

05/06/2019

Readers and Stakeholders.

I have responded to Mr. Walker who is an expert on biosolids and chemical contamination in biosolids for the Texas Commission on Environmental Quality (TCEQ) and their statement to our Complaint received by them on 3-12-2019 marked as "Incident No. 306430" by responding to each paragraph just under so it will make it easier for readers to follow. I have also made the TCEQ statement blue and ours as **bold black**.

As follow:

Dear Mr. Monk:

This is in response to your April 27, 2019 electronic mail to Texas Commission on Environmental Quality (TCEQ) Chairman, Mr. Jon Niermann and Commissioner, Ms. Emily Lindley regarding TCEQ Complaint Incident Number 306430. I was asked to respond to you regarding this matter.

Commissioner Niermann and Commissioner Lindley, I would like to first thank you for the integrity that you both have shown making your employee respond to a complaint they have had since March 12th. The April 5th date Mr. Walker refers to is because my certified post was held at your P.O. Box marked to: "Attn: Environmental Complaints" and did not have a mail stop on it. To this day, I still cannot find what mail stop is associated with "Environmental Complaints." Thank you.

The referenced complaint alleging violations associated with domestic sewage sludge application was received in the TCEQ DFW Regional Office on April 5, 2019. The Office of Compliance and Enforcement (through the Region Offices) is generally responsible for responding to environmental complaints. Beneficial land application of Class A/Class AB sewage sludge at the Waxahachie site last occurred in August 2014. In August 2014, the TCEQ conducted a compliance investigation that included collecting samples and the sample results demonstrated compliance with the rules. A copy of the August 2014 investigation report and the associated sample results is attached.

The complaint's only attempt at stating a "violation" was that of buffer zones. TAC 322.44©(2)(D) 750 feet buffer zone set back requirements on schools where the contractor wrap the school in biosolids from the contaminated field.

The 2014 tests were not done by taking actual field core samples.

Samples were "taken from a stockpile of material that was to be spread" more than likely 1 or 2 truckloads at 40 tons per truck of which more than 286 truckloads were dumped on the site at 11,474 tons. ONE or TWO trucks were tested.

Other site data was taken as sewage sludge at the Trinity River Authority (TRA) Central Waste Water Treatment Plant (WWTP) in Irving was being processed. These tests occur once a month on tens of thousands of tons produced of what the TCEQ use to call "sludge" but now, to further dilute what this contaminate really is, calls it "residual". This is self-monitoring by the contamination generator, TRA. The data on the 10 tested chemicals is then compiled. The complaint had a view of those

chemical loads, if they are factual, in the complaint, page 5 Renda's load totals on the site.

We would like to thank the TCEQ and Mr. Walker for attaching the information that shows that the TCEQ's tests for chemicals are on only 10 chemicals out of thousands found in sewage "residual". After limited processing and testing these "residuals" are then re-named and classified as biosolids Class AB, to further dilute and mislead what this contamination really is. Industrial, medical, storm drain and household concentrated sewage sludge and then dumped on farm land like the Waxahachie site.

We also point out that these 10 chemicals are not destroyed only decreased. Since Mr. Walker has brought up sewage sludge "residual" testing the reader should know that the TCEQ and U.S. EPA only require testing of one group of pathogens called "fecal coliform" which generally originate in the intestines of warm-blooded animals and 1 strain of salmonella of which there are over 2000. Test regulations made in 1970.

The TCEQ does not regulate the use of land that has been previously used for Class A or Class AB domestic sewage sludge beneficial land application because the activity is considered comparable to land application of standard fertilizer products. Therefore, the TCEQ does not expect any significant risk to the public from use of property where Class A/AB domestic sewage sludge has been applied. For the reasons explained above, an onsite investigation was not conducted relative to this complaint.

