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VIA ELECTRONIC MAIL ONLY

September 13, 2012

Carrie Everett, Permits Coordinator
Oregon Department of Environmental Quality
Western Region – Salem
750 Front Street NE, Ste. 120
Salem, OR 97301-1039
Everett.carrie@deq.state.or.us

**Re: Comments of Northwest Environmental Advocates on Proposed
Modifications to NPDES Permit No. 100981**

Dear Ms. Everett:

This letter contains comments of Northwest Environmental Advocates (NWEA) on DEQ's August 9, 2012 public notice for proposed modifications to NPDES Permit No. 100981, held by the Roseburg Urban Sanitary Authority (RUSA). *See* Attachment A. DEQ issued the NPDES permit to RUSA on October 6, 2005 and the permit expired on September 30, 2010. *See* Attachment B. The proposed modifications include a new site authorization letter that would allow RUSA to dispose of sewage sludge at Hayden Cattle Ranch,¹ as well as the addition of a new land application plan to meet the requirements of 40 C.F.R. § 122.21(q)(9)(v), 40 C.F.R. § 501.15, and OAR 340-050-0031(7).² *See* Attachments C & D. Hayden Ranch is located at 198

¹ A site authorization letter is required under Oregon law for the addition of any new sludge disposal site during the life of an NPDES permit. The letter must include site-specific conditions to ensure compliance with EPA's sludge regulations at 40 C.F.R. Part 503, as well as Oregon's sludge regulations at OAR ch. 340, div. 50. OAR 340-050-0030. Site authorization letters are deemed to be part of the underlying NPDES permit. OAR 340-050-0030(3).

² In general terms, a land application plan lists the sites intended for sludge disposal during the life an NPDES permit and also lists the criteria to be used for selecting new sites. *See*

McKee Lane, Roseburg, Oregon, and would be the first of RUSA's disposal sites to be located immediately adjacent to a major river (the South Umpqua), adjacent to designated salmon spawning habitat under the Clean Water Act,³ and adjacent to designated critical habitat under the Endangered Species Act.⁴

The proposed site authorization letter and new land application plan follow DEQ's prior illegal issuance of an authorization letter for Hayden Ranch on October 10, 2011. DEQ rescinded the prior letter on February 14, 2012, in response to NWEA's petition for reconsideration, based on the agency's failure to comply with state and federal public notice requirements. *See* Attachment E. The new site authorization letter follows four years of RUSA's having used Hayden Ranch without any legal authorization to do so, without DEQ's knowledge, and with prior notice that it was not, in fact, authorized to dispose of sludge at Hayden Ranch. Attachment F at 5. The proposed site authorization letter follows RUSA's failure to notify DEQ that it would renew its use of Hayden Ranch in 2008 after RUSA's original permit expired due to a change in ownership of Hayden Ranch, in violation of 40 C.F.R. § 501.15(b)(14) and OAR 340-050-0030(1). The proposed site authorization letter also follows a warning letter issued by DEQ on July 11, 2011, in which DEQ reprimanded RUSA for disposing of sludge at Hayden Ranch during the winter where the fields were clearly marked under its original permit for summer use only. *See* Attachment G at 2.⁵ The proposed site authorization letter follows complaints by local residents that RUSA has discharged its sludge to surface waters, an action that would violate both state and federal law. *See* Attachment G at 1. And the proposed site authorization letter follows RUSA's failure to record where it disposed of sludge at Hayden Ranch during the term of its October 10, 2011 site authorization letter, in violation of one of the very first conditions in that letter.⁶

OAR 340-050-0031(7); 40 C.F.R. § 122.21(q)(9)(v). Land application plans are often incorporated into biosolids management plans, which include more comprehensive guidelines for treating and disposing of sewage sludge. *See* OAR 340-050-0031. The land application plan allows a facility such as RUSA to add new disposal sites during the life of the NPDES permit without formally modifying the NPDES permit itself. *See* 64 Fed. Reg. 42432, 42454 (Aug. 4, 1999). Like site authorization letters, land application plans are deemed to be part of the underlying NPDES permit. OAR 340-050-0031(2).

³ *See* OAR 340-041-0320, Fig. 320B.

⁴ *See* 73 Fed. Reg. 7816, 7870 (Feb. 11, 2008).

⁵ Note that DEQ issued the warning letter in 2011, not 2010 as reported in the public notice.

⁶ The October 10, 2011 site authorization letter required RUSA to record where it disposed of sludge at Hayden Ranch on a "field grid *map* or other easily readable system." RUSA Biosolid Site Authorization Hayden Fields 1 through 10 (Oct. 10, 2011) (Site Use Limitation No. 1, emphasis added). DEQ put this requirement in the October 10, 2011 site

NWEA is an Oregon nonprofit environmental organization established in 1969 and incorporated in 1981 whose mission is to work through advocacy and education to protect and restore water quality, wetlands, and wildlife habitat in the Pacific Northwest. NWEA has a strong interest in ensuring that any sludge disposal at Hayden Ranch does not harm the environment. NWEA also represents hundreds of members across the Pacific Northwest, including several residents who live in the immediate area surrounding Hayden Ranch and who would be harmed by DEQ's proposed actions.

NWEA has serious concerns about the environmental and public health impacts of using Hayden Ranch for sludge disposal, and has detailed many of those concerns elsewhere. *See* Attachment F. NWEA also questions DEQ's reliance on RUSA's compliance history as a reason to issue a new site authorization letter for Hayden Ranch, rather than a reason to deny it, *see* Attachment A at 2. *See also* 40 C.F.R. § 501.15(c)(3)(i) (explaining that "[n]oncompliance by the permittee with any condition of the permit" is grounds for termination). However, NWEA writes here to address two procedural issues: (1) DEQ's lack of authority to modify RUSA's expired permit, and (2) the inadequacy of DEQ's public notice. If DEQ will not rescind the proposed actions pending a renewed or reissued NPDES permit, or will not cure the public notice issues described below, then NWEA requests a public hearing pursuant to OAR 340-050-0030(2)(a) and OAR 340-045-0027.

I. DEQ cannot modify RUSA's expired NPDES permit. The proposed modifications should be suspended until DEQ reissues NPDES Permit No. 100981.

DEQ lacks the legal authority to modify RUSA's expired NPDES permit by issuing the new site authorization letter for Hayden Ranch, or by approving RUSA's new land application plan, without first reissuing NPDES Permit No. 100981 itself. DEQ should therefore rescind its proposed actions unless and until DEQ reissues RUSA's NPDES permit in its entirety.

First, absent a valid land application plan, DEQ's issuance of a new site authorization

authorization letter after finding that RUSA's spreadsheets were insufficient to show compliance with setbacks and buffer strips surrounding surface waters. *See* Attachment H, email from Paul Kennedy, DEQ, to Steve Witbeck, RUSA Project Manager (May 5, 2011) ("When I asked for your field records I want to see your field *map* that breaks the Hayden property up into applicable areas. I want to know *on what parts of which fields* RUSA land applied biosolids in 2010 on the Hayden property.") (emphasis added). On August 31, 2012 NWEA requested maps from RUSA depicting which parts of Hayden Ranch were used for sludge disposal between October 10, 2011 and February 14, 2012. In response, RUSA informed NWEA that it had declined to keep such records, instead deciding to use the same "spreadsheets" that DEQ earlier found to be inadequate. *See* Attachment I. This is especially troubling because a number of water bodies and drainage ditches cross Hayden Ranch. *See* Attachment J and attachments thereto. Without field grid maps or similar records, it is impossible to determine whether RUSA complied with its October 10, 2011 permit by maintaining the required setbacks from these features.

letter modifies the terms of RUSA's expired NPDES permit within the meaning of both federal and state law. EPA's regulations require publicly owned treatment works (POTWs) such as RUSA to identify sites intended for sludge disposal *during* the NPDES permitting process. 40 C.F.R. § 122.21(q)(9)(iii). In turn, sludge may be disposed of at new sites in two, mutually exclusive circumstances. In the first circumstance, the POTW may submit a land application plan at the time of permit issuance that identifies, *inter alia*, the criteria that will be used to select new sites. Thereafter the POTW may add new sites consistent with the site-selection criteria so long as the POTW provides advance public notice. *Id.* at § 122.21(q)(9)(v). In this circumstance formal permit modification is not required to add a new site. 64 Fed. Reg. 42432, 42454 (Aug. 4, 1999) ("The land application plan serves as the vehicle to allow [Treatment Works Treating Domestic Sewage] to add sites during the life of the permit without requiring a major permit modification.").

If the POTW does not submit a valid land application plan at the time of permit issuance new sites may be added only by formally modifying the underlying NPDES permit. For example, EPA's regulations provide that permit "modification" generally includes any alteration to the permit, including any "change or changes in the permittee's sludge use or disposal practice." 40 C.F.R. § 122.62(a)(1). Thus, absent a valid land application plan federal regulations require formal modification of the underlying NPDES permit before disposing of sludge at a new site. *Id.* See also 54 Fed. Reg. 18716, 18738 (May 2, 1989) (explaining that once a land application plan is approved, "approval of individual land application sites by the permitting agency is required, but the *permitting procedures that normally would apply to permit modification . . . would not be required.*") (emphasis added). Similarly, Oregon's sewage sludge regulations expressly provide that site authorization letters are deemed to be part of the underlying NPDES permit. OAR 340-050-0030(c) ("Provisions specified by the Department in site authorization letters. . . shall be considered enforceable conditions under the permitted source's NPDES. . . permit."). Oregon's NPDES regulations explain further that major modifications include any change to the NPDES permit "unless otherwise specified." OAR 340-050-0027. Absent a valid land application plan approved during permit issuance, the addition of a new sludge disposal site represents a modification to the underlying NPDES permit itself.

Here, RUSA's NPDES permit does not include a valid land application plan, which DEQ recognized when it revoked RUSA's October 10, 2011 site authorization letter. Attachment E at 2. Therefore, the new site authorization letter for Hayden Ranch would constitute a major modification of NPDES Permit No. 100981.

Second, formal modification is also required to amend a previously approved land application plan by, for example, adding new site-selection criteria. This is clear under federal law. See 40 C.F.R. § 501.15(c)(2)(ii)(E) (formal modification required "to revise an existing land application plan, or to add a land application plan."). This is also clear under Oregon's own sewage sludge regulations, which expressly provide that the terms of a land application plan, as incorporated into a biosolids management plan, are deemed to be terms of the underlying NPDES permit. OAR 340-050-0031(2) ("Provisions established in Department approved biosolids . . . management plans shall be considered to be NPDES. . . permit conditions."); *accord* Attachment E at 1 ("The biosolids management plan and accompanying land application

plan become enforceable conditions of the NPDES permit.”). *See also* DEQ’s Implementing Oregon’s Biosolids Program, Internal Management Directive at 4 (Dec. 2005) (explaining that the amendment of a land application plan, which DEQ proposes to do here, “would be considered a major modification under OAR 340-045-0055(2)(b) and (3)(c).”); *id.* at 7 (same). In short, like the issuance of a new site authorization letter, DEQ’s proposed approval of RUSA’s new land application plan would also constitute a major modification of NPDES Permit No. 100981.

In turn EPA has made clear that expired NPDES permits may not be modified. Instead, only reissuing the permit as a whole may alter the terms of an expired NPDES permit. For example, EPA has explained that expired permits may not be modified when speaking broadly about the national NPDES program. *See* 49 Fed. Reg. 37998, 38045 (Sept. 26, 1984) (“Permits which have ‘expired’ *cannot be modified*. While expired permits may be continued in effect beyond the permit terms . . . these permits *may only be changed by reissuance*.”) (emphasis added). EPA has also made it a condition of DEQ’s authority to administer the NPDES program that DEQ not modify expired NPDES permits. *See* National Pollutant Discharge Elimination System Memorandum of Agreement Between the State of Oregon and United States Environmental Protection Agency at 8 (April 13, 2010) (“All expiring Oregon NPDES permits for which timely and complete permit renewal applications have been submitted must be reissued on or before their expiration date. If such timely reissuance is not possible, the permit may be administratively continued beyond its expiration date in accordance with state law, *but in no event will the expired permit be modified*.”) (emphasis added).⁷

Here, when RUSA’s NPDES permit expired, the terms of that permit precluded the disposal of sewage sludge at Hayden Ranch because the permit lacked a valid land application plan. Attachment E at 2. Because the permit is expired, those terms continue in force pending DEQ’s reissuance of a new NPDES permit, and DEQ lacks the legal authority to modify the permit.

Paradoxically, DEQ and RUSA have even agreed that they cannot modify the very permit at issue here when the two entered into a mutual agreement and order (MAO) on July 2, 2011. The MAO purports to allow RUSA to begin discharging treated wastewater from its new “natural treatment system” without an NPDES permit, and explains that “[t]he department

⁷ Indeed, the rule that expired NPDES permits may not be modified is the natural result of two other permitting requirements. First, NPDES permits, including those for the disposal of sewage sludge, are only effective for five years. *See e.g.* 40 C.F.R. § 501.15(a)(2). This condition cannot be modified. Instead, an expired NPDES permit may only be administratively continued. *See* 40 C.F.R. § 122.6. Second, when a permit is administratively continued pending reissuance, as has happened with RUSA’s permit, the terms of the permit “continue in force . . . until the effective date of a *new* permit.” 40 C.F.R. § 122.6(a) (emphasis added). As a consequence, once a permit has expired its terms simply may not be altered, both because DEQ may not extend the expiration date so as to allow for formal modification, and because the terms of the permit on the expiration date continue until a new NPDES permit is issued.

cannot modify an expired permit and is working on a permit renewal that will include the new outfall.” Attachment K at ¶ 3 (emphasis added). DEQ provides no information in its public notice as to why it believes the same legal rule does not apply here. Further, RUSA’s own project manager Steve Witbeck appears to agree that DEQ’s proposed modifications are legally precluded. *See* Attachment L, email from Steve Witbeck, RUSA Project Manager, to Ron Thames, RUSA General Manager (June 28, 2012) (“Paul [Kennedy, the permit writer in this case] has misread the regulations. . . . First and foremost you cannot go out on public comment on an expired permit.”). Mr. Witbeck is correct; DEQ may not modify the terms of RUSA’s NPDES permit without reissuing the permit as a whole. DEQ should therefore rescind its proposed actions unless and until DEQ reissues NPDES Permit No. 100981.⁸

II. DEQ’s public notice does not meet the requirements of Oregon law and should be reissued for a new notice period.

DEQ’s public notice is woefully inadequate to meet the public notice requirements imposed by Oregon law. Therefore, should DEQ continue with its proposed modifications the Agency should reissue the public notice with accurate and complete information and in a manner calculated to notify all interested parties.

The current public notice is misleading, fails to include information required by Oregon law, and was not issued in a manner calculated to notify interested parties. For example, DEQ fails to mention RUSA’s illegal use of summer-only fields during the winters of 2008, 2009, and 2010, as well as citizen complaints regarding RUSA’s sludge disposal practices, in violation of OAR 340-045-0027(4)(i). The public notice neglects to mention DEQ’s previous permitting

⁸ Please also note that formal permit modification will also be necessary to add the Artemenko, Bennett, and Heberling sites, which DEQ and RUSA apparently have been working to authorize pending the outcome of the actions at issue here. *See* Attachment M, Email from Paul Kennedy, DEQ, to Randy Turner, RUSA (August 23, 2012) (Mr. Kennedy explaining that “[o]nce we close the [public notice on RUSA’s new land application plan] I can issue all the draft site authorizations.”). In addition, since these sites are intended for future sludge disposal RUSA must list the sites in its new land application plan, *see* OAR 340-050-0031(7)(a), which RUSA has not done and cannot do until DEQ reissues NPDES Permit No. 100981. Similarly, formal permit modification was necessary before RUSA disposed of sludge at any of the sites listed in attachment C of RUSA’s new land application plan that were not among the 16 sites in RUSA’s 2005 biosolids management plan. *See* Attachment D at 3. Sites requiring formal permit modification would have included, at minimum, the Brown, Coffel, Cox, Grout, Guido, Hunt, Kuntz, Larson, Mastel, Mathweg, Maurer, Rust, Starns, Thomas, and Turner sites, which were all authorized subsequent to October 6, 2005 and therefore could not have been a part of RUSA’s 2005 NPDES permit. *See id.* DEQ should ensure that it complied with formal permit modification procedures prior to approving these sites. If DEQ did not comply with formal permit modification procedures, the site authorizations are invalid and RUSA may not legally use the sites to dispose of sewage sludge.

action on October 10, 2011, in violation of OAR 340-045-0027(4)(g). The public notice violates OAR 340-045-0027(4)(j) by failing to mention several discretionary decisions made by the permit writer in drafting the proposed modifications, including the authorization of a site in close proximity to residential areas (*see* OAR 340-050-0070(3)), the width of buffer strips necessary to prevent human contact with sludge, wind-drift, and nuisance conditions (*see* OAR 340-050-0070(3)(a), (b), (c)), and DEQ's decision not to propose permit conditions that are more stringent than required by DEQ's sewage sludge regulations but which NWEA requested in its November, 21, 2011 petition for reconsideration (*see* OAR 340-050-0025(5) *and* Attachment F at 8–12). The public notice fails to state whether the proposed actions constitute a new permit, a modification to an existing permit, or the renewal of a permit—a highly relevant issue considering that RUSA's NPDES permit is expired—in violation of OAR 340-045-0027(4)(c). The public notice fails to describe the documents relied upon in drafting the site authorization letter, in violation of OAR 340-045-0027(4)(e).⁹ The public notice even fails to provide the address of Hayden Ranch, so that interested parties receiving hard copies of the notice and who do not have access to a computer would know where the sludge is being applied, in violation of OAR 340-045-0027(4)(a).¹⁰ And, to NWEA's knowledge, DEQ did not alert the news media regarding the proposed actions, in violation of OAR 340-045-0027(5). These omissions fail to inform the public of the context surrounding DEQ's proposed actions, as well as the consequences of approving Hayden Ranch for sludge disposal. Thus, DEQ should reissue the public notice in accordance with Oregon law and provide for a new public comment period.

