

Farms can be held liable for pollution from manure: U.S. court

Ayesha Rascoe, Reuters, January 16, 2015

WASHINGTON (Reuters) - A U.S. federal court has ruled for the first time that manure from livestock facilities can be regulated as solid waste, a decision hailed by environmentalists as opening the door to potential legal challenges against facilities across the country.

A large dairy in Washington state, Cow Palace Dairy, polluted ground water by over applying manure to soil, ruled Judge Thomas Rice of the U.S. District Court for the Eastern District of Washington on Wednesday.

"The practices of this mega-dairy are no different than thousands of others across the country," said Jessica Culpepper, an attorney at Public Justice, one of the firms that represented the plaintiffs, a collection of public advocacy groups.

The case is scheduled to go to trial in March to decide the extent of the contamination and the clean-up.

This is the first time the federal Resource Conservation and Recovery Act, which governs the disposal of solid and hazardous waste, has been applied to animal waste from a farm.

Industrial livestock operations produce hundreds of millions of tons of manure annually.

The district court ruling, if upheld, could affect any large livestock facility that produces more manure than it can responsibly manage, including poultry, beef and hog farms, Culpepper said.

An attorney for Cow Palace said on Friday that it plans to ask for an appeal.

"There's a reason no court has ever done this. It's because the statute was not intended to apply to these situations," said Debora Kristensen, an attorney for Givens Pursley, a law firm that represented Cow Palace.

Kristensen said Cow Palace has already entered into a voluntary agreement with the U.S. Environmental Protection Agency, which enforces the act, to address water contamination concerns.

Fertilizer is not considered waste under the act, but the district court found that Cow Palace was applying more manure to crops than needed. In one instance, the plaintiffs in the case said Cow Palace applied more than 7 million gallons (26 million liters) of manure to an already "sufficiently fertilized field."

The district court said Cow Palace's excessive application transformed the waste, which is "an otherwise beneficial and useful product," into a discarded material.

The court found that Cow Palace's management of its manure violated the "open dumping"

provisions of law.

Unlike other federal contamination laws, the act requires violators not only to stop polluting, but to clean up any damage it has caused.

The case is Community Association For Restoration Of The Environment, Inc. et al v. Cow Palace, LLC et al, U.S. District Court for the Eastern District of Washington, No. 13-CV-3016

(Reporting by Ayesha Rascoe; Editing by Kevin Drawbaugh)