Exhibit "B"

COMMONWEALTH OF PENNSYLVANIA
BEFORE THE ENVIRONMENTAL HEARING BOARD

EAST PENN TOWNSHIP, Appellant, v. COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION, Appellee, *and* Synagro, Permittee.	)	EHB Docket No._____ ELECTRONICALLY FILED

NOTICE OF APPEAL

2C

COMMONWEALTH OF PENNSYLVANIA
BEFORE THE ENVIRONMENTAL HEARING BOARD

NOTICE OF APPEAL FORM
APPEAL INFORMATION

1. Name, address, telephone number, and email address (if available) of Appellant:

East Penn Township
c/o Jordan Yeager, Esq. & Lauren M. Williams, Esq. Curtin & Heefner LLP
2005 S. Easton Rd., Suite 100, Doylestown, PA 18901
Tel: 267.898.0570; Email: jby@curtinheefner.com, lmw@curtinheefner.com

2. Describe the subject of your appeal:
(a) What action of the Department do you seek review?
(NOTE: If you received written notification of the action, you must attach a copy of the action to this form.)

Approval of 30-Day Notice for application of biosolids on the Cunfer Farm (Attachment A)

(b) Which Department official took the action?

Timothy Craven, Soil Scientist II, PADEP Northeast Regional Office

(c) What is the location of the operation or activity which is the subject of the Department's action (municipality, county)?

East Penn Township, Carbon County, Pennsylvania

(d) How, and on what date, did you receive notice of the Department's action?

Actual notice on March 28, 2018

3. Describe your objections to the Department's action in separate, numbered paragraphs.
(NOTE: The objections may be factual or legal and must be specific. If you fail to state an objection here, you may be barred from raising it later in your appeal. Attach additional sheets if necessary.)

See Attached Addendum

4. Specify any related appeal(s) now pending before the Board. If you are aware of any such appeal(s) provide that information.

N/A

Respectfully Submitted

CURTIN & HEEFNER LLP

Date: 4/26/18

s/ Lauren M. Williams

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COMMONWEALTH OF PENNSYLVANIA
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ADDENDUM – NOTICE OF APPEAL

A. Parties

1. East Penn Township is a Second Class Township located in Carbon County, Pennsylvania.
2. Synagro ("Permittee") is a biosolids and residuals management company that, in part, contracts with farmers to provide them with sewage sludge to land-apply.
3. The Pennsylvania Department of Environmental Protection's Northeast Regional Office ("Department" or "PADEP") and specifically Mr. Timothy Craven approved the action under appeal.
4. The action under appeal is the Department's approval of 30-day notice of intent to store and land-apply biosolids ("sewage sludge") from approximately 51 different facilities ("Approval") to the Cunfer Farm ("Site").
5. The majority of source facilities for the Site are Class B biosolids facilities.

B. **Objections and General Bases**

6. Sewage sludge is essentially what is left behind from the wastewater and drinking water treatment process, and contain material removed from the water during treatment.
7. The composition of sewage sludge can vary significantly depending on the type of wastewater plant in question, including what industrial wastewater is accepted at the plant.
8. Department regulations focus only on the levels of select metals and select pathogens.
9. However, it is widely documented by governmental agencies that sewage sludge contains a broad range of other constituents, including flame retardants, pharmaceuticals, steroids, hormones, organics, and unregulated metals.[1]
10. In 2011, the Department identified barium, strontium, and radioactive material in sewage sludge coming from a municipal wastewater treatment plant that accepted fracking wastewater. Attachment B.[2]
11. Many of these pollutants persist in the environment and can bioaccumulate; when taken up into plants or leached into groundwater, they can, in turn, accumulate in livestock (via sludge-grown forage), livestock products, and humans.
12. Some regulated metals (such as cadmium) and unregulated pollutants, act as endocrine disruptors.

