

**FINAL SUPPLEMENTAL
ENVIRONMENTAL IMPACT REPORT
NURSERY PRODUCTS LLC
HAWES COMPOSTING FACILITY**

State Clearinghouse No.

2006051021

Prepared for:



**County of San Bernardino
Land Use Services Department
385 North Arrowhead Avenue
San Bernardino, CA 92415-0182**

Prepared by:



**650 East Hospitality Lane, Suite 450
San Bernardino, CA 92408**

November 2009

TABLE OF CONTENTS

SECTION	PAGE
SECTION 1.0 - Final Supplemental Environmental Impact Report	1-1
1.1 Introduction to the Final SEIR.....	1-1
1.2 Revisions to the Draft SEIR.....	1-1
1.3 Persons, Organizations and Public Agencies Commenting on the Draft SEIR.....	1-4
1.4 Disposition of the Final SEIR Program	1-4
SECTION 2.0 - Mitigation Monitoring and Compliance Program	2-1
2.1 Mitigation Monitoring.....	2-1
2.2 Monitoring Authority.....	2-1
2.3 Mitigation Compliance and Enforcement Responsibilities.....	2-1
2.4 Mitigation Monitoring Tables.....	2-1
SECTION 3.0 - Public Comments and Lead Agency Responses.....	2-1

LIST OF TABLES

TABLE	PAGE
Table 2-1: Final SEIR Mitigation Monitoring Project - Greenhouse Gas Emissions.....	2-2

LIST OF APPENDICES

APPENDIX
APPENDIX A – WATER SUPPLY ASSESSMENT ADDENDUM

LIST OF ACRONYMS

AB 32	California Global Warming Solutions Act of 2006
AF	Acre-Foot or -Feet (i.e., 1 acre x 1 foot deep)
BMPs	Best Management Practices
CARB	California Air Resources Board
CCR	California Code of Regulations
CEQA	California Environmental Quality Act
County	County of San Bernardino
Court	Superior Court of the State of California, County of San Bernardino, Barstow District
EIR	Environmental Impact Report
EPA	United States Environmental Protection Agency
FEIR	Final Environmental Impact Report
FSEIR	Final Supplemental Environmental Impact Report
GHG	Greenhouse Gas
gpm	Gallons Per Minute
GPY	Gallons Per Year
IERCF	Inland Empire Regional Composting Facility
LUSD	Land Use Services Department
LV	Las Virgenes Composting Facility
MDAQMD	Mojave Desert Air Quality Management District
MMCP	Mitigation Monitoring and Compliance Program
MWA	Mojave Water District
NOD	Notice of Determination
NOP	Notice of Preparation
Petitioners	The Center for Biological Diversity and HelpHinkley.Org
Project	Nursery Products Hawes Composting Facility Project
SCH	State Clearing House Number
SEIR	Supplemental Environmental Impact Report
SWP	State Water Project
tpy	tons per year
VOC	Volatile Organic Compounds

SECTION 1.0 - FINAL SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT

1.1 INTRODUCTION TO THE FINAL SEIR

This Final Supplemental Environmental Impact Report (Final SEIR) for the Nursery Products Hawes Composting Facility (SCH# 2006051021) has been prepared in accordance with the California Environmental Quality Act (CEQA) and the State Guidelines for Implementation of CEQA. The 45-day public comment period for the Draft Supplemental Environmental Impact Report (Draft SEIR) began on July 27, 2009 and ended September 13, 2009.

The Final SEIR consists of:

- (a) Revisions to the Draft SEIR;
- (b) A list of public agencies, organizations, and private citizens commenting on the Draft SEIR;
- (c) Comments received on the Draft SEIR;
- (d) The Lead Agency's responses to the comments received on the Draft SEIR; and
- (e) Any other information or analysis added by the Lead Agency.

The Final Supplemental EIR is comprised of the comments and responses sections, the revised Draft SEIR text and the technical appendices.

1.2 REVISIONS TO THE DRAFT SEIR

The following section contains a set of addendum pages to the Draft SEIR dated July 2009. The revisions identified in this section are the result of staff and public review, and are meant to provide clarification of the analysis and mitigation within the Draft SEIR. Revisions have been made to the Draft SEIR to reflect responses to comments received during the public review period and to correct editorial and typographical errors that were discovered after circulation of the Draft SEIR. The revisions cited in this section were found by the County of San Bernardino not to be substantial; therefore, the recirculation of the Draft SEIR is not warranted. Updates to the Water Supply Assessment as a result of the public review are included as Appendix A (Addendum to the Nursery Products Hawes Composting Facility Water Supply Assessment).

In the following pages, headings describing the location of changes in the Draft SEIR are in bold type (i.e., **Section 2.1, page 2-1, paragraph 1**). Below this entry, are the revisions made to the Draft SEIR. Additions of text are noted by the double underlining of new text, whereas deletions are shown as ~~strikeout text~~.

Section 2.1, page 2-1, paragraph 1

The Project is expected to receive an average daily total of 1,100 wet tons of biosolids and green material (approximately 400,000 wet tons per year (tpy)). The maximum quantity that the Project would receive on any given day would be 2,000 wet tons. Clean soil or other inert materials (i.e. sand, gypsum, sawdust) will be used as a bulking agent or amendment as needed and will not exceed 200 tons per day. The composting process will operate using a mixture of approximately 50% biosolids to 50% green material. The Project would produce a maximum annual volume of 400,000 cubic yards of compost. Once the composting process is complete, the end product is

the finished compost, dark in color with an earthy smell. Non-recoverable or non-marketable residues are placed in a trash receptacle for transport and disposal at a permitted solid waste landfill. The finished product will be temporarily stored onsite prior to being transported off-site via trucks or used onsite for erosion control, or further processing (Section 2.3 of the DEIR).

The proposed Project will comply with all applicable laws and regulations including EPA Title 503 Regulations. All composting will be undertaken in conditions that allow aerobic reactions. This includes turning the windrows or aerating as necessary to keep aerobic conditions.

Section 2.7, page 2-3, paragraph 2

- Contact information for Nursery Products, including a phone number, will be made available to the public so that neighboring residents may inform Nursery Products Staff if odors have moved offsite. Signs will be posted onsite such that the contact information is visible from adjacent public roadways.

Section 2.1, page 2-1, paragraph 1

The Project is expected to receive an average daily total of 1,100 wet tons of biosolids and green material. This amounts to (approximately 400,000 wet tons per year (tpy) approximately half of which will consist of biosolids and half green material. The maximum quantity that the Project would receive on any given day would be 2,000 wet tons.

Section 4.2.1.1, page 4-13, paragraph 3

All Producers in each Subarea are allowed to produce as much water as they need annually to meet their requirements, subject to compliance with the Physical Solution set forth in the Judgment. An underlying assumption of the Judgment is that sufficient water will be made available to meet the needs of the Basin in the future from a combination of natural supply, imported water, water conservation, water reuse and transfers of the Free Production Allowance among Producers. The Physical Solution, as described by the Court, includes directions to the MWA to appoint a Watermaster and submit annual reports recording elements of compliance with the Judgment. The MWA annual reports for the past 15 years were reviewed and relied upon in the preparation of this assessment.

Section 4.2.2.2, page 4-16, paragraph 1

The Hawes Composting Facility groundwater well will be withdrawing water with a 15 gallon per minute (gpm) pump. The storage tank capacity of 30,000 gallons has been designed to meet potential fire flow requirements. Based upon data provided in the MWA annual reports from 2003 through 2008, and other cited reports such as those by Albert A. Webb Associates, the consulting engineer contracted by MWA's engineer the aquifer beneath the Hawes Composting Facility is capable of producing in excess of 1,000 gallons per minute (gpm) (roughly equivalent to 1613 acre feet per year) with little to no impact on the aquifer.

Section 4.2.2.3, page 4-17, paragraph 1

The 1,000-gallon per day (equivalent to less than 1.1 acre feet per year) to be used by Nursery Products ~~is significantly less than the amount permitted by~~ fits the definition of Minimal Producers (any water producer within the Mojave Water Basin Area that extracts 10 acre feet or less of water annually) as defined in the Mojave Basin Judgment.

The Project will use water primarily for dust control by periodically watering soils disturbed by equipment and vehicles. The volume of water used is based upon the site acreage and area of

disturbance on any particular day with the rate of water application varying with the level of on-site activity. At full operation, about 30 acres will be subject to active equipment usage, usually daily. Of the 1000 gallons/day planned usage about 900 gallons (or 90%) will be used for dust suppression. This figure is a cap and the amount used daily will vary. The amount of surface disturbance and hence water used on a daily basis for dust suppression is a function of equipment usage and a number of meteorological factors. To some extent equipment usage can be operationally limited to minimize dust generation and water usage. The 30,000 gallon water tank on site will contain additional water for any unforeseen circumstances related to dust suppression in unusual conditions. The tank will be kept full with the other 10% (100 gallons) of the daily withdrawn water and any water not necessary for daily usage. Finally, rainwater will be collected in two on-site retention basins and, when available, collected rainwater will be used in lieu of additional water withdrawal. Although it is only a fall back source of water, it is estimated that about 4 million gallons of rainwater per year will be collected. This calculation assumes that less than half of the incident rain water (4.5 inches/year at the Barstow monitoring station 19 miles east of the project site incident to the entire 80 acre site) reaches the retention basin.

Section 4.2.3, page 4-17

The proposed Project will produce groundwater for overlying use from the Mojave Groundwater Basin via an onsite well.

~~By California Superior Court Order, the Hawes Composting Facility is permitted to produce up to 3,258,290 gallons per year (GPY) of water on SE ¼ Section 36 TP 10N R 5W EX MNL Reservation of Record 160 acres; APN: 0492-021-24-0000. The Project fits the definition of Minimal Producers as defined in the Judgment because it is anticipated to consume less than 10 acre feet per year at approximately 1.1 acre feet (360,000 gallons) per year. As such the Project is subject to Mojave Water Agency Ordinance No. 11 which applies to Minimal Producers. MWA is currently working on a Draft Minimal Producer Policy and programs. The proposed Project will produce 365,000 gallons per year, significantly below the legally allowable levels and therefore is exempt from the requirement to hold water rights, or to pay replenishment assessments.~~

~~The Court Appointed Basin Engineer has determined there is more than sufficient aquifer capacity, at approximately 300' below the ground elevation at the Project site, to produce good quality water, capable of providing a sustainable water supply for over one hundred years, free of a replenishment water assessment imposed by the Mojave Basin Watermaster.~~

~~The Mojave Basin Aquifer, located approximately 300' below the grounds surface elevation at the Hawes Composting Facility, has over one million AF of water capable of production for beneficial use. The Mojave Basin Aquifer is well managed and secure water supply, with a California Superior Court imposed physical solution to protect against future overdraft for over the next 100 years. Between March, 17, 2009 and March 20, 2009 a boring was drilled on the Project site to determine the depth to groundwater. Groundwater was first observed in the boring at a depth of 366 feet below ground surface on March 19, 2009. On the following day, the depth to groundwater within the borehole was 305 feet. No water bearing zones, perched groundwater, saturated soil conditions, or seepage of any kind was observed in the boring at shallower depths.~~

~~If, though not anticipated, the Project water usage exceeds 3,258,290 GPY, it can intervene into the Mojave Basin Judgment as a producer of groundwater in excess of 3,258,290 GPY, and purchase a water right equal to any total production shortfall.~~

~~The Project has the legal right to produce all of its water supply needs from the Mojave Basin Aquifer at levels exempt from the requirement to own water rights or to pay replenishment assessments.~~ Based on the amount of water available to the Project and the amount of water the Project wells will produce annually, the extraction of this volume of groundwater would not interfere with groundwater recharge and a lowering of the local groundwater table is not expected. The analysis demonstrates that adequate water supply is available for the Project. Therefore, impacts associated with potable water supply are less than significant.

Section 5.1-1, page 5-1, paragraph 3

The Mojave Desert Air Quality Management District (MDAQMD) has jurisdiction in the Project area and, on October 27, 2008, adopted Rule 1133 to regulate emissions of VOC and ammonia from numerous co-composting facilities. On August 21, 2009 the ruling for San Bernardino County Superior Court Case #CIVBS800976 determined that District Rule 1133 requires review under the California Environmental Quality Act (CEQA) and the MDAQMD cannot adopt the rule until it fulfills these CEQA obligations. As of the writing of the DEIR, the Project was covered by The Rule 1133 covers the Project and requires the use of the best management practices (BMPs) listed therein in Rule 1133. There is no final judgment in the Superior Court case as of the date of this FSEIR. As such the status of the Rule 1133 is in limbo.

1.3 PERSONS, ORGANIZATIONS AND PUBLIC AGENCIES COMMENTING ON THE DRAFT SEIR

The public comment period for the Draft SEIR ended September 13, 2009. A total of forty-one comment letters were received. A list of the commentors is provided in Chapter 3.0 - Public Comments and Responses. The comment letters in their entirety, along with the County's responses are provided in Chapter 3.0.

1.4 DISPOSITION OF THE FINAL SEIR PROGRAM

Upon certification of the Final SEIR, adoption of the Mitigation Monitoring and Reporting Program and supplement to the Mitigation Monitoring and Reporting Program, and approval of the Project, the County will file a Notice of Determination (NOD) with the San Bernardino County Clerk.

The Final SEIR certified in support of the Nursery Products Hawes Composting Facility will be compiled with the Draft and Final EIR, the Draft SEIR and all other pertinent documents (NOD, environmental reports, etc.) and constitutes the whole of the EIR. The Final SEIR, Final EIR, Mitigation Monitoring Plan, and Addendum to the Mitigation Monitoring and Reporting Plan, will be consulted during construction of the Project to ensure that the implementation of the mitigation measures occurs at the appropriate times.

SECTION 2.0 - MITIGATION MONITORING AND COMPLIANCE PROGRAM

2.1 MITIGATION MONITORING

As the Lead Agency under CEQA, the County of San Bernardino (County) is required to adopt a program for monitoring and/or reporting the implementation of mitigation measures for this Project, if it is approved. This Lead Agency responsibility originates in Public Resources Code Section 21081.6(a) (Findings), and CEQA Guidelines Sections 15091 (d) Findings and 15097 (Mitigation Monitoring or Reporting). The FINAL SEIR Mitigating and Monitoring and Compliance Program (MMCP) as presented here is not intended to supersede MMCP presented in Section 5 of the Project FEIR (November 2006), instead it is presented as a supplement to the November 2006 MMCP.

2.2 MONITORING AUTHORITY

The purpose of the FINAL SEIR Mitigation MMCP is to ensure that measures adopted to further reduce impacts from Greenhouse Gas emissions are implemented. The FINAL SEIR MMCP, in conjunction with the November 2006 MMCP, can be a working guide to facilitate not only the implementation of mitigation measures by the Project proponent (also referred to as the Applicant), but also the monitoring, compliance and reporting activities of the County. Any mitigation measure study or plan that requires the approval of the County must allow at least 30 days for adequate review time.

2.3 MITIGATION COMPLIANCE AND ENFORCEMENT RESPONSIBILITIES

The Applicant, Nursery Products, LLC, is responsible for successfully implementing all the mitigation measures in the FINAL SEIR MMCP, and is responsible for assuring that these requirements are met by all contractors and field personnel.

All mitigation measures are fully enforceable through permit conditions and other measures. The County is responsible for enforcing the mitigation measures included in this Final SEIR. The public is allowed access to records and reports used to track the FINAL SEIR MMCP. Monitoring records and reports will be made available for public inspection by the County or its designee on request.

2.4 MITIGATION MONITORING TABLES

The following table presents the mitigation monitoring for each Greenhouse Gas emissions (as presented in the Draft SEIR). The table lists the following information, by column:

- Mitigation Measure
- Monitoring/reporting action (the action to be taken by the monitor or Lead Agency)
- Effectiveness Criteria
- Responsible agency
- Timing (before, during, or after construction; during operation, etc.)
- Date Completed
- Approved by

TABLE 2-1: FINAL SEIR MITIGATION MONITORING PROJECT - GREENHOUSE GAS EMISSIONS						
Mitigation Measure	Monitoring/ Reporting Action	Effectiveness Criteria	Responsible Agency	Timing	Date Completed	Approved by
GHG1: Project plans and specifications shall include a statement that construction equipment shall be shut off when not in use and shall not idle for more than 15 minutes	Verify through Plan Review	Plan provided with implementation steps to reduce Greenhouse Gas adverse impacts.	County of Land Use Services Department (LUSD)	Prior to issuance of a grading or building permit		
GHG2: Project plans and specifications shall include a statement that on-road construction trucks and other vehicles greater than 10,000 pounds shall be shut off when not in use and shall not idle for more than 5 minutes	Verify through Plan Review	Plan provided with implementation steps to reduce Greenhouse Gas adverse impacts.	LUSD	Prior to issuance of a grading or building permit		
GHG3: Project plans and specifications shall include education for construction workers about reducing waste and available recycling services.	Verify through Plan Review	Plan provided with implementation steps to reduce Greenhouse Gas adverse impacts.	LUSD	Prior to issuance of a grading or building permit		
GHG4: Applicant shall demonstrate that the design of the proposed office trailer incorporates the following features: a. Dual paned or other energy efficient windows, b. Energy efficient space heating and cooling equipment, c. Energy efficient light fixtures, d. Energy efficient appliances, e. e. Cool roofs/light colored roofing	Verify through Plan Review.	Plan provided with implementation steps to reduce Greenhouse Gas adverse impacts.	LUSD	Prior to issuance of a building permit		

TABLE 2-1: FINAL SEIR MITIGATION MONITORING PROJECT - GREENHOUSE GAS EMISSIONS						
Mitigation Measure	Monitoring/ Reporting Action	Effectiveness Criteria	Responsible Agency	Timing	Date Completed	Approved by
GHG5: Applicant shall demonstrate that the proposed facility incorporates exterior storage areas for office and paper recyclables and adequate recycling containers located in the office.	Verify through Plan Review.	Plan provided with implementation steps to reduce Greenhouse Gas adverse impacts.	LUSD	Prior to issuance of a building permit		
GHG6: Project plans and specifications shall include a statement that all onsite equipment shall be shut off when not in use and shall not idle for more than 5 minutes	Verify through Plan Review.	Plan provided with implementation steps to reduce Greenhouse Gas adverse impacts.	LUSD	Prior to issuance of a building permit		
GHG7: Project plans and specifications shall include a statement that on-road haul trucks and other vehicles greater than 10,000 pounds shall be shut off when not in use and shall not idle for more than 5 minutes	Verify through Plan Review.	Plan provided with implementation steps to reduce Greenhouse Gas adverse impacts.	LUSD	Prior to issuance of a building permit		

THIS PAGE INTENTIONALLY LEFT BLANK

SECTION 3.0 - PUBLIC COMMENTS AND LEAD AGENCY RESPONSES

Letter #	Agency, Organization or Private Citizen	Date	Page
Agencies			
SC1	Governor's Office of Planning and Research State Clearinghouse and Planning Unit	9/15/2009	3-3
SC2	Department of Fish and Game	9/9/2009	3-6
SC3	California Integrated Waste Management Board	9/1/2009	3-9
SC4	Department of Toxic Substance Control	8/5/2009	3-12
SC5	California Regional Water Quality Control Board	8/24/2009	3-16
SC6	California Department of Public Health	9/14/2009	3-19
SC7	Mojave Desert Air Quality Management District	8/12/2009	3-23
SC8	Mojave Desert Air Quality Management District	9/3/2009	3-25
SC9	Mojave Water Agency	9/1/2009	3-29
Organizations			
SC10	A1 Organics	9/5/2009	3-38
SC11	Center for Food Safety	9/2009	3-41
SC12	Center on Race, Poverty & the Environment	9/16/2009	3-49
SC13	Harvest Quest International, INC.	9/8/2009	3-62
SC14	Summit County Resource Allocation Park	9/3/2009	3-64
Private Citizens			
SC15	Joan Bird	7/15/2009	3-66
SC16	Tom Budlong	9/11/2009	3-68
SC17	Francis & Juana Church	9/14/2009	3-70
SC18	John D. Coffey, J.D.	9/15/2009	3-77
SC19	Robert D. Conaway	9/14/2009	3-79
SC20	Peg Diaz	9/15/2009	3-86
SC21	Nancy Dittman	8/20/2009	3-97
SC22	Nancy Dittman	9/14/2009	3-99
SC23	Martin Frazier	9/7/2009	3-101
SC24	Jeff Harvey	9/5/2009	3-103
SC25	Beverly June Kramer	9/5/2009	3-105
SC26	David Lamfrom	9/14/2009	3-107
SC27	David Lamfrom	9/2009	3-110
SC28	William & Suong McKellar	9/8/2009	3-112
SC28a	William & Suong McKellar	9/11/2009	3-114
SC29	Jessie Orr	8/30/2009	3-116
SC30	Mark Orr	9/1/2009	3-118
SC31	Calvin Phillips	9/6/2009	3-126
SC32	Dehnert Queen	9/14/2009	3-128
SC33	Timothy Saenz	9/11/2009	3-137
SC34	Timothy R. Silva	9/14/2009	3-139

SC35	Timothy R. Silva	9/14/2009	3-139
SC36	Steven Smith	9/15/2009	3-142
SC37	Mrs. Bruce Stonerock	9/4/2009	3-145
SC38	La Vella Tomlinson	9/11/2009	3-149
SC39	Bill Tomlinson	9/11/2009	3-151
SC40	Sean Vandygriff	9/4/2009	3-153
SC41	Norman Diaz	9/19/2009	3-156

GUIDE TO COMMENT RESPONSES BY TOPIC

Air Quality:	SC-2-2, SC6-1, SC8-1, SC15-1, SC17-2, SC19-1, SC20-3, SC26-1, SC37-1, SC41-10, SC41-15
Alternatives Analysis:	SC12-8, SC12-10, SC17-1, SC18-1, SC19-7, SC20-5, SC20-8, SC20-11, SC20-12, SC20-27, SC20-28, SC20-30, SC34-1, SC35-1, SC36-3, SC38-1, SC39-1
Biological Resources:	SC2-1, SC15-1, SC20-21, SC41-22, SC41-28, SC41-29
CEQA Compliance	SC1-1, SC20-2, SC37-2
Economic Feasibility:	SC7-1, SC12-9, SC16-1, SC20-31, SC41-13, SC41-17
Fire Safety:	SC17-2, SC19-5, SC20-22, SC30-6
Greenhouse Gas:	SC7-2, SC12-4, SC12-5, SC19-3, SC20-12, SC20-25, SC20-29, SC41-32
Hazards Materials:	SC4-1, SC4-2, SC4-3
Health Risk:	SC6-2, SC6-3, SC6-4, SC11-2, SC11-3, SC11-4, SC15-1, SC18-1, SC19-1, SC20-1, SC20-7, SC20-14, SC20-21, SC26-1, SC30-4, SC34-1, SC35-1, SC36-3, SC38-1, SC39-1, SC41-21, SC41-22, SC41-29, SC41-33
Non-Environmental Issues:	SC2-3, SC3-1, SC9-7, SC25-1, SC41-1, SC41-4, SC41-8
Odor:	SC5-1, SC20-19, SC20-24, SC41-27
Project Description:	SC10-2, SC12-13, SC19-2, SC19-6, SC20-6, SC20-9, SC20-10, SC20-13, SC20-15, SC20-18, SC41-5, SC41-7, SC41-9, SC41-12, SC41-18, SC41-23, SC41-24, SC41-25, SC41-26
Project Operation:	SC10-2, SC12-6, SC13-7, SC20-23, SC41-20, SC41-31
Project Support:	SC10-1, SC13-1, SC14-1, SC23-1, SC24-1, SC40-1
Request for Information:	SC3-2, SC3-3, SC25-2
SEIR Process:	SC11-1, SC12-1, SC12-2, SC12-3, SC12-12, SC12-14, SC12-15, SC15-2, SC16-2, SC18-1, SC20-5, SC27-1, SC30-1, SC32-1, SC33-1, SC34-1, SC35-1, SC36-2, SC36-3, SC38-1, SC39-1, SC41-2, SC41-6, SC41-11, SC41-17
Water Resources:	SC9-1, SC9-2, SC9-3, SC9-4, SC9-5, SC9-6, SC12-11, SC17-2, SC19-1, SC19-4, SC20-4, SC20-26, SC21-2, SC28-1, SC29-1, SC30-2, SC30-3, SC30-5, SC36-1, SC41-3, SC41-10, SC41-16, SC41-19
Weather:	SC41-14
Wind & Dust:	SC20-13, SC20-16, SC20-20, SC21-1, SC22-1, SC31-1, SC41-30, SC41-33

SC1 Governor's Office of Planning and Research State Clearinghouse and Planning Unit

9/15/2009



ARNOLD SCHWARZENEGGER
GOVERNOR

September 15, 2009

STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH
STATE CLEARINGHOUSE AND PLANNING UNIT



CYNTHIA BRYANT
DIRECTOR

2009 SEP 21 AM 10:23

Carrie Hyke
San Bernardino County Land Use Services Department
385 N. Arrowhead Avenue, 1st Floor
San Bernardino, CA 92415-0182

Subject: Nursery Products Hawes Composting Facility
SCH#: 2006051021

Dear Carrie Hyke:

The State Clearinghouse submitted the above named Supplemental EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on September 14, 2009, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

SC1-1

Sincerely,

Scott Morgan
Acting Director, State Clearinghouse

Enclosures
cc: Resources Agency

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044
(916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

**Document Details Report
 State Clearinghouse Data Base**

SC# 2006051021
Project Title Nursery Products Hawes Composting Facility
Lead Agency San Bernardino County

Type SIR Supplemental EIR
Description NOTE: Review Per Lead

Biosolids and green material composting facility.

Lead Agency Contact

Name Carrie Hyke
Agency San Bernardino County Land Use Services Department
Phone 909 387-4147 **Fax**
email
Address 385 N. Arrowhead Avenue, 1st Floor
City San Bernardino **State** CA **Zip** 92415-0182

Project Location

County San Bernardino
City
Region
Lat / Long
Cross Streets Highway 58 and Hawes Airport Road
Parcel No. 0492-021-24-0000
Township 10N **Range** 5W **Section** 36 **Base** SBBM

Proximity to:

Highways 58
Airports No
Railways No
Waterways No
Schools No
Land Use County of San Bernardino: Resource Conservation (RC) zoning

Project Issues Air Quality; Economics/Jobs; Water Supply

Reviewing Agencies Resources Agency; Department of Conservation; Department of Fish and Game, Region 6; Department of Parks and Recreation; Department of Water Resources; California Highway Patrol; Caltrans, District 8; Department of Food and Agriculture; Integrated Waste Management Board; Regional Water Quality Control Bd., Region 6 (Victorville); Department of Toxic Substances Control; Native American Heritage Commission

Date Received 07/28/2009 **Start of Review** 07/28/2009 **End of Review** 09/14/2009

Response to Comment Letter SC1

SC1-1: The Lead Agency thanks the State Clearinghouse for their acknowledgement.

SC2

Department of Fish and Game

9/9/2009



State of California - The Resources Agency

ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF FISH AND GAME

DONALD KOCH, Director

<http://www.dfg.ca.gov>
Inland Deserts Region (IDR)
497 West Line Street
Bishop, CA 93514
(760) 872-1171
(760) 872-1264-Fax



Clear
9-14-09
e

September 9, 2009

Ms. Carrie Hyke
County of San Bernardino
385 North Arrowhead Avenue, 1st Floor
San Bernardino, CA 92415

Subject: Supplemental Environmental Impact Report for Hawes Nursery. SCH # 2006051021.

Dear Ms. Hyke:

The Department of Fish and Game (Department) has reviewed the Supplemental Environmental Impact Report (SEIR) for the above referenced project. The proposed project would establish an 80 acre composting facility on a 160 acre parcel. The proposed project is located 1 mile south of State Route 58 and 1 mile west of Helendale Road, approximately 12.3 miles east of Kramer Junction and 8 miles west of Hinkley in unincorporated San Bernardino County. APN # 0492-021-24-0000.

The Department is providing comments on the Supplemental Environmental Impact Report as the State agency which has statutory and common law responsibilities with regard to fish and wildlife resources and habitats. California's fish and wildlife resources, including their habitats, are held in trust for the people of the State by the Department (Fish and Game Code §711.7). The Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitats necessary for biologically sustainable populations of those species (Fish and Game Code §1802). The Department's Fish and wildlife management functions are implemented through its administration and enforcement of Fish and Game Code (Fish and Game Code §702). The Department is a trustee agency for fish and wildlife under the California Environmental Quality Act (see CEQA Guidelines, 14 Cal. Code Regs. §15386(a)). The Department is providing these comments in furtherance of these statutory responsibilities, as well as its common law role as trustee for the public's fish and wildlife

As the Department has previously commented, the proposed project is located within high-density desert tortoise habitat and within close proximity to Mohave ground squirrel "core populations" and linkages. It is with this understanding that the Department wishes to comment on the proposed facility's water consumption. According to the SEIR, the proposed facility, as a Mojave Basin Judgment producer, may legally produce 3,258,290 gallons per year (GPY), of which only 365,000 gallons per year are anticipated to be utilized. The SEIR also states that, because it will only produce 365,000 GPY of the legally available 3,258,290 GPY impacts associated with potable water supply are less than significant. This conclusion is made simply on legally

SC2-1

allowable production numbers and does not address the potential impacts to an area which is not only biologically critical to the species listed above (and their associated habitats) but also fails to identify one of the area's largest migratory bird stop-overs (Harper Lake) for project evaluation.

The SEIR evaluates alternatives including several "enclosed" facilities in an attempt to evaluate the potential greenhouse gas emissions associated with the proposed project. The Department would like the analysis to be coupled with any air quality benefits with that of potentially less water consumption via recapture of evaporative waters, when an enclosed structure is utilized.

SC2-2

Lastly, The Department would also like to see additional information regarding access to the proposed project in relation to greenhouse gas production, water usage (for fugitive dust controls) and in relation to any species within the area.

SC2-3

Questions regarding this letter and further coordination on these issues should be directed to Mr. Eric Weiss, Environmental Scientist at (760) 246-8828.

Sincerely,



Tonya Moore
Senior Environmental Scientist

cc: Eric Weiss, DFG
State Clearinghouse

Response to Comment Letter SC2

SC2-1: Comment noted. The comment refers to potential impacts to desert tortoise and Mohave ground squirrel populations and habitat, which is not within the scope of the SEIR and hence no response is necessary. This issue was addressed in the Draft EIR Section 4.4 (beginning on page 4-31). Analysis of both desert tortoise and Mohave ground squirrel populations and habitat was provided on pages 4-3 through 4-14 of the Final EIR. The analysis of impacts to biological resources was specifically challenged in the Superior Court and the Court concluded that further analysis was not required.

SC2-2: As directed by the Superior Court, the Draft SEIR provides additional support to the administrative record on the economic infeasibility of an enclosed facility. The additional analysis of economic feasibility underscores the finding of infeasibility. The Draft SEIR summarized the data provided in the Draft EIR with respect to VOC emissions and provided additional analysis to confirm the Draft EIR determination. The enclosed facility alternative was evaluated for GHG emissions. The review of air quality and GHG emissions in relationship to the enclosed facility was done to determine whether or not an enclosed facility would result in a change in the determination of significance. The determination that the impact was less than significant did not change.

The Draft SEIR determined that an enclosed facility is not economically feasible and therefore, it is not feasible for any sub component of the project such as the reduction of the water consumption of the Project.

SC2-3: In the comment letter the Department of Fish and Game is requesting additional information on the impacts of the access road to the Project. The Draft EIR addressed biological resources (See Response SC2-1 above) and the mitigation measures require compliance with applicable laws regarding endangered species. The SEIR addressed greenhouse gas production in Section 4.1, and water usage in Section 4.2.

SC3

California Integrated Waste Management Board

9/1/2009



LINDA S. ADAMS
SECRETARY FOR ENVIRONMENTAL
PROTECTION



ARMANDO SORIANO, GOVERNOR

CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

1001 I STREET, SACRAMENTO, CALIFORNIA 95814 • P.O. BOX 4025, SACRAMENTO, CALIFORNIA 95812-4025
(916) 341-6000 • WWW.CIWMBCA.GOV

AM 9:55

MARGO REED BROWN
CHAIR
MBROWN@CIWMBCA.GOV
(916) 341-6051

SHEILA JAMES KUEHL
SKJ1EHL@CIWMBCA.GOV
(916) 341-6039

JOHN LAIRD
JLAIRD@CIWMBCA.GOV
(916) 341-6010

CAROLE MIDDEN
CMIDDEN@CIWMBCA.GOV
(916) 341-6024

ROSALIE MULÉ
RMULÉ@CIWMBCA.GOV
(916) 341-6016



RECEIVED
SEP - 1 2009
STATE CLEARING HOUSE

September 1, 2009

Ms Carrie Hyke
San Bernardino County
Land Use Services Department
385 North Arrowhead Avenue, 1st Floor
San Bernardino, CA 92415-0182

Subject: SCH No. 2006051021: Draft Supplemental Environmental Impact Report for the Nursery Products Hawes Composting Facility, Solid Waste Facility Permit No. 36-AA-0445, San Bernardino County

Dear Ms Hyke:

Thank you for allowing the California Integrated Waste Management Board's (Board) staff to provide comments for this proposed project and for your agency's consideration of these comments as part of the California Environmental Quality Act (CEQA) process.

Board staff has reviewed the environmental document cited above and offers the following project description, analysis and our recommendations for the proposed project based on our understanding of the project. If the Board's project description varies substantially from the project as understood by the Lead Agency, Board staff requests incorporation of any significant differences in the Final Supplemental Environmental Impact Report.

Project Description

The San Bernardino County, Land Use Services Department, acting as Lead Agency, has prepared and circulated a Draft Supplemental Environmental Impact Report providing additional evidence in the Administrative Record that an enclosed composting facility was not economically feasible and to identify a single water source and conduct a water supply assessment thereof; in addition the Draft Supplemental Environmental Impact Report will evaluate greenhouse gas (GHG) emissions and climate change impacts associated with the Project.

Board Staff's Comment

Board staff defers to other agencies to determine the applicability and adequacy of the analysis of greenhouse gas and climate change and source of water and water supply assessment; specifically the California Regional Water Quality Control Board – Lahontan Region and Mojave Desert Air Quality Management District respectively.

The evaluation of the costs and feasibility of operating an enclosed composting facility is not in Board staff's area of expertise; after reviewing the information presented in the Draft

SC3-1

DSEIR Nursery Products

September 1, 2009

Supplement Environmental Impact report is appears that the conclusion drawn by the Lead Agency, that it is not economically feasible to operate the Nursery Products facility as an enclosed facility is accurate.

Conclusion

The Board staff thanks the Lead Agency for the opportunity to review and comment on this Draft Supplemental Environmental Impact Report.

The Board staff requests copies of any subsequent environmental documents including, the Final Supplemental Environmental Impact Report, any Statements of Overriding Consideration, copies of public notices and any Notices of Determination for this project.

SC3-2

If the document is certified during a public hearing, Board staff request ten days advance notice of this hearing. If the document is certified without a public hearing, Board staff requests ten days advance notification of the date of the certification and project approval by the decision-making body.

SC3-3

If you have any questions regarding these comments, please contact me at 916.341.6728 or e-mail me at rseamans@ciwmb.ca.gov.

Sincerely,



Raymond M. Seamans
Waste Compliance and Mitigation Program
Permitting and LEA Support Division
South Branch Permitting
California Integrated Waste Management Board

cc: Dianne Ohiosumua
Waste Compliance and Mitigation Program
Permitting and LEA Support Division
South Branch Permitting, Region 4
California Integrated Waste Management Board

Susan Markie, Branch Manager
Waste Compliance and Mitigation Program
Permitting and LEA Support Division
South Branch Permitting
California Integrated Waste Management Board

Jane Brinkerhoff, Supervisor
County of San Bernardino
Division of Environmental Health
385 North Arrowhead Avenue
San Bernardino, CA 92415-0160

Response to Comment Letter SC3

- SC3-1: The Lead Agency thanks the California Integrated Waste Management Board for taking the time to review the Draft SEIR and provide their acknowledgement of the finding of economic infeasibility.
- SC3-2: The California Integrated Waste Management Board will remain on the Project mailing list. The Final SEIR and any other environmental documentation with respect to this Project, will be provided for your review.
- SC3-3: At your request, the California Integrated Waste Management Board will be notified ten days prior to any public hearings and/or ten days prior to certification and Project approval.

SC4

Department of Toxic Substance Control

8/5/2009



Linda S. Adams
Secretary for
Environmental Protection



Department of Toxic Substances Control

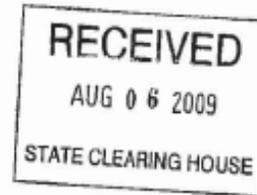
Maziar Movassaghi
Acting Director
5796 Corporate Avenue
Cypress, California 90630



Arnold Schwarzenegger
Governor

August 5, 2009

*Clear
9-14-09
e*



Ms. Carrie Hyke, Principal Planner
San Bernardino County Land Use Services Department
Advance Planning Division
385 N. Arrowhead Avenue, First Floor
San Bernardino, California 92415-0182
chyke@lusc.sbcounty.gov

NOTICE OF AVAILABILITY OF A DRAFT SUPPLEMENTAL ENVIRONMENTAL
IMPACT REPORT FOR NURSERY PRODUCTS LLC HAWES COMPOSTING
FACILITY PROJECT (SCH # 2006051021), SAN BERNARDINO COUNTY

Dear Ms. Hyke:

The Department of Toxic Substances Control (DTSC) has received your submitted draft Environmental Impact Report (EIR) No. 504 for the above-mentioned project. The following project description is stated in your document: "The Nursery products Hawes Composting Facility (Project) is a biosolids and green material composting facility proposed on 80 acres of a 160-acre parcel located within an unincorporated area of the County of San Bernardino (County), California. The facility would compost biosolids and green material to produce Class A compost. The project will use a combination of windrow and modified static pile composting methodologies. The Project site is located west of the City of Barstow, approximately 8 miles west of Hinkley, and approximately 12.3 miles east of Kramer Junction. The site is approximately one mile south of State Route 58 and one mile west of Helendale Road. The Project site is currently vacant desert open-space disturbed by some development including roadways, transmission lines and other abandoned development. According to the County General Plan, the proposed Project is located in the Resource Conservation District." DTSC has following comments:

DTSC provided comments on the project Notice of Preparation (NOP) on April 7, 2009; some of those comments have been addressed in the draft Environmental Impact Report. Please provide language in the EIR to ensure that the following comments will be addressed when and if any hazardous wastes are generated or contamination is found:

SC4-1

Ms. Carrie Hyke
August 5, 2009
Page 2

- 1) If it is determined that hazardous wastes are, or will be, generated by the proposed operations, the wastes must be managed in accordance with the California Hazardous Waste Control Law (California Health and Safety Code, Division 20, Chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5). If it is determined that hazardous wastes will be generated, the facility should also obtain a United States Environmental Protection Agency Identification Number by contacting (800) 618-6942. Certain hazardous waste treatment processes or hazardous materials, handling, storage or uses may require authorization from the local Certified Unified Program Agency (CUPA). Information about the requirement for authorization can be obtained by contacting your local CUPA.
- 2) If during construction/demolition of the project, the soil and/or groundwater contamination is suspected, construction/demolition in the area should cease and appropriate health and safety procedures should be implemented.
- 3) DTSC can provide guidance for cleanup oversight through an Environmental Oversight Agreement (EOA) for government agencies which would not be responsible parties under CERCLA, or a Voluntary Cleanup Agreement (VCA) for private parties. For additional information on the EOA or VCA, please see www.dtsc.ca.gov/SiteCleanup/Brownfields, or contact Ms. Maryam Tasnif-Abbasi, DTSC's Voluntary Cleanup Coordinator, at (714) 484-5489.

SC4-2

SC4-3

If you have any questions regarding this letter, please contact Mr. Rafiq Ahmed, Project Manager, at rahmed@dtsc.ca.gov or by phone at (714) 484-5491.

Sincerely,



Greg Holmes
Unit Chief
Brownfields and Environmental Restoration Program

cc: Governor's Office of Planning and Research
State Clearinghouse
P.O. Box 3044
Sacramento, California 95812-3044
state.clearinghouse@opr.ca.gov

Ms. Carrie Hyke
August 5, 2009
Page 3

cc: CEQA Tracking Center
Department of Toxic Substances Control
Office of Environmental Planning and Analysis
1001 I Street, 22nd Floor, M.S. 22-2
Sacramento, California 95814
nritter@dtsc.ca.gov

CEQA # 2669

Response to Comment Letter SC4

This comment letter refers to potential Impacts from hazardous waste, which is not within the scope of the SEIR and hence no response is necessary. This issue was addressed in the Draft EIR Section 4.6 (on page 4-50).

- SC4-1: The Draft EIR (Section 4.6, pp 4-47) states that hazardous waste will not be generated by the proposed operation of the Hawes Facility. The Lead Agency is aware of the requirements of the California Hazardous Waste Control Law and the Hazardous Waste Control Regulations for California.
- SC4-2: The Draft EIR (pg 4-47) states that during the site reconnaissance, no existing hazardous materials were encountered. Due to the nature of the current project site (undisturbed desert), that construction activities are limited to grading activities and the development of a single groundwater well, it is unlikely that soil or groundwater contamination will be encountered onsite. However, should hazardous materials be encountered during development activities, all appropriate health and safety procedures will be implemented before development activities resume.
- SC4-3: Given the nature of the site, as stated in Response to Comments SC4-2 above, it is unlikely that hazardous materials will be encountered during the development process. However, the DTSC's contact information will be kept on record should hazardous materials be encountered onsite and clean-up or guidance be required.

