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March 6, 2006

VIA HAND DELIVERY

Ms. LaDonna Castañuela
TCEQ Chief Clerk
12015 Park 35 Circle
Bldg. F, 1st Floor
Austin, TX 78767

Re: Response to Motion to Revoke Synagro of Texas-CDR, Inc. Permit
No. WQ0004674000

Dear Ms. Castañuela:

Synagro of Texas-CDR (Synagro) respectfully requests that the Texas Commission on Environmental Quality (TCEQ) affirmatively reject or simply refuse to accept for filing the petition to revoke the above-referenced permit. The TCEQ may refuse to accept the petition for filing for the reason that notice to the applicant was not provided as required by §305.66 of the TCEQ's rules. That section requires that the permit-holder be given fifteen days notice before a petition to revoke can be filed. Upon the conclusion of the fifteen day notice period, a petition to revoke is only appropriate if the alleged violation is significant and the permit-holder has not taken substantial steps to correct the alleged violation. The intent of that fifteen day notice period is to provide the permit-holder time to take action to correct whatever deficiency is alleged and therein to forestall the filing of the revocation petition. If the permit-holder acts to correct the deficiency within that fifteen day period, then the basis of the petition to revoke is mooted and the petition should not be filed or accepted for filing by the TCEQ.

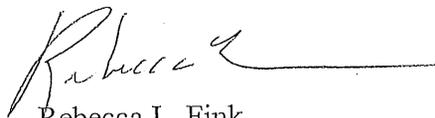
In this case, Synagro has submitted a minor amendment application to address the deficiency that was the basis of the petition to revoke; that is, to correct the soil nitrate input in the calculation of the agronomic loading rate and to reduce the agronomic loading rate on Field 3 based on the revised calculations. Field 3 is currently permitted to receive 8.3 tons/acre/year of biosolids. Synagro is seeking to amend its permit to reduce the allowable amount to 8.12 tons/acre/year. The revised calculations indicate no need to revise the agronomic loading rates for Fields 1, 2, or 4 as the newly calculated amounts are higher than those currently permitted. The amendment was filed well within fifteen days from when Synagro was first provided notice of the requestors' filing or intent to file a petition to revoke. In accordance with §305.66, therefore, the petition to revoke is inappropriate and should not be accepted for filing.

Section 305.66(g) of the TCEQ's rules provides in relevant part that "[b]efore denying, suspending, or revoking a permit under this section, the commission must find: (1) that a violation or violations are significant and that the permit holder or applicant has not made a substantial attempt to correct the violations...." In this case, neither of these conditions precedent are met. In addition to the fact that Synagro has already addressed the deficiency that was the basis of the petition to revoke by applying for a minor amendment, the deficiency was insignificant. First, the deficiency was so insignificant that the revised information results in no change to the relevant limiting parameter on three out of four fields and only a minor change (a reduction of 0.18 tons/acre/year) to the fourth field. Moreover, no land-application has taken place at this site on any of the fields.

The incorrect soil nitrate input in the calculations used in the original application is also insignificant for the reason that the calculations in the original application are historic and the actual land-application will occur at rates based on new calculations using current soil analyses. Specifically, §312.48(2)(B)(vii) of the TCEQ rules requires permittees to submit a revised "suggested agronomic application rate for the Class B sewage sludge" on a quarterly basis. Also, a Special Provision in the permit issued to Synagro requires that agronomic loading rates be recalculated on a regular basis to ensure that nutrient balances are not exceeded. Thus, the actual application rate will be calculated based on new soil analyses and calculations and the permitted rate will become a mere ceiling number. The only way Synagro would actually ever apply at the permitted rate is if loading rate calculations based on current soil test data yielded a rate at or higher than the permitted rate. This safeguard ensures that no potential for overloading the sites exists and further minimizes the significance of the error.

For the reasons explained herein and in accordance with the TCEQ's rules concerning petitions to revoke, Synagro requests that the TCEQ affirmatively reject or simply refuse to accept for filing the petition to revoke for the reason that the alleged deficiency has been addressed within the required notice period and therein mooted the petition. Additionally, Synagro reasserts that the erroneous input identified in the petition was insignificant and, therefore, not an appropriate basis for revocation.

Sincerely,



Rebecca L. Fink
Attorney for Synagro

cc: Service List

SERVICE LIST
Permit No. WQ0004674000

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