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FINAL ENVIRONMENTAL IMPACT REPORT

VAN DER KOOI DAIRY

November 2007

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SECTION ONE
INTRODUCTION

SECTION ONE – INTRODUCTION

A Notice of Preparation for the subject project was circulated on January 26, 2006. The Notice of Preparation (NOP) informed agencies of the San Joaquin Valley Air Pollution Control District's intent to prepare an environmental impact report (EIR) for the project. The 30-day review period for the NOP started on January 26, 2006 and ended on February 27, 2006.

A Draft EIR was delivered to the State Clearinghouse and mailed to agencies, organizations and interested individuals on November 14, 2006 for a 45-day review period. The 45-day review period for the EIR started on November 14, 2006 and ended on December 29, 2006.

The Final EIR consists of (1) the Draft EIR and appendices; (2) any comments received concerning the Draft EIR; and (3) responses to these comments.

Responses to comments are directed to the disposition of significant environmental issues that are raised in the comments, as set forth in Section 15088(b) of the State CEQA Guidelines. When reviewing the comments and in developing responses thereto, every effort is made to compare the comment to the information contained in the Draft EIR. In most instances, responses are not provided to comments on non-environmental aspects of the proposed project. For comments not directed to significant environmental issues or in which the commentor simply notes agreement with the EIR, the responses indicate that the comment has been "noted".

CEQA requires that a Final EIR be prepared, certified and independently considered by the decision-making body prior to taking action on the project. The Final EIR provides the opportunity to respond to comments on the Draft EIR and to incorporate any changes necessary to clarify and/or amplify information contained in the Draft EIR. This Final EIR will be available to any commenting agencies for at least ten (10) days prior to its certification.

SECTION TWO

SUMMARY OF DRAFT ENVIRONMENTAL IMPACT REPORT

SECTION TWO – SUMMARY OF DRAFT ENVIRONMENTAL IMPACT REPORT

Project Location

The 1,242-acre Van Der Kooi Dairy project site is located in western Fresno County approximately 3 miles west of the community of Burrel (see Figure 2-1). The 110-acre dairy facilities site (corrals, barns, lagoon, etc.) is on Elkhorn Avenue, between Howard and Madera Avenues. The project site is within the Five Points Quadrangle of USGS topographic map in Section 31 of Township 165, Range 18E and Sections 5 and 6 of Township 17 south, Range 18 east, Mount Diablo Base and Meridian, and occupies Fresno County APNs 041-100-045, 050-016-013, and 050-016-016.

Project Objective

It is the objective of the project to build and operate an economically viable and competitive dairy facility in compliance with applicable laws and regulations, optimally utilizing the available land resource, and mitigating environmental impacts to the extent feasible and as required by CEQA.

Project Description

The project proponent has applied to the SJVAPCD for a permit for the establishment and operation of a 3,200 Holstein milk cow dairy on the above described property. This milk cow herd will be supported by 480 dry cows, 2,060 heifers and 380 calves. Utilizing California Regional Water Quality Control Board, Central Valley Region conversion factors, Holstein cow animals on the dairy site at full development will constitute 6,646 animal units.^a

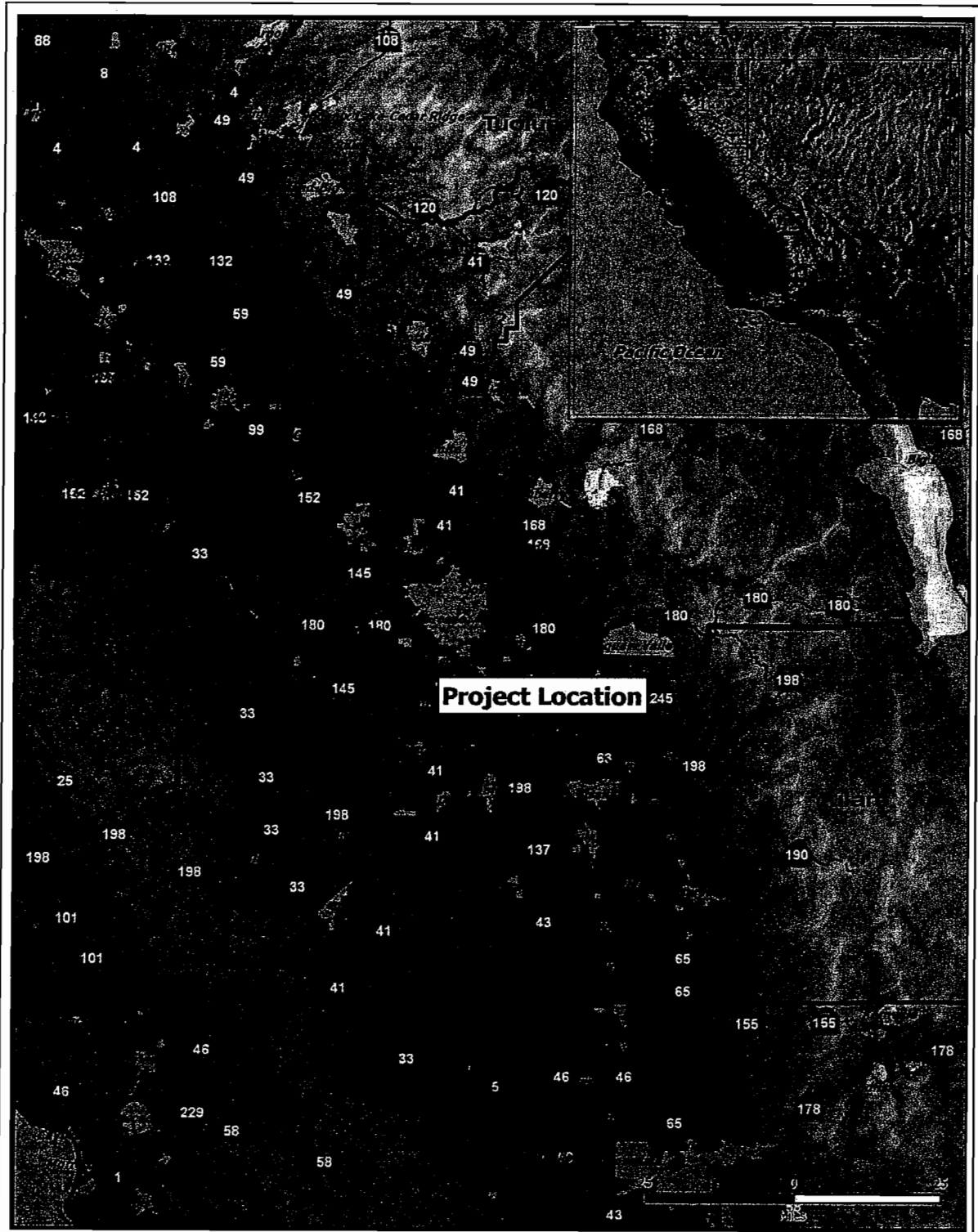
The project site is located in a Fresno County AE-20 (Exclusive Agriculture 20-Acre Minimum) zone. The proposed dairy facilities will occupy 110 acres of the total site. The remaining acreage will remain in current agricultural production as 1,132 net farmable acres of alfalfa and corn silage/wheat (double cropped).

The location of the dairy facilities with respect to the balance of the project site is shown on Figure 2-2. The dairy facilities site plan is depicted on Figure 2-3 and Figure 2-4.

The dairy is designed to maximize the available land for the production of feed to meet the dairy's forage needs, thereby minimizing the necessity for imported feed. Utilization of manure water will provide necessary nutrients for on-site feed production, and reduce the need for groundwater usage for irrigation.

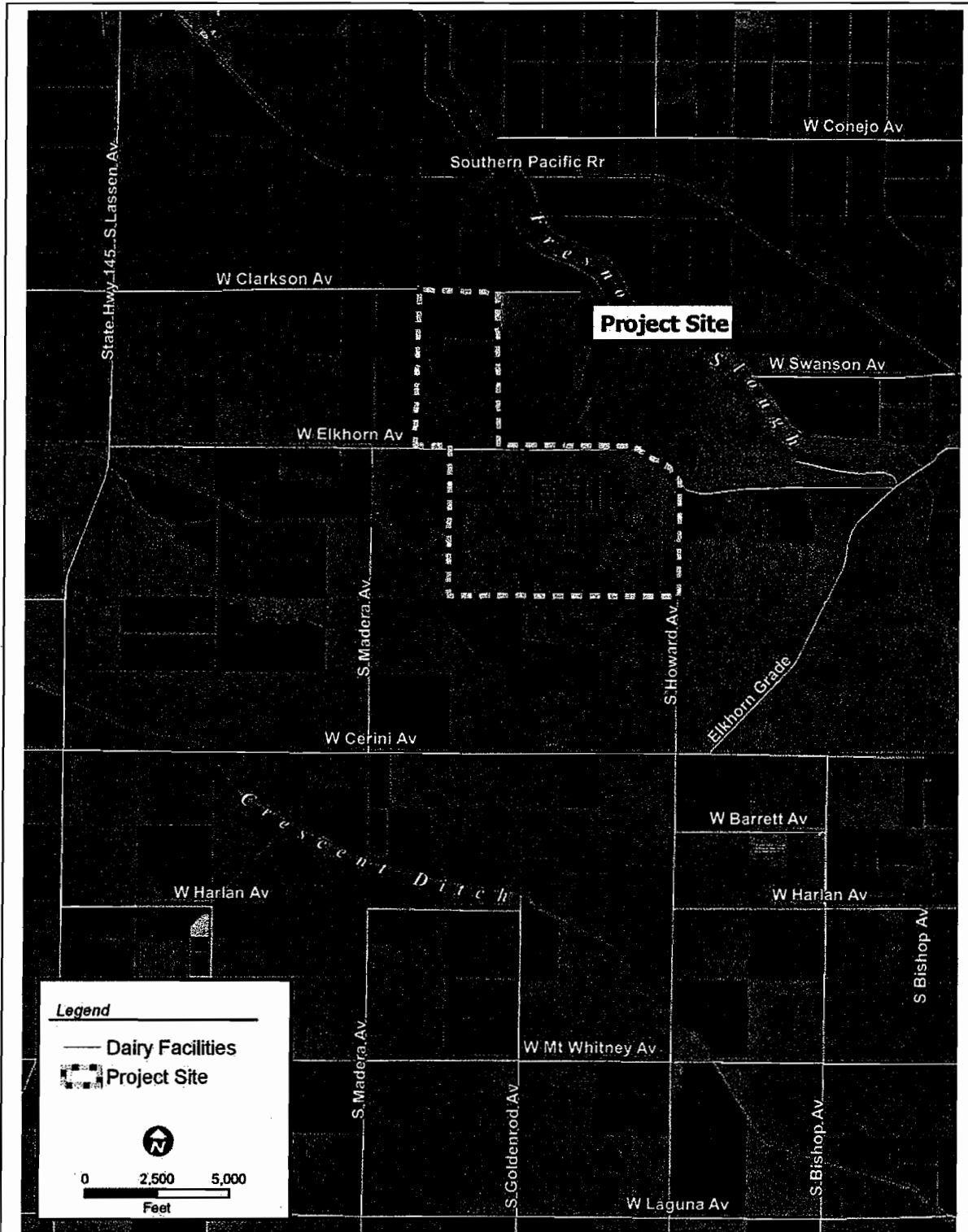
The dairy facility will house milking cows in freestall barns with flush systems and dry cows in corrals with flushed alleys. Liquid waste will be processed through separator basins, which remove solids from liquids, and liquids will flow into wastewater lagoons (see Figure 2-3 for facility component locations). At maximum dairy operation, approximately 1,829 tons per year of manure will be hauled offsite and sold as a fertilizer and soil amendment.

^a "Animal units" are calculated based upon a factor that has been adopted by the California Regional Water Quality Control. These factors are: 1.0 for milk cows; 0.75 for dry cows and bred heifers; 0.7 for heifers (1-year-breeding); 0.4 for calves (3 mos.-1 yr.); and baby calves 0.25. For additional information on determining animal units see SWRCB Waste Discharge Requirements in Appendix D.