In addition to the violations described above, the public notice advises the public falsely that “[t]here are no known impacts to public health and the environment when biosolids are land applied according to the EPA’s 40 CFR Part 503 biosolid regulations.” This statement is mystifying in light of the fact that Oregon’s own biosolids rules include additional restrictions,

⁹ The public notice states that the public can view an unidentified set of documents “related” to the proposed actions by visiting DEQ’s office in Salem. Amazingly, despite the fact that DEQ should have described the documents underlying its proposed actions in the public notice, and had those documents available in Salem, it took DEQ more than a month to provide NWEA with those documents after NWEA requested them on August 9, 2012. In addition, DEQ has yet to respond to NWEA’s request to extend the public comment period in light of DEQ’s delay in providing these documents.

¹⁰ See also 40 C.F.R. § 124.10(d)(vii), which provides that “[a]ll public notices issued under this part shall contain the following information. . . a *general description of . . . the location of . . . use or disposal sites known at the time of permit application.*” (emphasis added). Here, DEQ’s public notice does not describe the location of Hayden Ranch, nor does it describe the locations of any of the other 47 sites listed in Attachment C to RUSA’s new land application plan, including the 16 sites authorized subsequent to October 6, 2005. *See* Attachment D at 3. Instead, the public notice states only that DEQ’s actions will affect unidentified portions of “Douglas County.” Attachment A at 1. This generalized statement violates EPA’s notice requirements and fails to inform those living near the proposed disposal sites of the consequences of DEQ’s actions.

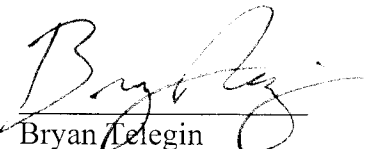
not included in the federal rules, for the purpose of protecting public health. *See e.g.* DEQ's Implementing Oregon's Biosolids Program, Internal Management Directive at 16 (noting that adherence to Oregon's rules regarding buffer strips, which are more restrictive than EPA's rules, is "necessary at a land application site to help ensure that the land application activity does not create an adverse environmental or public health condition.") (citing OAR 340-050-0070(3)). On what basis would DEQ include numerous restrictions in its biosolids rules that are not contained in the federal rules unless DEQ believed the federal rules would not alone protect public health and the environment? At best, this false statement discourages otherwise interested parties from filing comments or inquiring into the true potential for human health impacts from sewage sludge disposal.

Last, NWEA notes that the public notice contains incorrect contact information for submitting electronic comments. Ms. Everett's email address is "Everett.carrie@deq.state.or.us," not, as stated in the public notice, "Everett.carrei@deq.state.or.us." At the very least DEQ should ensure that no electronic comments or hearing requests are missing from the record due to this incorrect email address.

III. If DEQ will not rescind the proposed actions pending renewal of RUSA's NPDES permit, or will not reissue the public notice for a new notice period, NWEA requests a public hearing.

The public notice provides that DEQ will hold a public hearing on the proposed modifications if requested by an organization representing ten or more people. At the hearing "interested persons [may] appear and submit written or oral comments on the proposed permit." Attachment A at 2. Here, if DEQ will not rescind its actions, or will not put its public notice out for a new notice period in compliance with Oregon law, as discussed above, NWEA hereby requests a public hearing on RUSA's proposed new land application plan and new site authorization letter for Hayden Ranch. NWEA makes this request pursuant to OAR 340-050-0030(2)(a) and OAR 340-045-0027 as an organization representing ten or more people. If such a hearing is held, NWEA intends to file oral and/or written comments on the suitability of Hayden Ranch for sludge disposal, including comments relating to the site-selection criteria specified at OAR 340-050-0070 and the requirements of 40 C.F.R. Part 503.

Sincerely,


Bryan Telegin
Of Attorneys for NWEA

Attachments:

- A: Request for Comments: Proposed Biosolids Management Plan Amendment and Land Application Authorization for Roseburg Urban Sanitary Authority (August 9 2012).
- B: National Pollutant Discharge Elimination System Waste Discharge Permit No. 100981 (October 6, 2005) (front page only)
- C: Proposed Site Authorization Letter for Hayden Ranch (August 8, 2012)
- D: Proposed Land Application Plan
- E: Reconsideration of Authorization to Land Apply Biosolids to Hayden Farm (February 14, 2012)
- F: NWEA's Petition for Reconsideration of October 10, 2011, Site Authorization Letter Issued to the Roseburg Urban Sanitary Authority (November 21, 2011).
- G: Warning Letter With Opportunity to Correct (July 11, 2011).
- H: Email from Paul Kennedy, DEQ, to Steve Witbeck, RUSA Project Manager (May 5, 2011)
- I: Response to NWEA's August 31, 2012 Public Records Request (September 6, 2012)
- J: Letter from NWEA to DEQ: Further Information Relating to NWEA's November 21, 2011 Petition for Reconsideration (February 8, 2012)
- K: Mutual Agreement and Order No. WQ/M-WR-11-064 (July 2, 2011)
- L: Email from Steve Witbeck, RUSA Project Manager, to Ron Thames, RUSA General Manager (June 28, 2012)
- M: Email from Paul Kennedy, DEQ, to Randy Turner, RUSA (August 23, 2012)

Proposed Biosolids Management Plan Amendment and Land Application Authorization for Roseburg Urban Sanitary Authority



State of Oregon
Department of
Environmental
Quality

**Western Region
Water Quality**
750 Front St. NE, Suite
120, Salem, OR 97301
(503) 378-8240
1-800-349-7677
Fax: (503) 373-7944

Biosolid Plan Review:
Paul Kennedy

If you received a hard copy of this notice in the mail, please consider receiving updates via e-mail instead. Send your request to: subscriptions@deq.state.or.us
Please include your full name, e-mail address and mailing address so that we can purge you from our print mailing list, thus saving trees and taxpayer dollars.

The purpose of this notice is to invite you to provide written comments on Roseburg Urban Sanitary Authority's (RUSA) proposed National Pollutant Discharge Elimination System (NPDES) Biosolid Management Plan (BMP) amendments. The proposed amendments to the BMP are to include a Land Use Plan section for future land application sites in Douglas County and to reauthorize the Hayden biosolid land application site.

DEQ's Role:

The Oregon Department of Environmental Quality (DEQ) is responsible for protecting and enhancing Oregon's water and air quality, for cleaning up spills and releases of hazardous materials, and for managing the proper disposal of hazardous and solid wastes. One way DEQ does this is by requiring permits for certain activities. DEQ issues permits to regulate the type and amount of (emissions, type of waste produced, type of discharge, etc.) produced at a regulated facility.

Comments due:

Written comments due: 5:00 pm,
September 13, 2012

Where can I send my comments?

Permits Coordinator, Carrie Everett
Phone: 503-378-5055 or
toll free in Oregon (800) 349-7677
Mailing address: Western Region - Salem
Office, 750 Front Street NE, Suite 120,
Salem, OR 97301-1039
Fax: (503) 373-7944
E-Mail: Everett.carrei@deq.state.or.us

Where can I get background information?

Information about this project is viewable online by clicking the following link(s):

- [Revised Biosolids Land Application Plan](#)
- [Hayden Site Authorization Letter](#)
- [Biosolids Application Approvals](#)

You can review hard copies of the draft update section of the RUSA Biosolids Management Plan (BMP), and related documents at the DEQ office in Salem. For a review appointment, call Carrie Everett at (503) 378-5055.
Western Region - Salem Office, 750 Front Street NE, Suite 120, Salem, OR 97301-1039

What is proposed?

The Management Plan is part RUSA's NPDES permit. DEQ proposes to approve a RUSA's updated BMP and also authorize land application on the Hayden Ranch near Roseburg OR and is inviting comment on the proposed permitting action. During the comment period the public is invited to make comments to related specific conditions within the proposed BMP. DEQ proposes to approve RUSA's BMP update to include future potential biosolid land application sites in Douglas County

Who is the applicant?

Roseburg Urban Sanitary Authority
RUSA
1297 Grandview
P.O. Box 1185
Roseburg OR 97470

Where is the facility located?

34845 Goedeck Road, Roseburg OR 97471

Who might have an interest?

People who work, live, and recreate in the vicinity of the land application site, the treatment facility and city residents who live at and are served by the wastewater facilities.

What are the special conditions of this Biosolid Management Plan? The proposed plan includes the requirements for the generation of biosolid and land application management, and notifying the Department of any malfunctions.

Compliance history:

The RUSA's NPDES permit was issued on October 6, 2005 (File Number 76771: Permit Number 100981). The City of Roseburg owns and

Noticed Issued: 8/9/12
By: Carrie Everett

operates a secondary wastewater treatment facility that serves the City of Roseburg. The existing treatment facility utilizes activated sludge technology to provide secondary treatment. Primary and secondary sludge undergoes anaerobic digestion. Digested sludge that meets Class B biosolids criteria may be land applied on Department authorized sites.

A biosolids management plan was submitted to the Department in 2005. The Department reviewed and approved RUSA's Biosolids Management Plan along with their NPDES permit on October 6, 2005.

For the 2012 land application season, the permittee must monitor land application and agronomic loadings of all biosolid. Permittee must maintain daily site logs of all biosolid land applied and report a summary to the Department of their land application activities for the year in an annual report.

Over the last permit cycle RUSA received one enforcement action related to their biosolid land application program. RUSA was issued a Warning Letter with Opportunity to Correct on July 11, 2010 for using a previously approved biosolid land application site and not listing these sites in the 2005 RUSA Biosolid Management Plan.

What other DEQ permits are required?
None.

What legal requirements apply?
The WPCF permit is required in accordance with ORS 468B.050 and the federal Clean Water Act.

What discretionary decisions did DEQ use in deciding to issue this Biosolid Management Plan?
An examination of the compliance history and a biosolid source file review indicates that the permittee will have little difficulty meeting the EPA 40 CFR Part 503, Class B Biosolid criteria.

What happens next?
DEQ will review and consider all comments received during the comment period. Following this review, DEQ may issue the Biosolid Management Plan amendment and site authorization as proposed or modified them, or deny them.

DEQ will provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the proposed permit if prior to the close of this public notice period:

- The submitted comments indicate significant public interest, or
- Written requests from ten or more persons are received, or
- An organization representing at least ten persons requests a public hearing.

Accessibility information

DEQ is committed to accommodating people with disabilities at our hearings. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact DEQ Communications & Outreach at (541) 687-7343 or toll free in Oregon at (800) 844-8467.

People with hearing impairments may call DEQ's TTY number, (503) 378-3684.

Which of the facility's activities are not under DEQ's jurisdiction?

Employee health and safety issues are regulated by the Occupational Safety and Health Administration (OSHA). Facility siting locations are under the jurisdiction of local zoning authorities. Associated building (excavation, grading, plumbing and electrical) permits are under the jurisdiction of local building authorities.

What similar activities take place in the vicinity of the facility?

The City of Grants Pass and the City of Coos Bay have similar wastewater facilities. .

What other facilities does this owner operate?
City of Roseburg also operates a water treatment plant

What are the known health effects or environmental impacts of the permitted substances stored, disposed of, discharged or emitted by the facility?

There are no known impacts to public health and the environment when biosolids are land applied according to the EPA's 40 CFR Part 503 Biosolid regulations.

How are the permitted substances measured?
Schedule D of the WPCF permit requires the permittee to have a Biosolid Management Plan which requires monitoring and recording biosolids. Monitoring must be performed in

accordance with federal regulations (40 CFR Part 136 and 503) unless otherwise specified in the permit.

Expiration Date: 9-30-2010
 Permit Number: 100981
 File Number: 76771
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**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
 WASTE DISCHARGE PERMIT**

Department of Environmental Quality
 Western Region – Salem Office
 750 Front Street NE, Suite 120, Salem, OR 97301-1039
 Telephone: (503) 378-8240

Issued pursuant to ORS 468B.050 and The Federal Clean Water Act

ISSUED TO:

Roseburg Urban Sanitary Authority
 3485 Goedeck Road
 Roseburg, OR 97470

SOURCES COVERED BY THIS PERMIT:

Type of Waste	Outfall Number	Outfall Location
Treated Wastewater	001	R.M. 7.65
Reclaimed Water Reuse		
Level II Reclaimed Water	002A	Irrigation
Level III Reclaimed Water	002B	Irrigation
Level IV Reclaimed Water	002C	Irrigation
Emergency Overflows:		
Plant Pump Station Wet Well	003	RM 7.65
South Bank Pump Station	004	North Umpqua River R.M. 6.9

FACILITY TYPE AND LOCATION:

Activated Sludge
 R.U.S.A. Roseburg STP
 3485 W Goedeck Ave.
 Roseburg, Oregon
Treatment System Class: Level IV
Collection System Class: Level IV

RECEIVING STREAM INFORMATION:

Basin: Umpqua
 Sub-Basin: South Umpqua
 Receiving Stream: South Umpqua River
 LLID: 1234460432680-7.65-D
 County: Douglas

EPA REFERENCE NO: OR003135-6

Issued in response to Application No. 991482 received July 9, 1997. This permit is issued based on the land use findings in the permit record.

Tim M. Fel...
 for: Michael H. Kortenhof, Western Region Water Quality Manager

October 6, 2005
 Date

PERMITTED ACTIVITIES

Until this permit expires or is modified or revoked, the permittee is authorized to construct, install, modify, or operate a wastewater collection, treatment, control and disposal system and discharge to public waters adequately treated wastewaters only from the authorized discharge point or points established in Schedule A and only in conformance with all the requirements, limitations, and conditions set forth in the attached schedules as follows:

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Schedule A - Waste Discharge Limitations not to be Exceeded	2
Schedule B - Minimum Monitoring and Reporting Requirements	5
Schedule C - Compliance Conditions and Schedules.....	11
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Schedule F - General Conditions.....	18

Unless specifically authorized by this permit, by another NPDES or WPCF permit, or by Oregon Administrative Rule, any other direct or indirect discharge of waste is prohibited, including discharge to waters of the state or an underground injection control system.



Oregon

John A. Kitzhaber, M.D., Governor

Attachment C

Department of Environmental Quality

Western Region Eugene Office

165 East 7th Avenue, Suite 100

Eugene, OR 97401

(541) 686-7838

FAX (541) 686-7551

OTRS 1-800-735-2900

August 8, 2012

Ron Thames, Manager
Roseburg Urban Sanitary Authority
1297 NE Grand Ave.
Roseburg, OR 97470

Steve Witbeck, OMI Manager
Roseburg Urban Sanitary Authority
Wastewater Treatment Facility
3485 W. Goedeck Rd.
Roseburg, OR 97471

Re: Revised Biosolid Site Authorization
RUSA NPDES Permit Number: 100981
RUSA File Number: 76771
Roseburg Urban Sanitary Authority's (RUSA)
Authorization to Land Apply Biosolids on 178 acres, Hayden Land Application Sites 1-10.
Michael Hayden, property owner
198 McKee Lane
Roseburg, OR 97471



Field 1 is 21 acres	WR2011-34-BS Twp. 26, R. 6W. Sec. 18 Tax Lot 301
Field 1	WR2011-34-BS Twp. 26, R. 7W. Sec. 13A Tax Lot 700
Field 1	WR2011-34-BS Twp. 26, R. 7W. Sec. 13A Tax Lot 201
Field 2 is 14.5 acres	WR2011-35-BS Twp. 26, R. 6W. Sec. 18 Tax Lot 301
Field 3 is 6 acres	WR2011-36-BS Twp. 26, R. 6W. Sec. 18 Tax Lot 301
Field 4 is 23.5 acres	WR2011-37-BS Twp. 26, R. 6W. Sec. 18 Tax Lot 301
Field 4	WR2011-37-BS Twp. 26, R. 7W. Sec. 13A Tax Lot 201
Field 5 is 26 acres	WR2011-38-BS Twp. 26, R. 6W. Sec. 18 Tax Lot 301
Field 6A is 11 acres	WR2011-39-BS Twp. 26, R. 6W. Sec. 18 Tax Lot 301
Field 6B is 10 acres	WR2011-40-BS Twp. 26, R. 6W. Sec. 18 Tax Lot 301
Field 7 is 20 acres	WR2011-41-BS Twp. 26, R. 6W. Sec. 18 Tax Lot 301
Field 8 is 21 acres	WR2011-42-BS Twp. 26, R. 6 W. Sec. 18 Tax Lot 301
Field 8	WR2011-42-BS Twp. 26, R. 7 W. Sec. 13D Tax Lot 301
Field 9A is 8.0 acres	WR2011-43-BS Twp. 26, R. 6W. Sec. 18 Tax Lot 301
Field 9B is 9 acres	WR2011-44-BS Twp. 26, R. 6W. Sec. 18 Tax Lot 301
Field 10 is 8.0 acres	WR2011-45-BS Twp. 26, R. 6W. Sec. 18 Tax Lot 301

Douglas County

Dear Mr. Ron Thames and Mr. Steve Witbeck:

The Department has received the requested information needed to reauthorize the old Collins site to Roseburg Urban Sanitary Authority (RUSA) under the current property owner, Mr. Michael Hayden. Thank you for the file update information.

