California Regional Water Quality Control Board
Santa Ana Region

Order No. R8-2003-0019
NPDES No. CA8000401

Waste Discharge Requirements
for
Kimball Avenue, LLC
6185 Kimball Avenue
San Bernardino County

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), finds that:

1. On August 17, 2002, Kimball Avenue, LLC (hereinafter discharger), submitted a report of waste discharge for a 16-acre property located at 6185 Kimball Avenue in the Chino area of San Bernardino County. This property was previously a manure composting facility (Garden Mate Products, Inc.) owned and operated by Alfonso J. Chavez. The facility was regulated under waste discharge requirements contained in Order No. 97-68. Approximately 41,000 cubic yards of composted manure is currently stockpiled on-site.

2. On December 7, 1999, the discharger acquired the property from Mr. Chavez. Mr. Chavez notified the Regional Board in October 2000 that he was no longer the owner of the facility.

3. The discharger has proposed to remove and cleanup the stockpiled manure that was left behind from the previous operation. The discharger estimates it will take approximately 6 years before all of the stockpiled manure is removed from the site and the lot is developed. The manure on this property constitutes a waste discharge.

4. A Water Quality Control Plan (Basin Plan) became effective on January 24, 1995. The Basin Plan identifies water quality objectives and beneficial uses for waters in the Santa Ana Region. The requirements contained in this Order are necessary to implement the Basin Plan.

5. The property overlies the Chino II Groundwater Subbasin, the beneficial uses of which include:

   a. Municipal and domestic supply,
   b. Agricultural supply,
   c. Industrial service supply, and
   d. Industrial process supply.

6. Surface drainage in the area of the property is tributary to Chino Creek, the beneficial uses of which include:

a. Groundwater recharge,
b. Water contact recreation,
c. Non-contact water recreation,
d. Warm freshwater habitat,
e. Wildlife habitat, and
f. Support of habitat for rare, threatened and endangered species.

7. Discharges of storm water from the property may impact Chino Creek. Chino Creek is listed as an impaired water body under Section 303(d) of the Clean Water Act (CWA) as the result of nutrients and pathogens. Federal regulations require that a total maximum daily load (TMDL) be established for 303(d) listed waterbodies for each pollutant of concern. Discharges cannot cause or contribute to water quality or beneficial use impairment.

   The TMDLs for Chino Creek are scheduled to be established by 2005. These TMDLs will specify waste load allocations for all significant sources of the pollutants causing impairment, which may include the Kimball Avenue, LLC facility. The TMDLs will also specify an appropriate implementation plan that may include provisions for offset or pollutant trading. This Order will be reopened to include requirements necessary to implement the adopted TMDLs.

8. This project involves the continued operation of an existing facility and, as such, is exempt from the California Environmental Quality Act (Public Resources Code, Section 21100 et seq.) in accordance with Section 15301, Chapter 3, Title 14, California Code of Regulations.

9. The Regional Board has considered antidegradation pursuant to State Board Resolution No. 68-16 and finds that the discharge is consistent with those provisions.

10. The Regional Board has notified the discharger and interested agencies and persons of its intent to prescribe waste discharge requirements for Kimball Avenue, LLC, and has provided them with an opportunity to submit their written views and recommendations.

11. The Regional Board, in a public meeting, heard and considered all comments pertaining to the discharge.

IT IS HEREBY ORDERED that Kimball Avenue, LLC, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, and the provisions of the CWA and regulations and guidelines adopted thereunder, shall comply with the following:

A. DISCHARGE SPECIFICATIONS AND PROHIBITIONS

1. All areas where manure is stockpiled shall be protected against inundation from up to 100-year peak stream flows.

2. The discharger shall design, construct, and maintain containment structures (such as berms and ponds) to retain all storm water runoff within the facility. Containment structures shall be designed to contain 150 days of annual storm water runoff and the runoff from a 25-year, 24-hour storm event. For the Chino Basin area, average rainfall for the 150 days from November through March is approximately 13 inches, and a 25-year, 24-hour storm generates approximately 4.5 inches of precipitation.

3. All precipitation and surface drainage outside the facility shall be diverted away from the facility unless such drainage is fully contained on-site.

