



County of San Diego

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MITIGATED NEGATIVE DECLARATION

PROJECT NAME: DEMLER MANURE PROCESSING FACILITY

RECORD ID: PDS2019-MUP-19-004

ENVIRONMENTAL LOG NO.: PDS2019-ER-19-09-001

**This Document is Considered Draft Until it is Adopted by the Appropriate
County of San Diego Decision-Making Body.**

This Mitigated Negative Declaration is comprised of this form along with the Environmental Initial Study that includes the following:

- a. Initial Study – Environmental Checklist Form
- b. Technical Studies and Reports as referenced

1. California Environmental Quality Act Mitigated Negative Declaration Findings:

Find, that this Mitigated Negative Declaration reflects the decision-making body's independent judgment and analysis, and; that the decision-making body has reviewed and considered the information contained in this Mitigated Negative Declaration and the comments received during the public review period; and that revisions in the project plans or proposals made by or agreed to by the project applicant would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur; and, on the basis of the whole record before the decision-making body (including this Mitigated Negative Declaration) that there is no substantial evidence that the project as revised will have a significant effect on the environment.

2. Required Mitigation Measures:

Refer to the attached Environmental Initial Study for the rationale for requiring the following measures:

GRADING PERMIT: (Prior to or at the time approval of any grading and/or improvement plans and issuance of any Grading or Construction Permits).

1. STRMWTR#1–STORMWATER MAINTENANCE DOCUMENTATION

INTENT: In order to promote orderly development and to comply with the [County Watershed Protection Ordinance \(WPO\) No.10410, County Code Section 67.801 et. seq.](#), the maintenance agreements shall be completed. **DESCRIPTION OF REQUIREMENT:**

- a. Process a Stormwater Facilities Maintenance Agreement (SWMA) to assure maintenance of the Category 2 Structural BMPs and provide security to back up the maintenance pursuant to the County Maintenance Plan Guidelines to the satisfaction of the Director of DPW and/or PDS. The SWMA shall be signed and notarized by the applicant and recorded by the County.

DOCUMENTATION: The applicant shall process the agreement forms with [PDS, LDR] and pay any deposit and applicable review fees. **TIMING:** Prior to approval of any grading or improvement plan or construction permit, prior to use of the property in reliance of this permit; execution of the recorded agreements and securities shall be completed. **MONITORING:** The [PDS, LDR] shall review the agreements/mechanisms for consistency with the condition and County Standards.

2. STRMWTR#2–EROSION CONTROL

INTENT: In order to Comply with all applicable stormwater regulations the activities proposed under this application are subject to enforcement under permits from the [State Construction General Permit, Order No. 2009-00090-DWQ](#), or subsequent order and the [County Watershed Protection Ordinance \(WPO\) No.10410, County Code Section 67.801 et. seq.](#), and all other applicable ordinances and standards for this priority project.

DESCRIPTION OF REQUIREMENT: The applicant shall maintain the appropriate on-site and offsite Best Management Practices pursuant to the approved Stormwater Quality Management Plan (SWQMP) and Erosion Control Plan including, but not limited to the erosion control measures, irrigation systems, slope protection, drainage systems, desilting basins, energy dissipators, and silt control measure.

- a. An agreement and instrument of credit shall be provided for an amount equal to the cost of this work as determined or approved by the [PDS, LDR], in accordance with the [County of San Diego Grading Ordinance Section 87.304](#). The cash deposit collected for grading, per the grading ordinance, will be used for emergency erosion measures. The developer shall submit a letter to [PDS, LDR] authorizing the use of this deposit for emergency measures.
- b. An agreement in a form satisfactory to County Counsel shall accompany the Instrument of Credit to authorize the County to unilaterally withdraw any part of or all the Instrument of Credit to accomplish any of the work agreed to if it is not accomplished to the satisfaction of the County PDS and/or DPW by the date agreed.

