



Dairy CARES Report

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Dairy lawsuit shows short-sightedness

Across the Central Valley, there are record housing foreclosures, rising unemployment and more jobs in jeopardy. So it's hard to believe that a group claiming to represent low-income rural families would pick this month to file a lawsuit that actually tries to kill the hope of creating jobs.

Also tough to swallow: This action, in the name of environmental protection, really amounts to a stand to drive green acres of farms out of the valley, opening the way to replace them with subdivisions and strip malls.

But it's true: On Oct. 16, the Center for Biological Diversity and California Rural Legal Assistance sued the San Joaquin Valley Air Pollution Control District following the district's approval of an air pollution permit for a proposed dairy in Fresno County near the community of Burrel.

To get the permit to grow crops and milk cows, dairy operator Charles Van Der Kooi agreed to abide by the toughest dairy air quality rules anywhere in the nation. He also completed an Environmental Impact Report to comply with the California Environmental Quality Act, and must obey the country's most stringent water quality protection rules.

Among many other conditions is a requirement that Mr. Van Der Kooi install a costly advanced manure treatment system. This not only will reduce air emissions, but is part of an efficient system of organic fertilizer delivery that allows him to grow healthy green crops on nearby fields, reducing dependence on fossil fuels and commercial fertilizers.

A dairy that will create good-paying, year-round jobs should be welcome in the valley, especially when the operator took so many steps to ensure that the dairy abides by all applicable laws and regulations and will be environmentally and economically sustainable.

Ironically, many of the charges in the lawsuit really are about procedure, not substance. For example, the suit claims that the county, not the air district, should have taken the lead in preparing the Environmental Impact Report. That simply is not true – the law clearly required the air district to take the lead – but more importantly, it misses the point. No matter which agency takes the lead, all relevant government agencies had the opportunity to comment on the matter.

The plaintiffs also second-guessed the air district's decision on how best to manage and treat manure on the dairy, arguing that the dairy operator should instead have been required to install a biogas digester to capture methane and combust it. While a few California dairy operators have stepped forward to develop biogas digesters, there remain significant obstacles to adopting digesters on a wide scale. Digesters have not yet been demonstrated to be economically feasible without government subsidies. With dramatic budget shortfalls in California and elsewhere, now is

not a time to expect that subsidies will be available – or to force businesses to take risks on unproven technologies.

The lawsuit also raises the issue of whether the air district set an appropriate “threshold of significance” for the project’s greenhouse gas emissions. This is a new area of policy in the state and a hot topic. The California Air Resources Board is currently developing recommendations for setting such thresholds, as is the San Joaquin Valley Air Pollution Control District.

While reasonable people can disagree about policy on greenhouse gases, it makes no sense to hold business, jobs and our economy hostage in the courts, even while the appropriate government agencies are still in the process of developing the very policies in question. The plaintiffs would be better off airing their views in the halls of government and public hearings where these questions are being discussed.

In a time when we should be encouraging environmentally sustainable projects that create jobs, dairies have a great deal to offer the state of California. Dairies bring us locally grown food that increases our national security, and are the linchpin of our Central Valley agricultural economy. They produce 432,000 jobs in our state not just on dairy farms, but for factory workers that make cheese, ice cream, butter and other important staples for American families, and elsewhere across the economy. This contributes \$61 billion to the state’s economy.

Dairies don’t just help the economy but also our environment. They help keep our farming sector economically viable, making it possible for millions of acres of land to stay in production of green crops. And dairies themselves are centers of reuse and renewal. Cows consume farming by-products that would otherwise go to waste, such as cotton seeds, culled fruits and vegetables, almond hulls and bakery crumbs. Manure is recycled as a rich organic fertilizer to build the soil and nourish locally grown cattle feed. All of this reduces reliance on fossil fuels and synthetic fertilizers.

Dairies aren’t the problem – in fact, they are a part of the solution to developing a strong, energy efficient and renewable energy economy for California. Unfortunately, this latest suit is more proof of former Supreme Court Justice Lewis Powell’s statement that America has become “the most litigious society in the history of mankind.” This lawsuit is short-sighted and does not serve the broader interests of California. Using the courts to second-guess the decisions of multiple environmental regulatory agencies in the most heavily regulated dairy region in the U.S. hurts dairies, kills jobs and sends exactly the wrong message.

CARES is a statewide coalition supporting economic and environmental sustainability for California’s dairy industry. CARES members include the Alliance of Western Milk Producers, Bank of the West, Bar 20 Dairy Farms, California Dairies Inc., California Dairy Campaign, California Farm Bureau Federation, Dairy Farmers of America-California, Dairy Institute of California, Hilmar Cheese Co., HP Hood, Joseph Gallo Farms, Land O’ Lakes, Milk Producers Council, Turlock Dairy & Refrigeration, Western United Dairymen, and others. For information about CARES, visit our web site at www.dairycares.com, write dairycares@aol.com or call 916-441-3318.