Permittee Responsibility:

It is RUSA's responsibility to ensure the proper handling and application of all biosolids generated. Transportation of the biosolids to the application site must be done in such a manner as to prevent leaking or spilling the biosolids onto the highways, streets, roads, waterways or other land surfaces not approved for biosolids application.

Site Description:

The Hayden Farm is located northwest of Roseburg, OR. The site is a 280 acre parcel located off McKee Lane, near Roseburg, Oregon, and is currently subdivided into 12 fields. With setbacks, usable acreage for land application of biosolids will be approximately 178 acres. All fields are used for pasture and hay crops. These biosolids application sites are only those portions of the parcel that are shown on the enclosed map. These sites are comprised mostly of Evens loam, and Sibold fine sandy loam soils with a little Pengra silt loam soils; most of the sites' soils are moderately slow to drain, located on upper river terraces.

Site Approval:

Based upon documentation provided to DEQ and a site evaluation, the Department authorizes the RUSA to land apply biosolids to the referenced property subject to the conditions under your National Pollutant Discharge Elimination (NPDES) permit, the Oregon Administrative Rule (OAR 340-050), and the following conditions:

Site Authorization Approval Seasons:

1. Hayden Field 1 is 21 acres WR2011-34-BS is approved for year around land application of biosolids. During biosolid land application, care should be taken to avoid wet soil conditions, which may have occurred as a result of precipitation, especially in low and concave areas.
2. Hayden Field 2 is 14.5 acres WR2011-35-BS is approved for year around land application of biosolids. During biosolid land application, care should be taken to avoid wet soil conditions, which may have occurred as a result of precipitation, especially in low and concave areas.
3. Hayden Field 3 is 6 acre WR2011-36-BS is approved for year around land application of biosolids. During biosolid land application, care should be taken to avoid wet soil conditions, which may have occurred as a result of precipitation, especially in low and concave areas.
4. Hayden Field 4 is 23.5 acres WR2011-37-BS is approved for summer (May 1 through October 31) land application of biosolids. During biosolid land application, care should be taken to avoid wet soil conditions, which may have occurred as a result of precipitation, especially in low and concave areas.

5. Hayden Field 5 is 26 acres WR2011-38-BS is approved for year around land application of biosolids. During biosolid land application, care should be taken to avoid wet soil conditions, which may have occurred as a result of precipitation, especially in low and concave areas.
6. Hayden Field 6A is 11 acres WR2011-39-BS is approved for year around land application of biosolids. During biosolid land application, care should be taken to avoid wet soil conditions, which may have occurred as a result of precipitation, especially in low and concave areas.
7. Hayden Field 6B is 10 acres WR2011-40-BS is approved for year around land application of biosolids. During biosolid land application, care should be taken to avoid wet soil conditions, which may have occurred as a result of precipitation, especially in low and concave areas.
8. Hayden Field 7 is 20 acres WR2011-41-BS is approved for summer land (May 1 through October 31) application of biosolids. During biosolid land application, care should be taken to avoid wet soil conditions, which may have occurred as a result of precipitation, especially in low and concave areas. During biosolid land application, care should be taken to avoid wet soil conditions, which may have occurred as a result of precipitation, especially in low and concave areas.
9. Hayden Field 8 is 21 acres WR2011-42-BS is approved for summer land (May 1 through October 31) application of biosolids. During biosolid land application, care should be taken to avoid wet soil conditions, which may have occurred as a result of precipitation, especially in low and concave areas.
10. Hayden Field 9A is 8.0 acres WR2011-43-BS is approved for year around land application of biosolids. During biosolid land application, care should be taken to avoid wet soil conditions, which may have occurred as a result of precipitation, especially in low and concave areas.
11. Hayden Field 9B is 9 acres WR2011-44-BS is approved for summer (May 1 through October 31) land application of biosolids. During biosolid land application, care should be taken to avoid wet soil conditions, which may have occurred as a result of precipitation, especially in low and concave areas.
12. Hayden Field 10 is 8.0 acres WR2011-45-BS is approved for summer (May 1 through October 31) land application of biosolids. During biosolid land application, care should be taken to avoid wet soil conditions, which may have occurred as a result of precipitation, especially in low and concave areas.

Site Setbacks:

1. Liquid biosolids must not be applied on slopes greater than 12 percent. Cake biosolids must not be applied on slopes greater than 30 percent.
2. Biosolids must be applied evenly at or below approved agronomic rates and in a manner to prevent ponding or runoff.
3. Biosolids must not be applied closer than 50' feet to any public property or public road way, any drainage ditch, channel, pond, or waterway, or within 200 feet of a domestic water source or well. Also there is a 50 foot land application setback to the two stormwater drains located near field #1 and in field #7.
4. At the time of land application there must be a 48" separation between the ground surface and the soil ground water table.

Site Authorization Loadings:

Biosolid application rate must not exceed the Plant Available Nitrogen (PAN-N) /acre/year for the crop types based on the Oregon State University (OSU) Fertilizer guide (attached). Changes in the biosolids characteristics or crops management may necessitate appropriate adjustments in the biosolids application rate to maintain proper plant available nitrogen for desired crop growth.

Table 1 Crop Types and Agronomic Loadings based on OSU fertilizer guide.

Crop Type	PAN-Nitrogen/ac-yr
Western pasture grass	100 lbs. PAN/ac

1. The previous site authorization allowed 150 lbs. PAN/ac-yr; if this loading rate is used, then representative carry over nitrogen soil samples must be taken from each field every year and the resulting carry over soil nitrogen subtracted from the next year nitrogen loading rate. This higher nitrogen loading is allowed only with appropriate soil and crop monitoring. OAR 340-050-0025(5), DEQ may impose more stringent conditions when necessary to protect public health or the environment.
2. If other sources of nitrogen are used, then the biosolids application rate must be reduced so that irrigation of recycled water and/or other sources of nitrogen, such as commercial nitrogen in combination with biosolid's nitrogen do not exceed base agronomic loading rate for this site (N lb. PAN/acre/year), see condition 1 above.

Site Use Limitations:

1. Controlled access to the biosolids site must be maintained for a period of 12 months following biosolids application.
2. Grazing of domestic animals must not occur on this site within 30 days following the last day biosolids were land applied. There is a 90 day grazing restriction for lactating animals (dairy cattle).

Site Monitoring:

1. Written daily land application records (gallons land applied /ac-day) must be kept on a field grid map or other easily readable system. The RUSA is responsible for tracking

the land application of biosolids on daily basis (number of dry pounds nitrogen land applied per acre).

2. A copy of the current year's biosolid analysis should be carried with all biosolids that are to be land applied at this site. The responsible parties who apply biosolids should review these documents prior to land applying biosolids to this site.
3. A copy of this site authorization letter and a signed biosolid pathogen and vector attraction reduction certification statement should accompany all biosolids land applied at this site.
4. RUSA must provide the DEQ with summaries of biosolids land application activities along with a current biosolids analysis in Roseburg's annual report.
5. If this site is used 2 out of 3 consecutive years where biosolids are land applied at the agronomic loading cited in Table 1, then a soil carry over nitrogen test is required for those fields in question prior to the end of the third year. If annual biosolids PAN loading are above the Table 1 value then see * note under Table 1.

Accidental Spillage:

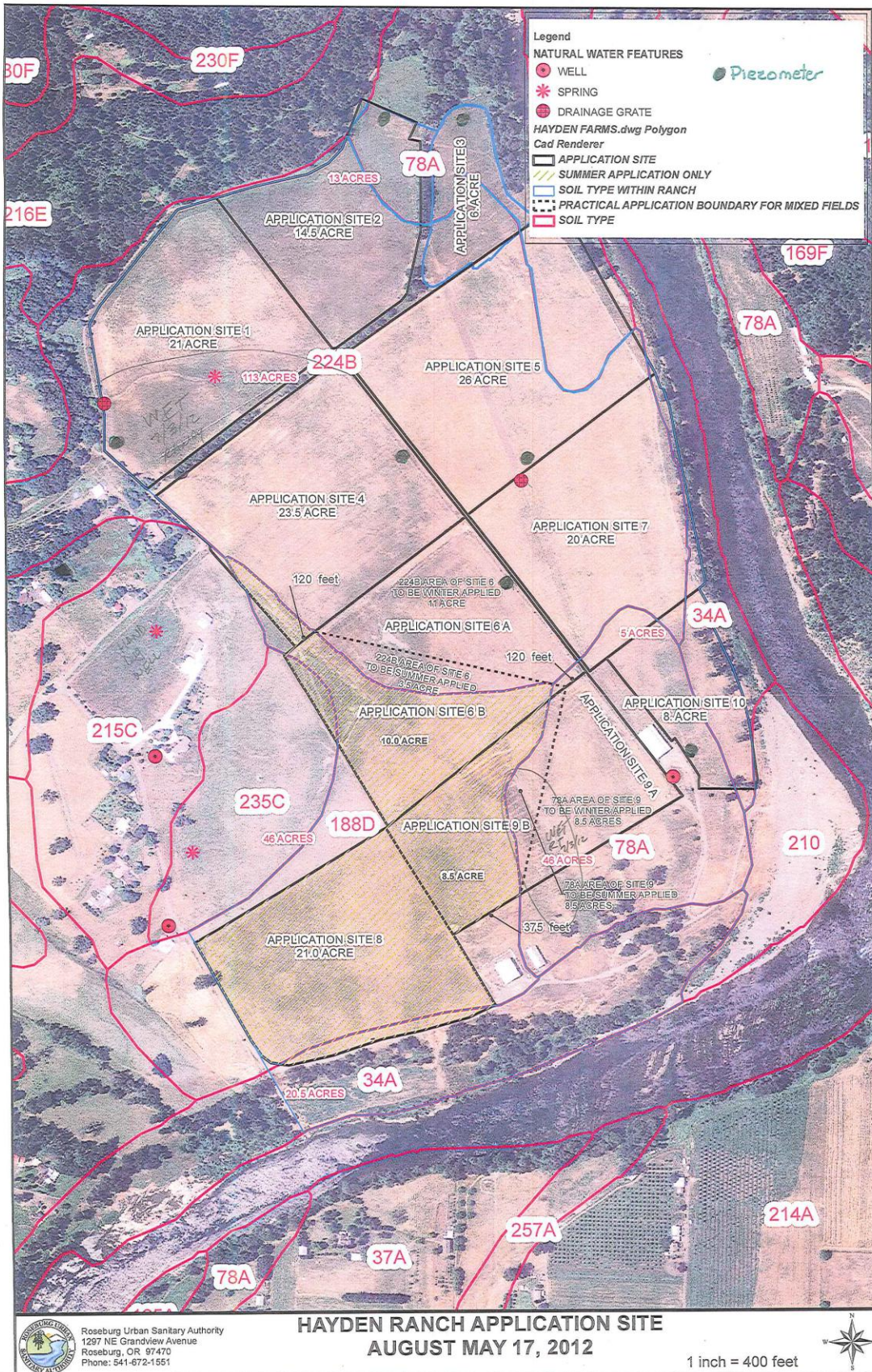
The permittee shall immediately clean up any spillage of biosolids and notify the DEQ Eugene DEQ at (541) 687-7439 of any such occurrences. Spillage which cannot be completely cleaned up shall be covered with hydrated lime (Calcium Hydroxide) or lime (calcium oxide) and once dried clean up and the residue removed. A 50-lb. bag of liming material shall remain available during transportation of the biosolids.

Additional Conditions:

1. The permittee must have the property owner's approval for land application of biosolids on this property. The permittee must notify DEQ in writing of any change in property ownership and submit to the Department a copy of the updated site management agreement.
2. This authorization is subject to revocation should health hazards, environmental degradation, or nuisance conditions develop as a result of inadequate biosolids treatment or site management.
3. DEQ may withdraw authorization at the requirements of the permittee or the property owner.
4. The permittee must receive written authorization from DEQ for any variations from any conditions in the DEQ-approved biosolids management plan or this site authorization.
5. DEQ may amend this Site Authorization and impose any additional restrictions or conditions deemed necessary to protect environmental and human health.
6. The permittee must notify DEQ of any changes in any farm management or practices such that there is significant non-compliance with the any conditions in the DEQ-approved management plan or site authorization.
7. Site authorizations do not convey any property rights of any sort, or any exclusive privileges, or authorized any injury to persons or property or invasion of any other property rights, or any infringement of federal, state or local laws or regulations.
8. This biosolids site authorization is a part of your DEQ-approved Biosolids Management Plan, which is part of your NPDES permit. This site authorization will expire unless it is

listed in the Biosolids Management Plan submitted to DEQ at the time of your next permit renewal.

9. In the past RUSA has annually read piezometer near the Hayden sites just prior to and during biosolid land application. Attached is a map with past RUSA piezometer locations, these locations must be monitored before and during biosolid land application. The soil water level in the piezometers near the land application site must be 48 inches or more below ground surface during any biosolids land application.



Page 9 of 9

Revised RUSA Biosolid Site Authorization Hayden Fields 1 through 10

RUSA NPDES Permit Number: 100981

RUSA File Number: 76771

August 8, 2012

If you have any questions regarding this authorization, please call me at (541) 687-7439.

Sincerely,

Paul Kennedy, EHS

WQ-Biosolids Program, Eugene DEQ

Cc: Portland-DEQ Biosolid Program

Douglas County Health Department

Michael Hayden, property owner, 198 McKee Lane, Roseburg OR 97471

Attachment # 1, OSU Fertilizer Guide for pasture grass

BIOSOLIDS UTILIZATION PROGRAM

100% of biosolids generated by RUSA is beneficially used through land application. The following biosolids land application plan outlines agronomic application rate and site crops, where biosolids are land applied, site selection criteria for a new site, and site and crop management practices.

BIOSOLIDS LAND APPLICATION PLAN

Agronomic Application Rate and Site Crops

Class B biosolids are required to be land applied to a site at a rate that is equal to or less than the agronomic rate for the site. An agronomic rate is the whole biosolids application rate (dry weight basis) designed to provide the annual total amount of nitrogen needed by a crop and to minimize the amount of nitrogen passing below the root zone of the crop or vegetation to groundwater.

The annual application rate for the RUSA approved sites is 100 pounds available nitrogen (N) per acre, unless otherwise specified in the approval letter. The land application sites authorized for use can assimilate the total plant available nitrogen the biosolids provide on an annual basis. Specific site agronomic loading rates are stated in the Department issued site authorization letters.

Site Inventory of Existing and Potential Sites

RUSA currently land applies Class B biosolids to the Department authorized sites listed in the **Attachment C**. Surface application of biosolids is performed using either tanker trucks or irrigated out of the tanker with a trailer mounted pump. RUSA currently has 2778 acres that are authorized for land application. This is an adequate land base for current and future operations when sites are seasonally available, based on current biosolids generation rates.

Site Selection Criteria for a New Site

If necessary, RUSA will locate additional sites for land applying biosolids. Prior to using any site for land application, RUSA is required to receive a written site authorization letter from the Department. The following site conditions will be considered when determining the suitability of a site for land application:

- All sites will be located on agricultural or forestry land in the state of Oregon.
- Minimum depth to permanent groundwater should be four feet, unless otherwise specified in the approval letter.
- Topography should be suitable for normal agricultural or forestry operations. Liquid biosolids should not be land applied on bare soils when the slope exceeds 12 percent. Dewatered or dried biosolids may be land applied on well vegetated slopes up to 30 percent.

