



## Minnesota Pollution Control Agency

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August 29, 2012

TO: INTERESTED PARTIES

RE: Full Circle Organics/Good Thunder Compost Facility-Approval of Findings of Fact, Conclusions of Law, and Order to Deny Request for a Contested Case Hearing, and to Issue the Solid Waste Permit No. SW-662.

On August 27, 2012, the Minnesota Pollution Control Agency (MPCA) Citizens' Board voted to approve the Findings of Fact, Conclusions of Law, and Order approving the issuance of the Solid Waste Permit No. SW-662 to Full Circle Organics/Good Thunder Compost Facility near Good Thunder, Minnesota. The Findings of Fact, Conclusions of Law, and Order document concludes that the criteria in Minn. R. 7000.1900 for ordering a contested case hearing has not been met and the decision to issue the Solid Waste Permit satisfied the requirements of Minnesota rules and federal law.

We appreciate the time and effort of those who submitted comments on the Solid Waste Permit for the Full Circle Organics/Good Thunder Compost Facility.

Sincerely,

A handwritten signature in black ink, appearing to read "John L. Stine".

John Linc Stine  
Commissioner

JLS/GK:cmbg

**STATE OF MINNESOTA  
MINNESOTA POLLUTION CONTROL AGENCY**

**IN THE MATTER OF THE CONTESTED CASE HEARING  
REQUEST AND PROPOSED ISSUANCE OF  
SOLID WASTE PERMIT NO. SW-662  
FOR THE FULL CIRCLE ORGANICS/GOOD THUNDER COMPOST FACILITY  
IN LYRA TOWNSHIP, BLUE EARTH COUNTY, MINNESOTA**

**FINDINGS OF FACT  
CONCLUSIONS OF LAW  
AND ORDER**

**FINDINGS OF FACT**

The above-entitled matter came before the Minnesota Pollution Control Agency (MPCA) Citizens' Board at a regular meeting held in St. Paul, Minnesota on August 27, 2012. Based on the MPCA staff review, comments and information received during the comment period, and other information in the record of the MPCA, the MPCA hereby makes the following Findings of Fact, Conclusions of Law, and Order:

**FACILITY PERMIT HISTORY**

Overview

1. On December 21, 2011, the MPCA received an application to construct and operate a source separated compost facility from Full Circle Organics, LLC ("Full Circle"). The property is located in Lyra Township, Blue Earth County, Minnesota, on 10 acres owned by MFS Farms, Inc. (MFS). The proposed permittee and operator is Full Circle Organics, LLC. The facility capacity is proposed as 110 tons per day, or 25,000 tons per year, of source-separated compostable material (SSCM). SSCM is waste that can be composted and which is separated from other waste, such as plastic, glass, or metal, by the generator for the purpose of composting. See Minn. Stat. § 115A.03, subd. 32a. Sources of SSCM include food waste (both liquid and solid), paper waste, garden waste, and animal bedding. The permittee proposes mixing yard waste and wood chips with the SSCM.
2. The facility is proposed to be permitted as a solid waste compost facility under Minn. R. 7035.2836, subps. 4-7, and not a yard waste compost facility, although the material that will be composted is more limited than material typically accepted at a solid waste compost facility and will include yard waste. The requirements of subdivisions 4 to 7 are more stringent, and include a liner under the active composting area.
3. Compost material will be received in the mixing building, and combined with yard waste and other organic material until the appropriate blend is reached. The mixing building will be constructed with a concrete floor, doors, fans, and a biofilter for odor control. Once the batch reaches 55 degrees Celsius (131 degrees Fahrenheit) in the mixing building, the batch will be relocated to the composting pad outdoors. Liquid food waste will be stored in a 20,000-gallon underground concrete storage tank. Liquid from the tank will be used in the mixing process and the active composting process. Excess liquid from the mixing process will be collected in a 20,000-gallon underground concrete leachate storage tank, and reused in the mixing process.
4. The composting pad was initially designed with a clay liner topped with Class 5 aggregate mix. However, the permittee has decided they can more effectively operate the facility if the surface of the active compost pad is asphalt instead.

