

Environmental groups look to sue over groundwater; CARE, Center for Food Safety plan to sue five Lower Valley dairies in federal court if alleged pollution not fixed in 90 days



Newspaper

Yakima Herald-Republic

October 19, 2012 | Courtney, Ross

Environmental groups say they will sue five Lower Valley dairies in federal court for allegedly contaminating local drinking water supplies unless the operators take steps to stop the contamination "and begin to make amends for the damage they have already caused."

One of the groups is Granger-based Community Association for the Restoration of the Environment, or CARE; the other is a newcomer to the Yakima Valley groundwater problem, the Washington, D.C., environmental organization Center for Food Safety.

The environmentalists have enlisted Public Justice, a public interest law firm with a network of prominent trial attorneys across the country, and longtime Eugene, Ore., environmental attorney Charlie Tebbutt.

In formal notices of intent to sue dated Wednesday, the groups give the dairies 90 days to cease the alleged pollution and clean up or face a citizens lawsuit alleging repeated violations of federal environmental laws and seeking damages of up to \$13.7 million from each dairy for each year of pollution.

The five dairies are the Liberty Dairy, Bosma Dairy, Cow Palace, R&M Haak and Sons Dairy, and the George DeRuyter and Sons Dairy, all located north of Sunnyside and Granger in the Lower Yakima Valley. They were singled out by an Environmental

Protection Agency report late last month for likely being the biggest contributors to nitrate pollution in private wells in the Lower Yakima Valley.

"EPA's findings are one more nail in the coffin of factory farms and a food production method that preys upon vulnerable populations and disregards environmental and health concerns," said Elisabeth Holmes, staff attorney at the Center for Food Safety.

The dairy owners criticized the EPA's science in the September report and claimed they were unfairly singled out over other sources of nitrate pollution, including heavy fertilizer use over a century of farming and septic systems.

Jay Gordon, executive director of the Washington State Dairy Federation, was not surprised by the threatened lawsuits nor by the involvement of the Center for Food Safety and Public Justice.

"They're all linked," Gordon said. "Add more names, it's still the same counterproductive garbage."

Dairy owners either could not be reached for comment or said they had no comment. Adam Dolsen, owner of Cow Palace, said the dairy has not yet received any official notice of a lawsuit. "I would be happy to discuss when we receive something more official," he said in an email.

Studies have shown contamination in local wells above federal safety limits, but little was done until a 2008 series by the Yakima Herald-Republic, "Hidden Wells, Dirty Water," detailed how local and federal regulatory agencies had failed to take action. Researchers say nitrate concentrations exceed federal standards in about 20 percent of private wells.

High levels of nitrates can threaten the health of babies and people with compromised immune systems, as well as signify the presence of other contaminants, such as bacteria and pesticides.

Regulators and environmentalists contend runoff laden with manure leaches into groundwater through lagoons and when dairy owners and neighboring farmers spray it on their fields through irrigation sprinklers. The cluster of dairies identified in the EPA report have lagoons that leak an estimated 3.3 million to 39.6 million gallons of manure a year.

In the wake of their report, EPA officials said dairy owners are working with regulators to write legally binding agreements that would mandate a cleanup.

EPA officials had limited comment Thursday.

"It's EPA policy not to comment on litigation, especially legal action between other parties," said spokesman Mark A. MacIntyre. "With that said, we remain committed to working with civic leaders, elected officials, the community and the dairies to protect groundwater in the Lower Yakima Valley."

CARE has a history of suing dairies. In March, the group prevailed in federal court against Royal City's Nelson Faria dairy for not following a court-ordered mitigation plan.

In 1998, CARE sued Zillah dairy farmer Henry Bosma, among others, and won a six-figure settlement in federal court. A study funded partly by that settlement documented the excessive levels of nitrate pollution but was shelved for years by agencies in charge of water- quality enforcement.

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