SC5

California Regional Water Quality Control Board

8/24/2009



California Regional Water Quality Control Board
Lahontan Region



Linda S. Adams
Secretary for
Environmental Protection

Victorville Office
14440 Civic Drive, Suite 200, Victorville, California 92392
(760) 241-6583 • Fax: (760) 241-7308
<http://www.waterboards.ca.gov/lahontan>

Arnold Schwarzenegger
Governor

2009 SEP -9 AM 7:46

August 24, 2009

Carrie Hyke
San Bernardino County
Land Use Services Department
385 North Arrowhead Avenue
San Bernardino, CA 92415

**COMMENTS ON THE DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT
NURSERY PRODUCTS, HAWES COMPOSTING FACILITY, STATE CLEARINGHOUSE
NO. 2006051021, SAN BERNARDINO COUNTY**

California Regional Water Quality Control Board, Lahontan Region (Water Board) staff received the Draft Supplemental Environmental Impact Report (DSEIR) on July 28, 2009, for the above-referenced project. The DSEIR, dated July 27, 2009, was prepared by PBS&J and submitted in compliance with provisions of the California Environmental Quality Act (CEQA). The DSEIR was submitted in response to San Bernardino County Superior Court Case No. BCV 09950, Statement of Decision and Order. Water Board staff has reviewed the DSEIR and Specific Plan for the above-referenced project and has the following comments in compliance with CEQA Guidelines.

Proposed Project

The proposed project consists of constructing a facility for the purposes of recycling green waste material and treated biosolids into compost on part of a 160-acre parcel located within an unincorporated area of San Bernardino County. The proposed project is located approximately 8 miles west of Hinkley, near the abandoned Hawes Airport.

Odor Impact Minimization Plan

Section 2.7 of the DSEIR indicates that an Odor Impact Minimization Plan (OIMP) will be prepared pursuant to CCR, title 14, section 17863.4, and outlines steps that Nursery Products personnel must take should a complain be received. In addition to the steps indicated in the OIMP, Water Board staff recommends that a phone number for Nursery Products be made available to the public so that impacted neighboring residents may let Nursery Products staff know if odors have moved off-site. A system should be incorporated into the OIMP to ensure that odor complaints and complaint resolutions are documented and properly addressed.

SC5-1

California Environmental Protection Agency

Ms. Hyke

- 2 -

August 24, 2009

Summary

Thank you for the opportunity to comment on your project. If you have any questions regarding this letter, please contact me at (760) 241-7305 (bbergen@waterboards.ca.gov) or Patrice Copeland, Senior Engineering Geologist, at (760) 241-7404 (pcopeland@waterboards.ca.gov).

Sincerely,


Brianna Bergen
Engineering Geologist

U:PATRICESUNITBRIANNA/NURSERYPRODUCTS/COMMENTS_NP DSEIR.DOC

California Environmental Protection Agency



Response to Comment Letter SC5

SC5-1: The California Regional Water Quality Control Board recommends that “a phone number for Nursery Products be made available to the public so that impacted neighboring residents may let Nursery Products staff know if odors have moved off-site.” The Final SEIR has been updated to add this provision to the Odor Impact Minimization Plan (Section 1.2, page 1-2).

SC6

California Department of Public Health

9/14/2009



State of California—Health and Human Services Agency
California Department of Public Health

2009 SEP 17 PM 2: 12



ARNOLD SCHWARZENEGGER
Governor

September 14, 2009

Ms. Carrie Hyke
Land Use Services Department
San Bernardino County
385 North Arrowhead Avenue
San Bernardino, CA 92415-0182

Dear Ms. Hyke:

The Environmental Health Investigations Branch, Site Assessment Section (SAS), of the California Department of Public Health (CDPH), has been contacted by a community member regarding public health concerns about the Nursery Products LLC Hawes Composting Facility. The Nursery Products LLC Hawes is proposing to build and operate a composting facility 8 miles west of Hinkley, in San Bernardino County. The purpose of this letter is to provide comments on the Draft Supplemental Environmental Impact Report (SEIR), prepared for the County of San Bernardino, by PBS&J (cover dated July 2009). The SEIR is a supplement to the Draft Environmental Impact Report (DEIR) for the Nursery Products LLC Hawes Composting Facility released in September 2006. SAS works under a cooperative agreement with the federal Agency for Toxic Substances and Disease Registry (ATSDR).

The focus of the SEIR was to provide additional analysis on project impacts on the regional water supply and the economic feasibility of the "enclosed facility" alternative. As a public health agency, CDPH's review focused on identifying areas or omissions from the SEIR that might indicate a potential health risk to the community from the project as it is proposed. CDPH identified the following areas of concern.

a) As concluded in the DEIR (see excerpt in italics below) and restated in the SEIR:

DEIR Section 44.3.3.2 Operational Emissions Impacts: "Additionally, based on data in SCAQMD Proposed Rule 1133.2, an enclosed composting facility in which all the compost and resulting emissions are contained within a building and forceably aerated during curing are estimated to reduce VOC and ammonia emissions by 80%. Even with an 80% emissions reduction, VOCs emissions are estimated to be 71 tons/year and would still exceed the significance threshold of 25 tons/year. Therefore, it is not technologically feasible to mitigate VOC emissions below the level of significance. Thus these composting off-gas emissions are considered to be significant and unmitigable."

SC6-1

Ms. Carrie Hyke
Page 2
September 14, 2009

This conclusion appears to be based on the assumption that emissions would be reduced by 80% if operations were conducted in an enclosed facility. CDPH reviewed the South Coast Air Quality Management District (SCAQMD) Proposed Rule 1133.2, Technology Assessment, where it states the control effectiveness for VOC emissions in enclosed facilities using biofiltration is 90%. The 90% control effectiveness cited in the SCAQMD Technology Assessment is based on information provided in "numerous studies," in addition to evaluations conducted at facilities utilizing biofiltration. Thus, it appears the effectiveness of an enclosed facility may have been underestimated in the DEIR.

If the Nursery Products LLC Hawes Composting operations were conducted in an enclosed facility using biofiltration, a 90% reduction in VOC emissions would correlate to 35 tons/year released to the air, compared to 357 tons/year with the current proposal. While 35 tons/year still exceeds the 25 ton/year threshold, it is still a considerably lower impact on air quality. The underestimated reduction of 80% to 71 tons/year is significant compared to 357 tons/year of VOC emissions. Air quality (VOCs in air) is linked to number of health-related issues, such as asthma, lung and other respiratory diseases, and heart disease. Thus, the long-term implications for the county and its residents from the degradation of air quality are issues that merit consideration.

- b) As previously commented on by CDPH in 2006, the DEIR did not estimate emissions of sulfur compounds, such as hydrogen sulfide (H₂S), carbon disulfide, and dimethyl sulfide, which are emitted from biosolids composting. The SCAQMD conducted sampling at the EKO biosolids composting facility in Chino (much smaller in scale compared to the proposed project) and estimated emission of sulfur compounds at 1.3 tons/year. Since the DEIR did not estimate or model emissions, potential exposures cannot be evaluated. Exposure to H₂S at low concentrations may cause headaches, upset stomach, irritation to the eyes, nose, or throat. It may also cause difficulty in breathing for some asthmatics.
- c) A pathogen risk assessment was not conducted as part of the DEIR or the SEIR. A pathogen risk assessment is an evaluation of the airborne transport of pathogens from the facility and while in transport to the facility (uncovered trucks). In 2002, the National Research Council (NRC) of the National Academy of Sciences released a report concluding that the potential adverse human health impact from exposure to biosolids is uncertain and that there is a need for the Environmental Protection Agency (EPA) to update the scientific basis of Rule 503¹.

SC6-2

SC6-3

¹ In 1993, EPA established regulations (Code of Federal Regulations Title 40, Part 503—commonly referred to as Rule 503) governing composting and land application of biosolids. Rule 503 was implemented without an evaluation of the health risks from exposure to pathogens.

Ms. Carrie Hyke
Page 3
September 14, 2009

To summarize, in addition to VOCs, there are a number of other constituents not evaluated as part of the DEIR or the SEIR that will be emitted from the Nursery Products LLC Hawes project and impact air quality in the area. Given the limitations in knowledge on the potential health implications caused by many of these constituents, reducing the amount of exposure from airborne releases is a public health protective approach. As shown by the data, conducting composting operations in an enclosed facility with biofiltration would reduce the impacts on air quality and public health.

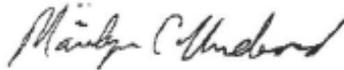
SC6-4

CDPH appreciates your consideration of these comments. If you have any questions, please do not hesitate to call Tracy Barreau at (510) 620-3670 or Marilyn Underwood, Ph.D., at (510) 620-3610.

Sincerely,



Tracy Barreau, REHS
Staff Environmental Scientist
Environmental Health Investigations Branch



Marilyn C. Underwood, Ph.D
Acting Chief, Site Assessment Section
Environmental Health Investigations Branch

cc: Norman Diaz at dnormdiaz@gmail.com

Response to Comment Letter SC6

- SC6-1: The comment refers to the VOC emissions analysis, which is not within the scope of the SEIR. Hence no response is required however the following response is provided as a courtesy to the commentor. This issue was addressed in the Draft EIR Section 4.3 (beginning on page 4-14). The analysis of VOC emissions was specifically challenged in the Superior Court and the Court sustained the analysis and concluded that further analysis was not required. The Draft EIR fully considered the 2003 SCAQMD information referenced. The Draft EIR concluded that an enclosed compost facility would reduce VOC emissions by 80% on page 4-21. While the SCAQMD in 2003 may have provided an assumption of 90% capture and destruction efficiency rates for VOCs from biofilters in the South Coast Air Basin, the proposed Project will operate within the Mojave Desert under jurisdiction of the MDAQMD. The MDAQMD supports the more conservative assumption of an 80% VOC capture and destruction efficiency rate based on MDAQMD data for the Mojave Air Basin. The Draft EIR determined that the construction of an enclosed facility with the capacity to compost the level of biosolids and green waste that would be processed by the Project was infeasible but the Superior Court directed the County to provide further substantiation for that conclusion. The analysis of the economic and technological feasibility of an enclosed facility in the Draft SEIR further substantiates the determination of infeasibility.
- SC6-2: The comment refers to potential health risks from the Project, specifically hydrogen sulfide, which is not within the scope of the SEIR. This issue was addressed in the Draft EIR Section 4.3 (beginning on page 4-24). The analysis of impacts to air quality was specifically challenged in the Superior Court and the Court concluded that further analysis was not required. The referenced testing by SCAQMD at the EKO Systems facility was completed in 1996 and that facility composted 80% manure and 20% biosolids in Chino, California. The Draft EIR states (on page 4-24) that no H₂S emission factor is available for composting and therefore any analysis of H₂S would be speculative. To date, there is no accepted methodology or standard for measuring H₂S resulting from composting facilities. Other methodologies in determining H₂S emission factors are not valid for the proposed Project as these methods assume that the source characteristics remain consistent. The concentration of H₂S from composting facilities will greatly vary depending on the content of feedstock.
- SC6-3: Comment noted. The comment refers to potential health risks and pathogen exposure associated with the Project, which was not within the scope of the SEIR. These issues were addressed in the Draft EIR Sections 4.3 (beginning on page 4-24) and 4.6.3.1 (beginning on page 4-48) respectively. The analysis of impacts to air quality was specifically challenged in the Superior Court and the Court concluded that further analysis was not required.
- SC6-4: The lead agency does not dispute that some airborne pollutants could be retained within an enclosed facility. However, the proposed Project is not for an enclosed facility. The enclosed facility was evaluated as an alternative to the proposed Project and the Lead Agency found that an enclosed facility of the size required in for the Project is economically infeasible. In addition, analysis of health risks from the Project was addressed in the Draft EIR Section 4.3 (beginning on page 4-24). The analysis of impacts to air quality was specifically challenged in the Superior Court and the Court concluded that further analysis was not required. Finally the comment is too general to require further response and the specific responses are set forth in SC6-1, and SC6-2.

SC7

Mojave Desert Air Quality Management District

8/12/2009



Mojave Desert Air Quality Management District

14306 Park Avenue, Victorville, CA 92392-2310

760.245.1661 • fax 760.245.2699

2009 AUG 17 AM 9:12
<http://www.mdaqmd.ca.gov>

Eldon Heaston, Executive Director

August 12, 2009

Carrie Hyke, Principal Planning
San Bernardino County Land Use Services Department
385 North Arrowhead Ave., First Floor
San Bernardino, CA 92415-0182

Re: Nursery Products LLC Hawes Composting Facility Draft Supplemental Environmental Impact Report

Dear Ms. Hyke:

The Mojave Desert Air Quality Management District (District) has reviewed the Draft Supplemental Environmental Impact Report (EIR) for the proposed Nursery Products Hawes Composting Facility. The supplemental EIR addresses the economic feasibility of an enclosed facility option, along with water issues, greenhouse gas emissions and climate change impacts.

The District finds that the County adequately summarizes the requirements of District Rule 1133 - *Composting and Related Operations* to the proposed facility. The District also finds that the cost assumptions used by the County to evaluate the economic feasibility of the enclosed facility alternative are consistent with the cost assumptions and cost effectiveness analysis performed by the District in support of the adoption of Rule 1133.

SC7-1

The District currently has no direct climate change impact evaluation requirement or District-approved guidance relating to greenhouse gas quantification and evaluation. However, the District has reviewed the climate change portion of the supplemental EIR and has no technical objection to the analysis or findings therein.

SC7-2

Thank you for the opportunity to review this planning document. If you have any questions regarding this letter, please contact me at (760) 245-1661, extension 6726.

Sincerely,

Alan J. De Salvo
Supervising Air Quality Engineer

cc: Karen Nowak, District Counsel

AJD Nursery Products Supplemental EIR.doc

Response to Comment Letter SC7

- SC7-1: The Mojave Desert Air Quality Management District (MDAQMD) in their comment letter has stipulated the cost assumptions used in the analysis for the economic feasibility are consistent with the cost assumptions and cost effectiveness analysis performed by the District in support of the adoption of Rule 1133. Comment noted.
- SC7-2: The MDAQMD is the expert agency for air quality and greenhouse gas impacts for the region where the proposed Nursery Products facility will be located. Although the MDAQMD has no direct climate change analysis requirements or guidelines, the MDAQMD has stated no objections to the analysis provided in the Draft SEIR or the resulting finding.

SC8

Mojave Desert Air Quality Management District

9/3/2009



2009 SEP -4 AM 9:49

Mojave Desert Air Quality Management District

14306 Park Avenue, Victorville, CA 92392-2310

760.245.1661 • fax 760.245.2699

Visit our web site: <http://www.mdaqmd.co.gov>

Eldon Heaston, Executive Director

September 3, 2009

Carrie Hyke, Principal Planning
San Bernardino County Land Use Services Department
385 North Arrowhead Ave., First Floor
San Bernardino, CA 92415-0182

Re: Nursery Products LLC Hawes Composting Facility Draft Supplemental Environmental Impact Report

Dear Ms. Hyke:

The Mojave Desert Air Quality Management District (District) has reviewed the Draft Supplemental Environmental Impact Report (EIR) for the proposed Nursery Products Hawes Composting Facility. The supplemental EIR references the requirements of District Rule 1133 - *Composting and Related Operations* to the proposed facility. Please note that the Rule 1133 is subject to the attached ruling from the Superior Court in Case #CIVBS800976. The MDAQMD recommends that you modify the Supplemental EIR to reflect this document.

SC8-1

Thank you for the opportunity to review this planning document. If you have any questions regarding this letter, please contact me at (760) 245-1661, extension 6726.

Sincerely,

Alan J. De Salvio
Supervising Air Quality Engineer

Attachment

cc: Karen Nowak, District Counsel

AJD/KKN

Nursery Products Supplemental EIR2.doc

<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28</p> <p style="text-align: center;">FILED JUN 23 2009 Superior Court of California County of San Bernardino, Joshua Tree District</p> <p style="text-align: center;">SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF SAN BERNARDINO, JOSHUA TREE DISTRICT</p> <p>IN REPLY TO: CNG, an Unincorporated association, Petitioner, vs. NURSERY DESERT AIR QUALITY MANAGEMENT DISTRICT, Respondent.</p> <p>Case No.: CV8850070 STATEMENT OF DECISION AND ORDER THEREON</p> <p>On December 2, 2008, petitioner filed her Verified Petition for Writ of Mandate and Complaint for Injunctive and Declaratory Relief. Certification of the Administrative Record of Proceedings (AR) of the Mojave Desert Air Quality Management District (MDAQMD) was made on February 25, 2009. The Administrative Record was lodged with the court on May 21, 2009. A hearing on the issues of action, District's Setting of the Cost-Effectiveness Threshold for Particulate Control Measures, Violates Health & Safety Code § 38114 and is Arbitrary and Capricious and Entirely Lacking in Evidentiary Support ("C"), District's Feasibility Findings for Composting Control Measures Are Arbitrary and Capricious and Entirely Lacking in Evidentiary Support ("C") and Violation of the California</p> <p style="text-align: right;">1 ATTORNEY FOR PETITIONER P. D. BARNES</p>	<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28</p> <p>Environmental Quality Act, Public Resource Code §§ 21000 et seq., Unlawful</p> <p>Extension ("C") was heard on June 22, 2009. The court advised counsel it would take the matter under submission, but that a decision would be delayed due to moving to the Joshua Tree courthouse and a scheduled vacation in July. After argument by all parties, the court took the matter under submission. The decision of the court follows:</p> <p style="text-align: center;">MDAQMD'S EXEMPTION OF RULE 1133 FROM CREG ANALYSIS</p> <p>MDAQMD adopted Rule 1133 to comply with Health & Safety Code § 38614. One of the general purposes was to limit emissions of volatile organic compounds (VOC) and aerosols from composting operations. (AR 00964.) Rule 1133 was also implemented "to assure the protection of the environment, specifically the proposed rule enhances the control of PM 10 emissions from certain composting and composting related operations where no such control has been previously imposed upon this particular source category." (AR 01036.) MDAQMD determined that the adoption of Rule 1133 was a project, but exempt from CEQA (California Environmental Quality Act) review "because it will not create any adverse impacts on the environment." (AR 01036.) MDAQMD found that proposed rule 1133 "has no potential to cause the release of additional air contaminants or create any adverse environmental impacts." (AR 01036.) MDAQMD determined that a Class II categorical exemption from CEQA was applicable to Rule 1133. (14 Cal. Code Reg. (C.C.R.) § 15308 (AR 01036).)</p> <p>Petitioner argues that respondent is not entitled to a categorical exemption</p> <p style="text-align: right;">2</p>
<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28</p> <p>Petitioner notes that amount of emissions reduced by implementation of Rule 1133 could not be quantified. (AR 02026.) As discussed in oral argument, there is very little scientific research on commercial composting facilities and the amount of gases emitted under different management practices. A statement regarding a quantified reduction of emissions by implementation of Rule 1133 would be highly suspect without scientific proof that a measure that reduces emissions in amount that cannot be quantified is still a measure "to assure the maintenance, restoration, enhancement, or protection of the environment." (14 C.C.R. § 15300.) The court finds that MDAQMD is entitled to a categorical exemption.</p> <p>The "best management practices" of Rule 1133 includes the requirement that a person engaged in composting operations "Scrape or remove, at least once a day, all areas where Compostable [sic] Material is mixed, screened, or stored such that the Compostable [sic] Material greater than one inch (1") in height is visible in the areas scraped or swept immediately after scraping or sweeping, except for Compostable [sic] Material in process Piles or storage Piles;" (AR 02082.) (OSM1.) Another requirement is to "maintain moisture content between 40 percent to 75 percent and feed daily in Active Piles and monthly in Curing Piles, or Cover Active and Curing Piles within three hours of turning with one of the following: a. A waterproof covering or b. At least six inches (6") of Finished Compost; or c. At least six inches (6") of soil." (AR 02081.) The California Integrated Waste Management Board (CIWMB) submitted comments on the above practices. In reference to sweeping or rereeping, CIWMB stated "sweeping at hearings in the San Joaquin Valley indicates this may not be achievable at most operations. Successful</p> <p style="text-align: right;">2</p>	<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28</p> <p>sweeping may actually increase particulate issues. Keeping areas swept to 1" is not proven to reduce VOC or aerosols emissions." In reference to covering a pile or curing piles within three hours of turning, CIWMB stated, "Covering active compost piles with a waterproof cover may lead to anaerobic conditions, potentially resulting in more odors and emissions. Placing soil on top of compost piles may lead to anaerobic conditions, potentially resulting in more odors and emissions." (AR 02011.)</p> <p>Petitioner argues that the comments submitted by CIWMB indicate that Rule 1133 is an exemption to the exemption because "there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." (CEQA Guidelines, 14 C.C.R. § 15300.2(g).) CIWMB's comment regarding excessive sweeping states what every person who has ever swept a brown lawn, the more you sweep, the more dust you stir up into the air. No definition of excessive sweeping is provided. The effect of excessive sweeping may increase particulate issues. Per CIWMB, covering compost piles with a waterproof cover or soil would potentially result in more odors and emissions. There was no quantifiable potential increase stated.</p> <p>Accepting that there is a "fair argument" that Rule 1133, on the above basis, may have a significant effect on the environment (Committee to Save the Hollywood Specific Plan v. City of Los Angeles (2016) 61 Cal.App.4th 1180, 1187. This court does not see from the comments by CIWMB constitute an "unusual circumstance" within the meaning of 14 C.C.R. 15300.2(g). In the court's view, there are two elements to the exception in 14 C.C.R. 15300.2(g): 1. a "reasonable</p> <p style="text-align: right;">4</p>

<p>1 possibility that the activity will have a significant effect on the environment. 2) due to 2 unusual circumstances. The court does not believe the second element has been 3 satisfied by mere law. (See <i>Bostick</i>, 162, 163-164; Park Model Community 4 Preservation Group v. City of San Diego (2008) 159 Cal.App.4th 249, 251. In 1, 5 CWRMB sent a cover letter with its comments, stating therein, "We expect that the 6 impact of Rule 1133 on these locally supported diversion efforts will be an 7 important consideration for the MDAQMD itself and that it in evaluating the total 8 environmental impacts of the proposed rule." (AR 008116.) If the court were to find 9 CWRMB's comments an "unusual circumstance," then the exception to the 10 exemption would be eliminated. 11 12 The primary complaint of petitioner is that MDAQMD's regulations of 13 commercial composting facilities are not as stringent as neighboring air quality 14 management districts. The South Coast Air Quality Management District 15 (SCAQMD) requires composting of refuse in an enclosed area that 16 has an emission system. (AR 003053-0500.) The San Joaquin Valley Air Pollution 17 Control District (SJVAPCD), although not immediately adjacent to the MDAQMD, 18 has different requirements depending on the size of the facility. (AR 003016, 19 likewise, SJVAPCD and SQAQMD (which covers the LDBA areas of Los Angeles 20 and Orange Counties, and most of the Inland Empire) have adopted more stringent 21 control measures to comply with Health & Safety Code § 38814 regarding 22 emissions from MDAQMD's Rule 1133. While Rule 1133 provides regulations, 23 where before there were none, nearby districts are adopting more stringent 24 regulations. One does not need a degree in economics to realize that MDAQMD's 25 26 27 28</p>	<p>1 area of jurisdiction is a simpler and cheaper place to commercially compost. In the 2 court's view, this would be an "unusual circumstance" within the meaning of 14 3 C.C.P. 1030.200. In looking at the expense of emission control measures as 4 undertaken by the MDAQMD in other districts, it is clear to the court that Rule 1133 5 makes MDAQMD's area of jurisdiction a more cost-effective locale to conduct 6 composting. Rule 1133 provides a financial incentive for composting businesses to 7 move to, or relocate to, locations within the MDAQMD. This scenario could create 8 adverse impacts to the environment, justifying an environmental review of Rule 9 1133. The court finds that an "unusual circumstance" is present taking Rule 1133 10 out of the metaphorical exemption. 11 12 MDAQMD'S COMPLIANCE WITH HEALTH & SAFETY 13 CODE § 38814 COST-EFFECTIVE ANALYSIS FOR 14 PARTICULATE CONTROL MEASURES. 15 16 Rule 1133 does not require use of a particle-buffer. The \$50 per ton 17 calculation for best management practices as defined in Rule 1133 is not supported 18 by the analysis since that analysis was based on the assumption that a particle- 19 buffer would be used. (AR 008085.) A substantiated calculation of the cost and 20 benefits of the best management practices option has yet to be done. Health and 21 Safety Code § 38814 requires an analysis to be done before the MDAQMD decides 22 what rule to adopt, that the MDAQMD abused its discretion in adopting Rule 1133. 23 24 ORDER 25 The court grants petitioner's prayer for relief and orders a writ of mandate to 26 be issued commanding the MDAQMD to (1) rescind Rule 1133 as adopted on 27 October 27, 2008; (2) prepare an environmental impact report pursuant to Public 28</p>
<p>1 Resource Code § 38814, or sec.; (3) conduct a cost-benefit analysis of the "best 2 management practices" option; and (4) adopt a rule that complies with Health and 3 Safety Code § 38814. The MDAQMD is enjoined from implementing Rule 1133 4 unless and until the MDAQMD prepares an Environmental Impact Report and 5 adopts a rule that complies with Health and Safety Code § 38814. The court retains 6 jurisdiction, by way of return to the writ, over MDAQMD until the court has 7 determined that MDAQMD has complied with CEQA. The court reserves jurisdiction 8 over attorney's fees and costs. A request for attorney's fees and cost must be made 9 by noticed motion. 10 11 The petitioner asks to prepare a judgment and peremptory writ is conformity 12 to this statement of decision. The court may modify or reject the proposed judgment 13 and peremptory writ if it finds they are not in conformity with this statement of 14 decision. 15 16 JAMES P. WANDER 17 Dated: _____ 18 _____ 19 Judge of the Superior Court 20 21 22 23 24 25 26 27 28</p>	<p>1 PROOF OF SERVICE BY MAIL  FILED 2 STATE OF CALIFORNIA FILED SEP 7 1 2009 3 COUNTY OF SAN BERNARDINO } 4 I am employed in the County of San Bernardino, State of California. I am over the 5 age of 18 and not a party to this writ action. My business address is 8127 White Feather 6 BLDG SAN JUAN TRAIL, CA 92504 7 On <u>August 27, 2009</u>, I served the foregoing document described as 8 Statement of Decision and order thereon on the interested parties in this action by 9 placing a true copy thereof enclosed in a sealed envelope addressed as follows: 10 11 CENTER ON RACE, POVERTY, & THE ENVIRONMENT 12 AT HEARDON STREET 13 SUITE 504 14 SAN FRANCISCO, CA 94106 15 16 BEST BEST & KRUEGER 17 370 UNIVERSITY AVE STE 400 18 PALMDALE, CA 93550-1819 19 RIVERVIEW, CA 92502-1028 20 21 I caused such envelope with postage thereon fully prepaid to be placed in the 22 United States mail at Joshua Tree, California. 23 I declare under penalty of perjury under the laws of the State of California that the 24 above is true and correct. 25 Executed on <u>August 27, 2009</u>, at Joshua Tree, California. 26 27  28 James P. Wander 29 Subpoena Assistant</p>

Response to Comment Letter SC8

SC8-1: The MDAQMD in comment letter number SC8 provided the Superior Court Statement of Decision with regard to the legal challenge to District Rule 1133 (Superior Court Case #CIVBS800976) and recommends that the Final SEIR reference to District Rule 1133 be modified to reflect this recent court action. A Writ has not been issued in that case and thus the status of Rule 1133 is in limbo. The Superior Court Statement of Decision found that District Rule 1133 was not subject to the categorical exemption and requires review under the California Environmental Quality Act (CEQA). The Final SEIR will be modified to reflect this information. The analysis of impacts to air quality in the Draft EIR was specifically challenged in the Superior Court and the Court sustained the analysis and concluded that further analysis was not required. As discussed in the Draft EIR, the Project is required to comply with existing MDAQMD regulations.

SC9

Mojave Water Agency

9/1/2009



22450 Headquarters Drive ♦ Apple Valley, California 92307-4304
Phone (760) 946-7000 ♦ Fax (760) 240-2642 ♦ www.mojavewater.org

September 1, 2009

Carrie Hyke, Principal Planner
San Bernardino County
Land Use Services Department
385 North Arrowhead Avenue
San Bernardino, CA 92415-0182

**RE: DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT
NURSERY PRODUCTS LLC HAWES COMPOSTING FACILITY**

Dear Ms. Hyke:

Thank you for the opportunity to review and comment on the July 2009 Supplemental Environmental Impact Report (SEIR), prepared by PBS&J for the *Nursery Products LLC Hawes Composting Facility*. Mojave Water Agency's comments are as follows:

4.2.2.2 -CAPACITY

The document states the following:

"Based upon data provided by the MWA's engineer, the aquifer beneath the Hawes Composting Facility is capable of producing in excess of 1,000 gallons per minute with little to no impact on the aquifer. The 15 gpm water pump will have less than a 1% impact of the predicted drawdown of the aquifer."

The Mojave Water Agency (MWA) has not provided any information to substantiate the claim above. The two closest wells of record with water level data consist of the following:

Well Name	Approx. Dist. From Site	Water Level Decline	Period
09N04W08D01	1.7 miles	62' (Dry at 405')	1992 to 2008
10N04W33D01	2.2 miles	21.65'	1967 to 2009

Data from the aforementioned wells is included as Attachment A.

SC9-1

September 1, 2009
MWA Comments
SEIR Nursery Products
Page 2

4.2.2.3 – CONSUMPTIVE USE

SC9-2

The document states the following:

"The 1,000-gallon per day to be used by Nursery Products is significantly less than the amount permitted by the Mojave Basin Judgment."

The Judgment generally applies to producers who produce in excess of 10 acre-feet of water annually. At 1,000 gallons per day, expected production from the Hawes Composting Facility will be approximately 1.2 acre-feet annually. The owner of the facility may be subject to any policy or programs that apply to Minimal Producers (any producer within the Mojave Basin Area adjudicated boundaries that extracts 10 acre-feet or less of water annually).

4.2.3 - SOURCE SUPPLY / LEGAL RIGHTS

SC9-3

The document states the following:

"By California Superior Court Order, the Hawes Composting Facility is permitted to produce up to 3,258,290 gallons per year (GPY) of water on SE ¼ Section 36 TP 10N R 5W EX MNL Reservation of Record 160 acres; APN: 0492-021-24-0000."

The statement is misleading, although not entirely wrong. The Riverside County Superior Court has continuing jurisdiction in the case *Barstow v. Adelanto (Judgment After Trial 1996)*, which adjudicated the groundwater and surface water rights within the Mojave Basin Area. The court specifically excluded a class of producers called "minimal producers" whose water production during the period 1986-1990 was 10 acre-feet or less per year (3,258,851 gallons). The court did not confer a right to pump on minimal producers and directed Mojave Water Agency to determine the costs of the physical solution attributable to minimal producers. MWA is currently working to implement a minimal producer program for determining the costs that a minimal producer, who commences water production after entry of Judgment, would incur.

The document states the following:

"The Court Appointed Basin Engineer has determined there is more than sufficient aquifer capacity, at approximately 300' below the ground elevation at the Project site, to produce good quality water, capable of providing a sustainable water supply for over one hundred years, free of a replenishment water assessment imposed by the Mojave Basin Watermaster."

No MWA or Mojave Basin Area Watermaster professional staff has determined the volume, quality of sustainability of the aquifer or basin in the area of the Hawes Composting Facility. In fact, the two previously mentioned monitoring wells

September 1, 2009
MWA Comments
SEIR Nursery Products
Page 3

(09N04W08D01 and 10N04W33D01) indicate a decline in water levels in the area. Water levels collected from well 10N04W33D01 indicate decline in the local water table for over 30 years. Water levels collected from well 09N04W08D01 indicate a decline of approximately 62 feet between 1992 and 2000 when the well went dry at a depth of 405 feet below ground surface (Attachment A).

The document states that the *"project has the legal right to produce all of its water supply needs from the Mojave Basin Aquifer at levels exempt from the requirement to own water rights or pay replenishment assessments"*. (4.2.3)

There has been no determination that this project has a legal right to produce water and no right was specifically conveyed by the *Judgment After Trial*. It is presumed for purposes of administration of the Physical Solution, that projects of this type are eligible to produce water as a minimal producer under whatever terms may be ultimately developed for that class. However, determination of water production rights has not been made by a court of competent jurisdiction relative to an individual project or party, except those that were at issue in the trial, or subsequently stipulated to the Judgment. This statement assumes that the project's water requirement is 10 acre-feet or less, and therefore the project would be treated as a minimal producer. If it is determined that water use would in fact be greater than 10 acre-feet (see comments below regarding "4.3 - Consumptive Use"), it would be necessary for the project proponent to become a party to the Mojave Basin Area Judgment and to either purchase Replacement Water to offset their production or to secure adequate production rights from another party in the Centro Subarea.

The remainder of section 4.2.3 is unclear as to relevance and meaning. It is also unclear as to the analysis that was done to support the conclusion that impacts associated with potable water supply are less than significant.

4.2 - CAPACITY

The document states:

"Based upon data provided by the MWA's engineer, the aquifer beneath the Hawes Composting Facility is capable of producing in excess of 1,000 gallons per minute with little to no impact on the aquifer. The 15 gpm water pump will have less than a 1% impact of the predicted drawdown of the aquifer. Drawdown is the amount of amount of time it takes to refill the space created in a well column from the aquifer. The 15 gpm pump will have no impact on the aquifer."

No MWA or Mojave Basin Area Watermaster professional staff has determined well production rate or sustainability of the aquifer beneath the project site. Calculations and

SC9-4

September 1, 2009
MWA Comments
SEIR Nursery Products
Page 4

statements regarding the predicted drawdown and impact on the aquifer need to be substantiated.

4.3 – CONSUMPTIVE USE

The document states:

"1,000-gallon per day to be used by Nursery Products is significantly less than the amount permitted by the Mohave Basin Judgment."

There is no analysis presented in this document or in the Water Supply Assessment that determines or indicates the actual water demand of the project. It is simply stated to be 1,000 gpd. The project will apparently encompass 80 acres. A detailed description of anticipated daily operations involving water use for all anticipated purposes should be provided. The document needs to clearly identify and quantify the actual water demand.

4.4 SOURCE SUPPLY / LEGAL RIGHTS

The document states:

"The Mojave Basin Aquifer, located approximately 300' below the grounds surface elevation at the Hawes Composting Facility, has over one million AF of water capable of production for beneficial use. The Mojave Basin Aquifer is well managed and secure water supply, with a California Superior Court imposed physical solution to protect against future overdraft for over the next 100 years."

The Mojave Basin Area is a well managed hydrologic system of groundwater and surface that is currently in a state of overdraft. The Physical Solution is intended to be a mechanism to fund the purchase of supplemental water for recharge within the basin subject to constraints of the Judgment. There is no document or analysis that demonstrates that there is "over one million AF of water capable of production for beneficial use." There is no justification to rely upon such a conclusion as support for lack of impact by the proposed project.

4.5 - QUALITY REPORT(S)

The document states:

"A complete analysis of water quality within the Mohave Basin is extremely labor intensive and beyond the scope of this Assessment, but the MWA anticipates undertaking this effort in the near future."

"Mohave" should read "Mojave".

SC9-5

SC9-6

SC9-7

September 1, 2009
MWA Comments
SEIR Nursery Products
Page 5

The MWA manages the water resources of approximately 4,900 square miles of the High Desert, San Bernardino County, California. Any water quality studies that are undertaken by the MWA are regional in nature and generally do not apply to site-specific applications.

Once again, thank you for the opportunity to comment on this SEIR. Should you have any questions, please feel free to contact me.

Sincerely,



Lance Eckhart, PG, CHg, REA
Principal Hydrogeologist

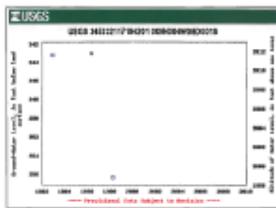
LE:jl:md

Mojave Water Agency
 Attachment A
 Local Wells Water Level Data

A-1



A-2



A-3

http://hls.water.ca.gov/central/submit_data.cfm?ID=117402&table_name=... 8/18/2009

UNITS: METERS (1 METER = 3.28084 FEET)

DATE: 8/18/2009 10:10:10 AM

TABLE: 117402

WELL ID	WELL NAME	DATE	WATER LEVEL (M)
1000	1000	10/10/00	1000
1001	1001	10/10/00	1001
1002	1002	10/10/00	1002
1003	1003	10/10/00	1003
1004	1004	10/10/00	1004
1005	1005	10/10/00	1005
1006	1006	10/10/00	1006
1007	1007	10/10/00	1007
1008	1008	10/10/00	1008
1009	1009	10/10/00	1009
1010	1010	10/10/00	1010

A-4

Page 1 of 1

A-5

<http://miv.water.usgs.gov/info/printable.cfm?MID=111&MID2=1&MID3=1&MID4=1&MID5=1&MID6=1&MID7=1&MID8=1&MID9=1&MID10=1&MID11=1&MID12=1&MID13=1&MID14=1&MID15=1&MID16=1&MID17=1&MID18=1&MID19=1&MID20=1&MID21=1&MID22=1&MID23=1&MID24=1&MID25=1&MID26=1&MID27=1&MID28=1&MID29=1&MID30=1&MID31=1&MID32=1&MID33=1&MID34=1&MID35=1&MID36=1&MID37=1&MID38=1&MID39=1&MID40=1&MID41=1&MID42=1&MID43=1&MID44=1&MID45=1&MID46=1&MID47=1&MID48=1&MID49=1&MID50=1&MID51=1&MID52=1&MID53=1&MID54=1&MID55=1&MID56=1&MID57=1&MID58=1&MID59=1&MID60=1&MID61=1&MID62=1&MID63=1&MID64=1&MID65=1&MID66=1&MID67=1&MID68=1&MID69=1&MID70=1&MID71=1&MID72=1&MID73=1&MID74=1&MID75=1&MID76=1&MID77=1&MID78=1&MID79=1&MID80=1&MID81=1&MID82=1&MID83=1&MID84=1&MID85=1&MID86=1&MID87=1&MID88=1&MID89=1&MID90=1&MID91=1&MID92=1&MID93=1&MID94=1&MID95=1&MID96=1&MID97=1&MID98=1&MID99=1&MID100=1>

A-6

Response to Comment Letter SC9

- SC9-1 The Mojave Water Agency (MWA) in their comment letter supplied data on two wells within approximately 2 miles of the Project site that show a decline in water levels of 62 feet at Well #09N04W08D01 between years 1992-2008, and a decline of 21.65 feet at Well #10N04W33D01 between years 1967 to 2009. The MWA does not assert that these wells are representative of conditions at the Project site. A boring on the project site, drilled after preparation of the Water Supply Assessment, found groundwater at 366 feet below ground surface. The Water Supply Assessment (WSA) was based upon professional experience and MWA data presented in the referenced Mojave Water Basin Annual Reports for the past 15 years. Based thereon, the WSA evaluated the impact of the water demand from the Project and concluded that the Project water demand represents less than 1% of the available water capacity of the greater Mojave Basin Aquifer. The proposed project will equip a groundwater well drilled on the property with a 15 gallon per minute pump. Drawdown within a well producing 15 gallons per minute, up to only 1,000 gallons per day will be insignificant and have no impact on the greater Mojave Basin which consistently produces over 150,000 AF per year as documented by the Annual Reports of the Mojave Basin Area Watermaster over the last several years. The 1,000 gallons per day (or 1.08 acre feet per year) is equivalent to approximately 0.00072% of the total water production in the Mojave Basin.
- SC9-2 The MWA agrees that the Judgment generally applies to producers of greater than 10 acre feet per year and in its comment is correct that the Project fits the definition of Minimal Producers (any water producer that extracts 10 acre feet or less of water annually) as defined in the Judgment because it is anticipated to produce approximately 1.08 acre feet per year. As such the Project is subject to Mojave Water Agency Ordinance No. 11 which applies to Minimal Producers. The discussion of water supply in the Draft SEIR was revised in this Final SEIR to clarify that the Project is a Minimal Producer under the definition in the Mojave Water Basin Judgment.
- SC9-3 The Final SEIR is revised to clarify that this Project fits the definition of a Minimal Producer as defined in the Mojave Water Basin Judgment and may be subject to Ordinance No. 11. See Response SC9-1 regarding availability of water at the Project site. The Lead Agency respects the detailed analysis of the Judgment, but stands by its practical determination that, at this time, the project, as a Minimal Producer has the right to produce and meet its water needs from the Mojave Basin Aquifer.
- SC9-4 The referenced water capacity (1,000 gpm) was cited as a general reference point for the known capacity in scores of groundwater wells reported to the Mojave Basin Watermaster and published in its annual reports for the past 15 years. The proposed project will equip a groundwater well drilled on the property with a 15 gallon per minute pump. Drawdown within a well producing 15 gallons per minute will be insignificant and have no impact on the greater Mojave Basin which consistently produces over 150,000 AF per year. While Mojave Water Agency and its staff did not prepare the Water Supply Assessment, it was based upon and substantiated by publically available information published by MWA.
- SC9-5 The comment is incorrect. The Draft SEIR analyses the water usage on page 2 of the WSA. The Project will use water primarily for dust control by periodically watering soils disturbed by equipment and vehicles. The volume of water used is based upon the site acreage and area of disturbance on any particular day with the rate of water application varying with the levels of on-site activity. At full operation,

about 30 acres will be subject to active equipment usage usually daily. Of the 1000 gallons per day planned usage about 900 gallons (or 90%) will be used for dust suppression. This figure is a cap and the amount used daily will vary. The amount of dust produced and hence water used on a daily basis for dust suppression is a function of equipment usage, and a number of meteorological factors. To some extent equipment usage can be limited to minimize dust generation and water usage. The 30,000 gallon water tank on site will contain additional water for any unforeseen circumstances related to dust suppression in unusual conditions. The tank will be kept full with the other 10% of the withdrawn water and any water not necessary for daily usage. Finally, rainwater will be collected in two on-site retention basins and when available collected rainwater will be used in lieu of additional water withdrawal. Although it is only a fall back supply, it is estimated that about 4 million gallons of rainwater per year will be collected. This calculation assumes that less than half of the incident rain water (4.5 inches/year at the Barstow monitoring station 19 miles east of the project site incident to the entire 80 acre site) reaches the retention basin.

