

NO. 44700-2-II

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**COURT OF APPEALS, DIVISION II  
OF THE STATE OF WASHINGTON**

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STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY

Appellant,

v.

WAHKIAKUM COUNTY, a political subdivision of Washington State

Respondent.

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**BRIEF AMICUS CURIAE IN SUPPORT OF APPELLANT  
DEPARTMENT OF ECOLOGY OF AMICI THE NORTHWEST  
BIOSOLIDS MANAGEMENT ASSOCIATION, NATIONAL  
ASSOCIATION OF CLEAN WATER AGENCIES, WASHINGTON  
ASSOCIATION OF SEWER AND WATER DISTRICTS, AND  
TOWN OF CATHLAMET, WASHINGTON**

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## **I. INTRODUCTION**

This case concerns the future of Washington's largest recycling activity. The preemption question before the Court will decide how a critical component of the state's public infrastructure is managed. The case has attracted important and diverse amici who work every day in biosolids management to protect public health and the environment and improve farmland. The amici argue here to protect the primacy of Washington State's biosolids program in order to prevent the degeneration of biosolids management into a balkanized and haphazard system of local regulation that will erode decades of progress and harm the state.

Northwest Biosolids Management Association, National Association of Clean Water Agencies, Washington Association of Sewer & Water Districts, and Town of Cathlamet, Washington ("the Public Amici") jointly submit this amicus curiae brief in support of appellant Washington State Department of Ecology ("Ecology"). The Public Amici are non-profit and government entities that represent the interests of millions of Washington residents who depend on land application of biosolids as a beneficial and economic means of recycling large volumes of solid residuals from municipal wastewater treatment. The Public Amici and their members are responsible under federal and state law to manage and treat millions of gallons of wastewater and thousands of tons of

biosolids daily in an environmentally and financially sound manner. For over 20 years under the Washington biosolids program, they have successfully recycled millions of tons of biosolids to farms, forests and pastures, providing a valuable bulk organic fertilizer for plant growth and soil improvement. The Wahkiakum County biosolids ban plainly conflicts with state law and, if upheld, will undermine this progress and lead to fractured and ineffective biosolids management and higher costs for water and sewer services in Washington.

## **II. INTERESTS OF THE PUBLIC AMICI**

### **A. Northwest Biosolids Management Association**

Amicus curiae Northwest Biosolids Management Association (“NBMA”) is a regional professional association that has worked for over a quarter century to advance wastewater management and environmental sustainability through the beneficial use of biosolids in the Pacific Northwest. See <http://www.nwbiosolids.org/index.php>. NBMA is headquartered in Seattle and its membership spans Alaska, Idaho, Oregon, Washington and British Columbia, with 193 members that include public wastewater agencies (79 percent) and private companies (21 percent). Membership includes small wastewater treatment plants that produce 10

dry tons<sup>1</sup> of biosolids annually to large agencies like King County that generate approximately 26,000 dry tons annually. NBMA members manage biosolids for more than eight million residents and ratepayers in five states and provinces, including all the major wastewater utilities in Washington State. NBMA funds research on biosolids and trains and educates its members in biosolids science and management.

NBMA and its members are deeply concerned regarding the trial court's ruling allowing a county to override the state biosolids program and ban land application. Were the Court to affirm the trial court, the state's program is likely to collapse as biosolids regulation reverts to a patchwork of county bans and disparate, conflicting regulations that make long range planning and capital investment impossible for public agencies. Disposing of biosolids in landfills – which forfeits all of the nutrient and soil building value of the material – will increase significantly.

**B. National Association of Clean Water Agencies**

Amicus curiae the National Association of Clean Water Agencies (“NACWA”) is a trade association representing the interests of nearly 300 of the nation's publicly owned treatment works (“POTWs”). *See*

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<sup>1</sup> A dry ton is the unit of measure typically used in the wastewater field. It excludes the moisture weight of the material. Class B biosolids typically are 70 to 85 percent water by weight so the actual gross weight of a ton of biosolids is much higher than the dry ton content. A facility generating 10 dry tons may produce 50 wet tons of biosolids, approximately two full tractor trailers.



<http://www.nacwa.org/>. NACWA's membership includes ten Washington public wastewater utilities. NACWA member agencies serve the majority of the sewered population in the United States and, together, treat and reclaim more than 18 billion gallons of wastewater each day.

