

1 TODD KIM  
Assistant Attorney General  
2 Environment and Natural Resources Division  
U.S. Department of Justice  
3

4 ANDRENE E. DABAGHI  
GENEVIEVE S. PARSHALLE  
FREDERICK S. PHILLIPS  
5 Environmental Enforcement Section  
United States Department of Justice  
6 150 M Street NE  
Washington, D.C. 20002  
7 (202) 598-9576 | Andrene.Dabaghi@usdoj.gov

8 VANESSA R. WALDREF  
United States Attorney  
9 Eastern District of Washington

10 DEREK T. TAYLOR  
Assistant United States Attorney  
11 Eastern District of Washington  
920 West Riverside Avenue, Suite 340  
12 Spokane, WA 99201  
(509) 835-6319 | Derek.Taylor@usdoj.gov

13 *Attorneys for Plaintiff United States of America*

14  
15 UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

16 UNITED STATES OF AMERICA,

17 Plaintiff,

18 v.

19 COW PALACE, LLC, *et al.*,

20 Defendants.

Civil No. 24-cv-03092-TOR

UNITED STATES' MOTION FOR  
PRELIMINARY INJUNCTION

August 14, 2024  
With Oral Argument: 1:30 p.m.  
Spokane Courtroom 902

1 **I. INTRODUCTION**

2 This case arises out of Defendants’ poor manure management practices at  
3 dairy operations in the Lower Yakima Valley that are contaminating downgradient  
4 residents’ drinking water. As a result, the United States, on behalf of the U.S.  
5 Environmental Protection Agency (“EPA”) seeks a preliminary injunction under  
6 Section 1431 of the Safe Drinking Water Act (“SDWA”) requiring Defendants to  
7 immediately provide alternative water to impacted residents; resume appropriate  
8 monitoring of nitrate in groundwater; and address potential leakage from a manure  
9 storage lagoon. These immediate measures are necessary to abate the public health  
10 threat to affected residents until nitrate levels in groundwater are substantially  
11 reduced and residents have access to safe drinking water.

12 **II. BACKGROUND**

13 **A. Past Efforts to Address Nitrate Contamination from Defendants’**  
14 **Operations and Properties.**

15 Defendants Cow Palace, LLC; the Dolsen Companies; Three D Properties,  
16 LLC; George & Margaret, L.L.C.; George DeRuyter and Son Dairy, L.L.C.; D and  
17 J Dairy, L.L.C. (f/k/a D and A Dairy, L.L.C.); Liberty Dairy, LLC; Arizona Acres  
18 Limited Partnership; Liberty Acres LLC; Bosma Dairy Partners, LLC; Bosma  
19 Enterprises, Inc.; Mr. Henry Bosma; Ms. Henrietta Bosma; and Ms. Kathleen  
20 Nicolaus own or operate three large, concentrated animal feeding operations that  
collectively generate tens of millions of gallons of liquid manure and hundreds of

1 thousands of tons of solid manure each year, or own land where manure is applied  
2 as fertilizer. Defendants store solid manure in giant compost piles and liquid  
3 manure in large lagoons before applying it on agricultural fields. Declaration of  
4 Eric Winiecki, EPA Compliance Officer (“Winiecki Decl.”) at ¶ 20, Ex. F at  
5 EPA\_0001486–87.

6 Manure contains nitrogen that converts to nitrate as it moves through air,  
7 surface runoff, and groundwater. Declaration of Dr. Greg Schnaar, hydrogeologist  
8 (“Schnaar Decl.”) at ¶¶ 21-22. Nitrate is highly mobile and easily moves through  
9 soil into groundwater, where it forms plumes. *Id.* A brief exposure to nitrate in  
10 drinking water can cause serious or fatal disease, including methemoglobinemia,  
11 i.e. “Blue Baby Syndrome,” in infants. Declaration of Dr. Christopher Teaf,  
12 toxicologist (“Teaf Decl.”) at ¶¶ 16-17. Blue Baby Syndrome can lead to death  
13 within days if not promptly treated. *Id.* at ¶ 16. In 1991, based on the acute risk of  
14 Blue Baby Syndrome to infants, EPA set the MCL for nitrate in public water  
15 systems at 10 mg/L. *Id.* at ¶¶ 16-17; 40 C.F.R. § 141.62(b)(7). Recent studies  
16 indicate an association between increased nitrate intake and reproductive problems,  
17 such as spontaneous abortion, intrauterine growth restriction, birth defects, and  
18 certain cancers. *See* Teaf Decl. at ¶¶ 18-23.

19 An alluvial aquifer underlying the Lower Yakima Valley (the “Aquifer”)  
20 supplies drinking water to approximately 56,000 people, with approximately one

1 third of those residents relying on private wells for drinking water. Winiecki Decl.  
2 at ¶ 6; Teaf Decl. at ¶ 27. Nitrate from Defendants’ properties migrates down from  
3 the surface until it reaches the Aquifer. Schnaar Decl. at ¶ 21. While crops uptake  
4 some nitrate through their roots, any remaining nitrate travels past the crop root  
5 zone to groundwater. *Id.* at ¶¶ 21-22. Once in groundwater, nitrate travels through  
6 the Aquifer to hydrologically downgradient residential drinking water wells (the  
7 “Residential Wells”). *Id.* at ¶ 22.

8 In March 2013, EPA exercised its emergency authority under SDWA and  
9 entered a Consent Order with a subset of Defendants: Cow Palace, LLC (“Cow  
10 Palace Dairy”); D and J Dairy, L.L.C. (f/k/a D and A Dairy, L.L.C.), George  
11 DeRuyter and Son Dairy, L.L.C., and George & Margaret, L.L.C. (“DeRuyter  
12 Dairy”); Liberty Dairy, LLC and its associated Dairy Facility H&S Bosma Dairy  
13 (“Bosma Dairy”) (collectively, “the Dairies”). Winiecki Decl., Ex. A (“Consent  
14 Order”). The Consent Order directed the Dairies to take immediate action to  
15 address the imminent and substantial endangerment presented by nitrate  
16 contamination in drinking water from their operations, including: (a) offering  
17 alternative water to homes on the Dairies’ properties and within one mile  
18 downgradient of the Dairies where Residential Wells exceeded 10 mg/L for nitrate;  
19 (b) taking specific actions to control potential sources of nitrogen from the Dairies,  
20 including storage lagoons and application fields; (c) establishing a network of

1 groundwater monitoring wells (the “Monitoring Wells”) and conducting quarterly  
2 groundwater monitoring; and (d) improving nutrient management at the Dairies,  
3 such as limiting the amount of manure applied to fields. Winiecki Decl. at ¶¶ 13-  
4 14; Ex. A at EPA\_0000026. The Dairies repeatedly missed deadlines to complete  
5 these actions under the Consent Order and have yet to complete all required source  
6 control actions. *See id.* at ¶¶ 23, 25, 51; *see also* Ex. H.

