

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD SANTA ANA
REGION

CLEANUP AND ABATEMENT ORDER NO. R8-2020-0023 REQUIRING
CR&R INCORPORATED, d.b.a. CR&R ENVIRONMENTAL SERVICES
AT 18240 BRIDGE STREET IN LAKEVIEW, CALIFORNIA

TO CLEANUP AND ABATE ACCUMULATION AND STORAGE OF ANAEROBIC
DIGESTION SOLIDS AND COMPOSTABLE MATERIALS THAT CONTAIN
CONCENTRATIONS OF NUTRIENTS THAT THREATEN TO CAUSE DISCHARGES
OF POLLUTANTS TO WATERS OF THE STATE AND UNITED STATES

PURSUANT TO CALIFORNIA WATER CODE SECTION 13304

This Cleanup and Abatement Order No. R8-2020-0023 (Order) is issued to CR&R Incorporated, d.b.a. CR&R Environmental Services (CR&R) based on provisions of California Water Code (Water Code) section 13304, which authorizes the California Regional Water Quality Control Board, Santa Ana Region (the Santa Ana Water Board) to issue this Cleanup and Abatement Order.

The Santa Ana Water Board herein finds:

1. **Responsible Parties:** CR&R is a responsible Party due to their:
 - a. Current ownership. Lakeview Property LLC is an affiliate of CR&R Incorporated and owns Accessor's Parcel Nos. (APN) 425-070-002 (133 acres) and 425-070-023 (69 acres), located at 18240 Bridge Street in the Lakeview area. A copy each of the Site vicinity map and Site map showing these parcels is attached as **Exhibits 1 [Riverside County Transportation and Land Management Agency (<https://gis.rivcoit.org/>)] and 2 [CR&R Lakeview EA Notification Package Submittal by LEA, dated July 3, 2017 (SWIS No. 33-AA-0367)]**, respectively.
 - b. Current and prior operations at the Site that threaten to cause discharges of solid byproducts of anaerobic digestion (AD solids or anaerobic digestate) and other compostable materials to waters of the state. The AD solids, generated from CR&R's food waste and greenwaste anaerobic digestion facility in Perris, are rich in nutrients (nitrogen and phosphorus) and meet California Department of Resources Recycling and Recovery (CalRecycle) composting standards for metals and pathogen reduction [California Code of Regulations (CCR), Title 14, Division 7, Chapter 3.1, Article 6]. It is essential to cure, dry, and turn the AD solids into mature, stable compost products for use as a soil amendment to improve plant health and enhance environmental protection.

The discharge, treatment, and storage of AD solids and other compostable materials could contain nutrients and other pollutants that constitute a waste when they leave the property and enter waters of the state and United States. CR&R has caused or permitted pollutants to deposit and discharge to a 100-year floodplain, a water of the state and United States. The pollutants create and threaten to continue a condition of pollution or nuisance.

2. **Site Location and Drainage Description:** The Site is a 202-acre farming area, with an existing land use designation of “Open Space” by the Riverside County Planning Department. CR&R currently delivers and stores AD solids and other compostable materials at the Site. In addition, CR&R must have coverage under Order No. R8-2016-0003, as amended by Order No. R8-2017-0023, Conditional Waiver of Waste Discharge Requirements for Discharges from Agricultural Operations (CWAD) in the San Jacinto River Watershed, in order to be allowed to farm on these designated parcels,
 - a. The Site is in the 100-year floodplain for the San Jacinto River (SJR) Watershed, within the Zone A flood hazard area on the Federal Emergency Management Agency (FEMA) National Flood Insurance Maps. This means that the Site is located in a special flood hazard area subject to inundation by the 1 percent (%) or greater chance of flooding in any given year and where base flood elevations have not been determined. The Site is located immediately north and adjacent to the SJR with an earthen levee, historically installed by local farmers, that is not engineered to withstand significant rain events, such as a 100-year storm event. A copy of the Site location on the FEMA map is shown in **Exhibit 3 [FEMA National Flood Hazard Layer (<https://www.fema.gov/flood-maps/tools-resources/flood-map-products/national-flood-hazard-layer>)]**, attached.
 - b. CR&R started greenwaste composting operations at the Site in 2010 after filing an Enforcement Agency (EA) Notification with the Riverside County Department of Environmental Health, Local Enforcement Agency (LEA) and CalRecycle. CR&R also operated a research composting facility under a separate EA Notification from June 2017 to June 2019 on 10 acres of its 69-acre parcel. As described in the 2017 EA Notification, research composting operations include testing various methods of composting AD solids with greenwaste, biochar, and liquid digestate, blending, and screening of the finished soil amendment products. These operations are not permitted by the Santa Ana Water Board.
 - c. Surface drainage from the Site flows to Mystic Lake. Overflows from Mystic Lake have the potential to discharge back to SJR, to Canyon Lake, and Lake Elsinore.