Public Notification

RUSA is required to notify the public of the proposed land application activity and give a 30 day comment period prior to approval of the site. This is done by mailings to adjacent property owners.

Site Management Practices

Site access restrictions and setbacks will be followed as outlined in the Department's site authorization letters. Biosolids land application will not occur in those areas designated as buffer strips and will be achieved through accurate measurement of the buffer area prior to commencing land application.

Crop Management Practices

As listed in the Biosolids Land Application Site Inventory table in **Attachment C**, biosolids are applied to pasture/hay crops consistent with the Oregon State Fertilizers' Guides. Soil conditions must be favorable for application such that runoff or leaching does not occur.

The overall management of nutrients at the land application sites takes into account the amount of biosolids land applied, the amount of commercial fertilizers used and the amount of residual nutrients in the soil. When additional sources of nitrogen (e.g., commercial fertilizer) are applied to a site, then the application of biosolids should be reduced to compensate for the additional nitrogen loading.

In the event of annual biosolids application to the same field for 3 consecutive years, annual sampling and testing of application site soils for nitrate and ammonia nitrogen will be conducted, as per approval letters, prior to biosolids application. Application rates must be adjusted to account for available nitrogen carried over from previous applications. If crop removal of nitrogen exceeds the calculated agronomic rate, additional nitrogen may be required to sustain crop production.

ATTACHMENT C: BIOSOLIDS APPLICATION APPROVALS

Updated: 7/9/12

PROPERTY OWNER	LESSEE	CURRENT SITE USE	TOWNSHIP	RANGE	SECTION	TAX LOT	ADDRESS	CITY	ST	ZIP	SEASON(S) WINTER	SEASON(S) SUMMER	DEQ APPROVAL	TOTAL APPROVED ACRES	TOTAL AVAIL. ACRES*	Total Available Nitrogen Loading (lb/acre/year)	Available Nitrogen Site Uptake
Banducci, Robert		Pasture	25	6W	31	600	1871 Hubbard Creek Rd.	Umpqua	OR	97486	Oct 1-Apr 30	May 1-Sept 30	08/08/96	65.0	58.5	100	6,500
Barter, Bob		Pasture/Hay	27	7W	22	900	3694 Flourmoy Valley Rd.	Roseburg	OR	97470	N/A	May 1-Oct 31	09/27/00	23.0	20.7	100	2,300
Bowman, Dale		Pasture/Hay	28	7W	34	200	1965 Ollala Rd.	Winston	OR	97496	N/A	June 1-Oct 31	09/28/97	20.0	18.0	100	2,000
Bowman, Dale		Pasture/Hay	28	7W	27	200	1965 Ollala Rd.	Winston	OR	97496	N/A	June 1-Oct 31	06/01/98	35.0	31.5	100	3,500
Brown, C.L.		Pasture/Hay	27	7W	11 & 15	multiple	1799 Flourmoy Valley Rd.	Roseburg	OR	97470	Site #1	Sites 2 & 3	06/12/92	45.0	40.5	120	5,400
Brown, Daisalie (Daisy)		Pasture/Hay	27	7W	10	2800	1799 Flourmoy Valley Rd.	Roseburg	OR	97470	N/A	June 1-Oct 31	08/21/06	30.0	27.0	100	3,000
Busby, James Scott		Pasture	26	6W	multiple	multiple	6163 Garden Valley Rd.	Roseburg	OR	97470	N/A	May 1-Oct 31	06/09/93	80.0	72.0	100	8,000
Busby, James Scott		Pasture	25	7W	26	500 & 400	1338 Garden Valley Rd.	Roseburg	OR	97470	N/A	May 1-Oct 31	03/31/93	19.1	17.2	100	1,910
Clark, Alton		Pasture	25	7W	25	1400	10272 Melqua Rd.	Umpqua	OR	97486	Oct 1-Apr 30	May 1-Sept 30	03/08/95	19.0	17.1	100	1,900
Coffel, Richard & Susan		Pasture/Hay	27	7W	35	multiple	456 Coos Bay Wagon Rd.	Roseburg	OR	97470	N/A	June 1-Oct 31	08/31/07	14.0	12.6	100	1,400
Cox, William & Sue		Pasture	26	6W	11	300	1241 Wilbur Rd.	Roseburg	OR	97471	N/A	May 1-Sept 30	01/05/87	90.0	81.0	100	9,000
Engelking, Charles		Pasture	27	6W	5	2200	1292 Melrose Rd.	Roseburg	OR	97471	N/A	June 1-Oct 31	03/18/95	22.0	19.8	100	2,200
Engle, Fred H.	Morgan & Engle, Inc.	Vineyard	27	6W	3	400 & 700	3400 Garden Valley Rd.	Roseburg	OR	97470	N/A	May - Oct 31(a)	01/05/87	143.0	128.7	100	14,300
Fox, Arlie	Charles W. Collins	Pasture	28	7W	14	200	3081 Strickland Canyon Rd.	Roseburg	OR	97470	N/A	June 1-Oct 31	07/27/92	255.0	229.5	100	25,500
Gadeway, Elinor Jean	Christi Helbling	Pasture	28	6W	2	100	315 Mistletoe Lane	Roseburg	OR	97470	Oct 1-Apr 30	May 1-Sept 30	03/20/95	22.0	19.8	100	2,200
Gadeway, Elinor Jean	Christi Helbling	Pasture	28	6W	2	100	315 Mistletoe Lane	Roseburg	OR	97470	N/A	June 1-Oct 31	03/20/95	15.2	13.7	100	1,520
Grout, Raymond		Pasture	27	7W	21	1000	4430 Flourmoy Valley Rd.	Roseburg	OR	97471	N/A	June 1-Oct 31	09/29/10	25.0	22.5	100	2,500
Grout, Raymond		Pasture/Hay	27	7W	21	300	303 Touchstone Lane	Roseburg	OR	97470	N/A	June 1-Oct 31	03/05/09	50.0	45.0	100	5,000
Guido, Kelly		Pasture	27	6W	5	202	640 Shady Drive	Roseburg	OR	97471	N/A	Mar 1-Nov 30	03/08/02	80.0	72.0	100	8,000
Hayden, C. Michael #1		Pasture/Hay	26	6W	18	301	198 McKeel Lane	Roseburg	OR	97470	Oct 2-Apr 30	May 1-Oct 1	11/28/11	21.0	18.9	100	2,100
Hayden, C. Michael #1		Pasture/Hay	26	6W	13A	700	198 McKeel Lane	Roseburg	OR	97470	Oct 2-Apr 30	May 1-Oct 1	11/28/11	"	"	100	"
Hayden, C. Michael #1		Pasture/Hay	26	7W	13A	201	198 McKeel Lane	Roseburg	OR	97470	Oct 2-Apr 30	May 1-Oct 1	11/28/11	"	"	100	"
Hayden, C. Michael #2		Pasture/Hay	26	6W	18	301	198 McKeel Lane	Roseburg	OR	97470	Oct 2-Apr 30	May 1-Oct 1	11/28/11	14.5	13.1	100	1,450
Hayden, C. Michael #3		Pasture/Hay	26	6W	18	301	198 McKeel Lane	Roseburg	OR	97470	Oct 2-Apr 30	May 1-Oct 1	11/28/11	6.0	5.4	100	600
Hayden, C. Michael #4		Pasture/Hay	26	6W	18	301	198 McKeel Lane	Roseburg	OR	97470	Oct 2-Apr 30	May 1-Oct 1	11/28/11	23.5	21.2	100	2,350
Hayden, C. Michael #4		Pasture/Hay	26	7W	13A	201	198 McKeel Lane	Roseburg	OR	97470	Oct 2-Apr 30	May 1-Oct 1	11/28/11	"	"	100	"
Hayden, C. Michael #5		Pasture/Hay	26	6W	18	301	198 McKeel Lane	Roseburg	OR	97470	Oct 2-Apr 30	May 1-Oct 1	11/28/11	26.0	23.4	100	2,600
Hayden, C. Michael #6A		Pasture/Hay	26	6W	18	301	198 McKeel Lane	Roseburg	OR	97470	Oct 2-Apr 30	May 1-Oct 1	11/28/11	11.0	9.9	100	1,100
Hayden, C. Michael #6B		Pasture/Hay	26	6W	18	301	198 McKeel Lane	Roseburg	OR	97470	N/A	May 1-Oct 1	11/28/11	10.0	9.0	100	1,000
Hayden, C. Michael #7		Pasture/Hay	26	6W	18	301	198 McKeel Lane	Roseburg	OR	97470	Oct 2-Apr 30	May 1-Oct 1	11/28/11	20.0	18.0	100	2,000
Hayden, C. Michael #8		Pasture/Hay	26	6W	18	301	198 McKeel Lane	Roseburg	OR	97470	N/A	May 1-Oct 1	11/28/11	21.0	18.9	100	2,100
Hayden, C. Michael #8		Pasture/Hay	26	7W	13D	301	198 McKeel Lane	Roseburg	OR	97470	Oct 2-Apr 30	May 1-Oct 1	11/28/11	"	"	100	"
Hayden, C. Michael #9A		Pasture/Hay	26	6W	18	301	198 McKeel Lane	Roseburg	OR	97470	Oct 2-Apr 30	May 1-Oct 1	11/28/11	8.0	7.2	100	800
Hayden, C. Michael #9B		Pasture/Hay	26	6W	18	301	198 McKeel Lane	Roseburg	OR	97470	N/A	May 1-Oct 1	11/28/11	9.0	8.1	100	900
Hayden, C. Michael #10		Pasture/Hay	26	6W	18	301	198 McKeel Lane	Roseburg	OR	97470	Oct 2-Apr 30	May 1-Oct 1	11/28/11	8.0	7.2	100	800
Hunt, Terry		Pasture	26	6W	12	200,201,202	625 Wilbur Road	Roseburg	OR	97470	Oct 2-Apr 30	May 1-Oct 1	11/28/11	21.0	18.9	100	2,100
Kuntz, George		Pasture	27	7W	21	800	4449 Flourmoy Valley Rd.	Roseburg	OR	97471	N/A	June 1-Oct 31	01/20/10	38.0	34.2	100	3,800
Larson, Paula		Pasture/Hay	27	7W	36B	200	6800 Lookingglass Rd.	Lookingglass	OR	97470	N/A	May 1-Oct 31	08/11/05	45.0	40.5	100	4,500
Leininger, Katherine		Pasture/Hay	24	6W	22	500	7279 Green Valley Rd.	Oakland	OR	97462	N/A	June 1-Oct 1	10/31/94	250.0	225.0	100	25,000
Lemon, Stanley	Dave Oaks	Pasture	27	7W	2	200	272 Bryant Ln.	Roseburg	OR	97470	Oct 1-Apr 30	May 1-Sept 30	06/12/92	10.0	9.0	100	1,000
Looman, Nolen		Pasture	27	7W	16	200	2975 Flourmoy Valley Rd.	Roseburg	OR	97470	N/A	May 1-Oct 31	06/14/01	100.0	90.0	100	10,000
Mastel, Fred		Pasture	28	7W	2	1700	304 Dairy Loop Rd.	Roseburg	OR	97470	N/A	June 1-Oct 31	11/24/08	50.0	45.0	100	5,000
Mathweg, Kevin		Pasture/Hay	27	7W	34	1700	1244 Coos Bay Wagon Rd.	Roseburg	OR	97471	N/A	June 1-Oct 31	01/13/10	30.0	27.0	100	3,000
Maurer, Dave & Carol		Pasture/Hay	27	7W	35	1300	816 Coos Bay Wagon Rd.	Roseburg	OR	97471	N/A	June 1-Oct 31	09/14/09	11.0	9.9	100	1,100
Murphy, LaVerne	Mike/Wayne LoPera	Pasture/Hay	25	7W	35	400	9832 Melqua Rd.	Umpqua	OR	97486	N/A	June 1-Oct 1	10/31/94	37.6	33.8	100	3,760
Nichols Bros., Inc.	Dale Bowman	Pasture	29	7W	6	100 & 102	700 Old Brockway Rd.	Winston	OR	97496	N/A	May 1-Oct 31	04/14/00	15.0	13.5	100	1,500
Nichols Bros., Inc.	Dale Bowman	Pasture	29	7W	6	100 & 102	700 Old Brockway Rd.	Winston	OR	97496	N/A	May 1-Jun 15-Oct 31	05/07/01	65.0	58.5	100	6,500
Norris, Paul		Blueberries	25	6W	31	400	8181 Oak Hill Rd.	Roseburg	OR	97470	Oct 1-Apr 30	May 1-Sept 30	01/06/92	35.0	31.5	100	3,500
Reber, Harlan		Pasture	27	7W	13	600	3144 Colonial Rd.	Roseburg	OR	97470	N/A	June 1-Oct 31	08/17/98	30.0	27.0	100	3,000
Richards, John	Mark Thomson	Pasture/Hay	27	7W	1	3400	4921 Melrose Rd.	Roseburg	OR	97471	N/A	May 1-Oct 31	01/24/90	132.0	118.8	150	19,800
Ritchie, Mike		Vineyard	25	7W	36	100	1338 Garden Valley Rd.	Roseburg	OR	97470	Oct 1-Apr 30	May 1-Sept 30	11/26/93	100.0	90.0	100	10,000
Kruse	Mike Ritchie	Pasture	28	7W	2	multiple	Dairy Loop Rd.	Lookingglass	OR	97470	N/A	May 1-Oct 31(b)	11/09/00	71.0	63.9	100	7,100
Rizza, Gerald & Margie		Pasture/Hay	27	6W	31	700	1338 Garden Valley	Roseburg	OR	97471	N/A	May 1-Sept 30(c)	08/08/93	65.0	58.5	100	6,500
Rust, Richard		Pasture/Hay	22	8W	24	300	16903 Hwy. 38	Roseburg	OR	97471	N/A	June 1-Oct 31	06/03/94	35.0	31.5	100	3,500
Starns, Bill		Pasture/Hay	27	7W	20	300	765 Touchstone Lane Rd.	Elkton	OR	97436	Oct 1-Apr 30	May 1-Sept 30	02/22/05	20.0	18.0	100	2,000
Thiringer, Craig		Pasture/Hay	27	7W	28 & 29	multiple	5906 Flourmoy Valley Rd.	Roseburg	OR	97470	N/A	June 1-Oct 31	06/28/07	14.0	12.6	100	1,400
Thiringer, Craig		Pasture/Hay	27	7W	28 & 29	multiple	5906 Flourmoy Valley Rd.	Roseburg	OR	97470	N/A	June 1-Oct 31	06/14/01	100.0	90.0	100	10,000
Thomas, Patrick		Pasture	27	7W	36	600	6500 Lookingglass Rd.	Roseburg	OR	97470	N/A	June 1-Oct 31	06/31/06	30.0	27.0	100	3,000
Towner, Deryle		Pasture	27	6W	4	1201	342 Shady Drive	Roseburg	OR	97471	N/A	June 1-Oct 31	05/25/95	15.0	13.5	100	1,500
Turner, Randy		Pasture/Hay	28	6W	3	3500	3384 Amber Lane	Roseburg	OR	97470	N/A	June 1-Oct 31	08/31/07	9.0	8.1	100	900
Whetherell, Mike		Vineyard	25	7W	36	700	577 Mode Rd.	Umpqua	OR	97486	N/A	June 1-Oct 31	03/18/95	44.0	39.6	100	4,400
Whetherell, Mike		Vineyard	25	7W	36	700	577 Mode Rd.	Umpqua	OR	97486	N/A	June 1-Oct 31	03/18/95	5.0	4.5	100	500
TOTALS													2,637.9	2,374.1	6,370	271,290	

Bold = Names included in letter

* = Total Acres approved minus 10% for setbacks

(a) = Weather permitting April & November application

(b) = Site #1: Mar 1 - Nov 30

(c) = Site #2: May 1 - Oct 31

(c) = Possible winter application, upon request



Oregon

John A. Kitzhaber, MD, Governor

Department of Environmental Quality
Western Region Eugene Office
165 East 7th Avenue, Suite 100
Eugene, OR 97401
(541) 686-7838
FAX (541) 686-7551
TTY 711

February 14, 2012

Roseburg Urban Sanitary Authority
c/o Ron Thames, Manager
1297 NE Grand Ave.
Roseburg, OR 97470

Re: DEQ Reconsideration of Authorization to Land Apply Biosolids on Hayden Farm

Dear Mr. Thames:

The Department of Environmental Quality (DEQ) recently received a Petition for Reconsideration of the October 10, 2011 Authorization to Land Apply Biosolids at "Hayden Farm" off McKee Lane, near Roseburg, that was filed by Northwest Environmental Advocates. DEQ granted the petition, and has completed our reconsideration.

For the reasons described below, DEQ finds that the authorization for Roseburg Urban Sanitary Authority (RUSA) to land apply biosolids at Hayden Farm, dated October 10, 2011, was issued without following proper procedures and is therefore withdrawn. Application of biosolids is not allowed on this site until this site has been properly authorized for land application by DEQ.

