

County must reconsider Oregon solar project expansion

By **MATEUSZ PERKOWSKI**
Capital Press

A solar project expansion approved in Oregon's Crook County falls short of wildlife habitat mitigation requirements and must be reconsidered, according to a state land use board.

The Land Use Board of Appeals has ordered the county to reconsider its authorization of the West Prineville Solar Farm's expansion from 320 acres to 654 acres on land zoned for exclusive farm use.

The state's Department of Fish and Wildlife is correct that the project's mitigation plan doesn't meet several key requirements intended to prevent the "net loss of habitat quality and quantity," according to LUBA.

The agency argued the solar project does not adequately map out sites meant to mitigate for habitat loss, ensure the durability of mitigation measures or identify performance and success criteria.

The solar developer, which intervened in the case, countered that the county has



Mateusz Perkowski/Capital Press File

Oregon's Land Use Board of Appeals has ordered Crook County to reconsider the expansion of a solar project.

wide discretion in determining which specific components of ODFW's mitigation policy need to be included in a plan. LUBA has now disagreed, ruling that such plans must be consistent with all the agency's requirements.

According to LUBA, the agency's interpretation is supported by the plain language of state law and the legislative history of a bill that gave counties more jurisdiction over certain solar facilities.

The county does not get to decide which statewide wildlife requirements must be

included in a project plan, the ruling said. "The legislature did not limit the universe of rules with which an applicant must demonstrate consistency to only those rules that the county determines apply."

Under the 2019 bill, county governments were allowed to approve certain projects that would previously have to be cleared by the state's Energy Facility Siting Council, including solar facilities of up to 1,920 acres on uncultivated, lower-quality soil.

Although lawmakers

intended for House Bill 2329 to "streamline the permitting process and reduce permitting costs," it does not reduce the ODFW's mitigation requirements for wildlife habitat, the LUBA ruling said.

"The legislative history does not demonstrate, as intervenor argues, that the legislature intended to weaken habitat protection or to waive compliance with the Mitigation Policy," the ruling said.

LUBA's ruling will "functionally shut down" permitting for mid-tier solar

facilities, delaying projects for years and undermining investment in renewable energy, said Jake Stephens, CEO of NewSun Energy, an investor managing the project's permit.

"This is a story of agency overreach, with ODFW using appeals to create authority that the legislature explicitly denied them in the HB 2329 drafting process," Stephens said in an email.

It's a misrepresentation by the agency and LUBA that the county didn't require sufficient mitigation, since the plan was "consistent in type and scale with ODFW's own recommendations" and involved "perhaps the most rigorous" conditional use permit review for any solar project in the state, he said.

Crook County was surprised that ODFW challenged the project's approval because the agency agreed to the mitigation plan during a public hearing, said Peter Watts, the county's attorney.

The ODFW's opposition likely stems from its uncertainty over the level of mitigation it wants, as well as its discomfort with expanded county jurisdiction over solar projects under HB 2329, he said.

"I think they'd like control over habitat mitigation in the process. So, essentially like veto power," Watts said.

LUBA's decision helps to clarify the procedures and expectations for solar facilities authorized under HB 2329, said Sarah Reif, energy coordinator for ODFW.

"It makes it a lot more clear for future applicants what standards they need to meet in terms of mitigating wildlife impacts," she said.

Unless the county or developer plan to appeal, ODFW looks forward to helping develop a wildlife mitigation plan that meets the requirements, Reif said.

"There's still an opportunity for this project to put forward an application that meets the wildlife standards," she said.

LEGAL

PURSUANT TO ORS CHAPTER 87

Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 06/23/2021. The sale will be held at 10:00am by

PRESTIGE AUTO REPAIR
2700 19TH ST SE STE#1 SALEM, OR 97302
2012 MNNI COO 4D
VIN = WMMWZ3C54CWL85780
Amount due on lien \$3145.00
Reputed owner(s) POWER MAZDA KIA BUICK GMC PRE-OWNED

LEGAL

PURSUANT TO ORS CHAPTER 87

Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 06/21/2021. The sale will be held at 10:00am by

COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR 97151
2015 NISSAN 370Z 2DR
VIN = JN1AZ4EH2FM444355
Amount due on lien \$1515.00
Reputed owner(s) KIRK & JEANNE SEVERSON

LEGAL

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF MARION PROBATE DEPARTMENT

IN THE MATTER OF THE ESTATE OF PENNY G. NEAL, deceased.
Case No.: 21PB01747

NOTICE TO INTERESTED PERSONS

NOTICE IS HERBY GIVEN that the undersigned has been appointed Personal Representative of the above estate. All persons having claims against the estate are required to present them to the undersigned attorney at: 319 Sixth Street SW, Albany, OR 97321 within four months after the date of the first publication of this notice, as stated below, or such claims may be barred.