- d. Historical and recent aerial photos of flood events in 1969, 1980, 1995, and 2019 show the San Jacinto Valley area at Bridge Street near and at the Site have flooded and a few areas of the existing levee have been breached. All these storm events were much smaller than a 100-year storm event based on historical rainfall data provided by the Riverside County Flood Control and Water Conservation District (the Flood Control District). **(See file photos dated February 21, 1980, February 26, 1969, March 27, 1995.)**
 - e. The Flood Control District has prohibited CR&R from placing any permanent or compacted fill within the 100-year floodplain. **(Riverside County Conditions of Approval for Conditional Use Permit CUP03741, Use Flood Hazard Report.)**
3. **Waters of the State and United States:** The SJR is tributary to Mystic Lake, Canyon Lake and Lake Elsinore. Canyon Lake and Lake Elsinore are listed under Clean Water Act, Section 303(d) list as impaired water bodies for excessive nutrient concentrations. The 1995 Water Quality Control Plan for the Santa Ana River (Basin Plan) incorporates Resolution R8-2004-0037 that implements a nutrient total maximum daily load (TMDL) limit for discharges that are tributary to Canyon Lake and Lake Elsinore. The Basin Plan also established the following beneficial uses for Canyon Lake and Lake Elsinore:
- a. Municipal and Domestic Supply (MUN): MUN designated waters are used for community, military, municipal or individual water supply systems. These uses may include, but are not limited to, drinking water supply.
 - b. Agricultural Supply (AGR): AGR designated waters are used for farming, horticulture or ranching. These uses may include, but are not limited to, irrigation, stock watering, and support of vegetation for range grazing.
 - c. Groundwater Recharge (GWR): GWR designated waters are used for natural or artificial recharge of groundwater for purposes that may include, but are not limited to, future extraction, maintaining water quality or halting saltwater intrusion into freshwater aquifers.
 - d. Water Contact Recreation (REC1: Primary Contact Recreation): REC1 designated waters are used for recreational activities involving body contact with water where ingestion of water is reasonably possible. These uses may include, but are not limited to, swimming, wading, water-skiing, skin and scuba diving, surfing, whitewater activities, fishing and use of natural hot springs.
 - e. Non-contact Water Recreation (REC2: Secondary Contact Recreation): REC2 designated waters are used for recreational activities involving proximity to water, but not normally involving body contact with water where ingestion of water would be reasonably possible. These uses may include, but are not limited to, picnicking, sunbathing, hiking,

beachcombing, camping, boating, tidepool and marine life study, hunting, sightseeing and aesthetic enjoyment in conjunction with the above activities.

- f. Commercial and Sportfishing (COMM): COMM designated waters are used for commercial or recreational collection of fish or other organisms, including those collected for bait. These uses may include, but are not limited to, uses involving organisms intended for human consumption.
- g. Warm Freshwater Habitat (WARM) waters support warmwater ecosystems that may include, but are not limited to, preservation and enhancement of aquatic habitats, vegetation, fish and wildlife, including invertebrates.
- h. Preservation of Biological Habitats of Special Significance (BIOL): BIOL designated waters support designated areas or habitats, including, but not limited to, established refuges, parks, sanctuaries, ecological reserves or preserves, and Areas of Special Biological Significance (ASBS), where the preservation and enhancement of natural resources requires special protection.
- i. Wildlife Habitat (WILD): WILD designated waters support wildlife habitats that may include, but are not limited to, the preservation and enhancement of vegetation and prey species used by waterfowl and other wildlife.
- j. Rare, Threatened or Endangered Species (RARE): RARE designated waters support the habitats necessary for the survival and successful maintenance of plant or animal species designated under state or federal law as rare, threatened or endangered.

EVIDENCE OF WASTE DISCHARGE AND BASIS FOR SECTION 13304

4. Threatened to Cause Waste Discharges:

The following is a summary of correspondence, prior inspections, and findings, providing the basis for requiring cleanup at the Site:

- a. **November 29, 2016 Wildlife Agencies letter:** The U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife (Wildlife Agencies) issued a letter to the Riverside County Planning Department on November 29, 2016. The letter contained comments on CR&R's proposed Bridge Street Regional Compost Facility. The Wildlife Agencies notified CR&R of their concerns over the proximity of the Site location to the SJR, the Site location in the 100-year floodplain, and the potential for windblown AD solids material washout into Mystic Lake and San Jacinto Wildlife Area during moderate and high flood events.
- b. **June 5, 2017 CR&R Perris Anaerobic Digestion Perris Facility tour and the San Jacinto Lakeview Site meeting:** Santa Ana Water Board

staff toured the CR&R Perris Anaerobic Digestion facility to learn about how AD solids are produced, and to observe Site topography and hydrology. Santa Ana Water Board and CR&R staff discussed flood protection requirements and potential impacts of AD solids composting operations at the San Jacinto Site on nutrient-impaired Canyon Lake and Lake Elsinore. At the meeting, Santa Ana Water Board staff emphasized to CR&R representatives that Class II waste facilities such as the San Jacinto Site are to design, construct, operate, and maintain the site to prevent inundation or washout due to floods with a 100-year return period. (27 CCR 20250(c).) **(C&R& June 5, 2017 AD Facility Tour & Meeting Agenda.)**

