

# Easterday representatives working on completing sale to Mormon church

By **DON JENKINS**  
Capital Press

Farms and ranches owned by Eastern Washington cattleman Cody Easterday, who's waiting to be sentenced for wire fraud, could be sold to the Church of Jesus Christ of Latter-day Saints by the end of July, according to a lawyer representing the properties.

The church's Farmland Reserve Inc. submitted the winning bid of \$209 million at a bankruptcy auction June 17. U.S. bankruptcy Judge Whitman Holt in Yakima must OK the sale at a hearing set for July 14.

The deadline to object to the sale was June 30.

"We, frankly, do not anticipate any objections, but you never know," attorney Richard Pachulski told Holt at a hearing last week. "I anticipate, with any luck, that we will not have any issue at the (sale) hearing."



George Plaven/Capital Press File

## Cody Easterday

"We are already in the process of working with Farmland Reserve ... to close the transaction in a timely way by the end of July," Pachulski said.

Farmland Reserve outbid by \$1 million 100C LLC, a Delaware-based company linked to Microsoft co-founder Bill Gates. The company has in the past made significant farmland acquisitions.

Cody Easterday and his

wife and mother filed for bankruptcy in February as he faced federal charges for defrauding Tyson Foods and another company of \$244 million.

Easterday contracted to buy and feed cattle for Tyson's plant in Pasco and billed the companies for nonexistent cattle. Much of the scheme's proceeds covered up losses incurred by Easterday in commodity futures contracts, according

to court records.

He pleaded guilty to one count of wire fraud and agreed to pay \$244 million in restitution. He faces up to 20 years in prison and is scheduled to be sentenced in federal court Aug. 4.

Pachulski said he was happy with the auction results. Before the auction, Farmland Reserve set the minimum price by offering \$193 million.

"We always prefer more money, but I think we did reasonably well," Pachulski said.

The Easterdays' other creditors include Washington Trust Bank in Spokane. Cody Easterday, his wife and parents allegedly defaulted on a \$45 million loan taken out in September, according to court records. Cody Easterday's father, Gale Easterday, died in a traffic accident in December.

The bank has filed a separate lawsuit in federal bankruptcy court.

# Oregon farmers join litigation against USDA minority loan forgiveness program

By **MATEUSZ PERKOWSKI**  
Capital Press

An Oregon farming couple has filed a lawsuit claiming the USDA's loan forgiveness program for minorities violates the constitutional principle of equal justice under the law.

The complaint filed by Kathryn and James Dunlap of Baker City is among at least nine similar cases alleging the \$4 billion program unlawfully excludes white farmers from receiving loan assistance.

Though the debt relief program has already been enjoined nationwide, the lawsuit aims to test its constitutionality in the 9th U.S. Circuit Court of Appeals, which has jurisdiction over nine Western states.

Since the legal question will likely be decided by the U.S. Supreme Court, having the issue "percolate" in several appellate jurisdictions will help guide its thinking, said Wen Fa, an attorney with Pacific Legal Foundation, a non-profit organization that's representing the Dunlaps.

"It seems like an issue a lot of people are interested in, and rightfully so," he said.

The Oregon lawsuit will also preserve the plaintiffs' interests if the current nationwide injunction is overturned on appeal, Fa said.

"We think they have a great story. They are both people with second jobs," who rely on off-farm income to pay their USDA loans, he said. "The only reason they were not able to obtain this assistance is because of their skin color."

The Dunlaps, who raise cattle and hay, took out a USDA loan to pay for additional livestock and farming equipment and would otherwise be eligible for debt relief except for their race, the complaint said.

In addition to farming, Kathryn has a full-time sales job and James works full-time as a railroad engineer while both take care of their infant child.

The loan forgiveness program is part of broader COVID-19 relief legislation, the American Rescue Plan of 2021, which was enacted in March.

Black, Native American, Hispanic, Asian, Hawaiian and Pacific Islander farmers are eligible for payments of up to 120% of their USDA

loans regardless of their economic circumstances or "whether they have suffered any racial discrimination," the complaint said.

The program wasn't "narrowly tailored to further a compelling government interest" or to "remedy specific instances of racial discrimination," contrary to legal precedents governing equal protection under the law, according to the lawsuit.