7 In May 2015, this Court entered consent decrees in suits brought by citizen  
8 groups against each of the Dairies under the Resource Conservation and Recovery  
9 Act (“RCRA”). *Cnty. Ass’n for Restoration of the Env’t, Inc. (“CARE”), et al. v.*  
10 *Cow Palace, LLC*, No. 13-cv-03016 (E.D. Wash. May 19, 2015) (ECF No. 396);  
11 *CARE, et al. v. George & Margaret LLC*, No. 13-cv-03017 (E.D. Wash. May 19,  
12 2015) (ECF No. 169); *CARE, et al., v. Henry Bosma Dairy*, No. 13-cv-03019 (E.D.  
13 Wash. May 19, 2015) (ECF No. 246) (collectively, “RCRA Consent Decrees”).  
14 Under these Decrees, the Dairies were required to install 14 additional Monitoring  
15 Wells and perform quarterly monitoring, among other actions. *See id.*

16 **B. Present-Day Imminent and Substantial Endangerment posed by Nitrate**  
17 **Contamination from Defendants’ Operations and Properties.**

18 Notwithstanding the 2013 Consent Order and the subsequent RCRA  
19 Consent Decrees, Defendants’ operations continue to contaminate the drinking  
20 water of residents who live downgradient from the Dairies and source their  
drinking water from private wells (the “Residents”). As of the date of this Motion,

1 the imminent and substantial endangerment to Residents posed by nitrate-  
2 contaminated drinking water persists. Current Monitoring Well data shows several  
3 “hot spots” at the Defendants’ properties where nitrate levels in groundwater  
4 remain above 50 mg/L. Schnaar Decl. at ¶ 52. Data from Monitoring Wells  
5 downgradient of the Dairies also show consistently high and increasing levels of  
6 nitrate. *Id.* at ¶¶ 42-50. Thus, source control measures taken by the Dairies to date  
7 have not decreased nitrate levels in downgradient wells to within safe limits.

8 Dr. Schnaar—a hydrogeologist specializing in contaminant transport—has  
9 modeled the areal extent of Defendants’ nitrate plumes. *See* Appendix A (Schnaar  
10 Decl., Ex. 19(a)). Dr. Schnaar’s modeling identifies areas where Defendants are  
11 estimated to contribute at least 1 mg/L of nitrate to groundwater (the “Affected  
12 Area”).<sup>1</sup> And in some areas, Dr. Schnaar’s modeling shows that Defendants are  
13 estimated to contribute nitrate in concentrations greater than the MCL. *Id.* at ¶¶ 37-  
14 38. Residential wells throughout the Affected Area have recently exceeded 10 mg/L,  
15

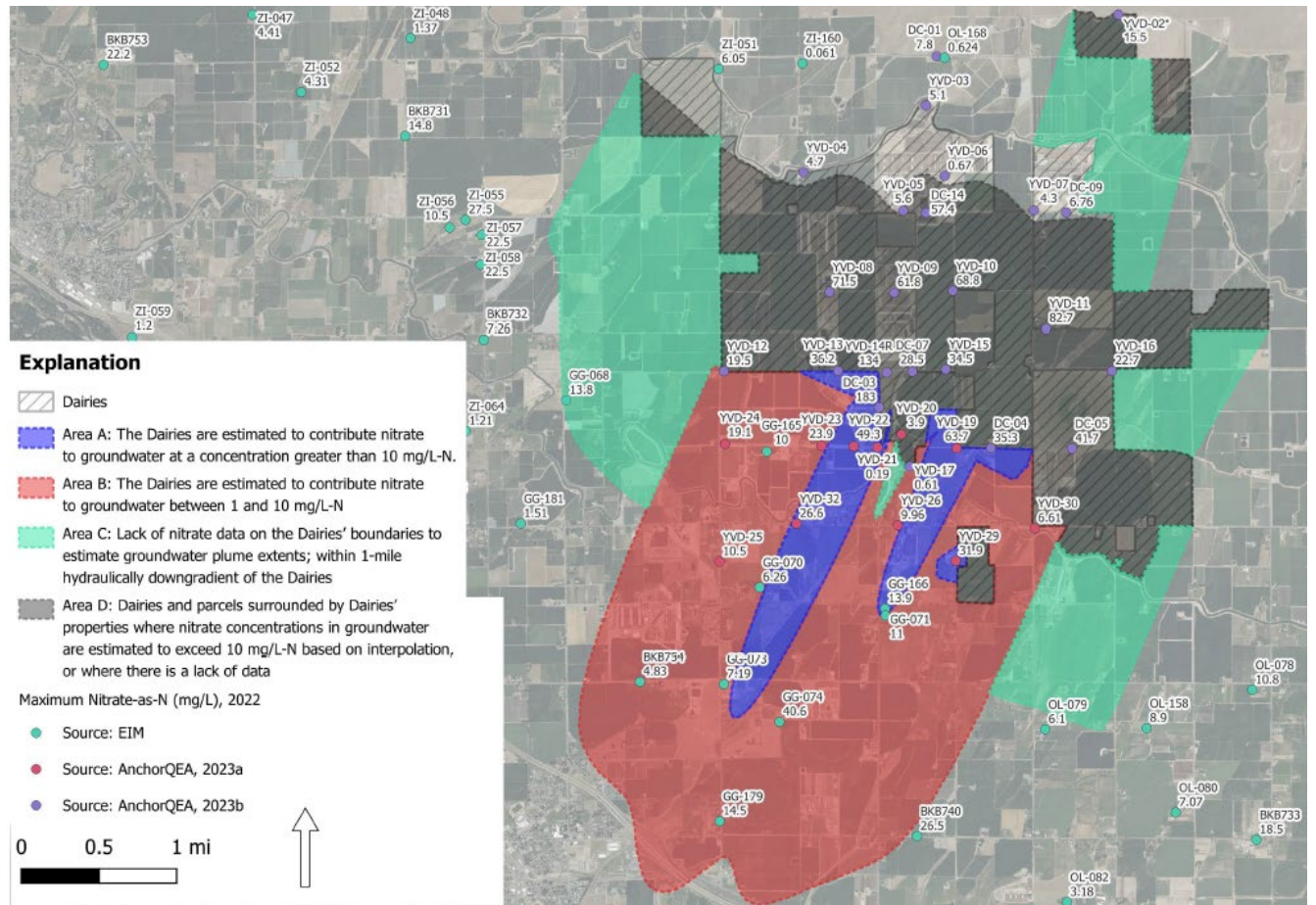
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16 <sup>1</sup> While testing can detect nitrate at levels below 1 mg/L, nitrate naturally occurs in  
17 groundwater in the Lower Yakima Valley at concentrations ranging from less than  
18 0.3 to 1.1 mg/L. *See* Schnaar Decl. at ¶ 38. The United States used 1 mg/L as a  
19 conservative threshold to estimate where the Dairies are contributing nitrate above  
20 background levels.

1 including: GG-074 (45.9 mg/L); GG-179 (14 mg/L); GG-166 (12 mg/L); GG-071  
2 (11.4 mg/L); and GG-165 (10.4 mg/l). Teaf Decl. at ¶ 35. The Affected Area extends  
3 approximately 3.5 miles downgradient of Defendants’ properties. Schnaar Decl. at ¶  
4 41.

5 Dr. Schnaar also modeled a “Potentially Affected Area”: an area within one  
6 mile hydraulically downgradient from Defendants’ properties where the lack of  
7 Monitoring Well data prevents estimation of Defendants’ nitrate plumes. *Id.* at  
8 ¶ 39. The Dairies do not monitor groundwater at certain locations along their  
9 western and southern property boundaries and at two non-contiguous parcels to the  
10 northeast. *Id.* at ¶¶ 33, 39-40. However, data reflecting Defendants’ nitrate  
11 contamination of Residential Wells more than one mile downgradient from the  
12 Dairies indicates that the Defendants likely contribute nitrate to groundwater in  
13 these data-scarce areas. *Id.* at ¶ 39. Consequently, homes in the Potentially  
14 Affected Area are at risk of drinking water exceeding the nitrate MCL due to  
15 contamination from Defendants’ properties. Indeed, while the Potentially Affected  
16 Area lacks Monitoring Well data, at least one Residential Well in this area recently  
17 exceeded the MCL: GG-068 tested at 13.3 mg/L in May 2022. Teaf Decl. at ¶ 35.  
18 The following diagram from Dr. Schnaar’s declaration, also attached as Appendix A,  
19 depicts the Affected Area (comprised of Areas A, B, and D) and the Potentially  
20 Affected Area (Area C).