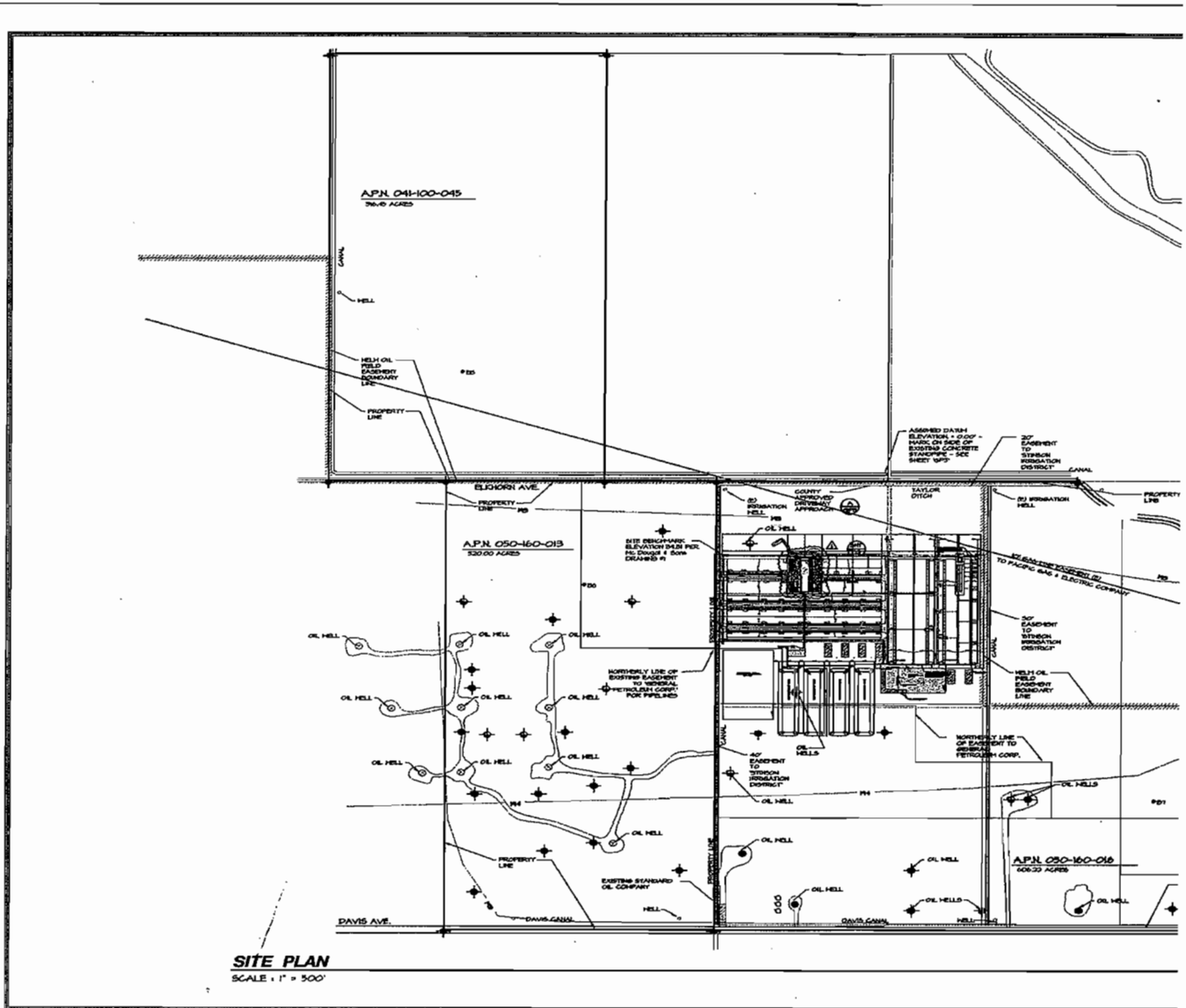
REGIONAL LOCATION

Figure 2 - 1



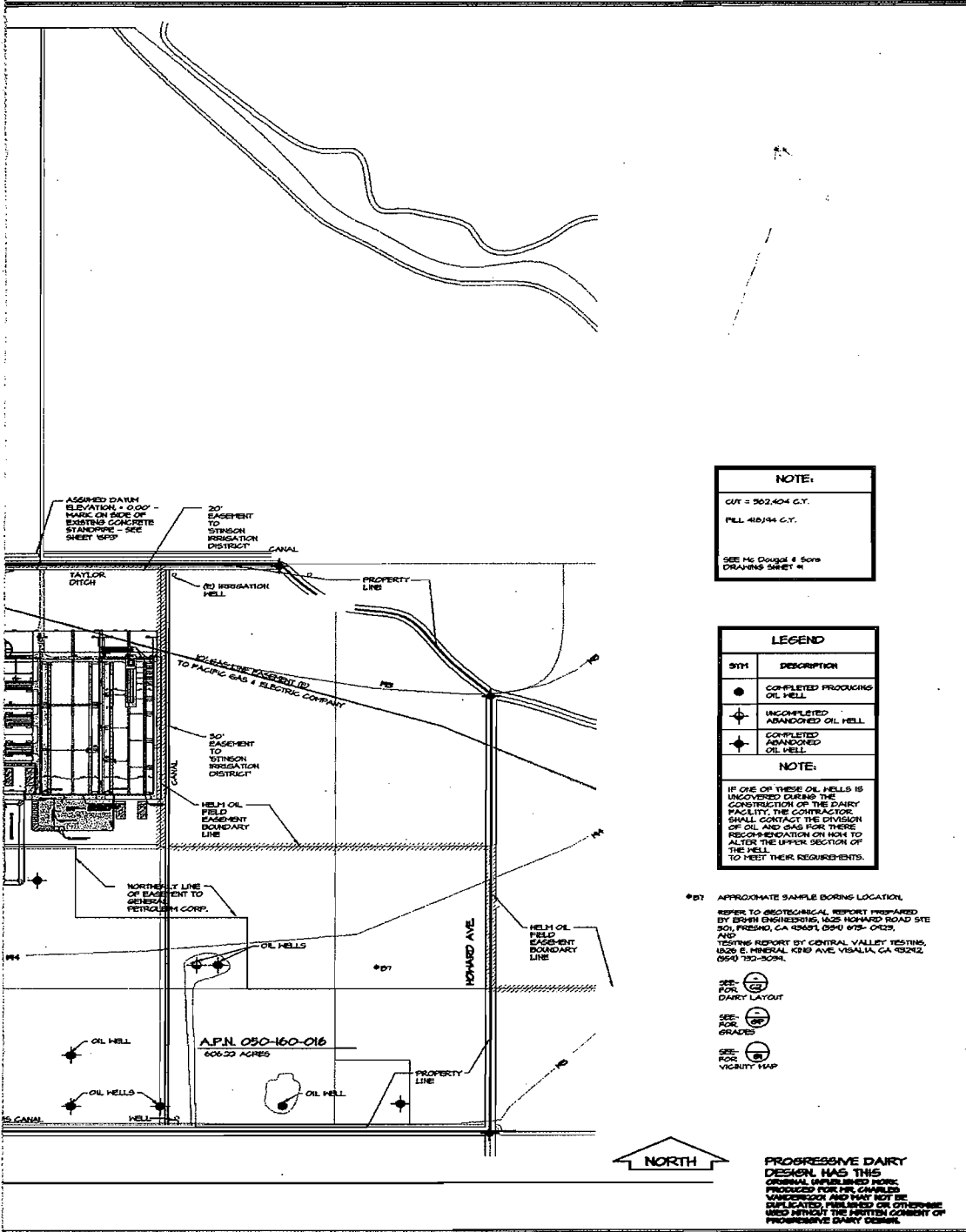
VICINITY MAP

Figure 2 - 2



Quad Knopf

PROJECT SITE



NOTE:
 CUT = 502,404 C.Y.
 FILL = 410,934 C.Y.
 SEE Hg Douglas & Sons DRAWING SHEET #1

LEGEND

SYMBOL	DESCRIPTION
●	COMPLETED PRODUCING OIL WELL
⊕	INCOMPLETED ABANDONED OIL WELL
⊖	COMPLETED ABANDONED OIL WELL

NOTE:
 IF ONE OF THESE OIL WELLS IS UNCOVERED DURING THE CONSTRUCTION OF THE DAIRY FACILITY, THE CONTRACTOR SHALL CONTACT THE DIVISION OF OIL AND GAS FOR THEIR RECOMMENDATION ON HOW TO ALTER THE UPPER SECTION OF THE WELL TO MEET THEIR REQUIREMENTS.

●BT APPROXIMATE SAMPLE BORING LOCATION
 REFER TO GEOTECHNICAL REPORT PREPARED BY BROWN ENGINEERING, 1625 HOWARD ROAD SITE 301, FRESNO, CA 93701, (504) 475-0229, AND TESTING REPORT BY CENTRAL VALLEY TESTING, 1820 E. MINERAL KING AVE, VISALIA, CA 93292, (559) 753-3094.

SEE FOR DAILY LAYOUT
 SEE FOR GRADES
 SEE FOR VICINITY MAP

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REVISIONS

NO.	DATE	BY
1	9-18-03	AV

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SITE PLAN

A NEW DAIRY FACILITY FOR
CHARLES VAN DERKOOI
 IN FRESNO COUNTY, CALIF.

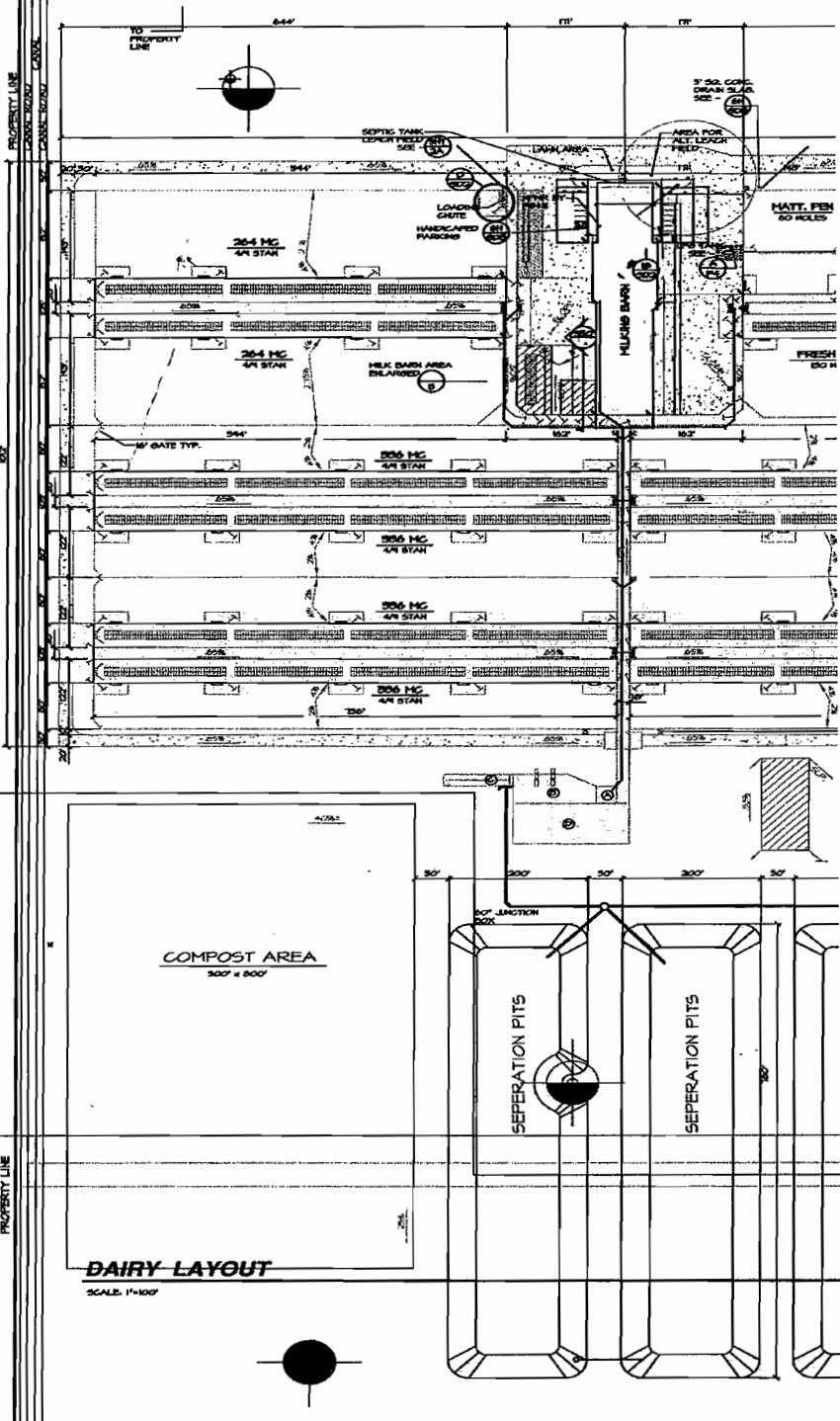
DATE	
SCALE	Noted
DRAWN	
JOB	
SHEET	C1
OF SHEETS	