We apologize for our failure to follow procedure, and recognize that this may be a burden on your organization. We are committed to working with you to resolve this issue in a timely fashion.

Regulatory Context and Background

Proposed land application of biosolids is required by federal and state law to be subject to public notice and comment. See 40 CFR 501.15(c)(2)(ii)(E) and OAR 340-050-0015(8). All sites intended to be used for land application must be specifically listed in the land application plan, which is subject to public notice and comment at the time of NPDES permit renewal. See OAR 340-050-0015(8). If the permittee is not reasonably certain which sites will be used for land application at the time of permit renewal, the permittee must include in its land application plan the geographic location of new sites not specifically listed at the time of permit application, and the criteria which will be used to select new sites. See OAR 340-050-0031(7). The biosolids management plan and accompanying land application plan become enforceable conditions of the NPDES permit. See OAR 340-050-0031(2).

During the term of the permit, if the permittee wishes to land apply biosolids on a site not specifically listed in the land application plan incorporated into its permit, the permittee must seek authorization to do so from DEQ.

RUSA sought authorization to land apply biosolids on the Hayden Farm property and DEQ issued its authorization on October 10, 2011.

Reconsideration

DEQ should have provided the opportunity for public comment before issuing the authorization. RUSA's land application plan does not include the geographic location of new sites not specifically listed in the plan. Its land application plan also does not include criteria it will use to select new sites. Therefore, the public has not had the opportunity to comment on the suitability of the Hayden Farm as a land application site during the current term of the permit.

For this reason, DEQ is withdrawing its October 10, 2011 authorization for land application of biosolids at the Hayden Farm property. Again, we sincerely apologize for our failure to meet the public notice requirements when issuing this authorization.


Next Steps

Application of biosolids is not allowed on this site until this site has been properly authorized for land application by DEQ.

If RUSA still wishes to apply biosolids at the Hayden Farm site, please contact Paul Kennedy in DEQ's Eugene office, at (541) 687-7439. We will make it a high priority to consider RUSA's request for authorization as expeditiously as possible, and in accordance with state and federal rules.

Thank you for your cooperation. If you have questions about the withdrawal of the authorization, please contact Steve Schnurbusch, Acting Water Quality Manager for Western Region, at (503) 378-8306 or you can contact me directly at (541) 687-7355.

Sincerely,



Keith Andersen
Western Region Administrator
Oregon Department of Environmental Quality

cc: Northwest Environmental Advocates, c/o Bryan Telegin
Larry Knudsen, Senior Assistant Attorney General, DOJ

BRYAN TELEGIN
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VIA CERTIFIED MAIL

November 21, 2011

Dick Pederson, Director
Oregon Department of Environmental Quality
811 SW 6th Avenue
Portland, OR 97204-1390

Paul Kennedy, Natural Resource Specialist 3
Oregon Department of Environmental Quality
165 East 7th Avenue, Suite 100
Eugene, OR 97401

Re: Petition for reconsideration of October 10, 2011, site authorization letter issued to the Roseburg Urban Sanitary Authority.

Dear Messrs. Pederson and Kennedy:

On October 10, 2011, the Oregon Department of Environmental Quality (“DEQ”) authorized the Roseburg Urban Sanitary Authority (“RUSA”) to dispose of sewage sludge on a property known as Hayden Ranch. *See* Attachment A. By this letter, Northwest Environmental Advocates (“NWEA”) hereby petitions DEQ to reconsider that authorization letter pursuant to the Oregon Administrative Procedure Act, ORS Chapter 183, and OAR 137-004-0080. In doing so, NWEA requests DEQ to rescind its authorization letter and provide a public comment period before deciding whether to authorize use of the Hayden Ranch for sludge disposal. NWEA also requests DEQ to address several issues pertaining to buffer areas, loading rates, potential flooding, and groundwater contamination.

NWEA is an Oregon nonprofit environmental organization established in 1969 and incorporated in 1981 whose mission is to work through advocacy and education to protect and restore water quality, wetlands, and wildlife habitat in the Pacific Northwest. NWEA regularly works with state and federal agencies and comments on pending government decisions affecting natural resource use in the Pacific Northwest, and has litigated numerous claims pursuant to the federal Clean Water Act to preserve and improve water quality in the region. Thus, NWEA has a strong interest in ensuring that any sludge disposal at the Hayden Ranch does not harm the environment. Sewage sludge contains toxic pollutants including arsenic, lead, and zinc; micro-organisms such as fecal coliform, salmonella, and other disease pathogens; as well as

unpredictable and hazardous materials including pharmaceutical, flame retardant, and heavy-duty detergent residues.^{1/} These pollutants may harm both humans and aquatic life. Moreover, nitrogen and phosphorus contained in sewage sludge may runoff into surface waters, affecting fisheries, recreation, and drinking water supply, as well as impact local wells through groundwater contamination.^{2/}

The Hayden Ranch lies adjacent to the Umpqua River north of Roseburg, Oregon. The property is low-lying, flat, and is composed of pasture soils typical of flood plains in the Roseburg area. As discussed below, temporary groundwater in these soils may be as shallow as six to eighteen inches below the surface during the winter. The Hayden property also straddles a creek that discharges to the Umpqua River in an area designated as spawning habitat for salmon and steelhead under the Clean Water Act (“CWA”), 33 U.S.C. § 1251 et seq. *See* OAR 340-041-0320, Fig. 320B. This stretch of the Umpqua River is also designated critical habitat for the Oregon Coast Coho Salmon, a species listed as threatened under the ESA. *See* 73 Fed. Reg. 7816, 7870 (Feb. 11, 2008). NWEA members^{3/} have informed DEQ that they have witnessed sludge being sprayed into this creek, which threatens downstream aquatic life.

In addition, the Hayden Ranch is located near several residences, domestic wells, and a public road used by NWEA members to exercise and to gain access to a community-park area bordering the northern portion of Hayden Ranch. The park is used throughout the year for fishing, swimming, and general recreation, and the park surrounds the outlet of the creek described above. On April 18th, 2011, NWEA members also informed DEQ that they may need to move an existing diversion for domestic water to a point immediately downstream from the creek’s entrance to the Umpqua River. Thus, NWEA is concerned that any sludge or sludge-pollutants making their way into the creek or otherwise entering the Umpqua River may present a potential human health hazard in addition to harming sensitive aquatic life.^{4/}

¹ *See* Robert C. Hale and Mark J. LaGuardia, *Have Risks Associated with the Presence of Synthetic Organic Contaminants in Land-Applied Sewage Sludge Been Adequately Addressed?*, 12 *New Solutions: J. Env. & Occupational Health Policy* 371 (2002) (detailing a variety of harmful synthetic pollutants found in treated sewage sludge).

² *See* United States Environmental Protection Agency, Office of Inspector General, STATUS REPORT ON LAND APPLICATION OF BIOSOLIDS (March 28, 2002).

³ NWEA’s membership includes several residents living near or immediately adjacent to Hayden Ranch. These members are reasonably concerned that sludge disposal at that location may cause sickness, may contaminate groundwater or domestic water supply, and may otherwise harm the environment and interfere with the use and enjoyment of their homes.

⁴ *See* EPA, A GUIDE TO THE BIOSOLIDS RISK ASSESSMENTS FOR THE EPA PART 503 RULE at 27 (Sept. 1995) (Exposure pathways include migration of sewage sludge pollutants through the soil and into surface waters, groundwater, and fish used for human consumption). Exposure pathways also include the inhalation of sludge aerosols and dust. *Id.*

Should DEQ not take action within 60 days of receiving this petition, DEQ's site authorization letter will be ripe for judicial review under the Oregon Administrative Procedure Act. ORS 183.484(2).

I. Overview of the Law

The federal Clean Water Act ("CWA") is the primary source of federal law governing the disposal of sewage sludge. That law flatly prohibits the discharge of sludge to a water of the United States except when permitted by a National Pollutant Discharge Elimination System ("NPDES") permit. *See* 33 U.S.C. §§ 1311(a), 1345(a), 1362(6). Any unpermitted discharge may lead to the imposition of up to \$37,500 in civil penalties per day for each violation. 33 U.S.C. §§ 1365(a)(1), 1319(d); 40 C.F.R. § 19.4 (Table 1).

The CWA also authorizes the United States Environmental Protection Agency ("EPA") to issue regulations governing the disposal of sewage sludge on land, *see* 33 U.S.C. § 1345(d)(1), (4), and these regulations may be found at 40 C.F.R. Parts 501, 503, and 122. Under these EPA regulations, sludge may not be applied to the land above the agronomic loading rate for nitrogen—i.e. the rate necessary for healthy plant growth—so as to prevent the contamination of groundwater. 40 C.F.R. § 503.14(d). Sludge may not be applied within ten meters of a water of the United States. *Id.* at § 503.14(c). And sludge may not be applied if it is "likely to adversely affect" a species listed under the federal Endangered Species Act ("ESA"), 16 U.S.C. § 1531 et seq. 40 C.F.R. § 503.14(a).^{5/} As above, disposal of sewage sludge in violation of these rules may lead to the imposition of civil penalties under the CWA. *See* 33 U.S.C. § 1365(a)(1), (f)(7).^{6/}

The CWA requires these and other restrictions on sludge disposal to be incorporated into

⁵ Under this standard, disposal practices are "likely to adversely affect" a listed species if "any adverse effect to a listed species *may* occur as a direct or indirect result of the proposed action or its interrelated or interdependent actions, and the effect is not discountable, insignificant, or beneficial." *Endangered Species Consultation Handbook*, March 1998, at p. xv (interpreting identical language in the ESA) (emphasis added). NWEA notes that in addition to this prohibition under the CWA, any harm to listed species due to sludge disposal at Hayden Ranch may violate the prohibition on "take" contained in Section 9 of the ESA. *See* 16 U.S.C. § 1538(1)(B). Moreover, any agency issuing a permit that allows such take may be held vicariously liable. *See Strahan v. Cox*, 127 F.3d 155, 163 (1st Cir. 1997), *cert. den.* 535 U.S. 830 (1998) (Massachusetts officials liable under ESA for licensing commercial fisherman who used methods that harmed listed whales).

⁶ In addition to violating the CWA, application of sludge in violation of 40 C.F.R. Part 503 by, for example, applying sludge in excess of agronomic rates, may violate the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6901 et seq. In particular, RCRA's prohibition on open dumping (42 U.S.C. § 6945) and EPA's regulations at 40 C.F.R. Part 257 "appl[y] if sewage sludge is applied to the land and if the sewage sludge is not used or disposed of in accordance with [40 C.F.R.] part 503." 58 Fed. Reg. 9248, 9381 (Feb. 19, 1983).

the NPDES permits of publicly-owned treatment works (“POTWs”) such as RUSA. 33 U.S.C. § 1345(d)(4), (f)(1). This means that POTWs may generally dispose of sludge only on sites identified during the NPDES permitting process, and POTWs may make use of new sites not identified during that process only pursuant to a valid and approved land application plan. 40 C.F.R. § 122.21(q)(9)(v). This plan must provide for advance public notice and an opportunity to object before sludge is disposed of on new sites. *Id.*⁷ Without first notifying the public, new sites may only be added by formally modifying the NPDES permit itself. *See* 64 Fed. Reg. 42432, 42454 (Aug. 4, 1999) (“The land application plan serves as the vehicle to allow [Treatment Works Treating Domestic Sewage] to add sites during the life of the permit without requiring a major permit modification.”).

Oregon also regulates the disposal of sewage sludge at OAR chapter 340, division 50. These regulations contain criteria for selecting new disposal sites, including criteria for avoiding flood plains, residential areas, surface waters, and groundwater contamination. *See generally* OAR 340-050-0070. For example, if a new site lies in a flood plain, the sludge should be incorporated into the soil instead of sprayed or spread onto the soil surface. *Id.* at 0070(2)(a). New disposal sites should be “carefully evaluated” to ensure that sludge is not applied during times of the year when temporary groundwater is less than twelve inches from the surface. *Id.* at 0070(2)(b). And Oregon law recommends setbacks of up to 500 feet from residential areas to prevent wind drift and nuisance conditions. *Id.* at 0070(3)(a).

Oregon law also requires every POTW to submit a biosolids management plan (“BMP”) and land application plan during the NPDES permitting process. *See* OAR 340-050-0031(1), (7), -0015(8). The purpose of this plan is to identify, *inter alia*, every site that will be used for sludge disposal during the life of the NPDES permit. *See* OAR 340-050-0031(7). Pursuant to 40 C.F.R. § 122.21(q)(9)(v)(E), failure to list a disposal site or otherwise identify a site during the permitting process means that the site may not be used without advance public notice. And Oregon law requires DEQ to provide a public comment period and opportunity to request a public hearing before authorizing any new disposal site that “may be sensitive with respect to residential housing, runoff potential or threat to groundwater.” OAR 340-050-0030(2)(a).

Prior to disposing of sewage sludge at a new site, a POTW must also obtain a site authorization letter from DEQ. OAR 340-050-0030(1). The purpose of this document is to “establish[] minimum site management conditions for applying biosolids to a specific land application site.” OAR 340-050-0010(20).

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⁷ *See* 54 Fed. Reg. 18716, 18738 (May 2, 1989) (application plan must “provide for advance notice of new land application sites and a *reasonable opportunity to object* to the permitting authority.”) (emphasis added).

II. Factual Background

DEQ first authorized use of the Hayden Ranch for sludge disposal in 1990 when that property was owned by a Mr. Charles Collins. *See* Attachment B. This authorization predated RUSA's adoption of a BMP and before the federal regulations currently governing sludge disposal were adopted. Among other things, the first site authorization letter included an agronomic loading rate of 150 lbs of nitrogen per acre, per year, or approximately 18,415 gallons of sludge per acre/year. That letter also excluded portions of Hayden Ranch from use during the winter.

In 2004, Mr. Collins sold the property to a Mr. Simonis, who thereafter declined to allow RUSA to use his property for sludge disposal. *See* Attachment C. RUSA did not notify DEQ of this change in ownership despite the fact that DEQ previously notified RUSA that "[i]f a site authorization were lost due to a new owner not wanting biosolids land applied on their property, then any future biosolid application on this property would require a *new* site authorization." *See* Attachment D at 1 (emphasis added).

On October 6, 2005, DEQ renewed RUSA's NPDES permit number 100981. DEQ also approved RUSA's current BMP. That BMP did not list the Hayden property as a site RUSA planned to use during the life of the NPDES permit or, to NWEA's knowledge, otherwise notify DEQ that RUSA intended to use that property for sludge disposal. Contrary to the terms in the first site authorization letter for Hayden Ranch, RUSA's new BMP also provided that "[t]he agronomic biosolid land application rate for pasture is 100 lb [nitrogen/acre/year]." *See* BMP at 16.^{8/}

In 2008, Mr. Simonis sold the property to its current owner, Mr. Michael Hayden, who in September of 2008 signed an agreement allowing RUSA to use the property for sludge disposal. *See* Attachment E. Again, RUSA did not notify DEQ of this change in ownership. Nor did RUSA update its BMP to list the property, in violation of OAR 340-050-0031(7)(a). RUSA did not notify the public of its renewed use of the Hayden property as required by 40 C.F.R. § 122.21(q)(9)(v)(E). And RUSA did not seek DEQ approval before disposing of sludge at the Hayden Ranch.

In April of 2011, NWEA members notified DEQ that they had witnessed RUSA employees disposing of sludge at the Hayden Ranch in ways that violated state and federal law, including spraying sludge over the creek described above. As a result, DEQ began investigating RUSA's use of Hayden Ranch and discovered that since 2008 RUSA repeatedly disposed of sludge during the winter in areas where disposal is allowed only during the summer. *See* Attachment F at 2. DEQ also discovered that RUSA did not list the Hayden Ranch in its BMP

⁸ RUSA's 2005 BMP is available at <http://www.deq.state.or.us/wqpr/417_200912090000_8CS01.PDF>. Despite that RUSA's new BMP allowed only for 100 lbs of nitrogen to be applied per acre/year, RUSA exceeded this figure in 2009, applying 113 lbs of nitrogen per acre. *See* RUSA 2009 annual biosolid report. RUSA prepared this report pursuant to OAR 340-050-0035(6) and this report is on file with DEQ, RUSA, and NWEA.

during the 2005 permitting process. Consistent with the federal and state authorities discussed above, DEQ informed RUSA that because the Hayden Ranch was not listed in the BMP, that property “*was not part of*” RUSA’s 2005 NPDES permit. *Id.* at 1 (emphasis added).

On October 10, 2011, DEQ then issued the site authorization letter at issue here without first notifying the public or nearby landowners, and without providing the public an opportunity to comment or to request a hearing pursuant to 40 C.F.R. § 122.21(q)(9)(v)(E) or OAR 340-050-0030(2).