DOCUMENTATION: The applicant shall process an Erosion Control Plan and provide the letter of agreement and any additional security and/or cash deposit to the [PDS, LDR]. **TIMING:** Prior to approval of any grading or improvement plan or construction permit, and

prior to use of the property in reliance of this permit, the Erosion Control Plan shall be approved and the agreement and securities shall be executed. **MONITORING:** The [PDS, LDR] shall ensure that the Erosion Control Plan adequately satisfies the requirements of the conditions to potentially perform the required erosion control and stormwater control measures proposed on all construction and grading plans. [DPW, PDCI] shall use the securities pursuant to the agreement to implement and enforce the required stormwater and erosion control measures pursuant to this condition during all construction phases as long as there are open and valid permits for the site.

3. AQ#1- Fugitive Dust

INTENT: In order to mitigate for fugitive dust during construction activities.

DESCRIPTION OF REQUIREMENT: The project applicant or designee shall comply with the San Diego County Air Pollution Control District (SDAPCD) Rule 55 and County Code Section 87.428 (Grading Ordinance), and implement the following dust control measures during construction:

- a. Maintain at least 12 inches of freeboard, cover loads, or secure material by watering or treating in all haul/dump trucks entering or leaving the site with soil import/export material.
- b. Water construction areas between dozer/scrapper passes and on any unpaved roads within the project limits a minimum of two (2) times daily.
- c. Terminate grading activities in winds in excess of 25 miles per hour (mph).
- d. Use sweepers and water trucks to control dust and debris at public street access points and approach routes to construction sites.
- e. Stabilize dirt storage piles with chemical binders, tarps, fencing, or other suppression measures.
- f. Stabilize internal construction-roadways by paving, chip sealing or chemicals after rough grading.
- g. Enforce a 15-mph speed limit on unpaved surfaces.
- h. Hydroseed, landscape, or develop disturbed areas as quickly as possible and as directed by the County and/or SDAPCD to reduce dust generation.
- i. Visible roadway dust as a result of active operations, spillage from transport trucks, erosion, or track-out/carry-out shall be minimized by the use of track-out grates, gravel beds, or wheel-washing at each egress point and be removed at the conclusion of each workday when active operations cease, or every 24 hours for continuous operations. If a street sweeper is used to remove any track-out/carry-out, only respirable particulate matter (PM₁₀) -efficient street sweepers certified to meet the most current South Coast Air Quality Management District (SCAQMD) Rule 1186 requirements shall be used. The use of blowers for removal of track-out/carry-out is prohibited under any circumstances.

DOCUMENTATION: The applicant or designee shall comply with the Air Quality requirements of this condition. **TIMING:** The following actions shall occur throughout the duration of construction and grading. **MONITORING:** The [DPW, PDCI] shall make sure that the grading contractor complies with the Air Quality requirements of this condition. The [DPW, PDCI] shall contact the [DPLU, PCC] if the applicant fails to comply with this condition.

4. AQ#2-Construction Exhaust Emissions

INTENT: In order to mitigate for exhaust emissions during construction activities.

DESCRIPTION OF REQUIREMENT: The project shall comply with the following Air Quality measures:

- a. The project shall require the construction contractor to provide a construction fleet that uses heavy-duty diesel-powered equipment equipped with either EPA or California Air Resources Board (CARB) Tier 4 diesel engines. An exemption from these requirements may be granted by the County if the applicant documents that equipment with the required tier is not reasonably available and corresponding reductions in criteria air pollutant emissions are achieved from other construction equipment. Before an exemption may be considered by the County, the applicant shall be required to demonstrate that three construction fleet owners/operators in the San Diego Region were contacted and that those owners/operators confirmed Tier 4 equipment could not be located within the San Diego region.
- b. The project shall require the construction contractor to equip all heavy-duty diesel-powered construction equipment with diesel particulate filters (DPFs).
- c. Construction equipment shall be outfitted with best available control technology (BACT) devices certified by the California Air Resources Board. A copy of each unit's BACT documentation shall be provided to the County of San Diego at the time of mobilization of each applicable unit of equipment.

