

Fazio, WAFLA sued for sexual harassment, discrimination

By DAN WHEAT
Capital Press



OLYMPIA — A lawsuit alleging sexual harassment, racist remarks and discriminatory behavior by Dan Fazio, director of the farm labor association WAFLA, and by WAFLA is pending in federal court.

And memos to WAFLA board members purportedly from anonymous staff allege sexual harassment, discrimination, retaliation against staff who complain and poor management and illegal activities by several top staff resulting in dysfunction and high employee turnover.

Fazio told Capital Press he could not comment.

“WAFLA vigorously disputes the allegations made by a former employee and looks forward to defending itself in court,” said Kim Bresler, WAFLA’s membership and communications director. Allegations of illegal activity in the memos are “strongly and vehemently denied,” Bresler said.

Several prospective WAFLA board members decided not to come on the board because of the first memo, but the organization is functioning and is not concerned about losing clients, she said.

First known as the Washington Farm Labor Associa-

tion, WAFLA, headquartered in Lacey next to Olympia, was expanded by Fazio several years ago into the Northwest’s main provider of thousands of H-2A-visa foreign guestworkers, mainly to the tree fruit industry.

The lawsuit was filed in early June by Dawn Dobbins, a former WAFLA employee, in Thurston County Superior Court in Olympia and was moved later that month to U.S. District Court in Tacoma.

The lawsuit says Dobbins didn’t know, when she was hired by WAFLA as an administrative assistant, that “Fazio has a long history of unlawful, inappropriate and discriminatory behavior.”

It was “especially egregious considering that WAFLA provides human resources services to agricultural employers and that Fazio holds himself out as an expert on the subject of employment practices,” the lawsuit states.

“Fazio has a pattern and practice of treating female

employees with contempt and ridicule,” the lawsuit states. It further said Fazio made racist comments, including that people with darker skin should be doing all the work, that Mexicans are fat and have diabetes because they drink Coke and that an Asian account executive would do a good job for a customer because he’s Asian and therefore smart.

Dobbins was promoted to human resources and office manager in October 2016.

Fazio would sit next to her, instead of across a table, in closed-door meetings and would “cause his legs to touch hers in a sexual and inappropriate manner” and did it in a way others could not see, the lawsuit states.

“Fazio repeatedly stared at Dobbins’ breasts in a sexual manner instead of looking her in the eyes,” the lawsuit states.

When Dobbins stood up for a woman employee that Fazio didn’t like, he demoted her from human resources

manager to entry-level account executive, the lawsuit states.

Dobbins filed a formal complaint, pursuant to company procedures, on Jan. 12, 2017, and was informed on Jan. 20 that it would not be investigated for another two months. Thereafter, she was subjected to humiliation and ridicule, the lawsuit states.

George Zanatta, WAFLA chief operating officer, delivered findings on the complaint months after Dobbins submitted it and while admitting some of Fazio’s behaviors were inexcusable attempted to discredit Dobbins and called upon her to apologize to Fazio for alleged inaccurate statements, the lawsuit states.

According to the lawsuit the findings recommended Dobbins be reassigned and given corrective measures and did not recommend any discipline for Fazio other than for him to apologize to Dobbins.

The findings did not consider allegations of offensive and demeaning conduct by Fazio in the separate and prior litigation of *Mendoza v. WAFLA* that have been known to WAFLA for years, the lawsuit states. WAFLA continues to “tolerate illegal, discriminatory behavior from Fazio,” the lawsuit states.

According to the lawsuit, WAFLA and Fazio created

a discriminatory and hostile workplace for Dobbins, she filed a charge with the Equal Employment Opportunity Commission and received a right-to-sue letter and on May 31, 2017, WAFLA fired Dobbins. Dobbins refused to sign a separation agreement waiving her legal rights. The lawsuit alleges violation of state discrimination law, management negligence, unlawful termination and seeks damages to be proven at trial. A jury trial is set for Nov. 26, 2018, in U.S. District Court.