[1] https://nepis.epa.gov/Exe/ZyPDF.cgi/P1003RNO.PDF?Dockey=P1003RNO.PDF; https://nepis.epa.gov/Exe/ZyPDF.cgi/P1003RL8.PDF?Dockey=P1003RL8.PDF; https://nepis.epa.gov/Exe/ZyPDF.cgi/P100534B.PDF?Dockey=P100534B.PDF

[2] The facility in question, the Johnstown WWTP, is one of the facilities approved for the Cunfer Farm. However, at this time, it is believed that the WWTP does not currently accept fracking wastewater. https://www.epa.gov/sites/production/files/2015-06/documents/johnstown_0.pdf

13. In the 1990s, sewage sludge dumping in the ocean eventually resulted in the ban of ocean dumping of waste due to significant adverse impacts on the marine environment.[3]

14. There are two types of biosolids: Class A and Class B biosolids – or, as the Department terms it, "exceptional quality" sewage sludge (Class A) and non-exceptional quality sewage sludge (Class B).

15. The majority of biosolids proposed for the Site are Class B.

16. Two primary differences between Class A and B biosolids involve greater pathogen reduction for Class A and that Class A must be both nonliquid and nonrecognizable as human waste. 25 Pa. Code § 271.911(b)(1).

17. In all other respects, Class A and B biosolids are the same – i.e. each still contains a wealth of unregulated compounds that can contaminate the local environment and make neighbors sick.

18. Pathogens have been shown to survive and regrow after testing is completed for meeting regulatory limits.

19. Research has shown increased levels of antibiotic resistant bacteria downstream of sludge application sites, and adverse changes to the soil microbiome where sewage sludge has been applied.

20. East Penn Township is located in southern Carbon County, along the border of Carbon County and Lehigh County.

21. The Township's northern border abuts the Mahoning Hills, and its southern border is Blue (Kittatinny) Mountain, with rolling topography in between.

[3] https://www.epa.gov/ocean-dumping/learn-about-ocean-dumping

22. The Site is an approximately 124 acre beef cattle farm and feedlot on land owned by Dennis Cunfer and Wanda Crostley.

23. Upon information and belief, Ms. Crostley is Mr. Cunfer's sister.

24. The Site is operated by Mr. Cunfer, his wife Deanna Cunfer, their son, Justin Cunfer, and their daughter-in-law, Katie Hetherington-Cunfer.

25. Ms. Hetherington-Cunfer is the Department's Director of External Affairs.

26. Ms. Hetherington-Cunfer signed a recusal form as to the PADEP permitting process.

27. Ms. Deanna Cunfer is a Township supervisor and part-time Township employee.

28. The Site is a little over one mile from the Appalachian Trail, which runs along the top of Blue Mountain located south of the Site.

29. The Site is also approximately one mile from State Game Lands 217, which also are located along Blue Mountain.

30. Kittatinny Ridge Important Bird Area ("IBA") also tracks Blue Mountain, and is an important migratory flyway for raptors, other birds, and butterflies.

31. The boundaries of the IBA overlap parts of the southern portion of the Site.

32. Biosolids application on the Site would impact two watersheds that feed the Lehigh River.

33. First, the Site is located as close as approximately 0.25 miles from Lizard Creek (designated Trout Stocking Fishery – TSF), and multiple tributaries to Lizard Creek receive runoff from the Site.

34. Lizard Creek drains into the Lehigh River approximately 1.30 miles from the Site.

35. The Site is also located along unnamed tributaries (designated Cold Water Fishes – CWF) to the Lehigh River, which also receive runoff from the Site.

36. The Site is located in the Delaware River Basin within a region designated as Special Protection Waters by the Delaware River Basin Commission ("DRBC").

37. The DRBC also has a groundwater nondegradation policy and imposes narrative limits on groundwater quality. (DRBC Water Code 3.40.4.A. & B.)

38. DRBC standards are part of Pennsylvania law, both in terms of groundwater and surface water quality, and the Department is obligated to apply those standards. 25 Pa. Code § 93.2(b); see generally 25 Pa. Code 93.4, DRBC Water Quality Regulations; (A-23, pp.33-34, 47); 25 Pa. Code § 901.2; DRBC Regulations Section 3.10.3.A.2.f.