**C. Immediate Action Must be Taken to Abate Risk to Residents in the Affected and Potentially Affected Areas.**

**i. Groundwater Monitoring**

Current and accurate groundwater monitoring data is necessary to assess the areal extent of nitrate contamination emanating from the Dairies. Schnaar Decl. at ¶ 51. The groundwater monitoring provision of the Consent Order expired in July 2021. Winiecki Decl. at ¶ 21. While the Dairies have conducted some voluntary groundwater monitoring since July 2021, the Dairies have refused to comply with the Consent Order’s Quality Assurance Project Plan. *Id.* at ¶¶ 26-37. As a result,



1 the laboratory analyzing recent Monitoring Well Data on behalf of the Dairies has  
2 flagged the data as unreliable. Winiecki Decl. at ¶ 31-36. The lack of accurate data  
3 endangers Residents by obfuscating the extent of Defendants’ nitrate plume, such  
4 that collection of valid, reliable monitoring data is necessary.

5 ii. Outreach and Testing for Provision of Alternative Water

6 Similarly, the Consent Order’s requirements for testing and provision of  
7 alternative water do not adequately address the present-day imminent and  
8 substantial endangerment. The Consent Order required the Dairies to test homes  
9 located on the Dairies’ properties and within a one-mile downgradient radius, to  
10 provide reverse osmosis water filters (“RO filters”) based on the results, to offer  
11 professional maintenance service for RO filters, and to test wells thereafter upon  
12 Residents’ request. Ex. A at EPA\_0000029–30. But the Dairies’ 2013 sampling  
13 and provision of water was incomplete: it failed to reach all homes within the one-  
14 mile radius and failed to provide alternative water to all homes exceeding the  
15 nitrate MCL. Of 224 homes identified within the one-mile radius in 2013,  
16 approximately 31 homes were never sampled due to vacancy, denial of access, or  
17 the Dairies’ inability to contact the owner or tenant. Winiecki Decl. at ¶ 40. Of  
18 approximately 67 homes found to exceed the MCL in 2013, only 36 accepted the  
19 Dairies’ offer for RO filters. *Id.* at ¶ 39. While the Dairies have provided additional  
20 homes with well testing and alternative water since 2013, approximately 25

1 residences that exceeded the MCL in 2013 had not received RO filter maintenance  
2 or bottled water from the Dairies as of 2023. *Id.* at ¶ 42.

3         Additionally, homes that tested below 10 mg/L in 2013 may now exceed the  
4 MCL but are not subject to retesting unless the resident makes a request. *Id.* at  
5 ¶ 43. New homes likewise will only receive well testing by the Dairies upon  
6 request. *Id.* The Consent Order also did not require the Dairies to sample 50  
7 residences with an existing RO filter, and only 15 of these residences accepted the  
8 Dairies' offer for professional RO filter maintenance, such that the drinking water  
9 status at the remaining 35 residences is unknown. *Id.* at ¶ 41.

10         Finally, the Affected Area extends past the negotiated, one-mile radius in the  
11 Consent Order. *See Schnaar Decl.* at ¶ 41. Accordingly, homes beyond the Consent  
12 Order's one-mile radius are excluded from the Dairies' provision of alternative  
13 water under the Consent Order but are at risk of drinking water exceeding the  
14 nitrate MCL. While the community group the Clean Drinking Water Project has  
15 conducted some outreach and testing within a three-mile radius under the RCRA  
16 Consent Decrees, *Winiecki Decl.* at ¶ 44, that outreach is incomplete and does not  
17 cover the entire Affected and Potentially Affected Areas. *Id.* at ¶ 45; *see also*  
18 Appendix A. Because past efforts have not protected all Residents at risk of  
19 drinking water exceeding the nitrate MCL, renewed testing and alternative water is  
20 necessary to immediately abate the public health threat.

1                   iii. Immediate Action to Address Likely Leakage from  
2                   Cow Palace Lagoon 1.

3                   Recent data shows a spike at monitoring well DC-14, located 50 yards  
4                   downgradient from Cow Palace Lagoon 1, that warrants immediate action. Schnaar  
5                   Decl. at ¶ 46; Winiecki Decl. at ¶ 60. In November 2019, during liner installation  
6                   at Lagoon 1, high winds ripped a 350-foot tear in the secondary liner, along with  
7                   several smaller tears. Winiecki Decl. at ¶ 55. Cow Palace tried to repair rather than  
8                   replace the damaged secondary liner and did not inform EPA of the liner damage  
9                   until March 2020. *Id.* at ¶¶ 56-57. A large leak was also discovered at Lagoon 1 in  
10                  February 2020. *Id.* at ¶ 58. The leak required repairs to three failed seams in the  
11                  upper liner, which Cow Palace failed to report to EPA until November 2021. *Id.* at  
12                  ¶ 59. In or around June 2020, after six years of consistently testing below 10 mg/L,  
13                  nitrate levels at DC-14 exceeded the MCL at 11.5 mg/L. *Id.* at ¶ 60.

14                  Since the second quarter of 2020, nitrate levels at DC-14 have exceeded the  
15                  MCL in every quarter, spiking as high as 57.4 mg/L in June 2022 and 55.7 mg/l in  
16                  December 2022. *Id.* at ¶ 60. A nitrate trend analysis of DC-14 shows that the area  
17                  is now a nitrate hot spot. Schnaar Decl. at ¶¶ 46, 52. In January 2022, EPA  
18                  expressed concern to Cow Palace that Lagoon 1 was leaking, and asked Cow  
19                  Palace to propose a schedule to immediately test the liner. Winiecki Decl. at ¶¶ 61-  
20                  62. Cow Palace responded that Lagoon 1 was not leaking. *Id.* at ¶ 63, Ex. V at  
EPA\_0009117. Immediate testing of the liner system to determine whether a leak

1 is causing the nitrate hot spot, and immediate action to resolve any discovered  
2 leak(s), are necessary to protect public health.

3 iv. Requested Relief

4 To address the ongoing imminent and substantial endangerment, the United  
5 States requests that the Court order Defendants to immediately: (1) resume  
6 collection of groundwater monitoring data consistent with EPA-approved  
7 procedures; (2) test nitrate levels in Residential Wells in the Affected and  
8 Potentially Affected Areas and provide alternative water where test results exceed  
9 the MCL; and (3) immediately investigate and address a possible leak from Cow  
10 Palace Lagoon 1. *See* Appendix B (Proposed Preliminary Injunction).

11 **III. ARGUMENT**

12 Without the requested preliminary injunction, Defendants' nitrate  
13 contamination in drinking water will continue to endanger the health of infants,  
14 children, and adults living downgradient of the Dairies. Monitoring and Residential  
15 Well data indicate that measures taken to date under the Consent Order and RCRA  
16 Consent Decrees have not abated the imminent and substantial endangerment. The  
17 public health crisis need not continue for another decade. There are reasonable  
18 actions that Defendants can immediately take to reduce the public health risks  
19 resulting from their nitrate contamination.

1       **A. Emergency Relief under the Safe Drinking Water Act and Standard for**  
2       **Preliminary Injunction in Statutory Enforcement Cases**

3           Section 1431 of SDWA empowers this Court to grant a preliminary  
4       injunction when presented with compelling evidence that a contaminant “present in  
5       or likely to enter” drinking water “may present an imminent and substantial  
6       endangerment” to public health. 42 U.S.C. § 300i(a); *see also United States v.*  
7       *Midway Heights Cnty. Water Dist.*, 695 F. Supp. 1072, 1076 (E.D. Cal. 1988)  
8       (contaminant in public water system warranted preliminary injunction); *United*  
9       *States v. Price*, 688 F.2d 204, 213–214 (3d Cir. 1982) (affirming preliminary  
10      injunction where landfill chemicals were leaching into groundwater); *Concerned*  
11      *Pastors for Soc. Action v. Khouri*, 217 F. Supp. 3d 960, 980–81 (E.D. Mich. 2016)  
12      (lead contamination in drinking water warranted preliminary injunction).

