

**MINISTRY OF ENVIRONMENT
INFORMATION NOTE**

September 30, 2015
File: 280-20
CLIFF/tracking #: 290559

PREPARED FOR: Minister of Environment, Mary Polak

ISSUE: McRae Ranch (Northwest Organics/Revolution)

BACKGROUND:

A composting facility called Revolution Organics (previously Northwest Organics) in the Botanic Valley near Lytton has received numerous complaints from residents about odours from the composting facility. Subsequent to these complaints the ministry found the facility to be in non-compliance as a result of fugitive odours moving off the site. Since August 2012, EP staff have attended the Facility on eight separate occasions to verify compliance with relevant legislation.

It was only on the last two occasions, April 21 and July 16, 2015 that inspectors detected odours off site and Advisories of Non-Compliance were issued for failure to comply with the Operating and Odour Management Plan. Advisories are reserved for matters like this where there have been no previous occurrences of non-compliance and did not result in in any environmental, human health or safety impact.

s.13

In an effort to address the issue of biosolids in the Nicola Valley, the Thompson-Nicola Regional District (TNRD) has proposed a bylaw that is undergoing a review process and is set for public hearings. The ministry reviewed the first draft of this bylaw and sent its comments to the TNRD on May 15th 2015. The TNRD passed the bylaw on September 18th after a public hearing.

At the public hearing, Mr. McRae made comments about the impact the proposed bylaw would have on his business and the TNRD included an exemption in the bylaw for facilities that produce Class A compost made with food scraps on certified organic farms (such as the Northwest Organics facility).

DISCUSSION:

Composting Facility:

s.13

The release of information stemming from the ministry's compliance inspections is consistent with how the ministry has released information in other cases. Ministry staff will be conducting a follow up inspection at the site during the week of September 22nd to check on the non-compliance.

TNRD Bylaw:

The ministry was made aware of a proposed bylaw by the TNRD that intended to limit agricultural and commercial composting in the regional district. Subsequently the ministry reviewed the first draft of the proposed bylaw in early May, and in discussion with the Ministry of Agriculture and the Ministry of Community Sport and Cultural Development provided comments to the TNRD about the proposed bylaw.

s.13

Maple Leaf Strategies sent a memo to the Minister on September 14, 2015 which urged her to intervene and request the TNRD to postpone the bylaw and review it to ensure composting facilities could continue to operate in the area. The memo suggests that the bylaw could also impact TNRD's Solid Waste Management Plan which could lead to the need for an amendment that would require the Minister's approval.

s.13

The proponent, Ralph McRae is active in a number of waste management industries. He has received some public attention for opposition to Metro Vancouver's Bylaw 280 as the chair of NorthWest Waste.

Contact:

*Mark Zacharias
Environmental Protection*

250-356-0121

Alternate Contact:

*Kris Ord
A/ED Environmental
Standards*

250-387-9933

Prepared by:

*Curtis Smith
Issues Manager, EPD*

250-387-6002

Reviewed by	Initials	Date
DM DMO		
ADM	MZ	Sept 30
Dir./Mgr.	KO	Sept 30
Author		

Popowich, Tracy CSNR:EX

From: Ralph McRae <Ralph@mcragroup.ca>
Sent: Monday, June 8, 2015 8:33 AM
To: Waters, Neale J ENV:EX
Cc: Bourgeois, Jason ENV:EX; XT:McCabe, John TRAN:IN; Chris Harp
Subject: Lytton Compost Facility

Neale:

Effective June 6:

- Northwest Organics, LP changed its name to Revolution Organics, LP
- Northwest Group Properties Inc. changed its name to Revolution Infrastructure Inc; and
- McRae Ranch, LP changed its name to Revolution Ranch, LP

All other contact info remains the same.

Ralph D. McRae
(604) 999-9495

Popowich, Tracy CSNR:EX

From: Waters, Neale J ENV:EX
Sent: Wednesday, July 29, 2015 4:28 PM
To: XT:McCabe, John TRAN:IN
Cc: Bourgeois, Jason ENV:EX
Subject: July 16, 2015 Inspection Report .
Attachments: Northwest Organics Field Inspection July 16, 2015.pdf

Good afternoon John . Please find included a copy of my last field inspection report from July 16, 2015.

I noted in the report that operational changes are reflecting what was recommended in the Wildstone Engineering report of May 27, 2015, but have not been fully implemented nor have they achieved the desired result as of the date of inspection . Northwest Organics is still considered out of compliance with OMRR until fugitive odours are substantially reduced and is in line with the submitted odour management plan.

The Wildstone report does reference “ a fair amount of time” to implement the changes needed, and then time to note a reduction in odour “only after 2-3 months”. The Ministry recognises this may take a few months to realise a change , but is not willing to accept this open ended timeline as per the report. Northwest Organics (Revolution Organics) must continue to work to completely implement the Wildstone recommendations to reduce and eliminate these fugitive odours. We are expecting this reduction to be noticeable by end of September, a full 4 months after the Wildstone report of May 27.

