Pregnancy discrimination suit settled

By DAN WHEAT
Capital Press

EAST WENATCHEE, Wash. — A tree fruit grower has agreed to pay $17,500 to a former employee for firing her because she was pregnant.

Tiny's Organic, of East Wenatchee, agreed to pay Maria Guillen $17,500 and take steps to prevent future gender or pregnancy discrimination under a consent decree settling a lawsuit, according to the U.S. Equal Employment Opportunity Commission.

The EEOC filed a lawsuit against Tiny's Organic in U.S. District Court last September. The suit alleged the company violated federal law by firing Guillen nine days after she disclosed she was pregnant with twins. Guillen had worked for the company for six years and had been promoted to supervisor.

Tiny's Organic cited fears for Guillen's safety and the company's liability even though her doctor said it was all right for her to perform her job without medical restrictions, the EEOC said in a news release.

Greg McPherson, owner of Tiny's, declined comment.

The decree, signed by a judge April 30, is in effect for two years under court jurisdiction and EEOC monitoring, she said. The $17,500 was negotiated for loss of pay and compensatory damages for emotional distress, said May Che, EEOC senior trial attorney in Seattle.

Terminating an employee because she is pregnant violates the Civil Rights Act of 1964 as amended by the Pregnancy Discrimination Act. The EEOC said it first tried to reach a settlement and then filed the suit seeking monetary damages for Guillen and injunctive relief that typically would include training on anti-discrimination laws, posting notices and compliance reporting.

Under the consent decree, the company will provide an anti-discrimination policy and annual training to all staff in English and Spanish. It also will set up procedures for handling complaints and holding management accountable. It further will post a notice regarding the case and report annually to EEOC for two years, the EEOC said.

"Congress made it clear that under the Pregnancy Discrimination Act, the decision to work while being pregnant is reserved for each individual woman to make for herself," said Nancy Sienko, director of EEOC's Seattle office.

Feds to decide on FMMO hearing by late summer

By TIM HEARDEN
Capital Press

CHICO, Calif. — A federal agency will likely decide by late summer whether to hold a hearing on a proposed milk marketing order for California, officials said May 5.

Tim Hearden/Capital Press
Cows are milked at VanderWoude Dairy near Merced, Calif. The federal government is considering alternatives for a marketing order for Class 4b milk in California.

The USDA's Agricultural Marketing Service is considering a proposal by California Dairies Inc., Land O'Lakes Inc., and Dairy Farmers of America and three alternatives as the co-ops seek what they would consider a more equitable price for milk used to manufacture cheese.

A proposal by the Dairy Institute of California, which represents processors, would set up a federal order but use a pricing methodology closer to that which is now employed by the state Department of Food and Agriculture, and two proposed amendments would carve out specific allowances for producer-handlers and out-of-state milk producers.

"We've been spending the past two years talking with producers and people in the industry about where and how we should proceed with a marketing order," AMS Dairy Program deputy administrator Dana Coale told about 40 producers at an outreach meeting with producers at the California State University-Chico student center. "We don't market milk in Washington, D.C. This is to make sure we understand how you market milk in California."

There are 10 federal marketing orders governing wholesale milk prices in various regions, including part of the Pacific Northwest and most of the South and Midwest. The AMS received the co-ops' petition for another marketing order for California on Feb. 5, and the other proposals were filed before an April 10 deadline.

Proponents have until May 20 to make changes in their proposals. Meanwhile, the AMS is doing financial analyses of each of the proposals as well as other research, Coale said.

"If in fact the USDA decides to go to hearing, we will publish that analysis," Coale said.

A courtroom-style hearing would be presided over by an administrative judge, and U.S. Agriculture Secretary Tom Vilsack would use evidence from the hearing to determine if a marketing order is needed.

If so, a draft rule would go through a public comment period before a final rule is voted on by producers, said Erin Taylor, an AMS senior marketing specialist. A marketing order would need support from at least two-thirds of producers or enough producers to represent two-thirds of the milk produced, Taylor said.

The Chico meeting was the first of three planned this week to educate producers and processors about the proposals, with similar meetings set for May 6 in Fresno and May 7 in Palmdale, Calif. Attendees were invited to submit written questions about the technical aspects of proposals, but merits of the proposals were not discussed.

Producers who came into the Chico meeting with opinions about whether to go to a marketing order didn't change their minds after hearing 30-minute presentations from each of the proponents. But they said the meeting was worthwhile.

"I think it's very good for dairymen and processors to understand what's going on with the federal order," said Sonoma, Calif., producer George Mertens, a longtime advocate for a marketing order.

"It's all about education," said Chico dairyman Jim Schroer, who also favors a federal order. "It's so important in this day and age for us all to know what's out there to make a decision."

About 80 people were signed up for the meeting in Fresno, officials said. Simon VanderWoude, who operates a dairy near Merced, said he was attending meeting to gather information.

"I'm pretty up to speed on what's going on, but they're just an opportunity to kind of vet the different proposals," VanderWoude said. "I think it'll be useful for dairymen to hear that they don't necessarily get to write the rule ... As fun or as interesting as that sounds, it's just not realistic. But we'll see how it all shakes out."

The proposals come as the CDFA has set a June 3 hearing in Sacramento to consider changes to the pricing formula of Class 4b milk, which is used for cheese.