CT SITE

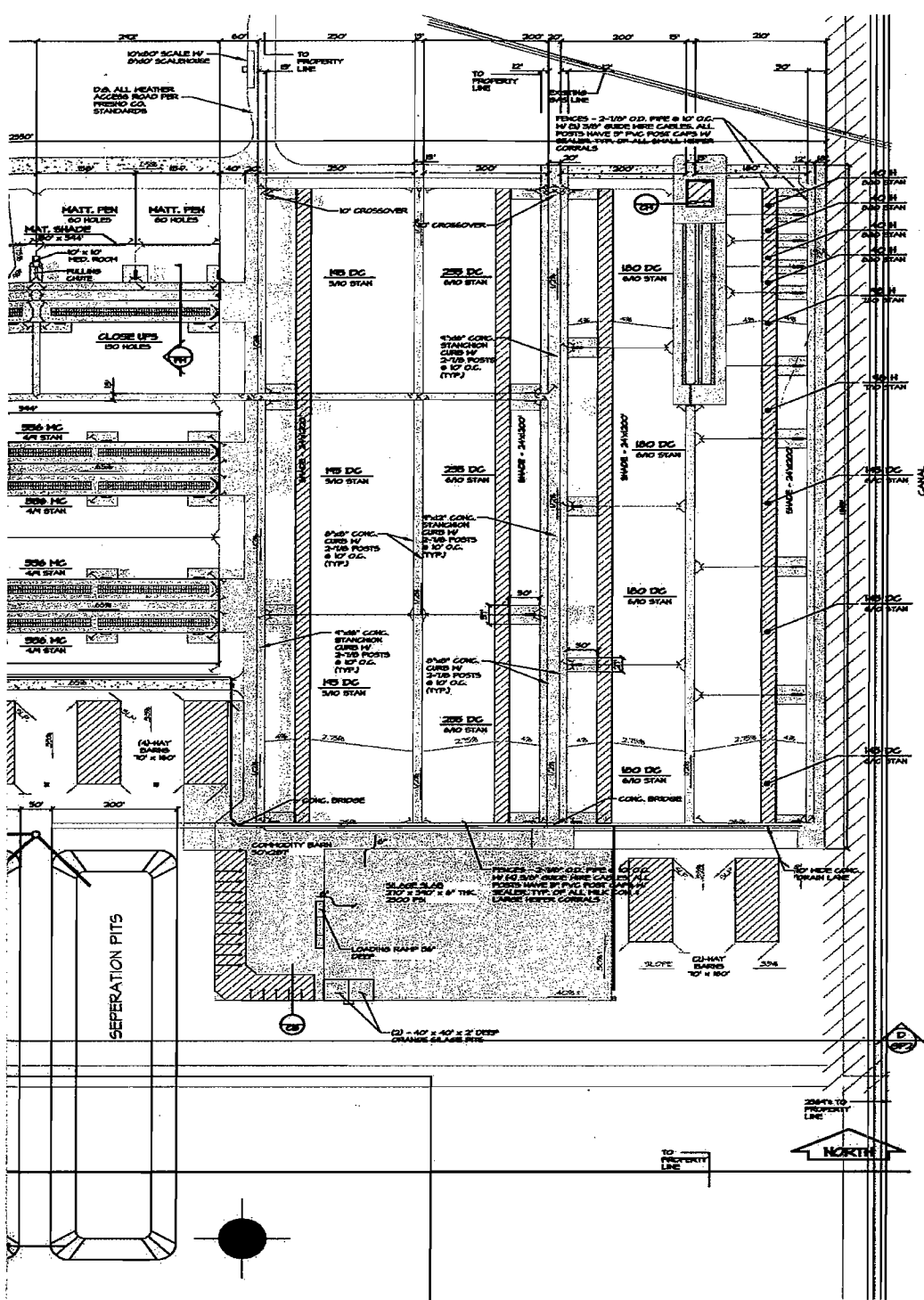
Figure 2 - 3

SYMBOLS	
	FLUSH VALVE
	FLOATING FLUSH PUMP
	FLUSH PUMP
	3' SQUARE DRAIN SLAB
	GATE VALVE
	CHECK VALVE
	FIRE HOSE VALVE (PER COUNTY REG.)
	WATER TROUGH
	GATE
	ROCK ROAD
	CONCRETE
	BULDOZER
	8" x 12" CONC. LANE DRAIN SLAB
	8" x 12" CONC. LANE DRAIN SLAB
	GATE VALVE
	12" x 12" CONC. LANE DRAIN SLAB
	12" x 12" CONC. LANE DRAIN SLAB
	CANAL
	DRAIN LINE
	EASEMENT LINE
	PROPERTY LINE
	EDGE OF PAVEMENT
	FRESH GRADE
	EXISTING GRADE
	TOP OF PAVEMENT
	OIL HILLS - SEE

MANURE SEPARATOR LEGEND	
	80' x 80' x 12' OF CONC. COLLECTION PIT W/ LIFT PUMP
	SEPARATORS
	PIES SEPARATION AFTER MECHANICAL SEPARATOR
	SAND PAD (OVER THE WALL)



DAIR



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MARK L. LINDEN ARCHITECT
 1408 N. 17TH ST.
 HARLAN, OK 74541
 (918) 481-1714

REVISIONS	BY

DAIRY LAYOUT

A NEW DAIRY FACILITY FOR:
CHARLES VAN DERKOOI
 IN FRESNO COUNTY, CALIF.

SCALE	Noted
DATE	
JOB	
PROJECT	
C2	

FACILITIES Figure 2 - 4

The structures to be constructed – barns, freestalls, etc. – will be metal frame. Each milking cow will be provided an individual bedded-stall in the freestall structure. The milking cows are generally kept in the stalls except when they are walked to the milking barn on concrete walk lanes three times a day.

The floors of the freestalls will be concrete. Curbs will separate the feed lane from the freestalls in order to facilitate flushing and enclose feed. All dairy facilities areas will be sloped to prevent ponding of water and to divert and convey rainfall runoff to the separated basins and wastewater lagoons.

A substantial percentage of the forage feed – corn and wheat – will be produced on agricultural land at the project site. All fields have return water facilities. The remainder of the forage feed, and feed concentrate, will be imported to the site from outside sources. The feed will be stored in hay barns and on a concrete pad.

Further descriptive project details relevant to the environmental analysis are provided in the appropriate topical areas of Chapter Three of this Draft EIR.

Summary of Impacts and Mitigation Measures

Section 15123(b)(1) of the *Guidelines for Implementation of the California Environmental Quality Act* (State CEQA Guidelines) provides that there shall be a survey of impacts and mitigation measures that such summary shall identify each significant effect with proposed mitigation measures that would reduce or avoid that effect. This information is summarized in Table 2-2, Summary of Potential Impacts, Mitigation Measures, and Mitigation Monitoring Program.

Impacts Which Remain Significant After Mitigation

All potentially significant impacts have been reduced to a less than significant level with mitigation.

Alternatives to the Proposed Project

Section 15126.6 of the State CEQA Guidelines requires the EIR to describe a reasonable range of alternatives to the project or to the location of the project which would reduce or avoid significant impacts, and which could feasibly accomplish the basic objectives of the project, and to evaluate the comparative merits of the alternatives. Alternatives that would reduce or avoid significant impacts represent environmentally superior alternatives to the proposed project. However, if the environmentally superior alternative is the ‘no project’ alternative, the EIR must also identify an environmentally superior alternative among the other alternatives.

The EIR evaluates the following alternatives:

- No Project - With this alternative, the dairy facilities would not be built. This alternative does not achieve the basic objective of the project, although any dairy-related air quality

impacts are eliminated. Impacts associated with continuation of row-crop or other agriculture will occur.

- Relocated Sites – Under these alternatives, site relocation elsewhere in the San Joaquin Valley Air Basin (SJVAB), and outside the Valley are evaluated. No significant impact reductions compared to the project could be identified. The usage of such alternative sites has been economically evaluated and found to be infeasible.
- Reduced Herd Size Alternatives – Reduction of herd size alternatives effect roughly proportional reduction in air quality impacts (although not to less than significance) and in cumulative predator habitat loss while only partially meeting the project objective of operating an economically viable dairy.

**Table 2-2
Summary of Potential Impacts, Mitigation Measures,
and Mitigation Monitoring Program**

Impact No.	Impact	Page Number in EIR	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency
AESTHETICS						
3.1.1	Light and Glare	3-2 to 3-5	3.1.1	All lighting shall be principally under roofs and designed to be directed downward and inward to illuminate specific areas.	Less than Significant	SJVAPCD
AIR QUALITY AND ODORS						
3.3.1	Particulate Matter (PM10) and Fine Particulate Matter (PM2.5) Impacts	3-24 to 3-25	None	None	None	None
3.3.2	Construction Emissions (Carbon Monoxide (CO), Reactive Organic Gases (ROG), Nitrogen Oxide (NOx), Sulfur Dioxide (SO2), Particulate Matter (PM10) Fine Particulate Matter (PM2.5))	3-25 to 3-28	3.3.2	As a condition of the Authority to Construct by the SJVAPCD, and to be monitored by such Agency, the owner/operator and construction crew shall ensure that the following control measures are implemented prior to and during construction activities to reduce exhaust emissions from construction related equipment: 1. Attend a preconstruction meeting at the District. 2. The idling time of all construction equipment used at the site shall not exceed ten minutes. 3. The hours of operation of heavy-duty equipment shall be minimized. 4. All equipment shall be properly tuned and maintained in accord with manufacturer's specification.	Less than Significant	SJVAPCD

Impact No.	Impact	Page Number in EIR	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency
3.3.3.A	Operational Emissions of Criteria Pollutants, Particulate Matter (PM10) and Fine Particulate Matter (PM2.5)	3-28 to 3-31	3.3.3.A	<ol style="list-style-type: none"> 5. When feasible, alternative fueled or electrical construction equipment shall be used at the project site. 6. The minimum practical engine size for construction equipment shall be used. 7. When feasible, electric carts or other smaller equipment shall be used at the project site. 8. Gasoline-powered equipment shall be equipped with catalytic converters. 9. The facilities construction contractor shall comply with Rule 4641 of the SJVAPCD. 	Less than Significant	SJVAPCD
				<ol style="list-style-type: none"> 1. Maintain a manure pack less than two inches deep. 2. Refrain from spreading dry manure on nutrient application areas when wind speeds exceed 10 miles per hour. 3. Remove mud or dirt which originates from project operations, on project-adjacent roads within 24 hours of deposition. 4. Protect dry feed storage on three sides to prevent material loss and transport due to wind action. 5. Plant trees downwind around the dairy facilities site. 6. Provide shade areas in corrals. 		

Impact No.	Impact	Page Number in EIR	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency
3.3.3.B	Operational Emission of Criteria Pollutants, Reactive Organic Gas (ROG)	3-31 to 3-35	3.3.3.B	<p>7. Corral sprinkling or use of soil stabilizer.</p> <p>8. Feeding young stock near dusk.</p> <p>The project applicant shall, in construction and operation of the project, comply with the following BACT control measures as agreed with the San Joaquin Valley Air Pollution Control District:</p> <ol style="list-style-type: none"> 1. Use of phototrophic (red) lagoon and associated nutrient management practices. 2. Flush or spray down milking area with each batch milked, and flush holding pen and wash pens at least 4 times daily. 3. Flush feedlines, walkways, etc. at least 4 times daily. 4. Feeding animals per National Research Council (NRC) guidelines. <p>In addition, the applicant shall purchase emission offsets to mitigate for the remaining 3.13 tons of ROG in exceedance of the SJVAPCD threshold of 10 tons per year.</p>	Less than Significant	SJVAPCD
3.3.4	Operational Emissions of Criteria Pollutants, Nitrogen Oxide (NOx)	3-35 to 3-36	3.3.4	<p>Although project impacts are less than significant the following mitigation measures are recommended to further reduce NOx emissions.</p> <ol style="list-style-type: none"> 1. Idling time of on-site project farming and dairy operations equipment shall be minimized. 2. All on-site equipment shall be properly tuned and maintained in accord with manufacturer's specifications. 	Less than Significant	SJVAPCD

Impact No.	Impact	Page Number in EIR	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency
3.3.5	Methane (CH ₄) Generation	3-36 to 3-37	3.3.5	<p>3. Whenever feasible, alternative fueled or electrical on-site equipment shall be utilized.</p> <p>4. Minimum practicable on-site engine sizes shall be used.</p> <p>5. On-site gasoline powered equipment shall be equipped with catalytic converters.</p> <p>6. Employees will be encouraged to carpool-travel to and from the project site.</p> <p>The above measures are excerpted and extrapolated from the SJVAPCD's Guide for Assessing and Mitigating Air Quality Impacts, January 10, 2002. No other feasible mitigation measures exist.</p> <p>The project applicant shall, in construction and operation of the project, comply with the following BACT control measures as agreed with the San Joaquin Valley Air Pollution Control District:</p> <ol style="list-style-type: none"> 1. Use of phototrophic (red) lagoon and associated nutrient management practices. 2. Flush or spray down milking area with each batch milked, and flush holding pen and wash pens at least 4 times daily. 3. Flush feedlanes, walkways, etc. at least 4 times daily. 	Less than Significant	SJVAPCD
3.3.6	Ammonia (NH ₃)	3-37 to 3-38	3.3.6	<p>Nevertheless, the project applicant shall, in construction and operation of the project, comply with the following BACT control measures as agreed with the San Joaquin Valley Air Pollution Control District:</p>	Less than Significant	SJVAPCD

Impact No.	Impact	Page Number in EIR	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency
3.3.7	Hydrogen Sulfide (H ₂ S)	3-38 to 3-39	3.3.7	<ol style="list-style-type: none"> Use of phototrophic (red) lagoon and associated nutrient management practices. Flush or spray down milking area with each batch milked, and flush holding pen and wash pens at least 4 times daily. Flush feedlanes, walkways, etc. at least 4 times daily. <p>The project applicant shall, in construction and operation of the project, comply with the following BACT control measures as agreed with the San Joaquin Valley Air Pollution Control District:</p> <ol style="list-style-type: none"> Use of phototrophic (red) lagoon and associated nutrient management practices. Flush or spray down milking area with each batch milked, and flush holding pen and wash pens at least 4 times daily. Flush feedlanes, walkways, etc. at least 4 times daily. 	Less than Significant	SJVAPCD
3.3.8	Odor Emissions	3-39 to 3-43	None	None	None	None
3.3.9	Local Carbon Monoxide (CO) Concentrations	3-43 to 3-44	None	None	None	None
3.3.10	Ambient Air Quality Analysis (AAQA and Risk Management Review (RMR))	3-44	None	None	None	None

Impact No.	Impact	Page Number in EIR	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency
3.3.11	Cumulative Air Quality Impacts	3-44 to 3-45	None	None	None	None
BIOLOGICAL RESOURCES						
3.4.1	Substantial Adverse Effect on Candidate, Special-Status or Sensitive Species	3-59 to 3-62	3.4.1.1	<p>The following mitigation measures shall be followed:</p> <ol style="list-style-type: none"> Construction of a barrier fence along the southern and western edges of the construction site which would exclude kangaroo rats from entering the construction area. The fence would be constructed of a 3 foot-high metal flashing supported by t-posts. The lower edge of the fencing would be buried approximately 6 inches below the ground surface; and, Construction related traffic outside of the fenced area would be limited to daylight hours. <p>Continued agricultural operations would also have the potential to impact kangaroo rats and other sensitive species. Mitigation measures that would need to be implemented to avoid take of kangaroo rats and reduce impacts to sensitive species to less than significant include:</p> <ol style="list-style-type: none"> Agricultural operations must not encroach into the existing oil well pad sites; Construction of irrigation facilities such as canals, ditches, and retention basins will not proceed until the specific construction sites are inspected by a biologist and determined to be free of kangaroo rats. The construction of 	Less than Significant	SJVAPCD

Impact No.	Impact	Page Number in EIR	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency
				barrier fencing at such construction sites may be required;		
			3.	The application of rodenticides within 0.25 miles of the site occupied by kangaroo rats will only be applied using raised "T"-type bait stations which are approved for use in areas occupied by endangered kangaroo rats (Appendix D of the Biological Report); and,		
			4.	Retain all existing stands of trees, individual trees, and snags.		
			3.4.1.2	To avoid impacts to the San Joaquin kit fox, Standardized Recommendations for the protection of San Joaquin kit fox (Appendix C of the Biological Report) shall be followed. These include:	Less than Significant	SJVAPCD
			1.	Project-related vehicles should observe a 20-mph speed limit in all project areas, except on county roads and State and Federal highways; this is particularly important at night when kit foxes are most active. To the extent possible, nighttime construction should be avoided. Off-road traffic outside of designated project areas should be prohibited.		
			2.	To prevent inadvertent entrapment of kit foxes or other animals during the construction phase of the project, all excavated, steep-walled holes or trenches more than 2 feet deep should be covered at the close of each working day by plywood or similar materials, or provided with one or more escape ramps constructed of earth fill or wooden planks. Before such holes or trenches are filled, they should be		

Impact No.	Impact	Page Number in EIR	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency
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thoroughly inspected for trapped animals. If at any time a trapped or injured kit fox is discovered, the procedures under numbers 8 and 9 of this section must be followed.

