

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

CEASE AND DESIST ORDER R5-2012-0044
REQUIRING
LAMONT PUBLIC UTILITY DISTRICT
WASTEWATER TREATMENT FACILITY
KERN COUNTY
TO CEASE AND DESIST FROM
DISCHARGING WASTE CONTRARY TO REQUIREMENTS

The California Regional Water Quality Control Board, Central Valley Region, (hereafter Central Valley Water Board or Board), finds that:

1. Lamont Public Utilities District (Discharger) owns and operates a wastewater treatment facility (WWTF) with a permitted monthly average discharge flow of 2.0 million gallons per day (mgd) in sections 24 and 25, Township 31 South, Range 28 East, MDB&M, in Kern County.
2. Community Recycling and Resource Recovery, Inc. (Community Recycling) conducts a composting operation on a portion of the land owned by the Discharger. This composting operation produces compost primarily from green waste and food scraps and other compostables collected by municipal waste haulers. The finished compost is sold to farmers for use as soil amendment and to companies for commercial sales (i.e., Miracle Grow).
3. Pursuant to Waste Discharge Requirements (WDRs) Order 98-043, issued by the Board to the Discharger, the wastewater produced at the Discharger's WWTF is applied as irrigation water to 130 acres of land that produce fodder crops, and is used in Community Recycling's composting operations.
4. On 28 April 2000, the Central Valley Water Board issued Cease and Desist Order (CDO) R5-00-098 for ongoing violations of WDRs Order 98-043. The main items addressed by the CDO relate to ongoing violations associated with inadequate treatment capacity (CDO Item 4) and inadequate disposal capacity (CDO Item 5).
5. To address treatment capacity issues, the Discharger constructed two lined facultative ponds and two lined storage ponds on the north side of East Bear Mountain Boulevard in early 2008, as required by CDO R5-00-098. These ponds increased the reported WWTF design treatment capacity to 3.25 mgd.
6. To address the disposal capacity issue, the Discharger had historically obtained short-term agreements with nearby farmers to take the effluent. However, in June 1993, the Discharger entered into a long-term lease agreement with Community Recycling. Community Recycling leases the following land from the Discharger:
 - a. approximately 215 acres of land on the west half of section 25, Township 31 South, Range 28 East, MDB&M;

- b. approximately 160 acres of land in the southeast quarter of section 25, Township 31 South, Range 28 East, MDB&M; and
- c. approximately 50 acres of land to the west of the WWTF.

The lease agreement requires Community Recycling to accept and dispose of all of the wastewater and sludge produced by the Discharger's WWTF.

- 7. On 30 March 2009, the Discharger's engineer submitted a water balance that indicated that the Discharger had enough capacity to dispose of 3.25 mgd of influent. The water balance assumed that the Discharger controlled 310 acres of agricultural land for effluent recycling, and that an estimated 1.2 mgd would be continuously discharged to the composting operation.
- 8. In February 2012, the Discharger's engineer reported that the Discharger only has 130 acres to which it can apply its effluent for recycling, not the 310 acres reported in 2009. Approximately 160 acres of land owned by the Discharger that comprises the southeast 1/4 of section 25, Township 31 South, Range 28 East, MDB&M has not been brought into agricultural production, reportedly due to site slope and soil pH/salinity issues.
- 9. Various amendments to the lease agreement between the Discharger and Community Recycling (described in Finding No. 6) were made in March 1996, June 1996, and June 2000. The lease extends to 30 June 2023, but may be terminated on four years notice by Community Recycling.
- 10. On 15 November 2011, Kern County revoked the Conditional Use Permit (CUP) issued to Community Recycling. Without the CUP, Community Recycling cannot conduct recycling operations, and therefore cannot legally dispose of the Discharger's wastewater. Community Recycling and the District obtained a stay from Kern County Superior Court until the matter can be adjudicated by the Court.
- 11. With the stay in effect, Community Recycling can continue to accept the Discharger's wastewater. Should the Superior Court overturn Kern County's revocation of the CUP, the composting facility will still be allowed to operate, and the Discharger may continue to provide wastewater to the composting operations. However, if the Court allows Kern County's revocation to stand, then the Discharger will have to find a different way to dispose of the wastewater that is currently going to the composting operation, and the Discharger must make these arrangements on a much shorter timeline than that currently provided for in the lease agreement between Community Recycling and the Discharger.
- 12. The Central Valley Water Board has not been provided adequate assurances that the Discharger will be able to provide adequate disposal capacity if the composting facility ceases operations. The Discharger owns the land where wastewater is applied, and is

