

TO: Janet Leister, Contract Manager
4201 198th Street SW, Ste 101
Lynnwood, WA 98036

FROM: Mark A. Wasemiller, PE
1308 Maple Lane
West Richland, WA 99353

SUBJECT: Final Report – Written review of the EPA report and other sources of technical, engineering and scientific information and literature relating to storage basins/lagoon, permeability, assumptions regarding leakage and design.

The EPA report reviewed (Relation Between Nitrate in Water Wells and Potential Sources in the Lower Yakima Valley) on the whole contains minimal actual information with regards to establishing the permeability of the dairy storage basins/lagoons. The report relies upon a single technical paper (Ham, J.M. 2002 Seepage Losses from Animal Waste Lagoons: A Summary of a four-year investigation in Kansas. Trans. ASAE 45:983-992.) as the basis for assigning a range of potential permeability (seepage rate) to the dairy storage basins/lagoons discussed in the report.

It could be argued that using a study of storage basins/lagoons in the state of Kansas that uses only a single dairy among its 20 sample locations as the sole means to establish seepage rates from dairy waste storage ponds in Yakima County, Washington State is poor application of available information. The basic issue at hand though is the methodology used in the EPA report to arrive at a seepage rate through compacted soil liners in Yakima County and consequentially, a seepage volume over time. The study's assumption of a range for seepage is based on assumptions that are supported in generally any technical paper on sealing and/or seepage through compacted soil liners. However, the study fails to recognize that the technical process for constructing a compacted soil liner in Washington State guarantees a soil liner with a *minimum* permeability of 1×10^{-7} cm/sec, and the actual seepage rate utilizing the methodology employed in this paper will actually result in a seepage rate that is closer to an order of magnitude less than this.

Possibly the most interesting statement made in the subject EPA report with regards to the issue of seepage/permeability can be found on page 34 and page 51 where the following statement is made: *"EPA is unaware of any state or local requirements that would compel dairies in Yakima County to construct lagoons to any specific level of permeability."* Not to sound condescending, but this statement is utterly ridiculous and ignorant. EPA has an agreement/understanding with the State of Washington that gave/gives regulatory oversight of dairy/livestock nutrient in Washington State to the Department of Ecology (WDOE) — hence the 1998 Livestock Nutrient Management Act (aka the Dairy Nutrient Management Act) which it is my understanding was essential to EPA agreeing to allow Washington State regulatory oversight of AFO/CAFOs in the state.

The 1998 Washington State Livestock Nutrient Management Act (which subsequently became known as the Dairy Nutrient Management Act - DNMA), requires that all licensed dairy operations in Washington State obtain a conservation district approved and certified nutrient management plan and that all structural and management practices that are prescribed in the plan are implemented. A Dairy Nutrient Management Plan is a tool used by dairy operators to properly collect, store, transfer and utilize the wastewater and manure that is produced on dairy facilities. Each Plan is specific to each individual dairy operation and is written according to United States Department of Agriculture - Natural Resources Conservation Service (USDA-NRCS) standards and specifications contained in the USDA-NRCS Field Office Technical Guide (specifically Section IV on practices

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WSDF001569

standards) as is required in the DNMA. All structural and management practices that are prescribed in the Plan must also meet or exceed these USDA-NRCS standards and specifications.

As a former professional engineer employed by the South Yakima Conservation District from 2000-2007, I worked under the guidance and understanding that WDOE used as the vehicle to implement the DNMA the standards and specifications set forth in the Field Office Technical Guide (FOTG) of the USDA-NRCS. When it comes to the subject of seepage/permeability through a compacted soil liner for a waste storage pond as it relates to the management of animal waste, USDA-NRCS has developed the Animal Waste Manual Field Handbook. (210-VI-AWMFH, rev. 1, March 2008). The specific portion of this manual that address waste storage ponds is Appendix 10D of the manual. In this manual, USDA-NRCS states:

Defining an acceptable seepage rate is not a simple task. Appendix 10D recommends an allowable seepage quantity that is based on a historically accepted tenet of clay liner design, which is that a coefficient of permeability of 1×10^{-7} centimeters per second is reasonable and prudent for clay liners. This value, rightly or wrongly, has a long history of acceptability in design of impoundments of various types, including sanitary landfills. The seepage rate considered acceptable by NRCS is based on this permeability rate, also considering the following:

- When credit for a reduction of seepage from manure sealing is allowed, NRCS guidance considers an acceptable initial permeability value to be 1×10^{-6} centimeters per second. This higher value used for design assumes that manure sealing will result in a tenth reduction in the initial seepage. Other assumptions are that typical NRCS waste impoundments have a depth of liquid of about 9 feet and typical clay liners are 1 foot thick. The computed seepage rate before manure sealing took effect is then about 9,240 gallons per acre per day, and this rate would reduce to 924 gallons per acre per day when manure sealing reduced the seepage by one tenth. To introduce some conservatism into the design, the NRCS guidance allows a seepage rate of 5,000 gallons per acre per day for initial designs unless State or local regulations are more restrictive, in which case those requirements should be followed.

- *If State or local regulations prohibit designs from taking credit for future reductions in seepage from manure sealing, then NRCS recommends the initial design for the site be based on a seepage rate of 1,000 gallons per acre per day, the approximate seepage predicted for a site with 9 feet of head, a 1-foot-thick clay liner and a coefficient of permeability in the liner of 1×10^{-7} centimeters per second.* (emphasis added)

Applying an additional safety factor to this value is not recommended because it conservatively ignores the potential benefits of manure sealing. One problem with basing designs on a unit seepage value is that the approach considers only unit area seepage. The same criterion applies for small and large facilities. More involved three-dimensional type analyses would be required to evaluate the potential impact of seepage on ground water regimes on a whole-site basis. In addition to unit seepage, studies for large storage facilities should consider regional ground water flow, depth to the aquifer likely to be affected, and other factors.

The procedures in appendix 10D to the AWMFH provide a rational approach to selecting an optimal combination of liner thickness and permeability to achieve a relatively economical, but effective, liner design. It recognizes that manipulating the permeability of the soil liner is usually the most cost-effective approach to reduce seepage quantity. While clay liners obviously allow some seepage, the limited seepage from a properly designed site should have minimal impact on ground water quality. Numerous studies, such as those done by Kansas State University (2000), have shown that waste storage ponds located in low permeability soils of sufficient thickness have a limited impact on the quality of ground water. (the KSU reference is -- *Animal waste lagoon water quality study. Ham, J.M., L.N. Redd, and C.W. Rice. Manhattan, KS.*)

The seepage rate that the Ham study of 2002 referenced in the subject EPA document concludes: "Seepage rates from 20 lagoons averaged 1.1 mm/d and ranged from 0.2 to 2.4 mm/d. Fifteen of the 20 lagoons had seepage rates between 0.5 and 1.5 mm/d. The variation among locations was small despite large differences in soil types and depths to groundwater. *On average, the Ks of lagoon liners was 1.8×10^{-7} cm/s.*" (emphasis added)

It must be noted that this seepage rate is greater (i.e. higher seepage rate) than the 1.0×10^{-7} cm/s that is required by legislation in the State of Washington as agreed to in the DNMA using USDA-NRCS waste storage pond design criteria for a compacted soil liner to have minimum seepage rate of 1.0×10^{-7} cm/sec.

Washington State USDA-NRCS does not allow as part of the design of a compacted soil liner, credit for the reduction of permeability by one order of magnitude that is recognized to occur from the clogging of soil pores biologically in a waste storage pond (both by the Ham paper cited in the EPA study, and in numerous other technical papers on the subject). I strongly suggest that the Washington Dairy Products Commission and/or Washington Dairy Federation send a written request to Mr. Larry Johnson, State Conservation Engineer, Washington State NRCS requesting that he verify/clarify this position (not allowing credit for biological sealing when designing a compacted soil liner for an animal waste storage pond in Washington State). I do not think that Mr. Johnson can/will respond to a legal request in this matter as it would most likely be responded to with a denial initially claiming federal sovereign immunity.

Because of this position to not allow credit for biological sealing to be factored into the design of a compacted soil liner for animal waste storage ponds in Washington State, all animal waste storage ponds in Washington State designed and installed under the Dairy/Animal Nutrient Waste Management Act were/are required to be installed with an established minimum soil permeability rate of 1×10^{-7} cm/sec, not the 1×10^{-6} cm/sec that is presumed by the study, that becomes 1×10^{-7} cm/sec when taking credit for biological sealing of soil pores.

The saturated hydraulic conductivity of the soil (or modified soil) liner in Washington State is established prior to installation of the liner. This is generally done by using soil compacted using the ASTM "Modified Proctor" test, (ASTM D1557) and establishing the saturated hydraulic conductivity of the soil (at maximum density) under a falling head condition (ASTM D5084). Once a soil (or possibly soil modified with bentonite) that has been compacted to a known maximum density established by ASTM D1557 is tested and has a permeability determined that is not greater than 1.0×10^{-7} cm/sec (as established by ASTM D5085), the soil is installed per NRCS-USDA prescribed standards and specifications and then field tested to be sure that it has obtained at least the prescribed/tested density. This establishes that the compacted soil liner will have a minimum permeability of 1.0×10^{-7} cm/sec (generally less since the 1.0×10^{-7} cm/sec is the minimum to meet the standard). Therefore, upon the introduction of animal solids to waste storage pond in Washington State under the Dairy Nutrient Management Act, according to published articles (including the Ham report cited in the EPA study) a compacted soil liner meeting Washington State guidelines would have an effective minimum permeability rate of 1×10^{-8} cm/sec after taking credit for biological sealing, and not the 1×10^{-7} cm/sec that EPA uses to arrive at their seepage volume conclusions. Using their own line of reasoning, because Washington State doesn't allow for this reduction credit when designing a compacted soil liner, the seepage rate/volume that the subject EPA study should be using should be reduced by at least one order of magnitude. Therefore, when credit for a reduction of seepage from manure sealing is taken (as the Ham document and numerous other technical papers listed later in this report validate as being realistic) the computed seepage rate in Washington state for an engineered compacted soil liner before manure sealing took effect is then about 924 gallons per acre per day (the AWMFH Appendix 10D computed rate). When the credit for biological sealing that is documented in virtually any technical report on the subject is now applied, this seepage rate being reduced by this factor of 10, now becomes 92.4 ga/ac/day since the minimum k is theoretically 1×10^{-8} cm/sec.

Technical papers which document the conclusion that biological sealing and its being responsible for decreasing soil permeability by at least one order of magnitude (a factor of 10):

"Research has shown that these seals are credited with reducing the flux from holding ponds by one or more orders of magnitude due the very low hydraulic conductivity of the sealing layer" J.S. Tyner & J. Lee, 2004 — Influence of Seal and Liner Hydraulic Properties on the Seepage Rate from Animal Waste Holding Ponds and Lagoons, Transactions of ASAE 47(5): 1739-1745

"Infiltrating manure creates a physical and/or biological seal atop the natural liner" A.C. Chang , W.R. Olmstead, J.B. Johansos, & G. Yamashita, 1974 — Sealing Mechanism of Wastewater Ponds, Journal Water Pollution Control Federation 46(7): 1715-1721

"Unlined earthen impoundments for liquid manure have gained acceptance in recent years as treatment lagoons and storage facilities. Expensive impermeable liners are often not needed because of the self-sealing nature of liquid manure in soils" W.R.DeTar, 1979 — Infiltration of Liquid Manure into Soil, Transactions of ASAE 22(3): 521-528

".... a 200-fold reduction in infiltration rate occurs after flooding the bottom of a pond with liquid manure. This phenomenon is caused primarily by the clogging of the soil pores by suspended particles and by the high viscosity of the liquid." S. Davis & H. Weisheit, 1973 — Dairy Waste Ponds Effectively Self-sealing, Transactions of ASAE 19(1): 69-71

"Following the introduction of wastewater into a lagoon, the hydraulic conductivity of the earth linig will most likely be reduced by at least an order of magnitude due to physical, chemical, and biological processes, commonly termed seal formation." S. Baram, S. Arnon, Z. Ronen, D. Kurtzman, & O. Dahan, 2012 Infiltration Mechanism Controls Nitrification and Denitrification Processes Under Dairy Waste Lagoon, Journal of Environmental Quality 41: 1623-1632

"Laboratory scale experiments on dairy waste infiltration into clay, loam, and sand sediments have shown that all sediment types have similar infiltration fluxes (4.6 to 6.9×10^{-7} cm/s) within 10 days of manure application" J.L.B Culley & P.A. Phillips, 1982. Sealing of Soils by Liquid Cattle Manure, Canadian Agricultural Engineering 24(2):87-89

WSDf Privilege Log June 24, 2014					
Bates No.	Date of Document	Author	Recipient	Description	Category
WSDf000080-000081	May 2013	Givens Pursley LLP	Bob Naerebout	Summary of CARE/CFS lawsuit	Attorney-Client Privilege & Attorney Work Product
WSDf001150-001157	November 2012	Givens Pursley LLP	WSDf	Draft comment letter to EPA	Attorney Work Product
WSDf001182-001197	November 2012	Olympus Technical Services, Inc.	Givens Pursley LLP	Technical review of EPA groundwater report	Attorney Work Product
WSDf001202-001204	November 2012	HDR Engineering, Inc.	Givens, Pursley, LLP	Technical Review of EPA groundwater report	Attorney Work Product
WSDf001441-001448	November 2012	Givens, Pursley LLP	WSDf	Draft comment letter to EPA	Attorney Work Product
WSDf001553-001168	November 2012	Olympus Technical Services, Inc.	Givens Pursley LLP	Technical review of EPA groundwater report	Attorney Work Product
WSDf001573-001575	November 2012	HDR Engineering, Inc.	Givens, Pursley, LLP	Technical Review of EPA groundwater report	Attorney Work Product

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DATE 6-25-2014 KRH

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FW: Dispute Resolution Center Groundwater Situation Assessment

From: wsdf@msn.com

Sent: Thu 4/01/10 11:52 AM

To: tony veiga 07 (tbveiga@embarqmail.com); STEVE GEORGE 05 (sageconsulting@bossig.com)

Cc: Dan DeGroot (dan@skyridgefarms.com); Bill Wavrin (wwavrin@gmail.com); Steve Rowe (steven.rowe@darigold.com); Jake & Genny DeRuyter (deruyter@embarqmail.com); Henry Bosma Jr. (cowman@bentonrea.com); George and Dan DeRuyter (gdrdairy@bentonrea.com); David Newhouse (drnewhouse@usa.net); John & Jeff Bosma (jbosma@bentonrea.com); Hank Bosma (habos@embarqmail.com); Hank (Henry) Haak (evhaak@quicktel.com); Bill Dolsen (bill@dolsenco.com); Adam Dolsen (adam@dolsenco.com); Art and Teresa Mensonides (amensonides@aol.com); sfi@clearwire.net; foresterfarms@smwireless.net; suntonfarms@wildblue.net; kpmilk4u@juno.com; tdve@aol.com; chris.sybrandy@gte.net; jheeringadairy@webtv.net; mendonca_victor@yahoo.com; walterabplanalp@tds.net; fremski@smwireless.net; mschoneveld@comcast.net

Fyi, Tony et al,

Some or all of you have been involved in helping or watching our discussions with EPA on the Groundwater testing project over the last three or so months. Wanted to get a quick update out to you...

Steve George, and a few producers have been working with the EPA hired contract facilitator on developing a "characterization of the community views" (for lack of a better description). (see dialog below)

Additionally, Steve and I learned that EPA sent out letters to six producers "asking for access" to their farms yesterday. Not sure who or where the farms are in the valley ..., but would expect to see them in mailboxes today or tomorrow. Sounds like the farms were all in one area with several wells that were over 10ppm nitrate.

We conveyed to Tom Eaton the thoughts of the Board that EPA might want to consider more formally listing what they intend to do on these farms, what testing they would be doing and more explicitly describe the process....we suggested that it actually might be better and clearer if they did this via a court.... This groundwater work is a new effort and we as producers do not have the experience and clarity on groundwater. This is a new process and we are not sure how the whole thing works and so we are a bit cautious and hence clear understanding might help avoid unnecessary conflict.

We also explained that each farm, obviously will respond in their own manner to any letter or request, if they receive one, and make their own decisions about how they want to handle their individual access situation. (since the Federation does not and will not speak for individual farmers.)

Tom Eaton mentioned that we might want to get a legal review and summary of the Federal Safe Drinking Water Act. It handles in a somewhat different manner the penalty and enforcement actions than the Clean

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Water Act. Tom mentioned that EPA would not be able to impose upfront "financial penalties" if they determine a clear connection between a "source" and wells in the area. The enforcement action allowed under the SDWA (according to EPA attorneys) is that they would issue an order to "fix or correct" potential sources (Ie, reduce manure applications to agronomic rates or below, fix a lagoon if it is leaking). HOWEVER!!! Included in the order to "fix" the problem ...COULD include solving, providing, treating or otherwise "helping" neighboring well owners get safe drinking water until water is below 10 ppm.. we shall see what this means. Then only if a "source" doesn't fix the problems identified in the Order would there possibly be financial penalties....

This much we know as of this morning.

Jay Gordon

Executive Director

Washington State Dairy Federation

PO Box 1768

Elma, WA 98541

(360) 482-3485

Fax (360) 482-4069

From: sageconsulting@bossig.com
To: matt@dcryakima.org
CC: tdve@aol.com; sfi@clearwire.net; wsdf@msn.com
Subject: Re: Dispute Resolution Center Groundwater Situation Assessment
Date: Wed, 31 Mar 2010 19:02:21 -0700

Matt: Thanks for the opportunity to provide you with feedback. My experience both as an agricultural producer and regulator has been that disincentives do not work. Provide accurate information and economic alternatives with sufficient cost share for implementation, and things will change. With financial resources generally at a premium for regulatory compliance work, voluntary compliance is the quickest and most cost effective means to make changes.

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RE: EPA Inspection

From: wsdf@msn.com

Sent: Mon 4/26/10 9:46 PM

To: STEVE GEORGE 05 (sageconsulting@bossig.com); Chris Cheney (chrischeney@earthlink.net)

same report I just got from Henry Bosma at 5 tonight. Henry said that they did the same as Dolsen , then let them on....

EPA sent a "chatty Cathy" over to torment him the whole time they were on the place...this guy wanted three things really bad:

1. Wanted to know (asked three times) how Henry applied manure -Jr's response was it depends on the field and soil tests how you get to agronomic rate.
2. Wanted to know if the lagoons were lined- Jr's response was the lagoons were built to NRCS standards.
3. Wanted to know if Henry had a nutrient management plan and could they have a copy, - Jr's response was yes we have several and he didn't think giving them a copy was necessary.

Kid di great

Jay Gordon

Executive Director

Washington State Dairy Federation

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From: sageconsulting@bossig.com
To: wsdf@msn.com
Subject: Fw: EPA Inspection
Date: Mon, 26 Apr 2010 21:09:58 -0700

FYI

Steven E. George
Sage Consulting Services
350 Hoff Rd.
Moxee, WA 98936
Phone: 509-457-3850
Fax: 509-575-6536
E-mail: sageconsulting@bossig.com

----- Original Message -----

From: Adam Dolsen
To: Steven E. George
Sent: Monday, April 26, 2010 7:58 AM
Subject: RE: EPA Inspection

Steve,

We let the EPA last Tuesday. We didn't feel the need to have them access a search warrant but we did change some of the language in their inspection letter to be a little more specific. We also included our lawyer and two hydro geologists to join us for their visit. Feel free to call me if you have any questions.

Adam Dolsen

From: Steven E. George [mailto:sageconsulting@bossig.com]
Sent: Friday, April 23, 2010 6:08 PM
To: Adam Dolsen
Subject: EPA Inspection

Adam: I know you guys got a letter from EPA (they sent me a copy) concerning access to the Cow Palace Dairy. I was wondering how that was going and whether or not you had them get a search warrant for access.

Steve

Steven E. George
Sage Consulting Services
350 Hoff Rd.
Moxee, WA 98936
Phone: 509-457-3850
Fax: 509-575-6536
E-mail: sageconsulting@bossig.com

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Re: Looks familiar....Emergency Administrative Order Docket No. SDWA-04-2000-0060

From: **Chris/Reburda Sybrandy** (chris.sybrandy@gte.net)
Sent: Fri 9/28/12 3:33 PM
To: Washington State Dairy Federation -- (wsdff@msn.com)

Hi Jay, Google the seattle times article on a sewage plant operator for Mt. Rainier park getting a misdemeanor and can't operate a sewage plant anymore. Over 200,000 gallons of raw sewage intentionally diverted into the Nisqually river. If it would have been a farmer it would have made national news
Chris

— Original Message —

From: Washington State Dairy Federation –
To: Chris Sybrandy ; Chris Cheney ; Adam Dolsen ; Hank Bosma ; George and Dan DeRuyter ; Dan DeGroot ; Jason Sheehan ; Tom DeVries ; Bill Scheenstra ; ed Field ; Jack Field 07 ; jack luke field ; kate.woods@mail.house.gov ; Stuart Turner ; John Stuhlmiller ; Jim Jesernig ; Dan Coyne ; Bob Naerebout ; Bob Naerebout ; mike marsh ; Kevin abemathy 11 ; dprnm3@juno.com ; Sharon Lombardi 011 ; Mike Kohler Utah ; STEVE GEORGE 05 ; Fred Likkel ; David Haggith ; Robert Smit ; Jake & Genny DeRuyter ; Michelle Schiller
Sent: Saturday, September 15, 2012 1:37 PM
Subject: FW: Looks familiar....Emergency Administrative Order Docket No. SDWA-04-2000-0060

To all,

See below link .

This Order has many if not most of the features currently being shoved by EPA in Yakima.

Note the date....

It is my understanding that various parts of this EPA order were overturned for various reasons....leads to the conclusion that EPA has been trying to push and make gains on their emergency authority for quite some time.

http://www.epa.gov/region4/foia/readingroom/water_emg_adm_order/barefoot_farm.PDF

> http://www.epa.gov/region4/foia/readingroom/water_emg_adm_order/barefoot_farm.PDF

>

>

> Jay Gordon (Sent from mobile)

>

WSDFO01936

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NAME GORDON
DATE 10-25-2014 KRH

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end of week one thoughts on the EPA Yakima situation

From: **Washington State Dairy Federation** – (wsdf@msn.com)

Sent: Fri 9/14/12 1:32 PM

To: rmhaak@bentonrea.com; Hank Bosma (habos@embarqmail.com); Henry Bosma Jr. (cowman@centurylink.net); dan Deruyter (danderuyter@gmail.com); Jason Sheehan (jason.sheehan@ymail.com); Adam Dolsen (adam@dolsenco.com); George and Dan DeRuyter (gdrdairy@bentonrea.com); Dan DeGroot (dan@skyridgefarms.com); sfi@clearwire.net; chamdairy2@nctv.com; foresterfarms@smwireless.net; suntonfarms@wildblue.net; tbveiga@embarqmail.com; tdve@aol.com; eaglemill-jsx@comcast.net; chris.sybrandy@gte.net; sjvanderhaak@yahoo.com; jheeringadairy@webtv.net; walterabplanalp@tds.net; freemski@smwireless.net

Cc: Steve Rowe (steven.rowe@darigold.com); STEVE GEORGE 05 (sageconsulting@bossig.com); Fred Likkell (fredn3@gmail.com); Chris Cheney (chrischeney@earthlink.net); Stuart Turner (agforensic@aol.com)

Henry, Dan, Adam, Rick, Steve, BOD et al,

Here are some observations on the Groundwater situation. We have several problem areas to work simultaneously, I did not prioritize these various aspects.

General categories of concerns:

The Legal/Consent Decree – As written - based on conversations so far, it will probably put the targeted farms out of business and very few if any farms in Washington or the nation could survive under drafted conditions. It is a very bad and wrong narrative and leads to focusing and parsing the EPA narrative rather than starting with the right narrative. It is very threatening in style and covenants. It contains numerous conditions/bmps that are completely foreign to farmers. Generally it needs torn up and start with a blank sheet of paper. Easier said than done, but here's why:

-

EPA standards are unknown to us in agriculture some of the specific ones listed are likely impossible to implement- We use and have used Federal USDA NRCS standards and processes since 1937. This represents a failure of two federal agencies to get along. It is wrong for EPA come out after we have been following the laws, using farm plans and following standards of NRCS and the State and insist on replacing USDA NRCS standards, procedures and the collaborative partnerships that work with farmers on farm plans and instead issuing edicts and standards from EPA they got from lord-only-knows-where.

The whole consent decree wording and direction is a missed opportunity ...EPA could have "recruited" these wonderfully innovative, well respected younger dairy farmers. They still can. They talked about cooperation and collaboration it in the meeting led by McLarran. Instead they are sending two messages; one was the cooperative message delivered at the meeting last week, then the second mixed message comes from the consent decree...it is harsh, threatening, stifling, blaming, and destructive. So - while a tall order, it is worthwhile to work on getting EPA to reconsider how it is approaching this situation and start with a figuratively blank page along these lines:

EPA did not need to be so harsh to get these individual dairy farmers or the whole industry to the table, we are already at the Yakima Groundwater Management table that is addressing nitrates. These four families as well as most of the other dairy farmers in Yakima and our state are smart, determined, innovative and usually very, very cooperative problems solvers. ***Via a Consent Decree or MOU or written agreement doesn't matter; EPA simply could and still can say to these individuals and the whole industry. We want your help. We need your individual and collective brains, skills, leadership, cooperation and maybe parts of your farm as laboratories...to embark, ASAP, on studying, learning, implementing and changing how to farm differently to be more protective of groundwater nitrates. This is not a hard request to make and it is easy for our individuals and together us around the state to accept...since we have already been doing all of that in Yakima and around the state for the past 4-5-6 years. We could do it faster, better and more accurately with help.***

If EPA went this way - instead of threatening - they could/would build leaders who can help the other crop sectors who also need to change how they farm and manage nitrates they are putting in aquifers. EPA could lead by helping these dairy farmers be better innovators than they already are, by helping refine science, by letting us learn together (instead of keeping their science behind closed doors for two years and presenting it un-peer reviewed via attorneys!!!!!!) and by EPA participating with the other local, state and national partners.

To summarize the two pathways;

- . Work to build leaders, knowledge, innovation, change and empower our young dairy leaders who can learn and adapt and then show-case for others on how to farm successfully while being more protective

OR

- . Pick four families from hundreds of Yakima farms and thousands of nitrates sources and threaten the heck out of them...

The report and analysis- We need time to look over the report and gain confidence in the material. There does not appear to be a peer review? The Internal reviews? Are EPA gathering, testing and analysis methods credible? What are the credentials for this interpretation? This report was narrowly focused, is there information that translates out to the larger basin? There are already numerous questions coming up regarding

the science, the results, the testing, and the proposed solutions. It took two years to develop this report, it is only fair that we have time to get this into the hands of professional folks like soil chemists, extension/researchers, etc. to review the findings

The process problem- EPA correctly identified the problem - nitrates too high - several reports dating back to 1988 show that. But they went with the wrong answer and the wrong process. Not sure why EPA would choose to act so unilaterally, this seems to make getting to solutions much harder for everyone. Here's why:

They are committing huge resources (in the consent decree as written) for many, many years to first blaming then to staff "oversight" of four families via a legalistic process of a negotiated consent decree. There is no chance these four farms could do anything - alone - that will make ANY measurable difference in a problem that is scattered across a huge basin and aquifer and massive AG-ecosystem.

By failing to inform or ask for the involvement of local, federal or state agencies. Not sure what EPA is thinking? That they can solve this alone? With four farm families under close scrutiny?

PA is and should be participating in the Yakima Groundwater Management Area - a comprehensive process to solve nitrates. It will take the help and effort of many sectors of Farmers as well as the several local, state and federal agencies, university and private scientists and many others to make a difference. It can be done, but it is going to take the work of many hands...

Why not bring the considerable EPA resources into a team effort rather than a unilateral, narrow effort???

That's my report as of right now.

Jay Gordon

Washington State Dairy Federation
Elma, Washington
360-482-3485

5/8/2014

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Attorney

From: Washington State Dairy Federation -- (wsdf@msn.com)

Sent: Mon 4/07/14 5:18 PM

To: Steven.Rowe@darigold.com (Steven.Rowe@darigold.com)

Steve ,

Deb wanted us to have different council for the deposition on the 23rd. Patrick Ryan and Lori terry were unavailable since they are named as potential witnesses. Patrick suggested JT Cooke at Houlihan law...Jt was at Perkins during the EPA side of this event. But moved out of Perkins.

We have retained him to assist with deposition, he and Deb were to talk Friday.

FYI..., or we will set up a run through ASAP and may want to join, if kosher!?

Jay Gordon

Washington State Dairy Federation

EXHIBIT NO. 210
NAME GORDON
DATE 6-25-2014 KRM

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RE: GWMA GWAC Oct. 18 Meeting

From: **Bill Dolsen** (Bill@dolsenco.com)

Sent: Thu 10/18/12 7:00 AM

To: 'Washington State Dairy Federation --' (wsdf@msn.com); Dan DeGroot (dan@skyridgefarms.com); Jason Sheehan (jason.sheehan@ymail.com)

Jay – I appreciate your communication and commitment to resolve this headache.

Jason & Dan – both of you should get a "gold sticker" for participating in these meetings. Again , greatly appreciated
~ bill dolsen

From: Washington State Dairy Federation -- [mailto:wsdf@msn.com]

Sent: Thursday, October 18, 2012 6:14 AM

To: Dan DeGroot; Jason Sheehan

Cc: Bill Scheenstra; Tom DeVries; John Banks; Henry Bosma Jr.; dan Deruyter; Adam Dolsen; Bill Wavrin; Bill Dolsen; STEVE GEORGE 05; Stuart Turner

Subject: RE: GWMA GWAC Oct. 18 Meeting

Dan and Jason,

Couple of things ahead of your meeting tonight, Jason and I talked about some of this on Monday....in the for what ever it's worth category. I am not sitting at the table with you two, across from Jean, so I am a bit in the cheap seats with these thoughts, so hopefully they are helpful.

It is our understanding there are no indications the nitrates are causing health issues. The studies over the years do clearly show nitrates are higher than they should be based on federal standards, (which have a medical safety factor of at least 1000 percent.)??? Suggest someone come in, who has credible credentials, to talk about the actual science of the standard and the numbers. What is a education outreach going to look like...."we have no anecdotal or public health records that anyone is sick but we want citizens to be aware that we have fears about this?" That's a real professional outreach effort.

Which leads to:

First question - What process is the GWMA going to use to make decisions? Dan you are right, and nice quote by the way, education should replace fear, education is about facts, not emotion.

EXHIBIT NO. 211
NAME GORDON
DATE 6-25-2014 KRH

One of the very first questions for the full GWMA board is:

Is it going to use a methodical process of:

- a. getting and using good - quality - peer reviewed science and information from professionals to...
- b. inform and guide good policy and spending decisions, including education....
- c. that can and will lead to citizens implementing good practices for dealing with and reducing nitrate loading in the aquifer...
- d. with a logical, professionally designed monitoring system to track and measure changes and then
- e. adjust policies with the new information.

****Note,** We dairy farmers over the past several years already made many of the changes needed to reduce and show reductions in soil nitrates to be protective of the aquifers. EPA couldn't and didn't run tests that would show those changes. We are the only one's who have made those changes and are inspected for performance on those changes. No one has changed or asked for changes in practices or standards for Septic tanks, recreational Ag. landowners, yards, gardens, golf courses, crop farmers, cattlemen, etc.

****note,** the Canadians in BC above Lynden and in the Klamath Basin the GWMA processes in those areas have already set up programs like outlined above, getting one or two of those folks in for you all to listen and learn from their processes and mistakes might be very instructive.

2. I hear both of you worrying about the EPA report more than it deserves.

- EPA used one study by a PHD named Ham to make its determination that lagoons leak and pollute. There are dozens of studies on lagoons and leakage rates and this is the first one that CLAIMS there are significant amounts of nitrates coming from lagoons. Initial reviews are that EPA is wrong. It's probably field application by many sources and over many years.
- the EPA "science" is not helpful at all in tracking changes in time. They didn't have the time or inclination to put in the tests wells needed to show changes through the soil or through time.

It is a report, it may have some useful information in it, problem is that there appears to be enough mistakes and unsupported leaps of logic that the whole thing is now suspect and needs a good weeding.

3. EPA is involved in the GWMA, the report is a side show put on by DC lawyers for ego and power. Long after the EPA lawyers are gone and their Ego's and legal fantasies filled or not, the real question will remain, how do the locals solve this problem of meeting a standard of 10 ppm (yes that's an arbitrary number, nobody, ever is going to be sick at that level because its has a 1000 percent safety factor, but it's the number and we aren't going to change it)

-So what resources, other than apparent skill at witch hunting, can EPA bring to help the locals? (Probably better for EPA to send money, and leave their "scientists" at home, unfortunately not much trust in those folks now.)

4. How can we help you two find and recruit more of your neighboring farmers (dairy and non dairy) to be at the various committees and bring them up to speed and on the same page as us, in focusing on solutions instead of fears.

We have Yakima Dairy Fed kitchen meeting date tentatively set for the 26th of November, ahead of the comments to the EPA report, but the other thing on that agenda in my mind is to see if we can recruit a couple more dairy folks to

pitch in on this gwma committee process.

I am around early this morning and mid day by cell phone.

Jay Gordon

Washington State Dairy Federation
Elma, Washington
360-482-3485

Subject: Fwd: GWMA GWAC Oct. 18 Meeting

CC: jason.sheehan@ymail.com

From: Dan@SKYRIDGEFARMS.COM

Date: Sat, 13 Oct 2012 14:25:45 -0700

To: wsdf@msn.com

Jay,

Here is the meeting material for the next GWMA meeting. I was a little disturbed to see the governor single out Ag as a source of pollution of ground water. While we know Ag has a chance of being shown as a contributor, the statement "Ag and other sources" doesn't sit well with me.

