

## Debate on Dairy Industry's Role in Increased Nitrate Levels Rages On



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**TWIN FALLS** • An ongoing lawsuit in Washington state has reopened the national debate about nitrate levels in groundwater.

“This is a national issue brought by national environmental groups and will have an impact on every livestock farm in the United States,” says the Idaho Dairyman’s Association (IDA) website.

The suit focuses on four large dairies in Washington’s Yakima Valley and challenges what the Idaho dairy industry calls common manure management practices.

“This case is in federal court, so it has implications on all dairy producers regardless of where their dairy operations are,” said Bob Naerebout, IDA executive director. “When individuals who are a part of our industry are wrongly being sued ... shouldn’t we care?”

The complaint alleges that the dairies’ “manure waste has caused an imminent and substantial endangerment to human health and the environment,” says the website of Charles Tebbutt, attorney for the plaintiffs, nonprofits Community Association for Restoration of the Environment (CARE), based in Washington state, and the Center for Food Safety Inc., based in Washington, D.C.

The U.S. Environmental Protection Agency conducted a two-year study of groundwater contamination in the Lower Yakima Valley, ultimately identifying the dairies as a major contributor, Tebbutt said Tuesday.

“Results from the groundwater sampling required by the settlement have shown nitrate contamination over 200 ppm (parts per million), when the Safe Drinking Water Act safety standard is 10 ppm,” he said.

In October 2012, the plaintiffs gave notice of their intent to file the lawsuit, which now is nearing its end. A similar case recently was filed in Wisconsin.

The IDA has contributed significant money to the defense of the Washington cases, hoping to stop the spread of such litigation, Naerebout said Tuesday.

“The effects of this litigation are not confined to the Yakima Valley,” says the IDA website. “If the plaintiffs succeed in this litigation, all farming activities utilizing common manure management systems throughout the United States which are managed by their state agricultural departments and state environmental agencies will be subject to a new and sweeping federal

regulation that will result in endless 'citizen' suit litigation.”

Naerebout told dairy producers during last week's annual IDA convention that the lawsuit also has expanded to include any compost or manure generated by dairies and used by off-site crop producers. The plaintiffs, he said, contend that third-party landowners who accept those nutrients are also liable for groundwater contamination.

Tebbutt called Naerebout's comment “fearmongering.”

“No such contentions were made in the lawsuits,” he said.

Cow manure, produced in hundreds of dairies and feedlots in Idaho and spread on nearby fields, often is blamed for high nitrate levels.

But manure is not the cause of nitrate in groundwater, said Marv Patten, dairy bureau chief for the state Department of Agriculture, in an August interview.

“Manure is not an issue,” Patten said, as its nitrogen content is insufficient to grow many crops, forcing growers to apply more nitrogen via commercial fertilizer.

Said Tebbutt, “If failure to responsibly manage manure is common throughout the U.S., then these practices need to change so that innocent families, including infants and the elderly who are most susceptible to the contamination, do not continue to have their lives and property polluted by industrial-sized dairies that put profit over people's health.”

‘Manure is not an issue.’ Marv Patten, dairy bureau chief for the Idaho Department of Agriculture