



STATE OF DELAWARE  
**DEPARTMENT OF NATURAL RESOURCES  
AND ENVIRONMENTAL CONTROL**

OFFICE OF THE  
SECRETARY

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**Secretary's Order No. : 2013-CZ-0037**

**RE: Application of Millville Organic Center for a Coastal Zone Act Permit to Establish and Operate an Organic Yard Waste Composting Facility at their property located on the west side of Whites Neck Road, approximately 1850 feet south of Old Mill Road, Millville, Sussex County, Delaware**

Date of Issuance: **October 1, 2013**

Effective Date: **October 1, 2013**

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control under 29 Del. C. §§8001 et seq., the following findings and conclusions are entered as an Order of the Secretary:

The Applicant, Millville Organic Center ("MOC"), seeks a Coastal Zone Act Permit to establish and operate an organic yard waste composting facility at their property located on the west side of Whites Neck Road, approximately 1850 feet south of Old Mill Road, Millville, Sussex County, Delaware. MOC proposes to solely recycle organic yard waste only. There will be no food, lumber, large stumps, construction or animal waste, or any other solid or liquid wastes incorporated into the composting recycling facility. The proposed facility will offer both local residents and landscapers a

location where yard waste can be brought to be recycled, and then reintroduced back into the environment with minimal adverse environmental impact.

The Applicant, MOC, will accept organic yard waste, as defined in the Department's *Guidelines for Yard Waste Composting Facilities*, and as further required under Sussex County's conditional use approval. Under the proposed plan for this project, the public will offload yard waste in designated tipping areas. The yard waste material will be collected, sorted, broken down, and moved to an appropriate windrow where moisture will be added. The windrows will be monitored for temperature, moisture content, and odor. Once the compost reaches the proper consistency, it will be marketed to area homeowners and landscaping contractors.

The Department requires a CZA Applicant to set forth in its application the proposed project's possible environmental impacts, including, but not limited to, any increased air emissions of pollutants, water quality/water quantity/water use, and the disposal of solid and hazardous wastes. Furthermore, any application for a CZA permit for an activity or facility that will result in any negative environmental impact shall contain an offset proposal, which will more than offset the proposed negative impacts of any proposed project.

Milville Organic Center has worked closely and in cooperation with both DNREC and Sussex County to ensure the proposed operation of its business with minimal environmental impacts. To this end, MOC has sought and received a conditional use permit from Sussex County, which places numerous offset conditions on the Applicant's operations, so as not to have any adverse impact on the neighboring properties, road waste or community, and with minimal, if any, negative runoff.

In the present matter, MOC's proposed operation has the potential to emit pollutants in both its air emissions and stormwater discharge, however, the Applicant has addressed such potential discharges in its Offset Proposal as detailed below. There will be no new water discharges, and no changes to current levels. There will be no wastewater (sanitary or otherwise) discharge. There will be no new or increased solid and/or hazardous wastes, and there will be no new impacts to wildlife. No other noticeable environmental impacts are expected with MOC's proposed operation.

With regard to air quality, environmental impacts are, in fact, anticipated. To address these potential air emissions, MOC has provided a landscape plan that includes 1,150 linear feet of 20-foot wide planted and landscaped buffer between the roadway and the common boundary between the site and lots 12 through 18 of the Squirrel's Run subdivision, resulting in 172 trees (70/30 mix of native deciduous and evergreen trees). The Applicant will also install a 50-foot landscaped buffer along the rear of the site as well. As a permit condition, the Applicant has agreed to retain the forested buffer around the property for the duration of the composting operation. Furthermore, to address the potential water emissions, the existing farm pond and ditches will be incorporated in the proposed development and will be expanded to handle future runoff. The farm pond is to be reclaimed as a stormwater pond, and the ditches turned into bioswales per specifications indicated in the construction documents. Lastly, the overall proposed area drained to the pond will use filter strips in an effort to reduce pollutant loading.