- SC9-6 The Draft SEIR stated that the "...California Superior Court imposed physical solution to protect against future overdraft for over the next 100 years." The MWA expressed in this comment that the "physical solution," is the funding of supplemental water for recharge within the basin subject to constraints of the Judgment. To that end, the MWA is continually drafting policies and programs that have successfully funded recharge, which may include programs for minimal producers, such as the proposed Project. As such, the Project may be subject to programs applicable to the Project when they are implemented by MWA. The comment is noted. See Response SC9-1 and SC9-4.
- SC9-7 The MWA pointed out that the "Mojave" Water Basin was misspelled (Mohave) on page 15 of the Water Supply Assessment (Draft SEIR Appendix C). We concur that the correct spelling is Mojave Water Basin and this correction has been made in the Final SEIR.

SC10

A1 Organics

9/5/2009



Colorado's Leader in Organic Recycling

2009 SEP 11 AM 10:33

September 5, 2009

Carrie Hyke
San Bernardino County Land Use Services Department
385 N. Arrowhead Avenue, 1st Floor
San Bernardino
CA 92415-0182

Dear Ms. Hyke,

A1 Organics would like to provide our support for the Nursery Products Hawes Composting Facility. Our company is an active participant in organic recycling, including ownership and operation of three (3) open air facilities in Colorado, and one (1) in Nevada. In 2009, we are celebrating our 35th year in the Organic Recycling/Composting business.

SC10-1

During those 35 years, our compost sites, like virtually all similar operations, have been impacted by urban sprawl. To allow for expansion of our operations in this environment, we are constantly researching and employing enhanced processing and operational methodologies designed to improve operations and finished product quality while reducing and or minimizing impacts.

SC10-2

While small scale operations with limited footprint can consider enclosed facility designs, that option simply does not exist for large volume operations such as ours due to both extreme economical and functional challenges. Thus, alternatives we seek and employ must be viable for large open air operations.

One of the viable and successful options we employ utilizes products and processes developed by Harvest Quest International, Inc to compost Biosolids and other materials. The process we utilize meets and or exceeds EPA 503 standards and regulations.

Normally, our Biosolids composting operations require limited addition of supplemental water during the composting process. The initial moisture content of the Biosolids usually exceeds 75%. We manage our operations to allow for efficient use of that moisture to limit the need for additional moisture.

When additional moisture is needed, we source beneficial wetting agents (such as liquids from food processing facilities) to supply that need. We employ this policy to remain consistent with our mission of diversion from disposal to beneficial reuse of these and other organic "wastes".

Over the history of our company we have successfully diverted millions of cubic yards of organic materials that would have been placed in landfills. These organic based materials



Corporate Headquarters: 16350 WCR 76 • Eaton, Colorado 80615
Tel 970-454-3492 • 800-778-1844 • Fax 970-454-3232
Facilities: Eaton • Keenesburg • Platteville • Stapleton • Colorado Springs
Las Vegas, Nevada



US Composting Council
Best of Testing
Assurance

1007 COMPOSTER OF THE
YEAR

when landfilled, will biodegrade using anaerobic bacteria (without oxygen). Anaerobic digestion will produce methane gas, which is 23 times more impactful as a green house gas than carbon dioxide. The diversion of organic waste streams, such as yardwaste, foodwaste and Biosolids, to a compost facility is an important tool in the avoidance of greenhouse gas emissions. .

The Organic materials that are processed at ours and similar facilities are placed into windrows, which are engineered and managed to remain aerobic (with oxygen) during the composting process. Aerobic microorganisms rapidly break down the organic materials and respire oxygen producing carbon dioxide, water vapor, and heat..

The CO₂ produced during composting is considered biogenic. Composting is a carbon neutral process. Composting is promoted by nearly all major environmental advocacy and regulatory groups as a desired beneficial process in the fight against climate change.

Finished compost is utilized to build the physical structure of a soil (tilth) and improve its microbiology. It has a multitude of other benefits as well, thoroughly researched and documented by the scientific community such as minimizing erosion and run-off of synthetic pesticides and fertilizers into surface waters, reducing irrigation demands by improving the moisture-holding capacity of soil (further lowering its carbon footprint), and providing carbon sequestration (carbon sink) benefits which again is a valuable tool in reducing global warming.

Dr. Sally Brown (Research Associate Professor at the University of Washington in Seattle) is an excellent resource for research related to the benefits of composting in the climate change arena. Her email is sbb@u.washington.edu. Additionally a plethora of her research can also be accessed though BioCycle Magazine at www.biocycle.net.

A1 Organics believes that composting is one of the most viable, efficient, sustainable and cost effective technologies in place to recycle and beneficially utilize Biosolids and other organic resources once defined as wastes. We support approval and encourage the expansion of well designed and operated operations such as the Nursery Products Hawes Compost Facility.

Sincerely



Bob Yost
Vice President,
New Business Development



Corporate Headquarters: 16350 WCR 76 • Eaton, Colorado 80516
Tel 970-454-3482 • 800-775-1644 • Fax 970-454-3232
Facilities: Eaton • Keenesburg • Platteville • Stapleton • Colorado Springs
Las Vegas, Nevada



Response to Comment Letter SC10

SC10-1 Comment noted.

SC10-2 The Lead Agency agrees with the comment that enclosing composting facilities of this size is economically infeasible. The remainder of the comments in this letter support topics addressed in the Draft EIR where the Lead Agency found that biosolids recycling facility reduce the amount of solid waste that would otherwise go to landfills. The Draft EIR also found that composting in windrows can be managed to remain aerobic (with oxygen) through periodic rotation and windrow turning, which significantly reduces potential emissions of methane gas. Carbon dioxide emissions from composting are considered biogenic and, as such, carbon dioxide emissions from composting would occur with or without the Project as stated in the Draft SEIR.

SC11

Center for Food Safety

9/2009



CENTER FOR FOOD SAFETY

660 PENNSYLVANIA AVE., SE, SUITE 302, WASHINGTON, DC 20003
(202) 547-9359 FAX (202) 547-9429
2601 MISSION ST., SUITE 803, SAN FRANCISCO, CA 94110
(415) 826-2770 FAX (415) 826-0570
WWW.CENTERFORFOODSAFETY.ORG

VIA EMAIL

Carrie Hyke
Principle Planner
Land Use Services Department
385 North Arrowhead Avenue
San Bernardino, CA 92415-0812
chyke@lusc.sbcounty.gov

PUBLIC COMMENTS ON THE DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT FOR NURSERY PRODUCTS HAWES COMPOSTING FACILITY

Pursuant to the County of San Bernardino's ("County") Notice of Availability for the Draft Supplemental Environmental Impact Report for Nursery Products Hawes Composting Facility, the Center for Food Safety ("CFS") submits the following comments. CFS is a nonprofit membership organization that works to protect human health and the environment by curbing the proliferation of harmful food production technologies and by promoting organic and other forms of sustainable agriculture. CFS represents members in California and throughout the country that are opposed to the use of sewage sludge¹ in compost for agriculture.

I. THE COUNTY'S ISSUANCE OF THE SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT IS IMPROPER.

The California Environmental Quality Act ("CEQA") is a procedural statute mandated for "projects," which are "[activities] directly undertaken by any public agency" that "may cause either a direct physical change in the environment, or a reasonably

¹ Also known as and used interchangeably in this document as "Biosolids."

SC11-1

foreseeable indirect physical change in the environment.”² A project is either “undertaken by a public agency, undertaken by a person with assistance from a public agency,” or an “activity that involves the issuance of a lease, permit, etc., for use by one or more public agencies.”³

CEQA is implemented through initial studies, negative declarations and EIR’s. CEQA requires a governmental agency to prepare an EIR whenever it considers approval of a proposed project that may have a significant effect on the environment. . . [T]he Supreme Court has recognized that CEQA requires the preparation of an EIR whenever it can be fairly argued on the basis of substantial evidence that the project may have significant environmental impact.⁴

“A significant effect on the environment is defined as a substantial, or potentially substantial, adverse change in the environment.”⁵ CEQA defines “environment” as the “physical conditions which exist within the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance.”⁶ An Environmental Impact Report (EIR) “provide[s] public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project.”⁷

Here, the project is the proposed Nursery Products Hawes Facility, which will compost sewage sludge and green material on 80 acres of a 160 acre parcel located within an unincorporated area in the County of San Bernardino.⁸ The project proposes to combine this sludge and green waste to create Class A compost.⁹ In December, 2005, Nursery Products, LLC (“Nursery Products”) submitted an application with the County seeking approval of the Hawes sludge composting facility. Pursuant to CEQA, the final EIR was issued in November, 2006 and certified by the planning commission in early 2007.

The Center for Biological Diversity and HelpHinkley.org jointly filed a lawsuit in Superior Court outlining the inadequacies of this EIR and asking the court to invalidate the EIR.¹⁰ In *Center for Biological Diversity v. County of San Bernardino*, Judge Feer ruled that the initial EIR was flawed, vacated all permits given in association with the

² CAL PUB. RES. CODE § 21065; *Sherwin Williams, Co. v. South Coast Air Quality Management Dist.*, 86 Cal.App.4th 1258 (Cal.App. 2d Dist., 2001).

³ CAL PUB. RES. CODE § 21065.

⁴ *California Sportfishing Protection Alliance v. State Water Resources Control Board*, 160 Cal.App.4th 1625 1642 (Cal.App. 1 Dist 2008) (internal citations omitted).

⁵ *Id.*

⁶ CAL PUB. RES. CODE § 21060.5.

⁷ *Id.* at § 21061.

⁸ Draft Supplemental Impact Report Nursery Products LLC Hawes Composting Facility, State Clearinghouse No. 2006051021, at ES-1 (July 2009).

⁹ Draft Supplemental Impact Report Nursery Products LLC Hawes Composting Facility, State Clearinghouse No. 2006051021, at ES-1 (July 2009).

¹⁰ *Center for Biological Diversity v. County of San Bernardino*, Case No. BCV 09950 (Super. Ct. 2008).

document, and held that “[n]o part of the project is severable.”¹¹ CFS firmly believes that the issuance of this Supplemental Environmental Impact Report (“SEIR”) directly contradicts the Judge’s Order. An SEIR is appropriate only for the following reasons: where there have been substantial changes to the project that require major revisions of the EIR; there are substantial new circumstances surrounding the project; or new information of substantial importance became available.¹² However, the decision clearly requires the County to vacate the previous EIR, therefore issuing the SEIR violates the decision of the court.

This decision was stayed when the county appealed. However, only two possible outcomes can result from the appeal: the county loses and must prepare an entirely new EIR, or the county prevails, and the original EIR is reinstated. Under either scenario, the SEIR is unnecessary. CFS believes that the SEIR will ultimately be vacated by the District Court if the County proceeds with its appeal. In the event that this is not the case, CFS comments on the inadequacies of the SEIR.

II. THE SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT FAILED TO ASSESS THE ENVIRONMENTAL IMPACTS OF SEWAGE SLUDGE COMPOST.

The County failed to assess the environmental impacts of composing sewage sludge. Sewage sludge contains a number of contaminants not addressed by the governing federal regulatory scheme. These contaminants can and will be released into the environment. Therefore, the County must assess the effects.

A. Federal Sewage Sludge Regulations are Inadequate to Address the Overwhelming Number of Contaminants in Sewage Sludge and Sludge Compost.

Sewage sludge is a combination of industrial waste and household sewage, both of which are routed for treatment through municipal sewage treatment plants.¹³ This sewage “contains not only human fecal wastes from homes and businesses but also products and contaminants from homes, industries, businesses, stormwater, and landfill leachate (in some locals) and contaminants leached from pipes.”¹⁴ At treatment plants, wastewater is treated to remove chemicals, pathogens, and toxic metals from the effluent and these materials are concentrated in the byproduct, sewage sludge.¹⁵ The resulting sewage sludge is replete with toxic chemicals. For example, it has been estimated that 90% of the dioxins in the incoming water routed through the treatment plant will end up in sewage sludge.¹⁶

¹¹ *Id.* at 4.

¹² California Environmental Quality Act, CAL.PUB. RES. CODE § 21166 (2009).

¹³ *R.A. McElmurray v. U.S. Dep’t Agric.*, 535 F.Supp.2d 1318, 1321 (S.D.Ga. 2008).

¹⁴ Ellen Z. Harrison et al., *Land Application of Sewage Sludges: An Appraisal of the US Regulations*, 11 INT’L. J. ENV. & POLLUTION 1, 2 (1999).

¹⁵ *McElmurray*, 535 F.Supp.2d at 1321.

¹⁶ Harrison et al., *supra*, n.14.

SC11-2

3

Sewage sludge contains a variety of organic wastewater contaminants (“OWCs”), which are compounds produced to offer improvements in industrial, medical and household products and applications.¹⁷ “Compounds that can be classified as OWCs include pharmaceuticals, hormones, detergent metabolites, fragrances, plasticizers, and pesticides.”¹⁸ Sewage sludge can also contain a variety of other contaminants, such as flame retardants and metals. In a recent EPA survey of sewage sludge, samples from across the US found that sewage sludge can contain heavy metals, pathogens, steroids, hormones, flame retardants, pharmaceuticals and endocrine disruptors.¹⁹ Particularly alarming is that almost all the samples contained 27 metals, 10 different flame retardants, 12 pharmaceuticals, and high levels of known endocrine disruptors.²⁰ There are as many as 100,000 chemicals used in American industry, with about a thousand new chemical compounds put to commercial use each year.²¹ Any of these can enter the wastewater stream and if they do, they will ultimately be found in sludge.

Sewage sludge is regulated by the Environmental Protection Agency (“EPA”) by what is commonly known as the “Part 503 Rule.”²² Part 503 requires the treatment of sewage sludge so that it can be land applied and used in agriculture. The rule includes concentration limits for nine metals and pathogens, as well as for vector attraction and reduction.²³ Sewage sludge can be Class A, in which pathogens are essentially eliminated, or Class B, in which pathogens have been reduced but not eliminated.²⁴ However, sewage sludge contains a diverse collection of wastewater contaminants of emerging and known toxicological concern not addressed whatsoever by the Part 503 Rule.²⁵ Despite EPA’s own study indicating high levels of a variety of toxins other than the nine metals and pathogens that sewage sludge is treated for, no additional federal requirements exist to eliminate these toxins.

A recent federal court decision indicates not only that EPA’s regulations are inadequate, but that EPA actively hidden and subverted critical information concerning the dangers of sewage sludge. In *McElmurray v. US*, a Georgia judge stated that EPA’s sludge program has ignored scientific dissent indicating that sewage sludge is harmful to humans and the environment. In this case, a Georgia dairy farmer entered into an agreement with the City of Augusta in 1979 to allow the city to apply local sewage sludge.²⁶ Over the next

¹⁷ Chad A. Kinney et al., *Survey of Organic Wastewater Contaminants in Biosolids Destined for Land Application*, 40 ENVTL SCI. TECH. 7202, 7207 (2006).

¹⁸ *Id.*

¹⁹ EPA, Targeted National Sewage Sludge Survey, EPA-822-R-08-014, 7 (January 2009) available at <http://www.epa.gov/waterscience/biosolids/nsss-overview.pdf>.

²⁰ *Id.*; Josh Harkinson, *Sludge Happens*, MOTHER JONES, April 21, 2009, at 1, available at <http://www.motherjones.com/environment/2009/05/sludge-happens>.

²¹ Robert C. Hale and Mark J. Laguardia, *Have Risks Associated with the Presence of Synthetic Organic Contaminants in Land-Applied Sewage Sludges Been Adequately Addressed?*, 12 NEW SOLUTIONS J. ENV. & OCCUPATIONAL HEALTH POLICY 371, 372 (2002).

²² 40 C.F.R. § 503.

²³ Harrison et al., *supra*, n.14 at 3.

²⁴ *Id.*

²⁵ Mark J. La Guardia et al., *Organic Contaminants of Emerging Concern in Land-Applied Sewage Sludge (Biosolids)*, 1 J. OF RESIDUALS SCI. & TECH. 111, 119 (2004).

²⁶ *McElmurray*, 535 F.Supp.2d at 1321.

decade, McElmurray began having trouble with his crops and about half of his 700 cows died from severe diarrhea.²⁷ McElmurray hired an expert to test his soil, who opined that McElmurray's fields were contaminated by heavy metals, and that there was a correlation between the cattle eating silage produced from the field and the cattle mortality.²⁸ McElmurray submitted an application to the USDA for disaster relief, and when denied, sued in federal court.²⁹ The district court found the USDA's denial to be arbitrary and capricious and ruled in favor of McElmurray.³⁰ Additionally, the court indicated that "[o]ther evidence of record calls into question the fairness and objectivity of the EPA's opinions with respect to the sludge land application program. The administrative record contains evidence that senior EPA officials took extraordinary steps to quash scientific dissent, and any questioning of the EPA's biosolids program."³¹

Thus, sewage sludge contains many harmful chemicals, which are inadequately regulated. EPA's Part 503 Rule is an inadequate tool for protecting the public from the various harmful toxins in sewage sludge.

B. Composting Sewage Sludge Does Not Effectively Eliminate Toxins and Poses Direct Harm to the Public.

Sewage sludge poses severe threats to human health, and while composting sludge may eliminate pathogens, it wholly fails to eliminate toxic chemicals. "Treated" sewage sludge, renamed "biosolids" by the EPA, finds its way into agriculture, either by direct land application, as an ingredient in industrial and processed fertilizer, or as "compost." According to the EPA, composting is one of several methods for treating sewage sludge to "create a marketable end product that is easy to handle, store and use."³² The end product is considered "Class A" compost that can be and is applied as "a soil conditioner and fertilizer to gardens, crops and rangelands."³³ This "compost" is often given away to area residents, community gardeners, even schools for application on school gardens.³⁴ EPA claims that Class A sludge compost is without a detectible level of pathogens. While composting may reduce pathogens, it does not reduce or eliminate the variety of other toxins commonly found in sewage sludge.

Kinney et al. studied the effects of adding plant material (green material) to sewage sludge as proposed at the Nursery Products facility. The results indicated that composting does not reduce OWC concentrations.

²⁷ *Id.*; Josh Harkinson, *Sludge Happens*, MOTHER JONES, April 21, 2009, at 1, available at <http://www.motherjones.com/environment/2009/05/sludge-happens>.

²⁸ *McElmurray* at 1327.

²⁹ *Id.* at 1322-24.

³⁰ *Id.* at 1321.

³¹ *Id.* at 1333.

³² EPA, Biosolids Technology Fact Sheet: Use of Composting for Biosolids Management, available at <http://www.epa.gov/owqp/tub/combioman.pdf>.

³³ *Id.*

³⁴ See SFPUC's Big Blue Bucket Eco Fair, available at <http://sfpuclbigbluebucket.eventbrite.com/>.

SC11-3

The addition of plant material effectively dilutes biosolids samples, while possibly increasing the organic matter content of the biosolid production. Composting has been recognized as an effective means to limit or eliminate some organic contaminants, but when the biosolids that are composted are compared to the unamended sludges and granulated biosolid products, the comparable concentrations observed in this study suggest that composting is relatively ineffective at reducing OWC concentrations.³⁵

Toxins found in sewage sludge can leach into the soil on site, or become food safety hazards when the compost is used on gardens, farms, or rangelands. For instance, EPA recognizes that 27 metals are present in almost all sludge samples taken for their most recent risk assessment.³⁶ "Toxic metals do not breakdown in the treatment process or in the environment. As a consequence they can build up in the soil upon repeated application."³⁷ Since the US standards for metals in sewage sludge are among the most lenient in the world, and since the US only regulates 9 of the 27 metals found in sewage sludge, it is inevitable that metals will be released from sludge and expose humans to their harmful effects.

Plants fertilized with sludge or sludge compost often contain increased levels of metals. A 2007 study found that, for potatoes and peppers grown in soil spread with sewage sludge, the cadmium concentration was almost at the "Codex-established maximum limit"³⁸ and the lead concentration in potatoes exceeded the maximum level.³⁹ Further, research indicates that increased dissolved organic carbon (DOC) in sewage sludge decreases the adsorption of metals to soil surfaces through formation through formation of organometallic complexes, thereby increasing the bioavailability of metals to plants.⁴⁰ Adverse health effects from heavy metals have been recognized for a long time. For instance, arsenic is a well known toxin and carcinogen.⁴¹ Adults chronically exposed to lead can experience seizures, anorexia, abdominal disorders and personality changes.⁴² Children exposed to lead suffer a far worse fate, brain damage.⁴³ Mercury can also cause brain damage, even in adults.⁴⁴ Cadmium and lead are of the greatest concern, because plants actively take them up and introduce them into the human food chain.⁴⁵ Even though the health effects of these metals are well-known, the County failed to assess the

³⁵ Kinney et al., *supra*, n.17 at 7212.

³⁶ EPA, Sewage Sludge Survey, *supra*, n. 19.

³⁷ Hale and Laguardia, *supra*, n.21 at 373.

³⁸ George F. Antonious & John C. Snyder, *Accumulation of Heavy Metals in Plants and Potential Phytoremediation of Lead by Potato, Solanum tuberosum L.*, A 42 J. ENV'TL. SCI & HEALTH 811, 814 (2007).

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Heavy Metals in the Environment and Their Effects, July 21, 2009, <http://soil-environment.blogspot.com/2009/07/heavy-metals-and-their-health-effects.html>

⁴² The Hazards of Heavy Metals, <http://www.physics.ohio-state.edu/~wilkins/energy/Companion/E14.2.pdf.xpdf>.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ Antonious and Snyder, *supra*, n.38 at 814.

impact of the release of heavy metals on the environment and potential exposure to the population.

Furthermore, there are a variety of other toxic agents found in sewage sludge with known and unknown consequences to human health and the environment. Poly-brominated diphenyl ethers (PBDEs), for example, are commonly found in sewage sludge and are recognized for their impact on human health and the environment.⁴⁶ They are chemically related to PCBs and PBBs and replaced them in chemical applications.⁴⁷ Chronic exposure to PBDEs or exposure during development can compromise the endocrine and nervous systems.⁴⁸ Numerous additional organic pollutants have been found to be present in US sludge, such as polycyclic aromatic hydrocarbons, PCBs, DDT degradation products, chlordanes, synthetic musk products, triclosan, and tributyltin.⁴⁹ The presence of these compounds at the Hawes Composting Facility site presents severe human health and environmental risks that must be addressed. Further, the use of sludge compost in local home gardening and in agriculture presents unstudied and unacceptable food safety risks.

The County did not assess the impacts of the release of the above toxins in the environment via the Hawes Composting facility. As a matter of public policy, the County's failure to analyze the human health and environmental risk associated with sewage sludge is inexcusable. As a matter of law, this failure violates the most basic requirements of CEQA to review the environmental impacts of this project.⁵⁰

SC11-4

III. CONCLUSION

The County's issuance of the SEIR was improper. Regardless, this document is inadequate because the County did not assess the environmental impacts of sewage sludge compost. Specifically, the SEIR did not take into account the release of heavy metals, OWCs and other contaminants on the environment. For the above reasons, the County must vacate the current SEIR and prepare an EIR that addresses these and other environmental impacts.

⁴⁶ See Hale and Laguardia, *supra*, n.21.

⁴⁷ *Id.* at 376.

⁴⁸ *Id.*

⁴⁹ *Id.* at 382.

⁵⁰ CAL. PUB. RES. CODE § 21061.

Response to Comment Letter SC11

- SC11-1: The County disagrees with the assertion that a SEIR contradicts the “Judge’s Order.” The Superior Court sustained all analyses in the Draft EIR except for two areas. The Court requested a determination of a single water source and an assessment of water supply and, secondly the Court directed the County to supply additional support in the administrative record for the finding that an enclosed facility alternative was infeasible. Pursuant to 14 CCR 15163, the County has incorporated the added analysis prepared in response to the Court ruling in an SEIR. The Draft SEIR fulfills the Superior Court’s judgment and provides opportunity for public review and comment.
- SC11-2: Comment noted. The comment refers to potential health risks and pathogen exposure associated with the Project, which was not within the scope of the SEIR. These issues were addressed in the Draft EIR Sections 4.3 (beginning on page 4-24) and 4.6.3.1 (beginning on page 4-48) respectively. The analysis of impacts to air quality was specifically challenged in the Superior Court and the Court concluded that further analysis was not required.
- SC11-3: Comment noted. See Response to comment SC11-2.
- SC11-4: Comment noted. See Response to comments SC11-2.

SC12

Center on Race, Poverty & the Environment

9/16/2009

Center on Race, Poverty, & the Environment

47 Kearny Street, Suite 804
San Francisco, CA 94108

415/346-4179 • fax 415/346-8723

brostrom@crpe-ej.org

Ralph Santiago Abascal (1934-1997)
Director 1990-1997

Lula W. Cole (1962-2009)
Executive Director 1997-2009

Caroline Farrell
Acting Executive Director

Lupo Martinez
Director of Organizing

Gustavo Aguirre
Assistant Director of Organizing

Daniela Stunovic
Irma Medellin
Rafaela Gutierrez
Community Organizers

Don Spedlin
Director of Development

Lauren Pochter
Development Assistant

Valerie Gervase
Administrative Assistant

Brent Maxwell
Legal Director

Ingrid Braxton • Alejia De La Cruz
Janitar Giddings • Marybelle Hingwa
Sofia Sarabia
Staff Attorneys

September 16, 2009

Carrie Hyke
San Bernardino County Land Use Services Department
Advance Planning Division
385 N. Arrowhead Avenue, First Floor
San Bernardino, CA 92415-0182

**Re: Draft Supplemental Environmental Impact Report for the Nursery Products
Hawes Composting Facility.**

Dear Ms. Hyke:

The Center on Race, Poverty & the Environment submits these comments to San Bernardino County ("County") on behalf of HelpHinkley.org. HelpHinkley.org objects to the County's issuance of a Draft Supplemental Environmental Impact Report ("Draft SEIR") for the Nursery Products LLC Hawes Composting Facility. The issuance of this document directly contradicts the Judge's Order in *Center for Biological Diversity v. County of San Bernardino*, Case No. BCV 09950, and will result in needless and wasteful expenditure of public funds, time and resources.

The County must cease all work on its Supplemental EIR in order to preserve the status quo while an appeal in the litigation is pending. HelpHinkley.org is confident that if the County decides to proceed with its Supplemental EIR, its actions will ultimately be vacated by the District Court. Nevertheless, HelpHinkley.org also comments on the SEIR's inadequate analysis of greenhouse gases, alternatives and water supply.

• Providing Legal & Technical Assistance to the Grassroots Movement for Environmental Justice •

SC12-1

I. The County Must Redo Its CEQA Process “In Whole.”

When a court finds that a public agency's approval of a project is not in compliance with CEQA, CEQA mandates that the court enter an order with specific directives. Cal. Pub. Res. Code § 21168.9(a). These directives include “a mandate that the determination, finding or decision be voided by the public agency, in whole or in part.” *Id.* Here, the Court has determined that “no part of the Project is severable” from the County’s failure to comply with CEQA as to each ground in the Court’s decision. Order, pp. 4, 5. In fact, the Court explicitly ordered the County to vacate and set aside the certification of the EIR and all approvals given to the Project, including all findings, statements of overriding considerations, and the issuance of the CUP, and to comply with CEQA regarding the Project.

The consequence of this Order is that the County must redo its CEQA analysis and findings “in whole,” because (1) the CEQA violations are *not* severable from the rest of the Project; (2) severance therefore *will* prejudice compliance with CEQA; and (3) the court has not found the remainder of the project to be in compliance with CEQA; indeed, some of the arguments raised in the case were not addressed at all.

The County’s issuance of a Draft SEIR is based on the County’s assumption that although its record was not adequate to support its findings on water and feasibility, its ultimate decisions on these issues will not change—and therefore the rest of the agency’s EIR, analysis, findings, statement of overriding considerations, and conclusions will not be affected—even after the assessments are redone. But this argument puts the cart before the horse: neither the Planning Commission nor the Board of Supervisors could possibly know what their future findings may be without the benefit of the analysis ordered by the Court. “A fundamental purpose of [CEQA review] is to provide decision makers with information they can use in deciding whether to approve a proposed project, not to inform them of the environmental effects of projects that they have already approved.” *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376, 394. The County’s circulation of a Draft SEIR without disturbing the County’s findings, statement of overriding considerations, and all other approvals violate this fundamental purpose of CEQA, and reduces CEQA’s environmental review provisions to *post hoc* rationalizations in support of an action already taken. *Id.*; see also *Natural Resources Defense Council v. City of Los Angeles* (2002) 103 Cal.App.4th 268, 284.

II. The County Must Preserve the Status Quo Pending Appeal.

The County’s ongoing attempts to upset the status quo and avoid the Court’s judgment in *Center for Biological Diversity v. County of San Bernardino* is a wasteful enterprise that will create an undue burden on members of the public, County staff, and the County Board of Supervisors. CBD and HelpHinkley.org prevailed in its lawsuit seeking a writ of mandamus and injunctive relief against the County for improperly certifying the EIR for the Nursery Products Hawes Compost Facility. Specifically, the Court found that the County violated CEQA by:

- Providing Legal & Technical Assistance to the Grassroots Movement for Environmental Justice •

(a) failing to properly evaluate a technologically feasible mitigation measure for the Project because the finding that an enclosed composting facility was not feasible was not supported by substantial evidence or the Administrative Record, and;

(b) adopting an EIR for the Project that failed to identify a water source and failed to properly conduct a water assessment for the Project.

The Court ordered the County to vacate and set aside the certification of the EIR and all approvals given to the Project, including all findings, statements of overriding considerations, and the issuance of the CUP, and to comply with CEQA regarding the Project. No part of the Project is severable from the Court's Order.

The County's issuance of a Draft SEIR is in direct contravention of the Judge's Order. A Supplemental EIR is appropriate when there have been substantial changes to the project; there are substantial new circumstances surrounding the project; or there is new information of substantial importance that affects the significant environmental impacts, mitigation measures, or reasonable alternatives to the project. In addition to satisfying one of the above criteria, a lead agency may issue an SEIR only when it can show that "[o]nly minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the new situation." The Judgment unequivocally requires the County to vacate the entire EIR that it had previously certified for the Project. The question of whether the EIR can be adequately fixed by minor additions or changes is now moot, as it has been answered in the negative by the Court.

There are only two possible outcomes of Nursery Products' appeal: the Order can be affirmed or denied. In either case, the County is engaging in a pointless and wasteful act to continue to engage in the Supplemental EIR process. If Nursery Products loses the appeal, the County's current efforts to prepare a Supplemental EIR will be in direct conflict with the Judge's Order and will have to be abandoned mid-process. The entire process will have been an inappropriate waste of public resources. If Nursery Products wins the appeal, the County will have a valid CUP and a certified EIR and would not be required to supplement the EIR. CEQA Guidelines § 15163.

If the County continues the pointless exercise of working on a Supplemental EIR, HelpHinkley members will be forced to participate in the administrative process to preserve their right to challenge the SEIR in court if it is ultimately certified. This requires time and money, the expenditure of which is especially absurd considering the time and resources already spent having the Judge resolve this very issue in CBD and HelpHinkley's favor. In signing its Order, the Court rejected the County's proposed order allowing the initial EIR to be supplemented instead of vacated.

The County should immediately vacate the EIR as ordered and suspend any activity on the SEIR until a final decision in the Appeal is reached in order to preserve the status quo during the appeal process. Going forward with the SEIR process will also result in a multiplicity of unnecessary judicial proceedings. HelpHinkley.org, therefore, objects to any further action taken

• Providing Legal & Technical Assistance to the Grassroots Movement for Environmental Justice •

on the part of the County to issue and certify an SEIR pending a final determination of the appeal on the merits.

III. County Failed to Recirculate and Provide Comment Period for Draft EIR.

SC12-3

The County admits that there is no valid EIR in place to supplement, stating that “[t]he certification of the Draft EIR is pending.” Draft SEIR, Appendix A 131. If the initial EIR is not currently certified, the County has nothing to supplement. CEQA Guidelines specify that the EIR must be certified before a supplemental or subsequent EIR can be prepared. 14 CCR 15162. See also *Vedanta Soc’y v. California Quartet, Ltd.* (2000) 84 Cal.App.4th 517.

Moreover, if the County means to revise the initial EIR, the County must recirculate the revised EIR for public review and comment. Pub. Res. Code 21092; 14 Cal. Code Regs. § 15087(a), 15088.5; *Chaparral Greens v. City of Chula Vista* (1996) 50 Cal.App.4th 1134. Here, the County has failed to recirculate the Draft EIR or provide notice of a new comment period.

IV. The County Failed to Properly Analyze the Project’s Climate Change Impacts.

A. The County’s Threshold of Significance Is Invalid.

SC12-4

In an attempt to sidestep a required significance determination and justify a business-as-usual approach to global warming, the Draft SEIR improperly concludes that the Project’s cumulative impact on global warming is less than significant based on purported compliance with AB 32 and its Scoping Plan. In failing to properly analyze the Project’s greenhouse gas emissions, the County is skirting CEQA’s requirement to adopt feasible and common-sense measures that can significantly reduce the Project’s carbon footprint.

A lead agency may rely on a program or plan to make a less-than-significant determination regarding cumulative impacts only if it “provides specific requirements that will avoid or substantially lessen the cumulative problem within the geographic area in which the project is located” and is “specified in law or adopted by the public agency . . . through a public review process to implement, interpret, or make specific the law enforced or administered by the public agency.” Guidelines § 15064(h)(3). Neither AB 32, nor its associated scoping plan, provides specific requirements to avoid or reduce cumulative impacts from land use decisions.

AB 32 is a generalized bill that sets out reductions goals that must eventually be adopted by the California Air Resources Board (CARB). CARB has yet to adopt or implement these measures. In fact, the Scoping Plan explicitly acknowledges that successful implementation of GHG reduction targets associated with land use planning depends on local government and provides no guidance for local governments to reduce emissions through their permitting authority. AB 32 has not been implemented, nor have regulations been adopted to satisfy waste disposal recommendations in AB 32. Moreover, the Office of Planning and Research’s most recent proposed draft amendments to CEQA do not recommend the use of this approach.

• Providing Legal & Technical Assistance to the Grassroots Movement for Environmental Justice •

B. The County Used an Incorrect Baseline to Determine Greenhouse Gas Impacts.

SC12-5

The County limits its assessment of greenhouse gas emissions to truck transportation and does not include any estimates of emissions from the composting of sewage sludge. The County explains that “the GHG emissions associated with the decomposition of the proposed feedstock material (biosolids and greenwaste) currently occur and will continue to occur, with or without the project, into the future. GHG emissions associated with the decomposition of this material are therefore, within the baseline conditions.” This argument fails because the County did not calculate emissions from composting sewage sludge at the time the EIR process to set the baseline and did not demonstrate that emissions generated by sludge processed at the proposed facility would be identical to those baseline emissions. To do this, the County would have had to demonstrate that emissions from sludge are identical regardless of disposal method, or that all sludge received at the site would have been processed in the exact same manner elsewhere if the project did not exist. The County did not make either demonstration. Therefore, the County’s finding of insignificance relies on mere speculation rather than evidence in the record.

An agency must clearly and conspicuously identify the assumptions guiding its choice of a baseline, and must support that choice with substantial evidence. *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 659 (information regarding the existing operations baseline must be plainly identified in the EIR); *Fat v. County of Sacramento* (2002) 97 Cal.App.4th 1270, 1278. Although determination of what constitutes existing physical conditions will vary with the facts of each case, the baseline should reflect the project’s real-world physical setting—“real conditions on the ground”—rather than “hypothetical situations.” *Save Our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal.App.4th 99, 121, 125; see also *Woodward Park Homeowner’s Association v. City of Fresno* (2007) 150 Cal.App.4th 683, 708-09.

Moreover, the manner sewage sludge is processed or disposed does change its total global warming potential. For example, even changes to the feedstocks for composting can make a big difference. Mixing 50 percent biosolids with 50 percent greenwaste, as proposed here, will generate 35.5 lbs of methane per ton. However, mixing 50 percent biosolids with 50 percent woodwaste/rice hulls would only produce .5 lbs of methane per ton.

The County will be unable to make these necessary demonstrations because its assumptions are based on a purely hypothetical scenario. See *Woodward Park Homeowners Assn., Inc. v. City of Fresno* (2007) 150 Cal.App.4th 707 (rejecting an EIR that compared a proposed project to hypothetical future development rather than existing conditions.) The County has no way of knowing how sludge producers will dispose of the waste if the Hinkley project is not built, and therefore cannot compare emissions from the project to the amount of greenhouse gas emissions from these alternative disposal options.

• Providing Legal & Technical Assistance to the Grassroots Movement for Environmental Justice •

C. The County's Assumptions Are Unsupported by the Record.

SC12-6

Transportation associated with the proposed project alone would emit nearly 7,500 metric tonnes of CO₂ equivalent per year. However, the County does not consider these emissions to be a significant impact. The County's conclusions are flawed because the Draft SEIR fails to provide sufficient support for its assumptions that the proposed project will offset transportation emissions associated with disposing of biosolids further from their source. CEQA demands a good faith analysis of these assumptions grounded in detailed, quantitative evidence, not mere speculation.

Staff surmises that the Project will have no significant effect because "with the Project, the distance traveled and hence GHG emissions will decrease. Yet Staff never identifies any specific disposal site that would receive these materials, nor provides evidence that the specific material to be received by the proposed project would otherwise be shipped to these unnamed disposal sites. The mere "possibility" that the Project "could" reduce transportation emissions is not substantial evidence. See CEQA Guidelines § 15384. Moreover, a speculative indirect impact is not reasonably foreseeable. CEQA Guidelines § 15064(d)(3). The County's analysis is completely speculative and cannot support the County's finding that impacts from greenhouse gas emissions are less than significant.

Finally, any credit taken for emission reductions must be enforceable through conditions of approval, contracts or other means that are legally binding. Pub. Res. Code 21081.6(b); CEQA Guidelines 15126.4(a)(2). The County has not pointed to any contract or other legally binding document to ensure that the sludge disposed at the Project is actually diverted from other, more distant disposal sites.

D. County's Analysis of Greenhouse Gas Using System Approach Is Invalid.

SC12-7

The County's analysis of climate change impacts using the "system approach" also fails to account for the long-term effect of adding new disposal options for sewage sludge. Environmental review under CEQA must include "both the short-term and long-term effects" of the project. CEQA Guidelines § 15126.2; See also Pub. Res. Code § 21001(d) (CEQA is intended to "ensure the long-term protection of the environment.").

Even assuming that the Hawes project will divert truck transportation from other, more distant locations, CEQA analyzes impacts over the life of the project, not one particular instant. CEQA Guidelines § 15126.2(a) ("Direct and indirect significant effects of the project on the environment shall be clearly identified and described, giving due consideration to both the short-term and long-term effects."); *Davidon Homes v. City of San Jose* (1997) 54 Cal.App.4th 106, 119 ("CEQA is not confined to the immediate effects of an agency's decisions but should be applied whenever physical changes to the environment are a reasonably foreseeable result of the activity.").

The diversion theory is premised on the erroneous assumption that the need for sludge

• Providing Legal & Technical Assistance to the Grassroots Movement for Environmental Justice •

6

disposal options is inelastic. This approach ignores future increases in sludge disposal demand. Taken to its logical conclusion, under this approach one could add any number of sludge compost plants that would be closer to some markets than other disposal options without any present or future impact on greenhouse gas production. However, as new growth occurs, disposal options that may have been temporarily displaced in the short term will be reutilized. Absent a showing that other sludge disposal projects will be permanently closed as a result of the proposed project, there is no legitimate basis to conclude that the Hawes Composting Project will not ultimately result in increased greenhouse gas emissions.

This approach has already been rejected under similar circumstances. In *Center for Biological Diversity v. City of Desert Hot Springs*, RJC 464585, Riv. Sup. Ct. (Aug. 8, 2008), the trial court rejected an EIR's assertion that a residential and commercial development would have a "beneficial impact on CO₂ emissions" because California homes are more efficient than those elsewhere in the country absent any showing that existing homes would be demolished or remain unoccupied. Similarly, absent any showing that sludge disposal operations are permanently closed as a consequence of the approval of the Hawes Nursery Products project, the County has no substantial evidence that the compost project will not have environmental impacts.

Finally, the determination that the Nursery Products Hawes Composting Facility has a less than significant environmental effect subverts the purpose of CEQA by precluding the consideration of lower emitting options such as filtration and methane capture. Significant quantities of CO₂ emissions are still generated that could be further reduced through the adoption of alternatives and mitigation measures. Because significant greenhouse gas emission reductions from existing levels are necessary to stabilize the climate, the County can not afford to squander any opportunity to adopt feasible mitigation and alternatives that reduce the greenhouse gas emissions from the proposed project.

V. The County Failed to Consider Smaller Capacity Enclosed Facility.

The County must foster meaningful public participation and informed decision making in deciding the range of feasible alternatives to be discussed in the EIR. 14 CCR § 15126.6(f). The County can only eliminate alternatives from detailed consideration in the EIR for "(i) failure to meet most of the basic project objectives, (ii) infeasibility, or (iii) inability to avoid significant environmental impacts." 14 CCR § 15126.6(c). Because the project objectives do not specify a particular capacity requirement, the County's alternative analysis must consider a smaller capacity enclosed facility that can take advantage of the nearby electricity source.

SC12-8

The County also failed to account for economies of scale when estimating the cost of an enclosed facility. Because equipment and personnel costs ordinarily decrease per unit of increased capacity, the County's scaling of existing facilities with less capacity over-estimated costs of an enclosed option.

SC12-9

VI. The County Failed to Consider Tenting and Other Enclosed Options.

The County limited its analysis to the most expensive enclosure technologies in an attempt to validate its earlier infeasibility findings. However, compost operations can be enclosed by means other than a building. The County has failed to assess the costs with any of these other enclosure options. Additionally, the County failed to consider the cost of adding a biofilter unit to the compost rows. A biofilter can reduce VOC emissions and are generally cheaper than full enclosure within a building. The County must assess these alternatives in order to comply with the Judge's Order.

