



STATE OF WASHINGTON
DEPARTMENT OF AGRICULTURE

NRB, 2nd Floor, 1111 Washington ST SE · PO Box 42560 · Olympia, Washington 98504-2560 · (360) 902-1800 · <http://agr.wa.gov>

April 29, 2022

Via E-Mail

Dear Ms. Mendoza:

Thank you for following up on my March 31, 2022 letter. In your letter dated April 4, 2022, you asked about a couple of different things. First, you asked about the process used by the Dairy Nutrient Management Program at the Washington State Department of Agriculture (WSDA) to investigate a complaint against a licensed dairy farm.

WSDA's jurisdiction over the subject matter of incidents is limited by statute. The Dairy Nutrient Management Act (DNMA), chapter 90.64 RCW, authorizes WSDA to conduct inspections and investigations of dairies in response to complaints received that allege violations of the DNMA. The Dairy Nutrient Management Program's mandate and authority to address reports is limited to complaints alleging a violation of RCW 90.64. Violations of the DNMA are defined and limited by statute to include;

- a discharge of pollutants into the waters of the state (with some exceptions)
- failure to register with WSDA
- failure to keep required records
- failure to obtain an approved Dairy Nutrient Management Plan
- failure to obtain certification of a Dairy Nutrient Management Plan

WSDA receives notification of reports of environmental incidents (along with several other agencies) from Department of Ecology's Environmental Report Tracking System (ERTS). These reports include many different types of allegations of potential environmental and public health issues. Because WSDA does not have the authority to investigate reports made to ERTS where no violation of the DNMA is alleged, WSDA's only action when it receives such report is to refer the report back to Ecology's ERTS coordinators. Where a report alleges a violation of the DNMA, WSDA follows the complaint process outlined in the DNMA.

My understanding is that you also want to submit a complaint to WSDA concerning WSDA's own process for responding to complaints made against dairy farms. You state in your letter that when Yakima County citizens have filed reports with Ecology's ERTS coordinators, WSDA has not notified the person making the report of the conclusions of our investigation. Please identify the ERTS report number and date filed so that I can follow up to determine whether the Dairy Nutrient Management Program followed the procedure under RCW 90.64.030(2). If I misunderstood your intent in submitting a complaint, please let me know what you seek.

Additionally, you ask a number of questions that suggest you desire an administrative adjudicative proceeding to challenge WSDA's response to a complaint. If that is the case, Chapter RCW 90.64 does not provide for such an administrative adjudicative proceeding. However, I am interested to hear any concerns about a specific complaint where DNMP had authority to conduct an investigation or inspection. As described above, they may each be handled differently by the ERTS system depending on the complaints' allegations.

Sincerely,

PESTICIDE MANAGEMENT DIVISION

A handwritten signature in black ink, appearing to read "R. Schoen-Nessa". The signature is written in a cursive style with a large initial "R" and a distinct "Nessa" at the end.

Robin Schoen-Nessa, Assistant Director