

## **LETTER 23 - Chuck Draxler, Kings County Farm Bureau**

### **Response to Comment 23-1**

In 2000, the crop value for Kings County was just over \$885 million, not \$900,000 million. Milk represented approximately \$293.3 million, not \$300,000 million (Kings County Agricultural Commissioner's 2000 Crop Report).

Employment from jobs derived directly and indirectly from the dairy industry represents approximately 4,000 jobs in 2000. Currently there are less than 30,000 private sector jobs in the County. The potential buildout if this Dairy Element is implemented in its entirety is approximately 15,000 jobs, a 3.75-fold increase (Economic Analysis Table 5, page 14).

### **Response to Comment 23-2**

All projects for which an EIR is prepared that includes mitigation measures must be accompanied by a Monitoring and Reporting Program (CEQA Guidelines Section 15097). This is "...to ensure that the mitigation measure and project revision identified in the EIR ... are implemented ...". The proposed Dairy Monitoring Office is a subsection of the Code Compliance Section of the Kings County Planning Agency, and not a stand-alone agency of the County. The Dairy Monitoring Office will be directed by the Director of Planning and Building Inspection who is also the zoning administrator and responsible for the Code Compliance section.

### **Response to Comment 23-3**

The comment is noted for the record. The PEIR acknowledges that the regulatory and scientific communities are continuing to refine the understanding of air quality conditions in the San Joaquin Valley Air Basin and the potential impacts on air quality related to the construction and operation of dairy facilities. However, it is the County's responsibility under CEQA to disclose available information on air quality conditions, estimate the magnitude and determine the significance of adverse impacts, and to develop feasible mitigation measures. The preparers of the PEIR consider that these goals have been achieved. The commentator is referred to Responses to Comments 23-44 through 23-55 for further discussion and clarification of air quality impacts.

### **Response to Comment 23-4**

The purpose of the Economic Study is to evaluate the economic effect buildout of the Dairy Element would have on the overall county economy. It was never intended to evaluate the cost of Dairy Element policies on the individual dairyman. No effort has been made to evaluate that cost in this project. While the preparers of the PEIR do not dispute the Farm Bureau's estimate of what those individual costs are, the Bureau did not provide any documentation to support those cost estimates.

### **Response to Comment 23-5**

The comment is noted for the record. However, if this Element is not adopted, the current zoning ordinance requirements for a CUP and environmental review will continue on an individual dairy-by-dairy approach.

### **Response to Comment 23-6**

Section V of the Element has been changed to support the California Dairy Quality Assurance Program, but that program is not a substitute for either conditional use permit or site plan review requirements of the Kings County Zoning Ordinance.

### **Response to Comment 23-7**

**Policies DE 1.2a** and **1.2b** have been modified to reflect this comment. In the case of an existing dairy that is expanding, the policies of the Element only apply to the expansion area, not to the entire previously existing facility.

### **Response to Comment 23-8**

**Policy DE 1.2c** is included to address the National Flood Insurance Program as well as Regional Water Quality Control Board regulations. Therefore, language is added to this policy to reflect both the "latest adopted" Flood insurance Rate Maps and RWQCB regulations found in Title 27, Section 2562 of the California Code of Regulations.

### **Response to Comment 23-9**

In addition to complying with RWQCB requirements, Kings County must ensure that the National Flood Insurance Program requirements are met. This includes a requirement for a Letter of Map Amendment (LOMA) or Letter of Map Revision (LOMR) for the Flood Insurance Rate Map (FIRM) any time the identified flood zones are altered. Kings County adopted a Flood Damage Protection Ordinance in 1989 (Ordinance No. 474). **Policy DE 1.2c** is directed primarily at this program.

### **Response to Comment 23-10**

**Policy DE 1.2d** has been changed in response to the comment.

### **Response to Comment 23-11**

**Policy DE 1.2f** refers to areas of the County where the land naturally slopes more than 5 percent. The only land with greater than 5 percent slope is in the Kettleman Hills and Coast Ranges. The inter-range valleys allow applications for new dairies.

### **Response to Comment 23-12**

**Policy DE 1.2g** has been modified to allow expansion of an existing dairy into the buffer zone around school zones only after approval of a conditional use permit for further reduction of the buffer zone. The Planning Commission may consider various factors, such as distance, wind direction, intervening uses, and the like, before deciding whether to approve such an expansion. In land use decisions, which use came first is only a minor consideration. The fact that a school exists is the principal concern. The policy calls for a one-half mile buffer around schools, not three miles as the comment indicates.

### **Response to Comment 23-13**

The suggestion made by the commentor concerning **Policy DE 1.2h** would require the zoning administrator to make a discretionary decision. Therefore, the policy has been modified to allow the application of a CUP for such a proposal. As with **Policy DE 1.2g**, the Planning Commission may consider any pertinent information before rendering its decision. Please note, the policy calls for a one-quarter mile buffer between dairy facilities, not three miles as the comment indicates.

