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Dear Roger,

I was pleased to be in attendance at the workshop held in Sacramento on the 27<sup>th</sup> of August. I thank you for the opportunity to comment on the proposed order regarding minimum requirements for compost facilities.

We in the industry are very much aware of the sometimes wildly divergent standards compost facilities are held to, even within the same region. The playing field is not even close to level with some facilities being required to construct pads and ponds while others, even though they present similar or even greater threats to water quality, have no such requirements. Secondly, when unregulated facilities are allowed to operate they do so without incurring business costs that compliant composting management units incur and therefore operate with an unfair business advantage.

I am glad the State finally recognized that compost management units are being exempted or allowed to operate without meeting responsible permit requirements and that they likely contribute to groundwater and surface water contamination.

I had been under the impression the purpose of this proposed order was to reduce water pollution by bringing some consistency to the regulation of compost facilities, so I was quite surprised to learn that the order is now to be optional at the Regional Boards' discretion. Was the order not to address the inconsistencies at the Regional level by establishing statewide minimum standards? It seems to me that allowing the Regional Boards to use it as a "suggested guideline" would defeat the very purpose of the order.

The prohibition you are considering of manure from omnivores and carnivores and sewage sludge should be reconsidered. If there is concern about pathogens, then address the concern with more stringent requirements and additional permitting. A blanket prohibition would hinder development of the compost industry and prevent the highest and best use of those materials. It is the same case with a prohibition of whole mammals.

I know I have mentioned this before, but it makes no sense to exempt chip and grinds and agricultural facilities. If these facilities receive the same materials as compost facilities, then they represent the same threat to water quality. In fact, during your presentation you showed a slide depicting contaminated wells and told us that agriculture is responsible for

most of the contamination. Why would one want to exempt the industry primarily responsible for polluting those wells from regulation aimed at protecting water quality? This appears to be an obvious defect in the proposal.

As I have previously explained, agricultural facilities and chip and grinds, with lower operating costs by virtue of exemption from regulation, divert materials from facilities that, because they have had to invest in protecting water quality, have to charge more to accept those materials. The result is that materials that would otherwise go to regulated facilities go instead to those exempt from this order. This approach has unmitigated “negative impacts” and it should have been considered under your CEQA review. As I did not receive a notice of the public hearing for the CEQA evaluation, can you provide me with a copy of the CEQA checklist and review documents?

I speak from experience with respect to this diversion of materials to unregulated operations. Cold Creek Compost has lost a significant amount of grape pomace to agricultural facilities. These ag facilities have lower operating costs because they are exempt from permitting requirements and are not required to protect water quality. Lower operating costs have allowed them to divert materials from our facility by undercutting our tip fees.

Cold Creek has also lost a large portion of the municipal greenwaste we once received to a chip and grind facility because it too has avoided permitting costs and is able to discharge its leachate, along with any runoff, directly into the river (with the Regional Board’s knowledge and consent) .

You mentioned that chip and grinds would be exempt from the proposed order so long as they are regulatory compliant. Do you know of a chip and grind that is in compliance with CalRecycle’s 48hour/7day limit for material to be on site? I cannot name one.

The 12,500 yard criteria used to determine whether or not a pad and pond are required should also be reevaluated. It is unreasonably high. This quantity of material can certainly pose a threat to water quality. 6,000 yards on site would be far more reasonable, as any facility with that much material is a commercial facility and should be subject to the requirement. I am aware that CalRecycle uses the 12,500 number, but does that justify the Water Board not considering the potential threat of using such a high figure.

There are two items you may want to consider in regards to the monitoring wells proposed in lieu of pad and pond:

- 1) What water does underground is not readily apparent from the surface. I know of a case where there most assuredly is underground flow but repeated drilling has failed to intersect that flow. How can one be sure the monitoring well is drilled in the proper place? It could be that the facility is in fact polluting but the monitoring fails to detect the pollution.

- 2) By the time the pollution is detected in a monitoring well is it not too late?  
Has not the ground water already been polluted?

I have listened to the objections to the proposed order and they seem to extend to any regulation of compost facilities. “We don’t need any rules – let us operate the way we want!” I have heard the laughable argument that leachate from greenwaste doesn’t exist or is somehow benign. I have heard that such a minimum standard would put facilities out of business and reduce the amount of material being recycled. I hope that the Water Board takes note of the source of such arguments. They come from operators who are ignorant of or don’t care about the pollution they cause, they come from operators of facilities that are improperly sited or poorly engineered and operators who simply want to avoid the cost of environmentally safe composting.

I suggest that the way to achieve more recycling is to support the compost facilities that are doing it safely by providing a level playing field and allowing them greater access to materials – not forcing them to compete with facilities that are not only contributing to pollution but are allowed an unfair business advantage due to lack of regulation.

It should be acknowledged that some facilities should never have been allowed to operate, and it is the fault of the regulators that they are in business. For the sake of the compost industry and the environment, these facilities should be forced to comply with regulations. Further, these facilities hinder the development of the industry as they have an unfair advantage and undermine the viability of the operations that have born the cost of proper siting and construction.

In closing I would like to point out that Cold Creek Compost has been held by the Regional Board to a standard significantly higher than the proposed minimum standard, despite the fact that our facility is not close to any surface water and in the words of Regional, ‘Ground water is at a great distance.’ Cold Creek has no impact on ground or surface waters.

Cold Creek Compost was the first facility to be permitted in the North Coast Region. During the permitting process, the Regional Board repeatedly assured us that all subsequent facilities would be held to the same standard. Equality and fair business practices are long overdue. Cold Creek has complied with the Regional Board’s standards without flow control or government subsidy. If Cold Creek can do it, anyone can – and if they cannot, they should not be composting!

Please Roger, what the compost industry needs in order to develop and thrive are meaningful and evenly enforced minimum standards; standards that apply to all facilities.

Respectfully,

Martin Mileck

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