

# Easterday sale gets green light in bankruptcy court

By **DON JENKINS**  
Capital Press

YAKIMA, Wash. — Two major creditors have dropped their opposition to the sale of Easterday farms, clearing the way for the Mormon church to buy an Eastern Washington family farm brought down by debt and fraud.

Prudential Insurance Co. and Equitable Life Insurance agreed to withdraw their objections during a mid-hearing break July 14 in U.S. Bankruptcy Court in Yakima. In return, they are guaranteed to receive most, if not all, of the millions of dollars owed them by Cody Easterday, his wife, mother and their companies.

The parties, returning from the closed conference, outlined the agreement to Judge Whitman Holt, settling a dispute that had threatened to block the \$209 million acquisition by Farmland Reserve Inc., affiliated with the Church of Jesus Christ of Latter-day Saints.

How sale proceeds will be divided among creditors and the Easterday family will be decided later.

Farmland Reserve does business in Washington as AgriNorthwest and already owns 100,000 acres. It's poised to add 18,000 acres, including 12,000 irrigated acres, in Benton County.

Most of the Easterday properties border AgriNorthwest land, according to the church-affiliated organization.

"Our successful bid reflects our long-term commitment to Columbia Basin agriculture. We will be growing crops on these fertile fields for decades to come," Farmland CEO Doug Rose said in a statement.

The Easterdays filed for bankruptcy in February as Cody Easterday faced a federal investigation that he schemed to



**Cody Easterday**

George Plaven/Capital Press File

defraud Tyson Foods and another company by billing them to buy and feed nonexistent cattle.

Farmland Reserve outbid a company associated with Bill Gates for properties commonly known as the Cox Farm, Goose Gap Farm, Nine Canyon Farm, River Farm, Farm Manager House and Storage Complex.

The sale will involve dozens of parcels owned by Easterday Farms, Easterday Ranches or individual Easterdays. Complex partnerships threatened to stall the sale.

Prudential and Equitable had claimed that the proposed bankruptcy sale included privately held property not eligible to be sold free of liens in a Chapter 11 bankruptcy, meant to reorganize business holdings.

According to court records, the Easterdays borrowed \$50 million in 2020 from Prudential to operate their businesses, putting up various properties as collateral.

Prudential, in court records, said that with interest the Easterdays owed \$57 million.

Equitable said in a court filing it was owed about \$29 million.

Late Wednesday, Prudential formally objected to the sale, echoing an objection filed in June by Equitable. Both argued the judge should block the sale unless Prudential and Equitable were guaranteed to be paid in full, including at a higher interest rate charged to loans in default.

The attorney spearheading the sale, Richard Pachulski, said bundling the properties would maximize their value and that ownership and allocation issues could be worked out later.

Under the agreement outlined in court, Prudential and Equitable will be repaid at the higher default interest rate, though Easterday Farms and Easterday Ranches reserved the right to seek to regain some of the money later.

## Fish and Wildlife Service withdraws critical habitat rollbacks for spotted owl

By **GEORGE PLAGEN**  
Capital Press

WASHINGTON, D.C. — The U.S. Fish and Wildlife Service is proposing to withdraw a Trump-era rule that would have significantly rolled back critical habitat protections for the northern spotted owl in Oregon, Washington and California.

Instead, the Biden administration has put forward a new rule that would maintain much of the habitat protections, which officials say are needed to prevent the species from going extinct.

Martha Williams, principal deputy director for the USFWS, said the revised rule "will allow fuels management and sustainable timber harvesting to continue while supporting northern spotted owl recovery."

Advocates for the timber industry argue the decision illegally restricts logging on more than 1 million acres of federal land that is not actually spotted owl habitat, and hinders the type of forest management needed to repel increasingly large wildfires.

A 60-day public comment period begins July 20.

The northern spotted owl was listed as threatened under the Endangered Species Act in 1990. At the time, the USFWS designated 6.9 million acres of "critical habitat" to be managed for species recovery. That was later expanded to 9.5 million acres in 2012.

Timber companies, the American Forest Resources Council and several local counties pushed back in 2013 with a lawsuit challenging the habitat expansion.

The sides reached a settlement agreement on April 13, 2020, with the agency agreeing to propose additional areas for exclusion from the critical habitat designation.

On Aug. 11, 2020, the USFWS proposed a habitat reduction of just 204,653 acres. But the final rule — released days before Trump administration left office in January — called for 3.4 million acres to be removed, more than 16 times the original amount.

The rule was supposed to take effect March 16, but Biden's Interior Department delayed and ultimately nixed the order, saying the reductions were arbitrary and excluded public input.

The latest proposal calls for just 204,797 acres of critical habitat rollbacks for the northern spotted owl across 15 Western Oregon counties. That includes 184,476 acres of lands managed by the Bureau of Land Management, of which 172,430 acres are located within the Oregon and California Railroad Revested Lands.

Another 20,000 acres is located within tribal land recently transferred under the Western Oregon Tribal Fairness Act to the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians, and the Cow Creek Band of Umpqua Tribe of Indians.

In a statement, Williams, with the USFWS, said the Service continues to work closely with federal, state and tribal partners to use the best available science and evaluate conservation needs to protect the northern spotted owl.