5. Once the compost is placed on the active compost pad, It will remain there until It has completed the active compost process (i.e., process to further reduce pathogens), and reaches maturity. It will then be screened and stored on the final product storage pad.
6. All stormwater from the active compost pad will be directed to a pond designed to manage back-to-back 100-year, 24-hour storm events. No discharge is designed for this pond. Water will be removed from this pond for use in the composting process. If water levels exceed established storage and the water cannot be use, the permittee will be required to manage the water through a method other than discharge.
7. When compost has reached maturity, it will be relocated to the finished compost pad. Stormwater from the finished compost pad is directed to a stormwater pond on the north side of the facility. The discharge from this pond will be directed to a tile line and ditch south of the facility. The ditch drains to an unnamed creek, then west, ultimately into the Maple River, approximately 4,500 feet from the project area.

#### Permitting History

8. On December 21, 2011, the MPCA received an application to construct and operate a source separated compost facility from Full Circle Organics, LLC.
9. In February 2012, Full Circle revised the permit application to incorporate MPCA staff's technical comments.
10. In May 2012, the permit application was further revised. The application was modified to relocate the facility 600 feet east. This modification was made to ensure that the facility was located as far away as possible from all occupied residences.

#### Environmental Review

11. The proposed project does not trigger a mandatory requirement for the preparation and completion of an Environmental Assessment Worksheet (EAW).
12. A petition for completion of an EAW was filed with the Environmental Quality Board (EQB) on July 23, 2012, with regard to this project. The EQB assigned the MPCA as the Responsible Governmental Unit for the project, with the responsibility of determining whether to grant or deny the petition for completion of an EAW. At its regularly-scheduled meeting on August 27, 2012, the MPCA denied the petition for completion of an EAW for the project.

#### **PROPOSED PERMIT**

13. This is a proposed facility; therefore there is no existing permit. The proposed permit is being presented to the Board for approval of issuance.

### **PUBLIC NOTICE OF PERMITS AND PUBLIC COMMENTS**

14. In accordance with the requirements of Minn. R. 7001.0100, the MPCA Commissioner prepared a draft permit and gave the public 30 days notice and opportunity to comment on the draft permit. The permit was on public notice starting on May 10, 2012.
15. Notice of the MPCA's intent to issue the permit was mailed to landowners within ¼ mile of the proposed facility, and the notice and the draft permit was made available for review on the MPCA website at [www.pca.mn.us](http://www.pca.mn.us).
16. On May 17, 2012, the MPCA staff also participated in a public informational meeting in Good Thunder, Minnesota, at which the permittee presented information regarding the proposed composting facility to approximately 35 people in attendance.
17. Prior to the meeting, MPCA staff met with a few landowners at one of their residences located near the proposed facility to discuss their concerns.
18. MPCA staff met additionally with one of the residents at their residence located near the proposed facility for approximately 3 hours on June 8, 2012, to discuss their concerns.
19. The public notice period ended at 4:30 p.m. on June 11, 2012. The public notice period was extended for two parties an additional week (ending at 4:30 p.m. on June 18, 2012), because an incomplete permit application had been provided to them for review during the public notice period.
20. The MPCA staff received 8 written comment letters regarding the draft permit (Appendix A), and one written petition on behalf of five individuals for a Contested Case Hearing (Appendix C).
21. Additional information to revise the permit application was submitted the week of July 9, 2012, to reflect design changes related to the active compost pad related to asphalt surfacing and the addition of a valve to control discharges from the non-contact stormwater pond.
22. The MPCA staff has prepared responses to all comments received during the public comment period. The MPCA responses to comments received are attached and hereby incorporated by reference as Appendix B to these findings.
23. There were twelve major areas of concern expressed in the comments: stormwater runoff (wetlands), facility operations (odor, vector control, dust and debris), roads (traffic issues), the public notice process, land use of farmland, volume of material managed on site, training, storage of liquid wastes, building plans, water well information, unhealthy conditions from facility, and oily and flammable wastes in storage tanks.
24. These comments and the MPCA's response to each of them are discussed in the Response to Comments (Appendix B). In general, the MPCA finds that the issues raised by commenters are addressed by design and operating conditions proposed in the application.