Also, look at the Education and Outreach report. It's proposed purpose is bothersome to me. It assumes the health of citizens has been lessened by the nitrates. This is conjecture and not verified. I think we need to reject this and come up with something Jean will still go along with. To me the purpose of this group is to educate citizens on how to approach solutions if their well test high in nitrates. It is also responsible for getting any groups that fear authority to respond appropriately to available information and programs.

Steve is not going to be at the meeting and this will be discussed. It is difficult for Dairy to argue this without significant pushback(especially with EPA Report). Fear should not be the main emphasis of education, education should reduce fear. The Conservation districts and Stu may be our best shots at presenting something contrary to their desire. We should discuss at least a day or two prior to the meeting on Thursday.

Any suggestions would be helpful

Dan DeGroot

Skyridge Farms

Helping to Feed the World

Begin forwarded message:

From: "Penny Mabie" <pmabie@enviroissues.com>

To: "Andy Cervantes" <Andres.Cervantes@DOH.WA.GOV>, "Bruce Perkins" <brucep@bfhd.wa.gov>, "Charlie McKinney" <charlie.mckinney@ecy.wa.gov>, "Dan DeGroot" <dan@skyridgefarms.com>, "Don Young" <crownyranch@centurylink.net>, "Dr. Kefy Desta" <kefyaletw.desta@wsu.edu>, "Elizabeth Sanchez" <esanchez@yakama.com>, "Ginny Stern" <Ginny.Stern@DOH.WA.GOV>, "Gordon Kelly" <gordon.kelly@co.yakima.wa.us>, "Heather Wendt" <Heather-wendt@conservewa.net>, "Helen Reddout" <hred54wa@embarqmail.com>, "Jaclyn Ford" <JFord@agr.wa.gov>, "James Beaver" <commissioners@co.benton.wa.us>, "Jan Whitefoot" <jafoot72@embarqmail.com>, "Jason Sheehan" <jason.sheehan@ymail.com>, "Jean Mendoza" <jean.mendoza@wildblue.net>, "Jim Dyjak" <dyjak@nwinfo.net>, "Jim Newhouse" <jnuhouse@gmail.com>, "Jim Trull" <JIM@svld.org>, "John Van Wingerden" <johnv@portofsunnyside.com>, "Kirk Cook" <KCook@agr.wa.gov>, "Laurie Crowe" <lc@svcd.us>, "Lonna Frans" <lmfrans@usgs.gov>, "Mark Nielson" <Mark-nielson@conservewa.net>, "Matt Bachmann" <mbachman@usgs.gov>, "Ramon and Margarita Tobias" <cor383@hotmail.com>, "Rand Elliott" <Rand.Elliott@co.yakima.wa.us>, "Robert Farrell" <bob@portofsunnyside.com>, "Robert Morales" <moralesr@mabton.wednet.edu>, "Steve George" <sageconsulting@bossiq.com>, "Stuart Turner" <agforensic@aol.com>, "Tom Eaton" <Eaton.Thomas@epamail.epa.gov>, "Tom Ring" <ringt@yakama.com>, "Tom Tebb" <thomas.tebb@ecy.wa.gov>, "Troy Peters" <troy_peters@wsu.edu>, "Vern Redifer" <vern.redifer@co.yakima.wa.us>

Cc: "Daniel Brody" <dbrody@enviroissues.com>, "Donald Gatchalian" <donald.gatchalian@co.yakima.wa.us>, "Lisa H. Freund" (lisa.freund@co.yakima.wa.us) <lisa.freund@co.yakima.wa.us>, "Penny Mabie" <pmabie@enviroissues.com>

Subject: GWMA GWAC Oct. 18 Meeting

Hello all,

Attached please find the agenda for the meeting on October 18th. As requested by many GWAC members, the Environmental Protection Agency will give a briefing on their report on nitrates in the Lower Yakima Valley at 4:30 p.m. prior to the GWAC meeting. The regular meeting will begin at the usual time of 5:00 p.m.

I have also attached the following materials for your review prior to the meeting:

- * Draft GWMA Work Plan Organizational Chart
- * Letter from the Governor to several department directors regarding work on water quality

6/16/2014

Outlook.com Print Message

* Two meeting reports from the Education & Public Outreach Working Group

Let me know if you have any questions prior to the meeting.

Best,
Penny

Penny Mabie | EnviroIssues

101 Stewart Street, Ste 1200 | Seattle 98101

206.269.5041 | www.enviroissues.com <<http://www.enviroissues.com>>

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A Question and some materials.

From: **Washington State Dairy Federation** – (wsdf@msn.com)

Sent: Mon 2/11/13 12:57 PM

To: Henry Bosma Jr. (cowman@centurylink.net); Hank Bosma (habos@embarqmail.com); Adam Dolsen (adam@dolsenco.com); Bill Dolsen (bill@dolsenco.com); dan Deruyter (danderuyter@gmail.com); George and Dan DeRuyter (gdrdairy@bentonrea.com); MARLENE HAAK (mhaak56@wildblue.net)

To all,

Talked to a few of you lately and couple of questions have come up...here are some things I found in my looking.

A Question was posed this weekend.... Can you sign a Consent Order and then appeal it later- **Notice the last paragraph of this outline on Consent decree...**

The following From this website:

<http://www.wisegeek.com/what-is-a-consent-decree.htm>

A consent decree is an order issued by a judge that expresses a voluntary agreement by the participants in a lawsuit. Sometimes a suit ends when a judge issues a consent decree, or a consent judgment. This is especially the case when the decree is issued after one side of the case voluntarily agrees to cease a particular action without admitting to any illegality of the action.

Recognized by Court

For an agreement between two parties to be considered binding and legal, it must also be recognized by the court. A consent decree in this case is judicial recognition of the agreement. The decree often bars one side of the case from certain actions.

Examples of Cases

A consent decree is often applied in cases where a company is sued by government organizations. For example, an environmental regulatory agency might want a company to clean up a site that contains hazardous materials and might have difficulty obtaining cooperation from the company without a suit. Instead of having a long and expensive court case to gain compliance, the government might ask the company to agree to a consent decree to clean up the site using its own money. If the company wants to avoid litigation, it will accept the decree from the judge and will then be responsible for cleanup as defined by the decree.

Sometimes, a government agency will find serious problems in the manufacturing or quality of specific products. Unsafe handling of products or contamination might force the agency to seek a consent decree to have a company cease production or sale of a product until it complies with all laws for safe products. Again, the government and many companies would prefer a consent decree to lengthy legal action.

Out-of-Court Settlement

EXHIBIT NO. 212
NAME GORDON
DATE 6-25-2014 KRM

This type of degree can be interlocutory. This means that it is given before the resolution of the court case. So, for example, a lawsuit that is settled out of court is recognized by a consent decree, because the parties do not wait for a judgment from the court to settle their differences.

Appeals

A consent decree also can be final and is sometimes called a consent judgment. It usually is not possible to appeal the decree unless one side of the lawsuit can prove that it has been forced into consent through fraud. Usually, the only other instance in which the decree can be appealed is when both parties agree that they misunderstood the terms of the agreement.

There was also some question late last year by a few of you as to insurance coverage. I don't know what you found, but this website has information on when an insurance company has a duty to defend...

http://caselaw.lp.findlaw.com/data/law_reviews/53vill_envir/volume5_2/lieb.htm#iid

Jay Gordon

Washington State Dairy Federation
Elma, Washington
360-482-3485

From: Prest, Virginia (AGR)
To: Washington State Dairy Federation --
Subject: RE:
Date: Friday, September 27, 2013 3:16:42 PM

Agree Jay

The one document is just my musings and sanctioned by no agency

-----Original Message-----

From: Washington State Dairy Federation -- [mailto:wsdf@msn.com]
Sent: Friday, September 27, 2013 2:21 PM
To: Prest, Virginia (AGR)
Subject: Re:

Engagement is needed.
With...folks at EPA and ecology
Willing to have Dialog with scientists present and engaged.

With listeners and participants who are willing to listen seriously, and without preconceptions about what is risk and what is not risk.

I am willing to listen and want to know, But every study I have seen says generally (there are always exceptions), lagoons are not the problem. Time to trot this hypothesis out in the sunshine and expose it to a real evaluation.

And same applies to the other two, Brian storming, collaboration, problem solving with different perspective and informational sources are needed.

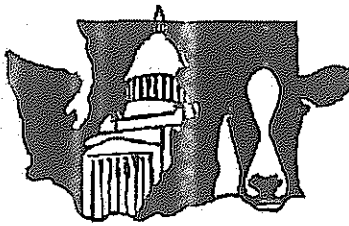
Maybe that needs to be another letter I should put together to Dennis and Maia.?!?

Jay Gordon
Washington State Dairy Federation

On Sep 27, 2013, at 2:05 PM, "Prest, Virginia (AGR)" <VPrest@agr.wa.gov> wrote:

>
>
> Virginia "Ginny" Prest
> Dairy Nutrient Management Program
> Washington State Department of Agriculture Office (360) 902-2894 Cell
> (360) 529-7422 vprest@agr.wa.gov
> <http://agr.wa.gov/FoodAnimal/Livestock-Nutrient/>
>
> [WSDALogo100Years-Color-WithText.png]
>
> <image001.png>
> <Section4-EPA Concerns Livestock Programs - Prep for Meeting with
> EPA-Draft2.docx> <4.1-EPA_2_WSDA-ECY_12-04-12.PDF>

EXHIBIT NO. 213
NAME GORDON
DATE 6-25-2014 KRH



Washington State Dairy Federation
P.O. Box 1768
Elma, WA. 98541

December 27th 2012

Dennis McLerran, Administrator
Region Ten, Environmental Protection Agency
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

Via email mclerran.dennis@epa.gov

Dear Mr. McLerran,

Washington State Dairy Federation has worked for the past several years to help establish a shared cooperative, basin-wide process to address excess nitrates in the Yakima Basin. We would like to see EPA participate meaningfully in this effort.

Unfortunately, EPA actions this fall are interfering and damaging the ability to solve the nitrate problems in Yakima. We would like to meet with you as soon as possible to see if and how this situation can be resolved before it devolves further.

Your agency issued its report on the Lower Yakima Valley Nitrates in September. Since then, various experts, state, local and national agencies have submitted more than a dozen reviews and reports to your agency. These experts and agencies conclude your nitrate study in Yakima is flawed. The latest review from the USDA NRCS suggests you retract the report.

We agree. It is time for EPA to retract the report and reconsider how your agency can best help - rather than hinder - the local efforts to solve the complex issue of groundwater nitrates.

WSDF believes EPA has usurped state authority, is acting beyond its legal authority, and proceeding without credible science to support its conclusions or allegations.

The demands of EPA in this matter extend beyond legal authority and sound science.

The recent demands of EPA threaten the viability of particular farms and all of agriculture. Targeting a few dairy farms with bad science is damaging efforts to actually solve nitrate problems in Yakima and makes it necessary to take legal action to oppose those agency actions.

Therefore, we are prepared, willing and able to fight your agency legally as far as necessary.

Our preference is to work to gather the resources, experts and information to cooperatively address the nitrate problem. We would much rather work toward a solution, instead of spending millions in legal costs.

EXHIBIT NO. 214
NAME GORDON
DATE 6-25-2014 KRH

WSDF000003

The dairy industry in Washington State and across the United States has worked on the science, implementing best management practices and policies of controlling nitrates. We have a dedicated group of citizens working in Yakima to address nitrates in groundwater via the officially designated Groundwater Management Area (GWMA). The State Department of Agriculture and USDA NRCS along with local Conservation Districts all have years of work into helping and/or regulating farms to help them control nitrates. We strongly invite your agency to join *meaningfully* in these efforts.

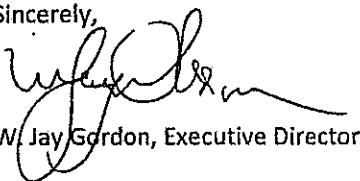
As your report clearly shows, because the science is vague at best, enforcement is a poor tool to bring to the table. Instead, we have looked to the Columbia Basin GWMA to see a functioning model of a solution-oriented process that is working. We are urging all the players in Yakima to bring in the management and board from the Columbia Basin GWMA to see how they are functioning and driving toward solutions.

This report and your agency actions have created additional serious barriers that will take serious work to correct. We suggest the following:

1. Retract the report.
2. EPA should work in collaboration with the Yakima GWMA committee and other state and local entities. Solutions in the basin will come from many folks working together; unilateral enforcement simply will not work.
3. The GWMA is considering what studies are needed. These studies (regional or site specific) will be done by or in conjunction with experts from federal, state, tribal and local agencies, and include the expertise of University and private experts. Given your current enforcement actions, we and many other folks no longer trust your agency to produce objective information, make accurate interpretations, or take legal actions.
4. EPA and the USDA NRCS need to get their roles straightened out. Sticking farmers in the middle of a power play between two agencies is wrong. Farmers have followed NRCS guidance, advice, standards and science for generations. This situation puts farmers in a catch 22.
5. Rebuilding trust through collaboration and a focus on problem solving must become a priority of EPA. This report and the single minded enforcement against five dairy farms using flawed science has completely undermined the trust in your agency's scientific ability. Pursuing enforcement without legal authority and good science has cost your agency its credibility. This report, used to scapegoat individuals, has been emotionally and financially devastating to the individuals. The whole dairy industry is watching this action with a huge loss of faith in the ability of EPA to understand basic agriculture, hydrogeology or principles of fairness and professionalism.

It is not too late to correct this situation. We request a meeting with you to discuss this matter at the soonest possible time.

Sincerely,



W. Jay Gordon, Executive Director

C: Governor Christine Gregoire
Washington State Congressional Delegation



Oregon Dairy Farmers Association

10505 SW Harbor Blvd
Portland, Oregon 97219



Washington State Dairy Federation

P.O. Box 1768
Elma, WA. 98541



Idaho Dairy Farmers Association

1182 Eastland Drive North, Suite A
Twin Falls, ID 83301

January 7th 2013

Dennis McLerran, Administrator
Region Ten, Environmental Protection Agency
1200 Sixth Avenue, Suite 900
Seattle, WA 98101
Via email mclerran.dennis@epa.gov

Dear Mr. McLerran,

The Washington State Dairy Federation ("WSDF"), a voluntary organization comprised of over 460 dairy producers and their families, was founded in 1892 to support the dairy farmers in Washington. To that end, the WSDF has worked for the past several years to help establish a cooperative, basin-wide process to address excess nitrates in the groundwater of the Yakima Basin. We would like to see the Environmental Protection Agency ("EPA") participate meaningfully in this effort. Unfortunately, EPA's recent actions are interfering with these cooperative local and state efforts and damaging the ability to solve the nitrate problem in the Yakima Basin.

First, in September 2012, your agency released report EPA-910-R-12-003 entitled "Relation Between Nitrate in Water Wells and Potential Sources in the Lower Yakima Valley, Washington" (the "Report"). Since its release, various experts and state, local, tribal and national agencies have submitted more than a dozen reviews of the Report to the EPA, most concluding the nitrate study in Yakima is flawed. Indeed, the latest review from the USDA NRCS suggests the Report be retracted in its entirety. The WSDF agrees with these experts and agencies: it is time for EPA to retract the Report and reconsider how the EPA can best help - rather than hinder - local efforts to solve the complex issue of groundwater nitrates.

Second, despite the admitted shortcomings of the Report and the conclusion by experts it that is scientifically flawed, the EPA is using the Report to make significant demands upon particular dairy farms in the Yakima Valley under threat of penalty and enforcement action. These demands threaten the viability of the farms involved and, importantly, all of agriculture. WSDF believes the EPA is currently acting beyond its legal authority, and without credible science to support its conclusions or allegations.

The EPA's recent actions are damaging efforts to actually solve nitrate problems in the Yakima Basin and may make it necessary to take legal action to oppose them. The WSDF is prepared, willing and able to take such action if necessary. Our preference, however, is to work cooperatively to gather the resources, experts and information to address the nitrate problem. Clearly, the WSDF would much rather work toward a solution, instead of spending millions on legal costs and fees.

The dairy industry in Washington State and across the United States has worked on the science, implementing best management practices and policies of controlling nitrates. There is already a dedicated group of citizens working in Yakima to address nitrates in groundwater via the officially designated Groundwater Management

EXHIBIT NO. 215
NAME GORDON
DATE 6-25-2014 KRH

WSDF000256

Area (GWMA). The County along with the State worked to provide water filter systems in the county. The State Department of Agriculture and USDA NRCS along with local Conservation Districts all have invested years of work into helping and/or regulating farms to help them control nitrates. We strongly invite your agency to join *meaningfully* in these efforts.

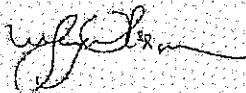
Enforcement is a poor tool to bring to the table, especially when based on the admittedly vague science presented in the Report. The WSDF, instead has looked to the GWMA for a functional model of a solution-oriented process that is working. We are urging all the players in the Yakima Basin to work with the management and board of the GWMA to ensure they are supported and driving toward solutions.

The Report and your agency actions have created barriers, instead of solutions to the groundwater nitrate problem in the Yakima Basin. Furthermore, your agency has indicated this is a model EPA will be repeated around the country; that is deeply concerning. Accordingly, our Associations suggest the following:

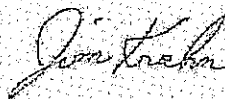
1. Retract the report.
2. EPA should work in collaboration with the GWMA and other state and local entities to find solutions. Unilateral enforcement, based on flawed science, simply will not work.
3. Assist the GWMA in considering what studies are needed. These studies (regional or site specific) will be done by, or in conjunction with, experts from federal, state, tribal and local agencies, and include the expertise of University and private experts. Given the EPA's current enforcement actions, the WSDF and many other folks no longer trust the EPA to produce useful, scientifically sound information and are concerned the EPA will continue to use flawed information in the same manner as you are currently using it against the five farms in Yakima.
4. EPA and the USDA NRCS need to get their roles straightened out. Sticking farmers in the middle of a power play between two agencies is wrong. Farmers have followed NRCS guidance, advice, standards and science for generations. This situation puts farmers in a catch 22.
5. Rebuilding trust through collaboration and a focus on problem solving must become a priority of EPA. This report and the single minded enforcement against five dairy farms using flawed science has completely undermined the trust in your agency's scientific ability. Pursuing enforcement without legal authority and good science has cost your agency its credibility. The whole dairy industry is watching this action with a huge loss of faith in the ability of EPA to understand basic agriculture, hydrogeology or principles of fairness and professionalism.

Despite all of these problems, the WSDF does not believe it is too late to correct this situation. Accordingly, the WSDF and the Dairy Associations in Oregon and Idaho request a meeting with you to discuss this matter at the soonest possible time.

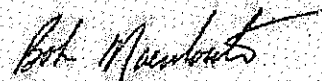
Sincerely,



W. Jay Gordon, Executive Director
Washington State Dairy Federation



Jim Krahn, Executive Director
Oregon Dairy Farmers Association



Bob Naerebout, Executive Director
Idaho Dairymen's Association

CC: Governor Christine Gregoire
Governor Elect Jay Inslee
US Senator Patty Murray

US Senator Maria Cantwell
Us Representative Doc Hastings
Washington State Congressional Delegation
Yakima County Commissioners
Ted Sturdevant, Director, Washington State Department of Ecology
Dan Newhouse, Director, Washington State Department of Agriculture
Mark Clark, Executive Director, Washington Conservation Commission
Roylene Rides-at-the-Door, State Conservationist, USDA NRCS
Board of Directors and Staff, Western States Dairy Producer Trade Association
Jerry Kozak, President and CEO, National Milk Producers Federation
Steve Rowe, Vice President, Northwest Dairy Association
Mike Anderson, Manager, Farmers Cooperative Creamery
Dave Vogel, Executive Director, WA. Assoc. Conservation Districts
Jack Field, Executive Vice President, Washington Cattlemen's Association
Chris Voight, Executive Director, Washington Potato Commission
Ed Field, Executive Director, Washington Cattle Feeders Association
John Stuhlmeier and Tom Davis, Washington Farm Bureau
Steve George, President, Yakima Farm Bureau
Jason Sheehan, Board member, Yakima Groundwater Management Area
Senator Brian Hatfield
Senator Jim Honeyford
Representative Brian Blake
Representative Bruce Chandler
Representative David Taylor
Speaker of the House Frank Chopp

[Print](#)[Close](#)**Re:**

From: **Bill Wavrin** (wwavrin@gmail.com)
Sent: Sun 2/10/13 7:55 PM
To: Washington State Dairy Federation -- (wsdff@msn.com)
Cc: tdve@aol.com

Jay (and Tom),

① I hear you and mostly agree. I guess my point is, if you are going to set a guideline at which point a warning flag goes up to alter management to include a no spread directive, 45 seems reasonable. On this side with our mostly non clay soils, if a plant is growing (even a cold blooded plant like triticale) then we are also mineralizing organic N. I realize that on the West side those cold, saturated, clay soils have lower and later potential to mineralize. ② If you have gotten to a point where nitrate N is 45, in my mind you will have a big enough backlog of organic N to finish a very large crop. In addition, if you have gotten to 45 nitrate N using manure, chances are you may have a level of P that is beyond what the crop needs and may not meet the 590 standard at whatever point that is established. It can certainly be argued that with 4-7 inches of rainfall and a growing crop, the risk to ground or surface water may be nonexistent. ③ Even in the face of that, why would we argue to be able to continue to apply beyond agronomic rate? I think this kind of approach makes even a rational regulator pretty inclined to view us as disingenuous and be more inclined to make his/her conclusions without considering the parts of our arguments that do have merit.

With regard to sprinkler irrigation vs furrow or flood. In many parts of this area the latter types of irrigation could cause saturation from the surface to the shallow ground water during the peak of irrigation season. Even where the irrigation and ground water do not meet, the hydraulic pressure to the field drains from this type of irrigation may increase the risk to drive migration of nutrients to those drains and beyond. Sprinkler will be no better than this if we do not monitor soil moisture as a percent of saturation but if you do that, sprinklers are vastly superior at reducing risk to ground and surface water.

All of this is just to say that I think we run the risk of not being heard at all if we stick to some of the weakest arguments that we have traditionally made. There may be reasonable compromises to be made here and we serve a market that is very interested in how we respond and behave.

Too bad we have to have these discussions under this kind of duress which makes them less constructive.

Bill

On Sun, Feb 10, 2013 at 6:17 PM, Washington State Dairy Federation -- <wsdff@msn.com> wrote:

EXHIBIT NO. 216
NAME GORDON
DATE 6-25-2014 KRH

Bill,

I am probably not the best person to answer in detail the technical questions, I would defer to a Dr. Harrison or Laurie Crowe, but the 45 ppm is current a guideline number that indicates a high level of nitrates and management changes should or might need to be implemented. It is from technical note 35 that was developed many years ago by WSU and OSU, it is being reconsidered...It is a guideline to use at end of harvest. One question that arises is when is "end of harvest?" and when is an application of manure an application that is for the next crop? For all of us that double crop it gets a bit more tricky, given the time and temperature factors involved in mineralization.

The real question I was trying to provide some back ground to is regarding the question that EPA is raising is "Should the 45 ppm be a maximum limit and legally enforceable?"

I say no on both sides of the state, it is a guideline that should lead to management changes...maybe...because:

For a spring test right ahead of corn on good ground with decent OM levels...then I would be tickled with a 45ppm...but

a. on your side of the state the two questions are:

i. Can you grow out a full fall-winter tritcale crop on 45 ppm?

maybe - depends on yield but if you have high yields then I don't think 45 is high enough if that is all you expect (cold la nina year)....It is likely enough if you have spring heat units and soil temperature to mineralize available N in time for the crop to use before harvest and if you have the OM levels to mineralize...or if you apply supplemental N.

ii. Is there potential of leaching during the winter with a tritcale cover crop - on your side of the state, you know better than I, but the leaching potential is very low during winter tritcale season...(I agree on the 30 for our side of the state in the fall should be a warning sign that things are high and changes should be implemented, if possible... More on that below)

My concern on the west side of the state is this....the last two or three years we have had a La Nina pattern with late summer heat units and rain. For the farms, especially in Whatcom that have naturally high organic matter levels is how do you manage a late season conversion of OM to nitrates? We have some farms over 20% OM and we have had wet warm fall seasons...so there are post harvest corn fields over the 30ppm....Is this enforceable? Would EPA allow applications to those fields in the spring? Even though it was natural OM mineralization?

Short version is that I do not trust EPA to understand that we manage a biological system, each farm is different and each area presents a different soil, yield, heat unit pattern, soil moisture, risk of leaching and different effect on the ecosystem and aquifer from nitrates. EPA wants to take a guideline and make it an arbitrary line. 44ppm is good - 46 ppm is bad. Hummmm!

Add to this discussion that EPA is or has also asked since September for:

- no applications to bare soil (*I don't even know where to start on this*)
- Soil tests in the lowest part of the field cannot exceed 45 ppm (*how fine a resolution are we going to go down to?*)
- convert all flood or rill irrigation to sprinkler. (*Do sprinklers automatically protect against*

leaching?)

-retrofit all lagoons to current NRCS standards- even if the lagoons met NRCS standards at installation

-line all corrals and walkways- even though I have not seen any science that shows a problem from corrals.

The policy/legal debate the four families are engaged in is not being led by informed folks, it is being led by attorneys.

It is a bad way to set policy, but that is our concern.

I love the debate about how we can better feed people and be more protective. My idea of fun would be to bring in a dozen folks and a pot of coffee (or a case of beer) and let's have a lively debate about the science and art of nitrate management...But you and I and the four families are trying to inform folks and argue with an EPA attorney or two who doesn't trust us, USDA, WSDA or WSU to inform them.

Really really sad situation that sounds like it is coming to a head very quickly.

Jay Gordon

Washington State Dairy Federation

Elma, Washington

360-482-3485

Date: Sat, 9 Feb 2013 20:13:05 -0800

Subject: Re: Re: FW:

From: wwavrin@gmail.com

To: tdve@aol.com

CC: wsdff@msn.com; Bill@dolsenco.com

Jay and all,

Even over here with high yield, nitrogen hungry, double cropping systems, 45ppm nitrate is more than plenty to grow the crops at start/end. At this level you have over 135 pounds of readily available N and does not consider the N coming available from organic N mineralization in manure farming systems during the crop cycle. While there is less risk here due to lower rain fall, I still think going into Winter at or below this level is prudent. In Whatcom they are saying 30

and I think that is plenty high given that climate. Better to add N during the warmer part of the early/mid crop growth using liquid manure or N fert I think.

Bill

On Sat, Feb 9, 2013 at 12:43 PM, Tdve <tdve@aol.com> wrote:

Sent from my U.S. Cellular® Smartphone

----- Original message -----

Subject: Re: FW:

From: Bill Dolsen <Bill@dolsenco.com>

To: Washington State Dairy Federation -- <wsdf@msn.com>

CC: dan Deruyter <danderuyter@gmail.com>, George and Dan DeRuyter

<gdrdairy@bentonrea.com>, Adam Dolsen

<Adam@dolsenco.com>, MARLENE HAAK <mhaak56@wildblue.net>, Ryan

Bennett <rbennett@nmpf.org>, Tom DeVries <tdve@AOL.com>

Jay - you have been extremely helpful through this entire process. Words cannot express my deep appreciation ~ bill Dolsen

Sent from my iPad

On Feb 9, 2013, at 12:53 PM, "Washington State Dairy Federation --" <wsdf@msn.com> wrote:

> Dan, George, Bill, Adam, Rick and Marlene,

> Two things for you.

> 1. See below in the string for links and attached as specific things that have been "negotiated" or agreed to in other places around the country. These "agreements" have been worked out ...and examples that Ryan Bennett at National Milk has seen and forwarded. Not sure if they would be helpful in your discussions, but maybe. Feel free to send to your lawyers if you want and I am sure Ryan would be willing to have a chat if they can help in your case. He is cc'ed on this email.

>

> 2. There have been specific questions and discussion about the post harvest nitrates. Here is a bit of background and a link to the standard (called Technical Note 35) that is used in planning and developing farm plans in the Pacific Northwest regarding nitrates. The link is:

>

> http://efotg.sc.egov.usda.gov/references/public/WA/A.7_Post_Harvest_Soil_Nitrate_Test.pdf

>

> Note in this Technical Note that these are "post harvest" (that is mentioned at the bottom of several pages)...you have to use this Tech note carefully ...because you are using manure ..AND because tech note does not specifically describe how you all farm, the problem that a reader needs to be aware of when using this tech note is that you all are double cropping and using a slow release fertilizer (manure)I am sure Laurie Crowe, Fred or Dave at N3 or Dr. Harrison could describe the use of this Note better than I can but the problem with limiting soils to 45 ppm at end of harvest is that you might/quite Likely will not have enough fertilizer to grow either a Triticale crop or grow a corn crop and so there is a need to get the manure on in advance of harvest of one crop in preparation for and with sufficient time before the next crop to allow conversion of organic matter and or urea to a form that the crop can use (nitrate or ammonium)... This double cropping manure based farming system means that you have overlap and not a "point in time or space" where you are at the point referenced in this tech note "end of harvest"

> I do not believe there is currently ANYONE in Region 10 that has an understanding of the complex overlapping biological and soil needs that your fields and crop must have in order to grow a normal yielding crop of corn or triticale.

> This fertility plan should have been detailed and outlined in your farm plans and should do a better job of laying out how you and all the rest of the east side double crop manure based farmers are and should be managing to be protective by managing to achieve agronomic rates.

>

> Have a good week end.

>

>

>

>

> Jay Gordon

>

> Washington State Dairy Federation

> Elma, Washington

> 360-482-3485

>

>

>

>

>

> From: rbennett@nmpf.org

> To: wsdf@msn.com

> Subject:

> Date: Fri, 25 Jan 2013 15:33:02 +0000

>

>
> Jay,
>
> These agreements that give producers regulatory certainty are really taking off
Michigan has had their program around since 1997. I have highlighted the sentence from the Michigan Manure Storage Review Sheet where this can be found on page 6. I have a pdf of the general program overview in Michigan. I had also mentioned that Minnesota recently signed an agreement that has spurred a few other states into action. Their program is still vague but I have also attached the Minnesota Certainty Framework. You may also want to look at the variety of resources that Michigan provides under that second link below. You can also find specific practices for their cropland system as well.
>
>
>
> "A compacted clay lined storage pond should have a minimum of 1 foot of clay soils with a minimum permeability rate of 1×10^{-6} cm/sec or 0.0028 ft/day." – Michigan Agriculture Environmental Assurance Program
>
>
>
> <http://www.maeap.org/about> - About the general program.
>
> http://www.maeap.org/get_verified/livestock_system - About the livestock Program
>
>
>
> Just something to think about. At least something voluntary like this could add certainty that EPA won't be knocking on someone else's door in the next couple of years. Please send me the consent decree as soon as possible.
>
>
>
> Best regards,
>
>
>
> Ryan
>
>
>
>
>
> Ryan Bennett

>
> Director, Government Relations
>
> National Milk Producers Federation
>
> 703-243-6111
>
>
> <Michigan Manure-Storage-Review-Sheets.pdf>
> <Michigan Livestock A Syst.pdf>
> <Minnesota Certainty Framework FINAL july 19 2011.pdf>

--

Bill Wavrin DVM
Sunny Dene Ranch LLC
501 Sklow Rd
Mabton, WA 98935
509-728-8453

--

Bill Wavrin DVM
Sunny Dene Ranch LLC
501 Sklow Rd
Mabton, WA 98935
509-728-8453

[Print](#)[Close](#)

Yakima Valley Dairies Work

From: **Freeman, Kevin** (Kevin.Freeman@arcadis-us.com)

Sent: Wed 4/17/13 12:58 PM

To: wsdf@msn.com (wsdf@msn.com)

Mr. Gordon:

Henry Bosma asked that I give you a call to discuss are ongoing and upcoming work at the dairies as related to EPA order. Henry was asking how much of the work I thought would qualify as research. I would like to talk to you about the research aspect of the work. If you have time please call me at 509 981 4747. Thank you.

Kevin M. Freeman, PG
Principal Hydrogeologist
ARCADIS U.S., Inc.
Liberty Lake, Washington
T. 509.928.3369 x211 | M. 509.981.4747
Kevin.Freeman@arcadis-us.com

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FAQ's: Lawsuit in Yakima County, Washington
April 4th, 2013
By Jay Gordon

Lawsuit seeks to have Manure from livestock farms subject to Federal hazardous waste Laws and regulations.

What is this Lawsuit about?

This lawsuit was instigated by environmental groups - the plaintiffs - primarily the Community Association for Restoration of the Environment, Inc. (CARE) and the Center for Food Safety, Inc. in Federal District Court for the Eastern District of Washington against five (5) family dairies in the Yakima Valley. The case presents issues of substantial national concern. It asks a Judge in Yakima county to rule on whether the storage, production, distribution, and disposal of manure should be covered by three Federal laws and associated regulations currently that do not regulate manure.

What are the three Laws and what is their reasoning?

The three federal laws are

- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA),
- Emergency Planning and Community Right-to-Know Act (EPCRA)
- Resource Conservation and Recovery Act (RCRA).

The environmentalist's argument in short is manure is a hazardous solid waste that presents an 'imminent and substantial endangerment to public health' and the application of which constitutes "open dumping" of wastes and therefore must be regulated by these federal laws

What are the consequences if the court rules for the Environmental organizations?

The litigation is a direct assault on farming and farm practices because, if successful, beef, dairy, poultry and common farming practices will be subject to new federal regulations and citizen suits

CARE is seeking to have routine manure management activities at dairies classified as solid waste dumps under RCRA. According to CARE, the Yakima dairies are dumps, which operate in a manner to cause an imminent and substantial endangerment to human health and environment. In addition, CARE argues that the dairies are violating various ammonia emission notice requirements in CERCLA and EPCRA.

