

SECTION 3 RESPONSE TO COMMENTS

The comments on the Nursery Products Hawes Composting Facility Draft EIR (State Clearinghouse No. 2006051021) and the individual responses to each commentor are included in this section. The primary objective and purpose of the EIR public review process is to obtain comments on the adequacy of the analysis of environmental impacts, the mitigation measures presented, and other analyses contained in the report. CEQA requires that the County of San Bernardino, as the lead agency, respond to all significant environmental issues raised (CEQA Guidelines Section 15088). Comments that do not directly relate to the analysis in this document (i.e., are outside the scope of this document) are not given specific responses. However, all comments are included in this section so that the decision-makers know the opinions of the commentors.

CEQA Guidelines §15204 states that in reviewing draft EIRs, persons and public agencies should focus on the sufficiency of the document in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided or mitigated. CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commentors. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR.

In the process of responding to the comments, minor revisions to the Draft EIR have been made. None of the changes to the Draft EIR is considered to be significant new information (*CEQA Guidelines* Section 15088.5 [a]).

Comment letters are arranged by category, with public agencies listed first, followed by comment letters received by organizations, and then individuals. Aside from the courtesy statements, introductions, and closings, individual comments within the body of each letter have been identified and assigned an alpha-numeric identifier. All public agency comment letters will be referenced by an acronym, usually one typically used for the agency. The first digit in the identifier for all public comment letters from organizations will be “B” and for comment letters from individuals, “C.” The number following the first digit will indicate the individual comment letter within the category, while the digit(s) following the hyphen will identify the specific comment within each letter. For example, the comment identified as B2-5, will correspond to the fifth comment, in the second comment letter from an organization.

Copies of each comment letter are included in the Final EIR. Brackets delineating the individual comments and the alpha-numeric identifier have been added to the right margin of each letter. Following each comment letter is (are) the page(s) of responses to each individual comment. Please note that section and page numbers that are cited in the response to comments refer to the Draft EIR.

Nov 13 06 05:45p

D. Norman Diaz

760 253-7993

P. 1

BHCSD COMMENTS

**BARSTOW HEIGHTS COMMUNITY SERVICES DISTRICT
RESOLUTION 2006-2
IN OPPOSITION TO NURSERY PRODUCTS, LLC, BIOWASTE FACILITY IN HINKLEY, CA**

WHEREAS, Nursery Products, LLC, wishes to establish a biowaste facility in Hinkley, California; and

WHEREAS, for the sake of our citizens, we need to stop the horrific health hazard before it begins and establishes a foothold in our community; and

WHEREAS, open air biowaste operations were stopped and removed from Adelanto and from Newberry Springs, California, only after years of effort and time by the citizens of those communities; and

WHEREAS, the process of open air composting of biowaste is very bad for air quality. The pathogens and microbes in the sewage sludge will become airborne as the material is tilled, sifted, stirred, and turned over during the 60 day "composting" process; and

WHEREAS, the amount of material to be processed is extremely large (522 truck load trips, seven days a week, in wind and rain conditions); and

WHEREAS, the facility will most likely expand due to profitability and lack of other uses that will allow this to be done; and

WHEREAS, the consistently strong wind pattern is from the west and southwest, both of which will blow particles toward the Barstow Heights residents and beyond. The finished compost product will be stored on site in piles up to 50 feet tall. Again, this will blow in the wind towards Barstow Heights and beyond. The composting process releases a number of volatile chemicals, including ammonia, hydrogen sulfide, and other nitrogen and sulfur based compounds; and

WHEREAS, the additional hazardous waste truck traffic would also be a danger; and

WHEREAS, the facility has a great fire danger due to the heat from the composting process. It will be heated at 130 to 150 degrees for 60 days. This has led to spontaneous combustion and other means of starting a compost fire. It would be treated as a hazardous material fire and would need the HAZMAT teams from Imperial to respond. There are no local or county HAZMAT teams.

NOW, THEREFORE, BE IT RESOLVED that the Barstow Heights Community Services District Board of Directors takes a stand in opposition to Nursery Products, LLC, Biowaste Facility being established in Hinkley, California, and requests support from state, county and local officials to help put a stop to this dreaded invasion of our environment.

ADOPTED by the Board of Directors this 23rd day of October, 2006, by the following Roll Call vote:

President Richard P. Jacobs	Aye
Vice President Barbara B. Kelly	Aye
Director Harry Schendel	Absent
Director Stephen G. King	Aye
Director John A. Harper	Aye

ATTENT: Debbie Garvin
Debbie Garvin, Secretary

Richard P. Jacobs
Richard P. Jacobs, President


BHCSD-1

RESPONSE TO BHCSD COMMENTS

BHCSD-1 Comment noted.

BLM COMMENTS



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

Barstow Field Office
2601 Barstow Road
Barstow, CA 92311
www.ca.blm.gov/barstow



RECEIVED
OCT 16 2006

LAND USE SERVICES DEPT.
ADVANCE PLANNING DIVISION

In Reply Refer To:
2800(P)
CA-680,26

OCT 13 2006

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

Dear Sir or Madam:

Subject: Comments Regarding Draft Environmental Impact Report (DEIR) for Nursery Products Hawes Composting Facility on approximately 160-acres Located in the Unincorporated area of Hinkley.

We have reviewed the DEIR for Nursery Products Composting proposal. As the management agency for the adjacent public land, the Bureau of Land Management (BLM) is concerned that the access roads are not clearly specified and that the access may be across public lands managed by the Bureau of Land Management (BLM). Any access that crosses public land would require Nursery Products to obtain a right-of-way grant from the BLM.

BLM-1

Thank you for the opportunity to comment on this proposed project. Should you have any questions please contact Richard Rotte, Realty Specialist, at (760) 252-6026.

Sincerely,

Roxie C. Trost
Roxie C. Trost
Field Manager

RESPONSE TO BLM COMMENTS

BLM-1 Access to the site would be along the existing un-named road shown on Figure 2.2. The applicant is aware that the eastern portion of this road connecting to Helendale Road crosses BLM land and that a right-of-way will be required from the BLM.

CDFG COMMENTS

State of California - The Resources Agency
DEPARTMENT OF FISH AND GAME
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Bishop, CA 93514
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Arnold Schwarzenegger, Governor

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NOV 07 2006
LAND USE SERVICES DEPT
ADVANCE PLANNING DIVISION



October 27, 2006

Ms. Carrie Hyke, Senior Associate Planner
County of San Bernardino
Land Use Service Department
385 North Arrowhead Avenue, 1st Floor
San Bernardino, CA 92415

Dear Ms. Hyke:

The Department of Fish and Game (Department) has reviewed the Draft Environmental Impact Report (DEIR) for the Nursery Products Hawes Composting Facility, SCH #2006051021. The proposal includes creation of a biosolids and green material composting facility on a 160-acre parcel that would receive a daily average of 1,100 tons/day of biosolids and green material to produce agricultural compost. The project is located west of the City of Barstow, approximately 8 miles west of Hinkley, and 12.3 miles east of Kramer Junction, about 1 mile south of State Route 58 and 1 mile west of Helendale Road in San Bernardino County.

The Department is responding as a Trustee Agency for fish and wildlife resources (Fish and Game Code sections 711.7 and 1802 and CEQA Guidelines section 15386) and a Responsible Agency regarding any discretionary actions (CEQA Guidelines section 15381) required by the Department.

General Comments

In reviewing the two alternative sites for the project, the Department has determined the impacts to desert tortoise and Mohave ground squirrel would be less significant if the Fort Cady site was used since it is outside of the currently known range of the Mohave ground squirrel and is outside of desert tortoise critical habitat.

Is information included about any additional infrastructure that may be needed for the project such as additional roads, utilities, etc. and the ground disturbance that may be caused by these activities?

What level of screening is conducted on materials which are sent to the facility? What are the constraints placed on materials that are received? These items should be addressed in the document.

CDFG-1

CDFG-2

CDFG-3

SBC-89

1 of 3

Specific Comments

Table E-1 Section 4.4

The Department disagrees with the statement that there would be less than significant impacts with the mitigation proposed in this section.

- 1) Permanent tortoise fencing along roads would also be needed due to the large increase in vehicle traffic to the area (B-4).
- 2) Since tortoises may emerge in the winter during rain events, if wet conditions occur during project implementation, surveys should be conducted prior to ground disturbance (B-5) .
- 3) A raven management plan will need to be implemented for the project; containment of trash is not enough, particularly since this project is proposed in desert tortoise critical habitat (B-9).
- 4) Since it is not known yet if Mohave ground squirrel are present on site, it is impossible to determine whether impacts will be less than significant (B-12). There are no mitigation measures proposed, as trapping is not a mitigation measure, to off set impacts if Mohave ground squirrels are present.
- 5) The trucks that haul in material should be washed prior to entering the area to avoid bringing in invasive plant species (B-13). Vehicles are often the cause of introduced invasive plant species in desert areas.

CDFG-4

Section 4.4.2.1

Page 4-35 – The document says that loss of 160 acres of potential Mohave ground squirrel would be considered adverse but not significant due to the lack of occupation by this species on site. Since trapping has not been conducted, we do not know if this species is present or not.

CDFG-5

Page 4-36 – Under the section entitled “Deteriorate existing fish or wildlife habitat” it is stated that potential indirect impacts include the increased risk to desert tortoise of metal toxicity from air-borne particulate matter that may be carried by the wind from the windrows on the Project site to desert tortoise habitat. It further states that tortoises will be removed from the site prior to construction, a fence installed around the perimeter and windrows will not be turned during high wind situations, so that desert tortoises are not expected to be exposed to increased levels of heavy metals from the composting site. What will prevent heavy metals from blowing off site to adjacent habitat?

CDFG-6

Page 4-36 – Conflict with any approved regional Habitat Conservation Plans - Though the Desert Tortoise Recovery Plan is not a HCP, the project is in conflict with it. Page 56 of the recovery plan says that habitat-destructive military maneuvers, clearing for agriculture, landfills, and any other surface disturbance that diminishes the capacity of the land to support desert tortoise, other wildlife, and native vegetation should be prohibited throughout Desert Wildlife Management Areas because these activities are generally incompatible with desert tortoise recovery.

CDFG-7

SBC-90

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Section 4.4.3.2

This section comes directly after 4.4.2.1. Are some sections missing?

■ CDFG-8

Page 4-36 – B-3 - The Awareness education program should also include Mohave ground squirrel, burrowing owl and other species in the area.

■ CDFG-9

Page 4-37 - B-4 - Should include fencing of roads.

■ CDFG-10

Page 4-37 – B-5 - Since tortoises may emerge in the winter during rain events, if it is a wet winter, surveys should be conducted within in few days of ground disturbance.

■ CDFG-11

Page 4-37 – B-12 – Mohave ground squirrel trapping needs to be conducted prior to requesting an Incidental Take Permit for desert tortoise, and not just prior to construction, in case the squirrel needs to be included on the permit.

■ CDFG-12

In closing, the Fort Cady site would be preferred biologically as it is outside of desert tortoise critical habitat and outside the known range of the Mohave ground squirrel. Ravens are still a major concern of this proposed project, since human disturbance of any kind in the area will attract ravens. Thank you for this opportunity to comment. Please submit any biological studies to the Department for review. Questions regarding this letter and further coordination on these issues should be directed to Ms. Rebecca Jones, Environmental Scientist, at (661) 285-5867.

■ CDFG-13

Sincerely,

Denyse Racine, for

Denyse Racine,
Senior Environmental Scientist
Habitat Conservation Program

cc: Ms. Rebecca Jones
Ms. Judy Hohman
State Clearinghouse
Chron

SBC-91

3 of 3

RESPONSE TO CDFG COMMENTS

- CDFG-1 Comment noted. Potential impacts to biological resources was only one of several factors that were used in identifying an environmentally superior alternative. Depth to groundwater, cultural resources and proximity to communities were also considered and lead to the identification of the Reduced Capacity Alternative as the environmentally superior alternative.
- CDFG-2 The utilities required for the project are described in Section 2.6 of the EIR. No linear, off-site facilities are proposed that would result in ground disturbance. No new access roads are proposed as part of the project.
- CDFG-3 Section 2.3.1 describes the screening of material that would be received at the facility.
- CDFG-4
- 1) As indicated in Section 2.5, average truck traffic is expected to be 96 daily truck trips (8 trucks per hour over a 12 hour day, or one truck every 7.5 minutes). The requirement to construct tortoise fencing along the roads was considered and not proposed as the no new roads would be constructed for the project and the applicant does not control roadways owned and operated by others. Mitigation measure B-8 in Section 4.4.3.2 is proposed to minimize impacts to desert tortoise from project traffic.
 - 2) Pre-construction clearance surveys per USFWS protocol and biological construction monitoring are required and would avoid/minimize the potential for direct mortality of tortoise.
 - 3) The proposed project is not expected to be attractive to ravens given to composition of the compost material being processed. Mitigation Measure B-9 has been revised to include a Raven Management Plan to be reviewed by DFG.
 - 4) See response to comment CDFG 5, below.
 - 5) The facility is designed to use a minimal quantity of water and truck washing facilities are not included in the project.
- CDFG-5 Given that this rodent species is active during the day and other ecologically similar species were detected onsite, for the purpose of this CEQA analysis, the EIR consultant concluded that sufficient field effort had been conducted during the appropriate season to expect detection of Mohave ground squirrel if they were present. In light of CDFG guidelines, trapping surveys to confirm the absence of this species are required as a condition of approval in Mitigation Measure B-12. If Mohave ground squirrel is subsequently detected, the project proponent will need to obtain a take authorization from CDFG prior to construction.
- CDFG-6 Mitigation Measure A-2 has been revised to require that windrows be sprayed with water to prevent visible dust during windy conditions. This will minimize the opportunity for dust

from the project to carry heavy metals off-site.

- CDFG-7 Recovery Plans are advisory documents with no legal regulatory requirements or enforcement provisions. Approved regional habitat conservation plans include legally binding implementation agreements between land use agencies and the resource agencies. Strict implementation of the cited text from the recovery plan would preclude otherwise appropriate land uses on public and private properties and would be inconsistent with the proposed West Mojave Plan. As stated in the EIR, mitigation and BMP measures are consistent with the West Mojave Plan.
- CDFG-8 The numbering of this specific header is incorrect. The correct section number is 4.4.2.2.
- CDFG-9 If Mohave ground squirrel, burrowing owl and other species of concern will be included in the education program added to Mitigation Measure B-3.
- CDFG-10 See response to CDFG-4 (1)
- CDFG-11 See response to CDFG-4 (2)
- CDFG-12 The additional intensive surveys for Mohave ground squirrel are required prior to issuance of grading permit. Mitigation measure B-2 also requires the project proponent to obtain any required take permits/authorizations that comply with state and federal endangered species acts. CDFG may require additional surveys as part of their take authorization application process.
- CDFG-13 See response to comment CDFG-1.

CDHS COMMENTS



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



ARNOLD SCHWARZENEGGER
Governor

November 13, 2006

Ms. Carrie Hyke
San Bernardino County
Land Use Services Department,
Advance Planning Division
385 North Arrowhead Avenue
San Bernardino, CA 92392

Dear Ms. Hyke:

The Environmental Health Investigations Branch, Site Assessment Section (SAS), of the California Department of Health Services (CDHS), has been contacted by the Barstow Unified School District and community members, regarding public health concerns about the Nursery Products Hawes Composting Facility. The Nursery Products Hawes Composting Facility is proposed to operate eight miles west of Hinkley, in San Bernardino County. The purpose of this writing is to provide comments on the Draft Environmental Impact Report (EIR), prepared for the County of San Bernardino, by URS (cover dated September 2006). The SAS works under a cooperative agreement with the federal Agency for Toxic Substances and Disease Registry (ATSDR).

