From: "Baldi, Josh (ECY)" <JBAL461@ECY.WA.GOV>
To: Thomas Eaton/R10/USEPA/US@EPA Karma Anderson/R10/USEPA/US@EPA
Cc: "Gildersleeve, Melissa (ECY)" <MGIL461@ECY.WA.GOV>
Subject: FW: Ecology initial response to NRCS on questions from their Nutrient Management Plan Rollout
Submit Time: 10/23/2012 23:35:27

Tom and Karma ~ if you have not yet seen, below is an important ongoing discussion related to an improved 590 standard. Ecology and NRCS are making progress, but you will see that we can use help.

Given EPA's investment in and prioritization of addressing N pollution (e.g., Yakima, Dennis letter to state, etc.), my hope is our agencies can collaborate on ensuring the improved 590 practice is consistent with state water quality law, notably the no discharge provision. As you know, we often raise concerns about EPA getting involved in our daily business (e.g., establishing water quality standards), but we think this determination is different (i.e., assessing the possibility of a specific practice to prevent N and phosphorus pollution). We welcome EPA's expertise and support in making this determination. Do you have specific EPA experts with whom you recommend we work with? I suspect this might go beyond the technical to policy as well.

Let us know if we need to pull together a meeting to discuss. Thx

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Josh Baldi | Special Assistant to the Director | WA Department of Ecology | 360.584.5219

**From:** Baldi, Josh (ECY)
**Sent:** Monday, October 22, 2012 10:07 AM
**To:** Roylene Rides-at-the-Door
**Cc:** Will Stelle; Dennis McLerran; Mark Clark; Bonda Habets
**Subject:** RE: Ecology initial response to NRCS on questions from their Nutrient Management Plan Rollout

Thanks for this Roylene. It is important our agencies communicate and work these issues collaboratively for many reasons. We're clearly not there and need to be. I have included specific responses to your points (in red text and parenthetical for staff) below in the chain, but want to provide some overarching context and policy thoughts:
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1) "Thank you" for advancing the 590 standard. Clearly the state is long overdue for improved nutrient management practices given the ground and surface water problems we are seeing in some parts of the state.

2) Ecology understands NRCS is developing practices for a non-regulatory, voluntary incentive program. I am not aware of Ecology ever having asked NRCS to develop regulations. Given NRCS' expertise on ag practices, however, such practices inform not just voluntary incentive programs, but regulatory programs. I don't know how it can be otherwise – we should not have separate regulatory and voluntary practices/standards. Rather, there should be a set of practices and standards that everyone meets – either through incentive or regulatory programs.

3) My understanding of this process is that NRCS is to establish practices "in concurrence with the state water quality authority". It's clear we don't have this concurrence process figured out yet, but we need to. I have heard you and others at NRCS describe how state science and law might modify a national standard. This is a key process point: is it formally described anywhere?. And, once the state modifies the practice, does it become a joint state/fed practice? What complicates this is Washington State does not have laws or rules that specifically govern every aspect of nutrient management per 590 – the governor's recent directive to develop legislation on the matter underscores that point. However, Washington state law does provide a specific requirement to not discharge pollutants to waters of the state, so it is important Ecology make the concurrence determination, ideally in conjunction with our federal clean water partner EPA (i.e., we are not making a delegated determination on specific state water quality standards, but a technical call on adequacy of practices to meet a no discharge standard consistent with state law).-

4) Staff has informed me that unfortunately, as currently written, implementation of the 590 practice will not provide assurances of compliance with state water quality law. I am hopeful that the process in place will address that concern, but suspect we need to get leadership together to discuss how we meet both NRCS and state water law needs over the next few months.

Clearly, we need increased communication amongst our staffs, but there appear to be policy embedded in this process that deserves attention not just from our leadership but that of "6DT". It's important for all of us to be more effective and efficient with regard to ag and water quality work generally, but also for other dynamics, such as being responsive to tribal concerns.

Thanks ~ jb

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Josh Baldi | Special Assistant to the Director | WA Department of Ecology | 360.584.5219

From: Rides at the door, Roylene - NRCS, Spokane, WA [mailto:roylene.rides-at-the-door@wa.usda.gov]
Sent: Wednesday, October 17, 2012 10:59 PM
To: Baldi, Josh (ECY)
Cc: William Stelle; Dennis McLerran; Clark, Mark (SCC); Habets, Bonda - NRCS, Spokane, WA
Subject: Re: Ecology initial response to NRCS on questions from their Nutrient Management Plan Rollout

We were pleased with the comments that DOE presented us August 17, but this was about half of what we requested.

[Can you specify the other half? We are not clear on the remainder of the request.]

