

Barbara L. Rubin
PO Box 381
Waterford, VA 20197
April 5, 2004

Senator George Allen
204 Russell Senate Office Building
Washington, DC 20510-4604

Dear Senator Allen:

I mailed two complaints about violations of the state sewage sludge ordinance committed in Loudoun County in the summer of 2003 to Commissioner Robert B. Stroube, M.D., M.P.H. of the Virginia Department of Health (VDH). After the second complaint, I received a letter from the Commissioner that clearly showed his interpretation of the law was convoluted and based on erroneous facts. Virginia has **only one** official to enforce regulations throughout the state. This gross inadequacy in part accounts for Virginia's blind eye towards violations. However, as indicted in the following incident, it is also clear the Virginia Department of Health intentionally does not enforce state sludge regulations.

In the fall of 2003, I inquired of the Loudoun County Health Department (LCHD) about possible violations of the state ordinance due to excessively heavy rain and possible run-off. I enclose a summary of the incident report (marked #1) prepared by the LCHD and provided to me by them. As a result of the violations it found the LCHD prepared a "draft" letter of complaint to Synagro (#2) and submitted it to Cal Sawyer, VDH, as required by the current sludge legislation. Cal Sawyer never forwarded the complaint letter. In fact he emailed the LCHD staff member and verbally chastised him by stating that only Mr. Sawyer was authorized to send violation letters. Mr. Sawyer sent a representative to Loudoun County to "rationalize" regulations and "re-define" measurements (in ways clearly unacceptable to standard scientific methods of measurements)

The LCHD then contacted EPA (#3) which also refused to become involved. They contend they do not enforce state ordinances. Although there were many violations (see supporting documents) a "deal" was reached on 12/5/03 that Synagro would merely empty the 3 sinkholes on the involved site (#4). Synagro claimed they did this, yet as late as 1/9/04, correspondence (#5) indicates they did not comply. Eventually only one sinkhole was emptied. The remaining violations (including application to wetland) were not corrected. Calls for well water to be checked near the violation site because of run-off were ignored.

I am inclosing a few supporting documents for this incident. I have all the documents if you should require them. I strongly urge you to do for Virginia citizens what US Senator Reid of Nevada did for his citizens. These quotes are from a 4/02/04, Nevada newspaper *The Pahrump Valley Times* (Emphasis added)
<http://www.pahrumpvalleytimes.com/2004/04/02/news/sludge.html>

"Sludge grudge comes to end

SEN. REID CREDITED WITH STOPPING AMARGOSA VALLEY SHIPMENTS

Reid, a member of the Senate Committee on Environment and Public Works, contacted U.S. Environmental Protection Agency Administrator Mike Leavitt, expressing strong concerns over the application of the municipal sewage sludge...

Nelson said Reid asked the Orange County Sanitation District questions about the safety of the sewage sludge they weren't able to answer satisfactorily..."

Thank you for consideration.

Barbara L. Rubin
Loudoun NATS (Neighbors Against Toxic Sludge) www.LoudounNATS.org

cc: Representative Wolf, Senator Warner, VA State Senator Potts and Mims, Delegate May, NY Times, Wall Street Journal, AP, Washington Post, Washington Times, Richmond Times-Dispatch

On November 13, 2003 Alex Blackburn and Jerry Franklin reviewed the Athey farm site (VDHBUR63) for biosolid application with Kelly Love a representative from Synagro. This is under an agreement with Cal Sawyer's office to allow Loudoun representatives to review all sites prior to spreading as a condition of the renewal of Synagro's permit. We delineated areas that should be excluded based on the "Biosolids Use Regulations". Many of these areas were beyond those delineated by Synagro. The areas were excluded due to sinkholes, slopes, outcrops and swales. These areas were hand drawn on two map copies with one given to Kelly Love.

Upon field review after spreading, it was discovered that biosolids had been applied through three sink holes (one of which we missed in our review) and on slopes that we had excluded as being greater than 15%. Synagro representatives were quite willing to meet on site to address our concerns. They agreed to remove material from the sink holes by surface scraping. They stated that their field application got ahead of their field delineation. The slopes were spread because they claimed they did not exceed 15% slope.

Loudoun County considers the spreading of biosolids in sinkholes as very serious. At least two heavy rains occurred before the material was removed and then it was only removed from one of the three sinkholes. This could have a long term effect on Loudoun's groundwater and does nothing to inspire confidence in the biosolids industry. The slope issue is of just as great a concern. Areas of slope at 17%, for a length longer than 150' should not be included with an extra 30' of 5% slope at the bottom to bring the % slope below 15% so the whole area can be spread. This is contrary to the way soil scientists measure slope in the field. Synagro has agreed to the following in order to prevent future compliance issues. 1. Don't apply prior to the area being field staked. 2. Differences in interpretation of which areas can be legally spread must be resolved prior to spreading.

Draft

NOTICE OF VIOLATION

Steve McMahon
Synagro Mid-Atlantic, Inc
7014 East Baltimore Street
Baltimore, MD 21224

**CERTIFIED - RETURN
RECEIPT REQUESTED**

11/25/03

**RE: Biosolid field applications, Loudoun County, VA.
Athey farm
PIN # 106275531000**

This notice is issued pursuant to 12VAC5-585-70 of the Biosolids Use Regulations. An investigation was conducted on November 24, 2003 on property where you had recently applied biosolids. I observed the following. Biosolid material had been applied within the bowl of two sink holes, within 25' of the bowl of another and on slopes exceeding 15%. Application within 25' of sink holes in a karst area can endanger Loudoun citizens through groundwater contamination. Application of biosolids on slopes can result in increased runoff and surface water contamination. Based on these facts, the Department believes that violations of 12VAC5-585-510A3b and 12VAC5-585-510A3c(2) of the Virginia Department of Health Biosolids Use Regulations may have occurred on the Athey Farm in Loudoun County, VA. You may provide pertinent information on these issues for this department to consider.

