


Thurston bans sewage sludge spreading, setting up legal fight with Casella over Steuben farm fields

October 21, 2023 7:18 AM  Peter Mantius

The Thurston Town Board last night enacted a local law that bans the spreading of municipal sewage sludge on local fields, setting up a near-certain legal battle with Casella Waste Systems Inc. that could have statewide implications.

The law, which passed on a 5-0 board vote, threatens to derail Casella's plans for its Bonny Hill Organics subsidiary to spread sludge on up to 2,790 acres within the towns of Thurston, Cameron and Bath in Steuben County.

Casella bought or leased the farmland last July from affiliates of Leo Dickson & Sons Inc., which had for decades used sludge from nearly 30 regional wastewater treatment plants as fertilizer on its fields.

Thurston officials didn't learn about the deal for months. When they did, they weren't sure whether Casella planned to use it to quietly build a new landfill, so they began considering a one-year moratorium on new or expanded waste projects.

Eventually, all three town passed identical waste project moratorium laws, though Bath later rescinded its. But Thurston, behind the leadership of new town supervisor Michael Volino, opted to go further with an outright ban of sludge spreading.

At a public hearing before last night's vote, Casella officials presented board members with a 19-page letter from the company's lawyer, Tom West, that asserted the new local law had "fatal defects." Mainly, West claimed it conflicts with the state's Right to Farm law. His letter all but served as legal notice of intent to file suit to challenge Thurston's enforcement.

Mary Rayeski, manager of Bonny Hill Organics, acknowledged that in West's letter, "We're just reiterating what we've said before."

Town Supervisor Michael Volino said the letter could have been provided to board members in advance. In any case, he said, the Right to Farm law “does not apply when the health and safety of town residents are being threatened....

“Sewage sludge is known to be contaminated with a litany of heavy metals and pathogens as well as PFAS compounds, meaning that land application of sewage sludge can pose real threats to public health and safety.”

Volino noted that the U.S. Department of Agriculture has rated land within a seven-mile radius of Bonny Hill as poorly suited to sludge spreading, “meaning there is a high probability that PFAS and other toxic substances in sewage sludge ultimately will end up in local streams and groundwater.”

During the public hearing last night, several speakers said their water or land had already been contaminated.

“Shame on you and your family because you poisoned the land here in Thurston,” Fritz Anderson of Bath said, addressing Brett Dickson across the meeting room. “There’s a thousand farmers that would not use this stuff. If you can’t farm without using this toxic stuff, you shouldn’t be farming at all.”

After the meeting, Casella’s Larry Shilling said Thurston officials should have postponed their vote to carefully consider West’s 19-page letter. He said they had provided “absolutely no proof” that sewage sludge is harmful — nothing more than uncertified water tests that showed relatively low levels of PFAS contamination.

Rayeski said the town failed to show that the chemical fertilizers that will be used to replace sludge will not cause greater harm than the sludge. Volino said the town board had considered that issue and determined that sludge was the greater of the two health threats.

Dickson is also worried about the cost of fertilizing his fields. “In the spring, it’s basically more chemical fertilizer,” he said. “It’s going to cost me more money per acre to put crops in next year. Unfortunately, it’s what the town wants. I was hoping it wouldn’t go this far.”

Rayeski also asserted that the town was obliged to include the state Department of Environmental Conservation and the state Department of Agriculture and Markets in drafting its local law. She has written the state Agriculture Commissioner asking him to intervene.

But Volino said the town has the right to adopt more stringent standards than those agencies. That authority, he said, is granted by state’s Home Rule Law and by its recently enacted constitutional right to clean air, clean water and a healthful environment. The board passed a resolution last night that both enacted the ban and declared that the new law would not harm the environment.

If Casella does go to court to try to block enforcement, Earthjustice will represent Thurston in a case that could have a bearing on sludge spreading elsewhere in the state.

And the Hochul Administration has big plans for land application of sewage sludge, which it refers to with the euphemism "biosolids recycling." A long-term state waste plan that aims to recycle 85 percent of all state wastes by the year 2050 depends on "recycling" 57 percent of all biosolids, up from 22 percent today.



The Hochul Administration sent the DEC's Timothy Walsh, Sally Rowland and David Vitale to a public hearing on sludge spreading called by Thurston town officials in August. Rowland offered a broad defense of the practice.

In August, the DEC's Sally Rowland, an Albany-based environmental engineer, offered a broad defense of sludge spreading at a public hearing called by Thurston's town board. Rowland declared that sewage sludge is "beneficial to farms ... It is not a disposal activity."

Not all scientists agree. In a June 28 letter, Murray McBride, an emeritus professor at Cornell University who specializes in pollutants in agricultural soil, wrote that "farmland application (of sewage sludge) provides a direct pathway for contamination of food crops, meat, and dairy products with persistent organic toxins, including hundreds of PFAS compounds."

PFAS is a class of highly persistent man-made chemicals that can cause cancer and other serious health problems even when exposure is limited to tiny trace amounts.

The DEC recently adopted limits for two prominent PFAS compounds in sewage sludge. The new standards appear to be out of sync with the state's thresholds for the same chemicals in drinking water.

While the state Health Department requires water system to remediate if their tap water contains PFOS or PFOA at 10 parts per trillion, the DEC says no action is required if sewage sludge spread on fields contains less than 20,000 parts per trillion of the same two chemicals.

Retesting sludge is required if the exposure falls in the 20,000-50,000 ppt range. "Recycling" (land spreading) is only prohibited, the DEC says, if contamination exceeds 50,000 parts per trillion.