39. The Department failed to determine that the Approval complies with DRBC standards.

40. The Approval violates DRBC standards.

41. Geologically, the site is located in the Ridge-and-Valley province, meaning that the geology features extensive faulting and folding and, in some places, vertical or near-vertical geologic beds.

42. State geologic maps show faults running near the Site.

43. One fault line runs from northwest to southeast, paralleling the stream that flows along the Site's northeastern boundary.

44. According to the Pennsylvania Fish and Boat Commission, this stream, an unnamed tributary to the Lehigh River, supports natural trout reproduction.

45. A second fault line, the Sweet Arrow Fault Zone, intersects the Site along its southern side around Rt. 895.

46. Multiple other faults are present in the vicinity of the Site.

47. Vertical or near-vertical bedding planes and faults both provide more direct and/or faster conduits for contaminants to reach groundwater.

48. Township residents, including those who live around the Site, rely exclusively on groundwater.

49. There are no public water systems in East Penn Township.

50. A substantial amount of residents' wells are hand-dug wells, including those along Route 895.

51. The Department's approval letter identifies twelve (12) fields that are too acidic for sludge application, and requires that the pH be 6.0 prior to the first application of sludge.

52. One of these fields is also a field on which the soil conservation plan is not adequate or not implemented.

53. The Department's Approval, fails to identify which method is to be used to increase the soil pH, contrary to 25 Pa. Code § 271.915(e).

54. Sludge is typically alkaline, and when applied to soil that is too acidic, as the Department has identified, can fail to form a bond and is thus more mobile, either on its own (because how liquid the sludge is) or due to stormwater.

55. Application of lime to the soil does not significantly prevent this outcome because liming only impacts the very top layers of soil.

56. In its approval letter, the Department stated: "The Department has determined that the conservation plan is either not adequate or not implemented for the following fields [sic] F1-F6 and F14A. The conservation plan must address all the gully erosion associated with these fields, [sic] if implementation does not adequately address the erosion then the plan should be updated prior to spreading treated sewage sludge on the above referenced fields."

57. Department regulations prohibit applying sewage sludge in an "area without an implemented . . . farm conservation plan," yet the Department issued the Approval anyway. 25 Pa. Code § 271.915(c)(3).

58. The Department clearly identified existing erosion on the fields, yet did not consider or address the impacts of sludge-filled stormwater runoff into the nearby streams that feed the Lehigh River.

59. This is despite the fact that documents the Permittee submitted identify problems with stormwater control onsite, including inadequate protection of an intermittent stream, and gullies in fields F1-F6.

60. The practices proposed to address the stormwater concerns in fields F1-F6 are not going to be implemented until ***2020***.

61. As for the intermittent stream, the plan documents are contradictory as to whether a buffer has already been installed, or whether it will only be installed in the future, namely, not until 2020.

62. Although the Department referenced the farm's soil conservation plan in its approval, the permit file the Department provided to the Township contains no such plan.

63. The Department's permit file contains nutrient management plans, which include information on manure application and storage, but not information on sewage sludge application and storage.

64. On information and belief, the State Conservation Commission has not approved these plans.

65. The maps in the nutrient management plans show no indication of where sewage sludge storage is to occur onsite.

66. Even if there is a soil conservation plan for the Site, such a plan is not a stormwater management plan because it only addresses soil erosion, *not* erosion and runoff of the biosolids *on top* of the soil.

67. Further, the RUSLEII (soil loss) analysis for the Site's *manure* nutrient management plan, only addresses manure (as an erosion preventer), not biosolids.

68. Upon information and belief, the Department has not reviewed the adequacy of any soil conservation plans for the Site.[4]

69. The Department's "isolation distances" from water sources are generally simply empty space that the sewage sludge can just flow over.

70. The Permittee has not provided sufficient information from which the Department could determine that any buffers around waterways would effectively reduce pollutant loadings to the waterways and prevent degradation, either in the short-term, or over time as the buffers' ability to filter pollutants is used up.

71. Thus, there is nothing to prevent polluted runoff from flowing off the Site onto neighboring properties, into local waterways, and into neighboring water wells.