25. In response to comments received, the following changes were incorporated into the permit as special operating conditions:
- The permittee shall only turn windrows between the hours of 8 AM and 5 PM Monday through Friday, and not on weekends or holidays. The permittee shall not turn windrows except when wind speed and barometric pressure will dissipate odors, and the wind direction is other than to the northwest. The permittee shall not turn windrows during periods of barometric pressure inversions that would trap odors in the lower levels of the atmosphere.
  - The permittee shall submit design plans to the MPCA and for review and approval within 60 days of issuance of this permit. Following approval of the design plans by MPCA, the permittee shall install and maintain a biofilter to control odors from the mixing building in accordance with the approved plans. The biofilter must be constructed at the same time as the processing building.
  - The permittee shall submit design plans to install a valve to control stormwater discharges from the non-contact stormwater pond within 60 days of the issuance of this permit and shall install the valve when the stormwater pond is constructed. The permittee shall not discharge surface water from the non-contact stormwater pond if localized ponding in the field south of the facility is occurring, until the ponding dissipates.
  - The permittee shall submit a revised landscaping plan that includes the installation of a perimeter fence, berm, and trees on top of the berm for review and approval by the MPCA. The permittee shall construct the approved landscaping features prior to operation of the facility.
26. The MPCA finds that the restriction will minimize potential nuisance conditions related to odor. The MPCA notes that windrow turning will typically occur every 3 to 5 days for each batch. The permit will ensure that the turning operation is not conducted when the wind will direct odors in the direction of the closest neighbor.
27. Additionally, Full Circle has proposed implementing a Stakeholder's Committee. The purpose of the committee is to address comments and/or complaints about the facility. The committee will meet on a bi-annual basis, and be comprised of an operator, hauler, customer, and one area resident.

#### REQUEST FOR A CONTESTED CASE HEARING

28. The petitioners submitted a petition for a contested case hearing on the Solid Waste Permit on June 18, 2012.

#### EVALUATION OF THE REQUEST FOR A CONTESTED CASE HEARING

29. The criteria on which the MPCA evaluates a petition for a contested case hearing are specified in Minn. R. 7000.1900, subp. 1, which states:

**Subpart 1. Board or commissioner decision to hold contested case hearing.**

The board or commissioner must grant the petition to hold a contested case hearing or order upon its own motion that a contested case hearing be held if it finds that:

- A. there is a material issue of fact in dispute concerning the matter pending before the board or commissioner;
- B. the board or commissioner has the jurisdiction to make a determination on the disputed material issue of fact; and
- C. there is a reasonable basis underlying the disputed material issue of fact or facts such that the holding of a contested case hearing would allow the introduction of information that would aid the board or commissioner in resolving the disputed facts in making a final decision on the matter.

All three criteria must be satisfied for the MPCA to grant a petition for a contested case hearing.

