

Oregon farmer seeks jury trial in Clean Water Act lawsuit

Federal government is suing Bill Case for stabilizing riverbank

By MATEUSZ PERKOWSKI
Capital Press

An Oregon farmer wants a jury to render a decision in the federal government's lawsuit that accuses him of violating the Clean Water Act.

Earlier this year, the U.S. Environmental Protection Agency filed a complaint against Bill Case of Albany, Ore., for unlawfully stabilizing a riverbank with large rocks beginning in 2009.

The EPA is seeking up to \$37,500 per day in civil penalties as well as a court order requiring Case to restore the bank of the North



Mateusz Perkowski/Capital Press

Farmer Bill Case of Albany, Ore., points to the North Santiam River, which abuts a 50-acre field he owns. The U.S. Environmental Protection Agency is accusing Case of violating the Clean Water Act by stabilizing the riverbank. Case recently filed an answer to the agency's complaint and requested a jury trial.

Santiam River to its original condition.

Attorneys for Case have

now filed an answer to the EPA's allegations and requested a jury trial, which is

considered unusual in Clean Water Act cases.

In his answer to EPA's complaint, Case argues the agency's lawsuit is barred because of his "reasonable reliance on representations by the United States Army Corps of Engineers" that the work didn't require a Clean Water Act permit.

Case has previously told Capital Press that the Corps told him the bank stabilization project didn't fall under Clean Water Act jurisdiction because the rocks weren't placed in the river.

When asked about the jury trial request, Case said he'd have to consult with his attorney before commenting. Capital Press was unable to reach Case's attorney as of press time, and the EPA's attorney cannot comment on pending litigation.

Jury trials are rare in such cases, as Clean Water Act litigation is more com-

monly decided by federal judges on motions for summary judgment, said Bill Funk, an environmental law professor at Lewis & Clark Law School.

It's likely that Case is counting on a jury to commiserate with his predicament of facing conflicting interpretations of the Clean Water Act by different agencies, Funk said.

"I assume the thinking

is he will seem like a sympathetic defendant," he said.

Under a legal precedent set by the U.S. Supreme Court, defendants have the right for a jury to decide whether or not an activity violates the Clean Water Act. However, the amount of civil penalties and any injunctive relief must be decided by a federal judge.

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Dairy cooperative accuses Sorrento of contract breach

By MATEUSZ PERKOWSKI
Capital Press

A dairy farmers cooperative is accusing an Idaho cheese facility of violating a contract to take delivery of organic milk from an Oregon producer.

Select Milk Producers, the cooperative, has filed a lawsuit against Sorrento Lactalis, a major global dairy company, for breaching an agreement to buy organic milk from Cold Springs Dairy of Hermiston, Ore.

The complaint alleges that Sorrento's milk procurement manager at its facility in Nampa, Idaho, in August 2015 committed to purchase 150,000 pounds of organic milk for five years at a price of \$40 per hundredweight. The amount was later revised to 48,000 pounds a week.

By December 2015, however, Sorrento notified the coop that it wouldn't honor the deal because the price was no longer competitive and the demand for organic cheese had dropped, according to the complaint.

Select Milk has been able to sell the organic milk from Cold Springs Dairy at a lower price since then, but the cooperative has sustained damages of more than \$160,000 that continue to accrue, the complaint said.

Sorrento Lactalis filed a motion to dismiss the lawsuit that denies Select Milk's claims, "particularly the allegation that it entered into any final, binding contract or agreement."

The cheesemaker claims that Select Milk hasn't identified any "signed writing" that would comprise an enforceable contract under Idaho law.

Sorrento has asked a federal judge to either throw out the lawsuit or order the cooperative to produce such a document.



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