What specific actions are the Plaintiff's asking for?

First, the plaintiffs ask the court to declare that day-to-day operations of the dairies imminently and substantially endanger the public health and environment. Plaintiffs seek a declaration that, by operating illegal dumps the dairies are contaminating ground water throughout the Yakima Valley. Finally, plaintiffs ask for temporary and permanent injunctive relief against the operation of the dairies plus substantial civil penalties of \$37,500 per day per violation of RCRA, fines and attorneys' fees for themselves.

In addition, Plaintiffs ask the court to order each of the dairies to 1) cease all activities that constitute imminent and substantial endangerment; 2) design and implement a manure

EXHIBIT NO. 218
NAME GORDON
DATE 6-25-2014 KRM WSDF000082

management program; 3) engage in soil sampling; 4) implement ground water monitoring; and 5) to fund a "independent, comprehensive, scientific study" to determine the extent of the endangerment and harm caused by the operation of their family farms.

How have these farm managed their manure?

These farms all have implemented farm plans and updates to those farm plans over at least the past 16 years as a requirement of Washington state law. These farm plans are based on USDA NRCS standards. The farms are routinely inspected and required to have current farm plans and keep records to prove agronomic use of their manure. None of the farms have had any issues in the numerous inspections by the state Department of Ecology and Agriculture over the past 16 years.

Conclusion

If plaintiffs are successful, the court will impose substantial and very complicated regulations upon the dairies. This precedent will be applicable to farms throughout the United States and will jeopardize the ability of farmers to operate under established federal, state and local law. Congress clearly did not intend this result: RCRA specifically excludes the regulation of manure as a hazardous waste, and the State of Washington specifically excludes the management of manure under its definition of a solid waste.

The effects of this litigation are not confined to the Yakima Valley. If the plaintiffs succeed in this litigation, all farming activities utilizing common manure management systems throughout the United States which are managed by their state agricultural departments and state environmental agencies will be subject to a new and sweeping federal regulation that will result in endless "citizen" suit litigation. This is a national issue brought by national environmental groups and will have an impact on every farm in the United States.

What is being done and how can you help?

Dairy farmers and farm organizations have committed to help support and fund the cost of this litigation against these four families. The first arguments are due to be heard in Federal court on April 15th, 2013. The cost of fighting these allegations has already exceeded a million dollars. This litigation phase is already expensive with potentially hundreds of thousands of dollars more in legal bills coming (at a minimum). These environmental groups are well funded and have hired one of the premier trial attorney law firms in Seattle.

You can help first by assisting with funding, there are many groups that have already helped with this case; donations are being accepted via two charitable legal defense funds. If this case is appealed we will be asking folks to consider joining in name as well as in funding any appeals.

Donations accepted by:

The **Independent Dairy Environmental Action League (IDEAL)**

Contact : Bob Naerebout at bob@wdbs.us

Or the **Washington Agriculture Legal Foundation (WALF)**

Contact: Jay Gordon at wsdf@msn.com or info.walf@gmail.com



Darcel Nootenboom <darcel.wad@gmail.com>

Fwd: 8/27 meeting notice: Meeting and Retirement celebration
 3 messages

 Washington State Dairy Federation -- <wsdf@man.com>
 To: darcel.wad@gmail.com

Tue, Aug 13, 2013 at 1:38 PM

 Jay Gordon
 Washington State Dairy Federation

Begin forwarded message:

 From: "Bruce and Liz Anderson" <andersonlwb@lewiscounty.com>
 Date: August 13, 2013, 1:37:24 PM PDT
 To: "Washington State Dairy Federation --" <wsdf@man.com>
 Subject: Re: 8/27 meeting notice: Meeting and Retirement celebration

Hi Jay, Bruce would like to go on the cruise. I will be in Chicago so can't make it. Please back Bruce a seal. Thanks, Liz

----- Original Message -----

 From: Washington State Dairy Federation --
 To: Mike Anderson ; Dan Coyne ; Steve Rowe ; Steve Malzen ; Jim Wegner ; jmwasthoven@darigold.com ; Hank and Mary Daelman ; Dave Boon 12 ; Toni Pierson ; ed Field ; Jack Field 07 ; Jan Davis ; dan hansen ; David Nowhouse ; Bill VanSlegersen ; Bruce and Liz Anderson ; Janet Lester ; Pete ODPC ; Jerome Rose ; kathryn walker ; Vic Jensen
 Sent: Monday, July 29, 2013 8:20 AM
 Subject: 8/27 meeting notice: Meeting and Retirement celebration

 To all,
 We want to extend an invitation to you to join the directors of the Western States Dairy Producers Association along with the Oregon and Washington Dairy Association Boards for a meeting/briefing followed by a celebration on the 27th of August in Portland, please consider joining us for one or both activities.

1 - 5 PM at the Portland Airport Sheraton Inn

- Briefing on the Yakima RCRA lawsuit by Deb Kristensen and Hugh O'Reardon -Lead Attorneys for the Defense will update us on the timeline, activities and actions on the RCRA case in Yakima. With Q & A
- Farm Bill status update - Jim Tillson, VP, National Milk Producers Federation
- Immigration Reform Legislation update- Jim Tillson, VP, National Milk Producers Federation With Q & A
- other topics TBD (Possible-New FDA Dairy Plant Regulations update, a banker's perspective on the outlook on dairy lending)

5pm-9:30 PM - Join dairy leaders from across the NW and Nation on a Dinner Cruise on Willamette River to honor and celebrate Jim Krahn's retirement after over two decades of service to the dairy farmers of Oregon and the US.

 Transportation to and from the Airport Sheraton to Salmon Springs waterfront dock in downtown Portland is being provided or you can drive and park. Boarding at 6:30 (<http://portlandspint.roschlocal.com/?ccid=1033770&kw=220651:17084>)
 The cost of dinner and cruise is \$7.50 (See attached meeting registration).

If you have questions or would like to register for dinner, please call the Federation office or RSVP via the attached form or reply to this email.

Thanks all, Hope to see you in Portland.

Jay Gordon

 Washington State Dairy Federation
 360-482-3485 office
 360-482-4059 fax
 360-931-0416 cell

 From: kschiff@westernuniteddairymen.com
 To: bertha@californiadairyfarmers.com; dpnn3@juno.com; bob@wvba.us; bmf@cut.net; aspin@ida.net; Swksmit@aol.com; chrdogroot@nolscapo.net; cgarlson@gantsongroup.com; duncley@msk-texas.org; moodutch@verizon.net; david@caprockdairy.com; valadeo.dg@gmail.com; lovemoe@comcast.net; eddievaladeo@gmail.com; goodfrayv@juno.com; konymaugene@aol.com; fallkwan2@gmail.com; wsdf@man.com; JimBoylsDairy@gmail.com; jmk@oregondairycenter.org; jody@kls.org; abejoo@comcast.net; kellym@cedla.org; rlpnn2@juno.com; kevin@mkproducers.org; haitrick@dairy.state.nv.us; lmc44@comcast.net; mawilma@oregondairycenter.org; mglbbons1@comcast.net; rrmersht1@yahoo.com; mikakohter2009@gmail.com; kmilem@westernuniteddairymen.com; robertLVan@gmail.com; dairydoc@nmsu.edu; ryan@millerlawfirm.com; Syp@VDH0kera.com; ij@target-mo-net-farms.com; lbardairy@barcelosfarms.com; lorzech@dairy.state.nv.us; freemskl@amvireless.net; Tony.Velgo@yahoo.com; wandy.wsdf@comcast.net; vwokma@gmail.com
 Subject: WSDPTA 8/27-8/28 meeting notice: REGISTRATION DEADLINE AUG 12
 Date: Fri, 26 Jul 2013 09:28:16 +0000

To: WSDPTA members

Attached is a notice with details for the August 27-28, 2013 meeting in Portland. We expect a larger group than usual at this meeting as we will be celebrating Jim Krahn's retirement and as ODFA and WSDF will be conducting their respective board meetings immediately following the conclusion of the WSDPTA meeting. A number of industry leaders will also be in attendance.

Please be sure to register to attend either by filling out the attached form and returning it to me, or by emailing or calling me by August 12. Hotel reservations are also due by August 12. If you have any questions about meeting logistics, please let me know.

A meeting agenda will be circulated closer to the meeting date. If you have items or topics for the agenda, please contact Mike Kohler at (801) 420-6150.

EXHIBIT NO.

219

NAME

GORDON

DATE

6-25-2014

KRH

4/10/2014 1:18 PM

WSDFO02217

Thank you,
Kathi Schiffer
Western United Dairymen
(209) 527-6453

Washington State Dairy Federation -- <wsdf@man.com>
To: Bruce and Liz Anderson <andersonlvb@lawsoncounty.com>
Cc: "darcel.wsdf@gmail.com" <darcel.wsdf@gmail.com>

Wed, Aug 14, 2013 at 7:08 AM

Liz and Bruce,
We have you down for a seat for Bruce.
Bruce, if you have a chance you are welcome to join us for the meeting starting at 1. We have a briefing/discussion on the Yakima Lawsuit, Farm Bill and the Immigration bill status, then a discussion with some land lenders on changes in lending and outlook on how dairy farms remain an attractive place for lenders to provide financing.
We will adjourn at 5 and head to the waterfront in downtown Portland on a bus and a few cars. (bus is full).
If you can just make the dinner. The river cruise leaves at 6:30 from the west side of the river in downtown Portland...at the Salmon Street Park. here is the link to the dinner cruise with maps :
<https://www.portlandsplit.com/portlandsplit.php#dinner>

Jay

From: andersonlvb@lawsoncounty.com
To: wsdf@man.com
Subject: Re: 8/27 meeting notice: Meeting and Retirement celebration
Date: Tue, 13 Aug 2013 13:37:24 -0700
[Quoted text hidden]

Darcel Nootenboom <darcel.wsdf@gmail.com>
To: Bruce and Liz Anderson <Andersonlvb@lawsoncounty.com>

Wed, Aug 14, 2013 at 11:27 AM

We have Bruce down for the cruise and the WSDP will cover the cost. If he needs a room, we are staying at the Portland Airport Sheraton. We will be taking a bus from the Sheraton to the dock. If Bruce is not staying at the Sheraton, then he could drive to the Salmon Street Dock and catch the cruise there; we can board at 6:30 p.m. If he needs directions or more information, please tell him to contact me.

Darcel

Darcel Nootenboom
Office Manager
Washington State Dairy Federation
360-438-3485
[Quoted text hidden]



Darcel Nootenboom <darcel.wsd@gmail.com>

Fwd: Contribution Agreement

3 messages

Wed, Oct 23, 2013 at 9:44 AM

Washington State Dairy Federation - <wsdf@msn.com>
To: darcel.wsd@gmail.com, Wendy Richmond <wendy.wsd@comcast.net>
Cc: "W. Hugh O'Riordan" <who@ghvanspursey.com>

Wendy or Darcel,
Do we have a copy of this signed agreement to send to Hugh.

Jay Gordon
Washington State Dairy Federation

Begin forwarded message:

From: "W. Hugh O'Riordan" <who@ghvanspursey.com>
Date: October 23, 2013, 9:42:02 AM PDT
To: William Jay Gordon <wsdf@msn.com>, Dan Wood <danwood.wsd@gmail.com>
Cc: Dabara K Kristensen <dkk@ghvanspursey.com>, "Preston N. Carter" <prestoncarter@ghvanspursey.com>
Subject: Contribution Agreement

Jay and Dan, Have you executed your copy of the Contribution Agreement with IDEAL yet? We do not have a copy. This will be a concern to Bob and I want to get the issue sorted out ASAP.
Let me know right away as we are having consultants travel to Yakima for the soil sampling by CARE on October 31. Hugh

Sent from my iPhone

Wed, Oct 23, 2013 at 1:33 PM

Dan Wood (Dairy) <danwood.wsd@gmail.com>
To: Washington State Dairy Federation - <wsdf@msn.com>
Cc: DanWood.wsd@gmail.com, Darcel Nootenboom <darcel.wsd@gmail.com>

Jay

I am leaving this to you for a response to Hugh.

I cannot find the signed contribution agreements.

We had Dave Boon sign them and I recall they were sent off. I cannot find them in the G: drive.

We can ask Wendy tomorrow if she recalls where they are located.

Dan Wood
Director of Government Relations
Washington State Dairy Federation
PO Box 1768
Elma, WA 98541
Call me any time. Late, early, weekends are OK. REALLY, it's OK.
360-870-6018
DanWood.WSDF@gmail.com
[Quoted text hidden]

Wed, Oct 23, 2013 at 1:34 PM

Washington State Dairy Federation - <wsdf@msn.com>
To: "Dan Wood (Dairy)" <danwood.wsd@gmail.com>
Cc: Darcel Nootenboom <darcel.wsd@gmail.com>

I also remember sending them off once Dave had them, but am hoping Wendy kept a copy.

Jay Gordon
Washington State Dairy Federation

[Quoted text hidden]

EXHIBIT NO. 220
NAME GORDON
DATE 10-25-2014 KKH

4/10/2014 1:07 PM

WSDF000046

[Print](#)[Close](#)

Report on Yakima Litigation

From: Washington State Dairy Federation -- (wsdf@msn.com)

Sent: Sat 10/26/13 2:28 PM

To: Washington State Dairy Federation (wsdf@msn.com)

Cc: Art and Teresa Mensonides (amensonides@aol.com); Bill Scheenstra (sfi@clearwire.net); Chris Sybrandy (chris.sybrandy@gte.net); Ed Zurcher (bczurchers@yahoo.com); John Brunoff (brunoff@localaccess.com); Jon De Jong (eaglemill-jsx@comcast.net); Rex and Kathy Chamberlain (chamdairy2@nctv.com); Steve Vander Haak (sjvanderhaak@yahoo.com); Tom DeVries (tdve@aol.com); tony Freeman 06 (freemski@smwireless.net); tony veiga 07 (tbveiga@embarqmail.com); Walter Abplanalp (walterabplanalp@gmail.com); Dave Boon 12 (wvfdave@gmail.com); Toni Pierson (tonipierson@rocketmail.com); Rick Nelson (ran3624@yahoo.com); dmanterola@eltopia.com (dmanterola@eltopia.com); ed Field (ed@wafeeders.org); Jack Field 07 (jfcattle@kvalley.com); Dan Wood (danwood.wsdf@gmail.com); Kevin abernathy 11 (kevin@milkproducers.org); J.P. Cativiela (jpc@dolphingroup.org); jaime Jonkers (jjonker@nmpf.org); Ryan Bennett (rbennett@nmpf.org); tom Davis (tdavis@wsfb.com); escheffels@wsfb.com (escheffels@wsfb.com); dpnm3@juno.com (dpnm3@juno.com); Jody Wacker (jody@kla.org); chris@pacificfoods.com (chris@pacificfoods.com); rob vandenheuvel (robert.t.van@gmail.com); mike marsh (mmarsh11@yahoo.com)

Bcc: Mike Kohler Utah (mikekohler2009@gmail.com); Mike Anderson (manderson@farmerscoop.org); Bob Naerebout (bob@wdbs.us); Bob Gray (bgray15452@aol.com); dturley@dfamilk.com (dturley@dfamilk.com); Jim "da man" Tillison (jtillison@nmpf.org); Jim Wegner (jim.wegner@darigold.com); Jim Werkhoven (jim@werkhovendairy.com); Hank and Mary Doelman (hmdoelman@comcast.net); Mark Wesen (mark.wesen@darigold.com); Bruce and Liz Anderson (andersonlwb@lewiscounty.com); Bill Wavrin (wwavrin@gmail.com); Bill Wavrin (bill.wavrin@darigold.com); jeremy Visser (virtualmilkman@verizon.net); Adrian Boer (adrianboer@gmail.com); Jerry Kozak (jkozak@nmpf.org); Paul Sousa (psousawud@yahoo.com); Paul Rovey (azmilk@att.net); John Stuhlmiller (jstuhlmiller@wsfb.com); Sherm Polinder (polindersp@gmail.com); STEVE GEORGE 05 (sageconsulting@bossig.com); Dan Coyne (dancoyne@coynejesernig.com); Hank Bosma (habos@embarqmail.com); Henry Bosma Jr. (cowman@centurylink.net); George and Dan DeRuyter (gdrdairy@bentonrea.com); dan Deruyter (danderuyter@gmail.com); Bill Dolsen (bill@dolsenco.com); MARLENE HAAK (mhaak56@wildblue.net)

2 attachments

Docket 112 - Order Denying Plaintiffs Motion for Relief - Cow Palace.pdf (158.1 KB),
 NOI.DeVries.pdf (1428.7 KB)

October 25th Report on Support for Yakima Lawsuit

EXHIBIT NO. 221
 NAME GORDON
 DATE 10-25-2014 KRH

Here is a brief summarized update on the activities that have gone on in the past few months.

Late summer - Plaintiffs asked to court to grant them very broad access to the farms for the purpose of "discovery". The plaintiffs asked the court to allow CARE and CFS access to the farms for several weeks to take soil, lagoon samples and to **drill an additional 44 "semi-permanent" test/monitoring wells around the farms and in cow pens**. These test wells would have been in addition to the 26 permanent monitoring/test wells the farms already installed under the EPA consent order.

The court ruled in late September – granting access to the farms for soil/lagoon testing, on fields (up to two samples per acre) and lagoons owned and controlled by the farms **but denied the request for the additional monitoring wells** on the basis that additional drilling was both too disruptive to the farm businesses and duplication given the EPA required monitoring wells and that that data will be available.

The plaintiffs in early October then filed a "request for reconsideration" asking the court again for access to drill 44 tests wells but with a few modifications to make the well drilling process "quieter" than the estimated 118 decibels. The plaintiffs did not indicate precisely where the 44 test wells would be located, if the wells could still be a hazard in the cow pens (or if could be hit by scraper tractors now or in the future and lead to contamination of the ground water).

The court **denied** motion for reconsideration on October 25th. See attached.

The Plaintiffs will begin entering the farms on October 28th to gather evidence and take samples according to the guidelines from the court rulings.

The Door is Open – California

In early September - a 90 notice of intent to sue was filed in Southern California against a former dairy farm based on many of the same, if not identical claims under RCRA that are being litigated in Yakima. There is one common plaintiff involved in this case. We were concerned this would happen when the judge did not dismiss this case as a matter of law. See attached.

Activity to raise awareness and funds to support the litigation.

- Bob Naerebout gave a power-point presentation to the National Dairy management Inc. (DMI) Board and to the Dairy Innovation Center in September and October. He also made a presentation to the United Dairywomen of Arizona. Bob, Jay and Dan have participated in virtually all National Agriculture-Environment Conference calls since last winter.
- Dan Wood made a presentation to the Washington Cattle Feeders Association (Thanks Ed!) in August.

Dan also gave presentation to and is working on retaining the services of a professional fundraiser in Spokane, Washington.

- Jay Gordon gave a presentation to the Washington Cattlemen's Association Board (Thanks Jack!) and to cooperative staff and boards in September and October. Article in October in Hoard's Dairyman discussing the case.
- Western States Dairy Producers have held meetings to inform and develop a more coordinated, broader fundraising effort (Portland in August, and several conference calls led by Tony Viega and Brian Esplin).

Upcoming activities.

- Bob Naerebout will give a presentation at the National Milk Annual meeting the 12-13th of November (many NW Dairy Cooperative and Western States Dairy Producer Trade Association Staff and Board members will be in Phoenix to help answer questions in the hallways.)

(Thanks to many folks who worked with NMPF for time on the agenda! Thanks Jim, Jim, Jim, & Mike & Mike, Tony and Steve & Steve and everyone ...!!)

- WSDF has a discussion featuring attorneys from Pacific Legal Foundation (PLF) and Washington Ag Legal Foundation (WALF) at the Industry Annual meeting on November 5th. The panel roundtable is ***"Why litigation and lawsuits matter and how they affect farmers"***... Not specifically on the Yakima case but it may be part of the discussion.
- A presentation is scheduled for the Texas Association of Dairymen Board of Directors on November 7th in Texas. (Thanks Darren!)
- We are planning and working on other meetings with current and other possible supportive groups as well, If you know of any please let us know.

Fund raising-

This effort since the case against the four families began February has had support from numerous private individuals, trade associations and Dairy Cooperative Associations around the Northwest and US. The litigation costs are being supported by fund raising to support legal defense costs that have been paid via either the Washington Ag Legal Foundation (WALF) or the Independent Dairy Environmental Action League (IDEAL).

As of October 26, 2013 the WALF needs to raise \$68,596.09 to cover its share of the current due litigation expense and IDEAL balance owing in this effort is \$21,812. We are working on bringing in other supporters and pledges to help in this effort. Since February - Washington and Idaho Foundations have raised and paid almost \$226,000 in legal expenses with the help of folks and organizations around the US.

On behalf of the farm families and our industry – Thank you.

Any and all Support is greatly appreciated.

Jay, Dan, Bob

Jay Gordon
Secretary Treasurer, WALF

One final note, because it gets asked. These are good families, who run excellent, very innovative farms. They have updated and revised their farms plans numerous times. They have excellent reports on their state required inspections. The farms make and export compost, one farm operates the only digester in eastern Washington. They are looking at collectively getting help to install some of the newest renewable Compressed Natural gas technology to make zero or low carbon motor fuel. They are hoping to get grants to innovate and install the latest nutrient recovery processes from Washington State University. They have excellent cow to acre and export ratio's. If these farms lose, any farm that uses nitrogen fertilizer should start worrying.

Summation- these are good farmers and good families who were picked/targeted by an EPA decision in 2010 to focus on a few farm families in Yakima among thousand of farms across the west. The legal ruling on this case will determine if farms across the nation should be regulated under RCRA (federal solid waste laws) by EPA and/or subject to citizen suit by private environmental groups and litigators.

[Print](#)[Close](#)**RE: Yakima article (version #3)****From: Dennis Halladay @ Hoard's WEST** (hoardswest@aol.com)**Sent: Sun 11/03/13 7:01 AM****To: wsdf@msn.com**

1 attachment

Yakima (40.0 KB)

Good morning Jay:

As much fun as some of them were to write in the 1st draft (I badly wanted to use the phrase "scummy bastards"), I went through and cleaned up things in a couple of places. I also fixed the two items you pointed out about draft #2.

Please take a look at this and let me know if it seems OK. If it is, then I'll send it to Steven.

Thanks again for your patience and help.

Dennis Halladay
Western Editor
Hoard's Dairyman
2462 E. Meadowgrass St.
Meridian, ID 83646-8081
951-656-7320 (cell/office)

-----Original Message-----

From: Washington State Dairy Federation -- <wsdf@msn.com>**To:** Dennis Halladay @ Hoard's WEST <hoardswest@aol.com>**Sent:** Sat, Nov 2, 2013 5:01 pm**Subject:** RE: Yakima article (new version)

Dennis,

This is better,

Two things,

The line about no farmer can ever promise not to have 11 ppm in ground water. Probably shouldn't be written that way, My intent was to say that we can't promise nitrogen won't get below the root zone ever. The 11 ppm quote will be used against us by EPA and in court somewhere.

the last couple of paragraphs...the reference to the second peer reviewer....He work for USDA Ag Research Service.

WSDF001630

EXHIBIT NO. 222
NAME GORDON
DATE 6-25-2014 KRH

NOTNRCS.

Please run it by Steve Rowe for his thoughts.

Jay Gordon

Executive Director

Washington State Dairy Federation

Elma, Washington

360-482-3485

To: wsdf@msn.com

Subject: Yakima article (new version)

From: hoardswest@aol.com

Date: Fri, 1 Nov 2013 22:57:07 -0400

Jay:

I fussed with the article a bit. Took out some rough edges and smooth off some others.

This version reads better.

Dennis Halladay

Western Editor

Hoard's Dairyman

2462 E. Meadowgrass St.

Meridian, ID 83646-8081

951-656-7320 (cell/office)

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(features)

Why the Yakima lawsuits matter to every producer

Lawsuits are underway against four Yakima, Wash., dairy families that, if successful, will set an environmental precedent that potentially threatens the existence of every farm — dairy or otherwise — in the U.S.

by Hoard's Dairyman staff



How nitrates from manure move through the soil profile and into groundwater is the heart of the Yakima lawsuits

Admittedly, "every farm" being affected by the outcome of lawsuits in one region is a doomsday scenario that is unlikely to occur. Still, all possibilities have to be considered in today's legal world. However, the mere fact these lawsuits are happening at all screams two loud warnings to dairy producers.

First, it is essential that only solid-gold, best management practices be used when dealing with fertilizer and wastewater. Second, the relentless scrutiny by environmental activist groups of both farming practices and environmental law definitions may never end. As bad as things are now, expect them to get worse.

The lawsuits are taking place in Yakima, Wash., a rich agricultural area in the south-central part of the state. They have a long and complex backstory and are based upon what has been described as terrible science.

The gist of the situation is, the Environmental Protection Agency (EPA) came to Washington in 2010 in what the state's producer group believes was another attempt to expand the agency's emergency regulatory power under the federal Safe Drinking Water Act. Previous attempts in North Carolina and Texas had failed. Washington, however, is under jurisdiction of the 9th Circuit Court in San Francisco, which is widely regarded as the most pro-environmental court in the country.

A terrible choice

EPA then bullied 11 Yakima dairies to let it do water quality tests for nitrates. In 2012, five were singled out and given an awful choice: sign a consent decree to install monitoring wells and collect samples for eight years to determine if there is a water quality problem, how bad it is and where it's coming from . . . or try to convince the 9th Circuit Court that EPA doesn't have the authority to make such demands.

Losing would have established a precedent that EPA could use to set national policy for

every farm in the country, so three of the families that owned four of the dairies signed the consent decree, installed monitoring wells and are now collecting samples. The fourth family sold its cows in May and went out of business.

"Those four families basically sucked it up and took one for every farmer in the country," says Jay Gordon, executive director of the Washington State Dairy Federation (WSDF). "They were the unlucky ones that EPA needed to hang from the yardarm, point a finger at and say, 'Your honor, they are guilty, and they are why we need the power to come in and tell farmers what to do.'"

Targeting manure, not nitrogen

EPA was now more or less out of the picture. But in February 2013, two environmental activist groups filed individual lawsuits against the five dairies for nitrogen pollution of groundwater, alleging violation of the federal Resource Conservation and Recovery Act (RCRA) that regulates solid and hazardous waste disposal, including nuclear waste.

When RCRA was passed, Congress gave manure an exemption. But the environmental groups' lawsuits are focusing on nitrogen, which results from manure. They claim the dairies violated RCRA by "dumping" — their term for any application whatsoever — manure or fertilizer in any form on fields, because it may result in excess nitrogen migrating below the root zone of plants and into groundwater.

The environmental groups are making two claims: One, that manure should not be exempt from the law. Two, that the five dairies have broken the law.

Medical science long ago determined that adverse human effects from excess nitrogen begin to occur at about 100 parts per million (ppm). To provide a huge buffer for human safety, U.S. standards for drinking water are set at a 10-fold safety margin of 10 ppm. Under RCRA, nitrogen pollution of groundwater occurs above 10 ppm.

Each dairy's lawsuit will be heard in Yakima Federal District Court by the same judge; one per month starting in mid-September 2014. Regulatory precedent will be set if just one of them loses.

Gordon emphasizes that every dairy and every farm in the U.S. should be worried about the outcome of the cases.

"Nitrogen is nitrogen, whether it's manure or anhydrous or urea or sulfate. If the families lose, then there is no farm that couldn't potentially be subject to a claim that they are dumping nitrogen in violation of federal RCRA law and are subject to EPA regulation and citizens' lawsuits.

"There is no possible way that some nitrogen won't get below the root zone sometime, despite farmers' best plans and intentions," he adds. "It is not physically possible for farmers to prevent that from happening every day of the week, 365 days per year." The big question dairy farmers may ask is, could such a draconian interpretation of RCRA really happen?

"The answer to that is found in the judge's ruling in July," says Gordon. "The families' attorneys told him that federal courts have been asked four times to rule on this, that as a matter of law Congress did not intend for RCRA to apply to solid manure, and that no federal judge has ever ruled the law applies to manure.

"The judge turned to the activists' lawyer and asked if that was true. He replied that one almost did. The judge then repeated his question and the lawyer answered, 'No, your honor, no court has ever ruled that. You get to be the first; these people are killing America.'"

Legal, financial and scientific support for the Yakima dairies continues to come from WSDF, Idaho Dairymen's Association (IDA), Washington dairy cooperatives, and individuals and organizations around the country. But getting the word out about the lawsuits and their potential consequences has been slow, especially outside of the dairy industry.

"In my opinion, just like EPA made the Chesapeake Bay a model for surface water discharges that it will use elsewhere, EPA is now trying to establish a model for groundwater," says Bob Naerebout, IDA executive director. "In this specific case, all livestock industries should be concerned about what this means to them. And row croppers' heads had better be up and looking, because after EPA is done perfecting the model on livestock industries I think the row crop model will be right behind it."

There is a strong case

Gordon has high confidence that the dairies will win. First, because "these are really, really good farms and really, really good operators." Second, because the EPA data that the environmental groups' suits are based upon — Gordon dislikes calling it science — is apparently awful.

"That science is going to be widely challenged, and in fact it already has been," he explains. "USDA submitted comments to EPA last year and said, 'Your science is so bad you need to retract it.'" EPA said it wouldn't.

"I'll guarantee that our side is going to submit testimony about the 38 individual scientists, associations, organizations and agencies that submitted comments to EPA saying its science is so bad it needs to be done over," says Gordon.

"In addition, there were only two external peer reviewers of EPA's science. One was a person with the U.S. Geological Survey who ripped the heck out of it. EPA ignored it. The other was a USDA Agricultural Research Service scientist who sent a letter to EPA asking that his name be removed as a reviewer after he found out they had omitted 40 pages of his document, including his conclusions."

This article appears on page 7 of the January 10, 2014 issue of *Hoard's Dairyman*.

Like Share 88 people like this.

Return to the [Hoard's Dairyman feature page.](#) (//features)

From: Washington State Dairy Federation --
To: Stu Turner; Steve George George; Henry Bosma Jr; Dan DeGroot; Danwood Wood; Dan DeRuyter; Nichole Embertson; Tony V; Jason Sheehan; Adam Dolsen Dolsen; Prest, Virginia (AGR)
Subject: Nitrogen fertilizer remains in soils and leaks towards groundwater for decades
Date: Wednesday, November 20, 2013 9:42:47 AM

<http://m.phys.org/news/2013-10-nitrate-fertilizer-lingers-soil-decades.html>

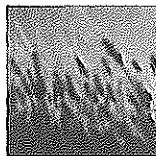
Jay Gordon
Washington State Dairy Federation

EXHIBIT NO. 023
NAME GORDON
DATE 6-25-2014 KRH

Nitrogen fertilizer remains in soils and leaks towards groundwater for decades

Oct 21, Earth/Environment

4 reasons why Mac is slow



Full size image

Wheat in a field near Tioga, North Dakota on August 19, 2013

Nitrogen fertilizer applied to crops lingers in the soil and leaks out as nitrate for decades towards groundwater – "much longer than previously thought," scientists in France and at the University of Calgary say in a new study.

Thirty years after synthetic nitrogen (N) fertilizer had been applied to crops in 1982, about 15 per cent of the fertilizer N still remained in soil organic matter, the scientists found.

After three decades, approximately 10 per cent of the fertilizer N had seeped through the soil towards the groundwater and will continue to leak in low amounts for at least another 50 years.

The study was led by researcher Mathieu Sebilo at the Université Pierre et Marie Curie in Paris, France, and by Bernhard Mayer in the U of C's Department of Geoscience, and included several research organizations in France.

Their paper, "Long-term fate of nitrate fertilizer in agricultural soils," was published this week in the *Proceedings of the National Academy of Sciences* of the United States of America.

The findings show that losses of fertilizer N towards the groundwater occur at low rates but over many decades, says Mayer, U of C professor of geochemistry and head of the Applied Geochemistry Group.

That means it could take longer than previously thought to reduce nitrate contamination in groundwater, including in aquifers that supply drinking water in North America and elsewhere, he says.

"There's a lot of fertilizer nitrogen that has accumulated in agricultural soils over the last few decades which will continue to leak as nitrate towards groundwater," Mayer says.

Canada and the U.S. regulate the amount of nitrate allowed in drinking water. In the 1980s, surveys by the U.S. Environmental Protection Agency and the U.S. Geological Survey showed that nitrate contamination had probably impacted more public and domestic water supply wells in the U.S. than any other contaminant.

Mayer is an internationally recognized expert in the use of stable isotopes to track contaminants in the environment.

The French-U of C study is the first that tracks, using stable isotope "fingerprinting," the fate of fertilizer N remaining in the soil zone over several decades.

The research team used a stable isotope of nitrogen, N-15, as a tracer to track fertilizer nitrogen applied in

1982 to sugar beet and winter wheat crops on a pair of two-metre-square plots at a site in France.

Over the 30-year study, the researchers measured the amount of N-15 labelled fertilizer N taken up by plants and they quantified the amount of fertilizer N remaining in the soil.

The novel aspect of their study was that they subsequently determined the long-term fate of this fertilizer N 'pool' retained in the soil. Their measurements of seepage water from locations two metres deep in the soil revealed the amount of fertilizer nitrate leaking towards the groundwater.

The team found that 61 to 65 per cent of the N-15 fertilizer applied in 1982 was taken up by the sugar beet and wheat plants over the 30-year study.

However, 32 to 37 per cent of the fertilizer N remained in the soil organic matter in 1985 or three years after application, while 12 to 15 per cent still lingered in the soils after three decades.

Between eight to 12 per cent of the fertilizer N applied in 1982 had leaked in the form of nitrate toward groundwater during the 30 years, and will continue to leak at low rates "for at least another five decades, much longer than previously thought," the study says.

The scientists predict that about 15 per cent of the initially applied fertilizer N will be exported from the soils towards the groundwater over a time span of almost one century after the 1982 fertilizer application.

