

March 3, 2006

NOTICE OF DECISION
PERMIT NUMBER NEV2006504
A.K. CORAL CAY TRUST
BEVERLY HILLS DAIRY

The Nevada Division of Environmental Protection, Bureau of Water Pollution Control (Bureau) has decided to issue Permit NEV2006504 authorizing the discharge of manure and process wastewater to groundwater via land application and irrigation in accordance with a Bureau approved Nutrient Management Plan (NMP) at the Beverly Hills Dairy in Amargosa Valley. The discharge is limited to the more restrictive of the nitrogen and phosphorus agronomic rates of the crop to be grown. Sufficient information has been provided, in accordance with Nevada Administrative Code (NAC) 445A.228 through NAC 445A.263, to assure the Bureau that the waters of the State will not be degraded from this operation and that public safety and health will be protected.

This permit will become effective March 18, 2006. The final determination may be appealed to the State Environmental Commission pursuant to Nevada Revised Statutes 445A.605 and NAC 445A.407. The appeal must be requested within fifteen (15) days of the date of this notice of decision and in accordance with the administrative rules of the Commission.

RESPONSE TO COMMENTS RECEIVED DURING THE PUBLIC COMMENT PERIOD

E-mail from Reddy Ganta, Glorieta Geoscience, Inc., on behalf of Ponderosa Dairy received November 8, 2005.

1.1

Comment: "Small volume manure transfer recording requirement: Section 1.A.11 says states [sic] 'Record the name and address of the recipient' which does not exclude small volume manure transfer recording. Therefore we request you to amend this requirement to 'Record the name and address of the recipient if manure transferred is more than 10 tons/ac'"

Response: Part I.A.12. has been amended to include the following statement:

"This part does not apply to solid manure that may be transferred to other parties for personal use in volumes of one cubic yard or less."

This amendment will allow the Permittee to sell and/or give away small volumes of manure for personal use, such as gardens, without tracking the recipient of the manure.

1.2

Comment: "Section 1.A.29 defines production area, we request you to exclude hay storage area from production area."

Response: The production area definition used in the permit, Part I.A.30.b., is from 40 CFR Part 122.23(b)(8). The hay storage area will not be excluded from the production area definition.

E-mail from Clifford Powell of Amargosa Valley, NV received November 11, 2005.

2.1

Comment: The Permittee has "...closed our legal access road with steel gates. They have been less than good neighbors from day one."

Response: Access issues are beyond the regulatory authority of the Bureau.

2.2

Comment: “Since the dairy purchased this property, I have been doing research on what to expect. From what I have been able to find on the internet, it’s not a matter of ‘if’ they will contaminate my drinking water, but ‘when’. What I have found is, that just about every university in this country has done a study on groundwater contamination by dairies. And that’s pretty much what they are saying, it’s not if, but when. If this dairy permit is approved, they will ruin our drinking water, as we are all still on well water. What I have read says that the nitrate levels will be the main concern, but also fecal coliform.”

Response: The permit is protective of groundwater. All waste storage facilities must be lined in accordance with Natural Resource Conservation Service (NRCS) standards and designs approved by the Bureau. Manure and process wastewater may only be applied at the facility in accordance with an NMP prepared to NRCS standards and approved by the Bureau.

2.3

Comment: “To top it off they are wanting to put this lagoon in a flood zone. Whenever it rains the dip in the road just east of the proposed location floods. To the west the field on the southwest corner of their property flooded and our property also received some of this flood water. The area down here is one of, if not the lowest point in the valley. You can see the dip in the landscape from the south side of their property across our property, and rising up again at the south end of parcel number 1910106. In other words there is a large depression in the 40 acres south of this proposed location. In the event of a flood or worse a spill, this place down in here would suffer serious contamination from this lagoon.”

Response: The Bureau does not have regulatory authority to prohibit construction of the dairy in the floodplain. Per Part I.A., the production area must be properly designed, constructed, operated, and maintained to contain manure, process wastewater, direct precipitation, and the runoff from a 25-year, 24-hour storm event. Per Part III.A.2., the lagoon/holding pond must be constructed to withstand, without structural damage, the 100-year, 24-hour storm event.

2.4

Comment: “Although they don’t like to be reminded of their past track record. They were responsible for dumping 1.7 million gallons of liquefied manure into our desert south of Mecca Road. Many of us remember this incident, and are concerned that it could be repeated on this side of the valley as well.”

Response: Appropriate enforcement action was taken by the Bureau, and other regulatory agencies, in response to the referenced release. The NV0023027 Permittee has operated in substantial permit compliance since the release. Other than agricultural stormwater, no discharge to surface waters is authorized by NEV2006504.

2.5

Comment: “I am also concerned about the air borne diseases that could be generated by an operation of this type in an otherwise residential area. My mother is 74 years old. She is included in the high risk category for flu shots just due to her age. She deserves the right to live where she wants to as well as this company deserves the right to expand their operation, (regardless of what name they want to use). She deserves to be able to enjoy the property she paid for just as much. She shouldn’t have to worry about whether they are going to contaminate her drinking water, or cause her to catch some airborne disease from their operation.”

Response: Air borne diseases are beyond the regulatory authority of the Bureau.
See response to comment 2.2.

Letter from Jan Cameron of Amargosa Valley, NV dated November 11, 2005.

3.1

Comment: “When the proposed Beverly Hills Dairy was first brought to my attention, my first concern was for the infrastructure of Amargosa Valley and the danger to the people who live and work along Farm Road. Although the Ponderosa Dairies pay significant taxes, the revenues in no way compensate for the stress on existing infrastructure. Mecca Road, where Ponderosa is located, had to be rebuilt last year due to dairy-related truck traffic. The cost was around \$1.5 million. The new dairy would be located at the west end of Farm Road. Heavy dairy truck traffic will destroy Farm Road – the main thoroughfare through the Valley. That traffic would also destroy Nevada 373 (probably in both directions) and Valley View Road from Farm Road to US 95. In addition, Farm Road goes between the school (K-8), Library and Community Building and the Park and ball fields. It also, further along passes the Country Store, a church and many residences with children and animals.”

Response: Infrastructure and traffic issues are beyond the regulatory authority of the Bureau.

3.2

Comment: “The school in Amargosa Valley (K-8) had been on the needs improvement list for four years. It also now has five temporary trailers to increase its size. The primary reason for both is the influx of children who do not speak English. Those children do not know English because their parents don’t. Their fathers moved the family here so that he could work at the dairies.”

Response: This comment is beyond the regulatory authority of the Bureau.

3.3

Comment: “Housing for workers and their families is limited. Much of it is sub-standard.”

Response: Housing issues are beyond the regulatory authority of the Bureau.

3.4

Comment: “As I learned more about Concentrated Animal Feeding Operations, I became increasingly concerned about the related health issues. The discharge of chemicals into the air from the concentrated cows and wastewater lagoons, pose significant hazards to our breathing and our health.”

Response: Air quality issues are beyond the regulatory authority of the Bureau.

3.5

Comment: “The possible spills pose significant threats, due to the location of the proposed dairy on a major wash. The land and water of the Valley could be negatively affected, not to mention the neighbors who are immediately down-flow of the proposed dairy. “

Response: See response to comment 2.3.

3.6

Comment: “And the flies, with their associated diseases, pose threats to the immediate neighbors of the proposed dairy and that entire end of the Valley. Contrary to what Mr. Goedhart has said in a public forum, flies travel many hundred miles from their starting point.”

Response: Flies are not directly regulated by the Bureau. Since excessive flies reduce milk production, the Permittee has an economic incentive to minimize the number of flies present at the facility. In response to complaints, the Bureau will work with the Permittee to reduce the number of flies at the facility, but excessive flies are primarily a local nuisance issue.

Letter from Curtis Stengel of Amargosa Valley, NV dated November 15, 2005.

4.1

Comment: “Please send me the names of persons on the above application.”

Response: The Groundwater Discharge Permit Application lists Ed Goedhart as the owner and operator contact for the Permittee. Mr. Goedhart signed the permit application as the facility general manager.

4.2

Comment: "What is the name of the insurance carrier that insures the lagoon and pipe line?"

Response: The Bureau does not require the submittal of this type of information.

4.3

Comment: "What is the name of the Hazmet [sic] agency that repairs broken pipe lines and performed cleanup?"

Response: The process wastewater at a concentrated animal feeding operation is not regulated by Nevada as a hazardous material.

4.4

Comment: "What type and category of pipe is to be installed?"

Response: This information is not currently available. The final facility design has not yet been submitted to the Bureau for review and approval.

4.5

Comment: "If our only access/egress road is blocked by lagoon water from flooding or a broken pipe what road will be our evacuation route?"

Response: See response to comment 2.1.

4.6

Comment: "If my well water becomes contaminated from lagoon leakage, flooding or broken pipe what recourse do I have to access clean water?"

Response: The permit does not include any provisions that would require the Permittee to provide clean water in the event of a release.
See response to comment 2.2.

4.7

Comment: "Since the Division of Environmental Protection is involved in air pollution but you are not considering this subject, per your notice, is it because you don't have the equipment to monitor air pollution?"

Response: No, the availability of air pollution monitoring equipment was not considered in the development of this permit.
See response to comment 3.4.

4.8

Comment: "If you issue a permit will the permit be posted for public view?"

Response: All permits issued by the Bureau are public information and are available to the public at the Bureau's Carson City office. Copies of specific permits are provided, mailed, faxed, etc., upon request. The Bureau does not post draft or final individual permits on its webpage or at any other location. A copy of the issued permit has been attached to the NOD mailed to this commenter.

4.9

Comment: "Will a Nye County flood damage prevention permit, per Nye County Ordinance No. 149, be posted for public view?"

Response: This issue is beyond the purview of the Bureau. Please contact Nye County for further information.

4.10

Comment: Federal Emergency Management Agency National Flood Insurance Program has the Dairy property in flood zone 'A'."

Response: See response to comment 2.3.

4.11

Comment: "What working relationship do you have with the Nye County Health Officer?"

Response: The Bureau will work with the Nye County Health Officer within its statutory and administrative code authority.

4.12

Comment: "Did you inform the Health Officer that exposure to hydrogen sulfide and ammonia from lagoon can cause bronchitis and non-allergic asthma?"

Response: See response to comment 3.4.

4.13

Comment: What public warnings do you use to inform the public that they are nearing a Hazmet area as spraying lagoon water is airbourne between the athol [?] trees on Amargosa Farm Road at field #11?"

Response: See response to comment 4.3.

4.14

Comment: "Is the permit a conditional permit?"

Response: The Bureau does not issue conditional permits. All permits issued by the Bureau may be modified, suspended, or revoked in response to noncompliance, regulation changes, etc.

4.15

Comment: "How is the lagoon seamed?"

Response: HDPE, the proposed liner material, seams are welded, but the final facility design has not yet been submitted to the Bureau for review and approval.

4.16

Comment: "Is there an EIS, environmental impact statement?"

Response: The State does not require the preparation of environment impact statements.

4.17

Comment: "Is there an EIR, environmental impact report?"

Response: The State does not require the preparation of environmental impact reports.

Letter from Warren H. and Ella M. Cady of Amargosa Valley, NV dated November 18, 2005.

5.1

Comment: "We live on Tamarack Street which joins Farm Road near a field manured, tilled, seeded and irrigated by Ponderosa Dairy. There has been no smell generated by this professional operation and no run off."

Response: Comment noted.

5.2

Comment: "It is enjoyable to see the green fields in the drab desert."

Response: Comment noted.

5.3

Comment: "We also enjoy the increased tax base and employment opportunities."

Response: Comment noted.

5.4

Comment: "This professional operation is also a good example for small farmers who might sell produce to the dairy."

Response: Comment noted.

5.5

Comment: "Please do not be intimidated by some local loud mouths who oppose most efforts to improve our town."

Response: Comment noted.

5.6

Comment: "Manure is a good fertilizer used for many years. Its use may be found in the Bible where it is applied to a fig tree."

Response: Comment noted.

Letter from the Amargosa Valley Town Advisory Council dated November 22, 2005.

6.1

Comment: In response to concerns regarding the proposed facility, a group of Amargosa Valley "citizens formed a committee to investigate the potential dangers to health and wellbeing of the soil, air, water and residents." Based on the citizens' findings, the Amargosa Valley Town Advisory Board (AVTAB) passed Resolution Number 05-001 "Resolution to Ensure Full, Appropriate Monitoring of the Dairy Industry in Amargosa Valley and to restrict Dairy Farming Operations/Concentrated Animal Feeding Operations (CAFO) to their Current Proximate Locations." This resolution was presented to the Nye County Board of Commissioners (NCBC) on May 16, 2005. After the presentation, the NCBC advised the AVTAB that the Division of Environmental Protection (Division), rather than the NCBC has responsibility for enforcing all of the federal and state laws and regulations regarding potential damage to the air, water, and soil of Amargosa Valley.

Response: The NCBC is correct. The Bureau's mandate is to protect waters of the State. The permit is written to be protective of waters of the State as authorized by NRS 445A, Water Controls, and NAC 445A, Water Controls.
Other Bureaus within the Division regulate issues such as air quality.

6.2

Comment: The AVTAB was advised the Nye County Board of Health (NCBH) may have some responsibility for the health of Amargosa Valley as it relates to CAFOs. As a result, on August 28, 2005, the AVTAB passed a second resolution to request assistance from the NCBH. Attached is that resolution and the supporting materials that were submitted to the NCBH on November 7, 2005. The AVTAB has not yet heard from that body.