The Department provided public notices of this CZA Application's submission and the determination of an administratively complete application following the Secretary's Assessment, which was signed on July 8, 2013. CZA Regulation 8.3.6

requires that the Secretary shall, within ninety (90) days of receipt of an administratively complete application, reply to the request for a CZA permit by "...either granting the permit, denying the permit, or granting the permit, but with special conditions. The Secretary shall state the reasons for his decision." In the present instance, the ninety (90) day deadline is October 8, 2013.

A duly noticed public hearing was held on August 12, 2013, at the Millville Volunteer Fire Company, 35554 Atlantic Avenue, Millville, Delaware. Six members of the community attended this public hearing to learn more about this proposed project. While concerns were raised by one attendee as to the potential of present home values declining and overall quality of life being negatively affected as a direct result of this proposed operation, no additional public comments were received by the Department during any phase of this public hearing process. Subsequent to the public hearing of August 12, 2013, the Department's presiding Hearing Officer, Lisa A. Vest, prepared a Hearing Officer's Report dated September 23, 2013 (Report).

I find and conclude that the record developed in this matter supports approval of issuing the Applicant a CZA permit, *with conditions*, as recommended in the aforementioned Report. Based on the record, and the technical expertise of the Department's personnel who assisted in this application, the record supports approval of Millville Organic Center's application for the permit, as consistent with the CZA and its regulations. I further find that MOC's permit application is consistent with the CZA, which is to balance the economic and environmental interests of the State of Delaware.

The issuance of the aforementioned permit will allow Millville Organic Center to establish and operate an organic yard waste composting facility at their property located on the west side of Whites Neck Road, approximately 1850 feet south of Old Mill Road, Millville, Sussex County, Delaware. Consistent with the conditions of said permit, MOC's operation will be limited to recycling organic yard waste only. There will be no food, lumber, large stumps, construction or animal waste, or any other solid or liquid wastes incorporated into the composting recycling facility.

Accordingly, I direct that a Coastal Zone permit be issued to the Applicant, *with conditions*, and enter the following findings and conclusions:

1. The Department has jurisdiction under its statutory authority to issue a CZA Permit to the Applicant, subject to reasonable permit conditions deemed appropriate and consistent with the CZA's purposes;
2. The Department provided adequate and lawful public notice of the Coastal Zone Act Application of Millville Organic Center, and of the public hearing held on August 12, 2013, and held said hearing to consider public comment on the application, in a manner required by the law and regulations;
3. The permit applied for by Millville Organic Center is for production/manufacturing activities which will take place within the defined Coastal Zone of Delaware, and is for a new manufacturing activity within an existing facility located within the Coastal Zone of Delaware, which requires a CZA permit for the same, to wit: to establish and operate an organic yard waste composting facility at their property located on the west side of Whites

Neck Road, approximately 1850 feet south of Old Mill Road, Millville, Sussex County, Delaware.

4. Consistent with the conditions of said permit, *MOC's operation shall be limited to recycling organic yard waste only*. There will be no food, lumber, large stumps, construction or animal waste, or any other solid or liquid wastes incorporated into the composting recycling facility. Further, *MOC shall retain the forested buffer around the Applicant's property for the duration of the composting operation*;
5. The Department has carefully considered the factors required to be weighed in issuing a CZA permit, and finds that the proposed use is appropriate for the Coastal Zone at the proposed location, and that it should be permitted, *with conditions*, as set forth in Millville Organic Center's CZA Application, and as noted above;
6. The Department shall issue a permit, *with conditions*, to the Applicant, Millville Organic Center, and said permit shall include all conditions consistent with the final Order, as noted above, and any other reasonable conditions that the Department includes in a CZA permit, to ensure that Delaware's environment will be protected from harm, consistent with the CZA and its regulations;
7. The Department has carefully considered all the statutory factors to be considered in making a decision on a CZA permit and those required to be considered under the CZA regulations;

8. The Department finds that the proposed use is appropriate for the Coastal Zone at the proposed location, and that it should be permitted, *with conditions*, as set forth in detail in the application;
9. The Department has an adequate record for its decision, and no further public hearing is appropriate or necessary;
10. The Department shall serve and publish its Order on all affected persons in a manner consistent with the service and publication of Secretary's Orders; and
11. This proposed project will allow the Applicant to operate its business and offer both local residents and landscapers a location where yard waste can be brought to be recycled, and then reintroduced back into the environment while reducing the overall environmental impacts to the Coastal Zone area, in furtherance of the purposes of 7 Del. C., Ch. 70.



