

SECTION III

POLICIES FOR THE LOCATION AND SITING OF DAIRIES:

A. General Areas Suitable for the Location of New Dairies:

Potential impacts associated with dairies could adversely affect their neighbors, including "urban" areas, as well as potential future development throughout the County. ~~This~~ Uncontrolled development could have an adverse effect on the economy of the County as a whole. Therefore, dairies and their ancillary uses and support areas shall be located in areas of the County that will not result in significant adverse impacts by dairy development and operation (see Figure 2, page DE-16).

GOAL DE 1: Restrict ~~new~~ the location of new dairies to those areas of the County where they are most compatible with surrounding uses and activities, and where they are consistent with environmental constraints.

Objective DE 1.1: Protect agricultural uses and land from the encroachment of incompatible non-agricultural use of the land.

Policy DE 1.1a: *Agricultural Land Use Protection:* The *Kings County Right to Farm Ordinance*, Section 14-38 of the *Kings County Code of Ordinances*, states that "agricultural operations are the principal and favored uses of land in areas of Kings County designated 'Agricultural' in the *Kings County General Plan* and included in the Agricultural zone districts of the *Kings County Zoning Ordinance*." ~~This~~ Protection of agricultural activities is accomplished by the adopted policies to:

- (1) Protect agricultural land, operations, and facilities from conflicting uses due to the encroachment of incompatible, non-agricultural uses of the land in agricultural areas of the county, and
- (2) Advise developers, owners, and subsequent purchasers of property in the County of the inherent potential inconveniences and discomforts often associated with agricultural activities and operations, including, but not limited to, equipment and animal noise; farming activities conducted on a 24-hour a day, 7-day a week basis; odors from manure, fertilizers, pesticides, chemicals, or other sources; the aerial and ground application of chemicals and seeds; dust; flies and other insects; and smoke from agriculture operations.

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~~This policy is~~ These policies are tempered by providing buffer areas around sensitive uses where new more intensive agricultural uses, such as dairies, are prohibited from locating by zoning regulations.

Objective DE 1.2: Use specific ~~criteria~~ standards to avoid potential land use conflicts when approving new dairies and expansions of existing dairies.

Policy DE 1.2a: Limited Agricultural (AL-10) zone districts. This zone district is ~~designed to prohibit~~ intensive agricultural activities and uses. It is applied to areas adjacent to cities and rural communities. Animal concentration facilities, including associated dairy process water and manure storage areas, are intensive agricultural uses that are not appropriate in this urban-to-agricultural buffer area. However, manure used as fertilizer and dairy process water used to irrigate cropland may be transported to, and used in, the AL-10 zone districts. New dairy operations should plan to use non-AL-10 locations to provide as much separation as possible from ~~uses areas~~ where there is a higher concentration of people ~~are concentrated in densities of more than one dwelling unit per 20 acres.~~

Dairies that have been in operation since before 1979 or were issued a zoning permit after 1979 may continue to operate and expand. However, ~~any~~ the expansion portion of the activity will be subject to approval of a conditional use permit (CUP) by the Planning Commission.

(Mitigation for Impact 4.7-4)

Policy DE 1.2b: Exclusive Agricultural (AX) zone districts. This zone district is designed to protect the Lemoore Naval Air Station (LNAS) from encroachment of uses that are not compatible with the noise generated from the jet aircraft operations at the air station and potential hazards from aircraft accidents. This restriction is on new dairies and is designed to protect the huge investment of tax money at the air station from potential land use conflicts due to jet aircraft noise and accident potentials. Areas used for manure and dairy process water storage and use are not prohibited from the AX zone district, only the location of the actual animal concentration facilities, e.g., corrals, freestall barns, milk barns, pens, lagoons, feed storage, manure storage, etc.

Dairies that have been in operation since before 1979 or were issued a zoning permit after 1979 may continue to operate and expand. However, ~~any~~ the expansion portion of the activity will be subject to ~~approval~~ of a site plan review (SPR).

(Mitigation for Impact 4.7-4)

Policy DE 1.2c: Flood Zones (Flood Hazard Areas). Flood Zones are areas of the County that are subject to periodic flooding. Dairy facilities, including corrals,

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barns, manure storage areas, feed storage areas, dairy lagoons, etc., shall not be located on any territory designated on the latest adopted National Flood Insurance Program, Flood Insurance Rate Maps (FIRM) (Community-Panel Numbers 060086 0001 - 0425) dated August 4, 1988, as Special Flood Hazard Areas Inundated by 100-Year Flood, Zones A, AE, AO and AH, Floodway Areas in Zone AE, or Other Flood Areas in Zone X. The latest Special Flood Hazard Areas Inundated Map is dated August 4, 1988. However, manure used as fertilizer and dairy process water used to irrigate cropland may be transported to and used in the flood zones, if specific safeguards are in place to prevent pollution from these materials; ~~(i.e., do not spread manure or dairy process water in flood plains during flood period or threat of flooding, and ensure that manure is worked into the soil immediately upon application~~ see Policy DE 3.2d).

