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William Zumwalt, Planning Director  
KINGS COUNTY PLANNING AGENCY  
Kings County Government Center  
1400 West Lacey Boulevard  
Hanford, CA 93230

Re: Comments To Draft Dairy Element of Kings County General Plan  
And To Program Environmental Impact Report (December 2000 Version)

Dear Mr. Zumwalt:

I realize that you have withdrawn the above-referenced document with the intent of re-releasing it in the near future for public comment. But as you consider modifications to your draft, I would like to take this opportunity to submit some comments. While our firm represents a number of clients, some who are current dairymen, and some who may want to apply for Conditional Use Permits for dairies in the future, the following comments are not made on behalf of any specific client, but are the views of our firm with the benefit of the County's dairy industry in mind. These comments also reflect my views as a long-term resident of the County and as a former dairyman.

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I am appreciative of the objectives of the County's dairy planning program. The preservation of our water resources and of the quality of the Valley's air are important. However, the document and program as now drafted incorporate provisions which will make it financially infeasible to locate new dairies in Kings County and to bring existing dairies into conformity. The resulting loss of jobs in, and income from, the County's dairies and allied industries will be significant.

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My concerns include:

1. Despite admission in the document text that 'emerging ... technologies' such as anaerobic digestion or aerobic treatment of manure and manure water remain economically unproven for dairy usage, proposed Goal DE 5 requires their usage. The implementing policies offer amelioratory language, "... to the extent economically feasible," for example, in Policy DE 5.1.c. The determination of economic feasibility of treatment of the manure is not reserved to the dairyman

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but to the Kings County Planning Agency!

The implementation of this goal, by itself, will make continued dairy development in Kings County unlikely. Experimental or small-scale usage of anaerobic or aerobic treatment systems elsewhere without long-term, non-promoter and independent scientific evaluation of costs and results is not a reasonable basis for imposition of this requirement. The University of California, Davis, is proposing an experimental manure treatment facility at its expanded Tulare dairy facility. That venue is the proper one for such installations, not all of Kings County.

2. Goal DE 8 describes a "voluntary" program which would bring the existing dairies "into compliance by the end of 2006." Policy DE 8.1.c, implementing the "voluntary" program notes that "out-of-conformance dairies may be required to reduce herd size, or modify or cease their operations." The implications of this policy are clear. If enforced, the dairy industry in Kings County will not only not grow, but existing dairies, if unable to economically compete will go out of business.
3. Policy DE 6.1f provides that when standard testing methods for air emissions become available, the dairy owner/operator shall "test for these gases and emissions. Such a vague "policy" should not be included in the Dairy Element. There are no criteria for what constitutes their availability, the frequency, purpose, and cost of which cannot now be defined or estimated. It would be more appropriate to consider such a Policy as an amendment to the Element when "availability" is defined and confirmed.
4. Policy DE1.2c prohibits the establishment of new dairy facilities in designated flood hazard areas. While reasonable on its face, the policy unnecessarily limits dairy facility location. It is customary in other jurisdictions, and for other kinds of facilities in Kings County, to permit pads or berms to be installed to protect such facilities from 100-year flood events. To prohibit such a procedure for Kings County dairies is without merit.

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5. It appears, based on the discussion on Cropland Water Use on Page 4.3-24 of the EIR, that Kings County proposes to limit cropping on land used for dairy manure application or manure water irrigations to the cropping (single or double) currently in use. If this is not the case, the Dairy Element should clearly state that dairy farmers may double crop their land as required, maintaining nitrogen and salt loading within Regional Water Quality Control Board limits, and that comprehensive nutrient management plans may reflect this ability. If this is the case, the policy proposed above again places Kings County dairies at a significant economic disadvantage by increasing the capital investment required for dairy establishments.
6. Policy DE 4.2b. This Policy states that "lagoons for treating and storing dairy process water and manure may be used provided that approved control of air emissions using best available control measures (BACM) is implemented." From a financial feasibility standpoint, this Policy should instead specify "best practical control measures (BPCM)," not "best available control measures (BACM)." The policy, as stated, effectively prohibits lagoon usage. It must be assumed that that is its intent.
7. Policy DE 5.1j. This policy essentially limits dairy size based on air emission issues. I do not believe your draft adequately examines or discusses the entire issue of aerobic versus anaerobic manure decomposition, the emissions produced under each method, and what portion of a dairy's manure decomposition proceeds under each method.
8. The Dairy Element's estimate of maximum total dairy herd capacity in Kings County, and the tables in Appendix A supporting that estimate, appear to be based on two limiting assumptions:
  - (A) No land additional to that currently being double-cropped will be double-cropped for dairy farming.
  - (B) No manure will be shipped out of Kings County.

