

W. Oregon, SW. Wash. blanketed by ‘severe drought’

By **DON JENKINS**
Capital Press

Western Oregon and southwest Washington have deteriorated from moderate to “severe drought” in the past week, the U.S. Drought Monitor reported Thursday.

A severe drought that already had covered much of Eastern Oregon crossed over the Cascades into the Willamette Valley and as far south as Douglas County. The percentage of the state in severe drought more than doubled to 55 percent from 25 percent. The southwest corner of Washington, making up 6 percent of the state, moved from moderate to severe drought. It’s the first time any part of Washington has been in a severe drought since late 2015.

“What we really need is to see some recovery in soil moisture and streams flows, and the long-term forecast is hot and dry,” said Kathie Delo, associate director of the Oregon Climate Change Research Institute.

The weekly drought report, a snapshot of current conditions, continues a summer-long trend toward drought developing in the Northwest. The USDA reported this week that while some crops were thriving in the heat, others were showing signs of stress.

The USDA, National Oceanic and Atmospheric Administration, and the University of Nebraska collaborate on the Drought Monitor. The four stages of drought range from moderate to exceptional.

Some 83 percent of Oregon and 29 percent of Washington are at least in moderate drought. Most areas not in drought are “abnormally dry,” according to the monitor.

Two months ago, Washington was on the wet side, as was Western Oregon. The National Weather Service’s Climate Prediction Center says the odds favor above-average temperatures and below-normal precipitation to continue for the rest of the summer.

Washington State Assistant Climatologist Karin Bumbaco said periodic summer rains have been absent, while temperatures have been high.

“It’s looking like it’ll get worse before it gets better,” she said.

In Idaho and California, conditions have been steady. Some 6 percent of Idaho is in a moderate drought, while drought conditions range from moderate to extreme over 44 percent of California.

Washington State Climatologist Nick Bond said he expects August to be warmer than average, but for temperatures to be more moderate than in July.

“I don’t think there will be the sustained heat as it has been in July,” he said.

Sea-surface temperatures along the equator in the Pacific Ocean have been warming up. There is a 70 percent an El Niño will form next winter, according to the Climate Prediction Center. Northwest winters are generally warm during an El Niño.

Lost Valley dairy owner defends against contempt charge

By **MATEUSZ PERKOWSKI**
Capital Press

PORTLAND — The owner of a controversial Oregon dairy claims the state government wants to shut down the facility just as it’s about to comply with wastewater regulations.

Oregon farm regulators are seeking a court order to stop Lost Valley Farm of Boardman from producing wastewater — which would effectively halt operations — because it’s disregarding a previous legal settlement.

Greg te Velde, the owner, said there have been “some spills and splashes” at the facility but maintains they’ve been “nothing catastrophic.”

Though he acknowledged defaulting on the legal agreement, te Velde said he’d always intended to honor the deal despite facing “a steep learning curve.”

Upgrades to the dairy will soon mitigate wastewater problems, te Velde said during a July 27 court hearing in Portland.

“I think we’re on the cusp of having it all done,” he said.

In March, Lost Valley Farm of Boardman, Ore., settled a lawsuit with the Oregon Department of Agriculture by agreeing to limit its wastewater output to 65,000 gallons a day.

Since then, however, the dairy has violated the deal by exceeding that threshold almost daily and failing to maintain adequate capacity in manure lagoons, for which te Velde should be held in contempt of court, according to ODA.

“On most of these days, it’s a pretty significant excess use,” testified Wym Matthews, manager of ODA’s confined animal feeding operation program.

According to ODA’s estimates, the excess ranged from 19,000 to 375,000 gallons per



Mateusz Perkowski/Capital Press

day, he said. The agency also estimates the amount of manure applied to six of seven nearby fields surpassed the agronomic requirements of crops, which is prohibited due to the possibility of nitrogen pollution.

“It consumes those nutrients so they don’t become pollutants, so that balance is critical,” Matthews said. Although ODA is in the process of revoking the dairy’s “confined animal feeding operation” permit, it will take two months for that action to become final, or even longer if the order is contested by te Velde.

Because wastewater violations at the dairy haven’t ceased, there’s a “serious risk” of groundwater contamination unless the situation is brought under control this summer, the agency claims.

It’s “particularly important” for Lost Valley Farm to comply with CAFO permit conditions because it’s in the “environmentally sensitive” Lower Umatilla Groundwater Management Area, which already has elevated levels of nitrate contaminants, the agency said.

