



PO Box 424 | Everson, WA | 98247 | 360-303-9123

July 3, 2019

Via Email:
Wheeler.andrew@Epa.gov

Director Andrew Wheeler
Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N. W.
Washington, DC 20460

Cc: Rep. Dan Newhouse
Rep. Cathy McMorris Rodgers
Dan Wood, Washington State Dairy Federation
Rick Naerebout, Idaho Dairymen's Association
Tami Kerr, Oregon Dairy Farm Association
Regional Administrator Christopher Hladick
Associate Administrator Tate Bennett

Dear Director Wheeler:

On behalf of dairy farmers in Washington, Oregon and Idaho we wish to bring your attention to Region 10 staff and its current Administrator's unwillingness to submit a very important and damaging science study involving dairy farmers to the peer review process required by EPA and federal policy.

EPA Region 10 under then Administrator McLerran conducted a fraudulent science study and issued a false report in 2012-2013 known as the Yakima Nitrate Report. In violation of EPA policy, the staff did not conduct a peer review required of "influential science information" as this study was categorized. Later when confronted with this failure and their dishonest characterization of the peer review as "thorough and complete" to the Administrator, staff attempted to cover up this failing by falsely claiming the report was not categorized as "influential" but "other" giving them full discretion in peer reviews. Regional Administrator Hladick is supporting staff in this effort to deny the clear evidence of the "influential"

categorization. Two documents we submitted to the Regional Administrator on April 2 provide proof that it was designated as “influential” in the Peer Review Plan dated 9/27/12 and then in the “Response” document of March 2013. When confronted with the indisputable proof Edward Kowalski, head of Compliance and Enforcement for Region 10, claimed to have never seen the documents.

The report itself has been proven to be false. At least fifteen national agricultural science experts carefully reviewed the study and found the conclusion that current dairy operations are the source of nitrate in groundwater could not be supported. A meticulously detailed technical analysis by one of the nation’s top agronomists was provided to Administrator Hladick in February 2019. Many experts noted the “science” was clearly developed to place blame for legacy nitrate contamination on current dairy farm operations. The serious warnings about the false nature of the report did not stop the EPA staff from highly punitive enforcement which has essentially destroyed four large dairy farms. One farm alone spent upwards of \$10 million to date and is only able to continue in operation because of additional family business interests. Two others hang in the balance as they attempt to comply. One chose to go out of business rather than face the massive costs of compliance with unreasonable demands.

Beyond this punitive enforcement by the EPA, dairy farmers are continually facing citizen lawsuits filed by Charlie Tebbutt of Eugene, Oregon. These lawsuits use the EPA study as the foundation and have already cost us several longtime family farms and resulted in very significant additional costs for all dairy farmers at a time when most are struggling to survive in a historically difficult global market. When challenged in court on the veracity of the study, the federal judge said deference must be given to the EPA based on his assumption of a genuine peer review. However, when judges, the media and public are better informed of the egregious abuse of science by this staff and leadership, such deference will be a thing of the past.

Farmers were hopeful that the change in administration would result in new leadership confronting this abuse and making it right for farmers. While the new Region 10 Administrator Christopher Hladick has been willing to meet with us and hear us out, the deeply embedded EPA staff continues to defend the indefensible and the Regional Administrator is apparently unwilling to overrule his staff on this issue.

The Trump administration’s leadership of the EPA has been welcomed by farmers across the nation, in part because of the emphasis placed on transparency in science. That important principle is being actively opposed by Region 10 staff and Administrator. While dairy farmers in the Pacific Northwest are most affected by Region 10’s actions, farmers and farm groups across the nation are expressing growing dissatisfaction with EPA’s leadership relating to farmers as this situation becomes more well known.

Our request to you, as it was made to Regional Administrator Hladick and Associate Administrator Tate Bennett is straightforward: Allow the long delayed peer review by the Agricultural Research Service of the USDA to go forward and remove the Yakima Nitrate Report from further enforcement and litigation pending this review. Because we believe violations of federal law against fraud have been committed in the attempt to cover up the lack of peer review, we also ask that your office investigate the issue of science classification, specifically the effort to reclassify the study as “Other.”

Sincerely,

A handwritten signature in black ink, appearing to be 'L. Stap', written in a cursive style.

Larry Stap
President, Save Family Farming

A handwritten signature in black ink, appearing to be 'G. Baron', written in a cursive style with a long horizontal line extending to the right.

Gerald Baron,
Executive Director, Save Family Farming