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April 11, 2018

Heather Barbare

CC: Martha Rudolph and Joe Schieffelin
Colorado Department of Public Health and Environment
Hazardous Materials and Waste Management Division
4300 Cherry Creek Drive South
Denver, CO 80246

Heather Barbare,

The Colorado Livestock Association's Natural Resources Committee respectfully requests a face to face stakeholder meeting to share some ideas regarding the Solid Waste Unit's proposed changes to the definitions of Agricultural Waste and Environmental Media. We understand and appreciate that the changes the Solid Waste Unit is proposing are meant to help explain the circumstances in which agricultural wastes lose the exemption and become solid wastes.

The Statement of Basis and Purpose proposes striking "solid", "on land zoned agriculture by local requirements" and "or composted to return to the soil." This change would be encouraged by our Committee members. The definition would then read: *"Agricultural waste" means all wastes resulting from the raising of crops or animals, including animal manures, that are returned to the soils as fertilizer, soil conditioners or compost. In addition, agricultural waste means all carcasses and carcass by-products resulting from any mass livestock mortality that is the result of an all-hazards event or depopulation ordered by the state veterinarian or other appropriately designated authority.*

The Committee is concerned about the inclusion of, "irrigation water and irrigation run-off and return flows," in the definition of "agricultural waste." Return flows and agricultural runoff have intentionally been defined as something other than agricultural wastes in the following statutes and control acts; Colorado Revised Statue 30- 20-101 (6)(b)(III), Colorado Water Quality Control Act 25-8-504 (1) and (2), 40 Code of Federal Regulations 261.4, and the Clean Water Act 33 US Code 1362.

In addition, the Committee would like further explanation on the proposed section of the Agricultural waste definition that states that ag waste becomes a solid waste if, "disposed of in or on the land and not as a fertilizer, soil conditioner, or compost." This itself is the definition of an Agricultural Waste. The farmer with the assistance of the NRCS, private crop consultants, Nutrient Management Plans, etc. determine the application rates that meet the definition of fertilizer, soil conditioner, or compost. In addition, CAFOs are further regulated through Reg 61 and Reg 81.

Finally, the Committee has questions about the added language to the current definition of Environmental Media that relate to the addition of "surface and ground water." Reclassifying surface and ground water as environmental media and then proposing to re-classify them as solid waste if there is any anthropogenic contamination, this could have implications in the agricultural community.

It is our hope that the thoughts expressed above provide sufficient explanation for a face to face stakeholder meeting. We would also appreciate your consideration in including representatives of CDHPE's Environmental Ag Program in the stakeholder process. We appreciate your consideration of our request.

Sincerely,

Handwritten signature of Bill Hammerich in blue ink.

Bill Hammerich, Chief Executive Officer
Colorado Livestock Association

Handwritten signature of Jessica Lemmel in blue ink.

Jessica Lemmel, Director of Communications
Colorado Livestock Association