Texas, the TCEQ and the Trinity River Authority ARE responsible before, during and after a site has been contaminated by sewage sludge by an outdated regulated process which creates the contaminate, then permits and regulates it. Stating the TCEQ is not responsible by comparing it to fertilizer is irresponsible, especially with a mission statement of "Our goal is clean air, clean water, and the safe management of waste." Safe meaning FREE FROM RISK.

One sentence in this paragraph should raise a red flag with everyone reading this is: *"the TCEQ does not expect any significant risk to the public from use of property"* Mr. Walker and the TCEQ comes to that conclusion based on testing for 10 heavy metal carcinogens out of 85,000 chemicals found in commerce many of which are also carcinogens untested and unregulated? . <https://www.epa.gov/tsca-inventory/about-tsca-chemical-substance-inventory>

As far as the contaminates used on the Waxahachie site being "comparable to land application of standard fertilizer products" and sold to the public in consumer bags, the hazardous health effects would be even greater for that type of distribution as it puts these acute hazardous carcinogen chemicals in the gardens and back yards of the consumer. Right now, the Office of the Texas State Chemist is in regulatory violation for NOT checking consumer bags like Milorganite, DilloDirt, Hou-Actinite and all other bio-solid consumer fertilizers known to be in Texas because they do not enforce the Fertilizer Control Act. Specifically:

§63.142. Distribution of Misbranded Fertilizer.

(a) A person commits an offense if the person distributes, conspires to distribute, or causes another

person to distribute commercial fertilizer that:

(1) Carries a false or misleading statement on, attached to or accompanying the container;

(3) Is of a composition, quantity, or quality that is below or is different from that which it is represented to be on its label;

§63.143. Distribution of Adulterated Fertilizer.

(a) A person commits an offense if the person distributes, conspires to distribute, or causes another person to distribute commercial fertilizer that:

(5) Contains or bears a poisonous or deleterious substance that may render it injurious to plants under ordinary conditions of use.

§63.052. Misleading Label The label of a commercial fertilizer may not be misleading in any particular.

Like the TCEQ, the Office of the Texas State Chemist will not test these consumer sewage sludge products for unmonitored and unregulated hazardous chemicals putting the consumer at extreme risk.

I am sure the TCEQ is monitoring and logging the health effects of yet another irresponsible act. This is another complaint, lets stick to 306430 for now.

Thank you for bringing it up.

Making the statement that there is any comparison between sewage sludge biosolids and “standard fertilizer products” is not even rational. Standard fertilizers are designed and contain only chemicals to create growth. Sewage sludge, on the other hand, has every chemical.

Additionally, you have raised concerns related to potential chemical exposure risk to students, parents, teachers, support staff, and visitors at the Waxahachie High School site in Ellis County. It is my understanding that your concerns in part stem from the reports from the United States Environmental Protection Agency’s (EPA’s) Office of The Inspector General (OIG): Report No. 19-N-0115 “Management Alert: Certain Toxic Release Inventory Data Disclosed to the Public Are Inaccurate” and Report No. 19-P-0002 “EPA Unable to Assess the Impact of Hundreds of Unregulated Pollutants in Land-Applied Biosolids on Human Health and the Environment.”

In regard to the OIG’s Report No. 19-P-0002 dated 11/15/2018, the report includes EPA’s response (Please see attached report which includes Appendix D titled Agency Comments on Draft Report and OIG Evaluation). EPA’s response to the report states “We are particularly concerned about how the science is presented in the OIG report. It is biased and raises alarm due to the use of narrowly selected studies and examples, and information that is taken out of context or that is not relevant to the Clean Water Act (CWA) statutory requirements. Also, the subject is presented in a scientifically debatable

manner. There is no attempt to make it clear to the reader that the occurrence of pollutants in biosolids does not necessarily mean that those pollutants pose a risk to public health and the environment.”

We have always been concerned at how the 1970’s science, that allows the TCEQ to permit the discharge of pollutants on farm land, has been presented.

