

Washington Farm Bureau

Agriculture is the state's second largest industry providing 160,000 jobs across Washington, most of them located in rural communities.

The Court of Appeals decision that is triggering these listening sessions has left little room, in our opinion, for changes or alterations based on science or best management practices. The court's decision threw out the expertise of the PCHB and instead relied heavily on the opinion of the Puget Soundkeeper Alliance. Five times in its decision, the court stated "We agree with Soundkeepers..." This is very troubling to us.

Now the Department of Ecology is asking for suggestions on rewriting the permit that is consistent with the June 29 Court of Appeals decision. We hope you can understand how limiting and frustrating that is for our organization. The court got it wrong. Plain and simple. And now the department must rewrite its CAFO permits to align with this decision.

We have three main points to make:

1. The court affirmed in its decision that "The term "reasonable in AKART limits Ecology's discretion by requiring it to impose conditions that are both "economically and technically feasible." [page 14]

Whatever actions the department takes to rewrite the CAFO permits must align with this precedent.

2. On page 24 of the court decision, a reference is made to a Washington State Department of Agriculture review of 24 compost operations in the lower Yakima Valley. Please note that this was not an official report of findings; it was not a formal study of any kind. It was an email from a technical staff at the Department of Agriculture who was conjecturing in an email of how much nitrate was leaching into groundwater from the composting facilities in the lower Yakima Valley. The court should never have relied on conjecture as part of their decision, and neither should your department as you work to rewrite the CAFO permits.

3. Neither federal or state laws can eliminate all potential risks. That is true on farms requiring a CAFO permit. It is also true for each of us in our daily lives. And yet the court states "Although the permits prohibit discharges that would violate water quality standards, they allow for operation of production areas that pose a risk of doing precisely that." [page 37]

Every vehicle on our highways is capable of killing someone and yet as a society we don't restrict use of vehicles because they "pose a risk of doing precisely that."

It is our hope that the department proceed with its work to rewrite these permits in a reasonable and prudent manner, and we stand ready to assist in that process.