Ron Cummings has been an asset in the interactive conversation at the STAC Subcommittee meetings. Yet when we have asked for things in writing from DOE this has been lacking.

[We have not received written or oral feedback from NRCS on the information we sent. If what Ecology is providing is inadequate, we need to understand that.]

We acknowledge that DOE prefer to have us present our NRCS guidance and they review to concur on it. My frustration is the fact that NRCS guidance is a national template that has been developed to included State information and yet this data is out of date in this state.

[My understanding is the process was for NRCS to present updated guidance and DOE was then to review/concur/not concur. I have heard you and others at NRCS describe how state science and law might modify the national standard. This is a key process point as noted above in the general comments. With regard to your last point, can you specify what data is out of date? Are you referring to the WSU guidance?]

DOE and some tribes keep point fingers that our standards are not strict enough. Our standards can't be when the bench mark in this state has not been set.

[I'm not aware of Ecology pointing fingers. If we are, we shouldn't be. We do need a clear discussion about the adequacy of practices to meet state clean water law; I'm

interpreting that to be your explicit request in your previous sentence.]

We are being put in a very awkward situation to provide the state with guidance in some senses and even being asked to set the standard for the state that is bordering regulation and yet we are not the regulator agency. This is not NRCS responsibility to do this. Our job is the assist the state to implement the standard that they set. So it is difficult for us to do our job when the state agencies have yet set the standard.

[My understanding is you are developing guidance to implement NRCS practices and our role was to assess and provide concurrence/non concurrence. I have been told that there are areas within 590 that can benefit from additional guidance/clarification. I asked my team for examples. Here is one: "Areas contained within minimum application setbacks (e.g. sinkholes, wellheads, gullies, ditches, or surface inlets) must receive nutrients consistent with setback restrictions." Question arises: What setback restrictions?]

With this being said, for us to implement our standards, the Phosphorus Index we will use is being revised and is currently under review of an Oregon State University soil scientist (who assisted in the development of the existing one). WA and OR NRCS will adopt the revision of the Phosphorus Index. NRCS will also develop guidance on the issues that had no DOE comment in the next STAC Nutrient Management Subcommittee meetings in November.

[Good that Ph index is forthcoming. I would like/need to understand the issue of Ecology providing no comment; can you tell me the guidance to which you refer?]

Once NRCS has heard the Subcommittee comments, the NRCS guidance, updated Phosphorus Index and Nitrogen Leaching Index will be presented to DOE to concur on. NRCS and WSU are working together on the format for the Fertilizer guides and guidance produced by an EPA Region 10 Capstone student. This information will be hyperlinked to a site available to all. We seek STAC concurrence on the 590 Conservation Practice Standard in January. We plan on posting the 590 Nutrient Management Practice Standard by January 30, 2013.

Roylene

From: Josh Baldi <JBAL461@ECY.WA.GOV>
Date: Fri, 12 Oct 2012 19:03:51 +0000
To: USDA <roylene.rides-at-the-door@wa.usda.gov>

Subject: FW: Ecology initial response to NRCS on questions from their Nutrient Management Plan Rollout

Hey Roylene ~ hearing back chatter about your continued frustration with Ecology on the 590 process. Concerns may be dated, but if not wanted to touch base to get clarify.

My understanding remains what it was when we chatted and exchanged email at the Commission meeting in September (below). We have not yet seen the NRCS products to review and comment on. Sounds like we are all waiting on others for a couple key pieces, such as OSU's work on the Ph index.

If your understanding is different and/or you do have concerns, please let me know.

Different topic: We felt yesterday's meeting was good. I'm still wondering about the NMFS riparian guidance and how it might affect directors' talks (and other products in motion), so let me know if you have clarity on that piece as well. Thanks ~ jb

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Josh Baldi | Special Assistant to the Director | WA Department of Ecology| 360.584.5219

**From:** Rides at the door, Roylene - NRCS, Spokane, WA [mailto:roylene.rides-at-the-door@wa.usda.gov]
**Sent:** Thursday, September 20, 2012 2:13 PM
**To:** Baldi, Josh (ECY)
**Cc:** Habets, Bonda - NRCS, Spokane, WA
**Subject:** Re: Ecology initial response to NRCS on questions from their Nutrient Management Plan Rollout

That the way I understand. Bonda is reviewing information. After concurrence from DOE, it is hoped at next STAC subcommittee meeting she will present whole package for 590 standard. Then hope to take to STAC for concurrence by November. Then role out training and standard by the December deadline.

**From**: Baldi, Josh (ECY) [mailto:JBAL461@ECY.WA.GOV]
**Sent**: Thursday, September 20, 2012 03:59 PM
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To: Rides at the door, Roylene - NRCS, Spokane, WA
Subject: FW: Ecology initial response to NRCS on questions from their Nutrient Management Plan Rollout

Roylene ~ you briefly mentioned 590 in your comments earlier, so want to affirm status.