3. Kit foxes are attracted to den-like structures such as pipes and may enter stored pipe, becoming trapped or injured. All construction pipes, culverts, or similar structures with a diameter of 4-inches or greater that are stored at a construction site for one or more overnight periods should be thoroughly inspected for kit foxes before the pipe is subsequently buried, capped, or otherwise used or moved in anyway. If a kit fox is discovered inside a pipe, that section of pipe should not be moved until the USFWS has been consulted. If necessary, and under the direct supervision of the biologist, the pipe may be moved once to remove it from the path of construction activity, until the fox has escaped.
4. All food-related trash items such as wrappers, cans, bottles, and food scraps should be disposed of in closed containers and removed at least once a week from a construction or project site.
5. No firearms shall be allowed on the project site.
6. To prevent harassment, mortality of kit foxes or destruction of dens by dogs or cats, no pets should be permitted on project sites.
7. A representative shall be appointed by the project proponent who will be the contact

Impact No.	Impact	Page Number Mitigation Number in EIR	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency
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source for any employee or contractor who might inadvertently kill or injure a kit fox or who finds a dead, injured or entrapped individual. The representative's name and telephone number shall be provided to the USFWS.

8. In the case of trapped animals, escape ramps or structures should be installed immediately to allow the animal(s) to escape, or the USFWS should be contacted for advice.

9. Any contractor, employee(s), or military or agency personnel who inadvertently kills or injures a San Joaquin kit fox shall immediately report the incident to their representative. This representative shall contact the CDFG immediately in the case of a dead, injured or entrapped kit fox. The CDFG contact for immediate assistance is State Dispatch at (916) 445-0045. They will contact the local warden or biologist.

10. The Sacramento Fish and Wildlife Office and CDFG will be notified in writing within three working days of the accidental death or injury to a San Joaquin kit fox during project related activities. Notification must include the date, time, and location of the incident or of the finding of a dead or injured animal and any other pertinent information. The USFWS contact is the Chief of the Division of Endangered Species, 2800 Cottage Way, Suite W2605, Sacramento, CA 95825-1846, and (916) 414-6620. The CDFG contact is Mr. Ron Schlorff at 1416 9th Street, Sacramento, CA 95814, (916) 654-4262.

Impact No.	Impact	Page Number in EIR	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency
3.4.2	Loss of Habitat to Special-Status Plants	3-62	None	None	None	None
3.4.3	Loss of Habitat for Special-Status Animals	3-62 to 3-63	None	None	None	None
3.4.4	Interference with Movement of Native Wildlife	3-63	None	None	None	None
3.4.5	Disturbance to Jurisdictional Waters	3-63 to 3-64	None	None	None	None
3.4.6	Degradation of Water Quality in Seasonal Creeks, Reservoirs and Downstream Waters	3-64	3.4.6	Site plan design should ensure that the grading of the project prohibits offsite drainage. Once accomplished, the proposed project is expected to have no effect on water quality in the Stinson Canal or any seasonal creeks, reservoirs, or other downstream waters.	Less than Significant	SJVAPCD
3.4.7	Disturbance to Active Raptor Nests from Construction Activities	3-65	3.4.7	The implementation of the following measures will ensure that raptors (hawks and owls) are not disturbed during the breeding season. 1. A qualified biologist/ornithologist will conduct a pre-construction survey for nesting raptors on site within 30 days of the onset of ground disturbance, if ground disturbance is to occur during the breeding season (February 1 to September 15). These surveys will be based on the accepted protocols (e.g., as for the burrowing owl) for the target species. If a nesting raptor were detected, an appropriate	Less than Significant	SJVAPCD

Impact No.	Impact	Page Number in EIR	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency
				<p>construction buffer would be needed (up to 250 feet or more). The actual size of the buffer would depend on the type of construction activity that would occur in the vicinity of the nest.</p> <p>2. If burrowing owls are detected on site during the non-breeding season, they can be passively relocated by placing one-way doors in the burrows and leaving them in place for a minimum of three days. Once it has been determined that owls have vacated the site, the burrows can be collapsed and ground disturbance can proceed.</p>		
3.4.8	Disturbance of Nesting Migratory Bird Treaty Act Species from Construction Activities	3-65 to 3-66	None	None	None	None
3.4.9	Local Policy/Ordinances Conflict	3-66	None	None	None	None
3.4.10	Habitat Conservation Plan or Other Plan Conflict	3-66	None	None	None	None
CULTURAL RESOURCES						
3.5.1	Disturbance of Cultural or Historic Resources, Skeletal Remains	3-68 to 3-69	3.5.1	<p>If, in the course of project construction any archaeological or historical resources are uncovered, discovered, or otherwise detected or observed, activities within 50 feet of the find area shall cease. A qualified archaeologist shall be contacted and advised the SJVAPCD of the site's significance. If the findings are deemed significant by the SJVAPCD, appropriate mitigation measures shall be required prior to any</p>	Less than Significant	SJVAPCD

Impact No.	Impact	Page Number in EIR	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency
				resumption of work in the affected area of the project.		
				If, in the course of project construction or operation, any skeletal remains are uncovered, discovered, or otherwise detected or observed, activities in the affected area shall cease. A qualified archaeologist, the SJVAPCD and local Native American organizations shall be consulted, and appropriate measures shall be required that may include avoidance of the burial site or reburial of the remains.		
GEOLOGY, SOILS AND MINERAL RESOURCES						
3.6.1	Seismic Effects	3-73	None		None	None
3.6.2	Landslides	3-73	None		None	None
3.6.3	Soil Erosion, Topsoil Loss	3-74	None		None	None
3.6.4	Soil Instability	3-74	None		None	None
3.6.5	Expansive Soil Hazards	3-74	None		None	None
3.6.6	Unsuitable Soils for Domestic Waste Disposal; Soil Contamination	3-74 to 3-75	None		None	None
3.6.7	Mineral Resources	3-75	None		None	None
HAZARDS AND HAZARDOUS MATERIALS/HEALTH RISKS/VECTORS						
3.7.1	Operational Hazards	3-77 to 3-78	3.7.1	Prior to issuance of the Authority to Operate for the dairy, the owner/operator shall submit documentation to the SJVAPCD that appropriate	Less than Significant	<ul style="list-style-type: none"> ▪ SJVAPCD ▪ Regional Water

Impact No.	Impact	Page Number in EIR	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency
				permits and notifications regarding the storage, transport, use and disposal of hazardous materials have been completed and acquired. The documentation shall include, at minimum, evidence of compliance with:		Quality Control Board
3.7.2	Site Hazards	3-78	None	1. An employee safety program in accord with California Labor Code Section 6401.7.	None	
3.7.3	Airport Hazards	3-78	None	2. The RWQCB requirements, including a Storm Water Pollution Prevention Plan incorporating provisions for the safe storage, use, and disposal of hazardous wastes.	None	
3.7.4	Emergency Evacuation and Wildland Fires	3-79	None	3. The permitting requirements of the California Department of Pesticide Regulation.	None	
3.7.5	Other Health Hazards	3-79	None		None	
3.7.6	Vector Generation	3-79 to 3-83	3.7.6	1. As a condition of project approval, the project operator shall agree to follow Consolidated Mosquito Abatement District requirements concerning mosquito control at the dairy facility. The following are requirements established by the District: (a) Wastewater holding ponds shall not exceed 150 feet in width.	Less than Significant	<ul style="list-style-type: none"> ▪ SJVAPCD ▪ Fresno County Department of Health Services ▪ Consolidated Mosquito Abatement District

Impact No.	Impact	Page Number in EIR	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency
				<p>(b) All dairy wastewater holding and solid separator ponds shall be surrounded by lanes at least fourteen feet in width and nothing (e.g., calf pens, utility lines, hay stacks, silage, tires, ag equipment, etc.) shall be placed in the area of the holding ponds which would prevent passage or use of vector control equipment.</p> <p>(c) Any fencing placed around the wastewater and solids ponds shall be placed on the outside of the fourteen foot lanes and gates provided for access.</p> <p>(d) All interior banks of holding and separation ponds shall be graded 1:1 or steeper for the first ten feet, soil type permitting, but not greater than 1:2 (horizontal:vertical).</p> <p>(e) All wastewater designs shall include a solids separation system. If separator ponds are the exclusive means of solids removal, two or more separator ponds are required. These ponds shall not be more than sixty feet in width.</p> <p>(f) No drainage lines shall bypass the separator ponds, except those which provide for normal corral runoff. All such drain inlets must be sufficiently graded to prevent solids accumulation in the holding ponds.</p> <p>(g) Floorage of any solid substance which could provide harborage for immature</p>		

mosquito stages shall be kept out of all wastewater holding ponds.

(h) The owner shall be responsible for keeping vegetation growth from all areas of the wastewater and solids separation ponds. This includes access lanes, interior pond embankments, and any weed growth that might become established on the pond surface.

(i) Dairy wastewater discharged for irrigation purposes shall be managed so it does not stand for more than three days.

(j) Any variance desired from these requirements must be submitted to the District for prior review and approval.

2. As a condition of project approval, the project operator shall implement the following fly abatement program:

(a) Project dairy facilities design and construction will include concrete-base freestalls and walk lanes, and water drainage to separator facilities.

(b) Utilization of manure water shall be in thin layers, blending such manure water with irrigation groundwater in compliance with the nutrient management plan appended hereto.

Impact No.	Impact	Page Number in EIR	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency
				(c) Manure in corrals shall be scraped as required for effective fly control.		
				(d) Feed lanes shall be cleared daily.		
				(e) Owner/operator must comply with RWQCB requirements, or permits. Monitoring well design, locations and sampling program shall be approved by the Regional Water Quality Control Board.		
				(f) All manured areas shall be sloped to prevent ponding and to convey all precipitation and moisture to drainage systems, including the lagoons. The applicant shall, at a minimum of once per year, backfill any slope loss with compacted, non-manured material, to maintain pre-existing slopes.		
				(g) All water systems shall be checked weekly to look for breaks, leaks, and overflows, including the water pressure systems, water troughs and mister lines.		
				(h) The owner/applicant shall submit to the Fresno County Health Services Division and to the CMAD before construction of dairy operations, and shall continuously and fully implement during dairy operations, an Integrated Pest Management Plan for fly control which contains the following specific requirements:		

Impact No.	Impact	Page Number in EIR	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency
				(1) Manure and feed storage maintenance, and prompt dead animal disposal, to minimize fly breeding.		
				(2) Utilization of parasitoids, and judicial use of pesticides, for fly suppression as needed based on monitoring results.		
				(3) Maintenance of records onsite, for regulatory agency inspection, regarding monitoring results, maintenance and disposal activities and parasitoid and pesticide suppression.		
3.7.7	Cumulative Fly Generation	3-83	None		None	None
HYDROLOGY AND WATER QUALITY						
3.8.1	Drainage Pattern Alternation	3-91	None		None	None
3.8.2	Surface Runoff Increase or Pollution	3-92	None		None	None
3.8.3	100-year Flood Hazards	3-92	None		None	None
3.8.4	Dam Failure	3-92	None		None	None
3.8.5	Seiche, Tsunami, Mudflow Impacts	3-92 to 3-93	None		None	None
3.8.6	Violation of Water Quality Standards or Waste Discharge Requirements	3-93 to 3-94	3.8.6	Project lagoons and separator ponds shall be elevated or shall be lined to effectively preclude leakage to groundwater.	Less than Significant	SJVAPCD