SC12-10

VII. The County Water Analysis is Inadequate.

The County failed to conduct a water assessment as required by the Judgment in *Center for Biological Diversity v. County of San Bernardino* and California Water Code § 10910. By merely identifying the water source, the County only complied with a portion of the Court's judgement concerning the project's water supply. Additionally, the County once again failed to support its conclusions that the project will only use 1000 gallons of water per day. Unsubstantiated opinion is not substantial evidence. The County is required to support its conclusions that the project will not have a significant impact on water with substantial evidence in the record. The County has failed to satisfy this burden.

SC12-11

VIII. The County's Response to Comments Is Inadequate.

In response to the 22 letters received during public review of the notice of preparation, the County alleges that these comments were previously addressed in the DEIR and the County's response to these letters was found by the court to be adequate. However, many of the comments concerned issues that were not previously analyzed in the DEIR or directed the County's attention to new information not available when the County prepared its first DEIR. Moreover, the Court neither considered nor ruled on the adequacy of the County's response to comments in *Center for Biological Diversity v. County of San Bernardino*.

SC12-12

IX. Composting Method Not Permitted By EPA 503 Regulations.

The Project description explains that the "project will use a combination of windrow and modified static pile composting methodologies. However, this method does not comply with state and federal guidelines for producing Class A material, including 40 CFR 503. Stated simply, static pile composting is only approved under 40 CFR 503 if it is aerated. Windrow composting is only approved under 40 CFR 503 if it is turned at least five times within a 15 day period. The project proponent proposes to do neither. If the material is not processed correctly, the pathogens will not be killed, and the facility will create a serious health risk.

SC12-13

X. Conclusion

The County must assess these issues, and others identified by agencies and the public on

- Providing Legal & Technical Assistance to the Grassroots Movement for Environmental Justice •

the Proposed Hawes Composting Facility. These issues should ultimately be addressed in a new EIR. HelpHinkley.org objects to the County's continued work on a the Draft SEIR while the appeal is pending. Please notify CRPE, CBD and HelpHinkley.org of the County's intention to continue or suspend work on the SEIR. Please also notify CRPE and HelpHinkley.org when any documents on the Proposed Hawes Composting Facility become publically available.

SC12-14

Sincerely,

Ingrid Brostrom
Staff Attorney

• Providing Legal & Technical Assistance to the Grassroots Movement for Environmental Justice •

9

Response to Comment Letter SC12

SC12-1: The County disagrees with the commenter's assertion that "the County must cease all work on its SEIR in order to preserve the status quo." As a petitioner in litigation against the County, the commenter knows that the Superior Court affirmed as adequate all of the challenged sections of the Draft EIR with one exception. The Court directed the County to identify a single water source and provide an assessment of the water supply. In addition, the Court directed the County to supplement the County's administrative record to provide further support for finding of economic infeasibility of an enclosed facility. The County within its jurisdiction and authority has included that additional support and analysis in the Draft SEIR. The County is following the Court's directive. The purpose of CEQA is to provide information to the decisions makers and the public as to the environmental impacts that may occur as a consequence of the Project. To cease all work on the SEIR would be contrary to the purpose of CEQA.

SC12-2: As a petitioner in CEQA litigation against the County, the commenter knows that the comments regarding severance are not reflective of the Court's ruling. The Court directed the County to provide additional analysis of the water supply and additional support in the administrative record for the economic infeasibility of an enclosed facility. In all other respects the Court affirmed the FEIR. The concept of severability merely refers to the need to complete the SEIR with its analysis of the two additional topics, as directed by the Court, prior to recertification of the FEIR for the project as a whole. The County has not engaged in a pointless SEIR process as the commenter asserts. Rather, this process fulfills one of the fundamental goals of CEQA by providing the decision makers and the public the additional information on topics as directed the Court directed. And the County has chosen to do so in a manner that provides the maximum opportunity for public comment and review; -an SEIR.

SC12-3: The County disagrees with the commenter's assertion that "the County has nothing to supplement." The County could have responded to the Court's directive on the economic infeasibility by merely supplementing the record, however, the County, within its unilateral discretion chose to include the further support for the economic infeasibility in an SEIR. The water supply assessment is also in the Draft SEIR. The County has fully and responsibly analyzed and reviewed the Draft SEIR consistent with its duty under CEQA and administrative law. See also Response SC12-2.

SC12-4: The County disagrees with the assertion that it applied the incorrect threshold for emissions of greenhouse gas (GHG) emission. The GHG analysis is based on the latest guidance available in the state of California for the analysis of global climate impacts. The threshold is set forth in accordance with CEQA law and practice. The quantification of GHG emissions demonstrates that the Project reduces GHG emissions that are currently occurring without the Project due to the transport of biosolids to Arizona and the San Joaquin Valley.

The Draft SEIR evaluated GHG emissions using the latest, state of the art approach to such analysis. The GHG analysis found a significant net positive impact from the project (page 4-10). As stated in the Draft SEIR (beginning on page 4-1), AB 32 is the state statute that addresses global climate change in California and is being implemented in concert with international efforts to address global climate change. The legislature in passing AB 32, set forth a program requiring that certain specific requirements under AB 32 be further elucidated by CARB. The program set up by AB 32 will substantially lessen the cumulative problem of GHG in the state of

California and the region and fulfills the definition of a mitigation program found in CEQA Guidelines §15064(H)(3).

As shown in the Draft SEIR on page 4-8, the total unmitigated global warming potential associated with Project-generated GHG emissions is calculated to be 7,682.94 tons/year at full capacity of the proposed facility. This is approximately 47% below the estimated total global warming potential for the transport of waste material (14,453.21 tons/year) without the Project. In other words, the Project results in a net reduction of 6770.27 tpy of GHG emissions. The Project furthers the AB 32 goal of reducing GHG emissions. For this reason the Draft SEIR determined that impacts resulting from Project generated GHG emissions are less than significant.

SC12-5: The County disagrees with the assertion that it used an incorrect baseline in the analysis of GHG emissions. The baseline condition, as defined in CEQA Guidelines §15125 is the physical environmental condition in the vicinity of the Project as they exist at the time the notice of preparation (NOP) is published from both a local and regional perspective. With regard to GHG emissions, because global climate change impacts are the result of manmade GHG emissions worldwide, it is important to include GHG emissions that are currently occurring within the context of composting related activities and how the Project may change those baseline conditions and activities. To that end, it is imperative, and the County is legally required, to include GHG emissions from the transport of biosolids that are currently occurring. The analysis then evaluates how the Project may change the generation of those emissions. For this reason, the Draft SEIR appropriately applied the correct baseline with regard to GHG emissions.

The commenter asserts that the feedstock used in composting will change the total global warming potential of a project. Specifically, the commenter asserts that a mixture of 50% biosolids and 50% greenwaste will produce 35.5 lbs of methane per ton composted while a 50% biosolids to 50% woodwaste/rice hulls would only produce 0.5 lbs of methane per ton. As discussed above, it is important to address changes made to baseline conditions related to the project. The baseline conditions include the emission of methane from all existing composting sites that could see a reduction of activity with the development of the Project. As proposed, the Project may (based on figures provided by the commenter) emit 35.5 lbs of methane per ton while the woodwaste/rice hulls not used decompose at another site and emit 0.5 lbs per ton. The total average baseline methane emissions would be 18 lbs per ton. If, as suggested, the proposed facility composts with woodwaste/rice hulls, the proposed facility may only emit 0.5 lbs per ton of methane, but the decomposition of the greenwaste at another facility or landfill would still emit the 35.5 lbs of methane per ton, resulting in the same net average total of 18 lbs per ton. Therefore, regardless of the location of the emissions, the total emissions would remain the same.

The transport of biosolids is not a "hypothetical scenario" as the commenter alleges. These are emissions that are currently occurring and were fully disclosed and analyzed in the Draft EIR. As such the comment is outside the scope of review for the SEIR. Nonetheless as a courtesy to the commenter the following information is reiterated. The Draft EIR (Section 1.4 on page 1-5) set forth the information regarding the current conditions of transportation of biosolids, 88% of which go to Kern County or Arizona. To the extent the commenter attempted to challenge that data in the Superior Court, that challenge was fully rejected. The commenter cannot now in the review of the Draft SEIR attempt to challenge the existing, real and documented transportation of biosolids provided in the Draft EIR (page 4-19). There is nothing hypothetical, speculative or assumed about the analysis. The example the commenter supplies in this comment is not applicable to the baseline conditions.

SC12-6: Comment noted. See response SC12-5. The comment refers to transportation analysis, which is not within the scope of the SEIR. This issue was addressed in the Draft EIR Section 4.3.3.2 (beginning on page 4-19). As described in the Draft SEIR (Section 4.1.3 beginning on page 4-3), the net benefit of the Project is to substantially reduce the distance that trucks transporting biosolids.

SC12-7: Again, the County disagrees with the commenter's allegations. The commenter misrepresents the long term effects of adding new disposal options for biosolids and misrepresents the criterion for an impact analysis. The current disposition of biosolids was addressed in Section 1.4 of the Draft EIR beginning on page 1-5.

The court case "Center for Biological Diversity v. City of Desert Hot Springs" is not relevant to the Draft SEIR analysis because in that case the court rejected a hypothetical scenario. In addition, that case involved entirely different factual situations and dealt with a residential and commercial development. The baseline used in this case is real and substantiated (see Response to SC12-5).

SC12-8: The County disagrees with the comment. The County has gone beyond the minimum requirements to foster public participation under CEQA including review of a range of alternatives. The alternatives analysis was in the Draft EIR and not the Draft SEIR so this comment is out of the scope of the SEIR. Nonetheless as a courtesy to the commenter, the following response is provided. The Draft EIR evaluated and rejected the reduced capacity alternative (Draft EIR, page 6-5 through 6-6) and that analysis was challenged in Court by the commenter (and other petitioners). The Court fully sustained the analysis of alternatives.

There is absolutely no factual or realistic basis to analyze the feasibility of an enclosed facility significantly smaller than the proposed project. Contrary to the commenter's assertion, the proposed Project was specifically described in the Draft EIR with very specific capacity specifications (Draft EIR page 2-11). A reduced capacity alternative of an enclosed facility is not a valid or necessary alternative to the proposed Project under CEQA because it would constitute an alternative to a different project. The Court did not overturn the County's conclusion regarding the economic infeasibility of an enclosed facility, the Court merely directed the County to provide additional evidence supporting the Draft EIR conclusion that an enclosed facility is economically infeasible. While supplementation of the administrative record does not require public review, the County chose to do so by including this information in the Draft SEIR which fulfilled that Court's directive. The County has thoroughly reviewed the additional information regarding the feasibility of an enclosed facility.

SC12-9: The County disagrees with the assertion that it failed to account for economies of scale. The analysis in the Draft SEIR very specifically evaluated economies of scale and set forth that analysis. Where information was available, the economic feasibility analysis included actual costs associated with a facility of this size rather than simply scaling up known costs of smaller existing facilities to the capacity of the Project. As an example, the economic feasibility analysis took into account the number of employees and pieces of equipment that the proposed project would need and realistic incomes costs for those employees. In other cases, such as the consumption of electricity scaling was applied to estimate the total electric load that would be required to power an enclosed facility. As discussed in Section 5.2, page 5-2 of the Draft SEIR, The Las Virgenes (LV) facility has incorporated a biosolids dewatering process into the wastewater treatment plant operations, which results in greater operational costs. Dewatered biosolids are the feedstock for both the Inland Empire Regional Composting Facility (IERCF) and the proposed Project where they will be provided by truck. Because of the size and operational differences, and

without speculating on economies of scale, the analysis provided costs based on ranges with respect to both the LV and IERCF facilities.

- SC12-10: The County disagrees with the assertion that the Draft SEIR must analyze other enclosed facilities. See Response SC12-9, SC12-1, SC12-3. The Draft SEIR responds to the ruling of the Superior Court and provides additional analysis of the type of enclosed facility that was previously presented in the Draft EIR and rejected by the County as economically infeasible. The analysis in the Draft SEIR necessarily assumed the same enclosed facility because it is the best enclosed facility alternative to the proposed project. The economic feasibility of the enclosed facility alternative was sustained by the Superior Court subject to further evidence in the administrative record, nonetheless the County thoroughly reviewed the analysis and conclusions based thereon.
- SC12-11: The County disagrees with the commenter's assertions about the water supply assessment. The Draft SEIR provides a water supply assessment for the Project that evaluates the actual needs of the Project (also see responses to Comment Letter SC9). As shown in response to Comment SC9-5, the estimated Project consumption of 1,000 gallons per day is based upon the needs of the Project and was fully substantiated. The availability of the water is fully assessed both legally and technically.
- SC12-12: The County disagrees with the assertion that it failed to follow proper CEQA process and the County further declines to accept the misrepresentation of the ruling in *Center for Biological Diversity v. County of San Bernardino*. The County reviews hundreds of projects under CEQA annually and is fully aware of the proper procedures. The County reviewed and responded to every element of every comment letter received in response to the Notice of Preparation (NOP). Many of the issues raised in comments made during the NOP process regarded topics addressed in the Draft EIR and were not within the scope of review set forth in the NOP. The responses to the NOP comments reiterated the scope of the SEIR and referenced the section in the Draft EIR where the information relevant to the comment could be found. When NOP comments addressed issues relevant to the scope of the SEIR, the County fully and completely considered the comment and incorporated any information into the Draft SEIR.
- SC12-13: The County disagrees with the assertion the proposed composting method is not covered by EPA title 503. As discussed in Section 4.6.3 on page 4-49 of the Draft EIR, The proposed project will comply with all laws and regulations including EPA 503 Regulations.
- SC12-14: The County disagrees with the assertion that it must prepare a new Draft EIR. See also response SC2-2, SC11-1, SC12-1, SC12-2, SC12-3, SC12-8, and SC12-12. This response serves notice to the commenter and its fellow petitioners that the County, in the interest of informing the decisions makers and the public and in compliance with the Court directives, intends to continue work on the SEIR.

SC13

Harvest Quest International, INC.

9/8/2009



HARVEST QUEST INTERNATIONAL, INC.

A Leader in Biotech Environmental Solutions

1067 South Hover Street, Unit E, #10
Longmont, Colorado 80501

Phone: (720) 494 8707
Fax: (720) 494 1815

Carrie Hyke
San Bernardino County Land Use Services Department
385 N. Arrowhead Avenue, 1st Floor
San Bernardino
CA 92415-0182

September 8th, 2009

Dear Ms. Hyke,

Harvest Quest International, Inc. would like to provide our support for the Nursery Products Hawes Compost Facility. Our company has been operational for over nine years, manufacturing products and developing new composting techniques and processes to aid open air compost facilities..

Our system is used at many open air biosolids compost facilities throughout the country, where it meets and/or exceeds EPA 503 standards and regulations. Over the past nine years, our clients have expressed extreme economical and functionality constraints of enclosing their compost facilities, and want a cheaper alternative. Our system allows our clients to continue to operate and expand, and enhances productivity and operational methodologies whilst maintaining the strict EPA 503 standards.

On all of the biosolids composting facilities we operate on, we have found that the addition of moisture to windrows is limited or non-existent. This is mainly due to the initial moisture content of biosolids, which can be 75% or higher.

We have helped our clients to reduce the amount of waste byproducts, such as biosolids, food waste, and yard waste, from being disposed of by land filling, which decompose anaerobically (without oxygen) and thus produce high levels of methane gas. Therefore this organic material diversion is an important tool in the on going avoidance in reducing green house gas emissions. Compost windrows are designed to operate aerobically (with oxygen) and engineered to remain so throughout the process. Using oxygen, microorganisms break down the organic materials and emit small amounts of carbon dioxide, heat and water vapor. Composting has always been promoted by environmental groups and the EPA for being a desired method to dispose of waste byproducts and preserving the atmosphere.

In closing, I, and everyone at Harvest Quest, believe we require more environmentally conscious ways of disposing of waste materials that are generated on a daily basis. We, therefore, approve and support operations such as the Nursery Products Hawes Compost Facility.

Sincerely,

Andrew Gregory
Vice President Operations



SC13-1

Response to Comment Letter SC13

SC13-1: Comment noted. See Responses to Comment Letter SC10.

SC14

Summit County Resource Allocation Park

9/3/2009



SUMMIT COUNTY RESOURCE ALLOCATION
PARK

970-468-9263
Fax 970-262-3626

Post Office Box 3789
Dillon, CO 80435

September 3rd 2009

Carrie Hyke
San Bernardino County Land Use Services Department
385 N. Arrowhead Avenue, 1st Floor
San Bernardino
CA 92415-0182

Dear Ms. Hyke,

This letter has been drafted to show our support of the Nursery Products Hawes Composting facility, due to its similarity to our facility in Colorado.

The Summit County Landfill is located in Dillon, Colorado, approximately one mile east of the exclusive ski town of Keystone. In addition to our landfill, we operate an open air biosolids composting facility on site. As you can imagine, we are extremely close, less than a mile, to housing developments and hotels, but we have *never* had an odor complaint to date. When we undertook this project, we looked into an enclosed facility and deemed it far too expensive from the start, so we pursued the only economical alternative – an open air facility.

In our operation, we have found there is no need to apply any water to windrows containing biosolids. Biosolids typically contains a solid content of 20%, so once it is mixed with green waste and placed into a windrow, there is enough water content within the biosolids to finish out the process.

With land application of biosolids being curtailed, composting is one of the most efficient and environmentally friendly ways to recycle this material. Our compost site has been able to offer this recycling route, thus saving the tax payer money while producing a very desirable compost that is widely used locally. I hope that the Nursery Products Hawes Composting Facility is approved and they can begin offering this very beneficial and much needed service that we do.

Thank you for your time.

Sincerely,

Aaron Byrne
Recycling / Landfill Operations Manager

SC14-1

Response to Comment Letter SC14

SC14-1: Comment noted. See Responses to Comment Letter SC10.

SC15

Joan Bird

7/15/2009

2009 JUL 20 PM 1:05

July 15, 2009

Carrie Hyke, Principal Planner
San Bernardino County Land Use Services Department
Advance Planning Division
385 N. Arrowhead Ave. First Floor
San Bernardino, CA 92415

Ms. Carrie Hyke,

I am writing as a concerned resident of Hinkley, Ca. I am also a member of Helphinkey.org. I have written to you before regarding a proposed compost/biosolids/compost facility that Nursery Products LLC wants to build eight miles west of Hinkley. I and the residents of Hinkley, Barstow, and the surrounding area think this is a very bad project. Our concerns are for our air and water quality being impacted, our health being in jeopardy from hazardous pollutants, desert wildlife habitat being destroyed therefore wildlife being destroyed (desert tortoise in particular), fire if such got started in the piles of compost, and traffic on State Hwy. 58.

SC15-1

I am writing now to alert you to the fact that the draft to the supplemental Environmental Impact Report (SEIR) is due out the week of July 13, 2009 (this week). The residents of this area take offense with the term "supplemental" as a judge in Barstow decided in our court case against the San Bernardino County Board of Supervisors and Nursery Products that the Environmental Impact Report should be redone wholly, not just in part. There will be a 45 day comment period following the date of this SEIR. As an agency/department/organization concerned with our environment, etc. I ask that you send your comments opposing this facility in our area.

SC15-2

Thank you,

Joan Bird
24664 State Hwy. 58
Hinkley, CA 92347

*Thank you for keeping me informed.
I'm sure you already know about the SEIR.
J*

Response to Comment Letter SC15

- SC15-1: The County shares your concerns for air and water quality as well as public health. The comment refers to potential impacts to air quality, water quality, health risks, and biological resources including desert tortoise, which is not within the scope of the SEIR and hence no response is necessary. This issue was addressed in the Draft EIR Sections 4.3, 4.4, and 4.7. The analysis of impacts to biological resources and air quality were specifically challenged in the Superior Court and the Court concluded that further analysis was not required. Also see Response to Comments SC6-2, SC6-3, and Comment Letter SC2.
- SC15-2: The County chose to prepare a SEIR pursuant to its authority in response to a ruling by the Superior Court requiring a water supply assessment and additional evidence to support the County's decision that an enclosed facility was not feasible. See Response to Comments SC11-1, SC12-1, SC12-2, and SC12-3.

SC16

Tom Budlong

9/11/2009

Tom Budlong
3216 Mandeville Canyon Road
Los Angeles, CA 90049-1016

Friday, September 11, 2009

Carrie Hyke
Land Use Services
San Bernardino County
By Fax: 909-387-3223 and to chyke@lusc.sbcounty.gov

To the Board of Supervisors
San Bernardino County

Though I am not a resident of your county, I travel through Barstow and other areas of San Bernardino County quite often. I hope you will take this letter seriously, and not discard it because I am not a county voter.

I understand that a company, I believe it is Nursery Products, wants to process sludge in an open area facility near Barstow. Normally, this kind of waste is processed in closed facilities so airborne contaminants, smells and other negative effects, can be controlled.

Of course, the incentive for the company is cost. An open facility is less expensive, and gives a competitive advantage with respect to closed facilities. If this company is allowed, it will be near impossible to refuse other open sludge processing, resulting in even more degradation affecting residents and those, like me, who are visitors. Essentially, San Bernardino County is saying – “Dump here. It’s cheaper.”, to the detriment of the county.

SC16-1

As a minimum, you must require a complete Environmental Impact Report, analyzed and written by an independent, disinterested organization. I know this is initially expensive and time consuming, but it is much better than approving such a project without understanding the consequences, and dealing with unforeseen consequences later. An EIR also can point to possible mitigation measures that might otherwise not be indicated.

SC16-2

Sincerely,



Tom Budlong
310-476-1731 Voice
310-471-7531 Fax
TomBudlong@RoadRunner.com

Response to Comment Letter SC16

- SC16-1: The SEIR provides additional support for the County's earlier determination that an enclosed facility is economically infeasible. It is worth noting that biosolids are not typically handled in enclosed facilities. As the analysis in the SEIR shows on page 5-12, only two enclosed facilities are in operation in southern California and both of those are operated by public agencies at a substantial financial loss. It is not as the commenter asserts, the County saying "Dump here." The environmental impacts of the proposed facility have been fully evaluated under CEQA and mitigated as appropriate.
- SC16-2: The County disagrees with the assertion that it must prepare a new Draft EIR. Pursuant to the legal challenge in Superior Court, the County is supplementing the Final EIR with an assessment of the water supply for the Project and further support for the County's decision that an enclosed facility is not feasible. See Response to Comments SC11-1, SC12-1, SC12-2, and SC12-3.

SC17

Francis & Juana Church

9/14/2009

14 Sept 2009

To: Carrie Hyke; San Bernardino Land Use Services Dept. Manager
Principal Planner, Advance Planning Division, 385 N. Arrowhead Ave., First Floor, San Bernardino,
California 92415-0182

For the record:

The following points in the Superior Court Order as responded to by San Bernardino County and Nursery Products LLC in the Draft SEIR or its appendixes are lacking in substance, merit and support from the Draft SEIR or its appendixes it appears they are on a fishing expedition:

1. Feasible Alternatives;
 - a. 21st century solution to extreme costs or Air Impact solution. Rent or buy a building/warehouse(1) in the area of the bio-solids creation and purchase bio-solid high speed digesters (2) to create Methane gas to be sold at market value.
 1. GHG statewide would be cut by 7/8 now emitted.
 2. Water is available at site in volume necessary.
 3. Electricity is available.
 4. Work around lack of clean-air credits AQMD.
 5. Bio-solid material can be immediately certified.
 - b. Cover with a material such as Gore CoverSystem(3);
 1. Bio-solid material must have pre-handling at site of manufacture to remove all metals and sterilized.
 2. Less impact on flora and fauna.
 - c. Build a permanent building on high-desert that complies with all reasonable safety measures applied to handling contaminated bio-solids;
 1. High impact on flora and fauna.
 2. Electricity is available
2. Water;
 1. The governor of California (4)has said in speeches and other news media that California is in the middle of a 3year drought with no relief in sight.
 - a. For NP to look at 3.5million gal water as reserve water from the Harper basin for their endeavor is presumptuous, they do not own the water.
 - b. The estimation by Nursery Products of water usage (July 2009, Draft Supplemental Environmental Impact Report, para: 4.1.6.2 Water Resources) of 1000gpd or 365000gpy is an extremely under estimation of water usage for an industrial operation of their estimated size. An interview with an employee of Golden Valley Water Company the water company in Barstow, said, "a single family dwelling with 5 occupants in Barstow California uses approximately 750gpd to operate their household".
 - c. A business with many acre operation and a fugitive dust problem similar to NP is Service Rock Products in Barstow. I interviewed an employee at the Barstow facility and they said, "on any windy day in the year that fugitive dust is a major problem on their piles and a windy day the water truck a 5000gal unit is filled at least 3times an hour," they have three wells.
 - d. And there is another use for that 1000gpd and that is keeping the windrows wet to 4percent by volume. Each windrow is 8000cu.yds. of material plus 2000cu.yds.of green waste.
 - e. Last but not least is fire control and suppression the 15gpm pump by itself cannot sustain fire suppression and the 30000 gal tank is only good for 30min using the volunteer pumpers from (5)Hinckley.

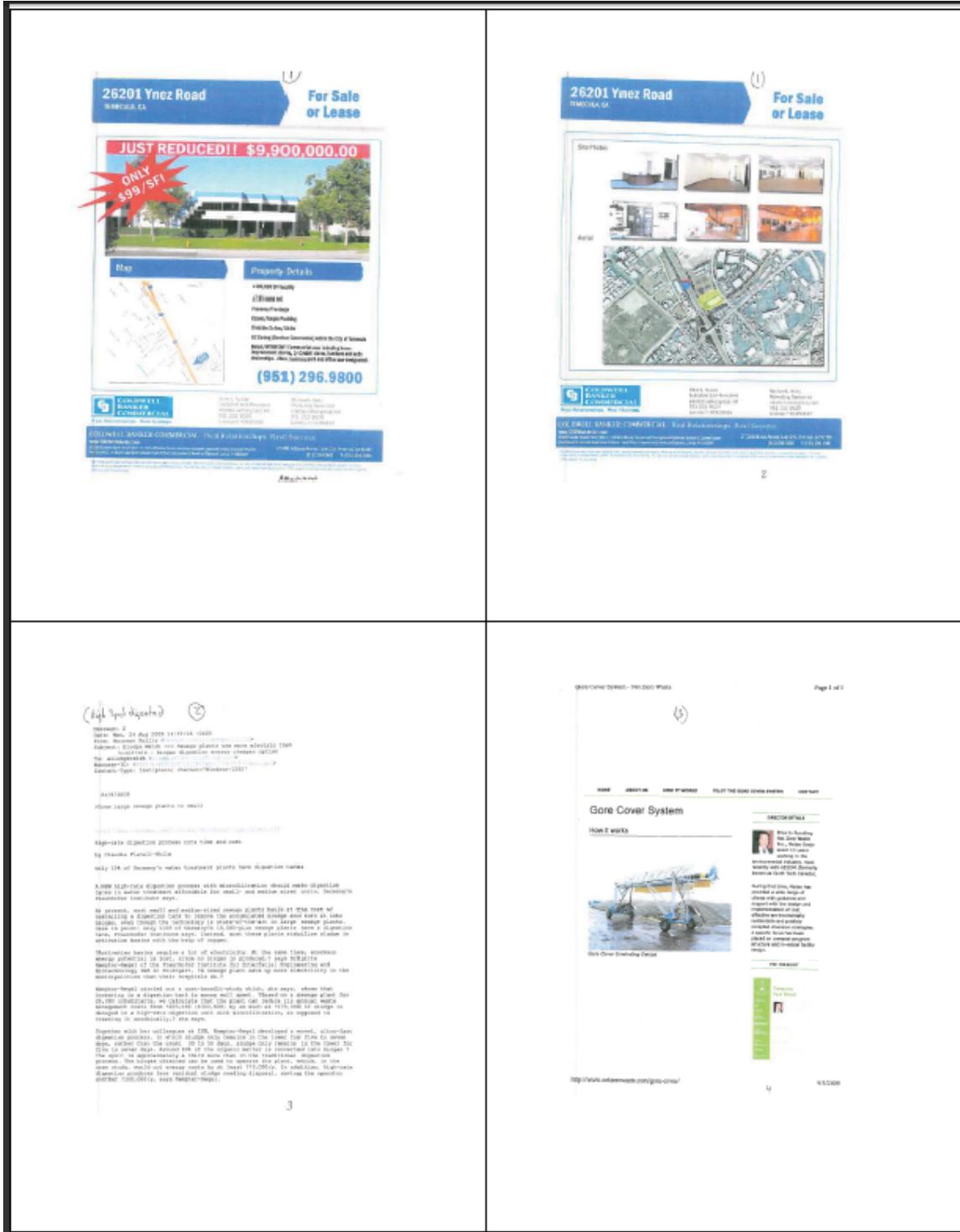
2009 SEP 15 PM 1:43

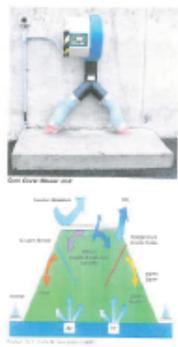
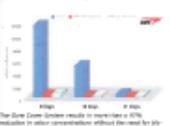
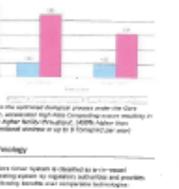
SC17-1

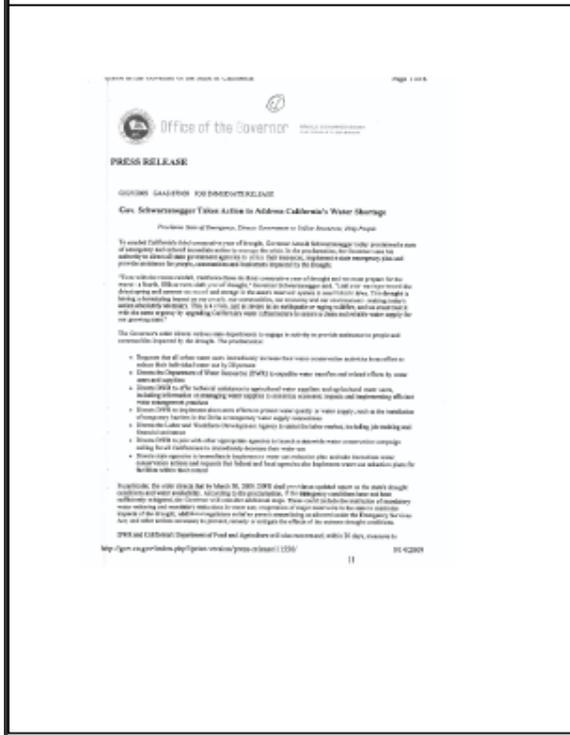
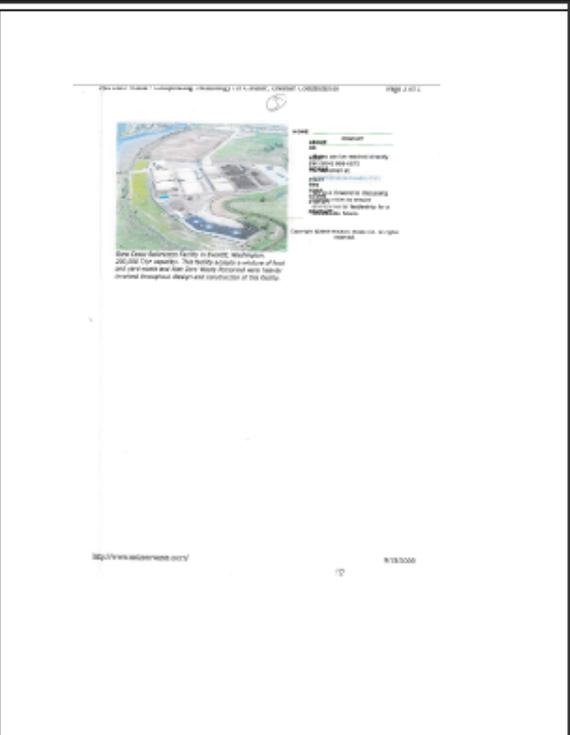
SC17-2

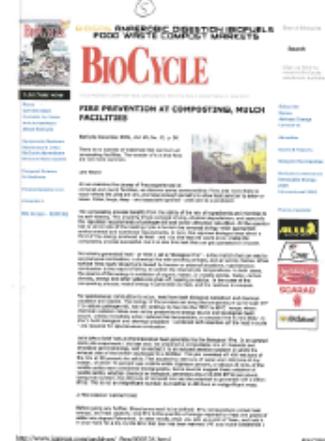
Juana N Church
36408 Shady Lane
Barstow Ca 92311

Francis N. Church III
36408 Shady Ln
Barstow, CA 92311



<p>Open Cover System - Hot Gas Stack Page 2 of 3</p>  <p>Open Cover System - Hot Gas Stack</p> <ul style="list-style-type: none"> • Hot Gas Stack: This system is designed to capture and remove hot gases from the composting process, reducing odors and improving air quality. • Hot Gas Stack: This system is designed to capture and remove hot gases from the composting process, reducing odors and improving air quality. <p>http://www.composttec.com/gas-stack/ 652889</p>	<p>Open Cover System - Hot Gas Stack Page 2 of 3</p>  <p>Open Cover System Features:</p> <ul style="list-style-type: none"> • Hot Gas Stack: This system is designed to capture and remove hot gases from the composting process, reducing odors and improving air quality. • Hot Gas Stack: This system is designed to capture and remove hot gases from the composting process, reducing odors and improving air quality. <p>Proven Results:</p> <p>http://www.composttec.com/gas-stack/ 652889</p>
<p>Open Cover System - Hot Gas Stack Page 3 of 3</p>  <p>Open Cover System - Hot Gas Stack</p> <p>The Open Cover System is designed to capture and remove hot gases from the composting process, reducing odors and improving air quality.</p>  <p>Proven Results:</p> <p>The Open Cover System has been shown to reduce odor levels by up to 50% in a controlled environment.</p> <p>http://www.composttec.com/gas-stack/ 652889</p>	<p>Open Cover System - Hot Gas Stack Page 3 of 3</p>  <p>Open Cover System - Hot Gas Stack</p> <p>The Open Cover System is designed to capture and remove hot gases from the composting process, reducing odors and improving air quality.</p> <p>Proven Results:</p> <p>The Open Cover System has been shown to reduce odor levels by up to 50% in a controlled environment.</p> <p>http://www.composttec.com/gas-stack/ 652889</p>



<p>Page 1 of 2</p>  <p>http://www.sagepub.com/links/.../BioCycle.html</p> <p>7</p>	<p>Page 2 of 2</p> <p>http://www.sagepub.com/links/.../BioCycle.html</p> <p>8</p>
<p>Page 3 of 3</p> <p>http://www.sagepub.com/links/.../BioCycle.html</p> <p>9</p>	<p>Page 4 of 4</p> <p>http://www.sagepub.com/links/.../BioCycle.html</p> <p>10</p>

Response to Comment Letter SC17

The Lead Agency appreciates the supplemental information provided by the commenter regarding available warehouse real estate, alternative methods of biosolid disposal, alternative composting technology, and Governor Schwarzenegger's press release on California's water sources. The Lead Agency has fully reviewed the provided information during the preparation of the following responses.

SC17-1: Comment noted. The comment refers to additional alternatives analysis such as renting or purchasing existing vacant warehouses, or the use of Gore CoverSystem or the like, which were not within the scope of the SEIR and hence no response is necessary. This alternatives analysis was addressed in the Draft EIR Section 3.3 (beginning on page 3-6), specifically challenged in Superior Court and fully sustained by the Court. See Response SC12-9, SC12-1, SC12-3, SC12-9, SC12-10. The Draft SEIR responds to the ruling of the Superior Court and provides additional analysis of the feasibility of an enclosed facility as was previously presented in the Draft EIR and rejected by the County as infeasible. As discussed in Response to Comment SC12-10, the County thoroughly reviewed the analysis of the economic feasibility of an enclosed facility and conclusions based thereon.

SC17-2: The comment refers to California's state of drought, fugitive dust, and fire controls and suppression, which is not within the scope of the SEIR and hence no response is necessary. Fugitive dust and fire control were addressed in the Draft EIR in Sections 4.3.2.2 (beginning on page 4-16), and 4.6.3.1 (beginning on page 4-48) respectively.

This comment also questions the water consumption of the Project, the available water supplies and safe yield of the aquifer. The issues related to water consumption of the Project, the safe yield of the aquifer, and the adequacy of the water supply assessment were addressed in Comment Letter SC9. Please see responses to Comment Letter SC9.

SC18

John D. Coffey, J.D.

9/15/2009

09/15/2009 07:32 7602574107

DeelPlusbingHeating

#1001 P. 002/002

OPPOSITION TO NURSERY PRODUCTS FACILITY IN HINKLEY

I, John D. Coffey, J.D., a resident of the Barstow area, object to the process that the County of San Bernardino is taking in the approval and permitting process of the composting facility to be built by Nursery Products LLC upwind of Barstow and Hinkley. I feel that the amount of waste being brought to our area must be dealt with in a safer more responsible manner. It is my wish and demand that the County of San Bernardino stop the Supplemental Environmental Impact Report currently being completed by Land Use Services Department and complete an entire EIR with more consideration given to the City of Barstow and Barstow Unified School District that will be negatively affected by this proposed project. I believe that on a local level, the health and financial impacts were not considered in enough detail, if at all. We can ill afford to continue to privatize the profits and socialize (i. e. tax payer) the foreseeable costs. I feel that there are feasible alternatives currently available that are not being considered that are closer to the origin of the waste and would be cost effective.

SC18-1

As a Barstow area resident, I have not and cannot support the Nursery Products facility as currently proposed. The current litigation will not only continue, but new federal suits are being prepared as I write this.



Name (signature)

JOHN D. COFFEY, J. D.
Name printed

P. O. Box 2258
Barstow, CA 92312-2258
Address

Please send this notice to the following:

San Bernardino County
Services
Clerk of the Board
Attention: All Board of Supervisors
Fax 909 387-4554
General Information] (909) 387-3841
Nursery Product SEIR

Carrie Byke, Land Use

San Bernardino County
FAX 909.387.3223 3249
chyke@lud.sbcounty.gov
Attention:

Response to Comment Letter SC18

SC18-1: Comment noted. The comment refers to potential impacts to health and the evaluation of alternatives, which is not within the scope of the SEIR and hence no response is necessary. These issues were addressed in the Draft EIR Sections 4.3 (beginning on page 4-24), 4.6.3.1 (beginning on page 4-48), and 3.3 (beginning on page 3-6) respectively. The analysis of alternatives was specifically challenged in the Superior Court and the Court concluded that further analysis was not required. Also see Response to Comment SC11-1.

SC19

Robert D. Conaway

9/14/2009

Page 1 of 6

Hyke, Carrie - LUS - Advance Planning

From: Robert Conaway [rdconaway@gmail.com]
Sent: Monday, September 14, 2009 12:25 AM
To: Hyke, Carrie - LUS - Advance Planning
Subject: Public Comment on DRAFT SEIR for Nursery Products Hawes Composting Facility & request to include this email in the public comment

The Executive Summary states a goal mandated under statute:

Section 15123(b) of the CEQA Guidelines requires that an SEIR contain a summary of proposed actions and their consequences, including identification of each significant effect and proposed mitigation measures and alternatives that would reduce or avoid that effect.

I do not believe the report passes statutory muster.

When the NOP was available and comments invited, I asked a number of questions in an April 13, 2009 letter (the text of the letter follows):

To:
Carrie Hyke
San Bernardino County Land Use Services Department
Advance Planning Division
385 North Arrowhead, 1st Floor
San Bernardino CA 92415-0182 Fax: (909) 387-3223

Re: COMMENTS ON NURSERY PRODUCTS HAWES COMPOSTING FACILITY's NOP for SUPPLEMENTAL EIR

Dear Ms. Hyke:

We note with frustration that the County is doing a supplemental environmental impact report (hereafter "SEIR") as opposed to a full report. The issues discussed in the court's ruling are fluid and interactive. Only because Nursery Products has significant political control over the county, is this surgical approach to science and reality apparently possible. We ask that this comment letter which requests and urges a more expansive approach to the environmental review and related NOP be done, and that this letter be made part of the administrative record on the Nursery Products Hawes Composting facility Notice of Preparation.

First, while we are not experts on environmental law, we note the Court ordered the EIR be re-done, not a supplemental EIR. We believe the County is acting in contempt of the court's clear and unambiguous order.

Second, a reading of the available case authority on when supplemental EIR's can be done, it is clear that they are done on projects that have been approved and are already operational. The SEIR is done where the operator wants to expand the permit for operations that have already been approved (example would be Nursery Products operating a composting operation on 80 acres and wanting it expanded to another 20 acres) .

Third, to the extent the court order required a full re-do, ordering a partial EIR to be done, is a gift of

09/14/2009

SC19-1

public funds to the vendor as it will be an incomplete product that does not meet the requirements of the court's order or law, which exposes the county officers involved to potential criminal liability (and further litigation costs, which the county can ill afford).

Fourth, it is a reckless disregard of the regulatory scheme put in place to protect public health and safety to proceed before the court challenges are over—not only the appeal and cross appeal of the court's order in the initial CEQA issues, but the litigation with the air board.

Fifth, some threshold questions and follow-up items that should be asked and required of the county and their vendor should include (and be added to the process/ NOP):

(i) What expertise will the vendor be required to have, if any, dealing with a Nursery Products-type open air composting project?

(ii) Will the vendor be required to test for down-wind drift so the risk of genetic fragments (that confer either resistance or virulence) can be assessed? If so, what experience and certification does the vendor or will the vendor picked have in those fields? If not, why not? Again, if so, what experience will the vendor be required to have?

(iii) Will the vendor be asked to make any pathogen risk assessments? If not, why not? If so, how will they be getting their data, what methodology will they pick, what labs will they use and what certifications do they have?

(iv) Will the vendor assess, characterize and deal with potential impacts to on-site workers and the public health before project approval. If not, why not? Will the vendor be asked for its opinion on the nature and extent of post project approval monitoring?? If not, why not? Will regulation by the county consist of waiting for public health complaints to emerge?

