



March 2, 2015

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

Via Email: commentletters@waterboards.ca.gov

Subject: Comment Letter – Draft Order WQ-2015-XXXX-DWQ and DEIR

Dear Ms. Townsend:

Harvest Power of California, LLC (“Harvest”) appreciates the opportunity to comment on the General Waste Discharge Requirements for Composting Operations (Draft Order WQ-2015-XXXX-DWQ). We have participated in the meetings and workshops related to the development of the Order over the last few years. While Harvest appreciates the effort that has gone into these documents, there are still many points, some major and some minor, that require additional modification in order to be feasible. In these comments, we focus on only the most crucial, major areas. It is our hope that we will also be able to continue our discussions in an interactive workshop before it is finalized. Harvest respectfully offers some modifications to the language based on extensive experience operating composting facilities in California, and across North America.

Harvest owns and operates two compost facilities in the Central Valley, in Lathrop and Tulare. We are planning to expand operations in California to recycle organic materials in composting facilities and anaerobic digesters to create high quality compost products and produce alternative energy. This is in line with CalRecycle goals of 75% landfill diversion and other legislation directing organic materials to beneficial use.

Harvest’s current operations are managed to be protective of groundwater. All of our composting facilities are designed with a pond, pad and berm engineering to prevent runoff from entering or exiting the site, and be protective of groundwater. Regional Board staff was involved with these designs, including the monitoring of the pond and groundwater. Therefore, we have experience in constructing and managing these sites, are familiar with costs and designs that are protective of groundwater.



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Harvest is committed to operating our facilities in compliance, and that is why we are reviewing the requirements so carefully.

Harvest appreciates that the State Water Board recognizes that composting operations do not fall under Title 27, and the process and the product are not considered designated waste. This is important because it recognizes that our facilities do not store organic materials permanently on the site; our organically certified final product is sold off-site as a soil amendment to high end agriculture.

There are a number of general issues that we realize will not be addressed in this Order, but are worth mentioning. The reasons for the exclusion of Chlp and Grind facilities and land application of the same materials, predominantly green and food materials at Tier II amounts are not articulated. Both of these categories are processing the same material and it seems that it would have been more efficient, and fair, to address them at the same time, if not in the same document.

The following are the primary issues that we feel need to be addressed before the General Order is finalized. We look forward to continue to discuss modifications with Staff as corrections are incorporated.

DEIR Issues

The DEIR addressed this General Order as well as the composting process in general, but not related to specific sites. We found this problematic because many of the issues unrelated to water quality, and thus not under the jurisdiction of the Water Board were not accurately depicted. For example, the Air Quality section did not recognize VOC emission reductions currently implemented as a result of air quality regulations, and Best Available Control Technologies (BACT). If the number of composting facilities is reduced, or not able to be constructed as a result of this Order, organic materials, especially greenwaste will create more emissions through land application or placement in a landfill. In addition, the document did not incorporate the benefits of composting to reduce greenhouse gas emissions, and the loss of these benefits with diminished composting capacity.

Economic Analysis

Appendix D

The economic analysis is vital because it determines whether or not this Order ensures that composting facilities can stay in business, or expand. This is especially true for private sector facilities, such as those that Harvest operates.

The analysis of the cost of complying with the pad and pond requirements needed to include the actual costs of the pad and size of the pond. The groundwater monitoring option was assumed to be the less



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expensive solution. Over time, this is not necessarily the case since the annual cost for monitoring is significantly higher than that of pad maintenance. In addition, there are other less expensive ways to monitor this issue, such as vedose zone monitoring and these were not included in the analysis. The pond size analyzed in this section does not take into account larger than current pond configurations required in the Order. Therefore, not only is the cost of construction and maintenance higher, it also results in a loss of land available for composting, and therefore represents a loss in revenue. The analysis did not include other engineered, or testing, alternatives that would result in equal protection to groundwater.

General Order and Regional Water Quality Control Boards

The Regional Boards, through the Executive Officer, should maintain the ability to provide alternatively protective measures under the General Order or issue individual WDRs at their discretion. There are a number of places throughout the document that refer to this ability, but it would help to clarify this issue in the purpose of the document.

