

# Lawsuit against Yakima Valley dairies expands

Ross Courtney, Yakima Herald Republic, October 7, 2014

A lawsuit alleging groundwater pollution by four Lower Valley dairies has expanded potential liability beyond the dairy corporations to related entities and individuals owning property used by the dairies.

A federal judge Friday allowed environmentalists to add one individual and several companies as defendants in the case that accuses the dairies of allowing cow manure to contaminate groundwater with nitrates, phosphorus, heavy metals and pharmaceuticals.

The development means that if the court agrees with the plaintiffs, the owners of the affiliated properties, not just the dairy corporations, could be held accountable for the pollution, said Charlie Tebbutt, the Eugene, Ore., attorney representing the environmentalists.

“It’s important that all the owners of the dairy properties be involved so they can’t play corporate shell games,” Tebbutt said.

The dairies’ attorneys argued that the environmental groups waited too long to add new defendants and risked delaying the trial, but the judge disagreed, according to court documents.

“It is a bit frustrating that plaintiffs — particularly at this late stage of the proceedings — are continuing to make procedural moves that unnecessarily cause delay and increase costs,” Debora Kristensen, the Boise, Idaho, attorney who represents the dairies, said in an emailed response to questions Monday afternoon.

The lawsuits are scheduled reach their first trial — against Cow Palace of Granger — in February, Tebbutt said.

In February 2013, the Granger-based Community Association for the Restoration of the Environment — or CARE — and the Washington, D.C.-based Center for Food Safety sued five dairies in U.S. District Court in Yakima under federal solid waste laws.

The dairies remaining in the suit are Cow Palace, George DeRuyter and Son Dairy of Outlook, D&A Dairy of Outlook and Bosma-Liberty Dairy of Zillah, all located north of the Yakima River in the Lower Yakima Valley, one of the state’s most concentrated milk-producing areas.

A fifth dairy, R&M Haak, settled with CARE in February after closing the business.

On Friday, Judge Thomas O. Rice allowed CARE to add to the list of defendants companies — or in one case a person — that own property used by the dairies.

CARE added Dolsen Companies and Three D Properties to the lawsuit against Cow Palace. Bill Dolsen is the president of the Yakima-based Dolsen Companies, which operates a Coca-Cola bottling plant, a Harrah feedlot, fruit orchards and the Cow Palace business. His son, Adam

Dolsen, is the vice president.

R. William Dolsen is the agent registered for Three D Properties with the Secretary of State's office.

In the lawsuit against the Bosma and Liberty dairies, CARE added Arizona Acres, Liberty Acres and Henry Bosma. Bosma is the registered agent for both firms.

The DeRuyter dairies do not have a corporate structure that would warrant seeking additional defendants, Tebbutt said.

A November 2012 report by the U.S. Environmental Protection Agency named the same five dairies as a likely source for contamination of some 20 percent of tested private wells with nitrate levels that exceed federal drinking water standards. Such wells provide drinking water to 24,000 Lower Valley residents, many of them poor.

In March 2013, all the dairies except Haak signed legally binding agreements with the EPA to monitor nitrate levels in groundwater and provide clean drinking water to neighbors over an eight-year period.

Nitrates can come from a variety of sources. Excessive levels can harm infants and those with compromised immune systems and their presence can indicate other contaminants, such as bacteria and pesticides.