

## Class action lawsuit filed over nitrates

-Continued from PAGE ONE  
public water at restaurants or friends' residences.

Currently, about half of the residential wells in the Umatilla GMA have undergone testing, with a significant percentage displaying nitrate levels above the EPA's limit. The state of Oregon has taken steps to address the issue, including installing filtration systems at some homes and providing bottled water to others.

According to court documents, excessive nitrate levels in groundwater pose severe health risks, particularly to vulnerable populations such as infants, pregnant women, and older adults. Nitrate contamination in water can result in severe health complications, including cyanosis, Blue Baby Syndrome, reproductive issues, and various cancers. The lawsuit underscores that residents in the affected areas, including those relying on private wells and public water systems, are at risk of exposure to unsafe levels of nitrates.

Furthermore, the lawsuit accuses the defendants, including the Port of Morrow, Lamb Weston Holdings, Inc., Madison Ranches, Inc., Threemile Canyon Farms, LLC, and Beef Northwest Feeders, LLC, of violating wastewater processing permits issued by the DEQ. Court records indicate multiple instances of permit violations by the defendants, including unauthorized discharge of nitrogen-heavy wastewater onto farmland, failure to monitor and report wastewater leaks, and surpassing nitrogen discharge limits outlined in their permits.

The plaintiffs, acting on behalf of themselves and others within the Umatilla GMA, claim that over 45,000 individuals are affected by the alleged contamination.

The plaintiffs argue that the defendants' actions constitute negligence per se, as they allegedly violated Oregon's Water Pollution Control law by causing pollution of groundwater and discharging wastes into state waters, thereby reducing water quality standards established by regulatory bodies.

In addition to seeking damages for property damage and increased health risks, the plaintiffs are requesting that the court compel the defendants to conduct assessment and remedial action activities to eliminate the alleged endangerment. They also seek recovery of costs incurred in bringing the lawsuit, including attorney fees and expert witness fees.

A summary of the counts and relief.

### COUNT I: RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)

Plaintiffs allege violations of the RCRA's citizen enforcement provision.

Defendants are accused of generating, transporting, storing, or disposing of hazardous and solid wastes, causing risks to public health and the environment.

Plaintiffs seek remedial action to eliminate endangerment and recover costs.

### COUNT II: NEGLIGENCE

Defendants are accused of breaching their duty of care by causing property

damage and increased risk of life-threatening illnesses.

Plaintiffs assert that Defendants knowingly caused nitrate contamination in the Umatilla Groundwater Management Area (GMA) despite awareness of its hazards.

### COUNT III: NEGLIGENCE PER SE

Plaintiffs claim Defendants violated the Oregon Water Pollution Control law, causing personal and property damage and increased risk of serious illnesses.

Defendants' actions are alleged to have breached standards of conduct and due care.

### COUNT IV: TRESPASS

Plaintiffs accuse Defendants of intentional trespass by causing pollutants to enter onto real property, resulting in substantial damages and contamination of well water.

### COUNT V: PRIVATE NUISANCE

Defendants' disposal of wastewater is claimed to have interfered with Plaintiffs' use and enjoyment of their land, rendering private wells unfit for use and increasing the risk of serious illnesses.

### COUNT VI: PUBLIC NUISANCE

Defendants' contamination of the Umatilla GMA groundwater is deemed a public nuisance, significantly impacting public health, safety, and convenience.

Plaintiffs and the Class allege interference with their property rights and increased risk of physical harm due to exposure to excess nitrates.

### COUNT VII: INVERSE CONDEMNATION

Plaintiffs, representing the Renter/Owner Subclass, bring an inverse condemnation claim against Defendant Port of Morrow. Defendant Port of Morrow, a public entity, allegedly dumped contaminated water in excess of its permits into the Umatilla GMA, resulting in contamination of Plaintiffs' wells. Plaintiffs argue that this action constitutes an appropriation of their properties for public use without just compensation. The excess wastewater dumping has substantially interfered with Plaintiffs' use and enjoyment of their properties, leading to the destruction or substantial reduction of their beneficial uses and economic viability.

### PRAYER FOR RELIEF

Plaintiffs seek various forms of relief, including:

Declaratory judgment of Defendants' violations of the Resource Conservation and Recovery Act.

Court order compelling Defendants to conduct assessment and remedial action activities to eliminate endangerment and obtain government certification.

Provision of clean, potable water to Plaintiffs and the Class, either through bottled water deliveries, well construction, or connection to clean water pipe systems.

Court-ordered medical monitoring to address public health concerns.

General and compensatory damages proved and awarded by the jury or court.

Punitive damages to

punish and deter Defendants.

Any other damages allowed by law and awarded by the jury.

Plaintiffs' litigation costs, including attorney and expert witness fees.

Any other relief deemed just and equitable by the Court.

Here are the names and addresses of the lawyers involved in the class action lawsuit.

Michael A. Bliven, BLIVEN LAW FIRM, PC Kalispell, MT

Robert F. Dwyer, III, BLIVEN LAW FIRM, PC Boardman OR

John Heenan (to be admitted *pro hac vice*) HEENAN & COOK Billings, MT

Steve W. Berman (to be admitted *pro hac vice*) Meredith S. Simons (to be admitted *pro hac vice*) HAGENS BERMAN SOBOL SHAPIRO LLP Seattle, WA

Abigail D. Pershing (to be admitted *pro hac vice*) HAGENS BERMAN SOBOL SHAPIRO LLP Pasadena, CA

## It's time to spring forward



The Ohio Clock in the U.S. Capitol being turned forward for first daylight saving time on March 31, 1918 - Photo from wikipedia

By Chris Sykes

Don't forget to turn your clocks forward Sunday morning at 2 a.m.

Benjamin Franklin - While not directly responsible for implementing Daylight Saving Time, Benjamin Franklin is often credited with proposing the idea in a humorous essay published in 1784. He jokingly suggested that people could save candles by waking up earlier to take advantage of natural daylight.

William Willett, a British builder, is considered one of the earliest proponents of Daylight Saving Time. In 1907, Willett proposed moving the

clock forward during the summer months to better utilize daylight and save energy.

Germany and World War I: Germany became the first country to adopt Daylight Saving Time nationwide in 1916 during World War I. The aim was to reduce the need for artificial lighting in the evenings and conserve fuel.

United States: Following Germany's lead during World War I, the United States implemented Daylight Saving Time in 1918 as a temporary measure. However, it was later revoked after the war ended.

Reintroduction: Daylight Saving Time was reintroduced in the United States during World War II as an energy-saving measure. It was then standardized with the Uniform Time Act of 1966, which established uniform start and end dates for DST across the country.

In conclusion, the concept of "springing forward" with the time change can be traced back to efforts to make more efficient use of daylight and conserve energy resources, particularly during times of war and economic strain.

## Sweeney speaks at Seniors Matter



Pat Sweeney, of Sweeney Mortuary, shared his experiences as a mortician with a full house of seniors at the Tuesday lunch, March 5th. -Contributed Photo

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The Heppner Gazette times paper will no longer be mailed out on Wednesdays, they will now be

mailed out on Thursdays. If you have any questions please feel free to call the Gazette Times office.