

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
895 AEROVISTA PLACE, SUITE 101
SAN LUIS OBISPO, CALIFORNIA**

RESOLUTION NO. R3-2006-0013

WAIVER OF WASTE DISCHARGE REQUIREMENTS

For

**MOUND DISPOSAL SYSTEM
Z BEST COMPOSTING FACILITY
GILROY
(APN 841-37-022)
Santa Clara County**

The California Regional Water Quality Control Board, Central Coast Region (hereinafter Regional Water Board) finds that:

1. California Water Code Section 13260(a) requires that any person discharging waste, or proposing to discharge waste within any region that could affect the quality of the waters of the state, other than into a community sewer system, shall file with the appropriate Regional Water Board a report of the discharge ("report of waste discharge" or "ROWD") or other report containing such information as may be required by the Regional Water Board.
2. The Regional Water Board prescribes waste discharge requirements except where the Regional Board finds that a waiver of waste discharge requirements is consistent with applicable water quality control plans and is in the public interest pursuant to California Water Code Section 13269.
3. California Water Code Section 13269 provides that all waivers of waste discharge requirements must be conditional, may not exceed five years in duration, and may be terminated at any time by the Regional Board.
4. The 100-acre Z Best Composting Facility (site) to the south-south-east of the City of Gilroy on State Highway 25 within unincorporated portions of Santa Clara County. It is not within a sewer service district and requires an on-site wastewater treatment and disposal system. The property owner, Greg Ryan (hereafter Discharger), applied for a permit from the Santa Clara County Department of Environmental Health (SCCDEH) to install an on-site wastewater treatment and disposal system. The Discharger's proposed treatment system consists of a septic tank with engineered mound soil absorption disposal system. Depth to groundwater at the subject site is approximately 5 feet.
5. The Regional Water Board's Water Quality Control Plan (Basin Plan) prohibits discharges from soil absorption systems installed after September 16, 1983 where the distance between disposal trench bottom and usable groundwater, including perched groundwater, is less than five feet.
6. Therefore, SCCDEH determined the site does not meet Basin Plan requirements. Consequently, SCCDEH is not authorized to issue a permit unless the Executive Officer approves an exemption from the Basin Plan prohibition.
7. On November 7, 2005, SCCDEH submitted a *Report of Waste Discharge: Supplemental Form for Regional Board Subsurface Disposal Exemption Submittal* (Supplemental Form) to permit an engineered mound wastewater soil adsorption system at the subject site. Santa Clara County

**Item No. 15 Attachment No. 1
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Department of Environmental Health approved the proposed design conditioned on the Discharger modifying the proposed design based on recommendations from the Santa Clara County Department of Environmental Health.

8. The proposed mound system design complies with the 1980 State Water Resources Control Board *Guidelines for Mound Systems* and 1989 Final Draft California State Water Resources Control Board *Guidelines for the Design, Installation and Operation of Mound Sewage Disposal Systems*.
9. The Executive Officer approved the Basin Plan exemption and notified the Discharger of the proposed waiver on December 11, 2005.
10. The Regional Water Board has considered the design information provided in the Supplemental Form and has required the Discharger, as a condition of this waiver, to comply with all permit requirements of the SCCDEH.
11. Individual subsurface disposal systems for domestic residences are categorically exempt from CEQA under California Code of Regulations, Title 14, Section 15303.
12. Relevant factors in determining whether a waiver is in the public interest include the following:
 - a) Whether the discharge is already regulated by another governmental entity;
 - b) Whether the discharger will observe reasonable practices to minimize the deleterious effects of the discharge;
 - c) Whether a feasible treatment method exists to control the pollutants in the discharge; and
 - d) Whether conditionally waiving ROWDs and or waste discharge requirements will adequately protect beneficial uses while allowing the Regional Water Board to utilize more of its resources to conduct field oversight, public outreach and, where necessary, enforcement.
13. The mound disposal system is regulated by SCCDEH, which requires the Discharger to implement operational controls, maintenance activities, and regular monitoring and reporting to prevent water quality impacts as a result of system overloading, power failure, and system failure.
14. The conditions of this waiver protect the beneficial uses of waters of the State by:
 - a) Prohibiting pollution, contamination or nuisance;
 - b) Requiring monitoring and compliance with applicable water quality control plans and SCCDEH permit requirements; and
 - c) Requiring the Discharger to grant access to Regional Water Board staff to perform inspections.
15. If the proposed domestic mound disposal system is properly operated and maintained in accordance with SCCDEH permit conditions and the conditions of Resolution No. R3-2006-0013, a waiver of waste discharge requirements is in the public interest and is consistent with applicable water quality control plans, including the Basin Plan.
16. Pursuant to CWC Section 13269, this action waiving the issuance of waste discharge requirements for this on-site domestic mound disposal system: (a) is conditional, (b) may be terminated at any time, (c) does not permit an illegal activity, (d) does not preclude the need for permits which may be required by other local or governmental agencies, and (e) does not preclude the Regional Water Board from administering enforcement remedies (including civil liability) pursuant to the California Water Code (CWC).
17. System operation, consistent with this Resolution, will not degrade groundwater and is consistent with State Water Resources Control Board Resolution No. 68-16. Resolution No. 68-16 provides if there is

