



*Friends of Toppenish Creek*

October 3, 2024

Adam Saul  
Department of Ecology Clean Fuel Standard Rule Lead  
PO Box 47600  
Olympia, WA 98504-7600

Dear Mr. Saul,

Please accept and study these comments from the Friends of Toppenish Creek, an environmental non-profit group from Yakima County.

FOTC believes that WAC 173-424-900 should be revised in that the Table 8 carbon intensity score for Biomethane CNG, LNG, L-CNG produced from dairy and swine manure should be closer to a 60 to 90 range, comparable to scores for biomethane produced from landfills or municipal wastewater. Currently the score of minus 150 results in significant incentives for Washington dairies to pollute the environment using liquid manure management.

Dairy cows produce large amounts of methane in two ways. First, they produce enteric methane by burping and farting. Enteric methane comprises over half of bovine methane. There are no plans to capture enteric methane. Second, cows produce methane when manure is stored in anaerobic lagoons. This is not obligatory, but entirely due to choices on how to manage manure. Dry manure management or keeping cows on pasture does not produce this methane which is the primary feedstock for renewable natural gas capture.

Bottom line – the methane that is removed for renewable natural gas production is unnecessarily produced by an optional method of manure management.

Lawmakers at both the federal and local levels have promoted the dairy industry for many years, even decades. Tom Vilsack was president and CEO of the U.S. Dairy Export Council between tenures as Secretary of Agriculture in the Obama administration and the Biden administration. By some estimates dairymen receive 70% of their income from government subsidies. Please see Attachment 1 that summarizes the special treatment dairies receive at local, state, and federal levels.

The dairy industry likes to brag about dairy's contribution to the WA gross domestic product. FOTC counters that it is hard not to succeed when you can withdraw as much water as you want from falling aquifers in a land where water is gold, where others must pay for water.<sup>1</sup>

The cost of producing milk is high. Groundwater in Whatcom County has suffered from high nitrate-n levels for decades.<sup>2</sup> So has groundwater in the Lower Yakima Valley where 61% of domestic wells downgradient from a cluster of CAFO dairies pump water that is unsafe to drink.<sup>3</sup>

There is so much bovine produced methane in the Lower Yakima Valley that investors are prepared to put up millions of dollars to harvest the gas and refine it. Meanwhile asthmatic children who live near the dairies suffer from decreased lung function<sup>4</sup> due to co-pollutants such as ammonia and hydrogen sulfide.

But these costs are not part of the equation when the cap and invest people analyze climate change. As currently written Ecology's carbon intensity scoring focuses on a narrow portion of the chain of events necessary to produce biomethane. The current focus begins when methane is emitted from anaerobic manure lagoons and ends when refined methane enters a natural gas pipeline or is burned to produce electricity.

A complete analysis would ask how much fossil fuel is burned to grow the corn and alfalfa that feed dairy cows. How much fossil fuel is burned delivering feed to the animals? How much electricity is used to ventilate the barns where cows are confined? This is necessary to keep the animals from succumbing to the gasses released from manure that is everywhere in the barns, pens, and corrals.

In the case of hub and spoke digesters, how much fossil fuel is burned to truck manure to the digesters? How much fossil fuel is burned to truck digestate back to the farms and

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<sup>1</sup> See the WA Supreme Court Ruling regarding the 1945 Stock Watering Law. [FIVE CORNERS FAMILY FARMERS v. Washington Cattlemen's Association, Columbia Snake River Irrigators Association, Washington State Dairy Federation, Northwest Dairy Association, Washington Cattle Feeders Association, Cattle Producers of Washington, Washington State Sheep Producers, and Washington Farm Bureau, Respondents/Intervenors. \(2011\) | FindLaw](#)

<sup>2</sup> Sumas-Blaine surficial aquifer long-term ambient groundwater monitoring. [Sumas-Blaine - Washington State Department of Ecology](#)

<sup>3</sup> U.S. Environmental Protection Agency. Lower Yakima Valley Groundwater. [Lower Yakima Valley Groundwater | US EPA](#)

<sup>4</sup> Ambient ammonia exposures in an agricultural community and pediatric asthma morbidity. [Ambient ammonia exposures in an agricultural community and pediatric asthma morbidity \(cdc.gov\)](#)

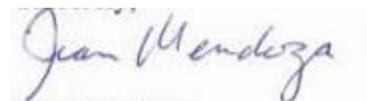
spread it on fields? What is the cost to maintain the roads these trucks utilize? How much nitrous oxide is emitted from the digestate?

With the introduction of manure methane biodigesters dairymen who use liquid manure management can make nearly as much money from manure as they can from milk.<sup>5 6</sup> Hard to believe but it is true, at this time.

One of the inequities associated with subsidizing manure methane digesters is the fact that this option only works for larger concentrated animal feeding operations. Supporting digesters means putting a squeeze on smaller farms and contributing to vertical integration of the industry.<sup>7</sup> The number of large dairies increases and the number of small dairies decreases when manure methane biodigesters enter the picture.<sup>8</sup>

It makes no sense to give a fuel source (manure biomethane) a carbon intensity score as low as minus 700 (happens in California) while giving a fuel source such as electricity from wind and solar a score of zero.

