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STATE CLEARINGHOUSE



## Central Valley Regional Water Quality Control Board

12 January 2024

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Department of Community and Economic Development  
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### ***COMMENTS ON NOTICE OF PREPARATION AND INITIAL STUDY (NOP/IS) FOR THE CORREIA FAMILY DAIRY FARMS, 26380 W. FAHEY RD., GUSTINE, MERCED COUNTY, EXPANSION PROJECT (CONDITIONAL USE PERMIT NO. CUP21-099)***

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. (See 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 and ground water quality. 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 Notice of Preparation and Initial Study (NOP/IS) prepared for the Correia Family Dairy Farms (Dairy) Expansion Project (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**

As described in the NOP/IS, the Dairy Farms is located on 60± acres of an existing farm totaling approximately 502 acres in unincorporated Merced County. The Project site and associated heifer facilities are located on the north and south sides of W. Fahey Road, respectively, in the Gustine area of the County. The Project cropland application area consists of 398± acres located on portions of 12 parcels.

Merced County Conditional Use Permit CUP21-009 proposes to authorize the Dairy's proposal to modify and expand the existing dairy to house an increased herd from 1,050 to 3,000 milk cows, 120 to 390 dry cows, and 2,685 support stock for a total of 6,075 animals (an overall increase of 3,945 animals). The proposed project would include construction of supporting buildings and features at the dairy facility, including five new freestall barns, two new loafing barns, and a new milking parlor and replacement dairy well. There would be approximately 11.4 acres of cropland converted to new facilities.

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

Crops grown on site would continue to be used for dairy feed crops and supplement imported grain and hay.

### **Central Valley Water Board Comments**

The Dairy is currently regulated under Central Valley Water Board *Order R5-2013-0122, Reissued Waste Discharge Requirements General Order for Existing Milk Cow Dairies* (Dairy General Order). The NOP/IS correctly indicates that the Dairy would need to obtain individual Waste Discharge Requirements (WDRs) to authorize and regulate the expanded discharge of waste that would result from the proposed expansion, since the Dairy General Order prohibits enrolled dischargers from expanding their herd sizes. The NOP/IS also notes the Dairy is a member of the Central Valley Dairy Representative Monitoring Program (CVDRMP).

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

“While the existing and proposed waste management systems would act to prevent groundwater contamination, the operation of the Correia Family 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.”

The Central Valley Water Board concurs with the lead agency’s determination that 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 Summary Representative Monitoring Report (Revised\*) (2019) indicates that the types of management practices required by the Dairy General Order and, thus, described in the NOP/IS (i.e., implementation of Waste Management Plans [WMP] and Nutrient Management Plans [NMP]) 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. The EIR should evaluate mitigation measures beyond those required by the Dairy General Order.

### **Waste Discharge Requirements (WDRs)**

As noted above, the Dairy General Order prohibits enrolled dairies from expanding their herd sizes, so the proposed expansion would require authorization and regulation through either individual WDRs or an applicable WDRs general order.

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.

### **Water Quality Characterization**

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. The Central Valley Water Board cautions that 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.

### **Salt and Nitrate Control Programs**

In 2018, the Central Valley Water Board adopted, and in 2020, revised, Basin Plan amendments establishing valley-wide Salt and Nitrate Control Programs. (See [Resolutions R5-2018-0034 & 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.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 and/or upon application to the Central Valley Water Board for a new or expanded discharge of nitrate. For the purposes of compliance with the Nitrate Control Program, the project is in a Priority Area 2 basin (Delta-Mendota). Priority Area 2 basins received Notices to Comply in December of 2023.

The 2018 and 2020 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 complies with Salt Control Program by maintaining membership in CVDRMP. The Central Valley Water Board would expect that compliance would be maintained during the lifetime of the dairy.

The proposed EIR should describe measures that the 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 taking place on 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:

[https://www.waterboards.ca.gov/water\\_issues/programs/stormwater/construction.html](https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction.html)

### **Report of Waste Discharge Status**

Page 25 of the NOP/IS states the Project applicant submitted a Report of Waste Discharge Form 200 (ROWD) for the proposed dairy expansion and it was received by the Central Valley Water Board on 27 April 2021. However, upon review, the referenced ROWD was not found in Central Valley Water Board records. Please submit the most recent version of the ROWD, to include a revised WMP and NMP, either by email to Dan Gamon at [daniel.gamon@waterboards.ca.gov](mailto:daniel.gamon@waterboards.ca.gov) or by mail to:

Regional Water Quality Control Board, Central Valley Region

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County of Merced  
Department of Community and  
Economic Development

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c/o Dan Gamon, Confined Animal Facilities Regulatory Unit  
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Rancho Cordova, CA 95670

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

Daniel Gamon, PG, CHg  
Senior Engineering Geologist

cc: State Clearinghouse, [state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov)