

## MANUFACTURERS COUNCIL OF THE CENTRAL VALLEY

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March 13, 2006

CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD  
ATTN: WENDY WYELS ([wwyels@waterboards.ca.gov](mailto:wwyels@waterboards.ca.gov))  
11020 SUN CENTER DRIVE, SUITE 2000  
RANCHO CORDOVA, CA 95670

DELIVERED VIA E-MAIL

Re: Board Meeting March 16/17, 2006  
Update Regarding the Regulation of Food Processing Waste Discharges to Land

Dear Ms. Wyels:

Headquartered in Modesto, the Manufacturers Council of the Central Valley represents a variety of manufacturing interests located in California's San Joaquin Valley. Our members include food and feed processors, wineries, packaging and container manufacturers, fabricators, power generators, warehousing and distribution firms, environmental consultants, and other related businesses and industries whose markets are local, state, national and international. The majority of our members are involved in feed and food processing activities and support services.

We appreciate the opportunity to comment on the information item on the March agenda entitled, "*Update Regarding the Regulation of Food Processing Waste Discharges to Land*," because of the significance of this issue to our member companies and their continued economic viability. We look forward to the discussion on Friday, March 17, as we are interested in working cooperatively with the Board, staff and stakeholders to develop solutions based on science and sustainable practices that are protective of water quality and at the same time allow our member companies to continue to operate. We also understand that we may submit written comments following the meeting.

MCCV is concerned with the manner in which the staff report continues to portray this issue and we believe that additional work is necessary to quantify the true nature and magnitude of the issue, based on factual information and adhering to sound science. This is a complex issue, and it is important to have accurate data in order to proceed effectively. Additionally, the approach taken to address the economic impacts is quite innovative, but it falls short of providing a true picture of the fiscal impacts on the food processing industry. It also fails to account for the fact that many publicly owned treatment works (POTW's) also utilize land application as a treatment and re-use option for food processing discharges into their systems, and as a result, they have a tremendous stake in the outcome.

MCCV does believe that resolution is possible if Regional Board members, the Executive Officer and staff work with the stakeholders to develop policies and permit conditions that are based

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Ms. Wyels  
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on reasonable scientific agronomic measures, proven science and sound economics. We also encourage the Regional Board to work with local governments to encourage the adoption of locally structured programs, where appropriate. Local regulatory control is important because it provides an additional degree of responsiveness and accountability. Additionally, local regulators have a more in-depth knowledge of the unique local conditions which influence farming operations, including soil types, water use, topography, and cropping patterns.

We see this as particularly necessary in the case of the application of food processing by-products. A draft waiver has been circulated for comment, but its scope is limited to Stanislaus County—see information item #5. There are a number of technical issues which make the waiver problematic, but the fact that this issue transcends the boundaries of Stanislaus County calls for a different approach than that currently proposed. At the minimum, this subject needs to be addressed region-wide, and preferably state-wide, utilizing sound science, reasonableness, and in consideration of the long-term policy implications, including the economic feasibility, as this has the potential to lead to further erosion of the agricultural resource base—the driver of the valley's economy. To address the outstanding issues, we would support a cooperative approach involving industry and regulators whereby a task force is formed to examine land application of food processing by-products. Other states have taken up the issue and through a methodical process utilizing sound science, verified by technical review and analysis, they have developed appropriate protective measures that provide environmental protection while allowing beneficial re-use. It seems to us that it is far more productive to move forward on a cooperative process that results in a more substantial outcome, such as a general order or re-establishment of a conditional waiver for the region.

We sincerely believe that the most successful programs are those that foster good working relationships between the regulatory agency and the regulated community. This concept really works toward ensuring a higher degree of trust and dialogue—both of which are essential when working to resolve challenging issues and find workable solutions. There is far too much at stake, both environmentally and economically, to do otherwise.

In conclusion, to remain competitive and operating in this state, California's food processors must have a fair, clear, and consistent regulatory environment that deals with real problems with science-based solutions. MCCV remains committed to helping create solutions that achieve results—in this case, protecting water quality—without comprising productivity. In this way, we can continue to provide jobs and economic stability for the valley without impairing the natural resources—soil, water and air—upon which our food processors depend for their supply of fresh, locally grown agricultural products—and for which California is world-renowned.

Sincerely,



JAN MARIE ENNENGA  
EXECUTIVE DIRECTOR

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**Manufacturers Council of the Central Valley**

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## California League of Food Processors

Comments Submitted to the Central Valley Regional Water Quality Control Board  
In Response to the March 17, 2006 Board Agenda Item:  
*"Update Regarding Food Processing Waste Discharges to Land"*

The California League of Food Processors (CLFP) appreciates the opportunity to provide the Regional Water Quality Control Board (RWQCB) with comments regarding land application of food processing rinse water and by-products. CLFP is a statewide voluntary trade association of food processing companies, and its members collectively account for about 95 percent of the canned, frozen, dried, and dehydrated fruits and vegetables produced in California.

### **Background**

There are about 230 fruit and vegetable processing companies in California and a significant number of them are located in the Central Valley Region. CLFP members process about 16 million tons of tomatoes, peaches, pears, strawberries, prunes, and an array of other fruits and vegetables every year and ship the final products to markets around the world.

The fruit and vegetable processing activities generate significant quantities of both solid and liquid by-products. These materials are not hazardous waste, toxic waste, or industrial waste. The solid by-products are composed of organic plant material such as cull fruit, seeds, stems, and peels. The rinse water primarily contains water, plant material, and soil.

About two-thirds of total volume of rinse water is applied to land for crop irrigation, the rest is sent to public treatment facilities. Only four percent of the solid by-product is sent to landfills, the rest is applied to land as a soil amendment, used as animal feed, or made into compost. Recycling the water and organic material back on to the land is an environmentally responsible and sustainable practice that is beneficial to farmers. Land application of the by-products results in less material being shipped to landfills where it would simply be disposed and put to no beneficial use. Using the rinse water for irrigation is consistent with State objectives of recycling water resources.

### **General Land Application Issues**

Land application of food processing by-products must be managed carefully, including attention to the type and volume of material applied, the soil characteristics, and the ability of the crop to uptake nutrients and other constituents. The volume of material applied must not exceed the ability of the soil and crop to attenuate the constituents. Of special concern are nitrogen and salinity as both can have a detrimental impact on groundwater. In addition to monitoring the application rate, source control and the diversion of high-strength waste streams in the processing facility can have a significant impact on reducing the level of salinity of discharged process rinse water.

### **Regional Board Concerns**

In January, 2005 RWQCB staff proposed an aggressive new enforcement regime for food processing land application sites. The basis for this recommendation was an assertion that "many sites are creating groundwater degradation and pollution." The staff report stated that, based on analysis of over 200 food processing sites that over 90 percent of monitored sites had either confirmed or "suspected" impacts to groundwater. The monitoring sites included in the RWQCB database include a wide array of facilities located across the Valley, including wineries, meat and poultry processors, sugar processors, dairies, tanneries, fresh fruit packinghouses, nut processors, and animal rendering plants. These facilities generate a wide range of waste materials in varying amounts which may complicate efforts to use the aggregate data to accurately characterize any one particular sector of the food processing industry.

The allegations by RWQCB staff regarding groundwater degradation warrant close scrutiny. A careful evaluation of the data indicates that the number of *confirmed* cases of groundwater degradation is quite limited. In fact, at 81 percent of the sites there was either no degradation, the status of the groundwater was "unknown", or there were only suspicions of degradation based on site characteristics. Of the 126 sites with "suspected" groundwater degradation, there was no data available (groundwater monitoring, soil monitoring, or background water quality assessments) for 35 of those sites. It would seem to be a tenuous assumption that degradation has occurred if there is no, or very limited, data available.

Problems may exist with some land application sites, but CLFP contends that this is not the norm for the fruit and vegetable processing industry. Practices have evolved and improved in recent years due to research and increased attention to land application. Permit conditions have been amended by RWQCB staff to address new concerns. Food processors have become more aware of potential problems and their obligations and have adjusted their practices accordingly. CLFP developed its *Manual of Good Practice for Land Application of Food Processing Rinse Water* in 2002 to provide its members with a science-based reference guide to enhance and standardize methods. CLFP plans to work with RWQCB staff in 2006 to revise the Manual to address technical concerns and update the document so it can be an effective training tool for industry.

### **Regulatory Approach**

Food processors strive to be good environmental stewards and are willing to work collaboratively with the Board to address concerns that arise. The fruit and vegetable processing industry has never asked to be exempt from regulation and the Regional Board currently possesses the tools necessary to deal with land application sites where there are documented compliance problems.

Contrary to the recommendations made by RWQCB staff, CLFP does not believe that a significant adjustment in the Regional Board's regulatory approach is warranted at this

time. Further, CLFP believes that a change in regulatory approach by the staff should first be subject to public review and comment. The March, 2006 RWQCB Staff Report states that staff "concluded that an adjustment in the regulatory approach was overdue." CLFP assumes that such a change would require issuance of new guidance to field staff and to industry based on specific criteria and established performance standards. The California Administrative Procedure Act (APA) prohibits agencies from employing any regulation that has not been adopted pursuant to APA procedures. This requirement specifically applies to guidelines, criterion, instruction, or standard of general application that have not been adopted and filed with the Secretary of State. CLFP believes that the January, 2005 staff report and several subsequent documents represent a proposed change in regulation of the food processing industry. To clarify this issue the California Office of Administrative Law can be asked to review the staff reports and determine if they imply a new standard of application and constitute underground regulation, or if they are consistent with existing regulations.

#### **CLFP Comments Regarding the Proposed Waiver For Stanislaus County Food Processing By-Products**

##### **Background**

For nearly 20 years, Stanislaus County has managed a food processing by-products permit program that is environmentally sound, requires significant monitoring and reporting by the operators, and has a solid track record of success. In 2005 Regional Board staff proposed that the County permit program be replaced with a new Regional Board waiver. The proposed waiver contains a number of new requirements that are not included in the County program, would be difficult to implement, and would impose a significant burden on land application sites.

##### **Rationale for the Proposed Waiver**

It is important to note that the Regional Board staff has not presented any data to indicate that the current Stanislaus County program or management practices employed at the sites have resulted in degradation to the local groundwater or caused any significant nuisance problems. The fundamental justification for proposal by the Regional Board is the assertion that these materials pose the "potential" to pollute if the land application is not properly managed.

Although overloading the soil or the application of inappropriate materials has the potential to cause problems, those practices are strictly prohibited under the current Stanislaus County program. The by-products must be applied at an agronomic rate in conformance with the guidelines established by the University of California Extension Service. The site operations must be certified by a professional soil scientist or certified agronomist who is responsible for analyzing the composition of the by-products, soil characteristics, rainfall, cultivation practices, and the crop under production. Soil samples are drawn from each field and tested for electrical conductivity, pH, nitrate nitrogen, and a number of other constituents. So, an adequate system is already in place to ensure that the material is applied at an agronomic rate.

The by-products delivered to the land application sites must be tested for nitrogen, sodium, organic carbon, potassium, calcium, magnesium, and phosphorous. Application of animal waste and dairy by-products is not allowed. Due to the organic nature of the by-products and the rigorous testing required by the County program, the materials themselves contain no hazardous waste and pose little threat to the groundwater.

Other concerns raised by Board staff include the potential impact of the by-product on soil pH, the potential for buildup of heavy metals, and overloading of organic materials on the soil. CLFP believes that none of these concerns is warranted as long as the site operator adheres to the existing County regulations, and no evidence of compliance problems has been presented.

#### Potential Impact of the Proposed Waiver

The proposed requirements in the draft Waiver are extensive and costly. Many of the land operators have indicated that they will cease accepting material rather than comply. In addition, they are concerned that installing groundwater monitoring on sites with poor ambient water conditions will expose them to unwarranted and potentially expensive liability for site cleanup. Closure of the land sites would leave the food processors with few cost-effective outlets for their by-products and could cause the processors to cease operations. The economic impact of closure of the food processing facilities would be considerable. In addition to the loss of numerous jobs in the processing plants, there would be significant secondary economic effects on farmers and local communities.

#### Issues Regarding Specific Waiver Requirements

CLFP's comments and questions regarding the technical components of the proposed Waiver can be summarized as follows:

- CLFP is not aware of any examples of nuisance complaints or groundwater degradation that have resulted from the land application program in Stanislaus County. CLFP contends that the County program provides an adequate level of protection for groundwater and that any additional requirements should be based on a thorough review of the site data collected and technical literature.
- It is not clear if the Board staff has any specific objections as to how the farm consultants are using established guidelines for determining the appropriate agronomic application rate. CLFP would like to know in what way, if any, are the current county guidelines deficient with respect to the regulation of by-product application rates.
- The assertions made in the Board's draft Waiver regarding the acidity of the food processing solids causing metals to be leached from the soil have not been substantiated. Given the soil pH, low incidence of metals in the materials, the acidity of the by-products, and the desired pH for many crops, technical experts familiar with the land applications sites do not believe that leaching a major concern.

- The Waiver mandates limits on metals concentrations for food processing by-products, but does not fully explain the basis for these standards. The Staff Report states that, "These values equate to 10 percent of those listed in the State Water Resources Control Board's Statewide Biosolids General Order. If solid food processing waste contains concentrations that exceed this 10 percent value then the discharge's threat to groundwater from metals is no longer de minimus and the discharge should not be considered under the Waiver." Why were the biosolid standards used? What is the basis for the 10 percent de minimus standard? This issue should be clarified.
- The proposed Waiver stipulates that by-product not be land-applied for 24 hours prior or after precipitation, or during periods of precipitation. This requirement raises a number of important questions that must be addressed. Would a prediction of just a few sprinkles scattered over a wide area cause land application to cease? What if different sources of weather information made different forecasts for rain? What if the prediction for rain was not realized or if the amount of rain was trivial-- would the site operator still have to wait 24 hours to resume operations?

The rain delay provisions raise questions about how the materials will be stored while the site is closed. The Waiver stipulates that the material must be transported directly to the land application and feed site and may not be stored at a transfer station or at the site. Food processors have very limited storage for this material, and the feedlots and compost operations cannot store more than 24 hours supply. It is not clear what the processors would do with the material while waiting for the rain to cease.

- The approach suggested by the Board with respect to rainfall is overly restrictive and does not allow the sites to take a common-sense approach to this issue. Similar restrictions are not imposed on the land application of biosolids. CLFP suggests that the rain delay provision be removed from the Waiver and instead simply require that sites avoid applying materials when weather conditions will prevent proper incorporation of the material into the soil. The Board's Staff Report indicates that the background condition of the groundwater has not been determined. The quality of the groundwater at many land application sites may have been poor long before the farmer began applying by-products to the soil. If so, how will the Board assess any groundwater data that may be collected? If a farmer drills a well and finds that the water does not meet the standards stipulated in the Waiver, will the farmer be served with a Notice of Violation or Cleanup and Abatement Order? If the soil sample data indicates that the soil is attenuating the waste, how will the Board reconcile the difference between the groundwater data and the soil sample data? This is a very important question that must be clarified.

The Staff Report indicates that if monitoring indicates that the groundwater is degraded, then the County is required to provide a report that describes the extent

of the degradation and the actions that will be taken to prevent further degradation. Without a thorough knowledge of the historic background conditions, how can the County fairly prescribe any action for the site operator? Should the groundwater conditions that exist at the time that the well is drilled be used as the background quality and assess degradation only in reference to future changes in the water quality? What can the Board do to protect site operators from liability from conditions that predated their activities and are beyond their control? These issues should be reviewed by the Board prior to adoption of the Waiver.

- The time frame proposed for implementation of the Waiver is not adequate. If the Waiver is adopted as drafted, there will not be sufficient time for the sites to install all of the monitoring wells, complete all of the required paperwork, and provide documentation to the County and Regional Board prior to the 2006 food processing season.

The potential impact of the proposed Waiver extends far beyond Stanislaus County. Food processing solid by-products are applied to land, fed to animals, and sent to composting operations across the state. The proposed Waiver will set an important precedent that could have a very significant economic impact on the food processing industry and farmers in California.

Unfortunately, the draft Waiver is deficient in several fundamental respects. First, CLFP believes that a case has not been made that the existing Stanislaus County program is not a sufficient basis for the Regional Board's Waiver conditions. Second, no data has been presented to indicate that the County program has failed to protect groundwater or to prevent nuisance conditions. Third, no information has been presented to indicate that the methods used for establishing proper application rates are deficient, or that the methods are not being accurately implemented by the land operators. Finally, the Waiver calls for the installation of monitoring wells even though the soil sample data from the current sites indicates that the soils are attenuating the waste and wells may not be necessary.

The Board and various stakeholders must come to some agreement as to what is accepted science with respect to land application practices and what areas require further study in order to craft a waiver that will provide adequate protection for groundwater based on the best available information.

#### Proposed Task Force

To address the outstanding issues, CLFP recommends that the Regional Board work with Stanislaus County, food processors, and the land application sites to form a task force to thoroughly study land application of food processing by-products. The task force would be composed of a number of stakeholders and would be charged with evaluating current practices and soliciting input from scientists and technicians. The goal of the task force would be to develop a new waiver that is based on proven science and takes into

consideration the impact of any new regulatory costs on agriculture and the food processing industry.

Several food processors will provide funding for the initial activities of the task force and, if necessary, CLFP will seek a larger pool of grant funding should additional work be required. CLFP will ensure that the work is completed in a timely manner and subjected to peer review. The industry stakeholders will work closely with the Regional Board to ensure that the task force yields useful and constructive results that will assist in developing policies for similar programs across the region.

While the task force is deliberating, the current Stanislaus County permit program should continue as the basis for regulating land application sites, feedlots, and composting operations. This will ensure environmental protection and avoidance of any nuisance created by the sites.

#### **The Role of the Food Processing Industry in the Economy of the San Joaquin Valley**

The California food processing industry generates \$6.7 billion in annual wages, and \$16.7 billion in annual sales. The food processing industry is one of the largest employers in Central California, with over 200,000 total workers. This is equivalent to 5.6 percent of total employment in the San Joaquin Valley. The food processing and farming industries combined account for 29 percent of total San Joaquin Valley GDP.

Fruit and vegetable processors contribute a significant share to total food processing employment, accounting for over 26,000 jobs in the San Joaquin Valley.

The food processing industry in Stanislaus County generates 18,400 jobs, which accounts for over 18 percent of total employment. Many of the 4,500 farmers in the county produce crops for the processing plants. In addition to thousands of farmers, a number of other industry sectors rely on the food processing industry, including packaging suppliers, equipment manufacturers, truckers, financial service organizations, construction companies, and energy providers. Regional economic models indicate that every 100 jobs created in the fruit and vegetable processing sector generates another 147 jobs in the local economy. Using this multiplier, the 18,400 fruit and vegetable processing jobs generates about 27,000 more jobs, for a total employment effect of over 45,000 jobs in the county. These jobs generate millions of dollars in income and tax revenue for the region and are necessary for the economic vitality of the region.

#### **The Competitive Position of the Food Processing Industry**

Despite increasing costs and shrinking margins in recent years, many food processors have remained in California due to the access to the plentiful supply of fruits and vegetables and a substantial investment in plant and equipment. However, many nations (e.g. Mexico, Chile, China) have rapidly developed their farming and food processing sectors in recent years and are capable of producing an array of competitive products at a relatively low cost. California processors now face significant competition in the marketplace. Some companies have relocated abroad, some have ceased or reduced operations. Many other processors are heading towards a crossroads where they must

choose whether to stay in California, move their operations elsewhere, or close down altogether. A critical component in the decision-making process will be whether or not the prevailing regulatory climate is clear, consistent, based on sound science, and does not impose undue costs.

#### **General Recommendations**

Food processors share the Board's concern for the quality of the water in the region. To achieve continued improvements in water quality it will be critical to develop a collaborative partnership between industry and the Board to develop policies and practices that are based on sound science and can be implemented in a cost effective manner. CLFP has identified three areas for collaboration in the near-term:

1. Implementing the proposed task force to address the issues related to the Stanislaus County food processing by-product land application program.
2. Revising the CLFP *Manual of Good Practice for Land Application of Food Processing Rinse Water* and using this document as a training/certification tool for industry.
3. Identifying specific research needs and obtaining grant funds for joint projects.

CLFP looks forward to working on these projects with the Board and its staff.

W.S.W.



# DEL MONTE FOODS

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March 13, 2006

Ms. Wendy Wyels  
Environmental Program Manager  
Waste Discharge to Land Section  
Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, California 95670-6114

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SACRAMENTO  
CVRWQCB

**RE: Regional Board Information Item: Update Regarding the Regulation of Food Processing Waste Discharges to Land**

Dear Ms. Wyels:

The Del Monte Foods Company (Del Monte) was pleased with the decision to change the March 17 agenda removing the Waiver of Waste Discharge Requirements for Solid Food Processing By-Products Discharges in Stanislaus County as an action item and instead moving forward with an informational discussion item about the overall topic of land application of food processing discharges. This will provide the recently appointed board members an opportunity to learn about the various discharge streams and the need to approach each category in a distinct manner.

Stemming from our long-running involvement and interest in agricultural and food processing matters throughout the Central Valley, Del Monte has been actively engaged in --as well as concerned about -- the policies and procedures for effectively managing the application of food processing by-products and rinse water onto farm lands. While the basis for our interests are many, two key drivers prevail: our long-standing concern for water quality and availability along with a keen awareness that the current farm land application is our only practicable means for disposing of these processing residuals.

Fruit and vegetable by-products are a discreet portion of the leftovers from the processing of our products. Other materials, process rinse water, brines, agricultural commodity wastes, for example, have different characteristics and must be evaluated separately.

As is evident in our Feb. 15, 2006 comments regarding fruit and vegetable by-product reuse, Del Monte has not been satisfied with various aspects of the requirements that are under consideration. Similarly, through our various industry trade associations, workshops and other meetings and venues, we've questioned and challenged various concepts, proposals and presumptions regarding the land application of these processing by-products. Yet, our critiques and concerns should not be viewed as an unwillingness to pursue and support reasonable, scientifically based solutions to effectively manage land application procedures as we are indeed willing to work with the Board and staff to produce mutually agreeable solutions.

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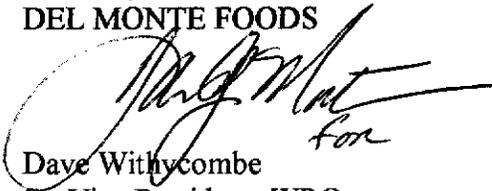
March 13, 2006

Regional Board Information Item

We look forward to the discussions that are scheduled for the March 17 Board meeting and plan to publicly participate if warranted. Furthermore, as evidence of our intent and willingness to continue our active support and cooperation, we will submit more detailed comments pursuant to the Staff Report, the March 17 discussions and other matters that might arise.

Sincerely,

DEL MONTE FOODS

A handwritten signature in black ink, appearing to read "Dave Withycombe", with a large, sweeping flourish extending to the right. The signature is written over the printed name and title.

Dave Withycombe

Sr. Vice President, WRO

Cc: Pamela Creedon, Executive Officer  
Central Valley Regional Water Quality Control Board

March 10, 2006

Ms. Pamela Creedon, P.E.  
Executive Director  
Regional Water Quality Control Board  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670-6114

Subject; Proposed Waiver of WDRs for Food Processing By-Products

Dear Ms Creedon:

I have reviewed the proposed waiver for food processing by products and find it very disturbing in that Stanislaus County has a very competently administered food processing by-products land application program and these new regulations do not even acknowledge their existence. Even the tone of the proposed new regulations takes the position that the waste generators (these by-product materials are only referred to as "wastes" because there is no market for them) are not to be trusted and need higher levels of regulatory oversight and monitoring.

I find it equally troublesome that there simply isn't any scientific justification for this new level of environmental regulation. It seems to be similar to the experience I recently had in reviewing draft WDRs at the Jess Ranch Biosolids Land Application site in eastern Alameda County. There, after over 12 years of successful biosolids application (monthly county monitoring with no public health or environmental issues), staff is requiring ground water monitoring because they have some data from an old gas station site east of the application site that indicated nitrate contamination of groundwater. Stanislaus County has an equally excellent track record of managing land application of food by-product with no known evidence of groundwater pollution. So where is the problem?

Staff also routinely justifies additional monitoring and site restrictions using State Board Resolution 68-16. In most cases where land application is practiced local groundwater quality doesn't even come close to meeting the criteria established in Resolution 68-16 that mandates protection of the State's "highest" quality groundwater.

Hopefully, you will carefully review these proposed new WDR restrictions and monitoring requirements targeted for land application of organic materials. The implication of adopting the proposed regulations as written without scientific and economic analysis could pose serious economic hardship and potential loss of business in California.

Sincerely,

John T. Bouey, P. E.  
9312 Skyline Blvd.  
Oakland, CA 94611

cc: Mr. Rob Neenan, California League of Food Processors



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Comments Concerning Agricultural Reuse of Food Processing Discharge  
Presented to The Regional Water quality Control Board, Central Valley Region  
March 17, 2006

Nat B. Dellavalle, CPAg/SS

Thank you for the opportunity to address this important issue. I am Nat Dellavalle a Certified Professional Agronomist and Soil Scientist. Since 1961 I have worked with clients in production agriculture with plant nutrient, salinity, irrigation and soil organic matter management.

Some years ago a client came to me with a Regional Board issue asking if I could assist. The issue involved plant nutrient, salinity, irrigation and soil organic matter management. Since then I have enjoyed working with Board Staff and a number of dischargers. I view my client as being disposers or reusers. The disposers discharge to a minimum amount of land where there can be potential for water quality degradation. Reusers utilize liquid or solid discharge constituents to grow crops. Today I have a few comments about reusers and a request for the Board.

Unlike disposers, reusers have more, much more than the minimum amount of land. A crop or crops are produced for profit not for the purpose of discharge disposal. Those crops would be grown even if no discharge were available. Nitrogen, water and organic matter applied with discharge displace inputs that would otherwise be purchased. The amount of nitrogen applied would be the same with or without discharge application.

Discharge reuse reduces potential impact on water supply. Impact under the land where reuse occurs impacts water quality no more than would a conventional farming operation. Discharge is displaced from a disposal site resulting in decreased threat to water quality. Furthermore, environmental impact and cost of fertilizer manufacturing and transportation are avoided. For example, the natural gas required for manufacturing nitrogen fertilizer as well as other resources are conserved.

Agronomic or Best Management Practices can be utilized to assure that impact on water quality at the reuse site is no greater than with well managed conventional agriculture. The key to water quality projection is management not characteristics of materials applied.

It would be appropriate for the Board to adapt rules encouraging agronomic reuse of constituents of regulated discharges. I urge the Board to instruct staff to develop rules for reuse that are less onerous and more appropriate than those for disposal.



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March 10, 2006

Wendy Wyels  
Regional Water Quality Control Board  
11020 Sun Center Drive #200  
Rancho Cordova, CA 95670

Dear Ms. Wyels:

We have read the Staff Report entitled "*Regulation of Food Processing Waste Discharges to Land.*" We have previously commented on the Waiver for The Reuse of Solid Food Processing Waste within Stanislaus County and would like to thank you for removing that item from the agenda and allowing for further consideration. Western United Dairymen represents 1,100 dairy farm families throughout the state of California. Some of our members feed food processing by-products because these by-products are a resource in our feed rations and provide a good source of nutrients and fiber for our animals.

We realize that the staff report did not focus on by-products used for feed. However, regulation of the food processors and their different waste streams will result in the regulation of the feed by-products, as seen in the Stanislaus County Waiver. Feeding of food processing by-products is a good alternative to other methods of disposal and should be encouraged. The by-products we are using are safe as demonstrated by the fact that they are used as animal feed. Using food processing by-products for animal feed was mentioned in the staff report in the section titled "Success Stories – It Can Be Done Right!" as an example of a food processor that is doing a good job of protecting water quality. The solid stream from the processor was used for animal feed.

Regulations were proposed for the feeding of the by-products for the tentative Stanislaus County Waiver. In that Waiver, juice from the by-products is prohibited from being added to the lagoon at the dairy. The feed storage areas on our dairies have been designed to collect runoff from the concrete feed storage areas and deliver that runoff to the dairy lagoons to be in compliance with the regulations enforced by your Confined Animal Facilities Unit. We would like to better understand why a small amount of juice from a pile of food processing by-product could not be handled in the same manner as runoff from any other feed commodity.

We would like to support the formation of a task force to review the scientific information regarding feeding food processing by-products and make recommendations regarding Regional Board policy on the issue. The task force should consist of representatives from the food processing industry, animal feeding industry, regulatory, government, academia, and other stakeholders.

Very truly yours,

Michael L. H. Marsh, CPA  
Chief Executive Officer

cc: Case Van Steyn, WUD President

WSW

March 10, 2006



**Via E-Mail (Wwyels@waterboards.ca.gov)**  
**and U. S. Mail**

Ms Wendy Wyels  
Regional Water Quality Control Board  
Central Valley Region  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670

05 MAR 14 PM 12:36  
SACRAMENTO  
CYR W OCH

*RE: Regional Board Information Item: Update Regarding the Regulation of Food Processing Waste Discharges to Land*

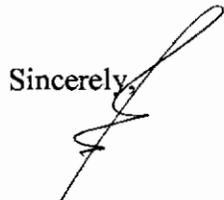
Dear Ms. Wyels:

Stanislaus Foods is a family-owned food processing company operating in the Central Valley of California since 1942. We employ more than 500 full-time employees and nearly 2000 seasonal employees each year to help process our products.

We believe that the proposed "Waiver of Waste Discharge Requirements for the Solid Food Processing Waste within Stanislaus County" is overly burdensome, lacking sufficient sound science to support the associated policy and requirements as detailed in my Comments letter of February 15, 2006. Furthermore, some assumptions used in drafting the waiver appear to be based on worse-case conditions and as a result, the restrictions put all food processors in the category of guilty until proven innocent.

We have always prided ourselves in being a responsible part our community. In this matter, as in all others we ask that you allow us to work with you and your staff to develop, through sound science, a "sustainable solution" to real problems.

Sincerely,

  
Rick Vargas  
Plant Superintendent

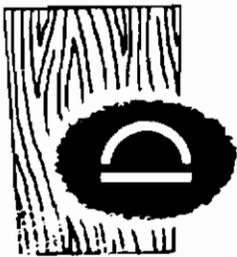
cc:

Pamela Creedon, Executive Officer, Central Valley Regional Water Quality Control Board, 11020 Sun Center Drive #200, Rancho Cordova, CA

Stanislaus  
Food  
Products



P.O. Box 3951 (95352)  
1202 "D" Street  
Modesto, CA 95354  
(209) 522-7201  
Fax (209) 521-4014



# Mape's Ranch and Lyons' Investments

10555 Maze Road Modesto, CA 95358  
Office: (209) 522-1762 FAX: (209) 522-7871

W5W

March 13, 2006

*Sent via: Fax & US Mail*

Wendy Wyels  
Environmental Program Manager  
Waste Discharge to Land Section  
Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, California 95670-6114

RECEIVED  
STANISLAUS COUNTY  
CVR/WQCB  
FEBRUARY 14 11:12:45

**RE: Regional Board Information Item: Update Regarding the Regulation of Food Processing Waste Discharges to Land**

Dear Ms. Wyels:

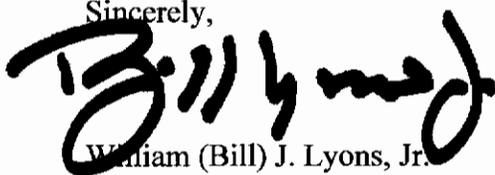
On behalf of Lyons' Investments, the Lyons family, the Dos Rios Ranch and the Mape's Ranch, we are in support of the decision to amend the March 17, 2006 Regional Water Quality Control Board meeting agenda regarding the Waiver of Waste Discharge Requirements for Solid Food Processing By-Products Discharges in Stanislaus County from an action item to an information item.

As you are aware, our family has applied food processing by-products as a soil amendment at our permitted Dos Rios and Mape's Ranch sites at agronomic rates for over sixteen years. We consider ourselves, and are considered throughout the community to be a model farming operation. We believe that the proposed Draft Waiver in its current form places overly extensive requirements and regulations on Stanislaus County site operators and the food processing industry. For our operation, adoption of the most recent Draft Waiver will likely force the closure of direct feed, compost and land application sites, which will have an adverse impact to our community, food processors, employees and agriculture.

As stated in our letter to you dated February 14, 2006 (attached), we would like to see you and your staff work with the Stanislaus County, the food processing industry, the agricultural community and other related stakeholders on a Draft Waiver that allows the continuation of Stanislaus County's excellent program. In addition, the creation of a task force can guide and provide the scientific information needed to address the concerns outlined in our past correspondence to you.

As always, my family and I are willing to work with you and your staff to develop agreeable solutions. We look forward to participating in the upcoming Regional Board informational discussions scheduled for March 17, 2006. Please do not hesitate to call us at (209) 522-1762 should you have any questions.

Sincerely,

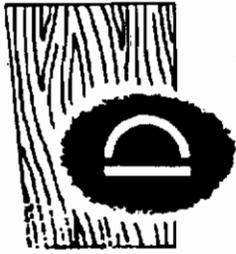
A large, bold, handwritten signature in black ink that reads "Bill Lyons, Jr." in a cursive style.

William (Bill) J. Lyons, Jr.

A handwritten signature in black ink that reads "Edward M. Lyons" in a cursive style.

Edward M. Lyons

cc. Pamela Creedon, Executive Officer



# Mape's Ranch and Lyons' Investments

10555 Maze Road Modesto, CA 95358  
Office: (209) 522-1762 FAX: (209) 522-7871

February 14, 2006

**Sent via: Fax & Federal Express**

Wendy Wyles  
Title 27 and Waste Discharge to Land Section  
Regional Water Quality Control Board  
11020 Sun Center Drive, #200  
Rancho Cordova, California 95670-6114

Re: Revised Tentative Waiver of Waste Discharge Requirements for Reuse of Solid Food Processing Waste Within Stanislaus County

Dear Ms. Wyles:

On behalf of Lyons' Investments, the Lyons family, the Dos Rios Ranch and the Mape's Ranch, we appreciate the opportunity to comment on the Revised Tentative Waiver of Waste Discharge Requirements for the Re-use of Solid Food Processing Waste within Stanislaus County (Draft Waiver).

At the outset, we would like to express our serious disappointment with the Draft Waiver and the failure of the Regional Board Staff to meaningfully consider practical changes proposed by Stanislaus County. This Draft Waiver places onerous requirements and regulations on Stanislaus County, site operators and the food processing industry. These requirements will result in many site operators and food processors declining to participate in the Stanislaus County permitted program. The Draft Waiver will have statewide implications to the economy, agricultural, urban and rural communities. Currently, food-processing by-product is being beneficially utilized as an animal/poultry feed and as a soil amendment and should not be classified as "waste" by the Regional Board.

The Regional Board Staff provides no evidence of groundwater degradation or public nuisance, but instead makes generalized statements and conclusions. Where is the science supporting these requirements, conclusions and regulations? Where is the peer review of this Draft Waiver that was directed by the Senate Agricultural Committee and committed to by Board Chairman Schneider in February, 2005? **We respectfully request** that this Draft Waiver be taken off of the Regional Board's March 16/17 agenda until such time that a Draft Waiver may be presented which is based on sound science and has been thoroughly vetted by the scientific

community, the food processing industry, the agricultural community, environmental interests and other stakeholders. **We would strongly recommend** that a statewide task force be formed to review these issues and provide scientifically based recommendations to the Regional Board. Funding could be sought from the California Department of Food and Agriculture, the California Integrated Waste Management Board and the State Water Resources Control Board.

The following are specific comments on the Draft Waiver documents:

**Staff Report: Consideration of a Waiver of Waste Discharge Requirements for the Reuse of Solid Food Processing Waste within Stanislaus County:**

The following comments correspond to the numbered pages in the Staff Report document.

**Page 1** – Are the skins, peels, seeds, cores, over-ripes, under-ripes, fruits and vegetables categorized as “agricultural commodity wastes” or “food processing wastes/spread on land”. We request that Regional Board Staff clearly define and categorize certain by-products? What are Regional Board Staff’s comments and recommendations? Please clarify and define which category(s) the by-product(s) should be classified as, and provide the science to support that decision.

**Page 1** – Staff makes the following statements:

1. “One time discharges of spoiled food may be discharged under the low threat waiver.” Please provide the science and data to support this statement. Is it one time per year or one time every two years or three years? Please explain the difference between spreading the by-product once a year at a Stanislaus County permitted and regulated site versus a once a year disposal at an unpermitted, unregulated site?
2. “certain agricultural commodity wastes, such as excess fruit which falls to the ground in an orchard have such a minor effect on water quality, that it is not necessary to formally regulate them.” Please provide us with scientific data supporting “minor effect” and how do you plan to “informally” regulate them?

