

Subject: NEBRAMail - February Biosolids & Residuals News
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Distilled biosolids and residuals news for New England and eastern Canada

February, 2014

"There are things known and there are things unknown, and in between are the doors of perception "

- Aldous Huxley

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Whole Foods Biosolids Policy – Where to Now?

The biosolids policy of the natural grocer Whole Foods continued to generate some media attention throughout February. Whole Foods has instructed its suppliers of produce and flowers not to use biosolids (another repetition of the story in this [podcast](#)). As reported in the last *NEBRAMail*, some of those covering this story have provided good perspectives on the policy, including contacting those involved in managing or using biosolids. Recent examples of thoughtful coverage include this [article](#) in The Packer and this [article](#) about Milwaukee's Milorganite in Medill Reports Chicago.

But the media interest in the Whole Foods biosolids story is fading, and, because biosolids are not used much for growing produce and flowers for direct consumption, the impacts on actual biosolids management practices of the new Whole Foods policy may be minimal. However, the perception of biosolids as a sustainable practice has been harmed.

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NEBRA staff and members have tried to engage in further discussions on the topic with Whole Foods, but without success. Recent Whole Foods statements indicate that they want to move on from this, despite their continued limited understanding of the abundant science and experience behind biosolids recycling. Whole Foods has apparently bought into the simplistic negative public perception of those steadily opposed to biosolids recycling, based mostly on arguments about the traces of myriad chemicals found in biosolids. Despite their claims that their standards are based on

In memory...

The fact that biosolids are biosolids and they are properly managed in quality programs is due, in no small part, to Jane Forste, who passed away in January. The biosolids profession remembers one of our great practitioners. Jane's obituary can be found [here](#).

EVENTS

- **March 14:** MWWCA Ski Day at Saddleback in Maine. [Details](#).
- **April 8:** MassRecycle's R3 Recycling and Organics Trade Show, Marlborough, MA. [Details](#).
- **April 15 - 16:** North East Recycling Coalition (NERC) Organic Workshop, Freeport, ME, [Details](#).
- **May 18 - 21:** 2014 WEF Residuals and Biosolids - Sustainability Made Simple: Facilitating Resource Recovery, Austin, TX. [Details](#).
- **June 5 - 6, 2014:** 7th Canadian Biosolids and Residuals Conference, Vancouver. BC Canada. [Details](#).
- **June 29 - July 2, 2014:** Soil in the City Conference, Chicago. The every-10-year science conference by the USDA W-2170 Research Committee on Soil-Based Use of Residuals, Wastewater, and Reclaimed Water. [Details](#).

CHECK IT OUT...

- Watch the [video](#) interview

science and sustainability. they have taken a position without adequate review of the abundant science and without consideration of the importance of biosolids recycling in creating sustainable communities.

(An interesting perspective on the pseudo-science of Whole Foods was provided recently in this [story](#) by The Daily Beast:)

Those managing wastewater and biosolids have a lot of common ground with Whole Foods' broader aspirations: a commitment to the environment, water quality, healthy soils, and sustainable agriculture. We had hoped that Whole Foods would welcome further exploration of that common ground. We can imagine that the company might want to educate its customers on the importance of wastewater treatment and the role they play in the water cycle. Maybe we could work together to encourage improvements in screening of abundantly used chemicals, to ensure environmental impacts – including through use of biosolids on soils – are always considered. We hope for future discussions.

Duke University Research Implicates Biosolids - Without Even Testing Them

Duke University researchers are hoping to help improve the screening of chemicals for their potential impacts on soils and the environment. They have developed a quick and inexpensive bioassay system that uses inhibition of denitrification activity in soil to detect impacts from chemicals such as the anti-microbial triclosan (TCS, commonly used in soaps). They reported their research in a January [paper](#) in Environmental Science & Technology.

The research has received media attention: [reported](#) by Phys Org News, [story](#) in e! Science News and in North Carolina's Public Radio [report](#) WUNC 91.5.

As Greg Kester of the CASA biosolids program has pointed out, the particular research bioassay was not applied to biosolids. Rather, the researchers used "a model denitrifier" (bacterial cultures) that were spiked with fresh samples of the chemicals being tested. No biosolids or soils were used. This kind of test has been shown in past research to not be representative of actual impacts from trace contaminants in biosolids.

In fact, Dr. Thomas Young of the University of California at Davis has tested the impact of biosolids containing typical levels of anti-microbials. As Kester reminds us, Dr. Young's research found "that the increased N added with biosolids stimulates nitrogen cycling sufficiently to offset any detrimental impacts on the N cycling caused by TCS at realistic application concentrations." Biosolids contain traces of TCS and other antimicrobials, but, because the chemicals become transformed and bound as they go through the wastewater and solids treatment processes, they are not as available as fresh chemicals added to soil, and their impacts are negligible. Meanwhile, the stimulating effects of the nutrients and organic matter in biosolids demonstrably boost soil microbial activity. Dr. Young's research was part of a workshop that NEBRA helped produce in May 2011 as reported in this [summary](#).

The Duke research did not, in fact, do anything in "Determining the Ecological Impact of Organic Contaminants in Biosolids..." as the paper's title claims. It did determine modeled ecological impacts of a few organic contaminants that are often found in

with Author Joe Monninger, explaining **the first known use of the term "biosolids" in popular fiction!**

- The King County (Seattle area) biosolids program has released the last of five new videos; it's called ***Biosolids & Forestry: You're part of the cycle.*** See it and all the other "loop" biosolids videos [here](#).
- Read [here](#) about **Philadelphia's Resource Recovery** (thanks to WERF).
- This TPO [article](#) explains Peak Phosphorus and the Role of Biosolids
- **East Bay MUD** (Oakland, CA) continues innovation in resource recovery. Watch the [video](#) and see how they are changing lives too!