degradation of water quality it must not "unreasonably affect present and anticipated beneficial use of such water and will not result in water quality less than that prescribed by the water quality control policies." In short, the degradation may not violate water quality objectives or in the absence of objectives, must not unreasonably affect existing and designated beneficial uses. Also, if there is degradation the Board must determine that it has been demonstrated the change "will be consistent with the maximum benefit to the people of the State."

18. The monitoring and reporting requirements of Resolution No. R3-2006-0013 are imposed pursuant to CWC Section 13267. The monitoring and reporting are necessary to ensure compliance with the conditions of Resolution No. R3-2006-0013 and to verify the adequacy and effectiveness of the conditions.
19. The Regional Board provided an opportunity for a public hearing on February 10, 2006 in Salinas, California, and considered all submitted evidence concerning this matter.

THEREFORE BE IT RESOLVED:

1. In accordance with CWC Sections 13267 and 13269, waste discharge requirements for the proposed on-site domestic mound disposal system are hereby waived subject to the following conditions:
 - a) The individual sewage disposal system shall be installed under the oversight of SCCDEH and be operated and maintained in accordance with SCCDEH permit conditions.
 - b) SCCDEH will regularly inspect the system and monitor the system after all rainfall events resulting in greater than one inch of precipitation. The Executive Officer shall terminate this waiver if SCCDEH does not regularly inspect and monitor the system.
 - c) The Discharger shall comply with all SCCDEH Permit Conditions.
 - d) The septic tank shall be inspected every two years for solids buildup and be pumped as required by SSCDEH, by a licensed septic tank contractor.
 - e) Peak daily flow shall not exceed 600 gallons per day.
 - f) Use of the individual sewage disposal system shall not create a condition of pollution, contamination, or nuisance, as defined by CWC Section 13050.
 - g) Only domestic wastewater shall be discharged to the individual sewage disposal system.
 - h) The Regional Water Board and SCCDEH shall be immediately notified of any proposed change(s) in discharge volume, nature, or location.
 - i) The Regional Water Board and SCCDEH shall be immediately notified of any discharges threatening water quality or public health.
 - j) The Regional Water Board may inspect the domestic mound disposal system at any time to determine compliance with this Region's Basin Plan.
 - k) Operation of the domestic mound disposal system shall not result in the surfacing of effluent from the mound disposal area or other portions of the system.
2. This Waiver shall not create a vested right and all discharges shall be considered a privilege, as provided for in CWC Section 13263.
3. The Executive Officer or Regional Board may terminate the applicability of the Waiver described herein at any time if the Discharger violates the conditions of this waiver, if such termination is in the public interest, or if the mounded septic disposal system could adversely affect the quality or beneficial uses of the waters of the State.

4. This Waiver shall become effective on **February 10, 2006**, and shall expire on **February 10, 2011**.
5. As provided by CWC Section 13350(a), any person may be civilly liable if that person is in violation of a waiver condition or waste discharge requirement, intentionally or negligently discharges waste, or causes waste to be deposited where it is discharged, into the waters of the State and creates a condition of pollution or nuisance.
6. Any person affected by this action of the Regional Board may petition the State Water Resources Control Board (State Board) to review the action in accordance with section 13320 of the California Water Code and Title 23, California Code of Regulations, Section 2050. The State Board must receive the petition within 30 days of the date of this Resolution. Copies of the law and regulations applicable to filing petitions will be provided upon request.

I, Roger W. Briggs, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Coast Region, on February 10, 2006.

Roger W. Briggs
Executive Officer