Ensuring safe and environmentally appropriate management of biosolids is a key component of the environmental mandate of NACWA's members. NACWA is committed to preserving the ability of municipalities to choose the method of biosolids management which works best for them, including the use of land application to manage biosolids and recycle nutrients to the land. Many NACWA members, including some of America's largest cities, such as Chicago, Los Angeles, San Francisco, Denver, Philadelphia, Washington and Charlotte, use land application as the primary method of biosolids management. NACWA has an interest in this case to provide the Court with a national perspective on the importance of land application of biosolids to clean water utilities.

**C. Washington Association of Sewer & Water Districts**

Amicus curiae Washington Association of Sewer & Water Districts ("WASWD") is an organization of special purpose sewer and water districts and others in the sewer and water utility industry in Washington. *See* <http://www.waswd.org/>. Eighty-eight water-districts, both large and small, from every region of Washington are members.

WASWD's members provide wastewater services and drinking water to millions of Washingtonians every day. WASWD brings together agencies and their management and professional staffs to provide training, foster dialogue, and share resources and best practices in the drinking water and wastewater fields, including biosolids management.

Approximately ten WASWD members operate their own wastewater treatment facilities and many more collect wastewater that is treated by King County, which applies biosolids to land in many parts of the state. All of WASWD's districts need the full range of options available to them to be able to utilize biosolids in a cost effective and environmentally sound manner. Recycling biosolids to farms and forests under a uniform set of regulations administered by Ecology is essential to the mission of WASWD and its members. If Washington's hundreds of towns and counties are able to override Ecology's regulations, districts will face higher costs as they are forced to substitute landfill disposal and possibly incineration for biosolids recycling.

**D. Town of Cathlamet**

Amicus curiae Town of Cathlamet is the smallest amicus in this case and is the one amicus located in Wahkiakum County. *See* <http://www.townofcathlamet.com/>. Cathlamet supports reversal of the trial court decision because the County's ban will increase the Town's disposal

costs, leading to higher fees for the Town's sewer ratepayers. The Town's predicament will be repeated across Washington State if the trial court ruling is affirmed. In fact, the Town – relying on an assumption that the state biosolids program in place since 1992 would continue – recently completed a new treatment plant generating Class B biosolids that are otherwise suitable for land application to farms in Wahkiakum County. That investment has been jeopardized by the County's ban.

In the trial court, Ecology featured Cathlamet as one of the case studies demonstrating the burdens and unfairness of a ban on Class B biosolids. A Class A program would cost Cathlamet 2.7 times more annually than a Class B program. *See Clerk's Papers ("CP") 151-161.* A Class A composting alternative was considered but rejected given substantial real estate and transportation costs involved.

The most economical way to conform to the ban is to haul the Town's biosolids out-of-county, which denies local farmers the opportunity to use the biosolids on their fields, imposes higher transportation costs, and damages the Town's small rate-paying community. Tribeca Transport LLC, a Washington biosolids trucking company, estimates that hauling Class B biosolids out of the county to facilities in Clark or Lewis Counties will increase per ton costs to 2.4 to 3.7 times more than applying within the county. Cathlamet, like hundreds

of small communities in Washington State, has planned and budgeted based on state law and regulations that encourage sustainable and safe biosolids recycling. The Wahkiakum County ban is arbitrary, has no foundation in science or local needs, and should be overturned.

### **III. RECYCLING BIOSOLIDS IN WASHINGTON IS SUCCESSFUL AND BENEFICIAL**



Figure 1: Forest application.



Figure 2: Crop application.

The Public Amici understand well the benefits, value and science of biosolids and are providing the Court with background and information to rebut the inaccurate description of biosolids provided by Wahkiakum County and its amicus.

#### **A. Washingtonians Rely on Land Application of Class B Biosolids**

The Pacific Northwest is a national leader in beneficial use of biosolids; of the approximately 225,000 dry tons of biosolids generated annually in the region, 88 percent of the biosolids are used in agriculture, forestry, land reclamation and landscaping. *See* Ne. Biosolids & Residuals Ass'n, *Nat'l Biosolids End Use & Disposal Survey* (2007). In Washington State, 81 percent of biosolids produced in the state are land applied.



Seventy-five percent of the biosolids are Class B, and 25 percent are Class A. Wash. State Dep't of Ecology, *Biosolids Data Spreadsheet* (2012), available at <http://www.ecy.wa.gov/programs/swfa/biosolids/faq.html>.