Impact No.	Impact	Page Number in EIR	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency
3.8.7	Depletion of Groundwater Supplies	3-94 to 3-95	None	None	None	Regional Water Quality Control Board
3.8.8.1	Groundwater Degradation from Dairy Facilities	3-95 to 3-100	3.8.8.1	<p>1. Owner/operator shall construct pond and lagoon lining in accord with Regional Water Quality Control Board groundwater separation standards (including NRCS Standards, Appendix R hereto and Title 27), and/or shall line ponds and lagoons with manure water prior to operation to reduce percolation.</p> <p>2. A monitoring well sampling and testing program shall be established if required by the Regional Water Quality Control Board. Samples shall be tested to determine the presence of measurable contaminant leakage, including pathogens, and significant continuing increase in nitrate nitrogen, from separation ponds and lagoons. Testing shall include tests for soil moisture content and electrical conductivity and nitrogen compounds. Evidence of contaminant increase, based on such testing, shall be the basis for required additional lining, or relining, of ponds and lagoons.</p> <p>3. The domestic well supplying dairy facilities shall be regularly sampled by the Fresno County Health Department for pathogen detection. Evidence of leakage shall be the</p>	Less than Significant	Regional Water Quality Control Board

Impact No.	Impact	Page Number in EIR	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency
				basis for required additional lining, or relining of ponds and lagoons.		
			4.	Owner/operator must comply with all applicable RWQCB Waste Discharge Requirements, or permits, as required by Title 27 or other applicable water quality control laws. Monitoring well design, locations and sampling program shall be approved by the Regional Water Quality Control Board.		
			5.	All manured areas shall be sloped to prevent ponding and to convey all precipitation and moisture to drainage systems, including the lagoons. The applicant shall, at a minimum of once per year, backfill any slope loss with compacted, non-manured material, to maintain pre-existing slopes.		
			6.	Salt in animal rations should be limited to the amount required to maintain animal health and optimum production.	None	None
3.8.8.2	Groundwater Contamination from Cropped Areas of the Project Site	3-100 to 3-102	None		None	
3.8.8.3	Groundwater Contamination at Manure Re-Use Sites	3-102	3.8.8.3	1. The dairy facilities operator will provide to each manure hauler from the project site an invoice stipulating that manure re-use shall be undertaken only in full compliance with all applicable State and Federal laws and regulations. 2. Records of tonnage of manure sold will be kept by the dairy facilities operator on site for review upon request by the SJVAPCD or the Regional Water Quality Control Board.	Less than Significant	Regional Water Quality Control Board

Impact No.	Impact	Page Number in EIR	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency
CUMULATIVE IMPACTS						
5.1	Air Quality Degradation	5-4 to 5-9	None	None	None	None
5.2	Water Quality Degradation	5-9 to 5-12	None	None	None	None
5.3	Loss of Habitat for Special Status Species	5-12	None	None	None	None

SECTION THREE
COMMENT LETTERS

SECTION THREE – COMMENT LETTERS

JAN-03-2007 09:47

STATE CLEARINGHOUSE

P.002



Arnold Schwarzenegger
Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit



Sam Walsh
Director

December 29, 2006

Chris Kalashian
San Joaquin Valley Air Pollution Control District
1990 E. Gettysburg Avenue
Fresno, CA 93726

Subject: Van Der Kooi Dairy
SCH#: 2006011107

Dear Chris Kalashian:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on December 28, 2006, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Terry Roberts
Director, State Clearinghouse

Enclosures
cc: Resources Agency

1400 TENTH STREET P.O. BOX 3044 SACRAMENTO, CALIFORNIA 95812-3044
TEL (916) 445-0613 FAX (916) 322-3018 www.opr.ca.gov

SCH# 2006011107
Project Title Van Der Kooi Dairy
Lead Agency San Joaquin Valley Air Pollution Control District

Type EIR Draft EIR
Description The project is the construction and operation of a 3,200 milk cow (Holstein) dairy on 1,132 acres of land currently in agricultural row crop production and 170 acres of land graded for the dairy facilities site.

Lead Agency Contact

Name Chris Kalashian
Agency San Joaquin Valley Air Pollution Control District
Phone (559) 230-6000 **Fax**
email
Address 1990 E. Gettysburg Avenue
City Fresno **State** CA **Zip** 93728

Project Location

County
City San Joaquin
Region
Cross Streets Elkhorn Avenue and Howard Avenue
Parcel No. 050-160-013, 050-160-018, 041-100-045
Township 16S **Range** 18E **Section** 31 **Base** MOBM

Proximity to:

Highways 145
Airports
Railways Southern Pacific Railway
Waterways Fresno Slough
Schools
Land Use Agricultural use, exclusive agriculture, general plan-agriculture

Project Issues Aesthetic/Visual; Agricultural Land; Air Quality; Archeologic-Historic; Cumulative Effects; Drainage/Absorption; Flood Plain/Flooding; Geologic/Seismic; Landuse; Minerals; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Schools/Universities; Soil Erosion/Compaction/Grading; Toxic/Hazardous; Traffic/Circulation; Water Quality; Water Supply; Wetland/Riparian; Wildlife

Reviewing Agencies Resources Agency; Regional Water Quality Control Bd., Region 5 (Fresno); Department of Parks and Recreation; Native American Heritage Commission; Public Utilities Commission; Office of Historic Preservation; Department of Fish and Game, Region 4; Department of Water Resources; Department of Conservation; California Highway Patrol; Caltrans, District 6; Department of Toxic Substances Control

Date Received 11/09/2006 **Start of Review** 11/14/2006 **End of Review** 12/28/2006

Note: Blanks in data fields result from insufficient information provided by lead agency.

DEPARTMENT OF WATER RESOURCES

1416 NINTH STREET, P.O. BOX 942836
SACRAMENTO, CA 942360001
(916) 653-5791



RECEIVED

DEC 04 2006

Permits Srvc
SJVAPCD

November 28, 2006

Chris Kalashion
San Joaquin Valley Air Pollution Control District
1990 East Gettysburg Avenue
Fresno, California 93726

Van Der Kooi Dairy
State Clearinghouse (SCH) Number: 2006011107

1

The project corresponding to the subject SCH identification number has come to our attention. The limited project description suggests your project may be an encroachment on the State Adopted Plan of Flood Control. You may refer to the California Code of Regulations, Title 23 and Designated Floodway maps at <http://recbd.ca.gov/>. Please be advised that your county office also has copies of the Board's designated floodways for your review. If indeed your project encroaches on an adopted flood control plan, you will need to obtain an encroachment permit from the Reclamation Board prior to initiating any activities. The attached Fact Sheet explains the permitting process. Please note that the permitting process may take as much as 45 to 60 days to process. Also note that a condition of the permit requires the securing all of the appropriate additional permits before initiating work. This information is provided so that you may plan accordingly.

If after careful evaluation, it is your assessment that your project is not within the authority of the Reclamation Board, you may disregard this notice. For further information, please contact Sam Brandon of my staff at (916) 574-0651.

Sincerely,

Chris Huitt
Staff Environmental Scientist
Floodway Protection Section

cc: Governor's Office of Planning and Research
State Clearinghouse
1400 Tenth Street, Room 121
Sacramento, CA 95814

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION

918 CAPITOL MALL, ROOM 384
 SACRAMENTO, CA 95814
 (916) 633-6251
 Fax (916) 667-6260
 Web Site www.nahc.ca.gov
 e-mail: ds_nahc@pacbell.net



November 28, 2008

RECEIVED

NOV 30 2008

Permits Srvc
 SJVAPCD

Mr. Harry A. Tow
 San Joaquin Valley Air Pollution Control District
 1990 East Gettysburg Avenue
 Fresno, CA 93728-0244

Re: SC#2006011107; CEQA Notice of Completion; Draft Environmental Impact Report (DEIR) for Van Der Kooi Dairy; Fresno County, California

Dear Mr. Tow:

Thank you for the opportunity to comment on the above-referenced document. The Native American Heritage Commission is the state's Trustee Agency for Native American Cultural Resources. The California Environmental Quality Act (CEQA) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archeological resources, is a "significant effect" requiring the preparation of an Environmental Impact Report (EIR) per CEQA guidelines § 15064.5(b)(c). In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE)', and if so, to mitigate that effect. To adequately assess the project-related impacts on historical resources, the Commission recommends the following action:

- ✓ Contact the appropriate California Historic Resources Information Center (CHRIS). The record search will determine:
 - If a part or the entire APE has been previously surveyed for cultural resources.
 - If any known cultural resources have already been recorded in or adjacent to the APE.
 - If the probability is low, moderate, or high that cultural resources are located in the APE.
 - If a survey is required to determine whether previously unrecorded cultural resources are present.
- ✓ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.
 - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological information center.
- ✓ Contact the Native American Heritage Commission (NAHC) for:
 - A Sacred Lands File (SLF) search of the project area and information on tribal contacts in the project vicinity who may have additional cultural resource information. Please provide this office with the following citation format to assist with the Sacred Lands File search request: USGS 7.5-minute quadrangle citation with name, township, range and section.
 - The NAHC advises the use of Native American Monitors to ensure proper identification and care given cultural resources that may be discovered. The NAHC recommends that contact be made with Native American Contacts on the attached list to get their input on potential project impact, particularly the contacts of the on the list.
- ✓ Lack of surface evidence of archeological resources does not preclude their subsurface existence.
 - Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5 (f). In areas of identified archeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
 - Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.
- ✓ Lead agencies should include provisions for discovery of Native American human remains or unmarked cemeteries in their mitigation plans.

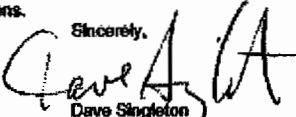
* CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave items.

✓ Health and Safety Code §7050.5, Public Resources Code §5007.98 and Sec. §15064.5 (d) of the CEQA Guidelines mandate procedures to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.

✓ Lead agencies should consider avoidance, as defined in § 15370 of the CEQA Guidelines, when significant cultural resources are discovered during the course of project planning.

Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely,



Dave Singleton
Program Analyst

Cc: State Clearinghouse

Attachment: List of Native American Contacts

**Native American Contacts
Fresno County
November 28, 2006**

Santa Rosa Rancheria
Clarence Atwell, Chairperson
P.O. Box 8
Lemoore , CA 93245

Tache
Tachi
Yokut

(559) 924-1278

(559) 924-3583 Fax

Dunlap Band of Mono Indians
Benjamin Charley, Sr., Chairperson
Box 45
Dunlap , CA 93624

(559) 338-2545

Dumna Wo-Wah Tribal Government
Keith F. Turner, Tribal Contact
P.O. Box 306
Auberry , CA 93602

Dumna/Foothill
Yokuts
Mono

(559) 855-3128 Home
(559) 696-0191 (Cell)

Dumna Tribal Government
Karin Wilson Kirkendal, Chairperson
1003 S. 9th St.
Fresno , CA 93702

Dumna/Foothill
Yokuts
Choinumni

559-681-7354

Traditional Choinumni Tribe
Angle Osborne
2787 N Piedra Road
Sanger , CA 93657

Choinumni/Foothill
Yokuts

(559) 787-2434

Choinumni Tribe; Choinumni/Mono
Lorrie Planas
2736 Palo Alto
Clovis , CA 93611

Choinumni
Mono

(559) 855-5355, ext
3335

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Sec. 7050.5 of the Health & Safety Code, Sec. 5097.94 of the Public Resources Code and Sec. 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed Project SCH#2006011107; CEQA Notice of Completion; draft Environmental Impact Report (DEIR) for Van Der Kooi Dairy; San Joaquin Valley Air Pollution Control District; Fresno County, California.

**Native American Contacts
Fresno County
November 28, 2006**

Table Mountain Rancheria
John Goodfellow, Environmental Coordinator
P.O. Box 410
Friant, CA 93626-0177
Yokuts

(559) 822-2587

(559) 822-2693 FAX

Dumna Tribal Government
Jim Redmoon - Cultural Resources Representative
535 W. Dayton
Fresno, CA 93705
Dumna/Foothill
Yokuts
Choinumni

559-241-0226

Chaushiha Tribe
Jerry Brown
10553 N. Rice Road
Fresno, CA 93720
North Valley Yokuts

559-434-3160

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Sec. 7050.5 of the Health & Safety Code, Sec. 5097.94 of the Public Resources Code and Sec. 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed Project: SCH#2006011107; CEQA Notice of Completion; draft Environmental Impact Report (DEIR) for Van Der Kooi Dairy; San Joaquin Valley Air Pollution Control District; Fresno County, California.



County of Fresno

Department of Community Health

Edward E. Moreno, M.D., M.P.H., Director-Health Officer

FA0271877
LU0012726
PE 2600

December 18, 2006

San Joaquin Valley Air Pollution Control District
Attn: Chris Kalashian
1990 East Gettysburg Avenue
Fresno, CA 93726-0244

Dear Mr. Kalashian:

SUBJECT: Van Der Kooi Dairy Environmental Impact Report
LOCATION: Area bisected by Elkhorn Avenue and west of Howard Avenue

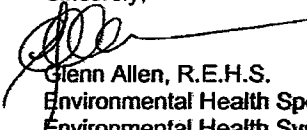
The Fresno County Department of Community Health, Environmental Health Division has reviewed the above subject document, and offers the following comment:

Chapter Three-Settings, Impacts and Mitigation, Page 3-78, Mitigation Measure 3.7.1 and corresponding comments within executive summary, page ES-17: The following comment should also be included as a mitigation measure.

- Prior to occupancy, the applicant shall complete and submit either a Hazardous Materials Business Plan or a Business Plan Exemption form to the Fresno County Department of Community Health, Environmental Health Division. Contact the Certified Unified Program Agency at (559) 445-3271 for more information.

If I can be of further assistance, please contact me at (559) 445-3357.

