

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 8 2026

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

PALLA FARMS, LLC,

Plaintiff - Appellant,

v.

GEMINI INSURANCE COMPANY,

Defendant - Appellee.

No. 24-5439

D.C. No.

1:23-cv-00277-JLT-CDB

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Christopher Dale Baker, Magistrate Judge, Presiding

Argued and Submitted March 12, 2026
San Francisco, California

Before: CALLAHAN, H.A. THOMAS, and JOHNSTONE, Circuit Judges.

Palla Farms, LLC (“Palla Farms”) appeals the district court’s grant of summary judgment to Gemini Insurance Company (“Gemini”) in Palla Farms’s action alleging that Gemini had a duty to defend Dole Enterprises, Inc. (“Dole”) in the underlying action. “We review the district court’s grant or denial of summary judgment de novo.” *Westport Ins. Corp. v. Cal. Cas. Mgmt. Co.*, 916 F.3d 769, 773

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

(9th Cir. 2019). “We also review its interpretation of state law and . . . insurance policies de novo.” *Id.* We have jurisdiction under 28 U.S.C. § 1291. We affirm.

Palla Farms conceded both before the district court and before us at oral argument that the saltwater at issue in this case was an “irritant or contaminant.” But Palla Farms nevertheless argues that since saltwater is not “waste” by the terms of the energy commercial general liability policies at issue here, it is also not a “pollutant.” In light of Palla Farms’s concessions, we disagree. As an “irritant or contaminant,” saltwater easily fits within the definition of “pollutant” despite being excepted from the definition of “waste.” Gemini accordingly had no duty to defend Dole. The district court therefore properly entered summary judgment in favor of Gemini.¹

AFFIRMED.

¹ We need not reach Palla Farms’s other arguments because it concedes that if the district court was correct on the duty to defend issue, the district court appropriately concluded that the other issues Palla Farms raised were moot.