Response: Comment noted.

6.3

Comment: "The citizens of Amargosa Valley have serious concerns about the existing and potential negative impacts of the proposed and existing CAFO on our Valley and on our People. On November 17, 2005, the AVTAB voted unanimously to send these materials to you. We respectfully request that you investigate these concerns and put a moratorium on the requested permit and any other CAFO growth until you, and we, can be assured that these negative impacts will not exist or can be prevented and that appropriate monitoring is in place to assure that further negative impacts do not occur."

Response: The Bureau has decided to issue Permit NEV2006504, as revised.

Resolution 05-001 Resolution to Ensure Full, Appropriate Monitoring of the Dairy Industry in Amargosa Valley and to restrict Dairy Farming Operations/Concentrated Animal Feeding Operations (CAFO) to their Current Proximate Locations.

“Based on the concerns expressed by its citizens, the circumstances, time constraints, and need for additional information, the Amargosa Valley Town Advisory Board hereby resolves:

6.4

Comment: “That the Nye County Board of Commissioners should examine the application of Nevada Revised Statute 278.020, *et seq.*, for the purpose of limiting, regulating and monitoring dairy operations in the Town of Amargosa Valley and the Amargosa Valley.”

Response: NRS 278.020, Regulation by governing bodies of improvement of land and location of structures for general welfare, applies only to governing bodies of cities and counties, not to the Bureau.

6.5

Comment: “That the Nye County Board of Commissioners should adopt immediate measures to curtail and/or restrict the location, expansion, relocation and/or addition of existing and/or proposed Dairy Farming Operations/CAFO, in areas other than the existing proximate location of the Ponderosa Dairy Farm, presently located in the southern part of the Town of Amargosa.”

Response: The Bureau’s authority is restricted to the protection of the quality of waters of the State. See response to comments 2.2 and 2.3.

6.6

Comment: “That the Nye County Board of Commissioners should adopt immediate measures to ensure that no further development plans are implemented by the existing or proposed Dairy Farming Operations/CAFO until the Amargosa Valley Town Advisory Board is provided with meaningful, expert, detailed and comprehensive impact studies regarding the potential negative effects of Concentrated Animal Feeding Operations on the health and welfare of the inhabitants of the Town of Amargosa Valley and the Amargosa Valley.”

Response: See responses to comments 4.16 and 4.17.

6.7

Comment: “That the Nye County Board of Commissioners request that the Nevada State Department of the Environmental Protection begin immediate air, water and ground monitoring of the areas occupied by existing Dairy Farming Operations/CAFO facilities within the Town of Amargosa Valley and the Amargosa Valley.”

Response: The purpose of the NEV2006504 Notice of Proposed Action and Public Hearing was only to solicit comments on the proposed permit.

6.8

Comment: “That the Nye County Board of Commissioners request that the U.S. Department of the Interior, the Federal Environmental Protection Agency, the Nevada State Engineer’s Office, and other germane agencies for the Federal, State and/or County, be urged to deny or reconsider any permits for Dairy Farming Operations/CAFO in the Town of Amargosa Valley and the Amargosa Valley, until thorough analysis and studies, provide comprehensive data, information and scientific results as to the impact, depletion or other negative effects on health, welfare, quality of life and property values of the Town of Amargosa Valley and/or the Amargosa Valley’s water, air, soil and environment.”

Response: Comment noted.
See response to comment 6.5.

Letter from Cheryl Riepe of Amargosa Valley, NV dated November 25, 2005.

7.1

Comment: “The location in question is at the north end of a very large aquifer which supplies water for both Amargosa Valley and Pahrump as well as parts of Death Valley. The water flow in this area would carry any leached pollutants directly into the water supply for these areas, neither of which use municipal water treatment systems. This would create the potential for public health

concerns

for adults as well as children who use this source as their sole water supply and could also effect tourism in the area.”

Response: See response to comment 2.2.

7.2

Comment: “This area of Amargosa Valley has an abundance of surface fissures (one runs directly under the area) as well as numerous unsealed abandoned wells, both of which would facilitate pollutant contamination of the underground aquifer. The entire southwestern desert/mountain area has this problem. (i.e. Yucca Mountain).”

Response: The Permittee has not observed any surface fissures or abandoned wells at the facility. In the course of two inspections of the proposed dairy site, Bureau staff did not observe any surface fissures or abandoned wells.

The monthly portion of Part I.A.15., Inspections and Monitoring, has been amended to include the following requirement:

The Permittee shall inspect the facility including the production area, all land application fields, and all buried process wastewater pipeline corridors/right-of-ways, for evidence of surface fissures and/or abandoned wells. Irrigation in the area of a surface fissure or abandoned well shall cease upon identification of such a feature. Use of a buried pipeline in the area of a surface fissure or abandoned well shall cease until pipeline integrity has been verified.

7.3

Comment: “The flow direction for the aquifer and the Amargosa River (which flows directly under the location in question) would carry any leached pollutants directly to Ash Meadows the location of the ‘pup fish’. It was this very problem which created the need to curtail much agriculture in the valley several years ago. Would not the same situation occur today if raw pollutants were leached into the water source?”

Response: See responses to comments 2.2, 2.3, and 6.1.

7.4

Comment: “The Death Valley area is proximate to this location. This is an extremely delicate ecosystem which would certainly be adversely affected by allowing this type of irrigation.”

Response: See response to comment 2.2.

7.5

Comment: “As a close neighbor of the area I have a viable concern about how the use of this type of irrigation would impact my neighborhood’s quality of life. During many of the years I lived in Las Vegas, there was an alfalfa farm at the extreme east end of Flamingo Road, basically between Desert Inn Road and Flamingo east of Hollywood. This farm used this type of irrigation and on the evenings after they had ‘flooded their fields’, the stench was enough to keep all residents inside their sealed up homes. The smell was noticeable through the entire east side of Las Vegas, from Nellis Boulevard east to the mountain and from Charleston Boulevard south to Henderson. Any long-time resident will remember it. I moved out to Amargosa Valley to avoid this type of thing and can’t imagine any residential developer wanting to invest in an area that regularly smells of sewage! The problem was solved only when the farm became a golf course.”

Response: Quality of life and residential development issues are beyond the regulatory authority of the Bureau.

The permit authorizes land application of process wastewater and manure, not sewage.

E-mail from Bill Barrachman of Amargosa Valley, NV received December 6, 2005.

8.1

Comment: "An ordinance is currently in effect prohibiting the application of sewage sludge on land in Amargosa Valley, Nevada. Because liquid waste from a dairy lagoon contains some of the same pathogens as sewage sludge, it should also be prohibited from being applied to land in Amargosa Valley, Nevada and permit, NEV2006504, to discharge manure and process wastewater to groundwater via land application and irrigation by Beverly Hills Dairy should therefore be denied."

Response: Sewage sludge and CAFO manure and process wastewater are governed by separate regulations. A local prohibition of the application of sewage sludge has no affect on the Bureau's CAFO regulatory authority.

E-mail from Bruce Crater of Amargosa Valley, NV received December 9, 2005.

9.1

Comment: "We have approximately 200 people who have signed a petition against the expansion of this Concentrated Animal Feeding Operation (CAFO), because we are concerned about the impact on our environment and the effects on our health and property values."

Response: See response to comment 7.5.

Note: The petition was not submitted to the Bureau.

9.2

Comment: "We respectfully request that this permit be DENIED."

Response: Comment noted.

9.3

Comment: "The management of the Ponderosa Dairy, also in our valley has already caused an increase of nitrates in wells of surrounding residents, caused a large spill from their existing pond and denied responsibility to the authorities until finally caught in their false statements and fined \$250, 000."

Response: See response to comment 2.4.

Note: The Commenter was asked for a copy of the well data. This data has not been received, but if submitted will be evaluated during renewal of permit NV0023027.

9.4

Comment: "We do not want a Concentrated Animal Feeding Operation in the nicest residential area in Amargosa Valley.

"There are a dozen residential properties downstream and down hill from the proposed location of this new CAFO."

Response: See response to comment 7.5.

9.5

Comment: "It is the responsibility of your position to protect the water and air for the citizens."

Response: See response to comments 2.2, 2.3, and 3.4.

Letter from Michael Simpson of Amargosa Valley, NV dated December 8, 2005.

10.1

Comment: "the permit does not state how many acres are available at the former Buchanan Ranch located at 330 West Amargosa Farm Road."

Response: A total of 320 acres are available for land application at the two sites. Two hundred twenty acres at the dairy site and one hundred acres further east on West Amargosa Farm Road.

10.2

Comment: "With a maximum of 2,900 mature dairy cows and 1,050 heifers in open confinement, how many acres will be needed for this part of the permit."

Response: The number of acres used for land application is not regulated by this permit, only the nutrient

application rate on this acreage. The solid portion of the manure is expected, but not required, to be transferred to another facility for composting. The required acreage will be determined by the agronomic rate, nitrogen or phosphorus, of the crop to be planted and the nutrient concentration of the material to be applied. This data will be included in the yet to be submitted nutrient management plan.

10.3

Comment: "How many other cows (calves, steers, and not yet mature cows) will be allowed on the dairy? In other words how many cows (all inclusive) will they feed on this dairy?"

Response: Although all process wastewater and manure generated at a CAFO must be accounted for in the NMP and reported to the Bureau, the permit does not regulate the number of animals at the facility after the industry threshold has been exceeded.

10.4

Comment: "How can the dairy be called an open confinement situation when the proposed facility is defined as a Concentrated Animal Feeding Operation? A feedlot is perhaps another description."

Response: Open confinement refers to a lack of walls on the animal confinement area. The CAFO Permitting Glossary defines a feedlot as "lot or building or group of lots or buildings used for the confined feeding, breeding, or holding of animals." Therefore, open confinement more accurately describes the proposed facility animal feeding and holding areas.

10.5

Comment: "How much land will the synthetically lined dairy lagoon occupy?"

Response: The final facility design has not yet been submitted to the Division for review and approval. The permit application includes a sketch of a lagoon that occupies approximately 5.9 acres.

10.6

Comment: "Is there an emergency plan should another spill occur?"

Response: The permit does not require the preparation of an emergency plan for this facility.

10.7

Comment: "Where is the expected 310,000 gallons per day to be discharged to?"

Response: The process wastewater will be used to provide nutrient enhancement to the irrigation water applied to the facility's cropland.

10.8

Comment: "Where is the 320 acres of cropland that the Applicant proposes to land apply the liquid and solid manure located?"

Response: See response to comment 10.1.

10.9

Comment: "How is the liquid and solid manure going to be transported?"

Response: Process wastewater will be transported via buried pipeline. Manure will be transported by truck.

10.10

Comment: "Has an environmental impact study been done to see what the effects the dairy will have on land and air during this operation and what will this area be like five years from now?"

Response: See response to comment 4.16.

10.11

Comment: "How will the Applicant control the dust problem during construction and operation of this dairy?"

Response: See response to comment 3.4.

10.12

Comment: "How will the Applicant provide for fly control?"

Response: See response to comment 3.6.

10.13

Comment: "How will the Applicant control the odor from this operation?"

Response: Odors are not directly regulated by the Bureau. Odors are more of a nuisance/air quality issue. Aerator(s) will be used in the process wastewater lagoon to minimize the potential for anaerobic conditions, thereby reducing odors. If necessary, microbes will be added to the lagoon to further reduce odors.

10.14

Comment: "Who has oversight responsibility for regulating and monitoring this dairy operation to assure that they will remain in compliance to the permit and to the laws and regulations pertaining to this operation?"

Response: The Bureau is responsible for enforcing the terms of the permit and appropriate statutes and regulations.

10.15

Comment: "Has the quality of life of the neighbors been considered in drawing up this application?"

Response: See response to comment 7.5.

10.16

Comment: "Has the impact of the heavy truck traffic been considered for the roads which have not been designed or built for these loads?"

Response: See response to comment 3.1.

10.17

Comment: "Is there sufficient water available to operate the dairy and not lower the water table in the area and downstream to the extent that the residents would not be required to extend their wells further to have water on their own properties?"

Response: Water quantity and rights issues are beyond the regulatory authority of the Bureau.

10.18

Comment: "Is this dairy necessary at all?"

Response: This issue is beyond the regulatory authority of the Bureau.

10.19

Comment: "I live close to the dairies on Mecca Road and I have had the chance to experience some of the issues and problems that have come up with the dairies being a close neighbor. One of the worst problems is the poor effort being made in controlling dust. Should the EPA observe the dust conditions that arise on a regular basis, the dairy would most certainly be noticed."

Response: See response to comment 3.4.

10.20

Comment: "Of course, it needs to be said that fly control is an issue along with odor. The dairies on Mecca Road have done a better job on these issues since their spill a while back."

Response: Comment noted.

See responses to comments 3.6 and 10.13.

10.21

Comment: "As of yet I have not heard an apology to the residents for lying to the people regarding the explanation of what they told us what had happened. The dairy paid heavy fines and at least one of their managers was convicted of a felony. Has the management changed and can people who live close to the dairy be sure that this dairy will try to be a good neighbor?"

Response: See response to comment 2.4.

The person/people managing the facility is beyond the regulatory authority of the Bureau.