III. Grounds for Reconsideration

A. DEQ may not authorize use of Hayden Ranch without providing advance public notice and an opportunity to comment.

As discussed above, federal law requires POTWs to identify all sites intended for sludge disposal during the NPDES permitting process. *See* 40 C.F.R. § 122.21(q)(9)(v). New sites may not be used to dispose of sewage sludge unless the public is first notified and given an opportunity to object. *Id.* at § 122.21(q)(9)(v)(E); *see also* 54 Fed. Reg. at 18738. Moreover, Oregon law expressly requires POTWs to list in their land application plans all sites intended for sludge disposal. OAR 340-050-0031(7)(a). And DEQ must provide advance public notice and an opportunity to comment and request a hearing prior to approving any site that “may” be sensitive with respect to residential areas, potential runoff, or groundwater contamination. OAR 340-050-0070(2)(a).

Here, RUSA failed to list the Hayden property in its 2005 BMP and, to NWEA’s knowledge, RUSA did not otherwise identify the Hayden property during its 2005 NPDES permit renewal process. Therefore, as DEQ has succinctly stated, the Hayden property “*was not part of*” RUSA’s 2005 NPDES permit. Attachment F at 1 (emphasis added). RUSA was therefore required to provide advance public notice before disposing of any sludge at Hayden Ranch and has been operating in violation of federal and state law since 2008.

Moreover, DEQ’s decision to authorize RUSA to use Hayden Ranch fits every condition under Oregon law for requiring an opportunity for public comment. The property is located immediately adjacent to homes, domestic wells, a public road frequented by nearby residents, and a community park-area used throughout the year. As discussed below, the site is composed of soils known to have a very shallow water table from November through May—i.e. six to eighteen inches—and these are the primary periods of the year that RUSA uses the Hayden property for sludge disposal. The property appears to be located within a flood plain. And the sludge or sludge pollutants on the property may enter the creek, discharge into the Umpqua, and thereafter enter domestic water supply.

In all, NWEA and its members have been deprived of their right to object in advance to RUSA’s use of Hayden Ranch for sludge disposal pursuant to 40 C.F.R. § 122.21(q)(9)(v)(E), as well as their right to comment on RUSA’s use of that property and to request a public hearing pursuant to OAR 340-050-0030(2)(a). NWEA therefore requests that DEQ rescind its October 10, 2011 site authorization letter until such time as DEQ provides advance public notice and an

opportunity to comment. NWEA also requests DEQ to stay its authorization pending the completion of that process. Given the potentially serious issues involved, NWEA believes that a stay and opportunity for public comment will be time well spent.

If DEQ does not rescind its authorization in accordance with state and federal law, and allow NWEA and its members to comment on RUSA's proposed use of Hayden Ranch, then DEQ should at least reconsider the provisions of the site authorization letter discussed below.

B. DEQ should ensure that sludge does not contaminate temporary groundwater and should determine the potential for flooding and runoff from adjacent lands.

Oregon law provides a series of standards that new sites must meet to be considered for sludge disposal. These standards include specific protections for groundwater.

At the time when liquid biosolids or domestic septage are applied, the minimum depth to permanent groundwater should be four feet and the minimum depth to temporary groundwater should be one foot. Sites approved for year-round application should be evaluated carefully to ensure that groundwater separation distances conform with these requirements.

OAR 340-050-0070(2)(b). In addition, “[s]ites should be on a stable geologic formation not subject to flooding or excessive runoff from adjacent land. . . . [and i]f periodic flooding cannot be avoided, the period of application should be restricted and soil incorporation is recommended.” *Id.* at 0070(2)(a).

Here, the U.S. Department of Agriculture has determined that the soil type found throughout most of the Hayden Ranch property, Sibold fine sandy loam, has a temporary water table of only six to eighteen inches below the surface from November through May. *See* Attachment G at 1; *see also* Attachment A at 4 (map of soil types at the Hayden property). Thus, it is likely that use of the Hayden property during these months does not comply with OAR 340-050-0070(2)(b). Yet, as discussed below, RUSA uses the Hayden Ranch extensively during these months.

DEQ should reconsider its site authorization letter and evaluate the potential effects on this temporary water table. For example, NWEA is aware that DEQ visited the Hayden property on May 5, 2011. NWEA is not, however, aware of any site visits or testing during any other month. As such, DEQ should require groundwater testing during other key periods of the year before it authorizes the Hayden Ranch for sludge disposal. *See* OAR 340-050-0070(2)(b) (Sites should be “carefully evaluated” to ensure that adequate groundwater separation distances exist prior to approval). Should DEQ ultimately approve the site, DEQ should include permit conditions prohibiting disposal when the temporary water table rises closer than twelve inches from the surface.⁹ DEQ should also verify that RUSA is able to accurately determine the depth

⁹ The new site authorization letter provides that “[a]t the time of land application there must be a 48” separation between the ground surface and the soil water table.” Attachment A at

(Continued . . .)

to temporary groundwater prior to each application of sludge.^{10/}

Moreover, Sibold fine sandy loam is characteristic of flood plains in the Roseburg area and the U.S. Department of Agriculture has designated “Hazard of flooding” to be a major management limitation for this type of soil. *See* Attachment G at 2. As such, it is likely that this area is subject to at least “periodic flooding” or runoff from adjacent lands within the meaning of OAR 340-050-0070(2)(a). And DEQ should reconsider its site authorization letter and investigate whether the site is suitable for sludge disposal. DEQ should also consider requiring RUSA to incorporate its sludge into the soil to decrease runoff potential and the likelihood of harm to nearby waterbodies.^{11/}

C. DEQ should require buffers sufficient to prevent wind drift, nuisance conditions, and violations of state and federal law.

RUSA’s new site authorization letter provides that “[b]iosolids must not be applied closer than 50 feet to any public property or road way, any drainage ditch, channel, pond, or waterway, or within 200 feet of a domestic water source or well.” Attachment A at 5. DEQ should reconsider this provision and require buffer widths sufficient to ensure compliance with Oregon law and the CWA.

First, this provision appears to be based on OAR 340-050-0070(3)(c), which provides that “[n]o bulk Class B biosolids or domestic septage should be *spread* at the site closer than 50 feet to any ditch, channel, pond, or waterway, or within 200 feet of a domestic water source or well.” (emphasis added). However, while RUSA has stated that it will *spread* sewage sludge on the land when weather permits, e.g. by driving a truck onto the fields and dumping sludge directly on the ground, RUSA uses an irrigation gun during the winter to *spray* sewage sludge through the air.^{12/} And when this latter method is used, Oregon law recommends much greater

5. This rule appears to be based on DEQ’s regulations regarding permanent groundwater. DEQ should clarify that the prohibition applies to temporary groundwater as well.

¹⁰ The new site authorization letter indicates that two piezometers are used at the Hayden property to determine depth to groundwater. *See* Attachment A at 4. DEQ should ensure that the number, placement, and type of monitoring devices reflect best practices for measuring temporary groundwater. For example, it appears from RUSA’s biosolids load sheets that the piezometers at the Hayden property are at least 48 inches deep. DEQ should determine whether shallower piezometers or monitoring wells are needed under current protocols. *See e.g.* Wetlands Regulatory Assistance Program, Installing Monitoring Wells/Piezometers in Wetlands (July 2000), *available at* <<http://el.erdc.usace.army.mil/elpubs/pdf/tnwrap00-2.pdf>>.

¹¹ NWEA notes that DEQ could likely obtain information on the extent of flooding and runoff by allowing a public comment period.

¹² *See e.g.* RUSA 2010 annual biosolids report at p. 9 (“During wet weather conditions, biosolids are pumped through an irrigation gun onto the field. . . . During the drier season, the

(Continued . . .)

setbacks to prevent wind drift and nuisance conditions. For example, OAR 340-050-0070(3)(a)(C) recommends setbacks of up to 500 feet from sensitive areas.^{13/} It is unclear why DEQ has imposed buffers not intended for the manner in which RUSA disposes of its sludge and DEQ should reconsider its choice of buffer widths.

Second, while the site authorization letter requires a 200-foot setback from “domestic water source[s],” the letter does not clarify whether the creek running through Hayden Ranch is or is not a domestic water source. As discussed above, that creek discharges into the Umpqua River just north of a future diversion point for domestic water. Pollutants entering that stream may ultimately infiltrate domestic water supply and DEQ should make clear that RUSA may not spread sludge within 200 feet or spray sludge within 500 feet of the creek.^{14/}

Third, the site authorization letter prohibits the application of sludge within 50 feet of a “pond” or “waterway,” but fails to mention wetlands. This is despite that federal law specifically forbids the application of sludge within ten meters of “waters of the United States”—i.e. waters triggering CWA jurisdiction. 40 C.F.R. § 503.14(c). And under EPA’s current guidance, “waters of the United States” may include wetlands adjacent to tributaries of traditionally navigable waters.^{15/} Thus, any wetlands adjacent to the creek described above, or adjacent to any other tributary on or near Hayden Ranch, may be “waters of the United States” and the application of sludge near such wetlands is strictly prohibited.

Last, it is likely that the buffers required under the site authorization letter will not prevent violations of the CWA. As discussed above, section 301 of the CWA prohibits the unpermitted discharge of any pollutant to a water of the United States. *See* 33 U.S.C. §1311(a). Under the CWA, a “discharge of a pollutant” includes “*any* addition of *any* pollutant to [waters of the United States] from *any point source*.” *Id.* at § 1362(12)(A) (emphasis added); *see also id.* at § 1362(14) (defining “point source” to mean “any discernable, confined, and discrete

truck drives on the field and spreads the biosolids directly out of the tank with the use of a splash plate.”).

¹³ *See also* DEQ’s Implementing Oregon’s Biosolids Program, Internal Management Directive at 22–23 (December 2005) (noting that “[b]uffer strips may need to be increased if a liquid product is being land applied by means of spray irrigation.”). RUSA itself appears to acknowledge that a buffer greater than 50 feet is needed when sludge is spray-applied. *See* RUSA 2010 Annual Biosolids Report at p. 9 (“A 50 foot minimum (*75 foot minimum if irrigation gun is used*) setback is maintained between biosolids application areas and all highways and public roadways, and property lines.”) (emphasis added). DEQ should not leave the determination of a sufficient buffer area to RUSA’s sole discretion.

¹⁴ DEQ should also consider requiring greater buffer widths around any drainage ditch or other features that may cause sludge pollutants to runoff or discharge into the creek.

¹⁵ *See* EPA, Clean Water Act Jurisdiction Following the U.S. Supreme Court’s Decision in Rapanos v. United States & Carabell v. United States at 7–8 (Dec. 2, 2008).

conveyance.”). Relevant here, federal courts have recognized devices similar to RUSA’s spray gun to be point sources under the CWA. *See e.g. Concerned Area Residents for the Environment v. Southview Farm*, 34 F.3d 114, 118 (2d Cir. 1994) (irrigation system as point source). The Ninth Circuit has emphasized that point-source pollution is any pollution traceable to a single source. *See Trustees for Alaska v. EPA*, 749 F.2d 549, 558 (9th Cir. 1984); *see also United States v. Earth Sciences, Inc.*, 599 F.2d 368, 373 (10th Cir. 1979). And such pollution may be traceable to a single source even if natural forces are ultimately responsible for the discharge. *See e.g. Friends of Santa Fe County v. LAC Minerals, Inc.*, 892 F. Supp. 1333, 1337 (D.N.M. 1995) (discharge from waste pile resulting from exposure to air and water). Last, at least one court has expressly held that even the spraying of aerosols into the air may constitute the discharge of a pollutant if particles subsequently fall on a water of the United States. *See No Spray Coalition v. New York*, 2005 WL 1354041 at *4 (S.D.N.Y. June 8, 2005); *see also League of Wilderness Defenders v. Forsgren*, 309 F.3d 1181 (9th Cir. 2002) (aerial spraying of insecticides constituted the discharge of a pollutant); *Peconic Baykeeper, Inc. v. Suffolk County*, 600 F.3d 180 (2d Cir. 2010) (same). Thus, *any* pollutants deposited on the creek or the Umpqua River as a result of spraying sewage sludge, even if that addition results only from incidental over-spray or wind drift, may constitute the unpermitted discharge of a pollutant flatly prohibited under the CWA. DEQ should therefore reconsider its chosen buffer widths and include additional requirements to ensure that *no* sludge sprayed on the land will enter the creek or Umpqua River.

D. DEQ should either reduce the agronomic loading rate or should include additional provisions to prevent the contamination of groundwater.

RUSA’s new site authorization letter sets an agronomic loading rate for nitrogen of 100 pounds of nitrogen per acre/year. *See* Attachment A at 5. However, that letter also allows RUSA to dispose of up to 150 pounds of nitrogen per acre/year so long as RUSA monitors for carry-over nitrogen and subtracts that volume from the next year’s load. *Id.* at 5, 6. DEQ should reconsider both of these figures. In particular, while it appears that DEQ calculated these figures by consulting an Oregon State University Extension Service fertilizer guide (“OSU Guide”) for Western pasture grass, *see id.* at 5 (Table 1), it does not appear that DEQ considered relevant variables and guidance contained in that document.

First, the OSU Guide only recommends applying 150 pounds of nitrogen per acre/year under specified conditions. *See* Attachment H at 3. For example, while the OSU Guide recommends the application of between 100 and 120 pounds of nitrogen when that volume is split between fall and winter, the OSU Guide recommends additional nitrogen only during the spring and summer for “irrigated pastures” that are “[i]ntensively grazed.” *Id.* Here, RUSA does not appear to use the Hayden property during the summer or September, and only infrequently during May.¹⁶ Moreover, the site authorization letter contains no restrictions pertaining to the amount of irrigation or grazing that must accompany this increased nitrogen load. For these reasons, DEQ should reconsider allowing RUSA to apply 150 lbs of nitrogen *at all* unless DEQ provides sufficient guidelines to ensure that nitrogen is applied only at appropriate times of the

¹⁶ *See* RUSA annual biosolids reports for the years 2008 through 2010.

year, and only under those conditions specified in the OSU Guide.

Second, the OSU Guide recommends applying 100 pounds of nitrogen per acre/year only if that volume is spaced out over both fall and late winter. For example, the chart cited by DEQ calls specifically for 50 pounds of nitrogen during February and 50 pounds during September. Attachment H at 3, Fig. 2. Yet, under the new site authorization letter, RUSA may apply all 100 pounds for a given acre or field during a single month. Again, DEQ should require RUSA to apply nitrogen at rates and intervals sufficient to ensure that nitrogen will not leach into the groundwater or otherwise harm the environment. *See* OAR 340-050-0065(3) (“Biosolids and domestic septage shall be applied at *rates and methods* which prevent the occurrence of runoff, erosion, leaching, and nuisance conditions, or the likelihood of groundwater contamination.”) (emphasis added).^{17/} It should be made clear that RUSA may apply sewage sludge only in accordance with the application calendar contained within the OSU Guide.¹⁸

Last, the OSU Guide provides the following general directive:

N fertilization should be based on moisture and temperature, which control pasture growth. Time N applications to crop and forage production needs. *Avoid the following:*

- *N applications in November and December.* N applied to cold, wet soils in winter can be leached below the root zone before slow-growing plants can use the fertilizer.

¹⁷ For example, NWEA notes that additional timing restrictions may be especially important on land that is artificially drained, either by surface ditches or by tile lines, and DEQ should evaluate whether such restrictions are necessary in this case. *See Guide to Soil Suitability and Site Selection for Beneficial Use of Domestic Biosolids*, OSU Extension Service Manual 8 at 38 (Sept. 1995) (explaining that sludge disposal should be timed carefully to coincide with nutrient uptake, and may need to be limited to dry seasons, to avoid discharging pollutants through ditches or drain tiles), *available at* <<http://ir.library.oregonstate.edu/xmlui/bitstream/handle/1957/23672/GUIDETOSOILSUITABILITY1995.pdf?sequence=1>>. It may also be necessary to require RUSA to monitor the quality of water being discharged from these drainage systems to ensure that harmful pollutants are not being released. *See Agricultural phosphorus management using the Oregon/Washington Phosphorus Indexes*, OSU Extension Service at 6, 13 (Dec. 2003) (noting that surface-applied biosolids have a “very high” P index and that such phosphorous may be transferred to tile lines via vole, worm, and root holes), *available at* <<http://extension.oregonstate.edu/catalog/pdf/em/em8848-e.pdf>>. To NWEA’s knowledge, RUSA has never tested the wastewater leaving the Hayden Ranch property to determine whether pollutants are being discharged through these drainage systems.

¹⁸ Alternatively, the OSU Guide provides that nitrogen timing may be calculated by adding up heat units, which DEQ may also consider including in the site authorization letter. *See* Attachment H at 3.

- *Late winter or early spring N application to saturated soils.* Soils that are too wet to drive on with a tractor may be too wet for plant growth. The plants may be yellow due to lack of oxygen from wet conditions and not lack of fertilizer. Wait for conditions conducive to plant growth before applying fertilizer.

