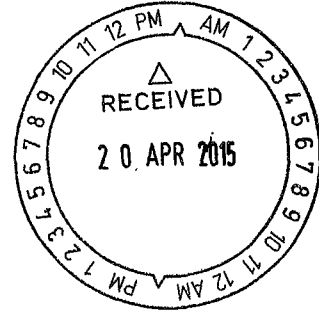


20 April 2015

To
**Environmental and Public Affairs Committee
Legislative Council of Western Australian Parliament**



Re:
Proceeding Name : Petition No. 59 – Bio-Organics (16 September 2014)

To the Committee,

This correspondence is provided to you with regards to the *current* proceeding regarding Bio-Organics to convey pertinent information to the committee regarding the abovementioned petition:

- (1) Bio-Organics and its director Mr. Benjamin Avila, welcomes a formal inquiry by the committee into all matters pertaining to DER regulatory oversight, community concerns, contamination, operation and the history of its facility.

Available to the committee in the matter is all technical work assessing water quality, groundwater flow direction, compost pad permeability and nitrogen – all of which could be investigated in an open and fair hearing.

- (2) After reading the transcript from the hearing of 23 March 2015, we provide the following submission for consideration:

Clearly the committee has specific concerns. They are:

- I. Community protection – is the community in danger because DER have not acted fast and hard?
- II. Regularly process – has DER managed the Bio-Organics licence appropriately?
- III. Is there an environmental problem at the Bio-Organics site?

Bio-Organics wishes to briefly address these concerns.

COMPLAINTS

The committee has recognised that complaints regarding Bio-Organics since commencement in 2002 until the beginning of 2013 were very few.

In Feb 2013, Bio-Organics, in consultation with SJ Shire, made application for planning approval for a compost facility with specific inclusion of adding poultry manure.

The reason for that application was that during 2011 and 2012 key members in the poultry industry and vegetable growing industry sought Bio-Organics' advice on how to overcome crippling Health Act regulations regarding the disposal and use of poultry manure. The SJ Shire referred to an "Ayres Rock" stockpile of manure growing in their back yard they needed help with.

Bio-Organics, a family business, offered a solution of recycling manure into a quality soil. Bio-Organics' proposal was approved by the Department of Health and a DA was submitted to the SJ Shire and issued for community comment.

Shortly thereafter, and without *any* change to the current operations or processes, it has been alleged that complaints flooded in to the regulatory authorities. Not only were complaints withheld from Bio-Organics for as long as 9 months, it has since been realised that meteorological records have disproven the vast majority those complaints.

It appears that many complaints have been linked to mis-information supplied by DER and spread by 1 or 2 neighbours relating to what waste has been received, what volume have been received and how that waste has been treated.

DER OVERSIGHT OF OUR OPERATING LICENCE

It is completely unreasonable to conclude that DER did not have stringent oversight over Bio-Organics and was not completely aware of what Bio-Organics was recycling.

Applications for trials of “biological activators” (as permitted by our licence) were made. Some of those were permitted by DER. A subset of those was subsequently used in the process. After successful trials (i.e. no adverse environmental impact and improving the quality of our compost) select types of wastes were then adopted into the on-going process. This is sound practise in the pursuit of environmental benefit from recycling waste.

To be clear, *every single load of controlled waste received at the Oakford facility was reported to DER*. They knew of every truck’s quantity and type as it was reported to DER weekly, if not, monthly through their tracking system. There should be no surprises months or years later.

Regular communication and audits were also conducted. In a very rare case, a load of waste has been received in error and was picked up either by Bio-Organics or by DER. A non-conformance report was created and the matter resolved appropriately.

It was in November 2013 when DER first advised Bio-Organics that the licence conditions it issued regarding the use of biological activators, “should not be relied upon.” To make that clear, after a decade of operation without any problems, DER advised Bio-Organics that their licence is invalid because of their mistakes.

DER MISLED THE COMMUNITY

Two readily identifiable concerns have arisen from DER’s actions since mid-2013 and have been a catalyst for community concern:

DER Records

Secondly there is the critically important matter of DER's records which document what Bio-Organics has accepted at its facility.

It was only after a Dec-2014 FOI request that Bio-Organics became aware of DER internal records pertaining to controlled waste and immediately realised substantial and serious errors. In short, DER claim that Bio-Organics has continued to receive unauthorised waste (in type and volume) over the past 10 years.

