



July 10, 2022

Laura Watson
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Dear Director Watson,

The WA State Dept. of Ecology should not offer for public comment a draft National Pollutant Discharge (NPDES) permit that sanctions violation of the law, specifically RCW 90.48.080. But that is exactly what Ecology's current draft NPDES permit for confined animal feeding operations (CAFOs) does.

I have asked permit writer Chelsea Morris to revise the draft permit before offering it for public comment. Ms. Morris states that department policy prevents her from withdrawing and revising at this time. It seems strange that Ecology prefers a likely violation of state law to bending department policy.

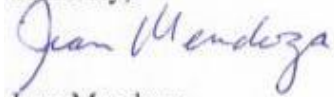
Here is a brief description of the problem:

1. CAFOs store millions of gallons of wastewater and manure in huge lagoons or wastewater storage ponds (WSPs). Prior to 1994 the only requirement for preventing leakage was a six inch clay liner. There is wear and tear on these structures. From time to time producers must scrape accumulated solids from the lagoon bottoms with heavy equipment. Clay dries and cracks. All it takes is one weak spot, or crack in the liner and large volumes of wastewater leak to the underlying soil and then to the aquifer.
2. The Natural Resource Conservation Service (NRCS) has developed a method for assessing WSPs. That method is called Tech Note 23. The scoring in Tech Note 23 gives a WSP constructed before 1994 the same structural risk score as one constructed later. After 1994, and especially after 2004, WSPs were required to have twelve inch liners with a specified permeability rating. NRCS cautions in the second paragraph of Tech Note 23 that "The NRCS assessment should not be construed to provide ANY regulatory certainty from State regulatory agencies".

3. To address potential pollution from WSPs, the currently proposed NPDES permit for CAFOs requires CAFO owners to complete a Tech Note 23 inspection for their WSPs. A low score presumes no discharge which may be untrue based on the facts above. In other words, a CAFO can obtain an NPDES permit based on an inappropriate scoring system and continue to discharge pollutants to waters of the state, a violation of the law. In addition, the permitted CAFO is now protected from liability for damages caused by aquifer contamination under RCW 90.48.142(2).

I do not want to say this during the public meetings scheduled for July 26 and July 28. Please help me avoid this embarrassment.

Sincerely,



Jean Mendoza

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