

Concern remains about liability for farming without federal permission

DUARTE from Page 1

“But given the risks posed by further trial on the government’s request for up to \$45 million in penalties, and the catastrophic impact that any significant fraction of that would have ... this was the best action I could take to protect those for whom I am responsible,” he said.

Jeffrey Wood, an acting assistant attorney general for the U.S. Justice Department’s Environment and Natural Resources Division, said in a statement that the agreement “serves the public interest in enforcement of the Clean Water Act and deterrent of future violations.”

Political pressure had been mounting on President Donald Trump’s administration to resolve the case, which was set to go to trial to enforce \$2.8 million in fines and up to tens of millions of dollars more in mitigation credits sought by the Corps.

In 2013, the Corps notified Duarte that he had “filled” wetlands in his field south of Red Bluff, Calif., by plowing it and ordered him to stop work.

The Pacific Legal Foundation filed suit on Duarte’s behalf in 2013, disputing the Corps’ allegations and arguing the government violated his Fifth Amendment due-process right by not allowing

him to answer the charge in a hearing. The Corps responded with a counterclaim alleging the Clean Water Act violation.

Last year, U.S. District Judge Kimberly Mueller sided with the government, ruling that Duarte should have obtained a permit to run shanks through wetlands at a depth of 4 to 6 inches, creating furrows.

In May, House Agriculture Committee chairman Michael Conaway and House Judiciary Committee chairman Bob Goodlatte sent a letter to Attorney General Jeff Sessions arguing that Duarte’s field work should qualify as “normal” farming practices under the Clean Water Act exemp-

tion.

Duarte had an ally in U.S. Agriculture Secretary Sonny Perdue, who last week told the Capital Press he planned to talk to Sessions and Environmental Protection Agency administrator Scott Pruitt about the government’s continued pursuit of the case.

“I’m hoping that the U.S. Justice Department will see fit to hold off on that until a better definition of Waters of the U.S. appears,” Perdue said.

The agreement announced Aug. 15 follows several months of talks involving Tony Francois, a PLF attorney handling the case, and Justice Department officials.

Duarte would have pre-

ferred to see the case through and appeal the court’s liability ruling to try to set a precedent that was favorable to growers, Francois said.

Duarte and the PLF remain concerned about the case’s implications for legal liability for farming without federal permission, which they believe undermine protections the Clean Water Act affords to normal farming practices, Francois said.

In a recent pre-trial brief, U.S. attorneys said the case would not be used as a pretext for federal prosecution of growers who engage in normal plowing on their farms. No federal dredge-or-fill permit is required for plowing as

long as it is not for the purpose of converting federally protected waters to new uses, the government contended.

Landowners should check with the Corps about permit requirements, wetland delineations and other aspects before doing activities that could be regulated under the Clean Water Act, said Michael Jewell, chief of the regulatory division for the Corps’ Sacramento District.

The U.S. District Court will hold a hearing in about 45 days to approve the settlement, which is subject to a 30-day comment period. The consent decree can be viewed at <https://www.justice.gov/enrd/consent-decrees>.

Biodynamic farming is a closed-loop system, with animals at its heart

BIODYNAMIC from Page 1

“It is a method of organic agriculture that predates the national organic program by 70 years,” said Jim Fullmer, executive director of Junction City, Ore.-based Demeter USA, the nation’s biodynamic certification authority. “This is like the grandmother of all of it.”

Fullmer said public awareness of the system has surged in the U.S. during the past decade, based on its growing popularity among West Coast wineries seeking to differentiate their products — and claim massive price premiums.

Fullmer and the Victor producers believe the nation is on the cusp of yet another “foundational” biodynamic trend.

Demeter has been flooded in recent months with calls from marijuana growers. Though recreational pot use has been legalized in many states, including Oregon and Washington, it’s still not legal federally, leaving growers without the option of seeking federal organic certification. Medical pot use is allowed in California, which is scheduled to legalize pot for recreational purposes starting next year.

The system

Biodynamic farming is a closed-loop system, with animals at its heart. The animals provide compost for crops and are in turn supported by farm-raised forage.

By promoting diverse insect and soil microbial life, biodynamic farmers keep pests and diseases in balance without chemicals, explained Ken Michael, who runs Victor-based Teton Full Circle Farm with his wife, Erika Eschholz.

“It’s pretty much self-sustaining,” Michael said. “Water and sunlight are the main inputs.”

Certified growers must meet the baseline requirements of organic farming. In addition, they must spend at least a year demonstrating their mastery of nine required homeopathic treatments, which are many times ridiculed by those in mainstream agriculture.

One treatment, for example, entails burying manure in a cow horn, thereby “amplifying” natural energy to accelerate its conversion to humus, which is used to inoculate compost with beneficial microbes. Another treatment involves burying a horn with pulverized quartz, which is added in small doses to water and sprayed on foliage to stimulate photosynthesis.

