

Dairy family settled suit to protect innocent relatives

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SUNNYSIDE — A family with long history in the Lower Valley's dairy industry said Wednesday they settled a federal environmental lawsuit to protect innocent relatives.

Rick and Marlene Haak, the former owners of one of five dairies sued in U.S. District Court for alleged pollution, only settled last week to prevent family members from being included the suit, said Marlene Haak.

"From our perspective, it was a very pressured settlement," said Marlene Haak, 57.

The Yakima Herald-Republic sought comment from the Haaks the day after the Feb. 6 settlement but the couple did not receive a message.

The Haaks' extended family, which has been dairy farming in the Lower Valley since the 1970s, owns the Sunnyside property where the dairy used to stand through a limited liability corporation set up when they bought it in 1996, Marlene Haak said.

Their opponents accuse them of hiding behind corporations to avoid environmental liability.

"They're using the corporate shell game in order to avoid personal responsibility for their actions," said Charlie Tebbutt, the Eugene, Ore., attorney for the Granger-based Community Association for the Restoration of the Environment, or CARE.

In February 2013, R&M Haak LLC and R&M Haak and Sons Dairy, along with four other dairy entities, were named in a lawsuit filed by CARE for allegedly allowing cow manure to pollute groundwater. Rick and Marlene Haak never owned two dairies as a Feb. 8 story indicated, but simply changed the name over the years and the lawsuit mentioned both.

Feb. 6, the Haaks and CARE agreed on a settlement in which the Haaks admit no wrongdoing but agree to pay \$40,000, remove an estimated 700 tons of manure from the property, turn over water and soil sample records and allow environmentalists to inspect two dry lagoons.

They agreed to the terms only to keep the lawsuit away from their family members who were part owners of the property, but were not involved in the dairy's operations, Marlene Haak said.

Last November, CARE's attorneys asked for access to the property for multiple inspections. The Haaks argued they can't grant access to property they don't own.

A limited liability corporation, or LLC, named Haak II is listed by the Yakima County Assessor's Office as the owner of the property at 4080 Washout Road. According to the Haaks, Rick Haak, 55, is not an officer or governing official of

the Haak II LLC.

He got out of the LLC in November 2012, just a couple months after the U.S. Environmental Protection Agency in September called the same five dairies likely contributors to nitrate contamination in private wells, Marlene Haak said.

The other four dairies signed binding agreements with the EPA to monitor nitrate levels and provide clean drinking water to neighbors. The Haaks considered the conditions too expensive and sold off their cows in May, Marlene Haak said.

“We, in essence, were forced out of business by the EPA,” Haak said.

To try to gain access to the property, Tebbutt sent those family members in the Haak II partnership a notice of intent to sue, a required predecessor to a federal lawsuit.

Marlene Haak said that’s what prompted her and her husband to settle.

Tebbutt said he would have sued the property owners originally if he knew specifically who they were.

“The owners are liable just like the operators of the dairy property,” Tebbutt said.

Several Haak relatives in the Sunnyside area are listed as governing persons in a variety of LLCs and corporations regarding their property and farming ventures.

Rick Haak is a “governing person” of two of them — Haak Property LLC and R&M Haak LLC — according to corporate records at the Secretary of State’s Office.

Rick and Marlene Haak had owned their dairy — the cows and equipment, if not the land — since Rick’s father purchased an existing dairy in 1996, Marlene Haak said. They doubled the size to roughly 1,000 milking cows.

Since selling their dairy, Rick Haak has been working on a different dairy near Sunnyside owned by his older brother, Henry Haak Jr., Marlene said.