

Regulatory Framework Working Group

Charge from Groundwater Management Area Advisory Committee

[Insert Charge]

Working Group Members

Jean Mendoza, Chair (Friends of Toppenish Creek), Andres Cervantes (Department of Health), Bill Dunbar (Environmental Protection Agency), Charlie McKinney (Department of Ecology), Chelsea Durfey (Turner and Co.), Dan DeGroot (Yakima Dairy Federation), David Newhouse (interested party), Ginny Prest (WSDA), Jason Sheehan (Yakima Dairy Federation), Jim Dyjak (Concerned Citizen of Yakama Reservation), Larry Fendell (interested party), Laurie Crowe (South Yakima Conservation District), Nick Peak (EPA), Patricia Newhouse (Lower Valley Community Representative), Steve George (Yakima County Farm Bureau), Stuart Crane (Yakama Nation), Sue Wedam (Lower Valley Community Representative), Vern Redifer (Yakima County Public Services), Jim Davenport (Yakima County Public Services)

Meetings/Calls Dates

Meeting: June 10, 2015 12:00 PM – 3:00 PM

Call Number: 509-574-2353 PIN #2353

Participants

Present: Jean Mendoza, Andy Cervantes*, Dan DeGroot, Ginny Prest, Charlie McKinney*, Jan Whitefoot, Jim Davenport, Jim Dyjak, Kathleen Rogers*, Larry Fendell, Laurie Crowe, Patricia Newhouse, Steve George, Stuart Crane, Tom Tebb, and Vern Redifer; Lee Murdock, Lisa Freund (Yakima County Support Staff)

*via phone

Key Discussion Points

- **Conservation District Overview - Laurie Crowe, South Yakima Conservation District**
- **Dairy Nutrient Management Program Overview-Ginny Prest, Department of Agriculture (WSDA)**

Conservation District Overview

Laurie Crowe provided an overview of conservation districts: the history, origins, governing board, duties, funding and responsibilities. (See PowerPoint presentation).

She explained that conservation districts are not regulatory agencies, nor are they a subset of the State or County—they are a stand-alone entity. The South Yakima Conservation District (SYCD) partners closely with Department of Agriculture (WSDA), WSU Extension, and the irrigation districts. The district is funded through grants and assessments. SYCD distributes funding (e.g., for irrigation conversions) primarily through a cost/share methodology.

Dairy Nutrient Management Plans (RCW 90.64.070)

Laurie reviewed the responsibilities of conservation districts relative to Dairy Nutrient Management Plans (DNMP). She clarified that only dairy operations are required to have a DNMP. The law, RCW 90.64, requires National Resources Conservation Service (NRCS) standards and specifications, and requires conservation districts to review and certify the DNMP. The SYCD has no enforcement authority.

The question was asked if there is a charge to the dairies, and Laurie replied that there is no charge.

The question was asked if dairies would be considered out of compliance if the SYCD had no funding for its review and certification process. Laurie responded that no, RCW 90.64 states that the dairy will not be out of compliance.

Jim Davenport asked if the GWAC recommended funding be available in this area, could this authority be utilized to obtain funds from the state conservation commission. Laurie replied that it could. (See slide #13)

Further questions: can we make a request for education and outreach? (Response – yes). Can we make a funding request for an irrigation management plan? (Response - possibly.) What is your typical annual budget? (Response – \$200,000 +/-; however, much of that is pass-through funding).

Laurie noted that funding is typically obtained through grants. There might be the potential available for the mobile IAWG program through this source. Tom Tebb observed that Ecology offers grants that complement projects related to non-point source pollution.

Laurie explained that conservation districts benefit from an assessment, collected through property taxes, on irrigated agriculture properties. The assessment is \$5.00 per parcel plus \$.10 per acre. The SYCD collects approximately \$68,000 annually from this source. In response to an observation that the district previously had projects on Mud Lake drain, Sulfur Creek and others, she responded yes, and that grants must be project specific: rarely can a district go back to a previous project [such as those named].