### **Response to Comment 23-14**

**Policy DE 1.2j** discusses the expansion of the “compatibility zone” around cities in the future. Population projection for Kings County estimates a population of 240,000 people by the year 2030. This includes an estimated 31,000 in Corcoran, 95,000 in Hanford, and 49,000 in Lemoore. These cities will grow out to accommodate this population. State law requires cities and counties to plan for that growth. The planning process includes resolving incompatible land use issues that occur because of growth. Since there are existing dairies in the path of expected growth, policies must be established now so that the dairy owners/operators can decide whether investments in existing dairies are justified. The “compatibility zone,” which is represented by the extension of the AL-10 zone district, is the warning mechanism.

### **Response to Comment 23-15**

**Objective DE 2.1** has been modified to reflect that the Site Plan Review (SPR) for the expansion of an existing dairy applies only to that portion of the dairy that is expanded, not to the unchanged parts of the existing portion.

### **Response to Comment 23-16**

**Policy DE 2.1a** has been modified to reference the RWQCB's Fact Sheet No. 4 as the basis for animal unit calculation. The policy also includes a statement that, if the RWQCB adopts another method for estimating the land required for application of manure, the new method will be used.

### **Response to Comment 23-17**

In response to the comment, **Policy DE 2.1b** has been modified to substitute the phrase “up to” for the word “below.”

### **Response to Comment 23-18**

The changes, concerning the application of these policies to only the portion of an existing dairy facility that is the subject of a zoning action, that have been made to **Objective DE 2.1** have also been made to **Policies DE 2.1c** and **2.1d**. See Response to Comment 23-15 above.

### **Response to Comment 23-19**

The suggested change to **Objective DE 2.2** has been made to reflect that only the expanded part of the dairy is subject to the SPR.

### **Response to Comment 23-20**

In **Policy DE 2.2a**, the date of July 1, 1998, was selected because that was about the time when dairy issues prompted the development of this Element. Therefore, credit could be given for all land under the control of an existing dairy operator as of that date. This includes land that is owned or leased, rented, or used for application of dairy process water from the dairy. No change has been made.

### **Response to Comment 23-21**

For **Policy DE 3.1a**, dust generation and control are a zoning ordinance issue. One of the findings that the zoning administrator must make is that, among other things, dust generated by the activity is not substantially injurious to people, property, or livestock in the vicinity (Section 2102.C.6.). Therefore, “dust control” standards are a required component of the Element.

### **Response to Comment 23-22**

Dust control is regulated by the zoning ordinance. The generation of dust can adversely affect the quality of life for neighbors, including damage to crops and devaluation of property.

### **Response to Comment 23-23**

Dust control is regulated by the zoning ordinance. As discussed in Response to Comment 23-22, the generation of dust can adversely affect the quality of life for neighbors, including damage to crops and devaluation of property. In addition, the policy requires a one-half mile buffer, not the two-mile buffer stated in the comment.

### **Response to Comment 23-24**

The commentor is referred to Responses to Comments 22-21 and 22-23

### **Response to Comment 23-25**

Comment noted but no change is proposed to **Policy DE 3.1d**. This policy provides specific information about projects that are subject to CEQA, which must consider potential impacts to cultural resources. To change the General Plan and Zoning Ordinance to allow SPRs for dairy projects, the PEIR must provide for the potential of disturbance of cultural resources. Therefore, each application under this program must include within the Technical Report measures to identify cultural resources when discovered and how to handle them. This is mitigation for the program, and it applies to every application reviewed under the program. This policy provides information about where that information can be obtained.

### **Response to Comment 23-26**

**Policy DE 3.1e** has been modified in response to the comment.

### **Response to Comment 23-27**

The commentor is referred to Response to Comment 23-25.

### **Response to Comment 23-28**

**Policy DE 3.2a** requires a Technical Report with certain components and shall include them. To use the word “should” would make the components optional, which they are not since they are requirements for implementing the dairy development program.

**Policy DE 3.2a.A** has been reworded, however, this is a RWQCB requirement. Those requirements will supersede any differences with the Element.

**Policy DE 3.2a.B** has not been changed as recommended by the comment since the policy would not change with the requested wording. **Policy DE 3.2a.C** has been deleted in response to the comment as it duplicates **3.2a.A** above. **Policy DE 3.2a.D** has been renumbered to **3.2a.C** and reworded as requested.

### **Response to Comment 23-29**

**Policy DE 3.2b** has been modified to address the commentor’s concerns.

### **Response to Comment 23-30**

**Policy DE 3.2d** has been modified to distinguish between discharges to surface waters and floodplains. Discharge to floodplains is only prohibited during flood events; otherwise the cropland within floodplains may be irrigated with dairy process water and fertilized with manure.