10.22

Comment: “There are other problems that need to be considered also. One would be, where will the workers and their families live.”

Response: See response to comment 3.3.

10.23

Comment: “Does the dairy assure their physical health is sufficient to protect their fellow workers, the consumers of their product, and the well being of the community?”

Response: Employee health, the quality of the product, and the well being of the community, other than water quality issues, are beyond regulatory authority of the Bureau.

10.24

Comment: “Are all the workers at the dairy legally documented?”

Response: The immigration status of the dairy workers is beyond the regulatory authority of the Bureau.

10.25

Comment: “And of course the biggest question is, when the ever expanding dairies cease their expansion here in Amargosa Valley? This dairy will soon be on the lookout for more land, either from the people who live close to the dairy and can no longer live in their homes due to the problems that will arise, or to try to claim more BLM land that adjoins the dairy property. Now would be the best time and place to stop this expansion.”

Response: Provided that the dairies comply with their CAFO permits, the Bureau does not have the regulatory authority to restrict dairy expansion.
The Bureau has not been advised of any plans to expand this facility.

Letter from Wayne and Margaret Brotherton of Amargosa Valley, NV dated December 9, 2005.

11.1

Comment: “We are not able to conceive of a concentrated feed lot that will produce 113,150,000 gallons of waste per year, to be deposited on such a small area.”

Response: Manure and process wastewater must be applied in accordance with a Bureau approved NMP.

11.2

Comment: “The most serious concern is the huge amount of waste will enter the water table and contaminate surrounding wells. The potential for water borne diseases to enter the water table, ultimately to our homes, is most dangerous.”

Response: See response to comment 2.2.

Letter from Bill Barrackman of Amargosa Valley, NV dated December 9, 2005.

12.1

Comment: “This letter is to support the email I sent you December 7, 2005 recommending that this permit be denied because liquid waste from a dairy lagoon contains some of the same pathogens as sewage sludge.”

Response: The Bureau does not regulate dairies based on the pathogens in their liquid waste.

12.2

Comment: The Commenter enclosed Amargosa Valley Town Advisory Board Resolutions 05-001 and 05-002.

Response: See responses to comments 6.4 – 6.8.

WRITTEN COMMENTS RECEIVED AT THE DECEMBER 13, 2005 PUBLIC HEARING

Letter from Brenda Dymond of Amargosa Valley, NV.

13.1

Comment: "I am opposed to the Beverly Hills Dairy. The current dairy has not adhered to their permit. They have discharged sludge into the desert, which flowed into California. When this was discovered, they were not forthcoming about the source or how it happened. "

Response: See response to comment 2.4.

13.2

Comment: "I would not like to see another dairy in a residential area. They have not prevented the smell from their current operations from polluting my home three miles away. As I type this, there is a putrid smell in the air from their discharge of manure and wastewater."

Response: See response to comment 10.13.

13.3

Comment: "The dairy has not been a responsible neighbor who cleans up after themselves. In fact, they have denied every mention of negligence concerning dead cows, flies and smell emanating from their operations. Their lack of cooperation in addressing the current problems with the dairy makes me think they will not be any more responsive to the community about the proposed dairy."

Response: Comment noted.

13.4

Comment: "I would like the Environmental Impact Agency to actually consider the environmental impact this would have on the area."

Response: See responses to comments 4.16 and 7.5.

13.5

Comment: "The location of the proposed dairy is not far from the boundaries of Death Valley National Monument. The area is free of pollution, and I would like it to stay that way."

Response: See response to comment 2.2.

Water Quality Issues and Concentrated Animal Feeding Operations by Christie Terraneo, RN, BSN, MPA

Ms. Terraneo conducted an internet search for articles regarding the pros and cons of CAFOs. The following issues were identified:

Manure and antibiotics

14.1

Comment: Large amounts of manure are generated at CAFOs requiring local land application of untreated manure potentially containing pathogens and antibiotics.

Response: During the recent national pollutant discharge elimination system permit regulation and effluent limitation guidelines (ELG) and standards for CAFOs rule making process, the U.S. Environmental Protection Agency (EPA) evaluated the adoption of ELGs for pathogens and antibiotics. In the February 12, 2003 Final Rule, EPA stated:

"At this time, however, the magnitude of the human health risk from pathogenic organisms that directly originate from CAFOs and are transported through U.S. waters has not been established." and

"However, the impact of antimicrobial metabolic products nonmetabolized drugs in animal wastes that are released into the environment remains unclear."

The Bureau will apply all appropriate ELGs to CAFOs.

Water runoff
14.2

Comment: The Amargosa Valley has many areas of runoff and washes, with the Amargosa River being the most prominent. The new CAFO is slated to be placed in the immediate flood plain of the Amargosa River. Run off from manure – applied fields can carry human pathogens into surface water, which serves as the drinking water in the Amargosa Valley. Currently there are 440 domestic water wells in the basin as identified by the Nye County Well Head Project. Most are located in either the Town of Amargosa Valley or in the Community of Crystal. Groundwater occurs at depth under the entire Amargosa Desert, ranging from at the land surface in the spring area of Ash Meadows to about three hundred feet in the Lathrop Wells area. Under the Amargosa Farm area, where the Nye County operations system are located, the depth to groundwater ranges from about 135 feet below land surface in the northwest to about 90 feet below land surface near Longstreet Inn at the state line. (Well Head Protection Plan) Activities that may contaminate drinking water in agricultural use area include but not limited to: Improper storage of pesticides, animal manure burial, and concentrated animal feedlot operation. (Well Head Protection Plan, Table 2.)

Response: See responses to comments 2.2 and 2.3.
Part I.A.2. of the permit requires the facility to operated in accordance with a Division approved NMP. Part I.A.2.a.iv. requires the NMP to include provisions that ensure that chemicals and other contaminants handled at the facility are not disposed in any process component unless specifically designed to treat such chemicals and other contaminants.
Part I.A.13. of the permit requires the preparation and implementation of an approved Animal Mortality Management Plan to ensure proper disposal of dead animals.

14.3

Comment: “Monitoring water runoff is one area that the Center for Disease Control is currently attempting to study. They are trying to find out weather[sic] or how nutrients, microbes, antibiotics and antibacterial resistance could move from CAFOs area to groundwater or surface water. They are comparing water samples from within one mile to CAFO’s to samples from the surrounding area. The water table in this valley is for the consumption of the community. There is no central water source available. With this many unanswered questions about the transference of bacteria and pathogens it is prudent to evaluate if this is the right community for this type of business.”

Response: See responses to comments 2.2, 12.1, and 14.1.

14.4

Comment: “Placement of these feed operation should be evaluated by proper runoff, regional water quality, and to avoid areas of sandy soil and shallow groundwater and flood plains. Just because someone wants one does not make it right for all communities.”

Response: See responses to comments 2.2, 2.3, and 6.1.

14.5

Comment: “The EPA’s plan included a nutrient management plan. The dairy has developed such a plan and submitted for the permit. The dairy included what it would grow on the land that the manure is spread on or the waste water is sprayed on. However, what is lacking by the general requirement from the government and should be taken into consideration is that manure from CAFO’s contains very high levels of nitrogen and phosphorus. Nitrogen is emitted to the air as ammonia vapors. These vapors can precipitate leading to contaminated surface water. These vapors are then incorporated into the soil, where plants absorbed it and then transport into the water where microorganisms metabolized. This breakdown of nitrogen forms nitrates in drinking water which is turn causes blue baby syndrome.”

Response: The more restrictive of the nitrogen or phosphorus agronomic rates is used to determine the

process wastewater and/or manure application rates in the NMP.

Some of the ammonia in the process wastewater and manure will be lost through volatilization. See response to comment 2.2.

14.6

Comment: “Due to the obvious problems of CAFO’s, many states are placing moratoriums of these feedlot operations. The problems of CAFO’s have led [sic] even farm friendly states like Kansas and Oklahoma to evaluate the CAFO’s operations. Kansas has gone so far as to even look at eliminating these operations completely.”

Response: To provide additional protection of waters of the State, the Nevada Administrative Code was revised in August 2004 to place additional restrictions on CAFOs.

CAFO’s and the devaluation of land values

14.7

Comment: “The effects that CAFO’s have on the surrounding community market value have been evaluated as a ‘negative externality’.” “Studies have shown that there is a decreasing value for land as you get closer to the CAFO.” “I personally feel this will also apply to areas around the fields that the manure is spread and water is sprayed.” “CAFO’s will limit any growth, expansion into this valley.”

Response: See response to comment 7.5.

Wind effect

14.8

Comment: “The variable winds can cause dust and molds to become airborne at a moments notice. ... The American Public Health Association is asking state, local and public health agencies to impose a moratorium on new construction.”

Response: See response to comment 3.4.
The State is not considering the imposition of a moratorium on new CAFO construction.

Conclusion

14.9

Comment: “Many problems associated with CAFO’s are similar to the problems associated with spreading sewage sludge in the Amargosa Valley. The natural geography of this valley does not invite the spreading of manure that will contaminate the land and water. The valley has many washes that naturally flow through individuals properties in which contaminants will move across. The variable water table in which contaminants can filter into is of great importance to the citizens of the valley. Once it is contaminated this water source is loss [sic] to the valley.”

Response: See responses to comments 2.2 and 2.3.

14.10

Comment: “By the EPA’s own numbers of the quantity of manure that is created from CAFO’s one has to ask the question, ‘Does the dairy have enough land to spread the manure that is created. How deep is the manure going to be layered? Does the crop rotation list enough to eliminate the nitrogen created by the manure? Does the additional irrigation of the effluent onto the same land increase the amount of nitrogen that has to be taken up?’”

Response: See response to comment 2.2.
The nutrient concentration of the process wastewater and manure, if proposed to be land applied, must be accounted for in the NMP.

14.11

Comment: “It is important to note that in the United States property it is not owned. The ‘rights’ of the property are owned. Property rights of individuals around these feedlots would loss the right

of enjoyment, the right of exclusion, and transfer. 'Real estate economics and appraisal

practice uniformly recognize that many externalities such as contamination may have a negative impact on property values.' (Kilpatrick)"

Response: Property rights and values are beyond the regulatory authority of the Bureau.

Letter from Ed Booss of Amargosa Valley, NV dated December 13, 2005.

15.1

Comment: "I live about a mile from the existing huge 3 dairy complex and get my water from the same area of an underground aquifer as they do. I have never found any contamination in my well.

Response: Comment noted.

15.2

Comment: "I researched the Nye County and US government publications about underground water flow in our valley. I have concluded that the proposed dairy site is upgradient from my well. Most of the site's land surface would be used for growing crops (as it is today), so the chance of underground contamination is negligible. I am sure that the unused portion of the 6 wells on the 2 new dairy sites would be 'rendered safe' by plugging or other means acceptable to your office. Therefore, I have no reason to think that this would become a source of pollution."

Response: Comment noted.

15.3

Comment: "The scientific research and planning that was done when this permit application was made shows a positive community attitude. Your monitoring and reporting requirements are appropriate, if not excessive. I find no reason to deny or restrict this application."

Response: Comment noted.

15.4

Comment: Most of the residents who support the dairy will remain silent, and skip the meeting, to avoid the harassment and hatred of the anti-agriculture group (claiming to be environmentalists). This vocal group represents less than 10% of the community. They try to create group hysteria to further the goal of turning this valley into another city, modeled on Pahrump, Nv. Some of them will try to impress you with their "fictional science.' Please do not be swept up in their hysteria of restrictions; use your office's scientific data to support and approve this application as shown on the fact sheet."

Response: Comment noted.

Letter from Annie Bell dated December 13, 2005.

16.1

Comment: "The EPA has reported that the average dairy cow produces 120 pounds of waste every day. This is the equivalent of the waste produced by approximately 30 people in one day. Taking this into consideration the waste produced by the 3000 cows this dairy will accommodate will equal the quantity of waste produced by 90,000 people. That is roughly 80 times the current population of Amargosa Valley. While this is not human waste we are talking about, it bears many of the same pathogens found in human waste."

Response: CAFO manure and process wastewater are regulated based on nutrient concentrations, not by the types or densities of pathogens.

16.2

Comment: "This is a tremendous amount of waste that will be spread over a mere 320 acres. Consider the care taken in the treatment of human waste when produced in these quantities. The manure of cows is also a dangerous pollutant."

Response: See responses to comments 2.2 and 10.7.

16.3

Comment: "Please consider the wishes of this community and our concerns and fears and do not issue this permit."

Response: Comment noted.

**Potential Water Impacts from the proposed Beverly Hills Dairy by Genne Nelson
received December 13, 2005.**

17.1

Comment: "My primary concern has to do with ground-water resources in Amargosa Valley." "The continued welfare of our community is dependent on an uncontaminated ground-water supply."

Response: See response to comment 2.2.

17.2

Comment: "A US Geological Survey study that states 8-16% of the total irrigation water applied to fields in Amargosa Valley will become recharge in 11-70 years. ... I am not familiar with the quantities of water applied in a concentrated animal feeding operation, but if you compare proposed dairy usage with the quantities from this irrigation study, it would give you a good idea of the probably [sic] quantity of potential recharge to the groundwater. According to the permit request, the operation requests permission to land apply 0.310 million gallons per day of liquid and solid manure to 320 acres of cropland. That equates to approximately 0.3 m/yr if the material is evenly distributed daily, but I have no way of estimating the relative percentage of solid and liquid material. That is only about three times average annual rainfall, but these fields are also going to produce crops, it would be reasonable to assume comparable quantities of irrigation water will also be added to these fields like the agricultural fields in the study. Any soluble components in the manure products would move with any water that percolates down to the ground water. Nitrates, for example, are highly soluble but are also favorable to plant uptake. However, if more nitrate is available than the plants need, the excess would remain in the water and, thus, go with the flow."