- c. **August 31, 2017 CR&R application:** Santa Ana Water Board staff received a Report of Waste Discharge (ROWD) application for the proposed AD solids Regional Composting Facility at the Site. The application sought a Waste Discharge Requirements order or National Pollutant Discharge Elimination System (NPDES) permit to discharge waste to land. On September 29, 2017, Santa Ana Water Board staff sent an email to CR&R stating that the application was incomplete. In another email sent on October 13, 2017, Santa Ana Water Board staff informed CR&R of the information that was missing from their application.
- d. **October 20, 2017 Santa Ana Water Board comment letter:** In its October 20, 2017 letter to the Riverside County Planning Department, Santa Ana Water Board staff provided comments on the draft Initial Study and Mitigated Negative Declaration for Conditional Use Permit CUP03741 at the Site. Again, Santa Ana Water Board staff expressed their concerns about the Site location in the 100-year flood hazard area. The area is prone to flooding and washout, resulting in nutrient loading and significant impacts to downstream surface water bodies. CR&R had not been authorized to construct adequate flood protection measures to meet the 100-year flood protection requirement.
- e. **October 25, 2017 meeting:** Santa Ana Water Board staff met with Flood Control District staff who explained that the Site is in the flood path of the 100-year flood-plain. Santa Ana Water Board staff followed up with examining the Flood Insurance Study for Riverside County, California. The floodway in the Flood Insurance Study terminated at Bridge Street, just north (downstream) of the Site. Extrapolating from the study, the Site would be under approximately seven feet of water during a 100-year flood event. (Flood Insurance Study for Riverside County, California, March 6, 2018, volume 6 of 7, panel 176cP, and the National Flood Insurance Program Flood Insurance Rate Map Panels 1455 and 1460 of 3805,

REVISED august 18, 2014). Any engineered, compacted fill structures that would impact the base flood elevations are not permitted by the Flood Control District within a 100-year floodplain. (Riverside County Conditions of Approval for Conditional Use Permit CUP03741, Use Flood Hazard Report). The Site is in a 100-year, Zone A (no base flood elevations) flood hazard area. Without a Site floodplain analysis to determine and evaluate its impact on base flood elevations, CR&R is prohibited from constructing permanent/compacted fill or structures. Any AD solids stored on the Site would wash away. Therefore, CR&R storing AD solids on the Site is a threatened discharge to surface waters.

- f. **November 13, 2017 meeting:** Santa Ana Water Board staff met with CR&R regarding their August 31, 2017 ROWD application for a waste discharge requirements order or a NPDES permit for the proposed AD solids composting operations. In its application, CR&R failed to characterize the AD solids, especially the leachability of the material. **(See permit application section VI, Other Required Information and November 16, 2017 email correspondence, meeting summary.)** No known AD solids leachability study has been conducted or submitted. An additional concern discussed was that CR&R failed to demonstrate how it could comply with the Riverside Flood Control District's prohibition on placing any permanent or compacted fill within the 100-year flood plain **(See section 2.e, above)** and still protect the Site from inundation and washout to comply with the Santa Ana Water Board's 100-year flood protection requirement **(See Section 4.b, above)**.
- g. **December 22, 2017 email correspondence:** Flood Control District staff emailed Figure 5, Historic Lake Levels of Mystic Lake, Riverside County, California to Santa Ana Water Board staff. Flood Control District staff marked where subsidence of Mystic Lake will put the Site within the lateral extent of Mystic Lake by 2023, as projected by the USGS (<http://pubs.usgs.gov/of/2006/1217/>.) in its 2006 report. The Site will likely be under water and part of Mystic Lake by 2023 when the Lake is full. According to the August 2015 presentation by Western Riverside County Agriculture Coalition on "*Mystic Lake Impacts on TMDL Stakeholders*", Mystic Lake subsides at a rate of 1 to 2 inches per year; the lake storage capacity increases 2,000-3,000 acre-feet every 10 years.
- h. **March 9, 2018 Santa Ana Water Board letter to CR&R:** Santa Ana Water Board's Executive Officer denied CR&R's ROWD application for coverage under an individual Waste Discharge Requirements order or NPDES permit because the facility could not provide water quality protection within the SJR 100-year floodplain. Further, the letter explained

why it was unlikely that the Santa Ana Water Board could approve coverage under the State Water Resources Control Board {State Water Board} General Order for Composting Operations, the CWAD, an individual NPDES permit, or the State Water Board General Order for Stormwater Discharges with Industrial Activities, any known permit mechanism.

- i. **April 4, 2018 CR&R requested meeting:** Santa Ana Water Board staff met with and provided CR&R with a list of technical information still required for a new application package for an individual NPDES permit or coverage under the General Industrial Stormwater Permit. The list was titled *CR&R Lakeview Project, Additional Technical Information Needed*. Specifically, Santa Ana Water Board staff requested the following information to evaluate the feasibility of issuing an NPDES permit for composting operations at the Site:
 - i. AD solids characterization and leachability data in evaluating a waste load allocation, in compliance with the nutrient TMDLs for Canyon Lake/Lake Elsinore, for the new discharge.
 - ii. A monitoring and reporting plan for discharges offsite to evaluate Site compliance with waste load allocation.
 - iii. An offset plan, including a facility operations and maintenance plan and best management practices, to mitigate material discharges during flood events, including a 100-year flood event.
- j. **February 22, 2019 Santa Ana Water Board inspection:** Santa Ana Water Board staff observed SJR levee breaches in at least two locations and flooding at the Site and in the surrounding areas. Levee breaches and site flooding were caused by a series of storm events from February 14 to 19, 2019 and on February 21, 2019. These storm events, all determined to be a 2-year or smaller storm event, resulted in a total of 4.03 inches of rainfall in the region. Santa Ana Water Board staff also found very limited access to and at the Site due to flooding and muddy conditions after the storm events. These egress and ingress conditions could pose operational restrictions as well as potential safety issues for Santa Ana Water Board staff or anyone trying to access the Site to evaluate conditions. **(February 22, 2019 inspection report and photos.)**
- k. **May 15, 2019 meeting:** Santa Ana Water Board staff met with CR&R representatives to inform them of the February 22, 2019 inspection findings and expressed concerns regarding the SJR levee breaches, and flooding observed at the Site. Destabilization of the SJR levee can be expected with more rains, causing more levee breaches and Site flooding