It is customary in the San Joaquin Valley, under Regional Water

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Quality Control Board regulations, to calculate allowable herd size on available land assuming double-cropping of dairy-support forage crops, and exporting solid manure off-site as required to reduce nitrogen loading to the point that salt loading is (at 3000 pounds per acre annually) the limiting herd size parameter. It is assumed, but should be stated in Kings County's Dairy Element, that this herd-size calculation procedure will be allowed. Of lesser importance to dairy applicants, but still worthy of note, is the fact that, absent these two illogical limiting assumptions, Kings County can accommodate a larger total dairy herd size that has been estimated in the Element.

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9. My most intense objections arise from Section V (Dairy Monitoring Program) of your draft Dairy Element-Page DE-38+. My objections are most specifically directed at Policy DE 6.1f and DE 6.1g, which intend to impose on all dairymen the duty of maintaining daily logs regarding their manure handling events, individual sick cow treatments, ration formulations and feeding schedules, and cattle selection (which I take to mean that a dairyman must have to keep a log regarding what bull or bulls he uses to breed a given female).

In the first place, this proposal is wastefully duplicative. For example, protection of the groundwater is the responsibility of the Regional Water Quality Control Board. The United States Department of Agriculture and the Food and Drug Administration are responsible for the regulation of the use of medications and drugs on dairies. The local Mosquito Abatement District and the County's Health Department and Environmental Health Departments have their own responsibilities in monitoring certain aspects on County dairies. Your proposal simply adds an unnecessary, costly, and burdensome additional layer of regulatory encumbrances upon a dairy operator. Such efforts can result in confusion over requirements and restrictions which may be in conflict. It would impose burdens on the dairyman that goes beyond the legitimate exercise of the police power of this County. Imposing such requirements could be discriminatory, where it does not impose similar requirements on other farming enterprises. Like most other industries, the dairy industry is extremely competitive and a dairyman's ability to survive depends upon his ability to efficiently allocate his resources, and his ability to innovate with new and better procedures and techniques. Some such innovations may be proprietary, and requiring a dairyman to disclose them may raise

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serious legal issues. I do not think it is any of the County's business to monitor how a dairyman selects his cattle, the bulls to which he breeds his cows, or how he feeds his herd.

Keep in mind that cows are not miraculous creatures. They do not create something from nothing. They do not produce milk out of only air and water. They must be fed, and fed as much as they will eat. Dairy nutritionists universally agree that the more a cow consumes, the more milk she usually produces. Dairies struggle to survive in an intensely competitive industry, and they must not be unduly encumbered in their management programs, especially in their feeding programs. To eventually get to a point where a dairyman is told by a governmental agency how to feed his cows is insanity. It is like requiring a soldier to throw down his rifle so that he may sooner arrive at the battlefield. A community will not benefit from jobs created by a business if the business cannot survive due to excessive and unwarranted governmental intervention and interference.

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Detailed regulation of the dairy industry to the degree specified in your draft should raise alarm in the minds of anyone connected to farming, in that this draft could presage plans for further regulations in other aspects of farming in this County. It is respectfully requested that your proposed regulatory measures be substantially tempered, restrained, and modified to the maximum extent possible to permit continuation of a competitive dairy industry in Kings County.

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Very truly yours,

GRISWOLD, LaSALLE, COBB,  
DOWD & GIN, L.L.P.



By \_\_\_\_\_  
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MEL:mjd

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