

## Oregon will not suspend operations at new dairy

### Petition for state reconsideration is pending

By **GEORGE PLAVERN**  
EO Media Group

BOARDMAN, Ore. — State regulators have denied a request by several environmental and animal rights groups to suspend operations at Lost Valley Farm, the controversial new 30,000-cow dairy permitted earlier this year near Boardman.

The Oregon Department of Agriculture and Department of Environmental Quality are jointly responsible for administering Oregon's confined animal feeding operation, or CAFO, program. The agencies issued a hotly contested water pollution permit for Lost Valley Farm on March 31, which became final on April 20.

"Petitioners have failed to provide any evidence of exactly what harms, if any, their members will sustain during the reconsideration period."

Opponents of the dairy farm have filed what's known as a petition for reconsideration, urging ODA and DEQ officials to change their minds. The coalition also asked for a stay of Lost Valley's permit. The request was rejected in a ruling handed down June 23.

"Petitioners have failed to provide any evidence of exactly what harms, if any, their members will sustain during the reconsideration period," the ruling reads in part.

Petitioners include the Animal Legal Defense Fund, Center for Biological Diversity, Center for Food Safety, Columbia Riverkeeper, Food & Water Watch, Friends of Family Farmers, Humane Oregon, the Humane Society of the United States, Oregon Physicians for Rural Responsibility and Oregon Rural Action. They argue Lost Valley threatens to contaminate local groundwater and surface water as the dairy ramps up to full capacity over the next three years.

So far, Lost Valley has brought in just more than half the cows it is permitted to handle — 16,000 total, with about 8,700 milking cows. Estimates show that, at 30,000 cows, Lost Valley will produce 187 million gallons of wastewater and manure every year.

ODA and DEQ claim they crafted a permit that will be the most protective of water quality to date.

For example, Lost Valley is required to have 11 groundwater monitoring wells on site, which is seven more than usual.

The facility will also be inspected at least three times as often as other dairies.

Tarah Heinzen, staff attorney for Food & Water Watch, previously told the East Oregonian newspaper they knew it was unlikely the state would stay Lost Valley's permit.

The groups may still consider a formal appeal in court.

Greg te Velde, owner of Lost Valley Farm, previously said that suspending his operation would have just as harmful an effect on the cows as it would his business.

Without the CAFO permit, te Velde said he would have nowhere else to go with the cows. It is entirely possible they would have to be sold for slaughter, he said.

In addition, te Velde said he would likely face foreclosure in Oregon after roughly \$100 million worth of investment since 2003. Previously, te Velde ran Willow Creek Dairy on land leased from nearby Threemile Canyon Farms.

A spokeswoman for Lost Valley said the farm is pleased with the latest decision, and continues to focus on its operations.

# Dow-DuPont deal not necessarily harbinger of Trump antitrust strategy

## Monsanto-Bayer merger likely to come under closer scrutiny, experts say

By **MATEUSZ PERKOWSKI**  
Capital Press

The approval of a merger between agribusiness giants Dow and DuPont isn't necessarily a harbinger of the Trump administration's antitrust policies for agriculture, experts say.

Specifically, experts say the decision by U.S. regulators to sign off on the Dow-DuPont deal isn't a clear signal they'll adopt a similar approach to the planned combination of Monsanto and Bayer, which would create another seed-and-chemical colossus.

"Those are much more substantial competitors," said Peter Carstensen, a law professor specializing in agricultural antitrust at the University of Wisconsin.

The review of the Dow-DuPont merger began earlier under the Obama ad-

ministration, so most details were likely already ironed out when the Trump administration came into power, said Bob Young, chief economist of the American Farm Bureau Federation.

The Monsanto-Bayer merger, on the other hand, is likely to come under more scrutiny from officials who have been hired to carry out the Trump administration's antitrust policies, said Carstensen.

The fact that Bayer, a German company, is taking over an American firm makes the proposal particularly sensitive politically for Trump, he said.

If Trump's antitrust regulators conclude the Monsanto-Bayer deal would be harmful to farmers — an important base of support for the administration — they may still decide against blocking the merger outright, he said.



AP Photo/Pat Sullivan

This Dec. 10 photo shows a Dow Chemical plant in La Porte, Texas. Dow Chemical and the DuPont are attempting to merge in an all-stock deal that would create a colossal chemical producer worth \$130 billion, before splitting into three separate companies.

Another possibility would be to propose a "draconian" settlement requiring the sale of such valuable assets as to make the deal unfeasible, Carstensen said.

Or, the Trump administration could simply sit back and let regulators within the European Union put up barriers to the deal, thereby avoiding the appearance of hostility to business interests, he said.

However, the combination of Dow-DuPont may provide

an argument for the formation of a rival Monsanto-Bayer with the same size and advantages, said Young.

"There will be markets where they will be ripping each others' lungs out, I'm sure," he said.

While the American Farm Bureau Federation would like to see more competitors in the agribusiness field, not fewer, it's undeniable that economic realities are driving such consolidation, Young said.