Definition of Food Material

Definition A-4

The definition of food material is not consistent with other regulatory agencies. The addition of "separated from solid waste to the maximum extent possible at the point of generation" conflicts with other regulatory definitions of food waste, and the way in which food is collected and delivered to the facilities. The term "maximum extent possible" is vague and the facilities are not in control of this part of the process. The product quality demands that the food material will be clean when entering the composting process. Harvest recommends the removal of this clause, and to bring the definition in line with Title 14 definitions to come into line with the goal of assisting in the 75% diversion goal.

Water Terminology and Requirements

It is difficult to comment on issues related to water containment and discharge because the terms stormwater, wastewater, process wastewater and non-process wastewater appear to be used interchangeably at various sections of the document. In a recent meeting with Water Board staff, a commitment was made to correct these definitions. Please clarify these definitions and uses throughout the Order. Harvest reserves the right to submit further comments once these definitions are clarified.

The detention ponds at our current and most likely future, facilities serve to collect any water coming into contact with the composting piles (which we would call "process wastewater"). The ponds also collect stormwater that runs off from the berm around the site, thereby preventing water from entering and leaving the site during a precipitation event. In Specifications 6 p.19, the 25 year 24 hour event is replaced by a 25 year return annual total precipitation value. We are concerned that the size of the



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pond required accommodating this event at both Harvest Facilities would require us to purchase land to accommodate this requirement. We are requesting that the return annual total language be removed from this requirement. Currently, these ponds do not come close to filling, even during very heavy rain events, so we do not see that this is warranted. We also suggest that the Executive Officer of the Regional Board be able to approve an alternative based on site specific information.

Pad and Impoundment Requirements

Finding 47 p.10

Finding 49 p.11

Design, Construction, Operating Requirements p.20

Monitoring Requirement 3-4 p.21

The Pad and Pond requirements and monitoring protocol do not specify a variety of options to be protective of groundwater quality. The pad requirement of the hydraulic conductivity combined with one foot minimum thickness is excessive under some conditions. Additionally, ponds do not necessarily require the level of compaction and lining described, in addition to the hydraulic conductivity requirement. If the pond meets this requirement with natural materials, it is not clear why the additional liner system is required. There are other methods of detection of leakage, rather than the pan lysimeter. If these conditions cannot be modified, then Harvest requests greater flexibility in addressing these issues, under specific site conditions, at the Regional Board level.

The draft Order addressed these issues by offering "an equivalent engineered alternative approved by the Regional Water Board" We are suggesting that this language be modified to allow for equally protective measures and Best Management practices, and that these be approved by the Executive Officer and not the Regional Board because these changes will still fall under the General Order. If this equivalent system and detection protocol is achieved then the pond can be deemed to be protective of groundwater quality. Examples of these might include comparison testing between groundwater and pond water when there is water in the Pond. Although this concept was rejected in the environmental analysis it has been deemed accurate and effective at specific sites. In addition, the hydraulic conductivity may either not be required in certain cases, or be achieved with the stringent liner systems required in the Order. Suggested language to both pad and pond, but focused on the pond configuration: "an equivalent alternative approved by the Regional Board Executive Officer."



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Timeframes for Implementation

Finding 37 and 38 p.8

The General Order is requiring an NOI within the first year, and six years for completion. The economic analysis looked at a six year timeframe, but for companies, such as Harvest, that have multiple facilities the cost impact is greater. Therefore, allowing extra time for additional facilities would reduce the economic impact. In addition, please add language that articulates the NOI is complete and the company is proceeding in good faith, an individual WDR would not be required during the compliance period.

For new facilities, the timeline is an NOI submitted 90 days prior to site operation, but no ability to provide time to comply. It would be helpful to have a year to come into compliance for new facilities.

