



BOARD REPORT

TO: Chair and Directors

SUBJECT: Response to legal letter from Yankee Flats and Salmon River Roads residents, Electoral Area D, re: Spa Hills Composting Facility and request for compost facility comprehensive bylaw in the CSR D.

DESCRIPTION: Report from Marty Herbert, Manager, Building and Bylaw Services, dated, November 5, 2024.
Compost zoning bylaws in the CSR D.

RECOMMENDATION THAT: the Board receive this report for information.
Corporate Vote Unweighted Majority

BACKGROUND:

This purpose of this report is to discuss a request for the CSR D to create a new extensive compost facility bylaw as noted within the October 7, 2024, legal letter, (see letter with examples attached), and introduced by Angela McCue, solicitor, on behalf of Yankee Flats and Salmon River Road residents per concerns with Spa Hills compost facility, 2223 Yankee Flats Road.

POLICY:

[CSR D - Bylaw Enforcement Policy A-69](#) (the "policy").

[CSR D Salmon Valley Land Use Bylaw No. 2500](#). (the "bylaw").

Province of BC, Environmental Management Act and Public Health Act, [Organic Matter Recycling Regulation](#), (OMRR).

Province of BC, website complaint portal, Report All poachers and Polluters, [RAPP](#) line.

FINANCIAL:

There are no financial implications associated with the receipt of this letter.

KEY ISSUES/CONCEPTS:

Assertion:

"A misperception on the part of the CSR D that jurisdiction for composting rests solely with MOE (i.e. the province).

...."What is striking is the number of times the CSR D and its representatives have erroneously suggested that the CSR D has no jurisdiction to address the problem, and that jurisdiction lies solely with the province (MOE). This is legally incorrect."

Response:

This is an incorrect belief. Staff have never communicated that information, rather, staff are fully familiar with CSR D Bylaw No. 2500 that provides regulations for the use of land producing, storing, or applying compost.

In response to complaints received about the facility, on numerous occasions, staff have simply noted that in addition to their complaint received by the CSRSD, within our response, staff provided a recommendation that the complainant also consider referring their concerns to the province, through the authorized online complaint portal, (RAPP) line, as a measure to request extra assistance with residents' concerns. Our action and comment for referral to the province is backed by CSRSD Bylaw Enforcement Policy and is also mindful that the provincial OMRR legislation captures far more extensive regulations directly aimed at the compost operation and includes significant higher penalties in the legislation pertaining to environmental contraventions regarding operations of the composting facility.

Additionally, the letter requests that the CSRSD create an extensive composting bylaw that addresses,

- "Expert" involvement and qualifications as well as a perception of conflict of interest if local government does not have access to its own independent experts at the expense of the proponent.

- Odour Management

- Leachate Management

- Groundwater Protection

- Covered Buildings to address the "meat bombing" experienced by local residents when scavengers pick up and spread the unprocessed or partially processed compost."

At present, the CSRSD has only one private composting facility within its borders, Spa Hills.

As provided by the submitted documents, it is within the Boards authority to create an extensive composting bylaw that does not conflict with legislation and closely matches provincial regulations noted in OMRR. The CSRSD cannot prohibit the use of the land for composting, however it can regulate the land use.

One of the primary purposes of the current Board approved A-69 Bylaw Enforcement policy, is that it remains affordable for taxpayers and enforcement activities are directly impacted by the limits of the annual budget. As a result of the central purpose of the policy, bylaw enforcement is provided direction which notes that the CSRSD is not always the single main thrust for enforcement when concerns are brought forward for issues related to geographic areas with pertinent higher levels of government enforcement and applicable legislation.

From a staff perspective, based upon the current combination of budget and Board approved established terms of the enforcement policy, the review of current staff resources, training and qualifications, and upcoming further additional workload created by provincial Short Term Rental (STR) legislation, staff do not recommend adopting composting regulations that are difficult to interpret, costly to enforce, and essentially duplicate the provincial mandate noted by existing provincial legislation.

Should the Board wish to provide such direction, a 2025 report could be produced that provides amendments to the existing Bylaw Enforcement Policy and outlines the formation of a new comprehensive composting bylaw that services all electoral areas within the CSRSD. This new bylaw would be crafted strikingly similar to the extensive provincial OMRR legislation and include the examination of methods, examples and best practices noted within the attachments provided, for possible inclusion within the bylaw. Within this future report, a detailed assessment would be provided that note any financial impacts to all applicable CSRSD budgets for staffing, equipment and training required for enforcement of the new bylaw.

IMPLEMENTATION:

A copy of the Board resolution will be provided to the solicitor headlining the subject letter.

COMMUNICATIONS:

N/A

DESIRED OUTCOMES:

That the Board endorse the staff recommendation(s).

BOARD'S OPTIONS:

1. *Endorse the Recommendation(s).*
2. *Deny the Recommendation(s).*
3. *Defer.*
4. *Any other action deemed appropriate by the Board.*

Report Approval Details

Document Title:	2024-11-21_Board_DS_Response_to_Legal_Letter_Requesting_Composting_Bylaw.docx
Attachments:	<ul style="list-style-type: none"> - Oct 7, 2024 legal letter to CSRD.pdf - 2013-03-05_Compost_Regulation_in_BC_FINAL.pdf - 2024-09-17_IR229229_Warning.pdf - 2736---capital-regional-district-composting-facilities-regulation-bylaw-no-1-2004B(002).pdf - CRD - COMPOSTING ENFORCEMENT POLICIES AND PROCEDURES.pdf - SUPPORTING INFORMATION FOR COMPOSTING FACILITIES IN THE CRD.pdf
Final Approval Date:	Nov 13, 2024

This report and all of its attachments were approved and signed as outlined below:

No Signature - Task assigned to Gerald Christie was completed by workflow administrator Crystal Robichaud

Gerald Christie

No Signature - Task assigned to Jennifer Sham was completed by assistant Crystal Robichaud

Jennifer Sham



John MacLean