



Mal Dempsey and other Oakford residents on his property with the Bio-Organics facility in the background. Picture: Theo Fakos

WA News

Bio-Organics scandal: How trusting Oakford residents were betrayed by WA's environmental watchdog

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A DIRTY little secret is out.

Million of litres of industrial liquid waste from across Perth went to a “green waste only” composting business that for three years operated without planning approval.

That was until six weeks ago, when WA’s environmental watchdog shut it down, blaming the company, Bio-Organics, for groundwater contamination at Oakford, 36kms south of Perth.

It was vindication-of-sorts for local residents who had complained of putrid smells, nausea, headaches, burning eyes and nose bleeds. Quality of life on their big rural blocks frequently depended on the wind direction. Complaining about Bio-Organics in public carried its own risks. Legal letters were sent to community members who spoke up at council meetings.

- LANDOWNER THREAT: CLEAN UP OR WE’LL SUE

The closure notice the Department of Environment Regulation (DER) issued to Bio-Organics on June 27 was only a win-of-sorts for the community because the issue is far from dead. The company has lodged an appeal with the Environment Minister Albert Jacob.

On another front Bio-Organics’ lawyers are set to do battle later this month with the Shire of Serpentine Jarrahdale in the State Administrative Tribunal. The company is attempting to overturn the shire’s refusal to grant planning approval. It’s an obstacle it has to clear if it is to have any chance of persuading Mr Jacob.

And there’s another major issue muddying the contaminated waters at Oakford – the DER has its fingerprints all over the mess.

Even though successive licences issued to the business over a 12 year period referred to “green waste only”, the department gave the company permission to trial a range of industrial liquid wastes. It grew into a highly lucrative business, with industry paying Bio-Organics by the litre to take the waste off its hands. Receiving large volumes of liquid waste became a fundamental part of the business. Experts would later argue that it was THE business.

Even Bio-Organics, when attempting to thwart the department’s belated attempts last year to control the situation, complained it had built its business around its capacity to receive liquid wastes. It threatened a Supreme Court injunction to stop moves to “turn off the taps”. The company had a point – the DER had turned the taps on.

Residents who were kept in the dark on the waste trials, complain the department made matters worse by failing to properly monitor operations there. Apart from the worsening smells, the daily armada of

trucks and tankers – neighbours counted as many as 30 a day – entering the facility suggested more than vegetation was being tipped on the site’s 4ha compost pad.

#### FOUL SMELL

And then last July, resident Jim Doyle, a retired scientist with the Agriculture Department, was out walking his dog when he noticed foul smelling liquid flowing from a drain into a creek. He alerted the shire, and the DER’s environmental hazards branch was notified.

The discharge, which was sourced to Bio-Organics, contained high concentrations of arsenic, lead, cadmium, copper, nickel, chromium VI, mercury, nitrogen and phosphorus. The DER ordered the company to remove an underground pipe which connected to the drain from its leachate retention dam – a large pond that collected liquid waste run-off from the compost pad.

The drain was on the other side of Bio-Organics’ perimeter fence on unoccupied property owned by real estate agent Mal Dempsey. To his horror, the DER sent him forms to register his property as a contaminated site. After protesting, the DER deferred its decision, pending further investigations. But almost 12 months on, he claims nothing has happened and he is stuck in limbo.



Discharge from a culvert on Mal Dempsey’s Oakford property. Picture: Theo Fakos

Last November, the shire hired environmental scientist Andre Stass to conduct groundwater quality tests downstream from Bi-Organics, also on Mr Dempsey’s land. His technical report was damning.

“The high nitrogen, ammonia, chloride and heavy metal impact is suggestive of industrial effluent contamination,” it stated.

“Groundwater at the site is just one metre beneath the surface. It is just sand, there is nothing protecting it.”

Mr Stass urged more work to “reveal the full extent of the contamination.” Despite raising the alarm, there is little evidence of any testing on adjacent properties. Residents, who are worried that contamination has reached their own properties, say that’s because the DER is wary of its own hand in the scandal. and its legal culpability.

