Oregon county ordered to stop work on controversial trail project

By MATEUSZ PERKOWSKI
Capital Press

Oregon's Land Use Board of Appeals has ordered Yamhill County to stop building a bridge that's part of a controversial recreational trail opposed by local farmers.

Last year, LUBA blocked the county's approval of a 2.8-mile portion of the trail, ruling that the local government must analyze the project's impacts on agriculture more rigorously.

The Yamhelas-Westsider trail's effects on pesticide spraying, food safety and trespass problems weren't sufficiently studied by the county, according to LUBA.

Farmer John Van Dyke said he's already had problems with visitors along the portion of the proposed trail that abuts his 22 acres of cattle pastures and hay fields near Yamhill, Ore.

"People that come in and use the trail don't respect property rights," Van Dyke said. "These fences are designed to keep cows in, not keep dogs out."

However, the board disagreed with the project's opponents that Yamhill County had wrongly entered into a contract with an engineering firm to design three bridges along the trail, much of which would be converted from an existing railroad easement.

LUBA ruled that the design contract didn't authorize any actual development and so it wasn't subject to the land use process.

Van Dyke and other farmers who oppose the trail nonetheless noticed that work on one of the bridges had begun this spring, which led their attorney to find that Yamhill County had signed a contract for its construction in January.

"They saw them starting to construct the bridge and thought, 'What the heck?'" said Wendie Kellington, their attorney.

John Van Dyke, a farmer near Yamhill, Ore., points to bridge work conducted by Yamhill County that was recently halted by Oregon's Land Use Board of Appeals.

Under the terms of the contract, the county agreed to pay more than $560,000 for Farline Bridge Inc. to finish the project by May 1.

The bridge would likely already be completed under the ordinary timeline for challenging county land use decisions before LUBA, which prompted Kellington to ask the board to expedite the process.

Kellington filed a motion requesting that LUBA immediately suspend the county's decision to proceed with bridge construction over Stag Hollow Creek because it didn't comply with any required land use procedures.

"They figure if they build it, maybe they can ask for forgiveness to keep it," Kellington said. "Why are you spending all this public money before you know you can get the trail approved?"

Todd Sadlo, Yamhill County counsel, said that upgrading the bridge isn't subject to the land use process because it's simply providing the county with access to its own property without officially opening the trail to the public.

"We know we don't have the right to open a public trail and we're not going to," Sadlo said. "We're not improving the whole trail, we're just taking money we already had to improve this bridge."

According to opponents, the county's decision ignored LUBA's earlier order to conduct a more substantive review of farm impacts, while the bridge itself would cause irreparable injury to local farmers by providing the public with access to the trail.

Ben Van Dyke, who grows hazelnuts, blueberries and seed near the proposed trail, said he's concerned about ensuring food safety when urban visitors can encroach onto farmland.

"I've got to prove I can provide a safe product for the public," he said. "The buyers demand it, and we've got to be able to meet the needs of the buyers."

On April 10, LUBA granted the farmers' motion for an interim stay of the county's decision, based on legal precedents in which the board had stopped the demolition of historic buildings.

The county will have until April 16 to respond to the opponents' arguments and LUBA expects to decide whether to extend the stay of the bridge project by April 23.

JBS

JBS USA has closed its beef processing facility in Greeley, Colo., until April 24.

COVID-19 causing more problems for meatpackers

By CAROL RYAN DUMAS
Capital Press

Beef and pork processors already shifting gears to deal with the shutdown of restaurants and other foodservice establishments are getting hit with another wave of upheaval as coronavirus strains their workforce.

JBS USA announced on Monday the temporary closure of its beef processing facility in Greeley, Colo., until April 24. The company is advising its 6,000 employees there to shelter in place to help combat the spread of coronavirus in Weld County, which is experiencing a growing outbreak.

"While the Greeley beef facility is critical to the U.S. food supply and local producers, the continued spread of coronavirus in Weld County requires decisive action," JBS USA CEO Andre Nogueira, said in a press release.

JBS had already temporarily closed its beef plant in Souderton, Pa.

Smithfield Foods announced on Sunday the closure of its pork processing plant in Sioux Falls, S.D., until further notice.

"The closure of this facility, along with a growing list of other protein plants that have shuttered across our industry, is pushing our country perilously close to the edge in terms of our meat supply," Smithfield President and CEO Kenneth Sullivan said in a press release.

National Beef Packing Company suspended production at its Iowa Premium plant in Tama, Iowa, on April 10 after numerous employees tested positive for COVID-19. The company stated processing will be suspended until the week of April 20.

Tyson Foods suspended operations at its pork processing plant in Columbus Junction, Iowa, on April 7 due to more than two dozen cases of COVID-19 at the facility. It is diverting hogs scheduled for delivery to the plant to some of its other pork plants in the region.