### **Response to Comment 23-31**

**Policy DE 3.2f** has been modified and relies on **Goal DE 6** (monitoring and reporting) for the necessary details.

### **Response to Comment 23-32**

**Policy DE 3.2g.B** (now **3.2g.C**) has been changed to replace “levees” with “berms” as requested by the commentor. However, the last sentence of the policy has not been removed as suggested. Whether the sentence is removed or not, all required permits must be obtained for dairy developments.

### **Response to Comment 23-33**

**Policy DE 3.2g.C** (now **3.2g.A**) cannot be omitted as requested. Development in floodplains must still comply with the Flood Damage Prevention Ordinance adopted by the County pursuant to the National Flood Insurance Program. This requirement is in addition to the RWQCB regulations found in Title 27, Division 2, Subdivision 1, Chapter 15, Section 2562 of the California Code of Regulations. The regulations associated with the National Flood Insurance Program are designed to keep development from causing new flooding elsewhere due to new barriers built into the existing floodplains. Please refer to Response to Comment 23-9.

### **Response to Comment 23-34**

**Policy DE 3.2h** requires a Hydrologic Sensitivity Assessment (HSA) as part of the Technical Report requirements. Its purpose is to assess the potential for contaminating groundwater and evaluating methods to mitigate potential situations where contamination could occur.

### **Response to Comment 23-35**

Regardless of whether **Policy DE 3.2i** is removed as requested by the commentor or not, both the California Well Standards and the RWQCB standards must be met. In addition, this policy is concerned with wells that are properly sealed against contamination from the surface. No reference to “downhole camera” inspection is in the policy.

### **Response to Comment 23-36**

**Policy DE 3.3a** has been modified to require a CUP if the survey identifies impacts on biological or wetland resources.

### **Response to Comment 23-37**

**Policy DE 3.6a** has been modified to include the standards requested by the Kings County Fire Department.

### **Response to Comment 23-38**

**Policy DE 3.6b** has been deleted in response to the comment.

### **Response to Comment 23-39**

**Goal DE 4** has been changed to remove the word "system."

### **Response to Comment 23-40**

**Objective DE 4.1** has been changed to rename the "Comprehensive Nutrient Management Plan (CNMP)" to "Manure Nutrient Management Plan (MNMP)" as recommended in the comment. This change will accomplish the goal of this section. All references to the "CNMP" are also changed to "MNMP."

### **Response to Comment 23-41**

**Policy DE 4.1a.A** has been changed to delete all but the first sentence. Generally the diet of the cattle is done on recommendations from the dairy's nutritionist to get the best balance between feed input and milk production.

### **Response to Comment 23-42**

**Policy DE 4.1a.B.1** has been modified to make it clear that clean water that does not come into contact with manured or feed storage areas may be diverted from the dairy process water collection system. However, once it is collected into the dairy facility's system, it shall be handled in the same manner as all other dairy process water.

**Policy DE 4.1a.B.2.b** has been modified as recommended concerning the maintenance of lagoon liner integrity.

**Policy DE 4.1a.B.2.c** has been modified to refer to the minimum permeability of the soils in the lagoon liner.

**Policy DE 4.1a.B.2.d** has been modified to require that the liners be certified as installed according to the design standards.

The Professional Engineer or Engineering Geologist who certifies the liner pursuant to paragraph 2.d above can accomplish **Policy DE 4.1a.B.2.f**.

**Policy DE 4.1a.B.2.g** has been changed, as recommended, and additional language has been added to reference the pertinent code section.

**Policy DE 4.1a.B.2.i** has not been modified in response to the comment. Please refer to Response to Comment 21-27.

#### **Response to Comment 23-43**

**Policy DE 4.1a.B.3** has been modified to ensure that runoff from manure storage areas is collected and diverted to the liquid manure collection system. However, the sentence about consideration for sensitive areas has been retained.

#### **Response to Comment 23-44**

**Policy DE 4.1a.B.4** has been modified as requested, and language added to tie it into the air quality standards of the Element.

#### **Response to Comment 23-45**

**Goal DE 5** has been changed to read "... through the reduction of potential adverse air emission ...." It is the adverse impacts that are of concern.

#### **Response to Comment 23-46**

The comment is noted for the record. **Objective DE 5.1** has not been modified in response to the comment. The County must implement policies that mitigate identified significant adverse air quality impacts. Mitigation of the impacts must be verifiable and the commentor's suggestion to "develop Voluntary Incentive Based Strategies at dairies that improve air quality" would not meet the requirements of CEQA.