Flood protection shall also be provided according to California Regional Water Quality Control Board regulations found in Title 27, Division 2, Subdivision 1, Chapter 7, Subchapter 2, Article 1, Section 22562, Calif. Code of Regulations.
(Mitigation for Impact 4.3-2, 4.3-4, 4.3-7, 4.3-9)

Policy DE 1.2d: High groundwater areas. ~~Generally, the Dairies are prohibited in shallow or perched groundwater areas of the County shall be prohibited for construction and operation of new dairy facilities unless the applicant can demonstrate that the minimum vertical distance between proposed lagoon bottoms/corral surfaces and highest historic anticipated groundwater levels is at least five feet, and specific mitigation measures approved by RWQCB are implemented to ensure groundwater useable for domestic or agricultural uses is protected.~~ Highest groundwater levels shall be established based on available records and site-specific geotechnical investigation by qualified professional engineer or hydrogeologist.

(Mitigation for Impact 4.3-7, 4.5-3, 4.7-3)

Policy DE 1.2e: Designated wetlands and undisturbed wildlife habitat for sensitive species. ~~Generally Except as allowed by the conditional use permit process, dairies are prohibited Dairy Facilities shall not locate on wetlands and undisturbed wildlife or habitat for sensitive species. Land that has been continuously cultivated since 1985, or before, is presumed not to qualify as wetland or habitat. Temporarily fallow land which otherwise meets this requirement shall not be assumed to be wildlife habitat simply because it is not being cultivated at any given time. Further detailed survey may be appropriate to accurately determine the presence or absence of wetlands and other sensitive biological resources, and the need for avoidance or other mitigation as called for in Policy 3.3a.~~ The SPR process is only available for lands where the detailed survey required by Policy DE 3.3a does not identify wetlands or habitat for sensitive species. Where the survey identifies the presence of wetlands or habitat for sensitive species, a conditional use permit and additional environmental

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review will be required before any new dairy development or expansion may occur.

(Mitigation for Impact 4.4-1, 4.4-2, 4.7-3)

Policy DE 1.2f: Areas of excessive slope. ~~Generally, d~~Dairies are prohibited in the mountainous southwestern part of Kings County West of Interstate-5 ~~and or~~ the California Aqueduct (whichever is farther west), except for the Sunflower Valley and portions of the Kettleman Plains along State Route 33 south of Utica Avenue and Sunflower Valley (see Figure 2, page DE-16). This is due to the prevalence of slopes exceeding 5% that will make it difficult to contain manure and dairy process water on site.

(Mitigation for Impact 4.3-2, 4.3-5, 4.3-7, 4.3-9)

Policy DE 1.2g: Areas in the immediate vicinity of schools. ~~Dairy facilities, including corrals, barns, feed and manure storage areas, dairy lagoons, etc.,~~ New dairies facilities are prohibited from locating within a one-half (1/2) mile buffer zone around any all existing public or private school sites. An existing dairy which proposes to decrease the separation between its dairy facilities and a school site to less than 1/2 mile may do so only after approval of a conditional use permit by the Planning Commission. If the existing separation between an existing dairy's facilities and a school site is not proposed to be reduced regardless of its distance to the school site, the site plan review process may be utilized.

~~However, manure~~ Manure used as fertilizer and dairy process water used to irrigate cropland may be transported to and used within school buffer zones, but must be scheduled during weekends or summer vacation when the schools are closed.

~~Existing legally established dairies that do not meet the separation requirements from school sites may be expanded after the issuance of a site plan review. However, under no instances shall the non-conformity in the separation be increased by further encroachment of the actual dairy facility toward the school site.~~

(Mitigation for Impact 4.2-5, 4.7-4)

Policy DE 1.2h: Separation of dairy facilities by 1/4 mile. The minimum distance between a ~~dairy facility~~ Dairy Facility and other Dairy Facilities or confined animal feeding operations shall be one-quarter (1/4) mile. This restriction includes only the actual dairy facilities, i.e., corrals, milk barns, feed storage areas, manure storage areas, etc., but not cropland used to spread dairy process water and manure. These separations are required to avoid potential nuisance problems, potential inter-herd disease transmission, soil and groundwater contamination, and cumulative air quality degradation.

