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# State Supreme Court's ruling on biosolids could set example for other states (/stories/510656358-state-supreme-court-s-ruling-on-biosolids-could-set-example-for-other-states)

Nicholas Malfitano (/author/nicholas-malfitano) Jan. 5, 2016, 3:08pm

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PHILADELPHIA – The legal standard for determining whether biosolids application is an activity protected from litigation under the state’s Right to Farm Act (RTFA) will be left only to judges, the Supreme Court of Pennsylvania recently decided.

In a unanimous verdict issued Dec. 21 (<http://www.pacourts.us/assets/opinions/Supreme/out/J-32-2015mo%20-%201024798785863821.pdf?cb=1>), the Supreme Court overturned a decision from the Superior Court, which ruled a jury needed to evaluate the manner in which biosolids operations were applied before being able to determine if it was an activity protected by the RTFA.

Litigation began when a group of landowners in York County filed suit against Synagro Central, complaining of unpleasant odors resulting from biosolids operations Synagro was conducting on farmland adjacent to that of the plaintiffs. Biosolids are nutrient-rich materials created from sewage sludge.

While the trial judge in York County granted summary judgment to Synagro due to the plaintiffs bringing their complaints after the RTFA’s one-year statute of repose had expired, the Superior Court determined on appeal that it would be the responsibility of a jury to decide if biosolids use was a “normal agricultural application” seen as a protected activity under RTFA.

The Supreme Court determined RTFA is jurisdictional and, therefore, according to Supreme Court Justice J. Michael Eakin, “Their scope is a question of law for courts to determine.”



In its decision, the Court added determining whether a particular action, such as biosolids application, is a “normal agricultural operation” and protected, falls exclusively within the purview of a judge as opposed to a jury.

Beveridge & Diamond attorney James Slaughter, whose firm represented the defendant, said the decision was the first state Supreme Court ruling that addressed the application of a state Right to Farm Act to land application of biosolids.

“The unanimous court’s strong statement that fertilizing farm fields with biosolids is a ‘normal agricultural operation’ covered by the Right to Farm Act will influence courts across the country to protect biosolids recycling under other state Right to Farm Acts,” he said.

Slaughter said the Supreme Court's decision spoke to the significance of biosolids applications in modern farming, and will provide a framework for both courts and municipalities to use when approaching the issue in the future.

“The Gilbert decision’s discussion of the many urban and farm amici who supported biosolids recycling also underscores the importance of farm use of biosolids and will guide courts faced with tort claims or local ordinances seeking to restrict the process,” Slaughter said.

*From the Pennsylvania Record: Reach Courts Reporter Nicholas Malfitano at [nickpennrecord@gmail.com](mailto:nickpennrecord@gmail.com)*

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