

Barbara L. Rubin
PO Box 381
Waterford, VA 20197
April 21, 2004

C.M. Sawyer, Division Director
Division of Wastewater Engineering
1500 E. Main Street
Room 109
Richmond, VA 23219

Dear Mr. Sawyer:

Can you please explain the process that is currently being undertaken in Loudoun County for sludge permits. I have asked the Loudoun County Health Department and they do not know what is happening with regard to permits for sludge. Were the permits applied for last year ever reissued? Apparently sludge was spread even though the permits had not formally been issued. Are there additional permits that are under consideration this year? Why is the local community, including the Loudoun County Health Department in the dark about this process? Did you (VDH) not claim the recent legislation would GIVE localities more control? This is obviously not true. Particularly as your administration has seen fit to interpret the law. All power has been stripped from localities, in spite of the fact **the Clean Water Act and Part 503 appear to be clear that "disposal or use of sludge is a LOCAL DETERMINATION"**.

In addition the EPA's OIG report makes reference to "local" authority -- not only with regard to use and disposal of sludge -- but also with regard to investigating "health impacts" of land application.

See Page 18 - "EPA OFFICIALS SAID INVESTIGATING HEALTH IMPACTS FROM BIOSOLIDS IS NOT AN EPA RESPONSIBILITY"; Rather they believe it is the responsibility of the National Institute of Occupational Safety and Health, The Centers for Disease Control, and local health departments.

In view of this clear intent for local authority, why is the State of Virginia's sludge program operating in secret? If VDH claims there are regulations that are followed, why not carry them out in the sunshine and let everyone see how well the rules are followed? Perhaps it is done quietly because there are numerous violations when sludge is spread. The example that comes to mind is spreading sludge on farms in Loudoun County last fall. In addition to the many infringements I have complained about in recent letters to Senators Warner and Allen and Rep. Wolf (attached), the sludge trucks barrel at breakneck speed on public roads ignoring speed limits. Most do not bother to use tarps to cover the sludge (as they are supposed to do), so sludge spills along the route and creates unnecessary exposure to pathogens and dusts along the way. Further the heavy trucks exceeded weight limits on a small bridge. Not only did they ignore the law, the sign designating the weight limit disappeared in an apparent attempt to hide the problem. The VDH is so intentionally understaffed that even if it were interested in sludge regulation, it cannot practically regulate.

These are very troubling occurrences, made all the more outrageous because people continue to become sick when down wind of sludge spread fields. Yet the VDH continues to ignore and deny the obvious link between health and sludge exposure, preferring to place their reliance on data that two NAS reports and two EPA Inspector General Reports have criticized as **inadequate, outdated and NON EXISTENT when it comes to the health issue**. On April 1, 2004, Shannon Brennan reported on a conference you attended with Robert Bastian, a scientist at EPA. She quotes Robert Bastian saying the following: "EPA did extensive research on biosolids in the 1960s through the 1980s and concluded that it is a safe method for disposing of treated sludge." First of all there is no mention of safety for public health, merely disposal. This research Bastian mentions is specifically the data all four major Reports said was totally unreliable. EPA never even considered airborne dispersal of pathogens and there is not one shred of scientific evidence it is safe for public health. Equally as important, sludge is vastly different today and contains many more extremely harmful toxins and pathogens than in the 1960s-1980s. Also, EPA never considered the interaction of all the pathogens and toxins mixed in sludge, so they have no idea what harmful changes will take place when these ingredients interact. While glorifying this outdated research, VDH at the same time ignores the **CURRENT** 2002-4 peer-reviewed articles in the scientific literature that link sludge, illness and death.

In further evidence of VDH's apparent lack of concern for Virginia citizens' health, they just recently expressed no interest in viewing video documentation of citizen sludge health complaints.

I and the citizens of Virginia find the following VDH conduct intolerable:

1) VDH's refusal to enforce the sludge regulations, 2) VDH insistence on conducting a potentially dangerous program for health and environment in secret, 3) VDH's refusal to acknowledge current peer-reviewed scientific research linking sludge exposure to illness and death, 4) VDH continued denial of citizen sludge related health grievances.

I once again call for a moratorium on the sludge program until there is absolute proof sludge is safe for public health.

Barbara L. Rubin, Loudoun Neighbors Against Toxic Sludge

cc: Senators Warner and Allen, Representative Wolf, Press

(Sent via email with Subject: "NO ENFORCEMENT, SECRET CONDUCT, DENIAL of SCIENCE and HEALTH COMPLAINTS", addressed to csawyer@vdh.state.va.us with CC's to rstroube@vdh.state.va.us, jwoods@gov.state.va.us, rhicks@vdh.state.va.us)

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 <cswanon@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>