4. The discharge of wastes to property not controlled by the discharger is prohibited.

5. There shall be no additional transport to or disposal of greenwaste, compost materials, municipal solid waste, hazardous waste, industrial waste sludge, or liquid wastes at the site.

6. The discharge of any substance in concentrations toxic to animals or plants is prohibited.

B. PROVISIONS

1. This Order shall serve as a National Pollutant Discharge Elimination System permit pursuant to Section 402 of the CWA, or amendments thereto, that shall become effective 10 days after the date of adoption, provided the Regional Administrator of the EPA has no objection. If the Regional Administrator objects to its issuance, this Order shall not serve as an NPDES permit until such objection is withdrawn.

2. Neither the treatment nor the discharge of waste, including stockpiling operations, shall create, or threaten to create, a nuisance or pollution as defined by Section 13050 of the California Water Code.

3. Order No. 97-68 is hereby rescinded.

4. This Order expires July 1, 2008 and the discharger must file a Report of Waste Discharge in accordance with Title 23, Division 3, Chapter 9 of the California Code of Regulations no later than 180 days in advance of this expiration date. The Report of Waste Discharge shall serve as the application for issuance of new waste discharge requirements.

5. The discharger shall comply with Monitoring and Reporting Program No. R8-2003-0019. This monitoring and reporting program may be modified by the Executive Officer at any time during the term of this Order and may include an increase in the frequency of monitoring.

6. Compliance with these waste discharge requirements shall be based on the following:

   a. Periodic inspections by Board staff;

   b. Evaluation of the monitoring reports submitted in accordance with the attached reporting program; and

   c. Any other relevant information.

7. By September 29, 2003, the discharger shall prepare and submit for acceptance by the Executive Officer, an Engineered Waste Management Plan for the facility, prepared by a registered professional engineer (civil or other appropriate discipline), which shall include:

   a. A site plan which shall indicate:

      1) The name, address, and telephone number of the owner and operator of the property, and alternate emergency contact;

      2) The address and/or legal description of the property;

      3) Total gross acreage of the property, showing property boundaries and all existing and proposed facilities, including storage piles, existing berms and new berms and swales, culverts or other drainages. The site plan shall include the overall dimensions, one-foot elevation contours, a vicinity map, north arrow, the date the plan was prepared, and shall be drawn on a standard engineering drawing format using an appropriate scale that shows sufficient details of all facilities;

      4) All facilities necessary for containment and management of on-site storm water runoff, as well as the interception and conveyance of any off-site storm water runoff through or around the property.

      5) The size, elevation, and location of all facilities proposed for containment of all storm water runoff on the property (berms, holding ponds, upstream diversion structures, etc.). The plan must demonstrate compliance with Discharge Specifications and Prohibitions A.1, 2, and 3.

   b. Calculations of the total amount of storm water to be contained on the property, including the average annual rainfall and the runoff resulting from a 25-year, 24-hour storm event.

c. Construction specifications discussing the materials and method of compaction utilized to build berms/levees and other containment facilities.

8. The discharger shall implement the Engineered Waste Management Plan, as approved by the Executive Officer within 120 days of notification of the Plan's acceptance.

9. The discharger shall maintain a copy of this Order and the approved Engineered Waste Management Plan at the site, and it shall be available at all times to site operations personnel. Key operating personnel shall be familiar with its content.

10. The discharger shall comply with all federal, state, county, and local laws, regulations, and ordinances pertaining to manure stockpiling operations.

11. Use of collected storm water on-site shall be limited to any fire prevention needs and on-site dust control applications, unless otherwise approved by the Executive Officer.

12. The discharger shall file with the Regional Board a report of waste discharge at least 120 days before making any material change or proposed change in the character, location, or in the operator or property ownership of any portions of the facility identified in this Order.

13. The discharger shall report any failures in complying with the terms and conditions in this Order. The discharger shall notify the Executive Officer of the Regional Board by telephone (909-782-4130) within twenty-four hours of each such failure and shall confirm this notification in writing within five days of each failure. The discharger shall include in the written notification:

    a. The approximate date, time, and location of the failure;

    b. The type of failure and cause;

    c. If the failure resulted in a discharge, the flow rate and duration of the discharge shall be noted; and

    d. A plan, with a time schedule, for implementation of necessary corrective actions that will be taken to prevent the recurrence of the failure.

