22 December 2014

VIA EMAIL AND CERTIFIED MAIL
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Drew Lehman
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NOTICE OF VIOLATION, INCOMPLETE RESPONSE TO CALIFORNIA WATER CODE 13267 ORDER, RECOLOGY YUBA SUTTER, YUBA COUNTY

On 9 December 2014, the Assistant Executive Officer of the Central Valley Regional Water Quality Control Board (Central Valley Water Board or Board) issued an Investigative Order (Order or 13267 Order) pursuant to California Water Code section 13267, in order to gather specific information pertaining to an illegal discharge of leachate that occurred during a rain event on 3 December 2014.

Upon review of the response to the Order, signed by Drew Lehman, the Central Valley Water requires additional information to clarify Recology's 16 and 18 December 2014 submittal (Response). The following deficiencies, outlined below, must be addressed in order for Recology's Response to be considered in compliance with the 13267 Order.

Because the Response was missing information and requires follow-up by Recology, at this time, Recology may be subject to administrative civil liability of **$1,000 per day**, until the information required is submitted and evaluated by staff for accuracy and completeness.

Specifically, the 13267 Order required Recology to *submit by **16 December 2014**, a technical report containing the following:*

e. *"An estimate of the volume of compost make-up water applied during normal dry-weather conditions."*

The 16 December 2014 Response states, "Recology estimates that approximately 35,000 to 50,000 gallons per day of compost makeup water are applied during normal dry weather conditions. However, composting is a living process and water usage can and does vary based on the number of windrows, the ambient temperature, and site-specific conditions during the period of application." The above statement in the Response conflicts with the value provided on Page 7 of the January 2014 *Compost Area Leachate Work Plan* which states: "FRO uses approximately 15,000 gallons per day for compost make-up water." The value reported in Recology's Response is 2.3 to 3.3 times higher than the earlier value with no justification or data to support this increase in discharge volume. Board staff requires an explanation to clarify the discrepancy between the compost make-up water estimates provided to the Board.

g. "*A discharge plan for leachate collected in storage tanks that accounts for consecutive days of a 25-year, 24-hour precipitation event, or when the windrows are saturated.*

Upon review of the 18 December 2014 Response, Recology has changed the values in their runoff calculations and now reports that the "System capacity has been increased with 39 storage tanks now on site, with a total capacity of 819,000 gallons." Recology states that observed performance of the upgraded stormwater collection system indicate that "the pumping and storage capacity of the FRO compost stormwater runoff containment system on December 11, 2014 and December 12, 2014 are capable of managing the compost run-off occurring during a 3.16 inch, 24-hour storm event." What the water balance does not explain is how the upgraded collection system will balance volume flowing into the system and volume flowing out of the system. How will Recology dispose of leachate so the upgraded collection system has capacity to capture a 25-year,24-hour storm on multiple days?

To answer this critical question, Item (g) of the 13267 Order required *"a discharge plan for leachate collected in storage tanks that accounts for consecutive days of a 25-year, 24-hour precipitation event, or when the windrows are saturated"*.

Recology did not submit a plan responsive to this requirement. Rather, Recology reiterated its conclusions reached in the water balance with respect to achieving the appropriate capacity to manage leachate runoff generated during a 25-year, 24-hour storm event. Though it appears that Recology may have capacity for the 25-year, 24-hour precipitation event, it is unclear what controls or management practices are in place such that no leachate will be discharged should consecutive storm events occur. One of the questions the Board seeks to resolve is how will the leachate be disposed of and how long will it take to empty the 39 tanks to ensure that the collection system has adequate capacity for the next consecutive day of rain? Therefore, Recology must clarify how the collection and containment system will be able to have enough capacity for consecutive, 25 year- 24 hour storm events.

i. *A copy of the rental agreement and invoices for all storage tanks, including those added after the 3 December 2014 storm event.*

j. *The invoices and receipts from all supplies and equipment rented or purchased after 3 December 2014 for the leachate collection system.*

k. A copy of the discharge agreement with the City of Marysville for discharge of leachate into the POTW, along with a copy of the discharge invoices since 1 October 2014.

As indicated in the Response, and confirmed by Board staff's discussion with the City of Marysville (City), the Board understands that there is no formal discharge agreement between the City and Recology for the discharge of compost leachate into the sanitary sewer. Despite the absence of a formal discharge agreement, Recology's discussions with City staff indicated that the City could accept a maximum of 65,000 gallons per day. However, during the 3 December 2014 storm event, Recology disposed of approximately 160,000 gallons of leachate to the City's system. The Board took the initiative to schedule a meeting for the week of 29 December 2014 to discuss the conditions of discharge from the compost area to the City of Marysville sewer system so that all parties have a better understanding of the City's disposal capacity limits vis-à-vis Recology..

Finally, Recology's Response to Items (i), (j), and (k) indicates that additional invoices and receipts are forthcoming. These should be submitted as soon as possible, or in the alternative, Recology must provide Board staff the anticipated date for their submittal.

At this time, there are remaining issues outstanding with respect to Recology's response. Currently Recology's response is considered noncompliant with the 13267 Order because of the deficiencies outlined above. To remedy the issues identified above, Recology must submit the required information in order for the Board to consider the Response accurate and complete. Should Recology fail to provide the required information, Board staff retains the discretion to assess administrative civil liability in the amount of $1,000 per day, beginning on 16 December 2014 as the Response was not complete at the time of submission. Water Code section 13267 subdivision (b) requires that dischargers furnish their responses to investigative orders under penalty of perjury. As the party responsible for complying with the requirements of the Investigative Order, please ensure that Recology complies with this requirement in the future.

If you have any questions regarding this Notice of Violation, please contact Todd Del Frate at (916) 464-4737 or at tdelfrate@waterboards.ca.gov.

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