

# Spokane Tribe of Indians

October 25, 2024

Torrie Shaul  
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State Environmental Protection Act (SEPA) Determination of Nonsignificance (DNS) on the Draft Statewide General Permit for Biosolids Management

Dear Ms. Shaul,

The Tribe does not come under the State's jurisdiction in this matter; however, we are a downstream interest who is currently affected by the State's current loose upstream management practices associated with dangerous or hazardous waste. The Tribe is not in agreement with the concept of a "statewide permit" and believes each facility proposing to produce biosolids, should be regulated under site-specific permits. The Statewide permitting system relies on the honor system which has been shown, unsurprisingly, to be deeply flawed.

It also is not clear why the proposed draft Biosolids General Permit and SEPA evaluation contain no requirement for monitoring of PFAS, microplastics, Quinone 6PPD, or other contaminants of concern. While cursory studies are being conducted on the levels of these compounds in biosolids; it seems premature to conclude that there is a DNS.

EPA, WADOE, and the Tribe, is aware of the risk posed by PFAS and other hazardous substances in biosolids. EPA designated perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS) as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) in April 2024. Land application of biosolids for agricultural purposes is no longer considered a safe process with application sites likely requiring future regulation under CERCLA on Tribal lands and by MTCA on State lands.

On April 10, 2024, EPA announced the final National Primary Drinking Water Regulation (NPDWR) for only six PFAS of the more than 15,000 compounds considered PFAS.

For the WDOE to conclude that there is not a finding significance under SEPA, and "this permitting program does not hold potential impacts" is concerning. Especially when considering recent human health-based regulatory actions for PFAS/PFOA.

We urge the WDOE to cease issuing a DNS, and provide meaningful consultation directed to help us understand the potential impacts to Tribal communities, lands, and natural resources.

Sincerely,

Chad M. McCrea  
Spokane Tribe, DNR Director



# Spokane Tribal Natural Resources

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EPA, WADOE, and the Tribe, is aware of the risk posed by PFAS and other hazardous substances in biosolids.<sup>2</sup> EPA designated perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS) as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) in April 2024. Land application of biosolids for agricultural purposes is no longer considered a safe process with application sites likely requiring future regulation under CERCLA on Tribal lands and by MTCA on State lands.

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<sup>1</sup> A good example is contained in Volkswagen Diesel Engine Vehicle Matters Case No. 2:16-cr-20394-SFC-APP (E.D. Mich.), where EPA relied on the honor system and allowed VW to circumvent clean-air act emission requirements.

<sup>2</sup> Our Director of the Toxics Release Inventory Program (TRIP) is deeply involved in agricultural-related water quality issues plaguing the State of Maine, who, like the state of Washington, promoted disposal of biosolids through agricultural land application. Maine has since outlawed this practice.

<sup>3</sup> PFAS are a group of nearly 15,000 synthetic chemicals, according to a chemicals database (CompTox) maintained by the U.S. Environmental Protection Agency.

For the WDOE to conclude that there is not a finding significance under SEPA, and “this permitting program does not hold potential impacts” is concerning. Especially when considering recent human health-based regulatory actions for PFAS/PFOA.

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A handwritten signature in black ink, appearing to read "Chad M. McCrea". The signature is fluid and cursive, with the first name "Chad" being the most prominent.

Chad M. McCrea  
Spokane Tribe, DNR Director