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5
6 IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

7 COMMUNITY ASSOCIATION FOR
RESTORATION OF THE
8 ENVIRONMENT, INC., a Washington
non-profit corporation; FRIENDS OF
9 TOPPENISH CREEK, a Washington non-
profit corporation; *and*
10 CENTER FOR FOOD SAFETY, a
Washington, D.C. non-profit corporation,
11 Plaintiffs,
12 v.
13 SUNNYSIDE DAIRY, LLC, a Washington
limited liability company,
14 Defendant.

Case No. _____
COMPLAINT

1 **COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

2 **INTRODUCTION**

3 1. This is a civil action for declaratory and injunctive relief against Defendant
4 Sunnyside Dairy, LLC (hereinafter “Sunnyside” or “Defendant”) for violations of
5 the Solid Waste Disposal Act, also known as the Resource Conservation and
6 Recovery Act, 42 U.S.C. § 6901 *et seq.* (“RCRA”) at Sunnyside’s dairy facilities
7 located at or near 4581 Maple Grove Road, Sunnyside, WA 98944.

8 2. This action is brought pursuant to the citizen suit provision of RCRA, 42
9 U.S.C. § 6972(a)(1)(A) and (B).

10 3. As detailed below, Plaintiffs allege that Sunnyside has violated and
11 continues to violate Section 7002(a) of RCRA by causing and contributing to the
12 past and present handling, storage, treatment, transportation, and/or disposal of
13 solid and hazardous waste in such a manner that may, and indeed does, present an
14 imminent and substantial endangerment to health and the environment. 42 U.S.C. §
15 6972(a).

16 4. Plaintiffs further allege that Sunnyside employs improper manure
17 management practices that constitute the “open dumping” of solid waste in
18 violation of Section 4005(a) of RCRA. 42 U.S.C. § 6945(a).

19 5. Plaintiffs seek declaratory relief establishing that Sunnyside has violated
20 RCRA. Plaintiffs also seek injunctive relief directing Sunnyside to modify its

1 handling, storage, treatment, transportation, and disposal of solid and hazardous
2 waste such that these practices no longer present an imminent and substantial
3 endangerment to health and the environment. Additionally, Plaintiffs seek
4 injunctive relief obligating Sunnyside to remediate the environmental
5 contamination it has caused and/or contributed to, including widespread soil and
6 groundwater contamination. Finally, Plaintiffs request the Court award Plaintiffs
7 reasonable attorneys' and expert witnesses' fees and costs incurred in bringing this
8 action.

9 JURISDICTION

10 6. This Court has subject matter jurisdiction over this citizen suit pursuant to
11 Section 7002 of RCRA, 42 U.S.C. § 6972(a).

12 7. The Court also has federal question jurisdiction pursuant to 28 U.S.C. §
13 1331 because this action arises under RCRA and the Declaratory Judgment Act, 28
14 U.S.C. § 2201, *et seq.*

15 8. On February 28, 2019, Plaintiffs gave notice of the violations and of their
16 intent to file suit to Sunnyside, Sunnyside's registered agent, United States
17 Attorney General, United States Environmental Protection Agency ("EPA"), EPA
18 Region X, Washington State Office of Governor, Washington State Office of the
19 Attorney General, and Washington State Department of Ecology as required by
20

1 Section 7002 (a) of RCRA, 42 U.S.C. § 6972(a). A copy of the notice letter is
2 attached hereto as Exhibit A and incorporated by reference.

3 9. More than ninety days have passed since notice was served, and the
4 violations complained of in the notice are continuing at this time, or Defendant is
5 reasonably likely to continue to remain in violation of RCRA. Neither the EPA nor
6 State of Washington has commenced or is diligently prosecuting a civil or criminal
7 action to redress the violations.

8 10. Any administrative action undertaken by EPA or the State of Washington
9 does not address the relief requested by Plaintiffs that is necessary to abate the
10 imminent and substantial endangerment caused by Defendant's practices.

11 **VENUE**

12 11. Venue properly vests in this Court pursuant to Section 7002(a) of RCRA, 42
13 U.S.C. § 6972(a), because the alleged violations of the aforementioned statutes
14 occurred and continue to occur within the Eastern District of Washington.

15 **PARTIES**

16 12. Upon information and belief, Sunnyside Dairy, LLC is a Washington limited
17 liability company that owns and operates Sunnyside Dairy #1 and Sunnyside Dairy
18 #2. The dairy is located at or near 4581 Maple Grove Road, Sunnyside, WA
19 98944.

1 13. Sunnyside is a “person” within the meaning of Section 1004(15) of RCRA.
2 42 U.S.C. § 6903(15).

3 14. Plaintiffs are non-profit organizations comprised of members who live,
4 work, and recreate in the State of Washington. Plaintiffs share similar interests in
5 improving, protecting, and preserving regional water bodies and groundwater.

6 15. Plaintiff CARE is a non-profit corporation organized under the laws of the
7 State of Washington. CARE’s principal office is located in Outlook, Washington.

8 16. CARE is a grassroots organization composed of concerned community
9 members. Its mission is to inform Washington residents about activities that
10 endanger the health, welfare, and quality of life for current and future
11 Washingtonians through education and citizen empowerment. CARE also acts as
12 an advocate to protect and restore the economic, social, and environmental
13 resources of the region. In carrying out its mission, CARE has appeared in
14 numerous local, state, and federal proceedings.

15 17. CARE’s organizational purposes are adversely affected by Sunnyside’s
16 violations of RCRA. These violations have caused significant environmental
17 contamination of the soil and groundwater. Furthermore, but for Sunnyside’s
18 unlawful actions, CARE would not have to spend as much of its resources on the
19 environmental problems created by illegal contamination from individual large-

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