



ESTABLISHED 1975

August 23, 2023

*VIA HAND DELIVERY AND
ELECTRONIC MAIL*

Commissioner Richard A. Ball
NYS Department of Agriculture and Markets
10B Airline Drive
Albany, New York 12205
commissioner@agriculture.ny.gov

Dear Commissioner Ball:

We are reaching out to you regarding a recent threat to the continued operation of the Bonny Hill Organics Facility. The Facility is located in the Town of Thurston, Steuben County, New York and is permitted for land application of biosolids (including sewage sludge) on a number of farms in agricultural districts in the Town of Thurston and surrounding towns. As more fully explained below, continued operation of the Facility is now being threatened by a newly proposed local law (Town of Thurston, Local Law #3) which bans land application of such biosolids from State-permitted facilities.

More specifically in terms of pertinent background, on July 21, 2022, Casella purchased Dickson's Environmental Services, Inc. Facility located in the Town of Thurston. This acquisition included the assets of the land application operation that Leo Dickson & Sons and Dickson Environmental Services operated since the late 60's. The acquisition included 150 acres on which the Facility is located, as well as the transfer of the land application permit. Casella leases the remaining 2700 acres for land application, all of which are in the Town of Thurston, Town of Cameron, and Town of Bath. The Part 360 Land Application permit transfer application is in the final stage of review with New York State DEC Region 8. The Bonny Hill Organics Facility, and all the land application sites, are in Agricultural District 1 and Agricultural District 2 in Steuben County, New York.

A specific example of reliance on land application of biosolids is Leo Dickson & Sons, Inc. ("LDS") which is a third-generation farm. In October of 2021, LDS sold all livestock and now operates as a crop farming operation growing corn, soybeans, and alfalfa. LDS had operated a dairy farm in conjunction with a Part 360 land application permit since the late 1960's. LDS has been dependent on biosolids for soil amendment since the late 1960's. Since the sale of the livestock, there is no longer manure available for land application, and, therefore, the biosolids are solely being relied on for the nutrients to grow the crops. Land application of Class B Biosolids is an approved practice in NYS and supports the NYS Solid Waste Management Plan's efforts to recycle organics that can be used for beneficial use, as opposed to disposing of those organics in landfills. In other words, as a matter of public policy, the NYS DEC supports land application of biosolids, as such reduces use of chemical fertilizer which has adverse environmental impacts and also reduces the amount of organic waste destined for landfill disposal. Moreover, as your office has found in the past, NYS DEC's comprehensive regulations regarding land application of biosolids protect public health. In fact, the NYS DEC is presently in the process of promulgating new standards for land application of biosolids, which will further enhance protections to ensure public health and safety. Importantly, land application of biosolids (in lieu of chemical fertilizer) has proven to be very beneficial for LDS's farming operation (and for the continued operation of other area farms). The ban of this practice on this farm would be devastating, both financially and agronomically, due to the rising cost of commercial fertilizer and the benefits of organic fertilizer versus commercial fertilizer.

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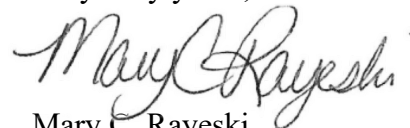
In February 2023, Town of Thurston Local Law #1 was passed. This moratorium as written did not have an impact on Casella's land application operations because the moratorium only applied to expansions or new Part 360 permitted facilities. The neighboring Towns of Cameron and Bath followed with the same moratorium.

On Monday, August 14th, the Town of Thurston proposed LOCAL LAW NO. 3 OF 2023, A LOCAL LAW REGULATING THE DISPOSAL OF SEWAGE SLUDGE (see attached) effectively banning the land application of biosolids in the Town of Thurston. This local law has been categorized as a Type 1 State Environmental Quality Review (SEQR) action. A Type 1 action requires coordinated review with all involved agencies and notice to interested agencies. However, The Town has only involved the local county planning department, but no State agencies. Casella believes that the NYS DEC is an involved agency because the proposed local law affects (by invalidating) the Facility's longstanding Part 360 Land Application permit which currently is in the process of being transferred to Casella. Casella also believes that the NYS Agriculture and Markets is an involved agency because the proposed local law directly impairs agricultural practices in NYS; and sound agricultural practices (such as land application of biosolids) in agricultural districts is protected under the Agriculture and Markets' Right to Farm Law. Troublingly, the SEQR documents also fail to acknowledge any adverse environmental impacts from the ban of organic fertilizer. The proposed ban surely will result in, among other things, the increased use of chemical fertilizers (with resulting environmental impacts) and an increased burden on landfills. These issues need to be identified and vetted through the SEQR process, with proper notice to and involvement of involved and interested State agencies. Therefore, we respectfully request your office to intervene prior to the Town of Thurston's special meeting on August 28th.

Finally, if the Town of Thurston is successful with this ban, precedent will be set. The adjoining Towns of Cameron and Bath will follow suit (as they did with the earlier moratorium) effectively closing this Facility, and these localities will continue to push their agenda throughout the State. This underscores the need for involvement of your office *before* the enactment of this local prohibition, which is contrary to State policy and practice.

In conclusion, please feel free to reach out to me, to discuss in further detail any questions you may have. I thank you in advance for your consideration and time spent dealing with this matter.

Very truly yours,



Mary C. Rayeski
Division Manager
Bonny Hill Organics Facility

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