If you have any questions please don't hesitate to call .

Regards,
Neale

Neale Waters

Environmental Protection Officer
Ministry of Environment, Environmental Protection Division
Monitoring, Compliance and Stewardship Section
1259 Dalhousie Drive, Kamloops, BC, V2C 5Z5
Phone: 250-371-6239 Fax 250-828-4000
e-mail: Neale.Waters@gov.bc.ca
<http://www.env.gov.bc.ca/epd/regions/thompson/>
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Ministry of Environment
Inspection Record

Environmental
 Protection
 Division

EP System: AMS	Inspection Status: FINAL	
System Number: 104217	Inspection No: 21148	
EP System Status: Active	Inspection Date: 2015-07-16	
Region: Thompson	Office: Kamloops	
Trigger: Complaint	Incidents of Non-Compliance Observed: Yes	
Non-Compliance Decision Matrix Level: Level 1	Non-Compliance Decision Matrix Category: Category A	
Inspector Name(s): Neale Waters	Risk Ranking: Low, Med, High	
Audit:	Total Non-Compliance(s): 2	
Regulated Party: Northwest Organics Limited Partnership		
Regulated Party Contact(s): John McCabe		
Mailing Address: 19500 56TH AVE , SURREY BC V3S 6K4, ATTN: RALPH MCRAE And PO Box 538, Lytton, BC V0K 1Z0 ATTN: John McCabe		
Phone No: 250-256-1936	Fax No:	
Contact Email:		
Location Description or Site Address: Food waste compost facility in Botanie Valley north of Lytton		
Latitude: 50.232 N	Longitude: 121.0577 W	
Receiving Environment(s): Air & Land		

Summary

MONITORING AND REPORTING REQUIREMENTS	
Inspection Period: From: 2015-07-16 To: 2015-07-16	
Requirement Source: Organic Matter Recycling Regulation	
Activity: <u>On Site or Office Review</u>	Waste Type: <u>Refuse</u>
Inspection Summary: <p>Numerous and continued reports of foul odours from s.22 is the reason for repeated inspections of this otherwise low risk site. The April 21, 2014 inspection lead to an advisory letter being sent to the facility owner, as the inspection revealed it was out of compliance with OMRR due to strong odours being detected up and down the valley. In response to the Advisory letter requirements, NW Organics (Revolution Organics LP) had Wildstone Engineering submit a report (dated May 27, 2015), Odour Control and Mitigating Measures - Lytton Composting Facility, which outlined several process changes and corrective measures to be taken to reduce the fugitive odours from the site. The report identified two areas of concern, 1) the leachate ponds were full and resulted in excessive retention times producing anaerobic conditions. 2) the compost windrows were observed to have a moisture content that was too low and a wood chip size too large resulting in excessive odour.</p> <p>The recommended odour control and mitigation measures focused on reducing leachate pond residence time and enhancing the composting process. including:</p> <ul style="list-style-type: none"> - increase moisture levels in compost - increase surface area /decrease size of bulking agent - increase carbon bulking agent , currently low - extend the use of leachate - improve cured compost screening process to ensure compost is not too dry - Keep west leachate pond as empty as possible for storm surge . Use east pond for operations and keep this pond as low as possible - only increase leachate storage when freshwater make up availability is limited - Liberate sludge in west pond to clean out - move aeration fan in west pond to centre to increase circulation of leachate <p>It was noted that these recommendations may take time to implement and that once implemented may take 2-3 months to realise any positive reduction in smell.</p> <p>I met up with John at approximately 3:00 pm and reviewed the composting facility. John indicated that changes were being made following Wildstone's recommendation's, but these changes couldn't occur all at once as it would impaired the composting process too much. The moisture content of the piles are slowly being increased , thus slowly reducing the leachate ponds volume. Leachate pond have lowered somewhat , but are far from empty. A strong putrid odour was detected at the leachate ponds indicating the anaerobic conditions of the ponds still remains. Strong composting odours were detected on the north road on the east side of botanie creek, a fair way past the property boundary. Strong putrid smell from the leachate ponds was quite evident along road between the windrows and the hops plantation by the greenhouse . Strong odours from the composting were detected on Botanie Creek road, north of the site as well as neighbouring properties to the north. The compost site was full,</p>	Response: <u>Advisory</u>

but with a couple of rows just being stored before removal and final curing was done.

In my opinion the leachate ponds are contributing a large degree to the strength of the fugitive smell being reported .

ACTIONS REQUIRED BY REGULATED PARTY:

Regulated Party must continue expediently as possible to correct the odour problem by implementing the recommendations from Wildstone Engineering Report of May 27 . The report indicates the expected trajectory of changes to be noticed after 2-3 months . Its been two months to date .

ADDITIONAL COMMENTS:

Regulated party must find a way to expedite the Wildstone recommendations from May 27 report . It has been two months since the report and a lot of leachate needs to be drawn down.

All other operations at the facility seem to be acceptable, but odour control is the issue and needs to be addressed. This is the second consecutive inspection where the inspectors has detected strong off site odours. The odours at the properties north of the facility were again strong enough to be considered by the inspector to be "offensive ".