14. The discharger shall give advance notice to the Regional Board of any planned physical alterations or additions to the permitted facility or changes in operation or activity that may result in noncompliance with these waste discharge requirements. Any proposed change in operations[1] shall be submitted in writing to the Executive Officer of the Regional Board for review and approval before the proposed change is carried out.

---

[1] *Change in operations that may result in noncompliance with these waste discharge requirements only.*

15. In the event of any change in control or ownership of land or waste discharge facilities presently controlled by the discharger, the discharger shall notify the succeeding owner or operator of the existence of this Order by letter, a copy of which shall immediately be forwarded to this office.

16. The discharger shall remove and properly dispose of any wastes that are deposited at the site in violation of these requirements. The discharger shall notify Board staff by telephone within 24 hours of the removal and disposal of such wastes.

17. The Regional Board and other authorized representatives shall be allowed:

    a. Entry upon the premises for inspection of the facility and access to the premises where any required records are kept;

    b. To copy any records required to be kept by the discharger under the terms and conditions of this Order;

    c. To inspect any facility, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and

    d. To photograph and videotape, sample, and monitor any discharge or portion of the facility for the purpose of assuring compliance with this Order.

C. PERMIT RE-OPENING, REVISION, REVOCATION, AND RE-ISSUANCE:

1. If more stringent applicable water quality standards are promulgated or approved pursuant to Section 303 of the Federal CWA, or amendments thereto, the Board will revise and modify this Order in accordance with such standards. This Order will be reopened to implement appropriate requirements of applicable TMDLs for the Santa Ana Watershed.

2. This Order may be reopened to address any changes in State or Federal plans, policies or regulations that would affect the requirements for the discharges.

3. This Order may be revised, revoked, reissued, and/or terminated under certain conditions, including, but not limited to, the following:

    a. A change in the ownership, operation, or location of the facility;
    b. Violation of any terms or conditions contained in this Order; and
    c. Failure to submit any reports in the reporting program or to disclose fully any relevant facts.

D. PENALTIES:

1. Violation of any of the provisions of the NPDES program or of any of the provisions of this Order may subject the violator to any of the penalties described under Section 309(c) of the CWA, or any subsequent amendments to Section 309(c). The violator may be subjected to any combination of the penalties described herein at the discretion of the prosecuting authority; however, only one kind of penalty may be applied for each kind of violation.

2. The CWA provides that any person who violates any portion of this Order implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the CWA, or any order requirement or limitation implementing any such sections in this Order, is subject to a civil penalty not to exceed $25,000 per day for each violation. The CWA provides that any person who willfully or negligently violates this Order with regard to these sections of the CWA is subject to criminal penalties of $2,500 to $25,000 per day of violation, or imprisonment of not more than 1 year, or both. Any person who knowingly violates a provision implementing these sections is subject to criminal penalties of $5,000 to $50,000 per day of violation, or imprisonment of not more than 3 years, or both.

3. The CWA provides that any person who knowingly falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Order shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 2 years per violation, or by both.

4. The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this Order, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 2 years per violation, or by both.

5. The California Water Code provides that any person who violates an order of the Regional Board is subject to civil penalties of up to $25,000 per day of violation, and when the violation involves the discharge of pollutants, additional civil penalties of up to $25 per gallon.

I, Gerard J. Thibeault, 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 July 1, 2003.

Gerard J. Thibeault
Executive Officer

California Regional Water Quality Control Board
Santa Ana Region

Monitoring and Reporting Program No. R8-2003-0019
NPDES No. CA8000401
for

Kimball Avenue, LLC
6185 Kimball Avenue
San Bernardino County

A. SITE MONITORING

Storm water containment, diversions and drainage structures shall be inspected each week, and daily during storm events. Comments regarding their adequacy shall be recorded in a permanent, bound log, including the time and date of the observation/inspection.

B. MATERIALS MONITORING

1. The materials monitoring shall be recorded in a permanent bound log and shall include the following information:

    a. A monthly summary of the quantity (cubic yards and tons) of manure removed from the facility and the location(s) to which the manure was hauled.

    b. A monthly summary of the quantity (cubic yards and tons) of manure and other materials remaining on-site.