My understanding is NRCS will shortly provide Ecology with a few key products that will enable us to make a state water quality determination with regard to the proposed 590 practice. The products are noted below in this chain.

If this is not your understanding, please let me know so I can lend a hand and/or we can convene a meeting. Thanks ~ jb

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Josh Baldi | Special Assistant to the Director | WA Department of Ecology| 360.584.5219

**From:** Gildersleeve, Melissa (ECY)
**Sent:** Friday, September 14, 2012 12:34 PM
**To:** Habets, Bonda - NRCS, Spokane, WA
**Cc:** Baldi, Josh (ECY); Copeland, Sherre - NRCS, Olympia, WA
**Subject:** RE: Ecology initial response to NRCS on questions from their Nutrient Management Plan Rollout

Bonda-hey just wanted to follow up make sure I understand. So you will be providing these items to Ron at the 27th meeting? Just trying to understand when we will get these documents. Also I expect some items around 590 might come up at the Conservation Commission meeting next week so I am copying Josh and Sherre on the status of our review. As I mentioned below, I did send our comments to tribal folks but I have not heard anything from them on whether they want a brief from the two agencies. Thanks and have a good weekend-Melissa

**From:** Habets, Bonda - NRCS, Spokane, WA [mailto:Bonda.Habets@wa.usda.gov]
**Sent:** Tuesday, September 04, 2012 4:44 PM
**To:** Gildersleeve, Melissa (ECY)
**Subject:** RE: Ecology initial response to NRCS on questions from their Nutrient Management Plan Rollout
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Melissa

We will be discussing these in our Sept 27 meeting. So I hope to get something to you shortly after that. The meeting tomorrow is on biosolids and commercial fertilizer. Piece by piece. We do have the Yakima attending our STAC Subcommittee. We will be starting up a STAC Technical Riparian Buffer Subcommittee in October. That one will probably take a year.

From: Gildersleeve, Melissa (ECY) [mailto:MGIL461@ECY.WA.GOV]
Sent: Tuesday, September 04, 2012 2:07 PM
To: Habets, Bonda - NRCS, Spokane, WA
Cc: Chaney, Marty - NRCS, Olympia, WA; Thomas Eaton; Ford, Jaclyn (AGR); Shultz , Ron (SCC); Baldi, Josh (ECY); Cummings, Ron (ECY)
Subject: RE: Ecology initial response to NRCS on questions from their Nutrient Management Plan Rollout

All-Hey I did not hear any feedback about how to best engage the tribes. Do we want to do a joint NRCS/Ecology brief? Unless I hear otherwise then I will plan on sending this to NWIFC this week with an offer to brief them.and then we can play be ear whether we do the brief jointly or not-

Also -Bonda any chance of getting and update or schedule for when you think we will be able to see these items? Thanks---Melissa

- Copy of the revised Phosphorus Index
- Copy of the proposed Nitrogen Leaching Index
- Setback requirement guidance
- Contour buffer requirements
- Phosphorus threshold development
- Proposed criteria for winter manure application
- Proposed phosphorus draw down strategy

From: Gildersleeve, Melissa (ECY)
Sent: Friday, August 17, 2012 1:26 PM
To: 'Habets, Bonda - NRCS, Spokane, WA'
Cc: 'Chaney, Marty - NRCS, Olympia, WA'; Thomas Eaton; Ford, Jaclyn (AGR); Shultz , Ron (SCC); Baldi, Josh (ECY); Cummings, Ron (ECY)
Subject: Ecology initial response to NRCS on questions from their Nutrient Management Plan Rollout

Bonda-Attached is our effort at responding to the questions you asked our agency in your Nutrient Management Rollout Plan. The meeting we had with you and Marty on July 23rd helped us understand this process a little more but we still have process questions which I laid out in our attached memo. Also we are still waiting for the additional information that is part of this practice that we discussed on the 23rd.

I am copying the other agencies that are a part of the Director's Talks because this is related to that effort. I know you have been anxious to get these answers and realize this effort is very similar so thought it would be wise to share with everybody at the same time. Also we should probably talk about how to engage the tribes on this since it is central to many of the tribal treaty rights conversations that are occurring concurrently. My initial thought was to send a draft as an FYI-but maybe NRCS and Ecology should meet together with them, explain the process first? Not sure the best way to do this just think it is important to do. Any thoughts? Give a call if you have any questions or want to meet to discuss the comments. Hopefully they make sense, they should track with our conversations-have a good weekend-Melissa

Melissa Gildersleeve, Section Manager, Water Quality, 360-407-6461
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