Efforts should be directed to continual improvements to the composting methods , controls and technology for the control of odours. This could include aerated static piles, treatment of discharged air through a biofilter or carbon filter system, particularly if anticipating expanded operations, from an enclosed building, A filtered building for receiving, mixing and draining incoming loads, as described in the odour management plan, and more advanced leachate treatment, are some possibilities .

Compliance Summary	In	Out	N/A	N/D
Operations	0	2	0	0

Inspection Details

Requirement Type: Operations

Requirement Description:

OMRR Part 5, Composting Facility Requirements
Section 24 requires that odour management be considered as part of the construction and operations planning (24(2)(d)) and that the composting facility must be operated in compliance with the plans.

Details/Findings:

Inspector arrived at site at approximately 15:00. Fairly strong, but typical odours were noticed around the facility. Strong and rather "offensive" odours were present at the leachate lagoon site, indicating these ponds were anaerobic. John and I took a drive north of the gate along the east side of Botanie creek. Strong compost smells were noticed along this route. Strong compost odours were witnesses along Botanie Creek road to the north west of the facility and at private property north of the facility . Odour management plan is still being contravened. Strong off site odours are still an issue. Considered out of compliance until fugitive odours are controlled.

Compliance: Out

Requirement Type: Operations

Requirement Description:

Section 3 of Operations Manual states:
3 - Odour Management Plan

This document discusses how potential odours generated by the composting facility can be minimized such that there are no significant or long lasting impacts to neighbours.

Neighbours/Siting: The area is limited to sparsely inhabited agricultural land and crown-land. The orientation of the valley, and therefore the wind, is North/South. The farm property extends 3km south and 1km north of the facility. The closest neighbours are located 1.6 km southwest and north of the facility respectively making direct impacts of significance unlikely. Moreover, the neighbours are buffered by thick and healthy evergreen forests.

Process Control: During the composting process, odours are managed by proper control of moisture, aeration and C:N ratios. The OMRR procedures for pathogen reduction, vector attraction reduction and pathogen reduction limits (see Operations Plan) provide specific guidelines for moisture, aeration and C:N ratios. A large part of the odour management plan involves carefully following these requirements.

Odour Complaint Procedures: To maintain good relations with neighbours and transient visitors, the NWOSF has developed an odour complaint procedure. This procedure starts with making contact information readily available at the Regional District office and the local MoE office. Once contacted, staff will politely record the information on an Odour Incident Report (see Appendix E). Each incident will be brought to the direct attention of management who will ensure the following steps are taken.

- Bullet 4: For example, if deemed appropriate, a covered structure can be erected to receive, sort and initial process the feedstock materials. Moreover, a biofilter can be constructed to remove odours emanating from the building if necessary.

Details/Findings:

Out of compliance with Odour Management Plan until the Wildstone, May 27 report recommendations are implemented and results in a significant reduction and frequency of smell complaints from valley residents, "such that there are no significant or long lasting impacts to neighbours."

Compliance: Out

Were the following collected during inspection:

Samples? Photos? EMS No.

Other (please specify)

Is the Inspection related to an EA Project?

EA Project Certificate Number:

INSPECTION CONDUCTED BY:

Signature

Date Signed

Neale Waters

2015-07-27

ENCLOSURE(S) TO REGULATED PARTY & DESCRIPTION:

CVIS Archives

REGULATORY CONSIDERATIONS:

DISCLAIMER:

Please note that sections of the permit, regulation or code of practice referenced in this inspection

record are for guidance and are not the official version. Please refer to the original permit, regulation or code of practice.

To see the most up to date version of regulations and codes of practices please visit:
<http://www.bclaws.ca/>

If you require a copy of the original permit, please contact the inspector noted on this inspection record or visit: <http://www2.gov.bc.ca/gov/topic.page?id=DF89089126D042FD96DF5D8C1D8B1E41&title=Publicly%20Viewable%20Authorizations>

It is also important to note that this inspection record does not necessarily reflect each requirement or condition of the authorization therefore compliance is noted only for the requirements or conditions listed in the inspection record.

Ministry of Environment	Thompson	Mailing Address:	Phone: (250) 371-6200
	Region Environmental Protection Division	1259 Dalhousie Dr Kamloops, BC V2C 5Z5	Fax: (250) 371-6234 Website: http://www.gov.bc.ca/env

Popowich, Tracy CSNR:EX

From: Ralph McRae <Ralph@mcragroup.ca>
Sent: Wednesday, July 29, 2015 8:22 PM
To: Waters, Neale J ENV:EX
Cc: Bourgeois, Jason ENV:EX; John McCabe
Subject: Fwd: July 16, 2015 Inspection Report .
Attachments: winmail.dat; ATT00001.htm

Neale

I just received this report and am disappointed by your conclusions. I have been on site twice in the last month and each time noticed a marked improvement. I have consequently requested our QP, Chris Harp, to attend the facility as soon as he is able and provide me with his view of the progress.