Class A and Class B biosolids are equivalent under federal and state law for safety. Class B biosolids have more residual microbial activity, but there is no risk to the public or the environment because Class B biosolids by law are applied to farms and forest sites where access is restricted for a minimum of 30 days; exposure to air and sun complete the destruction of any potential pathogenic organisms. Production of Class A biosolids requires longer and more energy-intensive treatment. As the record demonstrates, the costs to Washington biosolids generators to convert from Class B to Class A biosolids to conform to Class B bans like Wahkiakum would be enormous. *See* CP 196 – 456.

#### **B. History of Biosolids in Washington**

Washington's leadership in biosolids recycling began shortly after the passage of the Clean Water Act in 1972, which mandated a standard level of wastewater treatment across the nation and caused a large increase in sewage sludge that had to be treated and managed. The Municipality of Metropolitan Seattle in conjunction with the University of Washington launched research projects and pilot sites for the land application of biosolids, and by 1978 the greater Seattle area was recycling almost all of



its biosolids to forests and reclamation sites. The United States Environmental Protection Agency (“EPA”) issued its initial biosolids regulations in 1979 and many of America’s largest cities began land application programs. *See* 40 C.F.R. §257.

Congress amended the Clean Water Act in 1987 and directed EPA to conduct further research and rulemaking to govern biosolids management. The Agency conducted a risk assessment and engaged in notice and comment rule making, culminating in the Part 503 rules finalized in 1993 that established a national baseline for technical standards for land application, including treatment requirements for biosolids, limits on pollutants in biosolids, and limits on the amount of biosolids that could be applied to the land. *See* 40 C.F.R. § 503. EPA observed in the preamble to the 503 rules that “[s]ewage sludge is a valuable resource. The nutrients and other properties commonly found in sludge make it useful as a fertilizer and a soil conditioner.” EPA, *Standards for the Use or Disposal of Sewage Sludge*, 58 Fed. Reg. 9,248 (Feb. 19, 1993). The Agency also commented that the “use and disposal of sewage sludge is not new in this country . . . . [T]here are virtually no [adverse] effects when sludge is disposed of on the land or used as a soil conditioner or fertilizer in compliance with these rules.” *Id.*

Washington and many other states promptly began development of concurrent state programs building on the federal rules. The Washington legislature, based on the federal rules that were near completion, enacted in 1992 a state program governing land application. Prior to the state program, biosolids use was largely regulated by Washington's 34 health districts, which resulted in a confusing patchwork of standards that hindered progress in biosolids management.

Washington went beyond the federal Part 503 program by codifying an express preference for beneficial use of biosolids over disposal. The state biosolids program, codified at RCW Chapter 70.95J, provided state-wide rule making and enforcement authority to Ecology. The legislature found that "[s]ludge management is often a financial burden to municipalities and to ratepayers" and that "[p]roperly managed municipal sewage sludge is a valuable commodity and can be beneficially used in agriculture, silviculture, and in landscapes as a soil conditioner." RCW 70.95J.005(1)(c), (d). Based on these findings, the legislature declared that "a program shall be established to manage municipal sewage sludge and that the program shall, to the maximum extent possible, ensure that municipal sewage sludge is reused as a beneficial commodity . . . ." RCW 70.95J.005(2). Underscoring this commitment to beneficial use of biosolids, the legislature also amended the solid waste law to state that

biosolids are not a solid waste and to empower Ecology to bar sewage sludge disposal in landfills except under exigent circumstances. RCW 70.95.255; Wash. Admin. Code 173.308.300(9)(a).

Working under this mandate, Ecology issued regulations that imposed additional controls and requirements on land application that surpassed the federal rules. *See* Wash. Admin. Code 173.308. Among other requirements, Ecology mandated that each biosolids generator seeking to land apply Class B biosolids would undergo an individual permitting process, including lengthy applications and reviews to assess the suitability of the farms and other sites proposed for land application. Wash. Admin. Code 173.308.110; Wash. Admin. Code 173.308.90001.

Ecology also provided a delegation mechanism to allow local health departments to apply for and assume responsibility for oversight of land application in their jurisdictions. Wash. Admin. Code 173.308.050. For example, Tacoma-Pierce County Health Department (“TPCHD”) has partial delegation of Ecology’s biosolids program. TPCHD monitors and administers permits for land application of biosolids in Pierce County. TPCHD personnel visit application sites, inspect applications, monitor odors, and help ensure compliance with the state regulations.