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~~Existing legally established dairies that do not meet~~ An existing dairy which proposes to decrease the separation requirement from other between its dairy facilities may be expanded after the issuance of a site plan review. However, under no instances shall the non-conformity in the separation be increased by further encroachment of the actual dairy facility toward the other dairy facility and another dairy's facilities to less than ¼ mile may do so only after approval of a conditional use permit by the Planning Commission. If the existing separation between the expanding dairy's facilities and the other dairy is not proposed to be reduced to a distance of less than ¼ mile, the site plan review process may be utilized.

(Mitigation for Impact 4.2-5, 4.6-2, 4.7-4)

Policy DE 1.2i: Areas in the immediate vicinity of residential zones. Dairy facilities, including corrals, barns, feed and manure storage areas, lagoons, etc., are prohibited from locating within a one-half (½) mile buffer zone around any residential zone (land zoned or designated for residential uses by Kings County or any city General Plan or zoning ordinance). However, manure used as fertilizer and dairy process water used to irrigate cropland may be transported to and used within a residential buffer zone.

Existing legally established dairies that do not meet the separation required from residential ~~and special district~~ zones may only be expanded after the ~~issuance~~ approval of a site plan review conditional use permit by the Planning Commission. However, ~~under no instances shall~~ the nonconformity in the separation shall not be increased by further encroachment of the actual ~~dairy facility~~ Dairy Facility toward the residential zone.

(Mitigation for Impact 4.2-5, 4.6-2, 4.7-4, 4.7-5)

Policy DE 1.2j: The “compatibility zone” boundaries around the cities of Hanford, Lemoore, and Corcoran shall be updated periodically to ensure that changes, especially expansions of any city General Plan and/or Sphere of Influence area, are reflected in the “compatibility zone” boundaries.

B. Zoning Requirements for New and Existing Dairies:

Site Plan Review (SPR) application approval by the Zoning Administrator (ZA) is a ministerial action requiring the ZA to insure all regulations, policies, mitigation requirements, standards, etc., in the *Zoning Ordinance, Dairy Element, and Dairy Element Program EIR* are met in the design of the facility. The monitoring program described in the *Dairy Element* will ensure that these policies, mitigation requirements, standards, etc., are being implemented or carried out.

The Zoning Administrator's review of the SPR application shall be formal and in writing. It shall include all steps as outlined in the Zoning Ordinances for SPR's, and for dairy reviews as outlined in the

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Dairy Element. No additional environmental review is required as long as the ZA makes a specific finding that all applicable provisions of the *Dairy Element* and *Program EIR for the Dairy Element* will be met. The monitoring program as outlined in the *Dairy Element* shall be implemented.

When an application for a new dairy or the expansion of an existing dairy does not or cannot meet all regulations, policies, mitigation requirements, standards, etc. in the Dairy Element, the application will instead be processed as an application for a conditional use permit (CUP). The review of such a CUP will include CEQA review beyond the Program EIR, including tiering of environmental documents as appropriate.

Failure to comply with policies, mitigation requirements, standards, etc., ~~pointed out~~ listed in the SPR will result in revocation proceedings before the Planning Commission. The Planning Commission may revoke the SPR and shut the operation down, or ~~replace~~ rescind the SPR and issue a new CUP with more conditions, monitoring, and reporting requirements. ~~After a period of continuous compliance (probation)~~ Upon request and after appropriate environmental review the Planning Commission, at its own discretion, may reinstate the dairy's SPR status.

~~Failure of~~ If an owner/operator fails to obtain a SPR or CUP before beginning operation of, or expanding, a dairy or other bovine dairy associated confined animal feeding operation, or expansion of an existing such facility, will require the project to be filed as an application for a conditional use permit (CUP) must be filed with the Planning Commission review and approval. The ~~upgrade of the zoning permit~~ CUP requirement is necessary because such an operator/owner of the dairy facility has demonstrated either open disregard of the regulations or ignorance of them. ~~Formal public review is necessary to put the public on notice of this situation and to be vigilant and report any violations of the regulations they may observe.~~

GOAL DE 2: Streamline the permit process for establishing new dairies or expanding existing dairies.

Objective DE 2.1: All new dairies and the expansion of any existing dairies with previously issued zoning permits shall be required to obtain a site plan review (SPR) pursuant to Article 21 of the Kings County Zoning Ordinance before construction or operation begins. For the expansions of existing lawfully established dairies the SPR process shall only apply to the expansion portion of the dairy. The conditional use permit (CUP) process shall be required if the Dairy Element standards are not met. Any additional environmental review associated with the CUP process shall cover the deviation from the regulations, policies, mitigation requirements, standards, etc.