As a public health agency, CDHS's review focused on identifying areas or omissions from the EIR that might indicate a potential health risk from the project as it is currently proposed. CDHS identified four areas of concern:

- 1) "Potentially Significant Impact" from Volatile Organic Compounds (VOCs) emissions exists from proposed operations;
- 2) the lack of analysis of all site-related contaminants, such as releases of hydrogen sulfide (H₂S), carbon disulfide, and dimethyl sulfide;
- 3) odor and other potential impacts to nearest resident and;
- 4) a pathogen risk assessment was not conducted.

Department of Health Services, Division of Environmental and Occupational Disease Control
850 Marina Bay Parkway, Bldg. P, 3rd Floor, Richmond, California 94804-6403
(510) 620-3820 (main)
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Internet Address: www.dhs.ca.gov

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ENVIRONMENTAL HEALTH BRH

11/13/2006 16:47 FAX 510 622 4508

Ms. Carrie Hyke
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November 13, 2006

In section four of the EIR, it is shown that VOC emissions from the Nursery Products composting operations will exceed state and federal air quality standards. The daily VOC emissions are estimated at 1,963.7 pounds, which is 14 times the threshold value of 137 pounds/day, set by the Mojave Desert Air Quality Management District. The EIR states that there is no way to mitigate the "Significant Impact", due to the magnitude of the operations proposed. Enclosed facilities, such as those operating in Los Angeles and Riverside Counties and throughout the country, have been shown to be effective in controlling emissions (VOCs, pathogens, bioaerosols, dust, odors). However, this option was not considered to be feasible because of the cost to the applicant (Nursery Products, LLC).

CDHS-1

CDHS recognizes the challenge San Bernardino faces in dealing with its' wastes. However, the long-term implications for county and its' residents from the degradation of air quality should not be ignored. Air quality (VOCs in air) is linked to number of health related issues, such as asthma, lung and other respiratory diseases, and heart disease.

According to the EIR, emissions of hydrogen sulfide (H₂S) could not be evaluated, because applicable emission factors are not available for this type of operation. In the absence of default data (emission factors), the authors of the EIR should have conducted a review of the literature or search for comparable emission data to understand the magnitude of H₂S, carbon disulfide, and dimethyl sulfide emissions.

CDHS-2

The EIR estimated (based on modeling) that the "proposed facility could expose some members of the public to objectionable odors". These odors are a result of compounds such as H₂S, carbon disulfide, dimethyl sulfide and ammonia, which are formed during the composting process (page 4-21). An important point is that while smelling the odor is unpleasant, the individual is also being exposed to those compounds, which may result in health implications. Children may be more sensitive to these compounds than adults because of the relatively smaller diameter of their airways. As stated above, the EIR does not evaluate H₂S emissions or the other odor producing compounds or the potential health implications from these exposures.

CDHS-3

A pathogen risk assessment was not conducted as part of the EIR. 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 there is a need for the USEPA to update the scientific basis of Rule 503¹. The NRC

CDHS-4

¹ In 1993, the USEPA 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.

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Ms. Carrie Hyke
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recommended a number of activities/studies be conducted related to pathogen/disease causing microorganisms (bacteria, viruses, and parasites) standards, as there is question to whether "current management controls are adequate to maintain minimal exposure concentrations over an extended period of time." To date, the data gaps identified by the NRC remain unanswered.

In conclusion, the EIR inadequately identifies the possible impacts from the proposed Nursery Products Hawes Composting Facility; when a "significant impact" to the environment is identified, it is apparently outweighed by the cost that would be incurred by the project developer (Nursery Products, LLC).

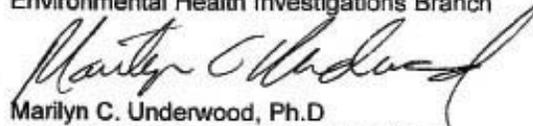
CDHS-5

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

3/4

Ms. Carrie Hyke
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November 13, 2006

cc: Mr. Jerry Bergmans, Ph.D.
Superintendent
Barstow Unified School District
551 South Avenue "H"
Barstow, CA 92311

Mr. D. Norman Diaz
25789 Community Blvd
Barstow, CA 92311

Ms. Libby Vianu
Regional Representative
Agency for Toxic Substances and Disease Registry
75 Hawthorne Street, Suite 100, HHS-1
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Ms. Leslie Campbell
Agency for Toxic Substances and Disease Registry
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Mr. Daniel Avera, REHS
Division Chief
County of San Bernardino Environmental Health Services
385 North Arrowhead Avenue, 2nd Floor
San Bernardino, CA 92415-0160

Ms. Geralda Stryker
California Integrated Waste Management Board
PO Box 4025
Sacramento, CA 95812-4025

4/4

RESPONSE TO CDHS COMMENTS

CDHS-1 One of the objectives of the project as stated in Section 1.5 is to provide a cost-effective composting operation. As discussed in Section 3.2.3, an enclosed facility with the capacity to handle 300,000 tons per year of biosolids in is expected to cost over \$60 million, and the enclosed facility would not reduce VOC emissions to a less than significant level (see Section 3.3.3.2, page 4-20). The costs of the facility would be passed on to wastewater treatment facilities and their rate payers. This is especially burdensome for smaller districts (see comment letter from the Eastern Municipal Water District (EMWD)).

CDHS-2 Based on a preliminary search of the literature it became clear that conducting an emissions evaluation for H₂S would have been speculative due to the lack of readily accepted emission factors. This also applies to carbon disulfide and dimethyl sulfide. CEQA guidelines §15145 indicates that a Lead Agency should note its conclusion and terminate discussion of the impact if it finds that a particular impact is too speculative for evaluation. Section 4.3.3.4 presents this discussion.

CDHS-3 As discussed in Section 4.3.3.4, the potential for health impacts from ammonia emissions are analyzed and the concentrations at the nearest receptor are well below the both the acute and chronic Reference Exposure Levels. A similar analysis for H₂S, carbon disulfide or dimethyl sulfide would have been speculative because no emission factors are available.

CDHS-4 In addition to the NRC recommendations, there are also a series of studies (Brooks, Gerba, and Pepper, 2004; Dowd, Gerba, Pepper, and Pillai, 2000; Pepper, 2003) that have been conducted at the University of Arizona's Water Quality Center, funded by the National Science Foundation. These studies have measured the emission rates of pathogens of concern from biosolids-amended fields and have modeled ambient air concentrations of these pathogens. The results have indicated that nearby residents of these fields, even if they resided at close proximity, would have extremely low risks from pathogen exposures.

It may not be appropriate to extrapolate the results of these studies to the proposed project due to the differences between a land application and a composting facility. However, conducting a pathogen risk assessment without clear and accepted protocol for a composting project would be speculative. The US EPA and California Integrated Waste Management Board (CIWMB) consider both composting and land application of biosolids as safe and viable methods for biosolids management and consequently further evaluation of pathogenic risk is not considered as necessary for this CEQA evaluation.

CDHS-5 CEQA guidelines §15145 indicates that a Lead Agency should note its conclusion and terminate discussion of the impact if it finds that a particular impact is too speculative for evaluation.



CIWMB COMMENTS



CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

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November 13, 2006

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

ROSALIE MULE
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Subject: SCH No. 2006051021 – Draft Environmental Impact Report (EIR) for the establishment and operations of the proposed Nursery Products Composting Facility (NPCF), proposed issuance of Compostable Materials Handling Facility Permit (CMHFP) No. 36-AA-0445, San Bernardino County

CHERYL PEACE
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(916) 341-6039

Dear Ms. Hyke:

GARY PETERSEN
GPETERSEN@CIWMB.CA.GOV
(916) 341-6035

Board staff of the California Integrated Waste Management Board (CIWMB or Board) has reviewed the EIR cited above and has provided the following comprehensive understanding of the project description for Board staff's reference and use in the CIWMB's permitting process. Board staff further offers comments and questions following the project description in order to help the lead agency provide decision-makers with information that may aid them in their determination on the approval of the proposal and findings on the project. If the Board's project description varies substantially from the project as understood by the lead agency, Board staff requests that any significant differences be clarified and included in the Final EIR.

PAT WIGGINS
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PROJECT DESCRIPTION



The proposed project is a biosolids and green material composting facility proposed to be located in a rural setting on a 160 acre parcel located within the unincorporated area of the County of San Bernardino. The facility is proposing to compost biosolids and green material in order to produce a Class A compost. The proposed project site is one mile south of State Route (SR) 58, approximately 12.3 miles east of Kramer Junction, 22 miles west of Barstow, and, one mile west of Helendale Road. The Project would be located on land owned by Nursery Products LLC, located approximately 0.5 miles southeast of an abandoned World War II training air field known as Hawes Field. The Assessor's Parcel Number for the site

NPCF draft EIR Comments
September 9, 2006
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is 0492-021-24-0000, and the site is the southeast quarter of Section 36 in Township 10N, Range 5W, San Bernardino Base and Meridian (USGS Twelve Gauge Lake Quadrangle Map). The property is roughly square in shape. Elevations on the property range from about 2,310 to 2,330 feet above mean sea level (MSL).

The County Development Code establishes specific development standards for each district in the county and sets forth procedures the County must follow in order to approve a particular use. According to the County Development Code, the proposed Project is located in the Resource Conservation (RC) District. The "Additional Uses" section of the Development Code allows for composting in any land use district subject to review and approval of a Conditional Use Permit (CUP). The Project site is currently vacant saltbush desert scrub open-space disturbed by some development including roadways, transmission lines and other abandoned development. There are no trees, rock outcroppings or historic buildings in the vicinity of the proposed Project site. The climate in the area is generally dry, experiencing an average rainfall of less than six inches per year.

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. Chemical toilets will be provided by a licensed supplier for employee use; water for operations will be provided by an on-site well or be purchased and stored, or a combination of both. Telephone service will be cellular. Electricity will be supplied by a portable diesel-fueled generator and by solar equipment. Parking will be provided in front of the main office trailer.

Green material recycling is a component of the source reduction and recycling efforts of most local jurisdictions in meeting the solid waste diversion goal of 50% set by the California Integrated Waste Management Act. San Bernardino County as a whole is currently diverting approximately 55% of its solid waste from landfill disposal. The unincorporated areas in the County and several cities in the high desert area near the proposed project site are still below the 50% diversion goal. For most areas that are predominantly residential, achieving the 50% diversion goal requires some form of green material recycling.

The entire proposed site is relatively undeveloped desert area. The project proposes to be constructed in phases. Phase 1, the eastern side of the proposed site, has been designed to accommodate initial composting activities while avoiding drainage areas on the Phase 2 section of the site and minimizing the need to manage storm water runoff. When the throughput of the facility increases to the point where additional land area is needed, the remainder of the site will be developed.

The proposed facility would store a maximum of 7,000 cubic yards of green waste feedstock on site for a maximum of 7 days. The maximum amount of biosolids feedstock that will be stored at the facility will be limited to 2,000 cubic yards. When operations are under way, the biosolids and green waste will typically be dumped directly on the composting pad. The maximum quantity of biosolids and green material that the proposed 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. A front-end loader will then mix the material and form it into windrows. The windrows will be

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approximately eight to twelve feet in height and approximately fifteen-feet wide. The facility would process approximately 400,000 tons per year of compostable material. The total amount of "active" compost on-site is not expected to exceed 250,000 tons. The facility would be able to store approximately 350,000 tons of composted finished product.

On an average operating day (1,100 tons received) approximately 48 truck loads of biosolids and green material will be delivered to the site (resulting in 96 daily truck trips). This will increase to approximately 87 truck loads on a peak day (2,000 tons received, or 174 daily truck trips). The average capacity and round-trip travel distance for trucks delivering feedstock materials to the site and those hauling finished compost away from the site were estimated to be 23 tons and 200 miles, respectively. Less than ten daily passenger vehicle and small pickup truck trips by employees and vendors are projected. The site will not be open to the general public.

The facility is proposed to operate on a 24-hour basis, 365 days per year. A 24-hour/day contact number will be provided and posted at the facility prior to operation of the facility. Normal delivery and sales operations will occur between 7:00 a.m. and 7:00 p.m., but extended hours will be available to accommodate delayed trucks or special circumstances.

Proposed Entitlements for the Nursery Products Hawes Composting Facility

	Proposed Project Entitlements
Permitted Area	160 Acres
Permitted Operations Area	Phase 1 = 40 - 80 acres Phase 2 = 80 - 120 acres
Composting Site Capacity	250,000 tons
Maximum Throughput in Tons	2,000 wet tons per day (50:50 mix)
Maximum One-Way Vehicles Per Day	87 trucks per day; 10 vehicles per day
Nearest Residence &/or Commercial Sensitive Receptors)	1.50 miles to the East
Surrounding Land Use:	
West	Vacant Desert & SR 58
East	Vacant Desert & Residential 1.5 & 2.5 miles
North	Vacant Desert
South	Vacant Desert

The land use designation and zoning of the project site is Resource Conservation (RC). The Development Code allows for the proposed co-composting use, subject to review and approval of a Conditional Use Permit application. The closest residential area is 1.5 miles to the east of the proposed project site. The nearest residence to the proposed Project site is 1.5 miles to the east, with a second residence located 2.5 miles to the east. Beyond these, the next nearest residence is located in Hinkley, 8 miles east of the proposed Project site. There are no residences to the north, west or south of the proposed project site.

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According to the lead agency; the proposed location and design of the proposed facility have been chosen to serve the anticipated market areas—primarily the Inland Empire and nearby areas—while providing sufficient isolation to minimize the potential for aesthetic concerns, odors and similar effects in residential areas. Transportation distances, both to bring biosolids and green material feedstock to the Project site and to transport composted material to market areas, are balanced with remoteness to minimize adverse effects. While the site is a number of miles from major sources of biosolids and green material, the distance to the Project site from these areas is much less than the current travel distances to disposal areas used by cities and districts in the Inland Empire and Southern California regions. The desert climate, with low rainfall and low humidity, and the open windrow design of the proposed project also provide a cost-effective combination for the project operations.

BOARD STAFF'S QUESTIONS and COMMENTS

To assist Board staff's analysis and evaluation of this project, questions and comments by Board staff will be as a responsible agency [CEQA Guidelines, Title 14, California Code of Regulations (CCR), Section (§)15096] and the CIWMB would have discretionary approval for the proposed design and operation of the NPCF and concurrence in the issuance of a CMHFP.

CIWMB's and Local Enforcement Agency's (LEA's) Role as a Responsible Agency

The CIWMB operates in cooperation with local governments to assure protection of the public health and safety and the environment from the potentially detrimental effects of improper composting and solid waste management. The CIWMB concurs in the issuance of new or revised Solid Waste Facilities Permits (SWFPs) and CMHFPs with Local Enforcement Agencies (LEAs) to assure that the facilities operate in a manner consistent with all applicable laws and regulations.

Compostable Material Handling Regulatory Requirements

Except as specified in Title 14, Division 7, Chapter 3.1, Article 2.0 of the CCR (<http://www.ciwmb.ca.gov/Regulations/Title14/ch31.htm#article2>), all compostable materials handling activities shall obtain a Compostable Materials Handling Facility Permit pursuant to the requirements of Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 4, Subchapter 1 and Subchapter 3, Articles 1, 2, 3 and 3.1 (commencing with section 21450) prior to commencing operations.