DOCUMENTATION: The applicant or designee shall comply with the Air Quality and Greenhouse Gas requirements of this condition. The applicant shall show compliance with this measure by providing the construction bid/estimate from the construction contractor that will be used. **TIMING:** Prior to approval of any grading and or improvement plans and issuance of any Grading or Construction Permits. **MONITORING:** The [DPW, PDCI] shall make sure that the grading contractor complies with the Air Quality requirements of this condition. The [DPW, PDCI] shall contact the [DPLU, PCC] if the applicant fails to comply with this condition.

5. AQ#3-Construction Architectural Coatings

INTENT: In order to reduce emissions of volatile organic compounds (VOC).

DESCRIPTION OF REQUIREMENT: According to SDAPCD Rule 67.0.1, the project shall use architectural coatings with a VOC content of 100 grams per liter (g/L) or less for exterior coatings and 50 g/L or less for interior coatings. **DOCUMENTATION:** The applicant shall comply with the Air Quality requirements of this condition. **TIMING:** The following action shall occur throughout the duration of the construction activities involving the application of architectural coatings. **MONITORING:** The [DLPU, BI] shall make sure that the construction contractor complies with the Air Quality requirement of this condition. The [DLPU, BI] shall contact the [PDS, PCC] if the applicant fails to comply with this condition.

BUILDING PERMIT: (Prior to approval of any building plan and the issuance of any building permit).

6. AQ#4-Odor Control

INTENT: In order to reduce odors to nearby receptors. **DESCRIPTION OF**

REQUIREMENT: According to San Diego County Animal Waste Processing Setback,

Zoning Ordinance Section 6902, the project shall adhere to a 1,000-foot setback from the nearest pool, tennis court, public playground or residential dwelling units. **DOCUMENTATION:** The applicant shall comply with the Air Quality requirements of this condition. **TIMING:** The following action shall occur throughout the duration of project operations. **MONITORING:** The [PDS, BPPR] shall verify that the building plans comply with the conditions..

7. AQ#5-Sustainable Design Features

INTENT: In order to promote project sustainability. **DESCRIPTION OF REQUIREMENT:** The project shall install the following sustainable design features or comply with relevant regulations:

- a. No natural gas use on-site.
- b. Install light emitting diodes (LED) fixtures only.

DOCUMENTATION: The applicant shall comply with the requirements of this condition. **TIMING:** Prior to approval of any building plan or the issuance of any building permit, these design measures shall be implemented on the building plans and landscape plans. **MONITORING:** The [PDS, BPPR] shall verify that the building plans comply with the conditions.

PRE-CONSTRUCTION GRADING AND/OR IMPROVEMENTS: *(Prior to any clearing, grubbing, trenching, grading, or any land disturbances.)*

8. BIO#1-RESOURCE AVOIDANCE [PDS, FEE X2]

INTENT: In order to avoid impacts to migratory birds and raptors, which are a sensitive biological resource pursuant to the Migratory Bird Treaty Act (MBTA), a Resource Avoidance Area (RAA), shall be implemented on all plans. **DESCRIPTION OF REQUIREMENT:** There shall be no brushing, clearing and/or grading such that none will be allowed within 300 feet of migratory bird nesting habitat and 500 feet of raptor nesting habitat during the breeding season of the migratory bird and raptor within RAA as indicated on these plans. The breeding season is defined as occurring between February 1 and August 31. The Director of PDS [PDS, PPD] may waive this condition, through written concurrence from the US Fish and Wildlife Service and the California Department of Fish and Wildlife, provided that no migratory birds or raptors are present in the vicinity of the brushing, clearing or grading as demonstrated by a survey completed no more than 72 hours prior to proposed grading or clearing. **DOCUMENTATION:** The applicant shall provide a letter of agreement with this condition; alternatively, the applicant may submit a written request for waiver of this condition. Although, no grading shall occur within the RAA until concurrence is received from the County and the Wildlife Agencies. **TIMING:** Prior to preconstruction conference and prior to any clearing, grubbing, trenching, grading, or any land disturbances and throughout the duration of the grading and construction, compliance with this condition is mandatory unless the requirement is waived by the County upon receipt of concurrence from the Wildlife Agencies. **MONITORING:** The [DPW, PDCI] shall not allow any grading in the RAA during the specified dates, unless a concurrence from the [PDS, PPD] is received. The [PDS, PPD] shall review the concurrence letter.

