



Item 5-A, Horsepark Ad-Hoc Committee Report

Background:

In December 2020, the 22nd District Agricultural Association (22nd DAA) announced a pause of equestrian uses at Horsepark. As reported at the January Board meeting, there were a series of events that led to this decision outlined below:

- 2015 – State Water Resources Control Board adopted a new Industrial General Permit (IGP) that included equestrian facilities greater than 499 horses (Large CAFO – Concentrated Animal Feeding Operations).
 - This applied to the 22nd DAA’s main campus due to horse racing and eventually led to the Water Quality Improvement project currently underway.
- May 2019 – The Regional Water Quality Control Board (RWQCB) adopted Conditional Waiver for Low Threat Discharges which requires enrollment for equestrian facilities of between 150 to 499 horses (Medium CAFOs).
- September 2019 – The 22nd DAA submitted its notice of intent to enroll in the Conditional Waiver. The notice of enrollment included a commitment to cease hosting horse shows in excess of 499 horse, thereby avoiding the Large CAFO classification.
 - The 22nd DAA estimated that the cost of the remediation necessary to comply with the Conditional Waiver would be approximately \$3 million.
- January 2020 – The 22nd DAA ceased hosting large horse shows in excess of 499 horses at Horsepark.
- March 2020 – The 22nd DAA obtained coverage for Horsepark under the Low Threat Conditional Waiver and agreed to a schedule of improvements – again, estimated to cost approximately \$3 million.
- April 10, 2020 – San Diego Regional Board (Regional Board) notified two similar Medium CAFOs in Orange County that they are required to obtain coverage under the Industrial General Permit (IGP) unless they can demonstrate that there are no “Discharges pollutants (including manure or process wastewater) into waters of the United States through a man-made ditch, pipe, or similar device. (40 C.F.R. § 122.23, subd. (b)(6).)”.
 - November 11, 2020 – Equestrian Services, another similar Medium CAFO in Orange County, entered into a consent decree requiring it to enroll in the IGP and develop a Nutrient Management Plan that includes a 10 year/24-hour retention standard to address the requirements of the Low Threat Waiver. The consent decree was reviewed and approved by District Court and the Department of Justice. The Regional Board did not voice any objections.
 - January 1, 2021 – Rancho Sierra Vista, another similar Medium CAFO in Orange County, entered into a consent decree requiring it to enroll in the IGP and develop a Nutrient Management Plan that includes a 10 year/24-hour retention standard to address the requirements of the Low Threat Waiver. The

consent decree was reviewed and approved by the District Court and the Department of Justice. The Regional Board did not voice any objections.

- Given the similarity of the previous mentioned facilities in Orange County to Horsepark, the 22nd DAA took the responsible course of action to protect itself from possible third party civil actions and paused equestrian activities at Horsepark in 2021 while it seeks answers to these latest developments in order to determine if the 22nd DAA will be subject to enrolling Horsepark in the IGP. As of yet, the Regional Board has given no indication or assurances otherwise.
- Best estimate to address the requirements of the Industrial General Permit for the 22nd DAA at Horsepark (remaining a medium facility) or to demonstrate non-discharge to a Water of the United States is in the range of an additional \$3 to \$5 million *in addition* to costs to address the requirements of the Low Threat Waiver – for a total of \$6-8 million.

Also at the January Board meeting, the Horsepark Ad-hoc Committee was appointed to work with staff and the community and to hold a public workshop to allow the community to express their thoughts and interests regarding Horsepark in order to allow a fuller and further discussion about regulatory requirements, fundraising interests, etc. The workshop was held on January 29, 2021, and the committee brought the input received back to the full board at their meeting on February 9 and sought further direction from the board to properly identify next steps and set expectations, recognizing that decisions about Horsepark must be made within the context of a strategic planning process and broader discussion of the 22nd DAA's ultimate long-term Master Plan of facilities.

Direction received from the board at that meeting was to gather additional information and provide regular updates to the board, including a better understanding of the range of cost estimates, ongoing operational costs associated with the 22nd DAA continuing to operate Horsepark, historic profit and loss of Horsepark operations, past capital investments/improvements, estimated costs for needed future capital investments/improvements including deferred maintenance, consideration for the potential changes in requirements associated with RWQCB permits, and funding opportunities.

Process and Approach:

The committee and staff continue to move with deliberate speed to define a path forward, providing updates and information at regular intervals to the board, with the goal of presenting several scenarios for the full board's consideration this summer. At this time, three potential scenarios that have previously been mentioned and may be presented for final consideration include:

- 22nd DAA operates Horsepark
- Public/Private partnership
- Third-party operator

First and foremost, in order to directly address the uncertainty regarding what may be required at Horsepark, the attached letter was sent to Regional Board staff so that they can provide clarification that will allow the board to make an informed decision on a path forward.

In the meantime, following up to some of the requests made by the board at their February 9th meeting, the following definitions and information are provided.

Concentrated Animal Feeding Operation

The National Pollutant Discharge Elimination System (NPDES) regulations define a concentrated animal feeding operation (CAFO) as any Animal Feeding Operation (AFO) that either meets a certain animal population threshold, or, regardless of population, is determined to be a significant contributor of pollutants to waters of the United

States by the appropriate authority [40 C.F.R. § 122.23(b)(2)]. CAFOs are the best fit for equestrian uses and apply to all types of animals including cattle, swine, chicken, and dairy cows. For the 22nd DAA's purposes of equestrian uses, there are three CAFO classifications:

- Small – up to 149 horses
- Medium – 150 to 499 horses
- Large – more than 499 horses

Range of Costs

The primary reason for the large differences in costs are related to several different potential scenarios. The 22nd DAA based its costs off the implementation of the Waiver permit, plus these scenarios. As a reminder, the original estimate associated with the Waiver was approximately \$3 million.

- Compliance with the existing Waiver - ~**\$3 million**
- Waiver + IGP at a 85th percentile Storm Event (.65"), Medium CAFO only -**\$3-\$4 million**
- Waiver + IGP at a 10-year Storm Event (2.5"), Medium CAFO only -**\$4-\$6 million**
- Waiver + IGP at a 25-year Storm Event (3.25"), Large CAFO permissible - **\$6-\$8 million**

Additionally, these costs could change based on the design and layout of the facility. Current cost estimates are based on continuance of 2020 operations of 499 or less horses with all stabling, both permanent and temporary, in their historic locations. A design that consolidated stabling areas could potentially reduce costs.

On-Going Research

Staff met, via Zoom, with Laura Demarco and Carla Echol-Hayes to discuss their stated willingness to help with fundraising efforts given their stated lack of interest to become an operator of Horsepark. The meeting resulted in the need to gather more information by both parties and to reconvene to discuss. A second meeting date has not yet been identified.

Staff has also begun researching grant opportunities including Prop. 1, San Diego County Water Authority, and private funding sources. Most of the funding sources accept applications in two cycles annually. Grants available through state and local agencies prefer that environmental clearances already been obtained and, if not yet obtained, the application will receive a lower score. Additionally, these funding sources often require matching funds. More detailed information will be provided in subsequent reports and presentations.

A presentation of additional information to complement that provided in this report will be given at the March 9, 2021 board meeting.

Environmental/Coastal Commission Review:

None at this time.

Fiscal Impact:

The complete fiscal impact of water quality improvements, capital improvements, and ongoing operational expenses are unknown at this time.