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biosolids, but the contaminants tested were not "in biosolids" when they were tested. However, the research is useful in focusing additional attention on something that biosolids managers have an interest in: ensuring that chemicals used in society are tested thoroughly for all impacts, including through biosolids land application systems. It benefits us all if biosolids can be safely and sustainably recycled to soils, because biosolids are naturally a reflection of what we use in daily life.

Legal Progress for Biosolids

(courtesy of a NACWA blog)

Biosolids recycling and beneficial use enjoyed significant success on the legal front in recent years. Efforts by local governments to ban land application of biosolids largely have been kept at bay. In February 2013, the California Court of Appeal dealt a likely fatal blow to Kern County's effort to ban land application of biosolids when it ruled that state law prioritizing recycling preempted (overrode) a local effort to ban land application. *Los Angeles v. Kern County*, 214 Cal. App. 4th 394 (2013). Similarly, the efforts of plaintiffs' lawyers to recover damages for alleged health and nuisance impacts of biosolids have achieved little. In late 2012 in a closely watched case, a Pennsylvania trial court granted summary judgment to the defense on claims that odors from biosolids were a nuisance and caused personal injuries, ruling that state right to farm laws protect use of biosolids as a fertilizer. *Gilbert v. Synagro*, 2012 Pa. Dist. & Cnty. Dec. LEXIS 323 (York Cnty. Pa. 2012).

Protecting land application and this helpful trend in the courts requires vigilance. New challenges to land application must be fought and clean water agencies must publicize the benefits of one of America's largest recycling activities.

The current challenge occurs in Washington State, where Wahkiakum County, a rural county two hours south of Seattle, passed a ban on land application of class B biosolids. The lawsuit seeking to overturn this ban is now before the Washington Court of Appeals and presents another opportunity to clarify and strengthen the trend that state biosolids programs should have primacy over local regulations.

Importantly, the lead biosolids regulator – the Washington State Department of Ecology – took the initiative to file the case against the Wahkiakum County ban, arguing that a local ban on class B biosolids creates an irreconcilable conflict with the state program that sets standards for land application and issues site specific permits. The trial court in early 2013 issued a very short opinion upholding the class B ban on the grounds that the ban still allowed for class A biosolids land application, which represents a small percentage of biosolids recycling in Washington State. The Department of Ecology has appealed that ruling and oral argument is expected in the spring of 2014. *State of Washington v. Wahkiakum County*, No. 44700-2-II (Wash. Ct. App.).

The Department of Ecology argues that the legislature created a statewide program following USEPA's promulgation of the Part 503 land application rules in the 1990s, intended to maximize the use of land application as a management tool. The State's brief explains that the county's ban on class B biosolids conflicts with and interferes with both this goal and the specific provisions of state law that allow class B land application. The Department of Ecology has presented a factual record to the court that class A biosolids are not an economic or logistically viable substitute for class B land application for many agencies, and that class B land application with site restrictions is



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an equally safe management option.

The ruling in the Wahkiakum County case, expected in 2014, will be important nationwide for land application. Many state biosolids laws and programs are similar to Washington's. How the court applies the balance of state versus local authority in the face of a comprehensive state program will be influential as other localities across the country face occasional pressures from activists to try to override state biosolids programs. The case also presents an opportunity for an appellate court to clarify that class B land application is essential for a functioning state biosolids program and that class B ban does not leave rational options for agencies that must manage significant amounts of biosolids. NACWA and other stakeholders will monitor closely the developments in this case.

In Brief / en bref....

Massachusetts' Department of Agricultural Resources (DAR) has proposed new nutrient management regulations. For biosolids and other nutrient sources, the key premise of the proposed rule is that nutrients must be applied in accordance with University of Massachusetts Amherst Extension nutrient management guidelines. DAR will hold hearings around the state in the coming months. Download the proposed regulations [here](#).

The Water Environment Research Foundation (WERF) recently announced a major new research center for nutrient recovery and management, funded by a \$2.2 million grant from U. S. EPA. See the EPA News Release [here](#).

In mid-February, the [Massachusetts Clean Energy Center \(MassCEC\)](#) announced that the [Commonwealth Organics-to-Energy Program](#) is again accepting applications for Feasibility Study grants. Commonwealth Organics-to-Energy supports the use of anaerobic digestion and other technologies that convert source-separated organic wastes into electricity and thermal energy. Both private and public-sector entities are eligible to apply for [Feasibility Study grants](#).

Note that the original documents for this opportunity posted on the MassCEC website were outdated; *please do not use any documents downloaded prior to 4 p.m. on February 11*. MassCEC also continues to accept applications from public entities for Technical Services grants, and applications from both private and public-sector entities for Construction or Pilot Project grants. For more information about opportunities through Commonwealth Organics-to-Energy visit:

<http://www.masscec.com/programs/commonwealth-organics-energy>

In January, New England Interstate Water Pollution Control Commission (NEIWPCC) wrapped up its project on guidelines for the formulation and use of fertilizer on urban turf. The commissioners had asked for guidelines that would reduce nutrient pollution contributed by turf fertilizer to water bodies while being sensitive to the needs of all affected parties, including homeowners and fertilizer manufacturers. After coordinating a series of meetings to gather input from all stakeholders, NEIWPCC staff assembled and distributed an interim report, which prompted feedback that was integrated into the final report. The report is available in its entirety at our [Northeast Voluntary Turf Fertilizer Initiative](#) web section of the NEIWPCC website. The 33 guidelines are also available in a separate list. (from NEIWPCC)

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