent will conduct a water quality characterization and an impacts analysis based on water quality data available from both on-site and nearby wells. Data from existing wells may not be sufficient to adequately characterize existing conditions and whether the proposed discharge will degrade or pollute groundwater quality. Any characterization and analysis of potential groundwater impacts should quantify anticipated degradation and/or pollution of groundwater in the aquifers underlying lands receiving dairy wastes as well as the facilities themselves, not simply wells in the vicinity. The State Water Board notes that the 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. Regulatory requirements under the Nitrate Control Program are triggered by the issuance of a Notice to Comply. For the purposes of compliance with the Nitrate Control Program, the project is in Priority Area 2, which is expected to receive Notices to Comply in early 2023.

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, both dairies comply with Salt Control Program by maintaining membership in CVDRMP. The Central Valley Water Board would expect that compliance would be maintained following the integration of the two dairies.

The proposed EIR should describe measures that the merged dairy will take 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, Silva Dairy Farms 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:

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

Thank you for the opportunity to comment on the NOP. If you have questions about these comments, please contact me at (916) 464-4724 or by email at Daniel.Gamon@waterboards.ca.gov.

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