- 30. In order to satisfy the first standards of this test, Minn. R. 7000.1900, subp. 1(A), the hearing requester must show there is a material issue of fact in dispute. A fact is material if its resolution will affect the outcome of the case. O'Malley v. Ulland Brothers, 540 N.W.2d 889, 892 (Minn. 1996).
- 31. As for the second standard, Minn. R. 7000.1900, subp. 1(B), the requester must show that the MPCA has jurisdiction or authority to make a determination on the material factual issues. "Agencies are not permitted to act outside the jurisdictional boundaries of their enabling act." Cable Communications Board v. Nor-West Cable, 356 N.W.2d 658, 668 (Minn. 1984). Therefore, each issue in the contested case request has to be such that it is within the MPCA's authority to resolve.
- 32. Finally, under Minn. R. 7000.1900, subp. 1(C), the requester has the burden of demonstrating the existence of material facts that would aid the MPCA before the requester is entitled to a contested case hearing. Matter of Solid Waste Permit for the NSP Red Wing Ash Disposal Facility, 421 N.W.2d 398, 404 (Minn. Ct. App. 1988). The Minnesota Supreme Court has recognized that to meet this standard, "(i)t is simply not enough to raise questions or pose alternatives without some showing that evidence can be produced which is contrary to the action proposed by the (MPCA)." In the Matter of Amendment No. 4 to Air Emission Facility Permit, 454 N.W.2d 427, 430 (Minn. 1990).
- 33. The MPCA evaluated the request for a contested case hearing by examining each of the issues raised in the Petitioner's Petition, Appendix C, to determine if each of the three required criteria in Minn. R. 7000.1900, subp. 1 is met. In general, the MPCA finds that although the contested case petition raises questions and in one case poses an alternative, the petition does not identify any specific changes that it believes should be made to the permit. The petition does not identify any evidence or testimony that the petitioners would introduce at hearing. The petition therefore fails to meet the standard for the contents of a contested case petition as established in Minn. R. 7000.1800, subp. 2.

#### THE MPCA FINDINGS WITH RESPECT TO EACH OF THESE CRITERIA

- 34. Petition Issue 1 – "We would like to discuss the issue of placing an industrial facility of this size in an agricultural area and the environmental issues involved with the activity."
- 35. The Response to Comments (Appendix B), Response to Comment 5 addresses that the facility location does not violate MPCA solid waste rules. Insofar as this comment raises issues with regard to local zoning, the MPCA lacks jurisdiction to resolve this issue. Because the siting of the facility complies with MPCA rules and the MPCA lacks jurisdiction over local zoning issues, the MPCA finds

that this issue fails to meet the standard for granting a contested hearing under Minn. R. 7001.0190, subp. 1, item B.

36. Petition Issue 2 - "We would like to discuss misinformation given to the MPCA in the process of applying for this permit. This should be taken into consideration if the decision is made to allow this permit."
37. The MPCA finds that the petition states a concern about information that the MPCA may have relied on in its decision to support issuance of this permit, but the petition fails to identify what the misinformation was, or how that information would have affected the conditions in the permit or the decision to issue the permit. The petition also fails to specify how the information, if corrected, would result in a changed condition in the permit or affect the decision to issue the permit. As a result, the MPCA finds that this issue does not raise a material factual dispute concerning a term or condition of the permit and it is unsupported by evidence and therefore fails to meet the standard for a contested case hearing. The issue does not satisfy the criteria of Minn. R. 7000.1900, subp. 1, Items A and C.
38. Petition issue 3 - "We would like to discuss the lack of study that has gone into the choice for the location of this site. We would like to request an EAW or EIS be done before this permit is allowed to protect the area creeks, watersheds, rivers, wetland and surrounding residents."
39. The process for requesting an EAW or EIS is established in Minn. R. ch. 4410. This project does not meet any mandatory category for an EAW or EIS. A petition for an EAW was submitted to the EQB on July 23, 2012, pursuant to Minn. Stat. § 116D.04, subd. 2a(c). The EQB determined that the MPCA was the Responsible Governmental Unit to review the EAW petition. The MPCA denied the petition at the August 28, 2012, board meeting.
40. The MPCA finds that the petition states a concern about information on local water bodies, but does not raise a factual dispute concerning a material term or condition of the permit or support the concern with evidence supporting that there is a reason to be concerned. As a result, the MPCA finds that the issue fails to meet the criteria for ordering a contested case and does not satisfy the criteria of Minn. R. 7000.1900, subp. 1, Items A and C. MPCA notes that, as summarized in Response to Comment 1, the record contains information that supports the fact that the facility will have no impact on area creeks, watersheds, rivers, and wetlands. This is in part due to the fact that less surface water will flow from the same area, and less water will be transported via tile lines, than is occurring presently. The surface water that could be discharged from one of two ponds on site will not come in contact with immature compost, and should therefore not have the potential to impact surface waters it comes in contact with. The water that gets collected in the pond will be used to add moisture to compost windrows. A condition has been added to the permit to install a valve to the discharge outlet, so that the facility can pump water from the pond for internal use. The condition will also state that surface water from the pond must not be discharged if ponding issues are occurring in the field south of the facility where periodic ponding has been known to occur. The MPCA does find that there will not be any negative impact to the area creeks, watersheds, rivers and wetlands as a result of the issuance of this permit.
41. Petition Issue 4 - "We would like to discuss the building plans and testing results submitted by MFS, Full Circle Organics, and MFRA. Too many issues are not being addressed and there are not enough