Collin P. O'Mara  
Secretary



## HEARING OFFICER'S REPORT

**TO:** The Honorable Collin P. O'Mara  
Cabinet Secretary, Department of Natural Resources and Environmental Control

**FROM:** Lisa A. Vest   
Public Hearing Officer, Office of the Secretary  
Department of Natural Resources and Environmental Control

**RE:** **Application of Millville Organic Center for a Coastal Zone Act Permit to Establish and Operate an Organic Yard Waste Composting Facility at their property located on the west side of Whites Neck Road, approximately 1850 feet south of Old Mill Road, Millville, Sussex County, Delaware**

**DATE:** September 23, 2013

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### **I. BACKGROUND AND PROCEDURAL HISTORY:**

On Monday, August 12, 2013 at 6:00 p.m., a public hearing was held at the Millville Volunteer Fire Company, 35554 Atlantic Avenue, Millville, Delaware, in order to receive comment on Millville Organic Center's application for a permit from DNREC under its authority in the Coastal Zone Act ("CZA"), 7 Del. C., Ch. 70. The CZA regulates new, or the expansion of existing manufacturing uses, within Delaware's "coastal zone", which is a geographic area along the Delaware Bay and Atlantic Ocean Coastlines, as defined by the CZA. This hearing was held pursuant to the aforementioned Delaware Coastal Zone Act and Delaware's *Regulations Governing Delaware's Coastal Zone*.

Pursuant to Millville Organic Center's CZA permit application received by the Department on February 26, 2013 (and revised April 22, 2013)<sup>1</sup>, the Applicant seeks permission to establish and operate an organic yard waste composting facility at their property located on the west side of Whites Neck Road, approximately 1850 feet south of Old Mill Road, Millville,

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<sup>1</sup> The receipt date does not determine when an application is deemed administratively complete, pursuant to CZA Regulations 8.3.1 and 8.3.6. The application was deemed administratively complete on July 8, 2013, which began a 90 day time period in which the Department must render its decision concerning this matter.

Sussex County, Delaware. MOC proposes to solely recycle organic yard waste only. There will be no food, lumber, large stumps, construction or animal waste, or any other solid or liquid wastes incorporated into the composting recycling facility. The proposed facility will offer both local residents and landscapers a location where yard waste can be brought to be recycled and then reintroduced back into the environment with minimal adverse environmental impact.

The Applicant, MOC, will accept organic yard waste, as defined in the Department's *Guidelines for Yard Waste Composting Facilities*, and as further required under Sussex County's conditional use approval. Under the proposed plan for this project, the public will offload yard waste in designated tipping areas. The yard waste material will be collected, sorted, broken down, and moved to an appropriate windrow where moisture will be added. The windrows will be monitored for temperature, moisture content, and odor. Once the compost reaches the proper consistency, it will be marketed to area homeowners and landscaping contractors.

The Department requires a CZA Applicant to set forth in its application the proposed project's possible environmental impacts, including, but not limited to, any increased air emissions of pollutants, water quality/water quantity/water use, and the disposal of solid and hazardous wastes. Furthermore, any application for a CZA permit for an activity or facility that will result in any negative environmental impact shall contain an offset proposal. Offset proposals must more than offset the proposed environmental impacts of any proposed project<sup>2</sup>.

