

September 29, 2025

Hi Jean,

Thanks for your patience. I have included our responses to your questions below. Kyrre Flege and I would be happy to travel to Yakima and meet with you and Ron when you are ready, and to set a reoccurring meeting schedule if that is desired. Take care.

Kelly

Kelly McLain | Assistant Director | Policy Advisor

Agricultural Environmental Services Division

Washington State Department of Agriculture

Ph: 360.359.8091

- Where are WSDA and Ecology on plans for conducting inspections of manure lagoons? Several years ago, we had email conversation with WSDA about Tech Note 23 inspections. We are unaware of any plans to replace those inspections.

WSDA has since worked to improve clarity on the design and operations requirements for waste storage ponds (WSPs). Since that time, NMTS has taken enforcement action for failing WSPs and won on appeal at the PCHB concerning a WSP in Whatcom County. This clarified our authority to enforce on violations where documented seepage exceeds the design standards required for dairy WSPs. WSDA is working on an interpretive statement for that authority, and an assessment tool like the NRCS Technical Note 23, but that can be used to determine compliance with state law. FOTC provided a helpful reference to some Michigan evaluation procedures that were considered. We plan to roll out an emphasis on these WSP assessments in the LYV over the course of the next two years. The compliance timeline for these assessments will be similar to that which is included in the current Ecology CAFO permit, but will use a WSDA developed assessment procedure rather than the NRCS Technical Note 23.

- How is WSDA assisting Ecology to bring more CAFO dairies under NPDES permits? To our understanding there are one or two more dairies under permit, but these dairies are not drilling monitoring wells as required. Do you have thoughts?

WSDA inspectors visit each dairy in the state every two years at a minimum and conduct a complete facility inspection for sources of discharge to surface and groundwater. If a discharge is identified, it becomes a referral to Ecology, and permitting is coordinated through Ecology's Permit Implementation Team. Large dairies in the LYV are encouraged to explore permit coverage as an alternative to regulation under the Dairy Nutrient Management Act. The permit is too onerous for smaller producers but can be workable for larger ones who already have comprehensive soil monitoring in place and are investing in upgraded infrastructure. The remaining small and medium dairies in the state are still regulated under the Dairy Nutrient Management Act. Other non-dairy CAFOs are not a part of WSDA's regular inspection program, and therefore do not get identified and referred to Ecology for permit coverage. The requirements for number, location, and other details for what would be considered a compliant groundwater monitoring plan are not well understood by permitted CAFOs, and as a result, they've been slow to obtain plans from consultants and submit them to Ecology. WSDA recommends consulting with Ecology on the details of what is required for groundwater monitoring under the CAFO permit.

- Has WSDA approved research that looks at the composition of digestate from manure methane biodigesters and the impacts when digestate is applied to the land as fertilizer?

There has been significant research done on this topic in the past, but no new research by WSDA. Digestate from dairy manure digesters typically has a higher percentage of plant available nitrogen than raw dairy manure, therefore application rates must be adjusted and planned as part of a balanced field nutrient budget. WSDA staff are coordinating with Ecology on their solid waste rulemaking including the exemptions and requirements for dairy anaerobic digesters to ensure appropriate requirements are in place to enable digestate recipients to apply agronomically and protect groundwater.

- Has WSDA been able to further monitoring and regulation of applications of manure to land owned by third parties. To non-dairy cropland? We would like to discuss the *2017 Implementation of Nutrient Management Training Program for Farmers and Manure Management Program Review* available at [GetPDF](#) and learn your opinion on what elements in that report should still be pursued.

Through close coordination, WSDA and Ecology field staff have been able to successfully respond to complaints, following manure to its end use when manure is exported off a dairy and applied to another crop farmer's land. WSDA is able to regulate manure applications by a dairy or agent of the dairy when they are "in control" of the manure. If through an export or transfer sale, a dairy producer is truly relinquishing control to another party, WSDA is able to effectively communicate that to Ecology for regulatory purposes, yet still will often provide the same level of technical assistance and guidance to that grower on the agronomic best management practices associated with manure fertilizer application. An example of this was an investigation last year in the LYV when a permitted dairy exported manure to a crop grower, hiring a third-party hauler. After the hauler dumped manure non-agronomically in one small field, complaints were received and WSDA investigated the incident, finding that the hauler was operating as an agent of the permitted dairy, and the dairy was ultimately responsible. WSDA provided technical assistance to the hauler, the crop grower, and the dairy concerning agronomic application of manure as fertilizer, as well as documented that the permitted dairy had not maintained appropriate record keeping to establish who was in control. The investigation findings were turned over to Ecology per our process outlined in the 2011 MOU and Ecology issued an administrative order to the operation, requiring an updated MPPP documenting exports more thoroughly.

WSDA is also working to create more guidance for dairy farms to help them document export agreements, comply with record keeping requirements, and most importantly, pass along information about the beneficial nutrient content of their manure and agronomic guidance. Dairies rely on being able to export manure for beneficial use, to balance nutrients on farm and prevent over application. WSDA promotes the legal and agronomic use of dairy manure exported to crop growers in the LYV.

Kyrre's opinion expressed here: It would be valuable to revive the nutrient management training program described in the 2017 report and link it to a voluntary market signal certification like STAR. WSDA could develop required training, testing, and certification programs, building on the foundation we already have for pesticide licensing. This would ideally be treated as a pilot for a place like the Lower Yakima Valley.

- We know that WSDA DNMP is doing a lot of work in the Lower Yakima Valley. A summary of that work would be helpful to FOTC.

The attached Gantt chart is a draft outline of the work planned and already underway to address nitrate source control using strategies ranging from outreach, technical assistance, developing tools and incentives, all the way to regulation and exploring new regulations. All of this is presently being drafted as components of the state agencies nitrate action plan for the Lower Yakima Valley. This chart outlines the ideal actions planned, however is all subject to funding and resources availability.