Additional information and resources for obtaining approval to operate a compostable material handling operation or facility can be found on our website at <http://www.ciwmb.ca.gov/PermitToolbox/FacilityType/Compost/>.

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Odor Impact Minimization Plan (OIMP)

Please note that Title 14 CCR § 17863.4(a) states: All compostable material handling operations and facilities shall prepare, implement, and maintain a site-specific odor impact minimization plan. A complete plan shall be submitted to the Enforcement Agency with the permit application.

CIWMB-1

Facility Acreage Proposed for Development and Acreage Proposed for Operations

Please define in the final EIR the exact acreage that will be used on the facility's 160-acre site for operations area (receiving acreage, windrow acreage, static pile acreage, and curing acreage), as well as the acreage for the surface water diversion structure(s), the retention pond(s) acreage, acreage for on-site facilities for management and personnel, and the buffer acreage, if any.

CIWMB-2

Phase 2 Project Development and Operation

Figure 2.5 on Page 2-13 in the EIR shows the proposed Phase 1 site plan together with the Phase 2 topography and existing floodplain within Phase 2. Page 4-60 in the draft EIR states: "As shown in Figure 2-3, the proposed Project will be constructed in a manner that will divert storm water flow around the site." Figure 2-3, on page 2-8 in the draft EIR a barely recognizable berm or diversion channel around both Phase 1 and 2. The writing describing the berm and/or diversion channel written description is not legible. The determination on page 4-60 in the draft EIR that "there will be no significant change in the existing drainage pattern" does not support the contention that "...the proposed Project will be constructed in a manner that will divert storm water flow around the site." Please provide in the final EIR a clear representation of the exact construction and surface water diversion channel around the proposed project site together with legible dimensions of the structure(s) in order that the CIWMB staff are able to reach the same conclusion that "...the proposed Project will be constructed in a manner that will divert storm water flow around the site."

CIWMB-3

Customer/User Application Rates

Page 2-17 in the draft EIR states that "Analytical testing will verify that the compost meets the maximum acceptable metal concentration limits specified in 14 CCR 17852... 14 CCR §17852 is the *Definitions Section of the Compostable Materials Handling Operations and Facilities Regulatory Requirements*.

Using Table 4.7.1 on page 4-59 in the draft EIR, how much compost produced at the NPCF can be deposited and accumulated on soil before one of the metals renders the soil useless. For example, page 4-60 of the draft EIR states that "The analysis for two of the seven samples reviewed exceeded the [Dilution Attenuation Factor] 20 for chromium." How much of this compost can be laid down before a typical soil would become toxic to plants at a pH of 6.5?

CIWMB-4

What are the markets for the compost product generated at the NPCF?

CIWMB-5

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Potentially Significant Immitigable and Significant Irreversible Impacts

No *Significant Irreversible Impacts* were identified in Section 6-4 of the draft EIR even though the Biological Resources Section Four in the draft EIR states on page 4-31 that “The Project site is a privately-owned site located within the boundaries of an area designated by [the Bureau of Land Management] as Category I desert tortoise critical habitat, which is considered to be most suitable for tortoise occupation (BLM 2001).” Furthermore, the Biological Resources Survey (Appendix C in the draft EIR) concludes on page 4-34 in the draft EIR that “Sign of desert tortoise was detected throughout the Project site, including inactive burrows, carapace remains, and dried and fresh tortoise scat. Two live desert tortoises and their burrows were detected within 600 feet (200 acres surveyed) of the southeastern property boundary during the focused survey conducted in April 2006 (Figure 4.4-2).” Page 4-35 states that “...significant adverse impacts to desert tortoise will occur as a result of this Project...”.

CIWMB-6

Figure 4.4-2, titled *Desert Tortoise Survey Results Nursery Products Composting Site (HCPs)*, identifies one Desert Tortoise Burrow (Inactive), two Desert Tortoise Carapace, one Desert Tortoise Scat. Figure 4.4-2 also identifies four Mojave Fishhook Cactus, two Mojave Green Rattlesnakes, and two Kitfox Dens within the 160-acre boundary of the proposed project site which were not discussed in the Biological Resources Section 4.4 in the draft EIR.

CIWMB-7

Project Site within a Regional Habitat Conservation Plan

Page 4-36 in the draft EIR, under the title *Conflict with any approved regional Habitat Conservation Plans*, that “The proposed Project site is located within the planning area of the proposed [West Mojave Coordinated Management Plan (WMP)]; but the HCP that is proposed as part of WMP is not completed at this time. However, the mitigation measures that are proposed are consistent with the mitigation measures and [Best Management Practices] recommended within the proposed WMP. Consequently, the proposed Project would not be in conflict with any approved regional HCPs.” Since there is a proposed HCP within the WMP, is it not speculative that the assumptions and findings in the Biological Resources Section of the draft EIR are not premature to the approval of the WMP? When will the WMP be considered for approval? What will occur in the event that the proposed project site is found to be located on sensitive habitat to endangered and/or threatened species of concern for on-site flora and fauna in the HCP?

CIWMB-8

Cumulative Impact Assessment

In Section Six on page 6-3 in the draft EIR Cumulative Impacts to Air Quality and Biology are addressed as followed:

Air Quality

The facility’s impacts to air quality are expected to occur in the near vicinity of the project site, where impacts of the nearest other sources would be small. However, as described previously, each of these alternatives would introduce significant unmitigable emissions ozone precursors (VOCs), which will contribute to regional nonattainment conditions.”

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Biology

An incremental reduction in desert scrub vegetation and loss of native biological resources will occur as a result of the proposed Project or the Reduced Capacity Alternative. However, the Hawes site is a relatively small area considering the large block of habitat proposed within the Fremont-Kramer [Desert Wildlife Management Area] and [Area of Critical Environmental Concern] and the much larger proposed conservation area of the WMP. The site is located on private property, and there is a large patchwork of state-and federal-owned lands in the surrounding area. It is not foreseeable that the federally-owned lands would be developed, and no large-scale development plans have been identified for other private lands in the project vicinity. Much of this area is zoned RC, further restricting the potential for large-scale development of private lands in the project area. Cumulative impacts to biological resources would be less than significant.”

Until the proposed WMP is approved, how can it be speculated that the proposed project site will not be identified as Area of Critical Environmental Concern that should be void of any development?

CIWMB-9

Significant Immitigable Environmental Impacts Requiring Overriding Considerations

Section 6-3 in the draft EIR states that the “...Project would result in significant unavoidable impacts to air quality even with implementation of the project-specific mitigation measures. The operational [Volatile Organic Compounds] emissions from the Project would exceed the [Mojave Desert Air Quality Management District] daily and annual emissions thresholds.”

CONCLUSION

Board staff thanks the Lead Agency for the opportunity to review and comment on the DEIR and hopes that this comment letter will be useful to the Lead Agency in carrying out their responsibilities in the CEQA process.

Board staff requests copies of any subsequent (including the Mitigation Reporting or Monitoring Program, Statement of Overriding Considerations, copies of public notices and any Notices of Determination for this project) or revised environmental documents if the Phase 2 design and operation of the NPCF requires further CEQA analysis and approval. Any subsequent or revised environmental documents should be circulated through the State Clearinghouse as required in 14 CCR §15205(a) of the CEQA Guidelines. Board staff requests that the CIWMB be noticed of the date, time and location of any public hearings regarding the project proposal at least ten days in advance. Please note 14 CCR, § 15094(d) that states: “If the project requires discretionary approval from any state agency, the local lead agency shall also, within five working days of this approval, file a copy of the notice of determination with OPR [State Clearinghouse].”

Please address any of the above communications to Geralda Stryker, P&I Region 2, Permitting and Inspections Branch, Permitting and Enforcement Division at the CIWMB's address in the letterhead at the top of this letter.

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If you have any questions regarding these comments, please contact me at 916.341.6327, by facsimile at 916.319.7213 or e-mail me at jloane@ciwmb.ca.gov.

Sincerely,

Original signed by

John Loane, Integrated Waste Management Specialist (IWMS)
Permitting and Inspection Branch, North Central Region III
Permitting and Enforcement Division
California Integrated Waste Management Board

cc:

Jacque Adams
County of San Bernardino
Division of Environmental Services
385 North Arrowhead Avenue
San Bernardino, CA 92415-0160

Geralda Stryker, Supervisor,
Dianne Ohiosumua,
Permitting and Inspection Branch, Region 2
Permitting and Enforcement Division
California Integrated Waste Management Board

State Clearinghouse
Fax: 916-323-3018

RESPONSE TO CIWMB COMMENTS

- CIWMB-1 Mitigation measure AQ-1 reflects this requirement.
- CIWMB-2 For the purpose of the analysis in the EIR, it was assumed that the entire site would be disturbed. The facility layout shown in Figures 2.3, 2.4 and 2.5 reflect a preliminary facility design that is reasonable and realistic. It is expected that the exact location of the individual features (windrows, curing area, buildings, etc.) and the exact acreage will be fine-tuned during facility final design. The analysis in the EIR would continue to be applicable if this fine-tuning relocates and/or resizes most of the facility. Major changes (e.g., moving the retention basin to an up-gradient location requiring substantial grading and earthwork) would require additional environmental review. It is expected that the exact acreages and locations of the facilities will be specified in the Report of Composting Site Information in support of the Compostable Materials Handling Facility Permit application.
- CIWMB-3 As shown on Figure 2.5, surface flows exit the site on the northwest side. The storm water diversion channel would direct flow to the northwest corner. The topography shown on Figure 2.2 demonstrates that the site is almost flat with a gentle slope from south to north. Directing the flow along the northwest side to the northwest corner (a maximum relocation of about 800 feet) in an arid climate would result in minor changes to local drainage but would not significantly change the existing drainage pattern.
- It should be noted that oversized drawing showing complete details of the surface water drainage system will be provided as part of the Report of Composting Site Information.
- CIWMB-4 The project does not include land application.
- CIWMB-5 The extensive agricultural production and nursery operations in the Inland Empire would be the primary market for the compost.
- CIWMB-6 Impacts to desert tortoise are considered significant, but can be mitigated to a less than significant level. The impacts will be mitigated by placing currently unprotected habitat into conservation. The impacts to the site are also not irreversible. Because the project would include minimum grading and permanent structures, when the project ceases operation, it is probable that the site would recover over time.
- CIWMB-7 Of the species mentioned in the comment, only desert tortoise is considered a sensitive species and is specifically addressed in Section 4.4. An assessment of habitats and associated wildlife values is also presented.
- CIWMB-8 The significance threshold criterion is: a conflict with an approved regional habitat conservation plan. Since there is no approved HCP in place for the project vicinity, this impact criteria is not applicable. In acknowledgement of the HCP that is in process, the County has an expectation that a regional HCP will be in place during the planning horizon that is relevant to this project. In the absence of a regional HCP, a condition of approval that requires the project proponent obtain take permits/authorizations from the wildlife

agencies prior to project implementation is included as a mitigation measure.

- CIWMB-9 An EIR evaluates the potential impacts based on the environmental setting at the time that the Notice of Preparation is issued. Consequently, future changes to land use plans that might be proposed are not addressed under CEQA.

COB COMMENTS



RECEIVED
NOV 13 2006

LAND USE SERVICES DEPT.
ADVANCE PLANNING DIVISION

November 13, 2006

Carrie Hyke, Supervising Planner
Advanced Planning Division
San Bernardino County Land Use Services Department
385 North Arrowhead Avenue
San Bernardino, CA 92415-0182

RE: Nursery Products Hawes Composting Facility Report
State Clearinghouse No. SCH 2006051021
Draft EIR/APN 0492-021-24-0000

Dear Ms. Hyke,

Thank you for the opportunity to review the project. The City of Barstow has the following comments:

The Draft Environmental Impact Report (DEIR) for Nursery Products LLC is legally defective under the California Environmental Quality Act (CEQA).

I. Section 21091(d)(2)(A) and (B) and Section 21092.5 of the Public Resources Code require that comments made in response to the Notice of Preparation be included in the DEIR. It does not appear that comments from agencies and individuals of the Notice of Preparation have been addressed. Most of the comments contained in this letter were previously made on the Notice of Preparation, and still have not been addressed in the DEIR.

COB-1

In addition, the DEIR indicates one alternative site. Per Citizens of Goleta Valley v. Board of Supervisors of the County of Santa Barbara (52 Cal.3d 553, 801 P.2d 1161, 276 Cal.Rptr. 410) where only one alternative site was considered, the Court indicated that "In those cases where consideration of alternative sites is warranted for a proposed project, an EIR must contain (1) A discussion concerning a range of alternative sites, and (2) A brief discussion of why sites which are apparently or ostensibly reasonable were rejected as infeasible, remote or speculative." The DEIR discusses only the Fort Cady site as an alternative.

COB-2

Another area of deficiency in the DEIR is Section 7, Mitigation Monitoring Program. The text itself refers to a "table below" that lists the mitigation measures that may be included as conditions of approval for the project. However, no table, or text

COB-3

1/8



within Section 7 identifies the mitigations. Rather, it indicates that the measures correspond to Section 4.

2. Aesthetics:

The Initial Study (IS) refers to a determination from Caltrans and the Federal Highway Administration that visual impact is defined as follows: Resource Change + Viewer Response = Visual Impact. This, in some ways, contradicts the County's General Plan as it indicates that the Resource Conservation (RC) District, which this property is within, is supposed to be an area with high scenic values (Section II/Man-Made Resources – Land Use/Growth Management). Therefore, this project affects the location criteria of the RC Land Use District as specified in the General Plan (page II-D6-10).

COB-4

The project will create new light sources. A photometrics plan is advisable due to the scope of the project in order to assure that the night time view *particularly for traffic on Highway 58* is not impacted by glare.

3. Air Quality:

The project description indicates that there may be a maximum of 522 truck trips per day. Additionally, the IS indicates that this area is already in non-attainment for PM₁₀ and Ozone (O₃). In looking at the aerial photo (attached), it appears that the site is served by unpaved roads until the vehicles reach Highway 58 to the north. It is important to state what mitigations are going to be provided, as the on-site activities alone will increase the amount of PM₁₀. Unpaved roads will further increase the pollutants.

COB-5

The analysis based upon impacts from odors is based upon the current situations, and does not consider potential development in the near future. Although there is little development near it, the area zoning/general plan district allows residential development. Additionally, a wind analysis should be performed to determine just how far the odors can be carried, and in what direction.

COB-6

Although there is a speed limit placed on the "unpaved roads" (20 miles per hour), this appears to be for the protection of the Desert Tortoise, and not so much for the air quality. Additionally, the number of trucks, whether going the posted speed limit or not, will still generate additional dust and PM₁₀. I believe that a third party company, or the MDAQMD should be consulted on this issue. The project impact is listed as "significant and unmitigable." Paving would reduce the impacts of the dust particulates. This mitigation is superior to watering the roads. Water is an exhaustible resource in the High Desert; this is why the Mojave Water Agency (MWA) has adjudicated the supply.

COB-7

The Environmental Summary also identifies the offensive odors as "less than significant." The historical experience in Adelanto was that mitigation measures and

COB-8

2/8



conditions were not complied with. We need to have some assurances in place that the mitigations are effective and that they will be followed. Failure to comply with mitigation measures raises impacts to a significant level.

The operation also indicates refraining from turning the windrows during episodes of high wind speeds (30 miles per hour or higher). Such winds will cause some of the particulates to become airborne without turning (example: this wind speed can cause sandstorms). What kind of windscreens will be provided to prevent this?

COB-9

4. Biological Resources:

The IS refers to the *West Mojave Plan*. To my knowledge, this is not adopted, and may not be adopted for some time since it is involved in Court action. This should not be considered as a mitigation or justification for no impact or less than significant impact.