ODA is worried that pollutants from the dairy will eventually reach groundwater, even if they haven’t yet, said Matthews. “Our concern is the operator is loading the soil,” he said. If the soil continues to be loaded with nitrogen, pollutants would be expected to reach the groundwater within two years under water-saturated conditions, said Kirk Cook, a geologist and program manager of ODA’s pesticide stewardship program.

However, the nitrogen remains immobile when the soil isn’t saturated and the dairy is in an arid part of the state, he said.

The ODA has requested that Multnomah County Circuit Judge Kelly Skye issue remedial sanctions requiring Lost Valley Farm to cease wastewater production within 60 days and remove waste from lagoons to free up 75 acre-feet of storage capacity.

Of the all dairies inspected by ODA this year, the facility was the only one to have a lagoon overflow and the only one that didn’t turn over agronomic data, said Matthews.

The dairy began construction of a fourth manure lagoon

to alleviate the storage problems, but it didn’t first notify ODA to ensure the construction complied with waste management plans, as required, he said.

“That is a general theme — showing up to find things we should have known about,” said Matthews.

An attorney for te Velde argued the government’s contempt case should be dismissed because it’s duplicative of the permit revocation process.

The judge denied that motion because the dairy cannot violate the earlier judgment regardless of those proceedings.

To reduce water usage, the dairy has installed water-saving nozzles and cut down on “flush times,” te Velde said.

A neighboring farmer has agreed to have wastewater applied to his fields and the dairy is installing piping that will deliver wastewater directly to crops, he said.

Improvements have been delayed by the company’s bankruptcy proceedings, since investments must be cleared by a judge and creditor committee, te Velde said.

Shutting down the dairy would be “a really extreme remedy” since te Velde has spent roughly \$700,000 trying to comply with the legal settlement, said Elizabeth Howard, his attorney.

The state hasn’t shown “clear and convincing” evidence that he violated the deal “willfully,” which is necessary to prove contempt, Howard said.

Since starting operations last year, the dairy has repeatedly been cited by ODA for breaching the terms of its CAFO permit with unauthorized waste discharges and other problems.

Despite the ODA’s “exhaustive efforts” to bring Lost Valley Farm into regulatory compliance — including a fine of more than \$10,000 — the

violations have continued, the agency said.

“We’ve done everything a regulatory agency can do,” said Nicole DeFever, attorney for the state government.

Skye, the judge, said she will deliberate on the meaning of “willful” in this context.

The idea that unsuccessfully trying to comply with the deal shields te Velde from being held in contempt “doesn’t sit right with me,” she said. “I don’t think merely making efforts for lengthy periods of time will keep you out of willful conduct,” Skye said.

While te Velde has filed for Chapter 11 bankruptcy protection, which shields his dairies from creditors foreclosing on property, that “automatic stay” doesn’t apply to regulatory actions aimed at remediating environmental hazards, according to ODA.

The bankruptcy petition was filed in April to stop Rabobank, the dairy’s major lender, from holding an auction to sell Lost Valley Farm’s cattle to recoup some of the roughly \$60 million it loaned te Velde.

As part of bankruptcy proceedings, a subsidiary of the Tillamook County Creamery Association has filed a lawsuit to terminate its milk-buying contract with Lost Valley Farm, citing high bacteria levels in milk, reputational damage and unpaid debts.

More recently, the federal government filed a motion for a “Chapter 11 trustee” to take over management of te Velde’s company, which includes two other dairies in California, because he’s allegedly admitted to regularly gambling and using methamphetamine since filing for bankruptcy.

Appointing a trustee is also warranted because te Velde has withdrawn more money than allowed from his company and obtained a loan without authorization, according to the motion.

Judge denies preliminary injunction in Klamath Tribes suit

By **GEORGE PLAIVEN**
Capital Press

Klamath Project irrigators are breathing a sigh of relief after a federal judge in San Francisco denied a preliminary injunction to hold more water in Upper Klamath Lake for endangered sucker fish.

The injunction was requested by the Klamath Tribes as part of a lawsuit against the Bureau of Reclamation, U.S. Fish and Wildlife Service and National Marine Fisheries Service to protect declining populations of Lost River and shortnose suckers in the lake.

Judge William Orrick also granted a motion to transfer the case to the U.S. District Court in Oregon. Though he presided over a separate lawsuit filed by the Hoopa Valley and Yurok tribes of northern California seeking to protect salmon in the lower Klamath River, Orrick noted that Upper Klamath Lake, the endangered suckers and the Klamath Tribes are all in Oregon.