measures being taken to protect the surrounding land and residents. More precautions need to be required of MFS and Full Circle Organics.”

42. The Response to Comments (Appendix B) outlines the permit conditions that will ensure that the operation of the facility will be protective to the surrounding land and residents. The permit will require the operator to collect contact surface water, and to control dust, odor, litter, and vectors. The facility is located such that it is the maximum distance from surrounding land owners, to minimize any impacts to nearby landowners. The MPCA is not sure which testing results the petitioners refer to and thus is not in a position to comment on this aspect of the issue.
43. The petitioners fail to identify any specific issues with the building plans or testing results that would affect the conditions of the permit, and petitioners fail to identify what, if any, permit conditions should be changed.
44. The MPCA finds that the petition states a concern, but does not raise a material factual dispute concerning a term or condition of the permit. As a result, the MPCA finds that the issue fails to meet the criteria for ordering a contested case and does not satisfy the criteria of Minn. R. 7000.1900, subp. 1, Items A and C.
45. Petition issue 5 - “We would like to discuss the location and the lack of any natural buffers as this sits in the middle of an open field with high winds. We would like to address the effects on this on the area land and residents. We submit there are better locations on MFS owned land for this project that would lessen the impact and offer more protection for surrounding neighbors. This area would also allow for a more controlled composting process with natural wind buffers with trees on three sides surrounding the site.”
46. The MPCA finds that the location of the facility on the property could be a material issue of fact with regard to the permit, and acknowledges that the petitioners have identified a potential alternative location for the facility on the property. However, the MPCA finds that the assertion in the petition does not correctly state the facts with regard to the design of the facility and that the petition is not supported by any evidence that suggests that the assertion that the petitioners make (that a better location is available) is correct.
47. The location of the facility in relation to neighbors was an issue of concern to the MPCA and to the project proposer. As a result, (as discussed in the Response to Comment 11) the proposed permittee relocated the facility 600 feet to the east from original plans so that it would be more centrally located, creating greater separation distances to all surrounding landowners. The MPCA finds that, although the location alluded to in the petition has a natural buffer of trees, it would not provide a greater separation distance to landowners than the current position, and would actually move the facility much closer to two other nearby landowners. As a result, the MPCA concludes that this aspect of the comment is not well supported by a basis in fact.
48. Moreover, as noted in the Response to Comment 2.2, Full Circle is required by the permit to install a perimeter fence, construct a perimeter berm, and plant trees on top of the berm. All these measures will help disrupt wind flow across the site.