How “biased” is the EPA’s data since the process to dump sewage on farm land was because the east and west coast cities could no longer dump for free in the ocean and U.S. Legislature demanded a cheap way of getting rid of sewage. See how that works? Money.

Is it not unexpected for the U.S. EPA to try to discredit the U.S. EPA’s Office of Inspector General (OIG) assigned to watch over them and report to Congress. If you read any other reports from the last 20 years on sewage regulatory failures (2000-P-10 / 2004-P-10 / 2004-P-00004 / 10-P-0066 / 12-P-0508 / 14-P-0363) you will see the U.S. EPA always whines when caught. Like a child caught with their hand in the cookie jar “They never did it or it is someone else’s fault” Now even the TCEQ is trying to discredit the report. Why?

However, EPA did agree with many of the OIG’s recommendations within Report No. 19-P-0002 and provided dates for completion as detailed in Appendix E of the Report titled Revised Recommendations and Corrective Actions Plan. Additionally, EPA stated that they will update their website to “clarify existing information on the identity of unregulated pollutants found in biosolids and associated data gaps. Website updates will also include clarification around the uncertainty of potential risk from unregulated pollutants found in biosolids.” Appendix E is available within the attached report.

Although the EPA may agree, they will not take any action or take decades to act. In the case of OIG’s report 14-P-0363 from 09-2014, which speak to industrial pretreatment and WWTP effluent discharges, the EPA, like the TCEQ, has done nothing to resolve chemicals being dump out of a WWTP via effluent and biosolids. One example of EPA foot dragging is in 19-P-0363. To this day the EPA’s priority pollutants list has not been updated since 1981.

The Trinity River Authority makes this statement on effluent describing it as “crystal clean and “safe” effluent water that is discharged according to permit into the Trinity River.” to the public. Can you explain how this is not a lie after reading 19-P-0363?

Mr. Galindo commented on 14-P-0363 in the complaint which is irresponsible on the part of the TCEQ to know and do nothing. Likewise, on the amounts of chemicals on the Waxahachie School site. That too is irresponsible for the TCEQ to stand by trying to make this important information, that would protect our citizen’s health, look like the TCEQ cannot act on it until the U.S. EPA tells you to.

The TCEQ CAN act to improve a regulation if it is more not less stringent than a U.S. regulation without the approval of the U.S. EPA.

The OIG’s reports were only to show the ridiculous amounts of dangerous chemicals found in biosolids. You did not comment on the Targeted National Survey of Sewage Sludge which is also in the complaint (TNSSS, look it up) which the U.S. EPA has stopped making these reports as limited in data as they were. It did show biosolids had the chemicals listed in the attached. The survey in no way

represented all the chemicals found in sewage. If you look at their handpicked WWTP in Texas you will notice they left out large industrialize cities, like Houston, Ft Worth, San Antonio, and Austin.

Dallas Southside WWTP	> 100 MGD	Dallas	TX	Replacement for Dallas Central; Southside is on the same system and completes the processing of Dallas Central partially-treated sewage sludge
Trinity River Authority of Texas	1 <MGD <10	Ellis County	TX	Original selection
Fredericksburg	1 <MGD <10	Fredericksburg	TX	Original selection
Odo J. Riedel Regional WWTP	1 <MGD <10	Schertz	TX	Original selection
Wagner Creek WWTP	1 <MGD <10	Texarkana	TX	Original selection
Tyler Southside WTP	1 <MGD <10	Tyler	TX	Original selection

If EPA determines that changes to the existing regulations found in 40 Code of Federal Regulations Part 503 are necessary, they will then follow their rulemaking process that will provide the public and state agencies (including TCEQ) the opportunity for review and comment. If any changes are made to existing regulations, the TCEQ would then be responsible for implementing and enforcing the new regulatory requirements. Please note that Appendix B of the attached report includes the OIG’s assessment that EPA had completed all corrective actions related to the OIG’s prior recommendations about land-applied sewage sludge.