Mayer speculates that if the same research were done in Alberta, the findings would be similar in terms of fertilizer uptake by plants and nitrogen retention in the soils, although Alberta's comparatively dry climate and different geology might slow the rate of nitrate seeping towards the groundwater.

Nitrate contamination of aquatic ecosystems can be reduced by farmers following the 4Rs of nutrient stewardship: applying the right fertilizer source at the right rate, the right time and the right place (see <http://www.nutrientstewardship.com/what-are-4rs>).

More information: Long-term fate of nitrate fertilizer in agricultural soils, <http://www.pnas.org/cgi/doi/10.1073/pnas.1305372110>

Provided by University of Calgary

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Re: Cow Palace / Arcadis Invoices

From: Bill Dolsen (Bill@dolsenco.com)
Sent: Thu 2/06/14 12:12 PM
To: Washington State Dairy Federation -- (wsdf@msn.com)
Cc: Dan Coyne (DanCoyne@coynejesernig.com)

These are mainly EPA compliance issues. Monitoring wells ect. I assume but don't know as a fact that DeRuyers and Bosmas incurred the same expense.

On Feb 6, 2014, at 11:30 AM, "Washington State Dairy Federation --"
<wsdf@msn.com<mailto:wsdf@msn.com>> wrote:

These are for the EPA work consent decree work ... Right?
We also have Arcadis bills for their consultations and work to pursley givens..

Just checking but so far they are keeping they separate.

Jay Gordon
Washington State Dairy Federation

On Feb 6, 2014, at 10:49 AM, "Bill Dolsen"
<Bill@dolsenco.com<mailto:Bill@dolsenco.com>> wrote:

Gentlemen - hope all is well. Appreciate the high milk prices. Now, how about some snow in the mountains? (We have to have something to complain about).

We will be paying two Arcadis invoices. The dates and amounts are below.

12/16/13 \$84,654.14
1/20/14 \$12,598.15

Total \$97,252.29

If you would like copies of these statements or have any questions or concerns, please feel free to contact me at your convenience.

Thanks for your good work

Bill Dolsen
Cow Palace Dairy LLC

P Please consider the environment before printing this email

CREDIT NO. 224
NAME GORDON
DATE 10-25-2014 KRH

GIVENS PURSLEY, LLP

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L. Edward Miller
Patrick J. Miller
Julian B. Montgomery
Dorothy E. Nelson

W. Hugh O'Riordan, LL.M.
Angela M. Reed
Matt O. Smith
P. Mark Thompson
Jeffrey A. Veen
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Of Counsel
Kimberly D. Maloney

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Retired:
Kornel L. Pursley
James A. McClure (1974-2011)
Raymond D. Givens (1917-2003)

February 12, 2014

Dave Boon
Washington State Agricultural Legal Foundation
575 E. Main, Suite 2
P O Box 1768
Elma, WA 98541

Bob Naerebout
Independent Dairy Environmental Action League
195 River Vista Place, Suite 308
Twin Falls, ID 83301

Re: Billing for Stokes Lawrence

Dear Dave and Bob:

Pursuant to your request, please find the attached billing statement. If you have any questions please give me or Deb Kristensen a call.

Very truly yours,

Hugh O'Riordan
Hugh O'Riordan

WHO:lah

EXHIBIT NO. 225
NAME BURDON
DATE 6-25-2014 KRH

WSDF000078

LAW OFFICES

GIVEN & PERSLEY LLP

P.O. Box 2720 • Boise, Idaho 83701
(208) 388-1201

February 12, 2014

Invoice : 11832-1

Washington State Dairy Federation
676 E. Main, Suite 2
P.O. Box 1768
Elmer, WA 99541

Independent Dairy Environmental Action League
Attn: Bob Naorebout
195 River Vista Place, Ste. 308
Twin Falls, ID 83301

REGARDING: Yakima Dairies Litigation

<u>Date</u>	<u>Description</u>	<u>Amount</u>
12/31/13	Stokes Lawrence Billing for Legal Services through December 31, 2013	\$74,576.22

TOTAL AMOUNT DUE: \$74,576.22

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Report

From: Washington State Dairy Federation -- (wsdf@msn.com)

Sent: Wed 3/19/14 8:43 AM

To: Mike Anderson (manderson@farmerscoop.org)

1 attachment

20140317_201032 3-2014-summary.pdf (87.4 KB)

Mike,

Here is a report...below. Attached is the financials. We got several large donations in this past few weeks and have right at 83 thousand to pay January and February bills so I am not asking for help this month....but we know big bills are coming for all the deposition work...so anything your board can hold in reserve is great. I am sure the next round of bills will whittle away on this balance we have.

Thank you and your board for their help and leadership.

Please ask your board to not release any names fro the attachment ...wanted you all to know who has given of late. Two other recent donars not on this list but funds on the way.

Update on the Yakima litigation through the end of February 2014

February was another active month in the cases. First, the Haak case settled, and Plaintiffs have dismissed their Complaint as well as a pending Notice of Intent to Sue related parties. The Settlement Agreement is a public document. The cases against Cow Palace, Liberty Dairy, D&A Dairy, and George DeRuyter & Sons Dairy are still proceeding.

Second, the Court decided Plaintiffs' third attempt to gain access to Cow Palace's and Liberty's properties to drill groundwater monitoring wells and other sampling. The Court largely rejected Plaintiffs' attempts, though it did permit (1) two 10-foot soil samples in each facility's confinement pens and (2) two deep soil borings on each facility in the composting areas and near catchment basins or lagoons. The Court rejected Plaintiffs' attempt to gain extensive access to

EXHIBIT NO. 226
NAME GORDON
DATE 6-25-2014 KRH

agricultural fields to conduct sampling, as well as Plaintiffs' attempt to drill in and around lagoon embankments.

Third, the Court granted Plaintiffs' motion to file a Second Amended Complaint. (attached) The Second Amended Complaint includes allegations of contamination by other substances, including trace metals, pharmaceuticals, and growth hormones, as well as contamination of surface water. Answers were filed on behalf of each of the dairies, largely denying the new allegations.

Fourth, the Plaintiffs moved to remove confidentiality protections for certain categories of documents, including the Dairies' Nutrient Management Plans. Defendants opposed this motion. The issue is fully briefed and submitted to the Court for resolution.

Fifth, Plaintiffs took numerous depositions of state agency personnel, including employees of the Department of Ecology, the Department of Health, and the Department of Agriculture in Olympia earlier this week. Plaintiffs have attempted to depose officials from the U.S. Environmental Protection Agency as well.

Sixth and finally, Plaintiffs have served another round of discovery, answers to which are due the first week of March.

March looks to be an active month as well. Plaintiffs will be deposing Kevin Freeman, an employee of Arcadis, as a fact witness to work that has occurred under the EPA's Consent Order. Depositions of EPA officials and the Defendants themselves may occur as well.

Jay Gordon

Executive Director

Washington State Dairy Federation

Elma, Washington

360-482-3485

MEMORANDUM OF UNDERSTANDING

Between
Washington State Dairy Federation
And
Yakima County Dairy Federation

For Technical Support

The Washington State Dairy Federation (Federation) represents the Northwest Washington dairy producers on many regulatory and environmental issues. Yakima County dairy producers have requested \$9,337.40 be earmarked from last year's budget and managed to procure assistance with policy review, research and education related to these specific issues: air and ground water quality policies and programs in the Yakima Basin. These funds are managed and disbursed by the State office, upon the advice, and by the request of the local unit.

To further this objective from January 1, 2012 through December 31, 2012, the Washington State Dairy Federation may grant contract and/or contracts not to exceed \$9,337.40 for services above.

- Yakima County Dairy Federation may submit a detailed proposal, in writing or if verbally – followed by written confirmation, for services to be provided and the costs associated for these specific services.
- Services rendered against these funds will be required to provide monthly reports, for our use, along with monthly invoices.

The Federation agrees to pay for services rendered within 30 days after receipt of their invoice.

Approved this day of _____

Washington State Dairy Federation

Yakima County Dairy Federation

EXHIBIT NO. 227
NAME GORDON
DATE 6-25-2014 KRH

WSDF000252



The Washington Dairy Products Commission
Research Fund

Approved June, 2012

EXHIBIT NO. 228
NAME GORDON
DATE 6-25-2014 KRW

WSDF000281

Introduction

In 2000, a Producer Task Force recommended to the Washington Dairy Products Commission (WDPC) that funds from an additional milk check assessment be collected with a portion set aside for the purpose of funding research to benefit dairy producers. This recommendation was accepted and funding collection began in 2002.

In 2005, an additional resolution was passed which led to a further increase in funding from state milk check assessments. As funds began to accrue, a variety of strategies were implemented to address how they could best be utilized, culminating in the creation of an active research fund in 2011.

The WDPC is responsible for identifying, developing, evaluating and monitoring projects that are of importance to dairy producers in the State of Washington.

Research Criterion

The WDPC encourages the submission of proposals in any area or field of research that has the potential to benefit the Washington State Dairy Industry. Emphasis will be placed on applied research and with clear deliverables.

Timeline *

2012 Timeline	
June	Call for Pre-Proposals
July 30	Pre-Proposal Submission Deadline
Sept.	Final Proposal Submission Deadline
November	Final Proposal Evaluation

**All dates are subject to change*

Funding

Award amounts are unspecified. Indirect costs or overhead charges will not be covered and therefore should not be included. In general, permanent equipment is not typically approved for purchase by WDPC, however, purchase or modification of permanent equipment may be permitted in certain situations with prior WDPC approval. Salaries for principal investigators will not be supported. Continued funding is contingent upon meeting the "Expectations of Funded Projects" outlined below.

Project Duration

There is no limit on the duration of a proposed project, however all projects will be funded one year at a time. Projects approved lasting more than one year are not guaranteed funding in subsequent years. Decisions to fund multi-year projects are made annually, based on annual performance, budget, industry need, etc.

Eligibility

Requests may be submitted by any appropriate research institution or organization: academic, private, non-profit, commercial, federal or state and by individuals of any citizenship or residency, from any location.

Application & Submission Guidelines

Pre-Proposals

A single page Pre-Proposal is required for those planning to submit a proposal (see attached "WDPC Pre-Proposal Template"). Pre-proposals may be submitted at anytime although they will not be considered until the official submission deadline. Comments and recommendations from the review committee will be provided to the authors of successful Pre-Proposals. Successful authors are strongly encouraged to address these comments and recommendations in their Final Proposal.

Final Proposals

Successful Pre-Proposals will be asked to submit a Final Proposal. These should be submitted as email attachments in Word or portable document format (pdf). Page margins should be 1 – inch on all four sides. Use Times New Roman or a similar font set to 12- point and 1.5 line spacing and page numbers are to be included. Please submit all materials to: jesse.wsdf@comcast.net

Researchers must be prepared to present their proposals in person. Each proposal is required to include the following:

- *Cover Sheet – Title, Project Personnel & Collaborators, Project Lead, Start Date, Duration and Total Cost*
- *Abstract/Project Summary – in approximately 300 words summarize the project*
- *Narrative (15 pages max.)*
 - *Introduction – statement of problem(s) or question(s) to be addressed, status of related, past, current and on-going research and project goals and objectives.*

- *Experimental Approach – proposed or sequence of activities to obtain results, test hypotheses and achieve goals and objectives, methodology/techniques, how results will be assessed or analyzed, expected outcomes, and scope*
- *Deliverables/Practical Application – how will this research benefit Washington dairy farmers*
- *Literature Cited*
- *Principle Investigator/Project Director and Key Personnel CV(s) or Resume(s)*
- *Detailed Budget with Justification (please disclose any in-kind or "matching" funds).*

Proposal Review & Evaluation

Initially, all submitted proposals will be screened by staff to ensure administrative compliance. Proposals may be sent out for anonymous, peer-review by professional, technical and/or scientific experts. All communication between researcher and reviewer will be facilitated by the WDPC Research Coordinator.

Notification

All submitted proposals will be notified immediately once a decision has been made.

Expectations of Funded Projects

All funded projects are expected to maintain continuous communication throughout the duration of the project. Failure to meet these expectations may result in suspension or termination of funds.

Quarterly Progress Reports

All WDPC funded projects must submit Quarterly Progress Reports. These reports are meant to provide a brief overview of project progress in lay terminology. Quarterly Progress Reports should outline the progress of the project, any initial results or findings, any problems or delays, presentations made, publications, outreach, media coverage, etc. Any deviations or modifications from the originally approved Final Proposal should be clearly indicated.

Final/Annual Reports

All WDPC funded projects are required to submit a Final/Annual Report no later than 60 days after the agreed upon project end date. Emphasis should be placed on research accomplishments and outcomes encompassing the entire project since initiation. The Final/Annual Report should include reference to the practical application(s) of the project and/or a list of deliverables available to Washington dairy producers.

No-Cost Time Extension

A no-cost time extension may be requested if additional time - beyond the established expiration date - is needed to complete the objectives proposed in the original application. Requests must be written and submitted no later than 30 days prior to the expiration date.

Disclaimer

The Washington Dairy Products Commission (WDPC) reserves the right to exempt some or all section(s) of this document as they see fit. The WDPC may exempt any proposal, at any time, for any reason from any or all of the aforementioned requirements. The WDPC does not provide compensation for proposal development and planning.

Contact

All parties interested in submitting a proposal for funding are encouraged to contact:

Jesse Robbins
Research Coordinator
jesse.wsdf@comcast.net
Cell: 206.930.9814

PI	Title	Cost
C. Schneider	The Effect of Injectable Trace Mineral Supplementation On Dairy Hutch Calf Health	10,230
J. Harrison	Nutrient Management, Environmental Stewardship, Nitrogen Utilization	20,000
S. Norberg	Yield, Feed Quality and Total Productivity of Soybeans for Hay and Forage Alone and Intercropped with Corn	49,000
L. Goddick	Milk Hauling Procedures and Impact on Milk Quality	57,561
A. Britten	Speciation of Spore Forming Bacteria in Bulk Tank Milk	12,000
N. Embertson	Effective Manure Testing Protocols for Optimal Nutrient Use on Dairy Farms	25,000
J. Wenz	How do you know if your cows are "clean and dry" enough to reduce clinical mastitis?	30,720



WDPC Pre-proposal Template

Proposal Title: Nutrient Management –
Environmental Stewardship – Nitrogen
Utilization

Principle Investigator: Joe Harrison

Today's Date: 7/20/2012

Email: jhharrison@wsu.edu

Phone: 253-445-4638

Address: 2606 West Pioneer, Puyallup, WA
98371

Total Estimated Budget: \$20,000

Duration (years): 1 year

Collaborators:

Fei Sun, Pius Ndegwa

1.) Purpose & Rationale of Study: The purpose of this study is to determine the nitrogen loss of manure during land application when diluted with varying amounts of fresh water. Due to the dry summers in Washington and the need for irrigation of crops, it is a common practice for dairy producers to add fresh water to their lagoon prior to land application. The impact that water dilution has on loss of ammonia from manure has not been documented. The livestock industry is coming under increased scrutiny with regard to losses of nitrogenous compounds (ammonia and nitrous oxide) to the atmosphere and the practice of manure dilution with fresh water might serve as a best management practice to minimize emissions. This study will document the effect of adding fresh water to manure prior to land application on emissions of ammonia.

2.) Timeline & Milestones: Three manure treatments will be evaluated in this project as follows:

- 1) dairy slurry without large particle solids (control),
- 2) dairy slurry without large particle solids diluted by 15 %, and
- 3) dairy slurry without large particle solids diluted by 30 %.

The 3 manures will be applied at 2 rates of application, $\frac{1}{4}$ acre inch and $\frac{1}{2}$ acre inch, for a total of 6 manure x rate of application treatments.

The manures will be applied to grass plots in duplicate for a total of 12 plots at each date.

Soil samples will be analyzed for pH and DM. Manure samples will be analyzed for pH, total N, ammonia-N, ash, and solids.

Data on losses of ammonia-nitrogen during on the day of field application will be completed in the summer of 2013. It is anticipated that data will be collected from ten manure application events.

Those wishing to submit a proposal are strongly encouraged to contact Jesse Robbins at:
206.930.9814 or jesse.wsdf@comcast.net



3.) Budget:

Funds are being request for staff time, supplies, and analytical costs.

Requested Funds - \$ 19,000: (1.5 fte staff time – \$13,000 - 12 weeks @ \$18/hr.; analytical costs and supplies - \$ 6,000.)

4.) Anticipated Outcomes & Practical Application:

The primary outcomes of this work will be:

Data to document the impact of dilution of liquid dairy manure without large particle solids on ammonia emission on day of land application.

5.) Expertise:

The project will be under the direction of Joe Harrison, Livestock Nutrient Management Specialist at WSU-Puyallup. Dr Harrison has 28 years experience with applied research in Washington State. He will be assisted by Dr Pius Ndegwa, Animal Waste Nutrients and Air Quality Specialist in Biological Systems Engineering at WSU-Pullman. Fei Sun will provide daily leadership for conduct of the research.

Those wishing to submit a proposal are strongly encouraged to contact Jesse Robbins at:
206.930.9814 or jesse.wsdf@comcast.net



WDPC Pre-proposal Template

**Pre-proposals must not exceed 2-single-side pages and use at least 11-point font.*

Proposal Title: Effective Manure Testing
Protocols for Optimal Nutrient Use on Dairy
Farms

Address: 6975 Hannegan Rd., Lynden, WA
98264

Total Estimated Budget: \$25,000

Principle Investigator: Nichole Embertson,
Ph.D., Whatcom Conservation District

Duration (years): 1 year

Today's Date: July 27, 2012

Collaborators: Whatcom Conservation District,
Agriculture and Agri-Food Canada, Custom
Dairy Services

Email: nembertson@whatcomcd.org

Phone: (360) 354-2035 x 126

1.) Purpose & Rationale of Study:

All dairy farmers practice nutrient management, both to meet regulatory requirements and as part of an effective fertilization program. Part of good nutrient management is applying manure nutrients at agronomic rates by matching crop needs to current manure nutrient availability. However, due to a lack of practical guidance otherwise, currently, the most common practice for determining manure nutrient is retroactively by taking a manure sample during application time and getting results a week later, or by using the previous years results to calculate agronomic rates for the current year. Both of these methods lead to inaccurate nutrient value estimations and application rates, which waste a valuable resource. The purpose of this study is to create defensible, practical protocols for manure testing that deliver the best results in a timely manner for producers to accurately calculate agronomic application rates throughout the year.

The activities of this project will include a manure correlation survey, exploration of manure nutrient values throughout the dairy system, and creation of a useful manure sampling protocol. The first objective is to work with local labs (i.e., Custom Dairy Services), consultants (i.e., Co-Op, N3), and farmers to acquire manure sample results from the last 5-10 years. The anonymous data set will be used to find correlations between variables such as individual analytes (i.e., N, P, K), time of year, lagoon type, etc. These correlations will be used to set up an on farm sampling strategy to look at variability within manure collection/storage areas (i.e., cow, barn, pit, lagoon) and time of year. This leads to the second objective, which is to follow the manure stream through selected farms to find the best protocols and methods to most accurately predict or test current manure nutrient values. This will help us determine the best time and place to take samples and determine if dilution calculations and meteorological values can be utilized to predict seasonal changes in nutrients. Additionally, we will explore the variability in the system and

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assess the precision to which manure application rates can be determined, and if this is practical. The final project objective is to take this information and develop standard manure testing protocols for producers to most accurately determine their manure nutrient needs prior to application to fields. This information will be disseminated to producers and consultants throughout the Puget Sound region.

2.) Timeline & Milestones:

This project will be conducted over the course of one year starting January 2013, or whenever funding awards are made. The following bullet points outline a rough timeline of events. Per project requests, in addition to items listed, regular reporting requirements will be met in throughout the project.

January 2013 – Ongoing: Identify test farms and begin taking manure samples on a monthly basis from all parts of the system to get a seasonal characterization of nutrient values.

January – Ongoing: Submit requests for previous manure lab test results and in-field measurement results. Begin analysis as soon as data set is compiled.

October – November: Develop manure sampling protocols based on lab test assessment and analysis results.

December: Present results to producers, planners, and consultants through a seminar/workshop, email, report, and other outreach media.

December 2013: Completion of project.

3.) Budget:

A preliminary budget calculation shows we will request around \$25,000 (Lab sample analysis = \$20,000 (400 @ \$50 each); hourly help = \$2,500; field supplies = \$2,500). If approved, this value will be tuned to within a small margin of variance for the full proposal.

4.) Anticipated Outcomes & Practical Application:

The anticipated outcome of the project is the development of sound manure testing protocols for dairy farmers to make more accurate and defensible manure applications. This will help them meet the requirements of nutrient management, as well as be more protective of surface and groundwater resources by helping to mitigate over application of nutrients. More importantly, it will assist producers in maximum utilization of a valuable fertilizer product that can help increase crop yields and production.

5.) Expertise:

The principle investigator and lead scientist, project designer, and project manager is **Nichole Embertson, Ph.D.** Nichole is a nutrient management and livestock environmental management specialist with the Whatcom Conservation District. Her focus is on sustainable production practices within dairy operations and she has been working with producers in research and outreach for over 10 years. **Chris Clark, PE** will be conducting the nutrient calculations and correlation analysis. Chris is a professional engineer with the Whatcom Conservation District and has over 20 years of experience working with dairy producers in addition to working his own farm. Outside assistance with testing protocols, and data assimilation and analysis will be solicited from **Shabti Bittman, Ph.D.**, a research scientist and waste management expert with Agriculture and Agri-Food Canada.

Those wishing to submit a proposal are strongly encouraged to contact Jesse Robbins at:
206.930.9814 or jesse.wsdf@comcast.net

**Washington State Dairy Federation
Board of Directors Meeting
Tuesday, January 29, 2013
Red Lion Hotel, Olympia
(Approved)**

**January 29, 2013
WSDF Board Meeting
Call to Order: 10:10 am**

A regularly scheduled meeting of the Washington State Dairy Federation Board of Directors was held on Tuesday, January 29, 2013 at the Red Lion Hotel in Olympia, Washington. President Tony Freeman called the meeting to order at 10:10 am. Jim Heeringa gave the invocation. Introductions were given.

Roll Call: Tony Freeman Jon De Jong Walt Abplanalp
Steve Vander Haak Ed Zurcher John Brunoff
Chris Sybrandy Tom DeVries

Absent Board Members:

Rex Chamberlain, Bill Scheenstra, and Tony Veiga

Guest Attendees: Robert Smit, WDPC Commissioner; Janet Leister, WDPC General Manager; Genny DeRuyter, WDPC Commissioner; Larry Slap, Dairy Producer; Jim Heeringa, Dairy Producer (outgoing treasurer)

WSDF Staff Attendees: Jay Gordon, Executive Director; Dan Wood, Director of Government Affairs, Lauren Lucht, Intern; Wendy Richmond, Office Manager

Elections

Tony Freeman requested nominations for President.

ACTION: STEVE VANDER HAAK MOTIONED TO NOMINATE CHRIS SYBRANDY FOR PRESIDENT. WALT ABPLANALP SECONDED. THE MOTION CARRIED BY VOICE VOTE.

Newly elected President Chris Sybrandy requested nominations for Vice-President.

ACTION: TOM DEVRIES NOMINATED TONY VEIGA FOR VICE-PRESIDENT. TONY FREEMAN SECONDED. THE MOTION CARRIED BY VOICE VOTE.

Chris Sybrandy requested nominations for Secretary/Treasurer.

ACTION: TONY FREEMAN NOMINATED STEVE VANDER HAAK FOR SECRETARY/TREASURER. TOM DEVRIES SECONDED. THE MOTION CARRIED BY VOICE VOTE.

Tony Freeman asked if the Federation has filled the Western Washington Ex-Officio position. Jay Gordon responded it is at the discretion of the President.

EXHIBIT NO. 229
NAME Gordon
DATE 6-25-2014 KRH

WSDF000347

CONSENT AGENDA:

Meeting Minutes: Chris Sybrandy asked members to review the minutes from the last meeting:

ACTION: TONY FREEMAN MOTIONED TO ACCEPT THE MINUTES. TOM DEVRIES SECONDED. THE VOTE CARRIED BY VOICE VOTE.

Membership Report:

A discussion took place regarding the small list of non-members in the report and it was determined the Federation will send out a list of non-members to the Board of Directors.

ACTION: TONY FREEMAN MOTIONED TO ACCEPT THE MEMBERSHIP REPORT. TOM DEVRIES SECONDED. THE MOTION CARRIED BY VOICE VOTE.

Financial Reports:

Jim Heeringa reviewed the financial reports through the end of year stating we show a loss for December, but a year end gain. He explained that funds in Account 6120 were authorized and used for the EPA issue/comments in Yakima for expert attorney advice. He also explained the reserve accounts and Larry Stap asked if the attorney fees came out of the reserve accounts, and Wendy Richmond said no, the Federation used existing funds in the checking account.

ACTION: STEVE VANDER HAAK MOTIONED TO ACCEPT THE FINANCIAL REPORTS AS STATED. ED ZURCHER SECONDED. THE MOTION CARRIED BY VOICE VOTE.

Budget Revision Review:

Jay Gordon discussed the reasons for the budget revisions and said this is not an increase in the Federation's budget, but moving funds around in the accounts. With the addition of Dan Wood, significant dollars moved to accommodate the increase in the Gross Wages account. Jay went through the changes account by account as shown on the spreadsheet handout.

Discussion took place on the reduction of funds in Acct No.6147 Strategic Planning of whether a one day meeting or two day would benefit the most. Chris Sybrandy suggested to table this discussion until later in the afternoon under new business.

Correspondence

Jay Gordon directed people to review the correspondence which included the contracts for Field Staff in 2013.

WDPC Report

Janet Leister thanked the Federation for the opportunity to attend kitchen meetings the last several months. She noted handouts and shared detailed effort of WDPC work with the nitrate and air issues in the Yakima region. Chris Sybrandy asked how WDPC gets the media to publish dairy stories. Janet explained that Mark Leader is a traditional newspaper reporter, and he will write the story, and review each story with Blair Thompson and Jay Gordon before calling his contacts with the media. She said that there are times the media accepts the article and other times they will not. Some stories are paid, others are not. She noted WDPC will coordinate the article with current

issues in regional areas.

Janet Leister said the good news on the bovine tuberculosis issue is the initial testing shows a 1 – 4% false positive result. WSU now has the cows at their facility for further testing. She said the Groening farm in Monroe did not have any false positives.

Janet said there were 44 stories nation and statewide on this issue and they are working with DMI as well. She noted it looks like the disease is self-contained. She also noted the Bovine Issues Working Group continues to monitor and work together, and that all communication is going through Hector Castro of WSDA.

Janet warned that the FDA Antibiotic Residue testing will publicize their findings in February. With this stepped up testing, WDPC is working the social media side to assure the public that Washington dairy products are healthy. Jay Gordon explained that FDA decided to test for 27 substances (16 of them are approved) to a substantially higher level than the standard scale of two parts per billion. He noted no other entity has the capability to test to this new level. He said the concern is substances found in milk and how to explain to the consumer the differences in the testing, and that the dairy product is safe to consume.

Larry Stap noted he has to test his milk continually and with the least sensitive testing methods. He is not allowed to write actual test results, just note as "not found."

11:46 am Adjourned for lunch

12:41 pm Meeting Reconvened

Legislative Report

Dan Wood referred the Board to the agenda packet and the latest legislative news report and bill tracking list. He said his goal is to get reports out the membership on a regular basis and noted at this point there are 737 bills introduced. Included in this list are a number of "wolf bills" that the Federation will be monitoring. Dan said the Federation's emphasis will be on the Voluntary Stewardship Program (VSP), both to find more funding from the State and to educate new and old Legislators on the benefit of this program. He noted the environmental community likes the Voluntary Stewardship Program (formulated by the Ruckelshaus Center) and that this program shields agriculture for the next 24 months. If it is not funded, it can drop out and then each county could go back to regulating their agricultural processes. He said the agricultural industry was successful in showing the environmental community they were not willing to be regulated, but will work on a voluntary basis. 28 counties have opted into the VSP program.

Chris Sybrandy asked if the 28 counties do not get funded or do not adopt the VSP program, if it will go away. Dan Wood replied yes that if they don't start the process and funding within an 18 month time frame, they will have to review and write their own regulations through the Growth Management Act. He stated that right now is it illegal to regulate critical buffer zones as the VSP program is written, but they need funding from the State.

Dan Wood said he continues to look for bills that affect the dairy industry and the tracking list will indicate whether the Federation supports, monitors, or opposes the listed bill.

Jay Gordon said there are positive trends toward flood control, both in the Chehalis and Yakima rivers. He noted he was appointed to a Governor's Chehalis River Committee to help come up with solutions and budget for flooding in the Chehalis valley. As a result, \$6 million was proposed for pre-permitting purposes for water retention and includes solutions for sewage treatment plants, fisheries, and critter pads. Jay said previous studies show water retention will lower the water level

by six or seven feet during flood season, and raise the level of the river for fisheries during the dry season. He commented the new phrase is "intelligent water storage." Dan Wood also commented that what is extraordinary is the mind shift that it is Ok to manage rivers. He said our neighbors in British Columbia are content with their river management practices for the Fraser River.

Tail Docking Legislation

Jay Gordon summarized that the dairy industry in Washington has changed and stated their policies to "not endorse the practice of tail docking in the State." Even with these stated policies, legislation will be introduced and it may come as an amendment to the horse tail docking regulation, or be added to other animal cruelty legislation. There may also be a stand-alone bill for tail docking that would go before the Agriculture Committee. Other introductions will go before the Judiciary Committees. Jay noted that NMPF's plan is to phase out tail docking in a ten year period. The Federation will monitor all tail docking bills introduced to the Legislature.

Research & Energy Program Report

Jay Gordon reported that 2013 has \$6.1 million cost share funding for energy audits. He urged and encouraged all dairy producers to participate.

Genny DeRuyter stated she is not convinced it is the best way to improve energy efficiency. She noted she has the results of her audit, but there is a lot of red tape to go through the NRCS process. Tom DeVries stated he is not sure he will follow through with the recommendations from his audit. Genny DeRuyter said the program sounds like a good idea, but they personally don't have the 70% to cover the costs of the recommendations, and she didn't have the time to review the audit that was received just days before the most recent deadline. Jay Gordon said 123 farms have signed up, counting those who are finished with the audits.

Jay Gordon stated one research project was funded for 2013 and it had to do with Milk Hauling Procedures and Milk Quality.

Robert Smit said in the Commissioners questioned the dollar amount of \$49,000 to study growing soybeans in corn rows as it seems to be a simple process. He also stated with the EPA issues in Yakima, the Commissioners were hesitant to use funds for research projects, especially when they are waiting for results from previous research projects. Genny DeRuyter noted crop research should be done by the seed companies, who routinely do their own research. She also noted they all looked for a uniform benefit to all the dairy industry when reviewing the research proposals.

Tony Freeman noted Jesse Robbins frustration with the lack of funded projects in 2013 and Tony commented Dr. Nordberg (soybean research proposal) does not do a good job selling his project. His \$49,000 proposals included agronomists, soil experts, etc. Tony said right now there is an 11% decrease in the alfalfa harvest, and protein forage is needed now. Genny DeRuyter commented they do not have the results from the last soybean research funded and they are trying to be conservative of the producer's money.

Genny DeRuyter said Jesse Robbin's effort is thorough and the process more professional. She emphasized the importance to present the research proposals to the Federation Board and other producers to help the Commissioners make decisions regarding the projects proposed. Genny also said the research approved for 2013 originally proposed \$58,000 for a two year study and they were granted \$29,000 for a one year study.

Further discussion took place and it was suggested WSDF Board provide detailed review and comments. It was also noted this topic will be addressed at the strategic planning meeting and at

the April Joint Board meeting.

5 Director Talks

Jay Gordon explained this agriculture topic originally began with three directors and expanded to five. This issue launched because of Dept. of Ecology's concern in the Nooksack and Samish river basins and the dairy farms in the region. Sen. Mark Schoesler directed that DOE, WSDA and the Conservation Districts find solutions to water quality to regulate non-point pollution sources. All agencies were to write new rules, and some of the original language included "potential to pollute," but they eventually came back stating there were not going to take regulatory steps at the time, and will look further into the Voluntary Stewardship Program. The Dept. of Ecology's proposed 2013/2015 budget includes writing new regulations, and the Federation's effort will be to direct \$500,000 of those funds toward the VSP program.

Tom DeVries said inspections have lessened in the last two years and that we need to have our farms inspected on a regular basis so documentation is in place to protect the dairy producer. He also emphasized producers need timely inspections especially in light of the EPA Lower Yakima Valley Nitrate Report and emphasis in the valley.

EPA Lower Yakima Valley Nitrate Issues

Jay Gordon stated he and Dan Wood met recently with Dennis McLerrin and Bill Dunbar of EPA and the meeting was bizarre, depressing and potentially optimistic. McLerrin said the ground water issue is easy and should be wrapped up in 30 days or less with the five farms ready to sign the consent agreement. Jay noted if the farm families sign the consent agreement, they acknowledge they are responsible for toxic substances and it will open the door to potential litigation. Jay said a ride in the elevator with Bill Dunbar after the meeting had a positive note to it. Dunbar told Jay and Dan that in case they hadn't picked it up, the original consent agreements were a strategic mistake and EPA is trying to solve their problem.

Jay Gordon noted other word about EPA is they confronted the Yakima Tribal leadership for commenting on the issue. NRCS was also confronted and asked to retract their comments as well. NRCS wrote back saying no, they will not retract their comments.

Jay said that he and Dan Wood let Dennis McLerrin know that we are funded up and have the resources to go to court if need be. Dan and Jay asked what policies would need to take place to walk away to the satisfaction of all parties and they were told third party manure application monitoring would need to be established. McLerrin was told no on this point.