“Whether venue is proper in the Northern District of California is not obvious, but the District of Oregon is clearly more appropriate to hear this case,” Orrick wrote in the order, filed Wednesday.

As for the preliminary injunction, Orrick described it as an “extraordinary remedy” given the situation, while adding the scientific evidence is “very much in dispute.”

“I cannot conclude that the



Associated Press File

Klamath Falls, Ore., on the far side of Upper Klamath Lake. A federal judge has denied a request for a preliminary injunction to keep more water in the lake to protect two species of sucker fish.

Klamath Tribes are likely to prevail on the merits nor that the sucker fish are suffering irreparable injury as a result of the lake elevation levels,” Orrick wrote.

Both the Lost River and shortnose suckers were listed as endangered in 1988. The fish are a culturally significant food for the tribes, though harvest diminished from more than 10,000 suckers in 1968 to just 687 in 1985.

According to the tribes’ lawsuit, the cause stems from increased agricultural activity since the inception of the Klamath Project, which provides

surface water irrigation for 230,000 acres in Southern Oregon and Northern California.

Today, the tribes harvest just two suckers every year for ceremonial purposes.

Don Gentry, chairman of the Klamath Tribes, said they were disappointed in Orrick’s decision, but they will be ready to present their arguments before a new judge and do what is necessary to protect the fish.

“We’re really concerned about the fish this year and into the future,” Gentry said. “Hopefully we won’t have a significant die-off this season, but we’ll see.”

Wolves kill another calf

Predation occurred in Harl Butte area

By **GEORGE PLAIVEN**
Capital Press

Oregon wildlife officials have confirmed wolves killed another calf July 22 in the Harl Butte area of Walla Walla County, where repeated attacks on cattle in 2016 and 2017 to several “lethal take” permits for the offending pack.

The latest incident happened on a public grazing allotment within the area of known wolf activity for the Harl Butte pack. A rancher reportedly saw two wolves in the vicinity before finding a dead, partially eaten calf.

Ranchers’ struggles with the Harl Butte pack date back several years. Wolves preyed on cattle six times between July 15, 2016 and July 22, 2017, prompting the Oregon Department of Fish and Wildlife to kill two wolves in August 2017 to prevent future attacks.

Just one week later, the pack notched another depredation, leading to a second kill order by ODFW for another two wolves. The Oregon Cattlemen’s Associ-

ation had argued for killing the entire pack, while environmental groups decried killing any wolves, favoring stronger requirements for non-lethal deterrents.

By the end of 2017, the Harl Butte pack had four animals left and was not counted as a breeding pair, according to the state’s population estimate. There are a minimum of 124 wolves across the state, and the species remains federally endangered in Western Oregon.

Derek Broman, state carnivore biologist for ODFW, said it is not clear whether those wolves disbanded and joined with other neighboring packs, such as the Pine Creek, which also had three wolves killed by ODFW earlier this year after a string of livestock attacks.

Broman said the department has not received any new requests for lethal control.

Shooting wolves remains a contentious point in the state’s wolf conservation and management plan, which is now undergoing an update. ODFW recently hired a professional mediator, Debra Nudelman of Portland, to try to help resolve lingering disagreements.

BRUSH MULCHERS FOR ALL CARRIERS

BAUMALIGHT.COM

MFG OF BRUSH MULCHERS | STUMP GRINDERS | DRAINAGE PLOWS
BOOM MOWERS | PTO GENERATORS | AUGER BITS & DRIVES
TRENCHERS | TREE SPADES | TREE SAWS | LIMB SHEARS AND MORE

ELLIS EQUIPMENT 800-949-2336

31-53/102

Weekly fieldwork report

Item/description <small>(Source: USDA, NASS; NOAA)</small>	Ore.	Wash.	Idaho	Calif.
• Days suitable for fieldwork (As of July 29)	6.8	7	6.9	7
• Topsoil moisture, surplus	0	0	8%	0
• Topsoil moisture, percent short	84%	63%	56%	75%
• Subsoil moisture, surplus	0	0	8%	0
• Subsoil moisture, percent short	82%	58%	52%	75%
• Precipitation probability <small>(6-10 day outlook as of July 31)</small>	33-80% Above/ Normal	33-80% Above	33% Above/ 33% Below	40% Above/ Normal

YOUR FARM TIRE HEADQUARTERS

Les Schwab Tire Centers are proud to sponsor the Fieldwork Report.
We have over 475 stores throughout the West! www.LesSchwab.com