The complaint seeks an injunction declaring the loan forgiveness program unconstitutional and making the assistance available to all eligible farmers.

Representatives of the USDA's Farm Service Agency, which oversees the program, were not available for comment as of press time.

On June 23, a federal judge in Florida issued a preliminary injunction blocking the USDA from distributing payments because the program would cause irreparable harm and is likely to be struck down as unconstitutional.

While the program aims to rectify the USDA's unfair lending practices in the past, "Congress moved with great speed to address the history of discrimination, but did not move with great care," said U.S. District Judge Marcia Morales Howard.

"The constitutional right to equal protection guarantees that racial classifications will be permitted only with 'the most exact connection between the justification and classification,'" she said, citing case law.

In this case, however, the law "appears to create an inflexible, race-based discriminatory program that is not tailored to make the individuals who experienced discrimination whole," the judge said.

The USDA was also prohibited from forgiving any loans under the program under a June 10 temporary restraining order issued by U.S. District Judge William Griesbach in Wisconsin.

"The obvious response to a government agency that claims it continues to discriminate against farmers because of their race or national origin is to direct it to stop: it is not to direct it to intentionally discriminate against others on the basis of their race and national origin," he said.

## 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.<sup>1</sup>

### 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 EASTERDAY<sup>2</sup> (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. 5247840-1

## LEGAL

PURSUANT TO ORS  
CHAPTER 87

Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 07/12/2021. The sale will be held at 10:00am by

COPART OF WASHINGTON INC  
2885 NATIONAL WAY WOODBURN, OR  
2017 NISSAN ROGUE UT  
VIN = KNMAT2MV2HP505585  
Amount due on lien \$1575.00  
Reputed owner(s)  
CRAIG STEPHEN RUBIOLLO  
JP MORGAN CHASE BANK NA

5251107-1

## LEGAL

PURSUANT TO ORS  
CHAPTER 87

Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 07/05/2021. The sale will be held at 10:00am by

COPART OF WASHINGTON INC  
2885 NATIONAL WAY WOODBURN, OR  
2014 SUBARU IMPREZA 4W  
VIN = JF1GR7E62G248748  
Amount due on lien \$2435.00  
Reputed owner(s)  
CAMERON OAKES MOSSMAN  
OREGON COMMUNITY C.U.

5249842-1

## LEGAL

PURSUANT TO ORS  
CHAPTER 87

Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 07/12/2021. The sale will be held at 10:00am by

COPART OF WASHINGTON INC  
2885 NATIONAL WAY WOODBURN, OR  
2020 MITSUBISHI MIRAGE 4DR  
VIN = ML32F3JLHF08778  
Amount due on lien \$1435.00  
Reputed owner(s)  
SKYLEE BARCLAY & KODY KIRBY  
SANTANDER CONSUMER USA

5251106-1

## LEGAL

PURSUANT TO ORS  
CHAPTER 87

Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 07/12/2021. The sale will be held at 10:00am by

COPART OF WASHINGTON INC  
2885 NATIONAL WAY WOODBURN, OR  
2015 TOYOTA CAMRY 4DR  
VIN = 4T1BF1FK0F0896397  
Amount due on lien \$1555.00  
Reputed owner(s)  
MALCOLM LEE ASH  
TOYOTA MOTOR CREDIT CORP

5251108-1

## LEGAL

PURSUANT TO ORS  
CHAPTER 87

Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 07/05/2021. The sale will be held at 10:00am by

COPART OF WASHINGTON INC  
2885 NATIONAL WAY WOODBURN, OR  
2013 KIA SPORTAGE UT  
VIN = KNDPB3A29D7528675  
Amount due on lien \$2435.00  
Reputed owner(s)  
ALONDRA GARCIA CABALLERO  
WELLS FARGO AUTO

5249844-1

## LEGAL

PURSUANT TO ORS  
CHAPTER 87

Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 07/12/2021. The sale will be held at 10:00am by

COPART OF WASHINGTON INC  
2885 NATIONAL WAY WOODBURN, OR  
2017 JEEP PATRIOT UT  
VIN = 1C4NJPBA7HD200900  
Amount due on lien \$1455.00  
Reputed owner(s)  
JOHN & MICHELLE BACH  
EXETER FINANCE LLC

5251105-1