A June 14, 2017, memo to the WAFLA board purportedly from “concerned WAFLA staff, names Fazio and two other top WAFLA officers as “engaging in illegal and poor management practices.” The memo alleges sexual harassment, discrimination against women, minorities and younger and older staff and disparate treatment and pay. It alleges Fazio tampered with an internal investigation about sexual harassment.

High staff turnover resulted in not enough qualified people to keep the H-2A program running leading to fear WAFLA would lose clients, the memo states.

“If these issues are not resolved in the near future, a large group of prior and current staff will likely seek legal action against WAFLA and

the executives in this letter and may release this letter to the press,” the memo states.

A June 28, 2017, memo, again purportedly from “concerned staff,” alleges Fazio used H-2A visas for H-2B clients, that it was a common practice at WAFLA to forge employers’ signatures. Further, that WAFLA issued incorrect advertisements, gave incorrect tax advice, gave legal advice on how to fire H-2A employees and get them off workers compensation prior to them returning to Mexico, and advice on how to falsify dates of need and get around regulations.

The memo alleges Fazio instructed staff to delete emails that he did not want to be discoverable and alleges numerous other questionable actions.

The memo says a majority of WAFLA board members resigned shortly after getting a letter regarding illegal behavior of Fazio and two other WAFLA executives. Fazio told staff he would recruit new board members and it is apparent he controls WAFLA not the board nor members, the memo states.

Bresler said one board member quit for unknown reasons, another for personal reasons and that two prospective board members decided not to join after reading the first memo.

Oregon county’s aerial spray ban gets day in court

By MATEUSZ PERKOWSKI
Capital Press



Associated Press File

A helicopter prepares to apply pesticides. Oral arguments in a case challenging a ban in Lincoln County, Ore., on aerial spraying.

NEWPORT, Ore. — Supporters of a prohibition against aerial pesticide spraying in Oregon’s Lincoln County are urging a judge to uphold the ordinance even though it’s pre-empted by state law.

Lincoln County Community Rights, which supports the ban, argues that Oregon laws that pre-empt local governments from regulating pesticides are unconstitutional.

The ordinance was approved by voters earlier this year but is being challenged in a lawsuit filed by landowners Rex Capri and Wakefield Farms, who rely on aerial spraying.

During oral arguments on Oct. 9, the plaintiffs asked Lincoln County Circuit Court Judge Sheryl Bachart to declare the ordinance invalid because a local government can’t overrule Oregon law.

Not only does the county lack the general authority to enact such an ordinance, but the prohibition is specifically barred by Oregon statutes governing pesticides, forest practices and the “right to farm,” according to plaintiffs.

“There is no opportunity for local government to adopt laws that are different than state laws” regarding pesticides, said Gregory Chaimov, the plaintiff’s attorney.

Supporters of the aerial spray ban countered that the county has an inherent “natural right” to local community self-government that should be affirmed by the judge.

Under the Oregon Constitution, all power is inherent in the people, who may reform or abolish the government, said Ann Kneeland, attorney for Lincoln County Community

Rights, which intervened as a defendant in the case.

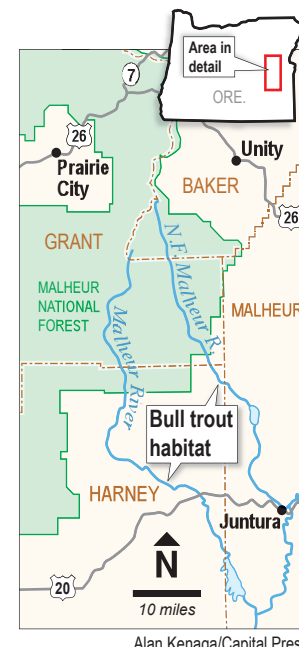
“These concepts may seem radical or revolutionary to us now but these are concepts in our Constitution,” she said.