All persons whose rights may be effected by the proceedings in this estate may obtain additional information from the records of the Court, the Personal Representative, or the attorney for the Personal Representative.

DATED and first published June 11th, 2021

Personal Representative

PAMELA K. MOYE
6265 NE Pettibone Drive
Corvallis, OR 97330
Attorney
DAVID B. BECKHAM
319 Sixth Ave SW
Albany, OR 97321

Federal inspections to resume under FSMA

By **GEORGE PLAVEN**
Capital Press

SALEM — The U.S. Food and Drug Administration plans to resume on-farm inspections in Oregon under the Produce Safety Rule of the Food Safety Modernization Act, or FSMA.

Inspections started nationwide in 2019, but were put on hold in 2020 due to COVID-19. FSMA was signed into law by President Barack Obama in 2011 to prevent food-borne illnesses.

The Produce Safety Rule gives the FDA authority to regulate how certain foods are grown, harvested and processed before reaching consumers. The agency conducts routine inspections that cover everything from worker health and hygiene to equipment sanitation.

The rule applies to commercially sold products that are primarily consumed raw. Products such as potatoes and sweet corn that are normally cooked prior to eating are exempt.

Farms that made less than \$25,000 in produce sales on average over the last three years are also not covered under the rule.

Oregon producers can expect to receive phone calls from the FDA as early as this month asking to schedule an inspection, according to the state Department of Agriculture. Farms of all sizes are subject to inspection, though ODA says large farms that weren't inspected in 2019 will be prioritized over "small" and "very small" farms.

The FDA defines "large" farms as those averaging more than \$500,000 in produce sales over the last three years. "Small" farms are those that average between \$250,000 to \$500,000 in produce sales, while "very small" farms average between \$25,000 and \$250,000 in produce sales.

LEGAL

PURSUANT TO ORS CHAPTER 87

Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 06/21/2021. The sale will be held at 10:00am by

COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR 97151
2008 GMC SIERRA PK
VIN = 1GTHK3658F19170
Amount due on lien \$1515.00
Reputed owner(s) ASHLEY KRISTENE STREETER IQ CREDIT UNION

LEGAL

PURSUANT TO ORS CHAPTER 87

Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 06/21/2021. The sale will be held at 10:00am by

COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR 97151
2017 JEEP RENEGADE UT
VIN = ZACC1BBB3HPG39984
Amount due on lien \$1415.00
Reputed owner(s) ZAHRA & SAKINA JANGBAR ALLY FINANCIAL

LEGAL

PURSUANT TO ORS CHAPTER 87

Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 06/28/2021. The sale will be held at 10:00am by

COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR 97151
2019 KYRV SPRINGDAL T.T
VIN = 4YDT25823KG100966
Amount due on lien \$1535.00
Reputed owner(s) ROBIN & LAWRENCE LABONTE C/O MET

PUBLIC LIEN SALE U-STORE SELF STORAGE

Auction Starts June 15, 2021
storageauctions.com
Ends Friday, June 25, 2021, 10am

1st - 1668 Industrial Way SW

Albany, Oregon
Dobson Katherine, Y013; Michelle Kimble, H094; Grace Moller, G002; Jordan Young, J001

2nd - 1501 Hawthorne Ave NE

Salem, Oregon
Lucy Briseno, 2D61; Jessica Jordyn Gregory, 2D69; Felipe Jimenez, 2D42; Joshua Kouches, 2A73; Larry R Lewis, 2B11; Casey Moore, 1D37; Kimberly Munz, Y217; Melissa Taylor, 1C01; Roger Tudela, 1C21; Phyllis Woodard, RD03

LEGAL

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In re Chapter 11
EASTERDAY RANCHES, INC., et al. Lead Case No. 21-00141-11
Jointly Administered
Debtors.¹

NOTICE OF SALE OF PROPERTY BY AUCTION, SALE OBJECTION DEADLINE, AND SALE HEARING

NOTICE TO CREDITORS OF EASTERDAY RANCHES, INC. ("RANCHES"); EASTERDAY FARMS ("FARMS"); CODY EASTERDAY AND DEBBY EASTERDAY, HUSBAND AND WIFE, KAREN EASTERDAY, IN HER INDIVIDUAL CAPACITY AND AS THE PERSONAL REPRESENTATIVE OF THE ESTATE OF GALE EASTERDAY² (COLLECTIVELY, THE "EASTERDAYS").

PLEASE TAKE NOTICE OF THE FOLLOWING MATTERS THAT MAY AFFECT YOUR RIGHTS:

On February 1, 2021, and February 8, 2021, respectively, Ranches and Farms (together, the "Debtors"), commenced chapter 11 bankruptcy cases (the "Bankruptcy Cases") in the U.S. Bankruptcy Court for the Eastern District of Washington (the "Bankruptcy Court").

