LETTER 1 - Michael LaSalle, Griswold, LaSalle, Cobb, Dowd & Gin, L.L.P.

Response to Comment 1-1

The comment is noted for the record.

Response to Comment 1-2

The commentor's opinion regarding the feasibility of dairy development under the provisions of the proposed Element is noted for the record. The preparers of the PEIR do not agree that new dairy development would be "financially infeasible" under the Element.

Response to Comment 1-3

The commentor's opinion that anaerobic and aerobic treatment of manure and process water "remain economically unproven for dairy usage" is noted. The U.S. EPA AgSTAR program identifies that there were 31 controlled anaerobic digestion systems operating at concentrated animal feeding operations (CAFOs) (14 at dairy farms) in the U.S. There are a number of aerobic treatment systems in operation at CAFOs but the technology is implemented at many facilities to control odors. Currently, WaterPure Technology, Inc. operates aerobic treatment systems at three dairies in the San Joaquin Valley. A recently approved large dairy project (7,200 milking cows at each of two dairies) in Kern County proposes construction and operation of an aerobic treatment system.

Response to Comment 1-4

Section VI of the Dairy Element has been rewritten, including elimination of **Goal DE 8** and its objective and policies. Because of the misunderstanding of the purpose of the proposed voluntary program, it has been removed and replaced with a statement that the County encourages all dairies to operate in environmentally sound ways, and recommends that they work toward certification by the California Dairy Quality Assurance Program.

Response to Comment 1-5

Policy DE 6.1f (now **6.2e**) was included in the Element in anticipation of improved methods for sampling and testing air emissions at confined animal facilities. As indicated in the PEIR, the technologies for evaluation of air emissions are currently under development by USDA and other research groups. It is not the intention of the County to require expensive analysis of air emissions. However, it is considered prudent to leave open the option for use of practical testing procedures once they become available.

Response to Comment 1-6

Although the commentor is correct in observing that "other kinds of facilities" can be constructed in 100-year flood hazard zones, the County does not consider placement of dairy facilities to be an appropriate activity in flood prone areas. Even if protected from flood waters, the potential for releases of manure in the event of failure of the protection system warrants caution in siting of dairy facilities. It is noted that the recently adopted Kings County Ordinance Regulating the Application of Sewage Sludge does not allow biosolids application within designated floodways.

Modifications to flood zones (FEMA Flood Hazard Areas) require approval from FEMA of either a Letter of Map Revision (LOMR) or Letter of Map Amendment (LOMA). These requirements are spelled out in the Kings County's *Flood Damage Prevention Ordinance* found in Chapter 5A of the Kings County Code of Ordinances. Therefore, if a dairy is proposed in an identified Flood Hazard Area and measures are proposed to protect the facilities from flooding, those improvements will be subject to a LOMR or LOMA.

Response to Comment 1-7

The Element does not prohibit double cropping at new or expanded dairy facilities. The County does not intend to dictate the types of crops or cropping patterns used by farmers. It is possible that dairy facilities would choose to double crop all or portions of the cropland within a dairy unit. However, application of nutrients to cropland would be required to be controlled under a Manure Nutrient Management Plan (**Policies DE 4.1a** and **4.1b**) to ensure that overapplication of nutrients does not occur.

Response to Comment 1-8

It was not the intent of the Element to "effectively prohibit" the use of lagoons for process water management. Use of lagoons could be consistent with most types of advanced manure treatment technologies. In addition, dairy facilities are required by State regulations to provide for storage of runoff, precipitation, and process water (see page 4.3-31 of the Draft PEIR). In response to the comment, **Policy DE 4.2b** has been modified to clarify the wording of this policy.

Response to Comment 1-9

The commentor's opinion is noted for the record.

Response to Comment 1-10

The commentor is correct in pointing out that the estimation of the available cropland for manure nutrient reuse described in Appendix A of the Element assumed that cropping patterns under the Element would be similar to those currently practiced in Kings County. This assumption was made because projection of future cropping practices is not possible.

In addition, an increase in water demand would need to be assumed if double cropping were to occur throughout the DDOZs and NSOZs. If double cropping were to occur throughout these areas, it is possible that overdrafting of the groundwater supplies could occur. The Element attempted to address this potential adverse impact by limiting the number of dairy cattle within the available cropland areas to balance manure generation and application with existing cropping patterns. Under the Element, if additional acreage is put into a double-crop pattern, the maximum theoretical herd could be realized on less land.

The Herd Capacity Model described in Section II and Table 5 of Appendix A of the Element considers all farmland in Kings County, not just double-cropped land. The model uses conservative assumptions, including the ratio of double-dropped land to single-cropped land reported in the Agricultural Commissioner's 1999 Annual Report.

As far as transport of manure out of Kings County, the Element specifically makes the assumption that the amount of manure transported out of Kings County is equal to the amount transported into the County. See the fourth bullet on page DE-10 of the Public Comment Draft of the Element.

Response to Comment 1-11

The monitoring requirements for the Manure Treatment Management Plan (MTMP) set forth in **Policy DE 6.1f** (now **6.2e**) are considered necessary to demonstrate that the specific treatment system chosen by the individual operator is effective. The use of anaerobic and aerobic treatment for managing dairy manure is an emerging technology. It is important for the County and the dairy industry to develop data that will allow for continued improvements in the development of effective and economical treatment systems that are well suited to the topography and climate of Kings County. However, a minor text change has been made to **Policy DE 6.1f** (now **6.2e**), deleting references to daily logs, allowing the dairy operator to determine the most reasonable level of record keeping for the specific system employed at each dairy.

With response to the commentor's concern that **Policy DE 6.1g** [which requires development and monitoring of a Livestock Management Plan (LMP)] is too restrictive, this policy has been deleted. The intention of the policy was to encourage efficient and effective animal feeding and breeding, maximizing herd health while minimizing excess nutrients in manure. The policy has been deleted in recognition that these goals are inherent in economic management of dairies.

For consideration of the points made by the commentor regarding the duplication of policies contained in the Element with other regulations, the commentor is referred to Response to Comment 20-3.

Response to Comment 1-12

The comment is noted for the record.

Response to Comment 1-13

The comment is noted for the record.