

# Western Environmental Law Center

Good evening. My name is Andrew Hawley, staff attorney with the Western Environmental Law Center, and I live in Seattle. Thank you for the opportunity to present our comments on this important process. This permit represents an opportunity for Ecology to secure for everyone in Washington their fundamental right to a safe and healthy by clean drinking water and swimmable and fishable waterways. To do so Ecology's job is to safeguard waters from unregulated or mismanaged industrial farms. Yet for almost a decade, Ecology has ignored our repeated calls to improve the oversight and regulation of states tables. 00:04:04 Andrew Hawley We believe sustainable agriculture is a vital part of Washington's economy and our way of life. Yet no one, including large scale CAFO's, should get a free pass on polluting our waterways. 00:04:15 Andrew Hawley However, ecology has failed to require CAFOs to implement the basic, scientifically proven, affordable best practises to prevent damaging waterways statewide. These requirements like those for other industrial operations, protect the environment and public dangerous pollutants. Indeed, in 2021, the Washington State Court of Appeals invalidated Ecology most recent CAFO permit because it failed to comply with the law in several important ways. 00:04:39 Andrew Hawley First, the court held that ecology failed to require the use of reasonable modern pollution controls for the discharge of nutrients, bacteria and other pollutants. 00:04:47 Andrew Hawley Second, the court found that the permit did not limit the discharge of pollutants adequately to protect the health of nearby waters. Third, the court found the permit did not include sufficient monitoring for both surface and groundwater to determine whether the permit was working and whether the primitives were complying with their obligations. Fourth, the court found Ecology failed to allow public participation in the development of measures meant to protect protect local water bodies and communities. 00:05:12 Andrew Hawley And finally the court said ecology was remiss in failing to consider the impacts of climate change when developing the permit. 00:05:18 Andrew Hawley Yet ecology appears poised to repeat many of these same mistakes. For example, there's no explanation of how ecologies determine what is AKART for the discharges from these facilities. Instead of college, you simply codified what is already happening, rather than identifying what should happen as is this job. 00:05:36 Andrew Hawley Ecologies failed to undertake the requirements analysis to identify the discharges from the facilities that may be covered under the permit that may make nearby waterbodies undrinkable, dangerous to played in, or unable to support Fish and Wildlife populations, then there's certainly no explanation of how ecology intends to prevent these discharges. In fact, to the contrary, it appears that ecology intends to expressly allow discharges it knows, make cause or contribute to violations of state water quality standards to continue on unabated. 00:06:04 Andrew Hawley But at the same time, ecology has failed to establish monitor requirements that will ensure compliance with the permits conditions. Nor is there any evidence that ecology is taking a hard look at the impacts these facilities are having on the environment amidst an ongoing climate crisis. We're providing detailed written comments on these and other shortcomings with the draft permit, but we expect more from ecology. With this third iteration of the CAFO general permit, ecology must move forward at long last to once and for all, eliminating the discharge of pollutants from these facilities. This, of course, is the true goal of both state and federal law, not simply to manage pollution, but to eliminate the discharge of pollution to our waters. The time has come for ecology to put these goals into practise and it should start with this permit. Thank you.