COB-10

The IS indicates that biological surveys were conducted by URS biologists. However, their recommended mitigations are not included.

Further, the EIR indicates that the survey for the Desert Tortoise and the Mohave Ground Squirrel was conducted on January 31, 2006. Trapping for the Mohave Ground Squirrel is limited by Fish and Game protocol to April and May. Also, January is a dormant time for the Desert Tortoise as it is typically in hibernation. The full potential of the impact cannot be determined until the trapping survey for the Mohave Ground Squirrel, and until the Desert Tortoise is no longer in hibernation. It has been shown the Desert Tortoise can travel approximately 6 miles in a day. The impact cannot be determined by the number of burrows found during a time of hibernation. The extent of the habitat will need to be re-evaluated during a more conducive season, not when they may be dormant. Although additional surveys for "general wildlife" were conducted during April and May, there were no focused (tortoise) or trapping surveys (Mohave Ground Squirrels) done for the two species. Additionally, a "like" species, similar to the Mohave Ground Squirrel (the White-Tailed Antelope Squirrel) was noticed during the surveys. How does this preclude the habitat of the Mohave Ground Squirrel? This needs to be justified, as cohabitation of a site may exist.

COB-11

The mitigations include allowing the clearing of vegetation between November 15 and February 15. However, it does not indicate that the site needs to be cleared prior to the clearing, only for "ground disturbance." Clearing of vegetation is considered "ground disturbance" and may not be allowed in tortoise or Mohave Ground Squirrel habitation without a "take" permit.

COB-12

The mitigations for the Desert Tortoise are contradictory. Condition B-4 indicates a permanent tortoise-proof fence shall be installed around the perimeter of the project

COB-13



impact area prior to grading, while Condition B15 indicates that "Preconstruction clearance surveys shall be required 48 hours prior to commencement of proposed grading..." and "...If tortoise is detected adjacent to the site, a tortoise proof construction fence shall be placed at the site boundary..." When is the fence required? The second condition eliminates the need of the fence if no tortoise are found adjacent to the site.

A trapping survey is required for the Mohave Ground Squirrel. However, what mitigations will be required if any are trapped? You have identified this as "less than significant," even though the threatened status of the ground squirrel makes it a significant impact.

COB-14

5. Geology And Soils:

The IS refers to the Kramer Hills Fault located northwest of the site. Most of the faults in this area run northwest to southeast, with the potential of this site being in-line with an extension of that fault. A geotechnical survey is warranted.

COB-15

The IS indicates the soil is gravelly sand and not susceptible to sheet and rill erosion by water. In looking at the aerial (attached), it appears that substantial washes cross the project. Flooding will cause mudflow, regardless of the type of soil.

COB-16

6. Hazards And Hazardous Materials:

The IS indicates the potential for fire as a result of the composting. Due to the scope of the project and the fact that a water supply is not confirmed (i.e., it will be either well or trucked in), a large supply of water may need to be on hand to suppress any potential fire. This may also affect the Hydrology And Water Quality in the next section since this project includes the use of biosolids.

COB-17

The Environmental Summary indicates a possibility of fuel spillage during the transfer or fueling activities. The mitigation measures are very loosely identified. Is there a containment system in place for the transfer, storage and fueling activities? This is not a mitigation that is clearly identified.

COB-18

On-site combustion of the windrows includes the suppression of fire by water supply. As indicated below, this poses a concern for ground contamination and groundwater contamination through infiltration.

COB-19

Exposure to pathogens includes the use of water to minimize windblown particulates, or when mixing, and washing down vehicles regularly. Where is the water going? The mitigation measure also identifies a water basin that allows standing water for up to 30 days. This amount of time will allow the water to infiltrate into the ground

COB-20



and possibly/eventually the water supply, as will allowing this water to be used for processing or dust control on windrows.

7. Hydrology And Water Quality:

As previously mentioned, there are two significant drainage courses that cross this property. Additionally, as noted above, a considerable amount of water may be necessary to suppress any potential fires. Hazardous materials may infiltrate, contaminating the soil and/or water supply. The IS indicates the water level is 300 feet. This needs to be confirmed. Furthermore, what is served by that water table? The Mojave Water Agency should be consulted to determine if mitigations are necessary.

COB-20

Where will runoff be diverted, and will impervious surfaces be used that will require on-site retention/detention?

A condition under Biological Resources indicates that an "...adequate water supply and delivery capacity..." is required to address the potential of fire. There is concern how this impacts soil and groundwater contamination caused by infiltration.

COB-21

A mitigation indicates that annual sampling of the soil at the lowest area of the retention basin shall be done to confirm that the migration of the constituents into the soil is limited. Who will monitor this? Also, it indicates that after five years, the operator may request a reduction in the sampling frequency or eliminate the monitoring altogether. Once this monitoring condition is eliminated, *the project may go unchecked*, which by definition is not monitoring. Annual sampling may not be sufficient based upon soil type, amount of rainfall or drainage that may occur. Should this project be approved, it should be more frequently than annually, and in no case should sampling be eliminated.

COB-22

A mitigation includes that if a well is installed on-site, a sample shall be collected quarterly for the first year and analyzed to establish a baseline groundwater conditions at the site. Will the well continue to be monitored, and if so, what will happen if the baseline analysis is exceeded in the future?

COB-23

8. Land Use And Planning:

The General Plan Designation/Zoning for this area is Resource Conservation (RC). As such, the permitted uses include: Row, Field Tree and Nursery Crop Cultivation; Single Dwelling Unit; Social Care Facility with 6 or fewer clients; Animal Raising; Accessory Uses (ancillary to a primary use); and, land uses subject to a conditional use permit including: Commercial Kennels and Catteries; The wholesale trade of livestock; Animal Raising of densities greater than those specified under permitted uses; Agricultural support services; and Additional uses as specified by Chapter 4 of the



Development Code. Additional uses (Section 84.0410(j) of the Development Code) includes solid waste disposal sites, rubbish incinerators, and recycling centers (limited to certain land use districts) and subsection (k) includes sewer plants and sewage disposal sites. However, in referring back to Aesthetics, the General Plan identifies that one criteria for the RC district is "areas with high scenic values." This project, with the 50 foot high piles, windrows, etc. will detract from this, and is inconsistent with the RC district of essentially rural living.

COB-24

There is a reference to SBC Development Code Section 84.0625(j) as indicated in the IS. The section is Recycling Facilities, but the subsections only go up to g, not i.

COB-25

Again, the West Mojave Plan is referenced. Again, it is not in effect yet and is inappropriate to use in the analysis to justify the "no potential impacts" as it is not yet a mitigation for the desert tortoise or other special, threatened, or endangered species.

I would like to point out that the County's General Plan was recently revised. This revision included the allowance of this use in the zoning district in which it is proposed. Was the General Plan/Zoning amended to "suit" or allow this project. CEQA requires that the "whole of the project," including subsequent discretionary actions like this conditional use permit, be considered as part of the original EIR, under the California Administrative Code Section 15387.

COB-26

9. Noise:

There is a reference to underground subways and groundborne noise and vibration. As there are no such systems in the area, this is not a reasonable comparison especially since there are also other factors that are involved, such as ground type.

COB-27

10. Population:

The discussion under this section references the converting of resource conservation area into an industrial usage via a conditional use permit. The County's General Plan/zoning does not permit industrial uses in this district and this project should require a general plan amendment and zone change too.

COB-28

The IS also indicates that the project will have no impacts related to population and housing. The project will discourage potential residential, commercial and industrial growth in the area because of its potential for odor, dust, traffic, etc. This includes projects within the City of Barstow.

11. Public Services:

The impacts to public services are indicated as "no impact" for all but the Fire Department, which is listed as "less than significant impact." However, given the



location of the proposal and the minimal access (some dirt roads), it has the potential to increase response time. The paid-call station referenced is a small station staffed by members that include the working public who volunteer, which could further affect the response time. With regards to police/sheriff services, will the site be secured (i.e., fenced)? It indicates under Parks that the surrounding environment provides many recreational opportunities. It is probable that if the site isn't secured there may be quads and motorcycles running through the project site.

COB-29

12. Traffic/Circulation:

The IS indicates that 522 truck trips per day (quantified in the project description) will not have an impact on the traffic and circulation. These are trucks that will be traveling down local streets entering (presumably) Highway 58, that has no traffic signals in this area. It is hard to imagine that this will not have some type of effect on the traffic. While the local unimproved streets (previously limited to autos) may not see much use at this time, the trucks stopping to enter onto Highway 58 may cause some traffic concerns, as their acceleration is much slower than automobiles. Acceleration/Deceleration lanes should be required. This is supported by the TIA that indicates the existing peak traffic on Highway 58 at the two intersections is 198 & 225 a.m. peak hour, and 373 & 318 p.m. peak hour for the east bound traffic only. However, the findings indicate that the proposed project **will not** substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections), therefore no mitigation is proposed. However, the TIA failed to consider the speed of traffic on Highway 58 (typically 70 mph or more) and the trucks from the project turning onto the highway. At the peak hour rate, our City Engineer/Traffic Engineer estimates this at approximately *1 vehicle for every 12 seconds on the 318/p.m. peak hour* for the eastbound traffic. Therefore, this is a potential hazard that has no mitigation.

COB-30

When considering the potential for up to 522 trips per day, most of which will be operated within a 12 hour period (7:00 a.m. to 7:00 p.m.), there should be minimal traffic during the remaining 12 hours. If you consider 500 trips per that 12 hour period, that leaves 41.6 trips per hour average, not peak. Therefore, the estimated peak hour figures in the TIA are flawed, and our estimate would indicate peak hour could approach 50 or more trips at the Congestion Management Plan (CMP) intersections, requiring review by San Bernardino Associated Governments (SANBAG). Conversations with SANBAG indicated that no TIA or DEIR has been submitted for review.

The DEIR does not adequately address cumulative impacts. Although the DEIR addresses some local projects (i.e., Barstow Distribution Center/West Barstow Specific Plan #4), it fails to address other projects such as two annexations currently initiated in the area of Lenwood Road, residential development proposed (on-file and potential), as well as the potential for development of the Barstow Industrial Park on Lenwood Road,

COB-31



consisting of 1200 acres of industrial land that will contribute traffic onto Lenwood Road, Highway 58 and Interstate 15. If the City of Barstow had been consulted during the DEIR preparation, we would have been happy to provide such data.

13. **Utilities:**

Has MDAQMD approved the portable diesel-fueled generator?

COB-32

There appears to be activity on this site at this time (dumping of material/currently in excess of 100 cubic yards, estimated by the Barstow Fire Protection District). This should be verified. If in fact there is activity at the site, it should cease immediately as the project has not been approved, nor has it received environmental clearance, nor does it appear that the required "take" permits have been obtained from US Fish & Wildlife and California Department of Fish and Game (10A and 2081 permits).

COB-33

Section 21081 of the Public Resources Code, titled "No Approval If Significant Effect..." requires specific findings be made if mitigations are not feasible, provided the benefits outweigh the effects. Based on our review of the information in the DEIR, our concerns stated in this letter and our previous transmittal, and the potential risk of public health and safety (e.g., airborne pathogens, groundwater contamination, fire, traffic, etc.), the City of Barstow finds the DEIR flawed and in substantial non-compliance with the CEQA Guidelines.

In closing, I think it is important to consider the documents recently submitted to the City of Barstow by an area resident, which include copies of records from the Department of Public Health, City of Adelanto (Notice of Violation), State Department of Health Services, and from a law firm, indicating that the applicants of this project grossly neglected to adhere to conditions of approval from their conditional use permit with Adelanto. This could have prevented airborne contaminants and other impacts.

I can be reached at (760) 255-5152 or at mikemass@barstowca.org if you have any questions.

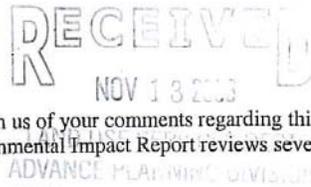
Sincerely,

Michael Massimini
Associate Planner

MSM/msm

**Draft Environmental Impact Report
PUBLIC COMMENT CARD**

If you would rather write your comments, you may turn this in to inform us of your comments regarding this Draft. The California Environmental Quality Act (CEQA) Draft Environmental Impact Report reviews several environmental issues as listed below.

**RESOLUTION NO. 4313-2006****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BARSTOW IN
OPPOSITION TO THE CONSTRUCTION OF A BIOWASTE FACILITY IN HINKLEY,
CA BY NURSERY PRODUCTS LLC**

WHEREAS, The City Council of the City of Barstow is concerned about the environmental impacts of the proposed biowaste facility and the undesirable consequences that would result from its approval, specifically the air quality and traffic impacts; and

WHEREAS, the City Council of the City of Barstow finds that the proposed biowaste facility would be detrimental to air quality, water quality and potential negative impact on future housing developments; and

WHEREAS, the City Council of the City of Barstow finds that the proposed biowaste facility needs to comply with all requirements of the California Environmental Quality Act; and

WHEREAS, the City Council of the City of Barstow finds that the proposed biowaste facility needs to fully mitigate all negative impacts of the proposed project to a less than significant level; and

WHEREAS, the City Council of the City of Barstow finds that the proposed biowaste facility needs to have sufficient water to suppress potential fires; and

WHEREAS, the City Council of the City of Barstow finds that the proposed biowaste facility relies on the unadopted West Mojave Plan as a mitigation measure;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Barstow does hereby oppose the approval of the proposed biowaste facility in Hinkley, Ca proposed by Nursery Products LLC.

BE IT FURTHER RESOLVED that the attached comments from the City of Barstow in response to the Draft Environmental Impact Report need to be addressed prior to any consideration of the project.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Barstow held the 8th day of November, 2006.

Lawrence E. Dale, Mayor

page 2 of 2

Attest:

JoAnne V. Cousino, CMC
JoAnne V. Cousino, City Clerk

RECEIVED
NOV 13 2006
LAND USE SERVICES DEPT.
ADVANCE PLANNING DIVISION

I, Joanne V. Cousino, City Clerk of the City of Barstow and ex-officio Clerk of the City Council, DO HEREBY CERTIFY UNDER PENALTY OF PERJURY that the foregoing is a true and correct copy of Resolution 4313-2006 adopted by the Council at its regular meeting held November 8, 2006, by the following vote:

AYES: Councilmembers Runyon, Gomez; Mayor Pro Tem Curran and Mayor Daie

NOES: None

ABSTAIN: None

ABSENT: None

JoAnne V. Cousino, CMC
JoAnne V. Cousino, City Clerk



forward
Nov 13

Use additional pages if needed. Please turn in your comments at this meeting, **or: Mail on or before November 9, 2006** to: Carrie Hyke, Land Use Services Dept., San Bernardino County, 385 North Arrowhead Ave., San Bernardino 92415-0182 **or:**
● Fax: (909) 387- 3223 ● Tel. 909-387-4147 ● E-mail: chyke@lusc.sbcounty.gov

Name: Bill Tomlinson

Mailing Address: 531 Lance Drive, Barstow, CA 92311

Tel. /e-mail: 760-256-8104 / jankmer45@san.rr.com

RESPONSE TO COB COMMENTS

- COB-1 Comments received in response to the Notice of Preparation were reviewed. The EIR was prepared with the intent of addressing these comments.
- COB-2 CEQA Guidelines §15126.6 states ” An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision-making and public participation. An EIR is not required to consider alternatives which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives.”
- Section 3 describes that alternatives evaluated and presents the reasons why the alternative evaluated were included in the EIR. Furthermore, Section 3.3.3 describes the process of selecting the alternative site. The end of Section 3.3.3 recognizes the possibility that other suitable sites could be located in the region, but that these sites would likely have impacts that would be similar to the Hawes and/or Fort Cady sites.
- COB-3 The text in this section is incorrect. It should read “to be included in the Final EIR” instead of “table below”. The correction is included in Section 4 of this Final EIR.
- COB-4 The conclusion with respect to visual impacts presented in the Initial Study reflects an analysis that was conducted using standard methodology for evaluating visual impacts.
- Extensive lighting is not proposed in the project design. As indicated in Section 2.4, night-time operations would occur only intermittently. Electricity will be supplied by a portable generator and solar equipment as indicated in Section 2.6. Consequently, only limited low-intensity light is expected and a photometrics plan would not be necessary.
- COB-5 Mitigation measure A-2 requires that unpaved roads be paved or watered at a frequency adequate to prevent visible dust.
- COB-6 Dispersion modeling was conducted for odor as described in Section 4.3.3.3. Table 4.3.11 provides information regarding the odor levels anticipated at various distances from the site.
- COB-7 See response to comment COB-5.
- COB-8 The Adelanto location was granted a conditional use permit by the City and was not under the purview of the County Land Use Services Department. The County has conducted its own independent review of this proposed project, with consideration for its location and its proposed operational parameters. Should this project be approved, it will have conditions to be met, including mitigation measures. All mitigation measures proposed in the EIR would be fully enforceable through permit conditions and other measures. Moreover, under CEQA, the County must prepare a Mitigation Monitoring or Reporting Program “designed to ensure

compliance during project implementation” whenever project approval is based on an EIR. If the County decides to approve Nursery Products’ proposed Project, the County will prepare such a Program. In preparing the Program, the County will take substantial evidence concerning Nursery Products’ previous compliance history into account.

