

Dairy slapped with \$10,000 penalty

By MATEUSZ PERKOWSKI
Capital Press

Oregon's farm regulators have slapped a \$10,640 penalty on a major new dairy near Boardman, Ore., for allegedly discharging waste in violation of permit conditions.

The company, Lost Valley Farm, is also facing two lawsuits filed by contractors who claim they haven't been paid for installing equipment and providing construction services.

A "confined animal feeding operation" inspection by the Oregon Department of Agriculture found on Dec. 5, 2017, that wastewater from the dairy had overflowed into a pit that's not authorized for storage, which wasn't reported to the agency as required.

The dairy, which eventually plans to milk 30,000 cows, was also faulted for maintaining inadequate lagoon storage capacity to deal with runoff in case of a storm.

Another inspection on Dec. 15, 2017, found that liquid and solid manure had discharged from a tank, flowing into areas unauthorized for waste storage, which again wasn't reported to ODA.

Civil penalties of \$10,640 were recently imposed on the dairy for these violations, but the company may request an administrative hearing on the matter by mid-February.

Aside from these violations, the company was issued three notices of non-compliance with its CAFO permit between late June and late November of last year, which required corrective actions.

Capital Press was unable to reach a representative of Lost Valley Farm as of press time.

The situation is concerning to ODA because the Lost Valley Farm facility is brand new, having just begun operating last April, said Wym Matthews, manager of the agency's CAFO program.

"It's like a new car, you don't expect to have trouble with it," he said.

In this case, though, the problems don't stem from equipment malfunctions, but rather from management errors that weren't remedied quickly enough, Matthews said.

It's difficult to compare the different circumstances under which dairies receive penalties, he said.

However, fewer than 1 percent of the 880 CAFO inspections conducted by ODA last year resulted in fines, and \$10,000 for a first penalty is "a decent amount of money," Matthews said.

"Hopefully, they will get the message and operate according to the permit. That's our goal," he said.

Aside from its inspection troubles, the Lost Valley Farm was also recently sued by Daritech, a dairy equipment manufacturer, in federal court for allegedly failing to timely pay more than \$340,000 for the installation of equipment.

Oregon ranch loses Rogue River lawsuit

Plaintiffs feared loss of grazing, water and mining rights

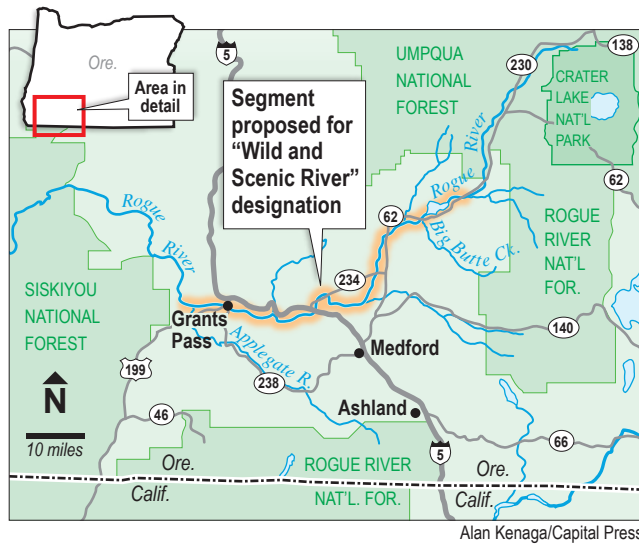
By MATEUSZ PERKOWSKI
Capital Press

A federal judge has dismissed an Oregon ranch's lawsuit that sought to block the possible "wild and scenic" designation of a stretch of the Rogue River.

In 2016, the U.S. Bureau of Land Management decided a 63-mile segment of the river was "suitable" for protection under the federal Wild and Scenic Rivers Act.

The Double R Ranch, which owns roughly 1,000 acres along the river, filed a complaint against BLM last year arguing the segment wasn't "free-flowing" as required by that statute.

The Oregon Cattlemen's Association and the Oregon



Alan Kenagal/Capital Press

Aggregate and Concrete Producers Association joined the lawsuit as plaintiffs because they feared a designation would restrict grazing and mining.

U.S. District Judge Christopher Cooper in Washington, D.C., has now thrown out the complaint because the harms allegedly suffered by the

plaintiffs are too hypothetical to give them legal standing in federal court.

While the local BLM district has found the 63-mile stretch suitable as a "wild and scenic" river, the actual designation would still have to be recommended by the U.S. Secretary of the Interior, ap-

proved as a bill by Congress and signed by the president, he said.

"In any event, few things are more hypothetical and speculative than Congress passing a specific act of legislation," the judge said.

Ranchers and miners worry that "wild and scenic" protection will prohibit streambank stabilization projects and lead to the loss of water rights, grazing rights and mining rights.

Even if the designation was finalized, the plaintiffs could still seek permission for various projects and activities along that stretch of the river, Cooper said.

"Plaintiffs do not explain why it is certainly likely that their permits would be denied given that such actions or permits can be approved. Thus, even the last link in the causal chain remains somewhat speculative," he said.

Jerome Rosa, executive

director of the Oregon Cattlemen's Association, said the ruling was disappointing, since the lawsuit was effectively the last chance to prevent the "wild and scenic" designation.

Once a river segment is deemed suitable, it's likely to receive federal protection under the statute, which will probably involve grazing curtailments, Rosa said.

"We know our ranchers' ability to do business would definitely change," he said.

Rogue Riverkeeper, a local environmental group, had urged the judge to dismiss the case because the plaintiffs didn't face any imminent injury from the designation.

The 63-mile stretch is unique because three dams that once impounded its water have been removed, and it would connect two segments of the Rogue River already designated as "wild and scenic," the group said.