The state biosolids program has thrived over the last two decades and 29 of Washington’s 39 counties have had Class B land application

pursuant to the State's detailed guidance. C. Cogger, et al., *Washington State Biosolids Management Guidelines* (Rev. 2000). Washington recycles its biosolids to the soil at a higher rate than the national average. Farms and forests across the state have benefited from using bulk Class B biosolids as a fertilizer and soil conditioner.

**C. Science and Experience Confirm the Benefits and Safety of Biosolids**

Biosolids are by far the most studied fertilizer and soil amendment. Decades of research and experience in the field have shown that land application is a good recycling practice that poses negligible risks. The Wahkiakum biosolids ban is typical in that it is not science or evidence based but rather springs from misinformation.

The National Academy of Sciences has twice evaluated the Part 503 rules and biosolids quality standards. In 1996, the Academy published *Use of Reclaimed Water and Sewage Sludge in Food Crop Production* and concluded that application of biosolids to farmland, "when practiced in accordance with existing federal guidelines and regulations, presents negligible risk to the consumer, to crop production, and to the environment." A second Academy study in 2002, *Biosolids Applied to Land: Advancing Standards and Practices*, found:

- No documented scientific evidence that the Part 503 Rule has failed to protect public health



- No documentation of causal associations between biosolids exposures and adverse health outcomes
- No scientifically documented outbreaks or excess illnesses that have occurred from microorganisms in treated biosolids.

The NRC urged EPA to undertake further research to strengthen the scientific basis for the Part 503 rules, which it did. EPA. *Final Agency Resp. to the Nat'l Research Council*, 68 Fed. Reg. 75,531 (Dec. 31, 2003).

Ongoing research, including work at the University of Washington and studies funded by NBMA, continues to assess potential pathogens in biosolids as well as chemicals that may enter sewer systems and end up in biosolids in trace amounts. The research continues to show that current treatment methods and rules provide a large margin of safety.<sup>2</sup>

Designations of Class A or Class B biosolids refer only to the level of microbial destruction. There are no differences in metals or other constituents, and experience and research have shown that Class B biosolids that retain a higher level of microbes do not pose a risk to workers or neighbors of land application sites. Limiting access to fields and grazing for the first 30 days after Class B application ensures the die-off of any surviving pathogenic organisms. EPA observed that “in either

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<sup>2</sup> See, e.g., Cal. State Water Res. Control Board, *Statewide Program EIR Covering General Waste Discharge Requirements for Biosolids Land Application* (2004); Va. Panel of Experts Report, *Impact of the Land Application of Biosolids on Human Health & the Env't. Pursuant to HJR 694* (2007); I. Pepper, et al., *Sustainability of Land Application of Class B Biosolids*, 37 J. Env'tl. Qual. 558-67 (2008).



case [Class A or B land application] public health and the environment are protected against the reasonably anticipated adverse effects of pathogens in sewage sludge that is applied to the land.” EPA, *Standards for Sewage Sludge*, 58 Fed. Reg. at 9337; EPA, *A Plain English Guide to the Part 503 Rule 127* (1994) (“Biosolids with either Class A or Class B pathogen status are protective of human health and the environment . . .”).

#### **IV. THE WAHKIAKUM BAN IS PREEMPTED**

The Wahkiakum ban on Class B biosolids presents a clear case of conflict preemption. The Washington Constitution bars local legislation conflicting with state law and the County’s ban countermands a detailed set of state laws, regulations and permits that for decades have encouraged and expanded land application of biosolids. Faced with the blatant conflict, Wahkiakum County misconstrues the standard of review, misinterprets preemption precedent, overlooks the role that state law already provides for localities, and incorrectly interprets the Clean Water Act in its effort to salvage an ordinance that flouts state mandates.

##### **A. Biosolids Bans Conflict With the Detailed State Regulatory and Permitting Program for Biosolids**

The Washington Constitution provides that local police power only extends to laws “not in conflict with general laws.” Wash. Const. art. XI, § 11. The Washington Supreme Court has repeatedly found preemption because a “conflict [] is irreconcilable [if] . . . the legislative purpose is

necessarily thwarted.” *Diamond Parking v. City of Seattle*, 78 Wn.2d 778, 781, 479 P.2d 47 (1971). Moreover, local law is preempted when it is not “reasonable and consistent with the general laws.” *Brown v. Yakima Cnty.*, 116 Wn. 2d 556, 559, 807 P.2d 353 (1991); *see also Diamond*, 78 Wn.2d 781, 479 P.2d 49 (“[T]he plenary police power in regulatory matters accorded municipalities by Const. art. XI, § 11, ceases when the state enacts a general law upon the particular subject, unless there is room for concurrent jurisdiction . . .”).