Regardless of our written communication to DER that their records are substantially wrong, and should not be realised for publication, DER has released information that is not only wrong, but has caused unnecessary alarm in the community. The internal circulation of these false records might be at the heart of their heavy-handed approach to closing down Bio-Organics. Until mid-2013, Bio-Organics believed that it was in very good standing with DER.

What the DER did not advise this committee is that in 2014, they *retrospectively* CHANGED 10 years of controlled waste records. Changed records now alleged that 22 different types of controlled waste were received by Bio-Organics. I assure you that this simply not true.

Categorical evidence can be provided; namely 6,500 original tracking forms which prove exactly what controlled waste Bio-Organics has accepted. To be specific, we have physical evidence of every load, its type, size and date. In reality, Bio-Organics has received only 7 different types of waste. All of which were carefully screened for suitability and beneficiation in the compost process and to enhance the quality of the finished soil conditioner. Much of that "waste" is simply stormwater or groundwater.

Again – to be clear, a principle cause of concern and the subject of published articles is the specific waste Bio-Organics has allegedly received. The community have been completely misadvised regarding so-called toxic waste, dangerous waste and human waste which have simply never been accepted. Our process is selective and robust and we have never accepted anything which would compromise our very-high standard.

This serious matter is due to DER's retrospective changes to their records and unwillingness to consult with Bio-Organics over perceived problems. Regardless, there should never have been any surprises since DER's tracking system is maintained to be as close to real-time monitoring as possible. In fact controlled waste carriers cannot even take waste to Bio-Organics without logging onto DER's website and selecting Bio-Organics from the approved list of treatment facilities.

Any waste which was recycled by Bio-Organics is now simply going to other composters.

ACID SULPHATE SOIL

DER have stated that they had serious concerns about the remediation of Acid Sulphate soil. Such concerns have never been communicated to Bio-Organics. Our processes to remediate contaminated or infected soil has been impeccable and with the specific approval of DER. This includes the first-of-its-kind treatment of dieback infected soil from the Fiona Stanley Hospital.

DER fail to advise the committee that in their recent dealings with Bio-Organics and its neighbour Mr. Dempsey, that Mr. Dempsey has dumped an estimated 10,000 to 15,000 tonnes of his own Acid Sulphate Soil on his very lot he claims he has concern about – all without any controls or approval from any authority - effectively using his property as an unlicensed repository for waste. After this problem was highlighted, DER has also allowed that contaminated soil to be quietly shipped off to a residential development near a local primary school. Mr Dempsey's property is also the location on which the Shire has conducted a peer-discredited groundwater report (which has relied upon by DER).

DER also failed to mention that in 2013, water flowing onto our property was contaminated by a neighbouring poultry farm which grows chickens for Baiada. They were caught red-handed dumping highly poisonous chemicals onto the Jandakot Water Mound next to their chicken sheds as an unlicensed, unregulated chemical waste business. Such activity contaminated ground water and is a risk to human health.

GROUND WATER CONTAMINATION WITH NUTRIENTS

DER alleges ground-water contamination has occurred by the presence of nutrients.

Information about 'elevated' nitrogen was provided to DER by Bio-Organics in 2014. In conducting sampling of monitoring bores, all bores (both upstream and downstream of the operations) identified poor quality water in the superficial aquifer (as expected). One downstream bore had a high nitrogen count.

The DER was correct in stating that such a reading is not alarming. In fact, it is common for agriculture land (and land near rural industry such as poultry farms) to have high nutrient levels because farmers apply fertiliser. Whilst the landowner has provided evidence identifying specific fertiliser application adjacent the subject monitoring bore, a Contaminated Sites investigation currently underway will provide a scientific conclusion.

A community protest group has suggested that their health has been put at risk by Bio-Organics. Not only is nitrogen 'normal' in superficial (shallow) agricultural land, but water flows down-hill. Not hundreds of meters up hill where these neighbours live.

CONCLUSION

Bio-Organics believes the Committee should be informed of these issues concerning the relationship between Bio-Organics and DER.

Firstly, DER provided misinformation to the community

Secondly, DER has retrospectively, unilaterally, and incorrectly changed controlled waste records. Notwithstanding that DER have been informed by Bio-Organics of these substantial errors in their records, this erroneous information has been published. As of this date, DER remains unwilling to remedy the problem with their CW records.

Bio-Organics welcomes a formal parliamentary inquiry into these matters.

Yours Faithfully,

Benjamin Avila
Director
Bio-Organics Pty Ltd