and washout, which could potentially cause discharges of AD solids and nutrient loadings to Mystic Lake, SJR, Canyon Lake, and Lake Elsinore. Because of these concerns, lack of Site access during wet weather, and the fact that no waste load allocation has been established for the composting operation to comply with the nutrient TMDLs for Canyon Lake/Lake Elsinore, Santa Ana Water Board staff informed CR&R that an NPDES permit cannot be issued for composting operations at the Site and recommended that a new location be considered for their composting operations. CR&R representatives viewed their AD solids as a commodity, not waste, did not see a problem with AD solids material discharges offsite during a flood event, was frustrated and very disappointed with the Site permitting outcome and indicated that they did not have an alternate location for composting operations. **(Santa Ana Water Board, May 17, 2019 email with meeting summary.)**

- I. **EA Notification Expired June 30, 2019:** CR&R's EA Notification for research composting operations at the Site expired on June 30, 2019. The EA Notification allows for a two-year limited period of operations from the June 30, 2017 starting date as provided in Title 14, section 17862(d).

- m. **July 26, 2019 phone conversation:** Santa Ana Water Board staff contacted John McNamara of CR&R regarding existing operations at the Site documented in staff's notes. John provided the following information:
 - i. CR&R has no plan to operate a composting facility at the Site.
 - ii. CR&R planned to slowly deplete the existing AD solids stockpiles at the Site by applying them as a soil amendment to the sod farm.
 - iii. CR&R would mechanically dry, cure, and stabilize the AD solids in an enclosed building at its Perris facility. Partially cured or immature AD solids would not be brought to the Site.
 - iv. CR&R would only bring fully cured or mature AD solids to the Site for land application as a soil amendment on the sod farm. The Site would not be used to store and distribute AD solids to other outlets.

- n. **August 8, 2019 Santa Ana Water Board and LEA joint inspection:**
 - i. As described in the inspection report, Santa Ana Water Board staff observed that approximately 55,000 cubic yards of AD solids were stored at the Site. This is a discharge to land without filing a ROWD, in violation of Water Code section 13260 and a discharge to waters of the United States in violation of the federal Clean Water Act section 301 (33. U.S.C. 1311).
 - ii. The LEA inspection report states that the quantity of AD solids stored at the Site exceeded the allowable 5,000 cubic yard limit under the Enforcement Agency (EA) Notification for research

composting operations, a violation of CCR, Title 14, section 17862(a). Temperatures were observed in excess of 122 degrees Fahrenheit (°F), indicating active composting in stockpiled material. The operator was not keeping sufficient records on-site as required by the LEA.

- o. **September 9, 2019 Notice of Violation:** Santa Ana Water Board staff issued a Notice of Violation (NOV) to CR&R for discharging without a ROWD at the Site. The NOV requested CR&R to immediately stop importing AD solids to the Site and to remove all onsite materials unless CR&R intended to grow crops at the Site. Prior to farming and land application of AD solids for soil amendment, CR&R must file for coverage under and demonstrate compliance with the CWAD. The NOV pointed out that:
 - i. The SJR Watershed is impaired for nutrients.
 - ii. The U.S. Fish and Wildlife Service and California Fish and Wildlife Department (the Wildlife Agencies) expressed concerns about: 1) wind-blown material impacting the San Jacinto Wildlife area; and that 2) potential site flooding and material being washed offsite and into Mystic Lake, the SJR, Canyon Lake, and Lake Elsinore;
 - iii. A permit for coverage under Individual Waste Discharge Requirements, the Statewide General Composting General Waste Discharge Requirements, the Statewide General Industrial Stormwater Waste Discharge Requirements, or the CWAD cannot be issued for composting operations because the Site is prohibited by the Flood Control District from installing improvements within the 100-year floodplain. Without those improvements CR&R cannot provide protections to prevent discharges of pollutants into the SJR;
 - iv. A 2006 U.S. Geological Survey report predicted that by 2023, Mystic Lake, when it is full, would cover the entire Site due to subsidence. The entire Site would be inundated, and all Site materials would be submerged during a 100-year flood event. **(See Section 4.g, above.)**
- p. **October 9, 2019 CR&R NOV Letter Response:** CR&R responded to the NOV in a letter dated October 9, 2019 in which CR&R stated it was:
 - i. Preparing finished compost soils from its CR&R Perris facility.
 - ii. Selling the finished product to intermediate producers, who then sell the finished product to retail outlets (i.e. Lowes).
 - iii. Planning on farming within three months of October 9, 2019 at the Site. The material stored on site would be used as soil amendments for growing crops.
 - iv. Developing a farming and nutrient management plan.

