Biosolids/Clean Water Act: Public Employees for Environmental Responsibility Citizen Suit Action Against U.S. Environmental Protection Agency Alleging Failure to Address PFAS

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The Public Employees for Environmental Responsibility ("PEER") filed a Clean Water Act citizen suit action in the United States District Court for the District of Columbia against the United States Environmental Protection Agency ("EPA") alleging a failure to undertake a non-discretionary duty related to biosolids or sewage sludge. The citizen suit action was filed on behalf of several farmers and ranchers in Grand View, Texas who have allegedly been harmed by PFAS contamination in sewage sludge.

The complaint alleges that EPA has failed to perform a Clean Water Act non-discretionary duty to identify and regulate toxic pollutants and sewage sludge as required by 33 U.S.C. § 1345(d). The complaint states that EPA:

…has failed to identify as existing in sewage sludge at least 18 toxic per- and polyfluoroalkyl substances ("PFAS") that scientific evidence shows are present in sewage sludge in concentrations which may adversely affect public health or the environment, in violation of 33 U.S.C. § 1345(d)(2).

PEER also alleged that EPA has failed to:

…promulgate regulations specifying appropriate restrictions, as required by the same provision, for several other PFAS that EPA has previously recognized exist in sewage sludge and for which sufficient information necessitating regulations exist.

The complaint references information found in Biosolids Biennial Report No. 9.

The remedy requested is for the Court to declare that EPA has violated both the Clean Water Act and the Administrative Procedure Act by failing to timely identify and regulate the PFAS listed in the complaint in sewage sludge; in order for EPA to complete its mandatory duties expeditiously pursuant to deadlines established by the Court.

A copy of the complaint can be downloaded here.