Voters had a right to approve a ballot initiative that protects the environment and public from the “toxic trespass” of aerially sprayed pesticides, according to ordinance proponents.

Oregon lawmakers don’t have the ability to create an upper limit or “ceiling” that precludes stronger protective local standards for health and safety, they claim.

Judge: Grazing not to blame for bull trout decline

By MATEUSZ PERKOWSKI
Capital Press



Environmentalists have failed to prove that grazing along two rivers in Oregon’s Malheur National Forest unlawfully harmed the threatened bull trout, according to a federal judge.

U.S. Magistrate Judge Paul Papak has found that the U.S. Forest Service’s grazing authorizations along the Malheur and North Fork Malheur rivers haven’t violated environmental laws.

Papak has recommended dismissing a lawsuit filed against the agency by the Oregon Natural Desert Association and the Center for Biological Diversity.

The environmental groups have until mid-October to object to the recommendation, which will ultimately be decided by U.S. District Judge Michael Mosman.

The lawsuit was originally filed 14 years ago but was revived earlier this year after the plaintiffs weren’t able to reach a settlement with ranchers and the federal government.

Habitat degradation has caused bull trout populations in the two rivers to dwindle to about 100 fish, which the environmental groups blamed on grazing.

However, the U.S. Fish and Wildlife Service has concluded that grazing is unlikely to adversely affect bull trout or their habitat

in the seven allotments in question, which encompass tens of thousands of acres.

The environmental plaintiffs nonetheless claimed grazing authorizations violated the National Forest Management Act and Wild and Scenic Rivers Act.

Ranchers affected by the lawsuit and the Forest Service argued the environmentalists were impermissibly attacking the agency’s entire grazing program — which can only be changed through statute or regulation — rather than specific agency actions.

Though it was a “close question,” Papak nonetheless decided against throwing out the case on these grounds.

Even so, the judge rejected the claim that livestock grazing hadn’t met “riparian management objectives,” which must be followed “at the watershed or landscape scale, rather than stream by stream.”

While bull trout populations in the region were found to be at risk, Papak said the plaintiffs “have not shown that the Forest Service’s decisions to authorize livestock grazing caused the decline of the bull trout population or its habitat in the allotments here.”

According to the Fish and Wildlife Service, multiple factors have likely contributed to the bull trout’s misfortune, including dam-building, logging, irrigation withdrawals and the introduction of brook trout, a non-native fish, the judge said.

Papak also disagreed with the environmentalists’ claim that data collection about stream conditions was “so useless as to be equivalent to no data.”

“The record here establishes that the Forest Service reasonably monitored riparian conditions and analyzed the data collected,” he said.

The judge also rejected arguments that grazing violated the Wild and Scenic Rivers Act, noting that cattle are generally excluded from the river corridors with fencing and steep terrain.

Capital Press cancels Northwest Ag Show

After careful consideration, EO Media Events, LLC and Capital Press have made the difficult decision to cancel the 2018 Northwest Ag Show.

EO Media Events, LLC acquired the Northwest Ag Show earlier this year. Based on feedback from long-time vendors, it became apparent that holding the show in North Portland presents challenges that have hindered its success, particularly in regards to attendance.

We apologize to our show vendors, partners, sponsors and attendees for any inconvenience that this decision will cause. Please know that this decision was not made lightly as we recognize the 48-year legacy of the Northwest Ag Show and of Jim and Shirley Heater, the show’s founders, and Amy and Mike Patrick, the show’s long-time managers. The Heaters and Patricks have worked diligently over the years to make it the largest ag show in the Northwest. Our intent is to continue the tradition of a high quality, well-attended show as we look forward to 2019.

We are evaluating the feedback and suggestions from vendors and the ag community to develop a new approach to the show to make it a better investment for ven-

dors and for attendees. If you have suggestions and ideas about the show,

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