Since then, Santa Ana Water Board staff has not received any farming or nutrient management plan or an application for coverage under the CWAD for farming operations at the Site.

- q. **November 26, 2019 LEA inspection:** In its November 26, 2019 inspection report, LEA staff stated they observed onsite storage of AD solids, in excess of the 5,000 cubic yard maximum allowable limit, a violation of CCR, Title 14, section 17862(a). Window temperature readings exceeded 122°F, indicating active composting in the stockpiled materials... Active composting is an indication that the AD solids material is unstable or immature, similar to fresh, “as-received” AD solids material, which contains a high level of ammonia. High ammonia levels in AD solids can be detrimental to fish and other aquatic organisms if it is discharged to surface water bodies.
- r. **February 21, 2020; March 2, 2020; and March 6, 2020 Inspections:** Santa Ana Water Board staff observed trucks bringing, what appeared to be, AD solids onto the Site. In addition, staff observed both AD solids and manure in the fields at the Site, placed in windrows that appeared to be ready for land application. CR&R does not have a waiver or permit to land-applied manure or AD solids at the Site.
- s. **March 4, 2020 and May 27, 2020 Inspections:** LEA staff inspected the Site and reported that CR&R continued to, since April 2019: 1) exceed the 5,000 cubic yards maximum allowable limit, in violation of CCR, Title 14, section 17862(a); and 2) fail to maintain material tracking and testing records, in violation of CCR, Title 14, section 17869(a). LEA staff also found windrows of AD solids undergoing active composting, as indicated by pile temperature readings exceeding 122°F. Since April 2019, CR&R has continued to actively composting at the Site without a permit from the LEA.
- t. **May 4, 2020 County LEA Notice and Order:** The LEA issued a Notice and Order to Cease and Desist, requiring CR&R to cease importing materials to the Site and submit a workplan, by June 30, 2020, to bring the Site into compliance with CalRecycle’s regulations for composting operations. As of July 21, 2020, CR&R has complied with the Notice and Order to remove materials, in excess of 5,000 cubic yards, from the Site. CR&R intends to continue research composting operations and farm at the Site. **(LEA July 29, 2020 email correspondence.)**

5. Adverse Impacts and Threats to Water Quality:

- a. Canyon Lake and Lake Elsinore are listed as Clean Water Act Section 303(d) impaired water bodies for excessive nutrient concentrations. CR&R's treatment and storage of AD solids and other compostable materials, rich in nutrients (nitrates, ammonia, phosphorus, potassium), poses a significant threat to downstream, nutrient-impaired Canyon Lake and Lake Elsinore and their beneficial uses. Nutrient loads from the Site could exacerbate algae growth in the lakes. Furthermore, partially cured or unstable compost, if discharged to downstream surface water bodies, could deplete dissolved oxygen in the surface water bodies and adversely impact aquatic habitats, which may adversely impact one of the beneficial uses of Mystic Lake, Canyon Lake, and Lake Elsinore. **(Fact Sheet, Draft General Waste Discharge Requirements for Composting Operations, page 1.)**
- b. CR&R is prohibited by the Flood Control District from installing engineered structures necessary at the Site to prevent stormwater or flood water from coming into contact with compostable materials, which threatens to cause discharges of pollutants to nutrient-impaired water bodies. **(Riverside County Conditions of Approval for Conditional Use Permit CUP03741, Use Flood Hazard Report.)**
- c. The existing SJR Low Flow Channel levee is not constructed to any engineering standards; furthermore, it is structurally deteriorating and susceptible to failure with additional rain events. Because the Site is designated "Open Space", levee repair is restricted by the Wildlife Agencies; levee improvements by the Flood Control District are not foreseeable. Under the existing levee conditions, the Site could potentially be subject to more flooding and discharging wastes offsite. **(See section 4.j, above.)**
- d. During a high flood event, such as a 100-year event, the entire Site would be completely inundated. The Flood Control District concluded that a 100-year flood event would generate a peak storm flow velocity of 62,000 cubic feet per second. During a 100-year flood, the Site is projected to be under 2 to 6 feet of water. Under these conditions, any materials at the Site would be discharged to Mystic Lake, which could then overflow to Canyon Lake, and Lake Elsinore. **(Flood Control District, June 22, 2020 email correspondence.)**

AUTHORITY-LEGAL REQUIREMENTS

6. Water Code section 13304 provides that:

“A person who has discharged or discharges waste into the waters of this state in violation of any waste discharge requirement or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharges or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board, clean up the waste or abate the effects of the waste, or, in the case of the threatened pollution or nuisance, take other necessary remedial action, including, but limited to, overseeing clean up and abatement efforts....”

This Order conforms to and implements policies and requirements of (1) the Porter-Cologne Water Quality Control Act (Division 7, commencing with Water Code section 13000); (2) applicable state and federal regulations; (3) all applicable provisions of statewide Water Quality Control Plans adopted by the State Water Board and the Basin Plan adopted by the Santa Ana Water Board including beneficial uses, water quality objectives, and implementation Plans; and (4) applicable State Water Board policies and regulations.