Response: See response to comment 11.1.

Based on information provided by the Permittee, the process wastewater will constitute approximately 20% of the irrigation water. Some of the diluted process wastewater will eventually recharge the groundwater.

17.3

Comment: "Maps are available for the general direction of ground-water flow from the regional ground-water flow models [see figure 1 from D'Agnesse, 2002]. Unlike the present location of dairy operations, residential wells are located downgradient of the proposed new dairy. One way to guard against contaminants migrating into residential ground-water supplies is to require the installation of monitoring wells. There should be at a minimum three wells – one upgradient of dairy operations, and two close to but downgradient of operations. The wells sites should be selected such that should contaminants be detected in the monitoring wells, sufficient time is available to mitigate the problem prior to contamination of private drinking water supplies."

Response: The Bureau does not require monitoring wells at CAFOs that have lined ponds and apply manure and process wastewater in accordance with an NMP.

17.4

Comment: "The Nye County Nuclear Waste Repository Project Office has been monitoring water levels in Amargosa Valley for several years and has compiled an extensive database. I would

recommend that NDEP make use of this resource to improve on the the local ground-water flow information. The Regional models are static models based on conditions as they existed in the late 1990's. As you can see in Figure 2 [Buqo, 2005], increased pumping can alter the direction of ground-water flow and thus modify the flow path of contaminants. The more detailed source data, the better the forecast of contamination impacts. Nye County has also conducted pump tests to quantify ground-water movement in the alluvial aquifer in Amargosa Valley, and they calculate transmissivity rates around 20,000 (ft²/day)²."

Response: Comment noted.

17.5

Comment: The 2003 USGS study also determined that deep percolation occurs beneath at least a portion of the Amargosa River channel from ephemeral flow. From this data, the Commenter extrapolated that infiltrating facility runoff would reach groundwater in 34-244 years.

Response: If the process wastewater and/or manure is/are applied in accordance with a Bureau approved NMP, any discharge from the land application area resulting from precipitation are considered agricultural stormwater. The Bureau does not regulate agricultural stormwater.

17.6

Comment: "The new dairy site lies adjacent to the Amargosa River and at the base of the alluvial fan from the Funeral Mountains. The rate of runoff and potential for significant erosion is greatly increased by the gradient (or slope) of the land surface. When you consider the occurrence of heavy summer storm events over very localized areas, like the storm in August 2004 that took out several miles of highway 190 in Death Valley National Park, you realize that this site is at greater risk for damaging floods. NDEP should very carefully review the siting of concentrated animal feeding operations as they relate to drainages upgradient on the alluvial fan."

Response: See response to comment 2.3.

17.7

Comment: "In conclusion, I must say that I believe in private property rights. But I also believe all parties should be considered, and one party should not profit at the expense of his neighbors. The purpose of NDEP is to review operations in our state and impose measures that prevent degradation of our environment. I hope you will carefully consider the physical environment of this proposed dairy as you decide on the operational requirements of this permit, especially in the area of water resources."

Response: Comment noted.

Letter from Wayne and Evelyn Rose dated December 13, 2005.

18.1

Comment: "Our water is the heart and soul of the Amargosa Valley. This water supply is under attack. Poisonous elements are leaking down from the Nevada Test Site and toxic waste at the U.S. Ecology dump site being buried on top of our water supply to the north. Our water supply cannot withstand millions of gallons of cattle waste, proposed by the Beverly Hills Dairy, in addition to these pollutants."

Response: See response to comment 2.2.

18.2

Comment: "It would be an irresponsible act to grant the Beverly Hills Dairy their request for CAFO or lagoon/pond system. I strongly urge you to deny their application."

Response: Comment noted.

Letter from Lois Cohan to the Town Board received December 13, 2005.

19.1

Comment: "Just the smell from the Sludge ponds and the pond water poured onto the ground at the now

existing Dairy is terrible with the odor that makes me nauseous [sic] along with the idea of that filth possibly seeping into our water.”

Response: See responses to comments 10.13 and 2.2.

19.2

Comment: “More ponds like the already existing [sic] ones would be an insult to the people, and no regards to the community by the Dairy owners etc.”

Response: Comment noted.

19.3

Comment: “Just recently everyone was advised to clean up any stagnant water from swimming pools, ponds, water holes etc. because of the mosquitoes breeding in those areas and the concern about them carrying a deadly virus that we have been seeing through out the United States. These sludge ponds have to be one of the biggest mosquito breeding grounds around.”

Response: The response to comment 3.6 also applies to mosquitoes.

19.4

Comment: I have a question about giving permits without extended investigation on the possibility of this sludge entering our water table and contaminating it in the future for our children?”

Response: See response to comment 2.2.

19.5

Comment: “Years and Years of studying have been done, and still being done on Yucca Mt. For contaminating water, how come the Dairy can do what they want without proper extensive investigation?”

Response: See response to comment 6.1.

19.6

Comment: “Also we the people have to live in this community and I for one do not wish to worry about Amargosas [sic] future since I was here before the Dairy.”

Response: Comment noted.

19.7

Comment: I guess Money comes before lives and feelings about their neighbors when the dairy is concerned, so we need to fight the new proposed Dairy site and the operations they want there, by pulling together.”

Response: Comment noted.

19.8

Comment: “Maybe an audit of records by the IRS might be in order for the Dairy workers or health dept. on the stagnate water sitting on the grounds. I hate being like this but they don’t care about us, so why worry about them losing the all mighty buck.”

Response: IRS and Health Department issues are beyond the regulatory authority of the Bureau.

19.9

Comment: PS People and businesses attempting to move into our area should not be turned away because of the flies, and Dairy air that covers our former Champagne air.”

Response: See responses to comments 3.6 and 3.4.

COMMENTS MADE AT THE DECEMBER 13, 2005 PUBLIC HEARING

Comments in this section of the Notice are from Transcript of Hearing Regarding an Application for Permit by the A.K. Coral Cay Trust. The responses below are a mix of verbal responses given at the hearing or previously in the Notice and corrections to and/or clarifications of the verbal hearing responses. The responses to comments made by the Permittee at the Hearing have been retained in this document. The audiotaped hearing was transcribed by a Certified Court, Shorthand and Registered Merit Reporter.

Chip Bell

20.1

Comment: "I heard that, and I've actually seen this, manure from a dairy with hospital waste, needles. I mean, how does that conform to your regulations? Parts of syringes and then such, like that."

Response: The permit restricts the disposal of inappropriate materials in the process wastewater lagoon.

20.2

Comment: Manure "given to people around the valley, and they turn up finding these parts of syringes and stuff."

Response: The distribution of one cubic yard or less of manure for personal use is not regulated. The Bureau of Waste Management regulates inappropriate materials in compost distributed to the public.

Curtis Stengel

21.1

Comment: "Who will install the liner?"

Response: See response to comment 4.4.
Installation contractors are not usually selected until the design has been completed.

DeWayne Richardson

22.1

Comment: "How big will this liner be?"

Response: The preliminary design is for a 60-mil HDEP liner.

22.2

Comment: "It should be a hundred mil."

Response: The Bureau has determined that a 60-mil HDPE liner is adequate for this process wastewater lagoon.

22.3

Comment: "I work with U.S. Ecology. We have a hundred mil, and we have a mat, and we have 60 mil ---- on top of that."

Response: See response to comment 22.2.

Mike Simpson

23.1

Comment: "Is there a contingency plan for if there's another spill like we had before, three years ago; do you have a plan as to what you'll do if there's a spill of the lagoon?"

Response: The permit does not specifically require the preparation of a contingency plan. The permit authorizes the release of process wastewater in response to storms in excess of the 25-year, 24-hour event. Other releases may result in enforcement action.

23.2

Comment: “This includes water for dusting and things like that. We're talking about pollution and things like that. Will that, your fresh water used for dusting, will that be -- contaminated water, will that be for --“

Response: Processed wastewater cannot be used for dust control, unless the water is used within a land application area and this use is included in the NMP.

23.3

Comment: “So it can't be used on the road, the side of the road --“

Response: See response to comment 23.2.

Pat Minshall

24.1

Comment: “You say that you do not address the fly pollution and the air pollution. Are you working with the places that do that, or the agencies that do that?”

Response: See responses to comments 3.6 and 3.4.

24.2

Comment: “Who's testing it? How often are they testing it? And where are those test results available?”

Response: The facility has not yet been constructed.
The Bureau is not aware of any planned fly or air quality testing at this facility.

DeWayne Richardson

25.1

Comment: “There are odors, flies. Who's doing the testing now?”

Response: See response to comment 24.2.

25.2

Comment: “What about the Ponderosa?”

Response: See response to comment 6.7.

25.3

Comment: “Who is going to be doing it then?”

Response: Permit NEV2006504 requires no testing of flies or odors.

25.4

Comment: “I moved to Amargosa Valley in 1982. Then it was champagne air. Now it's dairy air.”

Response: Comment noted.

Bruce Crater

26.1

Comment: “Did I understand you saying that the runoff from drains, and so forth, from the feeding area are not being confined?”

Response: Runoff from the feeding area is one component of process wastewater and must be contained.

26.2

Comment: “There was some area that you said -- agricultural fields with land application
“Any runoff from that?”

Response: Runoff from a field that has had manure applied according to an approved NMP is classified as agricultural stormwater and is not regulated by the Bureau.

26.3

Comment: “What if the people who live next door and downhill of these facilities knew about the

manure that flows onto their property?"
Response: See response to comment 26.2.

26.4

Comment: "The next question is would you like to have that problem, of manure running onto your property, in -- at your residence?"

Response: Permitting decisions are based on the statutory and regulatory authority of the Bureau.

Michael Simpson

27.1

Comment: "The water that they use, is it all underground at that location? Are they going to be overpumping the water out of the ground, so they're going to be losing the water table, things like that?"

Response: See response to comment 10.17.

27.2

Comment: "You're just dealing with pollution only?"

Response: See response to comment 6.5.

27.3

Comment: "How often do you inspect, how often do you regulate to make sure that they're in compliance, a regular dairy?"

Response: Routine inspections of facilities of this type are conducted once every three years. Facilities with suspected compliance problems or valid complaints are inspected more frequently. The permit requires submittal of quarterly reports and more detailed annual reports.

27.4

Comment: "Complaints from residents or --"

Response: The facility inspection frequency may be increased if there are compliance issues. The identification of these issues may be the result of public input or other sources of information.

27.5

Comment: "Do these reports -- are they independently verified that they're accurate, or are they from the dairy?"

Response: All analyses must be conducted by state certified laboratories.

DeWayne Richardson

28.1

Comment: "How often does this state-certified lab come out and inspect?"

Response: The Bureau does not require state certified laboratory inspection of any permitted facility.

Bruce Crater

29.1

Comment: "How can we be sure that the dairy is providing proper reports? And if they are not, how can we find out if the Pollution Control does go out and check?"

Response: The Permittee is required to sign a certification, Part I.B.3.a. of the permit, for all submitted reports and information stating that the data is true, accurate, and complete.

Margaret Brotherton

30.1

Comment: "I'm new down on the south side, across from this area, what we're talking about. Now, if you, obviously, don't do much checking on anything, you issue this permit, and you take their word for what they're handing in, which may or may not be true, who does the testing

on our private wells for the flow of the water?"
Response: See response to comment 10.17.
The State does not have a program to monitor the water quality of private wells.

30.2

Comment: "We, at present the time, do our own. So we know what's in this water. So if we have a problem, where do we go from there with our water?"

Response: See response to comment 2.2.
If you are able to document an increasing pollutant concentration trend in your well water, it is recommended that you contact the Bureau and the Nye County Health Officer.

30.3

Comment: "Well, if you don't any way of taking care of it, well, then, I'm wasting my time."

Response: Comment noted.

30.4

Comment: "Well, you just finished telling me you don't have any control over that."

Response: See response to comment 2.2.

Mike Simpson

31.1

Comment: "Does your agency have any regulatory power at all? Who regulates the regulations? Who's enforcing them? Who finds them? Who does something when there's something wrong?"

Response: See response to comment 10.14.

DeWayne Richardson

32.1

Comment: "I've lived here since 1982. If I find something different in my well, which I have my own testing done, you mean I can't come back to you and say, okay, this is downstream from where this dairy is going in, supposedly -- hopefully not -- you can't do anything about it?"

Response: See response to comment 30.2.

Bruce Crater

33.1

Comment: "I don't mean to sound sarcastic. But what, in fact, does your office control in pollution? We're talking here about pollution control, and you're unable to answer these questions of how you control water pollution."

Response: See responses to comments 2.2, 2.3, and 6.1.

33.2

Comment: "we're talking about water pollution that is beyond the liner of the pond. We're talking about water pollution from the runoff in the soil. We're talking about water pollution from the manure that they spread. We're talking about water pollution from rain water, flood water. They are right in the path of one of the main streams that goes through this valley, during the rain time. We're talking about pollution of other people's property that live downhill and downstream from them, as well as the pollution of their wells."