9. BIO#2-BURROWING OWL MONITORING [PDS, FEE X3]

INTENT: In order to prevent inadvertent disturbance to burrowing owl, a pre-construction burrowing owl survey shall be conducted within the project area. **DESCRIPTION OF REQUIREMENT:** The Applicant shall satisfy Mitigation Measure **MM BIO-2**, as described in the Biological Resource Letter Report. A County-approved biologist shall perform burrowing owl surveys within 72 hours of the start of any grading, clearing, and/or grubbing within and adjacent to the development area and the vicinity of any revegetation and restoration activities, including relocation sites. No disturbance may occur until concurrence on the survey result is received from the respective resource agencies (i.e. County, USFWS, and CDFW). If any active burrows are found, clearing shall not proceed until after consultation with County and Wildlife Agency staff, and implementation of any protective measures required. The burrowing owl pre-construction survey shall conform to the most current version of the [County of San Diego Report Format and Content Requirements: Biological Resources, including Strategy for Mitigating Impacts to Burrowing Owls in the Unincorporated County](#). **DOCUMENTATION:** The Biological Monitor shall prepare written documentation that certifies that the burrowing owl survey has been completed and that burrowing owls have been avoided. **TIMING:** Prior to any clearing, grubbing, grading, or any land disturbances, this condition shall be completed and approved. **MONITORING:** The [DPW, PDCI] shall not allow any grading, unless a concurrence from the [PDS, PPD] is received. The [PDS, PPD] shall review the concurrence letter.

DURING CONSTRUCTION: *(The following actions shall occur throughout the duration of the grading construction).*

10. NOISE#2–TEMPORARY CONSTRUCTION NOISE: [DPW, PDCI].

INTENT: In order to minimize temporary construction noise operations associated with the project subdivision and to comply with County Noise Ordinance 36.409. **DESCRIPTION OF REQUIREMENT:** The project shall comply with the following temporary construction noise control measures:

- a. Turn off equipment when not in use.
- b. Equipment used in construction should be maintained in proper operating condition, and all loads should be properly secured, to prevent rattling and banging.
- c. Use equipment with effective mufflers
- d. Configure traffic pattern to minimize the use of back up alarm.
- e. Equipment staging areas should be placed at locations away from noise sensitive receivers.
- f. Limiting hours of construction to normal weekday working hours (to the best extent possible).
- g. Comply with Noise Ordinance Sections 36.408, 409 and 410.

DOCUMENTATION: The applicant shall comply with the temporary construction noise measures of this condition. **TIMING:** The following actions shall occur throughout the duration of the grading construction. **MONITORING:** The [DPW, PDCI] shall make sure

that the grading contractor complies with the construction noise control measures of this condition. The [DPW, PDCI] shall contact the [PDS, PCC] if the applicant fails to comply with this condition.

OCCUPANCY: *(Prior to any occupancy, final grading release, or use of the premises in reliance of this permit).*

11. STRMWTR#3–VERIFICATION OF STRUCTURAL BMPs

INTENT: In order to promote orderly development and to comply with the [County Watershed Protection Ordinance \(WPO\) No.10410, County Code Section 67.801 et. seq.](#), verification of Structural BMPs shall be completed. **DESCRIPTION OF REQUIREMENT:** Complete a Structural BMP Verification Form as shown in Attachment 10 of the PDP SWQMP. **DOCUMENTATION:** The applicant shall process the Structural BMP Verification Forms with [DPW, PDCI] or [PDS, BLDG]. **TIMING:** Prior to any occupancy, final grading release, or use of the premises in reliance of this permit; execution of the Structural BMP Verification Form shall be completed. **MONITORING:** The [PDS, LDR] and [DPW, WPP] shall review the Structural BMP Verification Forms for consistency with the condition and County Standards.