72. The measures Permittee has proposed, such as the isolation distances, will not prevent biosolids-polluted runoff from leaving the Site.

73. The "isolation distances" from water wells that the Department applied here do not address underlying geologic factors, such as fractures or other geologic features, that allow infiltration of sludge into groundwater supplies.

[4] See cited deposition testimony of PADEP officials and Synagro employees and representatives: http://ehb.courtapps.com/efile/documentViewer.php?documentID=26359

74. Several landowners on the Site waived protections for their groundwater supplies and/or homes, increasing the risk of direct infiltration of sludge into local groundwater.

75. The Department's approval violates the law because it fails to protect local streams, groundwater, and drinking water supplies from degradation.

76. Upon information and belief, the Department has not considered groundwater impacts or the risk of groundwater interconnection between the Site and nearby groundwater wells.[5]

77. Upon information and belief, the Department has not considered the impacts of constituents in sewage sludge to be applied at this Site, other than perhaps nitrogen, on groundwater, including the water relied on by local residents.[6] 25 Pa. Code § 271.907 (defining agronomic rate as addressing nitrogen); § 271.915(f).

78. Due to the multitude of compounds present in biosolids, the mobility of one pollutant or pathogen in the soil and groundwater can be increased due to its attachment to other contaminants.

79. Application of sewage sludge at the Site will likely result in groundwater contamination, including contamination of the water neighbors rely on.

80. The risk is particularly pronounced given that the Site is located on a higher topographic point above Lizard Creek, meaning groundwater would flow from the Site toward the Creek and surrounding wells.

81. Sewage sludge contaminated runoff is likely to contaminate residents' wells and their properties.

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[5] See cited deposition testimony of PADEP officials and Synagro employees and representatives: http://ehb.courtapps.com/efile/documentViewer.php?documentID=26359

[6] See cited deposition testimony of PADEP officials and Synagro employees and representatives: http://ehb.courtapps.com/efile/documentViewer.php?documentID=26359

82. Such runoff, including all sewage sludge pollutants not considered by the Department, will likely degrade local waterways, including Lizard Creek, and harm aquatic life, exposing them to endocrine disrupters, among other constituents.

83. Of the 51 sewage sludge facilities approved for application at the Site, Synagro identified the percent liquid content for the sludge from 27 of the facilities.

84. All but two (2) of the 27 facilities are majority liquid, not solid, with one facility being nearly entirely liquid.

85. For the 27 facilities mentioned earlier, Synagro identified an average amount of plant-available nitrogen ("PAN") in pounds per wet ton of sludge.

86. The lower the amount of plant-available nitrogen, the more sewage sludge that is required to meet the crops' nitrogen needs; also, as an average value, the amount of plant-available nitrogen can vary depending on the particular batch of sludge coming to the Site.

87. For example, Synagro identifies that the Hamden Township WWTP sludge is 25.25 percent solid (approximately ¾ liquid) and has an average of 7.2 pounds of plant-available nitrogen of per wet ton of sewage sludge.

88. If corn were planted on Field H3, the total amount of nitrogen needed for the corn, according to Synagro's calculations, is 954 pounds of nitrogen.

89. With an average of 7.2 pounds of plant-available nitrogen, that means 6,868.8 wet tons of sewage sludge would be needed, just for one field.

90. Sewage sludge is typically brought in by tanker or dump truck, which means that a significant amount of truck trips are required to bring sewage sludge for the entire Site.

91. The Environmental Quality Board has confirmed this, saying:

> Liquid sewage sludge has the potential to be much more variable than a nonliquid sludge, particularly with respect to pathogen and

> vector attraction reduction. Limiting the EQ sewage sludge to nonliquid products will reduce the potential for adverse effects to human health, which are caused by using sewage sludge that may not continuously meet the required pathogen and vector reduction standards. In addition, contrary to the EPA assumptions, liquid sewage sludge is not fertilizer-like and due to its variability is not always marketed. Because of the low nitrogen and high water content, it may be necessary to bring 40 times more liquid sludge to a site to get the same amount of nutrients supplied by one load of liquid commercial fertilizer. This intense traffic and the management practices associated with land applying the huge volumes of liquid require the more intensive management techniques that are necessary for non-EQ sewage sludges.