Response: See responses to comments 2.3 to 26.2.

33.3

Comment: "Then you can deny this permit --"

Response: The Bureau has the regulatory authority to deny a permit based on potential impacts to waters of the State.

33.4

Comment: "We respectfully request that you deny this permit because of the potential for water

pollution and air pollution, but water pollution in all of the surrounding property. This is in the midst of a residential area. These are not farms. This is in the midst of a residential area in the center of the valley.”

Response: Comment noted.

DeWayne Richardson

34.1

Comment: “I would also say that if you do approve this permit, that you mandate at least a hundred-mil liner, at least a hundred-mil liner for their ponds.”

Response: See response to comment 22.2.

Christie Terraneo

35.1

Comment: “I'm a resident here in the valley. I just am going to ask, to request that you evaluate why the state of Kansas and the state of Oklahoma, which are both farm-friendly states, are looking at denying and/or putting moratoriums on this type of feed operation in those two states.

“If those states are, at this point, looking at that, maybe the state of Nevada should be doing the same process. There's something they know that we don't know. Thank you.

Response: See response to comment 14.6.

Michael Simpson

36.1

Comment: “Well, the dairy started out pretty small here in the valley, and it expanded. It sounds like they made an expansion on a contingency.

“Is there -- You guys are the ones that are going to stop it, if you can stop it. Is this a foregone conclusion -- “

Response: See responses to comments 10.25 and 33.3.

Terry Fisk

37.1

Comment: “I have a couple questions, one of which is I have with me a fact sheet from your Web site. And it gives, on table 1.1, that -- the effluent discharge limitations. And most of them are on a monitor and report. So do you have maximum concentrations for that, based on nitrogen and phosphorus?”

Response: The permit is based on nutrient application rates to the agricultural fields; the permit does not include maximum nitrogen or phosphorus concentrations.

37.2

Comment: “So it's a balancing act among the concentrations on what the application rate would be?”

Response: The concentration of the limiting nutrient is the basis for the development of an NMP.

37.3

Comment: “And about borax or TSS or BOD; do those factor into the application rate?”

Response: The nutrient application rates are based on the more limiting of nitrogen and phosphorus. Application rates are not regulated based on borax, TSS, or BOD.

37.4

Comment: “The other question I have, at least, it looks like this 30-day average is about 300,000 gallons for that 30 days.”

Response: The permit includes a 30-day average flow effluent discharge limitation of 0.310 million gallons per day (MGD). The maximum 30-day flow is 9.3 MGD.

37.5

Comment: "And is part of the application procedure or maybe the is it -- I guess, that's my question. Do you calculate loading to the aquifer, or assume it's all either transpired or evaporated?"

Response: See response to comment 17.2.

37.6

Comment: "The volume, it's based on the nitrogen concentration?"

Response: The application rate is based on the nutrient concentration. The volume is expected to be supplemented with groundwater.

37.7

Comment: "To reduce the concentration of, say, nitrogen?"

Response: To provide adequate water for optimum nutrient uptake and crop production.

37.8

Comment: "So if -- what I'm trying to get at is, is the expectation that all of the water that's applied or for crop use will be used in uptake by the crop or --"

Response: See response to comment 17.2.

37.9

Comment: "-- so it's safe to assume, I guess, for me, that the application for the irrigation process totally balanced out the nitrogen equation, but there will still be some groundwater recharge, some volume of groundwater recharge?"

Response: See response to comment 17.2

DeWayne Richardson

38.1

Comment: (Tape briefly inaudible) – "groundwater level going to drop."

Response: See response to comment 10.17.

Terry Fisk

39.1

Comment: "For clarification, what I'm trying to understand is, regardless of the concentrations that are in the water that's applied to the fields, some portions of that application will go to groundwater recharge. And I'm wondering if part of the process on this permit is evaluation of that, so that the downstream users of the aquifer can understand, regardless of whether the water is treated effluent, standards, or just how much water will be added to the groundwater."

Response: The permit does not require quantification of groundwater recharge.

Clifford Powell

40.1

Comment: "In 1998, well, the Ponderosa Dairy opened the valve and let it run for two days. And part of the condition was that they obtain a CWA permit. Is the Beverly Hills Dairy going to be required to get a CWA permit as well -- to dump into the Amargosa River?"

Response: A discharge to the Amargosa River would require an NPDES permit, but the Applicant has not proposed such a discharge.

Unidentified Man in the Crowd

41.1

Comment: "This was in reference -- (tape briefly inaudible) -- the 24-hour storm event."

Response: No discharge to the Amargosa River is authorized by NEV2006504. Agricultural stormwater is exempt from the permitting requirements.

Wayne Brotherton

42.1

Comment: "I need a clarification. Your notice of public hearing? It states: The applicant has requested a 30-day average discharge flow limitation of .310 million gallons a day."

Response: That is correct.

42.2

Comment: "That's a hundred and 13 million gallons a year or three hundred and 47 acre-feet. Doesn't that mean that there's over an acre-foot, more than 12 inches, on 320 acres? Where is all this going, but down?"

Response: See response to comment 17.2.

Unidentified Man from the Crowd

43.1

Comment: "You don't need near that to grow a crop."

Response: The USGS study referred to in Ms. Nelson's written comments (17) used a range of 78.74 to 106.30 in/yr of water applied to actively cultivated fields. The selected crop will require significantly more than 12 inches/acre of water per year.

Wayne Brotherton

44.1

Comment: "It says here -- I'll read it. I know I didn't graduate from high school. But you put this in here. I didn't.

"The applicant proposes to land-apply the liquid and solid manure on 320 acres. That would be, oh, let's say, 14 inches deep over 320 acres. Right? Not 347 acre-feet. That's what he proposed here. You have it written here, 30-day average."

Response: See response to comment 37.4.

44.2

Comment: "He stated that the cutoff date was the 9th. Your statement was that it had to be postmarked no later than 5:00 p.m. on the 9th."

Response: The deadline for submittal of written comments to the Bureau's Carson City office was 5:00 PM December 9, 2005. Comments were required to be hand-delivered, faxed, e-mailed, or postmarked by the deadline.
Written and verbal comments were also accepted at the December 13, 2005 Public Hearing.

44.3

Comment: "Is there any way to verify that you have received comments?"

Response: This commenter's written comments were received by the Bureau. See comments 11.1 and 11.2.

Howard Blumenfeld

45.1

Comment: "I'm a resident in the valley. You state, sir, the permit, that the dairy's going to do this, this, and this. You say you don't police them. Whereas you're not verifying. Hey, we had a treaty with Russia just to verify that we're disabling so many ICBMs. We sent guys to Russia for the same thing.

"You could say maybe a hundred-year containment if you don't verify that the pollution's what the people here are saying. They're checking their well. And you just say, 'Well, we can't do anything about this.' That leaves them federal. That leaves them in the news. They don't want to die.

“You know, but the point being, if you’re not going to be verifying something, and you are issuing a permit and saying these are bylaws, what does that mean? You’re putting the fox in charge of the henhouse. You said – You leave it to the dairy to say, “Well, this is” this, this, and this. They give you a piece of paper every year. I can get a high school kid to write down things.

“So if you don’t verify –”

Response: See responses to comments 27.3 and 29.1.

45.2

Comment: “Yes, but what -- Let's put it this way. I mean, if you were living here, and the water's bad, then you're saying, "Well, gee, I'll drink it," what if it's polluted? It's past tense. So.

“Years ago, when people lived in this valley, that saw the atomic bomb blast, they died off from radiation. So if you're not going to verify it, I mean, I don't know what the standards are. I mean, where are you? (Tape briefly inaudible) -- and there's a lot of things under the city and township, in meetings here, and we know that there's federal laws that was available like this that had a hundred thousand cattle; and, all of a sudden, the government got involved. And there were standards. There was water standards. And it was federal.

“And, then, I understand the state said, "Well, it doesn't apply here." I think, it does. I understand what you said, it's not surface water. It's, you know – [Groundwater] But if the point – if you're going to pollute where you live. You know the old story, let them take downstream water. They're going to have to do water that is discharged upstream.

“That was done in Europe -- with a chemical plant. You take the fresh water downstream, and you discharge upstream. They had to resolve the pollution.

“So, once again, I mean, nobody's understanding. I mean, you're working for the state. You guys have your own rules. But if you don't verify, it doesn't mean a hill of beans.”

Response: See responses to comments 27.3 and 29.1.

Bruce Crater

46.1

Comment: “I understand that you work by regulation, within boundaries that are specified via code. This hearing is a hearing with the citizens of Amargosa Valley. There are quite a number of them here.

“Your office is Water Pollution Control. And this hearing is to help you determine whether you're going to issue a permit.

“I'd like to know how many people here, that are raising their hands, are concerned with the pollution of their water, that would cause concern with their health and welfare, if this permit is issued.

“I think it would be simpler if we said who's in favor? Who's in favor of issuing the permit?”

Response: It was noted that a large majority of those present were opposed to permit issuance.

Richard Claessens

47.1

Comment: “I'm a resident. In fact, I live on Tamarack Farm Road. We have all these systems for the Nevada Test Site for monitoring water wells and to make sure that no radiation comes into the aquifer. Do they have any similar systems with the state to monitor around dairy or animal operations, test wells, that type of stuff?”

Response: Facilities that have lined ponds and land apply in accordance with a Bureau approved NMP are not required to monitor the groundwater.

Evelyn Selbach

48.1

Comment: “And I want to know where the dairy is coming from.”
“Where's it moving from?”

Response: The Bureau does not consider where a dairy is “moving from” in the permitting process.

48.2

Comment: “Well, I was just wondering, if it was one that's coming out of Pahrump, why they had to leave there.

Response: “Was there a reason they had to leave there?”
See response to comment 48.1.
The Bureau was not involved in the Pahrump Dairy decision.

48.3

Comment: “Is there anyone done any -- like, they're talking about Tamarack and Farm Road. Okay. Has anybody done a study of how many the population is right there and how many little children?

Response: “Just come down and watch the bus. Most of our kids come from that area.”
See response to comment 6.5.

Clifford Powell

49.1

Comment: “I just wanted to ask, in reference to the table on page 3 of the fact sheet, how much of that information is public information?”

Response: All the information submitted to the Bureau is public information, unless there is a proprietary reason for it not to be. The Applicant has not requested that any information be considered confidential.

Richard Claessens

50.1

Comment: “Your agency is a state agency?”

Response: The Bureau of Water Pollution Control is a state agency.

50.2

Comment: “And you only – this section of it deals with only water pollution?”

Response: See response to comment 6.1.

50.3

Comment: “Now, the other sections within your division also deal with air pollution, ground pollution, litter, etcetera?”

Response: See response to comment 6.1.

50.4

Comment: “And they are -- they, also, would monitor, say, the air in our area?”

Response: See response to comment 6.1.

Mike Simpson

51.1

Comment: “Now, the permit requests 2900 cows. I'm sure it's dairy cows. A thousand 50 heifers. Does it count steers, calves, things like that, in those numbers, too, like they did at the other

dairies?”
Response: Once the industry threshold has been met, the number animals at a facility is only used to estimate the amount of manure and process wastewater produced.

51.2

Comment: “So the extra cows are uncounted on that permit?”

Response: See response to comment 10.3.

51.3

Comment: “So you don't know how many they'll have on there? Is that part of your -- That's the number of cows. What about the other cows that they're going to start adding?”

Response: Additional cows will generate additional manure and process wastewater.
See response to comment 10.3.

51.4

Comment: “So, in other words, how would they account for that? They're telling you how many cows they want.”

Response: See response to comment 10.3.

51.5

Comment: “They're telling you how many cows that they want put on. But if you don't know that they're going to put on more cows, which they will, the calves and steers and things like that, that should be part of the equation.”

Response: See response to comment 51.3.

51.6

Comment: “That's what I mean. That should be part of the equation. So without that, you really don't have a complete permit. Because you won't know. If they're not telling you (tape briefly inaudible), you won't know.”

Response: See response to comment 10.3.

Christie Terraneo

52.1

Comment: “In doing the research for this situation, and I believe it was the EPA, could have been PEC, listed that there's medium-size CAFOs and large-size CAFOs, depending upon the number of cows or livestock that is brought to that land area.”

Response: In Nevada, a permit is required for all dairies that confine at least 700 head of dairy cows. This is the same definition used by the EPA for large CAFOs. The NAC does not include a medium-size CAFO definition.

52.2

Comment: “A thousand was listed on the page in the literature; a thousand was listed for a large CAFO, and 500 to a thousand, which is 700 in the middle, for a medium-size CAFO.”

Response: See response to comment 52.1.

52.3

Comment: “The dairy. I'm talking about the papers that are presented by -- on livestock. And you're not looking at cows. They used to go by units. And then they changed how they were counting what was going on the land. So 700 is just a number, now, or what?”

Response: See response to comment 52.1.
The animal unit calculation was removed from the NAC in August 2004.

52.4

Comment: “So if they choose to increase from 700 to a thousand, they're asking for a permit --”

Response: See response to comment 52.1.

The same permit requirements apply to a 1,000 head dairy as a 700 head dairy.

Bill Barrackman

53.1

Comment: "Do you know who the owners of the Coral Cay Trust are?"
"Are you going to make that available to us?"