On the day it revoked Bio-Organics licence, the DER said issued a statement, revealing officials had “reviewed and analysed available data on groundwater quality and concluded that groundwater in the vicinity of the Bio-Organics compost facility has been contaminated by leachate from putrescible waste, most probably as a result of activities at the Bio-Organics site.”

It added: “The concentrations of nitrogen in the groundwater were found to be significant, environmentally unacceptable and to pose a risk to the environment. There should be no risk to people providing they do not use bore water for domestic purposes unless it has been professionally tested, and if necessary, treated, in line with standards of use for all bore water.

“The impacts are not of concern for stock health, but could contribute to nutrient pollution of the waterways.”

Citing licence breaches, the department said the company had failed to ensure that all composting material was processed in the hardstand area and that no pooling of leachate liquid occurred.

Many of the locals, who aren’t connected to scheme water, are worried. What if they had been using bore water before? What had they been breathing in, especially on three occasions – December 2004, January 2010 and April 2013 – when firefighters had to tackle major blazes after compost stockpiles combusted?

#### PUBLIC INTEREST?

They are no closer to finding out exactly what waste streams went there because neither the company or the DER are saying. A Freedom of Information application from The Sunday Times uncovered several letters from the DER to the company authorising waste trials. But officials redacted the names and types of waste materials, following objections from Bio-Organics. The DER accepted the company’s argument that the information constituted “trade secrets.”

“Bio-Organics described their processes and the incorporation of various trialled waste types as being unique,” explained Alan Sands, the DER’s executive director of Licensing and Approvals. “To my knowledge the relevant information is a secret within the local industry.”

The letters did, though, reveal the department’s legal sensitivities in relation to the products that Bio-Organics sold to the public.



Residents pictured earlier this year when their claims that Bio-Organics was affecting their health and wellbeing were first reported on.

From 2006 on, most of the approvals came with the disclaimer: “This approval in no way constitutes any endorsement by the department of any compost produced using xxx. Any commercial implications of this practice are entirely your company’s responsibility.”

The DER last week told The Sunday Times that Bio-Organics is free to sell or give away its remaining compost stockpiles. Dr Harrie Hofstede, who has a PhD in waste composting and observed hazardous waste at Bio-Organics during a site visit in February, said the compost should be tested before being sold to the public.

The DER this week said it did not consider the health risks to be “any greater than that posed by compost generally.” It said sampling of leachate water in June showed heavy metals were within the normal range.

Despite the DER’s refusal to reveal what waste trials it approved, changes to Bio-Organics’ licence last December did bring some light to the situation. For the first time, the amended licence made mention of liquid wastes. It allowed for up to 9000 tonnes of wastes from the production, formulation or use of inks, dyes, resins, adhesives, glues, latex or plasticisers. It also included grease wastes and dilute phosphoric acid. The facility was also licensed to accept brewing waste. The department said the changes “resulted in a dramatic reduction” in the amount of liquid waste the company could accept. And without revealing what had gone there before, said the amendments had “restricted the nature of liquid wastes.”

The DER is presently probing allegations the site received a large volume of radiator flush water prior to closure. It is also investigating “technical non-compliances” with the closure notice.

The DER confirmed that a “physical structure to produce fertiliser from chicken manure is on site.” “However, Bio-Organics Pty Ltd has never had approval to accept or process chicken manure at the premises.”



Mal Dempsey showing the effluent pouring out from a culvert from the Bio-Organics farm onto his property. Picture: Theo Fakos

#### INTO THE COURTS

Although Bio-Organics has applied for a licence to start an operation in Gingin, the outcome of this month’s SAT hearing is likely to settle its future at Oakford.

Mr Jacob won’t overturn the licence revocation if planning approval isn’t secured. He told Parliament in May that his department would never again issue a licence to a business, where planning approval had lapsed.

The shire is pressing ahead with a prosecution brought against Bio-Organics over the lapsed approval. Trial dates have been set for November.

For the business, which once declared ambitions to branch out across Australia and overseas, it remains defiant.

