

Lawsuit claims dairy linked to Outlook flood violated Clean Water Act

Mark Morey, Yakima Herald Republic, April 12, 2017

A Lower Valley dairy is being sued over claims that it has violated the federal Clean Water Act for years, including contributing to the impact of a manure-related flood in the Outlook area earlier this year.

The lawsuit against Snipes Mountain Dairy was filed Tuesday in U.S. District Court in Yakima.

The plaintiffs are Community Association for Restoration of the Environment, commonly known as CARE, and Friends of Toppenish Creek. Both nonprofits have been active critics of dairy practices in the Lower Valley.

Charlie Tebbutt, a Eugene, Ore., lawyer who represents CARE, said the Outlook flood was only a small part of the overall lawsuit.

Plaintiffs' lawyers had been working on the case well before that.

"That's just one more problem that the facility has had over the years," Tebbutt said. "This has been a recurring problem for many, many years, even over a decade or more."

The lawsuit claims that Snipes Mountain has polluted surface water and groundwater by discharging manure and other pollutants. The manure from the dairy cows is spread on farm fields.

The dairy is classified as a concentrated animal feeding operation.

Under that permit, it is prohibited from polluting groundwater, according to the lawsuit.

The lawsuit alleges that soil samples in some fields show higher-than-allowed levels of several pollutants, including nitrate and ammonium — more than can be consumed by the field crops.

Manure applied to a field next to the dairy in late February violated the operating permit because the field was frozen or covered in snow, the lawsuit alleges.

That field was then inundated when a flood started on a neighboring property, leading to the damage in the Outlook area, the lawsuit said.

The dairy is also accused of not lining manure lagoons well enough to prevent leakage of nitrate and other matter into the water table, among other violations.

The lawsuit asks a judge to order the dairy to comply with its CAFO permit and pay fines allowed under federal law.

Tebbutt said he expected to work with the dairy to reach terms similar to a federal consent decree approved in recent years.

The decree required three Lower Valley dairies to line manure lagoons, among other steps.

Dairy industry representatives have criticized the decree, saying that the liners won't make a difference in pollution.

"This is a massive waste of money," Jay Gordon, policy director with the Washington Dairy Federation in Olympia, said last year.

A Yakima lawyer representing Snipes Mountain could not be reached for comment Wednesday, nor was a message left at the dairy returned.

Tebbutt said the manure problem extends across the industry.

"Every one of these facilities is polluting, and they all need to change their practices," he said.