27 Pa. Bull. 521, 523 (Jan. 25, 1997).

92. The regulations recognize that non-EQ (Class B) biosolids require "more intensive management techniques," than EQ (Class A) biosolids, see, e.g., 27 Pa. Bull at 524, but the Department has not required more intensive management techniques here.

93. Smithlane Road, which is a potential truck route for delivery of biosolids, would be severely damage by the level of truck traffic necessary for sludge delivery to the Cunfer Farm.

94. Multiple residents around the Site have documented health issues, including breathing problems.

95. Airborne exposure to biosolids constituents, including endotoxins, fungi, viruses, and industrial contaminants, is a risk at any sludge application site, but is particularly pronounced when children, the elderly, and other immunocompromised individuals are located nearby, such as in the Township.

96. One of the published health studies on the impacts of land application of sewage sludge on human health:

> determined that at the 10 sites investigated, coughing, burning throat, burning eyes and headaches were the most common

> symptoms experienced within an hour of exposure. Difficulty breathing, nausea and vomiting, fatigue and flu-like symptoms were reported within 24 hours of exposure. Infections of the skin and respiratory tract with *Staphylococcus aureus* were prevalent. *Staphylococcus* are a common bacteria found in sludges, in the human gut, and in the environment.[7]

97. Another study definitively stated: "Compliance with the regulations does not ensure protection of public health."[8]

98. Airborne exposure to contaminants from the Site will likely worsen the health conditions of the residents living nearby the Site, and negatively affect the quality of life of those living around the Site.

99. Similarly, exposure to contaminants from the Site via runoff and groundwater contamination will likely worsen the health conditions of the residents living nearby the Site, negatively affect the quality of life of those living around the Site, and negatively impact the property values of those whose water becomes contaminated.

100. The Department's Approval failed to consider and address the short-term, long-term, and cumulative impacts on the local environment, including but not limited to the health of local residents and water quality.

101. The Department's cumulative pollutant loading rates do not address cumulative impacts because they only pertain to the level of metals in soil.

102. There has been no consideration of the impacts of repeated sludge application and repeated contaminated runoff on local streams.

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[7] https://ecommons.cornell.edu/handle/1813/5319 (internal citations omitted).

[8] https://ecommons.cornell.edu/handle/1813/5319

103. There has been no consideration of such activities on groundwater quality, air quality, public health, or the integrity of the prime agricultural soils and soils of statewide importance at the Site.

104. The Clean Streams Law and Solid Waste Management Act prohibit pollution of groundwater and surface water. 35 P.S. § 6018.610; 35 P.S. §§ 691.1, 691.301, 691.307, 691.401, 691.611; see also 35 P.S. § 691.606.

105. Water contamination is also a public nuisance. See, e.g. 35 P.S. §§ 691.3, 691.401; Machipongo Land & Coal Co., Inc., 799 A.2d 751, 774 (Pa. 2002); Section 821B, Restatement 2d of Torts.

106. The Department is obligated to "protect the people of this Commonwealth from unsanitary conditions and other nuisances, including any condition which is declared to be a nuisance by any law administered by the department," "[t]o cause examination to be made of nuisances, or questions affecting the security of life and health, in any locality;" and to abate and remove nuisances. 71 P.S. § 510-17(1)-(3).

107. For the reasons set forth in this appeal, the Department's approval is contrary to law, an abuse of discretion, arbitrary, allows a nuisance to occur, and violates the Solid Waste Management Act, the Clean Streams Law, associated Department regulations, Section 1917-A of the Administrative Code, and Article I, Sections 1 and 27 of the Pennsylvania Constitution. See, e.g., 35 P.S. §§ 6018.502(d), 6018.503(c), 6018.503(d), 6018.601, 6018.610; 25 Pa. Code §§ 271.201, 273.241, 273.301; 35 P.S. §§ 691.301, 691.307, 691.401, 691.611; 71 P.S. § 510-17; Ryan v. Com., Dept. of Envtl Res., 373 A.2d 475, 477-478 (Pa. Commw. Ct. 1977); 35 P.S. §§ 691.3, 691.401; Machipongo

Land & Coal Co., Inc., 799 A.2d 751, 774 (Pa. 2002); Section 821B, Restatement 2d of Torts; Pa. Const. Art. I, § 27.