**Page 2** – Staff comments “that a significant amount of olive waste is applied to the land”. What is the definition of significant amount? We respectfully suggest that Staff review the sixteen years of data, which is provided annually and demonstrates that olive by-product is a very small portion of the by-product received in Stanislaus County and land applied.

**Page 3** - Staff makes several findings regarding an overall review of the Stanislaus County Program including:

“No Program criteria ensure reasonable protection of groundwater from other than excess application of nutrients.”

Where is the scientific support for such a finding? Application of food processing by-product solids or semi-solids, at agronomic rates provides protection as good as or better than that of a normal and customary farming operation. Annual cropping

insures harvest of more constituents (including salts) than those applied with food processing by-product.

**Page 5** - Staff expresses concern regarding metal loading. What the Regional Board Staff fails to recognize is that USEPA ceilings were based on normal rates of application of bio-solids. We are not applying bio-solids (human waste, etc.), we are re-using food processing by-product (fruits, skins, peels, cores, etc.). Furthermore, they were established to be safe on acidic soils in the eastern states. It should be noted that soils at the Lyons' application sites are alkaline and solubility of metals will be suppressed. Also, an agronomic practice for improving sodic soils is application of acidic soil amendments. Application of food processing by-product replaces or reduces the use of commercial fertilizer or non-regulated soil amendments. Loading limitations should be based on loading rates not concentrations.

**Page 5** - Is Staff stating or implying that food processing by-product, composed of fruits, vegetables, skins, peel, cores, over-ripes and under-ripes, is a greater threat to groundwater than bio-solids (human waste, etc.)? Please provide the scientific data to explain how Regional Board Staff supports the 10% factor regarding bio-solids (human waste, etc.) as compared to food processing by-product.

**Page 5** - In the last full paragraph, the Regional Board Staff makes several incorrect statements regarding the application of by-products including "staff observed found peach slurry being discharged from the back of a tank truck. The liquid rapidly infiltrated through the sandy soil." At the Dos Rios and Mape's Ranches, by-product is applied to dry soil at rates sufficiently low enough that moisture is retained near the surface and evaporates within hours of application. No percolation to ground water occurs, therefore, soluble constituents are retained in root zones for crop use. Did Regional Board Staff's research include digging to see how deep the slurry penetrated? During their inspection, did Regional Board Staff consider the temperature/evaporation rate that summer day of June 24, 2004?

**Page 7** - In the discussion of groundwater monitoring there are a number of statements that are unsubstantiated by fact or science. Staff states:

"While the County Program has relied on application of solid food processing waste at agronomic rates to prevent groundwater degradation, there has been no monitoring to demonstrate that this approach has been successful. In addition, "agronomic rates" typically refers to application of nitrogen compounds. The County Program has allowed saline food processing waste (e.g. olives) to be applied to land, and Regional Board staff is unaware of any agronomic rate for most salinity constituents. Therefore, the use of agronomic rates as the limited loading rate for solid food processing waste may not be protective of groundwater in all cases."

First, Regional Board Staff provides no scientific data to support the conclusion that the application of solid food processing by-product at agronomic rates is not protective of groundwater. Where is the science to support such a statement? Additionally, it is our understanding that olives and all types of brine are no longer allowed under the County program, so salt should not be at issue.

Finally, with respect to the salinity issue, the Regional Board has allowed application of 3000 pounds of salt per acre-per year at Central Valley dairies. Based on a review of the previous years testing results at the Dos Rios and Mape's Ranches, salt loading will be **far less** than that amount. Groundwater monitoring is not required at existing dairies, why should it be required at an existing normal and customary farming operation?

**Resolution Approving a Waiver of Waste Discharge Requirements for the Reuse of Solid Food Processing Waste Within Stanislaus County:**

The following comments correspond to the numbered sections in the Resolution document.

1. The term "waste" should be defined so that all understand where jurisdiction of the Regional Board begins and ends. Under what conditions would by-product not be considered waste? What separates waste from non-waste? One example is when concentration of plant nutrients was high enough (3% or more) to qualify for registration with CDFA as a fertilizer. Are there other examples?
  
4. What has changed since the Regional Board's 1981 determination that spreading food processing by-products on land did not pose a significant environmental impact? What are the scientific and legal justifications to support the change from the 1982 program for compliance in favor of the onerous requirements and regulations prescribed in the Resolution/Waiver? Please provide Staff's definition of "agricultural commodity waste" and the definition of "food processing waste". Please provide scientific data to support the definitions.
  
6. How can the conclusion that the application of solid food processing by-product should pose a low threat of nuisance or water quality degradation be reconciled with the onerous groundwater monitoring requirements and regulations contained in the Resolution? How low does the threat have to be before the reuse is not regulated?
  
12. What is Regional Board Staff's recommendation for the required dollar amount for the performance bond? What formula was used to arrive at that dollar figure?
  
- 13a. Please define "Agronomic rate" so there is consistency in definition. Please provide scientific data to support the definition.
  
- 14a. Is Staff stating that the standard should be zero impact? Should it be no more impact than a normal and customary farming operation? Please explain in greater detail.
  - 14.a.i. The processes discussed in this paragraph occur in ALL soils. They are not dependent upon the application of food processing by-product. The standard here should not be Groundwater Limitations, but characteristics of percolate below well managed irrigated land on a normal and customary farming operation.

**14.a.ii.** When acidic food processing by-product is applied to alkaline soils, acidity will be neutralized and the solution will be sufficiently alkaline. It is pH of the soil solution, not the material applied that determines solubility of metals.

**14.a.iii.** This statement fails to consider several points, including but not limited to the following:

- ✓ Soils at the Lyons' Investments farms have moderate not low cation exchange capacities.
- ✓ Cation exchange capacity is not the only soil property affecting mobility of metals in soil. Only soluble metals can be leached.
- ✓ The rate of metal application must be sufficiently high.
- ✓ How does this compare to commercial fertilizer or animal/poultry fertilizer (manure) concentration of metal requirements?

**14.a.iv.** At agronomic rates for nitrogen, the amount of total fixed dissolved solids applied with food processing by-product is less than the amount harvested by crops. The rate of application, not concentration, should be the guiding factor. For example, zinc sulfate fertilizers with as much as 36% zinc are in common usage without directly impacting groundwater quality. The dose, not the concentration, is critical. Furthermore, the Regional Board routinely allows discharge of up to 3000 pounds of fixed TDS (salt) per acre per year. How do the proposed loading rates compare to allowable dairy waste rates and bio-solid (human waste, etc.) rates?

**14.a.v.** Leachate from any farming operation will have the same result. The standard should be that which occurs under a well managed, normal and customary farming/fertilizer operation.

**15.** What is the scientific support for the statement "[t]he land application of food processing by-products can pose a significant threat to groundwater quality?" Is there some limited or diminimus groundwater degradation under any irrigated land? Is that acceptable to Regional Board Staff? Please explain. How is the well managed application of by-products any different than under normal fertilizer practices on a normal and customary farming operation?

**15.a.** So long as more metals are harvested than applied, application should not be limited. Please define and explain "unreasonably" and "over the life of the project".

**15.b.** There are no "natural" background conditions. Most, if not all, first encountered groundwater has been impacted by irrigation. The standard should be characteristics of groundwater under well managed irrigated land. Groundwater monitoring should not be a required element of this Draft Waiver.

**15.c.** Any Groundwater Limitations should be based on characteristics of groundwater under well managed irrigated land. Please explain why or how this would pose any greater threat to groundwater than a normal and customary farming operation.

**15.d.** Does Regional Board Staff believe limitation of constituents in food processing by-product to Groundwater Limitations to be untenable? It is the rate of application and other factors, not concentration, that determines effect on groundwater.

**15.e.** Please define and explain "unreasonable degradation". How would "reasonable degradation" be defined?

**16.** We would like to reiterate what we believe is a lack of scientific data to support the conclusion that the application of food processing by-products at agronomic rates threatens groundwater quality. Where is the Regional Board Staff's science to support such statements? To our knowledge, neither the Dos Rios nor Mape's Ranches have ever had a complaint or violation registered about nuisance conditions or by-product run-off into surface water. Please provide us with the evidence and complaints to support the assumption that the Dos Rios or Mape's Ranches have created nuisance conditions or by-product runoff into surface water. Also, please provide scientific data supporting these complaints. For example, were loading rates agronomic?

**18-19.** Is Regional Board Staff implying that the by-product to be land applied, composted or direct fed should be of such quality standard that it imposes **no threat** to municipal and domestic supply, agricultural supply, industrial service or process supply, power generation, warm and cold migration of aquatic organisms, spawning, reproduction and wildlife habitat? Please provide us with that standard so that we can provide it to the food processors. Does the by-product need to be of potable (drinking) water quality standards prior to land application, composting or direct feeding?

**21. We agree with the statement** "Regional Board staff to direct limited resources to regulating waste discharges that have similar or greater potential to pollute water quality or to create nuisance, and that have no other regulatory oversight."

**25.** Please provide the governing authority and scientific data for the statement that "substances from food producing or processing operations referred to in the Program as food processing by-products are waste?" **Re-use recognizes that food processing by-product has value and should not be considered waste.**

**26.** Percolate below re-use fields may have constituents in excess of Groundwater Limitations as a result of normal and customary farming practices. Any limits should be based on characteristics of percolate below well managed irrigated land.