13           When the United States acts in its capacity as protector of the public interest,  
14      traditional equitable principles allow a court to order injunctive relief based  
15      “entirely upon a determination that the activity at issue constitutes a risk of danger  
16      to the public.” *United States v. Oliver*, No. 3:06-CV-196, 2009 WL 10671371, at  
17      \*12 (D. Alaska June 25, 2009), *aff’d*, 394 F. App’x 376 (9th Cir. 2010) (citing  
18      *United States v. Marine Shale Processors*, 81 F.3d 1329, 1359 (5th Cir. 1996)  
19      (internal quotations omitted)). Here, EPA is acting as protector of the public  
20      interest and has determined that Defendants’ contamination of the Aquifer

1 constitutes an imminent and substantial endangerment to the public health that is  
2 not being addressed by state and local authorities. This alone is a sufficient basis  
3 for the Court to grant the United States’ request for a preliminary injunction.

4       However, the United States also meets all four prongs of the traditional  
5 *Winter* test for granting a preliminary injunction: (1) it is likely to succeed on the  
6 merits; (2) it is likely to suffer irreparable harm in the absence of preliminary  
7 relief; (3) the balance of equities tips in its favor; and (4) an injunction is in the  
8 public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Under  
9 *Winter*, a preliminary injunction may be appropriate if the movant raises “serious  
10 questions going to the merits” and the “balance of hardships . . . tips sharply  
11 towards” it, as long as the second and fourth *Winter* factors are satisfied. *All. for*  
12 *the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134–35 (9th Cir. 2011).

13       **B. The United States Will Prevail on the Merits Under Section 1431 of the**  
14       **Safe Drinking Water Act.**

15       To prevail on a claim under Section 1431(a), the United States must show  
16 (i) that a contaminant is present in or is likely to enter; (ii) an underground source  
17 of drinking water; (iii) which may present an imminent and substantial  
18 endangerment to the health of persons; and (iv) that appropriate State and local  
19 authorities have not acted to protect the health of such persons. 42 U.S.C.  
20 § 300(i)(a). All four elements are easily satisfied here.



1 i. Contaminants are present in or likely to enter the Aquifer.

2 There is no dispute that nitrate from Defendants’ properties is already in the  
3 Aquifer. Samples from Monitoring and Residential Wells show that the Aquifer is  
4 contaminated at levels above the MCL for nitrate. Schnaar Decl. at ¶¶ 44-50; Teaf  
5 Decl. at ¶¶ 35; 37-40. Dr. Schnaar’s modeling based on this data demonstrates that  
6 Defendants continue to cause or contribute to the nitrate contamination. Schnaar  
7 Decl. at ¶¶ 21-26; *see also Cmty. Ass’n for Restoration of the Env’t, Inc. v. Cow*  
8 *Palace, LLC*, 80 F. Supp. 3d 1180, 1225 (E.D. Wash. 2015) (“[T]here can be no  
9 genuine dispute that the nitrates beneath the crop root zones at the Dairy will  
10 continue to migrate through the vadose zone to the underlying aquifer.”).

11 ii. The Aquifer is an underground source of drinking water.

12 “Underground source of drinking water” is not expressly defined under  
13 SDWA’s emergency powers provision, *see* 42 U.S.C. § 300i, but the fact that  
14 Residents consume water from the Aquifer satisfies the plain meaning of this  
15 phrase. Additionally, EPA regulations implementing Part C of the Act, the  
16 Underground Injection Control program, define “underground source of drinking  
17 water” as “an aquifer or its portion . . . which contains a sufficient quantity of  
18 ground water to supply a public water system; and (i) currently supplies drinking  
19 water for human consumption; or (ii) contains fewer than 10,000 [milligrams per  
20 liter] total dissolved solids.” 40 C.F.R. § 144.3. The Aquifer supplies an estimated

1 56,000 residents across the Lower Yakima Valley, including both private wells and  
2 public water systems, and therefore comprises an underground source of drinking  
3 water under 40 C.F.R. § 144.3. Winiecki Decl. at ¶ 6-9; Teaf Decl. at ¶ 27.

4 iii. Nitrate Contamination May Present an Imminent and  
5 Substantial Endangerment to Lower Yakima Valley Residents.

6 This Court previously concluded that nitrate contamination from Cow Palace  
7 Dairy's operations "may present an imminent and substantial endangerment to the  
8 public who is consuming the contaminated water." *Cow Palace, LLC*, 80 F. Supp.  
9 3d at 1228. The Court construed RCRA's analogous endangerment provision  
10 broadly and explained that "[t]he term imminent 'does not require a showing that  
11 actual harm will occur immediately so long as the risk of threatened harm is  
12 present.'" *See id.* at 1227 (quoting *Price v. U.S. Navy*, 39 F.3d 1011, 1019 (9th Cir.  
13 1994)). Because Congress enacted SDWA "to give paramount importance to the  
14 objective of protection of the public health," H.R. Rep. No. 93-1185 (1974),  
15 *reprinted in* 1974 U.S.C.C.A.N. 6454, 6488, courts interpreting "imminence"  
16 under SDWA have similarly concluded that "what must be imminent is not the  
17 actual harm itself but the risk of harm if remedial action is not taken." *United*  
18 *States v. City of North Adams*, 777 F. Supp. 61, 84 (D. Mass. 1991) (citing *Price*,  
19 688 F.2d at 213–214). Preventative action is warranted when a contaminant is  
20 "present in or likely to enter" drinking water supplies—there need not be evidence  
that people "have actually fallen ill" from drinking contaminated water. *Midway*

1 *Heights Cnty. Water Dist.*, 695 F. Supp. at 1076; *see also Trinity American Corp.*  
2 *v. EPA*, 150 F.3d 389, 399 (4th Cir. 1998) (same); *United States v. Reilly Tar &*  
3 *Chem. Corp.*, 546 F. Supp. 1100, 1110 (D. Minn. 1982) (a contaminant presents a  
4 “substantial endangerment” where there is “a substantial likelihood that  
5 contaminants capable of causing adverse health effects will be ingested by  
6 consumers if preventive action is not taken”).

7       Here, the risk of harm is “imminent and substantial” because Dr. Schnaar’s  
8 modeling based on Monitoring and Residential Well data shows that Defendants  
9 continue to contribute nitrate to groundwater in amounts vastly exceeding the  
10 10 mg/L MCL. Schnaar Decl. at ¶¶ 27-41. While injunctive relief is warranted on  
11 that basis alone, *Midway Heights County Water Dist.*, 695 F. Supp. at 1076, the  
12 Residential Well data confirms that Residents are currently exposed to dangerous  
13 levels of nitrate well above the MCL. Teaf Decl. at ¶¶ 35-36. And Dr. Schnaar’s  
14 modeling further demonstrates that nitrate concentrations in groundwater are  
15 increasing in several parts of the Affected Area that already exceed the MCL.  
16 Schnaar Decl. at ¶¶ 42-50.