The Debtors operate commercial farms and ranches that utilize multiple farms, feedlots, ranches, and other facilities that are commonly referred to as Nine Canyon Farm, Goose Gap Farm, River Farm, Cox Farm, Farm Manager House, and Storage Complex (the "Property"). The Property is owned in part by the Debtors (the "Debtor Property") and in part by the Easterdays (the "Easterday Property").

To maximize the value of the Property, the Debtors and the Easterdays determined that the Property should be marketed for sale together. Accordingly, on March 26, 2021, the Debtors filed two motions with the Bankruptcy Court: (i) a motion to approve a cooperation agreement (the "Cooperation Agreement") between the Debtors and the Easterdays (together, the "Sellers") and (ii) a motion (x) establishing a process to sell the Property and (y) to approve the sale of the Property at the conclusion of such process (the "Sale Motion").

On April 28, 2021, the Bankruptcy Court entered an order (the "Cooperation Agreement Order") approving the Cooperation Agreement between and among the Debtors and the Easterdays. On April 29, 2021, the Bankruptcy Court entered the Bidding Procedures Order which, among other things, (i) approved procedures for submitting offers and bidding at an auction for the Property ("Bidding Procedures"), (ii) approved procedures for the assumption and assignment of certain executory contracts and unexpired leases, (iii) scheduled a hearing on the sale, and (iv) granted related relief.

On May 19, 2021, the Sellers, entered into a purchase and sale agreement (the "Stalking Horse APA") with Farmland Reserve, Inc. ("FRI" or the "Stalking Horse Bidder"), pursuant to which, and subject to higher and better offers in accordance with the Bidding Procedures:

(i) the Debtors shall acquire the Easterday Property, upon which transfer all of the Easterday Property shall constitute property of the Debtors' bankruptcy estates in the Bankruptcy Cases and for which the Easterdays shall receive, subject to the approval of the Bankruptcy Court, an allocable interest in the Net Sale Proceeds, as such term is defined in the Cooperation Agreement;

(ii) the Debtors shall sell, assign, transfer, convey and deliver to FRI, and FRI shall acquire and accept from Debtors, free and clear of all Claims, Rights, and Encumbrances (as defined in the proposed Sale Order attached to the Stalking Horse APA), all of the Debtors' rights, title and interest in and to the Property; and

(iii) FRI shall pay \$188,000,000 plus any transfer taxes or the like "Purchase Price" for the Property (i) through (iii), the "Sale".

Also on May 19, 2021, the Debtors supplemented the Sale Motion with their motion to designate FRI as the Stalking Horse Bidder, approve the bid protections in the Stalking Horse APA, and supplement the relief requested by the Debtors in the Sale Motion to include authorization for the Debtors to acquire all rights, title and interest in and to the Easterday Property for the purpose of including the Easterday Property in the Sale, pursuant to the Stalking Horse APA ("Supplemental Bidding Procedures Motion").

On May 28, 2021, the Bankruptcy Court entered an order granting the Supplemental Bidding Procedures Motion, pursuant to which the Bankruptcy Court (i) approved the Stalking Horse APA as the Stalking Horse Bid and FRI as the Stalking Horse Bidder, (ii) authorized the Debtors to enter into and perform under the Stalking Horse APA, subject to higher or otherwise better offers by other qualified bidders, and (iii) approved the Debtors' request to supplement the relief requested by the Debtors in the Sale Motion to include authorization for the Debtors to acquire all rights, title and interest in and to the Easterday Property for the purpose of consummating the Sale with the Stalking Horse Bidder, subject to higher or otherwise better offers by other qualified bidders at an auction (the "Auction") to be held on **June 14, 2021, commencing at 10:00 a.m. (Pacific Time)** ("Supplemental Bidding Procedures Order").

THE BANKRUPTCY COURT HAS CURRENTLY SET JUNE 30, 2021 AT 4:00 P.M. (PACIFIC TIME) AS THE DEADLINE FOR ALL OBJECTIONS TO THE SALE (THE "SALE OBJECTION DEADLINE").

