



EASTERN MUNICIPAL WATER DISTRICT

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September 10, 1999

Todd Thompson
State Water Resources Control Board
901 P Street
Sacramento, CA 95814

Re: Comments on DEIR and the Statewide GO for Land Application of Biosolids

Dear Mr. Thompson:

Eastern Municipal Water District (EMWD) is concerned that Mitigation Monitoring Program in Chapter 15 of the Draft Environmental Impact Report is unnecessarily restrictive. In item 7-1, the discharge is required to provide the following information in the pre-application report:

- Indicate whether the land application site contains natural terrestrial habitat areas,
- Indicate whether the land application site has been fallow for more than one year,
- Submit a report that states whether special-status species occur on the site.
- If special-status species occur on the site, the report must identify the measures that will be taken to mitigate or avoid impacts on these species. The report must be prepared by a qualified biologist.

EMWD's concern is that landowners, growers, and applicers are not qualified to know whether the first and third condition exists without the use of a qualified biologist. The effect of this requirement, whether or not the site as been fallow for more than one year, will be that biological surveys may be required for all land application sites. This requirement is costly, would require U.S. Fish and Wildlife review, and not consistent with the risks of the proper use of biosolids as a soil amendment and fertilizer on agricultural property. In addition, the agricultural community routinely put fields in a fallow state to restore the productivity of the land. The landowners and growers using manures or commercial fertilizers do not have to indicate whether habitat exists or whether special status species occur on the site. If this requirement is enacted, it should only be required on land that has been fallow for more than five years.

In regards to the General Order requirements, EMWD supports the issuance of the permit to the landowner, since the landowner has reason to protect the value of the property, and growers may change from year to year. We also believe the land applier should also be held liable for site operations and proper use of buffer zones, perhaps as a joint permittee.

If you have any questions, please feel free to call me at (909) 928-3777, ext. 6327.

Sincerely,

Anne Briggs
Compliance Officer

cc: Tony Pack, Deputy General Manager, Operations and Administration
Mike Luker, Director of Water Reclamation
Gary Ethridge, Director of Environmental and Regulatory Compliance

↑ 22-1 (cont)

22-1

Responses to Comments from the Eastern Municipal Water District

- 22-1. The commenter is concerned that Mitigation Measures 7-1 and 7-2 are unnecessarily restrictive and suggests that the threshold for requiring the submittal of biological reports for land that has been fallow for more than one year be extended to 5 years. The commenter also questions the need for these requirements since they do not apply to landowners and growers using manures or commercial fertilizers. Mitigation Measures 7-1 and 7-2 were developed to protect sensitive biological resources that could be present at sites that were not previously in agricultural use (such as open lands being converted to agriculture). It should be noted that the land application of biosolids will primarily be used on land in agricultural production. Because, based on Jones & Stokes' biologist's professional judgement, special-status species could re-enter areas that have been left fallow for more than one year, it is important to require surveys of these areas to protect biological resources.

Regarding the commenter's concern about landowners and growers not being qualified to determine if natural terrestrial habitats are present at the land application site, if a site has been fallow for more than 1 year, a report must be prepared by a qualified biologist. If the site where the land application of biosolids is proposed has been actively farmed, the likelihood of natural terrestrial habitat being present is nil because the area has already been disturbed.

Furthermore, the SWRCB is required to address the potential impacts of the land application of biosolids on biological resources, pursuant to the State Water Code Section 13274, which states, "The general waste discharge requirement shall . . . include provisions to mitigate significant environmental impacts, potential soil erosion, odors, the degradation of surface water quality or fish or wildlife habitat." Proposals to use biosolids for soil conditioning or adding nutrients is regulated through a permitting process and triggers the need to comply with the Water Code and CEQA. Currently, the use of animal manures or chemical fertilizers do not trigger a similar permitting process. Nonetheless, all landowners, including farmers, are subject to the regulations implementing the federal Endangered Species Act; therefore, they must consider impacts on protected species, regardless of the source of fertilizer material.