17       Consistent with this Court’s 2015 endangerment finding under RCRA, *see*  
18 *Cow Palace, LLC*, 80 F. Supp. 3d at 1227-1228, it is well-established that nitrate in  
19 drinking water poses serious health risks, including Blue Baby Syndrome in  
20 infants, when nitrate levels are at or above the 10 mg/L MCL. Teaf Decl. at ¶¶ 16-

1 19. In 2022, the Washington Department of Health reported 3,449 births in Yakima  
2 County—the county where the Affected and Potentially Affected Areas are  
3 located—underscoring that the imminent and substantial endangerment posed by  
4 Blue Baby Syndrome persists. *Id.* at ¶¶ 15-16. While the acute risk of nitrate to  
5 infants is sufficient to warrant preventative action, recent studies also indicate a  
6 correlation between increased nitrate intake in adults and certain reproductive  
7 problems, birth defects, and cancers. *Id.* at ¶¶ 18-23.

8 In sum, nitrate contamination from the Dairies and Defendants’ properties  
9 currently presents an imminent and substantial endangerment to Residents that  
10 warrants immediate relief.

11 iv. State and Local Authorities Have Not Acted to Protect the  
12 Health of Residents.

13 EPA meets regularly with the State of Washington and Yakima County  
14 regarding efforts to address the public health threat posed by nitrate contamination  
15 in drinking water in the Lower Yakima Valley. Winiecki Decl. at ¶ 65. The  
16 Washington Departments of Ecology and Health have deferred to EPA to abate the  
17 imminent and substantial endangerment posed by nitrate contamination from the  
18 Dairies and agree that ongoing coordination with EPA is necessary to avoid  
19 duplication of efforts downgradient of Defendants’ properties. *Id.* Yakima County  
20 has also started to contact and offer well testing and alternative water to some  
residents in the Lower Yakima Valley, but the County’s efforts will not address

1 source control measures at the Dairies and do not include residents who live within  
2 one mile downgradient from Defendants' properties. *Id.* Thus, the State and local  
3 authorities have not acted to adequately protect the health of all residents who live  
4 within Affected and Potentially Affected Areas.

5 **C. The Yakima Valley Residents and the United States Will Suffer**  
6 **Irreparable Harm If This Preliminary Injunction is Not Issued.**

7 The Court need not find irreparable harm if the statutory criteria under  
8 SDWA Section 1431 are satisfied, including that nitrate contamination in the  
9 Aquifer may present an imminent and substantial endangerment to residents. When  
10 an injunction is authorized by statute and the statutory conditions are satisfied, "the  
11 agency to whom the enforcement of the right has been entrusted is not required to  
12 show irreparable injury." *Oliver*, 2009 WL 10671371, at \*12 (quoting *United*  
13 *States v. Odessa Union Warehouse Co-op*, 833 F.2d 172, 175 (9th Cir. 1987)).  
14 Nevertheless, the irreparable injury element is satisfied here.

15 Absent preliminary injunctive relief, Residents in the Affected and  
16 Potentially Affected Areas will face a continued risk of drinking contaminated  
17 water. The immediate relief requested by this motion seeks to abate the imminent  
18 and substantial endangerment to Residents through resumed collection of reliable  
19 groundwater monitoring data; renewed testing for provision of alternative water at  
20 impacted homes; and prompt action to address the hot spot at Cow Palace Lagoon

1. *See* Appendix B (Proposed Preliminary Injunction). Each of these elements of

1 relief will help ensure that Residents do not drink contaminated water during the  
2 pendency of this action and thereby prevent irreparable harm.

3 **D. The Balance of Hardships Favors the United States.**

4 When drinking water contamination jeopardizes the health and welfare of  
5 hundreds of individuals, private interests are “substantially outweighed by the  
6 profound public interest at stake.” *United States v. Alisal Water Corp.*, 431 F.3d  
7 643, 656 (9th Cir. 2005) (upholding injunctive relief in SDWA case under 42  
8 U.S.C. § 300g-3(b)(2)). Here, the presence of nitrate in the Aquifer has persisted  
9 for many years and must be addressed immediately. Denying the preliminary  
10 injunction unquestionably will result in hardship: continued contamination of the  
11 Aquifer by Defendants; inadequate sampling data to map the areal extent of  
12 contamination and efficacy of source control measures; and the ongoing  
13 endangerment to downgradient Residents. The current and potential risk to  
14 Residents outweighs the potential harms to Defendants, which are the costs of  
15 conducting outreach and testing for provision of alternative water, resuming  
16 groundwater monitoring with appropriate quality controls, and taking immediate  
17 action to address the potential leakage at Cow Palace Lagoon 1.

18 **E. The Public Interest Favors Issuance of a Preliminary Injunction.**

19 Protecting the public from contaminated drinking water is precisely what  
20 Congress intended when it enacted SDWA Section 1431. *See Price*, 688 F.2d at



1 214 (“Congress, in the endangerment provisions of RCRA and SDWA sought to  
2 invoke nothing less than the full equity powers of the federal courts in the effort to  
3 protect public health, the environment, and public water supplies . . . . Courts  
4 should not undermine the will of Congress by either withholding relief or granting  
5 it grudgingly.”). Accordingly, injunctive relief weighs heavily in the public  
6 interest. *See Wyckoff Co. v. EPA*, 796 F.2d 1197, 1198 (9th Cir. 1986) (“A  
7 weighing of the public interest is particularly important in cases . . . where the  
8 public health and welfare may depend on unhindered enforcement of a federal  
9 environmental statute.”). Given the imminent and substantial danger posed to  
10 hundreds of individuals in the Lower Yakima Valley, the public interest at stake  
11 here is “profound.” *See Alisal Water Corp.*, 431 F.3d at 656.

12 **IV. CONCLUSION**

13 For the foregoing reasons, Plaintiff United States respectfully requests that  
14 this Court require Defendants to immediately take the actions in the attached  
15 Proposed Preliminary Injunction. These measures are necessary to abate the public  
16 health threat to Residents until nitrate levels in groundwater are substantially  
17 reduced and Residential Well users have access to safe drinking water.

18 Respectfully submitted this 2nd day of July, 2024.

19 TODD KIM  
20 Assistant Attorney General

1 Environment & Natural Resources Division  
2 U.S. Department of Justice

3 /s/ Andrene E. Dabaghi  
4 ANDRENE E. DABAGHI (IL BAR #6326789)  
5 GENEVIEVE S. PARSHALLE (CA BAR  
6 #307228)  
7 FREDERICK S. PHILLIPS (D.C. BAR #433729)  
8 United States Department of Justice  
9 Environment & Natural Resources Division  
10 Environmental Enforcement Section  
11 150 M Street NE  
12 Washington, D.C. 20002  
13 (202) 598-9576  
14 Andrene.Dabaghi@usdoj.gov

15 VANESSA R. WALDREF  
16 United States Attorney  
17 Eastern District of Washington

18 /s/ Derek T. Taylor  
19 \_\_\_\_\_  
20 DEREK T. TAYLOR  
21 Assistant United States Attorney  
22 United States Attorney's Office  
23 Eastern District of Washington  
24 920 West Riverside Avenue, Suite 340  
25 Spokane, WA 99201  
26 (509) 835-6319  
27 Derek.Taylor@usdoj.gov

28 OF COUNSEL:

29 J. MATTHEW MOORE  
30 Assistant Regional Counsel  
31 Office of Regional Counsel  
32 U.S. Environmental Protection Agency, Region 10  
33 1200 Sixth Ave., Suite 155  
34 Seattle, WA 98101

1 (206) 553-6266  
moore.johnm@epa.gov

2  
3 DANIELLE GRANATT  
Assistant Regional Counsel  
Office of Regional Counsel  
4 U.S. Environmental Protection Agency, Region 10  
1200 Sixth Avenue, Suite 155  
5 Seattle, Washington 98101  
(206) 553-2108  
6 granatt.danielle@epa.gov

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**CERTIFICATE OF SERVICE**

I hereby certify that on July 2, 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System, which in turn automatically generated a Notice of Electronic Filing (“NEF”) to all parties in the case who are registered users of the CM/ECF system. The NEF for the foregoing specifically identifies recipients of electronic notice.