Coincidentally, I will be in Kamloops tomorrow and would like to drop by and meet with you, and Jason should he be available, for a few minutes. I can be at your offices at between 2:30p and 4:00p. Please let me know what works best for you.

Ralph D. McRae
(604) 999-9495

Begin forwarded message:

From: s.22
Date: July 29, 2015 at 8:02:58 PM PDT
To: Ralph McRae <ralph@mcragroup.ca>
Subject: Fwd: July 16, 2015 Inspection Report .

FYI

Begin forwarded message:

From: "Waters, Neale J ENV:EX" <Neale.Waters@gov.bc.ca>
Date: July 29, 2015 at 4:27:43 PM PDT
To: "XT:McCabe, John TRAN:IN" .s.22
Cc: "Bourgeois, Jason ENV:EX" <Jason.Bourgeois@gov.bc.ca>
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Regards,
Neale

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P Please consider the environment before printing this e-mail.

Popowich, Tracy CSNR:EX

From: John McCabe <John@WeAreRevolution.ca>
Sent: Thursday, July 30, 2015 8:18 AM
To: Waters, Neale J ENV:EX
Subject: FW: July 16, 2015 Inspection Report .

Neale:

Unfortunately, your email and attached report bear little resemblance to our mutual observations during your visit or our discussions. When you left our site you were clearly waffling about whether you thought we were in compliance or not. This report is a much more stark condemnation and doesn't reflect the substantial progress we have made.

I attach Chris Harp's May 27 report. It clearly says:

It would not be unreasonable to expect to see the trajectory of the changes only after 2 – 3 months. I will therefore conduct a follow up site visit in August to assess the results of the proposed changes. We are a mere two months in and there is clearly positive trajectory, which you witnessed. The levels in the leachate ponds are half what they were when Chris conducted the inspection that led to that report. The windrow moisture content is improving and 1/2 way to target levels. Bulking agents have been increased dramatically. Aeration has been enhanced as planned. This is all headed in the right direction. Despite that, I have asked Chris to visit again and then report to you on the progress.

This is not a never, ending, "open ended" process. It is a well thought through plan that we have properly implemented to achieve the mutually desired end. We are acting responsibly, something you acknowledged to me here, and now the intimation in your report is that we are not.

I do not accept your conclusions^{s.22}
s.22 . We will be back to you shortly as we continue to execute our plan.

John

From: s.22
Date: July 29, 2015 at 8:39:48 PM PDT
To: <John@wearerevolution.ca>
Subject: Fwd: July 16, 2015 Inspection Report .

----- Forwarded Message -----

From: Neale J ENV Waters:EX <Neale.waters@gov.bc.ca>
To: XT:McCabe, John TRAN:IN s.22
Cc: Jason ENV Bourgeois:EX <Jason.Bourgeois@gov.bc.ca>
Sent: Wed, 29 Jul 2015 17:27:43 -0600 (MDT)
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Popowich, Tracy CSNR:EX

From: Ralph McRae <Ralph@mcragroup.ca>
Sent: Thursday, July 30, 2015 8:58 AM
To: Waters, Neale J ENV:EX
Subject: Re: July 16, 2015 Inspection Report .

Thx. I'll try to get there before 3:00p.

Ralph D. McRae
(604) 999-9495

On Jul 30, 2015, at 8:49 AM, Waters, Neale J ENV:EX <Neale.Waters@gov.bc.ca> wrote:

Good morning Ralph. This afternoon both Jason and myself are available during that timeframe. See you when you get there.

Neale

From: Ralph McRae [<mailto:Ralph@mcragroup.ca>]
Sent: Wednesday, July 29, 2015 8:22 PM
To: Waters, Neale J ENV:EX
Cc: Bourgeois, Jason ENV:EX; John McCabe
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P Please consider the environment before printing this e-mail.

Popowich, Tracy CSNR:EX

From: Waters, Neale J ENV:EX
Sent: Thursday, July 30, 2015 10:54 AM
To: 'John McCabe'
Cc: 'Ralph McRae'; Bourgeois, Jason ENV:EX
Subject: RE: July 16, 2015 Inspection Report .

John, please allow me to clarify some of the points you make in your email below.

There is some truth that I may have hesitated about calling the facility In-compliance. This may be considered waffling but was limited to your comment of when the facility would be considered In-compliance . It clearly wasn't In-compliance at the time of inspection, as I experienced fugitive odours at various locations throughout the valley, as well as the strong anaerobic odours coming off the leachate ponds. To be considered in compliance the Inspector has to be confident the facility is meeting all requirements of OMRR and supporting documents(odour control plan) of the registration . My hesitation was related to what level of odour, duration, and frequency that are experienced off site that would be considered acceptable, and therefore In-compliance .

In my report, I only recorded what I observed and it was not a stark condemnation as you infer. I did acknowledge in the report, the progress being made with regard to the moisture content of the piles and the drawdown of the ponds, as well as the fact that these changes take time to implement. I just indicated the changes at the time of the inspection had not resulted in reduced odour from the ponds, or from the composting process, as witnessed onsite by both of us on the north road past the gate, and in the vicinity of the leachate ponds .

