



December 9, 2021

Memorandum

To: Marshall Miller and Courtney E. Taylor

From: Kevin Poloncarz

Re: The Proposed Canna Rios Project's On-Site Composting Operation Requires Air District Permits

I. Background

Applicant Canna Rios, LLC applied for a land use permit (19LUP-00000-00116) for a cannabis cultivation operation in Santa Maria, California (APN 129-040-010) (the "Project"). Application materials indicate that the Project will involve growing and harvesting of cannabis.

From the application materials and the County's prior filings on this Project, Appellants Bien Nacido Vineyards *et al.* understand that the Project will feature a 0.76 acre compost and waste area. *See* Staff Report for the Appeal of the Canna Rios, LLC — Cannabis Cultivation Land Use Permit, Case Nos. 21APL-00000-00007, 21APL-00000-00008, and 19LUP-00000-00116 at §5.2. To date, however, there has been no analysis of the air emissions that this compost and waste area will generate.

We understand from the Board of Supervisors Agenda Letter prepared in anticipation of the December 14, 2021, hearing that the size of the compost and waste storage area has been reduced by the Applicant from 0.76 to 0.67 acres. *See* letter to Board of Supervisors from Lisa Plowman, Director, Planning and Development, subject: Case No. 20APL-00000-00027, Bien Nacido Vineyards, et al., Appeal of the Planning Commission Approval of the Canna Rios, LLC Cannabis Cultivation Project, Case No. 19LOP-00000-00116, Fifth Supervisorial District at 2.

II. The Composting Operation Requires an Authority to Construct and a Permit to Operate

Before a party can construct or operate a facility or contrivance "the use of which may cause the issuance of air contaminants," and which is not otherwise exempt, the party must obtain two permits from the Santa Barbara County Air Pollution Control District (SBCAPCD): an Authority to Construct, and a Permit to Operate. SBCAPCD Rule 201(D)–(E).

As Appellants have noted elsewhere, the originally proposed 0.76-acre compost and waste storage area would generate 3.54 tons per year of volatile organic compound (VOC) emissions, along with 0.04 tons per year of ammonia (NH₃) emissions. *See* Letter from Courtney E. Taylor to Santa

Barbara County Board of Supervisors, Dec. 7, 2021 at 5; *and* Exhibit 4 to Letter from Courtney E. Taylor. Based on these emissions estimates and the nature of this aspect of the Project, the Applicant must obtain an Authority to Construct and Permit to Operate for the on-site composting operation. Even with the size of the composting area reduced to 0.67 acres, its emissions will greatly exceed SBCAPCD's 1-ton per year exemption threshold. *See* SBCAPCD Rule 202(D)(7).

A. The Compost and Waste Area Does Not Qualify For Any Agricultural Exemption

Although the compost area is part of the same stationary source as the larger cannabis operation, the composting facility itself does not constitute an "agricultural operation."

SBCAPCD Rule 202(D)(3) exempts an "agricultural operation at a stationary source" from the obligation to obtain air permits if the agricultural operation emits less than 50 percent of the major source thresholds, i.e., 50 tons per year of any pollutant. *See* SBCAPCD Rule 102, def'n of "Major Stationary Source." The SBCAPCD defines "agricultural operations" as "the growing and harvesting of crops or raising of fowl or animals for the primary purpose of making a profit, providing a livelihood, or conducting agricultural research or instruction by an educational institution." SBCAPCD Rule 102, def'n of "Agricultural Operations." Critically, the SBCAPCD explicitly excludes from the definition "agricultural operations" "the processing or distribution of crops or fowl." *Id.* It follows, then, that management of the waste resulting from "the processing or distribution of crops"—like the "cannabis stalks, leaves, and other lower quality material" that will be managed at the compost and waste storage area here¹—does not constitute "agricultural operations."

Non-agricultural stationary sources are only exempt from SBCAPCD permitting requirements if they emit less than 1.00 ton of emissions per calendar year. *See* SBCAPCD Rule 202(D)(7). According to Appellants' calculation, the compost and waste storage area will emit in excess of that threshold: the initially proposed 0.76-acre composting of cannabis green-waste on site would have generated 3.54 tons per year of VOC emissions; even if emissions from the marginally smaller 0.67-acre compost and waste storage area are linear to the reduced acreage, the compost and waste storage area would still emit greater than 3 tons per year of VOC emissions. Accordingly, the on-site compost and waste storage area does not qualify for the exemption under SBCAPCD Rule 202(D)(7), and is therefore subject to SBCAPCD permitting requirements.

B. The Fact that the Composting Area May Constitute a Support Facility of the Cannabis Cultivation Activities Does Not Render the Agricultural Exemption Applicable to the Composting Operation

SBCAPCD defines a stationary source – following the U.S. Environmental Protection Agency's (EPA) definition under the federal Clean Air Act – as all emitting activities that belong to the same industrial grouping, are located on one or more contiguous properties, and are under common ownership or control. District Rule 102, def'n of "stationary source;" *compare* 40 C.F.R. §§ 51.165(a)(1)(i) and (ii); 51.166(b)(5) and (6), 52.21(b)(5) and (6), 70.2 and 71.2. The District's definition provides that "[p]ollutant emitting activities shall be considered as part of the same

¹ Exhibit 4 to the Letter of Courtney E. Taylor [Review of Canna Rios LLC Proposed Compost and Trucking Operations] at 2.

industrial grouping if they are part of a common production process,” and then defines “common operations” as those “which are related through dependent processes...” This is akin to what, under EPA’s rules, is known as a “support facility,” i.e., pollutant emitting activities that are considered part of the same stationary source, even if, as here, the first two digits of their Standard Industrial Classification codes are different, because they serve the other source. *See, e.g.*, letter from K. Cox, EPA Region III, to T. Breathwaite, Virginia Dep’t of Env’tl Qual, Jan. 10, 2012.²

However, qualifying as a support facility for agricultural operations does not subject the support facility to the same 50-ton per year exemption threshold that applies to agricultural operations. Indeed, if it did, then “processing and distribution of crops” would not be expressly excluded from the definition of “agricultural operations.” *See* SBCAPCD Rule 102, def’n of “Agricultural operations.” As another example, a 200-brake horsepower stationary diesel engine used for non-emergency power supply is not exempt from permitting obligations merely because it powers “agricultural operations,” such as an indoor growing operation. *See, e.g.*, SBCAPCD Rule 202(F)(1)(e); 202(F)(2)(6) (“[a]n internal combustion engine which powers an item of equipment identified as exempt in any other part of this rule is not exempt unless the engine qualifies for an exemption pursuant to this rule.”). Rather, the “support facility” concept in both the EPA’s and SBCAPCD’s respective rules functions, not to allow such support facilities to escape permitting obligations, but to assure that, where two parts of a common operation do not share the same industrial grouping, their emissions are combined for purposes of determining whether any applicable thresholds are exceeded.

In this case, it is clear that emissions from the on-site compost and waste area will exceed the 1 ton per year threshold established by SBCAPCD Rule 202(D)(7) and, accordingly, the Applicant must obtain an Authority to Construct and Permit to Operate for the cannabis waste management activities conducted in this area.

² <https://www.epa.gov/sites/default/files/2015-08/documents/gpc2012.pdf>