49. Because the facility will not be located "in the middle of a field with open winds," the MPCA finds that the issue raised by the petitioners is not supported by a reasonable basis underlying the disputed material issue of fact or facts such that the holding of a contested case hearing would allow the introduction of information that would aid the board or commissioner in resolving the disputed facts in making a final decision on the matter. As a result, this issue is not suitable for resolution in a contested case hearing and the petition does not satisfy criterion A of Minn. R. 7000.1900, subp. 1, item C.
50. Petition Issue 6 - "We would like to discuss the lack of general study or knowledge on the part of MFS and Full Circle Organics in regards to the entire project. We question the ability of those entities to manage a facility of this size and the extreme lack of experience in the composting field."
51. The Response to Comments (Appendix B), Response to Comment 7 addresses the concern with the lack of training and experience by facility staff. Although Minnesota rules do not require a certification be obtained, the rules require solid waste management facility personnel successfully complete a program of classroom instruction or on-the-job training. The program must prepare facility personnel to maintain compliance with rules associated with the compost facility. See Minn. R. 7035.2545.
52. The MPCA finds that the operation and training program at Full Circle will be managed by an operator with over 19 years of composting experience. He was previously an operator at another source separated compost facility located in Hutchinson, MN. This individual will operate the facility.
53. Because the Petition does not address a specific issue with regard to the experience of the operator of the permitted facility, the MPCA finds that while the petition states a concern, it does not raise a material factual dispute concerning a term or condition of the permit satisfying the criteria of Minn. R. 7000.1900, subp. 1, Items A and C.
54. Petition Issue 7 - "We would like to discuss the issue of public health and sensitive receptors. We would like to address the toxins, bacteria and pathogens emitted during the composting process and the long term effects to the human body."
55. The Response to Comments (Appendix B), Response to Comment 2.2 addresses the concern of controlling dust from the facility as it relates to sensitive receptors. A condition has been added to the permit that windrow turning will not be done if the wind direction is to the northwest toward sensitive receptors. In addition, as noted in Response to Comment 11, the facility was relocated 600 feet to the east from original plans so that it would be more centrally located creating greater separation distances to all surrounding landowners. Studies reviewed by MPCA staff indicate in most cases that dust, bacteria, and mold spores reach background levels 650 to 850 feet from the site. The setback distance to nearby homeowners is over 1000 feet for all residences.
56. The MPCA finds that the petition states a concern, but does not raise a material factual dispute concerning a term or condition of the permit. The petition is not supported by any evidence that the composting process at the facility will result in compost containing pathogens, or other emissions or discharges containing pathogens that have the potential to impact local residents. The petition fails to identify any changes to the permit that the petitioners believe would alleviate the

issues that they reference. As a result, the MPCA finds that the issue does not satisfy the criteria in Minn. R. 7000.1900, subp. 1, Items A and C.

57. Permit Issue 8 - "We would like to discuss the issue regarding loss to surrounding residents. Our land value will be severely decreased resulting in some cases financial devastation. When we have brought question to others we have been told this decision was made at the county level because it was good for most even though it harmed some. Where is the morality in the fact that everyone, MFS, Full Circle Organics, county and township will financially benefit and others will be financially ruined? Where are the considerations for the civil rights of the few?"
58. The MPCA views this issue as related to local zoning. In general, the impact of a facility on property values is not a criteria that the MPCA can consider when deciding whether to issue a permit. The MPCA must confine its consideration to whether the facility can be permitted under statutory and rule criteria pertaining to its environmental impacts. Because the siting of the facility complies with MPCA rules and the MPCA lacks jurisdiction over local zoning issues, the MPCA finds that this issue fails to meet the standard for granting a contested hearing under Minn. R. 7001.0190, subp. 1, item B.
59. Petition issue 9 - "We would like to discuss the MPCA public notice response time and the fact we had extreme issues getting the public information to pose a educated response as it was not on the website as we were told it would be until almost 2 weeks later when we called and complained. It was only through the efforts of Sherri at the MPCA that we were finally able to get the information, but even with the extra week they extended this only left 9 days to read and study the overwhelming amount of information before us."
60. This issue constitutes a procedural issue, and does not go to the terms of the permit or the MPCA's basis to issue the permit. The MPCA does not believe that the difficulties that the petitioners experienced getting information about the proposed facility (beyond the public notice and draft permit) rise to the level that this action should be delayed. A request for a copy of the permit application was received on May 29<sup>th</sup>, 2012. A copy was immediately made available and picked up on May 31, 2012. MPCA staff was notified that the copy was incomplete on June 1, 2012. MPCA staff took measures to provide the missing information on June 1, 2012. On June 6, 2012, MPCA staff was notified that the requestor still did not have all of the missing information. A complete copy of the application was provided to the requestor on June 7, 2012. As noted above, extra time was granted to submit comments as a result of the copy issues.
61. The MPCA does not scan and place the permit file online during a public notice period. Only the public notice and draft permit are placed online. Persons interested in reviewing more detailed information about the facility are free to review the MPCA's file upon request.
62. Petition issue 10 - "We would also like to address the Good Neighbor policy and what has been taking place in our community as a direct result of this permit application process. We will show that MFS has already shown they are and have not been good neighbors in this process. We request this behavior be taken into consideration and submit that this will only get worse if this project is permitted."