LIABILITY OF RESPONSIBLE PARTIES

7. The term “waste” is defined in Water Code section 13050, subdivision (d) to include “sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal.” Discharges of AD solids and compostable materials could contain sediment, nutrients and other pollutants that constitute a “waste” as defined in Water Code section 13050(d) when they leave the property and enter waters of the state and United States.
8. Based on the above findings, CR&R is subject to an order pursuant to Water Code section 13304 because CR&R has discharged waste, is discharging waste, or has allowed waste materials to be discharged in a 100-year floodplain that threatens a discharge to waters of the state and United States. These actions are in violation of the Porter-Cologne Water Quality Act and the federal Clean Water Act and have created, or threaten to create, a condition of pollution or nuisance and threatening the beneficial uses of surface waters.

OTHER CONSIDERATIONS

9. **California Environmental Quality Act:** Issuance of this Order is being taken for the protection of the environment and as such is exempt from provisions of the California Environmental Quality Act (CEQA) (Public Resources Code §§ 21000 et seq.) in accordance with title 14, California Code of Regulations, sections

15061, subdivision (b)(3), 15306, 15307, 15308, and 15321.. CEQA review at this time would be premature and speculative, as there is not enough information concerning CR&R's proposed remedial activities (if any) and possible associated environmental impacts. If necessary, CR&R and a consultant acceptable to the Santa Ana Water Board shall enter into a memorandum of understanding with the Santa Ana Water Board regarding such costs prior to undertaking any environmental review.

10. **Cost Recovery:** Pursuant to Water Code section 13304, the Santa Ana Water Board may seek reimbursement for all reasonable costs to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action. Such costs include, but are not limited to, staff time for investigation of the discharge, preparation of this Order, review of reports and correspondence submitted pursuant to this Order, work to complete the directives specified in this Order, and communications between Santa Ana Water Board staff and parties associated with the cleanup and abatement of the discharged waste, including CR&R, interested members of the public, and other regulatory agencies.

11. **State Water Board Petition:** Any person aggrieved by this action of the Santa Ana Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or State holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

REQUIRED ACTIONS

THEREFORE, IT IS HEREBY ORDERED, pursuant to Water Code section 13304, that the Responsible Parties:

A. Tasks:

1. Cease and desist the importation of AD solids or any other compostable materials to the Site immediately upon issuance of this Order;
2. Cease land-applying AD solids as a soil amendment at the Site immediately upon issuance of this Order since there is no farming at the Site, no site-specific farming plan or nutrient management plan. Currently, CR&R does not have coverage under the CWAD.

3. Remove all AD solids or any other compostable materials off the Site within 60 days after the issuance of this Order; and
4. Submit a completion report within 30 days after completing the required tasks in Item A, 1-3, above. The completion report shall include at least the following information:
 - i. Total quantity (in cubic yards) of materials removed from the Site; and
 - ii. The destination of the materials removed from the Site.

All information submitted to the Santa Ana Water Board in compliance with this Order is required to be submitted electronically to santaana@waterboards.ca.gov with the subject line "Order R8-2020-0023".

- B. Public Participation:** The Santa Ana Water Board may require CR&R to submit a Public Participation Plan or engage in other activities to disseminate information and gather community input regarding the Site, as authorized or required by Water Code section 13307.1, 13307.5, and 13307.6.
- C. Submission of Plans and Reports:** As required by the Business and Professions Code sections 6735, 7835, and 7835.1, all reports shall be prepared by, or under the supervision of, a California registered professional engineer or geologist and signed by the registered professional. All technical reports submitted by CR&R shall include a statement signed by the authorized representative certifying under penalty of law that the representative has examined and is familiar with the report and that to his knowledge, the report is true, complete, and accurate. All technical documents shall be signed by and stamped with the seal of the above-mentioned qualified professionals that reflects a license expiration date.
- D. Certifications:** All reports shall contain a completed perjury statement, signed by CR&R a duly authorized senior representative and not by a consultant.

The Perjury statement shall be in the following format:

"I [NAME], certify under penalty of perjury of law that this document and all attachments were prepared by me, or under my direction or supervision, in accordance with a system designed to assure that qualified personnel properly gathered and evaluated 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 submitted false information, including the possibility of fine and imprisonment for knowing violations."

- E. No Limitation of Santa Ana Water Board or Other Agency Authority:** This Order is not intended to permit or allow CR&R to cease any work required by any other Order issued by the Santa Ana Water Board, nor shall it be used as a reason to stop or redirect any investigation or cleanup or remediation programs ordered by the Santa Ana Water Board or any other agency. Furthermore, this Order does not exempt CR&R from compliance with any other laws, regulations, or ordinances which may be applicable, nor does it legalize these waste treatment and disposal facilities, and it leaves unaffected any further restrictions on those facilities which may be contained in other statutes or required by other agencies.
- F. Authority to Modify:** The Santa Ana Water Board, through the Executive Officer, may revise this Order as additional information becomes available. Upon request by CR&R, and for good cause shown, the Executive Officer may defer, delete, or extend the date of compliance for any action required of CR&R under this Order. The authority of the Santa Ana Water Board, as contained in California Water Code, to order investigation or require the discharger to cease and desist prohibited activity herein, is in no way limited by this Order. Any deferral, deletion, or extension request by CR&R must be in writing and submitted as soon as the situation is recognized and no later than one week in advance of the deadline. All approvals and decisions of the Santa Ana Water Board Executive Officer shall be communicated to CR&R in writing. No oral advice, guidance, suggestions, or comments by employees or officials of the Santa Ana Water Board regarding submittals or notices shall be construed to relieve CR&R of its obligations to obtain any final written approval required by this Order.
- G. Enforcement for Noncompliance with this Order:** Failure to comply with the terms or conditions of this Order may result in imposition of civil liabilities, imposed either administratively by the Santa Ana Water Board or judicially by the Superior Court in accordance with Water Code section 13350.
- H. Entry and Access:** Consistent with Water Code section 13304, the Santa Ana Water Board's authorized representative(s) shall be allowed:
1. Entry upon premises where a regulated facility or activity is located, conducted, or where records are stored, under the conditions of this Order;
 2. Access to copy any records that are stored under the conditions of this Order;
 3. Access to inspect any facility, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and
 4. The right to photograph, sample, and monitor for ensuring compliance with this Order, or as otherwise authorized by the Water Code.