In accordance with 12VAC5-585-70 of the regulations, the following actions are requested:

- 1) Remove biosolid material from within 25' of the bowl of all three sinkholes.
- 2) Monitor all domestic drinking wells each week, until February 1, 2004, within 1 mile of the sinkholes for fecal coliform and provide supplementary water as necessary.
- 3) Stabilize all applied slopes in excess of 15% with a minimum of 1" straw.

Failure to accomplish the actions requested above within the time limits specified may result in permit revocation, criminal prosecution for violation of the Biosolids Use Regulations, or other enforcement actions provided under 12VAC5-585-70D of the Biosolids Use Regulations. Enforcement of these regulations is the responsibility of the Division of Wastewater Engineering, Virginia Department of Health.

Please contact me at (703) 771-5802 if you wish to discuss this notice.

Jerry Franklin, Env. Health Supervisor

Date

cc: Dr. Goodfriend Director Loudoun County Health Dept.
Larry Yates Chief of Environmental Health,
Commonwealth Attorney
Zeda Thompson
Kirby Bowers
Cal Sawyer
John Walker USEPA
File

JDF/LDY/jdf
a:nov.Synagro

Ashley to follow-up for more details and state response.

Lori

----- Forwarded by Lori Reynolds/R3/USEPA/US on 01/23/2004 10:45 ,

Ann

Carkhuff

To: Laurie

Dubriel/DC/USEPA/US@EPA

01/21/2004 01:43

cc: Joseph Theis/DC/USEPA

Reynolds/R3/USEPA/US@EPA, Leonard

PM

Hotham/R3/USEPA/US@EPA

Subject: Re: Biosolids misapplication i

Virginia(Document link: Lori

Reynolds)

Hi Laurie,

Yes, I did receive an E-mail from the state on this issue. Usually we do not initiate our own enforcement action if the state is or has done so.

Ann Carkhuff

Laurie

Dubriel

To: Ann Carkhuff/R3/USEPA/US@EPA

Reynolds/R3/USEPA/US@EPA

01/13/2004 10:50

cc: Joseph

Theis/DC/USEPA/US@EPA

AM

Subject: Biosolids misapplication in

Virginia

From <jfranklin@vdh.state.va.us>

Sent Friday, December 5, 2003 3:04 pm

To Cal Sawyer <csawyer@vdh.state.va.us>

Cc Larry Yates <Lyates@vdh.state.va.us> , Robert E Lee <rlee@vdh.state.va.us> , Charles W Swanson <cswanson@vdh.state.va.us> , Robert W Hicks <rhicks@vdh.state.va.us>

Bcc

Subject Re: Biosolids - Loudoun County - VDHBUR 63 - NOV

Synagro has agreed to remove biosolids from three sink holes. At least two major precipitation events occurred prior to their agreement to scrape it out. This may have impacted area ground water. Testing of surrounding wells for nitrates and fecal coliform would be a good idea but it was not discussed with Synagro.

A difference of opinion concerning the way to determine slope between Synagro and county representatives (myself and Alex Blackburn, county soil scientist) occurred. The slope in question is about 150' long that exceeds 15%. Steve McMahan and Kelly Love included in the measurements a flatter area, about 30' long, of the toe slope below the area mentioned above. This caused the slope to be less than 15%. This is not the way Environmental Health Specialists have always been taught in state sponsored training by the state soil scientists. Inclusion of small areas of steeper slopes may be warranted in some cases but this is a major area that could and should have been avoided. Synagro said their method is the way it is done with biosolids statewide. Consistency is necessary in determining slopes throughout VDH regardless of whether it is for onsite or biosolids. It appears to be the case that applicators need training from our state soil scientists. What training has been done in the past?

----- Original Message -----

From: Cal Sawyer <csawyer@vdh.state.va.us>

Date: Wednesday, December 3, 2003 10:41 am

Subject: Biosolids - Loudoun County - VDHBUR 63 - NOV

> Jerry, Did your site inspection with the Synagro representatives

From: "Ed Taylor" <mesinspect2@earthlink.net>
To: <smcmahon@synagro.com>
Date: 1/9/04 8:25AM
Subject: Athey Farm/LD27-7

Steve, The sinkholes and sinkhole buffer zones that were spread in by Tommy Prickett at the Athey Farm Field LD 27-7 still contain biosolids which should be removed. Thanks, Ed

CC: "Al Razik" <ARAZI@menv.com>, "Bob Heins" <mesinspect3@earthlink.net>, "Chris Peot" <Chris_Peot@dcwasa.com>, "Jerry Franklin" <JFRANKLI@loudoun.gov>, <klove@synagro.com>, "Selock, Kevin" <kSelock@wsscwater.com>, "Mark Ramirez" <mramirez@dcwasa.com>, "Steve Gerwin" <sgerwin@wsscwater.com>, "Wyman Jackson" <WJACK@menv.com>