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Attorneys for Plaintiff Snake River Waterkeeper

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

SNAKE RIVER WATERKEEPER, an Idaho
non-profit corporation,

Plaintiff,

v.

J.R. SIMPLOT COMPANY, a Nevada
corporation; and SIMPLOT LIVESTOCK
CO., a Nevada corporation,

Defendants.

Case No. 1:23-cv-00239-DCN

**FIRST AMENDED COMPLAINT
FOR DECLARATORY RELIEF,
INJUNCTIVE RELIEF, AND CIVIL
PENALTIES**

INTRODUCTION

1. The middle Snake River in Southern Idaho has been abused by industrialized agriculture

for decades. In particular, manure pollution from intensive animal feeding operations fouls the water with excessive nutrients and dangerous pathogens like *E. coli*, making the river unsuitable for recreational activities and inhospitable to aquatic life. Fueled by massive nutrient pollution from upstream agriculture, Snake River reservoirs experience seasonal toxic algal blooms, rendering the river unsafe to touch and triggering health warnings from Idaho officials.

2. The Grand View Feedlot, which is owned and operated by Defendants J.R. Simplot Company and Simplot Livestock Co. (collectively, “Defendants”), is the largest confined animal feeding operation in Idaho—and one of the largest in the United States—with a one-time capacity of 150,000 head of cattle. Located in the Snake River canyon south of Boise and west of Mountain Home near the Ted Trueblood Wildlife Management Area and the town of Grand View, Idaho, the Grand View Feedlot generates at least 47,450 tons of manure every year, according to Defendants’ estimates in 2008.

3. As detailed below, Defendants have failed and continue to fail to properly manage manure at the Grand View Feedlot. Among other problems, Defendants are unable to control rain and snowmelt that flows onto the Feedlot; Defendants also overapply manure to nearby fields and apply manure to fields in contravention of an approved and complete nutrient management plan, meaning manure is applied without regard for agronomic rates.

4. Defendants fail to otherwise adequately collect, contain, and dispose of manure. As a result, manure and manure-laden water from the Grand View Feedlot course through streams, canals, and ditches and flow into the nearby Snake River. Moreover, Defendants’ production area leaks, seeps, or otherwise releases manure-related pollutants, including but not limited to bacteria, other pathogens, nitrate, other nitrogen compounds, and phosphorus into the underlying soils, which both contaminate groundwater and cause further contamination of downgradient

surface waters.

5. Plaintiff Snake River Waterkeeper (“SRW”) brings this citizen suit against Defendants for violations of the Federal Water Pollution Control Act, also known as the Clean Water Act, 33 U.S.C. § 1251 *et seq.* (the “Clean Water Act”), for their past and continuing violations of the Clean Water Act by discharging pollutants from the Grand View Feedlot to the mid-Snake River, a water of the United States, without a permit, in violation of §301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). Defendants previously had a Clean Water Act permit, but they let it expire in 2012 and never sought a new permit. Defendants’ unpermitted discharges of nitrogen, phosphorus, *E. coli*, fecal coliform, suspended solids, and other pathogens and pollutants have caused and/or contributed to violations of Idaho’s water quality standards, putting the Snake River’s health in jeopardy.

6. SRW also brings this citizen suit for Defendants’ violations of the Solid Waste Disposal Act, also known as the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.* (“RCRA”), by causing and contributing to the past and present handling, storage, treatment, transportation, and/or disposal of solid waste in such a manner that may, and indeed does, present an imminent and substantial endangerment to health and the environment. 42 U.S.C. § 6972(a)(1)(B).

7. SRW seeks declaratory relief establishing that Defendants are in violation of the Clean Water Act and RCRA. SRW also seeks injunctive relief directing Defendants to halt any and all continuing discharges unless and until Defendants obtain and comply with the terms of a valid Clean Water Act permit and to modify their handling, storage, treatment, transportation, and disposal of solid waste such that these practices no longer present an imminent and substantial endangerment to health or the environment. Moreover, SRW seeks injunctive relief obligating

Defendants to abate and remediate the environmental contamination they have caused and/or contributed to, including widespread soil and groundwater contamination. In addition, SRW seeks the imposition of civil penalties of up to \$68,445 per violation, per day, under the CWA. Finally, SRW requests that the Court award SRW's reasonable attorneys' fees and litigation costs incurred in bringing this action, along with any other relief that this Court deems appropriate.

JURISDICTION

8. This is a civil enforcement action brought under the citizen suit provisions of Section 505 of the Clean Water Act, 33 U.S.C. § 1365, and Section 7002 of RCRA, 42 U.S.C. § 6972(a). This Court has subject matter jurisdiction pursuant to 33 U.S.C. § 1365(a) and 42 U.S.C. § 6972(a).

9. The Court also has federal question jurisdiction pursuant to 28 U.S.C. § 1331 because this action arises under the Clean Water Act, RCRA, and the Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*

10. The relief requested is authorized pursuant to 33 U.S.C. §§1319 and 1365(a), 42 U.S.C. § 6972(a), and 28 U.S.C. §§ 2201 and 2202.

11. On January 30, 2023, SRW gave notice of the alleged Clean Water Act violations and its intent to file suit to Defendants, Defendants' registered agent, the United States Environmental Protection Agency ("EPA"), EPA Region 10, and the Idaho Department of Environmental Quality (the "DEQ"), as required by Section 505(b) of the Clean Water Act, 33 U.S.C. § 1365(b), and the implementing regulations at 40 C.F.R. § 135.2. A true and correct copy of SRW's initial notice letter (the "Initial Notice Letter") is available at Dkt. 1-1 and incorporated by reference. In addition, on October 21, 2024, SRW gave notice of violations under RCRA to

Defendants, Defendants' registered agent, the EPA, EPA Region 10, the DEQ, and the United States Attorney General, as required by Section 7002(a) of RCRA, 42 U.S.C. § 6972(b), and the implementing regulations at 40 C.F.R. § 254.2. A true and correct copy of the RCRA notice letter (the "RCRA Notice Letter") is available at Dkt. 49-1, pps. 6–17, and incorporated by reference.

12. More than sixty days have passed since SRW notified Defendants of the allegations against them in the Initial Notice Letter, and, upon information and belief, the violations complained of in the Initial Notice Letter are continuing at this time and are reasonably likely to continue.

13. More than ninety days have passed since SRW notified Defendants of the allegations against them in the RCRA Notice Letter, and, upon information and belief, the violations complained of in the RCRA Notice Letter are continuing at this time and are reasonably likely to continue.

14. At the time of the filing of the initial Complaint, Dkt. 1, on May 9, 2023 (the "Initial Complaint"), no government authority was diligently prosecuting an administrative, civil, or criminal action in any state or federal court against Defendants for the unlawful discharges addressed therein. On December 20, 2024, the DEQ and the Idaho State Department of Agriculture ("ISDA") filed identical complaints against Defendants in Elmore County and Owyhee County District Courts, Case Nos. CV20-24-01347 and CV37-24-00413, respectively. Neither complaint precludes SRW's right to prosecute the Clean Water Act and RCRA claims in this case.

VENUE

15. Venue properly vests in the U.S. District Court for the District of Idaho pursuant to Section 505(c)(1) of the Clean Water Act, 33 U.S.C. § 1365(c)(1), and Section 7002(a) of RCRA, 42 U.S.C. § 6972(a), because the source of the alleged violations, the Grand View Feedlot (as defined below), is located in Elmore County and Owyhee County, Idaho, within this judicial district.

PARTIES

16. Plaintiff SRW is a not-for-profit corporation founded in 2014 under the laws of the State of Idaho and a registered 501(c)(3) public charity with the United States Internal Revenue Service.

17. SRW is dedicated to protecting and improving the Snake River and its surrounding communities and ensuring swimmable and drinkable water for all. SRW's approach combines sound science, policy advocacy, grassroots community engagement, and education to stand up for clean water together as a community, ensuring a clean and vibrant future for the Snake River and its surrounding communities. To further its mission, SRW actively seeks federal and state implementation of environmental laws and, where necessary, directly initiates enforcement actions on behalf of itself and its members.