Millville Organic Center ("MOC") has worked closely and in cooperation with both DNREC and Sussex County to ensure the proposed operation of its business with minimal environmental impacts. To this end, MOC has sought and received a conditional use permit from Sussex County, which places numerous offset conditions on the Applicant's operations, so

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<sup>2</sup> CZA Regulation 9.0, "Offset Proposals".

as not to have any adverse impact on the neighboring properties, road waste or community, and with minimal, if any, negative runoff.

In the present matter, MOC's proposed operation has the potential to emit pollutants in both its air emissions and stormwater discharge, however, the Applicant has addressed such potential discharges in its Offset Proposal as detailed below. There will be no new water discharges, and no changes to current levels. There will be no wastewater (sanitary or otherwise) discharge. There will be no new or increased solid and/or hazardous wastes, and there will be no new impacts to wildlife. No other noticeable environmental impacts are expected with MOC's proposed operation.

With regard to air quality, environmental impacts are, in fact, anticipated. To address these potential air emissions, MOC has provided a landscape plan that includes 1,150 linear feet of 20-foot wide planted and landscaped buffer between the roadway and the common boundary between the site and lots 12 through 18 of the Squirrel's Run subdivision, resulting in 172 trees (70/30 mix of native deciduous and evergreen trees). The Applicant will also install a 50-foot landscaped buffer along the rear of the site as well. As a permit condition, the Applicant has agreed to retain the forested buffer around the property for the duration of the composting operation. Furthermore, to address the potential water emissions, the existing farm pond and ditches will be incorporated in the proposed development and will be expanded to handle future runoff. The farm pond is to be reclaimed as a stormwater pond, and the ditches turned into bioswales per specifications indicated in the construction documents. Lastly, the overall proposed area drained to the pond will use filter strips in an effort to reduce pollutant loading.

The Department provided public notices of this CZA Application's submission and the determination of an administratively complete application following the Secretary's Assessment, which was signed on July 8, 2013. CZA Regulation 8.3.6 requires that the Secretary shall, within ninety (90) days of receipt of an administratively complete application, reply to the request for a CZA permit by "...either granting the permit, denying the permit, or granting the permit, but with special conditions. The Secretary shall state the reasons for his decision." In the present instance, the ninety (90) day deadline is October 8, 2013.

Consequently, as noted above, the Department held a public hearing on August 12, 2013, at the Millville Volunteer Fire Company, 35554 Atlantic Avenue, Millville, Delaware. Six members of the community attended this public hearing to learn more about this proposed project. While various concerns were raised by one attendee (Mr. Anthony Parisi) as to the potential of present home values declining and overall quality of life being negatively affected as a direct result of this proposed operation, the Applicant reassured those in attendance at the hearing of MOC's willingness to create a "...state-of-the-art composting facility for yard waste that integrates with the surrounding community, does not provide a nuisance....[and] provides an asset and benefit..." to the community of Millville. No additional public comments were received by the Department during any phase of this public hearing process.

## **II. SUMMARY OF THE PUBLIC HEARING RECORD:**

The public hearing record consists of a verbatim transcript and seventeen (17) documents introduced at the public hearing, and marked by this Hearing Officer as Department Exhibits 1-17. An additional exhibit, marked by this Hearing Officer as "Applicant's Exhibit #1", was also presented at the aforementioned public hearing by Elio Battista, Jr., Esquire, counsel for the

Applicant in this matter. The Department's person primarily responsible for reviewing the CZA Application, Kevin Coyle, developed the record with the relevant documents in the Department's files. Representatives of MOC were present at the hearing, and Mr. Battista offered a brief verbal presentation in support of the Applicant's proposed project for the benefit of the record regarding this matter. Again, with the exception of the comment received from one member of the community as noted above, the Department received no other public comment during any phase of the hearing process regarding this CZA permit application.

### **III. DISCUSSION AND REASONS:**

This application is for a permit issued under the CZA. Preliminarily, I find that the Applicant's proposed project is located within Delaware's "Coastal Zone", and that the proposed project would represent a new manufacturing activity at an existing facility located within the Coastal Zone of Delaware.