The County incorrectly suggests that a higher burden of proof applies to a preemption challenge. To the contrary, the state’s jurisprudence treats preemption analysis as a straight-forward legal question of statutory interpretation. The few cases invoking “beyond a reasonable doubt” as a standard of review for constitutionality typically involve fact-based challenges to the basis for a legislative enactment. *See, e.g., Johnson v. Johnson*, 96 Wn.2d 255, 263; 634 P.2d 877 (1981) (challenger sought to prove that the legislature’s stated public purpose for a law was a pretext).

Wahkiakum also overlooks that Ecology, the agency charged with implementing the biosolids program, should receive deference in its interpretation of the state biosolids law and regulations. *See PT Air Watchers v. Dep’t of Ecology*, 179 Wn.2d 919, 925, 319 P.3d 23(2014)

(“We accord deference to an agency interpretation of the law where the agency has specialized expertise in dealing with such issues . . .”). The County further errs in suggesting that the Court only focuses on the impacts of its biosolids ban, and not on the consequences of an appellate ruling allowing local biosolids bans. Basic preemption principles require this Court to assess the legality of Wahkiakum’s ordinance in light of the consequences of allowing all localities to ban biosolids.<sup>3</sup>

Wahkiakum’s ban is inconsistent with the state program in numerous ways that should lead the Court to find preemption:

- The ordinance is not a concurrent or complementary regulation but an outright prohibition on the land application of Class B biosolids, the predominant method of generating biosolids that is recognized and regulated in the state program;
- The ordinance defies the legislature’s directive that biosolids should be land applied “to the maximum extent possible;”
- The ordinance ignores the state program’s provisions allowing localities to obtain delegation of permitting and oversight authority over use of biosolids;
- The ordinance disregards the legislature’s direction that landfilling biosolids (the primary alternative to land application) can only be used if land application is economically infeasible; and

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<sup>3</sup> See, e.g., *Healy v. Beer Inst.*, 491 U.S. 324, 336 (1989) (In assessing constitutionality, “the practical effect of the statute must be evaluated not only by considering the consequences of the [ordinance] itself, but also . . . what effect would arise if not one, but many or every, State adopted similar legislation.”).

- The ordinance wrongly attempts to regulate biosolids as a solid waste, ignoring state law which provides that biosolids are not a solid waste and excludes them from local control.

The suggestion that Washington can simply shift from Class B to Class A biosolids to accommodate a ban likewise contravenes state law, which in no way distinguishes between the two methods in terms of desirability or merit or suggests that they are interchangeable.

Washington, like the nation as a whole, relies overwhelmingly on Class B biosolids because they are economical and work well for large farms, forest tracts, and land reclamation projects. CP 148. The multi-million dollar costs for even small agencies to convert to Class A demonstrates that a Class B ban is unreasonable and contrary to the legislative purpose of promoting cost-effective management of biosolids. CP 149-456.

#### **B. Other Laws Do Not Authorize a Biosolids Ban**

Faced with the plain meaning of the state biosolids law, Wahkiakum County argues that the federal Clean Water Act somehow empowers Washington localities to ban biosolids. The statute in no way supports this extreme interpretation, which would be a federal preemption of Washington state law. The many state and federal courts that have preempted local biosolids bans have never accepted this argument, which one federal judge labeled “bizarre.” *See City of L.A. v. Cnty. of Kern*, 509 F. Supp. 2d 865, 894 (C.D. Cal.2007). The savings clause of the Clean



Water Act and the parallel provisions of the federal biosolids rules state that the Act does not prohibit more stringent state and local regulations, but this is not a grant of authority from Congress to enact such laws. *Id.*; *see also* 33 U.S.C. § 1345(e). For a locality to invoke federal law to override state law would require an express grant of such power from Congress, which obviously is not in the Clean Water Act.

Unlike the Clean Water Act, the Washington biosolids law and regulations do not have a savings clause that allows stricter local regulations or any language suggesting localities are free to discard the state program, in whole or in part. The absence of such a provision reinforces the preemption of local law by state law.