18. SRW has members who live, work, and recreate in proximity to the Snake River. These members also make use of the Snake River and waterways and natural areas in proximity to it for recreational, aesthetic, and related purposes. These members' aesthetic, recreational, and other interests are injured by Defendants' violations of the Clean Water Act and RCRA. These members are concerned that manure pollution from the Grand View Feedlot fouls the Snake River and associated waters with excessive nutrients such as nitrogen and phosphorus, and

dangerous pathogens like *E. coli*, making the river unsuitable for recreational activities and inhospitable to aquatic life. These members are also concerned about their exposure to water that is contaminated by pollution from the Grand View Feedlot.

19. In addition, SRW's organizational purposes are adversely affected by Defendants' violations of the Clean Water Act and RCRA. Defendants' violations have caused significant contamination of area surface waters, groundwater, and the environment.

20. SRW is a "person" within the meaning of Section 502(5) of the Clean Water Act, 33 U.S.C. § 1362(5), and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

21. Defendants are corporations organized under the laws of the State of Nevada and registered foreign corporations under the laws of the State of Idaho. Defendants both have an Idaho mailing address of P.O. Box 27, Boise, ID 83707.

22. Defendants own and operate the confined cattle feedlot known as the Simplot Grand View Feedlot, located at or near 1301 Hwy 67, Grand View, ID 83624.

23. The Grand View Feedlot is a concentrated animal feeding operation, or CAFO, as defined by the Clean Water Act, 40 C.F.R. § 122.23(b)(2), and it is specifically considered a "large CAFO" because it confines, stables, feeds, and maintains more than 1,000 cattle for a total of forty-five days or more in any twelve-month period. 40 C.F.R. §§ 122.23(b)(1), (b)(4)(iii).

24. Each Defendant is a "person" within the meaning of Section 502(5) of the Clean Water Act, 33 U.S.C. § 1362(5), and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

STATUTORY AND REGULATORY FRAMEWORK

Clean Water Act

25. The objective of the Clean Water Act is "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." 33 U.S.C. § 1251(a). Congressional intent was

that the discharge of pollutants into the Nation’s navigable waters be eliminated by 1985. *Id.*

26. Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant into the navigable waters unless the discharge complies with various other enumerated sections of the Clean Water Act. Section 301(a) prohibits discharges not authorized by, or in violation of, the terms of a valid National Pollutant Discharge Elimination System (“NPDES”) permit issued pursuant to Section 402 of the Clean Water Act, 33 U.S.C. § 1342.

27. Section 402 of the Clean Water Act establishes the NPDES program, which is the primary means of controlling discharges from CAFOs (as defined below). That Section enables each State to administer its own permit program upon application approval by the EPA. 33 U.S.C. § 1342(b)–(c).

28. The “discharge of a pollutant” means any “addition of any pollutant to navigable waters from any point source.” 33 U.S.C. § 1362(12). “Pollutant” is defined to include “industrial, municipal, and agricultural waste discharged into water.” 33 U.S.C. § 1362(6).

29. “The term ‘point source’ means any discernable, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system . . . from which pollutants are or may be discharged.” 33 U.S.C. § 1362(14); 40 C.F.R. § 122.2. By its terms, a concentrated animal feeding operation (“CAFO”), such as the Grand View Feedlot, is a statutorily defined point source. CAFOs are so expressly designated because of congressional recognition of the increasing amounts of waste generated by intensive livestock production facilities.

30. Applicable federal regulations define two primary parts of a CAFO: the “production area” and the “land application area.” The “production area” includes:

the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal confinement area includes but is not limited to open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes but is not limited to lagoons, runoff ponds, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes but is not limited to feed silos, silage bunkers, and bedding materials. The waste containment area includes but is not limited to settling basins, and areas within berms and diversions which separate uncontaminated storm water.

40 C.F.R. § 122.23(b)(8). The “land application area” means “land under the control of a[] [C]AFO owner or operator, whether it is owned, rented, or leased, to which manure, litter or process wastewater from the production area is or may be applied.” *Id.* § 122.23(b)(3).

31. Discharges from either the production area or land application area are prohibited unless a facility first obtains an NPDES permit and then complies with it. *Id.* § 122.23(d)(1).

32. The Clean Water Act exempts from the definition of “point source” “agricultural stormwater discharges and return flows from irrigated agriculture.” 33 U.S.C. § 1362(14). The EPA has interpreted the exemption for “agricultural stormwater discharges” as exempting discharges caused exclusively by precipitation from agricultural fields, but only where the application of manure or process wastewater to those fields has been accomplished in accordance with site-specific nutrient management practices that ensure the appropriate agricultural utilization of nutrients, consistent with 40 C.F.R. § 122.42(e)(1)(vi)–(ix).

33. On June 5, 2018, the EPA delegated the administration of NPDES permitting in Idaho to the DEQ. *See* IPDES Approval Letter, EPA (June 5, 2018),

<https://www.epa.gov/sites/default/files/2018-06/documents/ipdes-program-approval-letter-06052018.pdf>. The EPA scheduled the DEQ to begin processing different types of permits in stages, with CAFO permit processing beginning July 1, 2020. *Id.* p. 2. The Idaho Code also

authorizes the DEQ to implement an Idaho Pollutant Discharge Elimination System (“IPDES”) permit program that complies with the Clean Water Act. Idaho Code §§ 39-175A-C.

34. The DEQ’s administrative rules, in turn, provide that “[a]ny person who discharges or proposes to discharge a pollutant from any point source into waters of the United States . . . and who does not have an IPDES or NPDES permit in effect, shall submit a complete IPDES permit application to the [DEQ].” Idaho Administrative Procedures Act (“IDAPA”) 58.01.25.102.01. Applicants may obtain coverage through either an Individual IPDES permit or a General IPDES permit. IDAPA 58.01.25.105; 58.01.25.130. In addition, “[t]he [DEQ] will not issue an IPDES permit for a discharge . . . [u]nless the conditions of the permit provide for compliance with the applicable requirements of IDAPA 58.01.02, ‘Water Quality Standards.’” IDAPA 58.01.25.103.

35. The Clean Water Act authorizes citizens to file suit against any person alleged to be in violation of an effluent standard or limitation. 33 U.S.C. § 1365(a)(1). An effluent standard or limitation includes “an unlawful act under subsection (a) of section 1311 of this title[.]” 33 U.S.C. § 1365(f).

Resource Conservation and Recovery Act

36. The stated objective of RCRA is to “promote the protection of health and the environment and to conserve valuable material and energy resources.” 42 U.S.C. § 6902(a).

37. Section 7002(a)(1)(B) of RCRA, 42 U.S.C. § 6972(a)(1)(B), provides that citizens may commence a citizen suit against “any person,” “including any past or present generator, past or present transporter, or past or present owner or operator of a treatment, storage, or disposal facility who has contributed or who is contributing to the past or present handling, storage, treatment, or transportation, or disposal of any solid or hazardous waste which may present an imminent and substantial endangerment to health or the environment.” 42 U.S.C. §

6972(a)(1)(B).

38. Under section 1004(3), “The term ‘disposal’ means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste . . . into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground-waters.” 42 U.S.C. § 6903(3).

39. RCRA defines “solid waste” as “any garbage, refuse, sludge from a waste treatment plant... and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations . . . but does not include solid or dissolved materials in . . . industrial operations which are point sources subject to permits under [the CWA].” 42 U.S.C. § 6903(27).

40. To prevail under RCRA for an imminent and substantial endangerment claim, a plaintiff must demonstrate: (1) a “person” has “contributed” or “is contributing” to (2) the “past or present handling, storage, treatment, transportation, or disposal of” any “solid or hazardous waste,” and (3) the waste in question “may present an imminent and substantial endangerment to health or the environment.” *Cnty. Ass’n for Restoration of the Env’t v. Cow Palace, Ltd. Liab. Co.*, 80 F. Supp. 3d 1180, 1218 (E.D. Wash. 2015) (citing *Ecol. Rights Found. v. Pac. Gas & Elec. Co.*, 713 F.3d 502, 514 (9th Cir. 2013)).

