



# Dairy CARES Report

February 2008

[www.dairycares.com](http://www.dairycares.com)

## Message to misguided activists: Lawsuits divert resources from solving environmental challenges

There is no doubt that Central Valley dairies are already under the toughest water quality regulations in the United States. At 128 pages in length, the rules adopted in May 2007 require record-keeping, reporting and monitoring for nearly every aspect of a dairy. Wells must be sampled. Plant tissue, soil and irrigation water must all be tested. All manure and fertilizer applications must be balanced and accounted for. Expert help from agronomists, environmental laboratories and engineers is required at various stages of the process. The requirements are so complex that they must be implemented in stages. This requires a series of classes, led by the California Dairy Quality Assurance Program and the University of California, to assist dairy producers in getting up to speed.

All of this takes time and money. Central Valley dairy families have stepped up with a compliance rate approaching 100 percent. The regulations will cost at least \$30,000 per dairy per year, according to independent estimates, not to mention countless hours. CARES member organizations have spent hundreds of thousands of dollars in staff time and expert help to assist dairy families in complying with the regulations. California water quality officials, funded by taxpayer dollars, have also devoted hundreds if not thousands of hours of staff time to develop a workable program that will improve and protect water quality for the people of California without putting one of the Central Valley's most important economic segments – responsible for hundreds of thousands of jobs – out of business.

This all must sound like great progress, and it is. However, there's an old saying that "no good deed goes unpunished." Perhaps in an attempt to prove as much, activist groups on February 15 tried once again to derail this highly productive process by filing two lawsuits in Superior Court for the County of Sacramento. Ironically, the lawsuits say little of substance about the rules. Rather, these lawsuits mostly argue that dairies should be regulated by the federal permits instead of state permits (sort of a silly argument given that California rules are tougher anyway). They also argue that the state broke the law because it didn't do enough paperwork in preparing the rule and should have also done an Environmental Impact Report. However, the law clearly states that government agencies are not required to prepare EIRs when enacting tougher requirements for existing businesses.

These anti-dairy groups made the same exact arguments in May 2007 before the Regional Water Quality Control Board. Repeating the arguments in a courtroom doesn't make them any more convincing than they were a year ago. It does suggest that these groups have very little respect for the public process (which involved compromise on all sides, and very burdensome regulations for the dairy industry) if it doesn't go their way. In contrast, dairy families faced with

the challenges of tough, expensive new regulations didn't go to court to try to delay the process, but instead rolled up their sleeves and began investing effort and funds to reach compliance.

It's especially telling that activists were unable to convince even a single Regional Board member to go against their professional staff's recommendation. The Board – a diverse and bipartisan group including several who have dedicated their lives to protecting the environment and water quality – voted unanimously to adopt the dairy regulations.

Undeterred by the 8-0 Regional Board vote and unwilling (or not caring) that their legal position just might be wrong, the activist groups appealed to a higher authority, the State Water Resources Control Board. The State Board attorneys also found the groups' arguments merit-less – so much so, the Board decided the matter did not even warrant a hearing, and summarily dismissed the activists' "petition for review" in January.

It's possible these two stunning and complete rejections of the activists' legal arguments might have caused them to pause and consider whether it was wise to proceed with a further appeal to the legal system. But they did not pause long and within weeks filed the lawsuits, coupled with a news conference in Fresno.

"We're very disappointed," said William Van Dam, chairman of CARES. "It's truly unfortunate that the groups continue to devote public resources toward political grandstanding and away from public health."

CARES Executive Director Michael Boccadoro pointed out that the water quality regulations have been in place more than a year and that substantial progress has already been made.

"These rules are the most stringent anywhere and need to be given a chance to work," Boccadoro said. "These actions will unfortunately divert the attention of our water quality officials away from the important job of protecting our water resources, and instead bog them down in the legal process fighting this baseless lawsuit."

CARES member organizations are monitoring the process closely and will remain engaged going forward. Our organizations will defend against these baseless lawsuits.

Even as this unfortunate political sideshow plays out, CARES will continue to work to make sure Californians know the real story: **California dairy families are working hard and investing significant resources to create real environmental improvements**, with hard work and cooperation of California water officials, the University of California, the CDQAP and CARES member organizations. The time for board rooms and courtrooms is over – dairy families are doing their best and making a positive environmental stewardship difference where it matters – in the real world.

*CARES is a statewide coalition supporting economic and environmental sustainability for California's dairy industry. CARES members include the Alliance of Western Milk Producers, Bank of the West, California Dairies Inc., California Dairy Campaign, Dairy Farmers of America-California, Dairy Institute of California, Hilmar Cheese Co., HP Hood, Joseph Gallo Farms, Land O' Lakes, Milk Producers Council, Saputo Cheese, Turlock Dairy & Refrigeration, Western United Dairywomen, and others. For information about CARES, visit our web site at [www.dairycares.com](http://www.dairycares.com), write [dairycares@aol.com](mailto:dairycares@aol.com) or call 916-441-3318.*