Response: E.J. DeGroot and Kathleen DeGroot are the A.K. Coral Cay Trust co-trustees.

53.2

Comment: "Now, another thing that I think that the record should reflect, a moment ago a question was asked, how many people here favor this permit going through; and there were two hands that were raised. And there are about 70 or 80 people –"

Unidentified Man from the Crowd: 76.

"Here, present. So there was two people, out of 76 that are present here in this hearing, that favored the permit. I think that should be in the records."

Response: Comment noted.

53.3

Comment: "Additionally, do you intend to consider the sentiment of this community regarding this permit?"

Response: This issue is beyond the regulatory authority of the Bureau.

53.4

Comment: "So you really don't care about our quality of life and the impact of the decision you're about to make?"

Response: See response to comment 7.5.

Unidentified Man from the Crowd

54.1

Comment: "We're not voting."
"It's not up to us."

Response: Comment noted.

Michael Simpson

55.1

Comment: "Well, I've got a question. Has anybody done an environmental impact statement?"

Response: See response to comment 4.16.

55.2

Comment: "It's not required. Then, has anybody projected what they would perceive five years from now what the land would be like and the water pollution situation would be like? How would we know, in this initial permit, if we don't know what's going to happen in the future?"

Response: That is why permits issued by the Bureau have a maximum term of five years. There will be a re-evaluation of the facility in approximately five years, if the Permittee applies for a permit renewal.

55.3

Comment: "That's what I mean. So you'd have to know, if you're going to protect the waters of the state, you'd have to know there's going to be an effluent injected into the water, and then you have to know what's going to happen later. If you don't know what's going to happen five years from now, how could you issue a permit today?"

Response: The permit is based on the current regulations and the submitted information.

See response to comment 2.2.

Unidentified Man in the Crowd

56.1

Comment: "Is this information available?" regarding either biostimulators or aerobic microbes added to the green water lagoon to facilitate the solids decomposition and reduce odors.

Permittee Response: "All of this information is available in the permit submittal with" the Bureau.

Howard Blumenfeld

57.1

Comment: "What can your liner withstand in earthquakes if they get them here? Simple question."

Permittee Response: "The liner's a flexible, and I don't believe it'll undergo brittle failure. It is -- These kinds of liners are specifically used all around the country. Because, first of all, they're synthetic, and they'll hold the water. It's not like we're just digging a hole in the ground and letting green water seep through.

"And they'll behave if -- elastically, at worst, and probably just sort of move a little bit with acceleration of the ground motion."

Alan Hinman

58.1

Comment: "How do you propose to move the water, the green water from the lagoon down to the 120-acre field?"

Permittee Response: "It's a hundred-acre field, and that will be the pipeline."

58.2

Comment: "And how do you construct that pipeline? There's no -- There's no regulation on that?"

Permittee Response: "We haven't gotten into the pipeline construction yet, sir, until we get the permit. We've attempted to meet all of the requirements of the permit application. Which we believe we have. And the NDEP has issued us a draft permit.

"When it comes down to the specific designs of conveyance pipelines, I'm sure NDEP will want to put their blessing on it."

58.3

Comment: "Well, how does the pipeline run when you don't own the property between there?"

Permittee Response: "I don't know how it works in Nevada. But it's my understanding that most western states do allow the right-of-ways for utilities and other pipelines along their highways or their county roads."

Response: It is the Permittee's responsibility to secure all necessary rights-of-way, easements, or other approvals for the construction of the pipeline.

58.4

Comment: "That's certainly an issue where groundwater would play a role."

Response: Comment noted.

58.5

Comment: "The other thing is in your nutrient management program, how do you address salt issues?"

Permittee Response: "We will be looking -- when we do our soil sampling, it's not going to be just for nitrogen and phosphorus. It'll be, also, for TDS and chloride. And we don't want salt buildup any more than any other farmer does.

"You know, I think it's important to keep in perspective here that this is not just a dairy, it's a dairy with a combined farming operation. And we don't want to mess up our soil any more than any other farmer wants to have saline soils or high-salt soils wherever he's farming."

58.6

Comment: “Well, I realize that. But I did farm with their green water before, and it killed every crop that was out there. They don't have a crop that they've been able to grow with green water, using it on a daily basis.

“Well, what I'm saying is how do you determine -- once the total dissolved salts and the chloride are too high, how are you going to find a crop that's going to be compatible? And if --“

Permittee Response: “If that occurs, we look for some type of salt-tolerant grass. There's different types of giant Bermuda. And I forget. I don't have the whole list of salt-tolerant crops. But if that does occur, sir, there's other crops that we'd address.

“So we're trying to take action before we even start farming with any kind of green water, to look at our soils, look at our soil chemistry, and properly design a land application program.”

Michael Simpson

59.1

Comment: “It almost sounds like you're getting the horse before the cart. You want the permit before you know what you're going to do. But.

“Well, my question is have you addressed the idea of what bacteria's going to be injected into the soil and how you're going to deal with bacteria contamination and things like that?”

Permittee Response: “We're not going to be injecting bacteria into soil. I believe that we are looking at odor control, that there might be these biostimulators or aerobic microbes added to the green water lagoon to cut down on odors.

“You know, I know. I've been working in this valley for almost eight years. I've seen a lot of pickup trucks leave Ponderosa Dairy with manure solids in them. Okay.

“We look at this as the same way as everybody else who picks up the manure, the compost from Ponderosa, the same way everybody else does in the valley. It's a value. It's not a waste. It's a soil amendment. And it's something that nourishes the soil and helps our crops grow in the desert.”

59.2

Comment: “That's your opinion. Well, in a way, you're right. But in a way, you're wrong. But in a concentration like this, it's different.”

Response: Comment noted.

59.3

Comment: “The question is have you developed have a plan, or do you know anything at all about what's going to happen if bacteria gets into the soil, how it's going to be dealt with, if it gets into the water table, for bacteria content, check the well, bacteria in the well? Is there a way you've already addressed this, or is this something you haven't addressed at all?”

Permittee Response: “This is something that's not required by either the federal CAFO rule or any state permit. So, no, we haven't looked at it.”

Ed Munton

60.1

Comment: “My concern is on the nitrogen. They've had problems with dairies elsewhere. The last one that I know of was in San Joaquin Valley, and the aquifer is polluted with the nitrogen.

“The thing that bothers me here is, first of all, there's more than one aquifer; there's not one. So, in my opinion, what would be prudent, and it hasn't been addressed here, is that they're going to base the nitrogen on the aquifer that's under the dairy. That, basically, tells us where we are to start with. So on routine checking, which is done by the dairy, which doesn't sound too sound, if people will be affected by doing it. And that was addressed earlier.”

Response: See response to comment 2.2.

60.2

Comment: “It would be nice to have independent with the state to check the nitrogen level. And if it starts to rise over a period of time, something could be done before it becomes too bad.”

Response: See responses to comments 2.2 and 30.1.

60.3

Comment: “And I'll give you a little background of what happens when you get too much nitrogen in it. In El Salvador, there had been an epidemic of miscarriages. And they sent an expert down there, and they determined it was high nitrogen in the aquifer. Not only were there humans involved, but all the mammals as well, the animals.

“That's one of the things that too high nitrogen can do. I'm not saying it'll happen. But it'll be nice to have a base to know where we are, and regular checks, not by the dairy, but someone independent, to know where we're going.”

Response: See response to comment 2.2.

Curtis Stengel

61.1

Comment: “Sir, am I to understand that our written comments that we sent to you would be addressed, and our speaking portion here would not necessarily be repeated comments?”

Response: The Bureau will respond to all comments. It was not necessary to repeat comments previously made at the Public Hearing. Commenters may state that they agree with a previous commenter.

61.2

Comment: “I would like to know the names of the people that are on the trust. And I understand you were going to address that at a time when you make your final comments.”

Response: See response to comment 53.1.

61.3

Comment: “And, then, I'd like to know the name of the insurance carrier that insures the lagoon and the pipeline.”

Response: See response to comment 4.2.

61.4

Comment: “What is the name of the haz-mat agency that repairs broken pipelines and performs cleanup?”

Response: See response to comment 4.3.

61.5

Comment: “What type and category of pipe is to be installed?”

Response: See response to comment 4.4.

61.6

Comment: “If our only access road is blocked by a lagoon spill or broken pipeline, what will we use for

an evacuation route?"
Response: See response to comment 2.1.

61.7

Comment: "If my well water becomes contaminated from the lagoon leakage or flooding or a broken pipeline, what recourse do I have to access clean water?"

Response: See response to comment 4.6.

61.8

Comment: "If you issue this permit, will it be posted for public view?"

Response: See response to comment 4.8.

61.9

Comment: "No, I just -- like, on our bulletin board here or someplace public?"

Response: The permit is public information. The Commenter may post the permit where he deems appropriate without authorization from the Bureau.

Note: This commenter is the AVTAB Vice Chairman.

61.10

Comment: "To our knowledge, the Federal Emergency Management Agency National Flood Insurance Program has that dairy property in section 18 in flood zone letter A. That means it's in a flood zone. It just doesn't have a recorded depth."

Response: See response to comment 2.3.

61.11

Comment: "will the Nye County flood damage prevention permit adjoin or somehow work with your permit?"

Response: See response to comment 4.9.

61.12

Comment: "Okay. What working relationship do you have with the Nye County health officer?"

Response: See response to comment 4.11.

61.13

Comment: "Will there be any public warnings along Farm Road when the wheel lines are spraying lagoon water on your car?"

Response: Part I.A.19. of the permit has been revised to require warning signs on the perimeter fences of all fields irrigated with process wastewater.

Clifford Powell

62.1

Comment: "I had a question, but I don't think I really have to ask it, and that was are you aware of all the discrepancies in this application? I think it's been shown pretty clear tonight that there --"

Response: The hearing attendees were encouraged to bring any discrepancies to the Bureau's attention. Discrepancies have been corrected.

62.2

Comment: "There are. For example, where's this dairy going to be put? You've got -- on one sheet, it's in Township 16, Range 48, Section 18. And on the other fact sheet, it says Section 20.

Response: The dairy will be located in Township 16, Range 48, Section 18.

62.3

Comment: "...it's my next-door neighbor. The very good corporate neighbor.

"But, anyway, there's another flaw in the sheet. There's -- This 387 acres was never completely the Buchannon Ranch. Buchannon Ranch. There's 278 acres down there at that

facility, not 287, not 387, if you combine the number for both fields, field 19 and field 11; but they've added another 10 acres there somewhere to the property at field nine -- at the location at 19, field 19.

“So there's a lot of discrepancies in this thing that I think you need to take a look at.”

Response: The former name of the dairy site, Buchanan Ranch, was included in the fact sheet to assist those who may not be familiar with the coordinate systems to identify the subject property. It is acknowledged that the eastern land application area, the 100-acre field #11, was not part of the Buchanan Ranch acquisition. The actual acreage of the former Buchanan Ranch is not pertinent to the permitting process. As part of the NMP, the Permittee is required to determine the drainage area of the production area for runoff/lagoon storage calculations and the land application areas for nutrient application rates.

The Commenter did not identify any other discrepancies.

Pat Minshall

63.1

Comment: “I've got to say, it bothers me greatly that you were unable to answer most of Mr. Stengel's questions. I want to get that out first.”

Response: See responses to comments 61.1 through 61.13.

63.2

Comment: “We also have a dairy here, operating, that it appears that the policing of it is very questionable, at best.”

Response: Comment noted.

63.3

Comment: “I don't understand how you appear to be looking at this from an independent-agency perspective instead of a multiple-agency perspective, which addresses all of the various types of pollution, that you only can be considered the water pollution and not all the other pollutions that we are facing.

“And that just does not make sense to me. It sounds like we're opening the barn door and letting everything get away from us.”

Response: See responses to comments 4.16 and 4.17.

Jan Cameron

64.1

Comment: “By the way, Mr. Stengel's question about the road being blocked is not rhetorical. The only other road into his property was blocked by this company when they took over the property of the Buchannon Ranch, so that there is only one road of access into the homes of a number of the citizens in this valley.”

Response: See response to comment 2.1.

64.2

Comment: “I want to second what Pat Minshall just said on behalf of the community. I'm chairman of the county advisory board. We were asked by a large number of our citizens to take to our commission this issue of the possible dairy being built at the end of Farm Road and the possible negative impacts upon this community regarding our water, our air, our lifestyle.

Response: See responses to comments 63.1 through 63.3.

64.3

Comment: “I realize that your jurisdiction is water. Under the NRSs, as they are currently written, and the regs, as they are currently written, that is your only jurisdiction. But that is unfortunate. Because there are many other potential impacts.”

Response: Comment noted.

64.4

Comment: “And when we went to the commission, we were told very clearly that you are our only recourse, that NDEP was the sole jurisdiction that had authority over CAFOs in our area. So when this community is told that the only issue that you can deal with is the waters of the state, it's an extremely frustrating thing, as you can see.”

Response: See response to comment 6.1.

64.5

Comment: “And that is why you are the recipients of a lot of anger this evening. Because there needs to be a cohesive approach to all of the environmental issues related to any businesses that might wish to come into any community in the state of Nevada, not just CAFOs; but there needs to be a cohesive approach to looking at the air, the water, the soil, and the entire environment.

