

Environmental groups poised to sue Majestic Dairy over manure management practices

Lex Talamo, Yakima Herald Republic, January 8, 2020

Three environmental groups announced their intent to sue Majestic Farms Dairy, alleging that mismanagement of animal waste is contaminating local drinking water in violation of federal law.

In a letter dated Jan. 2, the Community Association for Restoration of the Environment, Friends of Toppenish Creek and the Center for Food Safety notified Majestic Farms Dairy LLC of their intent to file a lawsuit in Washington Federal District Court. The dairy is off Gurley Road in Outlook.

The groups are represented by Charlie Tebbutt, an Oregon-based attorney who has been involved with 10 other lawsuits against dairies since 2009, as well as the Terrell Marshall Law Group and the law office of Andrea Rodgers, both based in Seattle.

Majestic's site manager, Nicholas Struikmans, declined to comment Monday on the possible litigation.

The letter of intent to sue alleges that Majestic Farms Dairy has mismanaged its manure, including overapplying it to fields that don't need fertilization, storing manure in unlined and inadequately maintained lagoons, and operating an "open dump" in violation of the dairy's nutrient management plan and the Solid Waste Disposal Act.

The letter stated that over-applications of manure can cause nitrates, phosphorous and other pollutants, including coliform bacteria, to leach through soil and into groundwater. The groups allege that past soil tests submitted to the Washington State Department of Agriculture by the dairy have tested positive for elevated nitrate and phosphorous levels.

Once pollutants enter the water table, they can end up in nearby wells, the letter continued. The groups allege that 11 wells near Majestic Dairy have tested for nitrate levels ranging from just above the federal safety level to 10 times that amount.

The groups also allege the well water has tested positive for other chemicals associated with cow manure, including bovine hormones and pharmaceuticals.

"This facility has contaminated fields, leaky lagoons, and seeping compost areas, which cause widespread groundwater pollution," Tebbutt wrote. "This pollution fouls nearby residents' wells."

The Centers for Disease Control and Prevention notes that drinking water contaminated with high levels of nitrates has been associated with increased heart rate, headaches and vomiting,

among other symptoms.

Tebbutt's firm successfully sued four other dairies in the Lower Yakima Valley in 2013. The lawsuit alleged that the dairies were contaminating drinking water with nitrates, phosphorous, bovine antibiotics and other pollutants by mismanaging their manure. A federal judge required dairies to change their practices and install liners in manure storage ponds under a federal consent decree.

The three environmental groups involved with the lawsuit against Majestic Dairy sued two other Lower Yakima Valley dairies in May, also alleging mismanagement of animal waste in violation of the Solid Waste Disposal Act. That case is ongoing.

The groups said they will continue their efforts until all dairies in the Lower Yakima Valley have stopped polluting water resources.

"Our goal here is clean water for everyone," said Jean Mendoza, executive director of Friends of Toppenish Creek. "People who live in the Lower Yakima Valley should be able to drill domestic wells and access potable water, just like people in other parts of the Valley and Washington state."

The letter notes that the groups will file a citizen lawsuit in the Washington Federal District Court on or after 90 days from the Jan. 2 notice. The lawsuit, if filed, will ask the court to require the dairy to comply with the law, remedy the source of the alleged contamination, and pay attorney and expert witness fees and costs.