Policy DE 2.1a: A SPR will be required for all proposed new or expanding dairies. Based on Regional Water Quality Control Board's (RWQCB) Table 1 of Fact Sheet 4 for Dairies, the SPR review procedures will ~~calculate~~ demonstrate the maximum number of animal units (AUs) the proposed new or expanding dairy

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site can potentially accommodate and establish the dairy's calculated capacity. The entire calculated capacity of the site will be removed from the theoretical capacity model for the County and will not be available for any other dairy project. If the dairy expands in the future within the original calculated capacity, it can claim the remaining capacity for its use as long as the farmland used in the calculation of the capacity remains under the ~~dairies~~ dairy's continuous control. In the event there is a variance between these standards and the RWQCB requirements, the more restrictive requirement shall prevail, unless RWQCB specifies a lesser standard in a Waste Discharge Requirement (WDR). In the latter case, the RWQCB standard will prevail.

Policy DE 2.1b: Fluctuation in the herd size, below up to the calculated capacity, does not require any zoning permits, unless the construction of new facilities including, but not limited to, barns, lagoons, feed and manure storage areas, corrals, etc. are part of the project. For example, if only 75% of the facility calculated capacity is being used and the herd is increased to ~~90~~ 100% of capacity, and no construction of facilities will occur, the dairy is still operating within its original baseline limits of the permit.

Policy DE 2.1c: ~~After the initial construction of the dairy facility has been completed, any new construction for additional AU capacity, up to the original calculated capacity limit of the permit, will require a new site plan review (SPR)~~ For dairies which have a previously-approved CUP or SPR, any construction of new facilities which were not addressed in the original CUP or SPR and which are intended to accommodate additional cows shall require a new SPR, regardless of whether the new construction will result in an increase in the dairy's calculated capacity or not. In such cases, the new SPR shall cover only the expanded facilities, not the entire dairy.

Policy DE 2.1d: Expansions above the originally approved calculated capacity limit of the zoning permit will require a new SPR for the new portion of the dairy facilities. Improvements to, and operation of, the dairy shall ~~be conforming~~ to all mitigation measures found in the Program EIR and policies of this Dairy Element.

Policy DE 2.1e: New dairies or expansions of existing dairies of any kind that do not meet all of the ~~criteria~~ standards in Sections ~~III and IV and V~~ of this *Dairy Element* for siting, design, operation, and monitoring and reporting shall be subject to the conditional use permit process and shall be required to undergo additional environmental review.

Policy DE 2.1f: All applications for new dairies, or the expansion of existing dairies, shall include a *Technical Report* with its ~~various included reports~~ required components, including a Geotechnical Report prepared by a licensed Geotechnical Engineer or certified Civil Engineer. The Geotechnical Report

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shall, at minimum, present the results of sufficient subsurface sampling and testing to classify and characterize the soils and groundwater conditions in areas of proposed Dairy Facility structures, feed and manure storage areas, lagoons, and fields where process water and manure will be applied. The report shall include recommendations for foundation design, cut and fill slope design, and site grading. The contents of the *Technical Report* and its components are described in Appendix J.

(Mitigation for Impact 4.1-1, 4.1-3, 4.1-4)

Policy DE 2.1g: An application that does not, or cannot, meet all regulations, policies, mitigation requirements, standards, etc. of the Dairy Element shall be submitted as an application for a conditional use permit (CUP). The Planning Commission may consider alternatives to the Dairy Element's regulations, policies, mitigation requirements, standards, etc., but must ensure that any alternative conditions accomplish the same or higher level of performance as required by the Dairy Element, thus ensuring that the project is consistent with the Dairy Element of the General Plan.

Objective DE 2.2: ~~A site plan review (SPR) will be required for the expansion of any~~ Except for dairies in the AL-10 zone district, for all other dairies which existed prior to 1979, except for dairies in and which do not have previously-approved CUP or SPR, a new SPR shall be required for either (1) the construction of new facilities intended to accommodate additional cows, or (2) an increase in the number of cows above the calculated capacity as determined by the Zoning Administrator. In the AL-10 zone district which will require a conditional use permit a CUP shall be required.

Policy DE 2.2a: ~~Dairies that existed prior to 1979 may expand up to the calculated capacity of the dairy site, including only the land that was under the dairy owner or operator's control, either by ownership or agreement prior to July 1, 1998. That capacity shall be determined by the Zoning Administrator by evaluating ownership records and copies of agreements or leases supplied by the owner or operator, and the existing facility to determine the facility's AU capacity and compliance with the design criteria in this Dairy Element.~~ Upon the request of the dairy owner or operator, the Zoning Administrator shall prepare a Dairy Review Letter providing the dairy owner or operator with the potential calculated capacity of the existing facility and its compliance with based on the design criteria standards in this Dairy Element. The addition of new physical improvements or increase in the areal extent of the Dairy Facility, e.g., lagoons and separation pits, feed storage structures, barns, and expansion of corrals on to land that was not previously occupied by the dairy's facilities, will require approval of a new SPR by the Zoning Administrator.

Dairies with existing zoning permits are subject to the limits of their current zoning permit.

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