(v) With respect to dust from sewage sludge composting, several workmen's comp cases were filed by staff of the Chino Women's Prison for complaints accruing to dust from the adjacent and up-wind sewer sludge composting facility in San Bernardino County, California. Will the County's vendor investigate those risks and whether sludge-to-agricultural grade compost operations present the same risks? If not, why not?

(vi) Having experienced 60 mile per hour (plus) winds over the past three weeks in the Hinkley area, I am mindful of the USGS studies on the movement of dust from Africa, across the Atlantic and carrying with it viable pathogens thus causing respiratory disease in the Caribbean . This is a distance of over 3,000 miles, reaching high altitudes and subjected to about 3 weeks of intense UV radiation—yet the pathogens survived. They certainly can travel 10 miles with no problem! What studies are you going to require of your vendor so the transmission of contaminated dust and pathogens can be properly evaluated from a public health standpoint? if none? Why in light of the USGS studies?

The table below demonstrates the extent of pathogen drift, in this case from a sewer plant, but it is illustrative. By definition, an aerosol is able to remain in suspension for prolonged periods because of its low settling velocity. The energy supplied by aeration of sewage, especially when the overlying air is cold, may see the mist rise several meters. While these data are for an open plant, a similar series could be constructed by steaming from compost piles, the droplets from which may carry pathogens.

For spherical particles of unit density the settling time for a 3-M fall is noted in the table below. From this, considering the size of both bacteria and viruses and aerosol generation from large open systems, it will be noted that aerosol movement is considerable.

09/14/2009

Remember that the average bacteria is 1 μM and a virus about 1/100 of that.

TABLE*

Assumptions: 5 mpg** average wind speed, laminar flow. The assumptions would be upset within an urban setting with buildings, up-currents, and turbulence from traffic which would affect laminar flow. However in an open area such as desert, the laminar flow would need to be considered.

Particle Diameter.....	Settling Time.....	Distance at wind speed 5 mph
100 μM	10 sec.....	44 ft
20 μM	4 minutes.....	1780 feet
10 μM	17 minutes.....	7480 feet (1.4 miles)
5 μM62 minutes.....	approx 5 miles
< 3 μM	These essentially will not settle.	

* Adapted from Tellier's work [15]

** 5 mph is about as fast as a rapid walk.

The median diameters at which particles exhibit aerosol behavior also corresponds to the size range that will reach the deepest recesses of the respiratory tract.

The point of all this is that there are several areas where workers and the population are exposed to antimicrobial resistance and thus are those going to be considered or required to be considered in the NOP and by the vendor picked? If not, why not?

(vii) Will the County require the vendor doing the supplemental EIR to consider antibiotic resistance, transfer of genetic information? Will the County require lab tests that consider viable but non-culturable materials? If not, why not? Again considering the work of others in working with sewage byproducts that presumably received very rigorous treatment, Joan B Rose (2004), looking at recycled water in Florida, Arizona, and California and all contained pathogens. Giardia cysts were found in 84% of the final treated water. Enteric viruses were found in 31% of the final product in 2/3 of these plants and Cryptosporidium were noted in 71% of the final product of all tested plants.

These bacteria and their genetic material, when released by sewage treatment or contained within sewage byproducts are thus able to colonize in environmental niches, and animals, including humans, through ingestion. Once ingested, the plasmids may be transferred to normal flora, and subsequently to pathogenic bacteria found in humans or animals, making later treatment with particular antibiotics ineffective. Also one must consider transfer of genetic information from these organisms to more robust organisms as highlighted by Sjolund et al. (2005) indicating that resistance in the normal flora, which may last up to four-years, might contribute to increased resistance in higher-grade pathogens through interspecies transfer.

Sjolund et al go on to note that since populations of the normal biota are large, this affords the chance for multiple and different resistant variants to develop. This thus enhances the risk for spread to populations of pathogens. Furthermore, there is crossed resistance. For example, vancomycin resistance may be maintained by using macrolides. What studies has the County conducted or will conduct or order be conducted on the destruction of, for example, erythromycin, a macrolide that will bioaccumulate? Does composting destroy this material?

Walsh (2003) who wrote one of the newer medical texts on antibiotic resistance notes that resistance to

09/14/2009

antibiotics is not a matter of IF but one of WHEN. So how fast can antibiotic resistance develop?

(viii) If the vendor is not independently conducting these types of studies, who will they be using and what is their experience and their certifications?

(ix) Will the vendor justify from an environmental justice and economic feasibility the costs of sludge to compost operations in Rancho Cucamonga, Banning, Colton, Rialto, Lost Hills and Niland vs what Nursery Products is proposing to minimally do?

(x) Will the vendor assess the public health hazard from a fire breaking out in the windrow or stacks/piles? If not, why not? The gases coming from the windrow/piles/stacks in the event of fire and the hazards from same needs to be assessed. Heated chemicals, inorganic and organic matter can present different risks to public health.

(xi) The Hinkley and Barstow Fire District do not have large dozers, typically needed to knock down a stack or windrow fire--the closest dozers are in Riverside (the forestry service). A full blown range fire and toxic plume catastrophe would be going by the time existing assets are able to arrive. Will the vendor assess fire suppression needs and what the resources are? If not, why not?

(xii) The area aquifer and 5 or 10 thousand gallon tanks do not have the capacity to supply 2 inch hoses for a fire fight to knock down a stack or windrow fire. Will the vendor assess the recharge rate of potential wells on the Nursery Products property? If not, why not? Will the County be content to let the facility burn to the ground, but not before belching a cloud of contaminants throughout the Barstow/Mojave Valley area?

(xiii) The introduction of open air trash, draws ravens. Ravens carry in their beaks bacterias dangerous to people and livestock. The infection rate of livestock will impact existing businesses as well. The presence of ravens will further threaten indigenous birds and tortoises, who they hunt. Will the county assess the potential public health and impacts to indigenous animals from a boost in the raven population (or its staying in the area year round due to the new sources created by Nursery Products operations)? If not, why not?

(xiv) Will the vendor take samples of the "product" from the sources that Nursery Products would accept loads from to assess potential chemical, metal, pesticide waste so to know what the risks will be? If not, why not? Isn't it hard to assess public and environmental risk without profiling the material to be accepted?

(xv) Will the vendor do a PM 2.5 and PM 10 study based on the approach to be used by Nursery Products on windrow (or stacks)? If not, why not?

ROBERT D. CONAWAY

JACQUESE L. CONAWAY [END OF April 13, 2009 letter] - further comments follow.....

First, the April 13, 2009 letter was never responded to by either the County or Nursery Products. The letter's specifics appear to be sidestepped. The draft SEIR is a report in a can (pre-made for the most part with some editing changes). The SEIR addresses none of the scientific issues raised in my April 2009 letter bearing upon air quality, water and whether such a composting operation could be operated without presenting serious risks to the public health and safety.

09/14/2009

Second, in order to determine what the proposed actions and effects are from a potential application/permit, one needs to know what the applicant is going to do. Without a clear definition and description of what the activity will be and the methodology, no report will be able to identify each significant effect and further, whether the mitigation measures will work as claimed. For example under 2.3 "partial windrow shaped piles" are going to be used. Later in the same section "windrows" and "modified static piles" are going to be used. Each approach requires different handling and each approach potentially creates different outcomes (adverse impacts). The report fails on its face to protect the public against what is clearly a moving target applicant. Nursery products plays a shell game with our health and safety and the county seen to not care. Shameful!

SC19-2

Third, for the first time, we are told under Section 2.5 that the composting operations will be "manufactured for each customer"--this multiplies the variables on how material is going to be handled and there is NOTHING in the reports which described what custom manufactured production operations will do to change handling, processing and storage. What additional or special handling is not being detailed? Will chemicals be added to custom batches?? or Will certain loads of "special" sludge be allowed in because of properties contained therein?

Fourth, the analysis under 4.1.2 misses the point--to sell the argument of negligible impact, state-wide discussion populates the report; the issue focus must be the impacts to the air basin that Barstow and Hinkley are in (which has been in non-compliance air quality-wise for some time as per the EPA); to allow Nursery Products to worsen the air quality so they can have a bigger profit over other operators in the state is shameful.

SC19-3

Fifth, the water issue is not addressed; according to Warren Wallace, one of the well drillers in the area, the Hawes field aquifer barely recharged from day to day use at the old air field (which consisted of toilet, sinks and occasional hose downs). The water recharge rate is poor. The people that know the facts are not being asked. Talking about tanks and water rights misses the point. If it is not there, it is not there. Also a fundamental premises of water hydrology is if you pump from a poor recharge rate area, you will pull in other water, creating for the surrounding aquifer users, a drop in water supply and recharge rate.

SC19-4

Sixth, the water issue is important not only from potential sparking of equipment (and resulting fire), but also the risk hot exhaust and the tub grinder will create. It was less than a year ago that a tub grinder fire at the solid waste dump at Ft. Irwin led to a shut down of a significant area at Ft. Irwin due to not just fire concerns but hazmat concerns (and the waste stream up there was household grade waste--nothing exotic). The available water needs to be established, the recharge rate needs to be known to plan effective fire suppression and dust control strategies.

SC19-5

Seventh, it is intellectually dishonest to talk about air quality and water impacts without knowing IN ADVANCE the allowable mix of biosolids that will be accepted. Chemicals in liquid biosolids can vary widely. The materials to be accepted is something that needs to be addressed and restricted now (with a detailed description of what will be allowed). Only once we know what will be accepted by a detailed breakdown, can an effective analysis be done of what is going to be a problem and what is not. As to not set out the allowable parameters of the chemical mix that will be accepted by Nursery Products, makes the reports conclusions about adverse impacts the worse kind of speculation.

SC19-6

Eighth, enclosure can be done cost effectively--not all the alterbatives presented by the citizen groups previously have been considered. Remarkably some of the lower cost approaches, such as tarping with low tech exhausting and filtration at the end of the tarps have not been considered--approaches submitted several years ago and ignored!!

SC19-7

09/14/2009

ROBERT D. CONAWAY
22562 Aquarius Road
Hinkley CA 92357

09/14/2009

Response to Comment Letter SC19

- SC19-1: The comment letter received on April 13, 2009 was responded to in Appendix A of the SEIR (NC17-1 through NC17-17), specifically starting on page 84. The comment refers to potential impacts to air quality, water quality, and health risks, which are not within the scope of the SEIR and hence no response is necessary. These issues were addressed in the Draft EIR Sections 4.3, 4.4, and 4.7. The analysis of impacts to air quality was specifically challenged in the Superior Court and the Court concluded that further analysis was not required.
- SC19-2: Comment noted. The comment refers to composting techniques and activities, which is not within the scope of the SEIR and hence no response is necessary. This issue was addressed in the Draft EIR Section 2.3 (beginning on page 2-11).
- SC19-3: Section 4.1.2 of the SEIR discusses the significance criteria for greenhouse gases. Under CEQA the Lead Agency is responsible for determining appropriate thresholds and has done so here according to all relevant CEQA guidance. Because a single project cannot emit enough greenhouse gases to impact the climate of an area, a cumulative approach to the analysis must be employed. In addition, the MDAQMD, the Air Quality Agency with jurisdiction over the project site, accepts the analysis as is presented (see comment SC7-2).
- SC19-4: Comment noted. See Response to Comment SC9-1.
- SC19-5: Comment noted. The comment refers to potential fire impacts and their mitigation which is not within the scope of the SEIR. This issue was addressed in the Draft EIR in Section 4.6.3.1, page 4-48 through 4-51.
- SC19-6: Comment noted. The comment refers to Project description, specifically the mix of biosolids to be composted, which is irrelevant to the scope of the SEIR. This issue was addressed in the Draft EIR in Section 3.2.1, page 3-3. The project description is unchanged with a mix as set forth in the DEIR of 50% biosolids to 50% green waste.
- SC19-7: Comment noted. The comment refers to the evaluation of alternatives, which is not within the scope of the SEIR and hence no response is necessary. This issue was addressed in the Draft EIR Section 3.3 (beginning on page 3-6). The analysis of alternatives was specifically challenged in the Superior Court and the Court fully sustained the analysis and concluded that further analysis was not required. The Court directed the County to provide additional evidence in the record and that has been included in the SEIR.

SC20

Peg Diaz

9/15/2009

September 15, 2009

Carrie Hyke, Principal Planner
Land Use Services Department
385 North Arrowhead Avenue
San Bernardino, CA 92415-0182

Dear Ms. Hyke,

I have some concerns about the Alternatives Analysis in the Supplemental Environmental Impact Report for the proposed Nursery Products Hawes Composting Facility.

An SEIR, as its name implies, supplements the EIR already prepared for a project to address project changes, changed circumstances, or new information that was not known, and could not have been known with the exercise of reasonable diligence at the time the prior document was certified.

Information has always been available to complete the DEIR. It wasn't fully considered by the County or NPLLC.

The Project has the following objectives:

· To establish an efficient reuse of biosolids in the County and the Inland Empire;

Why is the safety of the reuse of biosolids never considered?

· To increase solid waste diversion through the recycling of green material in compost;

The ratio of green material to biosolids being brought in to the operation does not make for good quality compost.

· To conduct the composting operation in a cost-effective manner;

The cost to the community's health should be a consideration as well.

· To produce and provide local and regional agricultural and nursery customers with high-quality composted products, especially in the Inland Empire. The market areas for compost material include agricultural areas within the County and developing cities in the Inland Empire. The organic material and water retention properties of compost can improve the agricultural productivity of arid desert soils. The compost will also be used in nursery and landscaping operations, erosion control, and similar uses in developing areas.

A product that would enhance the quality of soil is beneficial, only so long as it does not do harm to those living in the area.

SC20-1

Table E-1, Environmental Summary of the Nursery Products Hawes Composting Facility, summarizes project impacts, mitigation measures, level of significance of impacts after mitigation, and unavoidable adverse impacts of the proposed Project.

If you have a project that has unavoidable adverse impacts, isn't that a sign that you are doing something wrong?"

None of the analyses in this Draft SEIR result in significant environmental impacts. The finding in the DEIR that even with an enclosed facility alternative, volatile organic compounds (VOC) emissions from the Project would exceed the applicable regulatory threshold and impacts to air quality would be significant is unchanged.

An enclosed facility would substantially lower the amount of VOC emissions. Not enclosing the facility would result in VOC levels far beyond the allowed amount. An improvement, and an attempt at trying to do the right thing, would mean a lot.

SC20-2

SC20-3

Water Assessment The proposed Project has the potential to deplete groundwater supplies or interfere with the groundwater recharge resulting in a net deficit in aquifer volume or lowering of the local groundwater table. Mitigation is not required
Why is mitigation not required? Why would an outside corporation be allowed to potentially interfere with an area's groundwater?

SC20-4

Since the additional analysis ordered by the Court did not result in changes to the Project components, or revisions to the previous EIR, a supplemental EIR is the appropriate document. The Project has not been changed and new information as set forth above has not impacted the Project. The Court's Decision is considered a changed circumstance.
It is not a changed circumstance. The EIR was not done correctly in the first place. Realistic research was not conducted and viable alternatives were not considered.

SC20-5

Non-recoverable or non-marketable residues are placed in a trash receptacle for transport and disposal at a permitted solid waste landfill.
What are non-recoverable or non-marketable residues?

SC20-6

Nursery Products will require that all customers provide complete documentation of the source, description and characteristics for all biosolids and green materials in advance of delivering loads to the facility. All loads are then given a delivery time schedule specifying when the trucks can be received. No biosolids will be accepted at the facility prior to receiving this documentation and, if required, supporting laboratory analysis. We would like to have the records be a matter of public record. Supporting laboratory analysis should be provided for each load. It is the only way to know exactly what you are dealing with in the sludge.

Random load checks will be conducted daily, and a log maintained for each inspection
How random will the load checks be? What will be checked?

Under no circumstances will the proposed facility accept hazardous waste
Isn't pathogen-laden sewage sludge considered hazardous?

In the end, if NPLLC and the County are really concerned with putting out a good product, they would push for more research on the potential problems associated with sludge, a standardized process where only human waste is accepted into the wastewater treatment plants and support legislation that protects the health of all.

You can continue to say that this process is safe, but there is too much information saying otherwise. The following study found that the Air Force should not use municipal solid waste composting because it may endanger those exposed to the compost.

SC20-7

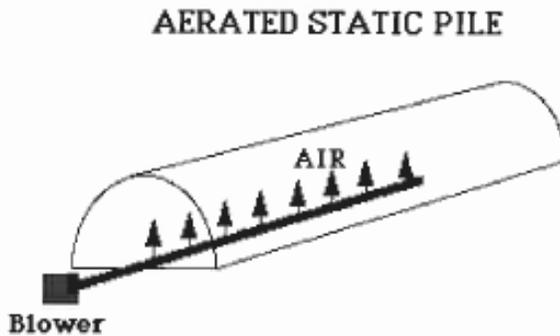
This thesis assesses the risk of the health liabilities from exposure to toxic metals found in the composted material of Air Force municipal solid waste (MSW). The goal is to determine the probability that the composted MSW could be a health hazard if it were used as a soil amendment. The research limited the assessment of the exposure risk to heavy metals found in raw MSW and its resulting compost. The thesis uses reviews of present literature to examine the food and soil ingestion exposure pathways. These pathways are assessed using the heavy metal concentrations found in MSW compost and the soil-plant partition coefficients of vegetables grown in soil mixed with sewage sludge or soil irrigated with sewage sludge or soil irrigated with sewage sludge leachate. The recommendation resulting from this research is that the Air Force should not use MSW composting as part of its future solid waste management plan. This alternative to landfilling contains a chronic health risk that is greater than the Environmental Protection Agency's guideline. If the Air Force would use MSW composting in the future, it may endanger Air Force personnel and others who use the compost created from Air Force MSW.

SC20-8

This is an example of an alternative that was never considered by the County or NPLLC.

Static piles can be shaped much like windrows or in an elongated pile or bed (Figure 3). The essential difference is in the name; static piles are not mechanically agitated. Once constructed by conveyor, loader or truck, the piles remain in place until the decomposition slows. The lack of agitation requires the maintenance of adequate porosity over an extended period of time. When composting fine materials like sludge, a coarse stable substrate such as wood chips is often incorporated in the mix. Inert materials or slowly degrading cellulosic substrates like cardboard or leaves may help supply that stable porous structure in MSW, but this needs to be considered in the preprocessing system design. Process control is normally through pressure and/or vacuum-induced aeration, with either temperature or oxygen as the control variable. Blower piping can be temporary plastic or metal in a bed of coarse material at the base of the pile, or recessed into the composting pad under perforated plates. Piles are often covered with a layer of wood chips or mature compost to insulate the active compost from ambient temperatures and/or provide some odor treatment. Both windrows and static piles are often outside and exposed to weather, but can be covered with a roof to minimize the impacts of weather and provide an opportunity for odor capture and treatment.

Figure 3. Aerated Static Pile



The DEIR rejected alternatives that would protect the health of the community and the environment because "maintenance and operating costs would be expensive". In-vessel processes can provide more complete control of air flow and can treat air to reduce odors and other emissions prior to release in the atmosphere.

"The enclosed facility was fully evaluated in the Draft Environmental Impact Report (Draft EIR), however this analysis supplements the economic and technological analysis therein."

There are so many alternatives for processing biosolids these days yet the SEIR looks at 2 very expensive, publically funded options. If there was a good faith effort shown by NPLLC and the County regarding seriously looking into alternatives, we would feel better as citizens who will be affected by it's operations.

Information regarding these alternatives was readily available at the time of the DEIR but was not pursued by The County of NPLLC. Vagues terms were used as to why alternatives would not work. This shows that real alternatives were not properly considered.

The Court also found that the County's administrative record was not sufficient to support the conclusion that an enclosed facility was infeasible and questioned the economic analysis and availability of infrastructure. This analysis is in fulfillment of the Court's direction for additional economic analysis of the feasibility of the enclosed facility alternative and infrastructure availability. This analysis evaluates the best available cost information for the two enclosed facilities located in the greater Southern California area: Rancho Las Virgenes Composting Facility in Calabasas and Inland Empire Regional Composting Authority located in Rancho Cucamonga. These are the only two enclosed biosolids composting facilities that provide relevant information for further economic analysis

Why are these the only options that were considered? There are enclosed and in-vessel options available that would produce certifiable compost, take care of odors, eliminate pathogens and do so in a safe, less offensive manner than is being proposed.

The Project has the following objectives:

- To establish an efficient reuse of biosolids in the County and the Inland Empire;
- To increase solid waste diversion through the recycling of green material in compost;
- To conduct the composting operation in a cost-effective manner;

Why is there never any mention of conducting this operation in a safe manner? Company profits at the expense of human and environmental health is not right.

- To produce and provide local and regional agricultural and nursery customers with high-quality composted products, especially in the Inland Empire.

I still would like to know specifically who the customers are for this finished product.

SC20-9

SC20-10

The market areas for compost material include agricultural areas within the County and developing cities in the Inland Empire. The organic material and water retention properties of compost can improve the agricultural productivity of arid desert soils.

Compost can do all these things you say but while the product is being transformed, in the way it is currently proposed, the community and environment will be at risk.

SC20-11

Adverse impacts are avoidable if the company has a conscience.

A search for cost efficient, viable enclosed alternatives show that NPLLC did not look very hard for alternatives that would significantly reduce VOC emissions.

The proposed Project has the potential to generate Greenhouse Gas emissions.

An in-vessel project would have the potential to reduce Greenhouse emissions.

SC20-12

GHG-4. You are not looking at the contributions to greenhouse gas emissions from the uncovered piles of biosolids and greenwaste composting

The windrow-shaped piles of biosolids and green material will be mechanically formed throughout each day. Windrows will be turned five (5) times in 15 days. The size of each windrow-shaped pile may vary, with the height not to exceed 12 feet, the width not to exceed 30 feet, and the length not to exceed 1,000 feet (Section 2.3.2 of the DEIR).

Is this the optimum size of a windrow for an open-air facility in a very dry, windy area?

SC20-13

The Project will use a combination of windrow and modified static pile composting methodologies. With the windrow method, the active composting stage generally can last up to nine weeks for biosolids composting, though it is expected to be completed much quicker in a hot, dry, arid environment.

The high winds in the area will cause the quicker dried materials to blow. See Army study referenced earlier.

The windrow composting process includes aeration through mechanical processes
Most composting facilities currently in operation in the world understand the dangers of open-air composting. Most of them are using some sort of enclosed process to protect the people and the environment they are in. Why can't you just do it right?

SC20-14

The objective is to maintain the active compost under aerobic conditions at a temperature of 55 degrees Celsius (131 degrees Fahrenheit) or higher for a pathogen reduction period of 15 days or longer. During the period when the compost is maintained at 55 degrees Celsius or higher, the windrows will be turned a minimum of five times (Section 2.3.2 of the DEIR).
This is not the smartest nor the safest way to compost biosolids, only the cheapest for the company.

The finished compost will be placed in the storage area for sale.
Where is the storage area? Since it will be a dry product at this point, it needs to be covered to prevent it from blowing over the desert.

SC20-15

The frequency of windrow sampling will be based on the amount of biosolids compost feedstock as specified in California Code of Regulations (CCR) 17862.2, and will be conducted at a laboratory certified by the California Department of Health Services, pursuant to the Health and Safety Code.
Will it be available for public review?

A composite sample will be representative and random from twelve locations.
12 locations from one windrow? From the whole 80 acres? This should be explained more clearly.

Temperature, moisture and pH monitoring of windrows will occur regularly (Section 2.3.3 of the DEIR). What does "regularly" mean?

Samples of the finished compost will be delivered monthly to a U.S. Composting Council approved laboratory for analysis and quality control. The laboratory analytical results on parameters such as size, stability, maturity, nutrients, salts, pH, carbonates, and bulk density shall be available to the Local Enforcement Agency (LEA). Analytical testing will verify that the compost meets the maximum acceptable metal concentration limits specified in 14 CCR 17852, and pathogen reduction requirements specified in 14 CCR 17868.3 (Section 2.3.3 of the DEIR).
Will it be available for public review to give the community you are coming into a peace of mind?

The finished compost will be screened onsite.
Shouldn't this been done in an enclosed area to reduce the material that will get airborne?

SC20-16

Finished compost is manufactured specifically for each customer and the technical requirements for their individual application. Golf courses, agriculture, nurseries, and homeowners all require a different blend of the finished compost.
No one would want this compost if they knew how you were producing it. There are too many other composters using safer methods. A quality composting method will produce quality compost. You are not doing this.

Soil treated with compost better retains and conserves nutrients and water, is more capable of resisting pests and diseases, unless of course it is adding pathogens and diseases back in to the soil.

The project access road is a north-west trending roadway traversing the northeast corner of the project site. Currently, the project access road is unpaved with no observed traffic activity.
Will the access road be paved?

SC20-17

Odor: Green material will be delivered on an "as-needed" basis to reduce green material odors.
If green material is on an "as-needed" basis, will biosolids make up the remainder of the 2000 tons per day that will be received? What ratio will you be using to mix biosolids and green material. It should be 1 part biosolids to 4 parts green material. How are you going to maintain a good composting ratio?

SC20-18

The facility will prepare and maintain an Odor Impact Minimization Plan, pursuant to 14 CCR 17863.4. In general, the Plan will require the following steps in the event of odors noticed at the site (Section 2.7.1 of the DEIR):

SC20-19

· Stop all operations that will cause off-site odor.

You didn't do this in Adelanto. Why would anyone believe you would be doing it here.

· Determine whether or not the odor is traveling beyond the site by patrolling the site perimeter.

Seriously? Do you really think that someone who has been working on site all day can tell if the odor is leaving the perimeter. Seriously. You need to use a scientific device to record odor levels. They are available.

· Determine whether or not the odor has moved off-site and if so, if it is significant enough to warrant contacting the adjacent neighbors and/or the LEA.

The neighbor will not be the one who needs contacting. What is significant enough to warrant contacting the LEA? You didn't do this in Adelanto. Again, how can you be trusted?

· Do not start operations again until the wind and meteorological conditions are favorable and will not promote off-site odors.

This process is going to produce odors. Wind is not going to promote it. Enclosure will prevent it.

Dust: The moisture level in the compost keeps the compost from creating dust.

Up to a certain point. What happens when the pile dries out.

SC20-20

Efforts will be made to control particulates during high wind episodes. There will be no turning of the piles during high wind episodes that exceed 30 miles per hour.

20-25 mph is a pretty good wind speed to move many things, including your compost.

Compost operations will be conducted behind a small berm and fence situated on the property perimeter, reducing wind. What will the berm be made of? How tall will it be? How tall does it need to be to reduce wind? What kind of fence is going to reduce wind in the high desert?

As needed, a water truck will be used to apply water to suppress dust. The entryway and often-traveled paths will be overlain with crushed rock, to prevent tracking of onsite materials offsite.

Contact Water: The site will be designed and graded to collect all storm water that comes into contact with compost or windrows in onsite storm water retention basins (Figure 2.3).

If you just covered it, there would be less concern for this.

SC20-21

Leachate: Under normal circumstances, moisture content will not exceed the field capacity of the compost material and no leachate will be produced. In heavy rains, most excess moisture would occur as runoff and would be handled by the storm water retention ponds.

You have not said if these storm water retention ponds will be covered. You are close enough to the migratory path of birds to Harper Lake that you need to protect them from this hazardous water. They should not have to suffer at the hands of your irresponsibility.

Insects: A contract pest control company will be hired for insect control. What kind of insects are you expecting? How will the insects be taken care of? Spraying that will be airborne?

Rodents: Biosolids and green material are not "food" sources for rodents. However traps will be purchased if needed.

Litter: Biosolids and green material to be received at the site will come from sources that generate this material and litter is not typically expected to be found in these feedstocks. The facility will reject and return to the generator any load that contains excessive litter.

What do you consider excessive litter? Do you really think that you would send a load back to the source? You don't care enough about producing a good product to care about litter.

Emergency equipment failures will be handled by rental of similar equipment from a number of local sources such as Caterpillar, John Deere, United Rental, and Hertz.

Power failures will not be an issue to the actual composting operation.

What if the windrows catch fire at night? Do you have power to provide lighting to help with the situation?

SC20-22

Site restoration would be performed in accordance with 14 CCR Section 17870.

What do you mean by site restoration?

Written notice will be provided to the LEA of intent to perform site restoration, at least 3 days prior to beginning restoration activities. Site restoration will be completed that is necessary to protect public health, safety, and the environment. The operation and facility grounds, ponds, and drainage areas will be cleaned of all residues including, but not limited to, compost materials, construction scraps, and other materials related to the operations. These residues will be recycled, reused, or disposed of at an authorized facility. All machinery will be cleaned and removed or stored securely. All remaining structures will be cleaned of compost materials, dust, particulates, or other residues related to the composting and site restoration operations.

SC20-23

The Project will operate daily, year-round. Normal delivery and sales operations will occur between 6:00 a.m. and 8:00 p.m. A 24-hour contact telephone number will be posted at the Project site prior to its operation

The 24-hour telephone number needs to be posted in the community that this operation is going to affect.

SC20-24

The Nursery Products Project cannot generate enough GHG emissions to influence global climate change on its own.

If you processed the biosolids in-vessel, your would be reducing GHG emissions, not talking about adding only a minor amount.

Methane emissions are commonly associated with various types of composting operations. The fugitive emissions from the decomposition of the biosolids and green waste will be identical with or without the Project. The only difference is the location where the emissions will occur.

That makes absolutely no sense.

Because, as discussed previously, they are part of the baseline emissions (existing conditions) they are not considered Project generated emissions and were eliminated from the analysis in order to accurately analyze Project generated impacts.

You can capture methane by enclosing in some way and using biofilters.

Without the Project, the heavy truck transport of biosolids material to Kern County, Arizona or local disposal facilities will generate modest amounts of methane gas.

If you were a more responsible company, you wouldn't be contributing to the problem.

Of the three types of GHG emissions produced by the Project, nitrous oxide is produced in the smallest quantities. However, nitrous oxide is a powerful GHG, producing 310 times the global warming potential of carbon dioxide. Without the Project the transport of biosolids material to Kern County, Arizona or local landfills will generate small amounts of nitrous oxide.

Again, composting responsibly will help reduce nitrous oxide emissions.

SC20-25

Comments submitted by Peg Diaz Page 7 of 8

WATER SUPPLY ASSESSMENT

Everything that was mentioned in the Water Supply Assessment is suspect. Please refer to comments submitted by the Mojave Water Agency disputing and calling in to question the information put forth in the SEIR. No one at the MWA was contacted regarding facts in the SEIR.

SC20-26

SECTION 5.0 - ALTERNATIVES ANALYSIS

Consider that all the information in the Water Supply Assessment was suspect, it leads me to believe that all the financial data is suspect as well. If false information can be given for water, that is easily verifiable, why would we believe that information is correct for the financial aspects.

SC20-27

The enclosed facility was evaluated in the DEIR as an alternative to the Nursery Products Hawes Composting Facility. The alternative has potential to mitigate the one significant impact in the DEIR: volatile organic compound (VOC) emissions. The DEIR concluded that an enclosed facility did not reduce the VOC emissions to less than significant level.

You did not look at alternatives enough to see that there are many that would reduce VOC emissions substantially.

SC20-28

VOCs are produced during the anaerobic (in the absence of oxygen) decomposition of organic material. Windrow composting produces VOC emissions when areas within the core of the windrow become anaerobic as the decomposition process depletes the available oxygen at these locations.

In-vessel composting contains VOC and other emissions.

A balance needs to be achieved whereby the windrow is turned often enough to oxygenate the core of the windrow, but not so often that the temperature within the windrow core drops too low and becomes detrimental to the composting process. If this balance is achieved the emissions of VOCs are reduced to the lowest extent possible, Lowest extent possible with windrows but not with enclosure.

Air District Regulations

Rule 1133 is in dispute at this time. A stronger rule is being requested at this time.

SC20-29

5.2 ENCLOSED FACILITY ALTERNATIVE

In the enclosed composting facility alternative all of the composting processes are completed within a building that houses the feedstock loading area, windrows, negative air system, and product loading areas.

The are many practical alternatives for in-vessel composting that we not looked at.

SC20-30

These two facilities are the only operating enclosed facilities in the western United States at this time. You did not look at in-vessel composting which is widely used all over the world for safe, economical composting.

Again, since the water assessment information is suspect, why wouldn't all the information in this report be suspect.

SC20-31

COSTS ASSOCIATED WITH THE PROPOSED PROJECT

The cost analysis is suspect. The numbers do not seem to be true. Where is the revenue this company will make in the overall picture.

How long do we have to continue dealing with this project proposal that is so faulty, it would be laughable, except for the fact that it will adversely affect the high desert and the environment. Doesn't anybody have any decency anymore?

Peg Diaz

Response to Comment Letter SC20

- SC20-1: Comment noted. The comment refers to potential impacts to health and safety, which is not within the scope of the SEIR and hence no response is necessary. This issue was addressed in the Draft EIR Section 4.6.1 (beginning on page 4-47).
- SC20-2: The purpose of CEQA is to identify, analyze, identify, and reduce to the furthest extent feasible, any potential impacts from a proposed Project. The conclusion that an impact is significant and unavoidable does not indicate an inherent problem with the project, it simply serves to declare that there will be impacts from the project.
- SC20-3: The comment accurately reflects the conclusion of the DEIR regarding VOC emission. The significance of the VOC impacts remains unchanged. As discussed in detail in response to Comment SC6-1, although enclosing the facility would reduce VOCs emissions, VOC emission remain significant and the enclosed facility is economically infeasible.
- SC20-4: Comment noted. See Response to Comment SC9-1. Mitigation is not required because the project, as discussed in the SEIR (Section 4.2.2.2 on page 4-16), and in the response to comment SC9-1, the proposed Project will not have a significant impact on area groundwater.
- SC20-5: Comment noted. See Response to Comments SC11-1 and SC19-7.
- SC20-6: Comment noted. The comment refers to the Project description, and potential pathogen contamination, which is not within the scope of the SEIR and hence no response is necessary. The project description was presented in the Draft EIR (Section 2.3, page 2-11) and re-described in Section 2.1 page 2-1 of the SEIR. Pathogens were also discussed in Section 4.6.3.1 the Draft EIR beginning on page 4-48.
- SC20-7: Comment noted. See Response to Comment SC20-1.
- SC20-8: Comment noted. See Response to Comment SC19-7.
- SC20-9: Comment noted. See Response to Comment SC20-6.
- SC20-10: The market for compost extends from the private consumer to municipal and commercial operations, including application on public parks as well as agricultural activities.
- SC20-11: Comment noted. See Response to Comment SC19-7.
- SC20-12: Comment noted. See Response to Comment SC19-7 with respect to alternatives analysis. The contribution to greenhouse gas emissions from composting materials was discussed in detail in the SEIR (Section 4.3.1 on page 4-4). As discussed in the SEIR, emissions from composting materials would take place at the same levels regardless of if the Project is developed, therefore the contribution would be the same with and without the Project.
- SC20-13: Comment noted. The comment refers to the Project and operational descriptions and the potential impacts from dust and wind, which are not within the scope of the SEIR and hence no response is necessary. The project description was presented in the Draft EIR (Section 2.3, page 2-11) and re-described in Section 2.1 page 2-1 of

- the SEIR. Impacts from dust and wind are discussed in Section 2.7.1 of the Draft EIR beginning on page 2-19.
- SC20-14: Comment noted. See Response to Comment SC20-1.
- SC20-15: Comment noted. See Response to Comment SC20-6.
- SC20-16: Comment noted. See Response to Comment SC20-13.
- SC20-17: Comment noted. The comment refers to paving of the access road, which is not within the scope of the SEIR and hence no response is necessary. This issue was addressed in the Draft EIR Section 2.7 (beginning on page 2-3).
- SC20-18: Comment noted. See Response to Comment SC20-6.
- SC20-19: Comment noted. The comment refers to potential impacts from odor, which is not within the scope of the SEIR and hence no response is necessary. This issue was addressed in the Draft EIR Section 2.7.1 (beginning on page 2-18).
- SC20-20: Comment noted. See Response to SC20-13.
- SC20-21: Comment noted. The comment refers to potential impacts from leachate and pests, which is not within the scope of the SEIR and hence no response is necessary. Lechate and pest control were discussed in detail in the DEIR (Section 2.7.1, page 2-19, and Section 4.6.3.1 page 4-50, respectively). As stated in the DEIR, page 4-50, any leachate will be captured and re-used to maintain compost moisture levels.
- SC20-22: See Response to Comment SC19-5 with respect to fire control. The comment also refers to Project lighting, which is not within the scope of the SEIR and hence no response is necessary. This issue was addressed in the Draft EIR, Section 5.1 (beginning on page 5-1).
- SC20-23: Comment noted. The comment refers to site restoration, which is not within the scope of the SEIR and hence no response is necessary. This issue was addressed in the Draft EIR Section 2.7.2 (beginning on page 2-19).
- SC20-24: Comment noted. See Response to Comment SC5-1.
- SC20-25: Comment noted. The comment refers to methane and nitrous oxide emissions, which were addressed in detail in the SEIR, Sections 4.3.1.2 and 4.3.1.3 respectively (beginning on page 4-5).
- SC20-26: Comment noted. See Response to Comments SC9-1 to SC9-6.
- SC20-27: Comment noted. See Response to Comment SC19-7.
- SC20-28: Comment noted. See Response to Comment SC19-7.
- SC20-29: Comment noted. See Response to Comment SC8-1.
- SC20-30: Comment noted. See Response to Comment SC19-7.
- SC20-31: The SEIR provides additional analysis of the economic and technological infeasibility of constructing and operating an enclosed facility. As discussed in Section 5.2 (beginning on page 5-2), the cost analysis in the economic feasibility

analysis is based upon best available data. Actual costs for the two existing enclosed compost facilities in Southern California were used to determine costs for the hypothetical enclosed facility alternative. The analysis noted that both of the existing facilities are operated by public agencies and operate at substantial loss. The determination of the profitability and ability to obtain financial backing for the hypothetical privately owned enclosed facility alternative was based on best available market data and actual interviews with bank and other financial experts. As determined in Section 5.4, pages 5-11 through 5-12 of the SEIR, an enclosed facility of the size required for the proposed Project, is economically infeasible.

SC21

Nancy Dittman

8/20/2009

Aug. 20, 2009

Dear Ms. Hyke:

I cannot believe our beautiful county is actually going to permit an un covered facility for waste products in Hinkley, CA. I live on a hill south of Barstow and I experience the 40-50 ~~sometimes~~ 60 mph winds that lift up the river dust & roll it eastward. I would be terribly concerned if it contained waste particles.

SC21-1

Supposedly they will spray rows of waste to keep it damp. In those winds, the water will be evaporated before it ever hits the rows.

Southern California is experiencing a severe drought and the day could come when we just don't have thousands of gallons of water to spray on "crap." A covered facility is the only way to go. It will save uncounted gallons of water from evaporation AND keep particles of "God knows what" from blowing clear to Baker & beyond.

SC21-2

Sincerely, *Nancy Dittman*
Nancy Dittman
27315 Highview Ave
Barstow, CA 92311

2009 AUG 24 PM 1:21

Hope you can read this!

Response to Comment Letter SC21

SC21-1: Comment noted. See Response to Comment SC20-13.

SC21-2: Comment noted. See Response to Comment SC9-1.

SC22

Nancy Dittman

9/14/2009

Sep 14 09 11:20a

1234567890

p. 1

Advanced Planning Division – Carrie Hyke

SC22-1

The “ridge fire” should have removed all doubt as to the wind’s ability to move particles great distances. All of Barstow had to clean up ash and soot from driveways, patios, and even window sills and furniture.

So when the winds are blowing from the right direction we in Barstow will definitely be cleaning up sludge particles many times each year around our homes.

The Nursery Products facility must be enclosed. There is no other way!

Sincerely,



Nancy Dittman
27315 Highview Ave.
Barstow, CA 92311

Response to Comment Letter SC22

SC22-1: Comment noted. See Response to Comments SC20-13.

SC23

Martin Frazier

9/7/2009

2009 SEP -8 PM 1:24

September 7 2009

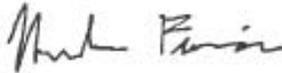
Carrie Hyke
San Bernardino County Land Use Services Department
385 N. Arrowhead Avenue, 1st Floor
San Bernardino
CA 92415-0182

Dear Ms. Hyke,

This letter is to show my support of compost products. Compost is essential to my farm. I have used compost for many years on my farm and have had a great deal of success. Compost provides essential nutrients for my crops, increases the production yield on the farm and reduces my water usage. My supply of compost has always been free.

SC23-1

Thanks,



Martin Frazier



Martin Frazier
Apple Valley, CA

Response to Comment Letter SC23

SC23-1: Comment noted. The commenter expresses their support for the proposed Project.

SC24

Jeff Harvey

9/5/2009

2009 SEP -8 PM 1:38

September 5 2009

**Carrie Hyke
San Bernardino County Land Use Services Department
385 N. Arrowhead Avenue, 1st Floor
San Bernardino
CA 92415-0182**

Dear Ms. Hyke,

This letter is to show my support of compost. Compost and fertilizer are essential to all farms. I have used compost over the years on my farm and have had a lot of success. Compost provides essential nutrients for the soil, increases the yields on the farm and reduces my water usage. My supply of compost has always been free.

SC24-1

Sincerely,

Jeff Harvey

JEFF HARVEY
LUCERNE VALLEY, CA

Response to Comment Letter SC24

SC24-1: Comment noted. The commenter expresses their support for the proposed Project.

SC25

Beverly June Kramer

9/5/2009

222 S. Figueroa St., #419
Los Angeles, CA 90012
March 18, 2009

Ms. Carrie Hyke, Principal Planner
San Bernardino County Land Use Services Dept.
Advance Planning Division
385 N. Arrowhead Avenue, First Floor
San Bernardino, CA 92415-0182

Re: Parcel 0496061160000

Dear Ms. Hyke:

I have your letter dated March 9, 2009 in which you outline various possibilities concerning my property. I am the sole owner of the above Parcel; my parents, George B. Kramer and Cora M. Kramer, are deceased.

