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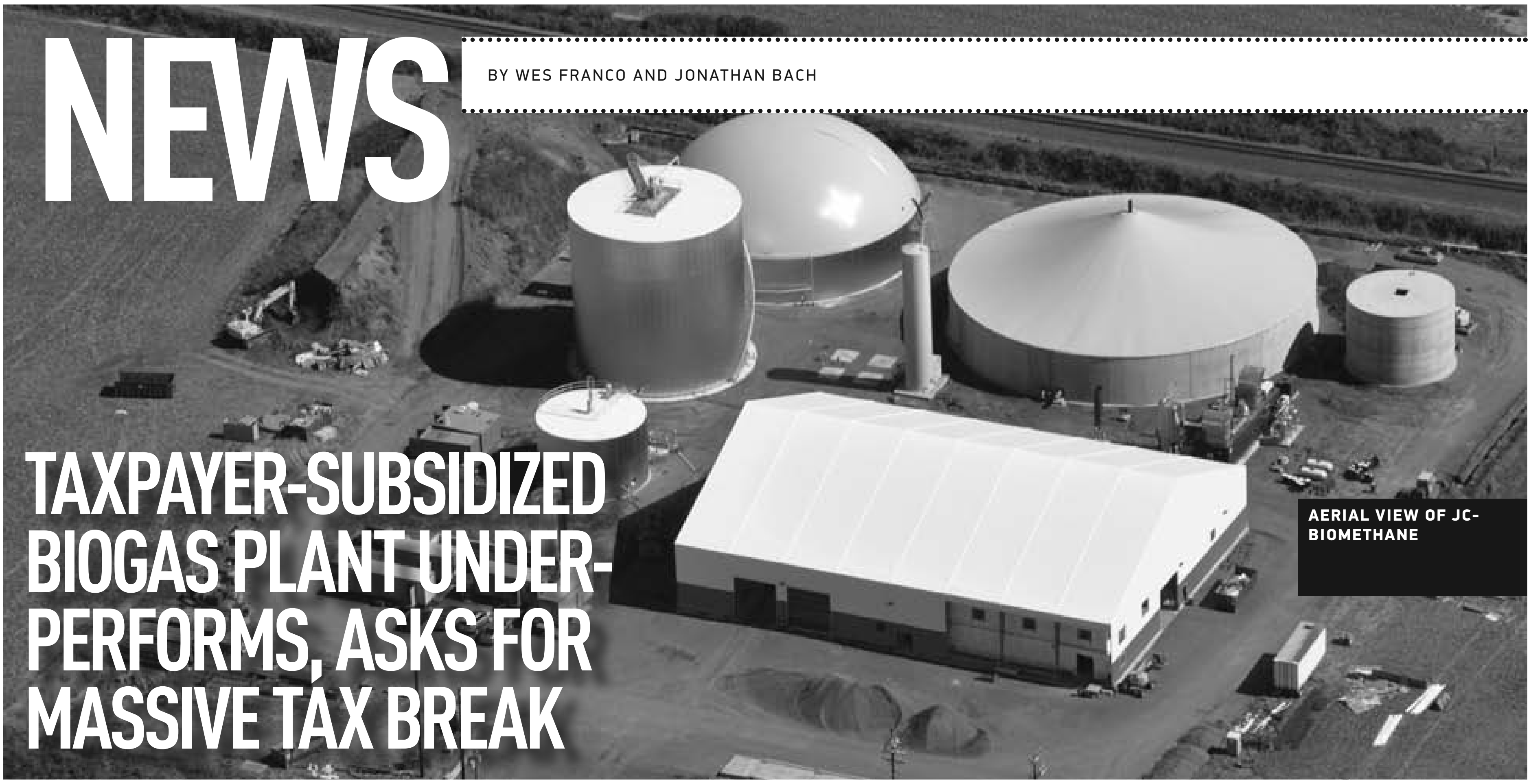
# TAXPAYER-SUBSIDIZED BIOGAS PLANT UNDER-PERFORMS, ASKS FOR MASSIVE TAX BREAK



AERIAL VIEW OF JC-BIOMETHANE

PHOTO COURTESY DEAN FOOR

A Junction City biogas plant that's already received millions of dollars in taxpayer subsidies is now more than $325,000 behind on its property tax bill and is fighting Lane County in court over making good on what it owes.

JC-Biomethane opened its plant in 2013 with the promise it would generate electricity to power homes by burning off gases from food wastes. The plant is the first in Oregon to use wastes from businesses and restaurants to generate power, according to records and interviews.

But the plant hasn't performed as promised. Public records show JC-Biomethane officials claim the company doesn't have the money to cover its property tax bill. Court documents also indicate the plant hasn't generated all of the electricity it projected it would, and that the company has faced higher costs than its owners expected.