FACTS

Defendants’ Operations

41. The Grand View Feedlot encompasses, at the very least, Elmore County, Idaho Parcel Nos. RP04S03E340040, RP04S03E276610, RP04S03E278410, RP04S03E274810, RP04S03E, RP04S03E255010, RP04S03E352410, RP04S03E359010, RP05S03E010610,

RP05S03E021350, RP05S03E023050; other parcels used for the Grand View Feedlot's operations by Defendants are also subject to this First Amended Complaint. *See also* Exhibit A to the Initial Notice Letter, Dkt. 1-1 at 11–12.

42. The Grand View Feedlot was issued NPDES Permit Number IDG010026, which became effective on April 3, 1997. That permit was administratively extended on January 7, 2002. On December 18, 2012, the EPA informed Defendant J.R. Simplot Company that because it had not timely submitted a new Notice of Intent and a nutrient management plan to receive coverage under the EPA Region 10's NPDES General Permit, any discharges from the Grand View Feedlot would be unauthorized and would fail to comply with Section 301 of the Clean Water Act.

43. Defendants never subsequently obtained an NPDES nor IPDES permit for the Grand View Feedlot.

44. Defendants' current Nutrient Management Plan ("NMP") was written in 2018 and approved in 2019 by the Idaho State Department of Agriculture. Defendants' NMP has not been updated since.

45. Defendants control approximately 18,000 acres that they use as land application areas for manure and other agricultural waste generated at the Grand View Feedlot.

Defendants' Unpermitted Discharges in Violation of the Clean Water Act

46. Because Defendants do not have an NPDES nor IPDES permit for the Grand View Feedlot and have not had a permit for over a decade, each and every discharge since March 10, 2018, five years and sixty days prior to SRW's filing of the Initial Complaint, is a violation of the Clean Water Act.

47. Defendants have discharged and continue to discharge animal wastes, including liquid

and solid manure and process wastewater, from the Grand View Feedlot and other related point sources under Defendants' control, into waters of the United States, including into tributaries, ditches, and drainage canals that flow into the Snake River, and into the Snake River itself.

48. The pollutants that have been, are being, and will continue to be discharged include facility wastewater, process wastewater, wash water, liquid and solid animal manure and wastes, debris, sediment, and chemicals such as hormones and antibiotics routinely used at the Grand View Feedlot.

49. The animal waste being discharged contains, among other pathogens and pollutants, fecal coliform and *E. coli* bacteria, nitrogen, phosphorus, and suspended solids, all of which pollute the Snake River.

50. The Snake River, as well as the tributaries, ditches, and drainage canals that flow into the Snake River, including the High Line Canal, Middle Line Canal, Low Line Canal, Jack Creek, and Corder Creek, are "waters of the United States" within the scope of the Clean Water Act.

51. In the alternative, the ditches and drainage canals that flow into the Snake River from the Grand View Feedlot are themselves "discernable, confined and discrete conveyance[s]" and are thus point sources under the Clean Water Act.

52. Upon information and belief, Defendants' improper manure and process wastewater management, lack of clean water diversions, and improper operational practices have caused and continue to cause unpermitted discharges of liquid and solid animal waste and process wastewater from the Grand View Feedlot's production areas to waters of the United States.

53. Precipitation that runs onto the Grand View Feedlot mingles with and becomes contaminated by large quantities of animal waste, feed, sediment, and other pollutants.

54. Based on aerial and satellite imagery, and Defendants' own admissions as discussed

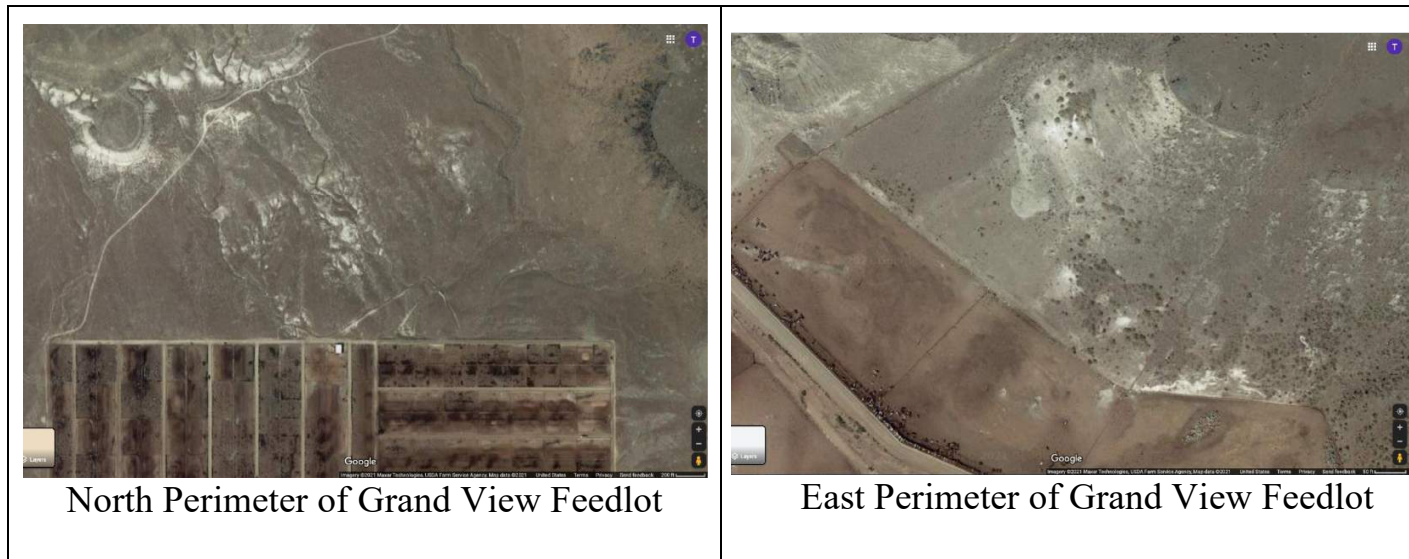
below, Defendants have not installed diversion structures, adequate wastewater containment structures, or alternative conservation measures such as wastewater treatment facilities to control and detain all precipitation falling on the Grand View Feedlot site and any related stormwater entering the site.

55. The contaminated water then discharges to the Snake River via tributaries such as the High Line Canal, Middle Line Canal, Low Line Canal, Jack Creek, Corder Creek, and other tributaries and conduits.

56. Based on information discovered by SRW, SRW prepared a flow map of the Snake River and the conduits that transport and discharge the Grand View Feedlot's pollutants. Initial Notice Letter, Exhibit B, Dkt. 1-1 at 13. SRW also prepared a map depicting the parcel ownership by the Simplot entities, including the assumed business name Grand View Farms. *Id.* Exhibit A.

57. Upon information and belief, the production area of the Grand View Feedlot is not designed or operated in a manner that could contain a 25-year, 24-hour rainfall event, nor is it operated in accordance with certain measurements and record-keeping requirements, in violation of 40 C.F.R. § 412.31(a)(1)(i)–(ii).

58. As the aerial images below depict, Defendants do not divert clean water from the production area at the Grand View Feedlot:



59. Defendants admit they are unable to control, divert, or detain the precipitation falling onto and entering the Grand View Feedlot. On December 9, 2019, Defendants submitted comments to the EPA on its proposed reissuance of the Clean Water Act general permit for CAFOs in Idaho. In those comments, Defendants stated:

Permit Condition 2.c. requires clean water to be diverted from the production area or requires the facility provide adequate wastewater or manure storage capacity at the facility to contain clean water. It is difficult and costly to divert run on water from adjacent properties.

As an example, at the Simplot operation near Grand View, Idaho, the topography north and east of the facility consists of steep rising terrain to a desert plain above the Snake River. The land bordering the Simplot operation is owned by the federal government and is managed by the U.S. Bureau of Land Management (BLM). This plain reaches elevations above 2,900 feet and drains to the Snake River valley below through a series of “draws”. Building diversion structures to totally divert this water is not appropriate or feasible. In fact, to do so would require a number of such structures to be built on federal lands. If such structures were allowed by rules, such a project would go through a number of regulatory processes such as the National Environmental Policy Act (NEPA). Thus, this would be very cumbersome process with an uncertain outcome.