I did recognise there is some progress being made. The ponds are well below the level from the time of the Wildstone report , but, the report recommends that the level of the west pond to be as empty as possible and to clean out the sludge, then keep it low as possible for storm surge. The east pond is to be kept as low as possible and insure the aeration fan is located for optimum circulation. I indicated in my report about the moisture level in the piles and progress being made, but the point I was making was reiterating the Wildstone report which stated, "expect to see the trajectory of the changes only after 2 – 3 months", and the fact that being two months in, there was more to be done.

The Wildstone report is vague on timelines, only stating "may require a fair amount of time to determine the best way to actually achieve", and "Once Implementation is achieved, the resulting possible reductions in odour may require a fair amount of time to realize", and "the trajectory of the changes only after 2-3 months". I agree with you that the report and the corresponding changes is a well thought out plan and are being properly implemented, but much uncertainty remains with regard to the timeline for completion. I highlighted that these targets are open-ended and that isn't acceptable to the Ministry of Environment. Open ended targets for reaching compliance are not acceptable for any non-compliance event in any sector or industry authorization, including this facility.

Finally, in all our inspection reports we have never stated that you or Northwest Organics has operated the facility in any capacity other than in a responsible manner. The facility is run and operated in a very professional manner and this latest report doesn't sway from that belief. However, on at least two recent occasions now, I have experienced the very unpleasant smell at the neighboring properties.

s.22

s.22 The issue is about the unpleasant and unacceptable odours emanating from the facility, crossing property lines and impacting the environment of the surrounding valley. Accepting responsibility for this and taking steps to eliminate this problem is the reasonable thing to do.

I look forward to your continued progress

Neale

From: John McCabe [mailto:John@WeAreRevolution.ca]
Sent: Thursday, July 30, 2015 8:18 AM
To: Waters, Neale J ENV:EX
Subject: FW: July 16, 2015 Inspection Report .

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Good afternoon John . Please find included a copy of my last field inspection report from July 16, 2015.

I noted in the report that operational changes are reflecting what was recommended in the Wildstone Engineering report of May 27, 2015, but have not been fully implemented nor have they achieved the desired result as of the date of inspection . Northwest Organics is still considered out of compliance with OMRR until fugitive odours are substantially reduced and is in line with the submitted odour management plan.

The Wildstone report does reference " a fair amount of time" to implement the changes needed, and then time to note a reduction in odour "only after 2-3 months". The Ministry recognises this may take a few months to realise a change , but is not willing to accept this open ended timeline as per the report. Northwest Organics (Revolution Organics) must continue to work to completely implement the Wildstone recommendations to reduce and eliminate these fugitive odours. We are expecting this reduction to be noticeable by end of September, a full 4 months after the Wildstone report of May 27.

If you have any questions please don't hesitate to call .

Regards,
Neale

Neale Waters
Environmental Protection Officer
Ministry of Environment, Environmental Protection Division
Monitoring, Compliance and Stewardship Section
1259 Dalhousie Drive, Kamloops, BC, V2C 5Z5
Phone: 250-371-6239 Fax 250-828-4000
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revolution

Strictly Private & Confidential

September 8, 2015

Ministry of Environment
Thompson Region
1259 Dalhousie Drive
Kamloops, B.C.
V2C 5Z5

Attention: Messrs. Bourgeois and Waters:

**Re: Revolution Organics, LP Compost Facility (the "Facility") at McRae Ranch and
Ministry of Environment Advisory Notices dated
April 21 and July 16, 2015 (the "Advisory Notices")**

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Persistent complaints about "strong and unpleasant odour" have led to the shuttering of composting facilities in this Province. In August 2013 one such highly publicized event in Saanich caught the immediate attention of our opponents. They quickly set their sights upon creating an identical -s.22 the same end result.

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We believe those Advisory Notices are based upon a flawed and incomplete understanding of the *Environmental Management Act* (the "Act"), the *Organics Material Recycling Regulation* ("OMRR") the *Farm Practices Protection (Right to Farm) Act* and regulatory panel and court decisions rendered in respect thereof. They do not even reflect the facts.

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The April 21, 2015 record you provided to us with the first of the Advisory Notices explicitly says that "numerous and continued reports of foul odours from neighbouring residents is the reason for repeat inspections of this otherwise low risk site." This refrain can be identified elsewhere.

Any legitimate business can only deal with and respond to honest, objective information and we are no different. The same must be true of you as our regulator. The reality is that the

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I cannot count the number of times in recent months I have heard politicians and regulators alike say: "How can this many people complain so vigorously about something that is not true?" The fact is that, when organized around a common collateral objective, they have, and they persist believing that doing so will advance their agenda to shut us down. Remarkably their

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Proper Odour Complaint Procedure

On January 15 of this year, frustrated about the course this was starting to take, I extended the following offer to you:

"The practice of your office receiving complaints on one day and then visiting our site some days or weeks later is not particularly helpful. It leaves doubt in the mind of your officer and with that lends an inaccurate sense of legitimacy: "I suspect the complaint isn't truthful, but I can't say for sure". What we suggest is that you have a representative come to our facility and spend an entire week with us. They can stay at our house on site. They can then personally experience any odour at our ranch and make as many trips into the valley or elsewhere to record their experiences, whenever they want. They could then also react – and in real time verify or dismiss - any odour complaint received."