The County Environmental Health Services Division, acting as the Local Enforcement Agency (LEA) will inspect the facility at least monthly. The conditions of approval will also be reviewed for compliance by the County Land Use Services Department. If the County determined non-compliance, the County Code Enforcement Division would pursue an investigation and documentation, and if non-compliance continued, site closure and legal action would be the final stage of enforcement. At the same time, the LEA has a similar process for operational non-compliance.

- COB-9 Mitigation measure AQ-2 has been revised to include a condition that windrows be sprayed with water to prevent visible dust during windy conditions.
- COB-10 See response to CIWMB-8.
- COB-11 Protocol tortoise surveys and observational surveys for Mohave ground squirrel were conducted in April and May, 2006. See response to comments CDFG-5 and CDFG-12.
- COB-12 Mitigation measure B-2 requires the project proponent to obtain any required take permits/authorizations from the wildlife agencies prior to project implementation. The tortoise clearance surveys are required to be conducted per USFWS protocols.
- COB-13 Mitigation measure B-4 applies to the proposed project site. Mitigation measure B-15 applies to the alternative project site.
- COB-14 See response to CDFG-5 and CDFG-12.
- COB-15 As indicated in Appendix A (page 15), the proposed project site is not located within an Alquist-Priolo special studies zone and no major faults exist near the project site. The Kramer Hill Fault, is located approximately 17 miles northwest of the project site. This fault does not pose a threat to the project area. Additionally, no habitable structures are proposed.
- COB-16 As required by Mitigation Measures W-4 and W-5, the site will be required to prepare and implement a storm water pollution prevention plan that will minimize erosion.
- COB-17 Mitigation Measure HM-3 has been revised to include a requirement to consult with the local fire agency regarding the size of the water supply.
- COB-18 A Spill Prevention, Control and Countermeasures (SPCC) plan is required for the facility under federal regulations as specified in Mitigation Measure HM-2. The SPCC is required to include a section on transfer and fueling activities. There are several well-documented options for controlling spills during fueling and the selected option will be described in detail in the SPCC plan.

- COB-19 Fires are rare at composting operations. Any contamination to soil would be on the surface or very shallow and could be readily remediated. Contamination of groundwater would not be expected. The County Fire Department will review site plans in accordance with their stockpiling regulations. Site operating procedures will not be conducive to spontaneous combustion. Incoming raw materials will be mixed to provide consistent moisture contents within the windrows. During the composting process moisture from the biosolids will be released, replacing moisture lost to evaporation. This moisture level will further reduce fire risk.
- COB-20 The site design would direct runoff to the retention basin. Mitigation measure W-3 is proposed specifically to prevent infiltration into the vadose zone and groundwater. In an arid environment, water applied for dust control will evaporate, not infiltrate and water applied to the windrows will evaporate or be absorbed in the compost. No impacts to groundwater from these activities are anticipated.
- COB-21 See response to COB-19.
- COB-22 With the arid conditions at the site and groundwater at a depth greater than 200 feet, annual sampling would detect migration of constituents in very early stages of migration. The comment regarding elimination of monitoring is valid and Mitigation Measure W-3 has been revised as suggested.
- COB-23 Sampling the well is proposed to collect baseline data. The monitoring program is described in Mitigation Measure W-3. Though monitoring the well is not part of the initial monitoring program, should migration of constituents be detected beneath the pond by the initial monitoring, the LEA or RWQCB could require monitoring the well as part of the “appropriate action plan”.
- COB-24 See response to COB-4.
- COB-25 Comment noted. The City can obtain the most current version of the County Development Code online at www.sbcounty.gov/landuseservices and review the subject reference.
- COB-26 The General Plan Update was initiated well in advance of the filing of the application for this project and is not connected to this project in any way. No change has been made to the zoning for the project site. The County Development Code, Additional Uses section, allows the location of a composting facility in any zone subject to an approved Conditional Use Permit.
- COB-27 Reference to these worse-case type noise sources was made for comparison purposes to illustrate the point.
- COB-28 The County Development Code, Additional Uses section, allows the location of a composting facility in any zone subject to an approved Conditional Use Permit.

COB-29 The site will be secured with fencing.

COB-30 The City's interpretation that the project trip generation of 522 truck trips per day is inaccurate. The Appendix D of the EIR presented the passenger car equivalent (PCE) adjusted truck trips. Truck trips were conservatively converted by a factor of 3 passenger car equivalents per truck. Consequently, 87 trucks in and out of the site is equivalent to 522 passenger vehicles trips, and 522 is the number that appears in the EIR.

Caltrans which has operational jurisdiction for SR 58 was contacted during preparation of the EIR and did not raise any issue with project ingress/egress. There is adequate gap for merging and entering traffic and is explained further in response to City comments below. In addition both County of San Bernardino Traffic Engineering staff and Caltrans District 8 have cleared the project for requirement of left turn pocket as there is already one in place leading to the project site and further validated by the number of project generated peak hour PCE of 22 trips which is far below the 100 peak hour trips Caltrans threshold.

The peak hour rate of 1 vehicle for every 12 seconds on the 318/p.m. peak hour for the eastbound traffic as estimated by the City is not accurate as it was calculated with only one lane in the eastbound direction. Our field review shows that SR 58 is a 4-lane divided State Highway that provides 2-lanes for both eastbound and westbound direction. Therefore, following the City's method of calculation the estimated peak hour rate in the eastbound direction is 1 vehicle for every 22 seconds. The longer vehicle gaps and two lanes per direction provide adequate opportunities for merging traffic.

The worst case project generated peak hour PCE of 22 trips is below the 50 peak hour trips CMP threshold.

COB-31 The County of San Bernardino Traffic Engineering staff provided input in the development Project Horizon Year (2016) Baseline traffic volume projections by using the latest Traffic Volume Expansion Factors developed by the County Traffic Division, Traffic Planning Research Section dated January 2006. These official County of San Bernardino traffic volume expansion factors provide far more conservative traffic growth assumption and better accounts for the interchange of regional trips that may affect the project site as compared to near-term localized development data located elsewhere in the County.

COB-32 The portable generator to be used at the site will require a permit from the MDAQMD.

COB-33 The dumping in the area has been previously investigated and was found not to be on the project site, but on an adjacent parcel. This appears to be a random act of illegal dumping.

EMWD COMMENTS



November 3, 2006

LAND USE SERVICES DEPT.
ADVANCE PLANNING DIVISION**Board of Directors****President**

Randy A. Record

Vice President

David J. Slawson

Treasurer

Joseph J. Kuebler, CPA

Rodger D. Siems
Ronald W. Sullivan**Board Secretary**

Rosemarie V. Howell

General Manager

Anthony J. Pack

**Director of the
Metropolitan Water
District of So. Calif.**
Randy A. Record**Legal Counsel**

Redwine and Sherrill

Ms. Carrie Hyke
EIR Project Manager
Land Use Services Department
385 North Arrowhead Avenue, First Floor
San Bernardino, CA 92415

Dear Ms. Hyke:

I am writing in regards to the Nursery Products Hawes Compost Recycling Facility. This facility will offer the opportunity to remain in compliance with federal and local biosolids regulations. In terms of environmental protection, the Nursery Products facility will provide a valuable resource that would also save rate payer dollars through recycling rather than disposal.

Options on biosolid management are limited. If Nursery Products does not open, it would be a lose-lose situation. Consumers would lose a valuable recycled resource that benefits crops and saves water. The impact on Agencies such as the District would be :

- More costly options for biosolids recycling;
- Potentially forced to haul this material hundreds of miles away to another county or state;
- Required to send biosolids to landfill for disposal; or
- Force us to construct a capital intensive biosolids processing facility that will increase costs to rate payers.

Our experience with this type of biosolids composting process has shown it to be compliant with EPA 503 regulations. It is safe, reliable, and provides an economical advantage to rate payers. It further contributes as an effective means to water conservation.

In closing, I am hopeful that the County will approve both the EIR and the CUP for this project.

Sincerely,

Mike Luker
Eastern Municipal Water District
Assistant General Manager of Operations and Maintenance

Mailing Address: Post Office Box 8300 Perris, CA 92572-8300 Telephone: (951) 928-3777 Fax: (951) 928-6177
Location: 2270 Trumble Road Perris, CA 92570 Internet: www.emwd.org

SBC-88

EMWD-1

RESPONSE TO EMWD COMMENTS

EMWD-1 Comment noted. These topics are generally included in the discussion of the No Project Alternative.

MWA COMMENTS



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

November 13, 2006

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

Attn: Ms. Carrie Hyke

Subject: Comments to Draft Environmental Impact Report for Conditional Use Permit,
Nursery Products Hawes Composting Facility, Hinkley, California

Dear Ms. Hyke:

Thank you for the opportunity to comment on the above-referenced Conditional Use Permit. As you may be aware, the Mojave Water Agency (MWA) is not a regulatory authority regarding water quality issues, but we do have an interest in assuring that regional groundwater quantity and quality is adequate to serve the beneficial uses throughout the MWA service area.

The MWA has reviewed the September 2006 *Draft Environmental Impact Report (DEIR) Nursery Products Hawes Composting Facility* prepared by URS. The areas of interest to MWA include the potential impacts to water supply and water quality. Based on that review, it appears that monitoring has been proposed such that potential adverse impacts to groundwater should be detected before constituents of concern reach the local water table.

The DEIR does not discuss the water supply required for the project. It has been represented that the project would require about 1,000 gallons per day which, if this is correct, would equate to slightly more than 1.10 acre-feet per year. This appears to be a relatively minor quantity of water for the scope of the project described, particularly considering the need to control fugitive dust. However, it should be noted that if the project uses 10 acre-feet or less it would be subject to MWA Ordinance No. 11 and likely assessed for Replacement Water. Should production exceed 10 acre-feet, the project owner would be required to become a party to the Mojave Basin Area Judgment and either purchase sufficient production rights to serve the project or purchase Replacement Water through the Mojave Basin Area Watermaster. We would be pleased to provide you with additional information regarding Ordinance No. 11 and the Mojave Basin Area Judgment should you need it.

On November 7, 2006, the MWA Planning, Resources and Technology Committee heard a staff summary of issues identified in the DEIR for this project. At that time, a member of the public summarized and provided the attached information regarding the history of the Nursery

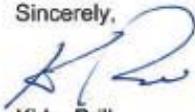
MWA-1

Products, LLC Facility in the City of Adelanto. The information attributed to the City of Adelanto indicates that at one time the project was not operating within the requirements of the Conditional Use Permit issued by the City. The information attributed to the State of California Department of Health Services suggests that there may have been potential health issues as well, based upon data that was collected by the Los Angeles Department of Water and Power to assess the impacts of the Adelanto project. Two specific areas of impact were identified as areas of concern: 1) airborne releases of contaminants, and 2) dust surface water runoff. We note with concern that surface water samples taken offsite for the Los Angeles Department of Water and Power were characterized as being significantly in excess of standards applicable to fresh water beaches and adjacent storm drains for Total Coliform, Fecal Coliform and E. coli. County review should take note of this information and consider the practical nature of the County's ability to develop adequate and enforceable measures to control these potential offsite impacts. In other words, assuming the project is permitted, the potential for impacts to be adequately identified and mitigated with proper enforcement will be critical to the process.

MWA-2

If you have any questions, please do not hesitate to contact me.

Sincerely,



Kirby Brill
General Manager

attachments

c: Lahontan Regional Water Quality Control Board

sb cty nursery products eir ltr 111306.doc/kirby/vt

RESPONSE TO MWA COMMENTS

- MWA-1 Comment noted. If a well is constructed a part of this project, it is expected that the applicant would construct and operate the well legally, in compliance with MWA Ordinance No. 11.
- MWA-2 The proposed project includes a design that directs all surface water flow from the site to a retention basin. This will minimize the possibility that run-off contaminated with biosolids will leave the site. Additionally, Mitigation Measure W-1 requires that an adequately designed retention basin(s) be included in any design modification of the facility.

NAHC COMMENTS

STATE OF CALIFORNIA

RECEIVED
 Arnold Schwarzenegger, Governor
 OCT 07 2006
 LAND USE SERVICES DEPT.
 ADVANCED PLANNING DIVISION

NATIVE AMERICAN HERITAGE COMMISSION
 915 CAPITOL MALL, ROOM 364
 SACRAMENTO, CA 95814
 (916) 653-4082
 Fax (916) 657-5390
 Web Site www.nahc.ca.gov
 e-mail: ds_nahc@pacbell.net

October 3, 2006

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

Re: SCH#2006051021; CEQA Notice of Completion; Draft Environmental Impact Report (DEIR); for Nursery Products Hawes Composting Facility Project; Near Hinkley/Mojave Desert; San Bernardino County, California

Dear Ms. Hyke:

Thank you for the opportunity to comment on the above-referenced document. The Native American Heritage Commission is the state's Trustee Agency for Native American Cultural Resources. The California Environmental Quality Act (CEQA) requires that any project that causes a substantial adverse change in the significance of a historical resource, that includes archeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR per CEQA guidelines § 15064.5(b)(c)). In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE)', and if so, to mitigate that effect. To adequately assess the project-related impacts on historical resources, the Commission recommends the following action:

- √ Contact the appropriate California Historic Resources Information Center (CHRIS). The record search will determine:
 - If a part or the entire APE has been previously surveyed for cultural resources.
 - If any known cultural resources have already been recorded in or adjacent to the APE.
 - If the probability is low, moderate, or high that cultural resources are located in the APE.
 - If a survey is required to determine whether previously unrecorded cultural resources are present.
- √ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.
 - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological information center.
- √ Contact the Native American Heritage Commission (NAHC) for:
 - A Sacred Lands File (SLF) search of the project area and information on tribal contacts in the project vicinity who may have additional cultural resource information. Please provide this office with the following citation format to assist with the Sacred Lands File search request: USGS 7.5-minute quadrangle citation with name, township, range and section.
 - The NAHC advises the use of Native American Monitors to ensure proper identification and care given cultural resources that may be discovered. The NAHC recommends that contact be made with Native American Contacts on the attached list to get their input on potential project impact, particularly the contacts of the on the list.
- √ Lack of surface evidence of archeological resources does not preclude their subsurface existence.
 - Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5 (f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
 - Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.
- √ Lead agencies should include provisions for discovery of Native American human remains or unmarked cemeteries in their mitigation plans.
 - CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the Initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the

NAHC-1

NAHC-2

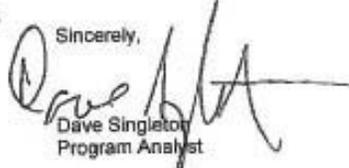
NAHC-3

SBC-6

- NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens.
- √ Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the CEQA Guidelines mandate procedures to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.
- √ Lead agencies should consider avoidance, as defined in § 15370 of the CEQA Guidelines, when significant cultural resources are discovered during the course of project planning.

