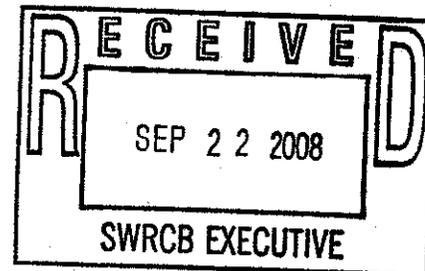


**building healthy soils**

September 17, 2008

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

**Comment Letter – San Diego – Revised Conditional Waivers of Waste Discharge Requirements**

Dear Ms. Townsend:

This letter is my request for your Board's vote to **not approve** the San Diego Revised Conditional Waivers of Waste Discharge Requirements, specifically, but not limited to, Conditional Waiver 8 pertaining to green waste composting.

I have operated a green waste compost facility, permitted by the California Integrated Waste Management Board, in Oceanside since 1995. In addition, from 1978 to 2000 I owned and operated a soils testing laboratory affording me a unique opportunity to work with growers, developing best management practices on their farms. With over 20 years experience in the field, I found that the lack of quality organic matter in our Southern California arid soils increased growers dependency on petrochemical fertilizers and pesticides increasing potential for pollution from these chemicals, most notably nitrate contamination of ground water. The nitrogen contained in plant based compost is largely in the organic form and essentially a slow release form of nutrients. Using mulch and compost is a cost effective alternative to conventional fertilizers, while having the additional benefit of water conservation.

The El Corazon Compost Facility is located on a closed silica mine that is owned by the City of Oceanside. It has been designed to prevent both run on and run off, as well as being located on a silt soil over 150 feet from ground water. We have operated under the Regional Boards conditional waivers since operations began and have an Industrial Storm Water permit.

I appreciate the opportunity to comment and express my objections to this waiver. I specifically object to the waiver's statements in the findings, language contained in the waiver that is technically, financially and operationally unfeasible and conflicting and confusing information from Regional Board staff.

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Issues with Findings

Finding 18. The San Diego Water Board circulated a draft Technical Report and environmental checklist and analysis describing the proposed activity to interested individuals and public agencies for review and comment.

Finding 21. The San Diego Water Board has notified all known interested persons and the public of its intent to consider adoption of the proposed Basin Plan amendment in accordance with Water Code section 13244. Interested persons and the public have had reasonable opportunity to participate in review of the proposed Basin Plan amendment. Efforts to solicit public review and comment have included a public workshop and CEQA scoping meeting held on April 5, 12007; a public review and comment period beginning at least 30-days preceding the public hearing; and a public hearing held on August 8, 2007.

- Although I have been assured that staff met the requirements for public notice, none of the compost operators that I contacted were aware of the Conditional Waiver revisions and review process. In our case, we have submitted our annual storm water report to the Regional Board for the past 12 years and certainly should have been known to staff. In addition, I have found that the local enforcement agency, the California Integrated Waste Management Board and the Association of Compost Producers were unaware of the revisions. If nothing else, the absence of comments from industry should indicate that the outreach was ineffective.
- Permitted compost facilities are listed on the California Integrated Waste Management Site. In order to obtain this permit, a notice is sent to the appropriate Regional Board. We were already operating under Conditional Waivers. Not only was there no contact with the facilities by staff, but to my knowledge no site visits were made to ascertain the situation in the area regulated by the San Diego Regional Board prior to revising the existing Conditional Waiver. A visit to the CIWMB site shows 4 permitted compost facilities in the region and an additional 5 facilities that operate under a notification tier of the regulations. Certainly contacting any one of these facilities for input should not have been a burden.

<http://www.ciwmb.ca.gov/SWIS/SearchList/List?COUNTY=San+Diego&FAC=Composting>

Finding 23. The San Diego Water Board has considered the costs of implementing the proposed Basin Plan amendment. The proposed amendment will not result in any additional economic burden for dischargers, except for dischargers that would like to be eligible for Conditional Waiver No. 4, which is for discharges from agricultural and nursery operations. Agricultural and nursery operations that would like to be enrolled under Conditional Waiver No. 4 must prepare a Monitoring and Reporting Program Plan (MRPP) and Quality Assurance Project Plan (QAPP), conduct monitoring, and submit a Monitoring Program Report (MPR).

- Although the fiscal impact to agriculture is considerable, there is no cost assessment or even recognition of cost for putting compost facilities 'under roof's or covering

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with plastic sheeting. The requirement to cover compost piles under roof or plastic sheeting is financially and operationally unfeasible.