I hereby certify that on July 2, 2024, I will email the document to counsel for the following non-CM/ECF participants:

For Cow Palace, LLC:

Brendan V. Monahan

Shareholder, Stokes Lawrence, P.S.

Brendan.Monahan@stokeslaw.com

For Liberty Dairy, LLC; Bosma Dairy Partners, LLC; Bosma Enterprises, Inc.; Arizona Acres Limited Partnership; and Liberty Acres LLC:

Meredith Weinberg

Partner, Perkins Coie LLP

MWeinberg@perkinscoie.com

For George DeRuyter and Son Dairy, L.L.C.; D and J Dairy, L.L.C. (f/k/a D and A Dairy, L.L.C.); and George & Margaret, L.L.C.:

Lori Terry Greogry

Principal, Foster Garvey

lori.terry@foster.com

1 I hereby certify that on July 3, 2024, I will mail by Federal Express the  
2 document to the following non-CM/ECF participants, who are not currently  
3 represented by counsel:

4 Henry Bosma  
5 4300 Beam Rd.  
6 Zillah, WA 98953-9050

7 Henrietta Bosma  
8 4300 Beam Rd.  
9 Zillah, WA 98953-9050

10 Kathleen Nicolaus  
11 12475 W. Meadow Wood Dr.  
12 Boise, ID 83713-5853

13 For The Dolsen Companies and Three D Properties, LLC:  
14 Adam Dolsen, Registered Agent  
15 301 N 3<sup>rd</sup> Street  
16 Yakima, WA 98901

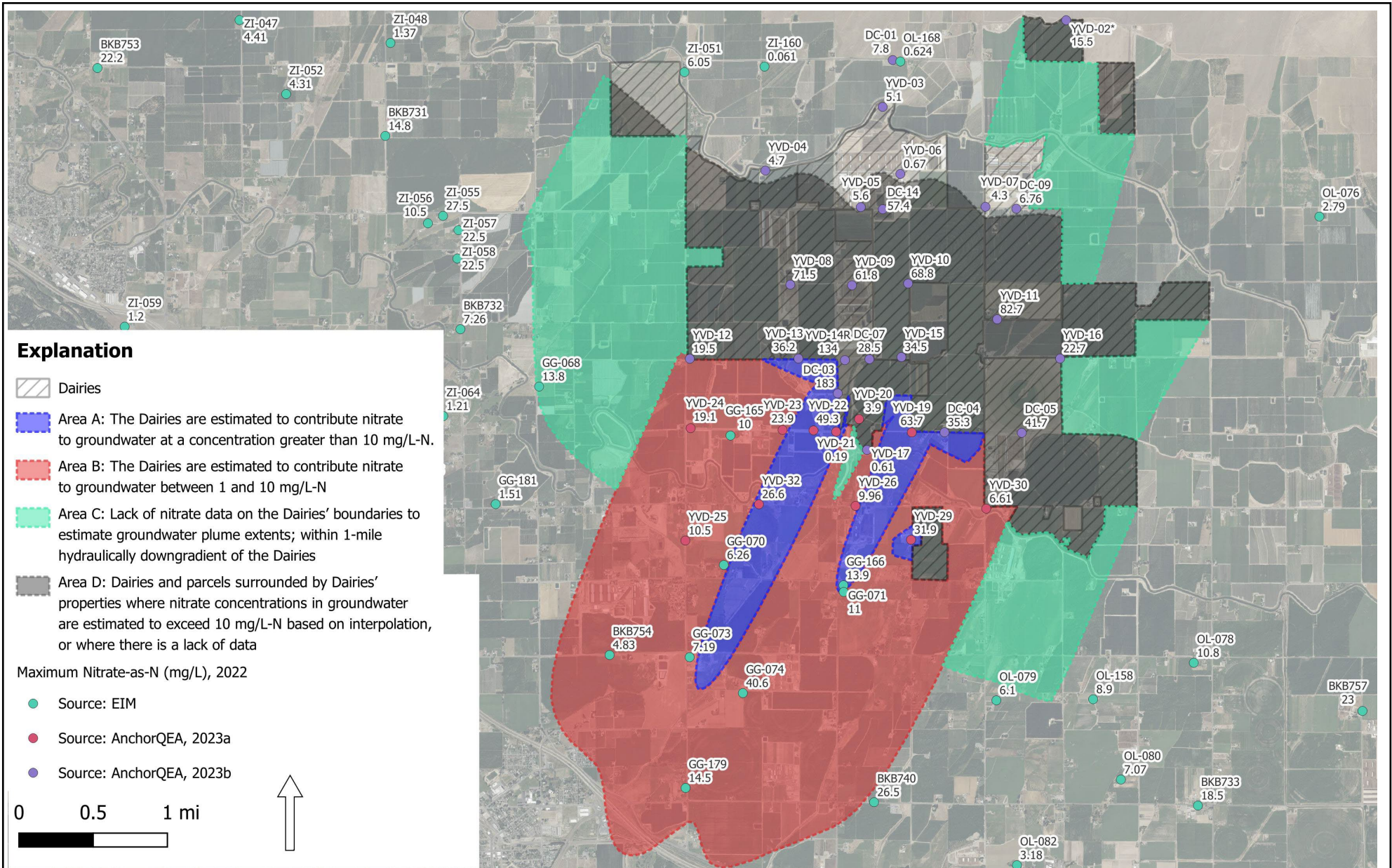
17 /s/ Andrene E. Dabaghi

18 Andrene E. Dabaghi

19 Trial Attorney  
20

# APPENDIX A





Note: Refers to groundwater in basin fill units; wells not posted (co-located with other wells) include DC-03D, DC-05D, YVD-31, YVD-27, YVD-18, YVD-28; OL-081 not posted (greater than 200 feet deep); nitrate concentrations from EIM reported as Nitrate + Nitrite as N. \*YVD-02 results from most recent sampling in June 2020.

## YAKIMA VALLEY DAIRIES Potentially Affected and Affected Areas in Groundwater and 2022 Maximum Nitrate Data

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

COW PALACE, LLC, *et al.*,

Defendants.

Civil No. 24-cv-03092-TOR

**[PROPOSED] PRELIMINARY  
INJUNCTION**

**[PROPOSED] PRELIMINARY INJUNCTION**

Upon consideration of Plaintiff United States’ Motion for a Preliminary Injunction and the response of Defendants, it is **HEREBY ORDERED**:

Defendants must immediately implement the requirements of this Preliminary Injunction, as set forth in Paragraphs 1–3, and must notify the Court within 14 days of any failure to comply.

1           **1. Outreach to Residents in Affected and Potentially Affected Areas**  
2           **for Provision of Alternative Water**

3           Defendants shall immediately commence outreach and testing of residential  
4 drinking water wells within the Affected and Potentially Affected Areas  
5 (“Residential Wells”), as depicted in Appendix A to United States’ Motion for  
6 Preliminary Injunction, for provision of alternative water. Residential Wells  
7 include wells that serve a single residence, shared wells that serve two residences,  
8 and wells that serve fewer than 15 residences and fewer than 25 people per day.

9           A. Quality Assurance Project Plan

10           Within 30 days of entry of this Preliminary Injunction, Defendants shall  
11 submit to EPA for review and approval a Quality Assurance Project Plan for  
12 conducting residential well testing and outreach (“2024 Residential Well QAPP”).