12. STRMWTR#4–PROVISION OF STORMWATER DOCUMENTATION TO PROPERTY OWNER

INTENT: In order to promote orderly development and to comply with the [County Watershed Protection Ordinance \(WPO\) No.10410, County Code Section 67.801 et. seq.](#), stormwater documentation shall be provided to property owner. **DESCRIPTION OF REQUIREMENT:** Demonstrate that copies of the following documents are provided to the property owner and initial occupants:

- a. A copy of the project's approved SWQMP (with attached Operation & Maintenance Plan).
- b. A copy of project's recorded Maintenance Notification Agreement and/or Stormwater Facilities Maintenance Agreement and/or Private Road Maintenance Agreement showing the Structural BMPs pertaining to the property.
- c. Sample copies of the following:
 - 1) A Letter for Privately Owned Stormwater Treatment Control Best Management Practices Operation and Maintenance Verification.
 - 2) One Operation and Maintenance Verification Form for each type of Private Treatment Control BMP.

DOCUMENTATION: The applicant shall submit a letter stating that the above documentation has been submitted to the property owner and initial occupants. **TIMING:** Prior to any occupancy, final grading release, or use of the premises in reliance of this permit; provision of stormwater documents shall be completed. **MONITORING:** The [PDS, LDR] and [DPW, WPP] shall review the letter provided by the applicant for consistency with the condition and County Standards.

ONGOING: *(The following conditions shall apply during the term of this permit).*

13. NOISE#1–ON-GOING SOUND LEVEL COMPLIANCE: [PDS, CODES] [OG]

INTENT: In order to reduce the impacts of the exterior sound levels from the project site on the adjacent parcels and to comply with the County of San Diego Noise Ordinance 36.404 the site shall comply with the requirements of this condition. **DESCRIPTION OF REQUIREMENT:** The project shall conform to the following requirements: Major Use Permit associated activities related to the Manure Processing Facility shall comply with the one-hour average sound level limit property line requirement pursuant to the County Noise Ordinance, Section 36.404. **DOCUMENTATION:** The property owner(s) and applicant shall conform to the ongoing requirements of this condition. Failure to conform to this condition may result in disturbing, excessive or offensive noise interfering with a person's right to enjoy life and property and is detrimental to the public health and safety pursuant to the applicable sections of Chapter 4. **TIMING:** Upon establishment of the use, this condition shall apply for the duration of the term of this permit. **MONITORING:** The [PDS, CODES] is responsible for enforcement of this permit.

The following Grading and or Improvement Plan Notes shall be placed on the Preliminary Grading Plan and made conditions of the issuance of said permits. An email or disc will be provided with an electronic copy of the grading plan note language.

NOISE ORDINANCE COMPLIANCE: In order to comply with the [County Noise Ordinance 36.401](#) et seq. and the Noise Standards pursuant to the General Plan Noise Element (Table N-1 & N-2), the property and all of its uses shall comply with the approved plot plan(s), specific permit conditions and approved building plans associated with this permit. The property owner and permittee shall conform to the approved plot plan(s), specific permit conditions, and approved building plans associated with this permit as they pertain to noise generating devices or activities. If the permittee or property owner chooses to change the site design in any way, they must obtain approval from the County for a Minor Deviation or a Modification pursuant to the County of San Diego Zoning Ordinance.

ORDINANCE COMPLIANCE NOTIFICATIONS: The project is subject to, but not limited to the following County of San Diego, State of California, and U.S. Federal Government, Ordinances, Permits, and Requirements:

STORMWATER ORDINANCE COMPLIANCE: In order to Comply with all applicable stormwater regulations the activities proposed under this application are subject to enforcement under permits from the [San Diego Regional Water Quality Control Board \(SDRWQCB\)](#) and the County of San Diego Watershed Protection, Stormwater Management, and Discharge Control [Ordinance No. 10410](#) and all other applicable ordinances and standards for the life of this permit. The project site shall be in compliance with all applicable stormwater regulations referenced above and all other applicable ordinances and standards. This includes compliance with the approved Stormwater Management Plan, all requirements for Low Impact Development (LID), Hydromodification, materials and wastes control, erosion control, and sediment control on the project site. Projects that involve areas 1 acre or greater require that during construction the property owner keeps the Storm Water Pollution Prevention Plan (SWPPP) onsite and update it as needed. The property owner and permittee shall comply with the requirements of the stormwater regulations referenced above.

