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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

COMMUNITY ASSOCIATION FOR RESTORATION OF THE ENVIRONMENT, INC., a Washington Non-Profit Corporation; and CENTER FOR FOOD SAFETY, INC., a Washington, D.C. Non-Profit Corporation,

Plaintiffs,

v.

COW PALACE, LLC, a Washington Limited Liability Company, et al.,

Defendants.

CASE NO: 13-CV-3016-TOR

ORDER GRANTING STIPULATED MOTION TO DISMISS PLAINTIFFS' RCRA CLAIMS BASED ON PRESENCE OF "OTHER CONTAMINANTS"

BEFORE THE COURT is the parties' Stipulated Motion to Dismiss Certain of Plaintiffs' RCRA Claims Based on Presence of "Other Contaminants" (ECF No. 188). This matter was submitted for consideration without oral argument. The Court has reviewed the motion and the record and files herein, and is fully informed. For good cause shown, the Court grants the parties' motion.

1 **Accordingly, IT IS HEREBY ORDERED:**

2 1. The parties' Stipulated Motion to Dismiss Certain of Plaintiffs'
3 RCRA Claims Based on Presence of "Other Contaminants" (ECF No. 188), is
4 **GRANTED.**

5 2. To the extent Plaintiffs' Third Amended Complaint can be read to
6 assert RCRA claims for imminent and substantial endangerment to human health
7 against all Defendants that may have been premised on the alleged presence of
8 "other contaminants" in the groundwater such claims are dismissed with prejudice.
9 Specifically, any RCRA imminent and substantial endangerment to human health
10 claims based on the alleged presence in groundwater of inorganic or organic
11 elements, steroids, pathogens, pharmaceuticals, hormones or antibiotics, are
12 dismissed with prejudice.

13 3. Notwithstanding the foregoing, Plaintiffs may refer to any admissible
14 evidence showing the presence of "Other Contaminants" at the Defendants'
15 properties and/or the alleged presence of "Other Contaminants" in support of their
16 allegation that Defendants caused or contributed to the nitrate and phosphorus
17 contamination of the environment, including that nitrate contamination may pose
18 an imminent and substantial endangerment to human health and the environment,
19 that phosphorus contamination may pose an imminent and substantial

1 endangerment to the environment, and that Defendants' manure practices
2 constitute illegal open dumping.

3 The District Court Executive is hereby directed to enter this Order and
4 furnish copies to counsel.

5 **DATED** November 25, 2014.



Thomas O. Rice
THOMAS O. RICE
United States District Judge