**30. We agree that** "discharges described in this Resolution...when properly managed, these types of discharges are a low threat and Regional Board resources should focus on higher threat discharges." The fundamental premise of this statement is that discharges must be "properly managed." When properly managed, there is little or no threat to groundwater. How can this be reconciled with the onerous requirements and regulations contained in this Resolution/Waiver? Our operation at Dos Rios and Mape's Ranches over the past 17 years have been properly managed to ensure the application of by-product at agronomic rates. The Regional Board Staff has supplied no evidence or scientific data that groundwater

has been impacted at either ranch, and as such, groundwater monitoring is an unnecessary and onerous requirement of this Resolution.

**33. We strongly disagree with the following statement:** "Known operators and other interested parties were notified of the intent to adopt a waiver of WDRs for the land application and direct animal feed of solid food processing waste at sites regulated by Stanislaus County through implementation and enforcement of its Program, and were provided an opportunity to submit written comments and for a public hearing." This Draft Waiver would have far reaching implications throughout the statewide food processing industry, the agricultural community, the counties and cities that depend on diversion credits, as well as the economic and social implications to the labor force, etc. The January revised draft had limited exposure to many of its' most impacted stakeholders. **This is a statewide policy issue and the Regional Board should ensure that a far reaching notification effort take place, given the impacts of the proposed draft policy.**

**A. Specific Requirements for Individual Entities Permitted by Stanislaus County to Accept Solid Food Processing Wastes:**

**A.(b).2.** Please provide a definition for solid, liquid and semi-solid. DAF residue should be allowed so long as its characteristics are suitable for re-use. Prohibition should be based on characteristics and rate in the soil, not how a substance was derived.

**A.(b).7.** This is an unreasonable standard. The limitation should be based on loading, not concentration.

**A.(b).8.** Percolate below well managed irrigated land, not Groundwater Limitations should be the standard. What are the allowable metal concentrations for commercial fertilizer, animal manure, poultry manure or compost to be applied to agricultural farm lands? Shouldn't by-products be comparable in their standard range? If not, why not?

**A.(b).9.** Loading, not concentration should be the condition applied to limiting metals loading. A large amount of dilute material can produce more loading than a little concentrated material. What are the allowable metal concentrations for commercial fertilizer, animal manure, poultry manure or compost to be applied to agricultural farmlands? Shouldn't by-products be comparable in their standard range? If not, why not?

**A.(b).10.** Where cation exchange capacity is less than 10 meq/100 gm and pH is above 7.0, application should be permitted.

**A.(b).11.** What does "predicted precipitation" mean? What organization should be relied upon for the prediction? Most summer precipitation events are very small, evaporate within hours and will not pose a threat to groundwater. This condition should be based on the amount of precipitation and available water holding capacity of the soil. Furthermore, by-product will be applied to dry soil so that any moisture will be retained in the surface few inches and will evaporate within hours. This requirement is not needed to protect groundwater. Also, what is Regional Board

Staff's recommendation to the food processors regarding alternatives for the disposal or re-use of the by-product for this potential two or three day cycle during the processing season?

**A.(b).13.** Limiting application to an agronomic rate provides sufficient protection. Quantity applied is more appropriate than the number of applications.

**A.(b).14** Drying peach pits occurs during late summer or early fall when there is little threat of flooding. When has a 100 year flood occurred during those months of operation?

**A.(b).15.** Is this a limitation for all operations in the Central Valley? What is Regional Board Staff's recommendation regarding alternatives for the disposal or re-use of the by-product during the months of December, January, February and March?

**B. Specific Requirements for Stanislaus County:**

**Comment:** The Regional Board Staff **(1)** has taken over one year to provide a Draft Waiver for review; **(2)** has not fulfilled Board Chairman Schneider's commitment of a peer scientific review; and **(3)** has requested Stanislaus County and others to provide comments to Staff by February 15, 2006, regarding documents received in late January. Furthermore, if the Waiver is considered and approved at the mid-March hearing, Stanislaus County has until April 1, 2006 to submit a Notice of Intent addressing Items 1-9, a groundwater monitoring well installation work plan by May 1, 2006, and a groundwater well installation report by September 1, 2006. **This appears to be a very unreasonable timeline demand on Stanislaus County.**

**B.1.c.** Please provide definitions of "solid" and "liquid by-product". There will be liquid contained with solid material. Any liquid will be retained in the top few inches of the soil where it will be subject to evaporation prior to disking. It should be made clear that such liquid in the by-product is not a violation.

**B.2 and B.3.** As we have discussed above, we do not believe that there is sufficient scientific data or support to conclude that the application of food processing by-product threatens groundwater quality. As such, we would request that the requirement for installation of groundwater monitoring wells be deleted. Please explain why the monitoring wells should be installed outside of the 100 year flood plain?

**B.6** Please define "material change."

**C. Groundwater Limitations:**

For the reasons stated above, we believe that this section should be deleted. Could normal and customary farming operations meet these standards?

**Monitoring and Reporting Program for Waiver of Waste Discharge Requirements:**

**Comment:** The Department of Health Services (DOHS) Environmental Laboratory Accreditation Program (ELAP) has changed and no longer uses MDL for detection level reporting. Furthermore, the USEPA is in the process of revising detection level reporting. We request that Regional Board Staff contact DOHS and ELAP personnel for appropriate language.

The following comments correspond to the lettered sections in the Monitoring and Reporting document.

**A. Waste Constituent Monitoring:**

Should constituents be found consistently low enough that there is no threat to groundwater, this requirement should be deleted after the first year. Fifteen years of testing should not be required to characterize many constituents.

**B. Land Application Area Monitoring:**

Hydraulic loading can be estimated from irrigation flow rates multiplied by irrigation duration plus precipitation records. As discussed above, no hydraulic loading will result from by-product application.

**C. Soils Monitoring:**

One of the objectives of using by-product as a soil amendment is to improve agronomic properties of the soil. Therefore, soil quality is expected to be influenced by by-product application. Influence includes dissolution of calcium to displace sodium from the cation exchange complex, reduction of sodium absorption rates to promote improved soil physical properties, increasing soil organic matter to improve soil physical and chemical properties. It should be noted that nitrogen is an integral part of soil organic matter, so TKN will also increase. All of these influences are desirable for agronomic soils and would be affected by other means in absence of by-product application.

**D. Groundwater Monitoring**

This groundwater monitoring requirement should be deleted.

**A.9. Annual Report - Certification:**

Regional Board Staff has stated that the Director shall sign the annual report with the following certification, whether written or implied:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information

submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

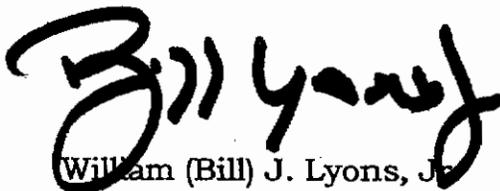
Then Regional Board Staff provides the County with an alternative: "Alternatively, Stanislaus County may require that each permitted entity submit their annual report with the above signed certification. In that case, the Director of the Department of Environmental Resources shall not also be required to provide the certification." **Should this certification apply to the generator/food processor? If not, why not?**

**Conclusion:**

Our family has applied food processing by-products as a soil amendment at our permitted Dos Rios and Mape's Ranch sites at agronomic rates for over sixteen years. To the best of our knowledge, we have never received a violation notice from either Stanislaus County or the Regional Board. We consider ourselves, and are considered throughout the community to be a model farming operation. It is in our best interest to ensure that our practices protect our underlying groundwater quality. Adoption of the Draft Waiver will likely force the closure of direct feed, compost and land application sites, which will have an adverse affect to our community, food processors, employees and agriculture. We respectfully request that this matter be taken off the Regional Board's March 16/17 agenda and instead work with Stanislaus County, the food processing industry, the agricultural community and other related stakeholders to draft a waiver that allows continuation of Stanislaus County's excellent program. In addition, the creation of the aforementioned task force would assist the Regional Board in providing the scientific data needed to address these issues and proposed program.

We thank you in advance for your prompt response to our comments, questions and requests for further clarification. **We look forward to receiving your written response on or before March 13, 2006**, so that we may further evaluate these issues prior to the March 16/17, 2006 hearing. Please do not hesitate to call us at (209) 522-1762 should you have any questions.

Sincerely,



William (Bill) J. Lyons, Jr.