Laurie was asked if the SYCD provides an engineering component and she replied no. The NRCS no longer has an engineer, either. However, the district does have a cost/share to assist with engineering from a private firm. In response to a question regarding what triggers a DNMP update, she responded that an increase in herd size by greater than 10% or change in acreage. She added that it is written into the plan what the triggers are and what happens when the limit is exceeded.

Laurie was asked what role the conservation districts play in other areas that are looking at nitrates – for example, California. Ginny Prest clarified that there are different regulations in

different states: in San Joaquin California, for example, the DNMP is split into two components: the manure handling plan and a nutrient land application plan.

Further questions: who writes the DNMPs? (Response – The conservation district assists; experience has taught them that it is challenging for a consultant to write a plan). Jim Davenport asked if there is a template or boilerplate for a dairy nutrient management plan. (Response – no). Jim observed it would be helpful for this group to review the standard plan language, as it would inform this group on the subject matters and issues. In reviewing the checklist (page 2), the question was asked what is the trigger for soil/manure testing. (Response – the testing is required so there is no trigger. The checklist needs to be updated to reflect this). When asked if the conservation district believes that a DNMP is sufficient to protect groundwater, Laurie said yes, provided the recommendation/requirements in the DNMP are followed.

Further questions: has SYCD had recent cost/share projects? (Response – yes, three irrigation conversion projects totaling \$26,000 in 2015). What percent of [Laurie's] time is spent on DNMP's? (Response – the majority of her time is spent on the plans. Remaining time (20-30 hours per month) is dedicated to district manager and bookkeeping duties. She also serves on the GWAC, Resource Conservation and Development (RC & D) and other boards.

In response to a question about the SYCD's former free tree-planting program, Laurie replied that SYCD's primary focus is agriculture, as the lower Yakima Valley is primarily agricultural. On the other hand, the North Yakima Conservation District has more streams and tributaries and hence has a tree program. Each district focuses on the specific characteristics and needs of its area.

Jean raised a question about muskrat habitat quality in the lower Yakima Valley, and offered her opinion that agencies are “pushing us in the direction of a dairy-centered economy.” After lengthy discussion Laurie observed that vegetative buffers are the purview of the irrigation districts, not within the scope of the SYCD.

The question was asked if the individual plans identify where excess manure is shipped [off premises]. (Response – no. However, the plan will indicate who will receive excess manure and the volume). A lengthy discussion followed. Laurie explained that if the land base is not adequate for the amount of manure, the plan will indicate with whom the owner has signed agreements [to remove it] and how much manure is planned to be removed. The destination is specified if the dairy does not have enough owned/leased application land base. The group was reminded that neither WSDA nor SYCD has jurisdiction on the Reservation.

It was observed that the purpose of the questions was not finger-pointing, but to gain data. A discussion ensued regarding creating a formula based on the data to identify the amount of manure removed, how much remains, and how much adds to nitrogen loading. It was determined that this was a question for the Data Collection working group.

Action: Ginny will follow up with Kirk Cook regarding data and remand the question back to the Data group.

Further questions: what is the rate of compliance for DNMPs within the SYCD? (Response – high). What are the information sharing opportunities for the EPO? (Response – post information in the SYCD office, share with the NRCS and Board of Supervisors, ask the Farm Service Agency

(FSA) and the Dairy Federation post it in their newsletters.) If we had money to help with your work, what would you do with it? (Response – irrigation conversions and nutrient management.) Laurie added that moisture meters would be very helpful. When asked why, she observed that it is an instant clue to over-irrigating, high water table, etc. A discussion ensued regarding various moisture meter products, proprietary software, and dealers (GS Long, Simplot).

Moisture meter outreach ideas: invite Simplot/other purveyors to address the GWAC (talk to Dave Fraser, on the IAWG); identify who should be targeted, get the message out about the probes and the pros to them; talk to Troy Peters; host another growers' workshop; ask the *Daily Sun News* run a series on irrigation).

A selling point for a moisture probe program would be the current drought conditions: it's an opportunity to address a current condition [drought] and partner it with the GWAC's work. The question was asked if there might be drought money available that could be used for this purpose. The group concluded that ultimately this idea is the purview of the IAWG.