Jay Gordon also said NMPF has hired an environmental expert who knows a number of USDA management. They are using their influence to promote Regional Director Roylene Rides At The Door and the NRCS scientific review and comments.

Tom DeVries asked if EPA has backed off of the stringent lagoon standards. Jay Gordon said yes, but as he understands it, the language is vaguer, which is more troublesome.

Jay Gordon also stated the environmental activists stepped down from the GWMA board in Yakima which may indicate a civil lawsuit is imminent for the five dairy farms.

Tony Freeman said he is on the Advisory Committee for the Dairy Farmer Advocacy Committee a legal-defense-fund and the first meeting is February 5, 2013. He noted one farm family called him and stated they are not as financially healthy as others might think. He said this issue affects all dairy producers across the country.

Tom DeVries asked what states have helped financially and Jay replied that Texas has offered legal expertise. Tom DeVries said he was told the Texas Association says they are interested in contributing to the fund. Jay Gordon stated New Mexico also matched \$5,000 in research for comments. Tony Freeman said the process to fund this legal organization is challenging. Larry Stap asked why WSDPTA wouldn't be used to establish a legal fund since they represent the Western States. Tony Freeman commented it would be beneficial to get this as big and wide as we can, to benefit producers in the West.

Ed Zurcher asked if FCC and Tillamook Coop's are on board in the legal funding effort and Jay Gordon said that since they are Coop's they need to talk between themselves and then be worked into the process. Jay Gordon also stated Idaho is giving ½ cent toward the legal fund and that another ½ cent is already going to IDEAL.

Animal Disease Traceability

Lauren Lucht gave a presentation regarding Animal Disease Traceability. She noted her goal is to support the innovation attempts of WSDA. Programs called Fort Supply (which will convert the brand system) and Animal Tracks (which will be used by Veterinarians) are being evaluated and considered. The cost to implement these programs is over \$400,000 and the first year fees would be approximately \$185k. Subsequent fees annually would range approximately \$135k. Funding would be provided by the Legislature and a per head fee. The Fort Supply software takes in owner and brand information and converts it into an electronic system. Reports would be issued by the seller and by the purchaser to double check tracking. She noted the latest case of tuberculosis is an argument against the 15 head dairy cattle exemption. The Federation may propose a self-reporting system to add and enhance the existing WSDA system. As an example, Wisconsin's Dairy Federation houses the data and shares its information with the Wisconsin Dept. of Agriculture.

She noted the possibility for in-house tracking of the 15 head exemption would be approximately \$12,000 per year, and she is also looking into programs that will work with DHI Provo and Valley Ag Software as well. Lauren also said out of the 147 people who responded to the dairy survey on private sales, there are approximately 13,000 private transactions every year. Further discussion took place.

2013 Revised Budget

Chris Sybrandy requested approval of the revised budget.

ACTION: THE BUDGET WAS APPROVED BY VOICE VOTE.

Strategic Planning

Dan Wood stated the strategic planning meeting would be a one day event and referred the board members to the rough draft schedule. He stated the intention was for a review and check in on how the industry is doing per the last strategic plan and the evening will focus on the Yakima region issues. Items include: How do we look forward? Do we defray the cost with co-hosts for the dinner? What is a good format for science focus? He said the Federation is looking at highlighting activities and utilizing staff leadership as a refresher for this year's meeting.

Discussion ensued and the consensus of a poll indicated that this year's strategic planning meeting be a one day event with a more narrow focus to include several board members from each group to work on inter-dairy group communication, roles and improved processes and policies.

It was suggested in the poll that if an EPA/Yakima region update needs to take place, it happen with a broader list of participants and at a different time - possibly dinner the 18th of April at the joint meeting in Yakima.

WSDA Nutrient Management Regulations

Jay Gordon stated since the Director's Talk discussion is on hold, WSDA is implementing new rules to allow the agency to implement fines and warnings for lagoons and dairy farm processes not in compliance with the Nutrient Management program. The penalty matrix includes recordkeeping and discharge to waters of the state violations. Previous legislation did not account for penalties or enforcement. He said the question has been asked how many Department requests for corrections may have been ignored, and said Ginny Prest indicated that it doesn't happen often.

Bovine Tuberculosis

Jay Gordon stated TB testing is on-going and it will take several more months of testing and retesting to clear the dairy herd of the disease.

WSDF Meeting Dates and Locations

Chris Sybrandy requested approval of the 2013 dates and locations.

ACTION: THE 2013 WSDF BOARD MEETING DATES WERE APPROVED BY VOICE VOTE.

Western States Dairy Producers Trade Association

Jay Gordon reported on the upcoming air symposium that WSDF is co-sponsoring.

ACTION: TONY FREEMAN MOTIONED TO REQUEST A \$2,500 SPONSORSHIP FROM WDPC FOR THE AIR SYMPOSIUM IN APRIL. STEVE VANDER HAAK SECONDED. THE MOTION CARRIED BY VOICE VOTE.

ACTION: TONY FREEMAN MOTIONED TO REQUEST A SPONSORSHIP FROM DARIGOLD FOR THE AIR SYMPOSIUM IN APRIL. JON DEJONG SECONDED. THE MOTIONED CARRIED BY VOICE VOTE.

ODFA Annual Convention

Jay Gordon announced the ODFA Annual Convention is in Salem, Oregon on February 25th and 26th.

The meeting adjourned to Executive Session at 4:50 pm

The meeting reconvened at 5:13 pm.

ACTION: ED ZURCHER MOTIONED TO AMEND THE FEDERATION'S HEALTH CARE POLICY AS FOLLOWS: MEDICAL INSURANCE IS PROVIDED TO FULL TIME/PERMANENT EMPLOYEES OF WASHINGTON STATE DAIRY FEDERATION WHO WORK AT LEAST 120 HOURS PER MONTH SHOULD THEY DESIRE COVERAGE. PREMIUMS ARE SET BY THE INSURANCE CARRIER. CURRENTLY WASHINGTON STATE DAIRY FEDERATION PAYS EITHER A) 100% OF THE EMPLOYEE PREMIUM NOT TO EXCEED THE BUDGETED AMOUNT PER EMPLOYEE HEALTH CARE EXPENSES OR: B) WILL DEPOSIT INTO A HEALTH SAVINGS ACCOUNT A MONTHLY AMOUNT NOT TO EXCEED THE BUDGETED HEALTH CARE EXPENSES, PROVIDED THAT THE EMPLOYEE PURCHASES A QUALIFYING HIGH DEDUCTIBLE HEALTH SAVINGS PLAN FROM SUCH AN ACCOUNT. THE EMPLOYEE IS ELIGIBLE FOR MEDICAL INSURANCE ONCE THE FOLLOWING CRITERIA ARE MET:

- 4) THE EMPLOYEE MUST SIGN UP FOR THE COVERAGE IMMEDIATELY**

The meeting adjourned at 5:15 pm and the Legislative Reception followed.

Respectfully submitted by
Wendy Richmond, Recording Secretary

**Washington State Dairy Federation
Board of Director's Conference Call
February 20, 2013**

Present: Chris Sybrandy, Tony Freeman, Tony Veiga, Steve Vander Haak, Ed Zurcher, Walt Abplanalp, Jon DeJong, Jay Gordon, Dan Wood, and Wendy Richmond

Absent: Rex Chamberlain, Bill Scheenstra, John Brunoff

Chris Sybrandy called the conference call to order at 12:05 pm

WSDF VEHICLE LEASE

Jay Gordon gave a summary of the savings to lease a vehicle versus paying out mileage for Federation staff. He suggested the Federation lease a 2013 Honda Insight for two or three years and then either pay off the vehicle at the end of the lease or lease another vehicle. He explained the lease option is better for Federation accounting and reporting requirements, and a lease would save the Federation approximately \$3,000 per year in transportation costs.

ACTION: TONY VEIGA MOTIONED THE FEDERATION LEASE A 2013 HONDA INSIGHT TO REDUCE STAFF TRANSPORTATION EXPENSES. JON DEJONG SECONDED. THE MOTION CARRIED BY VOICE VOTE.

ADT LEGISLATIVE BILL TO BE PRESENTED FEBRUARY 21ST 2013

Jay Gordon explained the bill as written will codify the Green Tag process and put it in State Statute, and it will require every calf to have an official ID. This bill will stipulate that if producers are unable to provide documentation for each animal, then the State will keep the money instead of sending it on the producer after ninety days, as is the process today.

Chris Sybrandy requested voice vote of all those in favor of endorsing the legislation. None opposed.

TAIL DOCKING

Dan Wood reported he is watching the legislation on tail docking and believes he is staying ahead of the bill.

YAKIMA AND EPA

Jay Gordon gave a summary of recent events for the four farm families. He noted they believe they have an agreeable consent decree with EPA. He said he has not seen the revised agreement but was told the requirements are very close to what the producers and Federation have been asking for. Jay said he and Dan Wood met with the families last week. The families reported he had not heard from Darigold with regard to the he had not heard from Darigold with regard to the legal fund; Jay stated the farm families are composing a letter of request to the

EXHIBIT NO. 230
NAME GORDON
DATE 6-25-2014 KRN

WSDF000439

Federation asking for assistance with the pending lawsuit from CARE. Jay also noted IDEAL passed a resolution to help with this issue on a 50/50 basis with the Washington dairy producers, and are looking for Washington to begin a legal fund process.

Tony Freeman said it has been two weeks since the Dairy Farmer Advocacy Committee meeting was held, and still no word to the farm families. He noted Darigold has already allocated \$2 MIL although it may not all be used for these four farm families current situation with EPA. Further discussion took place in regard to the possibility of using the Washington Agriculture Legal Foundation (WALF), Darigold's contribution and fund raising activities.

ACTION: TONY VEIGA MOTIONED THAT WSDF STAFF ARE DIRECTED TO TAKE ALL ACTIONS NECESSARY TO PREPARE WALF, ALLIES AND WSDF TO DEFEND AGAINST PENDING ACTIONS AGAINST DAIRY PRODUCERS. ED ZURCHER SECONDED. THE MOTION CARRIED BY VOICE VOTE.

WASHINGTON COMPACT

Jay Gordon and Tony Freeman gave a background on the Washington Compact. Discussion took place on the effectiveness of the statement and the process moving forward.

ACTION: TONY FREEMAN MOTIONED TO SUPPORT THE WASHINGTON COMPACT STATEMENT AS WRITTEN ON FEBRUARY 20, 2013. WALT ABPLANALP SECONDED. THE MOTION CARRIED BY VOICE VOTE.

WHATCOM COUNTY

Jay Gordon noted Whatcom County dairy producers are once again receiving inspections by EPA.

WSDF BOARD MEMBERS ATTENDANCE TO THE WDPC COMMISSIONER MEETINGS

Tony Freeman said, after discussions with WDPC Commissioners, WSDF needs to have two board members attend each of the WDPC meetings. He asked that Wendy Richmond call members to make arrangements and Wendy agreed to do so.

Respectfully submitted by

Wendy Richmond
Recording Secretary

Legislative and Regulatory
Activity Update
September 23rd, 2013

Federal-

- **Helped coordinate Western States Dairy Producer Trade Association meeting in Portland August 27th and 28th.** Total attendees were around 100 - from across the west. Goals of meeting:
 1. Update on any possible action to help push Farm Bill and Immigration (consensus is that neither bill have much chance until year end.)
 2. Build understanding about the situation in Yakima.
 3. Understanding how bankers view dairy farmers in this new world of financing rules.
 4. Build relationships in the west between Trade Associations, National Milk Federation and Cooperatives, especially regarding environmental issues.
 5. Board and producers celebrate partnership built, relationships improved and service to dairy farmers by two retiring Western Dairy Executives.

State

- **Coordinated Tour and Discussion in the Samish** – Hosted Ecology Director Bellon, Ag. Director Hover, Interim Director of Puget Sound Partnership (PSP) Marc Daily, Chair of PSP Martha Kongsgaard and Director of Conservation Commission Mark Clark, also attending – Cattlemen, Western Washington Ag Association, Farm Bureau, Skagit farmers, WSU Whatcom staff, Ecology staff, WSDA staff, Bill Taylor (nation's largest private shellfish farmer), Kevin Morse-Skagit Nature Conservancy, Skagit County staff and Skagit Commissioner Wesen. Attendance 37. --- Goals---
 1. Discuss recent efforts by EPA, NMFS and NW Indian Fish Commission to restrict federal incentive dollars in Puget Sound to only farmers willing to give up to 150 foot buffers (as per NOAA buffer table).
 2. Discussion about what's working and what's not with the Clean Samish Process - A community based watershed clean-up effort.
 3. Get an on ground perspective from Dairy Farmers, Crop farmers, cattlemen for Ecology, WSDA, PSP and the Conservation Commission regarding how it feels to once again be threatened with big dumb buffers and other things.
- **Coordinated Meeting in Yakima with Director Hover and 2 Yakima Dairy families** – September 17th – Bill Dolsen, Dan and George DeRuyter, Dan Wood, Tom DeVries, Ted Maxwell, Ginny Prest and Julie Morgan- WSDA – Goal: Help Director Hover and AD Morgan understand the perspective of two of the four families involved in the EPA situation. Director Hover was very impressed with the quality and innovation of these farms.
- **Meetings with Puget Sound Natural Resources Committee in the Nooksack** – Jay spent full day listening to Lummi Tribal members about sediment problems in lower river. Same day, Fred Lickel was at a Whatcom Sediment Management meeting with County and Lummi and Nooksack Members to talk about project to manage sediment in upper Nooksack. Lots of siltation- no action is consensus of both farmers and Lummi members, both are tired of both.
- **Kitchen meeting in Whatcom** to talk with producers and county leaders about concerns at local, state and national level. Excellent turn out. Conversation about buffers, water quality program focus west of Lynden as well as update for producers on the EPA/litigation in Yakima. Attendance 50+/-, Thanks Mike Schoeneveld for hosting.

EXHIBIT NO. 231
NAME GORDON
DATE 6-25-2014 KRRH

WSDFO00822

- **Robotics and Chehalis Flooding Video** -Worked with Blair Thompson, WDPC staff filming for Annual meeting. Excellent help from John Brunoff, Michelle Schilter, Pete Dykstra and the Austin Clan.
- **Meeting of the Nooksack water quality focus group** - working in the upper basin area west of Lynden and Drayton Harbor. Attendance was mostly Agency but a few farmers, Federation and Farm Bureau. Goal- Try and keep the water quality effort focused on improving water quality instead of putting scalps on an agency wall.
- **Yakima Regional Air Agency Rulemaking** – Spent last week of July and early August working with air specialists and lawyers working on position regarding the rulemaking proposal to ban manure applications during burn ban days in Yakima County. Result is YRCAA stopped the rule making, will focus on dairy air BMP program in Yakima.
- **Animal Disease Traceability**- Lots of issues and concerns since the green tag bull calf rules and laws went into effect. Spent a fair bit of time working with producers and listening to problems with the program. Communicated to Director Hover and WSDA staff that this green tag program and the brand fees associated with calf slaughter plants has virtually made the jersey calf market extinct. WSDA is working on concerns, WSDA needs to do a bit more recon and then send a formal complaint to WSDA about the 4 dollar per head charge they are charging the slaughter plant in central Puget Sound. Green tags do not appear to be helping with California market or helping with traceability. Not good in any regard. Jay & Dan met with Director Hover and staff

Up coming work and discussions-

- **ADT discussion with Director Hover, October 1st.** – Full discussion about implementation of the \$881,000 for WSDA to develop a good computerized ADT system. The discussion will inevitably involve both implementation and policy, such as brand inspections, exemptions, etc. The best outcome is a well-operated electronic reporting system that does not require a brand inspection.
- **VSP as preferred pathway to EPA/NOAA buffer issues-** The Voluntary Stewardship Program was the negotiated solution to increasing habitat and water quality improvements in basins around the state. Efforts by EPA, NOAA and NWIFC are to undermine and shove a regulatory buffer at all farms. Must get more funding for more VSP counties. Also must assist Thurston and Chelan Counties with implementing their VSP programs, they are the first of these 28 counties to go through VSP process.
- **EPA –** Continues back-channel, ignorance based (rather than science based) arm twisting tactics. Need to call them out and make EPA & NRCS require science based conversation! EPA's latest is to try imposing their ideas as requirements in the NRCS 590 standards, including:
 1. No fertilizer applications within 100 feet of any water body.
 2. No manure application during an air inversion!!! (Wonder where that idea popped up from?)
 3. Eliminating the "Winter Manure Application" guideline that was developed with the help of Dr. Harrison and Dairy Research funding.

Additional work with other associations on events, policies, Annual Meeting, legislative session preparation, etc.



Darcel Nootenboom <darcel.wsd@gmail.com>

Conference Call

11 messages

Mike Kohler <mikakohler2008@gmail.com> Tue, Sep 24, 2013 at 12:56 PM
 To: Bob Naerebout <bob@wds.us>, Brad Balemas <bmf@digis.net>, Brian Esplin <esplin@ida.net>, Dan Wood <danwood.wsd@gmail.com>, Jay Gordon <wsd@msn.com>, Jim Wegner <jim.wegner@darigold.com>, Mike Anderson <manderson@farmerscoop.org>, Steve Rowe <steve.rowe@darigold.com>, Tony and Brenda Veiga <tveiga@embarqmail.com>
 Cc: Darcel Nootenboom <darcel.wsd@gmail.com>

Gentlemen

Here is a short (amendable) agenda for our conference call Thursday, September 26, at noon, pacific time. The call should be short as we discuss preliminary plans to help raise funds for the Yakima dairies. Please plan to join the call. Call me prior the call if you have questions.

Thanks for helping.

Mike Kohler

Coordinator, Western States Dairy Producers Trade Association

801-420-0158

Introductions

Fund raising plan

Suggestions on contact companies

Discussion on presentation to those companies

Next call date.

Conference Call Number 860-208-2831

Room Number *5672092*

Darcel Nootenboom <darcel.wsd@gmail.com>
 To: Tony Veiga <tony.veiga@yahoo.com>

Tue, Sep 24, 2013 at 1:08 PM

Just wanted to make sure you got this at your yahoo address.

Darcel Nootenboom
 Office Manager
 Washington State Dairy Federation
 360-482-3485
 [Quoted text hidden]

Tony Veiga <tony.veiga@yahoo.com>
 To: Darcel Nootenboom <darcel.wsd@gmail.com>

Tue, Sep 24, 2013 at 1:14 PM

Got it!!

Sent from my iPhone
 [Quoted text hidden]

Bob Naerebout <bob@wds.us> Tue, Sep 24, 2013 at 4:35 PM
 To: Mike Kohler <mikakohler2008@gmail.com>
 Cc: Jim Wegner <jim.wegner@darigold.com>, Brad Baleman <bmf@digis.net>, Steve Rowe <steve.rowe@darigold.com>, Jay Gordon <wsd@msn.com>, Tony and Brenda Veiga <tveiga@embarqmail.com>, Mike Anderson <manderson@farmerscoop.org>, Brian Esplin <esplin@ida.net>, Dan Wood <danwood.wsd@gmail.com>, Darcel Nootenboom <darcel.wsd@gmail.com>

I will not be on the call ...meeting with UDA at that time.

[Quoted text hidden]

Darcel Nootenboom <darcel.wsd@gmail.com> Thu, Sep 26, 2013 at 8:46 AM
 To: Mike Kohler <mikakohler2008@gmail.com>
 Cc: Bob Naerebout <bob@wds.us>, Brad Baleman <bmf@digis.net>, Brian Esplin <esplin@ida.net>, Dan Wood <danwood.wsd@gmail.com>, Jay Gordon <wsd@msn.com>, Jim Wegner <jim.wegner@darigold.com>, Mike Anderson <manderson@farmerscoop.org>, Steve Rowe <steve.rowe@darigold.com>, Tony and Brenda Veiga <tveiga@embarqmail.com>

Reminder!! The conference call is today at noon. The numbers you'll need are below.

Conference Call Number 866-206-2831

Room Number *5672092*

Agenda:

NOTES: CONFERENCE CALL 9/26/13 @ NOON
YAKIMA LAWSUIT FUNDRAISING

Present: Mike Kohler, Brian Esplin, Tony Veiga, Mike Anderson, Dan Wood, Mark Gibbons. Jim Wegner not present; nor is Jay Gordon, as he is at Darigold making a request for funding.

Tony Veiga: a motion was approved at WSDPTA to grant permission to use trade names to get the word out. We are here to talk about how to move forward and get a commitment for money to protect industry which is under fire. Would like to see a committee formed to educate and solicit money from companies.

Ideas to go forward:

- Go to co-ops to help us
- Publication, outreach & education for industry so they know how this issue affects them; perhaps national magazines.
- Advice from a fundraiser -- Dan Wood
- Use a pamphlet & power point -- Dan Wood, maybe make existing powerpoint more professional.
- Goal: \$5 million
- National Milk notification
- Spokesman for group: Dan Wood. Will need to work on budget to cover travel expenses

Committee of Dan, Tony, Mike, & Mark stayed on the call to discuss the plan/outline on how to proceed.

EXHIBIT NO. 233
NAME GORDON
DATE 6-25-2014 MRH

WSDF000011

[Print](#)[Close](#)

Re: Letter & Financial -- Yakima Litigation

From: **Michael Anderson** (manderson@farmerscoop.org)
Sent: Sun 11/24/13 8:11 PM
To: Washington State Dairy Federation -- (wsdf@msn.com)
Cc: manderson@farmerscoop.org

Thanks. This will help a lot with my presentation to the FCC Board.

I will try to get a commitment from the FCC Board on some additional consideration tomorrow

I did a lot of hallway and peer discussion of this issue in Phoenix and it would be nice to see the effort result in some new partners. Thought Bob did a great job with the time he had.

Appreciate all of the hard work you all are putting in to keep this going.

Mike

On Nov 24, 2013, at 6:56 PM, Washington State Dairy Federation -- <wsdf@msn.com> wrote:

Mike,

Below and attached is Dan's background and financial update that we just sent to the Darigold funding committee. They meet on Tuesday. I am hopeful that they will vote to start funding going toward the legal action. Up to now they have been sending funds to the families to help with the EPA compliance costs...(Darigold has helped with around 500k of the total compliance costs that I hear are in the 2.2 million range for the families)

We will also be sending out the backgrounder to a number of organizations that Tony Viega and Western States has been working to get us in front of..

As for NMPF, I haven't talked to Bob to see if he has gotten any new leads or invitations from the presentation at NMPF.

I still have Tillamook and Land o Lakes on my list to work on getting time. Haven't seen anything else tangible from the NMPF meeting.

The Texas Association is meeting in early December and we are hoping they will join in with some funding...but not sure what to expect.

Thanks for all your help and the understanding and support from your board.

CREDIT NO. 234
NAME GORDON
DATE 12-25-2014 KRN

Jay Gordon
Executive Director
Washington State Dairy Federation
Elma, Washington
360-482-3485

From: danwood.wsdf@gmail.com
To: DanCoyne@CoyneJesernig.com; wsdf@msn.com
CC: DanWood.wsdf@gmail.com
Subject: FW: Letter & Financial -- Yakima Litigation
Date: Sun, 24 Nov 2013 18:40:41 -0800

Dan,

As you can see from the attached, the total billings for the Yakima litigation have been \$387,328.26 and payments have been made of \$295,015.10.

The current amount owed is \$92,313.18. Almost \$57,000 of that amount is the portion assigned to the Washington Agriculture Legal Foundation.

With leadership from Western States Dairy Producers Trade Association, which has made this case a priority project, we are about to go out to numerous contacts asking for their consideration of an immediate contribution and follow-up contributions.

The case is expected to cost about \$1.2 – 1.5 million in the first phase. We have been briefing a national property rights legal foundation and fully expect them to take the case (and expenses) upon appeal.

Attached is the letter that will go out to partners this week, as well as the financial billing and payment summary. (the numbers have a variation of \$.02 due to rounding in Excel on two separate lines)

Please let me know if you need additional information.

5/8/2014

Outlook.com Print Message

Thanks,

Dan Wood

Director of Government Affairs

Washington State Dairy Federation

360-870-6018

DanWood.WSDF@gmail.com

<20131124_211442.pdf>

<20131124_211418.pdf>



WASHINGTON AGRICULTURE LEGAL FOUNDATION



Washington State Dairy Federation

IDAHO IDA
dairymen's association

February 2014 Update

To: Friends of Agriculture

RE: National Legal Battle over Future of Agriculture

In the middle of Washington State, extremists are waging a national battle that will affect the future of dairy, livestock and other agriculture.

The battleground is the federal courtroom. And one dairy has already fallen in the lead-up to the lawsuit.

The activists are asking the courts to rule that livestock manure should be regulated as a toxic waste and farms treated as an illegal dump under the federal Resource Conservation and Recovery Act (RCRA).

They are running roughshod over private property rights in the process. We'll explain a little more about that in the summary of the case.

The purpose of this letter is to alert interested parties and seek assistance in funding the legal defense.

Congress never intended for RCRA to regulate livestock manure, and no court has ever ruled that it does.

In fact, the language in the law is abundantly clear. See 40 CFR 261.4(a).

(b) Solid wastes which are not hazardous wastes. The following solid wastes are not hazardous wastes....(2) Solid wastes generated by any of the following and which are returned to the soils as fertilizers: (i) The growing and harvesting of agricultural crops. (ii) The raising of animals, including animal manures.

Even so, the attorney for plaintiffs CARE (Community Association of Restoration of the Environment) brought suit in federal District Court in Yakima, Washington. They picked a fairly new District Court Judge in the Ninth Circuit Court of Appeals, the most liberal of all the circuits in the entire nation.

The activists are trying to set new devastating public policy by asking the courts to turn the plain language of the law on its head. They are asking the courts to do exactly the opposite of what Congress has enacted into law.

They targeted an area with elevated groundwater nitrates. The nitrates have been high for 80-100 years—long before dairies were prevalent in the area—despite local, state and federal efforts over the decades to identify the sources and find remedies. In fact, a Groundwater Management Area agency was formed with an advisory committee involving agriculture, all levels of government, environmental activists and any others.

EXHIBIT NO.

235

NAME

BORDON

DATE

6-25-2014

REV

WSDF000095

What impact will such a ruling have on the members served by your association?

As individual agricultural operators, could your business survive such a ruling?

The likely impact of such an adverse ruling is staggering.

That is why we must all join together in the defense in this case.

Leaders from WALF or IDEAL are available for presentations to decision-makers in any organization.

The time for support is now. Legal bills come in every month and the amounts of the bills will continue to increase as we prepare a vigorous defense.

Washington Agriculture Legal Foundation is 501 (c) 3 organization. Contributions for this case can be sent to:

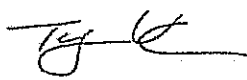
Washington Agriculture Legal Foundation
P.O. Box 1768
Elma, WA 98541

We will be glad to speak to you more on this case if you wish. Please use Dan Wood as your point of contact. He can be reached at 360-870-6018 or DanWood.WSDF@gmail.com.


Thank you for your interest.

We look forward to partnering with you in defense of the dairy industry, agriculture, and protection of our private property rights.

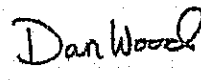
Sincerely,



Tony Veiga
Past President,
Western States Dairy
Producer Trade Assn.



Bob Naerebout
Executive Director
Idaho Dairyman's Assn.



Dan Wood
Director of Govt. Affairs
WA State Dairy Federation
Board Member
WA Agriculture Legal Foundation

P.S. WALF and IDEAL were formed years ago for this type of fight. We believe we can win in court and protect agriculture from these activists if enough funds are raised to provide the legal and scientific expertise needed in the courtroom.

Every month, new bills come in, and we need your help to remain current and continue the fight. Please make your most generous contribution today and also consider additional contributions to help maintain the cash flow needed to win.

JAY GORDON

How is Florida? When u back?

11/4/2013, 7:25a

How is Florida? When u back?

11/4/2013, 7:25a

Tomorrow night. I am ready.
Had voice message from Jake
D. I was going to let it wait.
How is WA?

11/4/2013, 9:27a

Tomorrow night. I am ready.
Had voice message from Jake
D. I was going to let it wait.
How is WA?

11/4/2013, 9:27a

type a text message

236
GORDON
10-25-2014

11/4/2013, 9:27a

Same old stuff here.

Had Roylene, mark Clark and
bud on podium last evening,
went well.

11/5/2013, 5:34a

Same old stuff here.

Had Roylene, mark Clark and
bud on podium last evening,
went well.

11/5/2013, 5:34a

Good to read.

11/5/2013, 6:41a

type a text message

JAY GORDON

11/5/2013, 6:41a

Good to read.

11/5/2013, 6:41a

Hey there. Can we visit soon?

11/7/2013, 2:27p

Hey there. Can we visit soon?

11/7/2013, 2:27p

Nice letter. Green light IMHO

11/8/2013, 8:21a

Nice letter. Green light IMHO

11/8/2013, 8:21a

type a text message

JAY GORDON

Nice letter. Green light IMHO

11/8/2013, 8:21a

Uhm. Long day. Headed to
Wesens tomorrow 1 pm ish.
Really could use scd I think.
You did a great job today in
590 discussion

11/19/2013, 8:03p

Uhm. Long day. Headed to
Wesens tomorrow 1 pm ish.
Really could use scd I think.
You did a great job today in
590 discussion

11/19/2013, 8:03p

type a text message

11/19/2013, 8:03p

Jay --Stu has contacted me about the 590 discussion for WDF, CD, ETC at Snipes. I have offered putting out doodle poll. What days will not work for you between Dec 9 - 20

11/26/2013, 11:20a

Jay --Stu has contacted me about the 590 discussion for WDF, CD, ETC at Snipes. I have offered putting out doodle poll. What days will not work for you between Dec 9 - 20

11/26/2013, 11:20a

type a text message

JAY GORDON

pm. what days will not work
for you between Dec 9 - 20

11/26/2013, 11:20a

9-10-11-12 are shot.

I may be in east wa. On 18th in
pm.

Lunch the 18 would be good
start date.

11/26/2013, 11:43a

9-10-11-12 are shot.

I may be in east wa. On 18th in
pm.

Lunch the 18 would be good
start date.

11/26/2013, 11:43a

type a text message

JAY GORDON

I may be in east wa. On 18th in
pm.

Lunch the 18 would be good
start date.

11/26/2013, 11:43a

Jay

Just a Happy Thanksgiving to
you and yours. And have a
terrific trip to cabo

11/27/2013, 5:14p

Jay

Just a Happy Thanksgiving to
you and yours. And have a
terrific trip to cabo

11/27/2013, 5:14p

type a text message

11/27/2013, 5:14p

And the very same to you. I
need a warm beach badly.

Are you around and working
Friday? Or Monday. Would like
to chat about the prospective
language re: GWMA soil test
pilot.

Language looks like a great
start, except for the 5 years.
If this is going to move need
to talk about who leads out
and moves it . Also want to
run it by a friend in Seattle
named Patrick.

11/27/2013, 8:30p

type a text message

JAY GORDON
named Patrick.

11/27/2013, 8:30p

Call any time. I sent it to irrigated Ag committee Jim Trull and Stu Turner. I am confident WSDA will support. Suggested honeyford and chandler. I think if they like it they have others that will help. Take a look at dept of revenue ta program rcw 43.05.140. I robbed the idea from there.

Thing is it has applicability for Samish and whatcom

11/28/2013, 7:59a

type a text message

JAY GORDON

Jim Trull is running it by his lawyer as well

11/28/2013, 7:59a

Have an awesome visit to cabo. I am jealous..

12/2/2013, 9:38p

It will be a blast. 6 fraternity brothers and wives. This is the first time for this group in Cabo. It's gonna be so fun to have rookies!

As you know we have Internet. So if we need to help you and Jim trull review, let us know.

12/2/2013, 10:57p

type a text message

JAY GORDON

As you know we have internet.

So if we need to help you and
Jim trull review, let us know.

12/2/2013, 10:57p

Will do. Just have fun. The
rest will wait til you return.

12/3/2013, 5:59a

Buzzes?

12/18/2013, 4:46p

U must be in Idaho?

12/18/2013, 6:09p

Just leavin you still there

12/18/2013, 6:10p

type a text message

JAY GORDON

I musta missed you
Had to get home.
Just lots going on and wanted
to chat a bit, no hurry.

12/19/2013, 3:10p

No worries and yes we should
find time to chat. Headed to
Leannes Monday , home late
on 25th

12/19/2013, 4:24p

Ole Senior. Are you headed to
town this week or next?
Maybe we can find time for
visit

12/26/2013 3:01p

type a text message

JAY GORDON

time to chat. Headed to
Leannes Monday, home late
on 25th

12/19/2013, 4:24p

Ole Senior. Are you headed to
town this week or next?
Maybe we can find time for
visit

12/26/2013, 3:01p

I am not family needed a
driver in Florida,
We can chat as you wish since
I will be either standing in line
at Disney world or drinking a
beers and talking to you,

12/26/2013, 3:03p

type a text message

JAY GORDON

at Disney world or drinking a
beers and talking to you,

12/26/2013, 3:03p

It can wait til you return. Have
a blast and enjoy the warm
weather. Sun out here ☺

12/26/2013, 3:04p

Cloudy and rain pending
here... But is 73. So no worries.
Most vacation this month I
have ever taken.

12/26/2013, 3:06p

You probably need it.

12/26/2013, 3:07p

type a text message

JAY GORDON

12/26/2013, 3:07p

Talk to you when you return.

12/26/2013, 3:07p

Sorry. Need dairy rep for 2nd round of interview. S van haak not available. Thinking d haggith. Any other suggestions will be considered and appreciated

12/30/2013, 5:57p

What date is interviews and where?

1/2, 7:42p

type a text message

where?

1/2, 7:42p

9th and Lynden cd

1/2, 7:43p

Time???

We have a kitchen meeting that day. Lynden and if I remember right from 11-1. Let me see what I can do. Jon dejong would be good. I will ask Fred as well. And in a pinch if you need and it works with kitchen meeting I could do.