- I. Notification for Planned Changes:** The Responsible Parties shall submit 30-day advance notice to the Santa Ana Water Board of any planned changes in name or ownership of the contractor or subcontractors and notice of any planned physical changes that may affect compliance with this Order. In the event of a change in ownership or operator, the Responsible Parties shall also provide 30-day advance notice, by letter, to the succeeding owner/operator of the existence of this Order and shall submit a copy of this advance notice to the Santa Ana Water Board.
- J. Delegation:** Reference herein to determinations and considerations to be made by the Santa Ana Water Board regarding the terms of the Order shall be made by the Executive Officer or his/her designee. Decisions and directives made by the Executive Officer in regard to this Order shall be as if made by the Santa Ana Water Board.
- K. Obligations:** None of the obligations imposed by this Order on CR&R are intended to constitute a debt, damage claim, penalty or other civil action which should be limited or discharged in a bankruptcy proceeding. All obligations are imposed pursuant to the police powers of the State of California intended to protect the public health, safety, welfare, and environment.
- L. Effective Date:** This Order is effective upon the date of signature below.

I, Hope Smythe, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board Santa Ana Region, on October 16, 2020.

Hope Smythe
Executive Officer

Exhibit 1
Site Vicinity Map
San Jacinto River Watershed 100-year Floodplain Limit



FLOOD ZONES

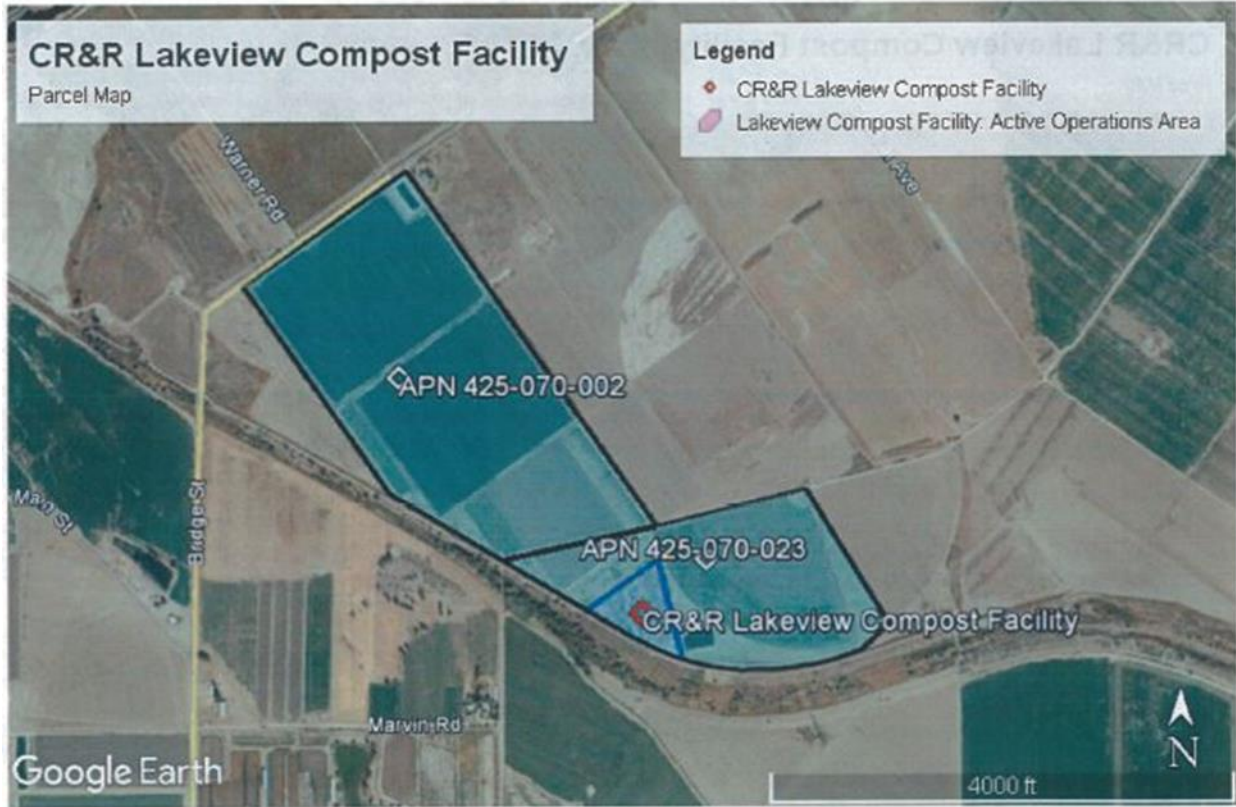
INTERSTATES	HIGHWAYS	STREETS	CITY
FLOOD PLAN REVIEW REQUIRED	MAYBE SUBJECT TO A FLOOD PLAN REVIEW	Site	

IMPORTANT
Maps and data are to be used for reference purposes only. Map features are approximate, and are not necessarily accurate to surveying or engineering standards. The County of Riverside makes no warranty or guarantee as to the content (the source is often third party), accuracy, timeliness, or completeness of any of the data provided, and assumes no legal responsibility for the information contained on this map. Any use of this product with respect to accuracy and precision shall be the sole responsibility of the user.