Some producers, such as Michael, base crop decisions on a celestial planting calendar, which he explained “follows the moon through the various constellations” and “makes



John O’Connell/Capital Press

Dale Sharkey and her husband Jed Restuccia started the first biodynamic farm in Victor, Idaho, in 1996, Cosmic Apple Gardens. A few more biodynamic businesses have since opened in the area, employing agricultural practices that seek to maximize the benefit of the energy in nature, and also seek to build soil health through a sustainable system.

sure we’re in the rhythm that the plants are following.”

The Victor farmers explain the homeopathic treatments are complex and aren’t fully understood by science, making them difficult to explain to the public. They contend farmers must experience the benefits of the treatments to believe them. Clusters of biodynamic farms often develop as workers versed in the system leave to start their own operations nearby.

Demeter USA had certified 15 farms in 1993. Today, 300 farms are certified biodynamic. Biodynamic farmers pay Demeter a \$420 annual renewal fee, plus half a cent for every dollar in earnings, and are subjected to an annual audit.

The Victor cluster

Reid speaks of his favorite cow, Glenda Goodwitch, to prove his system’s effectiveness.

Goodwitch, mother to Auntie Em, is 14 years old and remains the top milk producer on his dairy. The geriatric cow is pregnant with another calf.

Reid, who holds the first raw milk permit issued in Idaho, was recently recognized as having one of the 10 best organic dairies in the U.S. by the Cornucopia Institute, a nonprofit organization that promotes organic agriculture.

“If you treat your cows as well as you treat your pet dog, they’ll return just as much love, and even better, a lot of good milk,” said Reid, who has trained his cows not to defecate inside the barn.

Reid acknowledges his yields can’t compare with conventional dairies, but his customers pay a considerable premium for milk they believe delivers better nutrition and “energy.” Local families who subscribe to his delivery service pay \$12 to \$15 per gallon for his raw milk, and up to \$35 per

pound for his raw cheese.

The Teton Valley’s first biodynamic farm, Cosmic Apple Gardens, opened in 1996. Founder Jed Restuccia and his wife, Dale Sharkey, raise vegetables, beef, poultry and eggs on their 50-acre farm, selling food directly to customers through a community supported agriculture arrangement. Cosmic Apple animal products, however, are labeled only as organic, since the farm imports too much outside feed for them to meet biodynamic specifications.

“It’s healing the Earth through agriculture, and that’s what we want to do,” Sharkey said.

Full Circle Farm sprang out of Cosmic Apple, where Eschholz worked for 11 years, starting as a volunteer. Full Circle employs one worker and two interns and offers 20 CSA “work shares” for supplemental labor. People who put in several hours per week of weeding, harvesting and other chores get free produce.

Biodynamic wine

Most vineyards seek to plant “every square inch” of their property in grape vines, explained Jeffrey Landolt, vineyard and estate director at Benziger Family Winery in Glen Ellen, Calif.

About 20 years ago, however, Benziger commenced with tearing out vines, as it started on the path toward becoming biodynamic.

In addition to grapes, the 90-acre farm is now also home to about 1,000 olive trees, a fruit orchard and flower gardens, which promote a diversity of insects to keep harmful pests in check. Bird boxes are scattered throughout the property — habitat for blue birds that also play a role in insect control.

And though the industry has long valued bare soil to avoid competition with vines,

Benziger plants specialized blends of cover crops — plant species raised primarily to benefit soil health — beneath the grapes. Benziger maintains a flock of 80 sheep to graze the cover crops and add manure to the system. Bedding, manure and spent grape skins are also composted together for additional fertility.

The percentage of organic matter in the farm’s soil has grown from 1 to 3 percent under the biodynamic system. Landolt explained that Benziger is “pushing the envelope” of biodynamics, having developed some of its own homeopathic treatments. For example, the farm has experimented with different minerals to use in the preparation intended to stimulate photosynthesis.

Benziger’s biodynamic wines sell for \$60 to \$100 per bottle, containing a “unique and a wider swath of the potential flavor and aroma profile.”

“I think we’re about to explode in biodynamic agriculture (production) in general,” Landolt said.

Fullmer, the biodynamic certifier, said 70 vineyards, mostly on the West Coast, are currently certified biodynamic.

“What initially brought biodynamics to the U.S. consumer’s mind was wine,” Fullmer said. “Wine is a great ambassador.”

Marijuana niche

In the near future, Fullmer anticipates many marijuana growers who call themselves “farmers” will have to earn the title — at least if they hope to receive his association’s certification.

Biodynamic pot growers are expected to raise livestock to generate compost for their high-value crops. They’ll also have to implement diverse crop rotations. But the payoff is considerable for those will-



John O’Connell/Capital Press

Ken Michael and Erika Eschholz lead a tour of their Teton Full Circle Farm, a certified biodynamic produce farm in Victor, Idaho. Biodynamic farming is a closed-loop system that requires farm inputs to be produced on the same farm.

ing to make the investment. One grower reported selling biodynamic pot for \$60 per eighth-ounce, compared to about \$35 for a standard variety raised under natural light.