While it is within your purview to authorize environmental tests as outlined in your letter, I must emphatically reject and object to any proposal to invade, use or trespass on my property for any venture, commercial, civic or otherwise, such as, but not limited to, the commercial ventures of Nursery Products Hawes Compost Facility, or "customers" referred to in the sixth paragraph, page 3, of your letter. Nor do I agree to give my permission to use my property as a dumping area.

I recall that in the past the area was considered for construction of an amusement park and I wonder if that might be a possibility in the not too distant future.

In any event, I would have to receive acceptable remuneration with the assurance of ongoing financial participation in any venture: civic, commercial or otherwise.

Please do not permit any person or entity to trespass on my property except for the court-approved environmental tests outlined in your letter. And I would appreciate receiving a copy of the reports concerning those tests.

9/5/09

Dear Ms. Hyke:

Sincerely,

I have your 9-page communication dated July 2009 concerning this matter. As specified in this, my letter to you of March 18, 2009, my position remains the same: Do Not trespass on my property.

Beverly June Kramer
Beverly June Kramer

(213) 215-4683

P.S. I never received a copy of your December 2005 application "circulated commencing in September 2006 for public review" or any other communications from you until this year, on March 9, 2009.

2009 SEP -9 AM 9:13

SC25-1

SC25-2

Response to Comment Letter SC25

- SC25-1: The Lead Agency acknowledges the concern with respect to trespass on the commenter's property. However, the comment does not address environmental issues pertinent to the SEIR.
- SC25-2: At your request, the commenter has been added to the Project mailing list. Notification of the forthcoming Final SEIR, and for any other environmental documentation with respect to this Project, will be provided for your review.

SC26

David Lamfrom

9/14/2009

Hyke, Carrie - LUS - Advance Planning

From: David Lamfrom [dlamfrom@NPCA.ORG]
Sent: Monday, September 14, 2009 9:22 AM
To: Hyke, Carrie - LUS - Advance Planning
Subject: Re: Nursery Products SEIR

Attachments: hpsc3.pdf; sludgedump-letter-of-concern(mc edits).doc



hpsc3.pdf (203 KB) sludgedump-letter-of-concern(m...

Dear Carrie,

Thank you for providing the opportunity to comment on this process. I have also re-attached my previous comments for incorporation into this SEIR process. Our community is greatly concerned about permitting this project based on deleterious effects to our air quality and unexplored health impacts. Considering that this method of composting is illegal in many other counties in California, we believe that our concerns have merit. We would, again, like the county to consider an alternative of a closed in facility rather than an open air facility. We recognize the need for jobs and business income in our communities, but believe that we should not sacrifice our air quality or worse to do so.

SC26-1

Thanks,

David Lamfrom

David Lamfrom
National Parks Conservation Association
California Desert Field Representative
Office Phone/fax: 760-957-7887
Cell phone: 760-219-4916
Email: dlamfrom@npca.org

April 13, 2009

Carrie Hyke-Principal Planner
San Bernardino County Land Use Services Department
Advance Planning Division
385 N. Arrowhead Avenue, First Floor
San Bernardino, CA 92415-0182

This letter has been drafted in order to present National Parks Conservation Association's (NPCA) concerns relating to the limited scope presented in the Notice of Preparation for CEQA review of the Hawes Nursery Project proposed to be built in Hinkley, CA. NPCA is a leading authority on National Parks, and a advocate for the enhancement of the National Park System for current and future generations. NPCA currently has membership exceeding 340,000 nationally, with 45,000 of those members residing within California. NPCA recognizes that San Bernardino County contains significant areas of public land, including National Park Service Properties. NPCA recognizes and supports the county's need to develop economically while balancing environmental protections for its citizens and native ecosystems. NPCA appreciates the opportunity to comment on this process, and supports the decision to perform a thorough environmental review on this project.

The Mojave Desert Air Quality Management district contains the southernmost section of Death Valley National Park and contains the entire 1.6 million acre Mojave National Preserve; additionally the district contains the northern gateway communities to Joshua Tree National Park. As such, the decisions made relating to permitting development within this district have direct implications to National Park Service lands within the district, and to those directly adjacent to it. NPCA requests that the scope of the environmental review be widened to include an assessment of potential negative impact to the air quality of the district, including particulate matter sizes 2.5 and 10, bioaerosols, VOC's, ozone, nitrogen dioxide, and carbon dioxide that may escape this site or be created through construction, transportation of solid waste to and/or from this facility, or materials used as a bulking agent. Hinkley is located within a recognized wind corridor and any local impacts to air quality have the potential to be carried to National Park gateway communities and/or into the National Park Service units. The National Park lands in the California Desert are visited by local residents as well as international visitors to enjoy our unrivaled scenic viewshed of mountain and desert, and to appreciate our night sky viewing opportunities. Any decrease in our air quality is a potentially significant negative impact, as it diminishes our opportunity to profit from tourism, and increases the potential for fire damage to our parks by supporting the growth of invasive grasses. We request that these issues be addressed in any environmental review.

Sincerely,

David Lamfrom-
California Desert Field Representative
National Parks Conservation Association
400 South 2nd Avenue #213
Barstow, CA 92311

Response to Comment Letter SC26

SC26-1: Comment noted. The comment refers to potential impacts to air quality and health, which is not within the scope of the SEIR and hence no response is necessary. These issues were addressed in the Draft EIR Sections 4.6.1 and 4.3 (beginning on pages 4-47 and 4-3, respectively). The analysis of impacts to air quality was specifically challenged in the Superior Court and the Court concluded that further analysis was not required. In addition, responses to the Commenter's previous letter (dated April 13, 2009) were included in Appendix A of the SEIR in response to Comment NC22-1, on page 116.

SC27

David Lamfrom

9/2009

OPPOSITION TO NURSERY PRODUCTS FACILITY IN HINKLEY

I David Lamfrom, a resident of San Bernardino County, object to the process that the County of San Bernardino is taking in the approval and permitting process of the composting facility to be built by Nursery Products upwind of Barstow and Hinkley. I feel that the amount of waste being brought to our area must be dealt with in a safer more responsible manner. It is our wish that the County of San Bernardino stop the Supplemental Environmental Impact Report currently being completed by Land Use Services Department and complete an entire EIR with more consideration given to the City of Barstow that will be negatively affected by this proposed project. I believe that on a local level, the health and financial impacts were not considered in enough detail. I feel that there are alternatives currently available that are not being considered that are closer to the origin of the waste and would be cost effective.

SC27-1

As a Barstow area resident, I cannot support the Nursery Products facility as currently proposed.

This project has not been properly reviewed as to VOC's and airborne particulate matter that could impact our airshed. My comments were forwarded to Carrie Hyke from NPCA's Mojave Field Office in Barstow, CA


Name (signature)

David Lamfrom
Name printed

28737 Windy Pass
Barstow, CA 92311

Address

Please send this notice to the following:

San Bernardino County
Services

Carrie Hyke, Land Use

Response to Comment Letter SC27

SC27-1: Comment noted. See Response to Comment SC18-1.

SC28

William & Suong McKellar

9/8/2009

Draft Supplement Environmental Impact Report for Nursery Products Hawes
Composting Facility:

RECEIVED
SEP 11 2009
LAND USE SERVICES DEPT.
ADVANCE PLANNING DIVISION

Following are our comments to the Draft Supplement Environmental Impact
Report for Nursery Products Hawes Composting Facility:

SC28-1

1. A documented statement of the of the Court Appointed Basin Engineer's
determination that "there is more than sufficient aquifer capacity, at 300'
the ground elevation at the project site, to produce good quality water, capable of
providing sustainable water supply for over 100 years, free from the
replenishment water assessment by the Mojave Basin Watermaster" as stated on
page 4-17 paragraph 4.2.3 of the draft supplemental EIR, should be included.
The statement from the engineer should avow the previous statement. In my
estimation saying that he has determined, is not concrete evidence of fact

2. I am against having a Composting Facility that is not enclosed. My wife has a
breathing problem and I believe that she could not live near the proposed facility
because of the odor. Because our land is in close proximity to the proposed
facility this restricts the use of our property by us. Therefore I do not concur that
it is environmental and economically infeasible to enclose the facility. To
propose that the construction of an enclosed facility would cause an operational
loss does not over shadow the fact that emissions would affect persons with
breathing problems. Also any reduction in the VOC emissions, however small,
should be of an important consideration and not be tossed aside as insignificant.

SC28-2

We will forward the above comments by mail

Sincerely,

William & Suong McKellar, Trustees 0492-021-27-0000

William McKellar
Suong McKellar TRUSTEES

Suong & Bill McKellar
1611 Morning Quiet St.
Las Vegas, NV 89156

Response to Comment Letter SC28

SC28-1: Comment noted. See Response to Comment SC9-1.

SC28-2: Comment noted. See Response to Comment SC6-1.

SC28a

William & Suong McKellar

9/11/2009

Page 1 of 1

Hyke, Carrie - LUS - Advance Planning

From: ltu5nret@juno.com
Sent: Tuesday, September 08, 2009 10:33 AM
To: Hyke, Carrie - LUS - Advance Planning
Subject: RE: SEIR Comments

Hi:

Following are our comments to the Draft Supplement Environmental Impact Report for Nursery Products Hawes Composting Facility:

1. A documented statement of the of the Court Appointed Basin Engineer's determination that "there is more than sufficient aquifer capacity, at 300' below the ground elevation at the project site, to produce good quality water, capable of providing sustainable water supply for over 100 years, free from the replenishment water assessment by the Mojave Basin Watermaster" as stated on page 4-17 paragraph 4.2.3 of the draft supplemental EIR, should be included. The statement from the engineer should avow the previous statement. In my estimation saying that he has determined, is not concrete evidence of fact

SC28A-1

2. I am against having a Composting Facility that is not enclosed. My wife has a breathing problem and I believe that she could not live near the proposed facility because of the odor. Because our land is in close proximity to the proposed facility this restricts the use of our property by us. Therefore I do not concur that it is environmental and economically infeasible to enclose the facility. To propose that the construction of an enclosed facility would cause an operational loss does not over shadow the fact that emissions would affect persons with breathing problems. Also any reduction in the VOC emissions, however small, should be of an important consideration and not be tossed aside as insignificant.

SC28A-2

We will forward the above comments by mail
Sincerely,
William & Suong McKellar, Trustees 0492-021-27-0000

09/10/2009

Response to Comment Letter SC28a

Note that this is a duplicate comment letter to SC28 above

SC28A-1: Comment noted. See Response to Comment SC9-1.

SC28A-2: Comment noted. See Response to Comment SC6-1.

SC29

Jessie Orr

8/30/2009

August 30, 2009

2009 SEP -2 PH 2: 10

Carrie Hyke
Principal Planner
Land Use Services Department
385 North Arrowhead Avenue
San Bernardino, CA 92415 - 0182

RE: Draft SEIR for Nursery Products LLC Hawes Site

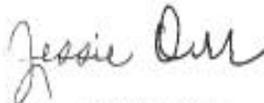
I question the water consumption Nursery Products LLC state in the Draft SEIR for this proposed site. This is an 80 acre site planned. Do they actually expect me to believe they will only use 1000 gallons of water daily to wet the windrow piles, spray the dirt road and wash the trucks ?

SC29-1

Also, I have great concern that a 300+ foot well will overdraft my well and others in this area, whatever the amount of water used. My home is located on Hidden River Road, in Hinkley Valley Acres. This residential area is much closer to the proposed site than the 8 miles (to Hinkley) Nursery Products LLC continually state. Many lives will be affected by this overdraft. I spoke to my water well technician and he acknowledged that my well WILL BE AFFECTED.

I am asking, AGAIN, please consider the lives this money making company will affect. Not only our water, whether contaminated or depleted, but our air and environment. This human waste will be coming from cities who are known to have unclean air but this does not give a company like Nursery Products LLC the right to profit by polluting our backyard, our desert's air and water.

There must be a better way. Why not leave this human waste in the cities from which it will come ? Enclose it there instead of trucking it here. Sounds more FEASIBLE than what they have planned !



Mrs Jessie Orr
Post Office Box 87
36714 Hidden River Road
Hinkley, CA 92347

Response to Comment Letter SC29

SC29-1: Comment noted. See Response to Comments SC9-1 and SC9-3.

SC30

Mark Orr

9/1/2009

SEPTEMBER, 1, 2009

MARK ORR
POBox 87
(36714 Hidden River Rd)
HINKLEY, CA 92347
760-253-5304

2009 SEP -2 PM 2:09

Attention: CARRIE HYKE, Principal Planner, San Bernardino
County Land Use Services Dept. Advance Planning
Division, 385 N. Arrowhead Ave. First Floor
San Bernardino, CA 92415-0182.

Regarding: Nursery Products Hawes Composting Facility,
Identified by San Bernardino County Land Use
Services as DRAFT SUPPLEMENTAL IMPACT REPORT.
Comments on Draft SEIR.

I am still concerned that the Nursery Products LLC Hawes site is located in an area of temperature extremes and 30-60plus mph winds, upwind and upstream of the entire lower Mojave River Valley and its communities and wildlife. This would include Hinkley, Barstow, Helendale, Newberry Springs, Grandview, Yermo, Daggett, Harper Lake, and Calico. This would also include Fort Irwin and the Marine Corps supply or logistics properties.

Concerning the Draft SEIR for the Nursery Products site at Hawes, California, (identified by the San Bernardino County Land Use Services Dept. as SEIR), it was my Understanding that a new complete EIR would be required for the Hawes site, and not just a supplemental EIR as described by San Bernardino County Land Use Services. I request this question be addressed before any other comments concerning the Nursery Products LLC Hawes Site Draft SEIR be read or acted upon.

In the following comments I will identify Nursery Products LLC Hawes site as NPLLC Hawes site.

SC30-1

SEPTEMBER 1, 2009 Nursery Products LLC HAWES/Mark Orr
Comments on Draft SEIR

I request that any NPLLC Hawes site EIR or SEIR include actual onsite scientific tests and research to determine possible surface or groundwater overdraft of regions surrounding Hawes, or possible surface or groundwater contamination (including pathogens, chemicals, or heavy metals or nitrates) by any form of surface or below surface introduction. The Draft SEIR for the NPLLC Hawes site lacks such tests or research in my opinion.

SC30-2

Hinkley, Hawes, and Harper Lake receive water from two directions. One is the Mojave River Basin system which derives its source from the San Bernardino and San Gabriel Mountains to the South. The second source is from groundwater entering the Mojave River Basin from the West, North, and Northwest which derives source from the Sierra Range and the Panamints primarily.

It is my opinion the Hawes site Draft SEIR wrongly concentrates emphasis of the Mojave River Basin and its Southern watershed as being the source of water important to the concerns of both Hinkley and the NPLLC Hawes site. By doing this the NPLLC Hawes site draft SEIR, in my opinion, ignores concerns of water surface and groundwater contamination or overdraft issues in regards to waters primarily derived from Sierra or Panamint sources. A large portion of Hinkley, and Harper Lake, depend on Sierra/Panamint water sources, less emphasis being placed on Mojave River sources,

SC30-3

The NPLLC Hawes site draft SEIR investigates the issue of

SEPTEMBER 1, 2009 NURSERY PRODUCTS LLC HAWES/ Mark Orr
Comments on Draft SEIR

complete enclosure of the Hawes operation, and, in my opinion, they find the option of enclosure infeasible due to cost. It is my opinion that failure to enclose such a massive open-air site (80-160 acres) in an area of common 30-60plus mph winds and temperature extremes, atop an alluvial elevation, will allow contaminants and pathogens to travel by air or surface water to impact both the Mojave River Basin and the Panamint/Sierra sourced surface and groundwaters of the surrounding region.

SC30-4

In my opinion the NPLLC Hawes site draft ~~SEIR~~ fails to recognize that the Hawes location is atop a transitional area between the waters of the Mojave River Basin and waters of the Panamint/Sierra origins entering the Harper Lake, Hinkley Valley and West Hinkley (Hinkley Acres) areas. The Hawes site sits where contaminants or pathogens, and where overdraft, can effect its own Hawes sub-basin waters as well as adjacent surrounding sub-basins. Near Hawes, along with the Mojave River Basin, exists the Water Valley, Astley, Lenwood, and Brisbane sub-basins. Water is communicated between all these basin and subbasin, and all exist within an internally draining system with no outlet to flush contaminants to the sea. Thus any contamination will remain and possibly grow in concentration if not halted. With this fact even a massive enclosed site might poise huge water contamination risk resulting from a disaster or mistake. The NPLLC Hawes site Draft SEIR fails to place emphasis on concerns

SC30-5

SEPTEMBER 1, 2009 NURSERY PRODUCTS LLC/HAWES/MARK ORR
COMMENTS ON DRAFT SEIR

of impacts on an internally draining groundwater resource. Those in Hinkley living closer to the Mojave River know by experience the cost of a single disaster or mistake, and the threat of PG&E chromium 6 still remains.

The Nursery Products LLC Hawes site Draft SEIR fails to emphasize or provide adequate fire suppression needs. A 30,000 gallon water tank is suggested for the facility at Hawes, which would seem adequate until you investigate the weather conditions at the site. The Hawes site is subject to 30-60plus mph common winds, sometimes in the form of abrasive sandstorms. In case of fire at the NPLLC Hawes site (accidental, natural caused, or spontaneous combustion common to compost or manure operations) water equipment and hoses will be forced to maneuver around huge windrow piles as tall as a house and as long as a city block or more, in my opinion. Meanwhile 15-60plus mph winds will be transporting hot dust, embers, or ash further away both on and offsite to start new fires and provide health risks. The 30,000 gallons onsite might actually stop the facility fire, but new fires will start beyond the facility and the reach of its fire suppression tools. The region around Hinkley and Barstow, California, does not possess Los Angeles size fire fighting defense, and it would be unfair to subject the citizens living here to such dangers.

As example of possible fire dangers I remind the County of San Bernardino Land Use services of a mulch composting fire

SC30-6

SEPTEMBER 1, 2009 NURSERY PRODUCTS LLC HAWES/MARK ORR
COMMENTS ON DRAFT SEIR

in 2006-2007. This fire burned at this open-air facility for about seven days and required 100 million gallons of water to extinguish by my reading. This fire occurred in Helotes, Texas, a place that is blessed with higher humidity and less commonly high winds than at Hawes.

What the people of Hinkley, Barstow, and the entire lower Mojave River Valley deserved was a full new EIR, and not just a supplemental EIR. I am still concerned for any contaminants, toxins, or pathogen that could exist, travel from, or originate from materials from the Nursery Products LLC Hawes site, especially in regards to harmful or disrupting impacts and effects to humans, habitations, institutions, business structures and operations, domestic pets and livestock, crops or gardens, or any indigenous or migratory wildlife or habitats in the regions surrounding the Nursery Products LLC Hawes site.

This would include any chemicals, pesticides, bacteria, fungus, molds, odors, possible fire dangers, gaseous emissions, exhaust emissions, introduction of new or prolific plant or animal species, vector control problems, and dust or particulate problems.

I am also concerned for introduction of any above mentioned impacts or problems, especially dust, particulate, organism, gaseous or pathogen, in respect or relation to use of home, shop, business, or institution air conditioning, air circulation, heating, or swamp coolers, which could draw or intake any of the

SC30-7

SC30-8

SEPTEMBER 1, 2009 NURSERY PRODUCTS LLC HAWES/MARK ORR
COMMENTS ON DRAFT SEIR

above mentioned organisms or gaseous or solid substances (particulate matter) into a work or living structure where they might concentrate or multiply or accumulate causing harmful or disrupting impacts.

I am also concerned for the gradual accumulation of introduced contaminants or pathogens, originating from the NPLLC Hawes site, and impacting offsite locations. These contaminants or pathogens could leave the Hawes site via wind, animal, insect, person, water run-off, equipment or vehicle, by any single movement event or one or more movement events over duration of time. Accumulations could occur at certain locations around natural geographic or manmade structures, especially in respect to wind or water transport. Any NPLLC Hawes site EIR or SEIR should have required more complex and strict offsite air and soil monitoring.

As for Green House gas emissions. With the use of massive amounts of water I believe will be necessary for actual dust control (not a mere 1000 gallons a day) applied on open-air materials comprising 100,000 to 400,000 plus stored and/or worked tons at the Hawes site, in an open-air condition allowing exposure to extreme temperatures, the creation of methane and volatile organic compounds will be enormously multiplied. A site as *large of* size and capacity has never been built in this region of the Mojave Desert before, and I

SC30-9

SEPTEMBER 1, 2009 NURSERY PRODUCTS LLC HAWES/MARK ORR
COMMENTS ON DRAFT SEIR

believe the emissions could be far greater than expected.

As solution to the Global Warming gases at Hawes I seriously suggest the sludge composting of Nursery Products LLC be conducted near the source of the sludge and not in San Bernardino County. By locating the compost operation near the source, added truck emissions to transport the sludge and compost materials to Hawes, or even out of state, are enormously reduced. Also, the counties south of San Bernardino County have stricter air and contamination requirements, allowing enclosure with complete or near complete VOC or gas and particulate capture, eliminating more global warming problems. The same advantageous conditions do not exist in San Bernardino County due to lax regulations, in my opinion. This solution should be investigated by any actual NPLLC Hawes site EIR, SEIR, or Draft SEIR.

Concluding these comments to the Nursery Products LLC Hawes Draft SEIR I ask the San Bernardino Land Use Services to keep in mind and please place the health, safety, and quality of life of the people and wildlife at Hawes and the surrounding regions above the profit and inadequate methods of operation of a single business, Thank You.



MARK ORR,
HINKLEY.

SC30-10

Response to Comment Letter SC30

- SC30-1: Comment noted. See Response to Comment SC11-1.
- SC30-2: Comment noted. See Response to Comment SC9-1.
- SC30-3: Comment noted. The comment refers to surface water quality, which is not within the scope of the SEIR and hence no response is necessary. This issue was addressed in the Draft EIR Section 4.7.3.1 (beginning on page 4-58). To the extent the comment addressed the interconnectedness of surface waters and the Mojave Basin Aquifer, the Water Supply Assessment in the SEIR fully and correctly analyzed the Mojave Water Basin.
- SC30-4: Comment noted. See Response to Comments SC20-1.
- SC30-5: Comment noted. See Response to comment SC30-3.
- SC30-6: Comment noted. See Response to Comment SC19-5.
- SC30-7: Please see response to Comment SC11-1, SC12-1, SC12-2, and SC20-1.
- SC30-8: Please see response to Comment SC20-1.
- SC30-9: Please see response to Comment SC6-1, SC7-2 AND SC9-1.
- SC30-10: Please see response to Comment SC12-8.

SC31

Calvin Phillips

9/6/2009

Page 1 of 1

Hyke, Carrie - LUS - Advance Planning

From: CALVIN PHILLIPS [calvinphillips_8@msn.com]
Sent: Sunday, September 06, 2009 11:00 AM
To: Hyke, Carrie - LUS - Advance Planning
Subject: Nursery Products HAWES Composting Facility

MS. Hyke,

After reading everything that I have been able to on this subject, one basic question sticks with me.

How can the county ensure that there won't be a down wind hazard from this facility?

Over the past week on more than one occasion, Barstow has been covered in smoke and ash from a fire that is 100 miles away! How is the county or this company going to ensure the dry particulate material from this facility is contained?

It is my opinion that the only way to operate this facility and protect the public health is to require complete enclosure. We cannot afford to determine the effects of this facility on the public after the fact. I don't feel it's in our best interest to allow any community or business to ship their waste into our community, we are not a dumping ground for the waste products of Southern California.

Sincerely,

Calvin Phillips
Barstow, California

SC31-1

09/10/2009

Response to Comment Letter SC31

SC31-1: Comment noted. See Response to Comment SC20-13.

SC32

Dehnert Queen

9/14/2009

Notice - Objection

VIA E-mail -

September 14, 2009

Ms. Carrie Hyke
San Bernardino County
Land Use Services Department
Advance Planning Division
385 N. Arrowhead Avenue
First Floor
San Bernardino, CA 92415-0182

Re: OBJECTION and Public Comments; Nursery Product Hawes Composting Facility

**Supplemental Environmental Impact Report (SEIR) Dated July 27, 2009
The August 21, 2009 Court Ruling VOIDS and Extinguishes Subject SEIR**

Dear Ms. Hyke,

On July 27, 2009, Land Use Services Department published a "Notice of Availability for the Draft Supplemental Environmental Impact Report For Nursery Products Hawes Composting Facility, with extended public comments due September 14, 2009.

I object to the Land Use Services Department proceeding with subject SEIR as it is VOID on its face for the following reasons, therefore subject SEIR may NOT be submitted to the San Bernardino County Board for Review and Adoption

On August 14, 2007, the California Integrated Waste Management Board [Board] conducted a hearing regarding subject project and the Minutes report that the following summarizes the Board staffs review of the proposed permit [extracts]

:
Board staff recommends that the Board adopt option 1, adopt the **CEQA Findings and Statement of Overriding considerations** adopted by the Lead Agency [Land Use Services Department] and concur in the issuance of the proposed permit as submitted by the LEA.

Findings

LEA Certification

The LEA has certified the following:

SC32-1

1. The permit application package is complete and correct;
2. The Report of Composting Site Information meets the requirements of Title 14, California Code of Regulations, Section 18227; and
3. **The finding that the proposed revised solid waste facilities permit is consistent with and is supported by the existing CEQA analysis.**

Staff Analysis

1. Under CIWMP Conformance, Public Resources Code Section 5001 requires any new or expanded non disposal facility to be identified in the applicable jurisdiction's Nondisposal Facility Element (NDFE) for the proposed permit for that facility to be in conformance with the NDFE and at the time this item was written the staff of the Board's Office of Local Assistance (OLA) reported that the proposed [Nursery Product Hawes Computing Facility] was not identified in the County's Board-approved NDFE, and the County Board acted to amend its NDFE to include the project and the project was approved by the California Integrated Waste Management Board at its July 17, 2007, Board meeting. **The office of Local Assistance staff therefore finds the proposed permit to be in conformance with the NDFE.**

2. Report of Composting Site Information (RCSI): Board staff have reviewed the RCSI and determined the document meets the requirements of Title 14, CCR, Section 18227.

3. Consistency with State Minimum Standards: Board staff determined based on review of the submitted RCSI that the design and operation described for a compostable materials handling facility would allow the facility to comply with State Minimum Standards.

B. Environmental Issues

Quality Act either through the preparation, circulation and adoption/certification of an environmental document and mitigation reporting or monitoring program or by determining that the proposal is categorically or statutorily exempt.

The County of San Bernardino Land Use Services Department, acting as Lead Agency, has prepared the following environmental document for the Nursery Products Hawes Composting Facility:

A Draft Environmental Impact Report, State Clearinghouse No 2006051021, was circulated for a 52 day comment period from

September 22, 2006 through November 13, 2006. The Draft Environmental Impact Report was certified by the County of San Bernardino Board of Supervisors on **February 27, 2007** and a Notice of Determination was filed with the County of San Bernardino, Clerk of the Board of Supervisors on **March 2, 2007**. The Draft Environmental Impact Report described a Biosolids and green material composting facility to be located in a rural setting on a 160 acre parcel located within the unincorporated area of the County of San Bernardino, to compost Biosolids and green material in order to produce a Class A compost. The site capacity is 250,000 tons of active compost, which is between 375,000 and 625,000 cubic yards of active compost, peak daily tonnage 2,000 wet tons and peak vehicle count 97 vehicles per day.

All potentially significant impacts, with the exception of Air Quality, were reduced to less than significant after incorporation of mitigation measures that the applicant will be required to implement for the project.

The proposed project would create annual emissions of Volatile Organic Compounds. The Mojave Desert Air Basin is in a non-attainment status for ozone precursors and the project would have significant cumulative impacts to the basin's air quality.

The County of San Bernardino Board of Supervisors, on February 27, 2007, adopted a Statement of Overriding Considerations for the significant impacts to Air Quality. The basis for the Statement of Overriding Considerations (Attachment 4) is as follows:

Efficient Biosolids recycling- according to the Statement of Overriding Considerations the Inland Empire produces more than 219,000 dry metric tons of Biosolids per year. Approximately 88% of the Biosolids are produced in Southern California. Much of the Biosolids is transported to the Central Valley or Arizona for disposal or land spreading. The facility has an annual capacity of 200,000 tons per year (182,000 metric tons per year). The Biosolids would be recycled and not disposed. Environmental impacts associated with truck trips to the Central Valley and Arizona would be reduced.

Green material recycling - according to the Statement of Overriding Considerations the project will assist several cities in the area to meet the 50% diversion requirement by assisting in diverting up to 200,000 tons of green material each year. The estimated greenwaste diversion is based on an anticipated total diversion of 400,000 tons of material per year of which half is anticipated to be biosolids and half is anticipated to be greenwaste. The ratio is not specified in the permit, so any combination of biosolids and greenwaste up to 2,000 tons per day is

acceptable.

Local source of cost effective compost projects - according to the Statement of Overriding Considerations the project would provide a local source of cost-effective compost products that would aid in water conservation by adding organic material to the soil.

Board staff have reviewed the information in the Findings and Statement of Overriding Considerations and find it to be consistent with staff's assessment of biosolids generation, current uses, and the benefits of compost.

The County of San Bernardino Board of Supervisors has considered both the significant and unavoidable adverse impacts of the project and its benefits and they have determined that the project's significant unavoidable impacts are acceptable in light of the project's benefits. Each benefit constitutes an overriding consideration warranting approval of the project, independent of each other benefit, and despite the significant and unavoidable impacts.

The County of San Bernardino, Department of Public Health, Division of Environmental Health Services has provided a finding that the proposed SWFP is consistent with and supported by the cited environmental document.

Before the Board can consider concurring on this permit, the Board must adopt a Statement of Overriding Considerations that indicates reasons for overriding the adverse environmental effects caused by the proposed project. It is Board staff's recommendation that the Statement of Overriding Consideration adopted by the County of San Bernardino Board of Supervisors does meet the requirements of 14CCR Section 15093.

Board staff recommends the Draft Environmental Impact Report cited above and the Statement of Overriding Considerations, as adequate for the Board's environmental evaluation of the proposed project for those project activities which are within the Board's expertise and/or powers, or which are required to be carried out or approved by the Board.

C. Program/Long Term Impacts

Based on available information, staff is not aware of any program or long term impacts related to this item.

D. Stakeholder Impacts

Based on available information, staff is not aware of any stakeholder

impacts related to this item.

E. Fiscal Impacts

Staff is not aware of specific significant fiscal impacts resulting from issuance of this proposed permit.

F. Legal Issues

There is litigation pending that challenges the Board of Supervisors' certification of the EIR and issuance of the CUP for this project. The Center for Biological Diversity and Helphinkley.org filed the suit on approximately March 29, 2007. In light of substantial community opposition to this project, there is a risk that CIWMB will be sued in the event of Board concurrence. Despite the pending litigation challenging the EIR, CEQA provides that the Board will proceed on the basis that the EIR is adequate, until the courts finally rule that the EIR is inadequate. Public Resources Code, Section 21167.3(b).

G. Environmental Justice

Community Setting

Community Outreach

This is a new permit and the application was received prior to the change in regulations relative to informational meetings. The LEA was not required to conduct a public hearing pursuant to AB 1497 which was the controlling requirement in place when the permit process was started. The following public meetings were held in regard to this proposed facility:

San Bernardino County Board of Supervisor for the certification of the Draft Environmental Impact Report on February 27, 2007.

San Bernardino County Board of Supervisor for the Conditional Use Permit on February 27, 2007.

San Bernardino County Board of Supervisor for the amendment of the Countywide Integrated Waste Management Plan on March 20, 2007.

San Bernardino County Solid Waste Advisory Taskforce for the NDFE designation on April 19, 2007.

See Attachment 7 for additional notices and meetings that were held relative to the project.

Since the LEA staff accepted the completed permit application, they have received written comments opposing the project from the public, and the Center on Race, Poverty and the Environment (CRPE). Some of their concerns were regarding air quality, odors, traffic, road maintenance, fire protection, water quality, endangered species, vectors control/flies, out of county waste, and 503 Federal regulations. A summary of letters received by the LEA is included in Attachment 6. In addition, Board staff received correspondence relative to the NDFE amendment.

Environmental Justice Issues

There is a history of concerns associated with past Nursery Products facility siting attempts. Staff is aware that issues have also been raised relative to the current proposed location.

In 2003, when the Board considered a new full solid waste facilities permit for Nursery Products at the previously selected Adelanto site, staff received approximately 125 public comments from local businesses and residences. Most of the complaints identified issues with flies and odors generated by the composting facility, and a few of the objections also mentioned dust. One nearby business felt the facility posed considerable danger to their operations. The proposed permit for the Adelanto site was eventually withdrawn from Board consideration.

The proposed new compost site in the unincorporated area of San Bernardino County will be the third proposed location. Since the County's submittal of its amended NDFE, Board staff has received a letter from a legal representative of Center on Race, Poverty and the Environment (CRPE), acting on behalf of Hinkley residents (located within eight miles of the proposed facility). Residents surrounding the proposed Nursery Products composting facility have concerns about the potential environmental and health impacts of the facility associated with this item. Board staff is aware that there is pending litigation relative to the County Board of Supervisors' approval of the project.

IX. WRITTEN SUPPORT AND/OR OPPOSITION

A. Support

Staff had not received any written support at the time this item was submitted for publication.

B. Opposition

Center on Race, Poverty and the Environment. A list of commenters providing letters to the LEA is included in Attachment 6.

**** End of Document ****

Thereby, in conclusion, per above:

...Despite the pending litigation challenging the EIR, CEQA provides that the Board will proceed on the basis that the EIR is adequate, until the courts finally rule that the EIR is inadequate. Public Resources Code, Section 21167.3(b).

On August 21, 2009, the Court of Record issued its "**Statement of Decision and Order Thereon**" re HELPHINKLEY.ORG vs MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT [MDAQMD], stating in important part on the issue of "MDAQMD's Exemption of Rule 1133 from CEQA Analysis:

The primary complaint of petitioner is that MDAQMD's regulation of commercial composting facilities are not as stringent as neighboring air quality management districts. The South Coast Air Quality Management District [SCQMD] requires conducting all active co-composting in an enclosed area that has an aeration system. (AR 005959-5960.): The San Joaquin Valley Air Pollution Control District [SJVAPCD], although not immediately adjacent to the MDAQMD, has different requirements depending on the size of the facility (AR006916.) Ultimately, SJVAPCD and SCAQMD (which covers the urban areas of Los and Orange County, and most of the Inland Empire) have adopted more stringent control measures to comply with Health & Safety Code 39614 regarding emission that MDAQMD's Rule 1133. While Rule 1133 provides regulations, where before there were none, nearby districts are enacting more stringent regulations. One does not need a degree in economics to realize that MDAQMD's area of jurisdiction is a simpler and cheaper place to commercial compost. In the courts view this would band and "unusual circumstance" within the meaning of 14 C.C.R. 15300.2(c). In looking at the expense of emission control measures as estimated by the MDAQMD in other districts, it is clear to the court that Rule 1133 makes MDAQMD's area of jurisdiction a more cost effective locale to conduct composting. Rule 1133 provides a financial incentive for composting businesses to move to, or relocate to locations within the MDAQMD. This scenario could cause adverse impacts to the environment, justifying and environmental review of Rule 1133. The court finds that an "unusual circumstance" is present taking Rule out of the categorical exemption.

ORDER - The court grants petitioners prayer for relief and orders a

writ of mandate to be issued commanding the MDAQMD to (1) rescind Rule 1133 as adopted on October 27, 2008; (2) prepare and environmental impact Report pursuant to Public Resources Code 200001, et seq.; (3) conduct a cost -benefit analysis of the "best management practices" option; and (4) adopt a rule that compiles with Health and Safety Code 39614. The MDAQMD is enjoined from implementing Rule 1133 unless and until the MDAQMD prepare and Environmental Impact Report and adopts a rule that compiles with Health and Safety Code 39614. The court retains jurisdiction, by was of return to the writ over MDQMD until the court has determined that MDAQMD has compiled with CEQA. The court reserves jurisdiction over attorney's fees and costs. A request for attorneys fees and cost must be made by noticed motion.

The petitioners are to prepare a judgement and peremptory writ in conformity to this statement of decision. The court may modify or reject the proposed judgment and peremptory writ if it finds they are not in conformity with this statement of decision.

Thereby, subject July 28, 2008 SEIR is VOID and is extinguished and may not proceed to the County Board of Supervisors for review or decision.

And finally, I have developed a substantial body of Best Available Science that demonstrates that the existing design of the Nursery Product Hawes Composting Facility addressed in the series of environmental documents since 2006 is technically flawed as to design and operation to a degree such that it would create a public nuisance in that the windrows will with little doubt erupt on fire from time to time.

Thus, should the current SEIR proceed, I will deliver my findings and evidence at the appropriate venue.

Dehnert Queen
American

214-500-6544 Cell
chr@sisp2.net

Response to Comment Letter SC32

SC32-1: Comment noted. See Response to Comment SC11-1.

SC33

Timothy Saenz

9/11/2009

SEP-11-2009 17:18

VULCAN MATLS CO

1 626 969 2918

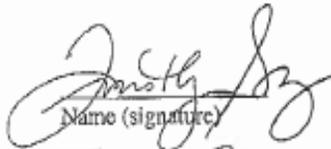
P.01/01

OPPOSITION TO NURSERY PRODUCTS FACILITY IN HINKLEY

I Timothy Saenz, as an elected official, object to the process that the County of San Bernardino is taking in the approval and permitting process of the composting facility to be built by Nursery Products upwind of Barstow and Hinkley. I feel that the amount of waste being brought to our area must be dealt with in a safer more responsible manner. It is our wish that the County of San Bernardino stop the Supplemental Environmental Impact Report currently being completed by Land Use Services Department and complete an entire EIR with more consideration given to the City of Barstow that will be negatively affected by this proposed project. I believe that on a local level, the health and financial impacts were not considered in enough detail. I feel that there are alternatives currently available that are not being considered that are closer to the origin of the waste and would be cost effective.

SC33-1

As an elected official I can not support the Nursery Products facility as currently proposed.



Name (signature)

TIMOTHY SAENZ

Name printed

220 E. HT. VIEW ST, BARSTOW, CA 92311

Address

CITY OF BARSTOW

Agency Represented

CLERK OF THE
BOARD OF SUPERVISORS
09 SEP 11 PM 4:46
COUNTY OF SAN BERNARDINO
CALIFORNIA

TOTAL P.01

Response to Comment Letter SC33

SC33-1: Comment noted. See Response to Comment SC18-1.

SC34

Timothy R. Silva

9/14/2009

SC35

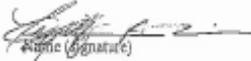
Timothy R. Silva

9/14/2009

OPPOSITION TO NURSERY PRODUCTS FACILITY IN HINKLEY

I Timothy R. Silva, a resident of the Barstow area, object to the process that the County of San Bernardino is taking in the approval and permitting process of the composting facility to be built by Nursery Products upwind of Barstow and Hinkley. I feel that the amount of waste being brought to our area must be dealt with in a safer more responsible manner. It is our wish that the County of San Bernardino stop the Supplemental Environmental Impact Report currently being completed by Land Use Services Department and complete an entire EIR with more consideration given to the City of Barstow that will be negatively affected by this proposed project. I believe that on a local level, the health and financial impacts were not considered in enough detail. I feel that there are alternatives currently available that are not being considered that are closer to the origin of the waste and would be cost effective.

As a Barstow area resident I can not support the Nursery Products facility as currently proposed.


Name (Signature)

Timothy R. Silva
Name printed

1231 Pine Cr. Barstow, CA 92311
Address

SC34-1

OPPOSITION TO NURSERY PRODUCTS FACILITY IN HINKLEY

I Timothy R. Silva, as an elected official, object to the process that the County of San Bernardino is taking in the approval and permitting process of the composting facility to be built by Nursery Products upwind of Barstow and Hinkley. I feel that the amount of waste being brought to our area must be dealt with in a safer more responsible manner. It is our wish that the County of San Bernardino stop the Supplemental Environmental Impact Report currently being completed by Land Use Services Department and complete an entire EIR with more consideration given to the City of Barstow that will be negatively affected by this proposed project. I believe that on a local level, the health and financial impacts were not considered in enough detail. I feel that there are alternatives currently available that are not being considered that are closer to the origin of the waste and would be cost effective.

As an elected official I can not support the Nursery Products facility as currently proposed.


Name (Signature)

Timothy R. Silva
Name printed

1231 Pine St. Barstow, CA 92311
Address

Council Member
Agency Represented

City of Barstow

SC35-1

CLERK OF THE
COUNTY OF SUPERVISORS
09 SEP 14 AM 7:30
COUNTY OF SAN BERNARDINO
CALIFORNIA

Response to Comment Letter SC34

SC34-1: Comment noted. See Response to Comment SC18-1.

Response to Comment Letter SC35

SC35-1: Comment noted. See Response to Comment SC18-1.

SC36

Steven Smith

9/15/2009

Dear Carrie Hyke and The Board of Supervisors San Bernardino County

2009 SEP 15 PM 1:46

I am sure by now you know who I am and why I am writing you, the sludge dump in Hinkley. I and many of the HelpHinkley folks have already sent you a ton of documents and letters. This time I want to send to the San Bernardino County Board of Supervisor and the Planning Division a few things to ponder about the supplemental Environmental Impact Report (SEIR).

First off the the thrust of the SEIR is based on a figure of one thousand gallons a day used by the dump. Consider this, the facility will have a 3/4 a mile dirt road that all the trucks will be running over and they will need to spray at at least daily to cut the dust. Add to that amount they will have to spray the windrows to mitigate the dust. You, as right thinking people, think that is enough for the job at hand. Keep in mind that 1000 gallons is used by some people just to water their large lawns. Nursery Products has said they will spread gravel on the road to mitigate the dust. They made a similar promise to Adelanto when they promised to pave the road to that facility, a promise never honored. If you think the 1000 gallons a day figure is to low then you are obligated to throw out the whole SEIR

SC36-1

Secondly if you read the Judge Vander Feer's decision that started this whole process you will see that he has set aside very aspect of the project including the Conditional Use Permit. Here is the relevant section of the decision.