"Our meat and poultry plants are experiencing varying levels of production impact due to the planned implementation of additional worker safety precautions and worker absenteeism," Tyson CEO Neil White said in a press release.

In additional, deep cleaning and sanitizing sometimes requires suspending at least one day of production, he said.

NCBA CEO Colin Woodall said the closure of beef packing plants will have an impact on cattle and beef prices.

"Plant closures or slowdowns have significant regional and national implications that will ripple through the marketplace at a time when cattle producers are already suffering from market uncertainty and economic hardship," he said.

NORPAC countersues processor for $10M

By MATEUSZ PERKOWSKI
Capital Press

The former NORPAC cooperative is countersuing a food processor owned by farm entrepreneur Frank Tiegs for allegedly breaching a contract to pay $10 million for finished goods.

Last month, National Frozen Foods, a company owned by Tiegs in Albany, Ore., filed a complaint claiming to have bought bulk goods whose value NORPAC had inflated by more than $7 million.

The complaint said that due to food safety or quality problems, about 19.7 million pounds of bulk goods should have been excluded from the sale price of NORPAC's facility and assets in Quincy, Wash., which Tiegs agreed to buy last year for up to $107 million.

The lawsuit sought to deduct the alleged $7 million overpayment from the $10 million Tiegs agreed to pay NORPAC for finished goods in another transaction.

The cooperative, which is now called North Pacific Canners & Packers, argues that National Frozen Foods is attempting an "illegal setoff" and claims the complaint is "another example" of the "strategy" used by Tiegs during NORPAC's bankruptcy proceedings.

Capital Press File

Workers at NORPAC Foods prepare onions for processing. The cooperative, now known as North Pacific Canners & Packers, has filed a $10 million countersuit against a food processor.

Last year, Tiegs initially agreed to buy all of NORPAC's facilities and other assets in Oregon and Washington for $155 million but later backed out, citing environmental and regulatory concerns. NORPAC's attorneys claimed those allegations were made in bad faith in an attempt to renegotiate the deal.

In an answer to the National Frozen Foods complaint, the cooperative denies mis-classifying any of the bulk inventory or causing an overpayment.

The cooperative claims its $10 million sale of finished food products is covered under the Perishable Agricultural Commodities Act, or PACA, under which the $7 million price offset sought by Tiegs is impermissible.

Under PACA, the buyer must keep the funds owed to the produce seller in trust.

The cooperative claims these trust assets can't be used to offset the alleged overpayment amount under an established legal precedent, among other legal reasons.

Under NORPAC's sale agreement, the amount of damages that can be recovered by Tiegs is capped at $2 million that's held in an escrow account, the cooperative argues.

The cooperative has also filed several counterclaims, alleging that it's an unpaid supplier entitled to PACA trust protections and demanding payment of the $10 million for finished goods from National Frozen Foods.

The cooperative is also seeking compensation for litigation costs because it wasn't timely paid for the finished goods.

Washington does brisk business in hemp licenses

By DON JENKINS
Capital Press

Interest in growing hemp doesn't appear to be waning in Washington, according to the state Department of Agriculture.

Since the beginning of the year, the department has issued 67 licenses to grow hemp. Last year in late May, the department had licensed 35 hemp farmers. The department hasn't seen anything yet to suggest the state will see a drop in the roughly 6,000 acres planted last year, a spokesman said.

Industrial Hemp Association of Washington director Bonny Jo Peterson said some growers, stung last year by poor sales, are reducing acres or not planting at all. But new growers are coming on board, though their plants might not sell, she said.

"This year I'm not very optimistic about people actually being able to get their crop to market," she said.

Hemp acreage in the U.S. more than quadrupled in 2019, according to the advocacy group Vote Hemp, as growers sought to supply a perceived demand for cannabidiol, or CBD, which many people say has health benefits.

The USDA doesn't report on the hemp market, but some industry publications and state agriculture departments report that the supply of hemp grown for CBD exceeded the demand. The Oregon Department of Agriculture reported that the number of licensed hemp growers is down more than 75% compared to this time last year.

Washington was not among the top hemp-producing states last year, but it was the first time more than one grower planted it.

Grays Harbor farmer Jay Gordon, a dairyman, grew about 5 acres of hemp and said that turned out to be about 4 1/2 acres too many. Most of his crop is in storage, he said.

"We sold virtually nothing," Gordon said. "The market is pretty saturated."

Gordon said hemp was easy to grow, and there were potential buyers, but deals weren't completed. "Guys would come out, show interest, 'Yeah, that's nice stuff, we'll get back to you,' and then nothing."

A one-year license to grow hemp in Washington costs $750, but will increase to $1,200 on June 1. Peterson said some growers have obtained licenses, anticipating the fee hike, but haven't decided whether to go ahead and plant.