



CALIFORNIA FARM BUREAU FEDERATION
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Public Comment
CEQA- Composting General Order NOP
Deadline: 6/14/19 by 12 noon

Sent via E-mail

commentletters@waterboards.ca.gov

June 14, 2019



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

RE: Comment Letter – CEQA - Composting General Order NOP

Dear Mr. Roddy and Members of the Board:

The California Farm Bureau Federation (“Farm Bureau”) is a non-governmental, non-profit, voluntary membership California corporation whose purpose is to protect and promote agricultural interests throughout the state of California and to find solutions to the problems of the farm, the farm home, and the rural community. Farm Bureau is California’s largest farm organization, comprised of 53 county Farm Bureaus currently representing nearly 40,000 agricultural, associate, and collegiate members in 56 counties, and is part of a nationwide network of more than 5.5 million members. Farm Bureau strives to protect and improve the ability of farmers and ranchers engaged in production agriculture to provide a reliable supply of food and fiber through responsible stewardship of California’s resources.

Farm Bureau appreciates the opportunity to submit California Environmental Quality Act (“CEQA”) scoping comments on the Supplemental Environmental Impact Report (“SEIR”) for amendments to the General Waste Discharge Requirements for Composting Operations, Order WQ-2015-0121-DWQ (“General Order”).

Compost has many benefits, to include increasing soil’s water-holding capacity, aiding drought conservation, providing erosion control, increasing soil organic material, reducing greenhouse gases, and improving soil health. Given these benefits and more, Farm Bureau appreciates the State Water Resources Control Board’s proposal to amend the General Order to allow herbivore manure to be used as a feedstock at Tier I facilities, to allow the composting of both on-site and off-site materials and to increase the export limit.

Generally, livestock facilities would like to compost more materials, but they are subject to significant permitting requirements if they bring any off-site material onto their farms to compost with their manure. It appears that the State Water Board’s proposed amendments would allow such practices to occur. In addition to analyzing this within the forthcoming SEIR, Farm Bureau also respectfully requests that a larger exemption (larger than 5,000 cubic yards) be analyzed as an

alternative in order to allow for more availability of compost for farmers trying to improve soil health and increase carbon capture.

Additionally, Farm Bureau respectfully requests that the forthcoming amended General Order and associated SEIR analyze all impacts to agriculture as well as developing the most reasonable, efficient, and feasible program that accomplishes water quality goals. To that end, the following components should be included in the forthcoming SEIR:

Agricultural Resources Must Be Considered During Environmental Review

Agricultural resources are an important feature of the existing environment of the State, and are protected under federal policies, such as the Farmland Protection Policy Act and National Environmental Policy Act (“NEPA”), State policies, and CEQA. Agriculture is the number one industry in California, which is the leading agricultural state in the nation.¹ Agriculture is one of the foundations of this State’s prosperity, providing employment for one in 10 Californians and a variety and quantity of food products that both feed the nation and provide a significant source of exports.² In 1889, the State’s 14,000 farmers irrigated approximately one million acres of farmland between Stockton and Bakersfield. By 1981, the number of acres in agricultural production had risen to 9.7 million.³ More recently, the amount of agricultural land in the State has declined. From 1982 to 1992, more than a million acres of farmland were lost to other uses. Between 1994 and 1996, another 65,827 acres of irrigated farmland were lost, and this trend is expected to continue at a rate of 39,000 acres lost per year.⁴

In order to preserve agriculture and ensure a healthy farming industry, the Legislature has declared that “a sound natural resource base of soils, water, and air” must be sustained, conserved, and maintained.⁵ Prior to negatively impacting agricultural lands, decision makers must consider the impacts to the agricultural industry, the State as a whole, and “the residents of this state, each of whom is directly and indirectly affected by California agriculture.”⁶

One of the major principles of the State’s environmental and agricultural policy is to sustain the long-term productivity of the State’s agriculture by conserving and protecting the soil, water, and air that are agriculture’s basic resources.⁷ Overly expansive and duplicative regulations may conflict with this policy by leading to the conversion of agricultural lands to other uses. This conversion would add to the existing statewide conversion of substantial amounts of agricultural

¹ Food & Agr. Code, § 802(a).

² CALFED Final Programmatic EIS/EIR, July 2000, pg. 7.1-1. See also, CA. Dept. of Food and Agriculture, *California Agricultural Statistics Review 2016-2017*, available at <<https://www.cdfa.ca.gov/Statistics/PDFs/2016-17AgReport.pdf>>; California Assembly Committee on Jobs, Economic Development, and the Economy, Jose Medina, Chair (2014) *Fast Facts on California’s Agricultural Economy*, available at <<http://ajed.assembly.ca.gov/sites/ajed.assembly.ca.gov/files/Fast%20Facts%20on%20California%27s%20Agricultural%20Economy.pdf>>.

³ Littleworth & Garner, *California Water II* (Solano Press Books 2007) p. 8.

⁴ See CA Dept. of Conservation Farmland Mapping and Monitoring Program, available at <<http://www.conservation.ca.gov/dlrp/fmmp>>.

⁵ Food & Agr. Code, § 802(g).

⁶ Food & Agr. Code, § 803.

⁷ Food & Agr. Code, § 821(c).

lands to other uses and may conflict with adopted plans of many local governments, including cities and counties, and existing habitat conservation plans or natural community conservation plans. Such conversion will have a significant impact on the region's environment, including the agricultural environment.