C. REPORTING REQUIREMENTS

1. Semi-annually (i.e., by the 15th day of January covering the period July to December of the previous year and the 15th day of July covering the period January to June of the current year), the discharger shall submit a monitoring report that shall include:

    a. A copy of the permanent log pages required by Section A., above;

    b. A copy of the materials monitoring information required by Section B., above; and

    c. The report for January shall include a summary of all violations of requirements contained in this permit for the previous year.

2. All reports shall be signed by an authorized agent of the discharger and shall be submitted under penalty of perjury.

Ordered by: _____

Gerard J. Thibeault
Executive Officer

July 1, 2003

California Regional Water Quality Control Board
Santa Ana Region

July 1, 2003

ITEM:

SUBJECT: Waste Discharge Requirements for Kimball Avenue, LLC, San Bernardino County - Order No. R8-2003-0019, NPDES No. CA8000401

DISCUSSION:

Kimball Avenue, LLC (hereinafter discharger) owns the former manure composting facility located at 6185 Kimball Avenue in the Chino area of San Bernardino County.

The former manure composting facility is a 16-acre facility which was previously owned and operated by Alfonso J. Chavez, dba Garden Mate Products, Inc. On December 7, 1999, the discharger acquired the facility from Mr. Chavez. In October 2000, Mr. Chavez notified the Regional Board that he was no longer the owner of the facility. On August 13, 2002, the discharger submitted a report of waste discharge to the Regional Board and informed us that a significant amount of stockpiled manure was left behind from the previous operation. The discharger expects that it will take approximately 6 years before all of the stockpiled manure is removed. This Order is recommended to ensure that no storm water commingled with the stockpiles will be discharged offsite during the removal and cleanup process.

The proposed Order requires: 1) containment of the runoff from an average annual rainfall during the winter months (November – March) and the runoff from a 25-year, 24-hour storm event; 2) submittal by September 29, 2003, of an Engineered Waste Management Plan for the facility for acceptance by the Executive Officer of the Regional Board; and 3) implementation of the approved Engineered Waste Management Plan within 120 days of notification of the Plan's acceptance.

Surface flows in the area drain to a flood control channel that is tributary to Chino Creek, the beneficial uses of which include groundwater recharge, water-contact recreation, non-contact water recreation, warm freshwater habitat, wildlife habitat, and rare, threatened, or endangered species habitat. The facility overlies the Chino II Groundwater Subbasin, the beneficial uses of which include municipal, domestic, agricultural, and industrial service and process supply. These requirements should be adequate to protect the beneficial uses of waters in the region.

Discharges of storm water from the property may impact Chino Creek. Chino Creek is listed as an impaired water body under Section 303(d) of the Clean Water Act (CWA) as the result of nutrients and pathogens. Federal regulations require that a total maximum daily load (TMDL) be established for 303(d) listed waterbodies for each pollutant of concern. Discharges cannot cause or contribute to water quality or beneficial use impairment.

The TMDLs for Chino Creek are scheduled to be established by 2005. These TMDLs will specify waste load allocations for all significant sources of the pollutants causing impairment,

which may include the Kimball Avenue, LLC facility. The TMDLs will also specify an appropriate implementation plan that may include provisions for offset or pollutant trading. This Order will be reopened to include requirements necessary to implement the adopted TMDLs.

Vicinity map is shown in attachment "A".

RECOMMENDATION:

Adopt Order No. R8-2003-0019, NPDES No. CA8000401 as presented.