It is also not feasible to contain run on water at Simplot’s Grand View property due to the enormous volume of run on water from thousands of acres of BLM land up-gradient of the facility. Therefore, Simplot recommends Permit Condition 2.c. be removed from the draft 2019 NPDES General Permit for CAFOs in Idaho.

60. The Grand View Feedlot does not divert or detain clean water, nor does it adequately treat water that has become contaminated on its property. Instead, this contaminated water

discharges from the site to the Snake River, as described herein.

61. According to public assessor data, excluding barren land owned by the United States government, Defendants are the owner of the developed, upgradient property to the Grand View Feedlot, which includes agricultural fields. *See* Exhibit A to the Initial Notice Letter, Dkt. 1-1 at 11–12 (ownership map).

62. The Grand View Feedlot has several manure storage locations/stockpiles, including the Cox Manure Storage, Dobaron Manure Storage, Nicholson Manure Storage, Farm 4 Manure Storage, South Feedlot Manure Storage, and Runoff Drainage Channel, that are, not located on approved soils that are appropriately protected to prevent run-on, runoff, and contamination of surface water.

63. If significant precipitation created enough runoff, runoff from the Dobaron Manure Storage location would reach Jack Creek.

64. Similarly, significant precipitation would cause runoff from the Nicholson Manure Storage location to breach the soil berm along the south side thereof and flow southwest un reaching the natural low spot in the topography leading toward Jack Creek.

65. Other operational practices at the Grand View Feedlot have caused, are causing, and are reasonably likely to continue causing unpermitted discharges in violation of the Clean Water Act.

66. Defendants own and operate Grandview Farms, an assumed business name for Defendant J.R. Simplot Company per public records.

67. Manure generated at the Grand View Feedlot is transported and applied by Defendants, inclusive of their agents and contractors, to agricultural fields owned and operated by Grandview Farms.

68. The agricultural fields owned and operated by Grandview Farms are part of the Grand View Feedlot CAFO.

69. Defendants control the land application areas to which manure generated at the Grand View Feedlot has been and is applied.

70. Upon information and belief, Defendants apply manure to their fields in quantities, and at rates and times, that are not compliant with the nutrient management plans of the Grand View Feedlot and/or Grandview Farms. As a result, Defendants' land application of manure causes manure pollutants to discharge through pipes, culverts, drains, and other conduits into the irrigation ditches and canals that are tributaries to the Snake River, as depicted below:



71. In violation of 40 C.F.R. Section 122.42(e)(1), several deficiencies in Defendants' 2018 NMP contribute to Defendants not applying manure, litter, or process wastewater in a manner that ensures appropriate agricultural utilization of the nutrients in the same. First, the 2018 NMP lists only one field in its coverage: Farm 1, Field 7. However, Defendants apply manure and litter to numerous other fields under their control. The NMP lacks a current and/or planned production sequence or crop rotation for the approximately 18,000 acres (excluding Farm 1, Field 7), as well

as current and planned plant production sequence/crop rotation for all application areas owned and operated by the Defendants beyond 2022.

72. Second, the 2018 NMP lacks aerial or site photographs or maps, and soil maps of acres receiving manure applications that Defendants own or operate. The NMP has no maps/photographs for 18,000 acres of Defendants' land application areas.

73. Third, the 2018 NMP lacks recommended nutrient rates, timing, and method of application and incorporation post-2022.

74. Fourth, the 2018 NMP lacks a complete nutrient budget for nitrogen, phosphorus, and potassium for the rotation or crop sequence post-2022.

75. Fifth, the 2018 NMP and associated documentation does not ensure that application equipment is properly calibrated and that the calibration results are documented.

76. Sixth, the 2018 NMP does not address manure being stockpiled within 100 feet of a domestic or irrigation well.

77. Seventh, the 2018 NMP allows for an unpermitted discharge after a 25-year, 24-hour storm event, in violation of 40 C.F.R. Section 412.13(b).

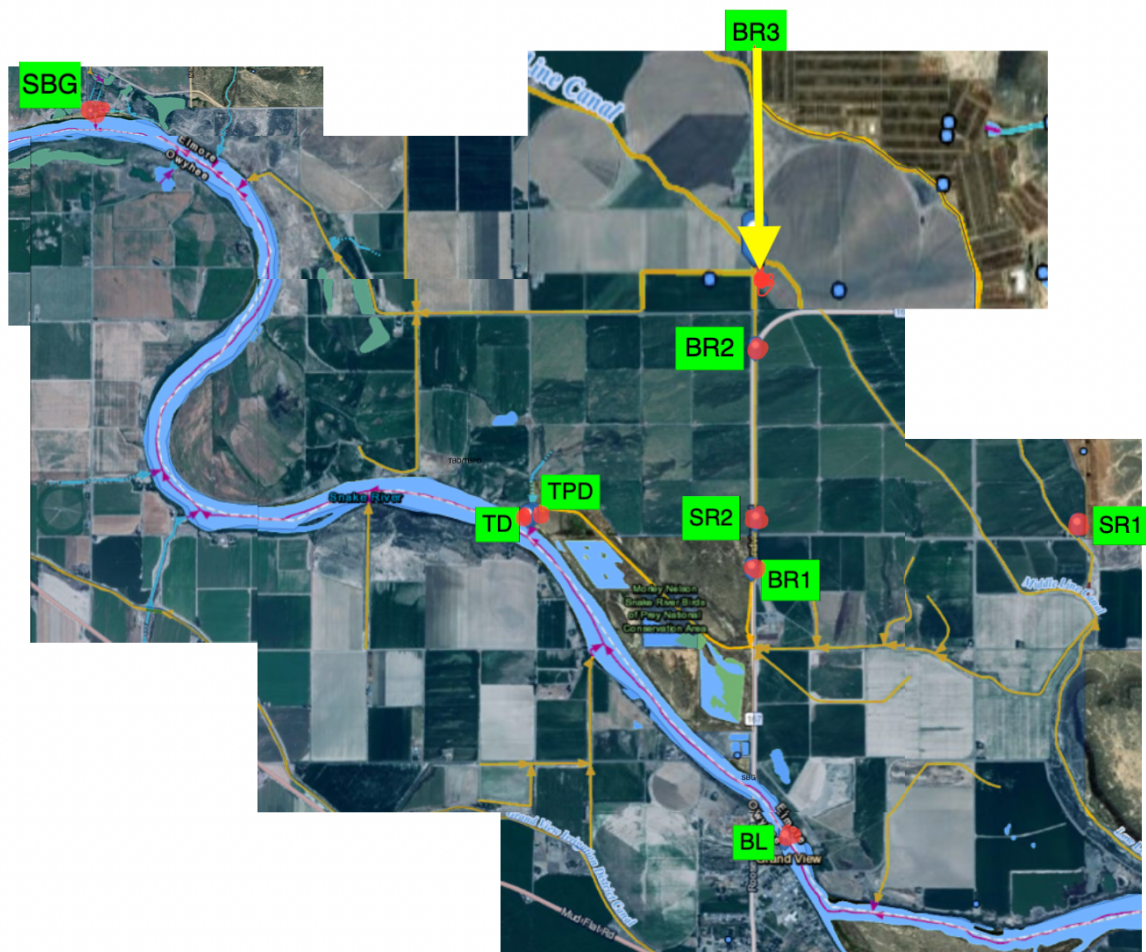
78. In further violation of 40 C.F.R. Section 122.42(e)(1), Defendants do not track weather conditions at least 24 hours prior to and at the time of land application events to ensure appropriate soil conditions for planned applications. Defendants have applied manure during wet weather events that have caused runoff from application fields.