CEQA requires analysis of significant environmental impacts and irreversible changes resulting from proposed projects.⁸ These include unavoidable impacts; direct, indirect, and cumulative effects; irreversible and irretrievable commitment of resources; relationships between short-term uses and long-term productivity; and growth-inducing impacts to the environment. Pursuant to CEQA, the physical environment includes agricultural lands and resources. Given the national and statewide importance of agriculture and the legal requirements of environmental review, Farm Bureau requests the State Water Board to properly assess all direct, indirect, and cumulative effects on the agricultural environment resulting from the proposed project in its environmental analysis.⁹

Of particular relevance for such analysis of impacts on the agricultural environment, CEQA Guidelines Appendix G, section II, Agriculture and Forestry Resources, states the following:

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

- (a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?
- (b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?
- (c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as

⁸ Pursuant to CEQA, "[s]ignificant effect on the environment" means, "a substantial, or potentially substantial, adverse change in the environment." (Pub. Resources Code, § 21068.) The CEQA Guidelines make it clear the "environment" in question encompasses, "any physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise and objects of historic or aesthetic significance." (Pub. Resources Code, § 21060.5.)

⁹ Any and all adverse environmental effects on agricultural resources resulting from the project, as well as cumulative impacts that will occur over time, must be fully assessed and disclosed under CEQA, as well as avoided or mitigated as required by CEQA.

defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?

- (d) Result in the loss of forest land or conversion of forest land to non-forest use?
- (e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?¹⁰

Although Appendix G's checklist provides a starting point for analyzing impacts to agricultural resources, additional analysis is needed to properly capture all impacts regulations may potentially have on agricultural resources.

Regulations of Waste Discharges Associated with Agricultural Lands Must Be Feasible

In formulating regulations of waste discharges impacting agricultural lands, the State Water Board should seek to develop the most efficient and feasible program that accomplishes water quality goals.¹¹ Given the diverse array of geography, topography, local conditions, and agricultural commodities grown in the State, water management and monitoring programs must be flexible and allow for necessary adaptations, both for localized areas and throughout the region. In addition to being flexible, future regulations and project alternatives must be feasible such that they are "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors."¹² All components of feasibility must be fully analyzed within the State Water Board's environmental analysis of the regulations and its impacts to agriculture.

Scope of Regulations of Waste Discharges Impacting Agricultural Lands Must be Reasonable

In enacting the Porter-Cologne Water Quality Control Act ("Porter-Cologne"), the Legislature laid out specific goals and objectives for the state's waters. The State Water Board must conform to all such statutory mandates, including the Legislature's objective:

The Legislature further finds and declares that activities and factors which may affect the quality of the waters of the state shall be regulated to *attain the highest water quality which is reasonable*, considering all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible.¹³

In its decision in *City of Burbank v. State Water Resources Control Bd.*, the California Supreme Court discussed the Legislature's intent, confirming its goal "to attain the highest water quality which is reasonable."¹⁴

¹⁰ Cal. Code Regs., tit. 14, § 15000 et seq. ("CEQA Guidelines, Appendix G).

¹¹ Pub. Resources Code, § 21061.1.

¹² *Ibid.*

¹³ Wat. Code, § 13000, emphasis added; see also *id.*, § 13241.

¹⁴ *City of Burbank v. State Water Resources Control Bd.* (2005) 35 Cal.4th 613, 619.

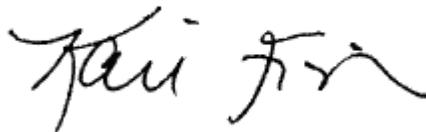
The use of the term “reasonable” and the “reasonableness” standard is not limited to the express goals laid out in Water Code section 13000. Rather, Porter-Cologne expressly calls for reasonable actions throughout.¹⁵ Thus, when analyzing impacts to water quality and amending the General Order, the State Water Board must comply and conform with Porter-Cologne’s “reasonableness standard”; that is, evaluate if the activity or control limit will *reasonably* protect the beneficial uses.

Scope of Environmental Review

Environmental review under CEQA focuses on potential impacts of the project on the “environment,” which is broadly defined to include the agricultural environment. “Environment” means the physical conditions which exist within the area which will be affected by a proposed project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historical or aesthetic significance. The area involved shall be the area in which significant effects would occur either directly or indirectly as a result of the project. The ‘environment’ includes both natural and man-made conditions.¹⁶ Thus, the environmental review within the SEIR must include the agricultural environment and analyze any resulting direct, indirect, and/or cumulative impacts that may impact agriculture.

Thank you for the opportunity to provide our comments. We look forward to further involvement and discussion with the State Water Board on the development of Supplemental Environmental Impact Report for amendments to the General Waste Discharge Requirements for Composting Operations, Order WQ-2015-0121-DWQ.

Very truly yours,



KARI E. FISHER
Senior Counsel

¹⁵ See, e.g., Wat. Code, § 13241 [calling for water quality objectives that will provide “*the reasonable protection of beneficial uses*” upon mandated review of specific factors including economics (emphasis added)]; *id.*, § 13050(h) [defines “water quality objectives” as “the limits or levels of water quality constituents or characteristics which are established for *the reasonable protection of beneficial uses of water* or the prevention of nuisance within a specific area” (emphasis added)]; *id.*, § 13263 [requiring regional water boards to take into consideration “water quality objectives reasonably required” to protect beneficial uses as well as all provisions of section 13241 when prescribing discharge requirements]; *id.*, § 13267(b)(1) [requiring technical or monitoring program reports for WDRs or conditional waivers to “bear a reasonable relationship to the need for the report and the benefits to be obtained”].

¹⁶ CEQA Guidelines, § 15360; see also Pub. Resources Code, § 21060.5.