13           The 2024 Residential Well QAPP shall include:

14                   i. *Parameters and Procedures*

15           The same parameters and procedures, including those regarding data  
16 generation and acquisition, assessment, and data validation and usability, as set  
17 forth in the Quality Assurance Project Plan for Residential Well Sampling dated  
18 April 26, 2013 (“2013 Residential Well QAPP”) submitted pursuant to the  
19 Administrative Order on Consent, EPA Docket No. SDWA-10-2013-0080,  
20 between EPA and Cow Palace, LLC; D and J Dairy, L.L.C. (f/k/a D and A Dairy,  
L.L.C.); George DeRuyter and Son Dairy, L.L.C.; George & Margaret, L.L.C.;

1 Liberty Dairy, LLC and its associated Dairy Facility H&S Bosma Dairy. Winiecki  
2 Decl., Ex. A (“2013 Consent Order”). The 2024 Residential Well QAPP shall  
3 include amendments to the 2013 Residential Well QAPP only as necessary to  
4 comply with this Preliminary Injunction.

5 ii. *Third-Party Organizations*

6 The names and credentials of two or more independent, third-party  
7 organizations to be retained by Defendants who shall coordinate with residents in  
8 the Affected and Potentially Affected Areas and assist with delivering Spanish and  
9 English language public health-related messages. These messages will notify  
10 residents of the Affected and Potentially Affected Areas that their drinking water  
11 may be impacted by elevated nitrate levels and inform residents of the health risks  
12 associated with elevated nitrate levels in drinking water. The messages will also  
13 provide information regarding free well testing and, for residential wells with  
14 nitrate concentrations greater than 10 mg/L, availability of an alternative drinking-  
15 water supply. Collectively, the selected third-party organizations shall have  
16 demonstrated experience: (a) conducting meaningful engagement with  
17 communities with environmental justice concerns; (b) providing public-health  
18 services through community-health workers; (c) conducting community outreach,  
19 including door-to-door canvassing; and (d) building relationships with residents in  
20 the Lower Yakima Valley. The selected third-party organizations must have



1 sufficient personnel to accomplish the work required by this Preliminary Injunction  
2 within the time frames set forth herein.

3 B. Notice to Residents of Affected and Potentially Affected Areas

4 All communications with residents in the Affected and Potentially Affected  
5 Areas, including written, verbal, and in-person communication, shall be offered in  
6 English and Spanish. All written communications with residents in the Affected  
7 and Potentially Affected Areas, including notices of testing, explanation of results,  
8 offers for alternative water, and the annual notices described in this Paragraph 1.B  
9 shall be approved in advance by EPA. Annually, for the duration of this  
10 Preliminary Injunction, Defendants shall notify residents in the Affected and  
11 Potentially Affected Areas that their drinking water may be impacted by elevated  
12 nitrate levels and inform residents of the health risks associated with elevated  
13 nitrate levels in drinking water. This annual notice must inform residents in the  
14 Affected and Potentially Affected Area of the free well testing available under  
15 Paragraph 1.G and the alternative water available to residences where nitrate  
16 concentrations exceed 10 mg/L under Paragraph 1.E. Defendants shall provide  
17 notice in a form and manner that is reasonably calculated to reach all residents in  
18 the Affected and Potentially Affected Areas, based on consultation with the third-  
19 party organizations.

1           C. Testing of Residents' Drinking Water

2           Within 60 days of EPA's approval of the 2024 Residential Well QAPP, a  
3 representative of at least one of the third-party organizations that meets the  
4 requirements of Paragraph 1.A.ii(b) of this Preliminary Injunction shall visit each  
5 residence that relies on Residential Wells for drinking water in the Affected and  
6 Potentially Affected Areas on behalf of Defendants to collect a drinking water  
7 sample and submit the sample to a state-accredited drinking water laboratory for  
8 analysis. Efforts to visit each residence, including timing and follow-up contact  
9 requests, shall be reasonably calculated to achieve contact with the occupant based  
10 on consultation with the third-party organizations. Defendants must attempt a  
11 minimum of three good-faith efforts to contact each residence.

12           Prior to conducting testing at each residence, Defendants shall provide  
13 notice in a form and manner that is reasonably calculated to reach all residents in  
14 the Affected and Potentially Affected Areas, based on consultation with the third-  
15 party organizations.

16           D. Test Results and Offer for Alternative Water

17           Within seven days of receiving any test result from the laboratory,  
18 Defendants shall provide the validated laboratory result to the associated residence  
19 and to EPA for each well that Defendants sampled, with a notice that explains the  
20 results and the health impacts of nitrate in drinking water. For residences where



1 nitrate concentrations exceed 10 mg/L, Defendants shall include with the results an  
2 unconditional offer to provide alternative water, as specified in Section 1.E.

3 E. Provision of Alternative Water

4 Within 30 days of providing any validated laboratory result to a residence,  
5 Defendants shall supply and offer to install a reverse-osmosis filtration system  
6 (“RO filter”) certified by an accredited third-party certification body to treat  
7 nitrate, to each residence where nitrate concentrations exceed 10 mg/L and the  
8 residence accepted Defendants’ offer for alternative water.

9 Within three days of receiving an acceptance from a residence in response to  
10 Defendants’ offer for alternative water, Defendants shall supply to the residence at  
11 least one gallon of bottled water per person, per day, until an RO filter is supplied  
12 and installed to the residence by Defendants.

13 For each residence where nitrate levels exceed the capacity of the RO filter  
14 to reduce nitrate levels to 10 mg/L or below, as determined by the nitrate-reduction  
15 rate specified for the RO filter, Defendants shall provide to the residence at least  
16 one gallon of bottled water per person, per day. Bottled water shall likewise be  
17 provided to each residence where nitrate concentrations exceed 10 mg/L but  
18 installation of an RO filter is not feasible.

19 Within 30 days of providing the validated laboratory results to the residence,  
20 for each residence where nitrate concentrations exceed 10 mg/L and the resident

1 has not responded to Defendants' offer for alternative water, a representative of at  
2 least one of the third-party organizations that meets the requirements of Paragraph  
3 1.A.ii(b) shall visit the residence, repeat the test results for that residence, explain  
4 potential health impacts related to nitrate contamination in drinking water, and  
5 repeat the offer for alternative water.

6 Within 45 days of providing the validated laboratory results to the residents,  
7 Defendants shall provide to EPA contact information for any residences that have  
8 refused alternative water or have not responded to Defendants' good-faith efforts  
9 to contact the residence.

#### 10 F. Testing and Maintenance of RO Filters

11 Defendants shall test and maintain RO filters at all residences in the  
12 Affected and Potentially Affected Area, including RO filters installed under this  
13 Preliminary Injunction and RO filters previously installed at such residences, until  
14 the Court terminates this Preliminary Injunction. Within 60 days of EPA's  
15 approval of the 2024 Residential Well QAPP and annually thereafter until the  
16 Court terminates this Preliminary Injunction, a representative of at least one of the  
17 third-party organizations that meets the requirements of Paragraph 1.A.ii(b) shall  
18 offer to collect from each residence with an RO filter in the Affected and  
19 Potentially Affected Areas, consistent with Paragraph 1.C., a sample of untreated  
20 water before it enters the RO filter and a sample of treated water after leaving the

1 system to measure the efficacy of the RO filter. Within seven days of receiving test  
2 results from the laboratory, Defendants shall provide validated laboratory results to  
3 the residence and to EPA, with a notice that explains the results and the health  
4 impacts of nitrate in drinking water. For residences where the RO filter is failing to  
5 reduce nitrate concentrations below 10 mg/L, Defendants shall offer to replace the  
6 ineffective RO filter with a new RO filter or to provide bottled water in the  
7 circumstances specified under Paragraph 1.E. For those residences where RO  
8 filters are effective at reducing nitrate concentrations below 10 mg/L, Defendants  
9 shall offer professional maintenance service for the RO filters. For those  
10 residences that accept Defendants' offer to provide professional maintenance  
11 service for the RO filters, Defendants shall provide such service until the Court  
12 terminates this Preliminary Injunction.