108. The Department granted the Approval in violation of its own regulations. See, e.g., Zlomsowitch v. DEP, 2004 EHB 756, 789-90; Teledyne Columbia-Summerill Carnegie v. Unemployment Comp. Bd. of Review, 634 A.2d 665, 668 (Pa. Commw. Ct. 1993).

109. The Department has a constitutional obligation to protect the public natural resources of this Commonwealth from degradation, diminution, or depletion, and to respect the rights of Pennsylvanians to a clean and healthy local environment. Pa. Const., art. I, § 27; Pa. Envtl. Def. Found. v. Com. ("PEDF"), 161 A.3d 911 (Pa. 2017); Robinson Twp., Washington Cnty. v. Com. ("Robinson II"), 83 A.3d 901 (Pa. 2013); Payne v. Kassab, 361 A.2d 263 (Pa. 1976); Ctr. for Coalfield Justice v. DEP, 2017 EHB 799, 854-63; Sludge-Free UMBT, 2015 EHB 469, 473-75; Snyder v. DEP, 2015 EHB 857, 880; Hudson v. DEP, 2015 EHB 719, 739-41.

110. The Department's approval violates the Department's constitutional obligation to refrain from infringing on the rights of Township residents, and to act as a trustee of public natural resources by allowing degradation. PEDF, 161 A.3d at 931-35.

111. The Department's approval allows such degradation without meeting strict scrutiny standards and without having complied with the Department's fiduciary duties. Pa. Const. Art. I, Section 27. PEDF, 161 A.3d at 930-36; Robinson II, 83 A.3d at 957 (trustee acts unreasonably when it fails to comply with its fiduciary duties); id. at 953-54 (right on par with and enforceable to same extent as other Article I rights); see Page v. Allen, 58 Pa. 338, *8 (Pa. 1868); In re. T.R., 731 A.2d 1276 (Pa. 1999); Pap's A.M. v.

City of Erie, 812 A.2d 591, 611-13 (Pa. 2002); Stenger v. Lehigh Valley Hosp. Ctr., 609 A.2d 796, 802 (Pa. 1992).

112. The Department erred by not considering how the Approval would impact local residents' rights protected by the Environmental Rights Amendment.

113. Contrary to the Environmental Rights Amendment, the Department failed to conduct a proper pre-action analysis. PEDF, 161 A.3d at 931; id. at 932-33 & n.24 (discussing fiduciary duties and obligation to prevent degradation); Robinson II, 83 A.3d at 951-52, 957-59 (plurality).

114. Without conducting a proper pre-action analysis, the Department violated residents' environmental rights and breached its fiduciary duties of prudence and impartiality. PEDF, 161 A.3d at 931; id. at 932-33 & n.24; Robinson II, 83 A.3d at 951-52, 957-59 & n.46, 980-81 (plurality); see, e.g., In re Shinn's Estate, 30 A. 1026, 1029-30 (Pa. 1895); cf. Kleissler v. DEP, 2002 EHB 737, 747-48.

115. It did so by approving degradation of public natural resources without knowing the full extent of the Approval's impact on residents' air and water, the prime agricultural soils at the Site, and local aquatic life.

116. It also did so by failing to determine whether some residents would bear greater environmental burdens than others, and whether the long-term and cumulative impacts of the Approval would extensively burden future generations.

WHEREFORE, Appellant respectfully requests that the Board vacate the Department's approval and grant such other relief as may be proper.

By filing this Notice of Appeal with the Environmental Hearing Board, the undersigned hereby certify that the information submitted is true and correct to the best of our information and belief.