63. The MPCA does not have a “Good Neighbor” policy per se and thus is not sure what the commenters are referencing. The MPCA hopes that its permittees are “good neighbors” but is limited to ensuring that all terms and conditions of its permit are complied with. The MPCA finds that the petition states a concern, but does not raise a material factual dispute concerning a term or condition of the permit. The petition as to this point does not satisfy the criteria of Minn. R. 7000.1900, subp. 1, Items A and C.
64. The MPCA finds that none of the issues presented in the petitioners’ petition for a contested case hearing satisfies the criteria of Minn. R. 7000.1900 and that the petition should be denied.

### **FINAL DETERMINATION ON ISSUANCE OF THE PERMIT**

65. The MPCA’s decision to issue the proposed permit is governed by its permit rule, Minn. R. 7001.0140, which provides:

#### **7001.0140 FINAL DETERMINATION.**

##### **Subpart 1. Agency action.**

Except as provided in subpart 2, the agency shall issue, reissue, revoke and reissue, or modify a permit if the agency determines that the proposed permittee or permittees will, with respect to the facility or activity to be permitted, comply or will undertake a schedule of compliance to achieve compliance with all applicable state and federal pollution control statutes and rules administered by the agency, and conditions of the permit and that all applicable requirements of Minnesota Statutes, chapter 116D, and the rules adopted under Minnesota Statutes, chapter 116D, have been fulfilled. For solid waste facilities, the requirements of Minnesota Statutes, section [473.823](#), subdivisions 3 and 6, must also be fulfilled.

66. The MPCA finds that the design and operation of the facility will comply with all applicable statutes and rules and that the facility can be operated in compliance with its permit.
67. Pursuant to Minn. Stat. § 116D.04, subd. 2b(1), the MPCA may decide to issue a permit where a petition for an environmental assessment worksheet has been denied.

### **CONCLUSIONS OF LAW**

68. Any findings that might properly be termed conclusions and any conclusions that might properly be termed findings are hereby adopted as such.
69. The MPCA has jurisdiction over this matter.
70. Due, adequate, and timely public notice of the proposed permit was given in accordance with Minn. R. 7001.0100, subp. 5. The fact that the copy of the permit application provided to interested persons who requested it was missing certain pages did not significantly impact the ability of those persons to comment on the permit in view of the extra time that was provided to

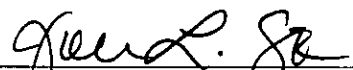
provide comments, and the efforts of the MPCA staff to provide information in person to interested persons.

71. The requirements of Minn. R. 7000.1900 have not been met with respect to the issues raised by the petitioners for a contested case hearing on the proposed permit for the reasons set forth in this document, and a contested case hearing should not be granted.
72. The conditions under which the MPCA is authorized to issue this permit set forth in Minn. R. 7001.0140 have been met and that the permit should be issued. Proper operation of the project in accordance with the conditions of the permit issued by this order will achieve compliance with applicable state statutes and rules and the conditions of the permit.

#### ORDER

The Minnesota Pollution Control Agency denies the petition for a contested case hearing and approves the issuance of the Solid Waste Permit for the Full Circle Organics LLC/Good Thunder Compost Facility.

#### IT IS SO ORDERED



Commissioner John Linc Stine  
Chair, Citizens' Board  
Minnesota Pollution Control Agency

8/29/12

Date