responsible for ensuring that there is sufficient disposal capacity for the wastewater produced by the Discharger's WWTF.

13. WDRs Order No. 98-043, Discharge Specification B.7, states in part:

Effluent, from the outlet of the treatment ponds(s) prior to disposal (for irrigation or composting), shall not exceed the following limits:

<u>Constituent</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>
BOD ₅ ¹	mg/l	40	80
Total Suspended Solids	mg/l	40	80

¹ Five day, 20° Celsius biochemical oxygen demand

14. WDRs Order R5-2012-0043, Effluent Limitations B.2, states in part:

Effluent shall not exceed the following limitations:

<u>Constituent</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>
BOD ₅ ¹	mg/L	40	80
TSS ²	mg/L	40	80

¹ Five-day biochemical oxygen demand

² Total suspended solids

15. Self-monitoring reports for December 2010 – September 2011 report monthly average daily flows of 2.3 to 2.5 mgd. More recently and following flow meter calibration, self-monitoring reports submitted for November and December 2011 and January 2012 report monthly average daily flows of 1.3 to 1.4 mgd. Even though the WWTF is operating at far below the reported design capacity, the same self-monitoring reports indicate the WWTF violated monthly average BOD₅ limit of 40 mg/L in WDRs Order 98-043, with BOD₅ of 41 mg/L in November 2011, 95 mg/L in December 2011, and 42 mg/L in January 2012.

16. The information in Finding 15 also indicates that the WWTF threatens to violate the effluent BOD₅ and TSS limits in WDRs Order R5-2012-0043.

17. WDRs Order No. 98-043, Discharge Prohibition A.1 states:

Discharge of waste to surface waters or surface water drainage courses is prohibited.

18. WDRs Order No. 98-043, Discharge Specification B.9, states in part:

The Discharger shall have sufficient wastewater storage capacity in conjunction with recycling of the wastewater, to accommodate wastewater flow and design seasonal precipitation and ancillary inflow and infiltration. Design seasonal precipitation shall be

based on a total annual precipitation using a return period of 100 years, distributed monthly in accordance with historical rainfall patterns.

19. WDRs Order No. 98-043, Recycled Water Specification C.2, states:

Recycled water shall remain within the designated disposal areas (described in Finding No. 9) at all times.

20. On 8 June 2012, the Central Valley Water Board adopted WDRs Order R5-2012-0043. WDRs Order R5-2012-0043, Prohibition A.1 states:

Discharge of waste to surface waters or surface water drainage courses is prohibited.

21. WDRs Order R5-2012-0043, Prohibition A.4 states:

Discharge of wastewater in a manner or location other than that described herein is prohibited.

22. WDRs Order R5-2012-0043, Discharge Specification C.4 states:

The discharge shall remain within the permitted waste treatment/containment structures and land application areas at all times.

23. WDRs Order R5-2012-0043, Discharge Specification C.9 states:

The treatment, storage, and disposal ponds or structures shall have sufficient capacity to accommodate allowable wastewater flow, design seasonal precipitation, and ancillary inflow and infiltration during the winter while ensuring continuous compliance with all requirements of this Order. Design seasonal precipitation shall be based on total annual precipitation using a return period of 100 years, distributed monthly in accordance with historical rainfall patterns.

24. The information in Findings 7 through 12 indicates that the Discharger does not have adequate short-term or long-term control over the current areas to which its effluent is applied for disposal and, therefore, its discharges have threatened and continue to threaten to violate the requirements listed in Findings 13 through 23.

