Message

From: Prat, Rachel@Waterboards [Rachel.Prat@waterboards.ca.gov]
Sent: 5/13/2013 10:40:38 PM
To: VonVacano, Marcela [VonVacano.Marcela@epa.gov]; Fondahl, Lauren [Fondahl.Lauren@epa.gov]
CC: Dougherty, Mona@Waterboards [Mona.Dougherty@waterboards.ca.gov]
Subject: RE: Question on Proposed Eureka Biosolids Project
Attachments: Figure 1 Site Location Map from ROWD.pdf; Figure 2 Biosolids Application Site from ROWD.pdf; Figure 3 Preliminary Jurisdictional Delineation fron ROWD.pdf

Hi Marcela,

The WDRs would authorize the land application of Class B Biosolids with a 2%-5% solid content to 65 acres of agricultural lands identified as "wetland waters of the U.S." for use as a soil amendment. The biosolids would be applied at a rate less than the nutrient up-take rate of the grass hay being grown (at approximately 4 dry tons/acre) and would be immediately disked in to the top 6 inches of soil. Land application would occur between June 1st and September 30th each year. Soil, surface water and groundwater samples would be collected and analyzed annually.

Please see attached Site Location map, Biosolids Application map, and Preliminary Jurisdictional Delineation map that were included with the project application.

Thank you,
Rachel

From: VonVacano, Marcela [mailto:VonVacano.Marcela@epa.gov]
Sent: Monday, May 13, 2013 2:46 PM
To: Fondahl, Lauren; Prat, Rachel@Waterboards
Subject: RE: Question on Proposed Eureka Biosolids Project

Rachel,

What is the WDR for, i.e., which specific discharges?

Thanks,

Marcela von Vacano
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From: Fondahl, Lauren
Sent: Monday, May 13, 2013 2:35 PM
To: VonVacano, Marcela; Prat, Rachel@Waterboards
Cc: Scianni, Melissa
Subject: RE: Question on Proposed Eureka Biosolids Project

Region 9 has not issued a "sludge-only" NPDES permit to date. We have included biosolids conditions in NPDES permits that EPA has issued to effluent dischargers, such as the joint EPA/RWQCB permits to Los Angeles County and Orange County for deep ocean discharges and 301(h) dischargers. These didn't address application of biosolids on seasonal or former wetlands.

Lauren Fondahl
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415 972-3514 (office)

From: VonVacano, Marcela
Sent: Monday, May 13, 2013 2:06 PM
To: Fondahl, Lauren; Prat, Rachel@Waterboards
Cc: Scianni, Melissa
Subject: RE: Question on Proposed Eureka Biosolids Project

Lauren,

I agree with your assessment, except that I am not sure whether a concurrence from EPA regarding a State-issued WDR would be sufficient. It is possible that EPA would have to issue an NPDES permit for this project, given that the biosolids program has not been approved in California as part of its NPDES program. I will check with OGC on this but I am wondering if there are other biosolids NPDES permits that you have worked on.

Marcela von Vacano
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From: Fondahl, Lauren
Sent: Thursday, May 09, 2013 4:36 PM
To: Prat, Rachel@Waterboards
Cc: VonVacano, Marcela
Subject: RE: Question on Proposed Eureka Biosolids Project

Hi Rachel,

503.14(b) says that sewage sludge cannot be applied to land that is flooded, frozen, or snow-covered so that it enters a wetland or other waters of the US, except with a 402 or 404 permit. Since the land is not flooded during the summer, I don't think this requirement applies.

503.14(c) says that sewage sludge may not be applied within 10 meters of waters of the US unless "otherwise specified by the permitting authority". From this, since EPA is the "permitting authority" for the sewage sludge program, I'm thinking that Eureka would need a letter from EPA concurring with the WDR, or a 402 permit signed off on by EPA. I'm cc'ing Marcela Von Vacano, our CWA attorney for 503 issues – Marcela, do you think a 402 permit from EPA would be required for land application of sewage sludge in a seasonal wetlands that is dry and used for agriculture during the season of application?

Melissa Scianni from our wetlands office had the following response to the Corps Public Notice, that her office would recommend pursuing other options unless no other practicable sites in the area are available.

Kelley:

Thank you for the opportunity to review Public Notice 1998-240140N for the Eureka Bio-solids Project. The City of Eureka proposes to spray bio-solids on a property they own that is adjacent to Humboldt Bay. The property is former tidal marsh that was leveed when the railroad was built. The 80-acre site has 74 acres of jurisdictional wetlands and is used to grow hay for cattle. Bio-solids would be applied in the summer and disked into the soil. This permit is being considered pursuant to Section 10 of the Rivers and Harbors Act.

We recommend the Corps and City look for alternate disposal options that do not involve application on properties that contain wetlands and are so close to the Bay. There are a number of upland properties in agriculture production in the area that could be more suitable sites. We understand that a number of waste water treatment plants in Humboldt County compost bio-solids onsite and then provide them for agriculture use. The City should also investigate whether this a viable alternative. Application in wetland areas should only be permitted if there are no other practicable upland disposal options.

Thank you for considering our recommendations.
Melissa

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From: Prat, Rachel@Waterboards [mailto:Rachel.Prat@waterboards.ca.gov]
Sent: Wednesday, May 08, 2013 1:21 PM
To: Fondahl, Lauren
Cc: Dougherty, Mona@Waterboards
Subject: Question on Proposed Eureka Biosolids Project

Hi Lauren,

It has come to my attention that the land application area being proposed by the City of Eureka includes 74 acres of "wetland waters of the U.S.".

In my review of the Report of Waste Discharge this point was not made clear, rather the application area was described as Ag wetlands/farmed wetlands/diked bay lands and implied that these Ag wetlands would not be considered "waters of the U.S.".

The Public Notice distributed by the US Army Corp of Engineers on April 18, 2013, however states the following: "There are approximately 6 acres of non-Corps-jurisdictional uplands and 74 acres wetland waters of the U.S.".

My question is since the land application area is considered to be waters of the U.S. does this application of Class B biosolids trigger the need for an NPDES permit, as per Part 503?

The EPA Process Design Manual, Land Application of Sewage Sludge and Domestic Septage, states that Part 503 specifies that sewage sludge cannot be applied in such a way that it enters a wetland or other waters of the U.S., except as provided in a Section 402 (NPDES) or Section 404 (dredge and fill) permit.

The US Army Corps of Engineers has already decided that a 404 (dredge and fill permit) is not required because the physical properties of the sludge (approximately 95% liquid) cause it to not qualify as fill.

Our office intended to regulate the land application through the issuance of Waste Discharge Requirements (WDRs) however now is questioning whether an NPDES permit is the appropriate permitting mechanism.

Thank you for your help,
Rachel

Rachel Prat
Environmental Scientist
Watershed Protection Division

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