REPORT PRINTED ON: Wed Dec 16 12:28:57 2009

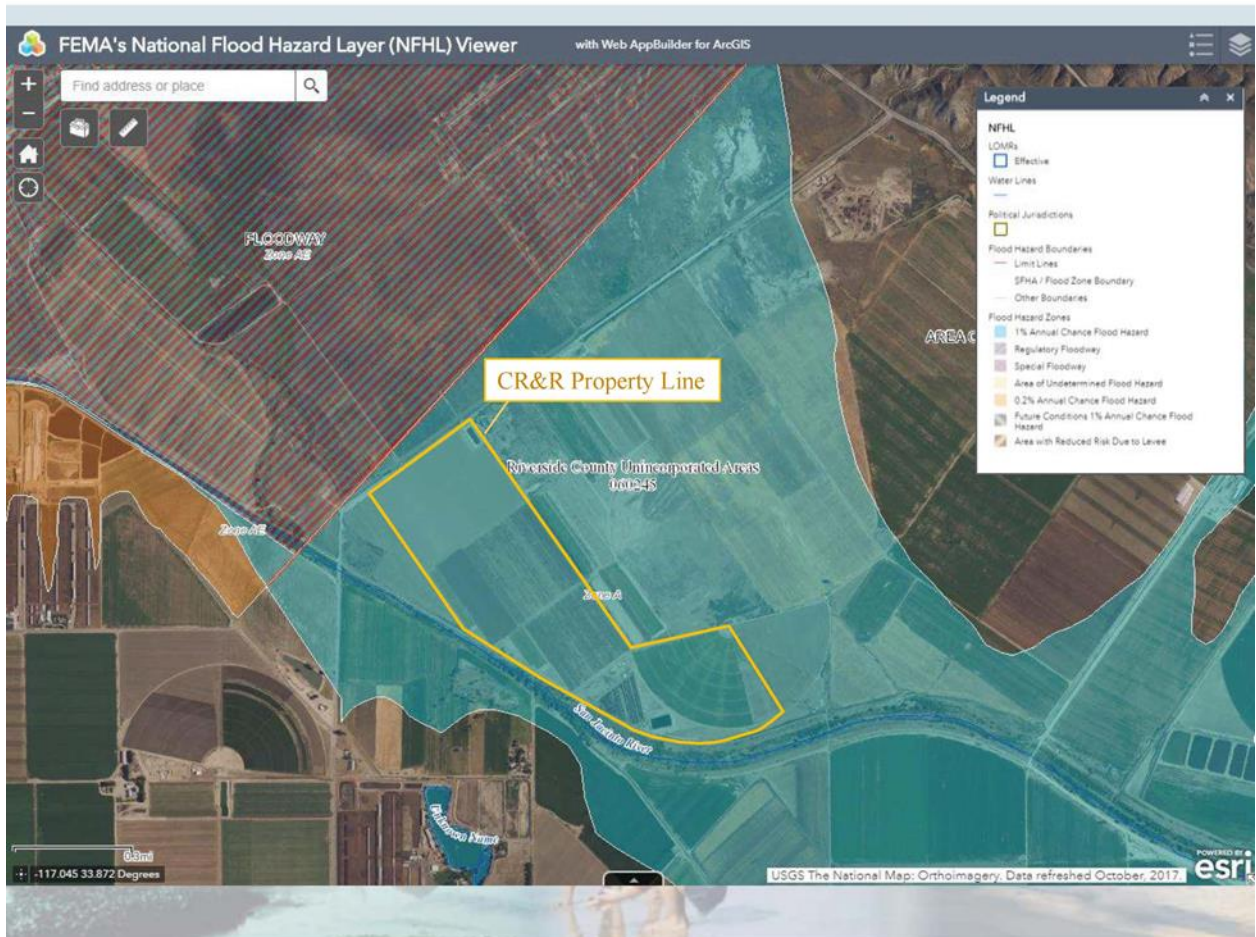
- Exhibit 1: Source: Riverside County Transportation and Land Management Agency (<https://gis.rivcoit.org/>)

Exhibit 2
CR&R Lakeview Property



•Exhibit 2: Source: CR&R Lakeview EA Notification Package Submittal by LEA, dated July 3, 2017 (SWIS No. 33-AA-0367)

Exhibit 3
Site Location
(within the San Jacinto River Watershed 100-year Floodplain)



•Exhibit 3: Source: FEMA National Flood Hazard Layer
(<https://www.fema.gov/flood-maps/tools-resources/flood-map-products/national-flood-hazard-layer>)