



Central Valley Regional Water Quality Control Board

19 January 2023

Kamara Biawogi, Planner III
Madera County Community and Economic Development Department
200 West 4th Street, Suite 3100
Madera, CA 93637



COMMENTS ON NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION (NOI/MND) FOR THE TROOST DAIRY EXPANSION PROJECT (CONDITIONAL USE PERMIT NO. 2022-018), STATE CLEARINGHOUSE NUMBER 2022120610

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 by the County of Madera Community and Economic Development Department for the Troost Dairy 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 (EIR) needs to be prepared for the project.

Project Description/Summary

The IS/MND describes a proposed amendment to Madera County Conditional Use Permit #2104-006 to allow an existing dairy facility to expand its herd size from 3,400 mature cows (3,000 milk and 400 dry cows) to 4,800 mature cows (4,000 milk and 800 dry cows) and to increase support stock numbers from 900 to 1,500 heifers (15-24 months old). Central Valley Water Board staff estimate the total number of animal units will increase by 1,838. Consequently, additional waste will be generated.

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 will be “No Impact.” 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 “No Impact.”

Central Valley Water Board staff disagrees with these conclusions in the IS/MND. The IS/MND does not describe how this waste will be managed to mitigate its potential impacts to groundwater or surface water quality. The IS/MND also does not indicate if additional acreage, if any, will be added to the project to accommodate the increases in waste production. Regarding item a), the IS/MND says that no impact has been identified and goes on to discuss general water use on the Valley Floor. It simply does not address potential water quality impacts. Similarly, regarding item e), the IS/MND does not discuss how potential pollution associated with the increased waste discharge would conflict with or obstruct implementation of a water quality control plan (i.e. the Water Quality Control Plan for the Sacramento and San Joaquin River Basins (Basin Plan). Instead, it talks about regional and local water demands and water use rates of the dairy. It does not address water quality impacts that would conflict with Basin Plan requirements.

The existing dairy is 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) and implementing management practices thought at that time to be protective of water quality. However, 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 used by the dairy industry, and specifically this dairy, have not been adequate to prevent and/or mitigate degradation and pollution in groundwater underlying dairy facilities and lands receiving dairy wastes to levels of “No Impact.” Degradation and pollution of groundwater resources are potentially significant adverse environmental impacts that require consideration in an EIR. The proposed project would result in increases in herd size and substantial increase in manure applied to the dairy’s land application areas, which may be expected to exacerbate these adverse impacts.

Waste Discharge Requirements (WDRs)

As mentioned, existing discharges at the dairy are regulated under the Reissued 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 fails to note that the expanded discharge of waste to land and groundwater that would result from this project would violate the terms of the Reissued Dairy General

¹ The CVDRMP Summary Representative Monitoring Report is available upon request to the Central Valley Water Board.

Order and could only be authorized through the issuance of a new individual WDRs regulating the expanded discharge.

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, as required under the Reissued Dairy General Order, have not proven adequate to prevent pollution of aquifers underlying dairies' facilities and waste discharge locations (land application areas). 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. These amendments were revised in 2020 ([Resolution R5-2020-0057](#)). 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>

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 the CVDRMP. Failure to comply with Nitrate Control Program requirements could constitute a violation of applicable water quality standards for nitrate and/or waste discharge requirements – therefore, the dairy must maintain its compliance with the Nitrate Control Program to avoid or mitigate potentially significant water quality impact(s) as a result of its operations.

The 2018 Basin Plan Amendments (as revised in 2020) 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. Failure to comply with Salt Control Program requirements could constitute a violation of applicable water quality standards for salinity and/or waste discharge requirements – therefore, the dairy must maintain its compliance with the Salt Control Program to avoid or mitigate potentially significant water quality impact(s) as a result of its operations.

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

Thank you for the opportunity to comment on the IS/MND. If you have questions about these comments, please contact Eraldo Melara at (559) 445-5652 or by email at Eraldo.Melara@waterboards.ca.gov.



W. Dale Harvey
Supervising Engineer

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