



December 22, 2022

Mr. David Dech, PP  
Warren County Planning Board  
165 County Route 519 South  
Belvidere, New Jersey 07823-1949

**RE: VivariaEcologics Response Letter to Comments Raised at the November 3, 2022  
SWAC Hearing  
Via Electronic Mail  
[ddech@co.warren.nj.us](mailto:ddech@co.warren.nj.us)**

Thank you for the opportunity to present our application to the Warren County Solid Waste Council (SWAC). Our objective is to preserve the agricultural heritage of the area while creating a low-impact, environmentally beneficial economic development opportunity in Mansfield Township.

As presented in our application, we intend to continue agricultural operations on the portion of the Blau Road Farm not being utilized for composting. Additionally, we are preserving 71 acres of forest on Rockport Road in Mansfield, which is located nearby. All of this is to say, we value the Mansfield community and strive to be good neighbors and stewards of the land as we have been since the 1960s.

As you are aware, SWAC's role is to evaluate whether proposed facilities are consistent with Warren County's Solid Waste Management Plan (SWMP). To that end, we are pleased to have presented a thorough and complete application that demonstrates consistency with the County's SWMP. We have sought to take a transparent and open approach to this project and have been and will continue to be happy to answer any and all questions about the facility and plan.

The New Jersey Land and Community Preservation Alliance (NLCPA) and Mansfield Township have provided written correspondence and testimony to SWAC that contains factual errors, unfounded conjecture, information that is entirely irrelevant to this project or any composting project of this type, assertions that information contained in our application is inaccurate, and that key information has been omitted. None of the testimony, written or verbal, from Mansfield Township or NLCPA speaks to or disputes the consistency of the proposed facility with the County's SWMP. Nor, other than NJLCPA's traffic study, did either party present testimony, data, or information from experts.

### **I. Recycling rates and capacity in Warren County:**

This facility will create food waste recycling capacity in Warren County to help meet the requirements set out by New Jersey's food waste recycling law where none currently exists. Additionally, as noted during our presentation to SWAC and as stated by the Director of the Pollution Control Finance Authority, this facility will help divert compostable, separated food scraps, thus extending the life of the landfill in Oxford while reducing methane emissions.

### **II. The State preempts local zoning and planning authority:**

As recently as August 2022, the New Jersey Department of Environmental Protection, reiterated its position, rooted in case law, "that the State preempts local zoning and planning authority with regards to solid waste facilities and recycling centers." (See attached letters, dated Aug. 14, 2022, and Sept. 3, 2008). Regardless, the Blau Road Farm is located within Mansfield's industrial zone - a designation that permits composting and food scrap recycling activities. There is an expectation by all property owners that they will be allowed to develop activities permitted by local laws on their property, without the same local authority attempting to impede its own zoning requirements.

### **III. Water**

Mansfield Township makes a reference to low water tables in the area but does not refer to any specific data or evidence. Both residential and industrial development has been historically permitted, and continues to be permitted, by the Township in this area. We have included several proposed features in our site plan that will help reuse and conserve water usage, over which NJDEP ultimately has oversight.

### **IV. Odor Concerns**

Odor and process management are addressed comprehensively as required in our application, and these design functions are overseen by the NJDEP.

### **V. Traffic Impacts**

- a. **Traffic studies:** We engaged Dynamic Traffic to conduct a traffic study to assess the impact our proposed facility would have on surrounding roads and designated truck routes. The study evaluated impact assuming the facility was operating at full capacity. At full capacity, the study concluded that the truck volume going to and from the site would have no impact on service levels of local roads. Other permitted industrial uses would have a much larger impact on local traffic.

The traffic study conducted on behalf of the NJLCPA reached the same conclusions. Despite the empirical agreement between the two studies, the NJLCPA's testimony veered into making wholly unrealistic claims and innuendo about greater potential truck volume and generalizations about the physical size of the trucks than would be possible or practical at a facility of this size when running at capacity.