Dairy Nutrient Management Program Overview (RCW 90.64)-Ginny Prest, Department of Agriculture (WSDA)

Ginny Prest provided an overview of WSDA's Dairy Nutrient Management Program (see presentation).

She pointed out gaps in the current regulations. 1) WSDA cannot require dairies to follow their DNMPs. 2) While dairies cannot discharge to the waters of the state, that mandate is difficult to apply to groundwater because it is difficult to track the pollutant directly to the source of pollution. 3) Agronomic application records are a requirement but when nutrients are applied at rates above agronomic rates enforcement is limited. When asked to define an agronomic rate, Ginny explained that it is "meeting crop needs." Simply put, applying nutrients at the right time, at the right place, and in the right amount. The important point is, identifying how much nitrogen is left after nutrient uptake. Geographic adjustments (eastside and westside requirements may need to be different) may have to be made; it still under question at WSDA. She observed that big dairies are hiring consultants and trying to meet the DNMP requirements. She observed that tremendous progress has been made in the Dairy Nutrient Management Program in the last 10 years. She felt that education and comments made during inspections were key to this.

Ginny also stated that the Clean Water Act applies to surface water only, while the Safe Drinking Water Act applies to groundwater. Jean agreed to look this up.

She also noted a shortcoming in the current rule (WAC 16-611): the one-foot soil testing requirement is insufficient. It should go deeper (3 to 4 feet depending on crop rooting depth) in order to get at groundwater. The issue is moving to something that can be documented.

ACTION: The request was made to ask the Department of Ecology and WSDA Water Quality Committee to make a presentation to this group.

Ginny reviewed her 11 year history with WSDA, noting that record-keeping has improved over time. Ginny continued that the dairy industry is the only one required to keep records. They must document what/where they're moving the manure.

A question was raised whether a DNMP identifies the Yakama Reservation as a manure export destination. A lengthy discussion ensued, with Laurie reminding the group again that the DNMP does not identify where the manure may be taken. She explained again SYCD's responsibilities and the WSDA's authority relative to Dairy Nutrient Management Plans. Current regulations require dairies to keep record of nutrient analysis and, if they are exporting manure, to identify who is receiving the manure and how much. For questions about the Reservation, members were advised to contact the EPA.

A concern was also expressed about how thoroughly WSDA investigates complaints of manure spills.

Ginny stated that some of the questions raised reflect gaps in regulations. WSDA only has authority over surface water discharges (dairies cannot discharge to waters of the State), reporting and ensuring that the dairies have a DNMP. She added that WSDA is issuing compliance notices and penalties. Statewide, 45 penalties representing 25 dairies have been issued. Most are in Whatcom County. She agreed to report back on enforcement statistics for Yakima County for the last five years.

Action: Ginny Prest will come back to this group in August to take additional questions and report back on enforcement statistics for Yakima County for the last five years. She will address compliance rates (85% compliance versus 15% noncompliance) in Yakima County, in response to the question, approximately many animals are represented in the noncompliant dairies?

Parking lot questions: Ginny will follow up with Kirk Cook regarding manure separation statistics and the amount of nitrogen loading from that source. The information will be reported back to the Data group.

Future Sessions

Due to lack of time, the draft timeline and goals and objectives were not discussed. Jean reminded the group that the goals and objectives need further discussion.

The group agreed to skip the July meeting and hold its next meeting on August 12 at Radio KDNA. The meeting will begin at 5:30 PM to allow more participants to attend.

Action: Participants were asked to write down the highlights of today's presentations and leave them with Jean before departing. Alternately, participants may email their highlights to Jean.

Action: Jean will ask the Department of Ecology and WSDA's Water Quality Committee to make a presentation to this group.

Action: Ask Simplot/other purveyors of irrigation equipment to address the GWAC.

Meeting Adjourned: 3:15 PM

Resources Requested

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Recommendations for GWAC

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Deliverables/Products Status

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Proposed Next Steps

- Next meeting: Wednesday, August 12, 2015, 5:30 PM - 8:00 PM at Radio KDNA in Granger

Proposed agenda:

Review Workgroup Goals and Objectives

Review Future Agenda List: What's missing?

Continue Dairy Nutrient Management Program discussion (Q&A) Ginny Prest