Attachment H at 2 (first emphasis added, second and third emphases in original). Here, the OSU Guide specifically states that sludge should not be applied during November or December. Yet, DEQ's site authorization letter does not include this prohibition. And despite its shallow water table, location on a flood plain, and proximity to residential areas, domestic water sources, and sensitive waterbodies, the Hayden property appears to be used more than any other disposal site during these months. Nor does the site authorization letter instruct RUSA to avoid using the Hayden property when soils are too wet to drive on. Instead, the letter advises RUSA only to "take care" to avoid wet soil conditions "especially in low and concave areas." See Attachment A at 2-3. This "take care" provision reflects neither the OSU Guide nor the actual requirement imposed by Oregon law that sewage sludge "*shall be*" applied in a manner which will prevent leaching and groundwater contamination. OAR 340-050-0065(3) (emphasis added).

DEQ should reconsider its decision to allow use of the Hayden property during November and December. And if DEQ proposes to continue to allow disposal during those months, DEQ should explain its divergence from the OSU Guide in any order on reconsideration. Moreover, DEQ should revise the site authorization letter to either prohibit the application of sludge when the soil is too wet to drive on, or DEQ should provide some other enforceable permit condition ensuring that soils too wet to benefit from added nitrogen are not used for sludge disposal. For example, if there are low or concave areas on the property that need to be avoided, these areas should be mapped and clearly delineated within the site authorization letter.

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IV. Conclusion

For the reasons set out above, NWEA asks that DEQ rescind its October 10, 2011 site authorization letter and provide advance public notice and an opportunity to comment before DEQ authorizes use of the Hayden Ranch for the disposal of sewage sludge. If DEQ will not rescind its authorization, then NWEA asks that DEQ take the actions described above to ensure that RUSA's use of the Hayden Ranch will not result in harm to the environment or violations of state or federal law.

Sincerely,


Bryan Telegin
Of Attorneys for NWEA

Attachments:

- A: Site authorization letter dated October 10, 2011
- B: Site authorization letter dated January 24, 1990
- C: Memo from Paul Kennedy, DEQ, to Roseburg Urban Sanitary Authority Biosolid File, dated May 23, 2011
- D: Letter from Paul Kennedy, DEQ, to Steve Whitbeck, OMI, dated April 3, 2001
- E: Site Management Agreement between Roseburg Urban Sanitary Authority and Michael Hayden, dated September 2008
- F: Warning Letter with Opportunity to Correct, dated July 11, 2011
- G: Excerpts from U.S. Department of Agriculture, Soil Survey of Douglas County Area, Oregon, *available at*
<http://soildatamart.nrcs.usda.gov/Manuscripts/OR649/0/DouglasOR.pdf>
- H: OSU Fertilizer Guide for Pastures, Western Oregon and Western Washington

cc: Nina Bell, Executive Director, NWEA
Dan Mensher, Pacific Environmental Advocacy Center
River Bend West Water Association
Roseburg Urban Sanitary Authority



Oregon

John A. Kitzhaber, M.D., Governor

Attachment G

Department of Environmental Quality
Western Region Eugene Office
165 East 7th Avenue, Suite 100
Eugene, OR 97401
(541) 686-7838
FAX (541) 686-7551
OTRS 1-800-735-2900

CERTIFIED MAIL NO. 7010 0780 0000 6476 7098

July 11, 2011

Ron Thames
1297 N.E. Grand View
Roseburg, OR 97470

Steve Witbeck
Roseburg Urban Sanitary Authority
3485 W. Goedeck Road
Roseburg OR 97471

RE: Warning Letter with Opportunity to Correct
Roseburg Urban Sanitary Authority (RUSA)
WL – RUSAWRE-11-0039Iss20110711
File Number: 76771,
National Pollution Discharge Elimination System (NPDES) Permit Number: 100981
Douglas County

Dear Ron Thames and Steve Witbeck:

On April 18 and 19th of 2011 the Department of Environmental Quality (DEQ) received two complaints regarding the Roseburg Urban Sanitary Authority's (RUSA's) biosolid land application program.

The biosolid land application site in question was authorized for RUSA's use in 1990; property at 198 McKee Lane, Roseburg, OR at the time was owned by Mr. Charles A. Collins. This site was listed in RUSA's Annual Biosolid Reports and Biosolid Management Plan (BMP) as Collins Site 1, with 280 acres authorized for land application.

Mr. Collins sold his ranch to Mr. Alan Simonis in 2004. Mr. Simonis in turn sold the ranch (Golden S Ranch) to Mr. Michael Hayden in 2008.

RUSA's current NPDES permit was renewed in 2005 and the Collins (Hayden) site was not included in RUSA's BMP that went out on public notice.

The DEQ recently conducted a review of the biosolid land applied on the Hayden property and also of the RUSA Collins (Hayden) site authorization files. RUSA did not list the Collins Site (Hayden property) in their 2005 BMP, therefore it was not part of your 2005 NPDES permit.

Based upon this investigation of RUSA's biosolid program, the DEQ has concluded that RUSA is responsible for the following violation of Oregon environmental law:

VIOLATION:

- (1) Under Schedule D of RUSA's NPDES permit all biosolids shall be managed in accordance with the current approved BMP and site authorization letters. RUSA land applied biosolids on summer approved soils (1990 Collins Authorization) at Mr. Hayden's property (198 McKee Lane Roseburg, OR) during none winter and spring application months of 2008, 2009 and 2010. (See attached RUSA map, sites 2 and 3 are approved for May 1 through September 30 land application) These are Class II violations under OAR 340-012-0053(2)(a).

Truck	Site	Month/Year	Truck	Site	Month/Year
Peterbilt	3	Apr. 2011	International	3	April 2011
	3	Mar. 2010		2	March 2010
	2 and 3	Feb. 2010		2	Feb. 2010
	2	Nov. 2009		2	Nov. 2009
	2	Apr. 2009		2	Oct. 2009
				2	Apr. 2009
				3	Jan. 2009
				2	Dec. 2008

- (2) The Collins (Hayden) site authorization was not listed in RUSA's 2005 BMP; all biosolid land application sites must be listed in the current BMP under OAR 340-050-031(7)(f). This is a Class II violation under OAR 340-012-0053(2)(a).

Class I violations are considered to be the most serious violations; Class III violations are the least serious.

Biosolids are regulated under DEQ's water quality program, specifically through a National Pollutant Discharge Elimination System (NPDES) or Water Pollution Control Facility (WPCF) permit, a biosolids management plan, and site authorization letters. The permit, management plan, and site authorization letters are specific to a facility and include conditions that are relevant to both state and federal biosolids regulations. The conditions in the management plan and site authorization letters are considered an integral part of the permit and thus are enforceable. These rules and regulations outline proper vector attraction reduction and pathogen control measures in land applied biosolid to ensure that public health and the environment are protected. An integral part of the biosolids land application program is having current and up to date site authorization information with site conditions and restrictions that meet current biosolid rules and regulations.

Corrective Action(s) Requested

Violation #1:

- 1) By August 1, 2011 submit to the DEQ current site authorization information for the Michael Hayden property at 198 McKee Lane Roseburg, OR. The Department will reauthorize/issue this site authorization with the current owner information and farm management practices. Under OAR 340-050-0030(3) site authorizations are part of RUSA's Biosolid Management Plan (BMP) and enforceable under RUSA's

NPDES permit; Under OAR 340-050-0031(2) and (3) your BMP is part of your NPDES permit shall remain in effect until your NPDES expires. Note the revised site authorization will also include updates to the site conditions in conformance with the biosolid program rules and regulations promulgated after RUSA was authorized to use this site. This site authorization is valid until the permit expires unless property ownership changes; the farming management/practices change such that there is significant non-compliance with the biosolid site authorization, the biosolid rules and/or your biosolids management plan; or the current property owner requests the city to discontinue the land application of biosolids on this site.

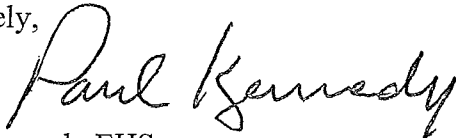
- 2) Update your BMP to include all the existing biosolids land application sites that you could use in the next permit cycle as part of RUSA's next NPDES permit renewal.

Should these violations remain uncorrected or should you repeat any of these violations, this matter may be referred to the Department's Office of Compliance and Enforcement for formal enforcement action, including assessment of civil penalties and/or a Department order. Civil penalties can be assessed for each day of violation.

If you believe any of the facts in this Warning Letter are in error, you may provide information to me at the office at the address shown at the top of this letter. The Department will consider new information you submit and take appropriate action.

The Department endeavors to assist you in your compliance efforts. Should you have any questions about the content of this letter, please feel free to contact me in writing or by phone at (541) 687-7439.

Sincerely,



Paul Kennedy EHS
WQ Biosolids Program, Eugene DEQ

Ec: Office of Compliance and Enforcement, DEQ Headquarters
Steve Schnurbusch, Acting WQ Manager, Salem DEQ
Jeff Bachman, Environmental Law Specialist-OCE, Portland DEQ
Jon Gasik, Lead Worker Compliance, Medford DEQ
Ron Doughten, Biosolid Program, HQ Portland DEQ

KENNEDY Paul

From: KENNEDY Paul
Sent: Thursday, May 05, 2011 12:18 AM
To: 'Steven.Witbeck@CH2M.com'
Cc: SCHNURBUSCH Steve; DOUGHTEN Ron; KENNEDY Paul
Subject: RE: May 5, 2011

Steve

Very good.

I am trying to get closure on two complaints alleging RUSA land applied biosolids too close to a creek that runs through the property as I understand it is now owned by Mr. Hayden. In dealing with complaints I address the issues by validation thus the site visit, if I need information as part of my review process than I request it.

I reviewed parts of RUSA's 2010 Annual Biosolids Report and under the quarterly report tables RUSA land applied biosolids on the Hayden property in the first quarter of 2010 (site 1: 71.4 ac/280 ac), the second quarter of 2010 (site 1: 7.6 ac/280 ac) and the fourth quarter of 2010 (site 1: 51.4 ac/280 ac). When I asked for your field records I want to see your field map that breaks the Hayden property up into application areas. I want to know on what parts of which fields RUSA land applied biosolids in 2010 on the Hayden property.

For the Collins site authorization, I did not receive a copy of the soils map, which delineates the areas of winter and summer land application approval, I would like a copy of this map.

As a side note, if in my biosolids program review process I see or find things that need updating, then I typically address program issues as I find them (I reference my last phone call with you). It appears the Collins authorization is an old authorization where property ownership have changed (twice?) since the original approval with Collins in the late 80s. This authorization that lacks a current biosolids rule condition (48" setback to groundwater), which may be pertinent to this winter land application site.

Paul

From: Steven.Witbeck@CH2M.com [mailto:Steven.Witbeck@CH2M.com]
Sent: Wednesday, May 04, 2011 10:38 PM
To: KENNEDY Paul
Cc: Randy.Turner@CH2M.com; jbaird@rusa-or.org; rsthames@rusa-or.org; SCHNURBUSCH Steve
Subject: RE: May 5, 2011

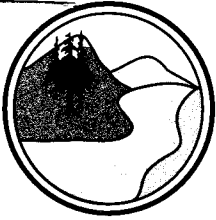
Paul

Are you investigating a complaint? If so please let me know the allegations. I believe we have a right to know what we are being charged with.

I have no problem in your reviewing any records however if you are going to release those records to the public I will need to check with the people mentioned. I am not trying to be difficult but Mr. Hayden and those people are engaged in litigation and I could not allow those records to be released to the public without checking with at least RUSA.

Steve

From: KENNEDY Paul [mailto:KENNEDY.Paul@deq.state.or.us]
Sent: Wednesday, May 04, 2011 10:21 PM
To: Witbeck, Steve/ROS
Cc: Turner, Randy/ROS; jbaird@rusa-or.org; rsthames@rusa-or.org; SCHNURBUSCH Steve; KENNEDY Paul
Subject: RE: May 5, 2011



ROSEBURG URBAN SANITARY AUTHORITY

1297 N.E. Grandview * P.O. Box 1185 Roseburg, OR 97470 * 541-672-1551 * 541-672-7548 Fax

September 6, 2012

Mr. Bryan Telegin
8325 SE 29th Avenue
Portland, OR 97202

**RE: Renewal of NWEA's August 9, 2012 Public Records Request
Hayden Ranch, 198 McKee Lane**

Dear Mr. Telegin:

In response to your letter dated August 31, 2011, received at our office on Wednesday, September 5, 2012, requesting public records, we have provided the following records for your review:

- 1) In lieu of keeping a field grid map, we chose "other easily readable system" of spread sheets (see enclosed) for the 4th Quarter, 2011 and the 1st Quarter, 2012.

If you have any questions regarding the enclosed documentation, please feel free to contact the undersigned at (541) 672-1551.

Sincerely,

ROSEBURG URBAN SANITARY AUTHORITY

A handwritten signature in black ink, appearing to read "Ron Thames".

Ronald S. Thames
General Manager

RST:em
Enclosures

BRYAN TELEGIN
ATTORNEY AT LAW

8325 SE 29th Ave
Portland, OR 97202
503.395.5147
bryan@teleginlaw.com

VIA CERTIFIED MAIL

February 8, 2012

Gregory K. Aldrich
Interim Water Quality Division Administrator
Oregon Department of Environmental Quality
811 SW 6th Ave
Portland, OR 97204-1390

Re: Further Information Concerning Disposal of Sewage Sludge at Hayden Ranch Pertaining to Northwest Environmental Advocates' Petition for Reconsideration of Site Authorization Letter to the Roseburg Urban Sanitary Authority.

Dear Mr. Aldrich:

On November 21, 2011, Northwest Environmental Advocates (NWEA) petitioned the Oregon Department of Environmental Quality to reconsider DEQ's site authorization letter for the disposal of sewage sludge at Hayden Ranch, a property located at 198 McKee Lane, Roseburg, Oregon. On January 19, 2011, DEQ granted NWEA's petition. NWEA is encouraged that DEQ is reconsidering its authorization and welcomes any opportunity to assist DEQ in reaching a final decision.

Attached, you will find two maps of Hayden Ranch obtained from the United States Geological Survey's National Map Viewer, maintained at <http://viewer.nationalmap.gov/viewer>. The first map, Attachment A, depicts a series of creeks, ditches and channels located at Hayden Ranch. Three of these waterbodies, located within the site authorization letter's Application Sites 1, 2, 3, and 5, discharge into the unnamed creek discussed in NWEA's petition for reconsideration.^{1/} The others, located within or along Application Sites 6, 8, and 9, appear to discharge into the Umpqua River at the southern end of Hayden Ranch. The second map, Attachment B, depicts a series of emergent wetlands at Hayden Ranch.^{2/} Three of these wetlands

¹ NWEA has altered Attachment A to indicate the location of the unnamed creek, which borders Application Sites 1, 2, 3, 4, and 5.

² NWEA has altered Attachment B to indicate the location of these wetlands. These wetlands may also be viewed through the U.S. Fish and Wildlife Service's Wetlands Mapper, www.fws.gov/wetlands/Data/Mapper.html.

appear to be located within or very near Application Site 6, and two appear to share a surface hydrological connection with the Umpqua River via two of the waterbodies or drainage systems identified in Attachment A.

NWEA is providing these maps to help DEQ decide whether to authorize Hayden Ranch for sewage sludge disposal, and NWEA continues to believe that a public comment period is required prior to DEQ's final decision. However, if DEQ does authorize the Hayden Ranch without allowing public comment, these maps will help DEQ to identify precisely, within the site authorization letter itself, any areas where sludge disposal is prohibited. For example, DEQ's current site authorization letter and OAR-050-0070(3)(c) require the maintenance of 50-foot buffer strips along any ditch, channel, pond, or waterway. As NWEA pointed out in its petition for reconsideration, this buffer should be substantially increased when sludge is applied by means of spray irrigation. *See* DEQ's Implementing Oregon's Biosolids Program, Internal Management Directive at 22 – 23 (December 2005). Thus, sludge may not be applied on or near any of the waterbodies or drainage systems identified in Attachment A and any future DEQ authorization letter should clearly identify these features in order to ensure compliance with the law and to protect the environment and human health. As a practical matter, DEQ should also verify that sludge can be spray-applied within the various application sites without compromising the buffer areas surrounding these waterbodies.

Similarly, the current site authorization letter asks that sludge be applied in a manner that avoids low or concave areas, but does not attempt to identify such areas. NWEA provides Attachment B to illustrate potential areas that should be avoided to eliminate the potential for ponding and runoff. As well, DEQ should determine whether these wetlands are waters of the United States within the meaning of the Clean Water Act, 33 U.S.C. § 1251 et seq., as this would require additional protection as discussed in NWEA's petition for reconsideration.