The truck estimates sit within a narrowly bounded range, so there would not be significant variability under real-life conditions in the number of truck trips generated by the facility. The estimates in our traffic study sit at the upper end of the range. We estimate 152 daily truck trips at maximum operating capacity after three years of operation (51 daily trips in the first year of operation). When a truck arrives, it is counted as one truck trip and when it departs, it is counted as a second truck trip. Accordingly, we are estimating that there will be 76 trucks entering the facility on an average maximum daily basis. This equates to 9 trucks per hour at maximum operation.

Further, NJLCPA's truck turning data uses a 53-foot tractor trailer. This type of truck would very rarely, if ever, be used to transport food scraps to the site.

- b. Truck routes and safety concerns:** Trucks would use routes designated by Mansfield Township. Trucks of varying sizes already utilize roads that run through Mansfield and surrounding communities. There is no evidence that trucks pose any special challenge to public safety. It is crucial that the standards that apply to the evaluation of this project are not formulated in an arbitrary and capricious manner.

#### **VI. Proximity to other uses:**

We have provided SWAC with several examples of facilities that are located in close proximity to other uses, including residential areas. The facility at the Woodland Park Zoo in Seattle is located fewer than 500 ft from a residential street. It is true that some of the examples provided are co-located with other types of facilities, including sewage treatment. Co-location notwithstanding, these facilities are still located in close proximity to other uses, including residential. In this case, the Blau Road Farm is available land that is located in an industrial zone with an approximately twenty-acre buffer and a berm between the facility and homes that meets all NJDEP distance requirements. (Please reference the conceptual site design submitted with the application).

#### **VII. Contaminated material:**

Mansfield Township in their letter to SWAC referenced the process for screening out contaminated material. All recycling facilities have a contamination protocol in place. Contaminated material degrades the value of the finished product and as such, operators have both an environmental and economic interest in preventing contamination from entering the process.

In the operation of compost facilities, the primary contaminants are non-compostable materials. There are currently three food waste recycling operations in New Jersey. Each uses the same methodology for ensuring that loads meet their quality standards. The process, the same that Vivaria will use, includes visual observation, evaluation and if necessary, rejection. Vivaria will, as outlined, visually inspect loads prior to their being discharged onto the receiving floor. If the site manager is of the opinion that the load contains excessive non-compostable material, it will be rejected. If the load is deposited on the receiving floor and determined to contain excessive non-compostable material, then Vivaria will require reloading of vehicles that exceed the

contamination standard as established by the NJDEP within its final permit. This process is used universally at recycling facilities of all types and has proven successful. More relevantly, this process has been approved by the NJDEP at multiple facilities.

**VIII. Irrelevant information:**

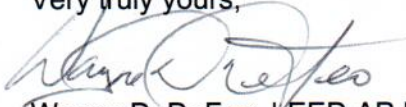
NJLCPA presented several pieces of information that are not in any way analogous to the proposed facility. Superfund sites, dumps, landfills, and fat rendering plants are entirely different facilities and should not inform consideration of this plan. Incidentally, NJLCPA's reference to DEP enforcement actions does illustrate that there are clear mechanisms for corrective action and oversight in place at the state level.

**IX. Approximations and process:**

The process for developing and permitting a high-quality facility requires some degree of flexibility as DEP may require some changes to the plan. This is a normal feature of the process for all recycling facilities. It is inaccurate for Mansfield Township to claim that this application is speculative, rather it is the product of a well-regulated process, extensive planning, and due diligence. Again, we are happy to continue to engage with stakeholders to provide additional information.

We believe that on the merits, this project is not only consistent with Warren County's Solid Waste Management Plan, but will also create a new economic development opportunity for the region, help extend the life of the Warren County Landfill, reduce methane pollution and concurrently preserve and support agriculture. If you have any further questions or require additional clarifications, please do not hesitate to reach out. We appreciate your thoughtful consideration of our application.

Very truly yours,



Wayne D. DeFeo, LEED AP BD&C  
Principal  
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