Sincerely,


Glenn Allen, R.E.H.S.
Environmental Health Specialist II
Environmental Health System

ga

cc: Vince Mendes, Environmental Health Division (CT 8200)


SJVAPCD Van Der Kooi Dairy EIR

1221 Fulton Mall / P.O. Box 11867 / Fresno, California 93775 / (559) 445-3357 / FAX (559) 445-3379

Equal Employment Opportunity • Affirmative Action • Disabled Employer

01/04/2007 10:51 FAX 559 438 0000

0003/006

12-29-06 10:20 FROM:DFG

DEPARTMENT OF FISH AND GAME
<http://www.dfg.ca.gov>
 San Joaquin Valley and Southern Sierra Region
 1234 East Shaw Avenue
 Fresno, California 93710
 (559) 243-4014

559 2438004

T-551 P.002/005 F-418



December 27, 2006

Chris Kalashian
 San Joaquin Valley Air
 Pollution Control District
 1890 East Galtysburg Avenue
 Fresno, California 93726

Dear Mr. Kalashian:

**Van Der Kooi Dairy Draft Environmental Impact Report (DEIR)
 SCH# 2006011167**

The Department of Fish and Game (Department) has reviewed the DEIR prepared for the above Project. This Project entails construction and operation of a 3,200 Holstein milk cow dairy on 1,132 acres of land currently in agricultural row crop production and 110 acres of land graded for the dairy facilities site. The Project area is located on Elkhorn Avenue between Howard and Madera Avenues approximately 10 miles southeast of the town of San Joaquin in Fresno County.

- 1 Construction of the dairy has already begun and the necessary permits have not been obtained nor have the proposed mitigation measures been approved by the Department. The Department is concerned that take of State listed species may have already occurred during construction. Issues regarding take under the California Endangered Species Act (CESA) must be fully addressed and mitigation measures to prevent take must be presented and approved prior to a project's implementation. If take of State-listed species occurs during construction and the proponent does not have the necessary State permits, the proponent and the Lead Agency would be in violation of CESA. Our comments follow.
- 2 **Trustee Agency Authority:** The Department is a Trustee Agency with the responsibility under the California Environmental Quality Act (CEQA) for commenting on projects that could impact plant and wildlife resources. Pursuant to Fish and Game Code Section 1802, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. As a Trustee Agency for fish and wildlife resources, the Department is responsible for providing, as available, biological expertise to review and comment on environmental documents and impacts arising from project activities as those terms are used under CEQA.
- 3 **Responsible Agency Authority:** The Department has regulatory authority over projects that could result in the "take" of any species listed by the State as threatened or endangered pursuant to Fish and Game Code Section 2081. If the Project could result in the "take" of any species listed as threatened or endangered under CESA, the Department may need to issue an Incidental Take Permit for the Project. CEQA requires a Mandatory Finding of Significance if a

Conserving California's Wildlife Since 1870

Chris Kalashian
December 27, 2006
Page 2

project is likely to substantially impact threatened or endangered species (Sections 21001(c), 21082, Guidelines Sections 15380, 15064, 15085). Impacts must be avoided or mitigated to less than significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with Fish and Game Code Section 2060. The State threatened and Federally-endangered San Joaquin Kit Fox (*Vulpes macrotis nutica*), the State and Federally endangered Fresno kangaroo rat (*Dipodomys nitratoides exilis*), the State and Federally threatened giant garter snake (*Thamnophis gissis*) and the State threatened Swainson's hawk (*Buteo swainsoni*) could occur in the Project area or vicinity.

4 **Unlisted Species:** Species of plants and animals need not be officially listed as Endangered, Rare, or Threatened (E, R, or T) on any state or federal list to be considered E, R, or T under CEQA. If a species can be shown to meet the criteria for E, R, or T as specified in the CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3, and Section 15380), it should be fully considered in the environmental analysis for the Project. The State Species of Special Concern burrowing owl (*Athene cucularia*) could occur within the Project area.

Project Impacts and Recommendations

5 **Fresno Kangaroo Rat (FKR):** The DEIR mentions that kangaroo rat sign (burrows, tail drags and scat) was found on an oil well pad within the Project area; however, trapping was not conducted to determine the species of kangaroo rat on site. The Department recommends that trapping be conducted by a permitted biologist to determine if the State and Federally endangered FKR is within the Project area. The oil well pads, roads and a 100 foot buffer around these areas should be surveyed. Since construction has already begun, trapping should be conducted immediately to determine the species of kangaroo rat on site. If a FKR is trapped in these areas, construction and dairy operation should stop and consultation with the Department should occur.

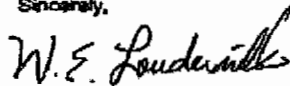
6 **Giant Garter Snake (GGS):** CNDDE records show a known GGS location in Fresno Slough within 1.5 miles of the Project site. Canals and ditches in the Project area drain into Fresno Slough and waste water from the dairy could impact the slough and the GGS. Impacts to Fresno Slough and the GGS should be discussed in the EIR. It is unclear what measures will be taken to prevent waste water from being released into nearby ditches and canals and subsequently into Fresno Slough. Based on the information contained in the DEIR, it is unclear whether a report of waste discharge has been submitted to the Regional Water Quality Control Board (RWQCB). Therefore, it is unknown if the proposed wastewater retention ponds will be adequately sized to contain both the wastewater generated by the dairy herd and facility stormwater produced during heavy rain events. The Department is concerned that the dairy, as proposed, will not be able to prevent dairy-related contamination of off-site resources. We recommend that the EIR include documentation from the RWQCB and other relevant agencies regarding the effectiveness of the existing dairy design in preventing dairy waste from contaminating off-site resources.

Chris Kalashian
December 27, 2006
Page 3

7. **Swainson's Hawk and other Raptors:** Impact #3.4.7 states there is no suitable habitat for tree-nesting raptors on the Project site; however, Figure 4 of the Biological Survey (Appendix L) shows two stands of eucalyptus trees on site and documents nesting red-tail hawks (*Buteo jamaicensis*) in a eucalyptus stand adjacent to the Project site. The trees on site should be retained to the maximum extent possible. If tree removal is unavoidable, it should occur during the non-breeding season (mid-September through January). If construction activities or tree removal must occur during the breeding season (February through mid-September) surveys for active nests should be conducted by a qualified biologist no more than 30 days prior to the start of construction. A minimum no disturbance buffer of 250 feet should be delineated around active nests until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival.
8. During a site visit by Department staff, a road killed juvenile red-tailed hawk was seen along Elkhorn Avenue across from the dairy facilities site under construction. The potential impacts of the increased road traffic as a result of dairy construction and operation should be presented in the EIR.

If you have any questions regarding these comments, please contact Justin Sloan, Environmental Scientist, at the address or telephone number (extension 216) provided on this letterhead.

Sincerely,



W. E. Loudermilk
Regional Manager

cc: See Page Four

Chris Kalashian

From: Susan_P_Jones@fws.gov
 Sent: Tuesday, November 14, 2006 6:29 PM
 To: chris.kalashian@valleyair.org
 Cc: aferrantl@dfg.ca.gov; curtu@quadknopf.com; Jeffrey_Jorgenson@fws.gov
 Subject: US Fish and Wildlife Service comments on the DEIR Van Der Kooi Dairy

Thank you for sending us this report. We are very short-staffed at this time, and if we do not get a letter in to you, I hope you will accept these comments by electronic mail as our comments. I appreciate you supplying an electronic mail address.

1 | The biology segment of your report is well done. Thank you.

Fresno kangaroo rat

2 | Fresno kangaroo rat is mentioned as possibly occurring on the site. This species has not been seen since 1992. While the area where the kangaroo rats were found is not proposed for development, it is possible that someone from the proposed dairy could decide to use the site to pile hay or irrigation pipes, or for some other ag-related purpose that does not go through CEQA or NEPA review. Because of its scarcity, it is very important to the Service that the kangaroo rats on the property be identified as Fresno kangaroo rats or Heermann's kangaroo rats. If the kangaroo rats are Fresno kangaroo rats, we would ask the applicant to discuss how to proceed with the Service and the California Department of Fish and Game in protecting that area of the property and a buffer around it.

Because of the rarity of this species, the construction of a barrier fence to exclude kangaroo rats from the construction site would need to be reviewed and approved by the Service, and likely the California Department of Fish and Game as well. If the animals are Fresno kangaroo rats, it is likely that the applicant would need a permit from us to before the start of groundbreaking, and any oil field activities on the site would also need to be evaluated by us. The Biology Appendix indicates that construction has already started. This does not seem to be appropriate.

The proposed avoidance and minimization measures are a good start, but more is required under the Federal Endangered Species Act if the animals are the listed species.

Giant garter snake

3 | A known occurrence of the giant garter snake is noted nearby. The Service is concerned about water quality degradation in seasonal creeks, reservoirs and downstream waters, and groundwater. Runoff from construction and dairy operations should be controlled. Mitigation measure 3.4.6 states that grading should ensure that offsite drainage is prohibited. The Service hopes that this is realistic during the rainy season, with lagoon waste that must be disposed of. On page 2-6 your document states that "the ultimate source of groundwater in the San Joaquin Valley is precipitation on the valley and its tributary drainage basins." The dairies in Chino polluted the groundwater in the area. I see the Waste Discharge Requirements in the document, and note that the allowance for discharge from a 25-year 24-hour storm is not as protective as is needed for the endangered giant garter snake in the area.

4 | San Joaquin kit fox

I agree with Quad Knopf's assessment and am satisfied with the proposed measures.

Sincerely,

Susan Jones, San Joaquin Valley Branch Chief
U.S. Fish and Wildlife Office, 2800 Cottage Way, W-2605, Sacramento, CA
95825
916/414-6600, fax 916/414-6713



Linda Adams
Secretary for
Environmental
Protection

California Regional Water Quality Control Board
Central Valley Region



Arnold
Schwarzenegger
Governor

Fresno Office
1665 E Street, Fresno, California 93706 /
(559) 445-5116 • FAX (559) 445-5910 /
<http://www.waterboards.ca.gov/centralvalley>

29 December 2006

Mr. Chris Kalashian
San Joaquin Valley Air Pollution Control District
1900 East Gettysburg Avenue
Fresno, CA 93726

REVIEW OF DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE VAN DER KOOI DAIRY, FRESNO COUNTY, SCH #2006011107

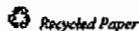
1 On 21 July 2005, we received a Report of Waste Discharge (RWD) for the planned Van der Kooi Dairy. In a letter dated 19 August 2005, we summarized our review of the RWD, deemed it complete, and requested supplemental information from the dairyman prior to discharge. We also reminded the dairyman of Section 13264 of the California Water Code (CWC) which states, in part, that persons shall not initiate a new discharge prior to the filing of a complete RWD and after either:

- the issuance of Waste Discharge Requirements (WDRs) by the Regional Board;
- the issuance of a Conditional Waiver of WDRs; or
- the expiration of 140 days after the filing of a complete RWD plus additional time where compliance with the California Environmental Quality Act (CEQA) is required (see CWC Section 13264(a)(2)).

2 In a letter dated 17 February 2006, we informed the dairyman of new information which indicates increases in the amount of nutrients and salts excreted by dairy cows and decreases in nitrogen losses compared to the older estimates. We requested the dairyman demonstrate that the 1,132 acres of associated cropland would be sufficient for the agronomic application of the dairy waste retained on-site, considering the newer nutrient and salt excretion rates.

3 In a letter dated 24 August 2006, we summarized our review of a *Pond Lining and Antidegradation Analysis Report* prepared for the four wastewater retention ponds at the planned dairy. The report presented a model that assessed the effect of leakage from the two-foot thick clay-lined ponds on underlying groundwater. However, in that letter we indicated the model may not have provided sufficient information to estimate the effect the seepage may have on underlying groundwater. In that same letter, we indicated that as long as the dairyman implements the then planned groundwater monitoring program, we have no objection to his use of the ponds once the requirements of CEQA have been satisfied.

California Environmental Protection Agency



On 13 November 2006, we received a *Draft Environmental Impact Report for the Van Der Kool Dairy (DEIR)*. The DEIR was dated November 2006 and had been prepared by Quad Knopf of Visalia, California. We have reviewed the DEIR for issues pertaining to water quality and compliance with Title 27 of the California Code of Regulations (Title 27), the Water Quality Control Plan for the Tulare Lake Basin, Second Edition, 1995 (Basin Plan) including State Water Resources Control Board Resolution No. 68-16 which is sometimes referred to as the anti-degradation policy.

4

In the DEIR, Quad Knopf demonstrated, considering the newer salt and nitrogen excretion rates, that the associated cropland would be sufficient for the agronomic application of the liquid waste which would be generated by the planned on-site dairy herd. In the DEIR, Quad Knopf made no certification that the wastewater retention ponds which were completed in 2004 would be protective of water quality in accordance with the anti-degradation policy. However, a groundwater monitoring network has been installed and groundwater monitoring should reveal impacts as a result of pond leakage, if it occurs. Quad Knopf indicates that if groundwater monitoring reveals that water quality objectives are not being met, the dairyman will address the impacts by "additional lining or re-lining" the wastewater retention ponds, or by any other feasible and effective measure to meet such objectives.

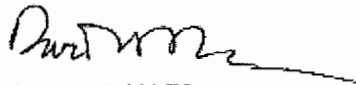
5

As we stated in our 29 August 2006 letter, we would like the dairyman to inform us of his plans to further assess background groundwater quality and hydrologic conditions at the site prior to discharge. This should include the analysis of groundwater samples collected from the monitoring wells a sufficient number of times prior to discharge, to provide valuable background water quality data.