It was the only way I could then see to prove that these complaints were unfounded. You declined that invitation, citing a lack of resources. You then chose two dates in April and July to meet with the complainants and used those random events to support the issuance of the Advisory Notices. As you will see from what follows, we disagree that this was proper regulatory process and object to the result.

Our Facility Operating Plan plainly spells out the Odour Complaint Procedures that govern us. Odour complaints are in the first instance clearly our responsibility to receive and react to. Who other than us is in a position to assess and respond to them in real-time? Certainly not your office or the TNRD, particularly in light of the aforementioned comment about lack of resources within the Ministry.

That internal process was in place until June 3, 2014, when your Carol Danyluk sent an email to the complainants, only advising us she had done so after the fact. In her email she described a newly minted reorganization within MOE and outlined "Environmental Protection's Complaint Management Strategy". In hindsight, s.22 actually encouraged a dramatic increase in phone calls and emails to your Compliance Section staff (instead of to us as required). Then she invited our opponents: "in an emergency, where you believe there is an imminent and substantial threat to human health or the environment," to call or report online to the Conservation Officer via the Report all Poachers and Polluters Line (the "RAPP Line"). [emphasis added].

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The following is an excerpt from the MOE website describing the real purpose of the RAPP Line:

*The Report All Poachers and Polluters (RAPP) program is a toll free tip-line and web-based service that allows you to report known or suspected **violations of fisheries, wildlife, or environmental protection laws** – anonymously and without risk of confronting the offender.*

Available 24/7, RAPP is simple, safe and effective. It is based on the principle that someone other than the criminal has information that can solve the crime. Just like the police use Crimestoppers, the B.C. Conservation Officer Service needs your help in catching poachers and polluters. [emphasis added]

Clearly, Ms. Danyluk's email has had the effect of:

- branding us as potential criminals and polluters;
- driving up odour "complaint counts", particularly when your Ministry is inclined to give them credence without first corroborating them or undertaking any effective investigation; and
- circumventing our established and accepted Odour Complaint Procedures.

Ms. Danyluk's email was an effort to demonstrate that the Ministry is responsive. However, the unintended consequence was to de facto turn the RAPP Line into a "protest line" through which anonymity was guaranteed to the complainant. I doubt that anyone at the RAPP Line questions whether a complaint constitutes an "emergency" or "an imminent and substantial threat to human health or the environment" as Ms. Danyluk preconditioned, or if they do, there is no adverse consequence to the complainers in continuing to make bogus calls.

Your "Environmental Protection Complaint Management Strategy" makes life even more difficult for us by your unwillingness to disclose the names and addresses of complainants (no matter how made), in turn denying us any ability to determine the legitimacy of a complaint or take immediate remedial action. How can we possibly even discern the location of the incident when you won't provide us the needed specifics? How do we tell if the complainer is someone habitually trying to harass us or another with a legitimate issue? Your willingness to process false complaints also undermines the real purpose of the RAPP Line for a responsible citizen using it as was intended.

Furthermore, because it is impossible for the Ministry to verify or refute the validity of each complaint you are left with a single measurable statistic, namely the mere existence of a complaint.

It is now painfully clear that our opponents have no respect for the serious criminal nature of a call to the RAPP line as obviously none of the complaints comprise an "emergency" or "an imminent and substantial threat to human health or the environment" as Ms. Danyluk preconditioned. What some of these people are doing is frankly no less egregious than calling in false complaints to 911. Clearly, such malicious conduct would be a criminal offence. The R.C.M. Police would not tolerate that behaviour and you as peace officers should not facilitate this harassment of us or stand for this waste of your obviously scarce resources either.

In retrospect, our Odour Complaint Procedures were clearly undermined by Ms. Danyluk's June 3, 2014 email. As described below, we intend to take steps to correct that situation.

Misapplication of the Act and OMRR

In addition to Ms. Danyluk's email, we believe that the Ministry has misapplied the Act and OMRR in several other ways. Each of these has frustrated our efforts to operate in accordance with our Operating Plan and Odour Management Procedure.

In crafting the Advisory Notices, for example, you appear to have focussed on whether odour complaints received by the Ministry (and your own casual observations) are sufficient to conclude that our Facility is a source of "air contaminants" within the meaning of the Act (*i.e.*, "a substance that is introduced into the air and that. . . causes or is capable of causing material physical discomfort to a person"). We infer that is why your Messrs. Bourgeois and Waters took great care to explicitly describe in their reports and the ensuing correspondence odour as being "offensive" and "strong", and why there is repeated reference to an "unpleasant smell" or the "odour typical of decomposing food", as if this description was sufficient in itself to justify regulatory action.