Now, court records obtained by *EW* disclose the biogas plant's CEO is trying to win an extraordinary break from Lane County that would retroactively give the plant a five-year free pass on paying any property taxes.

Court documents show the plant is asking for relief from its last two property tax bills. The additional subsidy could cost the county and other local governments more than $700,000.

Lane County Tax Assessor Michael Cowles declined to talk about JC-Biomethane's refusal to pay its property taxes. County officials initially rejected a public records request for documents regarding JC-Biomethane's unpaid tax bill, but have since said they would look into disclosing some of the records.

So far it appears county and state officials have refused to go along with the plant's plan to rid itself of the hefty bill. State law, for example, allows counties to create a so-called Rural Renewable Energy Development Zone, which could give renewable energy projects up to a five-year property tax break. JC-Biomethane mentions the zone and others in its court documents.

"If JCBio was in a different location," the company says in court documents, "it would presently qualify for property tax exemption."

Business Oregon, a state agency, approves these RRED exemption zones. Arthur Fish, the business incentives coordinator at Business Oregon, said no request has been filed for Lane County.

What's more, the court documents reveal that Oregon tax officials dismissed the plant's appeal for its 2014-2015 property tax bill in late May.

And there's another problem with the plant's request: The state's rules regarding these tax-free zones appear to prohibit the county from retroactively creating a zone and allow JC-Biomethane to walk away from its current unpaid tax bill.

In March, JC-Biomethane sued Lane County and the Oregon Department of Revenue in Oregon Tax Court, seeking the special exemption.

In May, JC-Biomethane CEO Dominic Vacca told *EW* his company is disputing the current county valuation of the plant. "JC-Bio believes there were errors in the original [property tax] filing and assessment," Vacca said. He declined to talk about the disputed bill in detail.

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JC-Biomethane's refusal to pay its property taxes raises bigger questions: What, exactly, have taxpayers gotten for their earlier subsidy of the plant?

The plant uses anaerobic digestion to process food wastes shipped from the Portland area and uses the "methane-rich biogas" emitted to power an engine that generates electricity, which is then sold to Portland General Electric, according to documents from the Energy Trust of Oregon, a clean energy-focused nonprofit that created a case study on JC-Biomethane.

According to former CEO Dean Foor, the plant was projected to produce enough continuous power for between 1,400 and 1,500 homes.

The $16 million plant received an array of state and federal subsidies totaling more than $6 million.

The Energy Trust documents show the subsidies include around $4.7 million in federal funding. Court documents show a $1.35 million business tax credit was also secured from the Oregon Department of Energy for the biogas plant.

The Energy Trust says in its case study that it also contributed $2 million to JC-Biomethane's project costs. The Energy Trust gets its funding from Oregon utility ratepayers.

The plant sits along Hwy. 99 near Junction City. Lane County values the company plant at around $13.4 million, documents illustrate.

With interest, county records show, the biogas plant's outstanding tax bill will be $329,585.61 as of June 16.

Vacca says the plant "naively and incorrectly" provided the county with information on the plant's market value when it was first started, court documents show.

That assessed value is based in part on the plant's performance. Court documents say the plant has processed more than 46,000 tons of food waste — but that amount is well below its targets, judging by its output figures.

In the court documents, JC-Biomethane says it's been hurt by higher than expected operating costs. For example, the company claims, some wastes shipped to the Junction City facility contained metals and concrete, which damaged the plant's equipment. The company also claims the plant has design and construction flaws, and that a recent fire damaged the facility.

"These issues will continue to hinder cash flow," the company says in court documents. "Subsequently, JCBio is unable to pay its property tax bills."

The company is now trying to get its entire overdue tax bill wiped out by an appeals process and asking the county to create the special exemption.

This new tax court case isn't the plant's first excursion into court. In June 2014, records show, the company fired Foor, one of the plant's founding executives. Foor turned around and sued for wrongful termination.

Records from the 2014 lawsuit reveal trouble for the young plant: In his lawsuit, Foor claimed it suffered from "numerous defects" because of design and construction issues based on the work of entec, an Austrian contractor. Foor's suit said the plant faced about $3.5 million in damages as a result.

The higher profile Seneca biomass plant has been in court fighting over paying its property taxes as well as a "public benefit" payment to local governments, according to Oregon Tax Court and Lane County documents. Seneca had been granted a three-year enterprise zone property tax waiver by Lane County and the city of Eugene. What remains to be seen is whether the county will entertain the idea of giving the biogas plant the exemption it seeks. ■

*This story was written as part of the investigative reporting project at the University of Oregon School of Journalism and Communication.*