If you have any questions regarding this matter, please call Steve Hulbert at (559) 444-2502.



STEVE HULBERT
Environmental Scientist



DAVID A. SHOLES
Senior Engineering Geologist
CEG No. 1687

DAS:smh

cc: State Clearinghouse
Quad Knopf, 5110 West Cypress Avenue, Visalia, CA 93277
Charles Van Der Kool, 8315 Merrill Avenue, Chino, CA 91710



SECTION FOUR
RESPONSES TO COMMENTS

SECTION FOUR – RESPONSES TO COMMENTS

COMMENT LETTER 1

DEPARTMENT OF WATER RESOURCES
1416 NINTH STREET
P.O. BOX 942836
SACRAMENTO, CA 94236-0001

Comment 1-1: *The project corresponding to the subject SCH identification number has come to our attention. The limited project description suggests your project may be an encroachment on the State Adopted Plan of Flood Control. You may prefer to the California Code of Regulations, Title 23 and Designated Floodway maps at <http://recbd.ca.gov/>. Please be advised that your county office also has copies of the Board's designated floodways for your review. If indeed your project encroaches on an adopted flood control plan, you will need to obtain an encroachment permit from the Reclamation Board prior to initiating any activities. The attached Fact Sheet explains the permitting process. Please note that the permitting process may take as much as 45 to 60 days to process. Also note that a condition of the permit requires the securing all of the appropriate additional permits before initiating work. This information is provided so that you may plan accordingly.*

Response 1-1: The project site is not within a designated floodway (Reclamation Board – <http://recbd.ca.gov/>).

COMMENT LETTER 2

NATIVE AMERICAN HERITAGE COMMISSION
915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814

Comment 2-1: *To adequately assess the project-related impacts on historical resources, the Commission recommends the following action:*

✓ *Contact the appropriate California Historic Resources Information Center (CHRIS). The record search will determine:*

- *If a part or the entire APE has been previously surveyed for cultural resources.*
- *If any known cultural resources have already been recorded in or adjacent to the APE.*
- *If the probability is low, moderate, or high that cultural resources are located in the APE.*
- *If a survey is required to determine whether previously unrecorded cultural resources are present.*

✓ *If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.*

- *The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.*
- *The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological Information Center.*

✓ *Contact the Native American Heritage Commission (NAHC) for:*

* *A Sacred Lands File (SLF) search of the project area and information on tribal contacts in the project vicinity who may have additional cultural resource information. Please provide this office with the following citation format to assist with the Sacred Lands File search request: USGS 7.5-minute quadrangle citation with name, township, range and section.*

- *The NAHC advises the use of Native American Monitors to ensure proper identification and care given cultural resources that may be discovered. The NAHC recommends that contact be made with Native American Contacts on the attached list to get their input on potential project impact, particularly the contacts of the on the list.*

✓ *Lack of surface evidence of archaeological resources does not preclude their subsurface existence.*

- *Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archaeological resources, per California Environmental Quality Act (CEQA) §15064.5 (f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.*
- *Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.*

✓ *Lead agencies should include provisions for discovery of Native American human remains or unmarked cemeteries in their mitigation plans.*

- *CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the Initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens.*
- Health and Safety Code §7050.5, Public Resource Code §5097.97 and Sec. §15064.5 (d) of the CEQA Guidelines mandate procedures to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.*
- Lead agencies should consider avoidance, as defined in § 15370 of the CEQA Guidelines, when significant cultural resources are discovered during the course of project planning.*

Response 2-1: All construction on the site has occurred and there will not be any change in the existing conditions. However, a cultural resource records search (RS#06-057) of the dairy facilities site was completed by the Southern San Joaquin Valley Historical Resources Information Center on February 13, 2006. According to the Information Center's records, there are no known cultural resources within the subject property or within a half-mile radius of the project site that are listed in the National Register of Historic Places, California Points of Historic Interest, California Historic Resources Inventory or the California State Historic Landmarks (Southern SJV Information Center, November 2001).

If, in the course of project construction or operation any archaeological or historical resources are uncovered, discovered, or otherwise detected or observed, activities within 50 feet of the find area shall cease. A qualified archaeologist shall be contacted and advise the SJVAPCD of the site's significance. If the findings are deemed significant by the SJVAPCD, appropriate mitigation measures shall be required prior to any resumption of work in the affected area of the project.

If, in the course of project construction or operation, any skeletal remains are uncovered, discovered, or otherwise detected or observed, activities in the affected area shall cease. A qualified archaeologist, the SJVAPCD and local Native American organizations shall be consulted, and appropriate measures shall be required that may include avoidance of the burial site or reburial of the remains.

COMMENT LETTER 3

COUNTY OF FRESNO
DEPARTMENT OF COMMUNITY HEALTH
1221 FULTON MALL
FRESNO, CA 93775

Comment 3-1: *Chapter Three-Settings, Impacts and Mitigation, Page 3-78, Mitigation Measure 3.7.1 and corresponding comments within executive summary, page ES-17: The following comment should also be included as a mitigation measure.*

- *Prior to occupancy, the applicant shall complete and submit either a Hazardous Materials Business Plan or a Business Plan Exemption form to the Fresno County Department of Community Health, Environmental Health Division. Contact the Certified Unified Program Agency at (559) 445-3271 for more information.*

Response 3-1: The suggested mitigation measure is incorporated in the EIR. It will be implemented by the Department of Community Health, Environmental Health Division.

COMMENT LETTER 4

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND GAME
1234 EAST SHAW AVENUE
FRESNO, CA 93710

Comment 4-1: *Construction of the dairy has already begun and the necessary permits have not been obtained nor have the proposed mitigation measures been approved by the Department. The Department is concerned that take of State listed species may have already occurred during construction. Issues regarding take under the California Endangered Species Act (CESA) must be fully addressed and mitigation measures to prevent take must be presented and approved prior to a project's implementation. If take of State-listed species occurs during construction and the proponent does not have the necessary State permits, the proponent and the Lead Agency would be in violation of CESA. Our comments follow.*

Response 4-1: The comment is noted.

Comment 4-2: Trustee Agency Authority: *The Department is a Trustee Agency with the responsibility under the California Environmental Quality Act (CEQA) for commenting on projects that could impact plant and wildlife resources. Pursuant to Fish and Game Code Section 1802, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. As a Trustee Agency for fish and wildlife resources, the Department is responsible for providing, as available, biological expertise to review and comment on environmental documents and impacts arising from project activities as those terms are used under CEQA.*

Response 4-2: The comment is noted.

Comment 4-3 and 4-4: Responsible Agency Authority: *The Department has regulatory authority over projects that could result in the "take" of any species listed by the State as threatened or endangered pursuant to Fish and Game Code Section 2081. If the Project could result in the "take" of any species listed as threatened or endangered under CESA, the Department may need to issue an Incidental Take Permit for the Project. CEQA requires a Mandatory Finding of Significance if a project is likely to substantially impact threatened or endangered species (Sections 21001[c], 21083, Guidelines Sections 15380, 15064, 15065). Impacts must be avoided or mitigated to less than significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with Fish and Game Code Section 2080. The State threatened and Federally-endangered San Joaquin Kit Fox (*Vulpes macrotis mutica*), the State and Federally endangered Fresno kangaroo rat (*Dipodomys nitratoides exilis*), the State and Federally threatened giant garter snake (*Thamnophis gigas*) and the State threatened Swainson's hawk (*Buteo swainsoni*) could occur in the Project area or vicinity.*

Unlisted Species: *Species of plants and animals need not be officially listed as Endangered, Rare, or Threatened (E, R, or T) on any state or federal list to be considered E, R, or T under CEQA. If a species can be shown to meet the criteria for E, R, or T as specified in the CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3, and Section 15380), it should be fully considered in the environmental analysis for the Project. The State Species of Special Concern burrowing owl (Athene cunicularia) could occur within the Project area.*

Response 4-3 and 4-4: The comment is noted.

The Draft EIR includes (Appendix L) a Reconnaissance Level Biological Survey and (Chapter Three, Section 3.4, Biological Resources) an environmental evaluation of the data and analysis contained in that Survey. The EIR evaluates whether the project will, as mitigated, have a significant impact on the commentor-listed, or other, endangered, rare, threatened or special concern species and concludes that there will be no significant impact.

Comment 4-5: Fresno Kangaroo Rat (FKR): *The DEIR mentions that kangaroo rat sign (burrows, tail drags and scat) was found on an oil well pad within the Project area; however, trapping was not conducted to determine the species of kangaroo rat on site. The Department recommends that trapping be conducted by a permitted biologist to determine if the state and Federally endangered FKR is within the Project area. The oil well pads, roads and a 100 foot buffer around these areas should be surveyed. Since construction has already begun, trapping should be conducted immediately to determine the species of kangaroo rat on site. If a KFR is trapped in these areas, construction and dairy operation should stop and consultation with the Department should occur.*

Response 4-5: The recommendation is noted.

The following pertinent information is excerpted from Appendix L:

On 17 February 2006, Quad Knopf, Inc. biologist Curtis Uptain conducted a reconnaissance-level biological survey to determine whether special-status plant and animal species or their habitats exist on the project site. The project site was surveyed by driving all access roads on the site. Areas that could potentially contain sensitive wildlife species were walked to located species or sign of species. Roads in the vicinity of the site were driven. All plants, mammals, and birds were identified and tree locations were recorded using a geo-referenced aerial photo of the site.

Although the project site is primarily covered in grain, the dairy site has been graded and some cement pads have been installed Because of the recent construction activities at the dairy site, it is almost completely devoid of vegetation and wildlife.

Approximately 35 oil wells are present on the project site, but many of those are abandoned or non-producing. About 10 of the wells are located on well pads of various sizes, some of which are accessible by dirt roads. The well pads and access roads are infrequently traveled, are not cultivated, and are vegetated with a variety of non-native weedy plant species..., many of which were not identifiable at the time of the survey. The well pads and access roads provide suitable

(although degraded) habitat for a variety of wildlife species. Cottontails (Sylvilagus audubonni) and a variety of birds were common at these sites.

...Kangaroo rat sign (including burrows, tail drags and footprints, and scat) was found at an oil well pad in the extreme southern portion of the project site. The pad is approximately 2 acres in size, has a substrate of a fine textured sandy soil, contains relatively undisturbed (although non-native) habitat with open scalds, and contains a number of large storage tanks...(See Figure A). Trapping was not conducted to determine which species of kangaroo rat is present at this site, but they could either be Heermann's kangaroo rats (Dipodomys heermanni) or Fresno kangaroo rats. Because of the limited distribution of this suitable soil type and because of the limited amount of available habitat, kangaroo rat distribution on the site is confined to this one area. However, kangaroo rats may be more prevalent directly south of the project site where there are considerable expanses of similar oil field pads and fallowed and grazed agricultural lands.

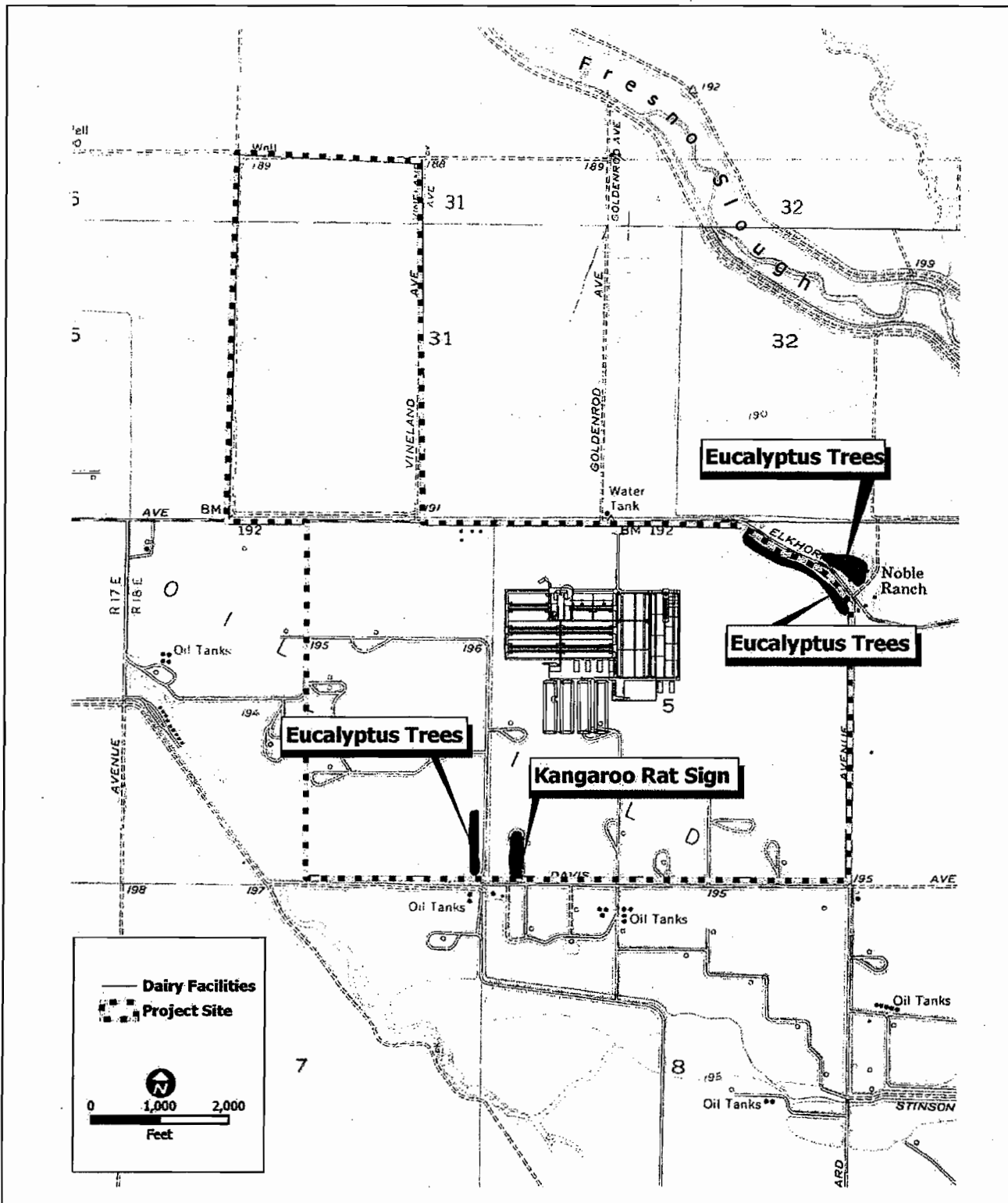
Construction activities may disrupt foraging and nesting behaviors of a variety of species and could result in direct mortalities of kangaroo rats. Although the kangaroo rat population that exists on the site is approximately 0.25 miles south of the dairy facility, kangaroo rats are known to conduct nightly foraging excursions of that distance and they can disperse greater distances. Although the intervening habitat and soils are incompatible with permanent habitation, kangaroo rats could none-the-less travel along dirt roadways and canal banks between their population center and the construction area, putting them at risk from construction activities. Trapping was not conducted to determine whether these are the common Heermann's kangaroo rat or the federally and state endangered Fresno kangaroo rat. However, mitigation measures will be implemented that will eliminate take of kangaroo rats and reduce impacts to less than significant. Those measures are documented on pages 3-13 and 3-14 of this EIR. They are repeated here because of their importance, even though project construction (grading) has already been completed:

