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March 3, 2015

Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24th Floor  
Sacramento, CA 95814

**Subject:** Comment Letter – General Order for Composting Operations and EIR



Dear Ms. Townsend:

CR&R Environmental Services (CR&R) is grateful for the opportunity to offer this letter of comment and recommendations on the State Water Resources Control Board, General Order for Composting Operations (General Order) and associated Environmental Impact Report (EIR). CR&R is a privately held integrated waste management and resource recovery company serving 35 cities and more than 2.5 million people throughout Southern California. CR&R has existing green waste composting operations in both Orange and Riverside counties. Our company is also presently constructing a sizable, high solids anaerobic digestion (AD)] facility in Perris, California, that will convert source separated yard waste and food scraps into Renewable Natural Gas, and high quality soil amendments.

The resource recovery industry needs to be a part of the solution to help the State reach its ambitious goals for waste diversion that have been laid out by AB 939, AB 341, and now last year by AB1826 and AB1694. If our industry is expected to shoulder the burden of meeting the State's organics diversion goals, we can only accomplish the task within a reasonable regulatory framework. Balancing these ambitious waste diversion goals with the State's equally ambitious water quality goals come at a cost. The proposed General Waste Discharge Requirements and associated EIR are no exception. This begs the question, **Who will bear the costs? Industry? Taxpayers? What public funding opportunities will be made available to ease the proposed burden of compliance?**

As a matter of context and perspective, we feel it is important to point out the timing of this General Order comes in the midst of other proposed regulatory action affecting the resource recovery industry. We currently have major revisions to compost regulations pending in several California regulatory agencies (CalRecycle: Title 14/27, SCAMD AER Reporting, SWRCB Trash Policy, Regional Board's individual waivers and action: Central Valley, San Diego; etc.). We question to what extent these proposed regulations have been coordinated inter-agency. With so many moving pieces of regulation in process at the same time, it is challenging to create a regulatory framework that is well coordinated. **To what extent has this General Order been coordinated with CalRecycle or other state regulatory agencies?**

In general, we find many of the requirements of General Order to be too onerous not only to our company but to the composting industry as a whole. Moreover, we have found the most recent stages of the General Order and EIR process to be seemingly closed off to industry input. **Without adequate stakeholder input throughout the General Order process, how can the Water Board expect to promulgate a General Order that really works for the regulated community?**

Along these lines, we are concerned that the economic analysis performed as part of the EIR was at a minimum limited in scope (only 8 facilities surveyed) and made unrealistic assumptions that lowered the perceived economic impact of the proposed regulation. For example, the economic analysis assumed that operators will not have to upgrade their operational areas with paved surfaces. Under very likely circumstances, the proposed WDRs would in fact require paving or other costly mitigation measures. Therefore, the economic impacts of the proposed WDRs are grossly understated. And as understated, the true costs of the proposed regulation have not been adequately quantified. **What are the real costs of General Order compliance?**

A related point of concern is that the proposed WDRs do not give industry adequate time to adapt. Even under the proposed overly-optimistic economic analysis, you are asking an industry to take a substantial hit in required capital and operating expenditures. By requiring Notices of Intent to be filed within 1 year and full compliance within 6 years you may in effect be putting many operators out of business. Please consider extending the compliance timeline. **If you are asking an industry to adopt costly compliance measures, would it not be prudent to give them adequate time to adapt?**

Another area of concern in the proposed WDRs is the treatment of “Anaerobic Digestate.” The proposed WDRs do not appear to fully understand the nature of anaerobic digestate as it relates to composting. For example, in Attachment “B” digestate is lumped together with biosolids when looked at for monitoring. Also, the WDRs appear to arbitrarily prohibit more than 10 or 30 percent of anaerobic digestate per batch of compost in certain circumstances. This limitation appears to be arbitrary and there is no health and safety, environmental protection, or other scientific basis given in the General Order or EIR. **What is the scientific basis for an arbitrary 10 or 30 percent limit of Anaerobic Digestate in composting?**

In determining the other flaws of the proposed General Order and EIR we share many of the concerns of California’s composting industry Association, The Association of Compost Producers (ACP). Specifically:

**Process:**

This General Order appears to be intended to mostly replace the Waste Discharge Requirement (WDR) process required of all industrial facilities in this state, specifically for the compost industry. However, we find that this approach has some serious flaws. For example:

- Facility Parameters are too varied: Given the significant variability in size, weather, soil types, depth to groundwater, feedstock types, etc., of compost sites and operations, compost facilities throughout the state are a poor candidate for this type of regulatory approach. These facilities are not suited to a “one size fits all” approach to potential ground water protection.
- No Evidence of a Problem in Drier Climates: Since the start of this process, and especially in drier climate regions (e.g. all of Southern California, which handles about 2/3 of the organic recycling in the state), there has been no evidence presented that shows there is any movement of potential contaminants into the groundwater. So the question still remains, why is an onerous, monolithic, statewide regulation needed, when there is no evidence that protection is necessary to oversee half of the material managed in the state?
- Not collaborative or responsive: Our industry representatives have been engaging in this process since it began in the fall of 2011. ACP attended multiple meetings where they raised specific concerns and recommendations that still have not been adequately addressed by Water Board staff. Not only that, the staff assigned to this process has changed three times during this process. And while ACP has made multiple verbal and written recommendations, Water Board staff has yet to address the data, cost or operational concerns that they have presented.
- Policy goal is to increase compost production & use, not limit it: The Water Board, along with the regulated community, are keenly aware of the State’s 75% recycling goal, which by most estimates will require an addition 50 to 100 newly permitted compost facilities, and AD facilities, or likely some cost effective combination, by 2020. However, this one-size-fits-all approach would seriously put yet another roadblock to the State achieving this goal.