The announcement was welcome news for environmental groups that have pushed for increased protections for the species.

"To use the U.S. Fish and Wildlife Service's own words, Trump's rule, which slashed critical habitat for northern spotted owls, was insufficiently justified, insufficiently rational, defective, filled with shortcomings and factually inaccurate," said Kathleen Gobush, Northwest director for Defenders of Wildlife.

## Burned acres well above year-earlier levels

By **BRAD CARLSON**  
Capital Press

Idaho's Snake River Complex Fire and Oregon's Bootleg Fire — the nation's largest — have helped push the total number of acres burned more than one-third higher than the 2020 year-to-date total.

The National Interagency Fire Center July 19 reported 80 large wildfires burning more than 1.17 million acres in 13 states. Current large fires included 18 in Idaho, 20 in Montana, 8 in Oregon, and 7 each in California and Washington.

From 2020 to 2021, the number of large fires from Jan. 1 to July 19 increased from 29,008 to 35,086, NIFC said. Burned acres jumped from 1,809,976 to 2,537,744.

Ten-year averages to date were 31,774 fires and 3,347,133 acres.

The Bootleg Fire late July 19 stood at 364,113 acres and the Snake River Complex at 107,433 acres on July 20.

In California, the Beckworth Complex was at 105,348 acres late July 19.

In Washington, the 71,512-acre Lick Creek Fire southwest of Asotin was the larg-



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**AD-10 jumbo jet drops fire retardant on the Bootleg Fire.**

est. The Chuweah Creek Fire, at 36,177 acres, was the second largest as of July 19.

All were lightning-caused. The Bootleg Fire, northeast of Klamath Falls, Ore., was 30% contained as of July 19.

"We have a recurring pattern of extreme fire behavior in this incident where the fire travels up to five miles in a single burn period," said Marcus Kauffman, public information officer with the Oregon Department of Forestry Incident Management Team 1. The fire in the past day added about 40,000 acres.

Multiple tree stands burning at once in their crowns, and various winds from clouds and weather the fire creates exemplify extreme behavior. Such weather conditions can prompt the main

fire to advance, throwing embers and spotting.

"And since it's critically dry, the spots start a new fire," Kauffman said. "Then it will spot across a control line and we have to go chase."

Crews have had some tough days, but have done a great job "putting in line and holding it in some amazingly difficult conditions," he said.

The three-fire Snake River Complex was 70% contained on July 20. Public Information Officer Deana Harms said crews aimed to build on recent progress.

"They have already kind of connected the dots where they put in dozer line or where they have planned the easiest way of connecting that to hopefully achieve containment," she said.

Dozers and other heavy

equipment dig fire lines or remove nearby fuels. Ground crews increase a line's effectiveness by burning additional fuel.

"They are going in and trying to work in more fire so it doesn't push too hard against the line," Harms said. Firefighters have burned mainly at night, but slightly cooler weather July 17-18 created "some windows where day operations could put some fire on the ground," she said.

## Court upholds Trump water rule

By **CAROL RYAN DUMAS**  
Capital Press

The U.S. District Court of South Carolina last week dismissed a challenge to the Trump administration's Navigable Waters Protection Rule, which in 2020 replaced the Obama administration's controversial 2015 Waters of the United States rule known by the acronym WOTUS.

The Biden administration announced its intentions to revise the definition of waters of the U.S. under the Clean Water Act on June 9, with the Department of Justice filing a motion requesting remand of the Trump rule.

Led by the South Carolina Coastal Conservation League, the environmental groups asked the court to vacate the Navigable Waters Protection Rule based on what they said were the indisputable facts, including lost protection for waters.

That would have eliminated the Trump rule and allowed the WOTUS rule to remain in effect. The court's decision allows the Trump rule to remain in effect until

the Biden administration finalizes a new rule.

The Coastal Conservation League's challenge is one of 15 cases nationwide opposing the Trump rule.

National Cattlemen's Beef Association, along with other agricultural groups, is engaged in litigation across the country to defend the Trump rule and considers last week's decision a key legal victory.

The decision ensures regulatory certainty while the Biden administration moves through the lengthy rulemaking process, said Scott Yager, NCBA chief environmental counsel.

The gravy on top was the judge's outright dismissal of the entire case, as it was the leading case in opposition to the Trump rule — farther ahead procedurally than the other cases, he said.

He thinks other judges will see the decision as influential and put the other cases to bed as well, he said.

"This is the latest example of courts, by and large, seeing the Trump rule as legally defensible," he said.

That's in contrast to the Obama WOTUS rule, which

has been struck down by multiple courts as being illegal under the Administrative Procedures Act and the Clean Water Act, he said.

"This decision overall is a great legal victory for landowners and land users across the country," he said.

NCBA knows the Biden administration is going to come up with its own rule, but the court's decision gives the organization another year or two to work with the administration and Congress, he said.

NCBA's message to Biden is that he create a new rule that doesn't hinder producers' ability to make investments in their land and care for their cattle.

EPA's Office of Water held a call with agricultural stakeholders the day after the announcement of its intention to revise the Trump rule, and there was a short opportunity for stakeholders to chime in on the call, he said.

"It was good that they did the outreach, but what we heard was concerning. They're posturing to repeal the Trump rule and replace it with a more expansive Biden rule," he said.





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