■ NAHC-4
 ■ NAHC-5

Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely,

 Dave Singleton
 Program Analyst

Cc: State Clearinghouse
 Attachment: List of Native American Contacts

SBC-71

RESPONSE TO NAHC LETTER

- NAHC-1 The records search, survey and NAHC contact specified in the comment letter were conducted as summarized in Section 4.5 and detailed in the confidential Cultural Resources technical report on file with LUSD.
- NAHC-2 These conditions are included in Mitigation Measure CR-1.
- NAHC-3 The Initial Study did not identify the presence or likely presence of Native American human remains in the APE.
- NAHC-4 These conditions are included in Mitigation Measure CR-1.
- NAHC-5 No significant cultural resources were discovered during project planning.

Nov 13 06 05:45p
11/07/2006 14:18

D. Norman Diaz
7602574314

MEMBER
760 253-7993

P. 2
PAGE 02

NSCSD COMMENTS

RESOLUTION No. 2005-1

*A RESOLUTION of the Board of Directors of the
Newberry Springs Community Service District
Opposing the importation of sewer sludge into Newberry Springs and requesting a
County moratorium on such uses pending further studies*

WHEREAS, the Board of Directors of the Newberry Springs Community Service District (the "District") having both the power and the duty to protect the health, welfare and safety of the residents of Newberry Springs, takes notice of the outrage in the local community at recent proposals to process imported sewer sludge within Newberry Springs without first adequately evaluating the many specific local adverse health, welfare and safety impacts as well as other environmental impacts; and

WHEREAS, the sewage sludge facility currently being operated by Nursery Products LLC ("Nursery Products") in the City of Adelanto and proposed for relocation to Newberry Springs has been and presently is the subject of a successful lawsuit brought the Los Angeles Department of Water and Power, its neighbor, based upon numerous health and safety violations by Nursery Products; and

WHEREAS, the Nursery Products sludge farm facility in Adelanto, as well as similar sludge sites in Kern and Riverside counties and elsewhere, have been involved in extensive current and past litigation to get rid of them, after local citizens have complained of compelling health, safety and quality of life issues; and

WHEREAS the City of Adelanto has determined that the facility operated there by Nursery Products LLC is in violation of its Conditional Use Permit; and

WHEREAS the City of Adelanto has revoked the sludge farm permit of Nursery Products LLC, based on reported misrepresentations made by the applicant in obtaining its permit in Adelanto; and

WHEREAS hundreds of complaints to the DEHS, AQMD, CIWMB, and other governmental agencies, of stench, flies, rashes, vomiting and other serious health issues relating to the Adelanto facility have been reported by residents and businesses in Adelanto; and

WHEREAS the Bradach Elementary School Principal, Mrs. Melva Davis, has reported a marked increase in student complaints of stomach cramps, headaches, vomiting, skin rashes, eye and ear irritations, nausea, asthma attacks, diarrhea, and other health afflictions, since Nursery Products began its operations in Adelanto; and

NSCSD
1/4

Nov 13 06 05:45p
11/07/2006 14:18

D. Norman Diaz
7602574314

760 253-7993
NEWBER

P. 3
PAGE 83

WHEREAS the California Integrated Waste Management Board has recognized, and so states on its website, that, in the last several years, numerous scientific, political and social factors have contributed to a growing public concern over the safety of sludge which has resulted in strict local ordinances banning or severely restricting sludge use in several California counties; and

WHEREAS, the Senior Water Resources Planner for the Kern County Water Agency, Mr. Lloyd Fryer, has expressed the opinion in published reports that "... [t]he risk of the sewer sludge contaminating the water is real in shallow aquifer areas ..."; and

WHEREAS, locating these types of sewage sludge facilities in Newberry Springs may pose major and irreversible contamination threats to the local sole-source shallow-groundwater-basin in Newberry Springs; and

WHEREAS, contamination of local lakes and ponds by wind-borne or water-borne pathogens originating from the sewage sludge facility may pose significant health risks to local residents, especially our high proportion of elderly and infant residents, and may result in exposure to serious pathogens and E.coli-related and other health threats; and

WHEREAS air pollution and PM10 releases and other air quality problems are well-recognized adverse impacts from sewage sludge composting facilities and will degrade the existing high quality of the air in Newberry Springs, a resource cherished by many residents locally and statewide; and

WHEREAS fire department studies show that sewage sludge composting facilities have a history of hard-to-control spontaneous-combustion fires, thereby presenting significant safety hazards for the local community; and

WHEREAS the local schools, churches, senior center, and CalTrans freeway rest areas, as well as local residents and businesses, may be subjected to significant adverse health risks by reason of their proximity to the sewage sludge composting operations; and

WHEREAS, Title 3, Chapter 8, Article 11 of the San Bernardino County Health & Sanitation Code recognizes that sludge may contain heavy metals, pathogenic organisms and chemical pollutants; and

WHEREAS the same Article in the San Bernardino County Health & Sanitation Code recognizes that large-scale importation of sludge into critical ground water basins and into food production areas must be subject to certified minimum set-backs, in order to prevent public health hazards, surface and ground water pollution, and contamination of food-chain products; and

NSCSD
2/4

Nov 13 06 05:46p
11/07/2006 14:18

D. Norman Diaz
7602574314

760 253-7993
NEWBER

P. 4
PAGE 04

WHEREAS, the odious and unsanitary nature of sewage sludge may induce significant increases in vector problems within Newberry Springs, further contravening express prohibitions in the San Bernardino County Health & Sanitation Code concerning vectors; and

WHEREAS, recent case law indicates that more studies on the human health effects of such facilities are needed; and

WHEREAS, numerous further concerns and controversies relating to sewage sludge have been brought to the attention of the District by the citizens of Newberry Springs;

NOW THEREFORE the Newberry Springs Community Service District finds and resolves as follows:

1. There is significant controversy surrounding the potential health, safety and welfare impacts of the processing of sewage sludge, and of the many published scientific reports, news articles, internet references, neighbor complaints, and other writings relating to sewage sludge.
2. A substantial evidence has been presented to the District that a significant risk exists that the importation, spreading and processing of sewage sludge within Newberry Springs may result in significant health, safety and welfare impacts for our local community.
3. The significant health, safety and welfare impacts for our local community mandates further detailed studies before any processing of sewage sludge within Newberry Springs may lawfully take place.
4. The County of San Bernardino should deny the CUP for the processing of sewage sludge within the jurisdictional boundaries of the County, including but not limited to the District, until such time as the County has determined, based upon detailed independent local-specific studies to be funded by any project applicant(s), that the risk of significant health, safety and welfare impacts for our local community is limited to levels acceptable to the District.
5. The Board hereby directs its staff and consultants to take any and all action necessary to oppose this CUP application.

NSCSD-1

NSCSD

3/4

Nov 13 06 05:46p
11/07/2006 14:18

D. Norman Diaz
7602574314

MEMBER 760 253-7893

PAGE 05 p.5

PASSED, APPROVED AND ADOPTED at a meeting of the Newberry Springs
Community Service District, held in Newberry Springs, California, on May 20th
2005.

AYES: 5

NOES: 0

ABSTAIN: 0



Wesley Sperry, President

ATTEST:



Secretary:

NSCSD
4/4

RESPONSE TO NSCSD COMMENTS

NSCSD-1 Comment noted.

RWQCB COMMENTS



Linda S. Adams
Secretary for
Environmental Protection

California Regional Water Quality Control Board
Lahontan Region

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



Arnold Schwarzenegger
Governor

November 13, 2006

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

**COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE
NURSERY PRODUCTS COMPOSTING FACILITY LOCATED ON 160-AC PARCEL IN
THE UNINCORPORATED COMMUNITY OF HINKLEY, SAN BERNARDINO
COUNTY, APN 0492-021-24-0000, SCH # 2006051021**

California Regional Water Quality Control Board (Water Board) staff has reviewed the Draft Environmental Impact Report (DEIR), dated September 2006, for the Nursery Products Composting Facility (Facility) project. The facility would compost biosolids and green material to produce Class A compost.

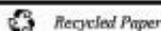
Our comments on the DEIR are submitted in compliance with California Environmental Quality Act (CEQA) Guidelines Section 15096, which requires CEQA responsible agencies to specify the scope and content of the environmental information germane to their statutory responsibilities and lead agencies to include that information in the environmental document for their project. The Water Board regulates discharges which could affect the quality of water of the State in order to protect the chemical, physical, biological, bacteriological, radiological, and other properties and characteristics of water which affects its use (Water Code Section 13050(g)).

PROPOSED PROJECT DESCRIPTION

The DEIR states that Nursery Products LLC (hereafter Project Proponent), plans to construct and operate a 160-acre biosolids and green waste co-composting facility located in an unincorporated area of San Bernardino County, south of State Route 58, approximately 12.3 miles east of Kramer Junction and 22 miles west of Barstow.

The composting process proposed at the facility involves the bulk mixture of the primary feedstock materials, i.e., biosolids and green materials, with bulking agents and amendments (sawdust, sand, gypsum and other similar materials), and storage of the compost material. The facility will process approximately 400,000 tons per year of biosolids and green waste, and will be able to store approximately 350,000 tons of composted finished product.

California Environmental Protection Agency



Carrie Hyke
County of San Bernardino

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Feedstock receiving, storage, and composting operations will be conducted on pads constructed of compacted soil. A stormwater retention basin is also proposed to be constructed of compacted soil.

The Environmental Checklist Form (Initial Study) contained in the NOP identified the environmental factors that would be potentially affected by this project to be biological resources, hazard and hazardous materials planning, hydrology/water quality, and air quality. The NOP states that all the potential environmental impacts will be analyzed and examined further and that mitigation measures related to the impacts will be identified and proposed in the draft Environmental Impact Report (DEIR).

GENERAL COMMENTS

Water Board Comments on the Notice of Preparation for the DEIR

The Water Board incorporates into this letter by reference its comment letter, dated July 3, 2006, *Comments on the Notice of Preparation for the Nursery Products Composting Facility Draft Environmental Impact Report*.

Incomplete Mitigation Monitoring and Reporting Program

A mitigation monitoring and reporting program (MMRP) is required for the proposed project because the DEIR has identified significant adverse impacts, and measures have been identified to mitigate those impacts. The DEIR is incomplete in the structure and format of the MMRP. The MMRP identified in the DEIR lacks specificity as to the mitigation timing, monitoring responsibilities, and compliance verification responsibility for all required mitigation measures identified in the EIR.

RWQCB-1

Detailed Description of the Feedstock and Final Compost

The Project is expected to receive an average daily total of 1,100 wet tons of biosolids and green material or, approximately 400,000 wet tons per year (DEIR p. 2-11). The DEIR was not complete in describing the type and chemical characteristics of the (1) feedstock, (2) other wastes that could be generated by contact with stormwater, (3) released moisture from the compost, and (4) the finished compost product.

RWQCB-2

The Final EIR (EIR) should also provide a more detailed description of the type of biosolids that will be accepted, e.g., only treated sewage sludge that meets the Class B requirements, or, biosolids that meet the nonhazardous criteria specified in Title 22, CCR, Division 4.5, Chapter 11, Article 3.

The specific constituents of concern to water quality include waste constituents, their reaction products, and constituents that are reasonably expected to be in or derived from waste. Based on data from sewage sludge drying facilities, constituents of concern for waste planned to be treated by the proposed facility may be aluminum, antimony, barium, beryllium, boron, chromium, cobalt, copper, manganese, silver, vanadium, zinc, arsenic, cadmium, lead, mercury, nickel, selenium, thallium, cyanide, sulfide, and chloride.

RWQCB-3

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Carrie Hyke
County of San Bernardino

- 3 -

Additionally, nitrogen, phosphorus, potassium, calcium, and magnesium are typically present in sewage sludge and green waste. Nitrogen may be present as organic nitrogen, ammonium, nitrate, and nitrite ions. Sewage sludge and green waste can contain low to moderate levels of soluble salts.

Federal Biosolids Reuse Regulations

The Project Proponent plans to sample and analyze soils beneath the facility according to methods described in Part 503 for agricultural land-application of Class A and Class B treated biosolids. This project is not proposed as a land application site, but rather a waste treatment or recycling facility.

RWQCB-4

State Nondegradation Policy

The State Water Board has established a nondegradation policy for the protection of water quality called the "Statement of Policy with Respect to Maintaining High Quality of Waters in California." This policy, referred to as the Nondegradation Objective, requires continued maintenance of existing high quality waters. Whenever the existing quality of water is better than the quality of water established in this Basin Plan as objectives (both narrative and numerical objectives), such existing quality shall be maintained unless appropriate findings are made under the policy.

Water quality objectives

Water quality objectives are numerical or narrative. Narrative and numerical water quality objectives define the upper concentration or other limits that the Regional Board considers protective of beneficial uses.

Potential to Release Pollutants or Waste Constituents

The DEIR does not adequately describe the potential, if any, of the project to cause the release of pollutants or waste constituents to the environment. The EIR should evaluate the potential of the discharge to cause any increase in the concentration of waste constituents in soil-pore gas, soil-pore liquid, or soil, if such waste constituents could migrate to waters of the State - in either the liquid or the gaseous phase - and cause a condition of nuisance, degradation, contamination, or pollution. The EIR should present and examine mitigation measures designed to avoid, minimize, or mitigate to insignificance any increase in the concentration of waste constituents in soil-pore gas, soil-pore liquid or soil that could create a condition of nuisance, degradation, contamination, or pollution of the waters of the State.

RWQCB-5

The EIR does not adequately evaluate mitigation measures that would be instituted to protect soil and waters of the state from these constituents contained in biosolids, green wastes, and residual wastes. The EIR should indicate the manner in which such significant effects can be avoided, minimized, or mitigated to insignificance.

RWQCB-6

Carrie Hyke
County of San Bernardino

- 4 -

Local Groundwater Quality

- The DEIR states that , "The USGS National Water Information Service (NWIS) groundwater database, indicates that there are a limited number of water wells in the vicinity and there is little recent groundwater level and quality information for this area." And, "one well located less than 1 mile west of the Site, was 289.4 feet below the ground surface (bgs) in 1967. Since water levels have dropped steadily since the 1970s, the depth of the groundwater surface beneath the site is probably 300 feet bgs or greater. For example, the depth to groundwater in one USGS well located approximately 2 miles southeast of the site was 356.4 feet bgs in 2004. No other data were available in the USGS data regarding the depth to water in the wells referenced in the DEIR."

The DEIR states that "the average total dissolved solids (TDS) for this area is 830 [mg/L]." And, "the average nitrate and arsenic levels in the groundwater are 4.0 [mg/L] and 0.02 [mg/L] respectively."