Issues with Specific Conditional Waiver Language

I have concerns about the specific language in Conditional Waiver 4, 5 and 8. They are as follows:

4.I.D. General Waiver Conditions for Application of Compost as a Fertilizer, Amendment, or Mulch to Soil

Similar language is found in section **8.II.C. Specific Waiver Conditions for Application of Amendments and Mulches to Soil**

3. Amendments or mulches applied to soil cannot include any of the following additives, unless sufficient information is provided to demonstrate that the waste does not pose a potential threat to water quality: (a) municipal solid wastes; (b) sludges, including sewage sludge, water treatment sludge, and industrial sludge; (c) septage; (d) liquid wastes; (e) oil and grease; and (f) hazardous, designated, and any other wastes.

- Why are petrochemical fertilizers not treated with the same language?
- Does this mean that growers are prohibited from using composted material that contains Class A biosolids such as the Kelloggs, Synagro or Milorganite lines if they opt in under this waiver? If not, the language should clearly state this.

4. The amount of soil amendment or mulch materials that can be applied to soil must be reasonable for the crop or plant, soil, climate, special local situations, management system, and type of soil amendment or mulch. Application rates must take into account storm events during the rainy season (October-May).

- The last sentence does not indicate how to take this into account. Indeed, it makes sense agronomically to apply compost during plant quiescence, which is not supported by this statement.

(4. continued) Application rates must not allow soil amendment or mulch materials to be transported off the property in storm water runoff during the rainy season. Resources are available from the NRCS, UCCE, and other organizations. A copy of the calculations and/or estimate of the application rate must be available on site for inspection.

- I have searched for 'calculations' and can not find them from these resources.

5. Apply amendment or mulch materials to soil at site-specific rates appropriate to the season (i.e., dry vs. rainy).

- This is redundant, and, again, I have searched for 'calculations' and cannot find them from these resources.

8.II.B. Specific Waiver Conditions for Discharges to Composting Operations

This language is also found in sections 5.J.B. **General Waiver Conditions for Composting Green Wastes During/From Silvicultural Operations** and 4.I.C. **General Waiver Conditions for Composting Green Wastes from Agricultural and Nursery Operations.**

1a) Compost pile(s) should be protected with a roof or cover, or at a minimum be covered with plastic sheeting if precipitation is forecast within the next 24 hours, to prevent direct contact between precipitation and compost.

- Why are chip and grind operations not included? Chip and Grind facilities are not addressed by this waiver, yet these types of facilities are responsible for more than 1/2 of the green waste processed in the region. The very real issue of pesticides, pathogens and fertilizers are with the feedstock, not the end product which has undergone pathogen reduction. By processing the greenwaste feedstock through a controlled pathogen reduction process as prescribed by Title 14, the following threats to the environment are reduced or eliminated: weed seeds, human and plant pathogens and pesticides. In addition, during this process mineral nitrogen, such as nitrate and ammonium are bound into organic forms lessening the threat to ground water.
- We don't have roofs and there is no way to cover our piles with plastic.
- Even if there was a way to get the plastic on the piles and then anchor it during a storm event, it would be cost prohibitive just to purchase the plastic and apply it when precipitation is forecast.
- Forecasted precipitation should be more specifically defined.

Conflicting and Misleading Information

I have been told by Regional Board Staff over the past few weeks that the intent of staff regarding the use of the word "should" in the following paragraph is simply a suggestion and roofs, covers or plastic is not a condition that would be enforced.

Compost pile(s) should be protected with a roof or cover, or at a minimum be covered with plastic sheeting if precipitation is forecast within the next 24 hours, to prevent direct contact between precipitation and compost.

In addition, they have advised me that the NPDES Industrial Permit is a substitute for WDR;s and therefore my facility is not subject to the waiver

Since the WDRs regulate discharges of waste to land and groundwater and the NPDES permits regulates discharges of storm water to surface water, I don't understand how one can substitute for the other. I have asked this question of the staff and they insist that this is true. Our counsel advises us that just because we have filed an NOI and participate in Industrial Storm Water permit program, that we are **NOT** exempt from the Conditional Waiver.

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Finally, it has been my experience that when language is in a permit, it is enforceable. Our counsel has advised us that a third party can sue both the discharger and the Regional Board for non-compliance with the regulatory language. **If covering the piles is just a suggestion, then that should be clearly stated in the language.**

Thank you for the opportunity to comment. Once again, I urge the Board **not** to approve the Conditional Waiver as submitted. I am certain that we can all do a much better job of protecting our water when regulations address the issues and list the feasible and specified requirements in clear language that is not susceptible to random interpretation.

Sincerely,



Mary Matava, Agronomist
Agri Service, Inc.