It is worth noting here that the siting of our Facility is an important component of our Odour Management Plan. It properly refers to distances from our nearest neighbours (“1.6 kms...buffered by thick and healthy evergreen forests”). Odours noticed on our site or encountered on a road that transects our farm or on unoccupied, forested crown land that form part of that very buffer are a completely irrelevant consideration, yet you use them to frame your conclusions.

One problem with this blunt approach is that s. 24(2) of *OMRR* recognizes that any composting facility, anywhere in the Province, emits odours. Put simply, the fact that such a facility may emit odours – natural odours, it is important to add – cannot trigger regulatory action in itself, even if those odours could be described as being “air contaminants”.

Rather, recognizing that a degree of odour is inevitable, the facility operator’s regulatory burden under s. 24(2) of *OMRR* is to develop and adhere to “an odour management plan that stipulates how air contaminants from the composting facility will be discharged in a manner that does not cause pollution”.

“Pollution”, as you know, is defined in s. 1 of the Act as “the presence in the environment of substances or contaminants that substantially alter or impair the usefulness of the environment”. As a matter of statutory interpretation, and contrary to the positions taken in your correspondence, it necessarily means something more than the mere effect of an “air contaminant”. It must not only have the characteristics of an “air contaminant” but must also materially alter or impair the usefulness of the environment as a whole. An assessment of whether a particular substance causes “pollution” has to be an objective and relative one, which takes into account the fact that such organics recycling facilities (and, it must be underscored, “air contaminants”) are permitted in that environment, and agricultural operations necessarily emit natural odours. It is not enough to simply assert that someone encountered an offensive smell in the air at some particular moment.

The policy decision to protect farming operations such as ours from harassment from local governments and vocal activists who purport to be disturbed by the odours associated with agricultural activities such as ours is further illustrated by the *Farm Practices Protection (Right to Farm) Act*. Under s. 2(2), a farm operation is protected from nuisance claims, injunctions or court orders that would prevent or hinder its normal operations. Again, it is not enough to simply point to an “odour”, strong or otherwise. If it were that easy there would be little farming activity left in this Province.

Jason Bourgeois’ May 26, 2015 email directed me to the lengthy March 8, 2010 decision of the Environmental Appeal Board in *West Coast Reduction Ltd. and District Director of the Greater Vancouver Regional Director, et al.* and, in particular, paragraphs 242 – 247 thereof, to justify his position that “odour = pollution”. Although I appreciate the reference, that case has little to do with our circumstance and does not in fact say what he would like it to.

In *West Coast*:

1. West Coast Reduction was already subject to a GVRD air permit that confirmed the presence, and indeed authorized the release, of industrial "air contaminants";
2. the multitude of complaints against West Coast were well documented over decades and objectively and professionally verified;
3. vast statistical and scientific evidence was presented to confirm the presence of the air contaminants; and, perhaps most importantly,
4. the odours emitted by West Coast were from industrial contaminants that were neither natural nor generated from a "farm operation".

Despite all that the GVRD District Director still did not prevail against West Coast Reduction, primarily on the basis that the Order under review focused simply on "odour", without more that would allow West Coast Reduction to know precisely how (and which) air contaminants had been released in violation of the bylaw. In many respects, that is exactly where the current regulatory approach threatens to lead us to.

The best summary of the law in this Province is this:

- "pollution" means something more than the consequences of any and all "air contaminants";
- some extreme and persistent industrial odour might be indicative of "air contaminants" rising to the level of "pollution, but certainly not all odour is indicative of pollution, even if it is characterized by someone at a particular moment as "strong" or "offensive";
- the existence of that pollution must be objectively and professionally confirmed at a residence or place of business;
- natural odour from a farm operation is something altogether different from industrial odours generating from a non-farm source; and
- farms and composting facilities are legislatively recognized as being sources of odours and, in our circumstance, are also protected by the *Right to Farm Act*.

We have clearly never caused any pollution.

Recent Events

There can be no doubt that our Odour Management Plan fulfills the requirements under s. 24(2) of *OMRR*. It was prepared by a recognized and experienced "Qualified Professional" and has been accepted by the Ministry, as was the Environmental Impact Study that confirmed it. It performs properly and that fact has been verified on no fewer than eight separate inspections by your staff of our admittedly "low risk operation", which occurred throughout the buildup to our opponents' odour complaint strategy.

In December 2014 an isolated issue was identified by us through the careful application of our Odour Management Plan. It arose out of a confluence of extraordinary and extreme events: (i) a devastating forest fire that ravaged our Ranch in the summer of 2014 (that in retrospect diverted our resources while we responded to and recovered from it, allowing too much organic matter to build up in our retention ponds, causing temporary anaerobic conditions), and (ii) several unusually heavy rain events in the fall and winter of 2014 which exacerbated the issue and destroyed our ability to quickly rectify the situation through normal operating practices.

