



Office of
**INDIAN RIVER COUNTY
ATTORNEY**

Dylan Reingold, County Attorney
William K. DeBaal, Deputy County Attorney
Kate Pingolt Cotner, Assistant County Attorney

MEMORANDUM

TO: Board of County Commissioners

FROM: Dylan Reingold, County Attorney 

DATE: July 5, 2018

SUBJECT: Biosolids Moratorium Ordinance

BACKGROUND.

Class B biosolids are solid, semi-solid, or liquid materials resulting from the treatment of domestic sewage sludge from sewage treatment facilities. Class B biosolids contain phosphorus and nitrogen, which promote algae blooms in surrounding estuaries and watersheds. Class B biosolids are currently being land applied in Indian River County, on properties near waterbodies such as Blue Cypress Lake. Blue Cypress Lake is the first lake along the St. Johns River and is classified by the Florida Department of Environmental Protection as a Class I surface water with a designated use for potable water supplies. There is evidence of significant increases in phosphorus and nitrogen and incidences of harmful and potentially toxic algae blooms in Blue Cypress Lake. There appears to be a correlation between the increases of nutrients in Blue Cypress Lake and the land application of biosolids.

It is important to note that per Florida Statute, the land application of Class B biosolids has been restricted in neighboring counties and ecosystems to the south, such as the St. Lucie River watershed and the Lake Okeechobee watershed, leaving Blue Cypress Lake and the St. Johns River watershed as a cheap alternative for the disposal and land application of Class B biosolids generated in South Florida.

On June 19, 2018, the Indian River County Board of County Commissioners (the "Board"), directed staff to draft an ordinance either prohibiting the land application of Class B biosolids or establishing a temporary moratorium on the land application of Class B biosolids, so that County staff would have time to study the issue. Since that meeting, County staff met with several interested parties concerning the potential moratorium. At the meeting, property owners expressed a willingness to agree to a voluntary cessation of the land application activity for 180 days to allow time to scientifically determine if land application practices are detrimental.

Currently, Indian River County has existing zoning regulations pertaining to the practice of "sludge spreading" as provided in Chapter 971.08(10) of the Indian River County Code with codified criteria for sludge spreading such as designated setbacks, reporting requirements, and the need for obtaining approvals. However, the existing Indian River County requirements do not provide for regulatory setbacks or for mandatory distances of Class B biosolids from waterbodies.

Consistent with the direction of the Board, the County Attorney's Office drafted the attached ordinance establishing a 180-day temporary moratorium on all properties within the unincorporated areas of Indian River County involved in land application of Class B biosolids, except where determined to be inconsistent with or preempted by state law or regulation. Additionally, the moratorium is imposed upon the transportation of Class B biosolids for land application within Indian River County, except where determined to be inconsistent with or preempted by state law or regulation. The moratorium on transportation does not apply to currently approved septage/grease haulers as well as Indian River County contracted haulers of domestic wastewater sludge for treatment at the Indian River County Residual Dewatering Facility and disposal at the Indian River County landfill. Finally, under the ordinance, the County Administrator is directed to coordinate with the Florida Department of Environmental Protection and study in depth and report his findings of and any recommendations concerning Class B biosolids land application activities and its potential adverse effect.

FUNDING.

The cost of publication of the required public notice for the public hearing was \$143.55. The cost was funded from the County Attorney's Office budget within the General Fund (account number 00110214-033190).

RECOMMENDATION.

The County Attorney's Office recommends that after the public hearing the Board vote to approve the draft ordinance.

ATTACHMENT(S).

Draft Biosolids Moratorium Ordinance