I went through TCEQ rule making process in 2014 when Mr. Galindo came up with Class AB bio sludge instead of keeping it from, inside of, and away from city limits as the original rule-making petition wanted.

TCEQ rule making process is an absurd one-sided process controlled by the TCEQ without any regard for our Texas citizen’s health. I was there.

In regard to Report No. 19-N-0115, the OIG requested that the EPA’s Office of Chemical Safety and Pollution Prevention provide a response, including actions taken by the Office of Chemical Safety and Pollution Prevention concerning: 1) Plans to correct the discrepancies identified, and 2) Plans to disclose the degree to which the discrepancies identified impact the public reporting of Toxic Release Inventory data. The OIG will post the reply on its website at www.epa.gov/oig.

The use of report 19-N-0115 released 4-2019 and all these reports (2000-P-10 / 2004-P-10 / 2004-P-00004 / 10-P-0066 / 12-P-0508 / 14-P-0363 / 19-P-0002) is to show even more chemicals being incorporated into effluent and biosolids or “sewage residuals”.

You may also want to check all the chemicals found on another biosolids site in Victoria Texas. The Mayfield incident no 232060 / Investigation 1329480 where testing was done on chemical in biosolids. I lost count in the 776-page report.

TCEQ will continue to work with our State and Federal environmental partners to ensure that our rules our protective of human health and the environment.

I look forward to the TCEQ doing what they state and being proactive instead of reactive.

In case, 306430, the contaminated Waxahachie High School site, if you do not act and ONE student, parent, teachers, workers or visitor succumbs to an infection that will not go away (antibiotic resistant bacteria found in sewage), parasites, cancer,

chronic diseases or any birth defects, I dare say there are going to be some very hostile Texas Citizens especially if a child dies. It will not be the neighbor next door to a sewage residuals dump, it will be thousands of Texans.

I believe I have put this complaint and information out to enough sources for the public to see who is responsible and I will continue by sending everyone copied in the complaint this information which includes the head of the TCEQ, Governor Abbott who also appoints board members to the Trinity River Authority and also every legislator in the State of Texas.

Again, this is not farmer Brown on a tractor inside an enclosed airconditioned cab. These are thousands of our citizens per day in direct contact with chemical carcinogens.

This is a Texas regulatory failure. Since the Governor appoints Commissioners to the TCEQ and is at the head of the TCEQ organizational tree; and appoints board members to the Trinity River Authority. Texas is responsible.

You need to test this site for chemicals and carcinogens, especially the 61 from 19-P-0002 and I have attached an additional list of chemicals found in biosolids that need to be tested for as well.

Do what you think is in the best interest of our citizen's health and not the sewage industry. Have the fortitude to write back and state why you will not test the site rather than say you have or it is not the TCEQ responsibility. The TCEQ has NOT done comprehensive testing on this site.

I have attached a helpful chemical and pathogen list and Mr. Walkers attachments.

My apologies for the length of the reply but Mr. Walker statements needed to be answered.

Some follow up questions are:

- 1. How many chemicals does the TCEQ estimate that are on the Waxahachie School site?**
- 2. How many of these chemicals are hazardous, acute hazardous or carcinogens?**
- 3. How much exposure to any of these carcinogens including the 10 listed in the attached TCEQ report does it take to cause cancer, chronic diseases or birth defects?**
- 4. Will the TCEQ and the State of Texas guarantee in writing the site to be free from risk which means safe?**

Lastly and in conclusion a piece of education:

Bioaccumulation is the gradual accumulation of substances, such as pesticides, or other chemicals in an organism. Bioaccumulation occurs when an organism absorbs a substance at a rate faster than that at which the substance is lost by catabolism and excretion. Thus, the longer the biological half-life of a toxic substance, the greater the risk of chronic poisoning, even if environmental levels of the toxins are not very high.

Respectfully,

Craig Monk