Top state court greenlights using treated human waste as fertilizer

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The state court has put an end to a years- long

OLYMPIA — In a move that surprised some Wahkiakum County officials, the state Supreme Court has refused to weigh in on the county's controversial ban on the use of "Class B Biosolids" — a type of treated human waste — as fertilizer.

State law says that whenever possible, communities should convert treated waste to biosolids that can be spread on agricultural land. The state Department of Ecology says biosolids provide a safe, affordable and environmentally sound alternative to incinerating the waste or dumping it in landfills. Wastewater and septic treatment operators promote the use of biosolids, because spreading the treated waste on farmland is cheaper than paying to deposit it at a treatment plant.

But Wahkiakum County residents had concerns about using a product derived from human waste on local land in 2010, when Long Beach-based Evergreen Septic applied to the DOE for a permit to haul biosolids to Phillip Zerr's farm near Rosburg.

In 2011, Wahkiakum county commissioners banned the use of all but the highest-grade biosolids. The DOE sued. When a Cowlitz County Superior Court judge sided with the county, the DOE asked the state Court of Appeals to review the decision. In November 2014, the appeals court overturned the Cowlitz County ruling, saying that the Wahkiakum County policy was unconstitutional because it undermined state law. Wahkiakum County Prosecutor Dan Bigelow then asked the Supreme Court to review the appeals court decision.

Bigelow said in November that he thought the case had a good chance of making it to the Supreme Court, because the ruling could potentially help determine whether local governments have any authority to limit or ban legal marijuana production and sales.

While the county waited to hear from the higher courts, medical and recreational marijuana groups took an interest in the case. So did lobby groups representing wastewater treatment and industrial agriculture companies.

In a February 2014 blog post, James Slaughter, an attorney who works on behalf of the wastewater treatment industry, said the Wahkiakum ruling "will be important nationally for land application," meaning that it could influence how other communities deal with increasing objections to biosolids.

On April 29, the Supreme Court denied Bigelow's petition and put an end to the county's ban — a clear victory for the state and other groups who see biosolids as a cheap and necessary means of dealing with massive volumes of treated human waste.

"There's no appeal from this," Bigelow said in an email. "The Court of Appeals basically ruled the state runs the show. That means biosolids opponents have to lobby the state legislature if they want the rules changed."

Once the formal mandate from the state is processed in Cowlitz County Superior Court, locals may begin applying for permits to spread biosolids.

Among the interested parties? The Town of Cathlamet, Wahkiakum County's only city and the county seat. According to the Wahkiakum County Eagle, city leaders hope to reduce costs by applying biosolids on a local property, rather than hauling them to Lewis County.