25. Generally, from 2000 to through November 2011, the Discharger did not comply with Revised Monitoring and Reporting Program 98-043. However, in December 2011, the Discharger contracted with a wastewater treatment operations firm to help run the WWTF and to compile its self-monitoring reports. The firm also calibrated the influent flow meter on January 2012. Looking forward, Item 2 of CDO R5-00-098 (which requires the Discharger to monitor and report in full compliance with Revised Monitoring and Reporting Program 98-043, including the requirement for proper flow meter calibration) appears to be resolved. Past monitoring and reporting violations of WDRs Order 98-043, Revised Monitoring and Reporting Program 98-043, and CDO R5-00-098 remain unresolved.

26. Item 3 of CDO R5-00-098 requires the Discharger to remove sludge from its two aerated ponds. The Discharger completed sludge removal from aerated pond No. 1 and 2 in June 2009 and April 2012, respectively. WDRs Order R5-2012-0043 requires the Discharger to submit a technical report that addresses sludge disposal and provides sludge monitoring outlined in Monitoring and Reporting Program No. R5-2012-0043.
27. Item 4 of the CDO R5-00-098 requires the Discharger to investigate the causes of low influent BOD₅ concentrations and implement measures to limit discharges of pollutant-free wastewater (such as infiltration and inflow) into the collection system. The Discharger investigated the causes and submitted a technical report in December 2002 proposing measures to reduce the discharge of pollutant-free wastewater into the WWTF collection system. Influent BOD₅ concentrations are now consistent with those associated with a medium to strong domestic wastewater.
28. Item 6 of CDO R5-00-098 requires the Discharger to submit a proposed Industrial Pretreatment Program. On 22 September 2008, the Discharger adopted Sewer Use Ordinance No. 108, *An Ordinance of the Lamont Public Utilities District Amending Ordinance 50 and Establishing a Sewer Use Ordinance*, which authorizes it to regulate industrial discharges into the WWTF collection system. On 18 June 2009, the Discharger submitted a preliminary draft of an Industrial Pretreatment Program. The Ordinance and Industrial Pretreatment Program provide the tools necessary for the Discharger to regulate discharges to its collection system.
29. Water Code section 13301, states, in part, that:

When a regional board finds that a discharge of waste is taking place, or threatening to take place, in violation of requirements or discharge prohibitions prescribed by the regional board or the state board, the board may issue an order to cease and desist and direct that those persons not complying with the requirements or discharge prohibitions (a) comply forthwith, (b) comply in accordance with a time schedule set by the board, or (c) in the event of a threatened violation, take appropriate remedial or preventative action. In the event of an existing or threatened violation of waste discharge requirements in the operation of a community sewer system, cease and desist orders may restrict or prohibit the volume, type, or concentration of waste that might be added to that system by dischargers who did not discharge into the system prior to the issuance of the cease and desist order. Cease and desist orders may be issued directly by a board, after notice and hearing.

30. Water Code section 13267(b), states, in part, that:

In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports

which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.

The technical reports required by this Order are necessary to assure compliance with both this Order and Waste Discharge Requirements Order R5-2012-0043, and to assure protection of the public health and safety. The Discharger owns and operates the facility that discharges the waste subject to these Orders.

31. The issuance of this Order is an enforcement action by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act, pursuant to California Code of Regulations, title 14, section 15321(a)(2).
32. On 8 June 2012, in Rancho Cordova, California, after notice to the Discharger and all other affected persons, the Central Valley Water Board conducted a public hearing at which evidence was received to consider a Cease and Desist Order.

IT IS HEREBY ORDERED that, pursuant to Water Code sections 13301 and 13267, Lamont Public Utility District, its agents, successors, and assigns shall implement the following measures necessary to ensure long-term compliance with WDRs Order R5-2012-0043, or any superseding permits or orders issued by the Central Valley Water Board. This Cease and Desist Order rescinds and replaces Cease and Desist Order R5-00-0098.