79. Defendants' soil sample analysis records indicate that the Farm 1, Field 7 phosphorus levels are above the phosphorus threshold, and the crop in rotation, corn silage, has an average removal rate lower than the loading rate of phosphorus. The 2018 NMP recommends no applications to that field to reduce phosphorus concentrations below the phosphorus threshold,

but Defendants have applied and continue applying phosphorus at or above the removal rate for corn silage. Such applications that are untethered to crop nutrient needs cause manure pollutants to move off-field and into nearby conveyances and ditches, where they discharge to the Snake River.

80. Defendants have not maintained wastewater application records for Farm 1, Field 7 between 2019 and 2021.

81. SRW has undertaken water quality sampling from public access points on public lands surrounding Defendants' property, Grandview Farms, and the Grand View Feedlot. Samples have been obtained from the locations depicted on the map and described below.



82. Sampling location "BL" corresponds with the Grand View, Idaho Public Boat Launch on

the Snake River. This represents an “upstream” sampling location from Grand View Feedlot’s discharges into the Snake River.

83. Sampling locations “BR1,” “BR2,” and “BR3” correspond to roadside access points within the county right of way on Bennet Road. Samples are from a ditch-like conveyance along the road.

84. Sampling locations “SR1” and “SR2” correspond to roadside access points within the county right of way on Shaw Road. Samples are from a canal, ditch, or other conveyance.

85. Sampling locations “TD” and “TPD” correspond to public access points at the Trueblood Wildlife Area. Samples at TD are from a stream, ditch, or other conveyance, and at TPD are from a piped discharge point.

86. Sampling location “SPG” corresponds to “Snake below Grand View,” a public access sampling location on the Snake River. This represents a “downstream” sampling location from Grand View Feedlot’s discharges on the Snake River.

87. SRW’s water quality sampling of the water in these locations demonstrates the continuous and ongoing nature of Defendants’ unlawful discharges. Samples taken from conduits into which Grand View Feedlot and Grandview Farms discharge, as well as from the Snake River discharge points, show consistently high levels of total coliform and *E. coli*, both indicators of pollution from cattle manure. Samples further show the existence of nitrogen and phosphorus compounds consistent with cattle manure. The chart attached as Exhibit C to the Initial Notice Letter, Dkt. 1-1 at 14–15, shows the dates and sampling results of SRW’s water quality sampling.

88. In addition, since August 2013, Defendants have taken at least 177 water samples from at least fifty-nine surface water locations on or around the Grand View Feedlot, and at least eighty-

six of those samples contained total coliform bacteria at or above 2,400 MPN/100 mL, which, upon information and belief, is the laboratory limit of detection for nearly all of those samples. Seventy-two of the samples at that bacteria level were taken since March 10, 2018. Moreover, two of such samples, both from July 2018, also show *E. coli* above 2,400 MPN/100 mL.

89. Defendants' sampling corroborates SRW's sampling in showing the continuous and ongoing nature of Defendants' unlawful discharges.

90. By contrast, samples taken from upstream locations from Defendants' discharges show upstream samples that are below or at 100 CFU of *E. coli* per 100 mL.

91. SRW's sampling demonstrates that unlawful discharges occurred on, or in very close temporal proximity to, the dates samples were taken: June 11, 2017; August 25, 2017; May 5, 2022; June 28, 2022; September 29, 2022; September 30, 2022; October 3, 2022; October 4, 2022; October 5, 2022; October 6, 2022; and October 7, 2022. The breadth of the sampling data—data taken nearly five years apart—demonstrates that discharges from Grand View Feedlot are ongoing and continuous, and have occurred each day at least since March 10, 2018. Defendants' samples further corroborate the same, with results greater than 2,400 MPN/100 mL total coliform occurring on June 8, 2018, July 10, 2018, August 15, 2018, August 20, 2018, June 21, 2019, June 21, 2019, June 26, 2019, August 19, 2019, August 21, 2019, May 8, 2020, June 10, 2020, June 13, 2020, July 15, 2020, May 6, 2022, June 10, 2022, July 14, 2022, July 20, 2022, May 30, 2023, June 2, 2023, July 12, 2023, August 9, 2023, July 10, 2024, July 11, 2024, August 13, 2024, and August 14, 2024.

92. Defendants caused a discharge on January 11, 2017, when a heavy snowpack rapidly melted and caused runoff to the primary containment structure, and the concrete overflow chute conveying excess effluent to the secondary containment structure was blocked. Liquid effluent

overflowed the primary containment structure on the west side of the lot, which then ran over Bennet Road onto a neighbor's field. In addition, liquid effluent seeped through the berming in the southwest corner of the lot and traveled along Highway 67 to the Middle Line Canal.

Defendants did not report the discharge to the EPA.

93. Defendants have also caused discharges to waters of the United States due to leaks and spills from water infrastructure in the confinement pens, including one on June 29, 2017. *See* Dkt. 45-1 ¶ 15.

Defendants' Violation of Idaho's Water Quality Standards

94. The sampling data also show that discharges from the Grand View Feedlot are causing or contributing to violations of Idaho's water quality standards.

95. Under Idaho rules: "No pollutant shall be discharged from a single source or in combination with pollutants discharged from other sources in concentrations or in a manner that: (a) Will or can be expected to result in violation of the water quality standards applicable to the receiving water body or downstream waters; or (b) will injure designated or existing beneficial uses; or (c) is not authorized by the appropriate authorizing agency for those discharges that require authorization." IDAPA 58.01.02.080.01.

96. The section of the Snake River to which the Grand View Feedlot discharges is identified as the "Middle Snake- Succor Subbasin" subdivision, specifically "SW-6, Snake River: C.J. Strike Dam to river mile 425 (T02N, R04W, Sec. 2)." *See* IDAPA 58.01.02.140.03. The designated uses for this section are "cold water" for aquatic life, primary contact recreation, and drinking water supply.

97. Pursuant to the primary contact recreation use, "[w]aters designated for recreation must meet criteria for indicator bacteria of fecal contamination[,]" which is measured through *E. coli*

sampling.

98. SRW's *E. coli* sampling of the Snake River has shown high *E. coli* results in waters that are downstream from Grand View Feedlot's discharges. For instance, SRW's sampling shows upstream samples that are below or at 100 CFU of *E. coli* per 100 mL. Three results downstream, however, show *E. coli* results above the 126 CFU/100 mL water quality standard set forth in Idaho regulations. Defendants' sampling also show the same. Therefore, the Grand View Feedlot is causing or contributing to violations of the primary contact recreation standard for this particular section of the Snake River.

99. In addition, the Grand View Feedlot's discharges have violated the general water quality standards for the Snake River, specifically the "Excess Nutrients" criteria at IDAPA 58.01.02.200.06 ("Surface waters of the state shall be free from excess nutrients that can cause visible slime growths or other nuisance aquatic growths impairing designated beneficial uses."). SRW has observed visible slime growth and other nuisance aquatic growths at the Snake River discharge locations at the Trueblood Wildlife Area. This growth interferes with and injures the designated beneficial uses for this section of the Snake River, including primary contact recreation and drinking water supply designations. SRW and Defendants' sampling shows excess nutrients being discharged from Grand View Feedlot to the Snake River, such as multiple nitrogen compounds and orthophosphate, which are attributable to animal manure.

100. Defendants' operation of the Grand View feedlot without a Clean Water Act permit constitutes a daily violation of the Clean Water Act.

Defendants May Cause or Contribute to an Imminent and Substantial Endangerment to the Environment in Violation of RCRA

101. Waste containment structures designed in accordance with Natural Resources Conservation Service ("NRCS") standards still leak, leach, seep, or otherwise release manure

and manure-contaminated water into the underlying soils and groundwater.

102. Defendants do not possess any information about their waste containment structures, including their manure storage lagoons, that would demonstrate compliance with these standards. Indeed, contrary to the requirements of the 2018 NMP, Defendants do not maintain any documentation on maintenance for their lagoons or other waste containment structures. Defendants are thus unable to confirm the integrity of all secondary or final storage of effluent.

103. Defendants have not had all of their waste containment structures approved by DEQ or ISDA; the runoff drainage channel, for example, is not lined and has not been approved by DEQ to be constructed in accordance with Idaho groundwater protection standards.