These statements reinforce the need to acquire current local empirical evidence of groundwater quality. The EIR should analyze the occurrence and quality of groundwater beneath the site.

RWQCB-7

Waste Classification

- Under Title 27 CCR, Division 1, Subdivision 1, Chapter 3, Subchapter 2, Article 2, Section 20200(a)-(a)(1), the State Board has declared that "[For wastes that cannot be discharged directly to waters of the state, the waste classification system under Title 27] shall provide the basis for determining which wastes may be discharged at each type of disposal unit. Waste classifications are based on an assessment of the potential risk of water quality degradation associated with each category of waste." See the State Water Board website <<http://www.waterboards.ca.gov/cwphome/land/docs/t2797m.pdf>>.

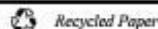
The final environmental impact report (EIR) should clearly state the origin and sources of the wastes in feedstock, and the potential pollutants which they contain, such that these wastes can be classified according to Title 27 CCR.

RWQCB-8

- It is understood that only biosolids that meet the requirements for nonhazardous biosolids specified in Title 22, California Code of Regulations (CCR), Division 4.5, Chapter 11, Article 3, will be accepted. Please describe the plan to be used to ensure testing and indicate who will complete testing (or other party), and whether the biosolids will be tested by the generator according to the Title 22 criteria prior to shipping to the facility.

RWQCB-9

California Environmental Protection Agency



Carrie Hyke
County of San Bernardino

- 5 -

Facility Design And Construction

- 1. The Project Proponent plans to construct composting pads and a stormwater retention basin. Preliminary design specifications of these items are provided in the DEIR and the specifications indicate that the pads and retention basin will be compacted soil.

The EIR should analyze and further examine whether the project's preliminary design specifications for construction of the composting pads and the stormwater retention basin and other facilities are sufficient to protect the underlying soil and groundwater beneath the site. The EIR should include an evaluation of alternatives considered to protect soil, surface water, and ground water quality to achieve and maintain the water quality objectives for bacteria, coliform, chemical constituents, radioactivity, and taste and odor in ground water. Mitigation-measure alternatives should include: covering the site to prevent rainwater contact and maintain the water quality objectives; and construction of a synthetic liner or concrete liner for the following areas:

RWQCB-10

- a) The incoming feedstock storage area(s), treatment (composting) area(s), and finished product storage area(s);
- b) The storm water retention basin; and
- c) Any process-water basin that will store liquid wastes such as truck wash wastewater, leachate, condensate, and any stormwater that has come in contact with the feedstocks, composting piles, or finished compost; and to protect surface water and groundwater.

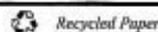
- 2. Composting operations may produce residual wastes, such as leachate, precipitation that has come in contact with composting material, and escaped or fugitive raw material and compost. Please indicate how the residual wastes, if any, would be collected. Provide an estimate of the waste classification of the residual wastes, and indicate the ultimate fate of the residual wastes (e.g., recycled onto the piles for moisture control during the composting process, dust control, etc.).

RWQCB-11

- 3. Pollutants contained in windblown fugitive dust and debris from the proposed facility could be transported away from the site and may come in contact with stormwaters and affect surface or groundwater quality downwind of the project. The EIR should analyze and further examine the potential for emissions of fugitive dust and debris from the facility, the pollutants contained in the emissions, and evaluate the potential downwind impacts from windborne pollutants to surface water and groundwater quality. The EIR should examine and evaluate the potential for impacts from airborne contaminants to migrate and include mitigation measures to reduce any potential water quality impacts to insignificant levels. One alternative should analyze the benefit, if any, of construction of a covered or enclosed facility to protect water quality.

RWQCB-12

California Environmental Protection Agency



Carrie Hyke
County of San Bernardino

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Thank you for the opportunity to comment on the DEIR for this project. If you should have any questions regarding our above or attached comments, please contact me at (530) 542-5410 or Joe Koutsky at (760) 241-7391.

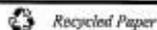


Alan Miller, P.E.
Senior Resources Control Engineer

cc: Mail List

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[File Location: San Bernardino County]

California Environmental Protection Agency



RESPONSE TO RWQCB

- RWQCB-1 The text in this section is incorrect. It should read “to be included in the Final EIR” instead of “table below”. The correction is included in Section 4 of this Final EIR.
- RWQCB-2 The chemical characteristics of biosolids, green waste and compost are somewhat variable. This being said, Section 2.3.1 indicates that no hazardous waste will be accepted by the facility. This includes biosolids. Section 2.3.3 indicates that the compost produced will meet the metal and pathogen requirements specified in 14 CCR 17852 and 17868. Table 4.7.1 presents representative metals concentration expected in the compost. This information is adequate to conduct an analysis of the environmental impacts expected from the project.
- RWQCB-3 Comment noted.
- RWQCB-4 The land application limits are proposed as a conservative monitoring threshold. If these thresholds are reached, it indicates that constituents are migrating through the subsurface, but the levels will be comparable to agricultural lands that have reached their land-application limits (i.e. low enough so that a soil treatment or removal program would not yet be necessary). This early warning strategy would give the operator and agencies time to reach consensus on an appropriate action plan.
- RWQCB-5 Though the windrow would generate decomposition gases, vertical migration down through the soil matrix is not expected. Unlike a landfill, the compost piles are not covered with soil and will be turned regularly. This heat generated by the composting process will cause the gases to rise and they will escape into the air, resulting in the air quality impacts described in Section 4.3. Additionally, except for the retention basin, the lack of a hydraulic head would indicate that constituents would not be driven into the soil-pore liquids. Soil-pore liquid in the retention basin would be collected with the sampling required by Mitigation Measure W-3 and would be detected in the analysis of these samples.
- RWCQB-6 Mitigation measures W-1 to W-6 would reduce potential impacts to waters of the state to a less than significant level. If the RWQCB and/or LEA believe that additional measures are necessary, these measures would be included in the Solid Waste Facility Permit and/or Waste Discharge Requirements to be issued for the project.
- RWQCB-7 The comment that groundwater beneath the site is probably 300 feet bgs or greater is acknowledged. One approach to understanding potential impacts to groundwater would be to conduct explorations to collect data regarding actual depth to groundwater and to sample the groundwater with the assumption that the constituents from the facility would reach the groundwater. However, with groundwater levels at 289 feet bgs, it is reasonable that a strategy that includes monitoring, detecting and controlling vertical migration in the shallow subsurface would reduce potential impacts to groundwater to less than significant, regardless of the quality of the groundwater that is present in excess of 289 feet bgs.

- RWQCB-8 As described in Section 1.4, the biosolids to be composted at the facility will come from wastewater treatment plants, primarily in the Inland Empire, and secondarily from other neighboring jurisdictions. The specific facilities will be determined by market conditions and existing contractual arrangements. Section 2.3.1 describes receiving procedures that specify that appointments must be made for all loads delivered to the facility; documentation (including lab analysis) must be provided with each delivery and that no loads that characterize as hazardous waste will be accepted. These controls provide adequate information to conduct the environmental analysis under CEQA. The classification of the wastes according to Title 27 is expected to be part of the Solid Waste Facility Permit and/or Waste Discharge Requirement processing to be completed for the project.
- RWQCB-9 See response to RWQCB-8.
- RWQCB-10 See response to RWQCB-7 and RWQCB-4 with respect to protecting groundwater at the site. It should be noted that if the monitoring program in W-3 indicates that migration of constituents into the vadose zone is occurring, it would be expected that a synthetic or concrete liner would be one of the items considered to be included in the action plan described in Mitigation Measure W-3.
- RWQCB-11 Moisture in windrows in an arid environment would be expected to primarily evaporate, and not escape the pile as leachate. Precipitation that comes in contact with the windrows, raw material or compost will be directed to the retention pond. As indicated in Mitigation Measure HM-4, water from the retention pond would be used for dust control on windrows and would only remain in the pond for up to 30 days.
- RWQCB-12 Fugitive dust emissions from the facility are addressed in Section 4.3.3. From an air quality perspective, the impacts would be less than significant with the implementation of mitigation measures AQ-1 and AQ-2. This would also suggest that the quantity of dust that would leave the facility and end up on the ground would be relatively small. Additionally, for impacts to waters of the state to occur, the dust along with any associated constituents would need to work its way to surface or groundwater in volumes or quantities that would impact water quality.

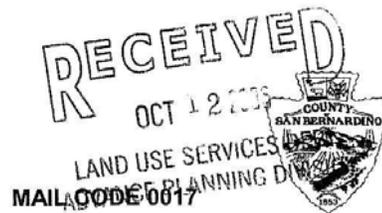
It should be noted that from a waters of the state perspective, the facility would likely be a benefit related to the potential to impact waters of the state by dust. Without the project, biosolids would continue to be land-applied or used as alternative daily cover (ADC) in a landfill, and the green material would also continue to be used as an ADC. In both of these applications, the surface area of material exposed to winds (and consequently the volume of wind-blown dust) would be greater than the proposed project. Additionally, no dust control measures would be associated with the land-applied material, so the potential for dust from these operations to impact waters of the state would likely be greater than the proposed project.

SWMD COMMENTS

INTEROFFICE MEMO

DATE *N* October 6, 2006

FROM *N* **NANCY SANSONETTI**, Supervising Planner/Chief
Solid Waste Management Division



TO **CARRIE HYKE**, Supervising Planner
Land Use Services/Advance Planning Division

MAIL CODE 0182

SUBJECT DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) FOR NURSERY PRODUCTS LLC

Our office previously commented on the above-referenced project (Interoffice Memo dated August 22, 2006). Staff has reviewed the DEIR and found that requested information was not included. Specifically, we asked that the EIR address:

- The creation of waste with this development and its impact on existing landfill capacity;
- Whether any hazardous waste will be generated, and, if so, types and quantities, including proposed disposal method(s);

SWMD-1

Additionally, please be advised that the facility will require a Solid Waste Facilities Permit and identification in the County's Non-Disposal Facility Element. These requirements should be imposed as conditions prior to sign-off for the Occupancy phase of project approval.

Should you have any questions or comments, please feel free to contact me or Traacey Anthony by phone at (909) 386-9063; by facsimile at (909) 386-8964, by mail to the address listed above, or by e-mail to NSansonetti@swm.sbcounty.gov or TAnthony@swm.sbcounty.gov.

cc: Peter Wulfman, Division Manager – County of San Bernardino Solid Waste Management Division
File

SBC-15

RESPONSE TO SWMD COMMENTS

SWMD-1 An estimated 6 cubic yards per week of non-recoverable residue (primarily plastics) will also be generated from the composting operation. Appendix A (page 30 f-g) indicates that eight employees would not generate a significant amount of solid waste. However, it is likely that green material currently being sent to landfills for either disposal or daily cover will be converted to compost by this facility, enabling the landfill capacity to be used for other waste streams. Consequently, the project would not be expected to reduce existing landfill capacity, and could incrementally increase capacity.

No hazardous waste will be generated by the composting process. A comparison of the major constituents typical of compost and the California Hazardous Waste Criteria threshold is provided in Table 4.7.1. This comparison shows that levels of constituents in compost are well below hazardous waste threshold levels.

Waste oil, rags contaminated with oil/solvents and other equipment maintenance related hazardous wastes would be generated in only minor quantities.



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, California 93003



IN REPLY REFER TO:
PAS 2952.4477.6101

November 14, 2006

Carrie Hyke, Supervising Planner
Advance Planning Division
San Bernardino County Land Use Services Division
385 North Arrowhead Avenue
San Bernardino, California 92415-0182

Subject: Draft Environmental Impact Report for Nursery Products Hawes Composting Facility Application near Hinkley, San Bernardino County, California

Dear Ms. Hyke:

The U.S. Fish and Wildlife Service (Service) has reviewed the Draft Environmental Impact Report for Nursery Products Hawes Composting Facility (DEIR) prepared by the County of San Bernardino, State Clearinghouse No. 2006051021. Nursery Products is proposing to transport biosolids from sewage treatment plants and green materials from various locations in southern California to a site in the Mojave Desert, produce agricultural compost, and transport this compost to various locations. The DEIR discusses the proposed action, a smaller facility at the same site, and one other site (Fort Cady Road Site) in addition to the No Project Alternative. The proposed facility is located on 160 acres of private land 12.3 miles east of Kramer Junction and south of Highway 58 near the abandoned Hawes Airport (T 10 N, R 5 W, SE ¼ sec 36). The purpose of the DEIR is to discuss alternatives and identify mitigation that will reduce, offset, minimize, avoid, or otherwise compensate for significant environmental impacts.

The U.S. Fish and Wildlife Service's (Service) responsibilities include administering the Endangered Species Act of 1973, as amended (Act), including sections 7, 9, and 10. Section 9 of the Act prohibits the taking of any federally listed endangered or threatened species. Section 3(18) of the Act defines "take" to mean "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." Service regulations (50 CFR 17.3) define "harm" to include significant habitat modification or degradation which actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering. Harassment is defined by the Service as an intentional or negligent action that creates the likelihood of injury to wildlife by annoying it to such an extent



Carrie Hyke, Supervising Planner

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as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding, or sheltering. The Act provides for civil and criminal penalties for the unlawful taking of listed species. Exemptions to the prohibitions against take may be obtained through coordination with the Service in two ways: through interagency consultation for projects with Federal involvement pursuant to section 7 or through the issuance of an incidental take permit under section 10(a)(1)(B) of the Act.

We understand that Nursery Products conducted presence-absence surveys for the federally threatened desert tortoise (*Gopherus agassizii*) at the proposed project site and that the desert tortoise was found on the site. From this information, we believe take of the desert tortoise would be likely, and the project proponent should apply for and obtain an incidental take permit from the Service before initiating any activity on the site that is likely to result in take of the desert tortoise.

USFWS-1

The following comments are prepared in accordance with the Act, and other authorities mandating Department of the Interior concern for environmental values. We offer these comments for your consideration:

General Comments

Pursuant to California Environmental Quality Act guidelines, the DEIR fails to provide a complete identification and analysis of the direct and indirect impacts of the proposed project to the desert tortoise. The project would result in the take of the desert tortoise as defined under the Act, and the direct loss of 160 acres plus additional acreage for access roads. This proposed project is within the boundary of the Fremont-Kramer Desert Wildlife Management Area (DWMA) as defined in the West Mojave Plan (BLM et al. 2005) and the Desert Tortoise Recovery Plan (Recovery Plan) (Service 1994). Both the West Mojave Plan and Recovery Plan concluded that management of the DWMA is important and/or essential to the recovery of the desert tortoise. The West Mojave Plan is a land management document prepared in cooperation and coordination with the County of San Bernardino. The intent of the West Mojave Plan and Recovery Plan is to help achieve recovery of the desert tortoise; the guidance provided in these plans is not restricted to lands under Federal management. The Desert Tortoise Recovery Plan Assessment (Tracy et al. 2004) also notes that the population of the desert tortoise in the West Mojave Recovery Unit has declined significantly in the last several years. Such a decline coupled with additional land use and management actions that contribute to further declines in the DWMA (e.g., the proposed action) does not help the desert tortoise to survive and recover and may push it toward endangered status.

USFWS-2

USFWS-3

After reviewing the environmental impact analysis for biological resources, we found that the analysis overlooked many impacts to the desert tortoises. Some of these overlooked impacts are mentioned below in the Specific Comments section. Thus, the impacts from the proposed project are likely greater than those currently described in the DEIR. The mitigation should be changed to be commensurate with these impacts.