1/2 7:47p

type a text message

JAY GORDON

remember right from 11-1. Let
me see what I can do. Jon
dejong would be good. I will
ask Fred as well. And in a
pinch if you need and it works
with kitchen meeting I could
do.

1/2, 7:47p

Jon
David
You
Fred
But your choice
Welcome home and
Happy new year

1/2, 7:48p

type a text message

JAY GORDON



Not quite done with magic
castles. Wandering in shirts at
11 pm in the rain an 67
degrees

1/2, 7:51p

type a text message

JAY GORDON



Not quite done with magic
castles. Wandering in shirts at
11 pm in the rain an 67
degrees

1/2, 7:51p

Awesome. Rain here but new
year feels good. Preliminarily

1/2, 7:52p

So should I contact Jon?

1/3, 7:53a

type a text message

JAY GORDON

He would be the best as he is
producer. You can call Darcel
at office for his cell number
since I no have on my phone.

1/3, 8:00a

Thanks will do

1/3, 8:40a

You get ahold of Jon?

1/4, 1:23p

He was busy But bro Jeff
available and scheduled.
Thank you

1/4, 3:36p

type a text message

1/4, 3:36p

Nice it worked out.

1/4, 3:51p

Have great vaca.

1/4, 3:52p

Sorry to bother

1/4, 3:52p

Buzzes?

1/6, 5:44p

When are you in town next

1/9, 12:24p

type a text message

1/9, 12:24p

Late tonight.
I am in Lynden.

1/9, 12:25p

Jay -- can we visit when you
get time. I would like to
schedule a meeting with you,
Dan, and members of your
board.

Discussions would include
DNMP Issues in Yakima,
Whatcom, Samish
Potential changes to RCW
90.64 in 2015

type a text message

JAY GORDON

I want to do this in advance of
"directors talks" on the 27th if
at all possible.

This discussion would be with
Julie (Buds assistant), Ted (my
asst director), and me.

I am looking at Jan 23 or 24
10 am or 1 pm

Hoping at minimum you and
Dan, one representative from
each district

Is this do able?

1/9, 1:33p

type a text message

JAY GORDON

We have a board meeting on
28th in olympia. There is a
visioning session the 23rd
down in Oregon ,

I think the 24 th is open, but
how about a bit of time with
while board? Maybe even have
bud join in?

We are meeting at rambling
jacks afternoon of 28th, with a
reception at 5 there.

I don't know how much luck I
will have getting the guys to
join if you want to do on the
24th. I can get a few local ones
but the others may not want
to run to Oregon, oly then

type a text message

visioning session the 23rd
down in Oregon ,

I think the 24 th is open, but
how about a bit of time with
while board? Maybe even have
bud join in?

We are meeting at rambling
jacks afternoon of 28th, with a
reception at 5 there.

I don't know how much luck I
will have getting the guys to
join if you want to do on the
24th. I can get a few local ones
but the others may not want
to run to Oregon, oly then
back to oly for 28-29.

1/9, 6:45p

type a text message

JAY GORDON

1/9, 6:45p

Jay I think time with the board can work. I will do my best to get Bud there. I am working on getting a one pager together.

Can you and I find time for face to face next week. I want you to have chance to see what we are thinking and why. Thurs and Fri are not good for me next week on this side of the mountains. Gwma

Thursday. Friday open for phone but I prefer face time.

1/9, 6:52p

type a text message

1/9, 6:52p

Jay

I have scheduled Bud
scheduled for wadf leg
reception at 5 at ramblin jacks
I also held Julie, Ted and my
schedule in late afternoon on
28th. What time would you
like us there. Think we need
30-45 mins.

1/10, 3:02p

Nice,

Thanks.

Thirsty this evening?

1/10, 3:03p

type a text message

JAY GORDON

1/10, 3:03p

Ahh it's Friday crowds!
I only game if you are.

1/10, 3:04p

Yes leaving soon

1/10, 4:04p

You

1/10, 4:05p

Meet you there, gotta talk
about 590, winter apps,
whatcom surface and grh2o

1/10, 4:10p

type a text message

JAY GORDON

whatcom surface and gms

1/10, 4:10p

Following up . You want us at
lunch at ramblin jacks to talk
90.64 issues on Jan 28?

1/13, 11:33a

Yes, I guess. But
If this is about legislation for
2015, is there a better place
and time.?

1/13, 11:51a

If you need lunch I can be in
basement cafe in 5 minutes

1/13, 11:59a

type a text message

JAY GORDON

Yes on my way

1/13, 12:02p

Lunch tomorrow with Julie,
Ted and me? Noon?

1/13, 7:20p

Or wed same time

1/13, 7:21p

I can adjust my schedule to
make that happen, just set a
tentative nooner with Kelly
Susewind tomorrow,
How about Wednesday!?

1/13, 7:22p

type a text message

JAY GORDON

1/13, 7:22p

Wed is great. Thank you

1/13, 7:23p

I assume in the NR cafe? Ok if
Dan join us?

1/13, 7:48p

Yes that would be great. I am
thinking we should grab lunch
and meet in Jullies office okay?

1/13, 7:49p

Ok

1/14, 8:02p

type a text message

Behind u

1/15, 11:55a

How many hand outs should I
bring? And what time should
we be there?

1/28, 6:10a

25

Noon , we will have a break
order lunch and you're on.
That ok?

1/28, 6:12a

Yes

1/28, 6:34a

type a text message

JAY GORDON

Yes

1/28, 6:34a

Buzzes?

1/30, 5:35p

Missed this, headed home

1/30, 8:29p

You 'round buzzes this evening?

2/4, 3:18p

Yes I think so you?

2/4, 4:28p

type a text message

JAY GORDON

Yes, we should talk and plan
and follow up on last week
meeting.

2/4, 4:43p

K on my way

2/4, 4:47p

25 minutes out.

2/4, 4:48p

No worries

2/4, 4:48p

Buzzes by chance?

2/18, 6:05p

type a text message

2/18, 6:05p

Thank you for discussion. It helps

2/21, 8:42p

Lots of puzzle pieces and I enjoy noodling through some of them with you, otherwise I just wander around muttering to myself. And that's scary mostly.

2/22, 12:07p

☺ Yes I agree

2/22, 6:31p

type a text message

JAY GORDON

2/22, 6:31p

Joe and I are meeting with a
senator about barb Carey's
study at 8:30,
You have time after about
9:30? For discussion ?

2/27, 9:11p

Yes

2/27, 9:12p

K, let me check with joe, I will
be available but be good to
loop joe in.

2/27, 9:14p

type a text message

JAY GORDON

FYI, we. Are trying to get a shit
hauling brigade lined up by
morning for the family

2/27, 9:21p

Phone quit last night. Just
able to get it reset - sometime
technology is painful. Would
be interested in talking with
you and Joe about barbs
study. My priority is Snook.
Sounds like Fred is getting
help mobilized. Ca. We find
time later this morning?
Thanks

2/28, 5:27a

type a text message

JAY GORDON

study. My priority is Snook.
Sounds like Fred is getting
help mobilized. Ca. We find
time later this morning?
Thanks

2/28, 5:27a

Joe will be on campus at 8, I
think we only have a meeting
with senator schoessler at 8:30
to help ecology show him the
whatcom study.

I am sure joe can meet after,
barb will be there. You want to
figure on coffee over here and
maybe barb can/will join if you
want.

I will keep checking about fred

type a text message

JAY GORDON

think we only have a meeting
with senator schoessler at 8:30
to help ecology show him the
whatcom study.

I am sure joe can meet after,
barb will be there. You want to
figure on coffee over here and
maybe barb can/will join if you
want.

I will keep checking , but fred
working on it...

a call(text) went out to a
dozen farms late last night to
circle the shit wagons and get
out to snooks and take a load
of crap. d:-)

2/28, 6:37a

type a text message

2/28, 6:37a

I can make that work. just tell
me where to meet

2/28, 6:43a

8:45 -9 in basement coffee
shop of the leg building.

2/28, 7:48a

K

2/28, 7:48a

Barb and joe will be there.
Plenty of time

2/28, 7:49a

type a text message

JAY GORDON

2/28, 7:49a

Good

2/28, 7:49a

Hope I am in right spot. Leg
coffee shop

2/28, 8:48a

We are still up in senator
schoessler office with Kelly,
joe, barb... Be down in a bit.

2/28, 8:50a

Can't send message Try again

type a text message

JAY GORDON

Did you need to go over the
other stuff today or next week.
I am ok either way but
understand you may be busy
today?

2/28, 2:23p

Yeah hope to be out by 5. If
you are planning to be round
great. Otherwise it can wait.
Fyi thank you all for help.

2/28, 4:24p

Elvis has left the building.
C'ya next week.

2/28, 4:36p

type a text message

JAY GORDON

ELVIS has left the building.
C'ya next week.

2/28, 4:36p

Order on the way. Mike to
hand deliver tomorrow.
Thanks to you and your guys
for the help.

2/28, 6:50p

Welcome.
Folks up there don't like
getting a bad rap because
someone skirted.
Hard enough if everyone is
doing their share.

2/28, 6:53p

type a text message

JAY GORDON

FOLKS up there don't like
getting a bad rap because
someone skirted.

Hard enough if everyone is
doing their share.

2/28, 6:53p

Understood

2/28, 6:54p

How your schedule look today.
I haven't forgot that you had a
list to go over.

3/4, 1:34p

?

3/4, 5:15p

type a text message

JAY GORDON

Hey

Had a thought to remind you
about...have you niggled
anyone at ecology dam safety
or higher up , to get on with
getting on the dam review on
veldheuis lagoons

3/5, 4:35p

It is in veldhuis hands. Ecy
dam safety is waiting for
documents from veldhuis. My
understanding from Laurie
crowe is they have the docs
and are working with their
lawyer.

3/5, 5:03p

type a text message

JAY GORDON

and are working with their
lawyer.

3/5, 5:03p

Oh.
Thnkx

3/5, 8:20p

Our next board meeting is in
Yakima on the 17 in the am.
Do you want time for the
90.64 discussions there or
want to wait for our Lynnwood
meeting in June.

3/13, 2:31p

I think I can be ready by then

type a text message

I think I can be ready by then
and planning to be over there
anyways

3/13, 4:29p

TY

3/13, 4:30p

K

Will put on agenda,

3/13, 4:33p

You r supposed to be on vaca
How did vsp go

3/13, 4:35p

type a text message

3/13, 4:35p

Heading there.

Still dead, but 6 hours to go

3/13, 4:35p

Fingering crossed. It is an
important component

3/13, 4:36p

Need a minute or 5 in the near
future

Can you fit me in, phone is
fine

3/24, 7:57p

type a text message

JAY GORDON

3/24, 7:57p

On road early am. Any time
after 7 am ok.

Meeting at 9:30 in whatcom

3/24, 8:43p

Buzzes?

3/31, 5:15p

Jay just finished mowing lawn
so home for the evening

3/31, 5:18p

Call if you need to talk

3/31, 5:19p

type a text message

3/31, 5:19p

No hurry

Just passin through and
figured should catch up.

Can wait.

Looks like I am passin through
several times this week.

3/31, 5:23p

Okay I am around

3/31, 5:24p

Just checking before I go
home to mow back yard, r u
around

4/1, 3:47p

type a text message

JAY GORDON

Naw, I stuck in Seattle arguing
with foodies at UW over
antibiotic residue in animals

4/1, 3:56p

Sounds fun

4/1, 3:56p

Like prostelsizing to Romans.

4/1, 3:58p

After a while getting crucified
ain't so bad

4/1, 3:59p

Your lawn all mowed? I am

type a text message

Naw, I stuck in Seattle arguing
with foodies at UW over
antibiotic residue in animals

4/1, 3:56p

Sounds fun

4/1, 3:56p

Like prostelsizing to Romans.

4/1, 3:58p

After a while getting crucified
ain't so bad

4/1, 3:59p

Your lawn all mowed? I am

type a text message

JAY GORDON

Your lawn all mowed? I am
standing in NLRB atrium. Have
to go past buzzes.

4/2, 5:13p

I am there

4/2, 5:13p

Buzzes

4/2, 5:13p

Hummm, hate gettin scooped

4/2, 5:14p

I deserve it

4/2, 5:19p

type a text message

From: Prest, Virginia (AGR)
To: JAY GORDON
Subject: FW: NRCS/EPA/ECY meeting Sep 17
Date: Tuesday, September 10, 2013 8:46:22 PM
Attachments: image001.png

Sent from Ginny Prest's phone. 360-529-7422

From: Prest, Virginia (AGR)
Sent: 9/9/2013 5:08 PM
To: Morgan, Julie (AGR)
Subject: NRCS/EPA/ECY meeting Sep 17

Julie

EPA and ECY are meeting with NRCS to discuss winter applications – however they have also commented on need for NRCS to provide

- 1- Provide clear and direct guidance to prevent the over application of N on ag lands. (RCW 90.64 requires agronomic applications)
- 2- Require annual soil tests and use them to develop annual nutrient budgets (RCW 90.64 and WAC 16-611 require annual soil tests)
- 3- Limit winter land applications (No discharge allowed regardless of the time of year)
- 4- Limiting P applications (we encourage producers to keep soil P below 120 ppm, dairy producers have been working on this a long time, slow but steady progress)
- 5- Limiting spraying of liquid manure during inversions
- 6- Suggest regional 590 and use the one developed in Idaho

With the exception of #5 and #6, the other issues are covered at dairies for the most part

Virginia "Ginny" Prest
Dairy Nutrient Management Program
Washington State Department of Agriculture
Office (360) 902-2894
Cell (360) 529-7422
vprest@agr.wa.gov
<http://agr.wa.gov/FoodAnimal/Livestock-Nutrient/>



Washington
State Department of
Agriculture

EXHIBIT NO. 237
NAME GORDON
DATE 6-25-2014 KRH

From: Washington State Dairy Federation --
To: Bellon, Maia (ECY); Hatfield, Brian; brian.blake@leg.wa.gov; kevin.bouchey@co.yakima.wa.us; Clark, Mark (SCC); Finley, Sharra (AGR); rand.elliott@co.yakima.wa.us; Gary Pruitt; Clark, Stuart (ECY); Susewind, Kelly (ECY); Laurie Crowe; Tebb, G. Thomas (ECY); McKinney, Charlie (ECY); roylene rides-at-the-door; Tom Eaton; Kemner, Mark (ECY); Austin, JT (GOV); Prest, Virginia (AGR)
Subject: Update from Dairy farmers
Date: Wednesday, October 09, 2013 2:17:35 PM
Attachments: [10.9.13 Gov Inslee update.doc](#)
[MB-ECY+ORG-JM letter.pdf](#)

To all,

Please see letter (Attached as Word Doc) from the Washington State Dairy Federation as well as included background correspondence (PDF).

Thank you.

Jay Gordon
Executive Director
Washington State Dairy Federation
Elma, Washington
360-482-3485

EXHIBIT NO. 238
NAME GORDON
DATE 10-25-2014 KRH



Washington State Dairy Federation
P.O. Box 1768
Elma, WA. 98541

October 9, 2013

To: Governor Jay Inslee

Maia Bellon, Director of Ecology

Brian Blake, Chairman, House of Representatives Ag. & Natural Resources Committee

Brian Hatfield, Chairman, Senate Ag., Water & Rural Economic Development Committee

Kevin Bouchey, Yakima County Commissioner, Chair, Yakima Regional Clean Air Agency

From: Jay Gordon, Executive Director

Re: Dairy Water and Air quality update and response to recent concerns in Yakima.

Dear Governor Inslee, Director Bellon and Chairmen Blake, Hatfield and Bouchey,

Over the past few years, dairy farmers around the state and in Yakima have been involved in a number of programs and projects, which we believe will result in better environmental stewardship. Some of these programs are responsive and some are incredibly proactive. Our desire is to improve how we farm and how we protect natural resources, as Washington's dairy farmers also feed a hungry nation and world. This letter we hope will build more understanding about the programs and activities dairy farmers are involved in and why. We are glad to meet with any of you on any of this work at any time.

This letter also has some perspective on recent concerns communicated to each of you over the past several months from few Yakima activists in a letter to Governor Inslee on June 1st, 2013 and a note sent to various groups and legislators regarding the Yakima dairy air quality program.

A Review of Ongoing Programs

Our State's farmers have created a very diverse and dynamic agricultural that produces an amazing amount and array of food. As our farmers have learned how to produce this bounty, they are also learning where and how to better safeguard the very natural resources we are blessed with. Our state has a long history and proud history addressing water quality concerns, from surface water to groundwater. Resolving water quality impairment is never easy or simple but Washington has many

success stories. Dairy farmers across the state are part of that success story, a story that is still being written. Dairy helped by working with legislators to enact the Dairy Nutrient Management Act in 1998. This program has been modified several times by the legislature to address new needs and concerns. This law has helped improve and protect water quality across the state. Lauded examples of improving surface water quality include the Nooksack River in Whatcom County and the Granger Drain TMDL in the Yakima Valley. See: <http://www.epa.gov/owow/nps/Section319III/WA.htm>

Regarding groundwater, the most recent effort has been undertaken in the lower Yakima via the Groundwater Management Area process. The Lower Yakima groundwater has a long history of nitrates. Dating back to the early 1900's and more recent studies in the 1980's, 90's and 2000's showed high nitrates in some locations. After an exhaustive review by Yakima County and The Department of Ecology, a Groundwater Management Area (GWMA) was formed (See: <http://www.yakimacounty.us/gwma/background.php>). The dairy farmers have supported and participated in this process since before it was formed. We will continue to work with Yakima County and all interested parties engaged in the GWMA process. The reason is simple...dairy farmers grow crops and fertilize with manure and synthetic fertilizers, but they also need clean water for their families, employees, crops and animals just like thousands of other citizens and farmers in Yakima. Our dairy farmers have a responsibility to be good stewards, and have responded to quality information for years and have taken actions to be protective of groundwater. The Dairy Nutrient Management Act was amended several years back to require dairy farmers keep records to show they are applying fertilizer at the correct rates for growing crops (agronomic rates). No other sector of Agriculture is required to keep and be inspected on these records. Dairy farmers also face fines for failure to keep records sufficient to show agronomic rates that are protecting groundwater quality.

Yakima Air Quality Project

A few Yakima area producers have been living under a barrage of complaints for many, many years by a few activists regarding air quality. The Yakima Regional Clean Air Agency (YRCAA) has responded to these complaints, sometimes 3 or 4 per week mostly against the same dairy farmer in Moxee. In literally years and years of complaining to, and response by the Air Agency, the YRCCA staff have found NO basis for these complaints. WSDA, Ecology, EPA, Washington State Senate Ag Committee members and many other folks have visited this farm and have all found the same thing: it is a well-run dairy farm with minimal odor. This one dairy farm represents the bulk of complaints on record at YRCCA (in the hundreds). While producers are weary of the complaints, this is not to say that there are not times or circumstances that may well merit improved management. For several years Yakima

dairy farmers have chosen to work with the YRCAA, Washington State University and with Conservation District air specialists on ways to improve air quality. Dairy farms along with University and Conservation experts have evaluated and helped producers gauge and implement air quality best management practices.

State air quality laws require farmers to use “reasonable to the area best management practices” (BMP’s). A process to identify and verify scientifically based air BMP’s in Yakima has been tested for the past two years and is now slated to be implemented across the county on all dairy farms beginning January 2014. This is a unique step by farmers to verify their use of air BMP’s to the YRCCA. We know of no other group of dairy farmers anywhere in the US that have volunteered to undergo air inspections to document their BMP’s. This effort is a clear choice by dairy farmers to respond to concerns in good faith and venture beyond the requirements of state or local law, and beyond anything any other sector of Agriculture undergoes. See <http://www.yakimacleanair.org/DairyInfo.html>

Follow up on the August 9th letter by Director Bellon on behalf of Governor Inslee – Re: concerns expressed by Jean Mendoza, et al (see attached for both). We want to thank Director Bellon and all who helped with the response letter; it is an excellent summary and response. However there are a few assertions in the Mendoza letters that merit some additional thoughts and observations.

The Mendoza letter to Governor Inslee presents pieces and parts of the picture of groundwater, air and soil quality and then faults dairy farmers. The assertions are simple, but inaccurate. High nitrates have been found in groundwater for decades, and there are air inversions and air quality issues that have little if anything to do with dairy farms. For example, many of the air inversions and burn bans days the past few years in Yakima have been the result of wildfires in the area or in the distant Cascades. Most winter burn bans are due to inversions that trap home heating wood smoke and vehicle exhaust and have nothing to do with agriculture activities.

Groundwater quality -Without question, there is plenty of science to indicate there are nitrates in some wells exceeding federal standards. Any map of nitrate testing in the past 20 years shows wells of concern scattered around Yakima County. Groundwater science by EPA in the past years in the lower Yakima Basin attempted to age date the water in many wells, while the attempt had flaws, their data indicated water in wells estimated to range from 16 years to over 50 year old water. This range alone, inexact as it is, should give pause as to when, where and how nitrates entered the aquifer. Fertilizer use, septic tanks, cropping patterns, manure management and irrigation practices have all changed greatly over the past 30 years.

The reason the Groundwater Management Area process was started is because the question of nitrates in groundwater is complex from a geological and historical perspective. Numerous areas around the Western US have found the same thing: it is easy to see a surface source that might be blamed, but delving deeper into the hydrogeology and current and historical land-use sources of nitrates invariably means there are many sources over time and distance (vertically and horizontally) within a watershed basin.

Humans use nitrogen in many forms starting with it's essential role in growing food. Simply blaming one sector of one source – Agriculture - may feel like success, but the reality is the whole proverbial village uses nitrogen. Every basin working on this issue from Canada to New Mexico and Southern California, has engaged a GWMA-like process that engages all the stakeholders who use nitrogen in the community. The task of reducing groundwater nitrogen is long and arduous. Because everyone uses or generates nitrogen, many get to share the fault and responsibility for change and improvement.

Groundwater quantity - The Mendoza letter on page 3 identifies data from tests wells on a single dairy farm in Moxee. The claim is made that the farm is causing a decline in that aquifer with all its cows. The assertion then continues with a conclusion that all dairy farms in Yakima are depleting all the aquifers. The logic and the allegations have a factual problem; the aquifer referenced in the letter is NOT the aquifer from which the dairy farm pulls water for its cows or crops. The farm draws from a much deeper aquifer that is not hydraulically connected to the one in question. The farm is not impairing the referenced aquifer.

Air quality - There are several references to the sheer number of complaints that the YRCCA has received. Many of these complaints have been filed by the same individual against the same farm for many years. The YRCCA staff has investigated each complaint –sometimes 3 or more per week- and has NEVER found a basis for any of the complaints- EVER!

Soils- It is stated that more “green manure” is left for long periods of time in the fields. The definition of Green Manure is a crop grown then plowed under. This common farming practice improves soil tilth, soil water holding capacity and recycles nutrients; all good things. Green manure is a crop, not manure piles. See: http://en.wikipedia.org/wiki/Green_manure

Confined animal feeding operations are not a recent phenomenon; farmers have kept livestock in stables, barns and corrals for thousands of years. The dairy farms of Yakima County have grown in size in part because Yakima is a good place to grow crops and cows. As these farms and farms across the state have grown there have also been changes to ensure dairy farms are protecting the soil, air and

water of the county and state. Dairy Nutrient Management laws and economics have both changed how farms manage in Washington and in states across the nation. Over the past 20 years, changes in Washington include legislative amendments to require dairy farmers to undergo routine inspections to find potential problems or to enforce for actual violations, to inspect records, tests, farm plans, equipment and facilities maintained by dairy farms that use manure as a crop fertilizer. Fertilizer is required to be used at documented agronomic rates. No other Agriculture sector or other fertilizer application source must do this – only dairy farms. Crop farms of all sizes and types, all other sectors of livestock farms, golf courses, private individuals around homes and businesses all can use fertilizer- in any form- at any rate they wish with no inspection, testing, verification or documentation required.

Progressive Actions -

Compost from dairy farm manure has become an important source of fiber in the commercial and retail nursery supply chain- approximately 40% of all dairy manure is now exported from Yakima County. Compost exports results in recycling fiber, nitrogen, and phosphorous. It reduces the need for non-renewable peat moss in the nursery and landscape industry.

Nutrient recycling-WSU research over the past ten years has developed a number of new processes that are moving from research stage to production scale. These processes will allow further nutrient recycling into fertilizer products that can be used on and off farm in place of manufactured or mined fertilizers. One aspect of this research work is to expand the ability of dairy producers to produce concentrated phosphorous fertilizer products from manure. The world has a limited and diminishing supply of phosphorous to mine. Phosphorous is an essential natural resource we need as farmers to feed the planet. Learning how to better recycle and reuse phosphorous is imperative. This innovation in phosphorous conservation is, while maybe boring to some, an altogether new and essential direction being led by our University and dairy farmers here in Washington State. See:

<http://web.mit.edu/12.000/www/m2016/pdf/scientificamerican0609-54.pdf>

The dairy farmers of Yakima and across the state have worked with a variety of agencies, groups, scientists and individuals to address many concerns. Our farms have proven they are willing work with folks with sincere, well-reasoned concerns. Dairy farmers spend millions of dollars each year researching innovative opportunities in conservation, recycling, sustainability, and new products. Dairy farmers are never going to claim they are doing everything perfectly; improvements are being made constantly.

Farming is by no means the easiest of occupations, but we would submit, one of the few truly essential requirements of all societies. It is not an easy pathway on the quest for sustainability in food production and natural resource protection while satisfying some of the nutritional needs of people around the planet.

The first essential thing needed on the pathway of intelligent, iterative action is to have good information upon which to ruminate, innovate and then act upon.

We are always available for serious discussions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jay Gordon', with a stylized, flowing script.

Jay Gordon, Executive Director

Cc:

Mark Clark, Executive Director, Washington State Conservation Commission

Bud Hover, Director, Washington Department of Agriculture

Stu Clark, Program Manager – Air Quality Program, Washington Department of Ecology

Gary Pruitt, Manager, Yakima Clean Air Agency

Rand Elliot, Yakima County Commissioner

Virginia Prest, Nutrient Management Program Manager, Washington Department of Agriculture.

Kelly Susewind, Water Quality Manager, Washington Department of Ecology

Laurie Crowe, South Yakima Conservation District

Charlie McKinney, Water Quality Manager, CRO, Washington Department of Ecology

Roylene Rides-At-The-Door, State Conservationist, USDA Natural Resources Conservation Service

Mark Kemner, Section Manager- Water Quality Program, CRO, Washington Department of Ecology

Tom Eaton, EPA, Washington Operations Office, Region 10

Tom Tebb, Central Regional Director, Washington Department of Ecology



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

August 9, 2013

Jean Mendoza
3142 Signal Peak Road
White Swan, WA 98952-9804

RE: June 2013 Letter - Concerns of Environmental Impacts of Concentrated Animal Feeding Operations

Dear Ms. Mendoza:

Thank you for your June 2013, letter to Governor Jay Inslee where you describe concerns associated with Confined Animal Feeding Operations (CAFOs) in the Yakima Valley. Governor Inslee has requested that I respond to you directly on his behalf.

I appreciate the uniqueness of the Yakima Valley, with its incredible natural resources and a long history of agriculture in our state. The concerns you raise about impacts from CAFOs are not new, and we are working closely with agriculture, and the dairy industry to grapple with the challenges that come from large scale dairy and animal feeding operations.

Washington Department of Ecology (Ecology) is also working with Yakima County, Washington Department of Agriculture, Washington Conservation Commission, and the Environmental Protection Agency through a locally led¹ groundwater management area (GWMA) process to develop a broad set of agriculture and industry improvements to achieve protection of our groundwater resources for the Yakima Valley. The Lower Yakima Valley Groundwater Management Area (LYV-GWMA) was designated in direct response to elevated nitrate levels in groundwater that have significant potential to impact human health.

I fully support and encourage your continued engagement at the local level through your participation in the LYV-GWMA as a member of the Advisory Board as the best means to be an active participant in developing solutions that work for everyone. I look forward to seeing the progress of the LYV-GWMA in making a real difference and improving current water quality conditions.

¹ Yakima County is designated as lead entity under WAC 173-100, in a letter dated November 15, 2011, from Ted Sturdevant, Ecology Director to Yakima County Commissioner, Kevin Bouchee.



Ms. Jean Mendoza
August 9, 2013
Page 2 of 6

Water Quality

As your letter indicates, nitrate contamination of groundwater is a well-documented problem in the lower Yakima Valley, as it is in several other areas in Washington where agriculture is a primary land use. Solving the problem will require changing the practices that are currently allowing the contamination to occur, recognizing that it may take years for actual groundwater nitrate levels to fall to acceptable levels in some areas due to the build-up of past contamination. The LYV-GWMA, as you know, is beginning an effort to better understand the land uses, sources, and conditions that are contributing to the problem. This should help provide a path for developing targeted changes that will be effective and long lasting. Another benefit of the LYV-GWMA process is that it requires recognition and ownership of the problem at the local level and calls for collaborative problem solving. I am committed to supporting this effort to see that it is successful, and to finding ways that the State of Washington can help implement the program when it is fully developed.

The LYV-GWMA is a key effort but it must be combined with other measures to adequately address groundwater pollution. Agencies and other entities involved in the problem will need to work and coordinate together effectively.

The Dairy Nutrient Management Program is a water quality program administered by Washington State Department of Agriculture (WSDA) under RCW 90.64, the Dairy Nutrient Management Act. Elements of the program are managed in conformance with a Memorandum of Understanding with Ecology, who is the delegated agency in Washington for the Federal Clean Water Act.

Washington's Dairy Nutrient Management Act requires all licensed cow dairies to develop and implement nutrient management plans, register with WSDA, and participate in a program of regular inspections and compliance.

WSDA reports that its program goal includes a "target" to complete a routine inspection at each dairy every 22 months; however, I understand that WSDA's priority is timely response to complaints regarding discharges to waters of the state.

The program was established in 1998 to provide additional regulatory oversight to primarily protect surface waters from dairy operation discharges. In 2005, the program began emphasizing adequate recordkeeping to demonstrate that land application of manure and process waste water did not exceed crop agronomic rates as a way to focus on groundwater protection. In 2009, the dairy industry worked with the legislators to include lack of recordkeeping as a violation in RCW 90.64. In 2010, a penalty mechanism was implemented.

WSDA also reports that in 2011, the program modified the inspection report to include the number of acres that are soil tested and number of acres that are currently under and over 45 parts per million (ppm) nitrate-nitrogen; results show that 89% of the acreage in the Yakima Valley are reporting soil tests that are below 45 ppm.

While WSDA believes this is very good news, they recognize additional work is needed. To be effective, best management practices must be implemented properly, and often work best as a part of a suite of management practices.

WSDA also recognizes that as in most industries, a few dairy producers are slower than they should be in adopting environmental practices. WSDA believes the industry is moving in the right direction and will work with them to utilize the tools they have available, improve best management practices, and as may be necessary enforcement to bring about a positive outcome.

WSDA has provided the following table of information:

Data on Dairies - Yakima County

	2012	2010	2008	2006
Number of dairies	68	67	68	65
Mature animals (milking and dry)	103088	91726	96076	87694
Heifers (heifers and calves)	47085	35076	34048	39298
Acreage for Land Application (owned and rented)	35727	31520	27426	34044
Number of dairies report exporting manure	57	57	No data collected	No data collected
Number of dairies report composting	37	No data collected	No data collected	No data collected
Number of dairies reporting animals offsite	37	No data collected	No data collected	No data collected
Number of Routine Inspections ^{*1}	58	55	64	80
Number of Other Inspections ^{*2}	14	25	83	33

^{*1}Number of inspection for the biennium i.e. 80 inspections conducted between Jan 1 2005, and Dec 31 2006.

^{*2} Other inspection include follow up, technical assistance, investigations and lagoon assessments. 2008 figures include lagoon assessment inspection emphasis conducted in 2007 and 2008.

For further clarification or for more information on dairies in Yakima County, please contact Ginny Prest at (360) 902-2894 directly.

Water Quantity

The Washington State Supreme Court decision you reference in your letter does indeed interpret RCW 90.44.050 to allow unlimited groundwater use for stock watering purposes. However, the permit exempt well statute does not exempt the users of this groundwater from regulation under this and other statutes, including impairment. As such, operators using groundwater for watering

stock are indeed accountable for the impact on their neighbors and the public through the water master at Ecology.

The administration of surface and groundwater in the Yakima Basin is complex. The basin is over appropriated, and we are taking immediate and long-term steps to reduce the impact of current and future use on the sustainability of all water resources in the basin, including groundwater. In order to maintain a safe sustainable source for all Washingtonians within the framework of our statutes and rules requires engagement of all stakeholders in constructive ways to manage our finite supply in the Yakima Basin. We welcome your insight and perspective and encourage you to participate in water resource related activities throughout the basin as opportunities arise.

The new consensus-based Yakima Integrated Plan legislation² passed by the Legislature this past session, will help build more sustaining and reliable sources of water to help agriculture, municipalities, industry, rural development, and fisheries, including the restoration of sockeye by building fish passage and protecting and enhancing habitat.

Air Quality

I appreciate your concerns about air quality in your area. I share those concerns. The Yakima Valley is not under air quality jurisdiction of Department of Ecology's Air Quality Program. Your area is served by the Yakima Regional Clean Air Agency (YRCAA), the United States Environmental Protection Agency (EPA), and the Yakama Nation (YN). I encourage you to continue your efforts to address your concerns with them directly. This is clearly a very difficult issue, and I applaud your efforts to find a solution.

Changes in the Soil

Ecology continues to work with South Yakima County Conservation District and the Washington Conservation Commission in various capacities to continue to improve agricultural practices that are protective of groundwater and the environment. South Yakima County Conservation District is a member of the LYV-GWMA and is participating in the on-going efforts to address nitrate contaminated groundwater in the lower Yakima Valley. Ecology sees their on-going and continued participation as critical in achieving improved practices in the dairy industry.