104. The Grand View Feedlot's settling lagoon, primary and secondary containment ponds, and two settling basins all have earthen or concrete liners, which, together with other parts of the production area, including manure storage mounds on the confinement pens, leak manure-related pollutants, including but not limited to bacteria, nitrate, other nitrogen compounds, and phosphorus, into the underlying soils. Those pollutants thereafter reach groundwater, where they contaminate the aquifer with levels of nitrate, phosphorus, and other pathogens and pollutants that may present an imminent and substantial endangerment. In addition, several of the Grand View Feedlot's manure storage locations/stockpiles are within 100 feet of a domestic or irrigation well, including the Dobaron Manure Storage location, and none of those stockpiles is located on approved soils appropriately protected to prevent contamination of groundwater.

105. Defendants do not use manure and manure nutrients that seep, leach, leak or are otherwise released from their manure storage lagoons into the underlying soil and groundwater for crop fertilization or other beneficial purposes.

106. The confinement pens are another source of contamination of the underlying aquifer.

Defendants allow manure from the cattle, and the nutrients contained therein, to accumulate on bare ground in the confinement pens, underneath which no impermeable liner exists. Those nutrients similarly leach into the ground and contaminate the aquifer and the Snake River.

107. Defendants do not use manure and manure nutrients that seep, leach, leak or are otherwise released into the underlying soil and groundwater from their confinement pens for crop fertilization or other beneficial purposes.

108. The Grand View Feedlot does not use any of the manure or nutrients contained therein that leak or seep from its manure storage infrastructure or confinement pens as fertilizer for crops, meaning that material has been discarded and is thus “solid waste” under RCRA.

109. In addition to causing substantial groundwater contamination, a portion of the discarded manure described above is released into downgradient surface waters, including, among others, High Line Canal, Middle Line Canal, Low Line Canal, Jack Creek, Corder Creek, and the Snake River. An unnamed tributary, for example, runs along much of the southern perimeter of the Feedlot downgradient therefrom, while the Middle Line Canal runs southwest of the Feedlot downgradient therefrom and is, at one location, approximately 2,200 feet from a large containment pond.

110. The well construction logs for wells located in the vicinity of the Grand View Feedlot show varying water table depths, with deeper depths at the Feedlot and shallower depths closer to the Snake River. The first approximately twenty feet of drilling reveals significant sand and gravel, which are soil media constituents that facilitate rapid transportation of manure nutrients to the Snake River and other surface water via hydrologic transport. That is particularly true for nitrate, which is a mobile ion that binds with water and moves at the speed of the groundwater.

111. Moreover, manure overapplication also causes manure pollutants to seep into

groundwater. Manure that has been overapplied is discarded solid waste under RCRA because the overapplied nutrients cannot be used by crops as fertilizer. Instead, the nutrients, especially nitrate and phosphorus, move beyond crop rooting zones, where they leach into groundwater. Based on the soil mapping survey by the NRCS, virtually all of the land in the area is rated by NRCS as “very limited” for manure application due to depth to the water table, rapid infiltration, and other characteristics. *See* Figure 1 below, and the table attached hereto as Exhibit A.

112. The nature of these well-drained soils means that not only is groundwater polluted by Defendants’ discarding of manure, but also that nearby surface waters are impacted. Overapplied manure migrates to surface water via groundwater, including the Snake River, and the bodies noted above with respect to the lagoon and other production area leakage. Certain application fields on which manure is overapplied are adjacent to and/or border one or more of those surface water bodies, as seen in Figure 2 below with respect to the Middle Line Canal.