It is suing Shire President Keith Ellis over comments he made in a radio interview about the company. It has complained about DER officers to the Corruption and Crime Commission. And it has threatened to sue this newspaper over past articles, which exposed the whole sorry saga.

It has denied causing any pollution.

In a statement issued via its lawyers in May in May, the company stated: “100 per cent of waste Bio-Organics receives is recycled into beneficial compost, soils and mulches. It is not a ‘dumping ground’, nor can it be interpreted as a place to dump waste in a manner in which local members of the community have alleged.”

In its 2013 development application, the company stated it had “operated the proposed compost facility in a discrete, safe and low-impact manner since 2001.”

On its Facebook page Bio-Organics states: “To borrow a phrase from John West, it’s the ingredients we reject that makes our soils the best.”

#### BIO-ORGANICS BUSINESS LINKED TO GRAPES OF WRATH



Benjamin Avila, director of Castle Lion Winery. Picture: Marcelo Palacios/Community Newspaper Group

WAS leachate from a dam at Bio-Organics used to irrigate an adjacent vineyard?

According to the original works approval application for the composting facility in 2000, that was the intention.

The leachate dam collects liquid waste run-off from the compost pad.

“Leachate will run via the V drains into the catchment dam where it will be held before being applied to either the newly formed (compost) windrows or on to the neighbouring vineyard,” the application stated.

The 11ha vineyard, owned by the Avila family which also owns and operates Bio-Organics, is understood to have supplied grapes to other wineries. In March 2008, brothers Dan and Ben Avila launched their own label, Castle Lion Wines. The wines – many labelled organic – were exported to China and Europe, and sold in Australia. The business went into court-ordered liquidation last year.

According to ASIC documents, Castle Lion owes creditors \$270,000. The official liquidator, who hasn't completed his work, has cited poor strategic management, inadequate cashflow or high cash use and trading losses as the causes of failure.

While in business, the Avila brothers promoted the fact that they used compost and soil products from Bio-Organics on the vines.

According to the marketing blurb: “Castle Lion wines possess a distinct advantage over many wines; true to the Avila family's values, the fruit is grown in an organic environment, promoting the use of biologically produced compost and mulches ... grape produce is chemical residue free, resulting in richer natural flavours.”

The Department of Environment Regulation this week said Bio-Organics is required under the Contaminated Sites Act 2003 to conduct groundwater investigations off-site as well as on-site, but didn't specify if that included the vineyard.

Asked if it had knowledge of the vineyard ever being irrigated using leachate, a spokeswoman said: “DER would welcome receiving evidence substantiating this allegation.”

The western edge of the vineyard is within the Jandakot Underground Water Pollution Control Area, a source of Perth's drinking water. The composting site is 250m from this area, but the Water Department isn't worried about contamination spreading from there, stating that groundwater flow is in the opposite – easterly – direction.

The DER also said “there was insufficient evidence” to continue an investigation into claims, initially raised in Parliament, that building waste material was buried on another block owned by the Avilas at Oakford.

Officers used ground probes and metal detectors that can identify materials up to a depth of one metre. The former employee, who provided a statement to the DER, alleged to have witnessed the burial.

ESTUARY GETS WORSE



A supplied picture of Bio-Organics leachate pond pipe.

THE Peel Harvey estuary is already in a shocking condition and getting worse.

The Peel Harvey Catchment Council is so concerned about industrial pollution in the fragile estuary, it has called for an audit of all licensed premises.

In February, The Sunday Times revealed that contaminated leachate had been flowing from Bio-Organics site into a drain system that led to the Serpentine River. The Serpentine discharges into the Peel Inlet near Mandurah.

“There was an audit done on them eight years ago and we need another one,” catchment council chairwoman Jan Star said.

The state of the estuary is causing alarm due to extreme eutrophication.

Academics last year reported unprecedented levels of sulphidic black sediment.

“It is deteriorating, that is the worrying part of it, it’s not improving,” Ms Star said.

“Personally, I think there needs to be high-level inquiry into the disposal of industrial waste.”