SC36-2

The County adopted the EIR which failed to identify a water source for the Project. This violates CEQA. On this ground, the court will grant the

petitioners pray for relief: a peremptory writ to issue setting aside the certification of the EIR, setting aside and vacating any and all approvals given to the Project, including the issuance of a Conditional Use Permit, directing the County to comply with CEQA regarding this Project and specifically to identify the water source for this Project and conduct a water assessment. No part of the Project is severable.

Granted I am no lawyer but it doesn't seem that anything short of starting the whole project over will satisfy the decision. Water and the economic feasibility of the projects is the whole foundation of the project. If you are building a house and want to change the foundation do you start at the top or do you tear it and rebuild the foundation

SC36-3

This leads to my final point this whole project was started by Bill Postmus and has been continued by his proxy Supervisor Mitzelfelt. In their rush to shove this facility down the throats of the High Desert they have obviously cut corners and flaunted the law. You need not look any further than the opponents of the facility have yet to lose a law suit as proof of that. If you truly think this facility is a good idea and not a danger to our health then why not do everything

correctly and therefore prevent further delays and law suits? I strongly suggest you reject this SEIR and start this process over again and this time do it correctly.

Steven Smith
600 Rimrock Road Spc. 94
Barstow CA, 92311
barstow@verizon.net

Response to Comment Letter SC36

SC36-1: Comment noted. See Response to Comment SC9-1.

SC36-2: Comment noted. See Response to Comment SC11-1.

SC36-3: Comment noted. See Response to Comment SC18-1.

SC37

Mrs. Bruce Stonerock

9/4/2009

Sept. 2, 2009
25660 Redwood St.
Barstow, Ca. 92311

2009 SEP -4 PM 1:57

Land Use Services Dept.
Advanced Planning Div.
Project Planner: Carrie Hylke

Dear Ms. Hylke,

I am writing you out of my deep concern for the people of Hinkley, Lenwood and Barstow and their well-being, in regard to the plan to build the Nursery Products toxic waste dump site at the Hawes site, just 20 miles from Lenwood and 10 miles from Hinkley.

After reading the information on the plan to build the site without a cover to control the blowing dust and insects from the sludge. It is quite apparent to all that everyone will be endangered by breathing this waste. It is even more deadly apparent in the last few days because we can see the ash residue from the forest fires in the Angeles mountains around Glendale, over 100 miles away, in all over Barstow. We even had a health warning in our paper yesterday about staying in and not being exposed to the ash and smoke. I can only imagine how much pollution we will be subject to from this sludge plant, when it is only 20 miles from us and situated where the prevailing winds can carry it easily into every home in this area.

My husband and I moved to Barstow 58 years ago, from Michigan, because he has a chronic lung

SC37-1

disease, bronchitis. We has never very well here
and we looked forward too always enjoying good
healthful air quality here as long as we lived.
I fear now for my husbands health and my own
as well. We are both nearly 80 years of age and
such exposure to this poisonous waste blowing
into our neighborhoods, it will no doubt cause untold
health problems for everyone, young and old. I must
tell you if this happens there will be no other
option for us but to turn to legal recourse, perhaps
Eva Parkovich, since she knows how to deal with
companies and public entities that have no regard
for the victims of such blatant abuse.

It is incident our County Supervisor, Paul Metzger
has no concern for his constituents since he and
the other Supervisor allowed this company to
build this sludge plant in our County when the
County, where the waste is generated should allow
them to build without the proper safe guards for
their citizens. We however has been sold out by
our own representatives. We hope and pray you will
see the real dangers we face with their tons
of waste being left uncovered and open to the
high winds we experience here on a daily basis.

Please help us by at least requiring them
to protect our air quality as well as the water
from this pollution.

I am enclosing an article that appeared
in our local paper yesterday that you might find
germaine to what our concerns here in Fontana.
Thank you for your consideration.

Sincerely,
Mrs. Bruce Stenmark
25660 Be Joad St.
Fontana, Ca 92311
Ph. (760) 253-2526

SC37-2

Air quality district issues smoke warning for Barstow

Sub-Smoke, ash
send students
indoors

BY DAVID HELDRETH
STAFF WRITER

BARSTOW • Forest fires in the Angeles National Forest are creating health concerns for Barstow area residents.

The Mojave Desert Air Quality Management District issued a smoke advisory for the Barstow, Victor Valley and 29 Palms area Monday. Violette Roberts, the district's community relations manager, said the advisory will be in effect until the fires subside or wind conditions change.

She recommended that people should try to remain inside and avoid strenuous activity during the advisory. She also said that pregnant women, children, older adults and people with lung or heart diseases are the most at risk. A report from the

SEE SMOKE • PAGE A8

SMOKE

FROM PAGE 1

district warned that sore eyes, ears, throat and nose as well as difficulty breathing and pain can be symptoms of smoke exposure.

Roberts said the district has measured high levels of particulate matter in the air in Barstow, but that the Environmental Protection Agency reviews the exact results before they are released to the public. The district is checking the particulate filters throughout the day because of the fires, according to Roberts.

"Your eyes and your nose are your best tools to determine if it's a good idea to go outside," Roberts said. "If you smell or see smoke then you are in an area that is being affected by the fires and shouldn't inhale too much of the air if possible."

The air conditions affected student extracurricular activities in both school districts. In the Silver Valley Unified School District, which resumed classes Aug. 6, volleyball and cross country practices at Silver Valley High School were canceled, according to Principal Cameron Smart. During the lunch period, school officials opened up the gymnasium so that students — who frequently eat and

MORE INFO

Tips for protecting yourself from smoke

• **Stay indoors:** Limit exposure to unhealthy air by staying indoors, and keeping doors and windows closed. Use air conditioning and set it to recirculate mode if available.

• **Reduce outdoor activity:** Avoid prolonged physical activity outdoors including working, exercising or recreation.

• **Consult a physician:** If you or a family member suffer from a heart or lung illness talk to your doctor about special precautions and treatments that will minimize the impacts of the smoke.

Source: Mojave Desert Air Quality Management District report

socialize outside — could avoid the elements.

"We're trying to keep the kids indoors as much as we can," said Smart.

Barstow Unified School District begins classes on Sept. 8, but some students are already on campus preparing for the school

The Desert Dispatch

year and being affected by the smoke. Both Barstow High School football practice and Barstow Junior High School band camp moved indoors.

At Fort Irwin, spokesman John Wagstaffe said that training continued as usual with soldiers completing their two-mile run Monday morning. Smoky air and ashes were significantly less noticeable out on post than compared to Barstow, he said. Wagstaffe noted that he did see about five workers wearing face masks on the fort.

City and Barstow Community Hospital spokesman John Rader said the smoke advisory hasn't affected city workers and that the hospital hasn't treated anyone for smoke related injuries or illnesses.

Staff writer Eunice Lee contributed to this report.

ATTACHMENT 1 OF 1
Mrs. BRUCE Stonerock

Response to Comment Letter SC37

The Lead Agency appreciates the supplemental information provided by the commenter regarding air quality impacts from the recent wildfires. The Lead Agency has reviewed the provided information during the preparation of the following responses.

- SC37-1: The comment refers to potential impacts to air quality, which is not within the scope of the SEIR and hence no response is necessary. This issue was addressed in the Draft EIR Sections 4.3 (beginning on page 4-3). The analysis of impacts to air quality was specifically challenged in the Superior Court and the Court concluded that further analysis was not required.
- SC37-2: The purpose of the CEQA process is to evaluate projects for impacts to the environment, disclose any potential impacts, and to provide mitigation where available and feasible to lesson potential impacts. By the completion of the DEIR and SEIR, the Lead Agency is providing the required due diligence in order to protect the health and safety of the community and environment.

SC38

La Vella Tomlinson

9/11/2009

2009 SEP 15 AM 8:53

September 11, 2009

Land Use Services, San Bernardino County
385 N. Arrowhead Ave, 5th Floor
San Bernardino, CA 92415-0110

Attention: Carrie Hyke:

I am a resident of San Bernardino County and I object to the process that the County of San Bernardino is taking in the approval and permitting process of the composting facility to be built by Nursery Products upwind of Barstow and Hinkley. I feel that the amount of sewage waste being brought to our area must be dealt with in a safer more responsible manner.

It is our wish that the County of San Bernardino stop the Supplemental Environmental Impact Report currently being completed by the Land Use Services Department and complete an entire EIR with more consideration given to the City of Barstow that will be negatively affected by this proposed project. I believe that on a local level, the health and financial impacts were not considered in enough detail.

I feel that there are alternatives currently available that are closer to the origin of the waste, safer for the health of the residents, and would be cost effective - but these alternatives are not being considered by the County of San Bernardino.

As a Barstow area resident, I cannot support the Nursery Products facility as currently proposed.

LaVella Tomlinson
La Vella Tomlinson
531 Lance Drive
Barstow, CA 92311
760 256 8104

SC38-1

Response to Comment Letter SC38

SC38-1: Comment noted. See Response to Comment SC18-1.

SC39

Bill Tomlinson

9/11/2009

September 11, 2009

2009 SEP 15 AM 8:53

- Land Use Services, San Bernardino County
385 N. Arrowhead Ave., 5th Floor
San Bernardino, CA 92415-0110

Attention: Carrie Hyke:

I am a resident of San Bernardino County and I object to the process that the County of San Bernardino is taking in the approval and permitting process of the composting facility to be built by Nursery Products upwind of Barstow and Hinkley. I feel that the amount of sewage waste being brought to our area must be dealt with in a safer more responsible manner.

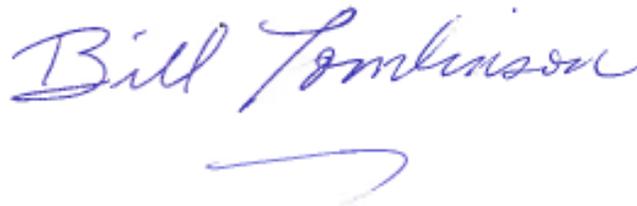
It is our wish that the County of San Bernardino stop the Supplemental Environmental Impact Report currently being completed by the Land Use Services Department and complete an entire EIR with more consideration given to the City of Barstow that will be negatively affected by this proposed project. I believe that on a local level, the health and financial impacts were not considered in enough detail.

SC39-1

I feel that there are alternatives currently available that are closer to the origin of the waste, safer for the health of the residents, and would be cost effective - but these alternatives are not being considered by the County of San Bernardino.

As a Barstow area resident, I cannot support the Nursery Products facility as currently proposed.

Bill Tomlinson
531 Lance Drive
Barstow, CA 92311
760 256 8104



Response to Comment Letter SC39

SC39-1: Comment noted. See Response to Comment SC18-1.

SC40

Sean Vandygriff

9/4/2009

RECEIVED
SEP 11 2009
LAND USE SERVICES DEPT.
ADVANCE PLANNING DIVISION

September 4 2009

Carrie Hyke
San Bernardino County Land Use Services Department
385 N. Arrowhead Avenue, 1st Floor
San Bernardino
CA 92415-0182

Dear Ms. Hyke,

This letter is to show my support of recycling and compost. I visit the Las Virgenes Municipal Water District (LVMWD) Compost facility annually and pick up their free community compost. The free compost has been a great resource over the years and is an excellent fertilizer for my plants. I have attached a brochure from LVMWD in regard to their free compost.

SC40-1

Sincerely,

Sean Vandygriff

11600 MONTANA AVE
BRENTWOOD, CA
90049



What is Community Compost?
 Community Compost is a nutrient-rich soil amendment made from recycled organic materials. It is made from yard waste, food scraps, and other organic materials that would otherwise go to landfills. Community Compost is a natural and sustainable way to improve soil health and reduce waste.

How Can I Get My Free Supply?
 Municipal supplies of Community Compost is rich and amendable! Made with recycled organic materials.
 For bulk supplies, call 951-251-3300 for more information.
 Bring a reusable bag with some or bring plastic bags with you, all we have to do is provide! But you will be responsible for filling your own containers!
 Every Saturday, 8 am to 3 pm
 Studio Las Vegas
 Composting Facility
 3700 Las Vegas Road
 Chatsworth, CA

What are the benefits of Community Compost?
 As a nutrient-rich soil amendment, it provides many benefits:
 • Improves soil structure and drainage
 • Adds essential nutrients to the soil
 • Helps retain moisture in the soil
 • Reduces the need for synthetic fertilizers

What are the benefits of Community Compost?
 As a nutrient-rich soil amendment, it provides many benefits:
 • Improves soil structure and drainage
 • Adds essential nutrients to the soil
 • Helps retain moisture in the soil
 • Reduces the need for synthetic fertilizers

Community Analysis
 Community Compost is a nutrient-rich soil amendment made from recycled organic materials. It is made from yard waste, food scraps, and other organic materials that would otherwise go to landfills. Community Compost is a natural and sustainable way to improve soil health and reduce waste.

ATTACHMENT 1 of 1
 to
 S Vandygriff letter

Response to Comment Letter SC40

The lead agency appreciates the supplemental information provided by the commenter regarding the Las Virgenes composting facility. The Lead Agency has reviewed the provided information during the preparation of the Final SEIR.

SC40-1: Comment noted. The commenter expresses their support for the proposed Project.

SC41

Norman Diaz

9/19/2009

Comments by Norman Diaz on the Draft Supplemental Environmental Impact Report for the Nursery Products Hinkley Sludge Composting Facility Sept 2009.

My past comments and concerns have not been addressed and need to be reconsidered. Add all past comments to the SEIR Record. This Draft Supplemental Environmental Impact Report (SEIR) is illegal under the Superior Judge's order. The Conditional Use Permit (CUP) and Environmental Impact Report (EIR) were set aside. No part is severable. You can not supplement something that has been cancelled. I object to the process the County is taking in this manner. The County must stop and wait for the litigation on the merits of the first EIR is heard in the Court of Appeals. Under CEQA, a SEIR is only used in very specific circumstance. The Judge did not ask for one. His decision clearly requires the County to vacate the previous EIR. Nursery Products appealed, but only two outcomes can come of the appeal, neither of which is a SEIR.

SC41-1

SC41-2

This letter from before is still pertinent from the first approval on Oct 6th, 2008:

"Official objection to item 33 and 34 of the agenda:

I Norman Diaz of HelpHinkley.org, object to the issuing of a contract to do a supplemental EIR on the Nursery Products Hawes facility near Hinkley. This is a premature action that is a waste of taxpayer's money. The Judge ruled that the EIR was flawed and cancelled. The Judge stated that the EIR was unseverable from the rest of the document. You cannot supplement a EIR that has been cancelled. There is nothing to supplement. We still feel that the Judge erred on the particulate matter and the air impacts that will be immense if this open-air project goes forward as proposed. As a member of the group suing the County of San Bernardino and Nursery Products, we feel that the waste of County Staff time and resources is a waste of our tax dollars.

The Judge States "No part of the Project is severable" and "a peremptory writ to issue setting aside the certification of the Environmental Impact Report [EIR], setting aside and vacating any and all approvals given to the Project, including issuance of a Conditional Use Permit,"

We, as a party involved in the case, agree with the Judge on this point. We do think the Judge erred on the air impacts portion and will agree that as the Superior Court case moves forward. For the Board of Supervisors to move forward at this time is wrong and we object to any and all money, funds and staff time put forward by the County on this project.

RECEIVED
SEP 15 2009

COUNTY OF SAN BERNARDINO
BUILDING AND SAFETY

Do not issue a contract until the Court case is completely done. Do not spend any funds or Staff time on this project. We intend to follow the Judge's orders and we would hope that the County of San Bernardino does also.

Please place this on the official record of the Nursery Products LLC Hawes Facility near Hinkley CA."

In case the SEIR is not invalidated, the comments below apply to this SEIR, a new EIR or any other document prepared on this project.

The water data MUST be withdrawn and redone. While speaking with Mojave Water Agency(MWA), the Staff there said that the data attributed to them was made up and falsely said to be true. If true, this would cast doubt on all the data in this illegal SEIR. What other data was made up? The water study must be redone by a truly independent party. We feel that the water data is suspect and must be regatered. This also puts into question any data that was printed in the Draft EIR and the Final EIR. All data must be verified by a different company before moving forward. We suspect the plant and animal counts must be questions as they seemed low compared to the data we compiled. Any financial data must be redone by another company.

SC41-3

We feel that we are without representation. We have overwhelming local opposition and still our County Supervisor pushes forward with the project. As far back as 2004, he has been speaking in favor of this facility being placed in our area. We feel that our voice is not being heard, our rights not being enforced. This is an environmental justice issue. We want and deserve equal protection. We feel that if the same safety measures and requirements were applied in our area that the producers of the waste enjoy, there would be no need for concern.

SC41-4

Comments on the draft:

Page 9

DEIR and first project description do not say Grade A compost. With a mixture of two composting methods, you can not produce a good compost and definitely Class A. How does the sludge/green/construction waste ratio change the final output. The mix or ratio of green to sludge is wrong, this will be equal parts sludge and other waste if not more sludge than other waste. All other grade A compost is made with less sludge. Typically it is 3 to 4 parts green to 1 part sludge. Why the difference?

SC41-5

The Barstow Superior Court said these sections could not be severed from the EIR. The changes in feasibility options will greatly impact the other areas of the Final EIR. If enclosed, water use, air and water impact, most impacts will be

SC41-6

reduced or eliminated. These will be major changes to the project, NOT just the circumstances. A complete new EIR must be done as is required by the Judge.

There is no local market or need for the finished product in the quantity the facility will product. Name any local customers that do not use cow manure as a safer, more cost effective solution? How is local described? If the customers are back in greater San Bernardino and Riverside Counties, then these miles must count into the GHG and other emissions produced and released by the plant. Show receipts of sales from the failed facility in Adelanto. Where is the material that is unaccounted for from Adelanto?

SC41-7

How will this project affect the enclosed facilities planned or operating in Southern Ca? Rialto, Lost Hills, Banning, Colton, Niland, Rancho Cucamonga, or others?

SC41-8

ES-2

No local need for agriculture grade compost due to large number of milk diaries which supply large amounts of manure that is free or even sometimes pay to accept the manure. Cows diet does not include the contaminants that the sludge will contain and is therefore with less potential risk to human health and the food change. How did agriculture grade compost in the EIR become class A in the SEIR? It was listed as ag grade in the DEIR.

SC41-9

What is Inland Empire? If Riverside and San Bernardino Counties, then that is 6 million people. If the site is to except 1/3 the sludge of the Inland Empire, then the waste of 2 million (1/3 of 6 million) will be dumped on the community of 30,000 people. That is not fair. The local impacts will be severe. The air and water quality will be impacted negatively. This can be mitigated with enclosure and it is cost effective.

SC41-10

We are a largely Hispanic community. Ver half the Hinkley School kids are Hispanic and about 35% cannot participate in the education process without English as second language help. I have requested materials and translators to help let the Hispanic population participate in the permitting process. We have been denied any documents translated into English even though we have asked repeatedly.

SC41-11

Green waste was said to cause large amounts of flies in the Adelanto facility. The Applicant has stated, in my opinion, that they would not accept green waste. Why is it now listed as an ingredient in the compost. How many total trucks a day maximum? What are the maximum number of trucks, not the weight coming in. Why does the initial description say 522 truck trips and now the number is significantly different. That change should require a new EIR be written for the entire project.

SC41-12

The planned Banning Liberty sludge facility says it will take in 80% of its income by accepting the waste. If true for Nursery Products, doesn't that change the financial data printed on cost and revenue associated with the SEIR. After showing that data attributed to Mojave Water Agency was false, the financial data is also in question and must be redone by another independent agency.

SC41-13

ES-3

Impacts by weather must be re-evaluated. Plans for severe rain or wind must be made. Thunderstorms and microbursts are known to occur in the area.

SC41-14

The finding in the DEIR that even with an enclosed facility alternative, volatile organic compounds (VOC) emissions from the Project would exceed the applicable regulatory threshold and impacts to air quality would be significant is unchanged.

SC41-15

The children and people of Hinkley and Barstow can tell the difference between 357 tons/ year for unenclosed, 70 tons/year for enclosed. Most data we have submitted shows facilities with 85% to 95% capture of the VOCs. Will the children of Hinkley know the difference between 70 tons and 357 tons of VOC? How much dust will not be released if the facility is enclosed?

ES-5

4.2 Water Assessment

Must be redone after data from MWA is found to be fabricated. Makes all data of questionable authenticity. A new EIR must be done by a reputable source that has not done any work on this project up to this point.

SC41-16

2-1

The project is changed from the DEIR. The Judge cancelled the CUP and EIR and said they must be redone. Many new technologies are available that were not available or considered at the time of the DEIR. Rialto, Banning, Colton, Lost Hills are all enclosed facilities that are in the planning or operational phases and they are enclosed and privately funded. Those economic models must be considered. Some of those facilities are closer to the source and would lower fuel costs and emissions from the trucking. Banning Liberty facility says that 80% of its revenue is from charging cities to take their solid waste sludge. If 80% of Nursery Products income is from bringing in sludge, the financial data shown must be wrong. Banning will cost \$180 million to build and pump \$127 million into the local economy and the infrastructure and upkeep will employ many more than the 8 jobs promised by the Nursery Products facility.

SC41-17

Bulking materials need better details on handling, storage, source, truck trips, testing. Will any burnt dirt be arriving from dirt "burning" sites? How far will bulking agents be traveling? How many trucks a day of bulking agents? How will bulking agents be stored without being blown downwind towards Hinkley? How

SC41-18

much water will be used? Name what is legal to be considered "construction waste". Who will test for asbestos, glue, lead, paint, solvents, other materials not to be used in the sludge process. The 43 trucks of illegal wood chips dumped near the site in 2006 are an example of what can not be used and how the bulking material can blow downwind. How will the bulking agents be handled during extreme weather events? Wind? Rain? Flood? A small berm will not contain these sources of dust and VOCs.

SC41-19

What is the maximum amount and time the finished product can be stored. The Taft compost facility is allowed less than one month storage, why does Nursery Products need more. How will the finished product be kept on site while in piles and being loaded? How much water per day per ton will be needed. Quantify the needs in galloons. With an 80 acre site, there will need to be multiple sources of water to try and contain the material on one of our many windy days. MDAQMD says "No dust, even invisible, can leave the site", how will Nursery Products make 1000 galloons last? How will the 50 foot piles of dry finished compost be kept safe from fire hazards? Will the single fire hose reach all windrows and finished piles of sludge, compost, bulking and greenwaste or other combustible materials?

What kind of erosion control will the finished compost be used for? The metals, chemicals, pesticides, hormones, steroids, flame retardants, radioactive wastes, prions and other non-compostable materials will remain in the finished product and wash downstream and blow around the desert.

SC41-20

How can 8 employees incorporate 2000 tons of waste a day into windrows within two hours of arrival? How does that account for travel time, traffic issues, congestion once arrival has occurred? If this is a pathogen mitigation, then how long until the waste can not be used for compost due to pathogen counts? Can Nursery Products test for pathogen counts on site? What will happen to loads that are not mixed within two hours? What will random checks test for? Where will tests be taken? How long to tests take? Is there a test for radioactivity? Test for hormones or steroids?

SC41-21

What will keep invasive pests and weed seeds on site if greenwaste is stored seven days? How much volume of greenwaste is allowed at once? What is a partial shaped windrow? Will green waste be ground for storage? With plant open until 8 pm, how will workers complete work safely without lights?

SC41-22

Why are windrows 1000ft x 12ft tall x 30 ft wide? Most studies show that this size windrow will not be consistent in composting in uniform weather conditions. How will Nursery Products control the compost process with weather extremes of the High Desert in piles so high, wide and long? Is testing adequate for such a process with so many variables.

SC41-23

5

Does the EPA recognize a **combination** of windrow and modified static pile composting to make class A compost? It must be specified what process will be used. A new EIR must be done with the process that will be used to meet EPA specifications for pathogen reductions and class A composts. How will winter and summer variables be accounted for in the turning and aeration process?

How will 8 employees turn all the windrows 5 times in 15 days, mix incoming within 2 hours, grind and sort all construction waste and load check and educate all drivers and workers on sludge health safety and tortoise awareness?

2-2

How many employees will be certified to do the monitoring and testing? Will one be on site during all operating hours? If not, how will checking, monitoring and testing take place? Since the composting process never stops, there should be a qualified and certified manager on site 24 hours a day year round. Who and how many employees are certified to choose the 12 sites for collecting data on compost safety and regulations and quality control?

SC41-24

Monitoring and testing should be done by an outside source. Please consider the May 5th 2005 letter from CDPH-EHIB that states that dust from the Adelanto site regrew after blowing off site and getting wet again. How will the dust on the new site be completely 100% kept on site? If the dust does eventually reach the Hinkley School and community, will there be safety measures in place to insure no health problems?

The laboratory analytical results on parameters such as size, stability, maturity, nutrients, salts, pH, carbonates, and bulk density shall be available to the Local Enforcement Agency (LEA). Analytical testing will verify that the compost meets the maximum acceptable metal concentration limits specified in 14 CCR 17852, and pathogen reduction requirements specified in 14 CCR 17868.3

What happens if out of compliance with limits? Where will the identified sludge be taken? How will it be isolated? Will more testing be done? Will more frequent and complete testing be required if found to be out of compliance with any limits? What are penalties? Who is LEA? Will contaminated sludge be isolated? Where? Can and will the company volunteer to do more complete testing to ensure the public of the safety of the product and process? Will the public have timely access to the tests?

2-2

No mention of putting the finished compost on food crops or school type situation. Is it safe for food crops if it completes the proposed process with all the required testing? If any part of process or testing is not done, what will be the penalty, course of action? Will the unsafe material be isolated? Taken to a landfill? Is this Class A compost? Is this considered "Certified Organic"?

SC41-25

6

3-3

174 truck trips includes sludge and greenwaste only? Only approximately 48 truck loads of biosolids and/or green waste? How many trucks of bulking agents? Why were 522 truck trips applied for? If more than 87 trucks or 2000 tons/day, then violation occurs? What is penalty? Will facility be shut down? Will staff of 8 be able to meet the 2 hour mixing requirements if more trucks arrive? If no greenwaste or bulking agents available, will the facility turn away sludge loads since they can not correctly mix the sludge to stop pathogen growth. Will more land need to be purchased for the roadway access for all the traffic? Supervisor Mitzelfelt promised paved roads from the highway in 2007, why aren't these mentioned?

SC41-26

How can less than 10 trips be counted for workers? Workers and vendors will count for more than this. Will there only be one crew for 14 hour days and security? Who will train in tortoise awareness of all workers, vendors and ALL incoming truck drivers in multiple languages?

2-3

Order needs to be addressed in a more protective way. Any workers required to spend 14 hours a day on site will have no ability to smell any odors that the public might find objectionable. Look into mechanical means like the "Nasal Ranger"

SC41-27

<http://www.nasalranger.com/media/Nasal%20Ranger%20Brochure.PDF>

If odor is off site and operations must be stopped, will all trucks be sent away? Sent where? Why will Lead Enforcement Agency (LEA) do anything different than they did in Adelanto? The CIWMB said the County, LEA and others did not do a good job of addressing the problems in Adelanto. CIWMB must be notified with all tests, violations and situations that may occur. If weather conditions persist for weeks (El Nino of 2003) then where will sludge go? What plans for these 87 trucks a day do you have?

Ravens are not mentioned and they are a great threat to the Desert Tortoise. List all plans, protections and training to help protect the tortoise population? Will all employees and truckers all get tortoise training as specified in the DEIR.

SC41-28

How will traps be used over 80 acres? What kind? How many? Will extra personnel be added? Same 8 jobs, more duties?

Sludge and greenwaste may be food sources since all proponents say "you can eat it". But it will be an attraction for wildlife. It will be used for nesting and a water source. What will keep tortoises from looking for water and getting attacked by ravens? Greenwaste is known to have pests including rodents transported in it. How will they deal with the invasive included in the greenwaste? Can construction waste have any invasive problems?

SC41-29

7

Dust: The moisture level in the compost keeps the compost from creating dust. Efforts will be made to control particulates during high wind episodes. There will be no turning of the piles during high wind episodes that exceed 30 miles per hour. Compost operations will be conducted behind a small berm and fence situated on the property perimeter, reducing wind. As needed, a water truck will be used to apply water to suppress dust. The entryway and often-traveled paths will be overlain with crushed rock, to prevent tracking of onsite materials offsite.

SC41-30

Will berms be bigger than windrows? Always? Windrows are 1000ftx30ftx12ft, will it be bigger than those? Bigger than the finished compost pile that is 50 ft long? The moisture level in compost varies depending on weather, time of year, contacts, how far along in the process and other factors. How will facility keep tabs on 80 acres for areas getting to dry? How will wind speed be calculated? Will there be more than one wind gauge? 30 mph is too high. Dust will leave the site at 15 mph or less. The area is the 4th highest wind in the State of California. More water will be needed and it will not be able to keep all the contaminants on site.

<http://www.wrcc.dri.edu/>

How will crushed rock stop or prevent the sludge from leaving the site? For how long? Will the rock ever reach capacity of absorption of the material off tires from 100 trucks/day 365 days/year? If washed, will wash water be captured? It should be. Will the rain water that hits the crushed rock roadways be collected? Why not truck washing facilities? How sticky is the sludge? Will they sweep the trucks? Will truck drivers wear safety equipment like the NP workers are required to? What happened to the truck grate that was supposed to bounce off the sticky sludge entering and leaving the site? Where are the paved entrance roads as promised by Supervisor Mitzelfelt? Will road run off from the paved and/or crushed roads be collected? All composting must be done on concrete pads. Supervisor Hansberger required a liner as good as a landfill. Native soil is not landfill quality protection. Why not more protection under the compost piles?

SC41-31

If sludge is still leaking off any of the 100 trucks/day leaving the site, is it a danger to the local population? If a freshly emptied truck of sludge then drives by a Hinkley School bus stop and inadvertently drops some chunks of sludge, would there be any potential danger? If a worker or truck driver has sludge on his shoes and then drives into Hinkley or Barstow, is there any danger to Public health from that material? How much additional water would be needed to clean trucks and workers?

What if water does get in contact with windrows or compost and gets off site? What are cleanup plans? What about water in contact with finished product? What will be plans for an extreme weather condition? A microburst?

8

<http://www.youtube.com/watch?v=TkavH9aZue8>

After leachate dries, will the dust be collected? Will the dried leachate be tested? Will the dried leachate be similar to the dust that blew off site in Adelanto and regrew into dangerous materials when it was hydrated? Is it possible? How much water will be needed to keep the dried leachate from blowing, moving or contaminating other areas? What if storm water retention ponds are full and more water is needed to be captured? What is the Standard Operating Procedure (SOP) for capturing contaminated waters from the site? Will all water that comes into contact with the site be hazardous and need to be captured? How will clean and dirty waters be separated?

4-3

Impacts on GHG emissions

The numbers used for this data are in question. After showing that the water data was fabricated and misattributed to MWA, the numbers used for this study are in question. Did the SEIR writers again just make up the numbers like with the water data? To say that sludge traveling from Riverside County to Arizona will be a longer trip than coming to Hinkley is false. Any Sludge in San Bernardino area or east of there will travel to Arizona quicker than to Hinkley. The mileage data must be redone.

Kern County has won its appeal to ban importation of sludge into its County. So any data on miles heading to Kern must be changed. All the Inland Empire sludge will have to find another destination. Isn't the majority of IE sludge sources closer to Arizona than to Hinkley? If so, then GHG would be increased by coming to Hinkley instead of Arizona.

4-4

Kern County and Arizona are on opposite sides of the County borders. Hinkley is isolated in the sparsely populated north end of the County. All the IE sludge will travel significantly shorter distance if it now must go to Arizona.

Hinkley to Bakersfield is approximately 175 miles. Hinkley to Arizona border on hwy 10 is 182 miles. So any sources of sludge that are south or east of Hinkley, the miles are much shorter going to Arizona than to Kern County or even to Hinkley. The roads are safer and of higher capacity heading east towards Arizona than it is going over Cajon Pass and onto small 2 lane road of hwy 58 near Hinkley, Arizona is also much closer to the agriculture needs of farmers than Hinkley. Hinkley has very little needs for sludge fertilizer compared to the Arizona and Riverside County border which is close to all the intensive agriculture areas of Imperial County, La Paz County and Mojave County. The GHG, CO₂, Global Warming Potential (GWP) and all mileage and emissions data must be recalculated without Kern County as a destination due to Kern winning its lawsuit against importation of sludge into the County. All data

SC41-32

generated from MDAQMD Rule 1133 must be redone as Rule 1133 has been cancelled by a Superior Court Judge in August.

SC41-33

If composting within an enclosed system, then emissions can be captured. If those emissions are not captured, then the local community will feel the impact. The winds in this area are very high for much of the year, with an annual average of 11.1 mph and a monthly average of 14.8 mph in May. These high winds consistently blow from west to east. The dust and emissions, if any are allowed, will blow, drift and settle on the communities of Hinkley, Barstow and beyond. The 350 kids that attend Hinkley School 8 miles downwind will be impacted negatively by those emissions. As an Air District, these emissions are significant and must be given overriding consideration by the County Supervisors to be allowed. But if considered locally, the emissions are very significant to the local population. Considering that these dangerous emissions can and should be captured, any potential danger should be avoided.

I object to the process being taken by San Bernardino County and San Bernardino County Land Use Services. The local impacts will be significant and not positive. Our property values, water quality, air quality, health and future development as a community is being impacted adversely by this project. A new EIR must start from scratch and use information that is reliable and not made up to support the projects profit margin. Listen to the people that will be impacted. This is not our waste and all potential for adverse effects must be eliminated. It is feasible to enclose and capture all negative by-products of this type of procedure.

Submit these comments to the official record for the Nursery Products Sludge Facility near Hinkley in Sept. 2009.

Norman Diaz

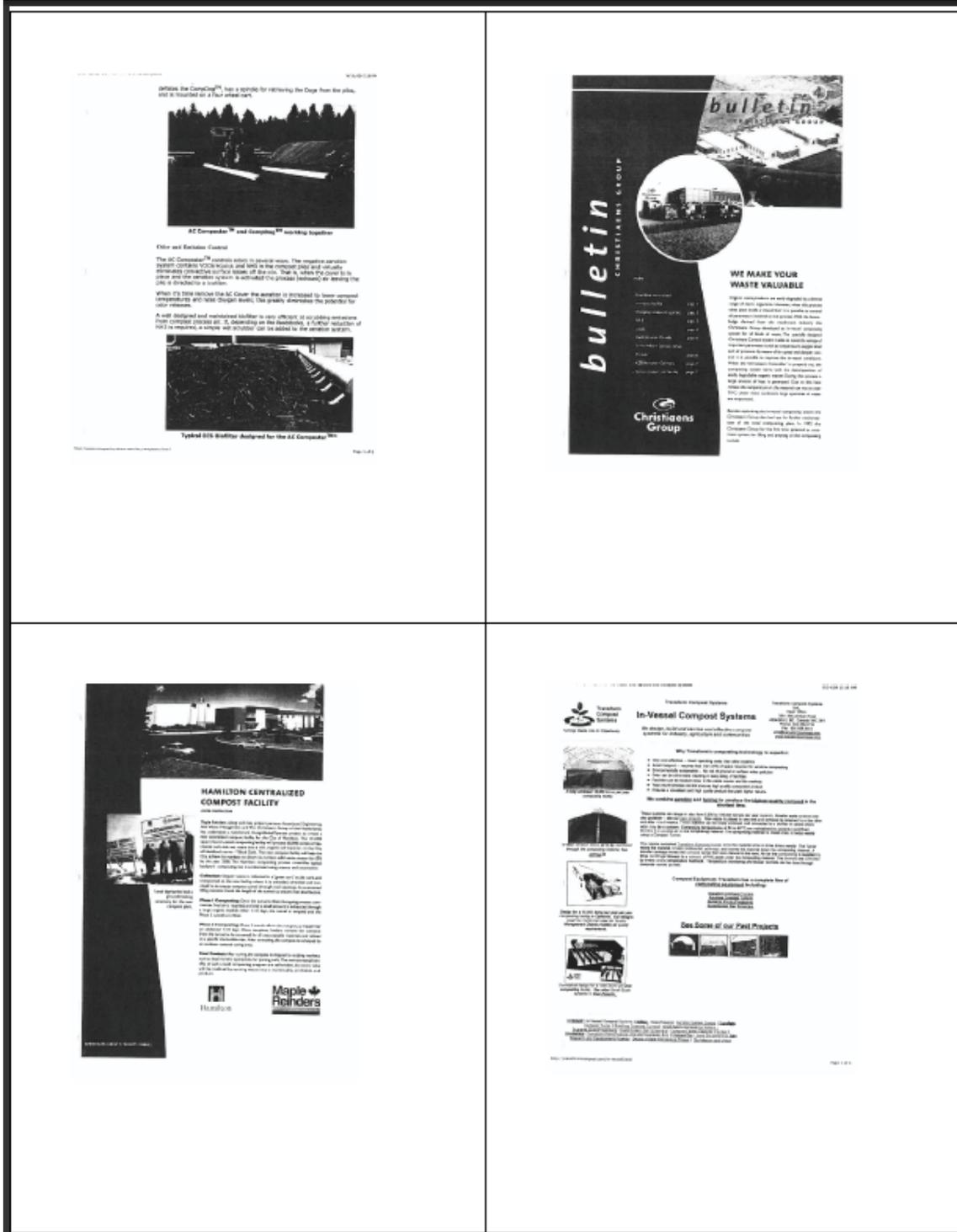




FIG 16 Composting System

The FIG Composting System (FIG) is an advanced, patented, aerobic, aerated composting process that utilizes the natural power of the sun. The system has been designed to produce "Mature Heat" which, when used, forces bacteria to produce the high quality compost (FIG-CO). FIG also recycles material waste in Municipal Solid Waste (MSW). A recent study suggests that FIG is an effective technique for the successful enhanced handling of hazardous waste.

FIG Composting System

The FIG Composting System (FIG) is an advanced, patented, aerobic, aerated composting process that utilizes the natural power of the sun. The system has been designed to produce "Mature Heat" which, when used, forces bacteria to produce the high quality compost (FIG-CO). FIG also recycles material waste in Municipal Solid Waste (MSW). A recent study suggests that FIG is an effective technique for the successful enhanced handling of hazardous waste.

FIG Composting System

The FIG Composting System (FIG) is an advanced, patented, aerobic, aerated composting process that utilizes the natural power of the sun. The system has been designed to produce "Mature Heat" which, when used, forces bacteria to produce the high quality compost (FIG-CO). FIG also recycles material waste in Municipal Solid Waste (MSW). A recent study suggests that FIG is an effective technique for the successful enhanced handling of hazardous waste.



Figure 6
 Design of the Substrate Loaded Pile Composting System

An analysis of FIG as a composting method and other aerobic composting systems is contained in the report FIG-CO, 1988.