Mitigation Measure #3.4.1.1: The following mitigation measures shall be followed:

1. Construction of a barrier fence along the southern and western edges of the construction site which would exclude kangaroo rats from entering the construction area. The fence would be constructed of 3 foot-high metal flashing supported by t-posts. The lower edge of the fencing would be buried approximately 6 inches below the ground surface; and,
2. Construction related traffic outside of the fenced area would be limited to daylight hours.

Continued agricultural operations would also have the potential to impact kangaroo rats and other sensitive species. Mitigation measures that would need to be implemented to avoid take of kangaroo rats and reduce impacts to sensitive species to less than significant include:

1. Agricultural operations must not encroach into the existing oil well pad sites;
2. Agricultural activities within 0.25 miles of the kangaroo rat occurrence (see Figure A) shall not be conducted after sundown (kangaroo rats are active at night);



 <p>Quad Knopf</p>	<p align="center">Locations of Important Biological Resources</p>	<p align="center">Figure A</p>
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3. Construction of irrigation facilities such as canals, ditches, and retention basins will not proceed until the specific construction sites are inspected by a biologist and determined to be free of kangaroo rats. The construction of barrier fencing at such construction sites may be required;
4. The application of rodenticides within 0.25 miles of the site occupied by kangaroo rats will only be applied using raised "T"-type bait stations which are approved for use in areas occupied by endangered kangaroo rats (Appendix D of the Biological Report); and,

Comment 4-6: Giant Garter Snake (GGS): *CNDDDB records show a known GGS location in Fresno Slough within 1.5 miles of the Project site. Canals and ditches in the Project area drain into Fresno Slough and waste water from the dairy could impact the slough and the GGS. Impacts to Fresno Slough and the GGS should be discussed in the EIR. It is unclear what measures will be taken to prevent waste water from being released into nearby ditches and canals and subsequently into Fresno Slough. Based on the information contained in the DEIR, it is unclear whether a report of waste discharge has been submitted to the Regional Water Quality Control Board (RWQCB). Therefore, it is unknown if the proposed wastewater retention ponds will be adequately sized to contain both the wastewater generated by the dairy herd and facility stormwater produced during heavy rain events. The Department is concerned that the dairy, as proposed, will not be able to prevent dairy-related contamination of off-site resources. We recommend that the EIR include documentation from the RWQCB and other relevant agencies regarding the effectiveness of the existing dairy design in preventing dairy waste from contaminating off-site resources.*

Response 4-6: The Draft EIR contains (Mitigation Measure #3.4.6, Impact #3.8.1, Impact #3.8.2, Impact 3.8.8.2, Appendix A and Appendix O) documenting the required effectiveness of the dairy design in preventing dairy waste from contaminating off-site resources. (See also pages 2-17, 2-24 and 2-6 of this Final EIR, and the response to Comment 5-3 hereinafter.) The project poses no significant impact to offsite water resources. The Regional Water Quality Control Board's waste discharge permit and its monitoring provisions will assure such protection.

Comment 4-7: Swainson's Hawk and other Raptors: *Impact #3.4.7 states there is no suitable habitat for tree-nesting raptors on the Project site; however, Figure 4 of the Biological Survey (Appendix L) shows two stands of eucalyptus trees on site and documents nesting red-tail hawks (*Buteo jamaicensis*) in a eucalyptus stand adjacent to the Project site. The trees on site should be retained to the maximum extent possible. If tree removal is unavoidable, it should occur during the non-breeding season (mid-September through January). If construction activities or tree removal must occur during the breeding season (February through mid-September) surveys for active nests should be conducted by a qualified biologist no more than 30 days prior to the start of construction. A minimum no disturbance buffer of 250 feet should be delineated around active nests until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival.*

Response 4-7: The comment is noted and the EIR is hereby corrected. The subject trees are located over 250 feet away from the dairy facilities site. Mitigation Measure #3.4.7 (see pages 2-17 and 2-18 of this Final EIR) incorporates the mitigation measure suggested by the commentor. Mitigation Measure #3.4.7.1 is repeated here for clarity and emphasis:

Mitigation Measure #3.4.7: The implementation of the following measures will ensure that raptors (hawks and owls) are not disturbed during the breeding season.

1. A qualified biologist/ornithologist will conduct a pre-construction survey for nesting raptors on site within 30 days of the onset of ground disturbance, if ground disturbance is to occur during the breeding season (February 1 to September 15). These surveys will be based on the accepted protocols (e.g., as for the burrowing owl) for the target species. If a nesting raptor were detected, an appropriate construction buffer would be needed (up to 250 feet or more). The actual size of the buffer would depend on the type of construction activity that would occur in the vicinity of the nest.

Comment 4-8: *During a site visit by Department staff, a road killed juvenile red-tailed hawk was seen along Elkhorn Avenue across from the dairy facilities site under construction. The potential impacts of the increased road traffic as a result of dairy construction and operation should be presented in the EIR.*

Response 4-8: The net increase in automobile/pickup traffic occasioned by the project is 35 trips per day; of truck traffic, 7 trips per day (Draft EIR page 3-104). The conclusion reached with respect to traffic impacts (page 3-104), that such increases are not substantial, is equally valid with respect to road-kill of avian or animal species. A detailed theoretical analysis is not required to determine that such impacts are not significant.

COMMENT LETTER 5

U.S. DEPARTMENT OF FISH AND WILDLIFE
2800 COTTAGE WAY, W-2605
SACRAMENTO, CA 95825

Comment 5-1: *The biology segment of your report is well done. Thank you.*

Response 5-1: The comment is noted and appreciated.

Comment 5-2:

Fresno kangaroo rat

Fresno kangaroo rat is mentioned as possibly occurring on the site. This species has not been seen since 1992. While the area where the kangaroo rats were found is not proposed for development, it is possible that someone from the proposed dairy could decide to use the site to pile hay or irrigation pipes, or for some other ag-related purpose that does not go through CEQA or NEPA review. Because of its scarcity, it is very important to the Service that the kangaroo rats on the property be identified as Fresno kangaroo rats or Heermann's kangaroo rats. If the kangaroo rats are with the Service and the California Department of Fish and Game in protecting that area of the property and a buffer around it.

Because of the rarity of this species, the construction of a barrier fence to exclude kangaroo rats from the construction site would need to be reviewed and approved by the Service, and likely the California Department of Fish and Game as well. If the animals are Fresno kangaroo rats, it is likely that the applicant would need a permit from us to before the start of groundbreaking, and any oil field activities on the site would also need to be evaluated by us. The Biology Appendix indicates that construction has already started. This does not seem to be appropriate.

The proposed avoidance and minimization measures are a good start, but more is required under the Federal Endangered Species Act if the animals are the listed species.

Response 5-2: The applicant will be requested to confer with the U.S. Fish and Wildlife Service and the California Department of Fish and Game, as requested.

Comment 5-3:

Giant garter snake

A known occurrence of the giant garter snake is noted nearby. The Service is concerned about water quality degradation in seasonal creeks, reservoirs and downstream waters, and groundwater. Runoff from construction and dairy operations should be controlled. Mitigation measure 3.4.6 states that grading should ensure that offsite drainage is prohibited. The Service hopes that this is realistic during the rainy season, with lagoon waste that must be disposed of. On page 2-8 your document states that "the ultimate source of groundwater in the San Joaquin

Valley is precipitation on the valley and its tributary drainage basins." The dairies in Chino polluted the groundwater in the area. I see the Waste Discharge Requirements in the document, and note that the allowance for discharge from a 25-year 24-hour storm is not as protective as is needed for the endangered giant garter snake in the area.

Response 5-3: Please refer to the responses to Comment 4-6, California Department of Fish and Game.

The dairy facilities pond storage includes provision for not only 25 year storm storage but also for storage of 120 days rainfall precedent thereto (approximately three times the 120 day storm runoff). There is, in addition to the required main lagoon pond storage, a standby pond of equal size. The draft EIR notes (page 2-7) that all tailwater is to be retained on the project site by return water facilities.

Comment 5-4:

San Joaquin kit fox

I agree with Quad Knopf's assessment and am satisfied with the proposed measures.

Response 5-4: The comment is noted.

COMMENT LETTER 6

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION
1685 E STREET
FRESNO, CA 93706

Comment 6-1:

REVIEW OF DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE VAN DER KOOI DAIRY, FRESNO COUNTY, SCH #200601107

On 21 July 2005, we received a Report of Waste Discharge (RWD) for the planned Van der Kooi Dairy. In a letter dated 19 August 2005, we summarized our review of the RWD, deemed it complete, and requested supplemental information from the dairyman prior to discharge. We also reminded the dairyman of Section 13264 of the California Water Code (CWC) which state, in part, that persons shall not initiate a new discharge prior to the filing of a complete RWD and after either:

- *the issuance of Waste Discharge Requirements (WDRs) by the Regional Board;*
- *the issuance of a Conditional Waiver of WDRs; or*
- *the expiration of 140 days after the filing of a complete RWD plus additional time where compliance with the California Environmental Quality Act (CEQA) is required (see CWC Section 13264(a)(2)).*

Response 6-1: The comment is noted.

Comment 6-2: *In a letter dated 17 February 2006, we informed the dairyman of new information which indicates increases in the amount of nutrients and salts excreted by dairy cows and decreases in nitrogen losses compared to the older estimates. We requested the dairyman demonstrate that the 1,132 acres of associated cropland would be sufficient for the agronomic application of the dairy waste retained on-site, considering the newer nutrient and salt excretion rates.*

Response 6-2: The comment is noted. Please see Comment 6-4.

Comment 6-3: *In a letter dated 24 August 2006, we summarized our review of a Pond Lining and Antidegradation Analysis Report prepared for the four wastewater retention ponds at the planned dairy. The report presented a model that assessed the effect of leakage from the two-foot thick clay-lined ponds on underlying groundwater. However, in that letter we indicated the model may not have provided sufficient information to estimate the effect the seepage may have on underlying groundwater. In that same letter, we indicated that as long as the dairyman implements the then planned groundwater monitoring program, we have no objection to his use of the ponds once the requirements of CEQA have been satisfied.*

Response 6-3: The comment is noted.

Comment 6-4: *On 13 November 2006, we received a Draft Environmental Impact Report for the Van Der Kooi Dairy (DEIR). The DEIR was dated November 2006 and had been prepared by Quad Knopf of Visalia, California. We have reviewed the DEIR for issues pertaining to water quality and compliance with Title 27 of the California Code of Regulations (Title 27), the Water Quality Control Plan for the Tulare Lake Basin, Second Edition, 1995 (Basin Plan) including State Water Resources Control Board Resolution No. 68-16 which is sometimes referred to as the anti-degradation policy.*

In the DEIR, Quad Knopf demonstrated, considering the newer salt and nitrogen excretion rates, that the associated cropland would be sufficient for the agronomic application of the liquid waste which would be generated by the planned on-site dairy herd. In the DEIR, Quad Knopf made no certification that the wastewater retention ponds which were completed in 2004 would be protective of water quality in accordance with the anti-degradation policy. However, a groundwater monitoring network has been installed and groundwater monitoring should reveal impacts as a result of pond leakage, if it occurs. Quad Knopf indicates that if groundwater monitoring reveals that water quality objectives are not being met, the dairyman will address the impacts by "additional lining or re-lining" the wastewater retention ponds, or by any other feasible and effective measure to meet such objectives.

Response 6-4: The comment is noted.

Comment 6-5: *As we stated in our 29 August 2006 letter, we would like the dairyman to inform us of his plans to further address background groundwater quality and hydrologic conditions at the site prior to discharge. This should include the analysis of groundwater samples collected from the monitoring wells a sufficient number of times prior to discharge, to provide valuable background water quality data.*

Response 6-5: The comment is noted. The project applicant will be so notified.