“And that's what our citizens are really asking of you. And I realize you don't have that jurisdiction. But that's what we are concerned about.”

Response: See responses to comments 4.16 and 4.17.

Genne Nelson

65.1

Comment: I'm a resident of Amargosa Valley. I work at Yucca Mountain. And for the last six years, a lot of my work has been involved with the Nye County early warning drilling program. And I also am on the community advisory board for the NTS. So I have been focusing on the underground contamination of the Test Site and its potential impacts for this community as well.

“So even though I'm not a hydrologist, I have been forced into reading a lot of reports in this area.

“Our community's proximity to the Nevada Test Site and the Yucca Mountain Project make this one of the most geologically and hydrologically-studied areas in the country, if not in the world.

“I think that NDEP can really benefit from this information that's available. And what I'd like to do is point out a couple of sources tonight that might help shed some additional information specifically to our area.

“A study by the U.S. Geological Survey was conducted in Amargosa Valley and released in 2003. And it, basically, showed that irrigation water applied to fields is several times annual rainfall rate and would, in fact, reach the groundwater table, even though that's a hundred feet deep.”

Response: See response to comment 17.2.

65.2

Comment: “I brought a map out of one of the reports. And this is one of the regional groundwater models that they have provided. It's the first map that you have in there. And, basically, it shows -- the white arrows show the general direction that groundwater flows in this valley. This is from a report in 2002.

“Now, unlike the location of the present dairy, there are residential wells located downgradient of the proposed new dairy.

“And I would say that one way to guard against contaminants migrating into the residential

groundwater systems is to install monitoring wells in the vicinity of the dairy operations. There should be a minimum of three wells, one upgradient of the dairy operation. And that will tell you what the groundwater conditions are. And then have at least two wells downgradient that can intercept any potential flow that could contain contaminates.

“Another really important point is that the downgradient well should be placed such that, if contaminates are found, some type of mitigation can be performed before it ends up in someone's wells.”

Response: See response to comment 2.2.

65.3

Comment: “I would also recommend another resource that you can use is the Nye County -- I'm going to read this one, because it's long. The Nye County Nuclear Waste Repository Office in Pahrump has been collecting groundwater data in this valley for a number of years.

“And if you'll look at the next one. The next map is one that they have generated based on their data.

“And the reason I point this out is that it is possible, by increased groundwater pumping, you alter the groundwater flows. And if you alter the groundwater flows, you're going to alter the direction contaminants can flow.

“And that's what we're really wanting to look at. What are the potential -- Where would something go if something went? We'd kind of like to do some predicting, instead of just saying, ‘Well, if something happens, we'll worry about it then.’

“Nye County has also conducted pump tests here in this area. And they've come up with transmissivity rates of around 20,000 square feet per day squared. So that's -- the water in the alluvial aquifer moves pretty rapidly.”

Response: See response to comment 2.2.

65.4

Comment: “Another part of this irrigation study that was done in 2003 determined that groundwater recharge occurs under, under ephemeral streams. Now, the logic would say storms thaw, the water runs really fast, probably none gets into the ground. But this study indicates that it does.

“This new operation is going to be on the boundary of the Amargosa River, very close to the Amargosa River. So should there be any surface releases, there's a high probability of subsurface infiltration of some portion of that contaminate.

And “So I think these are -- these are things that are really important that you need to look at. there are some information available that you can use.

“This, basically, shows the location of the Amargosa River. This is the facility. This is the area where the dairy will be. And this is the location of the Amargosa River.”

Response: See response to comment 40.1.

65.5

Comment: “But in conclusion, I would say that, personally, I believe in private property rights. However, I do not believe that one person should profit at the expense of their neighbors.

“I think the NDEP should review this operation very carefully. They're on the edge of an alluvial fan. There's a potential for very rapid erosion if we have one of our summer

thunderstorms like we had in 2004, and wiped out Death Valley's road in one event.
Response: Comment noted.

65.6

Comment: "We want you to impose restrictions that will protect the environment. And that's what we're asking, to look at this very carefully, look at all the physical factors, and base your permit conclusions on that."

Response: See response to comment 2.2.

Jean Adams

66.1

Comment: "I would like to just also confirm or support the comments that were made by Pat Minshall and Jan Cameron on the lack of information that you have."

Response: See responses to comments 63.1 through 63.3 and 64.1 through 64.5.

66.2

Comment: "I think, we've learned a lot more information from people that have done studies of the area than you seem to know. And that really concerns me, because I feel that you have not looked into the things."

Response: Comment noted.

66.3

Comment: "I also feel that the federal government has kind of handed this over to the states. Because it takes the EPA so long to come up with things."

Response: See response to comment 6.1.

66.4

Comment: "And I wish that NDEP would take a look at what has happened in other states, and start paying attention to that before they just hand out these permits at random."

Response: See response to comment 14.6.

Ruby Happel-Holtz

67.1

Comment: "And I am here to represent Whispering Winds Estates. There are 16 families living on Diablo Road. They all have wells. And we're all very, very concerned, because we back right up to the Amargosa Valley River.

"And I would like to say that I agree with every single thing that everybody in here has said. And I think that the EPA is supposed to represent people, not cattles."

Response: Comment noted; see previous responses.

67.2

Comment: "And I demand that you look at all of the people in this room and take note that we are all concerned about what's going to happen to our water, to our wells. What if? Will you do this? Will you do that? You don't know what you're going to."

Response: See response to comment 2.2.

67.3

Comment: "So I think -- I agree with everyone else. You need to get more information. You need to sit and look at these people's face, because we're all worried about whether or not we're going to have drinking water."

Response: See response to comment 2.2.

67.4

Comment: “When my husband came out here, Amargosa Valley, he came out here 38 years ago. He came for the good air, the wonderful water, the beautiful scenery, and space. On his 200 or more acres, we now have families living there.

“So I beg you, please consider the people here in this valley and what they want, not so much the dairy. You're supposed to represent us. You are a protection agency for the people, not for business.”

Response: Comment noted.

Christie Terraneo

68.1

Comment: “I'm an R.N. I have a bachelor of science degree in nursing, and I have a master's degree in public policy and administration. So when we were confronted with this problem by the dairy, I decided to do a little research. And I will submit my paper here in just a moment, because I only brought two copies.

“Currently in the nation, we have over 280 -- 238,000 feeding operations that produce over 500 million tons of manure. This is -- projection's put out by the EPA.

“These facilities are currently -- out of these 238,000, we currently account for more than half of those accounted for as feeding lots. And they produce more manure than any other type of livestock operation, from what I can determine, which is currently -- they estimate that they -- I'm going to quote this, because it's a number:

“The EPA estimates that the livestock in the United States produces a hundred 30 times the amount of manure than is produced by the entire human population of this country.

“That's a lot of stuff.”

Response: Comment noted.

68.2

Comment: “I know that you're not here to talk about pathogens. But I'm a nurse. So I have to. Pathogens will get into our water table.

Currently, these type of feedlots, these type of animals get antibiotics; 25 to 75 percent of these antibiotics, by EPA standards, are excreted by these animals into the water and the manure that we're going to apply to our land. This water then gets into our table, our water table.

“Currently, in our society, we have an extremely large amount of resistant diseases to antibiotics. There is -- Scientific evidence is out there right now. And emerging theories are, right now, that these antibiotics are being overused, are being used in excessive in our CAFO environments.

“And our human race is becoming immune to a lot of our diseases, the diseases that -- e-coli; MRSA, methi-resistant staph aureus; vaso-restrictor enterococcus. These are very important disease processes in this country.

“And our animals are being given antibiotics, and it's coming out in their urine in the manure. And we're going to spread this more in this valley. So we need to really be concerned about that.”

Response: See response to comment 14.1.

68.3

Comment: “We're also here not talking about the air. And yet air management is also of importance, because airborne pathogens from the dryness can create respiratory problems from the

manure that is being spread and the effluent that's being spread. So, again, it goes back to water-related issues versus just being out there in never-never land.

“Wind; again, not water. But the wind will pick up these dry dust molds and bacteria off of the manure that's being plowed to the plow level of 12 inches.”

Response: See response to comment 3.4.

68.4

Comment: “Am I sounding repetitive? Do I sound like it, when we were up here talking about sewer sludge, that we didn't want that in the valley? And so many of this is back to it.”

Response: See response to comment 8.1.

68.5

Comment: “The nitrogen issue, I understand your discussion about the nitrogen uptake. However, again, nitrogen will get into that water. Your plants aren't a hundred percent sure. Water converts to nitrates.

“Nitrates, to that sir who brought it up, is blue baby syndrome. Oxygen is replaced in a baby by nitrogen -- by the nitrates, by the -- and causes babies to have problems.”

Response: See response to comment 2.2.

68.6

Comment: “This is a valley of people. We're not – We identify ourselves as a rural farming community. But, geographically, we have sandy soil, we have an arid environment, we have unpredictable winds. They want to build this next to the Amargosa River. They're not going to be accountable for any runoff.

“I accentuate it. Because there is no accountability here. If I went into work as a nurse with as much unaccountability as this, I'm afraid you all would die.”

Response: Comment noted.

68.7

Comment: “So, in conclusion, there's a gentleman by the name of John Acre Patrick, who wrote a very interesting article on the appraisal of land values and contaminates. But the one sentence that was so important is that it is important to note that United States property is not owned. The rights of the property are owned. We don't own the land. We own the rights to that property.

“Property rights of individuals around these feedlots would lose the right of enjoyment, the right of exclusion and transfer, real estate economists, and appraisal practices, uniformly recognized, that many externalities, such as contaminates, may have a negative impact on our property values.”

Response: See response to comment 14.11.

Alan Hinman

The Commenter entered two photographs into the record.

69.1

Comment: “I've been in Amargosa Valley for about 10 years, and I've farmed the entire time that I've been here. I've grown just about every crop that is conceivable here, and a lot of them that aren't conceivable. So I know what works and what doesn't.

“I used the green water from the dairy for about four or five years, with no success whatsoever. The water had so much salt in it that every inch that was applied amounted to 60 pounds of actual salt per acre. So every inch that went on every day was putting 60 pounds per acre salt on. Even salt grass will not endure that.

“The pictures that I have there were taken on the flood-irrigated fields that are on Mecca, which is the only area that the dairy has had any success with in flood-irrigating. And that salt grass is dead.

“So I don't care what kind of crop. Bermuda grass won't even take that much salt. And Bermuda grass only will survive out here in July, August will it get green enough to be able to grow and uptake nitrogen.”

Response: The permit requires monitoring of the crop yields. Excessive salts may reduce crop yield, which will result in a reduction of the allowable nutrient application rates.

69.2

Comment: “I have real concern with moving green water through a pipeline. There is no pipeline that's able to withstand breakage from ground movement or anything. So if the pipe breaks, and the water starts going in, it will be in the ground before, and way down before they would ever even know that it was leaking, just from the nature of this soil here, our sandy soil.”

Response: Sanitary sewers, including force mains, and effluent reuse lines are routinely constructed below ground. Per “Recommended Standards for Wastewater Facilities” Great Lakes-Upper Mississippi River Board of State Public Health and Environmental Managers, sewer leakage shall not exceed 200 gallons per inch of pipe diameter per mile per day for any section of the system. The Bureau will require the pipeline design to comply with this limitation. A buried pipeline is less likely to be damaged/broken than a surface pipeline parallel to a road. Buried pipelines are not constructed to withstand significant ground movement. The pipeline will only be pressurized during irrigation. If the pipeline is broken, the process wastewater will not be delivered to the land application field.

69.3

Comment: “The other thing that we need to take into consideration is that the dairy massively overpumps all their irrigation wells. If five acre-feet is the allowed use, they pump seven acre-feet to produce a crop of alfalfa.

“That's just -- Everybody that's been out here and grown alfalfa for years knew that. When you pump from April till November, and you figure out what your water usage is, it's well over seven acre-feet.”

Response: See response to comment 10.17.

69.4

Comment: “So I'm speaking from experience. And anybody that comes in here, who has never farmed here, has no idea what crops to grow and what will survive with the green water. So.”

Response: Comment noted.

William Happeny

70.1

Comment: “I've been out here for 25 years, raised my family out here. I got land right below where they're proposing to put this new dairy. They are my new neighbors. They've closed a road that we've had open for years out there.

“When I was raising my kids, we used to ride our bikes down to this Last Trails Ranch. And they were just little guys. And we'd get drinking, we'd drink out of these bubblers that come up out of the ground, you know. And I'd just hate to think of all that just going away for these people's business.”

Response: See response to comment 2.1.

70.2

Comment: "I built a house out there. We've -- It's been a good valley to me. But I'm ready to pack up and go, you know, because of this. Wonderful people out there."

Response: Comment noted.

70.3

Comment: "And this dairy's -- they've got an arrogance, along with their dairy air, that just, you know, is beyond all of us. And for you guys to be able to issue a permit, without coming out, without

checking anything that goes on with it, I don't understand that. I don't understand how that can happen.

"They're self-policed. And you guys issued this permit, for whatever reason, just because you can. It's -- It doesn't seem right."

Response: See response to comment 6.1.

70.4

Comment: "This rainwater, this flood lagoon, whatever, it's in a flood zone. How much higher is that going to be than the existing ground out there? You know, is -- the rainwater isn't going to hit this lagoon and then go up over the top of it and then in it.

