

Unsecured NORPAC creditors seek lawsuit over failed deal

By **MATEUSZ PERKOWSKI**
Capital Press

Unsecured creditors of the former NORPAC cooperative are seeking to pursue claims against an agribusiness company that backed out of buying the bankrupt processor’s assets last year.

A committee representing unsecured creditors — which lack collateral for their loans to NORPAC — has asked a bankruptcy judge for permission to file a complaint against the Oregon Potato Co.

Oregon Potato Co. is owned by agribusiness entrepreneur Frank Tiegs, who initially agreed to buy NORPAC’s four processing facilities and other assets for \$155.5 million but withdrew from the deal over alleged regulatory and environmental issues.

The former NORPAC cooperative, now known as North Pacific Canners & Packers, has agreed to have the litigation pursued on its behalf by the unsecured creditors, who’d recover any additional funds if the complaint was successful.

Under the processor’s proposed bankruptcy plan, unsecured creditors currently stand to be repaid for 10 to 45% of the \$75 million they’re owed — depending on the outcome of other lawsuits involving the cooperative.

The unsecured creditors want to file a lawsuit accusing Oregon Potato Co. of violating an asset purchase agreement with NORPAC in October 2019 and breaching its “duty of good faith and fair dealing.” The complaint would seek money damages in an amount to



Capital Press File

Frozen peas head to the bagging machines at NORPAC Foods in Salem.

be proven at trial as well as attorney fees.

Capital Press was unable to reach Joe VanLeuven, attorney for OPC, for comment as of press time.

In terminating the deal, OPC wrote that it’s “not satisfied with the results of its due diligence investigation and is therefore electing not to proceed with the transaction.”

At the time of its bankruptcy filing in August 2019, NORPAC expected to sell substantially all of its assets to Tiegs, including a processing plant in Quincy, Wash., and three facilities in Oregon.

After realizing no other company planned to compete for NORPAC’s assets, however, Tiegs pulled out of the agreement minutes before the bid deadline, which was a “thinly veiled attempt to re-trade the deal in order to achieve more favorable terms,” according to the court motion filed by the unsecured creditors.

The last-minute maneuver caused “significant disruption” and added substantial costs to the bankruptcy proceedings, the motion

said. “Rather than closing on a planned sale of substantially all of the Debtors’ assets within approximately two months of the Petition Date, the Debtors, estate professionals, and all creditors and parties in interest were faced with attempting to salvage value for all stakeholders with an uncertain outcome and under severe time constraints.”

After this first deal fell through, Tiegs ended up buying the facility in Quincy, Wash., and bulk goods for \$109 million and finished goods for another \$10 million. Meanwhile, the cold storage company Lineage Logistics bought the Oregon facilities in Brooks, Salem and Stayton for \$49 million.

Lineage Logistics retained the plant in Salem but resold the property in Brooks for \$13.5 million and in Stayton for \$3.8 million to Tiegs.

According to the unsecured creditors’ motion, the “events that transpired subsequent to OPC’s improper termination” of the asset purchase agreement show that its actions were made “in bad faith and without basis.”

WDFW plans new ways to watch cattle in wolf country

By **DON JENKINS**
Capital Press

State wildlife managers will test several new ways to reduce conflict this summer between wolves and livestock in northeast Washington, asking ranchers to try electronic ear tags, drones, cow bells and reflective collars to monitor cattle grazing in rugged forests.

Candace Bennett, a wildlife conflict specialist with the Washington Department of Fish and Wildlife, said humans patrolling pastures will remain the top deterrence, but new supplements are needed because wolves wise up to flashing lights and flapping ribbons.

“Our tool bin is kind of stale,” she said. “If these new things work out, great. If they don’t, we’ll have learned some valuable lessons.”

Fish and Wildlife Director Kelly Susewind promised Gov. Jay Inslee last fall the department would come up with previously “unused tools” to deter wolf attacks on livestock. Inslee had said the cycle of depredations on cattle and lethal removal of wolves in the Kettle River Range was “unacceptable.”

Fish and Wildlife last summer eliminated the OPT pack there. Wolves were preying on cattle owned by the Diamond M Ranch. With the OPT pack gone, a new wolfpack, the Kettle pack, has formed in the territory.