#### **Response to Comment 23-47**

**Policy DE 5.1a** has been modified to replace the words "participate in" with "monitor." This will provide the County with the opportunity to comment on proposed air district action in a timely manner to ensure that the needs of the Kings County agricultural industry are heard.

#### **Response to Comment 23-48**

The second paragraph of **Policy DE 5.1b** has been modified as recommended. However, the third paragraph should remain until the air district develops a standard that can then



be substituted. In the meantime, this policy should stand to address the Dairy Element program requirements.

#### **Response to Comment 23-49**

**Policy DE 5.1d** has been modified since these emission control requirements are included in the Air District's Regulation VIII. The part removed is the details that do not have to be repeated in the Element.

#### **Response to Comment 23-50**

**Policy DE 5.1e** - Dust is a zoning ordinance issue. One of the findings that the zoning administrator must make is that, among other things, dust generated by the activity is not substantially injurious to people, property, or livestock in the vicinity (Section 2102.C.6.).

#### **Response to Comment 23-51**

**Policy DE 5.1f** has been removed from the Element. The components that are important to managing a dairy are covered in other parts of the Technical Report, or by other regulatory agencies. **Policies DE 5.1g** through **5.1k** have been renumbered appropriately.

#### **Response to Comment 23-52**

**Policy DE 5.1g** (now **5.1f**) has been modified to reflect that these control measures are guidelines developed and implemented by the SJVUAPCD. These details do not need to be repeated in the Element.

#### **Response to Comment 23-53**

**Policy DE 5.1h** (now **5.1g**) is maintained to facilitate the zoning administrator's consideration of the zoning aspects of dust generation.

#### **Response to Comment 23-54**

The comment suggests that "dust" is not a regulated criteria pollutant under the Clean Air Act or the California Clean Air Act. However, the fraction of fugitive dust that is comprised of particulate matter with aerodynamic diameters of 10 microns or less ("PM<sub>10</sub>") is regulated under both State and Federal law. **Policy DE 5.1i** (now **5.1h**) does not effect a "Permit to Farm" as indicated by the comment. The policy would not restrict the right to farm but would require controls to mitigate a significant adverse impact.

The last point made in the comment is that the County should adopt recommendations of the Agricultural Technical Advisory Committee of the San Joaquin Valley Unified Air Pollution Control District and the USDA Agricultural Air Quality Task Force. Recommendations made to date by these bodies do not include verifiable performance

standards or other requirements. CEQA requires that mitigation is verifiable. Please refer to Response to Comment 23-46.

#### **Response to Comment 23-55**

**Policy DE 5.1j** (now **5.1i**) has been modified to remove cropland from the policy. At this time there are no requirements to consider the cropland's effects on constituents. To do the monitoring, operators of new and expanded dairies must keep a written record of their efforts to implement their activities to operate the dairy within the Element standards and demonstrate their compliance.

#### **Response to Comment 23-56**

**Policy DE 5.1k** (now **5.1j**) has been modified to restrict this requirement to changes of use that do not include livestock.

#### **Response to Comment 23-57**

In response to the comment, **Goals DE 6** and **7** have been combined with extensive rewording and moving of policies to cover the issues that were previously in both goals. **Goal DE 6** now contains the monitoring policies to ensure that the Dairy Monitoring Office tracks the mitigation measures in the Element. Subsection "B. Tracking Program," including **Goal DE 7**, has been removed, and the objectives and policies of **Goal DE 7** have been rewritten and moved into **Goal DE 6** as **Objective DE 6.1** and **Policies DE 6.1a** and **6.1b**.

The Introduction to Section V has been expanded to explain the purpose of the monitoring program. Principally it is the Planning Commission's responsibility to ensure that the General Plan and Zoning Ordinance are working as intended. Reports back to the Commission will satisfy the CEQA Monitoring and Reporting Program. This information is part of the CEQA monitoring requirement.

#### **Response to Comment 23-58**

Section VI has been completely rewritten to simply state that Kings County desires that all dairies in the County operate in efficient and economically and environmentally sound ways and recommends that all dairies work toward certification under the California Dairy Quality Assurance Program. **Goal DE 8**, **Objective DE 8.1**, and **Policies DE 8.1a** through **8.1c** have been deleted. In addition, the content of **Policy DE 8.1c** has been moved to Section IV and renumbered **Policy DE 3.7a**.

#### **Response to Comment 23-59**

The comment is noted for the record. Please refer to Response to Comment 7-7.

**Response to Comment 23-60**

The comment is noted for the record.

**Response to Comment 23-61**

The comment is noted for the record. Please refer to Response to Comment 7-7.

**Response to Comment 23-62**

Please refer to Response to Comment 20-39.

**Response to Comment 23-63**

The recommended definition is not necessary as the term “Dairy Best Available Retrofit Control” is not used in the Element.