

Federal judge requires three Granger-area dairies to test water for nitrates

JOEL DONOFRIO and JOANNA MARKELL, Yakima Herald Republic, December 20, 2024

A federal judge has granted a preliminary injunction requested by the Environmental Protection Agency that will force Granger-area dairies to test for nitrates in nearby residential drinking water.

The decision, posted Tuesday by U.S. District Judge Thomas Rice, was praised by federal officials and environmental advocates and criticized by a Washington state-based farmer advocacy organization.

U.S. Attorney Vanessa R. Waldref said the judge's injunction will provide well testing and, if needed, bottled water or water treatment systems to nearby community members at risk from nitrate-contaminated wells.

"Everyone deserves access to clean, safe drinking water," Waldref wrote in a statement. "My office is committed to protecting the health and safety of all Washington residents. Strong and fair enforcement of public health and environmental laws protect our families and make our region safer and stronger."

Ben Tindall, executive director of Save Family Farming, strongly disagreed with the ruling in an emailed statement.

"Judge Rice's decision supports EPA's long-running campaign to use flawed science and legal harassment to target and attack dairies in the Lower Yakima Valley," he wrote. "With this misguided decision, Judge Rice is granting EPA Region 10 the ability to continue the unbridled assault that's already killed off half the dairies it originally targeted 10 years ago."

Charlie Tebbutt, an attorney who has represented Friends of Toppenish Creek and other environmental groups for years in lawsuits against the dairies, said the ruling is good news for residents of the Lower Yakima Valley facing groundwater contamination.

"There's a massive amount of pollution from the four or five decades of operation of these dairies that continues to contaminate the community and it needs to be fully cleaned up," he said. "Until the dairies take full responsibility and trace all the sources and address all the sources, they're not done."

He said it's good to see the federal government and a federal judge recognizing the serious health problems tied to the industry.

Dairy operations

Tuesday's ruling is part of a lawsuit filed against three Lower Valley dairy operations by the

Department of Justice in June under the EPA's enforcement of the Safe Water Drinking Act: the Cow Palace, DeRuyter and Bosma dairies, all north of Granger.

Since the lawsuit was filed, the Liberty-Bosma dairy closed and auctioned off its cows this fall, said Dillon Honcoop, communications director at Save Family Farming.

The lawsuit names multiple dairy LLCs, and Tebbutt said technically it covers five operations. He said the Liberty dairy still has years of manure cleanup ahead, and the owners "can't just walk away from it."

The EPA alleges that the dairies failed to comply with a legal agreement they entered into with EPA in 2013 to adequately control nitrate contamination from their operations.

When the lawsuit was filed in June, Yakima attorney Brendan Monahan noted that his client, the Cow Palace, and the other two dairies had followed requirements outlined in a 2013 agreement with EPA. These included installation of lagoon and catch basin lining, and field application controls with limits on nitrate and phosphorus levels.

Monahan said Cow Palace and the other dairies voluntarily conducted and shared well monitoring data with the EPA after the 2013 agreement's terms expired in 2021. He said efforts to continue dispute resolution procedures with EPA officials went nowhere after the eight-year agreement expired, until Region 10 officials filed the lawsuit in June.

The Save Family Farming group also noted the work by dairies to address concerns.

"It feels like an no-win situation with no way to make it work, despite the millions the dairies have spent over the past 10 years," Honcoop said. "It's having a chilling effect on the dairy industry across the state."

The injunction requires the Cow Palace to immediately test a lined lagoon for leaks, and make repairs if needed. Tebbutt said there are concerns the lagoon is contaminating the aquifer which provides water to thousands of people in the area.

Injunction requirements

Dairies generate large quantities of liquid and solid animal waste, which contains nitrogen that can turn into nitrates in the soil. Nitrates can migrate into groundwater if not managed properly and nitrate contamination may affect the drinking water wells of nearby community members.

In granting the EPA's motion for preliminary injunction, the court ordered the dairies to test drinking water wells in an area up to 3.5 miles downgradient of the dairies and to provide and maintain reverse-osmosis water treatment systems or bottled water to homes where this testing finds nitrate levels above 10 milligrams per liter. The court also ordered the dairies to immediately conduct groundwater monitoring.

To comply with the court's order, the dairies must submit a plan for testing residential wells

within 30 days and complete the testing within 60 days of EPA's approval of a plan, Waldref said.

An EPA website for Lower Yakima Valley groundwater users shows the affected area is east of Zillah and northeast and across Interstate 82 from Granger.

According to the Centers for Disease Control and Prevention, exposure to high nitrate levels can decrease the blood's ability to carry oxygen. Babies and older adults are at the highest risk for becoming sick from high exposure to nitrates.

Hotline for residents

Dan Opalski, deputy regional administrator for EPA's Region 10 office in Seattle, said the injunction is part of his agency's continuing efforts to work with public health agencies, community groups and the agriculture industry to address nitrate contamination in the Lower Yakima Valley's water supply.

He urged residents living near the three dairies to visit EPA's Lower Yakima Valley Groundwater webpage to learn whether their well is in the area affected by the ruling and to accept upcoming offers for well testing. People can also call the EPA's dedicated hotline at 509-204-1941 or 888-508-6344 for more information.

For residences outside of the area impacted by Tuesday's ruling, free well testing and alternative water is available from the Lower Yakima Valley Groundwater Management Area Safe Drinking Water Initiative or by calling 866-886-7117.

A trial in the case is scheduled for March 2026.