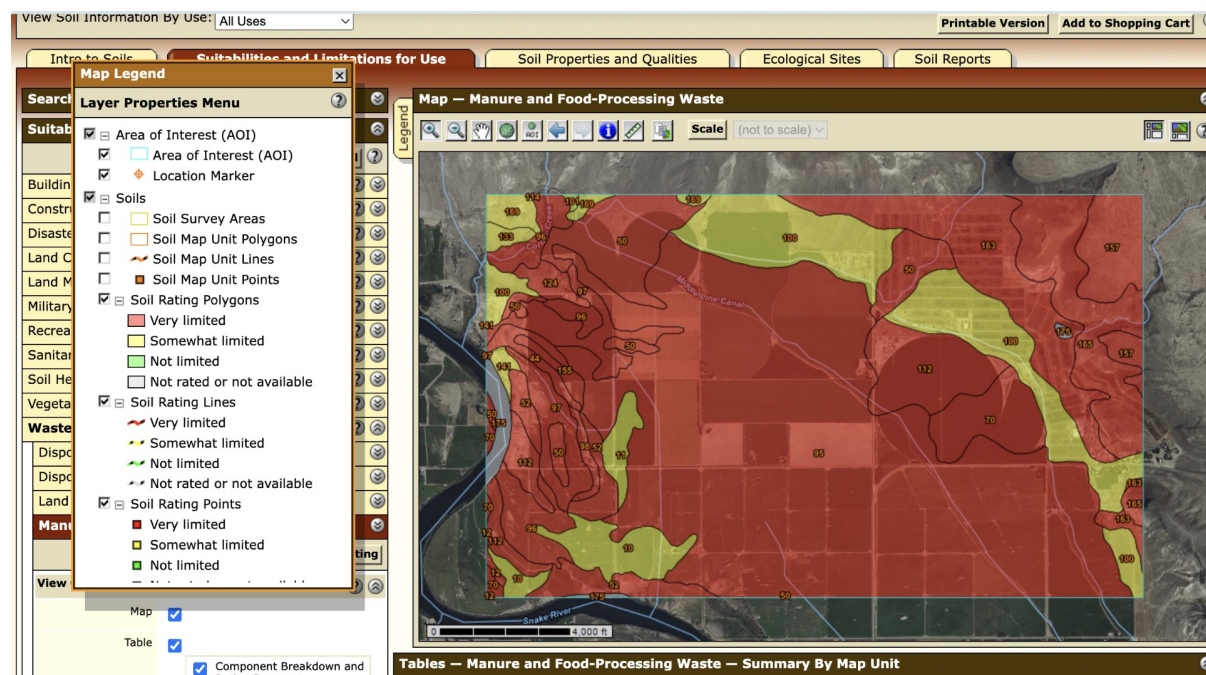


Figure 1

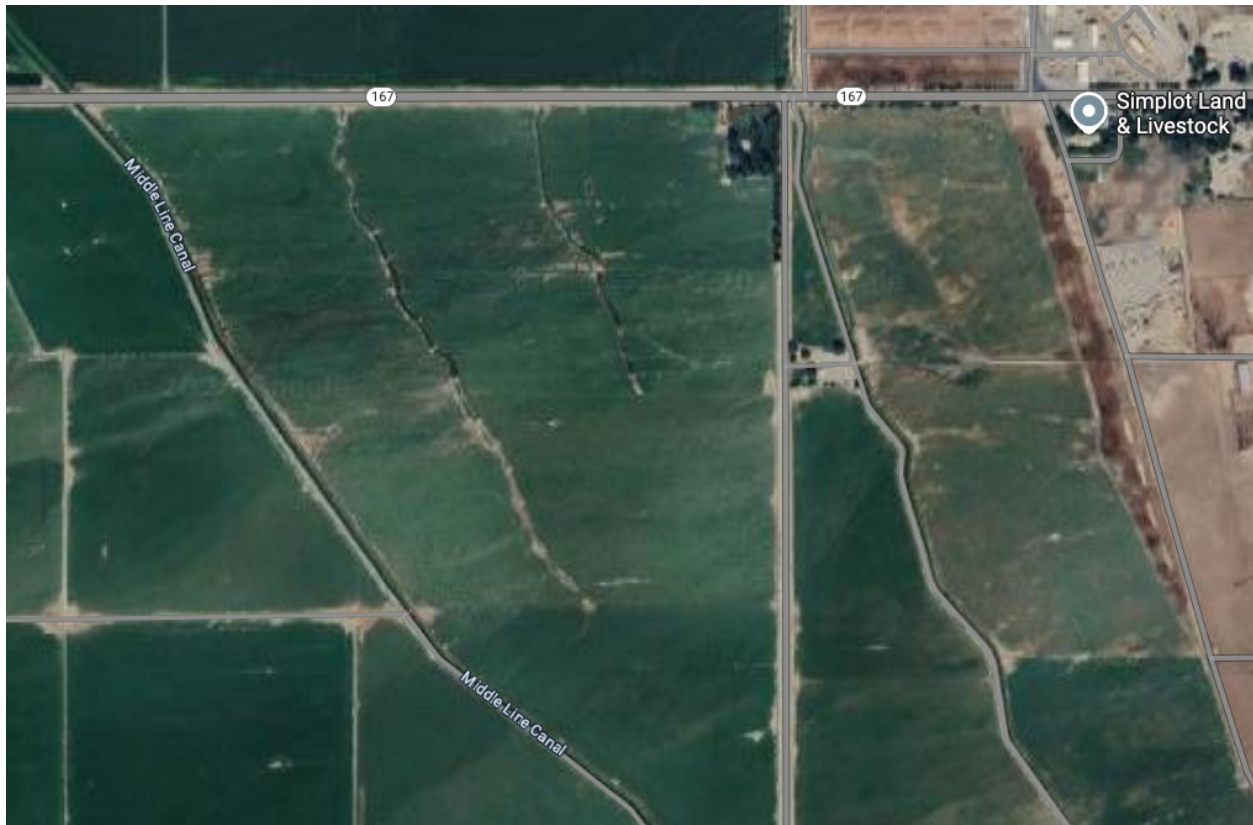


Figure 2

113. Idaho Department of Water Resources data from wells on or adjacent to Defendants' property evidence the above-described leakage, seepage, and releases to groundwater.

114. Well 04S 03E 33AAD1, for example, located approximately 185 feet directly west of the retention pond along Bennett Road N, tested at 24 mg/L for nitrate on June 23, 2021, the only test date thereof.

115. Nitrate is a significant indicator of animal waste, and this level of nitrate in downgradient wells would not be expected but for the discarding of manure by Defendants.

116. In addition, well 04S 03E 33ADDA1, located approximately 1,260 feet southwest of the same pond, tested at 16 mg/L for nitrate on June 23, 2021; that level has risen each testing period for that well since 2006.

117. The 2021 readings for both wells are significantly above the EPA's maximum

contaminant limit for nitrate of 10 mg/L, meaning they pose an imminent and substantial endangerment. *National Primary Drinking Water Regulations*, U.S. ENV'T PROT. AGENCY, Oct. 9, 2024, <https://www.epa.gov/ground-water-and-drinking-water/national-primary-drinking-water-regulations>.

118. By contrast, several wells upgradient from the Grand View Feedlot do not show any significant nitrate contamination. For example, Well 04S 04E 32DBA1, located adjacent to the solar field near the Feedlot, tested at 0.62 mg/L for nitrate on July 6, 2022, while Well 05S 04E 05BDB1, also adjacent to the solar field, tested at 0.84 mg/L for nitrate on August 11, 2009.

119. These data establish that the Grand View Feedlot, including both the production area and the land application area, is leaking, leaching, seeping, or otherwise releasing manure-related contaminants into groundwater.

120. Manure that has been allowed to leak, leach seep, release, or otherwise contaminate groundwater, including from lagoon/production area seepage, confinement pen seepage and disposal, and overapplied manure, is a “discarded material” from an “agricultural operation” and therefore a “solid waste” under Section 1004(27) of RCRA. 42 U.S.C. § 6903(27).

121. Because the Grand View Feedlot does not have an NPDES nor IPDES permit, the pollutants subject to the above-described groundwater-mediated discharges to surface water are also “solid waste” under RCRA.

122. Defendants are the generators, transporters, and owners and/or operators of a treatment, storage, and disposal facility that is contributing to the past and present storage, treatment, transportation, and/or disposal of solid wastes, namely liquid and solid manure. 42 U.S.C. § 6903(27).

123. Defendants’ practices in storing, treating, transporting, applying, and disposing of liquid

and solid manure may, and indeed do, present an imminent and substantial endangerment to the health of nearby residents and the environment.

124. In particular, as discussed above, Defendants' storage of solid and/or liquid manure in unlined earthen lagoons and permeable surfaces has caused and is continuing to cause the leakage, seepage, and release of untreated manure directly into groundwater. When solid and liquid manure leaks, leaches, seeps, or is otherwise released into the underlying soil and groundwater, its nutrient value is lost, as it cannot be used to fertilize crops.

125. In addition, Defendants and/or their agents have applied, continue to apply, and are reasonably likely to continue to apply liquid and solid manure wastes to nearby agricultural fields in amounts that are untethered to a nutrient management plan and any associated agronomic rates, as well as apply manure in quantities far in excess of any agronomic rate.

126. Applying manure without regard to a nutrient management plan and in amounts that exceed that which the current crop can effectively utilize as fertilizer may, and indeed do, amount to the discard of solid waste, as crops can no longer make use of the manure nutrients as a beneficial crop fertilizer. This causes nutrients like nitrate, phosphorus, and other pollutants, such as antibiotics and hormones, to leach through soil and into groundwater.

127. The discarding of manure from manure storage lagoons, confinement pens, and manure overapplications causes manure and related pollutants to travel to surface water via hydrologically connected groundwater.

128. In both cases, the discarded manure has caused and continues to cause irreparable injury to the environment, contaminating soils, surface water, and groundwater with excessively high levels of, among other pollutants, nitrate, phosphorus, bacteria, and associated pathogens.

129. A number of residences lie in the vicinity of the Grand View Feedlot, including housing

for Defendants' employees, which rely on the groundwater for human consumption. Figure 3 below is a screenshot of an Idaho Department of Water Quality map that shows wells in that vicinity and, where appropriate, the residences associated therewith. The readings for Wells 04S 03E 33AAD1 and 04S 03E 33ADDA1, mentioned above, among others, demonstrate that the groundwater is heavily polluted with nitrate.

130. Nitrate poses acute health concerns at certain levels of exposure, especially at levels that exceed the 10 mg/L maximum contaminant level set by EPA.

131. Ingestion of nitrate, converted to nitrite in the body, interferes with the oxygen-carrying capacity of blood, potentially resulting in methemoglobinemia, cyanosis, some forms of cancer, autoimmune dysfunction, and at higher levels, asphyxia. The pollutants are also released to nearby surface waters and the Snake River, further posing an imminent and substantial endangerment to persons who recreate in and around the Snake River, including SRW's members.