Edward M. Lyons

cc: Assembly Agriculture Committee  
Assembly Member Barbara Mathews, Tracy, Room 5155  
Assembly Member Bill Maze, Visalia, Room 4015  
Assembly Member Dave Cogdill, Modesto, Room 4117  
Assembly Member Sam Blakeslee, San Luis Obispo, Room 5126  
Assembly Member Nicole Parra, Hanford, Room 4005

Assembly Member Simon Salinas, Salinas, Room 2175  
Assembly Member Joseph Canciamilla, Pittsburg, Room 2141  
Assembly Member Juan Vargas, San Diego, Room 2013

Jim Collin, Chief Consultant to the Agriculture Committee, Room 362

**Others Assembly Members:**

Assembly Member Greg Aghazarian, Stockton, Room 4167  
Assembly Member Doug La Malfa, Richvale, Room 4177  
Assembly Member Kevin McCarthy, Bakersfield, Room 3104  
Assembly Member Alan Nakanishi, Lodi, Room 5175  
Assembly Member Mike Villines, Clovis, Room 4153  
Assembly Member Juan Arambula, Fresno, Room 6011

California State Senate  
State Capitol  
Sacramento CA 94248-0001

**Senate Agriculture Committee**

Senator Jeff Denham, Merced, Room 3076  
Senator Denise Ducheny, San Diego, Room 4081  
Senator Wesley Chesbro, Arcata, Room 5035  
Senator Dean Florez, Shafter, Room 5061  
Senator Dennis Hollingsworth, Murrieta, Room 5064  
Senator Abel Maldonado, Santa Maria, Room 4082  
Senator Deborah Ortiz, Sacramento, Room 5114  
Senator Charles Poochigian, Fresno, Room 5087  
Senator Edward Vincent, Inglewood, Room 5052

John Chandler, Chief Consultant to the Agriculture Committee, 1020 "N" Street, Suite 244, Sacramento, CA 95814

**Other State Senators:**

Senator Roy Ashburn, Bakersfield, Room 5094  
Senator Mike Machado, Linden, Room 5066

**Other State Officials**

Susan Kennedy, Chief of Staff, Office of Governor Arnold Schwarzenegger, State Capitol Building, Sacramento, CA 95814

Richard Costigan, Legislative Affairs Secretary, Office of Governor Arnold Schwarzenegger, State Capitol Building, Sacramento, CA 95814

Dennis Albiani, Legislative Affairs Deputy, Office of Governor Arnold Schwarzenegger, State Capitol Building, Sacramento, CA 95814

Dan Skopec, Deputy Cabinet Secretary, Office of Governor Arnold Schwarzenegger, State Capitol Building, Sacramento, CA 95814

A.G. Kawamura, Secretary, CA Department of Food and Agriculture, 1220 "N" Street, Room 400, Sacramento, CA 95814

A. J. Yates, Undersecretary, CA Department of Food and Agriculture, 1220 "N" Street, Room 400, Sacramento, CA 95814

Al Montna, Chairman, California State Board of Food and Agriculture, 1220 "N" Street, Room 400, Sacramento, CA 95814

Tam Doduc, Chair, State Water Resources Control Board, P.O. Box 100, Sacramento, CA 95812

Art Baggett, Board Member, State Water Resources Control Board, P.O. Box 100, Sacramento, CA 95812

Daniel Merkley, State Water Resources Control Board, Division of Water Quality, 1001 "I" Street, Room 1564, Sacramento, CA 95814

Margo Reid Brown, Board Member, California Integrated Waste Management Board, 1001 "I" Street, Sacramento, CA 95814

Rosalie Mule, Board Member, California Integrated Waste Management Board, 1001 "I" Street, Sacramento, CA 95814

Cheryl Peace, Board Member, California Integrated Waste Management Board, 1001 "I" Street, Sacramento, CA 95814

Gary Petersen, Board Member, California Integrated Waste Management Board, 1001 "I" Street, Sacramento, CA 95814

Patricia Wiggins, Board Member, California Integrated Waste Management Board, 1001 "I" Street, Sacramento, CA 95814

Mark Leary, Executive Director, California Integrated Waste Management Board, 1001 "I" Street, Sacramento, CA 95814

#### Other Organizations

George Gomes, California Farm Bureau Federation, Governmental Affairs Division, 1127 - 11<sup>th</sup> Street, Suite 626, Sacramento, CA 95814

Ed Yates, California League of Food Processors, 980 Ninth Street, Suite 230, Sacramento, CA 95814

Matt McInerney, Executive Vice President, Western Growers, P.O. Box 2130, Newport Beach, CA 92658

Don Gordon, President, Agricultural Council of California, 1225 "H" Street, Sacramento, CA 95814

Barry Bedwell, President, California Grape and Tree Fruit League, 1540 East Shaw, Suite 120, Fresno, CA 93710-8000

Jerry Prieto, President, California Agricultural Commissioners and Sealers Association, 1730 S. Maple Avenue, Fresno, CA 93702

Manuel Cunha, Nisei Farmers League, 1775 North Fine Avenue, Fresno, CA 93727

Joel Nelsen, President, California Citrus Mutual, 512 North Kaweah Avenue, Exeter, CA 93221

Karen Ross, President, California of Winegrape Growers, 601 University Avenue, Suite 135, Sacramento, CA 95825

Michael Marsh, Chief Executive Officer, Western United Dairymen, 1315 "K" Street, Modesto, CA 95354

Benjamin Higgins, President, California Cattlemen's Association, 1221 "H" Street, Sacramento, CA 95814



March 13, 2006

Wendy Wyels  
Title 27 and Waste Discharge to Land Section  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670-6114

RE: Central Valley Board Meeting March 17, 2006 - Update Regarding  
the Regulation of Food Processing Waste Discharges To Land

Dear Ms. Wyels:

As you know, Stanislaus County has been very active in researching and developing solutions for the use of food processing by-products in the agricultural community. In 1978, Stanislaus County recognized the potential problems of handling, hauling and using food processing by-products, and brought together a team of interested individuals representing the following: the agricultural community, including the Farm Bureau, UC Extension and the Ag Commissioner's office, the Food Processing Industry, the waste hauling companies, and the Department of Environmental Resources (DER) to develop a program that would address concerns and solve problems. This collaboration resulted in a self-supporting program for the operation and oversight of food processing by-product use sites in Stanislaus County.

In October 2004, the Stanislaus County Board of Supervisors gave approval for the department to sponsor a regional Summit on "Best Practices" for by-product use. The Summit was held in December and was a tremendous success, involving speakers from the agricultural community and the business sector, as well as soil scientists. Over 200 interested people attended the Summit, including representatives of both regional and state water boards, as well as other environmental agencies.

Since the December 2004 Summit, DER staff participated in a Central Valley Regional Water Quality Control Board (RWQCB) Workshop in January 2005, presented information at a Senate Agriculture Committee hearing at the request of Senator Jeff Denham in February 2005, and participated in a California State Water Quality Control Board Workshop in July 2005. The Summit organizing committee, made up of representatives from the food processors, the agricultural community and by-product use site operators, has continued to meet to coordinate presentations and assure that information and data on our program is available to any interested individuals, as well as RWQCB staff. The results of these activities are that over 1,000 people that attended workshops and hearings have heard presentations on the Stanislaus County program.

The position of DER has always been that our program held the potential for use by other California jurisdictions to operate similar beneficial-use programs in partnership with their communities. In fact, our interpretation of the initial contact by the RWQCB was that they had an interest in providing

Wendy Wyels  
March 13, 2006  
Page Two

information about our program to other jurisdictions who needed a workable solution to common issues regarding the re-use of food processing by-products.

DER and the RWQCB had discussions about our program in the hope that the Department could continue to operate this program without demands on the limited resources of the RWQCB. Based in part on the DER's opinion that these operations do not pose a threat to groundwater quality, staff requested a "waiver" of Reports of Waste Discharge (RWD) and Waste Discharge Requirements (WDR) for the beneficial use sites.

The response from the RWQCB has been two successive versions of a waiver that imposes increased product testing, increased sample analysis, groundwater monitoring, and reporting requirements on land application sites similar to those of a RWD or WDR. Contrary to DER thinking, the RWQCB has concluded that while our program is adequate to prevent nuisance conditions and impacts to surface water, it is not adequate to control the threat posed by these by-products to groundwater quality; even though they have conceded that the threat to water quality degradation is low. DER remains of the opinion that our program guidelines are adequate to protect groundwater on land application sites.

We believe the program is based on sound science and that the land application of food processing by-products at agronomic rates does not pose a threat to the environment or water quality. DER staff will continue to work with other agencies, the processors, the agricultural community and scientific experts, including UC Extension, to continually improve the program.

As requested in our comment letter dated February 15, 2006, a task force should be formed that would include representatives from the scientific community, academia, the food processing industry, the agricultural community, environmental interests and regulatory agencies. This group could develop a program that would meet the concerns of all interested parties and be applicable statewide.

Please find attached to this letter, copies of our comment letter dated February 15, 2006, a fact sheet on the Stanislaus County Food Processing By-Products Program, and a locally produced DVD on the Stanislaus County Program.

If you have any questions, please feel free to call the offices of Stanislaus County DER at (209) 525-6700.

Sincerely,

  
Sonya K. Harrigfeld, Director  
Department of Environmental Resources

SKH:dlp

Enclosures



**DEPARTMENT OF ENVIRONMENTAL RESOURCES  
Administration**

**Sonya K. Harrigfeld**  
Director

3800 Cornucopia Way, Suite C Modesto, CA 95358-9492  
Phone: 209.525.6770 Fax: 209.525.6773

February 15, 2006

Wendy Wyels, Supervisor  
Title 27 and Waste Discharge to Land Section  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670-6114

Delivered Via E-Mail

Dear Ms. Wyels:

RE: Central Valley Board Meeting March 16-17, 2006  
Tentative Waiver of Discharge Requirements for Reuse of Solid Food  
Processing Waste within Stanislaus County ("Proposed Waiver")

First, before I begin our comments, I'd like to thank you for all the time and attention you've devoted to this matter. From our point of view the final product of our 'negotiations' will have far-reaching consequences and we think additional time spent now to produce a waiver that is acceptable to all parties would be well spent. It's our opinion that moving forward with the Proposed Waiver, as written, is not acceptable to the stakeholders. We look forward to your continued willingness to work with all interested parties to formulate a document acceptable to all parties.