"You know, this stuff is all -- this stuff is all at ground level, what they're doing now out there. When it rains, it washes right through my yard. It goes through Joyce's yard, and then it hits mine. You know, and it's all -- it's already busted through dikes that they have out there at the existing facility."

Response: See response to comment 2.3. The permitted facility has not yet been constructed.

70.5

Comment: "And then the smells, you know. Nobody -- It's not a dairy smell. A dairy smell isn't an offensive smell. This is a dead, rank, something other than manure smell. That's terrible, you know."

Response: See response to comment 10.13.

70.6

Comment: "It's something that we shouldn't -- We were there first. You know, I understand that these people should be able to do what they want. And I agree with that to a certain extent. But they're ruining our lifestyle out there."

Response: Comment noted.

70.7

Comment: "You know, they dumped truckloads of manure for a week period over the summer, and we couldn't go outside and barbecue. You know, and that's 600-foot on the property line. So. Anyway, I would appreciate it if you could stop it."

Response: Comment noted.

Richard Claessens

71.1

Comment: "I live at the corner of Amargosa Farm Road and Tamarack, right next to the -- I think it's field number 11, I think he called it.

"In the past, they have brought solid manure and deposited it for some soil augmentation. And there never seemed to be any serious problem. I don't think any of the farmers -- Anyone who's ever farmed anything out here has put stuff in the soil to make things grow.

“The drying manure was spread. And a few days of smell, we could tolerate that, and it's part of being in a farm country. But liquid, which comes in your realm, is a whole nother issue.”

Response: See response to comment 10.13.

71.2

Comment: “The liner or not, they're dealing with not only storing large amounts of extremely nitrated effluent, but they're talking about pumping it through a pipeline.”

Response: Comment noted.

71.3

Comment: “The neighborhood I live in has quite a few families. I've estimated in that quarter-section right next door to the more eastern lot, or field there, there are 40, at least 40 families. I don't know, near Willy, how many more there are, but I'd guess there's probably at least 30 families down there, equating to about a hundred people in all, or more, drinking the well water nearby.

“A lot of those are little children, including my own, who are five and six, who have, by the way, coincidentally, are not -- never cease to have respiratory illnesses and problems since we've lived there, since the operation's there.”

Response: See response to comment 2.2. The permitted facility has not yet been constructed.

71.4

Comment: “We got young families, young children, we got a lot of elderly people who live on this water system. The point being, is that we cannot afford any kind of compromise to our water quality.

“It already has been compromised somewhat by the use of the water, which is lower the aquifer a little bit and caused a change in the nature of the water we drink, although it's still very potable.

“My concern for this location is, of course, the drinking water quality in the community.”

Response: See responses to comments 2.2 and 10.17.

71.5

Comment: “And, of course, it's not your area, but the air quality and vectors, incense and stuff that can bring disease and bacteria. And, of course, as has been mentioned earlier, airborne bacteria.”

Response: See responses to comments 3.4 and 2.5.

71.6

Comment: “And then, as Willy put out just now, the quality of our life.”

Response: See response to comment 7.5.

71.7

Comment: “Again, this doesn't fall under the water jurisdiction. However, it seems the decision has fallen in your lap. So I know you're only supposed to consider water issues and water -- the use of water, or wastewater management. But I think you should take all of these other things into consideration as you choose whether or not to issue this permit.”

Response: See response to comment 6.5.

71.8

Comment: “So I move that you do not issue the permit. In fact, I appreciate the economy that the dairy brings; but I don't think this is a very prudent thing to do, nor is it a benefit to the community.”

Response: Comment noted.

71.9

Comment: “My father is a grade four wastewater treatment operator. And for 30 years, I have been around water treatment and wastewater treatment and exposed to it a great deal. I'm not a wastewater treatment operator myself, but I certainly have been around it.

“I know he worked for the City of Los Angeles for 30 years. And I know that they have human waste containment in things like Hyperion and other water treatment plants, but they're almost always removed where citizens are nearby, or they're enclosed in such a way as to prevent the pollution of the local area.

“I think, if they would apply the standards they have for human waste ponds, like the one I managed at Long Street for a short period of time, I think you'd probably have a whole lot less concern about our groundwater.

Response: Process wastewater at a concentrated animal feeding operation is not as highly regulated as domestic wastewater.
See response to comment 2.2.

71.10

Comment: “But I would ask that you deny the permit based on the impact to the local groundwater.”

Response: See response to comment 2.2.

Bill Barrackman

72.1

Comment: “What I've just given you is a copy of a letter that was published in 2003 by the American Public Health Association. And it cites several reasons in there for communities in America to not build any more of these factory farms.

“Mainly, those reasons have already been stated here, regarding pathogens and the potential for pathogens to get in the groundwater, airborne pathogens coming off of the sprays, and so on, that -- when these effluents are spread on the land.”

Response: See responses to comments 14.6, 2.2, 2.5, and 37.3.

72.2

Comment: “Now, you know, we can talk a lot about leakage and how safe these lagoons are built. But then you're going to take that material and pump it out onto the land. And in some cases, you're actually going to spray it into the air.

“So, in my opinion, it has little bearing on the safety to the community, of whether that lagoon is lined or not, because you're going to be putting this stuff right on the land.

Response: See response to comment 11.1.

72.3

Comment: “And I would urge that you deny this permit.

Response: Comment noted.

Bruce Crater

73.1

Comment: “Gentlemen, I -- and ladies, I respect your positions, the job that you have to do, your restrictions in your job, and what you have. However, your title is Water Pollution Control.

“The best way to control water pollution is to make sure that an accident never happens. You cannot guarantee that if you issue this permit.

“If you cannot guarantee this, then you are assuming a liability for each and every citizen in this valley that is subject to any health or welfare detriment.

“I'm not trying to lay this on you, but I am just saying that water pollution control is only controlled if you absolutely prevent any accidents. That can't be done at this location.

Please deny the permit.”

Response: Comment noted.

Sherry Donegan

74.1

Comment: “My family moved out here in 1959. I have enjoyed the water. I've enjoyed the air. I've just enjoyed life out here.

“And we, as American citizens, have a right, as the dairy has a right, but when one person -- for our freedoms. But when one person's -- what they do affects my freedom and my quality of life, that's not right.”

Response: Comment noted.

74.2

Comment: “And I have a husband that is ill. And I am concerned that -- I live very close, within a half a mile of this lot 11. And his immune system is down because of his illness. And he can -- will contact no telling what, that's put off from this, the water and from the air.”

Response: Comment noted.

74.3

Comment: “And I just would like for you to deny this permit, please.”

Response: Comment noted.

Michael Simpson

75.1

Comment: “I've lived in the valley for quite a while. In fact, the last time the dairy asked for an expansion, I wrote a letter; and they sent back, saying there was not enough comments, so they went ahead and approved it.”

Response: This is the first CAFO permit application for this facility.

75.2

Comment: “But my question is that this dairy will not stop expanding. Once this goes through, there will be more expansion after this. You can almost guarantee it.”

Response: See response to comment 10.25.

75.3

Comment: “The other thing is, is if it hadn't been for the spill back in '98, we would not have had the controls down at the present dairy on Mecca that we have now.”

Response: See response to comment 14.6.

75.4

Comment: “This dairy is not a good neighbor. You need to know that. They will not be a good neighbor at this location, because they're not a good neighbor at the other location. They don't respect other people. They're not careful of other people. And they're not watchful for other people.

“And what happens is -- you see what's happened already at that location, where they've closed that road, and the other things that they've done, working in the middle of the night, when they should be not working and let people sleep, things like this.”

Response: The hours of operation are beyond the regulatory authority of the Bureau.

75.5

Comment: “But when it comes to water -- I mean, that's what you're dealing with, is the water -- you're going to find that this dairy will not be any more careful than the other dairy on Mecca. And you're going to find, too, that they'll have their problems, and they'll cover them up.

“And with no regulatory agency -- You say you are. But, in effect, you really aren't, if you're not monitoring what's going on. With no regulatory agency you'll find that the permit is just a piece of paper to allow the dairy to do whatever they want.

“They're not -- They've already shown that they have not addressed future problems, did not address present problems that will be there at the dairy.”

Response: See responses to comments 6.1 and 10.14.

75.6

Comment: “And so what's happened is -- with your permit process, what you do is you allow a corporation, such as this, just to pollute.

“So, in effect, you're not really regulating; you're just allowing it. And that's a real problem when the agency, like yourself, which is a state agency, is just allowing things to happen.”

Response: See responses to comments 6.1 and 6.5.

75.7

Comment: “In other words, you're not really regulating; you're allowing. By doing that, you're affecting a lot of people, a lot of people here in the valley, a lot of people here in the future, with children and things like this. Not only property values, but you're affecting the land and the water system in the future.”

Response: See responses to comments 7.5 and 2.2.

75.8

Comment: “If you don't know what will happen in five years from now with the water, then you really will not know what will happen in 10 years or 15 years. And it will only get worse.

“The question I have, too, is if the permit is approved, and they have a five-year permit, what happens in five years from now? Do they have to apply for another permit? If they do, can it be denied at that time?”

Response: If the Permittee would like to continue operating after the permit expiration date, the Permittee must apply for a permit renewal at least 180 days prior to the permit expiration date. All water quality aspects of this project will be reviewed upon application for permit renewal. A permit renewal may be denied.

75.9

Comment: “I know your process probably will allow it. But really, truly, you folks are the regulatory agency -- you may deny it, but you really should be, and you surely are -- that can deny this permit. You're the only ones that can do it.

So we're appealing to you to deny this permit. Because there's too many variables, too many things that you don't know. The dairy may know, but the dairy will not tell. And if they won't tell, you'll never know. When they do tell, they're only going to tell you what they want to tell you. You can't be sure that their reports to you are accurate.”

Response: Comment noted.

75.10

Comment: "And as far as trust level, when it comes to this dairy, trust level is really, really low. They don't monitor the regulations now, for anything. Whether it's air quality, whether it's water quality, or whatever they're doing, they don't monitor any of that. So, in effect, you cannot trust these people."

Response: Comment noted.

Jan Cameron

76.1

Comment: "Do you cross-check so that people won't get three or four mailings if they sent letters with all zip codes?"

Response: The Bureau has attempted to minimize duplicate mailings, but it is preferable to mail too many copies of the NOD than to miss anyone who has expressed an interest in this permit.

Bill Barrackman

77.1

Comment: "When will that decision be written?"

Response: The estimated timeframe for completing the NOD was exceeded. The date of the NOD is on the first page.

Unidentified Man from the Crowd

78.1

Comment: "Pending appeal, would everything else be held up? If we don't like the decision, and we appeal, is that preventing them from proceeding with their -- In other words, is the permit effective until the appeal is reversed? A lot of damage can be done in a short period of time."

Response: Per NRS 445A.605, the State Environmental Commission has the authority to affirm, modify, or reverse any action of the Bureau which is appealed to it.

Joyce Powell

79.1

Comment: "I live right next to the dairy. And my concern is the water."

Response: See responses to comments 2.2 and 6.1.

79.2

Comment: "Plus, this summer, we had so many gnats, you wouldn't believe it. We have a jar [estimated volume one quarter] full of gnats that we captured in two days from the dairy, from the grass they're growing right now.

"From the grass. From the proposed dairy.

"That's two days. In two days, we did that."

Response: Comment noted.

Bruce Crater

80.1

Comment: "We have the privilege of appealing your decision. I would hope that you wouldn't make your decision with -- considering the leeway that we have the privilege to appeal, in making that decision, based off the decision for you. We would like this to be a hard decision."

Response: The decision will be made based upon our authorities given to us through the Nevada Revised Statutes and the Nevada Administrative Code.

80.2

Comment: “And we hope that you also will depend on the democratic process of many people voting for one thing.”

Response: See response to comment 80.1.

Christie Terraneo

81.1

Comment: “Just one request before you all make your final decision. You take a tour. Go out to the property. See who we're talking about.

“It's my understanding, from the conversation, that you folks haven't been out there yet. See where this dairy butts up against. See where the Amargosa Valley River actually lies in relationship to this dairy. The road closures. The depth. I know that we reported a hundred 30 feet down to the water table. We have a multitude of different water tables in this valley. And the flow rate.

“I beg of you. Please, drive out there. Take a look at our community. And see what we actually look like.

This is the second time, Bruce, that we've been in here with you; and you have not gone out and looked before we get in the discussion phase. Please, look at what we are.”

Unidentified Man from the Crowd: (Tape inaudible) – “the citizens, not with one of their representatives.”

Response: Bureau staff had inspected the proposed dairy site twice before the December 13, 2005 Public Hearing with the Permittee's representatives. Bureau staff have not inspected the site since the hearing and have not inspected the site with citizen representatives.

Richard Claessens

82.1

Comment: “you represent the water, state water, and you're also with public health?”

Response: The three state employees who conducted the Public Hearing were representing the Bureau of Water Pollution Control, Division of Environmental Protection, Department of Conservation and Natural Resources, not the Department of Health and Human Services or Nye County Health and Human Services.

82.2

Comment: “So based on what we've heard -- just for the record, we're all worried about our water. We want you to deny this permit.”

Response: Comment noted.

Division Permit Revisions

In response to concerns about discharges from subsurface drainage systems, the permit, Part I.A.10., has been revised to require a description of the recovery and reuse of any water collected by this type of system. The facility is not known to have a subsurface drainage system.