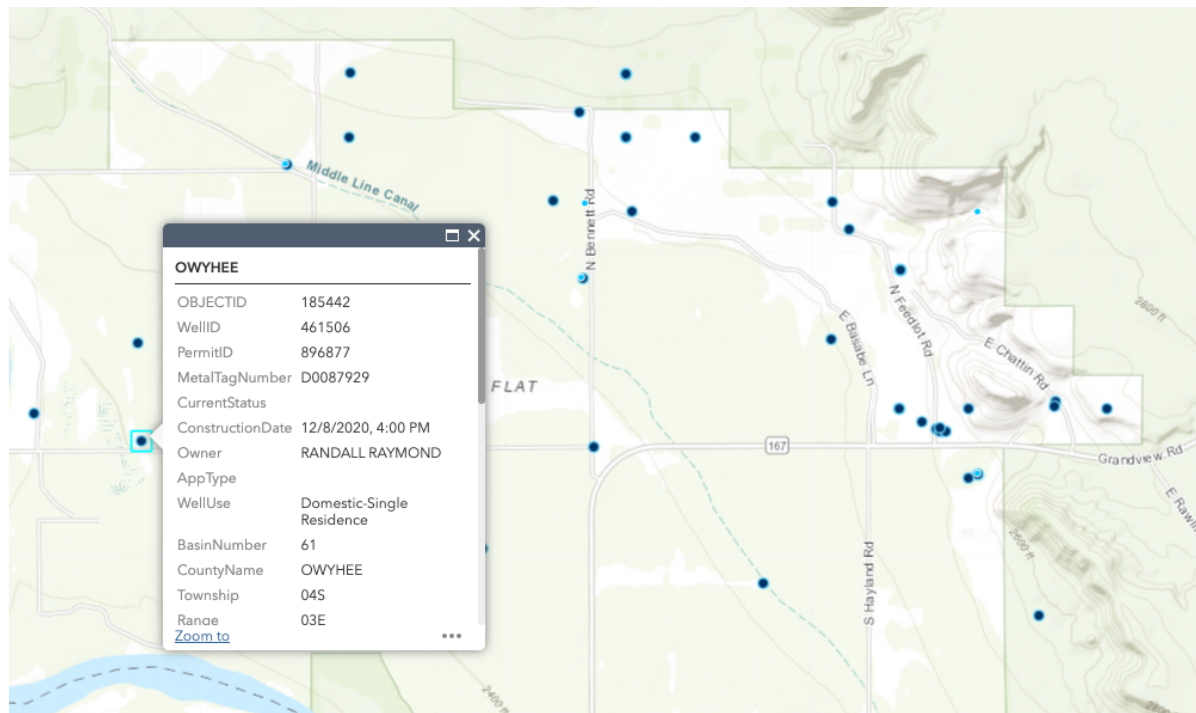


Figure 3

CLAIMS FOR RELIEF

I. Discharge of Pollutants

Without an NPDES or IPDES Permit in Violation of the Clean Water Act

132. SRW incorporates the allegations contained in the above paragraphs as though fully set forth herein.

133. Section 301 of the Clean Water Act, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants from a point source to waters of the United States by any person unless such discharges are approved pursuant to the terms of a valid permit issued pursuant to Section 402 of the Clean Water Act, 33 U.S.C. § 1342.

134. Defendants are each a “person” under the Clean Water Act because they are corporations. 33 U.S.C. § 1362(5).

135. The manure, facility wastewater, process wastewater, wash water, liquid and solid animal manure and wastes, debris, sediment, and chemicals such as hormones and antibiotics that are discharged by Defendants are “pollutants” under the Clean Water Act, 33 U.S.C. § 1362(6).

136. The Snake River is a navigable water subject to the jurisdiction of the Clean Water Act.

137. The High Line Canal, Middle Line Canal, Low Line Canal, Jack Creek, Corder Creek, and other tributaries and conduits are all “waters of the United States” subject to the jurisdiction of the Clean Water Act.

138. In the alternative, the High Line Canal, Middle Line Canal, Low Line Canal, Jack Creek, Corder Creek, and other canals, tributaries, and conduits are themselves point sources from which manure pollutants are discharged by Defendants.

139. For at least since March 10, 2018, Defendants have discharged and continue to discharge pollutants into waters of the United States from the Grand View Feedlot, inclusive of Grandview Farms.

140. Defendants do not have and have not had since March 10, 2018, any valid NPDES nor IPDES permit authorizing discharges into such waterways from the Grand View Feedlot.

141. Each discharge that Defendants have committed since March 10, 2018, constitutes a separate and distinct violation of the Clean Water Act and is subject to a civil penalty.

142. In discharging manure and process wastewater without a permit into waters of the United States, including the Snake River and its tributaries, Defendants have violated and continue to violate section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a).

143. Each day since March 10, 2018, that Defendants have operated without a NPDES or IPDES permit constitutes a separate and distinct violation of the Clean Water Act and is subject to a civil penalty.

II. Imminent and Substantial Endangerment in Violation of RCRA

144. SRW incorporates by reference the allegations of the preceding paragraphs of this Amended Complaint.

145. Defendants are the past and present owners or operators of a solid waste storage or disposal facility. As indicated above, manure is stored in and disposed of from massive lagoons and other holding structures, confinement pens, and agricultural fields. As a result, Defendants contribute to the past or present handling, storage, and disposal of solid waste. RCRA, 42 U.S.C. § 6972(a)(1)(B).

146. Defendants are the past and present generators of manure and other agricultural wastes. Manure has been “handled” and “transported” by the Defendants, as well as disposed of on land owned or leased by the Defendants.

147. Defendants’ handling, transportation, storage, and disposal of manure may present an imminent and substantial endangerment to public health and/or the environment, as described in the paragraphs above.

148. Pursuant to RCRA Section 7002, Defendants are subject to an injunction under RCRA ordering them to cease and abate any past or present handling, storage, treatment, and/or transportation of any solid waste that may present an imminent and substantial endangerment to public health and/or the environment.

149. SRW’s interests, including those of its members, are harmed and will continue to be harmed by this imminent and substantial endangerment and by Defendants’ failure to abate the endangerment unless the Court grants the relief herein sought.

RELIEF REQUESTED

WHEREFORE, SRW respectfully requests that the Court enter a judgment:

- A. Declaring that Defendants have violated and continue to be in violation of Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), for the unlawful discharges of pollutants from the Grand View Feedlot to waters of the United States and operating without a permit; and that Defendants' past and/or present generation, handling, storage, treatment, transportation, and/or disposal of solid waste presents, or may present, an imminent and substantial endangerment to human health or the environment in violation of Section 7002(a)(1)(B) of RCRA, 42 U.S.C. § 6972(a)(1)(B);
- B. Enjoining Defendants from discharging pollutants from the Grand View Feedlot into waters of the United States except as authorized by and in compliance with a valid Clean Water Act permit;
- C. Enjoining Defendants from further operating the Grand View Feedlot without a Clean Water Act permit;
- D. Ordering Defendants to pay civil penalties of up to \$68,445 per violation, per day, for all violations of the Clean Water Act at the Grand View Feedlot, pursuant to Sections 309(d) and 505(a) of the Clean Water Act, 33 U.S.C. §§ 1319(d), 1365(a), and 40 C.F.R. §§19.1–19.4;
- E. Ordering Defendants to assess the extent of, and remediate any harm caused by, their noncompliance with the Clean Water Act and to eliminate any potential for future harm;
- F. Ordering Defendants to assess the extent of, and remediate any harm caused by, their noncompliance with RCRA and to eliminate any potential for future harm, including by, among other things, requiring Defendants to install, maintain, and routinely sample (at least monthly) a groundwater monitoring network, which shall be designed and installed such that contributions from Defendants' operations to the existing groundwater contamination can be monitored and evaluated;

G. Ordering Defendants to cease and desist from storing manure in any type of manure storage lagoon, pond, pit, basin, or the like that Defendants have not first double-lined with synthetic liners and an appropriate leak detection system to prevent seepage of pollutants into groundwater that may, whether by flow or diffusion, transmit such pollutants outside Defendants' property boundaries;

H. Ordering Defendants to cease and desist from storing solid manure, composted manure, bedding, and the like on any portion of Defendants' land that has not first been modified to prevent seepage of pollutants into groundwater that may, whether by flow or diffusion, transmit such pollutants outside Defendants' property boundaries;

I. Ordering Defendants to cease and desist from applying manure on any land receiving Defendants' manure that has been shown, through scientifically-defensible soil sampling, to exceed 15 ppm nitrate in each of the top foot, second foot, or third foot of the soil column;

J. Ordering Defendants to cease and desist from applying manure on any land receiving Defendants' manure that has been shown, through scientifically-defensible soil sampling, to exceed 40 ppm phosphorus in the top foot of the soil column;

K. Ordering Defendants to retain a certified crop advisor or agronomist to prepare and institute nutrient budget and manure application schedules that adhere to the relief requested herein and ensure that manure nutrients are strictly applied at agronomic rates;

L. Ordering Defendants to provide an alternative clean drinking water source for all residences impacted by Defendants' groundwater contamination, such as the installation and maintenance of reverse osmosis systems or the drilling of new wells into water-bearing zones that are not impacted by Defendants' groundwater contamination;

M. Ordering Defendants to pay SRW's reasonable attorneys' fees, expert witness fees, and costs incurred in prosecuting this action pursuant to 33 U.S.C. § 1365(d); and

N. Awarding any such other relief as the Court may deem just and proper.

Dated: January 23, 2025.

Respectfully submitted,

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