Human Health and Agricultural Practices

Washington Department of Health and Yakima Health Department participate and serve as members of the LYV-GMWA Advisory Board. Their participation and contributions to the Advisory Board serve the greater community in helping to reach and provide better awareness of the health related issues of nitrate contamination in groundwater.

² Yakima River Basin Water Supply, 2013-2015 Capital Budget request, Sections 3077, 3044, 3245, and 5057.

The Washington Department of Health and the Yakima Health Department can also respond to human health related questions or concerns from various agricultural practices that may affect human health. For human health related concerns, the Yakima Health Department can be reached at (509) 575-4040. For drinking water concerns the Washington Department of Health, Office of Drinking Water can be reached at (800) 521-0323.

CAFO's

As you note in your letter, there are significant environmental problems in the Yakima Valley, and other areas of the state, where CAFOs are a contributing factor. Addressing these problems is legally and technically challenging. Ecology is currently working to develop a strategy for addressing discharges to surface and groundwater from CAFOs. Part of the strategy is the drafting and issuance of a new National Pollution Discharge Elimination System (NPDES) permit for CAFOs. During development of a CAFO permit, Ecology is considering how to adequately address problems like those you discussed including groundwater impacts, manure transfers, and lagoon leakage. If you would like to be included on the interested parties list for the CAFO permit development process, please contact the permit writer, Jon Jennings, at (360) 407-6283 or by email at jonathan.jennings@ecy.wa.gov.

Current Regulations – RCW 90.64

Department of Ecology, Department of Agriculture and Washington Conservation Commission in consultation with EPA are committed to work together to address many of the concerns raised in your letter. These discussions are on-going, and will likely result in recommendations for agency regulatory review and/or agency sponsored legislation.

Recommendations

I have forwarded your letter on to our Regional Director, Tom Tebb, who will provide it to Yakima County Commissioner Rand Elliott. Commissioner Elliott serves as chairman for the LYV-GWMA Advisory Board, and will determine how to address your recommendations for consideration to the full Advisory Board.

Summary

The work of the LYV-GWMA is really just beginning. Much-needed citizen involvement, industry participation and cooperation, and a stable funding mechanism will be the key to its success over the long term.

It is our utmost desire to achieve meaningful outcomes towards addressing many of the concerns you described. Your continued participation in the LYV-GWMA and other related efforts will continue to serve as an important voice and advocacy in finding workable solutions and improving our natural environment.

Ms. Jean Mendoza
August 9, 2013
Page 6 of 6

If you have any questions or would like to discuss this further, please feel free to contact Central Regional Director, Tom Tebb at (509) 574-3989.

Sincerely,

A handwritten signature in black ink, reading "Maia D. Bellon", followed by a long horizontal flourish line.

Maia D. Bellon
Director

cc: Mr. Stu Clark, Program Manager - Air Quality Program, HQ
Mr. Kelly Susewind, Program Manager - Water Quality Program, HQ
Ms. Ginny Prest, Manager - Department of Agriculture, HQ
Mr. Andy Cervantes, Department of Health, Spokane
~~Ms. Laurie Crow, South Yakima Conservation District~~
Mr. Rand Elliot, Yakima County Commissioner
~~Mr. Tom Eaton, EPA - Region 10~~
Mr. G. Thomas Tebb, Regional Director, CRO
Mr. Mark Kemner, Section Manager-Water Resources Program, CRO
Mr. Charlie McKinney, Section Manager-Water Quality Program, CRO
Mrs. Sue Billings, Section Manager-Air Quality Program, CRO

RECEIVED

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JUL 1 2013

June, 2013

Office of the Governor

Dear Governor Inslee,

Congratulations on your election to the office of Governor of Washington State. We are longtime residents of the Yakima Valley with serious concerns for the future. We are encouraged by your words and actions concerning environmental issues. As a candidate you said, "I am going to leave everything on the field. I am going everywhere, and I am going to listen to everybody." We sincerely hope that your promise continues. We wish to engage your office regarding the Yakima Valley.

As you know, we are the most productive agricultural region in Washington State. Certain trends, spanning the last three decades, endanger the viability of this rich and cherished land. We request your support for regulatory measures and public policies to curtail damaging actions. Please review and consider the data.

Agricultural practices are evolving. A recent phenomenon is the utilization of Confined Animal Feeding Operations (CAFOs) for raising poultry, eggs, beef, pork and dairy products. These systems offer efficiencies of scale. But . . . they introduce major adverse environmental and health impacts. CAFOs discovered the farmer friendly Yakima Valley in the late 1980's. As a result the number of dairy cows in Yakima County has grown from 25,700 in 1986 to 97,000 in 2012. (Please note that the actual number of cows is much higher. Different sources provide different head counts. The numbers cited above come from the National Agricultural Statistics Service and are based on surveys. This number does not include the number of calves, bulls, beef cattle and replacement heifers in the valley.)

Each mature cow produces as much fecal material as 25 human beings (Natural Resources Conservation Services, 1995). This waste is stored in unlined, uncovered lagoons and ponds that are scattered throughout the Lower Yakima Valley. The end result is comparable to a city of 2 million people without sewer systems. Waterways are acidified and polluted. Air is unhealthy and some fields are changed so drastically that they can no longer be used for growing crops.

Water Quality

Elevated levels of nitrate in groundwater indicate an over application of fertilizers and/or nitrate leaching from animal sources. Safe drinking water standards require less than 10 mg/L of nitrates. (Oregon state law requires creation of a Ground Water Management Area when nitrate levels exceed 7 mg/L. Oregon Revised Statutes, 1989).

It is informative to see the evolution of this problem. A 1990 study of water quality in a 9 1/2 square mile region of south eastern Yakima County found detectable nitrates in only 8 out of 27 wells. For those wells with nitrates present, concentrations ranged from less than 0.01 to 6.2 mg/L with a mean concentration of 0.7 mg/L. (Erickson & Norton, 1990)

By 2002 there were findings of nitrate levels above the standard in 21% of wells in the southern portion of the lower valley but no wells with nitrate levels above standard in the northern portion (Sells & Knutson, 2002). In 2008, the EPA Investigated and designated the area a *Showcase for Environmental Justice*. This led to creation of a Groundwater Management Area, administered by Yakima County, with the goal of reducing nitrates in drinking water to levels below state standards. (WA State Dept. of Ecology, 2010). Some stakeholders expect that it will take decades and millions of dollars to reverse this trend. And yet, actions to reduce the pollution are minimal. The most recent testing of wells in the area found a well with nitrate levels of 190 parts per million, or nineteen times the accepted safety standard (U.S. Environmental Protection Agency, 2013). If parents used this particular water to mix formula for an infant, the child would most surely become ill.

Sadly, those who pay the highest price are the many low income people who live in the valley. About 24,000 people use water from domestic wells and about 7,000 are at risk (WA State DOE, 2010). Options for private well owners include having their water tested at a cost of \$45 to \$90 per year, drilling new and deeper wells at a cost of \$12,000 to \$18,000, purchasing reverse osmosis units which cost over \$1,000 plus maintenance, or purchasing bottled water. If a family of four purchases all of their drinking water, they will spend over \$100 per month or \$1,200 per year just for drinking water. This is 5.8% of family income for people living at the poverty level. If all affected residents purchase bottled water the cost to the community at large is well over \$1 million per year.

Producers are drawing clean, pure water from the deeper aquifers for their animals and they are polluting the shallower aquifers that human beings use for themselves and their families.

Water Quantity

RCW 90.44.050, Permit to Withdraw, states, "After June 6, 1945, no withdrawal of public groundwaters of the state shall be begun, nor shall any well or other works for such withdrawal be constructed, unless an application to appropriate such waters has been made to the department and a permit has been granted by it as herein provided: EXCEPT, HOWEVER, That any withdrawal of public groundwaters for stock-watering purposes, or for the watering of a lawn or of a noncommercial garden not exceeding one-half acre in area, or for single or group domestic uses in an amount not exceeding five thousand gallons a day, or as provided in RCW 90.44.052, or for an industrial purpose in an amount not exceeding five thousand gallons a day, is and shall be exempt from the provisions of this section, but, to the extent that it is regularly used beneficially, shall be entitled to a right equal to that established by a permit issued under the provisions of this chapter: PROVIDED, HOWEVER, That the department from time to time may require the person or agency making any such small withdrawal to furnish information as to the means for and the quantity of that withdrawal: PROVIDED, FURTHER, That at the option of the party making withdrawals of groundwaters of the state not exceeding five thousand gallons per day, applications under this section or declarations under RCW 90.44.090 may be filed and permits and certificates obtained in the same manner and under the same requirements as is in this chapter provided in the case of withdrawals in excess of five thousand gallons a day."

In June of 2011, the Washington State Supreme Court declared that this law allows animal operations to draw unlimited amounts of groundwater for the purposes of watering livestock, even when these operations concentrate 30,000 animals in an 80 acre parcel (Washington State Supreme Court, 2011). Large producers may take as much water as they can pump with no accountability for the impact on their neighbors and the public.

Due to the high concentration of animals in small areas and the need to maintain hygienic milking parlors, dairies require large volumes of water for cleaning the facilities, as well as cleaning and cooling cows. High producing milk cows drink large volumes of water. The volume of milk produced is directly related the amount of water the cow drinks. The University of Idaho estimates that the total amount of fresh water used for sanitation and manure removal averages 39.6 gallons per cow per day and that each cow drinks, on average 28.7 gallons per day. This yields an average consumption of 68.3 gallons of fresh water per cow per day (Falk, n.d.).

In Yakima County, irrigation water is occasionally used for dairy sanitation. However irrigation water only runs from April to October. In practice 95% of dairy sanitation involves groundwater. Homeowners, in contrast, must buy ground water shares in order to access this public resource.

In the Moxee Valley of Yakima County a 6,000 head dairy began operations in 2002. Between 2002 and 2011 the distance from the surface to ground water in monitoring wells has increased:

- from 159 ft. to 173 ft. in Well #1
- from 146 ft. to 163 ft. in Well #2
- from 142 ft. to 154 ft. in well #3
- from 157 ft. to 173 ft. in well #4. (Fulcrum Environmental Consulting, 2011).

Concentrated Animal Feeding operations in the Yakima Valley deplete the water supply in critical aquifers.

Air Quality

Industrial operations are required to report emissions of ammonia that exceed 100 pounds per day or emissions of hydrogen sulfide that exceed 100 pounds per day. Agricultural operations are not. Nevertheless, these are the same chemical compounds, no matter where they are produced, and the effects on humans are the same no matter the source.

An acceptable estimate for the amount of ammonia produced by a dairy cow is 80 lbs. per cow per year or .22 pounds per cow per day (Chase, 2011). The amount of ammonia emitted into the atmosphere in the Lower Yakima Valley is significant. With a conservatively estimated 100,000 milk cows, dairies generate 22,000 lbs. of ammonia per day or 8,030,000 lbs. per year. Approximately half of the ammonia from ponds and lagoons falls to the surface within 50 miles of the source and it then

contributes to eutrophication of surface water and acidifies the environment. The remainder is transformed into particulate matter (PM) which has adverse effects on human health. Yakima County is in danger of "non-attainment" for PM 2.5. In 2010 Yakima County had 66 days with air quality that exceeded safe levels for PM 2.5. The only counties with more unsafe days were Stevens and Okanogan (WA State Dept. of Health, 2013).

In 2005, Les Ornelas, the Director of the Yakima Regional Clean Air Agency, told a group of local dairymen, "Now, I receive the largest number of odor complaints currently for my jurisdiction against feedlots, dairies, other kinds of chicken farmers, and other sorts of activities like this. We have people in the field who have been trained to evaluate odors, to be able to discern from a level 1, 2, 3 or 4 (4 typically is the one that causes a gag reflex). We go out and respond to all these numerous complaints every year and we have not yet issued a citation to any of the dairy people on odors in Yakima County, even though we have hundreds and some years over a thousand complaints."

The University of Washington has tested air quality for 14 homes in the Lower Yakima Valley (Turcios et al, 2004). A residence located near CAFOs had average ammonia readings of 0.16 parts per million (112.4 micrograms per cubic meter). This level exceeds the Agency for Toxic Substances and Disease Registry (ATSDR) maximum contaminant level (MCL) of 0.1 ppm for chronic respiratory problems (ATSDR, 2013).

Williams et al (2011) from John Hopkins Bloomberg School of Public Health found that dairy operations in Yakima County increase community exposure to bovine allergens and found elevated airborne particulate matter and statistically elevated concentrations of bovine allergens and ammonia in homes three miles from dairy operations.

Changes to the soil

In a 2000 report, "Manure Nutrients Relative to the Capacity of Cropland and Pastureland to Assimilate Nutrients: Spatial and Temporal Trends for the United States", the Natural Resources Conservation Services (NRCS) estimated that Yakima County produced an excess of over 2 million pounds of manure nitrogen in 1997, assuming no manure export from farms. NRCS estimated a change in the excess of manure nitrogen of over 300,000 pounds in Yakima County between 1982 and 1997 (NRCS, 2000).

NRCS estimated that Yakima County produced an excess of over 2 million pounds of manure phosphorous in 1997, assuming no manure export from farms. NRCS estimated a change in the excess of manure phosphorous between 50,000 and 300,000 pounds in Yakima County between 1982 and 1997 (NRCS, 2000).

What happened in Yakima County after this report was published? According to the National Agricultural Statistics Service (NASS) census data, there were 25,700 milk cows in Yakima County in 1986 and 51,137 milk cows in 1997. This rose to 89,575 in 2007. By 2012 the estimate reached 97,000.

(National Agricultural Statistical Services, n.d.). The Washington State Dept. of Agriculture estimated that there were 212,762 head of cattle and calves in Yakima County in 2007. Since that time a major feedlot with a 100,000 head capacity has resumed operations in the Sunnyside area. In spite of strong indicators that there was too much manure for the land the number of animals in CAFOs almost doubled. This was done with support from the Conservation Districts and the Washington State Dept. of Agriculture. There is currently no mechanism in place here to regulate the unhealthy growth of a polluting industry.

Land that is used for feedlots and lagoons undergoes significant changes due to compaction, formation of manure seals and leaching of salts into the soil. After several years it can no longer be used for growing crops. The newly introduced practice of piling manure in wind rows for composting does the same thing to the land and concurrently increases drainage into the surface waters. In addition a large portion of the biosolids from the City of Seattle is now trucked to the Lower Yakima Valley for field application (King County, n.d.) which further increases the over application of certain harmful elements to the soil and decreases the amount of land available for manure fertilization.

Human Health Related to Raw Sewage in the Environment

There is a dairy on Hornby, Stover & Braden Roads in the Grandview – Sunnyside area that is expanding their operation to include "composting". The dairy will cover 40 acres of land with fresh manure and turn it from time to time until it dries. The farmer stacked manure less than 50 feet from a home with three young children and two older children. After repeated complaints he moved the stacks 210 feet away from that home which is all that the law prescribes. There is another dairyman to the north of Braden Road who built a manure lagoon 180 feet from another family home in the 1990's. Although he began digging without a permit and county codes recommend placing any such structure at least 250 feet from domestic wells, it still stands and still stinks. Practices such as these cause homeowners to sell their houses and land for much less than the property is actually worth, simply to escape the pollution.

There is scientific theory describing and prescribing the practice of composting. However, what happens in the Yakima Valley is much different. Dairymen simply pile raw manure into rows and call it compost. There is no testing for mineral content, moisture, heavy metals, hormones, antibiotics, or the presence of micro-organisms. Dead animals are buried in the manure. Many of the composted animals succumbed to disease but there is no monitoring of the product for infectious organisms. There is no labeling to inform consumers of this content. It is noteworthy that the life span of an average dairy cow is four years. Due to practices that increase milk production and stressful living conditions on CAFOs they develop health problems that result in culling, slaughter for meat, or they become ill, die and are buried in compost piles (John's Information Central, n.d.; Fox, 2009; Garry, 2004). At this time, according to the Washington State Department of Agriculture, 289 acres of land in the lower Yakima Valley are cropped with "green manure", i.e. the land is covered with 10 foot high wind rows of manure

for composting. This acreage exceeds the number dedicated to production of plums (261 acres), pumpkins (182 acres), cucumbers (128 acres), canberries (107 acres) or tomatoes (61 acres).

Campylobacter is the leading cause of diarrheal illness in children. Major causes are eating or touching raw poultry, eating or drinking unpasteurized dairy products, contaminated water and airborne transmission. Campylobacter is ubiquitous in cattle and causes no signs or symptoms in the animals. Statewide, according to the Washington State Department of Health, the incidence rate is about 15 per 100,000. In Yakima County the incidence rate is about 50 per 100,000. There is an area where dairies are concentrated, zip code 98938, with incidence rates of 50 to 360 per 100,000. This area includes the Outlook Elementary School where the school well had elevated nitrate levels that required the drilling of two new wells at tax payer expense of \$48,000. Dairymen apply manure through wheel lines, honey wagons, and hand lines onto the fields adjacent to this school.

CAFOs have moved into the Lower Yakima Valley bringing dust, carrion eating birds and flies to an area where people already had homes. The people were here first. People can no longer enjoy outdoor activities in their own back yards. Family and friends no longer come to visit due to the stench. We believe that people have a right to enjoy their own homes. Quality of life has diminished in measurable ways due to the excessive and ever present manure in this area.

Confined Animal Feeding Operations

We can benefit from the experiences of others. Regions that are grappling with these problems include:

- The Chesapeake Bay where eutrophication from CAFOs has decimated fisheries (National Association of Local Boards of Health, 2010)
- North Carolina where 1997 flood waters carried more CAFO manure into the rivers than the amount of oil the Exxon Valdez spilled into Bristol Bay (PEW Environmental Group, 2010)
- The Middle West where children die from drinking Grandma's well water and pollution pouring into the Mississippi River has created a "dead zone" in the Gulf of Mexico the size of Massachusetts (PEW Environmental Group)
- The Central Valley in California where studies estimate that millions of dollars are needed every year to provide safe drinking water to residents whose public and private wells are polluted by fertilizers and manure (University of California Davis, 2012)

The American Public Health Association (2003) "Resolves that APHA urge federal, state and local governments and public health agencies to impose a moratorium on new Concentrated Animal Feed Operations until additional scientific data on the attendant risks to public health have been collected and uncertainties resolved."

The National Association of Local Boards of Health (2010) states, "The increased clustering and growth of CAFOs has led to growing environmental problems in many communities. The excess production of manure and problems with storage or manure management can affect ground and surface water quality. Emissions from degrading manure and livestock digestive processes produce air pollutants that often affect ambient air quality in communities surrounding CAFOs. CAFOs can also be the source of greenhouse gases, which contribute to global climate change."

The PEW Commission (2008) states, "Research consistently shows that the social and economic well-being of rural communities benefits from larger numbers of farmers rather than fewer farms that produce increased volumes. In rural communities where fewer, larger farms have replaced smaller, locally owned farms, residents have experienced lower family income, higher poverty rates, lower retail sales, reduced housing quality, and persistent low wages for farm workers."

Current Regulations

As noted above, RCW 90.44.050, Permit to Withdraw, allows certain groups to withdraw unlimited amounts of water from public aquifers.

Chapter 90.64 RCW is the primary piece of legislation designed to regulate the dairy industry in Washington State. It is our experience that this act provides very little real protection for communities and the environment. For example, the Washington State Department of Agriculture is required to inspect registered dairies once every 22 months. In 2010 WSDA spent a total of three days inspecting the dairies of Yakima County where the majority of milk cows are located. The operations are given advanced notice and have plenty of time to transport excess manure to offsite areas which are not inspected. Although the milk parlors may appear hygienic and the cow barns may be covered with clean straw, the manure is flooding fields right up to neighbors' fence lines and the inspectors take no notice.

The dairyman cited above who piled manure within fifty feet of a family home suffered a mere \$250 fine. The fine was for not keeping accurate records. There was no penalty for the insult to his neighbors. He illegally dumped dead calves in a draw along with construction wastes. The draw collects and directs water to a culvert that transports water to waters of the state. He received at least three warnings between November 2012 and February 2013 but suffered no penalties in spite of the fact that he took no corrective actions (WSDA, 2013).

Although guidelines are in place to ensure application of manure at agronomic rates, we routinely see manure applied during freezing weather, year round, during high winds and inversions, and at depths that essentially coat the land with feces. Nutrient management plans require tilling of the manure into the ground but this rule is ignored. Manure is applied in wetlands and protective barriers are non-existent.

Section 12 of the Washington State Constitution, Special Privileges and Immunities Prohibited, states, "No law shall be passed granting to any citizen, class of citizens, or corporation other than municipal,

privileges or immunities which upon the same terms shall not equally belong to all citizens, or corporations."

Article XXI, Water and Water Rights, Section 1, Public use of Water, states, "The use of the waters of this state for irrigation, mining and manufacturing purposes shall be deemed a public use."

In September, 2012, Governor Chris Gregoire sent a directive to the Washington State Departments of Agriculture, Health, & Ecology plus the Conservation Commission and the Puget Sound Partnership stating, "The public needs assurance that the nutrient management programs we have in place are adequate to prevent surface and ground water contamination. For that reason I ask that you focus and accelerate your agency efforts on the following . . ." The Yakima Valley Groundwater Management Area is included in the list.

Recommendations

Measures that the State of Washington can take to alleviate the problems described here include:

1. Enforce the rules and regulations that are currently in place.
2. Update RCW 90.44.050 to address today's realities.
3. Require CAFO owners to document that they have sufficient land for application of manure at agronomic rates.
4. Ensure that composting regulations address public health related problems.
5. Determine how many head of cattle the Lower Yakima Valley can support in a sustainable manner and put a cap on the number of cows in any given area.
6. Assist residents to find legal relief when CAFO owners pollute the air they breathe and the water they drink. Land here that should be valued at \$10,000 per acre is on the market for \$5,000 per acre. Very few people want to purchase homes where odor and flies permeate all aspects of their lives.
7. Enforce constitutional protections that prohibit government from favoring one group of people over another.
8. Require bonding of polluting industries so that the cost of environmental cleanup is borne by the polluters and not the tax payers.
9. Provide a contact in the Governor's office who is authorized to receive relevant information and stay current regarding issues in the Lower Yakima Valley. We are not wealthy. Frequent trips to Olympia and hiring of lobbyists are beyond our means. Nevertheless, our issues are serious and sometimes vital.

Through the wonders of technology, i.e. photography and e-mail, we can keep you informed of realities in Yakima County.

Sincerely,

Jean Mendoza 3142 Sigurd Road, White Swan WA 98952
509-452-5817
Linda Dijk 15201 State Route 24, Moxee, WA 98936
509-848-2539
Jan Whitefoot 80 N. AVE., Marrah, WA 98933
Jan A. Dijk 15201 HWY 24, MOXEE, WA 98936-5595
509-829-5978
Terry Fendell 1513 Rosa Dr. Zillah, Wa. 98953
Kathleen Rogers 1920 Grandview Grandview, Wa. 98940 820-6637

This letter was written by Jean Mendoza, the Executive Director for the Friends of Toppenish Creek. Jean is a Masters prepared Registered Nurse who has worked in Yakima Valley hospitals for many years. She is currently enrolled in a doctoral program in public health through Walden University. She is a member of the American Public Health Association, the Washington State Public Health Association, the Washington State Nurses Association, and the American Association of Critical Care Nurses. She is an associate of the American Academy of Cardiology. She has written about and presented lectures on issues related to nitrates in the Lower Yakima Valley.

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From: Prest, Virginia (AGR)
To: Washington State Dairy Federation --
Subject: Answers for the Governor
Date: Saturday, October 12, 2013 11:31:53 AM
Attachments: image001.png
DNMP Prep for October 17 2013 Meeting.docx

Jay

Virginia "Ginny" Prest
Dairy Nutrient Management Program
Washington State Department of Agriculture
Office (360) 902-2894
Cell (360) 529-7422
vprest@agr.wa.gov
<http://agr.wa.gov/FoodAnimal/Livestock-Nutrient/>



Washington
State Department of
Agriculture

EXHIBIT NO. 239
NAME GORDON
DATE 6-25-2014 KRH

Prep for Meeting with NRCS, EPA, WSCC, ECY –
October 17, 2013

EPA identified 3 concerns (Letter to WSDA and ECY [EPA_2_WSDA-ECY_12-04-12.pdf](#))

- 1. WA should prohibit construction of manure lagoons on sites with significant risk of nitrate transport to ground water that serves as a source of drinking water. Evaluate existing manure lagoons in areas with documented ground water concerns.**

NRCS and conservation districts develop designs and oversee construction standards when government funds are used. County level planning and development may add additional requirements through permitting standards but there are not consistent permitting requirements across the state.

A permit is required by [ECY Dam Safety Program](#) above ground lagoon capacity is > 10-acre feet (~3 million gallons). Between 2008 and 2011 the Dam Safety Program evaluated all existing manure lagoon meeting the capacity criteria, DNMP help facilitate site visits to complete this work. It is important to note that this traditionally has been a program primarily concerned about safety of people and property, not water quality.

[DNMP](#) routine inspections include evaluations of operation and maintenance practices at active dairies. If concerns are found, WSDA directs livestock operation to seek professional evaluation through conservation district, NRCS or private engineer. In 2012, the program conducted qualitative lagoon surveys under contract with NRCS on all existing lagoons at active dairies and some non-dairy operations in Puget Sound counties. This effort included WSDA NRAS aquifer vulnerability assessments. Information was delivered to NRCS March 2013.

- 2. WA should require all livestock operations and 3rd party land applicators to insure that manure applications are not the source of nitrate transport to drinking water.**

[DNMP](#) routine inspections include evaluations of land application practices and recordkeeping reviews including soil test information at active dairies. Dairies are required to account for all nutrient sources, not just manure. The program uses a nitrate-nitrogen (N03-N) threshold of 45 ppm N03-N in top 12 inches. If concerns are found, the program notifies the dairy operation through inspection reports, regulatory technical assistance and letters of warning. If the dairy fails to correct the problem, the program uses escalating enforcement (NOC and penalties) as needed.

Washington State Department of Health (DOH) will provide funds to DNMP to hire 1 FTE to provide additional capacity. The project will begin in January 2014 and be completed by December 31, 2015. The project will focus on management of dairy manure on both dairy and non-dairy lands to prevent polluted runoff. The program will conduct field surveillance to observe land application of dairy nutrients and will provide regulatory technical assistance, offer referrals to the conservation district and use informal enforcement tools (warning letters and notice of corrections), when appropriate. If these efforts do not result in adequate changes to

reduce risks to surface waters, WSDA will refer non-dairy land owners and 3rd party commercial applicators to Ecology.

In addition, the program will utilize this opportunity to provide information to non-dairy operations and 3rd party applicators about agronomic application principles and recordkeeping practices that can protect drinking water sources. An evaluation of dairy inspection report data for *Acres acceptable (<45 ppm N03-N)* and *Acres need attention (>45 ppm N03-N)* found that 96% of the dairies in Washington are in compliance (Yakima 89% and Whatcom 93%). Non-dairy land applicators are not subject to regular inspections, recordkeeping requirements, or regulatory oversight.

3. WA should impose ground water monitoring requirements on large livestock operations that pose significant risk to drinking water.

Julie, I think that EPA concern 2 and 3 are intertwined. Groundwater monitoring will tell us the condition of the ground water but I feel very strongly that the only way to protect ground water is to change the way nutrients are being applied on the surface. Ground water monitoring could be very helpful if the producer, both dairy and no-dairy, need an additional push to change the way they are handling nutrients on the surface but it is very expensive and I think starting with the management practices on the surface is where this program should put its efforts. We are seeing good success with the producers meeting the 45ppm nitrate threshold. I can only estimate the improvement over the years because 10 years ago recordkeeping was limited. DNMP began working on this issue in 2005 and the dairies have made steady progress to comply.

A discussion whether 45 ppm nitrate is the correct number will be needed with Ecology and the producers. However, it will be difficult to reduce this threshold if the other users of manure are not also held accountable.

The program will have a unique opportunity to test technical assistance process while we are working the DOH grant. If it shows some success and the sampling results in the Yakima Valley show a need, I hope to find some additional funds to do similar work in the Lower Yakima Valley.

From: Prest, Virginia (AGR)
To: Jay Gordon (wsdf@msn.com)
Subject: update on the grant from DOH
Date: Friday, October 25, 2013 1:19:37 PM
Attachments: image001.png

Hi Jay

Hope all is well and that you are getting your farming done. I just wanted to keep you in the loop about the grant in the NW. You are more than welcome to share this information.

I am headed to Florida next week but will be available by phone.

We have opened up a search for an inspector to help us complete work. It will be a 2-year project position working out of our Lynden office. We would appreciate your help getting the word out. More information can be found at <http://agr.wa.gov/Employment/>. Below is a snapshot of the work we will be performing beginning in 2014. We have lots of things to get worked out and will certainly touching base with you as we work out different pieces of this project over the next few months.

Puget Sound Action grant

Washington State Department of Health (DOH) will provide funds to WSDA to hire 1 FTE to provide additional capacity to conduct additional technical assistance, compliance inspections, and water quality sampling to protect water quality and shellfish beds in Whatcom, Skagit, and Snohomish counties.

Annually, WSDA will work with the Samish Clean Water Initiative, Whatcom Clean Water Program and Snohomish County Public Works' Pollution Identification and Correction Program to identify priority watersheds and assist local pollution correction efforts by targeting additional WSDA staff capacity. The project will focus on management of dairy manure on both dairy and non-dairy lands to prevent polluted runoff. WSDA does not have regulatory authority for enforcement on non-dairy land owners or 3rd party commercial applicators. However, WSDA will conduct field surveillance to observe land application of dairy nutrients and will provide regulatory technical assistance and offer referrals to the conservation district, when appropriate. If these efforts do not result in adequate changes to reduce risks to surface waters, WSDA will refer non-dairy land owners and 3rd party commercial applicators to the Washington State Department of Ecology (Ecology).

The project will begin in January 2014 and be completed by December 31, 2015. The FTE will focus initially on land applications by dairies, non-dairy operations and 3rd party land applicators in the Samish watershed and Bertrand watersheds to assist active Pollution Identification and Corrective Action programs.

Happy Friday!

Virginia "Ginny" Prest

EXHIBIT NO. 246
NAME GORDON
DATE 6-25-2014 KRN

Dairy Nutrient Management Program
Washington State Department of Agriculture
Office (360) 902-2894
Cell (360) 529-7422
vpres@agr.wa.gov
<http://agr.wa.gov/FoodAnimal/Livestock-Nutrient/>



From: Sullivan, Chery (AGR)
To: wsdf@msn.com
Subject: New Inspector
Date: Wednesday, October 30, 2013 4:13:00 PM

Hello Jay,

We anticipate hiring a new inspector in January 2014 to fill the two year grant position (see <http://agr.wa.gov/Employment/> for more info). Hopefully interviews will be taking place in early December.

Can you recommend a producer who might be a good fit for the interview panel?

Thanks,
Chery

Chery Sullivan
DNMP Technical and Compliance Specialist
Dairy Nutrient Management Program
WA Dept of Agriculture
Office: 360.902.1928
Mobile: 360.292.5870
csullivan@agr.wa.gov

EXHIBIT NO. 241
NAME GORDON
DATE 10-25-2014 KRH

Feb. 5, 2014

From: Jay Gordon, Executive Director

To: All Washington Dairy Producers

Re: Finally, reason prevails on changes to NRCS 590 Nutrient Management Standard

Please bear with us on this note.

The Background - in mid-January, NRCS changed the Nutrient Management 590 standard to **eliminate the option** of including in new and updated farm plans any winter applications of manure between the dates of October 15th and T-Sum 200 (a date established in the spring by calculating the total average degrees above freezing after the January 1st. This change was made despite science showing that winter application of manure, if done using long established precautions was both protective of the environment and supported by a strong scientific basis. The decision to bar winter manure applications was pushed on NRCS at the insistence of staff at the Department of Ecology and EPA, staff who did not participate in virtually any discussions or present any science to support their opinion. The decision was despite the loud objections of scientists, agronomists, farmers and farm organizations, technical staff, agency and university staff along with Conservation Districts – professionals who served on the State Technical Advisory Committee (STAC) and spent 18 months reviewing the science, practices and precautions behind manure applications.

The Good news. This week USDA NRCS national staff reviewed the process and the poor decision that resulted and have determined that USDA NRCS **will not** support this change. Instead the Washington State office of NRCS notified us they will be posting the 590 with the old guidance allowing for winter applications, subject to the same precautions as before January 15th.

Additionally NRCS will convene – this spring- the STAC for one more round of meetings to review and consider the science and precautions that support winter application protocols in the 590 standard. (Current precautions/ prohibitions include no applications to ground when frozen down to 3 inches, no applying to snow covered or saturated fields and additional requirements on the west side of the state requiring farmers to follow the Agronomy Technical Note 14- which only allows light applications, on specifically identified grass covered fields, that have been identified as low or no risk for surface runoff.)

Along with the full list of STAC stakeholders - Ecology and EPA will also, once again be invited to participate but they will not be given the power to over-ride the committee or to ignore science.