The Department is to evaluate a CZA application based upon a consideration of the CZA's balancing of economic and environmental factors. The CZA requires the Department to consider the following issues of any given proposed project: (1) environmental impacts; (2) economic impacts; (3) aesthetic impacts; (4) the number and type of supporting facilities required and their impacts on all other factors; (5) the impact on neighboring land uses; and (6) the county and municipal comprehensive plans. 7 Del.C. §7004.

The record developed in this matter indicates that the Department's experts have considered these factors, and have recommended issuance of a permit, with conditions, to the Applicant in this matter. Further, the experts recommended that the application was sufficient, and that, while the Applicant's proposed project will create environmental impacts to air quality, said project will offset the potential air emissions by the Applicant agreeing to retain the forested

buffer around the property for the duration of the composting operation. Furthermore, to address the potential water emissions, the existing farm pond and ditches will be incorporated in the proposed development and will be expanded to handle future runoff. The farm pond is to be reclaimed as a stormwater pond, and the ditches turned into bioswales per specifications indicated in the construction documents. Lastly, the overall proposed area drained to the pond will use filter strips in an effort to reduce pollutant loading. I agree with the recommendations of the Department's experts.

#### **IV. RECOMMENDED FINDINGS AND CONCLUSIONS:**

Based on the record developed, I find and conclude that the Applicant has adequately demonstrated its compliance with all requirements of the Delaware Coastal Zone Act Regulations and Statutes, as noted herein, and that the record supports approval of Millville Organic Center's CZA permit application. In conclusion, I recommend that a Coastal Zone Permit consistent with the record developed in this matter be issued by the Department in the customary form, and *with appropriate conditions*, to ensure continued improvement of environmental quality in the Coastal Zone of the State of Delaware.

Further, I recommend the Secretary adopt the following findings and conclusions:

1. The Department has jurisdiction under its statutory authority to issue a CZA Permit to the Applicant, subject to reasonable permit conditions deemed appropriate and consistent with the CZA's purposes;
2. The Department provided adequate and lawful public notice of the Coastal Zone Act Application of Millville Organic Center, and of the public hearing held on August 12, 2013, and held said hearing to consider public comment on the application, in a manner required by the law and regulations;

3. The CZA permit applied for by Millville Organic Center, is for production/manufacturing activities which will take place within the defined Coastal Zone of Delaware, and is for a new manufacturing activity within an existing facility located within the Coastal Zone of Delaware, which requires a CZA permit for the same, to wit: to establish and operate an organic yard waste composting facility at their property located on the west side of Whites Neck Road, approximately 1850 feet south of Old Mill Road, Millville, Sussex County, Delaware;
4. The Department has considered the factors required to be weighed in issuing a CZA permit, and finds that the proposed use is appropriate for the Coastal Zone at the proposed location, and that it should be permitted, *with conditions*, as set forth in Millville Organic Center's application;
5. The Department shall issue a permit to the Applicant, Millville Organic Center, and said permit shall include all conditions consistent with the final Order and any other reasonable conditions that the Department includes in a CZA permit, to ensure that Delaware's environment will be protected from harm, consistent with the CZA and its regulations;
6. Consistent with the conditions of said permit, Millville Organic Center's operation *shall be limited to recycling organic yard waste only*. There will be no food, lumber, large stumps, construction or animal waste, or any other solid or liquid wastes incorporated into the composting recycling facility. Further, Millville Organic Center *shall retain the forested buffer around the Applicant's property for the duration of the composting operation*;

7. The Department carefully has considered all the statutory factors to be considered in making a decision on a CZA permit and those required to be considered under the CZA regulations;
8. The Department has an adequate record for its decision, and no further public hearing is appropriate or necessary; and
9. The Department shall serve and publish its Order on all affected persons in a manner consistent with the service and publication of Secretary's Orders.



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LISA A. VEST  
Public Hearing Officer