Producers have been complaining for years that the value of whey in California's pricing formula has not kept pace with the whey value in Class III formulas in federal milk marketing orders. About 40 percent of milk produced in California is for cheese, producers say.

Western United Dairymen and other producer groups have petitioned the CDFA numerous times to raise the state's minimum price of 4b milk, claiming more than 350 dairies have either closed or left the state since 2007 because the state's pricing formula hasn't kept pace with escalating feed, fuel and other costs. Legislative attempts to address the pricing issue have been unsuccessful.

"In our California law, it states that we're supposed to be in line with federal pricing," Mertens said. "We aren't in line. We haven't been for five years."

Processors have maintained that pricing for producers has been improving. The Dairy Institute of California contends that establishing a federal milk marketing order for California is not warranted because disorderly marketing conditions don't exist.

If the petition for a federal marketing order progresses, a producer vote on joining the federal order system could happen in early 2017, CDI spokeswoman Marie teVelde has said.

AMS officials remain neutral throughout the process as to whether a marketing order should be adopted. Coale said the information gathered during the outreach meetings will help the agency determine if a hearing is needed but won't count as evidence in the hearing.

"We look at where the proposals came from and look at what the industry is doing," she said. "We take everything into consideration."

Tensions over federal grizzly study and Washington law surface

By DON JENKINS
Capital Press

Don Jenkins/Capital Press
Washington state Sens. Kirk Pearson, left, and Brian Hatfield listen May 4 to a presentation on federal plans to establish grizzly bears in the North Cascades. Both senators had questions for federal officials.

OLYMPIA — A national park superintendent Tuesday faced pointed questioning from a state senator about whether the federal government will pay any attention to Washington's ban on turning loose grizzly bears.

The National Park Service and U.S. Fish and Wildlife Service are studying how to re-establish grizzlies in the "North Cascades ecosystem," a 9,800-square mile area that covers 14 percent of the state. About 90 percent of the land is controlled by the federal government.

Federal agencies have talked for years about releasing grizzlies to kickstart an almost imperceptible population. In response to a federal proposal to import fewer than 10 bears two decades ago, the Legislature in 1995 — by a 44-5 vote in the Senate and 96-0 in the House — passed a law stating, "Grizzly bears shall not be transplanted or introduced into the state."

At the time, testimony on the bill focused on the impact grizzlies would have on public safety and the cattle industry in north-central Washington.

The 20-year-old law came up during a presentation by North Cascades National Park Superintendent Karen Taylor-Goodrich to the Senate Natural Resources and Parks Committee.

"You're looking at bring bears into our state?" asked the committee's chairman, Monroe Republican Kirk Pearson, whose district includes a portion of the North Cascades.

Goodrich said federal agencies are looking at a "full range of alternatives," including releasing grizzlies.

"Do you see yourself usurping our state laws in doing this?" Pearson said.

Taylor-Goodrich answered: "Not at this time, no."

The federal agencies are scheduled to decide in the fall of 2017 how to go about establishing grizzlies.

Pearson said after the meeting that it's unclear how much influence legislators, residents and state wildlife managers will have.

"That's what's most important," he said. "I kind of agree with upholding the (state law)."

Taylor-Goodrich said that even if a "small number" of grizzlies were released, the North Cascades would not have a sustainable population for 50 to 125 years. Bear sightings would be rare for the first 10 to 20 years, she said.

The 1995 law also instructs the state Department of Fish and Wildlife to encourage native grizzly populations to grow. "The way I read it, we're not against grizzly bears," Pearson said.

Migrant housing to open soon

By DAN WHEAT
Capital Press

Dan Wheat/Capital Press
A new 200-bed migrant farmworker housing facility, Brender Creek, is seen May 1 in Cashmere, Wash.

CASHMERE, Wash. — A new $6 million, 200-bed migrant farmworker housing facility will open in Cashmere in mid-May.

Eventually, it may replace a 380-bed camp in nearby Monitor.

The new facility, named Brender Creek in honor of Cashmere's first pioneer, will be operated by Washington Growers League of Yakima and was built by the league with a state Department of Commerce grant.

The league built a 270-bed migrant farmworker facility, Sage Bluff, near Malaga, south of Wenatchee in 2010. It's about 30 miles southeast of Cashmere. In between, the migrant camp at a Chelan County park in Monitor has been operated by the county and funded by the county and state since 2001. That camp may close at the end of this year for lack of funding.

"We informed Chelan County a couple of years ago that 2015 would be the last year the state would fund operation of Monitor," said Janet Masella, managing director of the Housing Finance Unit of the Department of Commerce in Olympia.

It was never meant to be permanent and isn't financially viable for the state since facilities will need replacement, she said.

The county thought the state's commitment was year-by-year, said Keith Goehner, a Chelan County commissioner and Dryden pear grower.

The county doesn't have the money to fund the camp alone but is committed to farmworker housing, balancing need and cost, he said.

The Monitor camp cost $420,352 to operate in 2014 with $289,850 coming from the state, $99,915 in nightly per-bed fees paid by occupants or growers, and $30,587 from other county sources, Masella said.

The camp has 200 beds in 25 trailers and 180 beds in 30 tents. The tents are only used in summer, mainly by cherry pickers, and the trailers are used into the fall by pear and apple pickers, said Edmundo Gonzalez, camp manager.

"We were full last cherry season and turned away about 300 people during the peak for more than two weeks," Gonzalez said.