We have just received copies of a number of letters directed to your office providing extensive comments on the Proposed Waiver. We have not had an opportunity to review them in detail; it may be that there are specific items or arguments that are of interest to us that are unknown at this time.

What is clear is that the stakeholders do not find the Proposed Waiver reasonable or acceptable. Stanislaus County's program has been successful because the commitment of all the stakeholders. This department shares a number of their concerns, especially the possible elimination of the land application of by-products. A portion of the by-product stream is unsuitable for direct feed and other beneficial use options are limited. Additionally, we agree that the advancement of a task force of professionals to develop a statewide approach to the handling of food processing by-products, and to explore alternative uses for by-product material are ideas well worth pursuing.

Wendy Wyels  
February 15, 2006  
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We suggest that a task force be formed that would include representatives from the scientific community, academia, the food processing industry, the agricultural community, environmental interests and regulatory agencies. This group could develop a program that would meet the concerns of all interested parties. This action would be consistent with Senator Denham's remarks at the Senate Agriculture Committee meeting on February 15, 2005. With this in mind, we respectfully request that the Regional Board remove the Proposed Waiver from the March 16-17, 2006 meeting.

It's our opinion that the Regional Board has not demonstrated through scientific evidence the necessity for the groundwater-monitoring requirement. Soil sample results from 2004 provide preliminary indications of appropriate application rates. Historically, this program has used agronomic rates as defined by the University of California Cooperative Extension. The Regional Board has not provided guidance regarding acceptable application rates.

The Regional Board has proposed five percent of all food processing by-product loads be analyzed by a State Certified laboratory for a broad range of constituents. We propose alternative testing methodologies for the incoming by-product samples. One example of a possible methodology may include field testing for electrical conductivity that will allow the sites to identify those products with either a high salts or metals. Historical by-product sampling has not been considered by the Regional Board in determining the appropriate sampling requirements.

The Proposed Waiver mandates limits on metals concentrations for food processing by-products but doesn't explain why these limits are ten percent of the Statewide Biosolids General Order, and why the proposed limits are appropriate for food processing by-products. Why were the biosolids standards used? Biosolids are not food processing by-products. The Regional Board should provide additional clarification on the correlation between biosolids and food processing by-products.

There are several terms in the draft waiver that need to have clear definitions. The Regional Board should develop definitions that are based on science in collaboration with stakeholders. Examples of terms needing further definition are: unreasonable degradation, "solid, liquid, and semi-solid", and predicted precipitation to list just a few.

A final issue, the Proposed Waiver has a timeline that would require Stanislaus County to submit certain documents and plans by April 1, 2006 and May 1, 2006. If your Board were to consider and approve the Proposed Waiver at the March 16-17 meeting, the first opportunity for our Board of Supervisors to consider submission of the Notice of Intent would be at their April 4 meeting, and the County would not have met the required submission date. The time period

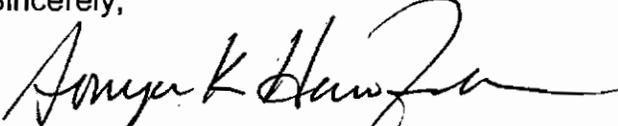
Wendy Wyels  
February 15, 2006  
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between your Board adopting a Proposed Waiver and any required action by Stanislaus County must be increased to at least six weeks.

In conclusion, we respectfully request that the Proposed Waiver not be considered by the Central Valley Board at their meeting on March 16/17, 2006; and, that Board staff consider the creation of a task force to develop a statewide waiver for the reuse of solid food processing by-products.

If you have any questions, please contact myself or my staff at (209) 525-6700.

Sincerely,



Sonya K. Harrigfeld, Director

cc: Assembly Member Barbara Mathews  
Assembly Member Bill Maze  
Assembly Member Dave Cogdill  
Assembly Member Sam Blakeslee  
Assembly Member Nicole Parra  
Assembly Member Simon Salinas  
Assembly Member Juan Vargas

Jim Collin, Chief Consultant to the Agriculture Committee

Assembly Member Greg Aghazarian  
Assembly Member Doug La Malfa  
Assembly Member Kevin McCarthy  
Assembly Member Alan Nakanishi  
Assembly Member Mike Villines  
Assembly Member Juan Arambula

Senator Jeff Denham  
Senator Denise Ducheny, San Diego  
Senator Wesley Chesbro  
Senator Dean Florez  
Senator Dennis Hollingsworth  
Senator Abel Maldonado  
Senator Deborah Ortiz  
Senator Charles Poochigian  
Senator Edward Vincent

Jeff Chandler, Chief Consultant to the Agriculture Committee

Senator Roy Ashburn  
Senator Mike Machado

Susan Kennedy, Chief of Staff, Office of Governor Arnold  
Schwarzenegger

Richard Costigan, Legislative Affairs Secretary, Office of Governor Arnold  
Schwarzenegger

Dennis Albiani, Legislative Affairs Deputy, Office of Governor Arnold  
Schwarzenegger

Dan Skopec, Deputy Cabinet Secretary, Office of Governor Arnold  
Schwarzenegger

A.G. Kawamura, Secretary, CA Department of Food and Agriculture  
A. J. Yates, Undersecretary, CA Department of Food and Agriculture  
Al Montna, Chairman, CA Board of Food and Agriculture  
Dan Skopec, Deputy Cabinet Secretary, Office of Governor  
Tarn Doduc, Chair, State Water Resources Control Board  
Art Baggett, Board Member, State Water Resources Control Board  
Daniel Merkley, Agricultural Coordinator, State Water Resources Board

Rosalie Mule, Board Member, CA Integrated Waste Management Board  
Cheryl Peace, Board Member, CA Integrated Waste Management Board  
Gary Petersen, Board Member, CA Integrated Waste Management Board  
Patricia Wiggins, Board Member, CA Integrated Waste Management  
Board  
Mark Leary, Executive Director, CA Integrated Waste Management Board

George Gomes, California Farm Bureau Federation  
Ed Yates, California League of Food Processors  
Matt McInerney, Executive Vice President, Western Growers  
Don Gordon, President, Agricultural Council of California  
Barry Bedwell, President, California Grape and Tree Fruit League  
Jerry Prieto, President, California Agricultural Commissioners and Sealers  
Association  
Manual Cunha, Nisei Farmers League  
Joel Nelsen, President, California Citrus Mutual  
Karen Ross, President, California Winegrape Growers  
Michael Marsh, Chief Executive Officer, Western United Dairymen  
Benjamin Higgins, President, California Cattleman's Association



**DEPARTMENT OF ENVIRONMENTAL RESOURCES**

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## **FOOD PROCESSING BY-PRODUCTS USE PROGRAM FACT SHEET**

Stanislaus County established the food processing residue use program in the summer of 1978 through a cooperative effort of the County, the food processing industry, haulers, and the end users of the food processing by-products. Food processing by-products are discarded materials generated from food product processing such as culls, stems, and other fruit and vegetable byproducts. These by-products are used for animal feed and for soil enrichment. Food processing by-products are used by dairies, animal feedlots, animal feed manufacturers, and land-spreading operations.

The current program uses permitting and enforcement procedures, which include a California Environmental Quality Act (CEQA) review for the initial program, an annual review and renewal of the permit, and frequent inspections by a site monitor. The site monitor is a seasonal employee working exclusively in this program providing inspections and doing project administration including working closely with the food processing facilities and investigating complaints at sites.

The permit requires a detailed plan of operation, which includes a description of the drainage system, the maximum amount of residue received per day, and the method of handling the residue. The permitted food by-products use sites currently fund the program. The program was originally sponsored by the food processing manufacturers. As the program proved its value to the commodity users, the funding system changed. Currently permitted sites are billed for their proportional costs of the program including the site monitor's time.

Inspections are conducted frequently during the season at each site. The inspection looks for evidence of flies, odor problems and improper drainage. The site monitor works closely with the site operator to correct any problems.

At the beginning of each season, usually in early July, an initial visit to each permitted site is conducted to establish the level of by-products expected during the season. Additional consultations are done by telephone, as needed. Currently, there are 14 permitted sites in the County.

The majority of food by-products in the program originate from food processing plants within Stanislaus County. By-products are comprised mainly of wastes from tomatoes, beans, broccoli,

## FOOD PROCESSING RESIDUE USE PROGRAM FACT SHEET

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cauliflower, bell peppers, potatoes, yams, melons, grapes, cranberries, prunes, peaches and fruit cocktail mix.

Examples of key food processors who have played a major role in developing this program include: Signature Fruit, Hunt-Wesson, Del Monte, Stanislaus Foods, Patterson Frozen Foods and Eckert Cold Storage.

By-products use sites include dairies and feedlots, which directly feed the material to livestock; land spreading operations, and animal feed processors. Sites are required to keep current information regarding delivery dates, types of by-products, amount of by-products and the hauling companies who deliver the by-products to the site. A Site Activity Log has been developed to assist the operator in recording and tracking the required information.

During the first twenty-seven years (1978-2005), more than 6 million tons of food processing by-product was diverted from the landfill by this program. This substantial diversion has been instrumental in helping the County meet State-mandated goals for waste diversion. The program has proven to be valuable to the County, the food processing industry, and the by-products users. This program has allowed the creation of valuable organic commodities for both animal feed and soil improvement from what was originally a difficult to manage waste. It is an environmentally and fiscally sound solution to a challenging waste management problem.