1. The Discharger shall cease and desist from discharging wastes in violation of Waste Discharge Requirements Order R5-2012-0043 and Monitoring and Reporting Program R5-2012-0043. No term or condition of Order R5-2012-0043 and MRP R5-2012-0043 is superseded or stayed by this Cease and Desist Order.
2. The Discharger shall complete modifications to the WWTF or implement operational changes to ensure that the WWTF will reliably meet effluent limits in Effluent Limitation B.2 for BOD₅ and TSS . In performing this task, the Discharger shall comply with the following time schedule:

	<u>Task</u>	<u>Compliance Date</u>	<u>Report Date</u>
a.	Submit a technical report describing measures the Discharger has implemented or proposes to implement to ensure adequate treatment capacity to ensure compliance with Effluent Limitation B.2.		7 December 2012
b.	Begin implementing proposed measures.	7 January 2013	7 February 2013
c.	Fully comply with effluent limits in Effluent Limitation B.2.	7 June 2013	8 July 2013

3. The Discharger shall secure adequate effluent disposal capacity for a reasonable planning period of not less than 20 years. Though the Discharger is not prohibited from discharging to the composting operation, the Discharger cannot continue to solely rely on the continued existence of the composting operation for the disposal of wastewater generated at the WWTF. Reliance on the composting operation jeopardizes the investments of those that discharge into the Discharger's collection system, as houses could be rendered uninhabitable if the composting facility ceases operations and the Discharger has failed to secure adequate, reliable disposal capacity. In securing adequate, reliable effluent disposal capacity, the Discharger shall comply with the following time schedule:

	<u>Task</u>	<u>Compliance Date</u>	<u>Report Date</u>
a.	Submit a technical report describing measures the Discharger has implemented or proposes to implement to develop adequate, reliable disposal capacity to ensure compliance with Discharge Specification C.4, C.9 and Recycling Specifications D.25 through D.26. The report shall include, at a minimum, an implementation schedule, and water and nitrogen balances for the proposed disposal options.		18 December 2013 or 60 days following Kern County Superior Court issues a final ruling on the District's current case, whichever occurs first.
b.	Submit an updated Report of Waste Discharge to the Board for the proposed disposal option. If the chosen option includes effluent recycling, also submit to the Board and Department of Public health an updated Title 22 Engineering Report for all Use Areas.	18 March 2014 or 3 months after the date established in 3.a.	18 March 2014 or 3 months after the date established in 3.a.
c.	Complete CEQA documentation as necessary for additional disposal capacity.	18 October 2015 or 19 months after the compliance date established in 3.b.	15 days after the compliance date established in 3.c.
d.	Begin implementation of chosen option.	18 January 2016 or 4 months after the compliance date established in 3.c.	15 days after the compliance date established in 3.d.
e.	Fully comply with Discharge Specification C.4, C.9 and Recycling Specifications D.25 through D.26.	18 October 2016 or 9 months after the compliance date established in 3.d.	15 days after the compliance date established in 3.e.

All technical reports and work plans required herein that involve planning, investigation, evaluation, or design, or other work requiring interpretation and proper application of engineering or geologic sciences, shall be prepared by or under the direction of persons registered to practice in California pursuant to California Business and Professions Code sections 6735, 7835, and 7835.1. To demonstrate compliance with sections 415 and 3065 of Title 16 of the California Code of Regulations, all technical reports must contain a statement of the qualifications and responsible registered professional(s). As required by these laws, completed technical reports and work plans must bear the signature(s) and seal(s) of the registered professional(s) in a manner such that all work can be clearly attributed to the professional responsible for the work. The technical reports are subject to the Executive Officer approval.

If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may refer this matter to the Attorney General for judicial enforcement or may issue a complaint for Administrative Civil Liability.

Failure to comply with this Order or with the WDRs may result in the assessment of Administrative Civil Liability of up to \$10,000 per violation, per day, depending on the violation, pursuant to the Water Code, including sections 13268, 13350 and 13385. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, section 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filling petitions may be found on the Internet at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality/

or will be provided upon request.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on 8 June 2012.

Original signed by:

PAMELA C. CREEDON, Executive Officer