Knowing that this might increase odour levels as warmer weather approached, we concluded that the most practical and immediate way to address the matter was to discharge some of the liquid. We understand this to be a common practice that would have posed no harm whatsoever to the environment while at the same time immediately correcting any potential for increased odour. To do so would require you to grant us a discharge permit which we understand you have readily done in other similar circumstances.

To that end, on December 24, 2014 our Qualified Professional wrote your Carol Danyluk:

"We are wanting to begin the process of applying for a permit to discharge leachate as part of our management strategies for dealing with the increasingly severe and common extreme precipitation events that are occurring through-out our province. The proposed system involves properly sited in-ground trenches that should represent no significant potential negative impact to water resources. We have prepared the attached design schematic for your consideration."

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We do not see how you can blame us for causing "strong odour" when it was your Ministry that prevented us from proactively dealing with that situation in the first instance. Put another way, it is most disturbing that your Ministry would, on the one hand, prevent us from implementing our Odour Management Plan and take the steps necessary to deal with these extraordinary events yet, on the other hand, initiate regulatory action apparently based on an alleged failure to comply with that same Odour Management Plan.

In any event, we pressed forward and obtained additional recommendations from our Qualified Professional to deal with the situation in a more time consuming way. Those recommendations have been implemented and on September 1, 2015 I forwarded you an updated report from our QP explaining the substantial progress we have made via this more methodical approach.

It will have taken much longer to correct the situation than would have been the case if we had been granted the discharge permit we sought, when we first sought it. But even through it all, although odour generated by us over the past few months might have occasionally risen slightly, it never rose to the level of "pollution" and bore no resemblance whatsoever to the false allegations of our opponents.

There has Been no Violation and the Advisory Notices Must be Withdrawn and not Released

The point is that none of this amounted to a regulatory violation. Apart from the Ministry's failure or refusal to cooperate with us, this is precisely how the regulatory framework – including our Odour Management Plan – is supposed to work. We are disappointed that there was some occasional and minor inconvenience to our neighbours, (principally as they travel for the kilometer that Botanie Creek Road runs through our Ranch) but because you would not allow us to immediately correct it as we sought, responsibility for that does not now lay at our feet.

This entire situation has now been escalated further because of the decision of someone in your Ministry to disclose the existence of the Advisory Notices to our opponents.

On July 30, 2015 I told you that TNRD staff had asked me about the Advisory Notices and I asked you how they could have found out about them. I was told that you would investigate and advise. I was informed by TNRD staff on August 30, 2015 that they were requesting copies of those Advisory Notices from you.

On September 3, 2015 Mr. Bourgeois sent me an email as follow up to my July 30 request. It explained that your offices had said this to one of our neighbours, via email on July 8, 2015:

"We [MOE] sent them [NWO] a warning letter for being out of compliance with the odour management plan, which resulted in some operational changes as recommended by their QP."

Also, whatever happened to a level regulatory playing field? On the one hand you seem to feel at liberty to tell third parties who have no legal or other tangible interest in our operations all about your regulation of us, yet at the same time refuse to timely provide us with the most basic particulars of their complaints to you when doing so under the procedure established by your Ms. Danyluk would be crucial to our proper input, analysis and response.

Consequently, we object to your practice of disclosing to third parties information regarding our operations, including our operational plans, which we have supplied to you. Whether or not a request is labelled as such (and whether or not it is oral or written), any request by a member of the public for information in the custody or control of the Ministry must be assessed and processed within the framework of FOIPPA. FOIPPA requires that we be given notice and an opportunity to object if the Ministry intends to disclose our confidential business information. For reasons that are not apparent, the Ministry has declined to follow these requirements.

Please confirm that the Ministry will abide by FOIPPA when considering the disclosure of our information to the public, including by giving us notice of the intended disclosure and an opportunity to object. This obviously applies to the outstanding request by TNRD referred to above. If the Ministry continues to disregard its statutory obligations, we will be required to seek declaratory and other relief in the Supreme Court of British Columbia, and other remedies from the Office of the Information and Privacy Commissioner.

The RAPP Line and our Odour Complaint Procedure

We are working to re-establish our Facility's Odour Complaint Procedure and will advise you when we have completed that task. In the result, when you receive complaints, either to your Kamloops office or via the RAPP line, you can be assured that the complainant deliberately chose to bypass the most direct and appropriate method of addressing his or her concerns. One would expect that complaints received by you would be treated with considerable skepticism and an appreciation of the true motivation underlying them. We of course invite you to timely redirect any complaints received by you, which will be investigated and addressed by us, provided we have all the necessary particulars to do so.

However, if you do choose to investigate trivial complaints targeted at your RAPP line, we ask that you assess them in accordance with the prescribed statutory and regulatory standards, and discharge your duties in a timely, fair and reasonable manner. For our part, we do not intend to divert any more time or resources to addressing frivolous allegations which are transparently made for the collateral purpose of disrupting our lawfully permitted operations.

We would also urge you to consult with Crown Counsel to determine what steps should be taken to deal with the blatant misuse of the RAPP line by our opponents.