Bill McIrvin, a partner in the family-owned Diamond M, said non-lethal measures — new or used — must be backed by lethal removal.

Fish and Wildlife has been too slow to respond to depredations, he said, and the result has been more

dead cattle and packs that can’t be hazed away and have to be eliminated entirely.

“Non-lethals could be beneficial if they had a good lethal protocol,” he said. “Without a good lethal-removal protocol, where they move in immediately and kill wolves where they’re killing cattle, it doesn’t matter.”

The new non-lethal measures the department plans to try include:

- Cow bells and reflective collars to make cattle easier to watch in forests. Bennett said she hopes the noise will deter wolves, not attract them.

- The department hopes to try a drone to monitor herds and find cattle carcasses, helping confirm that wolves are preying on livestock. “You get a bird’s-eye view of what’s going on for miles,” Bennett said.

- Ear tags to transmit a cow or calf’s location. The department hopes to experiment with tags that also monitor the cow’s eating and sleeping habits, and overall health and stress level, perhaps a warning sign that wolves are near.

- The department has lined up a dog and handler to go to reports of dead cows or calves. The dog will sniff around for wolves and other carcasses, helping investigators find other dead cattle and determine whether wolves were responsible. “The longer you wait, as depredations pile up, you’re building the chances we’ll have to do a full pack removal,” Bennett said.

- Equip range-riders with satellite communication devices. Range-riders who find dead cattle in remote areas will be able to summon investigators more quickly, Bennett said.

Klamath water allocation short of demand for farmers, ranchers

Flows for salmon began April 22

By **GEORGE PLAVERN**
Capital Press

KLAMATH FALLS, Ore. — As expected, irrigators in the Klamath Project are getting less water than they will likely need this summer thanks to a combination of dry weather and more water being kept in-stream to protect threatened coho salmon.

The U.S. Bureau of Reclamation will provide approximately 140,000 acre-

feet of water to farms and ranches from Upper Klamath Lake in 2020, the agency announced April 22.

That is only one-third of historical demand for the Klamath Project, which delivers irrigation water to 230,000 acres of farmland in Southern Oregon and Northern California.

“We are having a very challenging water year,” said Jeff Nettleton, the bureau’s Klamath Basin Area Office manager. “We’ve had a dry fall, winter and spring, resulting in a low snowpack and significantly lower-than-average reservoir inflows. These conditions make it

even more challenging than normal to meet all the water needs in the basin.”

The Klamath Basin is averaging just 57% of normal snowpack and 66% of normal precipitation for the water year dating back to Oct. 1, according to the USDA Natural Resources Conservation Service. Oregon Gov. Kate Brown signed a drought declaration for Klamath County in March.

As of April 1, the surface elevation of Upper Klamath Lake was 4,142 feet, equivalent to 448,495 acre-feet of stored water. The latest NRCS forecast predicts

inflows into Upper Klamath Lake between April and September will be 290,000 acre-feet, or 60% of normal.

To make supplies even tighter, the bureau has agreed to send more water down the Klamath River to protect coho from a disease as part of a new three-year interim operating plan.

The plan comes on the heels of a lawsuit filed by the Yurok Tribe, Pacific Coast Federation of Fishermen’s Associations and the Institute for Fisheries Resources against the bureau, seeking an additional 50,000 acre-feet of water for salmon.

Instead, the bureau prom-

ised to provide an additional 23,000 acre-feet for Klamath River coho during low water years through 2023, and the plaintiffs agreed to suspend, though not withdraw, their case.

The agreement with tribes and commercial fishing groups also buys more time for the bureau to complete a longer-term operating plan. Federal law requires consultation with the National Marine Fisheries Service and U.S. Fish and Wildlife Service to protect several species of threatened and endangered fish, including Klamath River coho and suckers in Upper

Klamath Lake.

A five-year plan was released in 2019, but scrapped after the bureau determined it had received erroneous information from an outside source.

The Klamath Water Users Association, which represents farms and ranches in the Klamath Project, calculated the 140,000 acre-foot water allotment several weeks in advance. The Klamath Project Drought Response Agency is working with growers to enroll in financial programs that could blunt the impact of water shortages, such as idling land.

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