**Content:**

There is specific language contained in the proposed General Order that needs to be addressed, and doesn’t seem to relate to the realities of organics recycling in general. While we have raised these concerns in previous meetings, we have yet to receive either an evidence-based, or reasoned response as to why they have not been considered for incorporation into the General Order language.

- Chip & Grind Operations Excluded: We do not see the evidence or logic for excluding chip & grind operations from this General Order. Every compost facility has a chip & grind operation at the front end of their operations process. If this management area is to be managed through this General Order process, we see absolutely no reason for excluding stand-alone chip & grind operations from this process as well. Again, we make the firm recommendation that these operations not be exempted.
- Clarification of the WDR Process and/or Exemption: The question of whether or not existing composting facilities with existing Regional Board-approved WDR are actually included in the General Order has not been answered.
- Demonstrated Contamination: The regular occurrence of groundwater contamination directly resulting from compost operations has not been adequately demonstrated. For example, at one major facility in the south San Joaquin Valley where groundwater monitoring has taken place continuously for the past 20 years, *there is no evidence of any*

*“contaminated” water migrating through the facility to the groundwater basin.* Compost facilities are not by nature infiltration basins, and therefore do not need to be set up with impervious surfaces in most locations, especially throughout Southern California. This condition was not fully accounted for in the currently proposed regulatory language. In fact, compost is routinely used as a water filtration medium as a best management practice to filter both groundwater and surface water. This best management practice is in fact used in many thousands of locations, and the states waters appear to be very adequately protected by a healthy soil layer and compost.

- Digestate percentages are arbitrary: The Water Board has picked a number of no more than 10-30% of digestate to be added to make compost, and there is no evidence that this is consistent with sound, well established compost practices. Also, if the digestate has undergone its own PFRP (Process to Further Reduce Pathogens), and meets other Title 14 regulations, there is no sound evidence for any arbitrary limit on use of digestate in composting.
- Economic analysis not complete: The economic analysis was limited in scope and contained flawed assumptions. Only 8 facilities were polled, which does not adequately capture the industry. Moreover, the underlying assumption was that major paving would not be required, which is not realistic. The proposed General Order would require paving of work surfaces, which is the most expensive mitigation measure, potentially adding millions of dollars to the development cost of a composting facility. The economic analysis needs to be readdressed to capture the real economic costs of the proposed General Order.
- No waste water additives: The fact that wastewater additives (particularly fats, oils and greases) are eliminated has no basis in facility operations. Many facilities truly need this water, and without any evidence that this ever gets into as much as the upper soil layers, much less migrating further, makes their elimination seem capricious and arbitrary.
- New trash policies: There has been no acknowledgement or explanation of how the new Water Board’s Trash Policy plays into, and positively or negatively affects, the General Order Process. Industry participants need to understand, *from the Water Board*, how these two pieces of regulation relate to each other prior to implementation of either.
- CalRecycle Title 14/27 not considered or explained: The Water Board staff knows that CalRecycle is currently undergoing a Title 14/27 revision process. The industry stakeholders can’t lock down specific recommendations until all the current compost regulations are revised and finalized. Otherwise, the current General Order may not make sense without Title 14/27 being settled, as those are the core regulations for compost operations.

These, as well as a large amount of specific wording changes, in the detailed elements of the regulatory language, need to be explicitly addressed. Once these larger content issues are addressed, then we can circle back and address some of the specific issues that may be obviated by amending some of these more general issues. We provide a continued process in our recommendations to address these concerns.

#### **Recommendation:**

While we do agree that there are serious flaws in both the process and content of the General Order, we also believe that with a concerted collaborative effort, it is possible to remedy the current situation. We make the following recommendations:

- Engage in a workshop process to address the specific flaws that we see in both the content and process of these regulations with key industry stakeholders including, but not necessarily limited to, the following:
  - Association of Compost Producers representatives
  - Other industry representative associations and councils
  - CalRecycle
  - Agricultural industry and government stakeholders
- Collaborate with Water Board staff through this transparent, multi-stakeholder process, to:
  - Address the process deficiencies outlined above, and
  - Modify the approach to content changes to make the General Order regulations more fair to all types of organic recycling facilities and less onerous on all industry players.

## **CONCLUSION**

Again, CR&R appreciates the opportunity to comment and provide these specific recommendations for the proposed General Order. We look forward to working closely with the Water Board, as an industry partner, to assist in finalizing regulations that work for everyone and help the State achieve both its water quality and organics management goals.

Sincerely,



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