All objections to the Sale and related relief must: (a) be in writing; (b) be signed by counsel or attested to by the objecting party; (c) conform to the Federal Rules of Bankruptcy Procedure and the Local Rules of the Bankruptcy Court ("Local Rules"); (d) be filed with the Clerk of the Bankruptcy Court, 402 E. Yakima Avenue, Yakima, WA 98901 by no later than the Sale Objection Deadline; and (e) be served in accordance with the Local Rules so as to be received on or before the Objection Deadline by the following: (i) counsel to the Debtors: (a) Bush Kornfeld LLP, 601 Union Suite, Suite 500, Seattle, WA 98101, Attention: Armand J. Kornfeld (jkornfeld@bskd.com) and Thomas A. Buford (tbuford@bskd.com); and (b) Pachulski Stang Ziehl & Jones, LLP, 10100 Santa Monica Boulevard, 13th Floor, Los Angeles, CA 90067, Attention: Richard M. Pachulski (rpachulski@pszjlaw.com), Ira D. Kharasch (ikharasch@pszjlaw.com), Jeffrey W. Dulberg (jdulberg@pszjlaw.com) and Jason H. Rosell (jrosell@pszjlaw.com); (ii) the Office of the United States Trustee for the Eastern District of Washington, 920 W Riverside Ave, Suite 593, Spokane, WA 99201, Attn: Gary W. Dyer (Gary.W.Dyer@usdoj.gov); (iii) counsel to the Stalking Horse Bidder, Stoel Rives LLP, 600 University Street, Suite 3600, Seattle, WA 98101, Attention: Oren B. Haker (oren.haker@stoel.com) and Ellen E. Ostrow (ellen.ostrow@stoel.com); and (iv) those parties who have filed notices of appearance and/or requested service of all motions and pleadings in these Chapter 11 Cases prior to the date of service thereof.

THE SALE SHALL BE FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES OR OTHER INTERESTS UNDER SECTION 363 OF THE BANKRUPTCY CODE. THE ASSIGNMENT OF CERTAIN OF THE SELLERS' CONTRACTS AND LEASES MAY BE APPROVED AND AUTHORIZED BY THE BANKRUPTCY COURT ABSENT A TIMELY OBJECTION BY ANY PERSON OR ENTITY CLAIMING AN INTEREST OR RIGHT IN SUCH CONTRACT OR LEASE. THE FAILURE OF ANY PERSON OR ENTITY TO FILE AND SERVE AN OBJECTION ON OR BEFORE THE SALE OBJECTION DEADLINE MAY BE DEEMED CONSENT TO ANY SALE OR ASSIGNMENT APPROVED BY THE BANKRUPTCY COURT AND MAY BE A BAR TO THE ASSERTION OF ANY LIENS, CLAIMS, RIGHTS, ENCUMBRANCES OR OTHER INTERESTS IN THE PROPERTY SOLD, ASSIGNED OR OTHERWISE TRANSFERRED TO THE STALKING HORSE BIDDER OR THE SUCCESSFUL BIDDER(S), AND MAY BE A BAR TO ANY RECOVERY AGAINST THE STALKING HORSE BIDDER OR OTHER SUCCESSFUL BIDDER(S).

IF YOU ARE A CREDITOR OF THE SELLERS OR A CONTRACT OR LEASE COUNTERPARTY TO ANY OF THE SELLERS, YOUR RIGHTS MAY BE AFFECTED BY THE SALE OF THE PROPERTY TO THE STALKING HORSE BIDDER OR OTHER SUCCESSFUL BIDDER(S). You should review the documents related to the Sale and discuss them with your attorney. If you do not have an attorney, you may wish to consult one. Sale documents, including the Stalking Horse APA, Sale Motion, Bidding Procedures Order, Supplemental Bidding Procedures Order, and proposed sale order, can be obtained through the Bankruptcy Court or by requesting copies from the Debtors' bankruptcy counsel by email to Jason Rosell (email: jrosell@pszjlaw.com). If you do not want the Bankruptcy Court to approve the Sale, you must file an objection with the Bankruptcy Court by the Sale Objection Deadline as set forth above.

A hearing to confirm the results of the Auction and approve the sale of the Property (the "Sale Hearing") will be held before the Honorable Whitman Holt, United States Bankruptcy Judge, on **July 14, 2021 at 11:00 a.m. (PT)**, or at such other time as the Bankruptcy Court permits, in the United States Bankruptcy Court for the Eastern District of Washington, 402 E. Yakima Avenue, Second Floor Courtroom, Yakima, WA 98901. Parties may appear at the Sale Hearing by telephone. To make a telephonic appearance, parties must call 877-402-9757; code 7036041. The Debtors may adjourn or reschedule the Sale Hearing one or more times with prior notice filed on the docket in the Bankruptcy Cases or without prior notice by making an announcement at the Sale Hearing.

Dates set forth in this notice are subject to change, and further notice of such changes may not be provided except through announcements in open court and/or the filing of notices in the Bankruptcy Cases. Interested persons or entities are encouraged to monitor the electronic court docket for further updates.

1 The Debtors along with their case numbers are as follows: Easterday Ranches, Inc. (21-00141) and Easterday Farms, a Washington general partnership (21-00176).
2 The administration of the Estate of Gale Easterday is currently pending in Franklin County Superior Court, Case No. 21-450004-11. 5247838-1