Sincerely,



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<sup>5</sup> The Dairy Cow Manure Goldrush. [The Dairy Cow Manure Goldrush | Aaron Smith \(ucdavis.edu\)](#)

<sup>6</sup> Energy revenue could be a game changer for dairy farms. [Energy revenue could be a game changer for dairy farms \(hoards.com\)](#)

<sup>7</sup> Making a Bad Situation Worse – Manure Biodigesters at Mega Dairies in Wisconsin. [WI-Case-Study\\_v2.pdf \(foe.org\)](#)

<sup>8</sup> Rethinking Manure Biogas: Policy Considerations to Promote Equity and Protect the Climate and Environment. [Rethinking\\_Manure\\_Biogas-1.pdf \(vermontlaw.edu\)](#)

## Attachment 1: Subsidies for the Dairy Industry

**Local:** In Yakima County where the second largest source of air pollution is dairies (unfortunately forest fires are the leading source), there is no regulation of air emissions from dairies and the industry pays zero to address air quality.

**State:** In Washington State the dairy industry has its own special version of the Clean Water Act – RCW 90.64, the only industry with this privilege.

Water pollution is primarily addressed through issuance of National Pollutant Discharge Elimination System (NPDES) permits. Only 16 out of approximately 250 dairies in Washington are required to have NPDES permits.

Fees for NPDES permits are supposed to cover the cost of the program. Not so for dairy. NPDES fees for CAFO dairies are far less than fees for other forms of animal agriculture. See WAC 173-224-040.

Truck drivers for dairies are not required to obtain commercial driver's licenses.

When dairies are fined for discharges to surface waters the fine monies do not go to the victims of pollution, such as the shellfish people who cannot sell their product. The fine monies go into an education fund for dairies.

**Federal Support** for the U.S. Dairy Industry: Economists estimate that U.S. government supports are equivalent to 45% of U.S. cost of milk production or 71% of the market returns for milk as reported by USDA. <http://www.greyclark.com/wp-content/uploads/2018/02/US-Subsidies-Post-2014-Farm-Bill-FEB-2018.pdf>

In 2020 the U.S. Food and Drug Administration, the U.S. Department of Agriculture's Agricultural Marketing Service, and the U.S. Department of Agriculture's Foreign Agricultural Service Related to the Export of Milk and Milk Products signed a Memorandum of Understanding to support the export of milk and milk products. The U.S. government actively promotes the dairy industry in the global marketplace. <https://www.fda.gov/about-fda/domestic-mous/mou-225-20-017>

The Special Milk Program (SMP) provides milk to children in schools and childcare institutions who do not participate in other federal meal service programs. The program reimburses schools for the milk they serve. Schools in the National School Lunch or School Breakfast Programs may also participate in the Special Milk Program to provide milk to children in half-day pre-kindergarten and kindergarten programs where children do not have access to the school meal programs. <https://www.fns.usda.gov/smp/special-milk-program>

The 2018 Farm Bill authorized the new Dairy Margin Coverage (DMC) program, which is a voluntary risk management program for dairy producers. DMC replaces the Margin Protection Program for Dairy. DMC continues to offer protection to dairy producers when the difference between all milk price and the average feed price (the margin) falls below a certain dollar amount selected by the producer. The program provides:

- Catastrophic coverage, at no cost to the producer, other than an annual \$100 administrative fee that is waived in some cases: and
- Various levels of buy-up coverage.

The DMC replaced the Dairy Margin Protection Program and the Milk Income Loss (MILC) Program. <https://www.fsa.usda.gov/programs-and-services/dairy-margin-coverage-program/index>

In the 2021 Consolidated Appropriations Act, Congress directed USDA to develop a \$400 million Dairy Donation Program to facilitate dairy product donations and reduce food waste. <https://www.ams.usda.gov/services/ddp>

The United States has a stockpile of 1.4 billion pounds of cheese that has been purchased due to overproduction of milk. <https://fee.org/articles/why-does-the-federal-government-have-14-billion-pounds-of-american-cheese-stockpiled/>

The Dairy Indemnity Payment Program (DIPP) pays dairy producers when a regulatory agency directs them to withdraw their raw milk from the market due to contaminated by pesticides or other residues. [https://www.fsa.usda.gov/Internet/FSA\\_Notice/ld\\_639.pdf](https://www.fsa.usda.gov/Internet/FSA_Notice/ld_639.pdf)

As of December 2021, dairy producers are eligible for compensation for loss of dairy cows due to contamination from per- and poly-fluoroalkyl substances (PFAS). [Maine News Releases \(usda.gov\)](https://www.usda.gov/News/Releases)

The USDA Economic Research Service “provides data and reports on dairy markets, including domestic and international supply, demand, trade, and prices.” <https://www.ers.usda.gov/topics/animal-products/dairy>

The USDA Division of Food and Nutrition Services requires a milk component in child nutrition programs. This requirement can be met with milkshakes, acidified milk, cultured milk, lactose reduced milk and reconstituted milk. <https://www.fns.usda.gov/cn/milk-requirement-child-nutrition-programs>

The Natural Resources Conservation Service (NRCS) Environmental Quality Incentive Program pays dairies for making improvements to manure handling infrastructure (such as

irrigation pipeline, flow meters, pumps, storage lagoon construction, etc.) and agronomic manure management. <https://manuremanagement.ucdavis.edu/files/134368.pdf>

Air and Water Quality funding is available to animal feeding operation (AFO) producers to address water quality and air quality resource concerns by developing Comprehensive Nutrient Management Plans (CNMPs) to manage manure and implement practices identified in CNMPs. <https://www.nrcs.usda.gov/programs-initiatives/eqip-air-quality-initiative>