Active Composting and Finished Compost

Finding 8, p.1

At various places in the documents the use of the terms composting, compost and finished product are used to describe activities on the site. Active compost in the process of the composting process is the activity that should be regulated as part of this order. The finished product is not regulated at farms, nurseries or other points of sale after it leaves the facility. The finished product should not be subject to the same parameters as the material in the active phase of composting. Harvest suggests that the final product be distinct from the definition of compost piles (or more accurately, composting piles). Since the resulting product is sold off-site, there is a distinct time that the material is cured and considered a final product.

Additives and Amendments

Finding 47 p. 10

Specifications p. 17 1.b.

Definitions A-1

The use of the terms Additives and Amendments is not consistent with the way composting facilities use these materials. We recommend modifying this language to allow for unlimited digestate to be processed during active composting. Once the compost is completely finished, we regularly add agricultural amendments, such as gypsum up to 50% as special orders for farmers. The gypsum, and similar materials are listing in the findings to be contained in the stormwater area. These materials are not regulated through this order and do not need to be in the area. These are amendments and the definition of the Order is not consistent with this terminology.

The following are additional issues that need to be revised in the draft Order.

- Composting conducted in a fully enclosed vessel is exempt from this Order. This definition should be expanded to include *an impermeable cover that surrounds the entire compost pile* to the list of acceptable enclosures. The rest of the definition works.
 - Finding 30, p. 6
 - Definition A-9

- The Order only allows liquids collected in detention ponds to be reapplied to compost piles. The language should be expanded to include beneficial reuse on site, such as for dust control or vegetation maintenance on the compost pad areas.
 - Findings 22 and 23, pgs. 3-4
 - Finding 45, pg. 9 - ???
 - EIR Impact 15.2, pg. 14: Beneficial reuse of water, including use for wash down of compost pads, the compost process, vegetative maintenance, or dust control on the compost pad areas and lined portions of the landfill should be allowed under the Order.

- The Order requires composting operations to be setback at least 100 feet from the nearest surface water body. The Order should clarify that this requirement does not apply to stormwater management systems, sedimentation ponds or storage ponds, and other areas required to manage water on site, they are not considered “water bodies.” The Order should specifically acknowledge that an engineered alternative, such as berms, ditches, and swales, may be allowed if these measures effectively isolate the compost operations runoff and protect water quality.
 - Finding 28.b., pg. 5
 - Finding 48, pg. 10
 - Definition of “Distance to Nearest Surface Water,” pg. A-4

- The prohibition of discharge of “liquid wastes other than those of food origin” potentially prohibits liquid from yard waste or green waste. The Order should be revised so as not to prohibit liquid from yard waste or green waste.
 - Specification 4.b., pg. 16:

- Report Requirement 5.a.1., pg. 23: The Order should be revised such the signatory on the NOI for a corporation may be the “general manager or other duly authorized representative of that person.”



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- MRP, Attachment B, Section A.2.a., Table B-1, pg. B-3: Table B-1 should be revised to include an allowance for reduced monitoring, i.e. annually, semi-annually, in the event of consistent quarterly results
- MRP, Attachment B, Section B.2., pg. B-8: Notification of violations only can occur "by telephone". Please revise to include electronic mail communication.
- MRP Section 3 p. B-3: Biosolids/Anaerobic Digestate Monitoring
This section appears to apply to biosolids monitoring and not other types of anaerobic digestate. Therefore, it is confusing. Since biosolids are already digested, the language should read material co-digested with biosolids instead of using the term anaerobic digestion, which could refer to a food-only process.
- MRP, Attachment B, Section B.3.e., pg. B-8: Some of the information (i.e. lab reports) required when reporting the description of the significant event may not be available prior to the 10 day deadline. The Order should be revised to provide for additional time or be clarified as "within 10 days of the information becoming available to the Discharger".

Conclusion

Harvest Power of California appreciates the ability to continue discuss these items with State Water Board staff in order to develop a General Order that includes the variety of facilities and conditions across California. Harvest is committed to continuing to operate composting facilities in California that are protective of ground, and surface, water. We look forward to continuing work together on an Order that enables us to reach this goal for our current and future facilities.

If you have any questions, please do not hesitate to contact me at 510-847-0038 or lnovick@harvestpower.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Novick".

Linda Novick
Regulatory Compliance Manager