We recommend you follow your existing farm plan, follow the same guidance of not spreading on frozen or snow covered or saturated ground. The 590 standard and these changes, we expect will be posted to the Washington NRCS website in the next few days. See:
<http://efotg.sc.egov.usda.gov/treemenuFS.aspx>

242

GORDON

DATE 6-25-2014 KRH

WSDF001307

[Print](#)[Close](#)**Fwd: 590 specification**From: **Steve George** (sageconsulting@bossig.com)

Sent: Thu 1/23/14 6:24 PM

To: Bangs Steve; Banks John; Behling Jeffrey; Bittleston Brad; Boogerd Jim; Bosma John; Bosma, Jr. Henry; Sr. Henry; BRON WILL; DeGroot Dan; DeJong Frank; DERUYTER BILL & LISA; DeRuyter Dan; DeRuyter Genny; DeRuyter George; Devries Tom; Dolsen Adam; Dolsen Bill; George Emily; Golob Robert & Edna; Haak Evelyn; Haak Rick & Marlene; HARINGA GENE & TWYLA; Koopmans John; Mensonides Art; Munck Ernie; Newhouse David; Nilles Ron; Olson Denis; OORD HENRY; Prins Aaron; Rollinger Joe; Scheenstra Bill; Sheehan Jason; Slegers Jake; SWAGER DALE & PAT; Van Ruiten Tommy; Vandenberg Case; Vander Meulen Fransisca; VanSlageren Bill & Dirk; Veiga Tony; Veldhuis Jake; Visser Fred & Helen; Voortman Allen; Wavrin Bill (wwavrin@gmail.com)

Cc: Gordon Jay (wsdf@msn.com); Wood Dan (danwood.wsdf@gmail.com)

1 attachment

20140123112309.pdf (112.6 KB),

Steve George
SAGE Consulting Services
350 Hoff Rd.
Moxee, WA 98936
509-457-3850
Fax 509-575-6536
sageconsulting@bossig.com

Begin forwarded message:

From: "Laurie Crowe" <lc@synd.us>
Date: January 23, 2014 12:04:52 PM PST
To: "Steve George" <sageconsulting@bossig.com>, "Aaron Prins" <dairybiz@embarqmail.com>, "Adam Dolsen" <adam@dolsenco.com>, <AMensonides@aol.com>, "Bill DeRuyter" <viewpoint@bentonrea.com>, "Bill Dolsen" <bill@dolsenco.com>, "Bill Scheenstra" <sfi@clearwire.net>, "Bill Wavrin" <wwavrin@gmail.com>, "Bob Golob" <idairy2@gmail.com>, "Dan DeGroot" <dan@skyridgefarms.com>, "Dirk VanSlageren" <vanslageren6@centurylink.net>, <gdrdairy@bentonrea.com>, "Gene Haringa" <haringa@embarqmail.com>, "Genny DeRuyter" <deruyter@embarqmail.com>, "Hank Bosma" <habos@embarqmail.com>, "Hank Haak" <evhaak@centurylink.net>, "Henry Bosma Jr" <cowman@centurylink.net>, "Jake Slegers" <ljr/sleg@aol.com>, "Jake Veldhuis" <veldhuisdairy1@hotmail.com>, "Jason Sheehan" <jkdairy@embarqmail.com>, <jbosma@bentonrea.com>, "Jeff Geertsma" <jeffgeertsma@yahoo.com>, "John Banks" <riverviewranch@embarqmail.com>, "John Wheeler" <wheelrjb@aol.com>, <koopmansdairy@juno.com>, <rdo@bentonrea.com>, <rmhaak@bentonrea.com>, "Rosario Brambila" <rosalio@oorddairy.com>, "Steve Bangs" <tammylou1014@gmail.com>, "Tom DeVries" <tdve@aol.com>, "Tony Veiga" <tveiga@embarqmail.com>, "Vissir Dairy" <vissirdairy@quicktel.com>
Subject: 590 specification

Good Morning,

I have confirmation from our local NRCS that the December 590 Nutrient Management Standard has been pulled temporarily from the internet due to pressure from the Dairy Federation.

EXHIBIT NO. 243
NAME GORDON
DATE 6-25-2014 KRM

Our local NRCS suggests that you all do a call-in campaign to voice your concerns to the State NRCS Office and even call the Nation NRCS Office.

The issues to get across are:

1. Winter application period beginning October 15 – does not allow for double cropping, increases the storage pond capacity needed from 120 days to 150 days.
2. T-Sum values of 200 mean on average that you could not apply manure until March 15 – does not support your current land use of double cropping.
3. The Phosphorus Index is supposed to be a planning tool, not a regulatory hammer.

Contact Numbers:

Roylene Rides at the Door, NRCS State Conservationist – Spokane-, 509-323-2900 --roylene.rides-at-the-door@wa.usda.gov

Bonda Habets, NRCS State Resource Conservationist – Spokane-, 509-323-2961, bobda.habets@wa.usda.gov

Amanda Ettestad, NRCS District Conservationist – Zillah -, 509-829-3003. amanda.etestad@wa.usda.gov

Congressman Doc Hastings, D.C. #202-225-5816, Yakima – 452-3243, [Http://hastings.house.gov](http://hastings.house.gov)

Senator Honeyford, 360-786-7684, jim.honeyford@leg.wa.gov

Representative Bruce Chandler, 360-786-7960, bruce.chandler@leg.wa.gov

Astor Boozer, Regional Conservationist, DC, 202-690-2196, astor.boozer@wdc.usda.gov

I will keep you posted as I hear any other changes

Steve George can you please send this around as well...thanks.

Laurie Crowe

**District Coordinator
Livestock Nutrient Management Program Specialist
South Yakima Conservation District
PO Box 1766
200 Cheyne Road
Zillah, WA 98953
509.829.9025
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509.952.3431 (cell)**



This email is free from viruses and malware because avast! Antivirus protection is active.

From: Prest, Virginia (AGR)
To: WA Dairy Federation - Jay Gordon; WA Dairy Federation -Dan Wood
Subject: presentation for GWMA meeting
Date: Wednesday, January 15, 2014 6:16:23 PM
Attachments: DNMP GWMA.pptx
image001.png

Thought you might want a peak

Virginia "Ginny" Prest, Program Manager
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<http://agr.wa.gov/FoodAnimal/Livestock-Nutrient/>



EXHIBIT NO. 244
NAME GORDON
DATE 6-25-2014 KRH

DAIRY NUTRIENT MANAGEMENT PROGRAM



Source: Whatcom Conservation District

Virginia "Ginny" Prest
WSDA Dairy Nutrient Management
Program Manager

Yakima GWMA

January 2014





Dairies Must

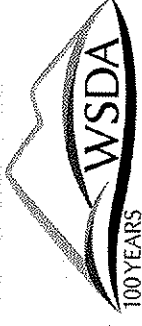
• Dairy Nutrient Management Act - 90.64 RCW (DNNMA)

- All dairies required to
 - register with program
 - develop a nutrient management plans (NMP) that is approved and certified by local conservation district
 - Operate in way that there is not a discharge to waters of the state
 - Maintain records that show agronomic applications of all nutrients



All other AFOs Must

- Water Pollution Control Act - 90.48 RCW
 - All animal feeding operations (AFOs) required to
 - Operate in way that there is not a discharge to waters of the state

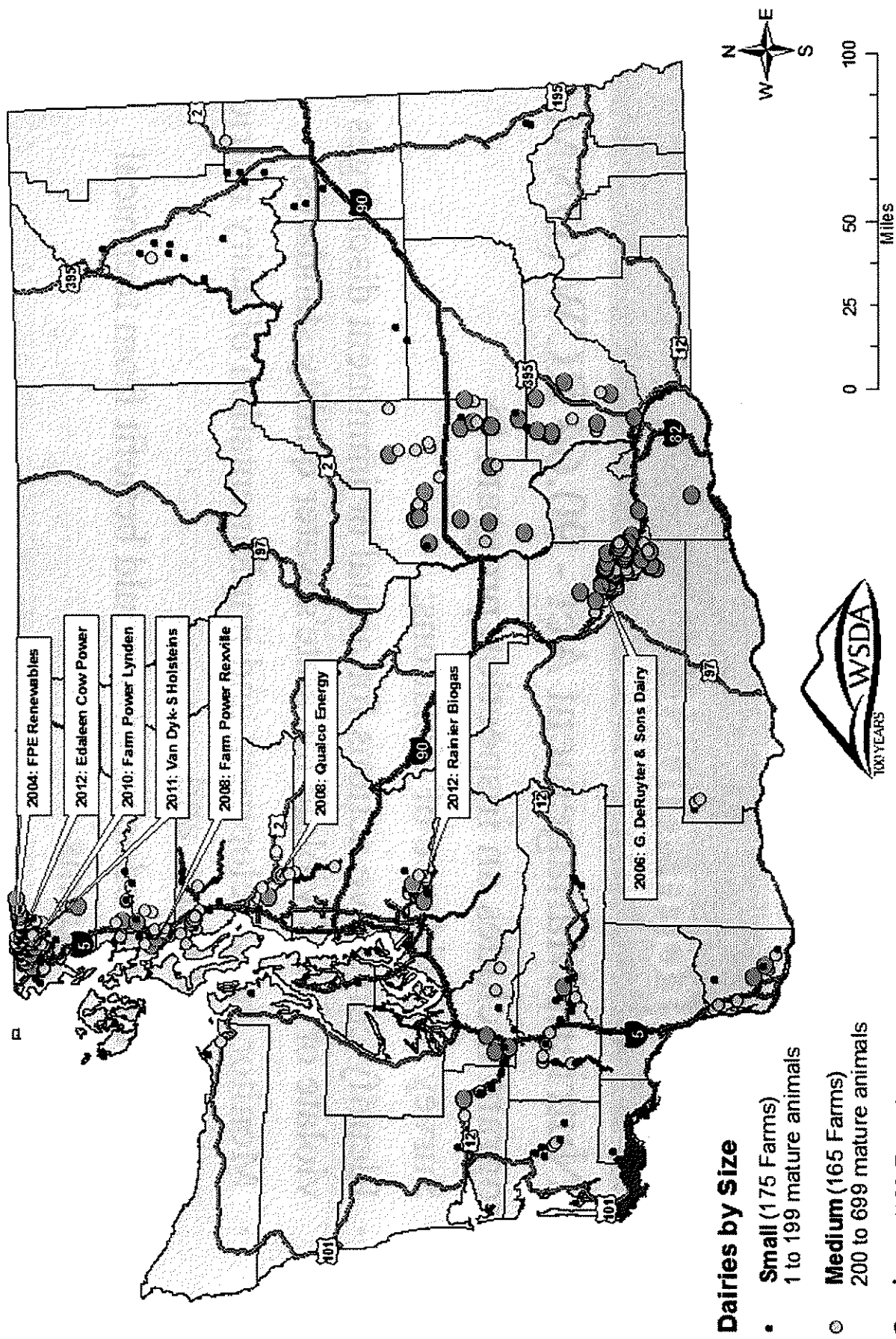


Program must

• Dairy Nutrient Management Act - 90.64 RCW (DNMA)

- Program includes an inspection program to
 - Survey for evidence of violations;
 - Identify corrective actions for actual or imminent discharges that violate or could violate the state's water quality standards;
 - Monitor the development and implementation of dairy nutrient management plans; and
 - Identify dairy producers who would benefit from technical assistance programs.

Washington Cow Dairies and Digesters, December 2012





Animals/Acres/Exports

	Mature Animals	Total Acres	Export off farm	Dairy Soil N Acres Acceptable	Dairy Soil N Acres Needs Attention
Statewide - 416 Dairies	269,246	168,073	44%	96.8%	3.2%
Yakima – 69 Dairies	103,089	28,743	85%	88.1%	11.9%



Statewide compliance 2004-13

Inspections 2519 routine, 1698 other inc 269 investigations

Discharges 72

Potential to pollute 534

- Land Applications: field conditions and outside NMP

Discharges – 25 (4 penalties, 2 orders, 19 notice of corrections)

Potential to pollute – 103 (3 orders, 22 notice of corrections, 78 warning letters)

- Land Applications: nutrient balance, recordkeeping

Discharges –

Potential to pollute – 232 (1 penalty, 2 orders, 18 notice of corrections, 211 warning letters)

- Collection, conveyance and storage of manure

Discharges – 45 (13 penalties, 7 orders, 23 notice of corrections)

Potential to pollute – 164 (31 notice of corrections, 133 warning letters)



Yakima compliance 2004-13

Inspections 395 routine, 151 other inc 54 investigations

Discharges 3

Potential to pollute 98

• Land Applications: field conditions and outside NMP

Discharges – 2 (1 notice of correction, 1 ECY took the lead)

Potential to pollute – 14 (4 notice of corrections, 10 warning letters)

• Land Applications: nutrient balance, recordkeeping

Discharges –

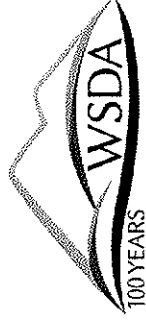
Potential to pollute – 55 (2 penalty, 3 notice of corrections, 50 warning letters)

• Collection, conveyance and storage of manure

Discharges – 1 (1 notice of correction)

Potential to pollute – 19 (7 notice of corrections, 12 warning letters)

WSDA
Dairy Nutrient
Management Program



Authorities						
Livestock/Manure	Routine Inspections	Complaint Responses	Informal Enforcement	Formal Enforcement	CAFO Permit Administration	
Non-permitted dairies WSDA Lead, Chapter 90.64 RCW	WSDA	WSDA	WSDA	WSDA If discharge, coordinate per MOU	Ecology Determines if permit is required per MOU	
Permitted CAFOs, dairy and non-dairy Ecology Lead, Chapter 90.48 RCW	WSDA Established by MOU	WSDA Established by MOU	WSDA Coordinated per MOU	Ecology/WSDA Coordinate per MOU	Ecology WSDA assists per MOU	
Non-permitted other AFOs and CAFOs Ecology Lead, Chapter 90.48 RCW	N/A	Ecology	Ecology	Ecology	Ecology	
Non-AFOs - Pasture, Rangeland or Small Livestock Ecology Lead, Chapter 90.48 RCW	N/A	Ecology	Ecology	Ecology	N/A	
Manure complaints when the responsible party is uncertain WSDA lead for initial response and to determine dairy is responsible per MOU	WSDA will handle follow up if dairy is responsible Ecology may handle follow up with any non-dairy party					

WSDA

Dairy Nutrient
Management Program



Partners

•INTERNAL (WSDA)

- Food Safety Program
- Natural Resource Assessment Section
- Organic Program
- Pesticide Division

•DAIRIES

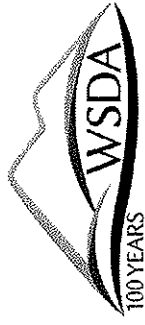
•PUBLIC

- Indian Nations
- Washington Dairy Federation
- Dairy Products Commission
- Anaerobic digester facilities
- Local watershed groups
- Shellfish growers
- Environmental organizations

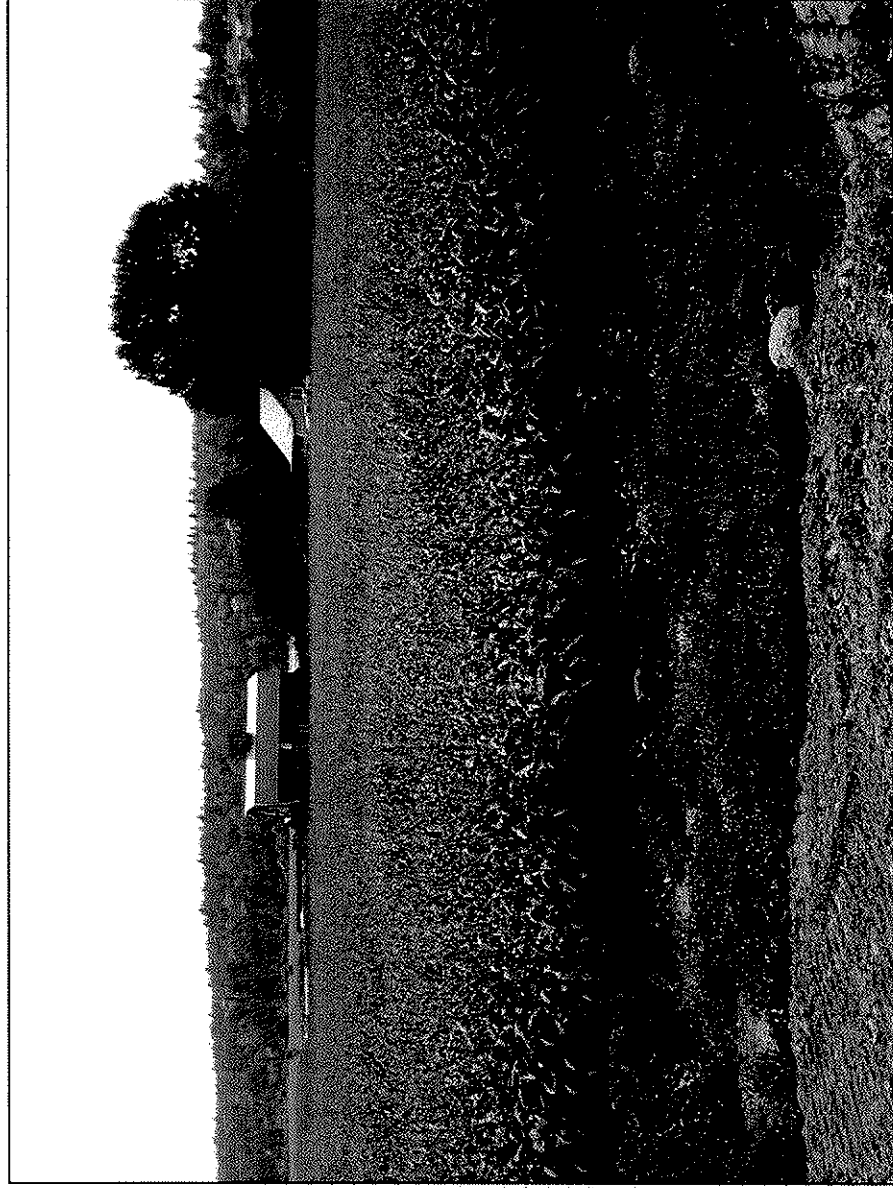
• EXTERNAL

- Environmental Protection Agency (EPA)
- USDA NRCS
- Department of Ecology
- Conservation Commission
- Washington State University Extension/Sustainability Center
- Department of Health
- Conservation Districts
- Local Health Departments
- Local Shellfish Protection Districts

**WSDA
Dairy Nutrient
Management Program**



Any Questions?



Virginia (Ginny) Prest
Program Manager
Dairy Nutrient Management
Program

vprest@agr.wa.gov

P: 360-902-2894

C: 360-529-7422

1 CHARLES M. TEBBUTT, *pro hac vice*
2 DANIEL C. SNYDER, *pro hac vice*
3 Law Offices of Charles M. Tebbutt, P.C.
4 941 Lawrence St.
5 Eugene, OR 97401
6 Tel. 541.344.3505

7 BRAD J. MOORE, WSBA #21802
8 Stritmatter Kessler Whelan
9 200 Second Avenue West
10 Seattle, WA 98119
11 Tel. 206.448.1777

12 *Additional Plaintiffs' counsel on signature page*

13
14 IN THE UNITED STATES DISTRICT COURT
15 FOR THE EASTERN DISTRICT OF WASHINGTON

16 COMMUNITY ASSOCIATION FOR
17 RESTORATION OF THE
18 ENVIRONMENT, INC., a Washington
19 Non-Profit Corporation
20 *and*
CENTER FOR FOOD SAFETY, INC.,
a Washington, D.C. Non-Profit
Corporation

Plaintiffs,

v.

COW PALACE, LLC, a Washington
Limited Liability Company,

Defendants.

NO. CV-13-3016-TOR

THIRD AMENDED NOTICE OF
VIDEO DEPOSITION – 30(b)(6)
DESIGNEE OF WASHINGTON
STATE DAIRY FEDERATION

1 **TO: Washington State Dairy Federation, c/o J.T. Cooke, Houlihan**
2 **Law, 3401 Evanston Avenue N., Ste. C, Seattle, WA, 98103.**
3 **AND TO: Debora K. Kristensen, Jeffrey C. Fereday, Preston N. Carter,**
4 **Brendan V. Monahan, Mathew L. Harrington, Sean A. Russel, and Olivia E.**
5 **Gonzalez, counsel for Cow Palace, LLC.**

6 PLEASE TAKE NOTICE that, pursuant to Fed. R. Civ. P. 30(b)(6), the
7 Washington State Dairy Federation ("WSDF") shall designate and produce one or
8 more officers, managers, agents, employees, or other representatives of WSDF for
9 deposition to discuss the subject matter identified on Exhibit A. The deposition of
10 the 30(b)(6) designee will be by oral examination and recorded stenographically
11 and by audio-visual means, and will be taken before an Official Court Reporter and
12 Notary Public, in and for the State of Washington. The names, address, and
13 employer of the persons recording the deposition are: Marc Lykken (audio-visual)
14 and Kylie Hammington (stenographic), Central Court Reporting, 917 Triple Crown
15 Way, Suite 200, Yakima, WA, 98908.

16 The deposition will take place at the office of Stritmatter Kessler Whelan,
17 200 2nd Ave. W., Seattle, WA, 98119, beginning promptly at 9:00 a.m. on June
18 25, 2014, or in conjunction with the deposition(s) of designee(s) in their individual
19 capacities or otherwise as may be agreed upon by the parties. If not completed on
20 the scheduled day, the deposition of the 30(b)(6) designee will be continued

1 thereafter from day to day and from time to time until fully taken and may be used
2 for all purposes, including trial of the above-captioned matter.

3 If more than one person is designated by WSDF, please set forth the matters
4 on which each person will testify.

5 DATED this 20th day of June, 2014.

6 s/ Brad J. Moore
BRAD J. MOORE, WSBA #21802
7 Stritmatter Kessler Whelan
200 Second Ave. W.
8 Seattle, WA 98119
Tel. 206.448.1777
9 E-mail: Brad@stritmatter.com

10 *Local counsel for Plaintiffs*

s/ Charles M. Tebbutt
CHARLES M. TEBBUTT
OR Bar No. 96579 (*pro hac vice*)
DANIEL C. SNYDER
OR Bar No. 105127 (*pro hac vice*)
Law Offices of Charles M. Tebbutt, P.C.
941 Lawrence St.
Eugene, OR 97401
Tel. 541.344.3505
E-mails: charlie.tebbuttlaw@gmail.com
dan.tebbuttlaw@gmail.com

Counsel for Plaintiffs

13 s/ Jessica L. Culpepper
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14 New York Bar Member
(*pro hac vice*)
15 Public Justice
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16 Washington, DC 20006
Tel. 202.797.8600
17 E-mail: jculpepper@publicjustice.net

18 *Counsel for Plaintiffs*

s/ Elisabeth A. Holmes
ELISABETH A. HOLMES
OR Bar No. 120254 (*pro hac vice*)
GEORGE A. KIMBRELL
WSBA # 36050
Center for Food Safety, 2nd Floor
303 Sacramento Street
San Francisco, CA 94111
Tel. 415.826.2770
Emails:
eholmes@centerforfoodsafety.org
gkimbrell@centerforfoodsafety.org

*Counsel for Plaintiff Center for Food
Safety*

EXHIBIT A

1. The corporate structure and governance of WSDF, including but not limited to the overall management and decision-making structure of the organization, including its directors, officers, members, staff, and the duties and responsibilities of each;
2. WSDF's mission statement and the activities undertaken by WSDF in furtherance of that mission;
3. WSDF's governmental relations, legislative activities, and other lobbying efforts;
4. WSDF's public relations and media efforts surrounding:
 - a. the issue of groundwater and soil contamination in the lower Yakima Valley, from 2005 to the present;
 - b. the issue of local, state, and federal regulation of dairy operations, including but not limited to any permitting requirements, inspections, and compliance or enforcement actions from 2005 to the present;
 - c. this lawsuit and other environmental litigation against dairy operations, from 2005 to the present;
5. The presence, participation, submission of comments, or other involvement of WSDF, its officers, directors, members, managers, or other personnel in the negotiation of the Administrative Order on Consent ("AOC"), Docket No.,

1 SDWA-10-2013-0080 entered into by Defendants with the Environmental
2 Protection Agency ("EPA") in March, 2013, and any discussions or
3 communications between WSDF and EPA or between WSDF and any Defendants
4 or agents of Defendants and other party or non-party regarding the same;

5 6. The presence, participation, submission of comments, or other involvement
6 of WSDF, its officers, directors, members, managers, or other personnel in the
7 drafting and revision of the Washington General CAFO NPDES permit, from 2010
8 to the present, and communications between WSDF and local, state, and federal
9 agency staff, "Cluster Dairy" Defendants, and other dairy operators regarding the
10 same;

11 7. Communications between WSDF, its officers, directors, members,
12 managers, or other personnel and the "Cluster Dairy" Defendants and the Haak
13 Dairy from 2008 to the present, including but not limited to communications to:

- 14 a. Cow Palace, LLC and the Dolsen Companies, including Bill Dolsen,
15 Adam Dolsen, Jeff Boivin, Ken Willms, and other agents of Cow Palace
16 LLC and the Dolsen Companies;
- 17 b. Henry Bosma & Liberty Dairies, including Henry "Hank" Bosma, Henry
18 Bosma, Jr., Steve Bosma, and other agents of the Bosma & Liberty
19 Dairies;

1 c. George DeRuyter and Son Dairy, including George DeRuyter and Dan

2 DeRuyter, and other agents of the George DeRuyter and Son Dairy;

3 d. D & A Dairy, including George DeRuyter and Dan DeRuyter, and other

4 agents of the D & A Dairy;

5 e. R & M Haak Dairy, including Richard and Marlene Haak, and other

6 agents of the R & M Haak Dairy;

7 8. Communications between WSDF and Arcadis and its consultants, including
8 but not limited to Kevin Freeman, Tom Mullen, and Steve Hicks, from 2010 to the
9 present.

UNITED STATES DISTRICT COURT

for the
Eastern District of Washington

Cmty. Ass'n for Restoration of the Env't, Inc., et al.

Plaintiff

v.

Cow Palace, LLC

Defendant

Civil Action No. 2:13-cv-3016-TOR

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Washington State Dairy Federation

(Name of person to whom this subpoena is directed)

☒ **Testimony:** YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:
See Exhibit A to Notice of Deposition.

Place: Stritmatter Kessler Whelan
200 2nd Ave. W.
Seattle, WA 98119

Date and Time:

06/25/2014 9:00 am

The deposition will be recorded by this method: stenographer and audio-visual (see notice for contact info.)

☒ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material: See attachment. Please produce documents in advance of deposition, per the agreement reached by counsel.

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 6/20/14

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Community Association for Restoration of the Environment, Inc.

, who issues or requests this subpoena, are:
Charles M. Tebbutt, Law Offices of Charles M. Tebbutt PC, 941 Lawrence St., Eugene, OR, 97401
email: charlie.tebbuttlaw@gmail.com tel: 541-344-3505

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 2:13-cv-3016-TOR

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named individual as follows: _____
_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____
_____.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____
_____ *Server's signature*

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT – Washington State Dairy Federation

INSTRUCTIONS

1. These instructions and definitions should be construed to require answers based upon the actual or constructive knowledge of, and information available to, your attorneys, representatives, investigators, agents, and others acting on your behalf.

2. If, after exercising due diligence, you cannot respond to a portion of a Request for Production, so state and answer to the extent possible, specifying your inability to respond to the remainder. State whatever knowledge or information you have regarding the unanswered portion, and identify and describe in detail what you did in attempting to secure the unknown documents.

3. If you object to any portion or aspect of any Request for Production, state the grounds of your objection with specificity and respond to the remainder of the Request for Production.

4. If any document is withheld in response to a Request for Production pursuant to an objection or a claim of privilege, you shall identify the withheld document by stating: (1) the name(s) and affiliation(s) of the document's author(s) or originator(s); (2) the name(s) and affiliation(s) of the document's addressee(s) or recipient(s); (3) the document's date; (4) the document's title and subject matter; (5) the name(s) and affiliation(s) of the present or last known custodian(s) of the

1 original document or copies thereof; (6) the current or last known business and
2 residence address of such custodian(s); and (7) the name(s) and affiliation(s) of all
3 recipients of the document. In addition, you shall state the basis upon which the
4 objection is raised or the privilege is claimed.

5 5. If anything is deleted or redacted from a document produced in
6 response to a Request for Production, you shall state the reason for and the subject
7 matter of the deletion or redaction.

8 DEFINITIONS

9 1. "Document" shall include, but not be limited to, the following: (1)
10 analyses, charts, forms, graphs, invoices, letters, maps, memoranda, minutes, notes,
11 records, reports, studies, and all other forms of written communications; and (2)
12 computer data compilations, facsimile transmissions, films, photographs, slides,
13 tape recordings, e-mail, text messages, and all other forms of electronic and
14 mechanical reproduction.

15 2. "Communications" shall include, but not be limited to: letters, notes,
16 and other forms of written communication; e-mail, facsimile transmissions, text
17 messages, telephonic recordings, and other forms of electronic communication.

18 3. "Person" shall mean any natural person or any business, legal or
19 governmental entity, or any other form of association.

20 4. "Relating to," "related to," "referring to," "regarding, "concerning,"

1 or "with respect to," shall mean pertaining, describing, referring, evidencing,
2 reflecting, analyzing, discussing, showing, supporting, contradicting, refuting,
3 constituting, embodying, containing, concerning, identifying, or in any way
4 logically or factually connected to the matter discussed.

5 5. The words "or" and "and" shall be read in the conjunctive and not in
6 the disjunctive wherever they appear, and neither of these words shall be
7 interpreted to limit the scope of a request. The use of a verb in any tense shall be
8 construed as the use of the verb in all other tenses and the singular form shall be
9 deemed to include the plural, and vice-versa. The singular form of any noun shall
10 be deemed to include the plural, and vice-versa.

11 6. The present tense includes the past and future tenses. The singular
12 includes the plural, and the plural includes the singular. "All" means "any and all";
13 "any" means "any and all." "Including" means "including but not limited to."
14 "And" and "or" encompass both "and" and "or." Words in the masculine, feminine
15 or neuter form shall include each of the other genders.

16 7. "WSDF," and the "Dairy Federation" shall mean the Washington
17 State Dairy Federation.

18 8. "CARE" shall mean Community Association for Restoration of the
19 Environment, Inc., a Washington non-profit corporation.

20 9. "Cluster Dairies" or "Defendants" shall mean the following dairy

1 entities: Cow Palace, LLC (defendant in *CARE et al. v. Cow Palace, LLC*, 2:13-cv-
2 3016-TOR), George DeRuyter & Son Dairy and George & Margaret, LLC
3 (defendants in *CARE et al. v. George & Margaret, LLC, et al.*, 2:13-cv-3017-TOR)
4 D & A Dairy and D & A Dairy, LLC (defendants in *CARE et al. v. D & A Dairy, et*
5 *al.*, 2:13-cv-3018-TOR, which was recently consolidated with Docket No. 2:13-cv-
6 3017), and Liberty Dairy, LLC and H & S Bosma Dairy *aka* Henry Bosma Dairy
7 *aka* Bosma Dairy (defendants in *CARE et al. v. Henry Bosma Dairy & Liberty*
8 *Dairy, et al.*, 2:13-cv-3019-TOR).

9 10. The “Haak Dairy” shall mean the dairy entities R & M Haak & Sons
10 Dairy and R & M Haak, LLC.

11 11. “Administrative Order on Consent” or “AOC” shall mean the Order
12 on Consent entered into between the Cluster Dairies and the United States
13 Environmental Protection Agency on March 19, 2013, Docket No. SDWA-10-
14 2013-0080.

15 12. “EPA” shall mean the United States Environmental Protection
16 Agency.

17 13. “CAFO” shall mean a Concentrated Animal Feeding Operation, as
18 defined by federal and Washington State law in 40 C.F.R. § 412.2 and WAC 173-
19 224-030.

1 **REQUESTS FOR PRODUCTION OF DOCUMENTS**

- 2 1. All communications between WSDF, its officers, directors, members,
3 managers, or other personnel and the “Cluster Dairy” Defendants and the Haak
4 Dairy from 2008 to the present, related to the litigation in these cases, the AOC
5 negotiated with EPA, groundwater concerns, manure management practices
6 (including Dairy Nutrient Management Plans), soil nutrient levels, and political
7 and agency (Washington State Depts. Of Ecology and Agriculture) lobbying (on
8 behalf of these facilities or on behalf of the WSDF membership more generally
9 with respect to regulation of manure handling and storage at CAFOs) involving:
- 10 a. Cow Palace, LLC and the Dolsen Companies, including Bill Dolsen,
11 Adam Dolsen, Jeff Boivin, Ken Willms, and other agents of Cow Palace
12 LLC and the Dolsen Companies;
- 13 b. Henry Bosma & Liberty Dairies, including Henry “Hank” Bosma, Henry
14 Bosma, Jr., Steve Bosma, and other agents of the Bosma & Liberty
15 Dairies;
- 16 c. George DeRuyter and Son Dairy, including George DeRuyter and Dan
17 DeRuyter, and other agents of the George DeRuyter and Son Dairy;
- 18 d. D & A Dairy, including George DeRuyter and Dan DeRuyter, and other
19 agents of the D & A Dairy;
- 20

- 1 e. R & M Haak Dairy, including Richard and Marlene Haak, and other
2 agents of the R & M Haak Dairy;
- 3 2. All documents related to CARE's litigation against the "Cluster Dairies,"
4 currently pending in the Eastern District of Washington;
- 5 3. All documents related to the Administrative Order on Consent ("AOC"),
6 Docket No., SDWA-10-2013-0080 entered into by the Cluster Dairy Defendants
7 and the Environmental Protection Agency ("EPA") in March, 2013;
- 8 4. All documents related to the Washington General CAFO National Pollutant
9 Discharge Elimination System ("NPDES") permit, from January 1, 2011 to the
10 present;
- 11 5. All documents related to Arcadis and its consultants, including but not
12 limited to Kevin Freeman, Tom Mullen, and Steve Hicks, from 2010 to the present.
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CERTIFICATE OF SERVICE

I hereby certify that on June 20th, 2014 I served the foregoing *Third Amended Notice of Deposition of 30(b)(6) designee of WSDF and Subpoena Duces Tecum* on the Defendants by e-mailing a true copy thereof to the following counsel:

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/s/ Sarah A. Matsumoto
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Law Offices of Charles M. Tebbutt, P.C.