An Analysis of Composting as an Environmental Remediation Technology 9

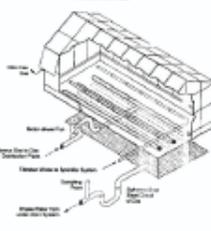


Figure 17
 Modified Fluidized Bed Design for Capture of Volatile Emissions During Composting of Contaminated Soil

Source: Carlson, 1988

An Analysis of Composting as an Environmental Remediation Technology 10

TABLE 8
 Volatile Removal Efficiencies of Full-Scale Compost Facilities

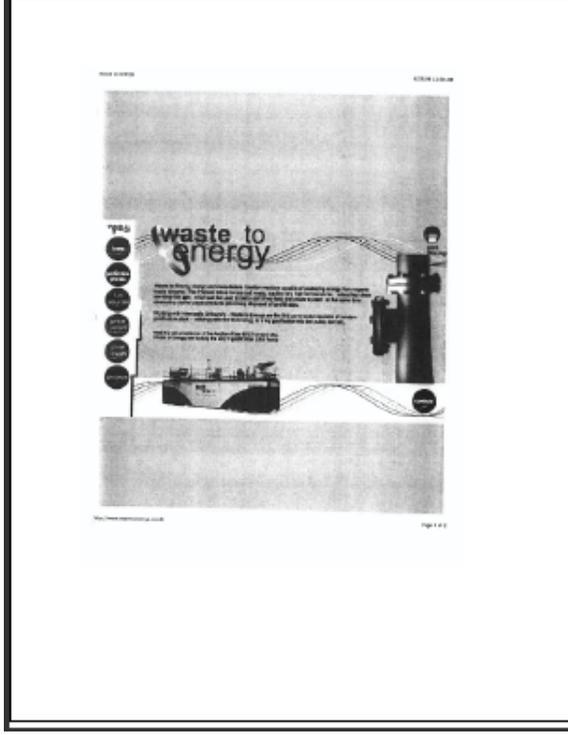
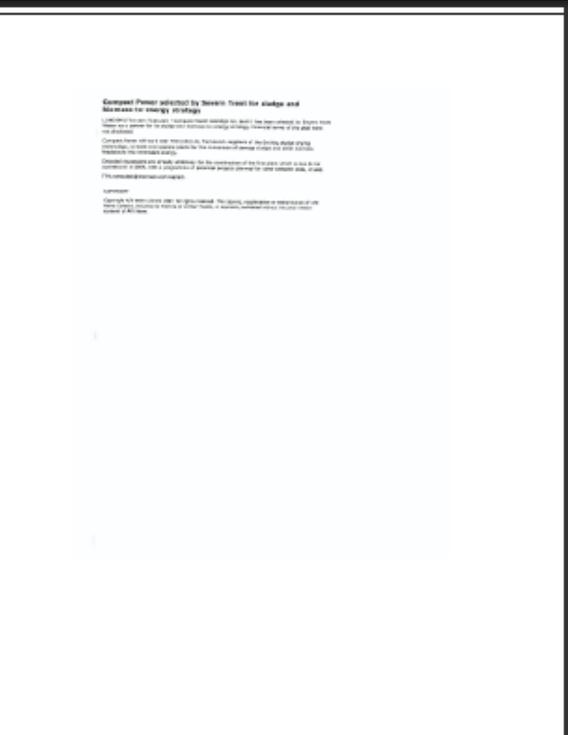
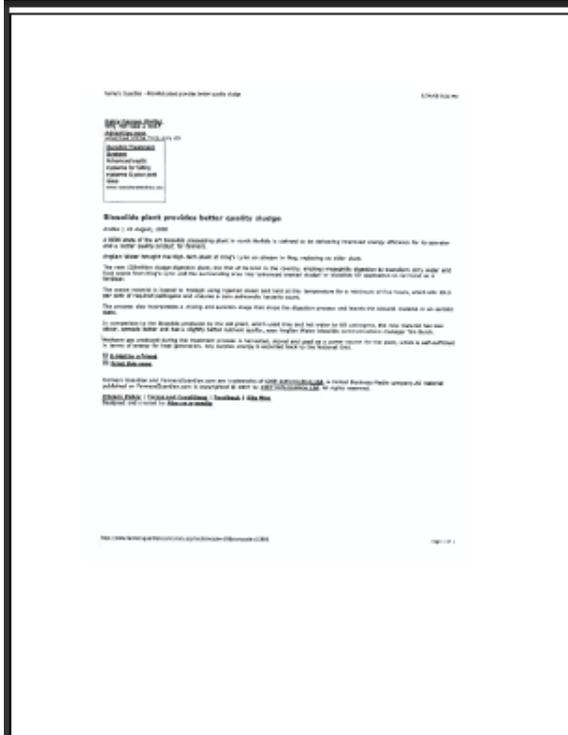
Compost Facility	Variable	Inlet Air Concentration	Exit Air Concentration	Percentage Removed
Mills compost	Chloroform	20 mg/100 ft ³	Not detected	> 100
	Carbon tetrachloride	10	Not detected	> 100
	Trichloroethylene	10	6 mg/100 ft ³	39
	Total organic C	100	10	90
MRF compost	Total C	200 mg/100 ft ³	0	100
	Chloroform	5,400 cubic units	70 cubic units	99
Millsville compost	H ₂ S	100 ppm	100 ppm	0-100
	Hydrogen sulfide	100 ppm	4 mg/100 ft ³	96

Source: Carlson, 1988

An Analysis of Composting as an Environmental Remediation Technology 11

<p>The specific model (type of system) used also had a large influence on performance (Figure 5). Improvement of TSS from the air above reported to be directly related to reduction in the number of particulates within the system, when annual deposition of a single micron of TSS required 10 to 15 days. Overall removal efficiency was 90.0 percent when the air contained 2,000 µg of TSS.</p> <p style="text-align: center;">Table 7 General Efficiency of a Compost Buffer for Hydrogen Sulfide, Sulfur, Toluene, and Other Volatiles</p> <table border="1"> <thead> <tr> <th>Analysis</th> <th>Inlet Concentration (ppm)</th> <th>Outlet Concentration (ppm)</th> <th>Removal Efficiency (%)</th> <th>Outlet to Inlet Ratio</th> <th>Percentage Removal</th> </tr> </thead> <tbody> <tr> <td>Hydrogen Sulfide</td> <td>15.00</td> <td>0.9</td> <td>94.0</td> <td>0.06</td> <td>94.0</td> </tr> <tr> <td>Sulfur</td> <td>100</td> <td>40</td> <td>60</td> <td>0.40</td> <td>60.0</td> </tr> <tr> <td>Toluene</td> <td>1.00</td> <td>0.75</td> <td>25</td> <td>0.75</td> <td>25.0</td> </tr> <tr> <td>Other Volatiles</td> <td>100</td> <td>27</td> <td>73</td> <td>0.27</td> <td>73.0</td> </tr> <tr> <td>Average</td> <td>100</td> <td>17</td> <td>83</td> <td>0.17</td> <td>83.0</td> </tr> </tbody> </table> <p>Table 7 shows that of compost buffers to remove various compounds and methods of venting gas during composting. This also has been shown (Figure 5). The performance of the filter was dependent on the inlet concentration of the gas. The performance of the filter was dependent on the inlet concentration of the gas. The performance of the filter was dependent on the inlet concentration of the gas. The performance of the filter was dependent on the inlet concentration of the gas.</p> <p>12 Air Analysis of Composting as an Environmental Remediation Technology</p>	Analysis	Inlet Concentration (ppm)	Outlet Concentration (ppm)	Removal Efficiency (%)	Outlet to Inlet Ratio	Percentage Removal	Hydrogen Sulfide	15.00	0.9	94.0	0.06	94.0	Sulfur	100	40	60	0.40	60.0	Toluene	1.00	0.75	25	0.75	25.0	Other Volatiles	100	27	73	0.27	73.0	Average	100	17	83	0.17	83.0	<p>Compost buffers are effective in reducing the VOCs generated during the composting of organic waste (Figure 5). VOCs are reduced when the air is removed. The gas is removed through a multiple compost buffer, unless the air is removed and captured in an exhaust. Typical concentrations for maximum VOC concentrations for buffers are about 1000 µg of air, above which the buffers are not considered to be a control system. VOCs are reduced when the air is removed. The gas is removed through a multiple compost buffer, unless the air is removed and captured in an exhaust. Typical concentrations for maximum VOC concentrations for buffers are about 1000 µg of air, above which the buffers are not considered to be a control system. VOCs are reduced when the air is removed. The gas is removed through a multiple compost buffer, unless the air is removed and captured in an exhaust. Typical concentrations for maximum VOC concentrations for buffers are about 1000 µg of air, above which the buffers are not considered to be a control system.</p> <p>The ability of compost buffers to reduce VOCs is dependent on the inlet concentration of the gas. The performance of the filter was dependent on the inlet concentration of the gas. The performance of the filter was dependent on the inlet concentration of the gas. The performance of the filter was dependent on the inlet concentration of the gas.</p> <p>13 Air Analysis of Composting as an Environmental Remediation Technology</p>
Analysis	Inlet Concentration (ppm)	Outlet Concentration (ppm)	Removal Efficiency (%)	Outlet to Inlet Ratio	Percentage Removal																																
Hydrogen Sulfide	15.00	0.9	94.0	0.06	94.0																																
Sulfur	100	40	60	0.40	60.0																																
Toluene	1.00	0.75	25	0.75	25.0																																
Other Volatiles	100	27	73	0.27	73.0																																
Average	100	17	83	0.17	83.0																																
<p>When a filter is used, an air stream is not removed only 40 to 50 percent of the incoming air, but a 100 percent return, supplied with nitrogen, removed 60 to 70 percent of incoming air.</p> <ul style="list-style-type: none"> • Reduce inlet air volume between 10 to 15 percent to reduce high moisture content. High moisture content also increases the capacity of water vapor (VOCs) when compressed to 100-1500. For high moisture content, the capacity of water vapor (VOCs) when compressed to 100-1500. For high moisture content, the capacity of water vapor (VOCs) when compressed to 100-1500. • Control temperature most within 20°C and 30°C. Below 20°C, microbial activity is reduced and the system will not function. Above 30°C, the temperature dependent reaction is fast and the system will not function. Above 30°C, the temperature dependent reaction is fast and the system will not function. • Reduce time of the air stream going through the filter absolute at least 10 seconds. High moisture content also increases the capacity of water vapor (VOCs) when compressed to 100-1500. For high moisture content, the capacity of water vapor (VOCs) when compressed to 100-1500. • Typical size of the filter (bed) is 1 meter. Shorter depths provide poor performance, and if the filter is too small, the air will not be filtered. Shorter depths provide poor performance, and if the filter is too small, the air will not be filtered. • The system must be designed to ensure carbon is available upon entering the filter, and the filter medium must be dimensionally stable so that the space between and spacing of carbon does not change. Changing dimensions between the inlet and outlet of the filter will reduce, usually reducing filter performance. <p>13 Air Analysis of Composting as an Environmental Remediation Technology</p>	<p style="text-align: center;">Figure 11 General Efficiency of Compost Buffer for Sulfide Sulfide Organic Compounds</p> <table border="1"> <thead> <tr> <th>Compound</th> <th>Removal Efficiency (%)</th> </tr> </thead> <tbody> <tr> <td>Hydrogen Sulfide</td> <td>94.0</td> </tr> <tr> <td>Sulfur</td> <td>60.0</td> </tr> <tr> <td>Toluene</td> <td>25.0</td> </tr> <tr> <td>Hydrocarbons</td> <td>73.0</td> </tr> <tr> <td>Other Volatiles</td> <td>83.0</td> </tr> </tbody> </table> <p>Table 7, 1988 (Figure 5)</p> <p>13 Air Analysis of Composting as an Environmental Remediation Technology</p>	Compound	Removal Efficiency (%)	Hydrogen Sulfide	94.0	Sulfur	60.0	Toluene	25.0	Hydrocarbons	73.0	Other Volatiles	83.0																								
Compound	Removal Efficiency (%)																																				
Hydrogen Sulfide	94.0																																				
Sulfur	60.0																																				
Toluene	25.0																																				
Hydrocarbons	73.0																																				
Other Volatiles	83.0																																				

 <p>...the world's largest plant to city's largest project...</p>	 <p>...the world's largest plant to city's largest project...</p>
<p>Timing Slips, Facility</p> <p>Slacks</p> <p>A proposed \$180-million bio-fuel energy plant in Banning would be the largest commercial project in the city's history, generating as much as 40 percent of the city's electricity needs, providing many local jobs and contributing as much as \$2 million a year in city tax revenues. As Fall capacity, the state of the world (bio) fuel plant would average 100,000 tons of waste from local nurseries and other nurseries. The plant is to be built in Banning, which would be used to the city's municipal utility as a discounted price.</p> <p>Water Use</p> <p>The project would require about 1.7 million gallons of water per year. The two main sources for this water are groundwater and the city's wastewater treatment facility. Fresh water will be provided for the general use of the facility and its employees only. The used water will be treated to discharge standards by the plant, at their expense.</p> <p>Traffic and noise</p> <p>Liberty Energy says it will spend millions of dollars in road improvements to help mitigate traffic congestion. Liberty says it will require a 20 percent reduction of nitrogen and sulfur dioxide emissions along the truck route to the facility.</p> <p>Residue</p> <p>Residue will be the sludge will be used to the plant in large bins, the residue are used and there is no discharge. There is a nitrogen-like system because that some of the sludge is also recycled during the process. The truck driver use the plant to collect. After the truck leaves it is stored and then it is used to feed the fish. The sludge is then already pumped to storage bins. The truck driver use through a wash and the water recirculated before the truck enters the chamber.</p> <p>Site</p> <p>Director said The Banning Fuel Warehouse has set wind separation methods for the 100-foot tower. The standards of the South Coast Air Quality Management District, sludge plant responsibility for that or provided designed to reduce up to 50 percent. The city will ensure of the Banning Fuel and the world's largest plant to be the same as any other in the area." Director said. "We will be using that to maintain and water on a regular. We are looking to Cal Fire to mitigate any additional standards that need to be met."</p> <p>The facility will have few restrictions on site in the form of the 100-foot tower. The standards of the South Coast Air Quality Management District, sludge plant responsibility for that or provided designed to reduce up to 50 percent. The city will ensure of the Banning Fuel and the world's largest plant to be the same as any other in the area." Director said. "We will be using that to maintain and water on a regular. We are looking to Cal Fire to mitigate any additional standards that need to be met."</p> <p>There will be some amount of green waste at the plant they will have an emergency water supply like system or some system to maintain the standard for a day of a day.</p>	<p>Construction</p> <p>The facility will be built directly in a residential area. The sludge is then already pumped to storage bins. The truck driver use through a wash and the water recirculated before the truck enters the chamber. The site will be used to collect and store waste generated at the plant.</p> <p>Construction Cost</p> <p>If approved by the city, project construction could begin in May 2011. The first plant's construction will be completed by February 2012. "The proposed project would meet the state policy goals of increasing renewable energy production and reducing greenhouse gas emissions and therefore will be a significant benefit."</p> <p>Jobs and revenue</p> <p>During construction, the project would generate about 100 jobs, and once completed, it would take as many as 70 employees to operate it, according to Liberty. The average hourly wage paid at the plant will be \$20 an hour and the plant's payroll will amount to more than \$2 million in wages and benefits. He estimated that the project will generate \$27 million in the first year and \$12 million in the second year. The plant is expected to generate more than \$12 million in property taxes over the same period.</p> <p>Costs</p> <p>Liberty makes 50 percent of the increase by charging others to take the sludge. The plant could bring in sludge from as far away as San Diego and Kern counties.</p> <p>Reduced air emissions</p> <p>The Banning Fuel plant was a waste treatment facility that had been closed. The new process and the energy producing units have reduced emissions from the plant, according to the Banning Council. In 2005, the plant reduced air consumption, lowering costs. In 2006, the plant reduced air consumption by 90 percent, producing as much as \$4 million in savings. The South Coast Air Quality Management District, which is the lead agency for the project, has set standards for the plant's air emissions, but some of the most stringent are still pending.</p> <p>"The air out is cleaner than the air going in."</p>



<p>11. How does the proposed facility fit into the local energy picture for its customers?</p> <p>making the Standard facility energy-independent.</p> <p>"The project discusses the potential to transform the wastewater treatment industry into a major producer of renewable heat and power. For example, the Standard facility, a major producer of the Standard pollution control products, used in a major industry.</p> <p>The Standard facility is to be used as a demonstration of how to make power that can be used to replace fossil fuels. Standard, with a coalition of 100,000, estimates that the Standard facility will have to be built by 2011. It is expected to reduce its greenhouse gas emissions by about 4,200 tons annually, equivalent to saving 1,000 cars off the road.</p> <p>standard@standard.com</p> <p>Check out Standard's website: www.standard.com</p> <p>standard@standard.com</p>	<p>From: San Bernardino County News, 12-10-06 Colton, CA Aiming to See Positive Side to Sewage. The city is looking to become a pioneer in how it treats and disposes of its sewage. The City Council tonight is expected to consider plans for an 8-acre indoor bioenergy drying facility that would process and treat municipal sewage at the city's wastewater treatment plant on South Rancha Avenue. The terms of the agreement are still being negotiated between the city and BioEnergy California LLC and Carolina Energy Management LLC in Los Angeles. So it's possible the matter will be postponed to the council's Jan. 16 meeting, City Manager Darryl Parrish said. Currently, the city dries municipal sewage in open-air drying beds at its plant and contracts with a company to have it removed and incinerated. The city pays about \$200,000 a year to have it removed, or dried sewage sludge, disposed of by other contractors, said Eric Finner, Colton's water and wastewater director. Under the proposal, the city would lease part of its wastewater treatment plant property to BioEnergy for a 24-year, 30-to-40-year term.</p> <p>BioEnergy would process and treat municipal sewage at its cost and sell the power to the city at a fixed rate. The processing of the sewage would generate electrical power that would be sold back to the city at a fixed rate.</p> <p>Finner said, "Other cities could have their sewage delivered to the facility, generating additional money for Colton. Finner said BioEnergy would pay the city \$1 per ton for additional sewage that is treated at the facility, which would amount to about 1,000 tons per day. Finner said the project would not significantly increase truck traffic on Rancha Avenue, an already heavily traveled street with industrial and commercial businesses. The project also would reduce odors through the operation of the wastewater drying ponds, Finner said.</p> <p>The project would be funded through \$180 million in tax-waiver bonds. The city would serve as a conduit to help facilitate the bond issuance, but the operators would assume any liability and debt service on the bonds, Finner said. "I think it's a win-win situation because it's going to reduce the amount of waste we have to ship out and pay for," Councilman David Vora said. "At the same time, we don't have to absorb tax dollars to pay for the bonds and it's going to generate electricity and some revenue for the city."</p>
<p>Technology 1108</p> <p>Thermolytic Conversion</p>  <p>The Sludge To Oil Reactor System (STORS) is a sludge and oil biomass treatment process that, when combined with the Anaerobic Sludge Process (ASP), greatly reduces the regulatory, physical and financial burden of handling and operating municipal wastewater treatment facilities. Some of the STORS/ASP process benefits over conventional wastewater treatment methods include:</p> <ul style="list-style-type: none"> • Reduce Conversion of Sludge to High Energy Fuel • Increase Nitrogen Removal Efficiency • Up to 100% Sludge Treatment • Regularly Effective as Dewater or Non-Construction • Significantly Reduces Overall Equipment Costs <p>The STORS/ASP process also can separate the water in the sludge for reuse elsewhere, as bioenergy, and a low molecular weight sludge residue into oil.</p> <p>The STORS/ASP Revolutionary New Concept</p>  <p>Oil-rich waste is separated from water and sludge in a process that produces a high energy fuel. The oil is then converted into a high energy fuel in the form of oil or gas. The system can be configured to produce whichever fuel has the greatest value within the current market. In addition, some carbon dioxide is formed and discharged along with the excess water. The value of "this fuel" is one fourth the volume of the original dewatered sludge and with a fuel value of a million-gal and (between 5,000 and 10,000 Btu per pound), can be added to a number of industries as a power source. It can also be used as fuel in power generation to run the facility or sold to the local grid. The other 50% of the heating value of sludge fuel and is used to run the dry distillation. The carbon dioxide gas is not collected and released. The STORS/ASP process</p>	<p>Technology 1108</p> <p>along with the excess water coming from the dewatering process, it sent to the Anaerobic Sludge Process (ASP) Anaerobic Process (ASP) located for dewater (dewater) where the sludge, in the form of ammonia, is converted into one of three separate carbon-based products: ammonia, methane, or liquid ammonia. Depending on local regulations, either ammonia product represents the best contextual value for the geographical location.</p> <p>Small Size - Easy Fit</p> <p>The STORS/ASP is a compact system that can be easily integrated into existing wastewater treatment facilities, fitting up into one used for sludge digestion, storage or drying, or for loading on trucks for off-site disposal. A key factor for large urban areas where additional capacity expansion is desired but the space required by conventional process methods is simply not available. In addition, by installing a STORS/ASP system, many municipal wastewater plant operators can actually reduce up to a 50% increase in plant capacity by eliminating the sludge stockpile.</p> <p>STORS/ASP Process Comments</p> <p>It has long been said that there are only two dollars in the municipal wastewater industry: compliance and cost. Aside from being the best available technology for achieving or exceeding state, state and federal regulatory standards, the STORS/ASP process will, in most cases, significantly reduce the overall cost of operating a wastewater treatment plant.</p>  <p>The STORS/ASP process is a compact system that can be easily integrated into existing wastewater treatment facilities, fitting up into one used for sludge digestion, storage or drying, or for loading on trucks for off-site disposal. A key factor for large urban areas where additional capacity expansion is desired but the space required by conventional process methods is simply not available. In addition, by installing a STORS/ASP system, many municipal wastewater plant operators can actually reduce up to a 50% increase in plant capacity by eliminating the sludge stockpile.</p> <p>The STORS/ASP process is a compact system that can be easily integrated into existing wastewater treatment facilities, fitting up into one used for sludge digestion, storage or drying, or for loading on trucks for off-site disposal. A key factor for large urban areas where additional capacity expansion is desired but the space required by conventional process methods is simply not available. In addition, by installing a STORS/ASP system, many municipal wastewater plant operators can actually reduce up to a 50% increase in plant capacity by eliminating the sludge stockpile.</p> <p>The STORS/ASP process is a compact system that can be easily integrated into existing wastewater treatment facilities, fitting up into one used for sludge digestion, storage or drying, or for loading on trucks for off-site disposal. A key factor for large urban areas where additional capacity expansion is desired but the space required by conventional process methods is simply not available. In addition, by installing a STORS/ASP system, many municipal wastewater plant operators can actually reduce up to a 50% increase in plant capacity by eliminating the sludge stockpile.</p>

Process

With the addition of the Energy and Heat Recovery System, the facility will be able to generate its own energy. This will reduce the facility's reliance on external energy sources. The Energy and Heat Recovery System will also reduce the facility's reliance on external energy sources.

Compost Pasteurization

There is a process for the hot composting process that is known as the hot composting process. This process is used to pasteurize the compost. The hot composting process is used to pasteurize the compost.



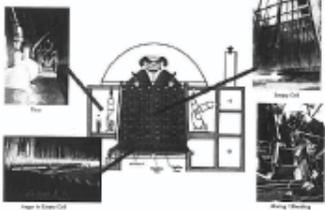




AirLance™ Organic Waste Pasteurization Process

Process Overview

The AirLance™ Organic Waste Pasteurization Process is a process that uses air to pasteurize organic waste. The process involves the use of air to pasteurize the waste. The process is used to pasteurize the waste.



The AirLance process is used to pasteurize organic waste. The process involves the use of air to pasteurize the waste. The process is used to pasteurize the waste.



AirLance™ Process

Low Energy

Low Noise

Minimal Land Space

Ready Installed

Low Emission and Odor Control

A Good Neighbor

The process uses a small fraction of the energy of other composting methods. The process is used to pasteurize the waste.

Redhead's Regional Facility

Through a long and successful relationship with the City of Redhead, we have developed a superior solution. The facility serves as the only composting facility in the region. The facility is used to pasteurize the waste.

Proposal

The proposal is for a new composting facility. The facility is used to pasteurize the waste. The facility is used to pasteurize the waste.




ILS - Raptinas

providing innovative solutions for today's waste-to-energy technology challenges.

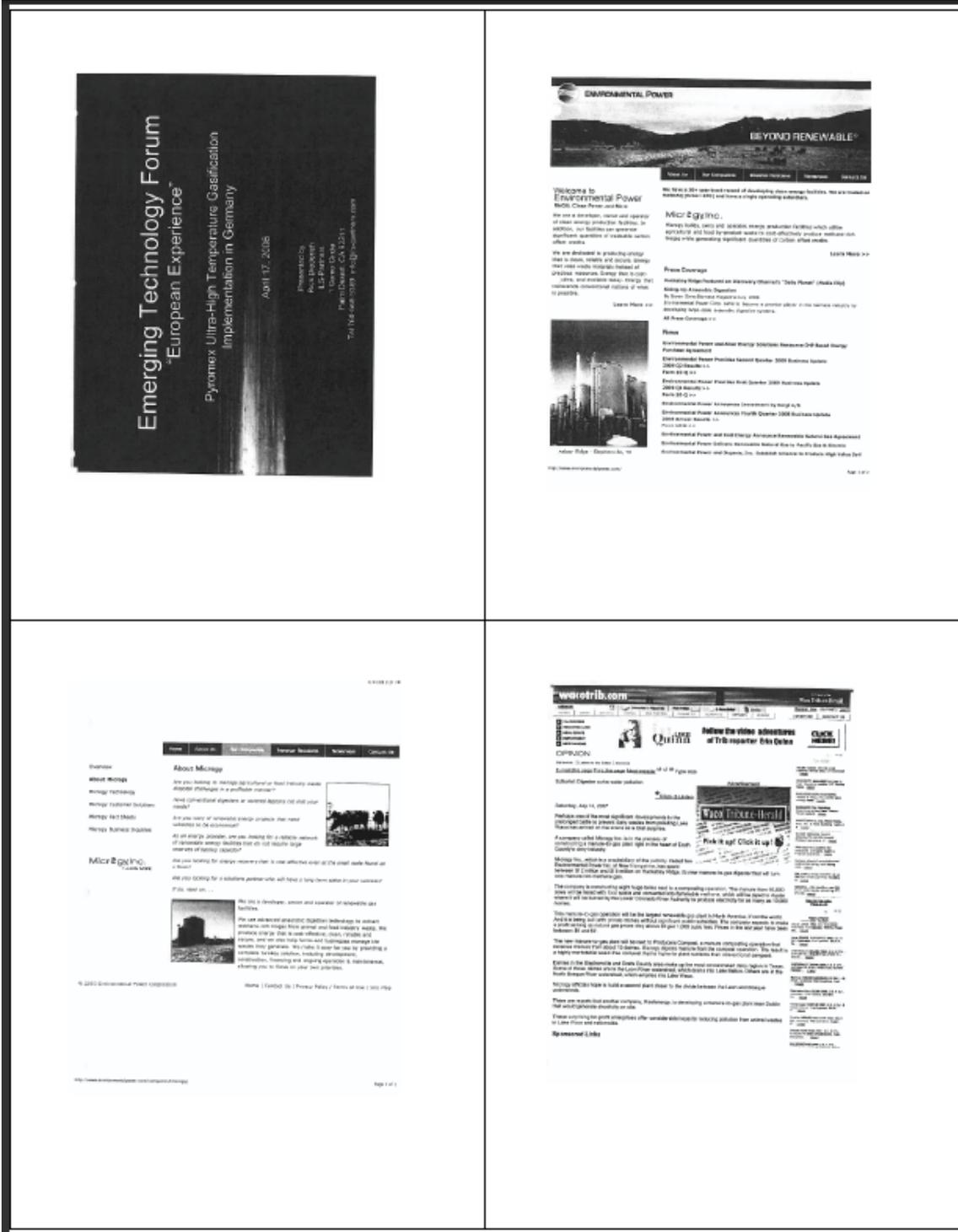
Operational System

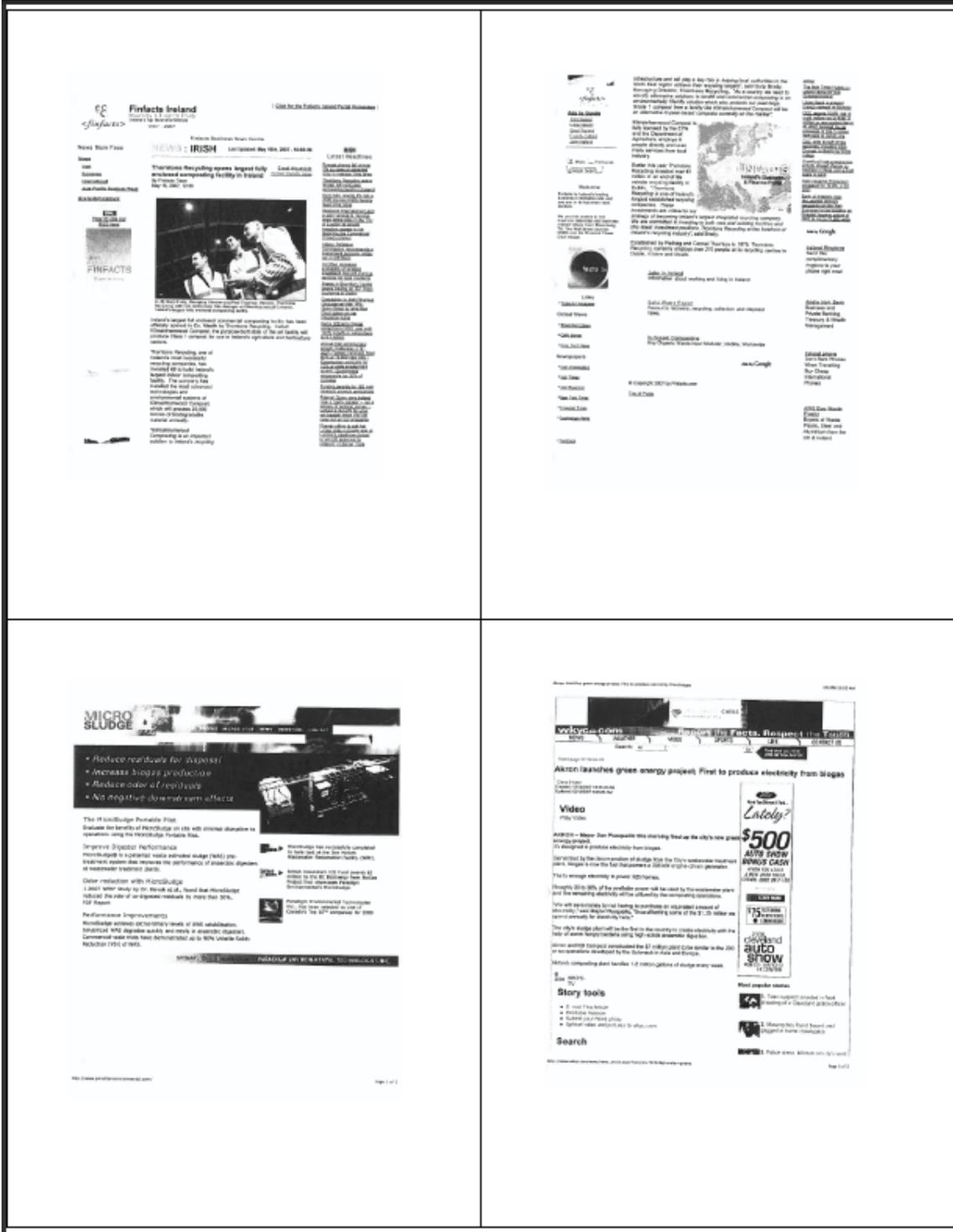
- Proven 25 ton per day system installed in Germany
- System meets or exceeds all stringent German environmental and air pollution standards
- The view is of the boiler that feeds material to the reactor

System Diagram

- System design is able from 10 ton per day to 200 ton per day
- System requires no special 7% of capital volume
- System is profitable to operate and just cost effective







Landfilling Nursery Waste in the United States ... cont'd.

As a result of the landfilling of nursery waste, the amount of nursery waste that is landfilled is increasing. This increase is due to the fact that the amount of nursery waste that is generated is increasing. The amount of nursery waste that is generated is increasing because of the fact that the amount of nursery plants that are sold is increasing. The amount of nursery plants that are sold is increasing because of the fact that the amount of nursery plants that are sold is increasing.

WASTE CO-USE FOR FERTILIZER

There are at least two ways in which waste can be used as a fertilizer. One way is to use the waste as a fertilizer for the soil. The other way is to use the waste as a fertilizer for the plants. The use of waste as a fertilizer is a good idea because it can help to reduce the amount of fertilizer that is needed. It can also help to reduce the amount of waste that is landfilled.

RESEARCH

There is a need for more research on the use of waste as a fertilizer. This research should focus on the following areas: (1) the amount of waste that can be used as a fertilizer, (2) the types of waste that can be used as a fertilizer, and (3) the effects of waste as a fertilizer on the soil and the plants.

Table 1. Current Waste Management Practices for Nursery Waste in Orange County.

Waste Management - This section describes the current waste management practices for nursery waste in Orange County. It includes information on the types of waste that are generated, the amount of waste that is generated, and the ways in which the waste is managed.

Landfilling - This section describes the current landfills that accept nursery waste in Orange County. It includes information on the location of the landfills, the capacity of the landfills, and the types of waste that are accepted.

Composting - This section describes the current composting facilities that accept nursery waste in Orange County. It includes information on the location of the facilities, the capacity of the facilities, and the types of waste that are accepted.

Recycling - This section describes the current recycling programs that accept nursery waste in Orange County. It includes information on the types of waste that are accepted and the ways in which the waste is recycled.

Other - This section describes other waste management practices that are used in Orange County. It includes information on the types of practices and the ways in which they are used.

Landfilling Nursery Waste in the United States ... cont'd.

There are several reasons why the amount of nursery waste that is landfilled is increasing. One reason is that the amount of nursery plants that are sold is increasing. Another reason is that the amount of nursery waste that is generated is increasing. A third reason is that the amount of nursery waste that is accepted by landfills is increasing.

RESEARCH

There is a need for more research on the use of waste as a fertilizer. This research should focus on the following areas: (1) the amount of waste that can be used as a fertilizer, (2) the types of waste that can be used as a fertilizer, and (3) the effects of waste as a fertilizer on the soil and the plants.

Table 1. Current Waste Management Practices for Nursery Waste in Orange County.

Waste Management - This section describes the current waste management practices for nursery waste in Orange County. It includes information on the types of waste that are generated, the amount of waste that is generated, and the ways in which the waste is managed.

Landfilling - This section describes the current landfills that accept nursery waste in Orange County. It includes information on the location of the landfills, the capacity of the landfills, and the types of waste that are accepted.

Composting - This section describes the current composting facilities that accept nursery waste in Orange County. It includes information on the location of the facilities, the capacity of the facilities, and the types of waste that are accepted.

Recycling - This section describes the current recycling programs that accept nursery waste in Orange County. It includes information on the types of waste that are accepted and the ways in which the waste is recycled.

Other - This section describes other waste management practices that are used in Orange County. It includes information on the types of practices and the ways in which they are used.

ORGANIC CONTAMINANTS IN SEWAGE SLUDGE FOR AGRICULTURAL USE

PROJECT COORDINATOR

Richard C. Johnson
 Richard C. Johnson
 Richard C. Johnson
 Richard C. Johnson
 Richard C. Johnson

DATA LABORATORY AND REPORTING

ORCA Center for Environmental Research
 1000 University Ave.
 Santa Ana, CA 92705
 714/241-1000
 714/241-1001

Richard P. Wilson, Ph.D.
 Assistant Professor of Environmental Microbiology
 2000 University Ave.
 Santa Ana, CA 92705
 714/241-1000

July 8, 2008

Superior Sludge, Incorporated
 400 West Taylor Street, Suite 100
 Los Angeles, CA 90012

Re: Sewage Sludge Composting Facility Project No. 08-005.

Dear Superiors:

I am the project manager for the Superior Sludge Composting Facility Project. I am writing to you to discuss the results of the recent monitoring and sampling of the facility. The results show that the facility is operating in compliance with the permit conditions. I am pleased to report that the facility is producing high quality compost that is suitable for agricultural use.

How the "Hazel Ranger" Works

The Hazel Ranger provides a quiet, efficient, and reliable means of transporting and handling nursery products. It is designed for use in nurseries, greenhouses, and other facilities where large quantities of plants and materials need to be moved.

Key Features:

- Quiet operation
- Efficient transport
- Durable construction
- Easy maintenance
- Versatile use
- Compact design
- Safe operation



How the Hazel Ranger Works

The Hazel Ranger provides a quiet, efficient, and reliable means of transporting and handling nursery products. It is designed for use in nurseries, greenhouses, and other facilities where large quantities of plants and materials need to be moved.

Key Features:

- Quiet operation
- Efficient transport
- Durable construction
- Easy maintenance
- Versatile use
- Compact design
- Safe operation



Accessories

The Hazel Ranger is available with several accessories to enhance its functionality and efficiency. These accessories are designed to meet the specific needs of different nursery environments.

Available Accessories:

- Transport containers
- Protective covers
- Customized parts
- Spare parts
- Maintenance kits
- Safety equipment
- Storage solutions
- Cleaning supplies
- Replacement tires
- Lubricants



Origin of Mojave Desert dust plumes photographed from space

J. K. Williford¹, R. G. Wilson² and G. G. Boreau³

¹U.S. Geological Survey, Menlo Park, California 94025
²California Off-road Vehicle Task Force, Sierra City, San Francisco, California 94588
³U.S. Geological Survey, Menlo Park, California 94025

Six dust plumes, including Snake Lake Basin Area wind and covering an area of 75,000 km² of the Mojave Desert, were photographed by the Lunar Reconnaissance Orbiter (LRO) during its mission on January 1, 2009. The origin of the plumes was identified as Snake Lake Basin, California. The plumes were observed on January 1, 2009, and were associated with dust storms originating from the California desert surface provided for use in the region of the Mojave Desert.

This article has been cited by other articles:

Williford, J. K., Wilson, R. G., and Boreau, G. G. (2009). Origin of Mojave Desert dust plumes photographed from space. *Journal of Geophysical Research*, 114, F01001. doi:10.1029/2008JG001101

Response to Comment Letter SC41

The comment letter was accompanied by 127 pages of enclosures without either explanation of the enclosures or references to the 10 page letter. The enclosures were fully reviewed in preparing the response to comments set forth below. The Lead Agency is not required to speculate as to the purpose for which the enclosures were submitted. Where the enclosures were clearly relevant they were considered in the following responses. Where the enclosures were either unrelated to the Project, unrelated to the SEIR or too ill-defined to correlate to a specific comment, no further action is taken. Enclosures were noted and fully considered where relevant.

- SC41-1: The comment letter received on April 13, 2009 was responded to in Appendix A of the SEIR (NC21-1 through NC21-34), specifically starting on page 103.
- SC41-2: Comment noted. See Response to Comments SC11-1, SC12-1 and SC12-2.
- SC41-3: Comment noted. See Response to Comment SC9-1 through SC9-6.
- SC41-4: The Lead Agency acknowledges the concern with respect to their representation by the County of San Bernardino in this matter. However, the comment does not address environmental issues pertinent to the SEIR.
- SC41-5: Comment noted. The comment refers to Project design and operation, specifically raw materials, which is not within the scope of the SEIR and hence no response is necessary. This issue was addressed in the Draft EIR Section 2.3 (beginning on page 2-11).
- SC41-6: Comment noted. See Response to Comment SC12-2.
- SC41-7: Comment noted. See Response to Comment SC20-10, also note that Comment Letters SC23 and SC24 are local area farmers that are in support of the proposed Project.
- SC41-8: Comment noted. The comment refers to certain aspects of the Project's impact on other area facilities, which is not within the scope of the SEIR and hence no response is necessary. However, the following discussion is provided as a courtesy to the commenter. Due to the high cost of enclosed facilities, the enclosed facilities operating in Southern California were built and are operated by publicly funded agencies. These facilities have apparently been developed to accommodate the biosolids from the local wastewater treatment plants. The development of the Project will have no direct economic impact on these facilities as the proposed Project will accept biosolids from municipalities that are not contractually or legally bound to support publically supported composting facilities.
- SC41-9: Comment noted. See Response to Comment SC41-5.
- SC41-10: Comment noted. The comment refers to potential impacts to air and water quality and the quantity of biosolids composted by the proposed Project, which are not within the scope of the SEIR and hence no response is necessary. These issues were addressed in the Draft EIR Section 4.3, 4.7, and 2.1 (beginning on page 4-3, 4-52, and 2-1) respectively. The analysis of impacts to air quality was specifically challenged in the Superior Court and the Court concluded that further analysis was not required.
- SC41-11: The County welcomes the participation of all citizens in the public review of this SEIR during the CEQA process. CEQA and the CEQA Guidelines contain specific

requirements governing preparation, contents of Draft SEIRs, and public review of Draft SEIRs. The Draft SEIR for the proposed Project complies with all such requirements. No statute or regulation requires that Draft SEIRs be prepared in Spanish. Put simply, there is no legal requirement that Draft SEIRs be prepared in Spanish. Therefore, the County's decision to prepare and circulate the Draft SEIR in English does not constitute a violation of CEQA.

The County's decision to prepare previous notices in both English and Spanish is not a concession regarding the legal necessity of a Spanish language Draft SEIR, but rather an attempt to go beyond the requirements of the law to promote attendance at meetings where the Project was discussed. As such, they represent neither evidence of a prior CEQA violation nor a binding requirement for future CEQA compliance activities.

- SC41-12: Comment noted. The comment refers to the Project description, specifically the number of truck trips, which is not within the scope of the SEIR and hence no response is necessary. This issue was addressed in the Draft EIR Section 2.5 (beginning on page 2-18).
- SC41-13: Comment noted. See Responses to Comments SC20-31 and SC7-1.
- SC41-14: Comment noted. The comment refers to the potential impacts from weather, which is not within the scope of the SEIR and hence no response is necessary. Impacts from weather were discussed in the Draft EIR with respect to the various environmental resources, including air quality, hazardous materials, and water quality.
- SC41-15: Comment noted. See Response to Comment SC6-1.
- SC41-16: Comment noted. See Responses to Comments SC9-1 through SC9-6.
- SC41-17: Comment noted. See Responses to Comments SC11-1 and SC20-31.
- SC41-18: Comment noted. The comment refers to the Project and operational description, which is not within the scope of the SEIR and hence no response is necessary. The project description, including the description of bulking agents was described in the Draft EIR (Section 2.3, page 2-11) and re-described in Section 2.1 page 2-1 of the SEIR. Also see Response to Comment SC41-12, with respect to truck trips.
- SC41-19: Comment noted. See Response to Comment SC9-1.
- SC41-20: Comment noted. The comment refers to erosion control, which is not within the scope of the SEIR and hence no response is necessary. Erosion control was discussed in the Draft EIR with respect to the various environmental resources, including air quality, hazardous materials, and water quality.
- SC41-21: Comment noted. See Response to Comment SC20-1.
- SC41-22: Comment noted. See Response to Comment SC20-21.
- SC41-23: Comment noted. The comment refers to Project design and operation specifically windrow dimensions and testing, which is not within the scope of the SEIR and hence no response is necessary. These issues were addressed in Draft EIR Section 2.2.2 and 2.2.3 (beginning on page 2-14).

- SC41-24: Comment noted. The comment refers to Project design and operation specifically number of employees, and monitoring and testing, which is not within the scope of the SEIR and hence no response is necessary. These issues were addressed in Draft EIR Section 2.2.2 and 2.2.3 (beginning on page 2-14).
- SC41-25: Comment noted. See Response to Comment SC41-5.
- SC41-26: Comment noted. See Response to Comment SC41-12 with respect to truck trips. The comment also refers to employee and vendor trips, which was addressed in the analysis of traffic in the Draft EIR and is not within the scope of the SEIR. Hence no response is necessary. These issues were addressed in Draft EIR Section 2.5 (beginning on page 2-18).
- SC41-27: Comment noted. See Responses to Comments SC5-1 and SC20-19.
- SC41-28: Comment noted. The comment refers to potential impacts to desert tortoise, which is not within the scope of the SEIR and hence no response is necessary. This issue was addressed in the Draft EIR Section 4.4 (beginning on page 4-31), specifically challenged in Superior Court where the analysis was fully sustained by the Court.
- SC41-29: Comment noted. See Responses to Comments SC41-28 and SC20-21.
- SC41-30: Comment noted. See Response to Comment 20-13.
- SC41-31: Comment noted. The comment refers to Project monitoring and controls, which is not within the scope of the SEIR and hence no response is necessary. These issues were addressed in Draft EIR Section 2.7 (beginning on page 2-18).
- SC41-32: Comment noted. See Responses to Comments SC7-2, SC8-1, and SC41-12.
- SC41-33: Comment noted. See Response to Comment SC 20-1, and 20-13.

THIS PAGE INTENTIONALLY LEFT BLANK