LOW IMPACT DEVELOPMENT NOTICE: The San Diego Regional Water Quality Control Board (SDRWQCB) issued a new Municipal Stormwater Permit under the National Pollutant Discharge Elimination System (NPDES). The requirements of the Municipal Permit were implemented beginning in May 2013. *Project design shall be in compliance with the new Municipal Permit regulations.* The Low Impact Development (LID) Best Management Practices (BMP) Requirements of the Municipal Permit can be found at the following link:

[http://www.sandiegocounty.gov/content/dam/sdc/dpw/WATERSHED_PROTECTION PROGRAM/susmppdf/lid_handbook_2014sm.pdf](http://www.sandiegocounty.gov/content/dam/sdc/dpw/WATERSHED_PROTECTION_PROGRAM/susmppdf/lid_handbook_2014sm.pdf)

The County has provided a LID Handbook as a source for LID information and is to be utilized by County staff and outside consultants for implementing LID in our region. See link below.
<http://www.sdcounty.ca.gov/dplu/docs/LID-Handbook.pdf>

DRAINAGE: The project shall be in compliance with the County of San Diego [Flood Damage Prevention Ordinance](#) No. 10091, adopted December 8, 2010.

GRADING PERMIT REQUIRED: A grading permit is required prior to commencement of grading when quantities of excavation or fill results in the movement of material exceeding 200 cubic yards or eight feet (8') in vertical height of cut/fill, pursuant to [Section 87.201 of Grading Ordinance](#).

CONSTRUCTION PERMIT REQUIRED: A Construction Permit and/or Encroachment Permit are required for any and all work within the County road right-of-way. Contact PDS Construction/Road right-of-way Permits Services Section, (858) 694-3275, to coordinate County requirements. In addition, before trimming, removing or planting trees or shrubs in the County Road right-of-way, the applicant must first obtain a permit to remove plant or trim shrubs or trees from the Permit Services Section.

EXCAVATION PERMIT REQUIRED: An excavation permit is required for undergrounding and/or relocation of utilities within the County right-of-way.

TRANSPORTATION IMPACT FEE: The project is subject to County of San Diego Transportation Impact Fee (TIF) pursuant to [County TIF Ordinance number 77.201 – 77.223](#). The Transportation Impact Fee (TIF) shall be paid. The fee is required for the entire project, or it can be paid at building permit issuance for each phase of the project. The fee is calculated pursuant to the ordinance at the time of building permit issuance. The applicant shall pay the TIF at the [PDS, LD Counter] and provide a copy of the receipt to the [PDS, BD] at time of permit issuance.

NOTICE: The subject property may contain wetlands, a lake, a stream, and/or waters of the U.S. which may be subject to regulation by State and/or federal agencies, including, but not limited to, the Regional Water Quality Control Board, U.S. Army Corps of Engineers and the California Department of Fish and Wildlife. It is the applicant's responsibility to consult with each agency to determine if a permit, agreement or other approval is required and to obtain all necessary permits, agreements or approvals before commencing any activity which could impact the wetlands, lake, stream, and/or waters of the U.S. on the subject property. The agency contact information is provided below.

U.S. Army Corps of Engineers: 6010 Hidden Valley Rd, Suite 105, Carlsbad, CA 92011-4219; (858) 674-5386; <http://www.usace.army.mil/>

Regional Water Quality Control Board: 9174 Sky Park Court, Suite 100, San Diego, CA 92123-4340; (858) 467-2952; <http://www.waterboards.ca.gov/sandiego/>

California Department of Fish and Wildlife: 3883 Ruffin Rd., San Diego, CA 92123; (858) 467-4201; <http://www.dfg.ca.gov/>

ADOPTION STATEMENT: This Mitigated Negative Declaration was adopted, and above California Environmental Quality Act findings made by the:

on _____

Bronwyn Brown, Planning Manager
Project Planning Division

DV:BB:at