Senate panel strips down pesticide-alert bill

Focus shifts to safety

By DON JENKINS
Capital Press

OLYMPIA — A pesticide-notification bill that only faintly resembles the one that alarmed Washington farmers was passed Tuesday by the Senate Ways and Means Committee.

The bill's sole surviving provision calls for appointing a work group to study how to make spraying on farms safer. The legislation has been so reworked that it has the backing of the Washington Potato and Onion Association.

"We're supporting the bill as it is now," the association's lobbyist, Jim Jesernig, said. "We'd like to do everything we can to reduce drift."

As introduced, Senate Bill 6529 provoked a backlash from growers and farm groups. The bill's key feature was to require farms to inform the state Health Department four business days before spraying pesticides. The department would give nearby schools and residents two-hour notice.

The bill also called for fining farmers who failed to provide the department with detailed monthly reports of



Courtesy Washington State Department of Agriculture

A Washington State Department of Agriculture training manager drives an air-blast sprayer through a pear orchard in Wenatchee. The Senate Ways and Means Committee advanced a bill Feb. 6 to form a work group on pesticide safety.

pesticide applications. Columbia Legal Services, the Washington State Labor Council, the Washington Education Association and other groups endorsed the bill.

The premise of the bill, introduced by Seattle Democrat Rebecca Saldana, was that residents and school children near farms are constantly exposed to pesticides. The legislation that passed the budget committee on a 16-6 vote was stripped of such accusations.

The bill makes no immediate demand on farmers. A panel of legislators and state officials, including the Department of Agriculture, would be charged with developing recommendations by Nov. 1 for improving the safety of pesticide applications.

The work group could ask for advice from farmers, pesticide applicators, labor leaders, school officials and environmentalists, but they would not be on the panel.

Farm groups have been lobbying legislators for several years to budget more money for training pesticide applicators.

"You kind of don't need a bill, but if it's something people want we support it," Jesernig said. "The focus is on the front end. An ounce of prevention is worth a pound of cure."

A hearing on the original proposal Jan. 25 drew dozens of farmers and pesticide ap-

plicators. They told the Senate Labor and Commerce Committee that they can't wait four business days to spray for insects and plant diseases.

"Ag folks acted really quickly, and the legislators to their credit took note of it," Jesernig said.

Farmers, along with some Republican legislators, also made the point that allowing pesticides to drift off target is illegal and fined by the state agriculture department.

The labor committee removed the four-day notification and monthly reports, and proposed creating a "modernizing" work group made up of public and private interests to develop a notification system.

The budget committee held a hearing on the bill Monday. Heather Hansen, executive director of the Washington Friends of Farmers and Forests, criticized the labor committee's bill for assuming pesticide applicators regularly break the law and that the agriculture department can't stop it.

"We support a work group, but let's start with an open-minded, even-handed work group that can look at ways to prevent drift from happening in the first place," she said.

D.C. Circuit Court delays manure air rule until May 1

EPA wins time to prep farms

By DON JENKINS
Capital Press

The D.C. Circuit Court of Appeals today gave the Environmental Protection Agency until at least May 1 to prepare farms to register their livestock as sources of hazardous gases.

The order granting the stay was signed by judges Stephen Williams, a Reagan appointee, and Sri Srinivasan, an Obama appointee.

The stay, the third granted by the court at the EPA's request, delays a mandate for farmers to report emissions from decaying manure under the Comprehensive Environmental Response, Compensation and Liability Act, also known as the Superfund law.

Factories and vessels covered by the act must report chemical leaks and spills to the Coast Guard's National Response Center. The EPA sought to exempt livestock emissions on the grounds that decomposing manure isn't an emergency. Environmental groups sued, and the D.C. court agreed in April that the

information could be useful to emergency responders.

The EPA has repeatedly asked for time to inform producers about the pending mandate, provide guidance on calculating emissions and develop a reporting form tailored for agriculture.

The court had previously granted stays in August and November. The National Pork Producers Council and U.S. Egg & Poultry Association filed briefs supporting EPA's motion. The trade groups said that farmers were still confused about the mandate and at risk of running afoul of the law. Failing to report could result in \$50,000-a-day fines.



Don Jenkins/Capital Press File

The D.C. Circuit Court of Appeals has delayed implementation of a rule requiring farmers to report the hazardous gases that livestock produce.

The law allows private groups to file federal lawsuits alleging noncompliance.

Farms with livestock that

emit more than 100 pounds of ammonia or hydrogen sulfide in a 24-hour period will have to report. The EPA, in an ef-

fort to ease the requirement, says farmers will be able to register their animals as continuously releasing gas, rather than make daily reports.

There is no generally accepted way to estimate emissions from manure, which varies based on seasons, climate, geography and farm operations.

The environmental groups that sued the EPA to bring farmers under the Superfund law did not file a response to EPA's motion for more time. According to the EPA, the groups, led by the Waterkeeper Alliance, did not object to the stay in a written statement to the agency.

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Item/description	Ore.	Wash.	Idaho	Calif.
• Snow water equivalent*	44.3%	99.4%	85.5%	37.7%
• Percent area in drought	87.8%	9.5%	39.5%	73.3%
• Avg. temperature, 6-10 day outlook (Percent chance deviation from normal)	33-40% above	Normal	Normal/ 33% above	40-50% above
• Precipitation, 6-10 day outlook (Percent chance deviation from normal)	40-60% below	33-50% below	Normal/ 50% below	33-60% below
• Soil moisture anomaly (Monthly deviation from normal)	Normal/ Below normal	Normal/ Above normal	Normal/ Above normal	Below normal

*Aggregate average percent of median as of Feb. 6. Medians calculated for the period from 1981-2010. Sources: USDA, NRCS; NOAA, www.ca.gov; www.drought.gov/

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