



Friends of Toppenish Creek

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Hello Mr. Saul,

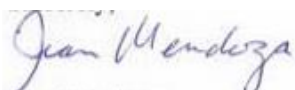
The Friends of Toppenish Creek are closely following Ecology's rulemaking for WAC 173-424, the Clean Fuels Program. We recently read or scanned most of the comment letters submitted to your team. FOTC wishes to make some corrections/comments regarding statements made by Jay Gordon on behalf of the WA State Dairy Federation.

In blunt terms, the WA Dairy Federation lies. The Dairy Federation says, *Dairy farmers in Washington State are the most regulated sector of agriculture or rural land use in the state.*

But there is absolutely no regulation of air emissions from dairies in Yakima County where over a third of all Washington dairy cows are housed.

I provide evidence and more information below, but the basic message is to be wary – not everything you see in print is true.

Thank you.



Executive Director
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On page 9/10 of his comments Mr. Gordon states:

Are Washington Dairy farms polluters? And do digesters increase pollution? Again, no to both. Dairy farmers in Washington State are the most regulated sector of agriculture or rural land use in the state. Our farms are regulated for manure use in crop production, animal waste management (including containment and storage), timing and volume of nutrient applications and irrigation water management to ensure protection for the waters of the state. Dairy farmers are required by state law to have a nutrient management plan; they undergo routine inspections by the Washington Department of Agriculture for compliance to ensure they are using their nutrients appropriately and have all measures in place to ensure surface or groundwater is not contaminated. Digester operators have additional requirements to account for any inflow and utilization of nutrients from added substrates.

Wrong – Dairies are polluters. See the results of EPA research on the Lower Yakima Valley (LYV) Dairy Cluster where well monitoring found that 61% of domestic wells one mile down gradient from the cluster delivered water that is unsafe to drink. ¹

Wrong – Digesters do increase pollution. Read the research:

- Biogas or Bull****? At [Biogas or Bull****?](#)
- Big Oil and Big Ag are teaming up to turn cow poop into energy — and profits. The math doesn't add up. At [How dairy farm biodigesters create “biogas” — and why environmentalists oppose the manure-based energy source | Vox](#)
- Why biodigesters Fall Short as a Climate Fix. [Why Biodigesters Fall Short as a Climate Fix](#)
- Petition for Rulemaking to Exclude All Fuels Derived from Biomethane from Dairy and Swine Manure from the Low Carbon Fuel Standard Program. [Factory-Farm-Gas-Petition-FINAL.pdf](#)
- The New California Gold Rush into Anaerobic Digesters. [The New California Gold Rush Into Anaerobic Digesters](#)
- Manure Biodigesters Raising a Stink. [Manure Biodigesters Raising a Stink | ModeShift](#)
- Are Manure Subsidies Causing Farmers to Milk More Cows? [DRIFTS SEMINAR](#)

¹ U.S. Environmental Protection Agency Region X. Lower Yakima Valley Groundwater. [Lower Yakima Valley Groundwater | US EPA](#)

Wrong - FOTC agrees that dairies are highly regulated but only in some areas.² Dairies are regulated because milk spoils easily, because many pathogens such as listeria, salmonella, coliform bacteria, campylobacter, and brucellosis grow in milk. Pasteurization of milk led the way to near eradication of tuberculosis in the United States. There is a good reason to regulate milk processing on dairies.

Dairies are regulated because they produce so much manure that they have difficulty disposing of it. The 90,000 milk cows in the Sunnyside area of the LYV produce as much waste as a city with 2.3 million people. Dairy waste is stored in lagoons until it can be spread on fields. There is no treatment. Dairies say it is too costly to transport manure very far for application in other areas such as the Kittitas Valley that need fertilizer, so it must be applied near the point of origin.

People have known for decades that over application of manure to cropland, especially during winter months, leads to ground and surface water pollution. Attachment 3 is a document with readings of soil samples from a LYV dairy, actually a dairy with a digester, that clearly shows egregious overapplication of manure to cropland. Too much manure is a problem that spills over into air and water pollution.

FOTC acknowledges dairymen's plight. They built manure lagoons believing that they were doing the right thing, only to learn later that they were producing methane, a greenhouse gas and air pollutant. But it is disingenuous for dairies to claim they did everything right. Instead of lining lagoons with impermeable synthetic liners the dairy industry falsely claimed that soils in the LYV compacted to form barriers to leaching. Recent evidence in Yakima shows that these clay lined lagoons have leached a lot and this led to ongoing groundwater problems in the LYV.³

There is absolutely no regulation of air emissions from dairies in Yakima County, in spite of laws that require regulation: RCW 70A.15.1005, RCW 70A.15.2270, RCW 70A.15.3060, and RCW 70A.15.3150. If CAFO dairies were factories at least twenty LYV dairies would be classified as Title V sources of air pollution.⁴ CAFO dairies are the largest contributors to air pollution in the LYV, yet they pay not a dime towards costs of protecting air resources.

² See Attachment 1 for more details

³ Leaking Manure Lagoons in the Lower Yakima Valley. [Manure Lagoons Leak LYV.pdf](#)

⁴ Under Reporting of Hazardous Pollutants & Greenhouse Gas in an Overburdened Community. [EPA YRCAA 1 Under Reporting of Hazardous Pollutants.pdf](#)

Wrong - Mr. Gordon says that dairies are required by law to have nutrient management plans. He neglects to say that there is nothing in the law that requires dairies to follow their nutrient management plans. According to a 2017 WSDA Report to the Legislature⁵:

There is no penalty for failure to follow or update an NMP. For an NMP to be certified as required, the elements described in the plan must be “being used as designed and intended,” but there is no requirement that the plan be implemented once it is certified. The statute (Chapter 90.64 RCW) includes monitoring development and implementation of NMPs as a purpose for inspections, and it identifies the existence and implementation of NMP as criteria for prioritizing inspections, but not following an NMP is in itself not a violation of the statute, and there is no penalty for it.

WSDA has unsuccessfully requested revisions to RCW 90.64 that would address this gap in the law.

Thank you for reading.

Friends of Toppenish Creek

⁵ Implementation of Nutrient Management Training Program for Farmers and Manure Management Program Review: A Report to the Governor and Legislature. [GetPDF](#)