Ecology's regulation acknowledging that land application projects "must comply with other applicable federal, state and local laws . . . including zoning and land use requirements" is not a savings clause, a fact that Wahkiakum County acknowledges. *See* Wash. Admin. Code 173.308.030(6); Resp. Br. at 16. This provision stands for the unremarkable requirement that farms and forests using biosolids must comply with other local laws that do not conflict with state law. Courts around the country that have found local biosolids bans or restrictions preempted have also acknowledged that localities continue to have a role to play in the activity, including designating agricultural areas through



zoning and requiring that localities receive notice of land application. However, an acknowledgement that other laws continue to apply to farms and forests receiving biosolids in no way empowers localities to legislate contrary to the state program.<sup>4</sup>

The legislative history of the Washington biosolids law reinforces that it preempts local bans. The state biosolids law evolved through several drafts to distinguish between sewage sludge (subject to local regulation as a solid waste) and biosolids (subject to local regulation under limited terms if a locality secured delegation). *See* Appellant's Ans. to Amicus at 16 – 18. The final Senate bill report is dispositive on the intent of the law: "Technical amendments are made to clarify: the intent to maintain state primacy for the sludge management program . . . ." S. B. Rep. on E.S.H.B. 2640, 52nd Leg., at 3 (Wash. 1992).

Finally, there is no merit to amicus Lewis County's argument that the Growth Management Act's directive that county comprehensive plans must protect surface water and groundwater resources can authorize a

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<sup>4</sup>*See, e.g., Blanton v. Amelia Cty.*, 540 S.E.2d 869, 874 (Va. 2001) (state biosolids regulation requiring compliance with applicable local law does not authorize zoning law that prohibits land application of biosolids in areas zoned for agriculture); *Synagro-WWT v. Rush Twp.*, 299 F.Supp.2d 410, 419, 423 (M.D. Pa. 2003). Federal and state court decisions preempting local biosolids bans and regulations include *Blanton*, *Synagro-WWT*, *City of L.A. v. Kern Cnty.*, 214 Cal. App. 4th 394 (2013), *review granted on other grounds*, 158 Cal. Rptr. 3d 259, *Liverpool Twp. v. Stephens*, 900 A.2d 1030 (Pa. Commw. Ct. 2006), *Granville Farms, Inc. v. Cnty. of Granville*, 170 N.C. App. 109 (2005), *O'Brien v. Appomattox Cnty.*, 293 F. Supp. 2d 660 (W.D. Va. 2003), *Soaring Vista Props., Inc. v. Bd. of Cnty. Comm'rs*, 356 Md. 660 (1999), and *Franklin Cnty. v. Fieldale Farms*, 270 Ga. 272 (1998).

biosolids ban. RCW 36.70A. The ordinance at issue here is a biosolids ban county-wide, not a comprehensive plan or zoning amendment.


Wahkiakum cannot use a general directive under the Growth Management Act to countermand specific state laws on biosolids management.

## **V. CONCLUSION**

The Public Amici are on the front lines of public health, environmental protection, and recycling. Their long involvement in biosolids management issues has helped build a successful program that benefits Washington's farmers, cities, and water and sewer rate payers. Public Amici understand that weakening the state program to allow local overrides will set back the state biosolids program, threaten decades of progress in biosolids management, and make bad precedent for other biosolids management programs in the Northwest and nationwide. They respectfully request that the Court reverse the trial court decision and reiterate that state law controls biosolids management.

DATED this 30th day of May, 2014.


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NO. 44700-2-II

**COURT OF APPEALS, DIVISION II  
OF THE STATE OF WASHINGTON**

STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY,

Appellant,

v.

WAHKIAKUM COUNTY, a political  
subdivision of Washington State,

Respondent.

**CERTIFICATE OF  
SERVICE**

Pursuant to RCW 9A.72.085, I certify that on this 30<sup>th</sup> day of May 2014, I filed the Amicus Curiae Brief of The Northwest Biosolids Management Association, National Association of Clean Water Agencies, Washington Association of Sewer & Water Districts and Town of Cathlamet, Washington, with the Court of Appeals, Division II, and served the parties herein as indicated below:

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The foregoing being the last known addresses.

I certify under penalty of perjury under the laws of the state of  
Washington that the foregoing is true and correct.

DATED this 30 day of May 2014, at Seattle, Washington

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