



December 10, 2019

VIA HAND DELIVERY

The Honorable City Council Members
City of Corcoran
832 Whitley Avenue
Corcoran, California 93212

Re: Support Our Community: Solutions Over Litigation

Dear City Council Members:

This letter is submitted as public comment for the December 10 City Council Agenda Item No. 7-A, to Review the Nitrate Mitigation Study prepared by Corona Environmental.

We appreciate the City Council's direction to staff to report on the facts, following its November 12 meeting where the community came together to oppose the City's lawsuit filed against Curtimade Dairy and Ben Curti. This lawsuit is a false attack on farmers, dairies and the families that built this community by their back-breaking work. But these are hard times that have brought these family to their knees. We asked the City to support our community, dismiss the lawsuit, and choose **solutions** over **litigation**.

Choosing litigation is to give credence to the Corona report, which has been debunked in the more than three years since it was written. It appears the report was commissioned by two contingent fee lawyers from San Francisco who appeared to lure the City to begin the war on farmers and dairies with promises of easy money by filing lawsuits. The City paid for the tainted report which was prepared to coerce a litigation result. The City has since parted ways with those lawyers.

Because it was intentionally biased to support a lawsuit, the Corona report is wrong in many different ways. For just a few examples:

Lack of Expertise: The authors of the report lack the proper expertise. They are water treatment consultants. See www.coronaenv.com. They are not hydrogeologists or groundwater experts and did not have the necessary facts or experience in these areas.

No Understanding of Nitrates Reductions: The report incorrectly concludes that continued increases of nitrate concentrations in the City's wells or any others in operation

are likely. Given the authors' lack of expertise, it is not surprising that they are completely wrong. Nitrate levels have dropped since the report was prepared. Today, the City's own test results show there are no excess nitrates in the City's wells. The results also show that the wells closest to Curtimade have the lowest levels of nitrates. None of these facts are in the report.

Failure to Understand Subsidence: Because the authors don't understand the groundwater table, the report identifies purported solutions that only make the problem worse. The report suggests the installation of multiple deep water wells and completely ignores the risk of subsidence it could cause, a problem that every independent expert and farmer has told the City about.

Blending Water Required for Arsenic: The report acknowledges that the City must blend and treat its water for arsenic. It says this is not sustainable, but in the more than three years since the report, the City continues to successfully blend its water to reduce arsenic, as it has done since 2006. The City has never told the public its water is unsafe, as would be required by federal law. This litigation report is a false solution looking for a problem.

Choosing solutions is to listen to the independent experts at the State and Regional Water Quality Control Boards, and local universities and colleges, including the community members who submitted public comment to the City at the November 12th meeting. There are many real world, practical solutions that are completely omitted from the Corona report. For example:

SB 200 – The Safe and Affordable Drinking Water Fund: In July 2019, California adopted SB 200 to provide a safe drinking water funding solution for communities like ours. The legislation provides \$130 million for projects in disadvantaged communities to protect and improve their water supply. The farmer and dairy organizations offered to assist the City in applying for this funding.

Corcoran Irrigation District (CID) Well Swap: In addition, CID has proposed a well-swap, where the City would obtain an independent appraisal of its non-operating Well No. 8, which would then be acquired by CID. In return, CID would provide an easement AND funding, assisted by the farmers and dairies, to install a new well into a clean layer of drinking water.

Solve the City's Water Funding Crisis: Because the City's wells do not have excess nitrates, we are concerned that suing for "damages" is more for the shortfalls in the City's water budget. At the November 12 meeting, the City Manager disclosed that the litigation costs are coming from the water fund, and redirected to pay lawyers and for litigation costs such as the Corona report.

The City simply cannot afford this and should not do it. As early as January 2016, the City Staff requested an emergency water rate increase because of its shortfalls in meeting the debt service coverage requirements for the bond funding of its arsenic water treatment

facility. The City failed to meet the required 120% debt service coverage in the water fund, allowing the ratio to drop to a dangerous default level of only 94%. A copy of the report is attached.

The City should be open and transparent to the City Council and with the public about how it uses its water fund. To that objective, please accept this letter as a request under the California Public Records Act for all documents showing (1) the debt service coverage for the water fund from 2016 to present, and (2) the itemized and total amount of attorney fees, expert fees, legal costs, investigative expenses and all other costs and expenses related to the litigation (including the proceedings with the Regional Water Quality Control Board). We will share these documents with you and the public so that this information can provide a fully informed basis for a rational decision on how to proceed.

The right and moral decision is to choose solutions over litigation. The City should dismiss its lawsuit that drives a wedge into our community and exhausts both the City's scarce water funds and our families' resources. Instead, the City's leaders should choose to bring the community together to find solutions. The City's future and our family's future depend on it, and we will be better for this.

Sincerely,

Ben Curti and Tessa Hall

Attachment (City Staff Report 1/28/16)