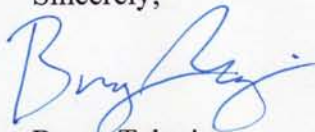
NWEA also notes that an NPDES permit may be required for any discharge of any pollutant to the Umpqua River via the waterbodies or drainage systems that drain these wetlands. As noted in NWEA's petition for reconsideration, the Clean Water Act prohibits the unpermitted discharge of any pollutant to a water of the United States. *See* 33 U.S.C. § 1311(a). This includes the discharge of a pollutant from any drainage system that transports a pollutant to a jurisdictional water. *See e.g. S. Fla. Water Management Dist. v. Miccosukee Tribe of Indians*, 541 U.S. 95, 105 (2004). Ordinarily, return flows from irrigated agriculture may not fall within this prohibition, and so the discharge of sewage sludge pollutants via the waterbodies and drainage systems identified in Attachment A may, under limited circumstances, not require an NPDES permit. *See* 33 U.S.C. § 1362(14). However, this exception is limited to discharges that consist "*entirely* of return flows from irrigated agriculture." 33 U.S.C. § 1342(l)(1) (emphasis added). Here, the same features depicted in Attachment A that drain much of the southern half of Hayden Ranch also appear to drain the wetlands identified in Attachment B. Thus, the discharge of any sewage-sludge pollutants to the Umpqua River via the waterbodies identified in Attachment A, when co-mingled with water or pollutants flowing from these wetlands, is prohibited absent an NPDES permit.

Moreover, NWEA believes that a series of tile lines have been installed to lower the water table at the Hayden Ranch and to discharge excess groundwater to the Umpqua River or to

the unnamed creek.^{3/} As above, any discharge of any pollutant from these tile lines to the Umpqua River or to the unnamed creek is prohibited absent an NPDES permit. First, the Clean Water Act return flow exception does not apply to sub-surface drainage systems. Instead, when Congress passed that exception in 1977, Congress relied upon EPA's definition of the term "irrigation return flow" as codified in EPA's Clean Water Act regulations. See S. Rep. No. 95-370, at 35 (1977), as reprinted in 1977 U.S.C.C.A.N. 4326, 4360. And under EPA's then-current regulations, the phrase "irrigation return flow" referred only to "surface water, other than navigable waters, containing pollutants which result from the controlled application of water by any person to land used primarily for crops, forage growth, or nursery operations." 40 C.F.R. § 125.53(a)(2) (1974) (emphasis added); see also *id.* at § 125.53(a)(3) (1974) (defining "surface water" to refer solely to "water that flows exclusively across the surface of the land from the point of application to the point of discharge."). Second, like discharges from the surface waterbodies discussed above, tile-line discharges do not consist "entirely" of irrigation wastewater. Instead, these tile lines were designed to lower the water table and to discharge groundwater in addition to surface leachate. Thus, any addition of sewage sludge pollutants to a water of the United States via these tile lines, if commingled with groundwater or groundwater pollutants, is strictly prohibited absent an NPDES permit. DEQ should investigate the existence of these tile lines and ensure that no pollutants discharge to the Umpqua River or other water of the United States.

If you have any questions regarding this letter, please do not hesitate to contact me.

Sincerely,



Bryan Telegin

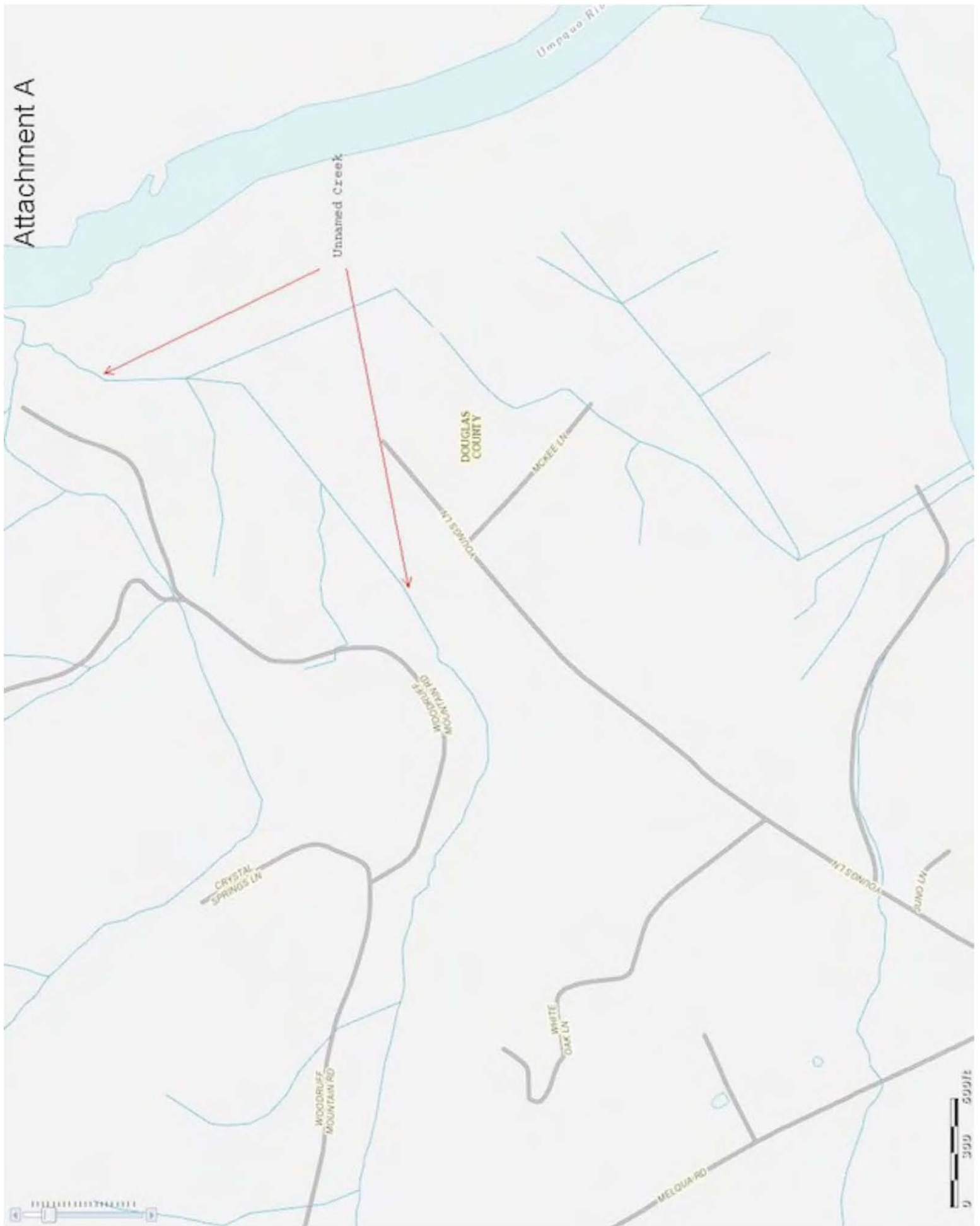
Attachments:

- A: Map obtained on February 4, 2012 from <http://viewer.nationalmap.gov/viewer> and showing hydrographic features of Hayden Ranch
- B: Map obtained on February 4, 2012 from <http://viewer.nationalmap.gov/viewer> and showing U.S. Fish and Wildlife Wetlands data for Hayden Ranch

Cc: Steve Schnurbusch, Western Region WQ Permit Manager
Ron Thames, Manager, Roseburg Urban Sanitary Authority
Dan Mensher, Pacific Environmental Advocacy Center
Nina Bell, Executive Director, Northwest Environmental Advocates
River Bend West Water Association

³ While these tile lines were designed to lower the water table, NWEA is unaware of any tests verifying that the water table has been lowered sufficiently to meet the requirements of OAR 340-050-0070(2)(b) or to otherwise reduce the likelihood of groundwater contamination.

Attachment A



Unnamed Creek

DOUGLAS COUNTY

Umpqua River

KOORSEE ROAD

MOORE LN

CRYSTAL SPRINGS LN

WOODRUFF MOUNTAIN RD

WHITE OAK LN

MELOUA RD

YOUNGS LN

PANO LN





Emergent Wetlands discussed
in letter

DOUGLAS
COUNTY

0 300 600ft

0 300 600ft

1 was scheduled in 2010. The Department was unable to issue the NPDES permit renewal in 2010
2 as anticipated, because staff constraints created by several intervening lawsuits unrelated to this
3 permit.

4 3. The Permittee has substantially completed construction of the natural treatment
5 system. Use of the natural treatment system requires the use of the new outfall. Use of the
6 outfall, however, is not yet authorized by the permit or ORS 468B.050(1). The Department
7 cannot modify an expired permit and is working on a permit renewal that will include the new
8 outfall. However, the permit renewal cannot be completed in time to allow for operation of the
9 natural treatment system per the schedule in the MOA.

10 4. The Permittee and the Department agree that it is desirable to operate the natural
11 treatment system as soon as possible to improve water quality and recognize that use of the new
12 outfall without a permit modification or renewal is a violation of ORS 468B.050(1)(e).

13 5. The Permittee and the Department recognize that the Environmental Quality
14 Commission has the power to impose a civil penalty and to issue an abatement order for
15 violations of Oregon law. Therefore, pursuant to ORS 183.415(5), the Permittee and the
16 Department wish to limit and resolve without penalty the future violations referred to in
17 Paragraphs 3 and 4 in advance by this Mutual Agreement and Order (MAO).

18 6. This MAO is not intended to limit, in any way, the Department's right to proceed
19 against Permittee in any forum for any past or future violations not expressly settled herein or in
20 the MOA.

21 NOW THEREFORE, it is stipulated and agreed that:

22 7. The Environmental Quality Commission shall issue a final order:

23 A. Requiring Permittee to:

24 (1) Operate the natural treatment system in compliance with the conditions in
25 the MOA, the approved Natural Treatment System Vegetation Planting and Startup Plan, and the
26 Operations and Maintenance Manual. As detailed in these documents, direct discharge to waters
of the state is permitted only at the treatment plant (Outfall 001). All discharge to surface waters

1 from the natural treatment system project must meet the effluent limit in the current permit and
2 must be additionally treated through the natural treatment system prior to discharge to Sylman
3 Creek.

4 (2) Monitor pH and nutrients (nitrite-nitrate, ammonia, ortho-phosphorus, and
5 total phosphorus) in the South Umpqua River at the locations specified in the MOA as Location
6 1 (upstream) and Location 6 (downstream) between May 1 and October 31 of each year at least
7 once per week. The monitoring (sampling) must be between the hours of 4PM and 6PM.
8 Monitoring must be conducted according to procedures approved under 40 Code of Federal
9 Regulations Part 136 and be reported in the Permittee's monthly discharge monitoring reports in
10 accordance with Schedule B of the NPDES permit.

11 8. Regarding the future violations set forth in Paragraphs 3 and 4 above, which are
12 expressly settled herein without penalty, the Permittee and the Department hereby waive any and
13 all of their rights to any and all notices, hearing, judicial review, and to service of a copy of the
14 final order herein. The Department reserves the right to enforce this order through appropriate
15 administrative and judicial proceedings.

16 9. The terms of this MAO may be amended by the mutual agreement of the Permittee
17 and the Department.

18 10. The Department may amend the conditions in this MAO upon finding that such
19 modification is necessary because of changed circumstances or to protect public health and the
20 environment. The Department shall provide a minimum of thirty (30) days written notice prior
21 to issuing an Amended Order modifying any compliance schedules or conditions. If Permittee
22 contests the Amended Order, the applicable procedures for conduct of contested cases in such
23 matters shall apply.

24 11. This MAO shall be binding on the parties and their respective successors, agents, and
25 assigns. The undersigned representative of each party certifies that he or she is fully authorized
26 to execute and bind such party to this MAO. No change in ownership or corporate or partnership

status relating to the facility shall in any way alter the Permittee's obligations under this MAO,

1 unless otherwise approved in writing by the Department.

2 12. All reports, notices and other communications required under or relating to this MAO
3 should be directed to Andy Ullrich, DEQ Medford Regional Office, 221 Stewart Avenue,
4 Medford, Oregon 97501, phone number 541-776-6189. The contact person for the Permittee
5 shall be Ronald Thames, General Manager, P.O. Box 1185, Roseburg, Oregon, phone number
6 541-672-1551.

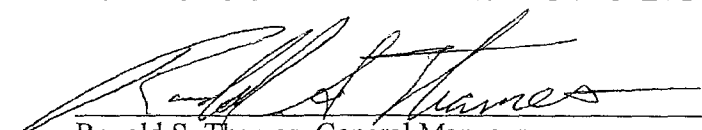
7 13. The Permittee acknowledges that it has actual notice of the contents and
8 requirements of the MAO and that failure to fulfill any of the requirements hereof would
9 constitute a violation of this MAO.

10 14. DEQ and Permittee agree that failure to meet the requirements of this MAO will be
11 treated as violations of NPDES permit number 100981. As such, DEQ enforcement action for
12 any violations of this MAO will be in accordance with the provisions set forth in OAR Chapter
13 340 Division 12 and DEQ's Enforcement Guidance for NPDES permit violations.

14 15. This MAO shall terminate upon the Department's action on the Permittee's
15 application for permit renewal.

16
17 ROSEBURG URBAN SANITARY AUTHORITY


18
19 5/23/11
Date



Ronald S. Thames, General Manager
Roseburg Urban Sanitary Authority

21 DEPARTMENT OF ENVIRONMENTAL QUALITY

22
23
24 6/2/11
Date



Leah Koss, Manager
Office of Compliance and Enforcement
on behalf of DEQ pursuant to OAR 340-012-0170
on behalf of the EQC pursuant to OAR 340-011-0505

Ron Thames

From: Steven.Witbeck@CH2M.com
Sent: Thursday, June 28, 2012 1:52 PM
To: Ron Thames; Randy.Turner@CH2M.com
Cc: Jim Baird; Nikki.Lemke@ch2m.com
Subject: RE: Hayden Site authorization

Ron

Paul has misread the regulations.

- First and foremost you cannot go out to public notice on an expired permit.
- 40CFR 122.21(q)(9) are the Federal Requirements for a Biosolids Management Plan which includes a land use plan. The land use document you submitted to Paul is subject only to 40CFR 122.21(q)(9)(v):

(v) If not all land application sites have been identified at the time of permit application, the applicant must submit a land application plan that, at a minimum:

(A) Describes the geographical area covered by the plan;

(B) Identifies the site selection criteria;

(C) Describes how the site(s) will be managed;

(D) Provides for advance notice to the permit authority of specific land application sites and reasonable time for the permit authority to object prior to land application of the sewage sludge; and

(E) Provides for advance public notice of land application sites in the manner prescribed by State and local law. When State or local law does not require advance public notice, it must be provided in a manner reasonably calculated to apprise the general public of the planned land application

- The Land Use Plan you submitted met the above requirements
- The land use plan included in the 2005 biosolids management plan met the above requirements and the 2005 permit included the requirements
- The Biosolids Management Plan written and approved by Paul in 2005 did not include all authorized sites and therefore did not meet the requirements of 40CFR 122.21(q)(9) or the state requirements and should not have been approved (or written).

Sincerely

Steve Witbeck

Roseburg Project Manager
CH2M Hill -RUSA
3485 W. Goedeck St.
Roseburg Oregon 97471

KENNEDY Paul

From: KENNEDY Paul
Sent: Thursday, August 23, 2012 8:49 AM
To: Randy.Turner@CH2M.com
Cc: KENNEDY Paul
Subject: RE: Approval letters

NWEA made another Hayden file request from us, as part of their request for files they state your current BMP does not have a Land Plan that addresses future sites in it; therefore all new site should go out on PN in order add them to your NPDES permit (40 CFR 122).

We currently have the Hayden site and the RUSA Land Plan out on PN. Once we close the PN and respond to comments I can issue all the draft site authorizations (to date I have Artemenko, Bennett done, Heberling 60% done and Guido not started).

I have only receive one comment thus far, but NWEA will wait to the last hour to submit their list of comments. So we'll have to wait till then.

If you have questions please call me.
Thanks Paul

From: KENNEDY Paul
Sent: Tuesday, August 21, 2012 3:59 PM
To: Randy.Turner@CH2M.com
Cc: KENNEDY Paul
Subject: RE: Approval letters

Hi Randy,
I have Artemenko, Bennett drafted I need to add picture and attachments,
Heberling and Guido authorizations are in the process of being drafted.

From: Randy.Turner@CH2M.com [<mailto:Randy.Turner@CH2M.com>]
Sent: Tuesday, August 21, 2012 3:57 PM
To: KENNEDY Paul
Subject: Approval letters

Hi Paul,

Do you know what the status is of the Artemenko, Bennett, Herberling/Love and Ritchie/Guido biosolids approval letters?

Thanks,

Randy Turner
CH2MHILL
Roseburg, OR
541-673-6570