Respectfully submitted,

CURTIN & HEEFNER LLP
By:

Date: 4/26/18

s/ Lauren M. Williams
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COMMONWEALTH OF PENNSYLVANIA
BEFORE THE ENVIRONMENTAL HEARING BOARD

EAST PENN TOWNSHIP, Appellant, v. COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION, Appellee, *and* Synagro, Permittee.	)	EHB Docket No._____ ELECTRONICALLY FILED

CERTIFICATE OF SERVICE

I, the undersigned, certify that a true and correct copy of the foregoing was filed by Electronic Filing with the Pennsylvania Environmental Hearing Board and was served on the following on the date listed, and in the manner indicated, below:

By Electronic Service

Pennsylvania Department of Environmental Protection
Office of Chief Counsel
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Date: 4/26/18

ATTACHMENT A
To East Penn Township Notice of Appeal

pennsylvania
DEPARTMENT OF ENVIRONMENTAL PROTECTION
NORTHEAST REGIONAL OFFICE

March 23, 2018

Kevin Smeltz
Synagro
P.O. Box B
1605 Dooley Road
Whiteford, MD 21160

Re: 30 Day Notice Approval
Cunfer Farm
East Penn Township, Carbon County

WMGR-099	PAG 08-2211	PAG 08-3565
PAG 07-3508	PAG 08-3506	PAG 08-2203
PAG 07-0003	PAG 08-3522	PAG 07-0005
PAG 08-0008	PAG 08-3515	PAG 08-0003
PAG 08-3501	PAG 08-3825	PAG 08-0004
PAG 08-0002	PAG 08-9904	PAG 08-3535
PAG 08-9601	PAG 08-3547	PAG 08-0005
PAG 08-3551	PAG 08-0006	PAG 08-3518
PAG 08-9909	PAG 08-3540	PAG 08-9905
PAG 08-9903	PABIG -9903	PAG 08-3556
PAG 08-3596	PAG 08-3567	PAG 08-0018
PAG 08-3510	PAG 08-3600	PAG 08-3573
PAG 08-3597	PAG 08-3605	PAG 08-0021
PAG 08-2219	PAG 08-0011	PAG 08-3610
PAG 08-3568	PAG 08-3611	PAG 08-2223
PAG 08-0016	PAG 08-0022	PAG 08-0023
PAG 08-3614	PAG 08-2224	PAG 08-3504
PAG 08-0007		

Dear Mr. Smeltz:

This office received the 30 Day Notice submitted by Synagro for the Cunfer Farm on January 29, 2018. The Department has reviewed the administrative information submitted in support of the 30 Day Notice, along with a site visit on February 26, 2018, and we have determined that the farm is suitable for land application under the above-referenced permits and verified that you have complied with the applicable permit requirements for first-time land application. The Department has determined that the conservation plan is either not adequate or not implemented

for the following fields F1 - F6 and F14A. The conservation plan must address all the gully erosion associated with these fields, if implementation of the plan does not adequately address the erosion then the plan should be updated prior to spreading treated sewage sludge on the above referenced fields. The soil pH is below 6.0 for the following fields H3, H5, H9, H10, H11, F5, F11, F12, F13, F15, F17, and F19. The soil pH must be above 6.0 prior to the first land application.

The Department will publish notice of this determination in the Pennsylvania Bulletin.

Any person aggrieved by this action may appeal, pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. Section 7514, and the Administrative Agency Law, 2 Pa.C.S. Chapter 5A, to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, 717-787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, 800-654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at 717-787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

IF YOU WANT TO CHALLENGE THIS ACTION, YOUR APPEAL MUST REACH THE BOARD WITHIN 30 DAYS. YOU DO NOT NEED A LAWYER TO FILE AN APPEAL WITH THE BOARD.

IMPORTANT LEGAL RIGHTS ARE AT STAKE, HOWEVER, SO YOU SHOULD SHOW THIS DOCUMENT TO A LAWYER AT ONCE. IF YOU CANNOT AFFORD A LAWYER, YOU MAY QUALIFY FOR FREE PRO BONO REPRESENTATION. CALL THE SECRETARY TO THE BOARD (717-787-3483) FOR MORE INFORMATION.

If you have any questions concerning this matter, please call me at 570-830-3082.