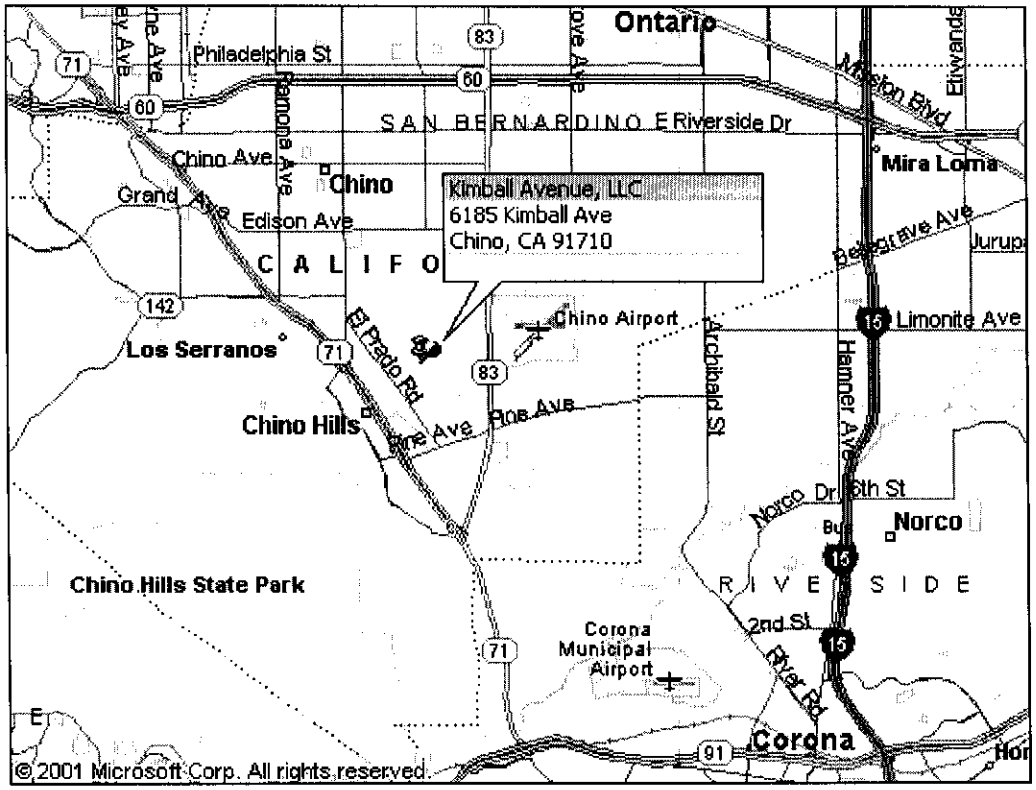
COMMENTS SOLICITATION:

Comments were solicited from the discharger and from the following agencies:

U.S. Environmental Protection Agency, Permits Issuance Section (WTR-5) – Terry Oda
U.S. Army District, Los Angeles, Corps of Engineers, Regulatory Branch
State Water Resources Control Board, Office of the Chief Counsel – Jorge Leon
State Water Resources Control Board, Division of Water Quality – Jim Maughan
State Department of Water Resources - Glendale
State Department of Health Services – San Bernardino
San Bernardino County Department of Environmental Health Services – Pamela Bennett
San Bernardino County Transportation/Flood Control District – Naresh Varma
Inland Empire Resource Conservation District
City of Colton
Chino Basin Watermaster
Orange County Water District – Nira Yamachika
Milk Producers Council – Bob Feenstra
Western United Dairymen – John Borges
Natural Resources Defense Council – David Beckman
Orange County Coast Keeper
Lawyers for Clean Water C/c San Francisco Baykeeper

Vicinity Map

Not to scale



California Regional Water Quality Control Board
Santa Ana Region

Winston H. Hickox
Secretary for Environmental Protection

Internet Address: http://www.swrcb.ca.gov/rwqcb8
3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (909) 782-4130 - FAX (909) 781-6288

Gray Davis
Governor

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at www.swrcb.ca.gov/rwqcb8.

July 2, 2003

Mr. Raymond A. De Angelo
Kimball Avenue, LLC
4811 E. La Palma
Anaheim, CA 92807

TRANSMITTAL OF ADOPTED ORDER NO. R8-2003-0019, NPDES No. CA8000401

Dear Mr. De Angelo:

At the regular Board Meeting held on July 1, 2003, the Regional Board adopted Order No. R8-2003-0019 that included requirements for removing and cleaning up the stockpiled manure that was left behind from the previous operation of the facility. A certified copy is enclosed for your records.

Sincerely,

Barbara Laffoon

BARBARA LAFFOON
Executive Assistant

Enclosure: Adopted Order No. R8-2003-0019

c. State Water Resources Control Board, Division of Water Quality, James Maughan
United States Environmental Protection Agency, WTR 5, Permits Section, Terry Oda

/bjl