



DATE: October 8, 2014

TO: Washington State Board of Health Members

FROM: John Austin, Chair

SUBJECT: BRIEFING – INVESTIGATION REQUEST

Background and Summary:

Under RCW 70.05.120, any person may complain to the Washington State Board of Health concerning the failure of the local health officer or administrative officer to carry out certain laws, rules, or regulations concerning public health. The Board may, after a preliminary investigation indicates the need, call a hearing to determine whether the local health officer or administrative officer is guilty of the alleged acts.

The Board has received two pieces of correspondence from Mr. Jeffrey Kinzel of Dryden, Washington. In his correspondence dated August 27, 2014, Mr. Kinzel requests that the Board investigate Chelan Douglas Health District (CDHD), and remove Mr. Dave Prosch, Ms. Suzan Hyde, and Director Barry Kling. Mr. Kinzel believes that the Wenatchee Golf Development (WGD) Landfill is out of compliance with state laws and regulations and that CDHD will not bring the landfill into compliance.

In the second piece of correspondence, dated September 29, 2014, Mr. Kinzel continues his assertion that CDHD has failed to address the allegations he raised regarding the WGD landfill. These allegations include lack of a survey and appropriate setbacks, misclassifying the landfill as an inert landfill, and allowing for the potential of leachate into groundwater. This correspondence includes a copy of WAC 173-350-400 Limited Purpose Landfills, and WAC 173-350-100, Definitions, as well as two exhibits illustrating fill zones and survey information of the area that is the subject of his complaint.

Discussion:

RCW 70.05.120 applies to the local health officer or administrative officer and their duties under chapter 70.05 RCW Local Health Departments, Boards, Officers—Regulations; Chapter 70.24 RCW Control and Treatment of Sexually Transmitted Diseases; and Chapter 70.46 RCW Health Districts, and the rules, regulations, or orders of the state board of health.

Mr. Kinzel's complaint focuses on activities related to landfills. His complaint cites Chapter 173-304 WAC Minimum Functional Standards for Solid Waste Handling, and Chapter 173-350 WAC Solid Waste Handling Standards. Both of these chapters of rule are adopted under Chapter 70.95 RCW, which grants the Department of Ecology authority to adopt rules establishing minimum functional standards for solid waste handling.

RCW 70.05.120 does not extend the Board's authority to investigate local health official activities under Chapter 70.95 RCW, or other statutes or rules beyond those explicitly identified within RCW 70.05.120 (chapters 70.05, 70.24, and 70.46 RCW and the rules, regulations, or orders of the state board of health). Due to the limits of RCW 70.05.120, it appears that the Board does not have sufficient authority to proceed with a preliminary investigation on Mr. Kinzel's complaint.

Recommended Board Action:

The Board may wish to consider, amend if necessary, and adopt the following motion:

***Motion:** Mr. Kinzel's request for a preliminary investigation is beyond the Board's scope of authority under RCW 70.05.120. The Board directs staff to refer this complaint to the Washington State Department of Ecology for its consideration.*

Staff Contact: Michelle Davis