13 G. Continued Testing

14 For residences without an RO filter where any validated test result indicates  
15 that nitrate concentrations are between 5 mg/L and 10 mg/L, Defendants shall offer  
16 to conduct quarterly testing of the residential wells until the Court terminates this  
17 Preliminary Injunction, using the procedures specified in Sections 1.B-D of this  
18 Preliminary Injunction. After three years of quarterly testing, for residences where  
19 no quarterly test result exceeds 10 mg/L, Defendants shall offer to conduct annual  
20 testing. For the duration of this Preliminary Injunction, if a resident located within

1 the boundaries of the Affected or Potentially Affected Areas makes a request to  
2 Defendants or to EPA for testing, then Defendants shall test the drinking water in  
3 accordance with Paragraphs 1.C. and 1.D. or, for a residence with an RO filter, in  
4 accordance with Paragraph 1.F.

#### 5 H. Completion Report

6 Within 120 days of EPA's approval of the 2024 Residential Well QAPP,  
7 Defendants shall submit a report to EPA documenting efforts made by Defendants,  
8 including identifying those residences contacted by Defendants, the results of  
9 testing, and whether the residence received an RO filter or bottled water, already  
10 had a treatment system, did not respond to the offer, or rejected the offer  
11 ("Completion Report"). The Completion Report shall include copies of the  
12 communications that Defendants provided to residences throughout the  
13 implementation of the 2024 Residential Well QAPP regarding testing, offers of  
14 alternative water, and the health impacts of nitrate in drinking water.

#### 15 I. Annual Residential Well Report

16 Within 1 year and 30 days of entry of this Preliminary Injunction and  
17 annually thereafter until termination, Defendants shall provide to EPA an annual  
18 summary of: (1) all residential well testing and the results; (2) all residences where  
19 Defendants provided and/or maintained RO filters; and (3) all residences for which  
20

1 Defendants provided an alternative water supply in the Affected and Potentially  
2 Affected Areas (“Annual Residential Well Report”).

3 J. Personally Identifiable Information

4 Defendants shall keep confidential all residents’ personally identifiable  
5 information acquired pursuant to this Preliminary Injunction and shall share it only  
6 with contractors, as needed, and with EPA.

7 **2. Continued Groundwater Monitoring**

8 The subset of Defendants subject to the 2013 Consent Order, including Cow  
9 Palace, LLC; D and J Dairy, L.L.C. (f/k/a D and A Dairy, L.L.C.); George  
10 DeRuyter and Son Dairy, L.L.C.; George & Margaret, L.L.C.; Liberty Dairy, LLC;  
11 and its associated Dairy Facility H&S Bosma Dairy (collectively, “the Dairies”),  
12 shall immediately re-commence quarterly monitoring of groundwater monitoring  
13 wells installed under the 2013 Consent Order, as required below.

14 A. Quality Assurance Project Plan

15 Within 30 days of entry of this Preliminary Injunction, the Dairies shall  
16 submit to EPA for review and approval a Groundwater Monitoring Quality  
17 Assurance Project Plan (“2024 Groundwater Monitoring QAPP”) providing for  
18 quarterly groundwater monitoring of nitrate in addition to the following field  
19 parameters: dissolved oxygen; specific conductance; pH; temperature; turbidity;  
20 oxidation-reduction potential; total organic carbon data; nitrite; ammonia; and

1 Total Kjeldahl Nitrogen (“TKN”). The 2024 Groundwater Monitoring QAPP shall  
2 otherwise remain consistent with the procedures required under the March 2018  
3 Groundwater Monitoring Quality Assurance Project Plan submitted under the 2013  
4 Consent Order. *See* Winiecki Decl., Ex. D.

5 **B. Groundwater Monitoring and Reporting**

6 The Dairies shall conduct quarterly groundwater monitoring from the  
7 existing groundwater monitoring network, in accordance with the 2024  
8 Groundwater Monitoring QAPP, immediately upon EPA approval of the 2024  
9 Groundwater Monitoring QAPP. Until the Court terminates this Preliminary  
10 Injunction, the Dairies shall provide to EPA a quarterly summary of groundwater  
11 monitoring results (“Quarterly Groundwater Monitoring Report”).

12 **3. Testing of Cow Palace Lagoon 1**

13 Defendants Cow Palace, LLC; the Dolsen Companies; and Three D  
14 Properties, LLC (collectively, “Cow Palace”) shall immediately test Cow Palace  
15 Lagoon 1 to determine if the liner system at Lagoon 1 is leaking to the underlying  
16 soil.

17 **A. Leak Test Plan**

18 Within 21 days of entry of this Preliminary Injunction, Cow Palace shall  
19 submit to EPA for review and approval a plan to test for leakage from the upper  
20 and lower liners of Lagoon 1 (“Leak Test Plan”). The Leak Test Plan shall use

1 appropriate methods under the American Society for Testing and Materials  
2 (“ASTM”) standards referenced in the ASTM Standard Guide for Selection of  
3 Techniques for Electrical Leak Location of Leaks in Geomembranes (“ASTM  
4 Designation D6747-21”). If the upper liner must be removed to test the lower liner,  
5 re-installation of the upper liner must use methods outlined in the Cow Palace  
6 Dairy Facility Installation Quality Assurance and Quality Control Manual, Lagoon  
7 1 (April 18, 2018).

8 **B. Testing**

9 Cow Palace shall commence testing of the liner system at Lagoon 1 within  
10 30 days of EPA’s approval of the Leak Test Plan. Cow Palace shall complete  
11 testing within 60 days of EPA’s approval of the Leak Test Plan.

12 **C. Interim Storage of Lagoon Content**

13 If the appropriate ASTM method requires that Cow Palace empty Lagoon 1  
14 and clear any accumulated manure deposits before testing, liquid removed from  
15 Lagoon 1 shall be temporarily stored in a lagoon compliant with the Natural  
16 Resources Conservation Service Practice Standard 313 – Waste Storage Facility  
17 (“WA NRCS 313”). If existing lagoons do not have capacity to store the contents  
18 of Lagoon 1, Cow Palace shall transport the remaining contents of Lagoon 1 for  
19 treatment or application outside of the Lower Yakima Valley Groundwater  
20

1 Management Area<sup>1</sup> and provide transport documentation to EPA, including the  
2 date and volume and name, contact information, and location of the transporting  
3 and receiving facilities.

4 D. Completion Report

5 Within 30 days of completing testing for leakage at Lagoon 1, Cow Palace  
6 shall submit a Leak Test Completion Report to EPA. The Leak Test Completion  
7 Report shall document Cow Palace's activities implementing the Leak Test Plan,  
8 document with photographs the condition of each liner at the time of testing, and  
9 provide the results of testing.

10 E. Action to Repair Leak

11 If a leak is detected from the upper or lower liners of Lagoon 1, Cow Palace  
12 shall take immediate action to repair the leak. Within 21 days of submitting the  
13 Leak Test Completion Report, Cow Palace shall submit to EPA for review and  
14 approval a Liner Repair Plan specifying repair procedures consistent with those  
15 obtained from the manufacturer and to be performed in accordance with the  
16 manufacturer's specifications. Cow Palace shall implement the Liner Repair Plan  
17 within 30 days of EPA approval.

18  
19  
20 <sup>1</sup> As defined on the Washington State Department of Ecology's website, available  
at <https://ecology.wa.gov/issues-and-local-projects/environmental-projects/lower-yakima-valley-groundwater-management-area>.



1                   **SO ORDERED.**

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Date

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The Honorable Thomas O. Rice  
United States District Judge  
Eastern District of Washington

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