Not only have lower crop prices diminished farmer spending on inputs, but the cost of bringing new chemicals and genetic traits to market has risen, he said.

"It takes years and lots of money, so deep pockets make sense," Young said.

As regulators contemplate the Monsanto-Bayer proposal, fallout from the Dow-DuPont merger is expected to continue.

To gain the U.S. Department of Justice's approval, Dow-DuPont agreed to sell off a line of broadleaf herbicides applied on winter wheat fields and a line of insecticides that West Coast specialty crop growers spray to kill chewing pests.

Whether these "divestitures" preserve competition will depend on the company buying these assets, which is yet to be determined, said Carstensen.

The buyer must be skilled in the manufacture and distribution of agricultural chemicals to successfully integrate those products, he said.

## Farmers warned to clean sprayers to avoid crop damage

### Active ingredient dislodges residues, leading to reaction

By **MATTHEW WEAVER**  
Capital Press



Matthew Weaver/Capital Press File  
Washington State University weed science professor Drew Lyon is advising farmers to thoroughly clean their sprayers as they switch from one type of crop to another.

Washington State University has received several phone calls from growers reporting damage to their pea crops, prompting researchers to issue a warning that farmers should clean their sprayers as they switch between different crops.

Herbicides used for broadleaf weeds in a wheat crop can

also damage a broadleaf crop such as peas, said Drew Lyon, WSU weed science professor.

More farmers planting peas this year could be part of the reason for the increase in problems, Lyon said. Some farmers might not be used to the idea of cleaning their sprayer before moving between crops, he said.

For the farmers reporting damage, an active ingredient, clethodim — used to control grass weeds in broadleaf crops — works in sprayer tanks to dislodge old herbicide residues, according to WSU.

"Just running some water through (a sprayer) generally isn't enough," Lyon said. "You

need to do more to make sure it gets cleaned out, especially on some of these big sprayers. There's lots of places stuff can hide. If you have rubber hoses, you can have chemicals hung up in there. If you're using a dry formulation, they tend to build up a little bit more than some others."

It's "understandable" that farmers may not believe they have the time for such a thorough cleaning in the rush of the season, Lyon said.

"Sometimes you're a penny wise and a pound foolish if you don't," he said.

The dose isn't usually heavy, so the damage isn't

usually too serious. A portion of the field can be "fairly seriously damaged" but the chemicals are typically gone by the second tank, Lyon said.

"You'll notice it and you'll wonder what went on," he said.

It's unclear how widespread the problem is, but a post of Facebook received more than 1,200 views in less than 24 hours and a post on the university's Small Grains website had 160 views, Lyon said.

"Take a little extra time," he said. "You should probably do it every time, but especially when you're switching from one crop to the next."

## Columbia-Snake River Irrigators Association

### Request for formal U.S. Inspector General Investigation

June 26, 2017, OPEN LETTER

Engineer Inspector General Kevin Elliott  
Office of the Engineer Inspector General  
U.S. Army Corps of Engineers (USACE)  
Inspector General Peggy E. Gustafson  
Office of the Inspector General  
U.S. Department of Commerce (NOAA Fisheries)

### **SUBJECT: Request for Formal Investigation – What Happened to the Fish?**

The Columbia-Snake River Irrigators Association ("CSRIA") requests that you formally investigate the Columbia River Fish Managers' decision in 2015, to allow Endangered Species Act (ESA)-listed salmon and steelhead migrations to remain in the Lower Snake River, during extremely poor in-river conditions, rather than rely on the Corps' juvenile fish transportation program. The fish were exposed to adverse river conditions that almost certainly proved fatal, and have contributed to the low adult fish returns now occurring in 2017.

Records show that the Fish Managers deviated from the legally required, ESA BiOp "spread the risk" policy, in the spring 2015, when they transported only 13% of juvenile salmon and steelhead during low flow and high temperature conditions — when young fish are the most vulnerable to the adverse effects of remaining in the river. This was the lowest percent transported since records were first kept in 1993. The action defied sound judgement.

In addition to failing to meet their legal, ESA obligation to optimize fish survival, the Fish Managers overlooked their obligation to create a transparent administrative record showing why they made this unusual decision. The available records show that NOAA Fisheries' scientists attempted to obtain agreement for an early start date to transportation—to get the juvenile fish out of the river during poor survival conditions—but other state agency Fish Managers did not support this crucial action. For reasons not reflected in the record, the Corps apparently felt helpless to act on NOAA Fisheries' repeated requests.

In the long run, CSRIA believes the only practical alternative is to invoke a hydro project exemption, allowed under the ESA statute, commonly called the "God Squad" review. We have requested the U.S. Dept. of Interior to take the first step toward this process. In the short run, however, we will need to live with the ESA litigation process and attempt to make intelligent management decisions regarding ESA-listed fish. There is no more critical decision to make than when to transport juvenile salmon and steelhead, and when to leave them in the river. Although it is too early to calculate the precise effect of the 2015 decisions, initial indicators reveal that the Fish Managers' judgement likely killed significant quantities of ESA-listed fish.

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