Sincerely,

Timothy Craven
Soil Scientist II
Clean Water Program

cc: Carbon County Conservation District
East Penn, Township

ATTACHMENT B
To East Penn Township Notice of Appeal

Jarecki, Paul

From: Derstine, Terry
Sent: Wednesday, March 02, 2011 4:04 PM
To: Jarecki, Paul
Subject: FW: Johnstown WWTP biosolids

Keep in mind that the disposal guidelines below are not our regulations.

Terry W. Derstine | Radiation Protection Program Manager
Department of Environmental Protection
Southeast Regional Office
2 East Main Street | Norristown, PA 19401
Phone: 484.250.5854 ! Fax: 484.250.5951
www.depweb.state.pa.us

-----Original Message-----
From: Derstine, Terry
Sent: Wednesday, January 26, 2011 2:03 PM
To: Dudley, Keith; Everett, Alan; Sansoni, Nancy; Haneiko, Andrew
Subject: RE: Johnstown WWTP biosolids

Hi all:

What we're primarily concerned with is the concentration of Radium-226. Based on the chart below, we had a high of 7,000 pCi/kg and an average of around 4,000 pCi/kg. Most of limits are expressed in pCi/g, so we're talking 7 pCi/g as a high and 4 pCi/g average.

Radium exists naturally in soil, rocks, surface water, groundwater, plants, and animals in generally low concentrations – on the order of one part per trillion, or 1 pCi/g.

Some generic limits for Ra-226:

Dust, Debris, or Recyclable Materials Limits - 5 pCi/g of radium-226 **above the natural background concentration.**

Surficial Soils Limits -5 pCi/g of radium-226 **above the local background concentration.**

Disposal Guidelines

1. For disposal of radium-226 contaminated materials in the form of bulk waste, such as contaminated soil or contaminated debris, materials containing a radium-226 concentration not exceeding 50 picocuries per gram, averaged over any single shipment, can be accepted in a landfill.
2. For disposal of radium-226 contaminated waste materials at concentrations above 50 picocuries per gram, the contaminated wastes should be transferred to a licensed radioactive waste disposal facility.

I wouldn't be too alarmed about the concentrations below, but it is something that we should definitely keep an eye on.

Terry W. Derstine | Radiation Protection Program Manager
Department of Environmental Protection
Southeast Regional Office
2 East Main Street | Norristown, PA 19401
Phone: 484.250.5854 | Fax: 484.250.5951
www.depweb.state.pa.us

-----Original Message-----
From: Dudley, Keith
Sent: Wednesday, January 26, 2011 1:09 PM
To: Everett, Alan; Sansoni, Nancy; Haneiko, Andrew; Derstine, Terry
Subject: RE: Johnstown WWTP biosolids

Thanks Alan.

Terry - looks like frac water may be contributing some level of radioactivity to treated sewage sludge that is being land applied as a fertilizer amendment. Can you take a quick look at the numbers in the data below and let us know if this concerns you?

Thanks, Keith

-----Original Message-----
From: Everett, Alan
Sent: Wednesday, January 26, 2011 12:14 PM
To: Sansoni, Nancy
Cc: Dudley, Keith
Subject: FW: Johnstown WWTP biosolids

Nancy,

My counterpart in SC sent this along. Data might be of interest. Particularly if we start seeing frac water in the region.

alan

-----Original Message-----
From: Sweeney, Thomas
Sent: Wednesday, January 26, 2011 11:50 AM
To: Schott, Robert; Sigouin, Mark
Cc: Laur, Eric
Subject: Johnstown WWTP biosolids

From sludge samples collected by my counterpart in SWRO. This facility takes frac water. The sludge is lime stabilized then land applied. We have one farm in Bedford Co. that received some this past year. We have no standards for Ba or Sr. We have no standards because EPA set standards based on what was typically found in municipal sewage sludge. A sample I took from Lititz had a Sr concentration of 94 mg/kg and Ba of 183 mg/kg.

10,000mg/kg is 1% by weight.

Pre-lime

	Strontium mg/kg	barium mg/kg
11/3/2008	2,602	13,813