Carrie Hyke, Supervising Planner

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We urge the County to consider other locations outside the DWMA's in the West Mojave Plan, and fully analyze the direct and indirect impacts to the desert tortoise from construction and implementation at these sites. Rather than minimizing or reducing these impacts with the likelihood that these forms of mitigation may be inadequate and/or unsuccessful, we urge the County to move the project to an existing industrial or agricultural site with existing access that is outside the outer boundaries of a DWMA.

USFWS-4

We are available to work with the County early in the planning process to determine the most practicable way to include the recovery of the desert tortoise for this and future projects that the County is considering locating in DWMA's.

Specific Comments

Section three, alternatives, pages 3-5 and 3-6: The DEIR considers two sites, the Hawes site and the Fort Cady Road site. The DEIR mentions the large acreage of both public and private lands available as undeveloped in the Mojave Desert but presents only two locations for a 160-acre facility. Other sites are likely available that would have fewer impacts. For example, the project could be located at or adjacent to an existing industrial or agricultural facility. This would minimize access, edge effect, odor, and other issues. The County should develop and analyze a broader range of alternatives.

USFWS-5

Section four, environmental impact analysis page 4-34: The DEIR lists thresholds of significance. Only one threshold discusses rare, unique, or endangered species. This threshold does not consider the synergy or cumulative effects of reducing connectivity and density of the current population, reducing the connectivity and quality of habitat, and the strategy that the desert tortoise has adapted to for survival. As written, this threshold would not be reached even if much of the existing population of the desert tortoise, including animals in entire recovery units, were eliminated. We believe this threshold is set too high. We also believe that more than one threshold should be developed for rare, unique, threatened, or endangered species. The DEIR fails to include appropriate thresholds that reflect significance for species whose continued survival is tenuous.

USFWS-6

Section four, environmental impact analysis, p. 4-35: The project proponent and the public could use the new access roads to the site on a daily basis in the area. The direct impacts of vehicle traffic on existing, new, and improved roads are crushing desert tortoises that cross the road. The DEIR fails to analyze the effects of the roads continuing to act as a mortality "sink" for the desert tortoise population in the area, and the impacts to desert tortoises that new roads or roads with more traffic have regarding vandalism and collection for food or pets.

USFWS-7

Section four, environmental impact analysis, page 4-35: The DEIR fails to include an analysis of impacts to the desert tortoise from use of water on the site as an attractant to various predators of the desert tortoise (e.g., ravens, coyotes, free-roaming dogs, etc.). A similar analysis is also missing on the impacts of water, biosolids, and green waste for attracting/transporting insects, rodents, and rabbits to the site, which in turn would attract predators of the desert tortoise (coyotes, free-roaming dogs, fire ants, etc.) in higher densities than currently occur. For

USFWS-8

Carrie Hyke, Supervising Planner

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example, the increase in density of coyotes to the site could extend .75 mile or more beyond the footprint of the proposed project (Hidalgo-Mihart et al. 2004, Howard and DelFrate 1991, Servin et al. 2003).

Section four, environmental impact analysis, page 4-36: The DEIR fails to include an analysis of effects of hazardous materials that would be part of the biosolids brought to the site or used on site including heavy metals, hydrocarbons, pesticides and pesticide by-products, and hormones and pseudo-hormones that may affect wildlife resources in the area, especially the desert tortoise. The DEIR does not discuss or analyze the indirect impacts of these compounds to the desert tortoise and other wildlife species in the area. The DEIR fails to discuss the ability of these compounds to move both horizontally and vertically off site in the environment through transfer by wind and water into and on soil and plants in areas adjacent to the proposed project area. It did not include a discussion of the pathways of ingestion and contact for the desert tortoise and the acute and chronic effects of this contact and consumption to the desert tortoise.

USFWS-9

Section four, environmental impact analysis, page 4-36: The DEIR states that the proposed project will import green material from outside the area and that new species could be introduced to the area. The proposed mitigation requires annual monitoring of the facility for invasive plant species. We appreciate the County's recognition of the importance of managing the importation and establishment of invasive vascular plant species. We were not able to determine how the proposed mitigation for invasive plant species would prevent or minimize the introduction and establishment of new plant species at the project site or surrounding areas. Impacts from species could occur for miles given the windy conditions in the west Mojave Desert. The DEIR fails to include an analysis of the impacts from transporting and establishing invasive vascular plants at and near the project site to the desert tortoise (e.g., outcompeting native plant species, reduction in availability of nutritious plants species, etc.).

USFWS-10

The DEIR fails to include an analysis of the impacts to the desert tortoise and other fauna and flora in the area from importing other forms of pest species or pathogens such as rusts, molds, and bacteria.

USFWS-11

Section six, other CEQA considerations page 6-3: One of the purposes of the DEIR is to conduct a cumulative impact analysis of the proposed action with past, present, and probable future projects including those outside the control of the County. The DEIR states that cumulative impacts to biological resources would be less than significant. This is based on the County's rationale that no large-scale development plans have been identified for project lands in the vicinity. We are aware of other projects occurring in this area, such as the Harper Lake Dairy Park, which may be a small portion of the Harper Lake Specific Plan. We were not able to find analysis in the DEIR that showed that the addition of this proposed action, in sum with the existing and proposed land activities in the area, would result in cumulative impacts that are insignificant. In addition, we were unable to locate proposed mitigation that specifically addresses the issue of cumulative impacts. The DEIR fails to include a complete analysis of cumulative impacts including those issues presented in this paragraph and the first paragraph above under General Comments.

USFWS-12

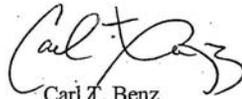
Carrie Hyke, Supervising Planner

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In summary, the Service finds the DEIR deficient in several areas: complete analysis of direct and indirect impacts to the desert tortoise, adequate mitigation for all direct and indirect impacts, adequate consideration of a reasonable or broader range of alternatives, sufficient cumulative impact analysis, and determination of level of significance regarding the desert tortoise. Because of the number and degree of these deficiencies, we suggest that the County re-draft and circulate a supplemental DEIR that includes information and analyses of these deficiencies. As mentioned above, we are available to work with the County to determine the most practicable way to include the recovery of the desert tortoise into the project planning process.

If you have any questions, please contact Judy Hohman of my staff at (805) 644-1766, ext. 304.

Sincerely,



Carl T. Benz
Assistant Field Supervisor
Mojave/Great Basin Deserts Division

Literature Cited

- Bureau of Land Management, City of Barstow, and County of San Bernardino. 2005. Final environmental impact report and statement for the West Mojave Plan, a habitat conservation plan and California Desert Conservation Area plan amendment. Volumes 1a, 1b, and 2.
- Fish and Wildlife Service. 1994. Desert tortoise (Mojave population) Recovery Plan. U.S. Fish and Wildlife Service, Portland, Oregon. 73 pages plus appendices.
- Hidalgo-Mihart, M.G., L. Cantu-Salazar, C.A. Lopez-Gonzalez, E.C. Fernandez, and A. Gonzalez-Romero. 2004. Effect of a landfill on the home range and group size of coyotes (*Canis latrans*) in a tropical deciduous forest. *Journal of Zoology* 263(1): 55-63.
- Howard, V.W., and G.G. DelFrate. 1991. Home ranges and movements of coyotes in the northern Chihuahuan Desert. S.E. Hygnstrom, R.M. Case, and R.J. Johnson, eds. *Proceedings 10th Great Plains Wildlife Damage Conference*, University of Nebraska – Lincoln.
- Servin, J., V. Sanchez-Cordero, and S. Gallina. 2003. Distances traveled daily by coyotes, *Canis latrans*, in a pine-oak forest in Durango, Mexico. *Journal of Mammalogy* 84(2): 547-552.
- Tracy, C. R., R. Averill-Murray, W.I. Boarman, D. Delehanty, J. Heaton, E. McCoy, D. Morafka, K. Nussear, B. Haggerty, and P. Medica. 2004. Desert tortoise recovery plan assessment. Prepared by the Desert Tortoise Recovery Plan Assessment Committee for the Fish and Wildlife Service, Reno, Nevada. 254 pages.

RESPONSE TO USFWS COMMENTS

- USFWS-1 Mitigation measure B-2 requires the applicant to obtain any required take permits/authorizations from the wildlife agencies prior to project implementation.
- USFWS-2 Both direct and indirect impacts to tortoise are discussed in the EIR impact assessment.
- USFWS-3 The scale of the project (160 acres) is small compared to overall size of the Fremont-Kramer Desert Wildlife Management Area. Project impacts would be proportional to its area of impact and location in relative proximity to Highway 58.
- USFWS-4 Comment noted.
- USFWS-5 Potential impacts to biological resources was only one of several factors that were used in identifying an environmentally superior alternative. Depth to groundwater, cultural resources and proximity to communities were also considered and lead to the identification of the Reduced Capacity Alternative as the environmentally superior alternative.
- USFWS-6 The project is located within an extensive area of mostly intact desert scrub habitat and would not reduce the connectivity between habitats already considered conserved. With the required compensatory mitigation, the opportunity exists for increasing the east-west connectivity of conserved habitat through acquisition of habitats in the project vicinity that fulfill this function. The apparent density of tortoise for the project vicinity is relatively low, as only two individuals were detected directly offsite and none were detected onsite, although tortoise sign was present and the habitat is suitable for tortoise occupation. The EIR assessed a significant, but mitigable impact to desert tortoise. The threshold criteria are standard criteria included in current CEQA guidelines. USFWS will have an opportunity to further evaluate project impacts to tortoise through the incidental take permit process.
- USFWS-7 The EIR disclosed the potential for increased road-kill mortality of tortoise and included mitigation measure B-8 to minimize this potential impact. No new roads are proposed as part of this project.
- USFWS-8 Water application onsite will be minimal since the one of the goals of the composting process is to remove water from the material by evaporation. The flood flow impoundment basin will only have water detained after major storm events, a time when water sources for wildlife are not as limiting as during the drier seasons of the year. Mitigation Measure HM-4 (see page 4-50) specifically addresses management of standing water within the basin. The proposed project will not be attractive to ravens and other predators given the composition of the compost material being processed. The proposed project is not analogous to a landfill operation. Given the level of activity required for processing the compost and the composition of the composting material, potential prey species densities in the project vicinity are not likely to be enhanced by the project.

- USFWS-9 Indirect impacts to tortoise related to heavy metal contamination are addressed on page 4-36. Potential for offsite exposure will be minimized by precluding the turning over of compost under high wind conditions. Additionally, Mitigation Measure AQ-2 has been revised to require that windrows be sprayed with water during windy conditions to further reduce the potential dust contaminated with heavy metals to migrate off site.
- USFWS-10 The potential for introduction of invasive plants is considered an edge effect and the required annual monitoring uses an adaptive management approach to mitigate such a potential indirect impact. The spatial extent of the monitoring is practicable and can be directly associated to the project site, rather than other potential sources of invasive species (e.g., Highway 58). The desert conditions limit the number of exotic species that can successfully establish a population in the project vicinity. Detection of exotic species will result in an active weed management program that would be an ongoing project requirement. There is no readily available scientific information related to how molds, bacteria or pathogens that may be in compost would impact desert tortoise. Consequently, any additional analysis and conclusions would be speculative. In addition, load-covering requirements have been added as Mitigation Measures B-15 and B-16.
- USFWS-11 Detection of exotic species will result in an active weed management program that would be an ongoing project requirement. There is no readily available scientific information related to how molds, bacteria or pathogens in biosolids would impact desert tortoise. Consequently, any additional analysis and conclusions would be speculative.
- USFWS-12 The cumulative impact of the projects listed in Table 6.1 amount to less than 800 acres of potential loss of desert habitats. Within the scale of the project vicinity and region (millions of acres of potential habitat available for conservation within the West Mojave Plan area), this amount of cumulative impact was considered less than significant. The proposed project habitat loss (160 acres) represents 0.08% of private lands within the Fremont-Kramer Desert Wildlife Management Area. This is well below the Allowable Ground Disturbance threshold permitted by the proposed WMP (see page 2-32 of the WMP FEIS).

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D. Norman Diaz

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YCSO COMMENTS**YERMO COMMUNITY SERVICES DISTRICT**

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Resolution

10-2006

**OPPOSING THE OPERATION OF NURSERY PRODUCTS / LLC'S BIOSOLID
GREEN WASTE OPERATION OUTSIDE OF HINKLEY AND BARSTOW**

1. **WHEREAS** NURSERY PRODUCTS LLC seeks to site a biosolid/green waste composting facility on a 160 acre parcel eight miles west of Hinkley and 22 miles west of Barstow, California (hereafter referred to as the WASTE PROCESSING PLANT);
2. **WHEREAS** the consistently strong winds will cause the WASTE PROCESSING PLANT'S smells, airborne pathogens and other waste products to blow EAST & NORTHEAST across an area where children attend school, a senior citizen center is located; into Barstow, Yermo, and beyond, where people live expecting their air quality to be uncontaminated;
3. **WHEREAS** the WASTE PROCESSING PLANT will be fed by an additional 522 truck trips per day, making Highway 58 dangerous to families, school buses and children that have to enter, exit and cross Highway 58;
4. **WHEREAS** the exact nature and composition of the biosolid waste that is being imported to the WASTE PROCESSING PLANT is not identified in any reports, nor is any provision made to independently monitor, by qualified scientists, the composition of incoming biosolid waste should the plant be allowed to operate;
5. **WHEREAS** the exact nature and composition of the green waste that is being imported to the WASTE PROCESSING PLANT is not identified in any reports, nor is any provision made to independently monitor by qualified scientists the composition of incoming green waste (should the plant be allowed to operate) nor the nature and character of any airborne effluent and liquid runoff from the operation of the WASTE PROCESSING PLANT;
6. **WHEREAS** the exact nature and extent of potential impact to the area's aquifers, ground water, highly erodible soils and the fragile desert ecosystem from the WASTE PROCESSING PLANT's operations is not addressed by a study based on adequate information obtained from coring and monitoring wells in the area of the proposed operation;
7. **WHEREAS** the very building and operation of a WASTE PROCESSING PLANT will cause a devaluation of property values;

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8. WHEREAS the pathogens and microbes in the sewage sludge will become airborne as the material is mixed sifted, stirred and turned over during the 60 day "composting process; and

9. WHEREAS, this facility has a great fire danger due to the heat from the composting process; and spontaneous combustion is a valid concern; and

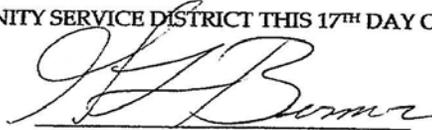
10. WHEREAS this Hazardous Waste cannot be proven to be environmentally nor ecologically conducive to the health and well-being of our Planet, our Communities or our Children.

THE BOARD OF DIRECTORS OF THE YERMO COMMUNITY SERVICES DISTRICT
HEREBY DECLARES ITS OPPOSITION

TO THE CURRENT PROPOSAL OF THE NURSERY PRODUCTS LLC WASTE
TREATMENT PLANT IN THE HINKLEY / BARSTOW / YERMO AREA

YCSD-1

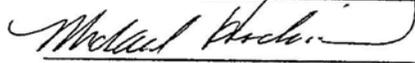
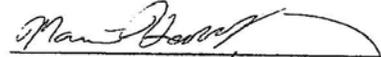
ADOPTED BY THE YERMO COMMUNITY SERVICE DISTRICT THIS 17TH DAY OF
OCTOBER, 2006



Respectfully submitted:



D. E. Henderson, Secretary



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RESPONSE TO YCSD COMMENTS

YCSD-1 Comment noted.