

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF IDAHO
SOUTHERN DIVISION**

IDAHO WASTE SYSTEMS, INC.)	
)	
Plaintiff,)	
)	Case No. 18-cv-00229-SRB-WJE
v.)	
)	
UNITED STATES AIR FORCE et al,)	
)	
Defendants.)	
)	

ORDER

Before this Court is Magistrate Judge Willie J. Epps, Jr.’s Report and Recommendations (Doc. #86) regarding five pending motions in this case: Defendant U.S. Air Force’s (“USAF”) combined Motion to Dismiss and Motion for Summary Judgment (Doc. #53), Plaintiff Idaho Waste System, Inc.’s (“Idaho Waste”) Motion for Partial Summary Judgment (Doc. #54), Defendant Snake River Rubbish, LLC’s (“Snake River”) Motion for Summary Judgment (Doc. #57), Defendant ProTech Coatings, Inc.’s (“ProTech”) combined Motion for Summary Judgment and Joinder (Doc. #71), and Snake River’s Motion for Summary Judgment on ProTech’s Cross Claim (Doc. #74). On January 27, 2020, Judge Epps issued his Report and Recommendations and advised the parties they could file written objections to the Report pursuant to 28 U.S.C. § 636(b)(1)(C) by February 10, 2020. Defendant ProTech filed an Objection to the Report and Recommendations on February 10, 2020. (Doc. #91).

After an independent review of the record, the applicable law, and the parties’ arguments, the Court **ADOPTS** the Report and Recommendations in full (Doc. #86). It is **ORDERED** that Judge Epps’ Report and Recommendations (Doc. #86) is adopted and shall be attached to and

made part of this Order. Defendant Protech's Objections to Report and Recommendations (Doc. #91) is **OVERRULED**. Accordingly:

- Defendant U.S. Air Force's combined Motion to Dismiss and Motion for Summary Judgment (Doc. #53) is GRANTED IN PART and DENIED IN PART.
- Plaintiff Idaho Waste System, Inc.'s Motion for Partial Summary Judgment (Doc. #54) is DENIED.
- Defendant Snake River Rubbish, LLC's Motion for Summary Judgment (Doc. #57) is GRANTED IN PART and DENIED IN PART.
- Defendant ProTech Coatings, Inc.'s combined Motion for Summary Judgment and Joinder (Doc. #71) is GRANTED IN PART and DENIED IN PART.
- Defendant Snake River Rubbish, LLC's Motion for Summary Judgment on ProTech Coatings, Inc.'s Cross Claim (Doc. #74) is DENIED.

In sum, Plaintiff's Count I (Continuing Nuisance) is dismissed entirely. Plaintiff's Count II (Continuing Trespass), Count III (Equitable Indemnity and Contribution), and Count IV (Negligence and Negligence Per Se) survive against Defendants Snake River Rubbish, LLC and Defendants Protech Coatings, Inc. Plaintiff's CERLA claims under Counts V & VI survive against all Defendants.

IT IS SO ORDERED.

/s/ Stephen R. Bough
STEPHEN R. BOUGH
UNITED STATES DISTRICT JUDGE

Dated: February 11, 2020