“They’ve been lab technicians up until now, but cannabis producers are becoming farmers, which is a beautiful thing,” Fullmer said.

Under Oregon’s industrial hemp license, Fullmer raises a medicinal cannabis variety with several “healing compounds” but without the psychoactive ingredient, THC. His own crop rotation includes medicinal herbs, such as yarrow and red clover blossom.

Fullmer has fielded calls from processors throughout the country seeking a certified biodynamic marijuana supply for oil extract production. Only eight growers are now certified or in the process of becoming certified.

Alicia Rose, founder of HerbaBuena in Northern California, makes medicinal marijuana extracts and topical products. She was the first to inquire with Demeter about certification for marijuana. Familiar with biodynamics as a consultant to high-end wineries, Rose figured the system represented a good alternative to pot farmers who are excluded from seeking federal organic status.

Rose helped a Sonoma fruit and olive farmer become the first Demeter-certified pot grower and now has six biodynamic suppliers.

“A lot of people buy it only because it has the word ‘certified’ on there,” Rose said. “In some ways, we’re lucky we live in Northern California and there’s been a considerable biodynamic movement here, especially because of the wine growers.”

Research results

Rupert, Idaho, crop scientist Jeff Miller recalled a period about 15 years when compost teas enjoyed short-lived popularity among many local potato farmers.

In his own trials, Miller

noticed no benefit from the teas — compost concentrates mixed with water and applied to soil to boost beneficial organisms.

However, a grower who attended his field day swore she had success with them. A year later, the grower acknowledged she’d switched back to conventional methods, and that her promising results were likely based on her own desire for compost teas to work.

Miller sees parallels between that grower and those who report successes with some of the more unusual biodynamic practices.

“Let’s say I do five things to my crop and three work and two don’t,” Miller said. “Without properly controlled scientific studies, it’s hard to know what things are giving you the benefit.”

Washington State University soil science professor John Reganold is among a small group of researchers who have studied biodynamic farming in depth.

Colleagues have suggested that Reganold is “out of his mind” to give the system any consideration, he said.

“I say, ‘No, they’re farmers, and they’re good farmers. They’ve got good soil, and they’re making money,’” Reganold said.

Reganold emphasizes the system generally preaches sound farming fundamentals, such as good care for animals, crop diversity, building soil health and sustainability. Reganold’s research has confirmed a slight increase in compost temperature, as well as improved respiration of soil organisms, following the addition of manure from a buried cow horn.

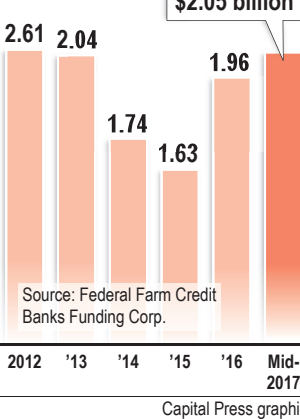
He’s seen no evidence to support claims that any of the homeopathic preparations directly result in production gains. Indirectly, however, he’s certain biodynamic farmers benefit from the preparations because they’re forced to spend more time observing their fields.

“Organic is getting bigger and bigger, and now people are saying, ‘We want a different edge,’” Reganold said.

Farm Credit System

Total non-performing loans

(Billions of dollars)



Farm Credit System’s portfolio isn’t limited to crops and livestock

LOANS from Page 1

Crop insurance payments authorized under the 2014 Farm Bill have also helped alleviate farmers’ financial problems caused by lower commodity crop prices, she said.

Meanwhile, lower crop prices equate to lower feed costs for livestock producers, boosting their profits, Gill said.

The Farm Credit System’s portfolio also isn’t limited to

crops and livestock — the network lends to rural utilities and food processors, for example.

“That’s going to be underpinning when we have certain areas that are stressed,” she said.

If economic conditions don’t improve for several years, it would likely be reflected in a greater volume of non-performing loans, said Tom Nakano, chief financial officer of Northwest Farm Credit Services, a

system lender. It’s difficult to estimate how long farm incomes would need to be down before that credit deterioration showed up, he said. “To predict it across the whole portfolio is pretty tough.”

Many farms rely on off-farm income, so some loans were affected when family members lost their jobs due to the financial crisis, said David Lewandrowski, senior policy analyst for the Farm Credit Administration, which

regulates system lenders.

For this reason, the system charged off more bad debt in 2012 and 2013 even though commodity prices were higher than today, said Lewandrowski.

“That was basically a ripple of the financial crisis,” he said.

Farm Credit lenders maintained fairly conservative lending standards even when commodity prices were high, reducing the risk of credit deterioration now that they’ve

fallen, Lewandrowski said.

“The system is well-positioned to handle it,” he said.

Due to the variety of the region’s agriculture industry, Northwest Farm Credit Services doesn’t have more than about 10 percent of its portfolio in any one sector, compared to 30 percent or more for some ag lenders, said Nakano.

“Our greatest strength is the diversity of commodities and industries that we finance,” he said.